STATE OF NEW YORK

5074

2017-2018 Regular Sessions

IN SENATE

March 7, 2017

Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to motor fuel and diesel tax in Nassau and Suffolk counties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 2 of subdivision (e) of section 1111 of the tax law, as amended by section 1 of part LL of chapter 59 of the laws of 2014, is amended to read as follows:

(2) (i) Where the motor fuel is imported, manufactured or sold in, or diesel motor fuel is sold or used in the region referred to in subparagraph (i) of paragraph one of this subdivision, the tax required to be prepaid pursuant to section eleven hundred two of this article on each gallon of such fuel shall be seventeen and one-half cents.

(ii) Where motor fuel is imported, manufactured or sold in, or diesel motor fuel is sold or used in the region referred to in subparagraph (ii) of paragraph one of this subdivision, the tax required to be prepaid pursuant to section eleven hundred two of this article on each gallon of such fuel shall be twenty-one cents. **Except when the commissioner determines that the price of motor fuel or diesel motor fuel results in the payment of sales tax refunds based on the amount of the prepayment provided for in this section, the commissioner, based on such determination, is authorized and empowered to prescribe from time to time, the amount of tax prepayment provided by this subparagraph for the second region to be collected upon each gallon of motor fuel and diesel motor fuel sold at retail in the second region. Such calculation by the commissioner shall be based on the average retail sales in the second region. The commissioner shall determine a prepayment rate which is approximately equal to the percentage of the prepayment rate otherwise applicable without causing refunds, based on the amount of tax prepay-**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ment, considering the regional average retail sales prices of such fuel in the second region. Such amended schedules with reference to the tax required by this subparagraph to be prepaid on motor fuel or diesel motor fuel, may fix the rate per gallon in multiples of one-tenth of one cent, depending, in the case of such fuel, on the average retail sales prices in the second region, where such fuel is, as the case may be, imported, manufactured, sold or used. Where schedules fixing the rate per gallon in multiples of one-tenth of one cent have been promulgated, the price shown on any metered pump or other dispensing device from which the fuel is sold to a purchaser of fuel to be delivered directly to any vehicle propelled by such fuel, shall include the tax at the prepayment rate so fixed.

(iii) Where motor fuel is imported, manufactured or sold in, or diesel motor fuel is sold or used in the region referred to in subparagraph (iii) of paragraph one of this subdivision, the tax required to be prepaid pursuant to section eleven hundred two of this article on each gallon of such fuel shall be sixteen cents.

§ 2. This act shall take effect immediately.