

5780--A

2015-2016 Regular Sessions

I N A S S E M B L Y

March 4, 2015

Introduced by M. of A. KAVANAGH, COLTON, HOOPER, RAMOS -- Multi-Sponsored by -- M. of A. CROUCH, McLAUGHLIN, PEOPLES-STOKES, SCHIMEL, TITONE -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing an exemption for alternative energy systems from the state's sales and compensating use taxes and authorizing counties and cities to elect such exemption from their sales and use taxes imposed by or pursuant to the authority of such law; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subdivision (b) of section 1101 of the tax law is amended
2 by adding a new paragraph 39 to read as follows:
3 (39) ALTERNATIVE ENERGY SYSTEMS. NEW ENERGY STAR APPLIANCES AND TANGI-
4 BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-
5 DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF
6 SUCH STRUCTURES CONSIST OF: (I) SYSTEMS WHICH DO NOT RELY ON PETROLEUM
7 PRODUCTS OR NATURAL GAS AS THEIR ENERGY SOURCE OR FUEL CELL ELECTRIC
8 GENERATION EQUIPMENT AS DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (G-2)
9 OF SECTION SIX HUNDRED SIX OF THIS CHAPTER; (II) NEW ENERGY STAR APPLI-
10 ANCES, INCLUDING RESIDENTIAL REFRIGERATORS, FREEZERS, CLOTHING WASHERS
11 (BUT NOT A COMBINATION WASHER/DRYER UNLESS THE CLOTHING IS WASHED AND
12 DRIED IN THE SAME COMPARTMENT), LIGHT FIXTURES WHICH USE A PIN-BASED
13 COMPACT FLUORESCENT BULB, NON-COMMERCIAL CEILING FANS OR CEILING FAN AND
14 LIGHT KITS, DISHWASHER OR AIR CONDITIONERS, SOLD AT RETAIL, PROVIDED
15 SUCH APPLIANCES QUALIFY FOR AND ARE LABELED WITH, AN ENERGY STAR LABEL
16 BY THE MANUFACTURER, PURSUANT TO AN AGREEMENT AMONG THE MANUFACTURER,
17 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE UNITED STATES

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

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1 DEPARTMENT OF ENERGY; AND (III) TANGIBLE PERSONAL PROPERTY THAT IMPROVES
2 THE ENERGY EFFICIENCY OF RESIDENTIAL AND NON-RESIDENTIAL HEATING AND
3 COOLING SYSTEMS, INCLUDING BUT NOT LIMITED TO, INSULATION AND WEATHER
4 STRIPPING AND PRODUCTS, SUCH AS ROOFING, WINDOWS, DOORS AND SKYLIGHTS
5 APPROVED BY THE ENERGY STAR PROGRAM.

6 S 2. Subdivision (a) of section 1115 of the tax law is amended by
7 adding a new paragraph 44 to read as follows:

8 (44) ALTERNATIVE ENERGY SYSTEMS, NEW ENERGY STAR APPLIANCES AND TANGI-
9 BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-
10 DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF
11 SUCH STRUCTURES, AS DEFINED IN PARAGRAPH THIRTY-NINE OF SUBDIVISION (B)
12 OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE.

13 S 3. Clause 9 of subdivision (b) of section 1107 of the tax law, as
14 amended by section 78 of part A of chapter 56 of the laws of 1998, is
15 amended to read as follows:

16 (9) Except as otherwise provided by law, the [exemption] EXEMPTIONS
17 provided for in paragraph thirty of subdivision (a) of section eleven
18 hundred fifteen OF THIS ARTICLE relating to clothing and footwear AND
19 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
20 FIFTEEN OF THIS ARTICLE RELATING TO ALTERNATIVE ENERGY SYSTEMS shall not
21 apply.

22 S 4. Subdivision (f) of section 1109 of the tax law, as added by
23 section 118-a of part A of chapter 389 of the laws of 1997, is amended
24 to read as follows:

25 (f) The [exemption] EXEMPTIONS contained in [paragraph] PARAGRAPHS
26 thirty AND FORTY-FOUR of subdivision (a) of section eleven hundred
27 fifteen of this article shall not apply.

28 S 5. Section 1109 of the tax law is amended by adding a new subdivi-
29 sion (i) to read as follows:

30 (I) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
31 NANCE OR RESOLUTION TO THE CONTRARY: (1) IN THE EVENT THAT A COUNTY,
32 CITY OR SCHOOL DISTRICT LOCATED IN THE METROPOLITAN COMMUTER TRANSPORTA-
33 TION DISTRICT IMPOSES TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF
34 PART I OF ARTICLE TWENTY-NINE OF THIS CHAPTER AND ELECTS TO PROVIDE THE
35 ALTERNATIVE ENERGY SYSTEMS EXEMPTION AUTHORIZED IN PARAGRAPH ONE OF
36 SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER, OR A CITY
37 LOCATED IN SUCH DISTRICT IN WHICH THE TAXES PROVIDED FOR IN SECTION
38 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT ELECTS TO PROVIDE SUCH
39 ALTERNATIVE ENERGY SYSTEMS EXEMPTION FROM SUCH TAXES PURSUANT TO THE
40 AUTHORITY OF SUBDIVISION (Q) OF SECTION TWELVE HUNDRED TEN OF THIS CHAP-
41 TER, OR THE TAXES PROVIDED FOR IN SECTION ELEVEN HUNDRED EIGHT OF THIS
42 PART ARE IN EFFECT IN A CITY LOCATED IN SUCH DISTRICT, THE EXEMPTION
43 PROVIDED BY PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN
44 HUNDRED FIFTEEN OF THIS ARTICLE SHALL BE APPLICABLE IN SUCH PORTION OF
45 THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN WHICH SUCH COUNTY,
46 CITY OR SCHOOL DISTRICT IS LOCATED. THE COMMISSIONER SHALL DETERMINE AND
47 CERTIFY TO THE COMPTROLLER THE AMOUNT OF REVENUE FORGONE AT THE RATE OF
48 ONE-QUARTER OF ONE PERCENT UNDER THIS SECTION IN SUCH COUNTY, CITY OR
49 SCHOOL DISTRICT ON ACCOUNT OF SALES OF ALTERNATIVE ENERGY SYSTEMS IN
50 SUCH COUNTY, CITY OR SCHOOL DISTRICT.

51 (2) COMMENCING WITH THE SALES TAX QUARTERLY PERIOD WHICH COMMENCES ON
52 JUNE FIRST, TWO THOUSAND SIXTEEN, THE COMMISSIONER SHALL MAKE SUCH
53 DETERMINATIONS AND CERTIFICATIONS ON THE TWELFTH DAY OF THE MONTH
54 FOLLOWING THE MONTH IN WHICH SALES TAX QUARTERLY RETURNS ARE DUE UNDER
55 SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE WITH RESPECT TO SUCH
56 QUARTERLY PERIOD FOR AS LONG AS SUCH ALTERNATIVE ENERGY SYSTEMS

1 EXEMPTIONS FROM SUCH TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE
2 TWENTY-NINE OF THIS CHAPTER OR BY SECTION ELEVEN HUNDRED SEVEN OR ELEVEN
3 HUNDRED EIGHT OF THIS PART ARE IN EFFECT. NEITHER THE COMMISSIONER NOR
4 THE COMPTROLLER SHALL BE HELD LIABLE FOR ANY INACCURACY IN SUCH DETERMI-
5 NATIONS AND CERTIFICATIONS. SUCH DETERMINATIONS AND CERTIFICATIONS MAY
6 BE BASED ON SUCH INFORMATION AS MAY BE AVAILABLE TO THE COMMISSIONER AT
7 THE TIME SUCH DETERMINATIONS AND CERTIFICATIONS MUST BE MADE UNDER THIS
8 SUBDIVISION AND MAY BE ESTIMATED ON THE BASIS OF PERCENTAGES OR OTHER
9 INDICES CALCULATED FROM DISTRIBUTIONS FROM PRIOR PERIODS. THE COMMIS-
10 SIONER SHALL BE AUTHORIZED TO REQUIRE SUCH INFORMATION AS THE COMMIS-
11 SIONER DEEMS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVI-
12 SION FROM PERSONS REQUIRED TO FILE RETURNS UNDER SECTION ELEVEN HUNDRED
13 THIRTY-SIX OF THIS ARTICLE.

14 (3) BY THE FIFTEENTH DAY OF THE MONTH IN WHICH THE COMMISSIONER HAS
15 MADE THE CERTIFICATIONS TO THE COMPTROLLER DESCRIBED IN PARAGRAPH TWO OF
16 THIS SUBDIVISION, THE COMPTROLLER SHALL BILL ANY COUNTY, CITY OR SCHOOL
17 DISTRICT IN SUCH METROPOLITAN COMMUTER TRANSPORTATION DISTRICT WHICH
18 PROVIDES SUCH ALTERNATIVE ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH
19 DISTRICT IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF
20 THIS PART ARE IN EFFECT WHICH HAS ELECTED TO PROVIDE SUCH ALTERNATIVE
21 ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH DISTRICT IN WHICH THE
22 TAXES IMPOSED BY SECTION ELEVEN HUNDRED EIGHT OF THIS PART ARE IN
23 EFFECT, AN AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT CERTIFIED TO THE COMP-
24 TROLLER BY THE COMMISSIONER IN RESPECT OF SUCH COUNTY, CITY OR SCHOOL
25 DISTRICT; AND SUCH COUNTY, CITY OR SCHOOL DISTRICT SHALL PAY THE AMOUNT
26 OF SUCH BILL TO THE COMPTROLLER BY THE TWENTY-FIFTH DAY OF SUCH MONTH.
27 THE COMPTROLLER SHALL DEPOSIT ANY SUCH AMOUNTS RECEIVED IN THE MASS
28 TRANSPORTATION OPERATING ASSISTANCE FUND ESTABLISHED BY SECTION EIGHTY-
29 EIGHT-A OF THE STATE FINANCE LAW TO THE CREDIT OF THE METROPOLITAN MASS
30 TRANSPORTATION OPERATING ASSISTANCE ACCOUNT THEREIN.

31 (4) IN THE EVENT THAT A COUNTY, CITY OR SCHOOL DISTRICT IMPOSING TAX
32 PURSUANT TO THE AUTHORITY OF SUBPART B OF PART I OF ARTICLE TWENTY-NINE
33 OF THIS CHAPTER DOES NOT PAY IN FULL A BILL DESCRIBED IN PARAGRAPH THREE
34 OF THIS SUBDIVISION BY THE TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN
35 PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION, THE COMPTROLLER SHALL
36 DEDUCT ANY AMOUNT NOT PAID FROM THE AMOUNT OF THE NEXT PAYMENT OR
37 PAYMENTS DUE SUCH COUNTY, CITY OR SCHOOL DISTRICT PURSUANT TO SUBDIVI-
38 SION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER UNTIL SUCH
39 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
40 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING
41 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
42 SUBDIVISION.

43 (5) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
44 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
45 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
46 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
47 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
48 THE AMOUNT OF THE NEXT PAYMENT OR PAYMENTS DUE SUCH CITY, WITH RESPECT
49 TO TAXES, PENALTY AND INTEREST IMPOSED PURSUANT TO THE AUTHORITY OF
50 SECTION TWELVE HUNDRED TWELVE-A OF THIS CHAPTER, PURSUANT TO SUBDIVISION
51 (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER, UNTIL SUCH
52 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
53 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING
54 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
55 SUBDIVISION.

1 (6) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
2 ELEVEN HUNDRED EIGHT OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
3 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
4 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
5 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
6 THE AMOUNT OF ANY OTHER MONEYS DUE SUCH CITY FROM THE COMPTROLLER, NOT
7 OTHERWISE PLEDGED, DEDICATED OR ENCUMBERED PURSUANT TO OTHER STATE LAW,
8 UNTIL SUCH AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL
9 DEPOSIT THE AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION
10 OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE
11 OF THIS SUBDIVISION.

12 (7) THE COMMISSIONER SHALL CERTIFY THE AMOUNT OF ANY OVER CALCULATION
13 OR UNDER CALCULATION OF ANY CERTIFICATION REQUIRED TO BE MADE TO THE
14 COMPTROLLER UNDER PARAGRAPH THREE OF THIS SUBDIVISION AS SOON AFTER ITS
15 DISCOVERY AS REASONABLY POSSIBLE AND SUBSEQUENT BILLS TO A CITY, COUNTY
16 OR SCHOOL DISTRICT TO WHICH THE OVER CALCULATION OR UNDER CALCULATION
17 RELATES SHALL BE ADJUSTED ACCORDINGLY, PROVIDED THAT THE COMPTROLLER MAY
18 ADJUST SUCH NUMBER OF SUBSEQUENT BILLS AS THE COMPTROLLER SHALL CONSIDER
19 REASONABLE IN VIEW OF THE AMOUNT OF THE ADJUSTMENT AND ALL OTHER FACTS
20 AND CIRCUMSTANCES.

21 (8) ON THE SAME DATE THAT THE COMPTROLLER IS REQUIRED TO BILL A COUN-
22 TY, CITY OR SCHOOL DISTRICT AN AMOUNT AS PROVIDED IN PARAGRAPH THREE OF
23 THIS SUBDIVISION, THE COMPTROLLER SHALL, AFTER HAVING FIRST MADE ANY
24 DEPOSITS REQUIRED BY SECTION NINETY-TWO-R OF THE STATE FINANCE LAW AND
25 ONLY TO THE EXTENT THAT THERE ARE MONEYS REMAINING AFTER HAVING MADE
26 SUCH REQUIRED DEPOSITS, WITHDRAW FROM THE STATE TREASURY, TO THE DEBIT
27 OF THE GENERAL FUND, AN AMOUNT EQUAL TO THE TOTAL OF THE AMOUNTS
28 REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS PURSUANT
29 TO SUCH PARAGRAPH THREE AND DEPOSIT SUCH TOTAL AMOUNT IN THE MASS TRANS-
30 PORTATION OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN SUCH
31 PARAGRAPH THREE. THE AMOUNT OF ANY OVER CALCULATION OR UNDER CALCULATION
32 DETERMINED IN PARAGRAPH SEVEN OF THIS SUBDIVISION SHALL LIKEWISE BE
33 APPLIED TO THE AMOUNTS REQUIRED TO BE DEPOSITED UNDER THIS PARAGRAPH, SO
34 THAT THE AMOUNTS DEPOSITED UNDER THIS PARAGRAPH EQUAL THE TOTAL OF THE
35 AMOUNTS REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS
36 UNDER SUCH PARAGRAPH THREE, AS ADJUSTED, PURSUANT TO PARAGRAPH SEVEN OF
37 THIS SUBDIVISION.

38 S 6. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
39 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
40 amended to read as follows:

41 (1) Either, all of the taxes described in article twenty-eight of this
42 chapter, at the same uniform rate, as to which taxes all provisions of
43 the local laws, ordinances or resolutions imposing such taxes shall be
44 identical, except as to rate and except as otherwise provided, with the
45 corresponding provisions in such article twenty-eight, including the
46 definition and exemption provisions of such article, so far as the
47 provisions of such article twenty-eight can be made applicable to the
48 taxes imposed by such city or county and with such limitations and
49 special provisions as are set forth in this article. The taxes author-
50 ized under this subdivision may not be imposed by a city or county
51 unless the local law, ordinance or resolution imposes such taxes so as
52 to include all portions and all types of receipts, charges or rents,
53 subject to state tax under sections eleven hundred five and eleven
54 hundred ten of this chapter, except as otherwise provided. (i) Any local
55 law, ordinance or resolution enacted by any city of less than one
56 million or by any county or school district, imposing the taxes author-

1 ized by this subdivision, shall, notwithstanding any provision of law to
2 the contrary, exclude from the operation of such local taxes all sales
3 of tangible personal property for use or consumption directly and
4 predominantly in the production of tangible personal property, gas,
5 electricity, refrigeration or steam, for sale, by manufacturing, proc-
6 essing, generating, assembly, refining, mining or extracting; and all
7 sales of tangible personal property for use or consumption predominantly
8 either in the production of tangible personal property, for sale, by
9 farming or in a commercial horse boarding operation, or in both; and,
10 unless such city, county or school district elects otherwise, shall omit
11 the provision for credit or refund contained in clause six of subdivi-
12 sion (a) or subdivision (d) of section eleven hundred nineteen of this
13 chapter. (ii) Any local law, ordinance or resolution enacted by any
14 city, county or school district, imposing the taxes authorized by this
15 subdivision, shall omit the residential solar energy systems equipment
16 and electricity exemption provided for in subdivision (ee), the commer-
17 cial solar energy systems equipment and electricity exemption provided
18 for in subdivision (ii) and the clothing and footwear exemption provided
19 for in paragraph thirty of subdivision (a) of section eleven hundred
20 fifteen of this chapter AND THE ALTERNATIVE ENERGY SYSTEMS EXEMPTION
21 PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEV-
22 EN HUNDRED FIFTEEN OF THIS CHAPTER, unless such city, county or school
23 district elects otherwise as to either such residential solar energy
24 systems equipment and electricity exemption, such commercial solar ener-
25 gy systems equipment and electricity exemption [or], such clothing and
26 footwear exemption OR SUCH ALTERNATIVE ENERGY SYSTEMS EXEMPTION.

27 S 7. Subdivision (d) of section 1210 of the tax law, as amended by
28 section 4-a of part Z of chapter 59 of the laws of 2015, is amended to
29 read as follows:

30 (d) A local law, ordinance or resolution imposing any tax pursuant to
31 this section, increasing or decreasing the rate of such tax, repealing
32 or suspending such tax, exempting from such tax the energy sources and
33 services described in paragraph three of subdivision (a) or of subdivi-
34 sion (b) of this section or changing the rate of tax imposed on such
35 energy sources and services or providing for the credit or refund
36 described in clause six of subdivision (a) of section eleven hundred
37 nineteen of this chapter, or electing or repealing the exemption for
38 residential solar equipment and electricity in subdivision (ee) of
39 section eleven hundred fifteen of this article, or the exemption for
40 commercial solar equipment and electricity in subdivision (ii) of
41 section eleven hundred fifteen of this article must go into effect only
42 on one of the following dates: March first, June first, September first
43 or December first; provided, that a local law, ordinance or resolution
44 providing for the exemption described in paragraph thirty OR FORTY-FOUR
45 of subdivision (a) of section eleven hundred fifteen of this chapter or
46 repealing any such exemption or a local law, ordinance or resolution
47 providing for a refund or credit described in subdivision (d) of section
48 eleven hundred nineteen of this chapter or repealing such provision so
49 provided must go into effect only on March first. No such local law,
50 ordinance or resolution shall be effective unless a certified copy of
51 such law, ordinance or resolution is mailed by registered or certified
52 mail to the commissioner at the commissioner's office in Albany at least
53 ninety days prior to the date it is to become effective. However, the
54 commissioner may waive and reduce such ninety-day minimum notice
55 requirement to a mailing of such certified copy by registered or certi-
56 fied mail within a period of not less than thirty days prior to such

effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

S 8. Section 1210 of the tax law is amended by adding a new subdivision (q) to read as follows:

(Q) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY:

(1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER 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 ALTERNATIVE ENERGY SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE 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, ALTERNATIVE ENERGY SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2017) AND SHALL APPLY TO SALES MADE AND USES OCCURRING ON OR AFTER SUCH DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

S 9. 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 1 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 alternative energy systems exempt from state sales and compensating use taxes described in paragraph 44 of subdivision (a) of section 1115 of the tax law, 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; whereupon, upon compliance with the provisions of subdivision (d) 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 exemption.

(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

1 legislative body, is hereby authorized and empowered to elect to provide
2 the exemption from such taxes for the same alternative energy systems
3 exempt from state sales and compensating use taxes described in para-
4 graph 44 of subdivision (a) of section 1115 of the tax law by enacting a
5 resolution exactly in the form set forth in subdivision (c) of this
6 section; whereupon, upon compliance with the provisions of subdivision
7 (d) of this section, such enactment of such resolution shall be deemed
8 to amend such section 1107 of the tax law and such section 1107 shall
9 thenceforth be deemed to incorporate such exemption as if it had been
10 duly enacted by the state legislature and approved by the governor and
11 such resolution shall also be deemed to amend any local law, ordinance
12 or resolution enacted by such a city imposing such taxes pursuant to the
13 authority of subdivision (a) of section 1210 of the tax law, whether or
14 not such taxes are suspended at the time such city enacts its resolu-
15 tion.

16 (c) Form of Resolution:

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

19 Section one: The (county or city) of (insert locality's name) hereby
20 elects the alternative energy systems exemption commencing in January of
21 2017.

22 Section two: This resolution shall take effect immediately and shall
23 apply to sales made and uses occurring on or after such date, in accord-
24 ance with applicable transitional provisions of the New York tax law.

25 (d) A resolution adopted pursuant to this section shall be effective
26 only if it is adopted exactly as set forth in subdivision (c) of this
27 section and such county or city adopts it by December 31, 2016, mails a
28 certified copy of it to the commissioner of taxation and finance by
29 certified mail by such date and otherwise complies with the requirements
30 of subdivisions (d) and (e) of section 1210 of the tax law.

31 S 10. This act shall take effect immediately and shall expire and be
32 deemed repealed two years after such date and shall apply to sales made
33 and uses occurring during exemption periods on or after that date in
34 accordance with the applicable transitional provisions of sections 1106
35 and 1217 of the tax law.