

2767

2013-2014 Regular Sessions

I N   S E N A T E

January 23, 2013

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Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

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 (ii) to read as follows:  
3     (II) 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 TWO OF THE EXECUTIVE LAW, AND  
12    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 chapter 406 of the laws of 2012, is  
15    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), the commercial solar energy  
20    systems equipment exemption provided for in subdivision (hh) [and], THE  
21    STATE OF EMERGENCY CLEAN-UP ACTIVITIES PROVIDED FOR IN SUBDIVISION (II)  
22    AND the clothing and footwear exemption provided for in paragraph thirty

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

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1 of subdivision (a) of section eleven hundred fifteen of this chapter,  
2 unless such city, county or school district elects otherwise as to  
3 either such residential solar energy systems equipment exemption, such  
4 commercial solar energy systems equipment exemption or such clothing and  
5 footwear exemption.

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

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

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

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

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

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

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

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2013) AND SHALL APPLY TO SALES MADE AND USES OCCURRING DURING THE APPLICABLE EXEMPTION PERIODS EACH YEAR, IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

S 5. Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (a) Any county or city imposing sales and compensating use taxes pursuant to the authority of subpart B of part I of article 29 of the tax law, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for new state of emergency clean-up activities exempt from state sales and compensating use taxes described in subdivision (ii) of section 1115 of the tax law, as added by section one of this act, for the periods described therein, whether such taxes are imposed by local law, ordinance or resolution, by enacting a resolution exactly in the form set forth in subdivision (c) of this section, such enactment of such resolution shall be deemed to amend such local law, ordinance or resolution imposing such taxes, and such local law, ordinance or resolution shall thenceforth be deemed to incorporate such exemptions.

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

(c) Form of Resolution:

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

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

Section two: This resolution shall take effect immediately and shall apply to sales made and uses occurring during the applicable periods each year, in accordance with applicable transitional provisions of the New York Tax Law.

1 (d) A resolution adopted pursuant to this section shall be effective  
2 only if it is adopted exactly as set forth in subdivision (c) of this  
3 section and such county or city adopts it, mails a certified copy of it  
4 to the commissioner of taxation and finance by certified mail and other-  
5 wise complies with the requirements of subdivisions (d) and (e) of  
6 section 1210 of the tax law.  
7 S 6. This act shall take effect immediately and shall apply to sales  
8 made and uses occurring during exemption periods on or after such date  
9 in accordance with the applicable transitional provisions of sections  
10 1106 and 1217 of the tax law.