BILL S.8309-B, Part GG

ISSUE Repeal of Manufacturers' Fuel Tax Exemptions

POSITION Opposed

Our organizations representing thousands of manufacturing business across New York State are opposed to the Senate budget proposal that would repeal a number of exemptions related to the production and use of fossil fuels under the Petroleum Business Tax and the Sales Tax.

Of particular concern are proposed changes that would increase the tax liability on manufacturers that use petroleum and natural gas in their production processes.

These proposals would:

- eliminate the sales tax exemption (Tax Law Article 28) for "fuel" and "[natural] gas" used by manufacturers, at a cost of between $100 and $128 million per year (based on data from the state's annual tax expenditure report.) The impact of this exemption repeal will be nearly double that amount as it is reflected in local sales taxes. The state sales tax is 4% and NYC and counties impose the tax at rates ranging from 3 to 4.75 percent.

- eliminate "petroleum business tax" exemption (Tax Law Article 13-A) for fuels used in manufacturing at a cost of $3.6 million per year. It would also eliminate provisions that allow for manufacturers (and other categories of taxpayers) to receive reimbursements for pre-paid taxes already imbedded in the cost of certain fuels. The PBT is imposed on petroleum businesses "for the privilege of operating in New York," is set at a variable rate, based on changes in the producer price index for refined petroleum products. For 2023, the rates ranged from 4.1 to 18.1 cents per gallon, depending on the fuel category.

This proposal is based on earlier legislation proposal, S.3389, whose sponsor's memo claims – without any backing - that these exemptions "prop-up outdated industries or reward energy inefficiencies."

In fact, this legislation will increase costs for a wide range of manufacturers operating across New York State, making a variety of essential and valuable products, and providing high value jobs. This impact will also fall on manufacturers using state-of-the-art, energy efficient production equipment that is dependent on fossil fuels, and for which no commercially viable alternatives exist.

We believe this legislation represents bad policy for New York for several reasons:

> - by taxing a production input (fuels), this will lead to the pyramiding of taxes, in effect imposing a tax (e.g., the sales tax on the final sale of a finished product) on the cost of a tax already paid on a production input (e.g., these taxes of fuels used in manufacturing.) Many tax experts argue against imposing taxes on business inputs, as these costs imposed at the state level will impair the business' economic competitiveness.
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> - by adding costs to manufacturers, this proposal will impose another cost on the state's manufacturing sector, which continues to lose ground to out-of-state competitors. Over the past two decades, despite a number of major new facilities being located here, New York state lost more than 40% of its manufacturing employment and its manufacturing sector continues to be outperformed by most other states.

Under its Climate Leadership and Community Protection Act, the state is moving toward significant reductions in greenhouse gas emissions and the electrification of much of the state's economy, guided by its comprehensive "scoping plan." That transition is already proving to be technically challenging and economically costly. Under major CLCPA components, like the pending "cap and invest" rule, the state is focusing on the avoidance of economic and emissions "leakage" – driving economic activity out of state to less carbon-efficient jurisdictions. Overall CLCPA implementation will be little helped by the tax increases resulting from this legislation (including other provisions that would impact commercial operations, airlines and other sectors) but could contribute to economic and emission leakage.

For these reasons, we oppose adoption of the tax law changes proposed in S.8309-B, Part GG.

Business Council of New York State, Inc.
Buffalo Niagara Manufacturing Alliance
Center for Economic Growth
Council of Industries of Southeast New York
Ignite Long Island
Manufacturers Alliance of New York
Manufacturers Association of Central New York
Manufacturers Association of the Southern Tier
Rochester Technology and Manufacturing Association

For more information, feel free to contact:
Ken Pokalsky, Vice President, Business Council of NYS, 518-694-4460, ken.pokalsky@bcnys.org
Matt Geitner, Government Relations Director, MACNY, 315-350-7252, mgeitner@macny.org