

2340

2013-2014 Regular Sessions

I N S E N A T E

January 16, 2013

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the tax law, in relation to clarifying an exemption from sales and compensating use taxes

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

1 Section 1. Subdivision (hh) of section 1115 of the tax law, as added
2 by chapter 406 of the laws of 2012, is amended to read as follows:
3 [(hh)] (II) Receipts from the retail sale of commercial solar energy
4 systems equipment and of the service of installing such systems shall be
5 exempt from taxes imposed by sections eleven hundred five and eleven
6 hundred [eleven] TEN of this article. For the purposes of this subdivi-
7 sion, "commercial solar energy systems equipment" shall mean an arrange-
8 ment or combination of components installed upon non-residential prem-
9 ises that utilize solar radiation to produce energy designed to provide
10 heating, cooling, hot water and/or electricity. Such arrangement or
11 components shall not include equipment that is part of a non-solar ener-
12 gy system.
13 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
14 amended by chapter 406 of the laws of 2012, is amended to read as
15 follows:
16 (1) Either, all of the taxes described in article twenty-eight of this
17 chapter, at the same uniform rate, as to which taxes all provisions of
18 the local laws, ordinances or resolutions imposing such taxes shall be
19 identical, except as to rate and except as otherwise provided, with the
20 corresponding provisions in such article twenty-eight, including the
21 definition and exemption provisions of such article, so far as the
22 provisions of such article twenty-eight can be made applicable to the
23 taxes imposed by such city or county and with such limitations and
24 special provisions as are set forth in this article. The taxes author-

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

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1 ized under this subdivision may not be imposed by a city or county
2 unless the local law, ordinance or resolution imposes such taxes so as
3 to include all portions and all types of receipts, charges or rents,
4 subject to state tax under sections eleven hundred five and eleven
5 hundred ten of this chapter, except as otherwise provided. (i) Any local
6 law, ordinance or resolution enacted by any city of less than one
7 million or by any county or school district, imposing the taxes author-
8 ized by this subdivision, shall, notwithstanding any provision of law to
9 the contrary, exclude from the operation of such local taxes all sales
10 of tangible personal property for use or consumption directly and
11 predominantly in the production of tangible personal property, gas,
12 electricity, refrigeration or steam, for sale, by manufacturing, proc-
13 essing, generating, assembly, refining, mining or extracting; and all
14 sales of tangible personal property for use or consumption predominantly
15 either in the production of tangible personal property, for sale, by
16 farming or in a commercial horse boarding operation, or in both; and,
17 unless such city, county or school district elects otherwise, shall omit
18 the provision for credit or refund contained in clause six of subdivi-
19 sion (a) or subdivision (d) of section eleven hundred nineteen of this
20 chapter. (ii) Any local law, ordinance or resolution enacted by any
21 city, county or school district, imposing the taxes authorized by this
22 subdivision, shall omit the residential solar energy systems equipment
23 exemption provided for in subdivision (ee), the commercial solar energy
24 systems equipment exemption provided for in subdivision [(hh)] (II) and
25 the clothing and footwear exemption provided for in paragraph thirty of
26 subdivision (a) of section eleven hundred fifteen of this chapter,
27 unless such city, county or school district elects otherwise as to
28 either such residential solar energy systems equipment exemption, such
29 commercial solar energy systems equipment exemption or such clothing and
30 footwear exemption.

31 S 3. Subdivision (p) of section 1210 of the tax law, as added by chap-
32 ter 406 of the laws of 2012, is amended to read as follows:

33 (p) Notwithstanding any other provision of state or local law, ordi-
34 nance or resolution to the contrary:

35 (1) Any city having a population of one million or more [in which the
36 taxes imposed by section eleven hundred seven of this chapter are in
37 effect, acting through its local legislative body,] is hereby authorized
38 and empowered to elect to provide the same exemptions from such taxes as
39 the commercial solar energy systems equipment exemption from state sales
40 and compensating use taxes described in subdivision [(hh)] (II) of
41 section eleven hundred fifteen of this chapter by enacting a resolution
42 in the form set forth in paragraph two of this subdivision[; whereupon,
43 upon compliance with the provisions of subdivisions (d) and (e) of this
44 section, such enactment of such resolution shall be deemed to be an
45 amendment to such section eleven hundred seven and such section eleven
46 hundred seven shall be deemed to incorporate such exemptions as if they
47 had been duly enacted by the state legislature and approved by the
48 governor].

49 (2) Form of Resolution: Be it enacted by the (insert proper title of
50 local legislative body) as follows:

51 Section one. Receipts from sales of and consideration given or
52 contracted to be given for, or for the use of, property and services
53 exempt from state sales and compensating use taxes pursuant to subdivi-
54 sion [(hh)] (II) of section 1115 of the tax law shall also be exempt
55 from sales and compensating use taxes imposed in this jurisdiction.

1 Section two. This resolution shall take effect (CHOOSE ONE) January 1,
2 [(insert the year, but not earlier than the year 2012)] 2013 OR SEPTEMBER
3 1, (INSERT ANY YEAR AFTER 2012) and shall apply to sales made,
4 services rendered and uses occurring on and after that date in accordance
5 with the applicable transitional provisions in sections 1106, 1216
6 and 1217 of the New York tax law.

7 S 4. This act shall take effect immediately.