

STATE OF NEW YORK

4761--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 8, 2021

Introduced by M. of A. FAHY, SIMON, SEAWRIGHT, VANEL, DICKENS, ROZIC, THIELE, COLTON, McDONOUGH, GRIFFIN -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting the sale of the first thirty-five thousand dollars of a battery, electric, or plug-in hybrid electric vehicle from state sales and compensating use taxes, and to authorize cities and counties to elect such exemption

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

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 46 to read as follows:

(46) The receipts from the first thirty-five thousand dollars of the retail sale or lease of a new battery, electric, or plug-in hybrid electric vehicle. For purposes of this paragraph the term "battery, electric, or plug-in hybrid electric vehicle" means a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, that:

(i) has four wheels;

(ii) was manufactured for use primarily on public streets, roads and highways;

(iii) the powertrain of which has not been modified from the original manufacturer's specifications;

(iv) is rated at not more than eight thousand five hundred pounds gross vehicle weight;

(v) has a maximum speed capability of at least fifty-five miles per hour; and

(vi) is propelled at least in part by an electronic motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a battery that:

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

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1 (A) has a capacity of not less than four kilowatt hours; and
2 (B) is capable of being recharged from an external source of electric-
3 ity.

4 § 2. Section 1160 of the tax law is amended by adding a new subdivi-
5 sion (c) to read as follows:

6 (c) The new battery, electric, or plug-in hybrid electric vehicles
7 exemption provided for in paragraph forty-six of subdivision (a) of
8 section eleven hundred fifteen of this chapter shall not apply to or
9 limit the imposition of the tax imposed pursuant to this article.

10 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
11 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of
12 the laws of 2016, is amended to read as follows:

13 (ii) Any local law, ordinance or resolution enacted by any city, coun-
14 ty or school district, imposing the taxes authorized by this subdivi-
15 sion, shall omit the residential solar energy systems equipment and
16 electricity exemption provided for in subdivision (ee), the commercial
17 solar energy systems equipment and electricity exemption provided for in
18 subdivision (ii), the commercial fuel cell electricity generating
19 systems equipment and electricity generated by such equipment exemption
20 provided for in subdivision (kk) [~~and~~], the clothing and footwear
21 exemption provided for in paragraph thirty of subdivision (a) of section
22 eleven hundred fifteen of this chapter, and the battery, electric, or
23 plug-in hybrid electric vehicle exemption provided for in paragraph
24 forty-six of subdivision (a) of section eleven hundred fifteen of this
25 chapter unless such city, county or school district elects otherwise as
26 to such residential solar energy systems equipment and electricity
27 exemption, such commercial solar energy systems equipment and electric-
28 ity exemption, commercial fuel cell electricity generating systems
29 equipment and electricity generated by such equipment exemption [~~or~~],
30 such clothing and footwear exemption or such battery, electric, or plug-
31 in hybrid electric vehicle exemption provided for in paragraph forty-six
32 of subdivision (a) of section eleven hundred fifteen of this chapter.

33 § 4. Paragraph 46 of subdivision (a) of section 1115 of the tax law,
34 as added by section one of this act, is amended to read as follows:

35 (46) The receipts from the first thirty-five thousand dollars of the
36 retail sale or lease of a new battery[~~7~~] or electric[~~7-or plug-in hybrid~~
37 ~~electric~~] vehicle. For purposes of this paragraph the term "battery[~~7~~
38 or electric[~~7-or plug-in hybrid electric~~] vehicle" means a motor vehi-
39 cle, as defined in section one hundred twenty-five of the vehicle and
40 traffic law, that:

41 (i) has four wheels;

42 (ii) was manufactured for use primarily on public streets, roads and
43 highways;

44 (iii) the powertrain of which has not been modified from the original
45 manufacturer's specifications;

46 (iv) is rated at not more than eight thousand five hundred pounds
47 gross vehicle weight;

48 (v) has a maximum speed capability of at least fifty-five miles per
49 hour; and

50 (vi) is propelled [~~at least in part~~] by an electronic motor and asso-
51 ciated power electronics which provide acceleration torque to the drive
52 wheels sometime during normal vehicle operation, and that draws elec-
53 tricity from a battery that:

54 (A) has a capacity of not less than four kilowatt hours; and

55 (B) is capable of being recharged from an external source of electric-
56 ity.

1 § 5. Subdivision (c) of section 1160 of the tax law, as added by
2 section two of this act, is amended to read as follows:

3 (c) The new battery[~~7~~] or electric[~~7~~, ~~or plug-in hybrid electric~~] vehi-
4 cles exemption provided for in paragraph forty-six of subdivision (a) of
5 section eleven hundred fifteen of this chapter shall not apply to or
6 limit the imposition of the tax imposed pursuant to this article.

7 § 6. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
8 1210 of the tax law, as amended by section three of this act, is amended
9 to read as follows:

10 (ii) Any local law, ordinance or resolution enacted by any city, coun-
11 ty or school district, imposing the taxes authorized by this subdivi-
12 sion, shall omit the residential solar energy systems equipment and
13 electricity exemption provided for in subdivision (ee), the commercial
14 solar energy systems equipment and electricity exemption provided for in
15 subdivision (ii), the commercial fuel cell electricity generating
16 systems equipment and electricity generated by such equipment exemption
17 provided for in subdivision (kk), the clothing and footwear exemption
18 provided for in paragraph thirty of subdivision (a) of section eleven
19 hundred fifteen of this chapter, and the battery[~~7~~] or electric[~~7~~, ~~or~~
20 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph
21 forty-six of subdivision (a) of section eleven hundred fifteen of this
22 chapter unless such city, county or school district elects otherwise as
23 to such residential solar energy systems equipment and electricity
24 exemption, such commercial solar energy systems equipment and electric-
25 ity exemption, commercial fuel cell electricity generating systems
26 equipment and electricity generated by such equipment exemption, such
27 clothing and footwear exemption or such battery[~~7~~] or electric[~~7~~, ~~or~~
28 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph
29 forty-six of subdivision (a) of section eleven hundred fifteen of this
30 chapter.

31 § 7. This act shall take effect on the first day of a sales tax quar-
32 terly period, as described in subdivision (b) of section 1136 of the tax
33 law, beginning at least one hundred twenty days after the date this act
34 shall have become a law and shall apply to sales made on or after such
35 date; provided, however, that sections four, five and six of this act
36 shall take effect ten years after such effective date and shall apply to
37 sales made on and after such date.