

STATE OF NEW YORK

876

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

Introduced by Sen. ORTT -- 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 providing an exemption for geothermal heat pump systems equipment

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 (11) to read as follows:

3 (11) Receipts from the retail sale of residential geothermal heat pump
4 systems equipment and of the service of installing such systems shall be
5 exempt from tax under this article. For purposes of this subdivision,
6 "residential geothermal heat pump system equipment" shall mean an
7 arrangement or combination of components installed in and around a resi-
8 dential building that uses the ground or ground water as a thermal ener-
9 gy source or as a thermal energy sink designed to provide and distribute
10 heating, and/or cooling, and/or hot water, also commonly referred to as
11 ground source heat pump systems. Such arrangement or components shall
12 not include any sort of recreational facility or equipment used as a
13 storage medium.

14 § 2. Section 1115 of the tax law is amended by adding a new subdivi-
15 sion (mm) to read as follows:

16 (mm) Receipts from the retail sale of commercial geothermal heat pump
17 systems equipment and of the service of installing such systems shall be
18 exempt from taxes imposed by sections eleven hundred five and eleven
19 hundred ten of this article. For purposes of this subdivision, "commer-
20 cial geothermal heat pump system equipment" shall mean an arrangement or
21 combination of components installed in and around a commercial building
22 that uses the ground or ground water as a thermal energy source or as a
23 thermal energy sink designed to provide and distribute heating, and/or
24 cooling, and/or hot water, also commonly referred to as ground source

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

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1 heat pump systems. Such arrangement or components shall not include any
2 sort of recreational facility or equipment used as a storage medium.

3 § 3. Subparagraph (ii) of paragraph 1 and subparagraph (xiv) of para-
4 graph 4 of subdivision (a) of section 1210 of the tax law, subparagraph
5 (ii) of paragraph (a) as amended and subparagraph (xiv) of paragraph 4
6 as added by section 2 of part WW of chapter 60 of the laws of 2016, are
7 amended and a new subparagraph (xv) is added to paragraph 4 to read as
8 follows:

9 (ii) Any local law, ordinance or resolution enacted by any city, coun-
10 ty or school district, imposing the taxes authorized by this subdivi-
11 sion, shall omit the residential solar energy systems equipment and
12 electricity exemption provided for in subdivision (ee), the commercial
13 solar energy systems equipment and electricity exemption provided for in
14 subdivision (ii), the commercial fuel cell electricity generating
15 systems equipment and electricity generated by such equipment exemption
16 provided for in subdivision (kk), the residential geothermal heat pump
17 systems equipment and installation exemption provided for in subdivision
18 (ll), the commercial geothermal heat pump systems equipment and instal-
19 lation exemption provided for in subdivision (mm) and the clothing and
20 footwear exemption provided for in paragraph thirty of subdivision (a)
21 of section eleven hundred fifteen of this chapter, unless such city,
22 county or school district elects otherwise as to such residential solar
23 energy systems equipment and electricity exemption, such commercial
24 solar energy systems equipment and electricity exemption, commercial
25 fuel cell electricity generating systems equipment and electricity
26 generated by such equipment exemption, such residential geothermal heat
27 pump systems equipment and installation exemption, such commercial
28 geothermal heat pump systems equipment and installation exemption or
29 such clothing and footwear exemption.

30 (xiv) shall omit, unless such city elects otherwise, the exemption for
31 commercial fuel cell electricity generating systems equipment and elec-
32 tricity generated by such equipment provided in subdivision (kk) of
33 section eleven hundred fifteen of this chapter[-]; and (xv) shall omit
34 unless such city elects otherwise, the residential geothermal heat pump
35 systems equipment and installation exemption provided for in subdivision
36 (ll) of section eleven hundred fifteen of this chapter; and shall omit
37 unless such city elects otherwise, the commercial geothermal heat pump
38 systems equipment and installation exemption provided for in subdivision
39 (mm) of section eleven hundred fifteen of this chapter.

40 § 4. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as
41 amended by section 3 of part WW of chapter 60 of the laws of 2016, is
42 amended to read as follows:

43 (1) Or, one or more of the taxes described in subdivisions (b), (d),
44 (e) and (f) of section eleven hundred five of this chapter, at the same
45 uniform rate, including the transitional provisions in section eleven
46 hundred six of this chapter covering such taxes, but not the taxes
47 described in subdivisions (a) and (c) of section eleven hundred five of
48 this chapter. Provided, further, that where the tax described in subdivi-
49 sion (b) of section eleven hundred five of this chapter is imposed,
50 the compensating use taxes described in clauses (E), (G) and (H) of
51 subdivision (a) of section eleven hundred ten of this chapter shall also
52 be imposed. Provided, further, that where the taxes described in subdivi-
53 sion (b) of section eleven hundred five are imposed, such taxes shall
54 omit: (A) the provision for refund or credit contained in subdivision
55 (d) of section eleven hundred nineteen of this chapter with respect to
56 such taxes described in such subdivision (b) of section eleven hundred

1 five unless such city or county elects to provide such provision or, if
2 so elected, to repeal such provision; (B) the exemption provided in
3 paragraph two of subdivision (ee) of section eleven hundred fifteen of
4 this chapter unless such county or city elects otherwise; (C) the
5 exemption provided in paragraph two of subdivision (ii) of section eleven
6 hundred fifteen of this chapter, unless such county or city elects
7 otherwise; ~~and~~ (D) the exemption provided in paragraph two of subdivi-
8 sion (kk) of section eleven hundred fifteen of this chapter, unless such
9 county or city elects otherwise; (E) the exemption provided in paragraph
10 two of subdivision (ll) of section eleven hundred fifteen of this chap-
11 ter, unless such county or city elects otherwise; and (F) the exemption
12 provided in paragraph two of subdivision (mm) of section eleven hundred
13 fifteen of this chapter, unless such county or city elects otherwise.

14 § 5. Subdivision (d) of section 1210 of the tax law, as amended by
15 section 4 of part WW of chapter 60 of the laws of 2016, is amended to
16 read as follows:

17 (d) A local law, ordinance or resolution imposing any tax pursuant to
18 this section, increasing or decreasing the rate of such tax, repealing
19 or suspending such tax, exempting from such tax the energy sources and
20 services described in paragraph three of subdivision (a) or of subdivi-
21 sion (b) of this section or changing the rate of tax imposed on such
22 energy sources and services or providing for the credit or refund
23 described in clause six of subdivision (a) of section eleven hundred
24 nineteen of this chapter, or electing or repealing the exemption for
25 residential solar equipment and electricity in subdivision (ee) of
26 section eleven hundred fifteen of this article, or the exemption for
27 commercial solar equipment and electricity in subdivision (ii) of
28 section eleven hundred fifteen of this article, or electing or repealing
29 the exemption for commercial fuel cell electricity generating systems
30 equipment and electricity generated by such equipment in subdivision
31 (kk) of section eleven hundred fifteen of this article, or electing or
32 repealing the exemption for residential geothermal heat pump systems
33 equipment and installation in subdivision (ll) of section eleven hundred
34 fifteen of this article, or electing or repealing the exemption for
35 commercial geothermal heat pump systems equipment and installation in
36 subdivision (mm) of section eleven hundred fifteen of this article must
37 go into effect only on one of the following dates: March first, June
38 first, September first or December first; provided, that a local law,
39 ordinance or resolution providing for the exemption described in para-
40 graph thirty of subdivision (a) of section eleven hundred fifteen of
41 this chapter or repealing any such exemption or a local law, ordinance
42 or resolution providing for a refund or credit described in subdivision
43 (d) of section eleven hundred nineteen of this chapter or repealing such
44 provision so provided must go into effect only on March first. No such
45 local law, ordinance or resolution shall be effective unless a certified
46 copy of such law, ordinance or resolution is mailed by registered or
47 certified mail to the commissioner at the commissioner's office in Alba-
48 ny at least ninety days prior to the date it is to become effective.
49 However, the commissioner may waive and reduce such ninety-day minimum
50 notice requirement to a mailing of such certified copy by registered or
51 certified mail within a period of not less than thirty days prior to
52 such effective date if the commissioner deems such action to be consist-
53 ent with the commissioner's duties under section twelve hundred fifty of
54 this article and the commissioner acts by resolution. Where the
55 restriction provided for in section twelve hundred twenty-three of this
56 article as to the effective date of a tax and the notice requirement

1 provided for therein are applicable and have not been waived, the
2 restriction and notice requirement in section twelve hundred twenty-
3 three of this article shall also apply.

4 § 6. Subdivision (a) of section 1212 of the tax law, as amended by
5 section 5 of part WW of chapter 60 of the laws of 2016, is amended to
6 read as follows:

7 (a) Any school district which is coterminous with, partly within or
8 wholly within a city having a population of less than one hundred twen-
9 ty-five thousand, is hereby authorized and empowered, by majority vote
10 of the whole number of its school authorities, to impose for school
11 district purposes, within the territorial limits of such school district
12 and without discrimination between residents and nonresidents thereof,
13 the taxes described in subdivision (b) of section eleven hundred five
14 (but excluding the tax on prepaid telephone calling services) and the
15 taxes described in clauses (E) and (H) of subdivision (a) of section
16 eleven hundred ten, including the transitional provisions in subdivision
17 (b) of section eleven hundred six of this chapter, so far as such
18 provisions can be made applicable to the taxes imposed by such school
19 district and with such limitations and special provisions as are set
20 forth in this article, such taxes to be imposed at the rate of one-half,
21 one, one and one-half, two, two and one-half or three percent which rate
22 shall be uniform for all portions and all types of receipts and uses
23 subject to such taxes. In respect to such taxes, all provisions of the
24 resolution imposing them, except as to rate and except as otherwise
25 provided herein, shall be identical with the corresponding provisions in
26 such article twenty-eight of this chapter, including the applicable
27 definition and exemption provisions of such article, so far as the
28 provisions of such article twenty-eight of this chapter can be made
29 applicable to the taxes imposed by such school district and with such
30 limitations and special provisions as are set forth in this article. The
31 taxes described in subdivision (b) of section eleven hundred five (but
32 excluding the tax on prepaid telephone calling service) and clauses (E)
33 and (H) of subdivision (a) of section eleven hundred ten, including the
34 transitional provision in subdivision (b) of such section eleven hundred
35 six of this chapter, may not be imposed by such school district unless
36 the resolution imposes such taxes so as to include all portions and all
37 types of receipts and uses subject to tax under such subdivision (but
38 excluding the tax on prepaid telephone calling service) and clauses.
39 Provided, however, that, where a school district imposes such taxes,
40 such taxes shall omit the provision for refund or credit contained in
41 subdivision (d) of section eleven hundred nineteen of this chapter with
42 respect to such taxes described in such subdivision (b) of section elev-
43 en hundred five unless such school district elects to provide such
44 provision or, if so elected, to repeal such provision, and shall omit
45 the exemptions provided in paragraph two of subdivision (ee) and para-
46 graph two of subdivision (ii) of section eleven hundred fifteen of this
47 chapter unless such school district elects otherwise, and shall omit the
48 exemption provided in paragraph two of subdivision (kk) of section elev-
49 en hundred fifteen of this chapter unless such school district elects
50 otherwise, and shall omit the exemption provided in subdivision (ll) of
51 section eleven hundred fifteen of this chapter unless such school
52 district elects otherwise, and shall omit the exemption provided in
53 subdivision (mm) of section eleven hundred fifteen of this chapter
54 unless such school district elects otherwise.

55 § 7. Section 1224 of the tax law is amended by adding two new subdivi-
56 sions (c-3) and (c-4) to read as follows:

1 (c-3) Notwithstanding any other provision of law: (1) Where a county
2 containing one or more cities with a population of less than one million
3 has elected the exemption for residential geothermal heat pump systems
4 equipment and installation provided in subdivision (ll) of section elev-
5 en hundred fifteen of this chapter, a city within such county shall have
6 the prior right to impose tax on such exempt equipment and/or installa-
7 tion to the extent of one half of the maximum rates authorized under
8 subdivision (a) of section twelve hundred ten of this article;

9 (2) Where a city of less than one million has elected the exemption
10 for residential geothermal heat pump systems equipment and installation
11 provided in subdivision (ll) of section eleven hundred fifteen of this
12 chapter, the county in which such city is located shall have the prior
13 right to impose tax on such exempt equipment and/or installation to the
14 extent of one half of the maximum rates authorized under subdivision (a)
15 of section twelve hundred ten of this article.

16 (c-4) Notwithstanding any other provision of law: (1) Where a county
17 containing one or more cities with a population of less than one million
18 has elected the exemption for commercial geothermal heat pump systems
19 equipment and installation provided in subdivision (mm) of section elev-
20 en hundred fifteen of this chapter, a city within such county shall have
21 the prior right to impose tax on such exempt equipment and/or installa-
22 tion to the extent of one half of the maximum rates authorized under
23 subdivision (a) of section twelve hundred ten of this article;

24 (2) Where a city of less than one million has elected the exemption
25 for commercial geothermal heat pump systems equipment and installation
26 provided in subdivision (mm) of section eleven hundred fifteen of this
27 chapter, the county in which such city is located shall have the prior
28 right to impose tax on such exempt equipment and/or installation to the
29 extent of one half of the maximum rates authorized under subdivision (a)
30 of section twelve hundred ten of this article.

31 § 8. This act shall take effect immediately.