

1804--B

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

Introduced by Sens. MARCELLINO, ADDABBO, AVELLA, BOYLE, MARTINS, MURPHY, PANEPINTO -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting energy star appliances from state sales and compensating use taxes and granting municipalities the option to provide such exemption; 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 (a) of section 1115 of the tax law is amended
2 by adding a new paragraph 44 to read as follows:
3 (44) RETAIL SALES OF THE FOLLOWING PRODUCTS, PROVIDED THAT THE PRODUCT
4 QUALIFIES AS AN ENERGY STAR PRODUCT PURSUANT TO THE UNITED STATES ENVI-
5 RONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM, SHALL BE EXEMPT FROM
6 THE SALES TAX PROVISIONS OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE:
7 CLOTHES WASHER, DISHWASHER, REFRIGERATOR, ROOM AIR CONDITIONER, CEILING
8 FAN, DEHUMIDIFIER, FREEZER, AIR PURIFIER, CLOTHES DRYER AND VENTILATING
9 FAN. THE EXEMPTION PROVIDED FOR IN THIS SUBDIVISION SHALL NOT APPLY TO
10 THE RENTAL, LEASING, REPAIR OR SERVICING OF SUCH ENERGY STAR PRODUCTS.
11 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
12 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
13 amended to read as follows:
14 (1) Either, all of the taxes described in article twenty-eight of this
15 chapter, at the same uniform rate, as to which taxes all provisions of
16 the local laws, ordinances or resolutions imposing such taxes shall be
17 identical, except as to rate and except as otherwise provided, with the

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

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1 corresponding provisions in such article twenty-eight, including the
2 definition and exemption provisions of such article, so far as the
3 provisions of such article twenty-eight can be made applicable to the
4 taxes imposed by such city or county and with such limitations and
5 special provisions as are set forth in this article. The taxes author-
6 ized under this subdivision may not be imposed by a city or county
7 unless the local law, ordinance or resolution imposes such taxes so as
8 to include all portions and all types of receipts, charges or rents,
9 subject to state tax under sections eleven hundred five and eleven
10 hundred ten of this chapter, except as otherwise provided. (i) Any local
11 law, ordinance or resolution enacted by any city of less than one
12 million or by any county or school district, imposing the taxes author-
13 ized by this subdivision, shall, notwithstanding any provision of law to
14 the contrary, exclude from the operation of such local taxes all sales
15 of tangible personal property for use or consumption directly and
16 predominantly in the production of tangible personal property, gas,
17 electricity, refrigeration or steam, for sale, by manufacturing, proc-
18 essing, generating, assembly, refining, mining or extracting; and all
19 sales of tangible personal property for use or consumption predominantly
20 either in the production of tangible personal property, for sale, by
21 farming or in a commercial horse boarding operation, or in both; and,
22 unless such city, county or school district elects otherwise, shall omit
23 the provision for credit or refund contained in clause six of subdivi-
24 sion (a) or subdivision (d) of section eleven hundred nineteen of this
25 chapter. (ii) Any local law, ordinance or resolution enacted by any
26 city, county or school district, imposing the taxes authorized by this
27 subdivision, shall omit the residential solar energy systems equipment
28 and electricity exemption provided for in subdivision (ee), the commer-
29 cial solar energy systems equipment and electricity exemption provided
30 for in subdivision (ii) and the clothing and footwear exemption provided
31 for in paragraph thirty of subdivision (a) of section eleven hundred
32 fifteen of this chapter, AND THE ENERGY STAR PRODUCT EXEMPTION PROVIDED
33 FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
34 FIFTEEN OF THIS CHAPTER unless such city, county or school district
35 elects otherwise as to either such residential solar energy systems
36 equipment and electricity exemption, such commercial solar energy
37 systems equipment and electricity exemption or such clothing and foot-
38 wear exemption OR SUCH ENERGY STAR PRODUCT EXEMPTION.

39 S 3. Section 1210 of the tax law is amended by adding a new subdivi-
40 sion (p) to read as follows:

41 (P) 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 SAME EXEMPTIONS FROM SUCH TAXES AS
47 THE ENERGY STAR PRODUCT EXEMPTION FROM STATE SALES AND COMPENSATING USE
48 TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION
49 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION IN THE
50 FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON
51 COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS
52 SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN
53 AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN
54 HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS IF THEY
55 HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE
56 GOVERNOR.

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

3 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
4 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES
5 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH
6 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE
7 EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDIC-
8 TION.

9 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT
10 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2016) AND SHALL APPLY TO SALES
11 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN
12 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,
13 1216 AND 1217 OF THE NEW YORK TAX LAW.

14 S 4. This act shall take effect April 1, 2017, and shall expire and be
15 deemed repealed April 1, 2022.