STATE OF NEW YORK

5883--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 1, 2021

Introduced by M. of A. STIRPE -- 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 certain personal protective clothing and equipment from the tax on sales and the compensating use tax, exempting from sales and compensating use taxes any equipment or product purchased by restaurant or food service establishments for use in outdoor dining during the novel coronavirus (COVID-19) and exempting from sales and compensating use taxes any equipment or product purchased by a small business that is used to comply with a COVID-19 health and safety plan

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 three new paragraphs 47, 48 and 49 to read as follows:

(47) Personal protective clothing and equipment worn for protection against illness from infectious disease or materials or to help prevent or reduce the spread of infectious disease or illness. Personal protective clothing and equipment shall include, but not be limited to, isolation gowns and coveralls, gloves, facemasks, face shields, goggles, and any other clothing or equipment determined by the commissioner of health to be effective in protecting the wearer against illness from infectious disease or materials or to help prevent or reduce the spread of infectious disease or illness.

(48) Any equipment or product purchased by any restaurant or food service establishment for the use in outdoor dining during the novel coronavirus (COVID-19) pandemic.

(49) Any equipment or product, including materials used in the construction of physical barriers, including but not limited to plastic shielding walls, strip curtains, cubicle walls, plexiglass or similar materials, or other impermeable dividers or partitions, purchased by a

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

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small business doing business in this state that is directly used by such small business to be in compliance with a COVID-19 health and safety plan. For purposes of this paragraph, the term "small business" shall mean a business with one hundred or fewer employees.

§ 2. Section 210-B of the tax law is amended by adding two new subdivisions 58 and 59 to read as follows:

58. Sales tax paid on outdoor dining equipment credit. (1) For the period beginning June fourth, two thousand twenty and ending on the effective date of this subdivision, a taxpayer who owns a restaurant or food service establishment shall be allowed a credit for sales tax paid for any equipment or product purchased by such taxpayer for use in outdoor dining during the novel coronavirus (COVID-19) pandemic.

(2) If the amount of the credit allowed under this subdivision for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

59. Sales tax paid on materials for COVID-19 health and safety plan compliance. (1) For the period beginning May fifteenth, two thousand twenty and ending on the effective date of this subdivision, a taxpayer who owns a small business shall be allowed a credit for sales tax paid for any equipment or product, including materials used in the construction of physical barriers, including but not limited to plastic shielding walls, strip curtains, cubicle walls, plexiglass or similar materials, or other impermeable dividers or partitions, purchased by such small business in order to be in compliance with a COVID-19 health and safety plan.

(2) If the amount of the credit allowed under this subdivision for any taxable year shall exceed the small business's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this chapter, provided, however, that no interest shall be paid thereon.

(3) For purposes of this subdivision, the term "small business" shall mean a business with one hundred or fewer employees.

§ 3. Section 606 of the tax law is amended by adding two new subsections (nnn) and (ooo) to read as follows:

(nnn) Sales tax paid on outdoor dining equipment credit. (1) For the period beginning June fourth, two thousand twenty and ending on the effective date of this subsection, a taxpayer who owns a restaurant or food service establishment shall be allowed a credit for sales tax paid for any equipment or product purchased by such taxpayer for use in outdoor dining during the novel coronavirus (COVID-19) pandemic.

(2) If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(ooo) Sales tax paid on materials for COVID-19 health and safety plan compliance. (1) For the period beginning May fifteenth, two thousand twenty and ending on the effective date of this subsection, a taxpayer who owns a small business shall be allowed a credit for sales tax paid for any equipment or product, including materials used in the construction of physical barriers, including but not limited to plastic shielding walls, strip curtains, cubicle walls, plexiglass or similar materials, or other impermeable dividers or partitions, purchased by such small business in order to be in compliance with a COVID-19 health and safety plan.

(2) If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(3) For purposes of this subsection, the term "small business" shall mean a business with one hundred or fewer employees.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding two new clauses (xlix) and (l) to read as follows:

(xlix) Sales tax paid on outdoor dining equipment credit under subsection (nnn)	Sales tax paid on outdoor dining equipment credit under subdivision fifty-eight of section two hundred ten-B
(l) Sales tax paid on materials for COVID-19 health and safety plan compliance under subsection (ooo)	Sales tax paid on materials for COVID-19 health and safety plan compliance under subdivision fifty-nine of section two hundred ten-B

§ 5. This act shall take effect on the first day of the sales tax quarterly period commencing after this act shall have become a law, and shall apply to sales made and uses occurring on and after such date in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law; provided that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to take steps necessary to implement the provisions of this act on its effective date.