

STATE OF NEW YORK

197

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. CAHILL -- Multi-Sponsored by -- M. of A. COOK, CRESPO, CUSICK, DenDEKKER, ENGLEBRIGHT, RAMOS, THIELE, WEPRIN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to computing sales and compensating use tax on motor fuel and diesel motor fuel; and to amend the tax law and the general business law, in relation to requiring retail dealers of motor fuel and diesel motor fuel to reduce prices for such fuel

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

1 Section 1. The tax law is amended by adding a new section 282-d to
2 read as follows:

3 § 282-d. Exempt retail sales periods. Notwithstanding any provision
4 of the law to the contrary, excise taxes imposed on diesel motor fuel
5 pursuant to sections two hundred eighty-two-a, two hundred eighty-two-b,
6 and two hundred eighty-two-c of this article shall not be imposed on
7 retail sales made during the period commencing Friday, May twenty-
8 fourth, two thousand nineteen through Monday, May twenty-seventh, two
9 thousand nineteen, Thursday, July fourth, two thousand nineteen through
10 Monday, July eighth, two thousand nineteen, and Friday, August thirti-
11 eth, two thousand nineteen through Monday, September second, two thou-
12 sand nineteen to the extent such retail sales of such diesel motor fuel
13 were made pursuant to subdivision (s) of section eleven hundred eleven
14 of this chapter. Provided, however, such retail sales shall not include
15 sales made to vehicles subject to highway use tax under article twenty-
16 one of this chapter.

17 § 2. The tax law is amended by adding a new section 284-f to read as
18 follows:

19 § 284-f. Exempt retail sales periods. Notwithstanding any provision
20 of the law to the contrary, excise taxes imposed on motor fuel pursuant

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

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1 to sections two hundred eighty-four, two hundred eighty-four-a, and two
2 hundred eighty-four-c of this article shall not be imposed on retail
3 sales made during the period commencing Friday, May twenty-fourth, two
4 thousand nineteen through Monday, May twenty-seventh, two thousand nine-
5 teen, Thursday, July fourth, two thousand nineteen through Monday, July
6 eighth, two thousand nineteen, and Friday, August thirtieth, two thou-
7 sand nineteen through Monday, September second, two thousand nineteen to
8 the extent such sales of motor fuel were made pursuant to subdivision
9 (s) of section eleven hundred eleven of this chapter. Provided, however,
10 such retail sales shall not include sales made to vehicles subject to
11 highway use tax under article twenty-one of this chapter.

12 § 3. Section 301-a of the tax law is amended by adding a new subdivi-
13 sion (n) to read as follows:

14 (n) Exempt retail sales periods. Notwithstanding any provision of the
15 law to the contrary, taxes imposed on diesel motor fuel and motor fuel
16 for the privilege of engaging in business, doing business, employing
17 capital, owning or leasing property, or maintaining an office in this
18 state under this section shall not be imposed on retail sales made
19 during the period commencing Friday, May twenty-fourth, two thousand
20 nineteen through Monday, May twenty-seventh, two thousand nineteen,
21 Thursday, July fourth, two thousand nineteen through Monday, July
22 eighth, two thousand nineteen, and Friday, August thirtieth, two thou-
23 sand nineteen through Monday, September second, two thousand nineteen to
24 the extent such sales of diesel motor fuel or motor fuel were made
25 pursuant to subdivision (s) of section eleven hundred eleven of this
26 chapter. Provided, however, such retail sales shall not include sales
27 made to vehicles subject to highway use tax under article twenty-one of
28 this chapter.

29 § 4. Section 1111 of the tax law is amended by adding a new subdivi-
30 sion (s) to read as follows:

31 (s)(1) The sales tax imposed by subdivision (a) of section eleven
32 hundred five of this article and the compensating use tax imposed by
33 section eleven hundred ten of this article, in regard to retail sales of
34 motor fuel and diesel motor fuel shall not be imposed during the period
35 commencing Friday, May twenty-fourth, two thousand nineteen through
36 Monday, May twenty-seventh, two thousand nineteen, Thursday, July
37 fourth, two thousand nineteen through Monday, July eighth, two thousand
38 nineteen, and Friday, August thirtieth, two thousand nineteen through
39 Monday, September second, two thousand nineteen. Provided, however,
40 such retail sales shall not include sales made to vehicles subject to
41 highway use tax under article twenty-one of this chapter.

42 (2) The sales and compensating use taxes imposed by subdivision (a) of
43 section eleven hundred nine of this article, in regard to retail sales
44 of motor fuel and diesel motor fuel shall not be imposed during the
45 period commencing Friday, May twenty-fourth, two thousand nineteen
46 through Monday, May twenty-seventh, two thousand nineteen, Thursday,
47 July fourth, two thousand nineteen through Monday, July eighth, two
48 thousand nineteen, and Friday, August thirtieth, two thousand nineteen
49 through Monday, September second, two thousand nineteen. Provided,
50 however, such retail sales shall not include sales made to vehicles
51 subject to highway use tax under article twenty-one of this chapter.

52 (3) Paragraph one of this subdivision shall apply to the sale and
53 compensating use taxes imposed under local laws, ordinances or resol-
54 utions by a municipality or city pursuant to authorization under this
55 chapter, in regard to motor fuel and diesel motor fuel. Provided,
56 however, the local legislative body of a municipality or city pursuant

1 to authorization under this chapter, by local law, ordinance or resolu-
2 tion in the form prepared by the commissioner, may elect not to exempt
3 taxes imposed on retail sales of motor and diesel motor fuel pursuant to
4 subdivision (a) of section eleven hundred five and eleven hundred ten of
5 this article.

6 § 5. Section 1817 of the tax law is amended by adding a new subdivi-
7 sion (o) to read as follows:

8 (o) (1) Every person engaged in the retail sale of motor fuel and/or
9 diesel motor fuel shall comply with the provisions of section three
10 hundred ninety-two-k of the general business law by reducing the prices
11 charged for motor fuel and diesel motor fuel in an amount equal to any
12 reduction in taxes imposed on retail customers resulting from tax
13 exemptions pursuant to sections two hundred eighty-two-d and two hundred
14 eighty-four-f, subdivision (n) of section three hundred one-a and para-
15 graphs one, two, and three of subdivision (s) of section eleven hundred
16 eleven of this chapter.

17 (2) The commissioner, in cooperation with the state consumer
18 protection board, shall monitor the prices charged by persons engaged in
19 the retail sale or distribution of motor fuel and diesel motor fuel.

20 (3) Upon a finding by the commissioner that a person engaged in the
21 retail sale of motor fuel and/or diesel motor fuel has violated the
22 provisions of section three hundred ninety-two-k of the general business
23 law, the commissioner shall provide notice of such violation to such
24 person and hold a hearing on such violation, with an opportunity for the
25 accused to be heard, not less than ten days after notice is provided. A
26 violation of section three hundred ninety-two-k of the general business
27 law shall subject the person violating such section to a civil penalty
28 of up to five thousand dollars for each day such violation occurs.

29 § 6. The general business law is amended by adding a new section 392-k
30 to read as follows:

31 § 392-k. Prices reduced to reflect change in tax computation. Every
32 person engaged in the retail sale of motor fuel and/or diesel motor fuel
33 shall reduce the price such person charges for motor fuel and/or diesel
34 motor fuel in an amount equal to any reduction in taxes paid by retail
35 customers resulting from tax exemptions pursuant to sections two hundred
36 eighty-two-d and two hundred eighty-four-f, subdivision (n) of section
37 three hundred one-a and paragraphs one, two, and three of subdivision
38 (s) of section eleven hundred eleven of the tax law.

39 § 7. Notwithstanding any other provision of this act, exemptions
40 provided under this act shall apply only to (a) motor fuel or diesel
41 motor fuel sold for use directly and exclusively in the engine of a
42 motor vehicle and (b) motor fuel or diesel motor fuel sold by a retail
43 gas station. For purposes of this act and such other provisions of law,
44 "retail gas station" shall mean a filling station where such fuel is
45 stored primarily for sale by delivery directly into the ordinary fuel
46 tank connected with the engine of a motor vehicle to be consumed in the
47 operation of such motor vehicle or where such fuel is stored primarily
48 for sale by delivery directly into the ordinary fuel tank connected with
49 the engine of a vessel to be consumed in the operation of such vessel.

50 § 8. The commissioner of taxation and finance is hereby authorized to
51 require the use of certificates or other documents, and procedures
52 related thereto, to effect the purposes of this act. Provided, further,
53 such purpose shall include refunds of the taxes prepaid by vendors,
54 distributors, and petroleum businesses to the extent retail sales were
55 exempted under this act, and the commissioner of taxation and finance
56 shall be required to administer such refund of taxes as soon as practi-

1 cable. Notwithstanding any other provisions of this act, the vendor
2 shall not be required to collect the taxes imposed on retail sales of
3 motor fuel and diesel motor fuel made to vehicles subject to highway use
4 tax under article 21 of the tax law, and the commissioner of taxation
5 and finance shall collect such taxes if such sales made to vehicles
6 subject to highway use tax under article 21 of the tax law were not
7 collected during the exempt sales period under this act.

8 § 9. A municipality may make the election pursuant to paragraph (3) of
9 subdivision (s) of section 1111 of the tax law, as the case may be, by
10 local law, ordinance or resolution. Provided, however, the minimum
11 notice requirements to the commissioner of taxation and finance shall be
12 deemed complied with if such municipality or city mails by certified or
13 registered mail, a certified copy of such local law, ordinance or resolu-
14 tion to such commissioner prior to the retail sale period exempted
15 under this act. Notwithstanding any other provisions of law, the
16 commissioner of taxation and finance shall establish emergency regu-
17 lations to comply with the notice requirements.

18 § 10. Notwithstanding any provision of law to the contrary, the
19 commissioner of taxation and finance shall determine and certify to the
20 comptroller the amount of revenue foregone as a result of tax exemptions
21 under this act and shall deposit the amounts certified by such commis-
22 sioner as such revenue foregone to the credit of the funds and accounts
23 affected by this act to the debit of the general fund. Provided, howev-
24 er, the commissioner of taxation and finance shall not deposit the
25 amount of revenue foregone in regard to sales and use taxes exempted on
26 motor fuel and diesel motor fuel pursuant to paragraph (3) of subdivi-
27 sion (s) of section 1111 of the tax law.

28 § 11. This act shall take effect immediately.