

STATE OF NEW YORK

642--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 47 to read as follows:

(47) Receipts from the retail sale of residential geothermal heat pump systems equipment and of the service of installing such systems shall be exempt from tax under this article. For purposes of this paragraph, "residential geothermal heat pump system equipment" shall mean an arrangement or combination of components installed in and around a residential building that uses the ground or ground water as a thermal energy source or as a thermal energy sink designed to provide and distribute heating, and/or cooling, and/or hot water, also commonly referred to as ground source heat pump systems. Such arrangement or components shall not include any sort of recreational facility or equipment used as a storage medium.

§ 2. Section 1115 of the tax law is amended by adding a new subdivision (11) to read as follows:

(11) Receipts from the retail sale of commercial geothermal heat pump systems equipment and of the service of installing such systems shall be exempt from taxes imposed by sections eleven hundred five and eleven hundred ten of this article. For purposes of this subdivision, "commercial geothermal heat pump system equipment" shall mean an arrangement or combination of components installed in and around a commercial building

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

LBD05816-02-1

1 that uses the ground or ground water as a thermal energy source or as a
2 thermal energy sink designed to provide and distribute heating, and/or
3 cooling, and/or hot water, also commonly referred to as ground source
4 heat pump systems. Such arrangement or components shall not include any
5 sort of recreational facility or equipment used as a storage medium.

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

12 (ii) Any local law, ordinance or resolution enacted by any city, coun-
13 ty or school district, imposing the taxes authorized by this subdivi-
14 sion, shall omit the residential solar energy systems equipment and
15 electricity exemption provided for in subdivision (ee), the commercial
16 solar energy systems equipment and electricity exemption provided for in
17 subdivision (ii), the commercial fuel cell electricity generating
18 systems equipment and electricity generated by such equipment exemption
19 provided for in subdivision (kk), the residential geothermal heat pump
20 systems equipment and installation exemption provided for in paragraph
21 forty-seven of subdivision (a), the commercial geothermal heat pump
22 systems equipment and installation exemption provided for in subdivision
23 (ll) and the clothing and footwear exemption provided for in paragraph
24 thirty 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, such
30 residential geothermal heat pump systems equipment and installation
31 exemption, such commercial geothermal heat pump systems equipment and
32 installation exemption or such clothing and footwear exemption.

33 [~~(xiv)~~] (xv) shall omit, unless such city elects otherwise, the
34 exemption for commercial fuel cell electricity generating systems equip-
35 ment and electricity generated by such equipment provided in subdivision
36 (kk) of section eleven hundred fifteen of this chapter[~~-~~]; and (xvi)
37 shall omit unless such city elects otherwise, the residential geothermal
38 heat pump systems equipment and installation exemption provided for in
39 paragraph forty-seven of subdivision (a) of section eleven hundred
40 fifteen of this chapter; and shall omit unless such city elects other-
41 wise, the commercial geothermal heat pump systems equipment and instal-
42 lation exemption provided for in subdivision (ll) of section eleven
43 hundred fifteen of this chapter.

44 § 4. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
45 1210 of the tax law, as amended by section 5 of part J of chapter 59 of
46 the laws of 2021, is amended to read as follows:

47 (ii) Any local law, ordinance or resolution enacted by any city, coun-
48 ty or school district, imposing the taxes authorized by this subdivi-
49 sion, shall omit the residential solar energy systems equipment and
50 electricity exemption provided for in subdivision (ee), the commercial
51 solar energy systems equipment and electricity exemption provided for in
52 subdivision (ii), the commercial fuel cell electricity generating
53 systems equipment and electricity generated by such equipment exemption
54 provided for in subdivision (kk), the residential geothermal heat pump
55 systems equipment and installation exemption provided for in paragraph
56 forty-seven of subdivision (a), the commercial geothermal heat pump

1 systems equipment and installation exemption provided for in subdivision
2 (11) and the clothing and footwear exemption provided for in paragraph
3 thirty of subdivision (a) of section eleven hundred fifteen of this
4 chapter, unless such city, county or school district elects otherwise as
5 to such residential solar energy systems equipment and electricity
6 exemption, such commercial solar energy systems equipment and electric-
7 ity exemption, commercial fuel cell electricity generating systems
8 equipment and electricity generated by such equipment exemption or such
9 clothing and footwear exemption, such residential geothermal heat pump
10 systems equipment and installation exemption, such commercial geothermal
11 heat pump systems equipment and installation exemption or such clothing
12 and footwear exemption.

13 § 5. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as
14 amended by section 3 of part WW of chapter 60 of the laws of 2016, is
15 amended to read as follows:

16 (1) Or, one or more of the taxes described in subdivisions (b), (d),
17 (e) and (f) of section eleven hundred five of this chapter, at the same
18 uniform rate, including the transitional provisions in section eleven
19 hundred six of this chapter covering such taxes, but not the taxes
20 described in subdivisions (a) and (c) of section eleven hundred five of
21 this chapter. Provided, further, that where the tax described in subdivi-
22 sion (b) of section eleven hundred five of this chapter is imposed,
23 the compensating use taxes described in clauses (E), (G) and (H) of
24 subdivision (a) of section eleven hundred ten of this chapter shall also
25 be imposed. Provided, further, that where the taxes described in subdivi-
26 sion (b) of section eleven hundred five are imposed, such taxes shall
27 omit: (A) the provision for refund or credit contained in subdivision
28 (d) of section eleven hundred nineteen of this chapter with respect to
29 such taxes described in such subdivision (b) of section eleven hundred
30 five unless such city or county elects to provide such provision or, if
31 so elected, to repeal such provision; (B) the exemption provided in
32 paragraph two of subdivision (ee) of section eleven hundred fifteen of
33 this chapter unless such county or city elects otherwise; (C) the
34 exemption provided in paragraph two of subdivision (ii) of section elev-
35 en hundred fifteen of this chapter, unless such county or city elects
36 otherwise; ~~[and]~~ (D) the exemption provided in paragraph two of subdivi-
37 sion (kk) of section eleven hundred fifteen of this chapter, unless such
38 county or city elects otherwise; (E) the exemption provided in paragraph
39 forty-seven of subdivision (a) of section eleven hundred fifteen of this
40 chapter, unless such county or city elects otherwise; and (F) the
41 exemption provided in subdivision (11) of section eleven hundred fifteen
42 of this chapter, unless such county or city elects otherwise.

43 § 6. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as
44 amended by section 6 of part J of chapter 59 of the laws of 2021, is
45 amended to read as follows:

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

1 such taxes shall omit: (A) the provision for refund or credit contained
2 in subdivision (d) of section eleven hundred nineteen of this chapter
3 with respect to such taxes described in such subdivision (b) of section
4 eleven hundred five unless such city or county elects to provide such
5 provision or, if so elected, to repeal such provision; (B) the exemption
6 provided in paragraph two of subdivision (ee) of section eleven hundred
7 fifteen of this chapter unless such county or city elects otherwise; (C)
8 the exemption provided in paragraph two of subdivision (ii) of section
9 eleven hundred fifteen of this chapter, unless such county or city
10 elects otherwise; and (D) the exemption provided in paragraph two of
11 subdivision (kk) of section eleven hundred fifteen of this chapter,
12 unless such county or city elects otherwise; and provided further that
13 where the tax described in subdivision (f) of such section eleven
14 hundred five is imposed, such tax shall not apply to charges for admis-
15 sion to race tracks and simulcast facilities; (E) the exemption provided
16 in paragraph forty-seven of subdivision (a) of section eleven hundred
17 fifteen of this chapter, unless such county or city elects otherwise;
18 and (F) the exemption provided in subdivision (ll) of section eleven
19 hundred fifteen of this chapter, unless such county or city elects
20 otherwise.

21 § 7. Subdivision (d) of section 1210 of the tax law, as amended by
22 section 4 of part WW of chapter 60 of the laws of 2016, is amended to
23 read as follows:

24 (d) A local law, ordinance or resolution imposing any tax pursuant to
25 this section, increasing or decreasing the rate of such tax, repealing
26 or suspending such tax, exempting from such tax the energy sources and
27 services described in paragraph three of subdivision (a) or of subdivi-
28 sion (b) of this section or changing the rate of tax imposed on such
29 energy sources and services or providing for the credit or refund
30 described in clause six of subdivision (a) of section eleven hundred
31 nineteen of this chapter, or electing or repealing the exemption for
32 residential solar equipment and electricity in subdivision (ee) of
33 section eleven hundred fifteen of this article, or the exemption for
34 commercial solar equipment and electricity in subdivision (ii) of
35 section eleven hundred fifteen of this article, or electing or repealing
36 the exemption for commercial fuel cell electricity generating systems
37 equipment and electricity generated by such equipment in subdivision
38 (kk) of section eleven hundred fifteen of this article, or electing or
39 repealing the exemption for residential geothermal heat pump systems
40 equipment and installation in paragraph forty-seven of subdivision (a)
41 of section eleven hundred fifteen of this article, or electing or
42 repealing the exemption for commercial geothermal heat pump systems
43 equipment and installation in subdivision (ll) of section eleven hundred
44 fifteen of this article must go into effect only on one of the following
45 dates: March first, June first, September first or December first;
46 provided, that a local law, ordinance or resolution providing for the
47 exemption described in paragraph thirty of subdivision (a) of section
48 eleven hundred fifteen of this chapter or repealing any such exemption
49 or a local law, ordinance or resolution providing for a refund or credit
50 described in subdivision (d) of section eleven hundred nineteen of this
51 chapter or repealing such provision so provided must go into effect only
52 on March first. No such local law, ordinance or resolution shall be
53 effective unless a certified copy of such law, ordinance or resolution
54 is mailed by registered or certified mail to the commissioner at the
55 commissioner's office in Albany at least ninety days prior to the date
56 it is to become effective. However, the commissioner may waive and

1 reduce such ninety-day minimum notice requirement to a mailing of such
2 certified copy by registered or certified mail within a period of not
3 less than thirty days prior to such effective date if the commissioner
4 deems such action to be consistent with the commissioner's duties under
5 section twelve hundred fifty of this article and the commissioner acts
6 by resolution. Where the restriction provided for in section twelve
7 hundred twenty-three of this article as to the effective date of a tax
8 and the notice requirement provided for therein are applicable and have
9 not been waived, the restriction and notice requirement in section
10 twelve hundred twenty-three of this article shall also apply.

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

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

1 otherwise, and shall omit the exemption provided in paragraph forty-sev-
2 en of subdivision (a) of section eleven hundred fifteen of this chapter
3 unless such school district elects otherwise, and shall omit the
4 exemption provided in subdivision (11) of section eleven hundred fifteen
5 of this chapter unless such school district elects otherwise.

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

8 (c-3) Notwithstanding any other provision of law: (1) Where a county
9 containing one or more cities with a population of less than one million
10 has elected the exemption for residential geothermal heat pump systems
11 equipment and installation provided in paragraph forty-seven of subdivi-
12 sion (a) of section eleven hundred fifteen of this chapter, a city with-
13 in such county shall have the prior right to impose tax on such exempt
14 equipment and/or installation to the extent of one half of the maximum
15 rates authorized under subdivision (a) of section twelve hundred ten of
16 this article;

17 (2) Where a city of less than one million has elected the exemption
18 for residential geothermal heat pump systems equipment and installation
19 provided in paragraph forty-seven of subdivision (a) of section eleven
20 hundred fifteen of this chapter, the county in which such city is
21 located shall have the prior right to impose tax on such exempt equip-
22 ment and/or installation to the extent of one half of the maximum rates
23 authorized under subdivision (a) of section twelve hundred ten of this
24 article.

25 (c-4) Notwithstanding any other provision of law: (1) Where a county
26 containing one or more cities with a population of less than one million
27 has elected the exemption for commercial geothermal heat pump systems
28 equipment and installation provided in subdivision (11) of section elev-
29 en hundred fifteen of this chapter, a city within such county shall have
30 the prior right to impose tax on such exempt equipment and/or installa-
31 tion to the extent of one half of the maximum rates authorized under
32 subdivision (a) of section twelve hundred ten of this article;

33 (2) Where a city of less than one million has elected the exemption
34 for commercial geothermal heat pump systems equipment and installation
35 provided in subdivision (11) of section eleven hundred fifteen of this
36 chapter, the county in which such city is located shall have the prior
37 right to impose tax on such exempt equipment and/or installation to the
38 extent of one half of the maximum rates authorized under subdivision (a)
39 of section twelve hundred ten of this article.

40 § 10. This act shall take effect on the first day of a sales tax quar-
41 terly period, as described in subdivision (b) of section 1136 of the tax
42 law, beginning at least ninety days after the date this act shall have
43 become a law and shall apply to sales made on or after such date;
44 provided that sections four and six of this act shall take effect on the
45 same date and in the same manner as part J of chapter 59 of the laws of
46 2021 takes effect.