

# STATE OF NEW YORK

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3067

2019-2020 Regular Sessions

## IN SENATE

February 1, 2019

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Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to terminal rental adjustment clauses in motor vehicle leases

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (B) of subdivision (i) of section 1111 of the tax  
2 law, as amended by chapter 20 of the laws of 1992, is amended to read as  
3 follows:

4 (B) Notwithstanding any inconsistent provisions of this subdivision,  
5 with respect to a lease of a motor vehicle described in paragraph (A) of  
6 this subdivision for a term of one year or more (1) which includes an  
7 indeterminate number of options to renew or other similar contractual  
8 provisions or which includes thirty-six or more monthly options to renew  
9 beyond the initial term, and (2) under which lease the lessee of such  
10 motor vehicle has certified in the writing described in clause (i) of  
11 subparagraph (C) of paragraph two of subsection (h) of section 7701 of  
12 the internal revenue code of 1986, under penalty of perjury, that the  
13 lessee intends that more than fifty percent of the use of such vehicle  
14 is to be in a trade or business of the lessee, all receipts due or  
15 consideration given or contracted to be given under such lease for the  
16 first thirty-two months, or the period of the initial term if greater,  
17 of such lease shall be deemed to have been paid or given and shall be  
18 subject to tax in accordance with the provisions of this subdivision.  
19 For each such option to renew, or similar provision, or combination of  
20 them, exercised after the first thirty-two months, or the period of such  
21 initial term, if longer, of any such lease, tax due under this article  
22 shall be collected and paid or paid over without regard to this subdivi-  
23 sion. If any such lease contains a "terminal rental adjustment clause"  
24 as defined in paragraph three of subsection (h) of section 7701 of the  
25 internal revenue code of 1986, (1) any increase in the consideration

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

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1 given pursuant to such clause upon termination of the lease shall be  
2 subject to tax, and (2) any decrease in the consideration given pursuant  
3 to such clause upon termination of the lease shall allow the lessor to  
4 claim a credit or refund of tax on such amount.

5 § 2. This act shall take effect immediately.