STATE OF NEW YORK

3097

2021-2022 Regular Sessions

IN SENATE

January 27, 2021

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to exempting from sales and compensating use taxes any empty propane tank, pre-filled propane tank or propane dispensed into a propane tank purchased by a restaurant or food service establishment for use in outdoor dining during the novel coronavirus (COVID-19) state disaster emergency

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

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 46 to read as follows:

(46) Any empty propane tank, pre-filled propane tank or propane dispensed into a propane tank purchased by any restaurant or food service establishment for use in outdoor dining during the novel coronavirus (COVID-19) state disaster emergency declared by the governor in executive order number two hundred two on March seventh, two thousand twenty.

§ 2. Section 210-B of the tax law is amended by adding a new subdivision 55 to read as follows:

55. Sales tax paid on propane and propane tanks for use in outdoor dining credit. (a) For the period beginning June fourth, two thousand twenty and ending on the effective date of this subdivision, a taxpayer who owns a restaurant or food service establishment shall be allowed a credit for sales tax paid for any empty propane tank, pre-filled propane tank or propane dispensed into a propane tank purchased by such taxpayer for use in outdoor dining during the novel coronavirus (COVID-19) state disaster emergency declared by the governor in executive order number two hundred two on March seventh, two thousand twenty.

(b) If the amount of the credit allowed under this subdivision for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in

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

LBD05609-02-1

accordance with the provisions of section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

§ 3. Section 606 of the tax law is amended by adding a new subsection (lll) to read as follows:

(lll) Sales tax paid on propane and propane tanks for use in outdoor dining credit. (1) For the period beginning June fourth, two thousand twenty and ending on the effective date of this subsection, a taxpayer who owns a restaurant or food service establishment shall be allowed a credit for sales tax paid for any empty propane tank, pre-filled propane tank or propane dispensed into a propane tank purchased by such taxpayer for use in outdoor dining during the novel coronavirus (COVID-19) state disaster emergency declared by the governor in executive order number two hundred two on March seventh, two thousand twenty.

(2) If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xlvi) to read as follows:

(xlvi) Sales tax paid on propane and propane tanks for use in outdoor dining credit under subsection (lll)	Sales tax paid on propane and propane tanks for use in outdoor dining credit under subdivision fifty-five of section two hundred ten-B

§ 5. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing at least thirty days after this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law; provided that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to take steps necessary to implement the provisions of this act on its effective date.