

4180--A

2011-2012 Regular Sessions

I N S E N A T E

March 22, 2011

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to suspending the state sales and compensating use tax on certain disaster clean-up items during a state of emergency and authorizing localities to waive such tax during the same period

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1115 of the tax law is amended by adding a new
2 subdivision (hh) to read as follows:
3 (HH) THE GOVERNOR MAY TEMPORARILY SUSPEND SALES AND COMPENSATING USE
4 TAXES ASSOCIATED WITH SERVICES OTHERWISE TAXABLE UNDER SUBDIVISION (C)
5 OF SECTION ELEVEN HUNDRED FIVE OR UNDER SECTION ELEVEN HUNDRED TEN OF
6 THIS ARTICLE RENDERED IN CLEAN-UP AND REPAIR OF REAL PROPERTY, PROPERTY
7 OR LAND, AS SUCH TERMS ARE DEFINED IN THE REAL PROPERTY TAX LAW, WHEN
8 SUCH SERVICES ARE PROVIDED BY A CONTRACTOR, SUBCONTRACTOR, REPAIRPERSON
9 OR OWNER OF SUCH REAL PROPERTY, PROPERTY OR LAND LOCATED IN AN AFFECTED
10 COUNTY DURING THE PERIOD OF TIME DECLARED BY THE GOVERNOR AS A STATE
11 DISASTER EMERGENCY, AS DEFINED BY SECTION TWENTY OF THE EXECUTIVE LAW,
12 AND UP TO SIXTY DAYS THEREAFTER.
13 S 2. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
14 1210 of the tax law, as amended by section 3 of part GG of chapter 57 of
15 the laws of 2010, is amended to read as follows:
16 (ii) Any local law, ordinance or resolution enacted by any city, coun-
17 ty or school district, imposing the taxes authorized by this subdivi-
18 sion, shall omit the residential solar energy systems equipment
19 exemption provided for in subdivision (ee) and the clothing and footwear

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

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1 exemption provided for in paragraph thirty of subdivision (a) AND THE
2 STATE OF EMERGENCY CLEAN-UP ACTIVITIES PROVIDED FOR IN SUBDIVISION (HH)
3 of section eleven hundred fifteen of this chapter, unless such city,
4 county or school district elects otherwise as to either such residential
5 solar energy systems equipment exemption or such clothing and footwear
6 exemption.

7 S 3. Subdivision (d) of section 1210 of the tax law, as amended by
8 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
9 read as follows:

10 (d) A local law, ordinance or resolution imposing any tax pursuant to
11 this section, increasing or decreasing the rate of such tax, repealing
12 or suspending such tax, exempting from such tax the energy sources and
13 services described in paragraph three of subdivision (a) or of subdivi-
14 sion (b) of this section or changing the rate of tax imposed on such
15 energy sources and services or providing for the credit or refund
16 described in clause six of subdivision (a) of section eleven hundred
17 nineteen of this chapter must go into effect only on one of the follow-
18 ing dates: March first, June first, September first or December first;
19 provided, that a local law, ordinance or resolution providing for the
20 exemption described in paragraph thirty of subdivision (a) OR SUBDIVI-
21 SION (HH) of section eleven hundred fifteen of this chapter or repealing
22 any such exemption or a local law, ordinance or resolution providing for
23 a refund or credit described in subdivision (d) of section eleven
24 hundred nineteen of this chapter or repealing such provision so provided
25 must go into effect only on March first. No such local law, ordinance or
26 resolution shall be effective unless a certified copy of such law, ordi-
27 nance or resolution is mailed by registered or certified mail to the
28 commissioner at the commissioner's office in Albany at least ninety days
29 prior to the date it is to become effective. However, the commissioner
30 may waive and reduce such ninety-day minimum notice requirement to a
31 mailing of such certified copy by registered or certified mail within a
32 period of not less than thirty days prior to such effective date if the
33 commissioner deems such action to be consistent with the commissioner's
34 duties under section twelve hundred fifty of this article and the
35 commissioner acts by resolution. Where the restriction provided for in
36 section twelve hundred twenty-three of this article as to the effective
37 date of a tax and the notice requirement provided for therein are appli-
38 cable and have not been waived, the restriction and notice requirement
39 in section twelve hundred twenty-three of this article shall also apply.

40 S 4. Section 1210 of the tax law is amended by adding a new subdivi-
41 sion (p) to read as follows:

42 (P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
43 NANCE OR RESOLUTION TO THE CONTRARY:

44 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
45 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
46 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
47 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE
48 SAME STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND
49 COMPENSATING USE TAXES, DURING THE SAME PERIODS EACH YEAR, DESCRIBED IN
50 SUBDIVISION (HH) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY
51 ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF
52 THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF
53 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-
54 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED
55 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-

1 RATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLA-
2 TURE AND APPROVED BY THE GOVERNOR.

3 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
4 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

5 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
6 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, STATE OF EMERGENCY
7 CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES
8 PURSUANT TO SUBDIVISION (HH) OF SECTION 1115 OF THE NEW YORK TAX LAW
9 SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN
10 THIS JURISDICTION, DURING THE SAME PERIODS SET FORTH IN SUCH SUBDIVI-
11 SION.

12 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE
13 YEAR, BUT NOT EARLIER THAN THE YEAR 2012) AND SHALL APPLY TO SALES MADE
14 AND USES OCCURRING DURING THE APPLICABLE EXEMPTION PERIODS EACH YEAR, IN
15 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106
16 AND 1217 OF THE NEW YORK TAX LAW.

17 S 5. Notwithstanding any other provision of state or local law, ordi-
18 nance or resolution to the contrary: (a) Any county or city imposing
19 sales and compensating use taxes pursuant to the authority of subpart B
20 of part I of article 29 of the tax law, acting through its local legis-
21 lative body, is hereby authorized and empowered to elect to provide the
22 exemption from such taxes for new state of emergency clean-up activities
23 exempt from state sales and compensating use taxes described in subdivi-
24 sion (hh) of section 1115 of the tax law, as added by section one of
25 this act, for the periods described therein, whether such taxes are
26 imposed by local law, ordinance or resolution, by enacting a resolution
27 exactly in the form set forth in subdivision (c) of this section, such
28 enactment of such resolution shall be deemed to amend such local law,
29 ordinance or resolution imposing such taxes, and such local law, ordi-
30 nance or resolution shall thenceforth be deemed to incorporate such
31 exemptions.

32 (b) Any city of one million or more in which the taxes imposed by
33 section 1107 of the tax law are in effect, acting through its local
34 legislative body, is hereby authorized and empowered to elect to provide
35 the exemption from such taxes for the same state of emergency clean-up
36 activities exempt from state sales and compensating use taxes described
37 in subdivision (hh) of section 1115 of the tax law, as added by section
38 one of this act, for the periods described therein, by enacting a resol-
39 ution exactly in the form set forth in subdivision (c) of this section,
40 such enactment of such resolution shall be deemed to amend such section
41 1107 of the tax law and such section 1107 shall thenceforth be deemed to
42 incorporate such exemption for such periods as if it had been duly
43 enacted by the state legislature and approved by the governor and such
44 resolution shall also be deemed to amend any local law, ordinance or
45 resolution enacted by such a city imposing such taxes pursuant to the
46 authority of subdivision (a) of section 1210 of the tax law, whether or
47 not such taxes are suspended at the time such city enacts its resol-
48 ution.

49 (c) Form of Resolution:

50 Be it enacted by the (insert proper title of local legislative body)
51 as follows:

52 Section one: The (county or city) of (locality's name) hereby elects
53 the state of emergency clean-up activities exemption periods commencing
54 (commencement period).

55 Section two: This resolution shall take effect immediately and shall
56 apply to sales made and uses occurring during the applicable periods

1 each year, in accordance with applicable transitional provisions of the
2 New York Tax Law.

3 (d) A resolution adopted pursuant to this section shall be effective
4 only if it is adopted exactly as set forth in subdivision (c) of this
5 section and such county or city adopts it, mails a certified copy of it
6 to the commissioner of taxation and finance by certified mail and other-
7 wise complies with the requirements of subdivisions (d) and (e) of
8 section 1210 of the tax law.

9 S 6. This act shall take effect immediately and shall apply to sales
10 made and uses occurring during exemption periods on or after such date
11 in accordance with the applicable transitional provisions of sections
12 1106 and 1217 of the tax law.