Amend Senate S.6295, Assembly A.9295, A BUDGET BILL, AN ACT to amend the tax law, the general city law and the public authorities law, in relation to providing...

Page 1  Title After ";", Insert: “and in relation to providing a credit under articles 9-A and 22 for taxes paid on energy sources consumed by industrial and manufacturing businesses”

Page 2  Title After "(S)", Insert: “; and to amend the tax law, in relation to exempting certain vehicle emissions inspection equipment from sales and compensating use taxes imposed by article 28 of such law and pursuant to the authority of article 29 thereof and to provide a refund or credit of such taxes for such equipment in certain circumstances(T)”

Page 2  Line 4  Delete: “S”, insert “T”

Page 7  Line 6  Delete: “one-half”, insert: “four-tenths”

Line 7  After “through December thirty-first, two thousand, two and four-tenths percent from January first, two thousand one through December thirty-first, two thousand one, two percent from January first, two thousand two through December thirty-first, two thousand two, one and five-tenths percent from January first, two thousand three through December thirty-first, two thousand three, seven-tenths of one percent from January first, two thousand four through December thirty-first, two thousand four and zero percent commencing January first, two thousand five,”

Line 10  Delete: “one-tenth”, insert: “four-tenths”
Line 11  Delete: “one-tenth”, insert: “four-tenths”
Line 13  Delete: “one and seven-tenths”, insert “two”
Line 14  Delete: “eight-tenths of one”, insert “one and five-tenths”
Line 16  Delete: “four-tenths”, insert “seven-tenths”
Line 29  Delete: “one-tenth”, insert: “four-tenths”
Line 31  Delete: “one-tenth”, insert: “four-tenths”
Line 33  Delete: “one and seven-tenths”, insert “two”
Line 34  Delete: “eight-tenths of one”, insert “one and five-tenths”
Line 36  Delete: “four-tenths”, insert “seven-tenths”

Page 10  Line 40  Delete “[”
Line 41  Before “not”, Insert “[”
Line 41  After “not”, Insert “]”
Line 42  After “customers”, Insert “. [”
Line 43  After “]””, insert:

“Upon request the utility shall furnish a statement of the amount of tax imposed by this section to its customers for bills rendered on or after January first 2000.”
§ 45. The tax law is amended by adding a new section 14-a to read as follows: § 14-a. IMB credit for energy taxes. (a) Allowance of credit. A taxpayer which is an industrial or manufacturing business (IMB), or which is a sole proprietor of an IMB or a member of a partnership which is an IMB, and which is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section. Such credit shall be equal to the sum of the taxes imposed under sections 186-a, 186-c, 189 and 189-a of this chapter (other than such taxes which are made the basis of a credit claimed under section fourteen of this article) which during the taxable year were either paid by, or passed through to, the IMB, but only with regard to gas, electricity, steam, water or refrigeration, or gas, electric, steam, water or refrigeration services, consumed or used by the IMB in this state. (b) Definitions. The term "industrial or manufacturing business" shall mean a business which during the taxable year is principally engaged in activities described in clause (A), (B) or (C), or any combination thereof, of subparagraph (ii) of paragraph (b) of subdivision twelve of section two hundred ten of this chapter. (c) Any person who collects from, or passes through to, the IMB, any tax as described in subdivision (a) of this section, shall provide the IMB with the information with respect to such tax passed through which may be required to enable the taxpayer to correctly compute the credit provided for in this section. (d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter: (1) Article 9-A: Section 210.26-a, (2) Article 22: Sections 606(i) and (t-1). § 46. Section 210 of the tax law is amended by adding a new subdivision 26-a to read as follows: 26-a. IMB credit for energy taxes. (a) Allowance of credit. A taxpayer which is an industrial or manufacturing business (IMB) shall be allowed a credit for energy taxes, to be computed as provided in section fourteen-a of this chapter, against the tax imposed by this article. (b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the higher of the amounts prescribed in paragraphs (c) and (d) of subdivision one of this section. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the
provisions of section ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

§ 47. Paragraph 1 of subsection (i) of section 606 of the tax law, as amended by parts I and J of chapter 407 of the laws of 1999, is amended to read as follows:

(1) For purposes of determining the application under this section of the credit provisions enumerated in the following table, a shareholder of a New York S corporation:

(A) shall be treated as the taxpayer with respect to his or her pro rata share of the corresponding credit base of such corporation, determined for the corporation's taxable year ending with or within the shareholder's taxable year and

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter, unless the shareholder has previously received a refund by reason of the application of this subparagraph, or this subsection as it was in effect for taxable years beginning before nineteen hundred ninety-four.

With respect to the following credit base under section two hundred ten or section fourteen hundred fifty-six of this chapter is:

<table>
<thead>
<tr>
<th>Credit Provision</th>
<th>Base under Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investment tax credit</td>
<td></td>
</tr>
<tr>
<td>under subsection (a) qualified rehabilitation expenditures</td>
<td></td>
</tr>
<tr>
<td>under subsection (a) qualified rehabilitation expenditures</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td>Cost or other basis</td>
</tr>
<tr>
<td>under subsection (j) qualified rehabilitation expenditures</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td></td>
</tr>
<tr>
<td>Economic development zone tax credit</td>
<td></td>
</tr>
<tr>
<td>Agricultural property tax credit under subsection (n)</td>
<td></td>
</tr>
<tr>
<td>Credit for employment of persons with disabilities</td>
<td></td>
</tr>
<tr>
<td>under subsection (o) qualified second-year wages</td>
<td></td>
</tr>
<tr>
<td>under subdivision twenty-three qualified second-year wages</td>
<td></td>
</tr>
<tr>
<td>Employment incentive credit under subsection (a-1)</td>
<td></td>
</tr>
<tr>
<td>Economic development zone employment incentive credit</td>
<td></td>
</tr>
<tr>
<td>Alternative fuels credit under subsection (p)</td>
<td></td>
</tr>
<tr>
<td>Qualified emerging technology</td>
<td></td>
</tr>
</tbody>
</table>
§ 48. Section 606 of the tax law is amended by adding a new subsection (t-1) to read as follows:

IMB credit for energy taxes under subdivision (t-1).

Allowance of credit. A taxpayer which is a sole proprietor of an industrial or manufacturing business (IMB), or a member of a partnership which is an IMB, shall be allowed a credit for energy taxes, to be computed as provided in section fourteen-a of this chapter, against the tax imposed by this article.

Application of credit. 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.

Line 39 Delete “46”, insert “49”
Line 40 Delete “six and eight through twenty”, Insert “five, seven through nineteen and forty-five through forty-eight”
Lines 42-47 Delete “(b) Section five of this act shall take effect January 1, 2005, and shall apply to taxable years beginning on or after such date, provided, however, that the amendment to subdivision 10 of section 186-a of the tax law made by section five of this act shall not affect the reversion of such subdivision pursuant to section 9 of chapter 316 of the laws of 1997.”

Line 48 Delete “c”, insert “b”
Line 48 Delete “seven-a”, insert “six-a”
Line 50 Delete “d”, insert “c”
Line 50 Delete “twenty-two”, insert “twenty-one”
Line 50 Delete “twenty-eight”, insert “twenty-seven”
Line 50 Delete “thirty-one”, insert “thirty”
Line 51 Delete “forty-two”, insert “forty-one”

Page 37 Line 8 Delete “e”, insert “d”
Line 8 Delete “twenty-nine”, insert “twenty-eight”
Line 8 Delete “thirty”, insert “twenty-nine”
Line 19 Delete “f”, insert “e”
Line 19 Delete “forty-three”, insert “forty-two”

Page 43, Line 41 After “twenty-two”, insert “or which is a sole proprietor of a QNTC or a member of a partnership”
which is a QNTC,”
Page 44, Line 5 After “state.”, insert:
“Such commissioner shall issue such designations by
December thirty-first, two thousand one, and such
designations shall apply to taxable years beginning on
or after January first, two thousand two and before
January first, two thousand twelve. Such commissioner
may make additional designations at any time in
calendar years two thousand two through two
thousand ten, and any such additional designation
shall apply to taxable years beginning in or after the
calendar year next following the calendar year in
which such additional designation is made, but only to
such taxable years beginning before January first, two
thousand twelve.”
Page 46 Line 20 After “which is a”, insert “sole proprietor of a”
Page 49 Line 9 Delete second “emerging” insert “new”
Page 50 Delete “QNTC”, insert “QNTC”
Page 59 Line 35 After “(QNTC)”, insert “, or which is a sole
proprietor of a QNTC or a member of a partnership
which is a QNTC,”
Lines 46-47 Delete “and such interest is paid or incurred during
the allowable period.”
Page 60 Lines 1-3 Delete “(4) The term “allowable period” means the five
taxable years beginning with the taxable year during
which the qualified property is placed in service in an
upstate high technology enterprise zone.”
Page 62 Line 11 After “technology”, insert “enterprise”
Line 17 After “(QNTC)”, insert “, or a member of a partnership
which is a QNTC,”
Line 37 After “(QNTC)”, insert “, or which is a sole proprietor
of a QNTC or a member of a partnership which is a
QNTC,”
Page 63, Line 1 Delete “taxpayer”, and insert “QNTC”
Lines 1-2 Delete “collected or passed through”
Page 65 Line 20 After “which is a”, insert “sole proprietor of a”
Line 21 After “(QNTC)”, insert “, or a member of a
partnership which is a QNTC,”

Page 66 Line 10 Delete “three”, insert “two”
Line 12 Delete “three”, insert “two”
Line 33 Delete “three”, insert “two”

Line 35 Delete “three”, insert “two”

Page 79, Line 47 After “carryover” delete “or”, insert “of”


Page 100 After line 4, insert:

“(1) Qualified business facility (“QBF”). A business facility the construction or expansion of which is intended to be enhanced by a certified contribution, as described in paragraph three of this subdivision.”

Line 5 Delete “(1)”, insert “(2)”
Line 9 After “taxpayer”, insert “, and including a description of the associated QBF”
Line 14 Delete “(2)”, insert “(3)”
Line 21 After “facilities”, insert:

“Such project must be designed in part to enhance the planned construction or expansion of a QBF.”

Line 27 Delete “the state”, insert “connection with such QBF”
Line 28 Delete “in the state”, insert “in connection therewith”

Line 32 Delete “(3)”, insert “(4)”
Line 32 Delete first “New York”, insert “QBF”
Line 32 Delete second “New York”, insert “QBF”
Line 34 After “of”, insert “such”
Line 34 Delete “within the state”
Line 34 After “employees”, insert “employed in connection with a QBF”

Lines 38-39 Delete “within the state, other than general executive officers (in the case of a corporation)”

Lines 40-46 Delete “For purposes of the preceding sentence, the phrase “wages, salaries and other personal service compensation of employees within the state, other than general executive officers” shall have the meaning ascribed thereto for purposes of subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter (relating to the wage factor under article nine-A of this chapter).”

Line 51 Delete “three”, insert “four”

Page 101 Line 12 Delete “within the state”, insert “employed in connection with a QBF”
Line 17 Delete “within the state”, insert “employed in”
connection with a QBF"

Lines 24-27 Delete “For the purposes of this subdivision, the term “employees within the state, except general executive officers” shall mean the same as in subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter.”

Page 124 Between lines 24 and 25, Insert:

“Part T

Section 1. Paragraph 31 of subdivision (a) of section 1115 of the tax law, as added by section 185 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(31) (i) Enhanced emissions inspection equipment, certified by the department of environmental conservation, pursuant to regulations promulgated by such department, for use in an enhanced emissions inspection and maintenance program as required by the federal clean air act of 1990, as amended in nineteen hundred ninety (42 U.S.C. 7401 et seq.) and the New York state clean air compliance act enacted by chapter 608 of the laws of 1993, where such equipment is purchased and used by an official inspection station licensed by the commissioner of motor vehicles under article five of the vehicle and traffic law and authorized to conduct the enhanced emission inspections required by such federal act.

(ii) Test equipment, certified by the department of environmental conservation under regulations adopted pursuant to the authority of section 19-0320 of the environmental conservation law, predominantly used to test heavy duty diesel vehicles under the heavy duty inspection and maintenance program described in such regulations.

§ 2. Notwithstanding any provision of law to the contrary, a person who, prior to June 1, 2000, purchases test equipment that would be exempt under subparagraph (ii) of paragraph 31 of section 1115 of the tax law, as amended by section one of this act, had it been purchased on or after June 1, 2000, and who pays sales or compensating use tax imposed by article 28 of such law or pursuant to the authority of article 29 thereof on the purchase or use of such test equipment shall be authorized hereby to apply to the commissioner of taxation and finance for a refund or credit of such taxes paid. An application for the refund or credit provided for herein must be filed with the commissioner of taxation and finance within the time provided by subdivision (a) or (c) of section 1139 of the tax law. Such application shall be in such form as the commissioner may prescribe. Where an application for credit has been filed, the applicant may immediately take such credit on the return required under section 1136 of such law which is due coincident with or immediately subsequent to the time that the applicant files such application for credit. However, the taking of the credit on the return shall be deemed to be part of the application for credit. The procedure for granting or denying such applications for refund or credit and review of such determinations shall be as provided in subdivision (e) of section 1139 of such law and such subdivision (e) shall apply to applications authorized by this section as if such subdivision (e) referred to this section.

§ 3. This act shall take effect on June 1, 2000, provided that section two shall apply to sales made and uses occurring on or after that date although made or occurring under a prior contract and section three shall apply to sales made and uses occurring prior to that date.

Line 36. Delete “S”, insert “T”