

STATE OF NEW YORK

9505

IN SENATE

July 20, 2022

Introduced by Sens. ORTT, SERINO, RATH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to eliminating state sales and compensating use taxes on motor fuels and diesel motor fuels and authorizing localities to eliminate such taxes at the local level; and providing for the repeal of such provisions upon expiration thereof (Part A); to amend the tax law, in relation to exemptions from sales and use taxes; and providing for the repeal of such provisions upon expiration thereof (Part B); to amend the tax law, in relation to providing a sales tax exemption for housekeeping supplies; and providing for the repeal of such provisions upon expiration thereof (Part C); and to amend the tax law, in relation to providing a sales tax exemption for ready-to-eat foods; and providing for the repeal of such provisions upon expiration thereof (Part D)

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

1 Section 1. This act enacts into law components of legislation relating
2 to establishing various exemptions from New York's sales and compensat-
3 ing use tax. Each component is wholly contained within a Part identi-
4 fied as Parts A through D. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

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

15 (47) Motor fuel and diesel motor fuel.

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

LBD13450-02-1

1 § 2. Subdivision (b) of section 1107 of the tax law is amended by
2 adding a new clause 12 to read as follows:

3 (12) Except as otherwise provided by law, the exemption provided in
4 paragraph forty-seven of subdivision (a) of section eleven hundred
5 fifteen of this article relating to motor fuel and diesel motor fuel
6 shall be applicable pursuant to a local law, ordinance or resolution
7 adopted by a city subject to the provisions of this section. Such city
8 is empowered to adopt or repeal such a local law, ordinance or resolu-
9 tion. Such adoption or repeal shall also be deemed to amend any local
10 law, ordinance or resolution enacted by such a city imposing taxes
11 pursuant to the authority of subdivision (a) of section twelve hundred
12 ten of this chapter.

13 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
14 amended by section 5 of part J of chapter 59 of the laws of 2021, is
15 amended to read as follows:

16 (1) Either, all of the taxes described in article twenty-eight of this
17 chapter, at the same uniform rate, as to which taxes all provisions of
18 the local laws, ordinances or resolutions imposing such taxes shall be
19 identical, except as to rate and except as otherwise provided, with the
20 corresponding provisions in such article twenty-eight, including the
21 definition and exemption provisions of such article, so far as the
22 provisions of such article twenty-eight can be made applicable to the
23 taxes imposed by such city or county and with such limitations and
24 special provisions as are set forth in this article. The taxes author-
25 ized under this subdivision may not be imposed by a city or county
26 unless the local law, ordinance or resolution imposes such taxes so as
27 to include all portions and all types of receipts, charges or rents,
28 subject to state tax under sections eleven hundred five and eleven
29 hundred ten of this chapter, except as otherwise provided. Notwith-
30 standing the foregoing, a tax imposed by a city or county authorized
31 under this subdivision shall not include the tax imposed on charges for
32 admission to race tracks and simulcast facilities under subdivision (f)
33 of section eleven hundred five of this chapter. (i) Any local law, ordi-
34 nance or resolution enacted by any city of less than one million or by
35 any county or school district, imposing the taxes authorized by this
36 subdivision, shall, notwithstanding any provision of law to the contra-
37 ry, exclude from the operation of such local taxes all sales of tangible
38 personal property for use or consumption directly and predominantly in
39 the production of tangible personal property, gas, electricity, refrig-
40 eration or steam, for sale, by manufacturing, processing, generating,
41 assembly, refining, mining or extracting; and all sales of tangible
42 personal property for use or consumption predominantly either in the
43 production of tangible personal property, for sale, by farming or in a
44 commercial horse boarding operation, or in both; and all sales of fuel
45 sold for use in commercial aircraft and general aviation aircraft; and,
46 unless such city, county or school district elects otherwise, shall omit
47 the provision for credit or refund contained in clause six of subdivi-
48 sion (a) or subdivision (d) of section eleven hundred nineteen of this
49 chapter. (ii) Any local law, ordinance or resolution enacted by any
50 city, county or school district, imposing the taxes authorized by this
51 subdivision, shall omit the residential solar energy systems equipment
52 and electricity exemption provided for in subdivision (ee), the commer-
53 cial solar energy systems equipment and electricity exemption provided
54 for in subdivision (ii), the commercial fuel cell electricity generating
55 systems equipment and electricity generated by such equipment exemption
56 provided for in subdivision (kk) and the clothing and footwear exemption

provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the motor fuel and diesel motor fuel exemption provided for in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (q) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (q) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (q) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the motor fuel and diesel motor fuel exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the motor fuel and diesel motor fuel exemption in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more repeals a resolution described in former subdivision (p) of this section, such repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city repeals its resolution enacted pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more repeals a resolution enacted pursuant to the authority of former subdivision (p) of this

section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommunications services exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of section eleven hundred fifteen of this chapter. (iv) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption.

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

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided, further, that a local law, ordinance or resolution providing for the exemption described in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivision (q) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certi-

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

10 § 5. Section 1210 of the tax law is amended by adding a new subdivi-
11 sion (q) to read as follows:

12 (q) Notwithstanding any other provision of state or local law, ordi-
13 nance or resolution to the contrary:

14 (1) Any city having a population of one million or more in which the
15 taxes imposed by section eleven hundred seven of this chapter are in
16 effect, acting through its local legislative body, is hereby authorized
17 and empowered to elect to provide the exemption from such taxes for the
18 same motor fuel and diesel motor fuel exempt from state sales and
19 compensating use taxes described in paragraph forty-seven of subdivision
20 (a) of section eleven hundred fifteen of this chapter by enacting a
21 resolution in the form set forth in paragraph two of this subdivision;
22 whereupon, upon compliance with the provisions of subdivisions (d) and
23 (e) of this section, such enactment of such resolution shall be deemed
24 to be an amendment to such section eleven hundred seven and such section
25 eleven hundred seven shall be deemed to incorporate such exemption as if
26 it had been duly enacted by the state legislature and approved by the
27 governor.

28 (2) Form of Resolution: Be it enacted by the (insert proper title of
29 local legislative body) as follows:

30 Section one. Receipts from sales of and consideration given or
31 contracted to be given for purchases of motor fuel and diesel motor fuel
32 exempt from state sales and compensating use taxes pursuant to paragraph
33 forty-seven of subdivision (a) of section eleven hundred fifteen of the
34 tax law shall also be exempt from sales and compensating use taxes
35 imposed in this jurisdiction.

36 Section two. This resolution shall take effect, (insert the date) and
37 shall apply to sales made and uses occurring on and after that date
38 although made or occurring under a prior contract.

39 § 6. The commissioner of taxation and finance is hereby authorized to
40 implement the provisions of this act with respect to the elimination of
41 the imposition of sales tax, additional taxes, and supplemental taxes on
42 diesel motor fuel and motor fuel and all other taxes so addressed by
43 this act.

44 § 7. This act shall take effect on the first day of the sales tax
45 quarterly period, as described in subdivision (b) of section 1136 of the
46 tax law, next commencing at least 90 days after this act shall have
47 become a law and shall apply in accordance with the applicable transi-
48 tional provisions of sections 1106 and 1217 of the tax law and shall
49 expire and be deemed repealed two years after such date; provided,
50 however that if section 5 of part J of chapter 59 of the laws of 2021
51 shall not have taken effect on or before such date then section three of
52 this act shall take effect on the same date and in the same manner as
53 such chapter of the laws of 2021, takes effect.

1 Section 1. Paragraph 3 of subdivision (a) of section 1115 of the tax
2 law, as amended by chapter 201 of the laws of 1976, is amended to read
3 as follows:

4 (3) Drugs and medicines intended for use, internally or externally, in
5 the cure, mitigation, treatment or prevention of illnesses or diseases
6 in human beings, medical equipment (including component parts thereof)
7 and supplies required for such use or to correct or alleviate physical
8 incapacity, and products consumed by humans for the preservation of
9 health but not including cosmetics [~~or toilet articles~~] notwithstanding
10 the presence of medicinal ingredients therein or medical equipment
11 (including component parts thereof) and supplies, other than such drugs
12 and medicines, purchased at retail for use in performing medical and
13 similar services for compensation.

14 § 2. Subdivision (a) of section 1115 of the tax law is amended by
15 adding a new paragraph 48 to read as follows:

16 (48) Personal care products as determined by the commissioner.

17 § 3. Subdivision (b) of section 1107 of the tax law is amended by
18 adding a new clause 13 to read as follows:

19 (13) Except as otherwise provided by law, the exemption provided in
20 paragraph forty-eight of subdivision (a) of section eleven hundred
21 fifteen of this article relating to personal care products shall be
22 applicable pursuant to a local law, ordinance or resolution adopted by a
23 city subject to the provisions of this section. Such city is empowered
24 to adopt or repeal such a local law, ordinance or resolution. Such
25 adoption or repeal shall also be deemed to amend any local law, ordi-
26 nance or resolution enacted by such a city imposing taxes pursuant to
27 the authority of subdivision (a) of section twelve hundred ten of this
28 chapter.

29 § 4. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
30 amended by section 5 of part J of chapter 59 of the laws of 2021, is
31 amended to read as follows:

32 (1) Either, all of the taxes described in article twenty-eight of this
33 chapter, at the same uniform rate, as to which taxes all provisions of
34 the local laws, ordinances or resolutions imposing such taxes shall be
35 identical, except as to rate and except as otherwise provided, with the
36 corresponding provisions in such article twenty-eight, including the
37 definition and exemption provisions of such article, so far as the
38 provisions of such article twenty-eight can be made applicable to the
39 taxes imposed by such city or county and with such limitations and
40 special provisions as are set forth in this article. The taxes author-
41 ized under this subdivision may not be imposed by a city or county
42 unless the local law, ordinance or resolution imposes such taxes so as
43 to include all portions and all types of receipts, charges or rents,
44 subject to state tax under sections eleven hundred five and eleven
45 hundred ten of this chapter, except as otherwise provided. Notwith-
46 standing the foregoing, a tax imposed by a city or county authorized
47 under this subdivision shall not include the tax imposed on charges for
48 admission to race tracks and simulcast facilities under subdivision (f)
49 of section eleven hundred five of this chapter. (i) Any local law, ordi-
50 nance or resolution enacted by any city of less than one million or by
51 any county or school district, imposing the taxes authorized by this
52 subdivision, shall, notwithstanding any provision of law to the contra-
53 ry, exclude from the operation of such local taxes all sales of tangible
54 personal property for use or consumption directly and predominantly in
55 the production of tangible personal property, gas, electricity, refrig-
56 eration or steam, for sale, by manufacturing, processing, generating,

1 assembly, refining, mining or extracting; and all sales of tangible
2 personal property for use or consumption predominantly either in the
3 production of tangible personal property, for sale, by farming or in a
4 commercial horse boarding operation, or in both; and all sales of fuel
5 sold for use in commercial aircraft and general aviation aircraft; and,
6 unless such city, county or school district elects otherwise, shall omit
7 the provision for credit or refund contained in clause six of subdivi-
8 sion (a) or subdivision (d) of section eleven hundred nineteen of this
9 chapter. (ii) Any local law, ordinance or resolution enacted by any
10 city, county or school district, imposing the taxes authorized by this
11 subdivision, shall omit the residential solar energy systems equipment
12 and electricity exemption provided for in subdivision (ee), the commer-
13 cial solar energy systems equipment and electricity exemption provided
14 for in subdivision (ii), the commercial fuel cell electricity generating
15 systems equipment and electricity generated by such equipment exemption
16 provided for in subdivision (kk) and the clothing and footwear exemption
17 provided for in paragraph thirty of subdivision (a) of section eleven
18 hundred fifteen of this chapter, unless such city, county or school
19 district elects otherwise as to such residential solar energy systems
20 equipment and electricity exemption, such commercial solar energy
21 systems equipment and electricity exemption, commercial fuel cell elec-
22 tricity generating systems equipment and electricity generated by such
23 equipment exemption or such clothing and footwear exemption. Any local
24 law, ordinance or resolution enacted by any city, county or school
25 district, imposing the taxes authorized by this subdivision, shall omit
26 the personal care products exemption provided for in paragraph forty-
27 eight of subdivision (a) of section eleven hundred fifteen of this chap-
28 ter, unless such city, county or school district elects otherwise;
29 provided that if such a city having a population of one million or more
30 enacts the resolution described in subdivision (r) of this section or
31 repeals such resolution, such resolution or repeal shall also be deemed
32 to amend any local law, ordinance or resolution enacted by such a city
33 imposing such taxes pursuant to the authority of this subdivision,
34 whether or not such taxes are suspended at the time such city enacts its
35 resolution pursuant to subdivision (r) of this section or at the time of
36 such repeal; provided, further, that any such local law, ordinance or
37 resolution and section eleven hundred seven of this chapter, as deemed
38 to be amended in the event a city of one million or more enacts a resol-
39 ution pursuant to the authority of subdivision (r) of this section,
40 shall be further amended, as provided in section twelve hundred eighteen
41 of this subpart, so that the personal care products exemption in any
42 such local law, ordinance or resolution or in such section eleven
43 hundred seven of this chapter is the same as the personal care products
44 exemption in paragraph forty-eight of subdivision (a) of section eleven
45 hundred fifteen of this chapter. (iii) Any local law, ordinance or
46 resolution enacted by any city, county or school district, imposing the
47 taxes authorized by this subdivision, shall omit the residential solar
48 energy systems equipment and electricity exemption provided for in
49 subdivision (ee) of section eleven hundred fifteen of this chapter, the
50 commercial solar energy systems equipment and electricity exemption
51 provided for in subdivision (ii) and the clothing and footwear exemption
52 provided for in paragraph thirty of subdivision (a) of section eleven
53 hundred fifteen of this chapter, unless such city, county or school
54 district elects otherwise as to either such residential solar energy
55 systems equipment and electricity exemption, such commercial solar ener-
56 gy systems equipment and electricity exemption or such clothing and

1 footwear exemption. Any local law, ordinance or resolution enacted by
2 any city, county or school district, imposing the taxes authorized by
3 this subdivision, shall omit the mobile telecommunication services
4 exemption provided for in subdivision (cc) of section eleven hundred
5 fifteen of this chapter, unless such city, county or school district
6 elects otherwise; provided that if such a city having a population of
7 one million or more repeals a resolution described in former subdivision
8 (p) of this section, such repeal shall also be deemed to amend any local
9 law, ordinance or resolution enacted by such a city imposing such taxes
10 pursuant to the authority of this subdivision, whether or not such taxes
11 are suspended at the time such city repeals its resolution enacted
12 pursuant to former subdivision (p) of this section; provided, further,
13 that any such local law, ordinance or resolution and section eleven
14 hundred seven of this chapter, as deemed to be amended in the event a
15 city of one million or more repeals a resolution enacted pursuant to the
16 authority of former subdivision (p) of this section, shall be further
17 amended, as provided in section twelve hundred eighteen of this subpart,
18 so that the wireless telecommunications services exemption in any such
19 local law, ordinance or resolution or in such section eleven hundred
20 seven of this chapter is the same as the mobile telecommunication
21 services exemption in subdivision (cc) of section eleven hundred fifteen
22 of this chapter. (iv) Any local law, ordinance or resolution enacted by
23 any city, county or school district, imposing the taxes authorized by
24 this subdivision, shall omit the residential solar energy systems equip-
25 ment and electricity exemption provided for in subdivision (ee) of
26 section eleven hundred fifteen of this chapter, the commercial solar
27 energy systems equipment and electricity exemption provided for in
28 subdivision (ii) and the clothing and footwear exemption provided for in
29 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
30 this chapter, unless such city, county or school district elects other-
31 wise as to either such residential solar energy systems equipment and
32 electricity exemption, such commercial solar energy systems equipment
33 and electricity exemption or such clothing and footwear exemption.

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

37 (d) A local law, ordinance or resolution imposing any tax pursuant to
38 this section, increasing or decreasing the rate of such tax, repealing
39 or suspending such tax, exempting from such tax the energy sources and
40 services described in paragraph three of subdivision (a) or of subdivi-
41 sion (b) of this section or changing the rate of tax imposed on such
42 energy sources and services or providing for the credit or refund
43 described in clause six of subdivision (a) of section eleven hundred
44 nineteen of this chapter, or electing or repealing the exemption for
45 residential solar equipment and electricity in subdivision (ee) of
46 section eleven hundred fifteen of this article, or the exemption for
47 commercial solar equipment and electricity in subdivision (ii) of
48 section eleven hundred fifteen of this article, or electing or repealing
49 the exemption for commercial fuel cell electricity generating systems
50 equipment and electricity generated by such equipment in subdivision
51 (kk) of section eleven hundred fifteen of this article must go into
52 effect only on one of the following dates: March first, June first,
53 September first or December first; provided, that a local law, ordinance
54 or resolution providing for the exemption described in paragraph thirty
55 of subdivision (a) of section eleven hundred fifteen of this chapter or
56 repealing any such exemption or a local law, ordinance or resolution

1 providing for a refund or credit described in subdivision (d) of section
2 eleven hundred nineteen of this chapter or repealing such provision so
3 provided must go into effect only on March first; provided, further,
4 that a local law, ordinance or resolution providing for the exemption
5 described in paragraph forty-eight of subdivision (a) of section eleven
6 hundred fifteen of this chapter or repealing any such exemption so
7 provided and a resolution enacted pursuant to the authority of subdivi-
8 sion (r) of this section providing such exemption or repealing such
9 exemption so provided may go into effect immediately. No such local law,
10 ordinance or resolution shall be effective unless a certified copy of
11 such law, ordinance or resolution is mailed by registered or certified
12 mail to the commissioner at the commissioner's office in Albany at least
13 ninety days prior to the date it is to become effective. However, the
14 commissioner may waive and reduce such ninety-day minimum notice
15 requirement to a mailing of such certified copy by registered or certi-
16 fied mail within a period of not less than thirty days prior to such
17 effective date if the commissioner deems such action to be consistent
18 with the commissioner's duties under section twelve hundred fifty of
19 this article and the commissioner acts by resolution. Where the
20 restriction provided for in section twelve hundred twenty-three of this
21 article as to the effective date of a tax and the notice requirement
22 provided for therein are applicable and have not been waived, the
23 restriction and notice requirement in section twelve hundred twenty-
24 three of this article shall also apply.

25 § 6. Section 1210 of the tax law is amended by adding a new subdivi-
26 sion (r) to read as follows:

27 (r) Notwithstanding any other provision of state or local law, ordi-
28 nance or resolution to the contrary: (1) Any city having a population of
29 one million or more in which the taxes imposed by section eleven hundred
30 seven of this chapter are in effect, acting through its local legisla-
31 tive body, is hereby authorized and empowered to elect to provide the
32 exemption from such taxes for the same personal care products exempt
33 from state sales and compensating use taxes described in paragraph
34 forty-eight of subdivision (a) of section eleven hundred fifteen of this
35 chapter by enacting a resolution in the form set forth in paragraph two
36 of this subdivision; whereupon, upon compliance with the provisions of
37 subdivisions (d) and (e) of this section, such enactment of such resol-
38 ution shall be deemed to be an amendment to such section eleven hundred
39 seven and such section eleven hundred seven shall be deemed to incorpo-
40 rate such exemption as if it had been duly enacted by the state legisla-
41 ture and approved by the governor.

42 (2) Form of resolution: Be it enacted by the (insert proper title of
43 local legislative body) as follows:

44 Section one. Receipts from sales of and consideration given or
45 contracted to be given for purchases of personal care products exempt
46 from state sales and compensating use taxes pursuant to paragraph
47 forty-eight of subdivision (a) of section eleven hundred fifteen of the
48 tax law shall also be exempt from sales and compensating use taxes
49 imposed in this jurisdiction.

50 Section two. This resolution shall take effect, (insert the date) and
51 shall apply to sales made and uses occurring on and after that date
52 although made or occurring under a prior contract.

53 § 7. The commissioner of taxation and finance is hereby authorized to
54 implement the provisions of this act with respect to the elimination of
55 the imposition of sales tax, additional taxes, and supplemental taxes on
56 personal care products and all other taxes so addressed by this act.

1 § 8. This act shall take effect on the first day of the sales tax
2 quarterly period, as described in subdivision (b) of section 1136 of the
3 tax law, beginning at least 90 days after the date this act shall have
4 become a law and shall apply in accordance with the applicable transi-
5 tional provisions of sections 1106 and 1217 of the tax law and shall
6 expire and be deemed repealed two years after such date; provided,
7 however that if section 5 of part J of chapter 59 of the laws of 2021
8 shall not have taken effect on or before such date then section four of
9 this act shall take effect on the same date and in the same manner as
10 such chapter of the laws of 2021, takes effect.

11 PART C

12 Section 1. Subdivision (a) of section 1115 of the tax law is amended
13 by adding a new paragraph 49 to read as follows:

14 (49) Housekeeping supplies as determined by the commissioner.

15 s 2. Subdivision (b) of section 1107 of the tax law is amended by
16 adding a new clause 14 to read as follows:

(14) Except as otherwise provided by law, the exemption provided in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this article relating to housekeeping supplies shall be applicable pursuant to a local law, ordinance or resolution adopted by a city subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

27 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law,
28 as amended by section 5 of part J of chapter 59 of the laws of 2021, is
29 amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. Notwithstanding the foregoing, a tax imposed by a city or county authorized under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating,

1 assembly, refining, mining or extracting; and all sales of tangible
2 personal property for use or consumption predominantly either in the
3 production of tangible personal property, for sale, by farming or in a
4 commercial horse boarding operation, or in both; and all sales of fuel
5 sold for use in commercial aircraft and general aviation aircraft; and,
6 unless such city, county or school district elects otherwise, shall omit
7 the provision for credit or refund contained in clause six of subdivi-
8 sion (a) or subdivision (d) of section eleven hundred nineteen of this
9 chapter. (ii) Any local law, ordinance or resolution enacted by any
10 city, county or school district, imposing the taxes authorized by this
11 subdivision, shall omit the residential solar energy systems equipment
12 and electricity exemption provided for in subdivision (ee), the commer-
13 cial solar energy systems equipment and electricity exemption provided
14 for in subdivision (ii), the commercial fuel cell electricity generating
15 systems equipment and electricity generated by such equipment exemption
16 provided for in subdivision (kk) and the clothing and footwear exemption
17 provided for in paragraph thirty of subdivision (a) of section eleven
18 hundred fifteen of this chapter, unless such city, county or school
19 district elects otherwise as to such residential solar energy systems
20 equipment and electricity exemption, such commercial solar energy
21 systems equipment and electricity exemption, commercial fuel cell elec-
22 tricity generating systems equipment and electricity generated by such
23 equipment exemption or such clothing and footwear exemption. Any local
24 law, ordinance or resolution enacted by any city, county or school
25 district, imposing the taxes authorized by this subdivision, shall omit
26 the housekeeping supplies exemption provided for in paragraph forty-nine
27 of subdivision (a) of section eleven hundred fifteen of this chapter,
28 unless such city, county or school district elects otherwise; provided
29 that if such a city having a population of one million or more enacts
30 the resolution described in subdivision (s) of this section or repeals
31 such resolution, such resolution or repeal shall also be deemed to amend
32 any local law, ordinance or resolution enacted by such a city imposing
33 such taxes pursuant to the authority of this subdivision, whether or not
34 such taxes are suspended at the time such city enacts its resolution
35 pursuant to subdivision (s) of this section or at the time of such
36 repeal; provided, further, that any such local law, ordinance or resol-
37 ution and section eleven hundred seven of this chapter, as deemed to be
38 amended in the event a city of one million or more enacts a resolution
39 pursuant to the authority of subdivision (s) of this section, shall be
40 further amended, as provided in section twelve hundred eighteen of this
41 subpart, so that the housekeeping supplies exemption in any such local
42 law, ordinance or resolution or in such section eleven hundred seven of
43 this chapter is the same as the housekeeping supplies exemption in para-
44 graph forty-nine of subdivision (a) of section eleven hundred fifteen of
45 this chapter. (iii) Any local law, ordinance or resolution enacted by
46 any city, county or school district, imposing the taxes authorized by
47 this subdivision, shall omit the residential solar energy systems equip-
48 ment and electricity exemption provided for in subdivision (ee) of
49 section eleven hundred fifteen of this chapter, the commercial solar
50 energy systems equipment and electricity exemption provided for in
51 subdivision (ii) and the clothing and footwear exemption provided for in
52 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
53 this chapter, unless such city, county or school district elects other-
54 wise as to either such residential solar energy systems equipment and
55 electricity exemption, such commercial solar energy systems equipment
56 and electricity exemption or such clothing and footwear exemption. Any

local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more repeals a resolution described in former subdivision (p) of this section, such repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city repeals its resolution enacted pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more repeals a resolution enacted pursuant to the authority of former subdivision (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommunications services exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of section eleven hundred fifteen of this chapter. (iv) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption.

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

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution

1 providing for a refund or credit described in subdivision (d) of section
2 eleven hundred nineteen of this chapter or repealing such provision so
3 provided must go into effect only on March first; provided, further,
4 that a local law, ordinance or resolution providing for the exemption
5 described in paragraph forty-nine of subdivision (a) of section eleven
6 hundred fifteen of this chapter or repealing any such exemption so
7 provided and a resolution enacted pursuant to the authority of subdivi-
8 sion (s) of this section providing such exemption or repealing such
9 exemption so provided may go into effect immediately. No such local law,
10 ordinance or resolution shall be effective unless a certified copy of
11 such law, ordinance or resolution is mailed by registered or certified
12 mail to the commissioner at the commissioner's office in Albany at least
13 ninety days prior to the date it is to become effective. However, the
14 commissioner may waive and reduce such ninety-day minimum notice
15 requirement to a mailing of such certified copy by registered or certi-
16 fied mail within a period of not less than thirty days prior to such
17 effective date if the commissioner deems such action to be consistent
18 with the commissioner's duties under section twelve hundred fifty of
19 this article and the commissioner acts by resolution. Where the
20 restriction provided for in section twelve hundred twenty-three of this
21 article as to the effective date of a tax and the notice requirement
22 provided for therein are applicable and have not been waived, the
23 restriction and notice requirement in section twelve hundred twenty-
24 three of this article shall also apply.

25 § 5. Section 1210 of the tax law is amended by adding a new subdivi-
26 sion (s) to read as follows:

27 (s) Notwithstanding any other provision of state or local law, ordi-
28 nance or resolution to the contrary: (1) Any city having a population of
29 one million or more in which the taxes imposed by section eleven hundred
30 seven of this chapter are in effect, acting through its local legisla-
31 tive body, is hereby authorized and empowered to elect to provide the
32 exemption from such taxes for the same housekeeping supplies exempt from
33 state sales and compensating use taxes described in paragraph forty-nine
34 of subdivision (a) of section eleven hundred fifteen of this chapter by
35 enacting a resolution in the form set forth in paragraph two of this
36 subdivision; whereupon, upon compliance with the provisions of subdivi-
37 sions (d) and (e) of this section, such enactment of such resolution
38 shall be deemed to be an amendment to such section eleven hundred seven
39 and such section eleven hundred seven shall be deemed to incorporate
40 such exemption as if it had been duly enacted by the state legislature
41 and approved by the governor.

42 (2) Form of resolution: Be it enacted by the (insert proper title of
43 local legislative body) as follows:

44 Section one. Receipts from sales of and consideration given or
45 contracted to be given for purchases of housekeeping supplies exempt
46 from state sales and compensating use taxes pursuant to paragraph
47 forty-nine of subdivision (a) of section eleven hundred fifteen of the
48 tax law shall also be exempt from sales and compensating use taxes
49 imposed in this jurisdiction.

50 Section two. This resolution shall take effect, (insert the date) and
51 shall apply to sales made and uses occurring on and after that date
52 although made or occurring under a prior contract.

53 § 6. The commissioner of taxation and finance is hereby authorized to
54 implement the provisions of this act with respect to the elimination of
55 the imposition of sales tax, additional taxes, and supplemental taxes on
56 housekeeping supplies and all other taxes so addressed by this act.

§ 7. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, beginning at least 90 days after the date this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law and shall expire and be deemed repealed two years after such date; provided, however that if section 5 of part J of chapter 59 of the laws of 2021 shall not have taken effect on or before such date then section three of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2021, takes effect.

11 PART D

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

14 (1-a) Food which is sold heated or prepared, including food sold at
15 grocery stores, restaurants, diners, taverns, food trucks, and food
16 courts at a mall and food that is catered.

17 § 2. Subdivision (b) of section 1107 of the tax law is amended by
18 adding a new clause 15 to read as follows:

(15) Except as otherwise provided by law, the exemption provided in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this article relating to heated or prepared foods shall be applicable pursuant to a local law, ordinance or resolution adopted by a city subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

28 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
29 amended by section 5 of part J of chapter 59 of the laws of 2021, is
30 amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. Notwithstanding the foregoing, a tax imposed by a city or county authorized under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration, and other utilities.

eration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the hot or prepared food items exemption provided for in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (t) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (t) of this section or at the time of such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (t) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the hot or prepared food items exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the hot or prepared food items exemption in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar ener-

1 gy systems equipment and electricity exemption or such clothing and
2 footwear exemption. Any local law, ordinance or resolution enacted by
3 any city, county or school district, imposing the taxes authorized by
4 this subdivision, shall omit the mobile telecommunication services
5 exemption provided for in subdivision (cc) of section eleven hundred
6 fifteen of this chapter, unless such city, county or school district
7 elects otherwise; provided that if such a city having a population of
8 one million or more repeals a resolution described in former subdivision
9 (p) of this section, such repeal shall also be deemed to amend any local
10 law, ordinance or resolution enacted by such a city imposing such taxes
11 pursuant to the authority of this subdivision, whether or not such taxes
12 are suspended at the time such city repeals its resolution enacted
13 pursuant to former subdivision (p) of this section; provided, further,
14 that any such local law, ordinance or resolution and section eleven
15 hundred seven of this chapter, as deemed to be amended in the event a
16 city of one million or more repeals a resolution enacted pursuant to the
17 authority of former subdivision (p) of this section, shall be further
18 amended, as provided in section twelve hundred eighteen of this subpart,
19 so that the wireless telecommunications services exemption in any such
20 local law, ordinance or resolution or in such section eleven hundred
21 seven of this chapter is the same as the mobile telecommunication
22 services exemption in subdivision (cc) of section eleven hundred fifteen
23 of this chapter. (iv) Any local law, ordinance or resolution enacted by
24 any city, county or school district, imposing the taxes authorized by
25 this subdivision, shall omit the residential solar energy systems equip-
26 ment and electricity exemption provided for in subdivision (ee) of
27 section eleven hundred fifteen of this chapter, the commercial solar
28 energy systems equipment and electricity exemption provided for in
29 subdivision (ii) and the clothing and footwear exemption provided for in
30 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
31 this chapter, unless such city, county or school district elects other-
32 wise as to either such residential solar energy systems equipment and
33 electricity exemption, such commercial solar energy systems equipment
34 and electricity exemption or such clothing and footwear exemption.

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

38 (d) A local law, ordinance or resolution imposing any tax pursuant to
39 this section, increasing or decreasing the rate of such tax, repealing
40 or suspending such tax, exempting from such tax the energy sources and
41 services described in paragraph three of subdivision (a) or of subdivi-
42 sion (b) of this section or changing the rate of tax imposed on such
43 energy sources and services or providing for the credit or refund
44 described in clause six of subdivision (a) of section eleven hundred
45 nineteen of this chapter, or electing or repealing the exemption for
46 residential solar equipment and electricity in subdivision (ee) of
47 section eleven hundred fifteen of this article, or the exemption for
48 commercial solar equipment and electricity in subdivision (ii) of
49 section eleven hundred fifteen of this article, or electing or repealing
50 the exemption for commercial fuel cell electricity generating systems
51 equipment and electricity generated by such equipment in subdivision
52 (kk) of section eleven hundred fifteen of this article must go into
53 effect only on one of the following dates: March first, June first,
54 September first or December first; provided, that a local law, ordinance
55 or resolution providing for the exemption described in paragraph thirty
56 of subdivision (a) of section eleven hundred fifteen of this chapter or

1 repealing any such exemption or a local law, ordinance or resolution
2 providing for a refund or credit described in subdivision (d) of section
3 eleven hundred nineteen of this chapter or repealing such provision so
4 provided must go into effect only on March first; provided, further,
5 that a local law, ordinance or resolution providing for the exemption
6 described in paragraph one-a of subdivision (a) of section eleven
7 hundred fifteen of this chapter or repealing any such exemption so
8 provided and a resolution enacted pursuant to the authority of subdivi-
9 sion (t) of this section providing such exemption or repealing such
10 exemption so provided may go into effect immediately. No such local law,
11 ordinance or resolution shall be effective unless a certified copy of
12 such law, ordinance or resolution is mailed by registered or certified
13 mail to the commissioner at the commissioner's office in Albany at least
14 ninety days prior to the date it is to become effective. However, the
15 commissioner may waive and reduce such ninety-day minimum notice
16 requirement to a mailing of such certified copy by registered or certi-
17 fied mail within a period of not less than thirty days prior to such
18 effective date if the commissioner deems such action to be consistent
19 with the commissioner's duties under section twelve hundred fifty of
20 this article and the commissioner acts by resolution. Where the
21 restriction provided for in section twelve hundred twenty-three of this
22 article as to the effective date of a tax and the notice requirement
23 provided for therein are applicable and have not been waived, the
24 restriction and notice requirement in section twelve hundred twenty-
25 three of this article shall also apply.

26 § 5. Section 1210 of the tax law is amended by adding a new subdivi-
27 sion (t) to read as follows:

28 (t) Notwithstanding any other provision of state or local law, ordi-
29 nance or resolution to the contrary: (1) Any city having a population of
30 one million or more in which the taxes imposed by section eleven hundred
31 seven of this chapter are in effect, acting through its local legisla-
32 tive body, is hereby authorized and empowered to elect to provide the
33 exemption from such taxes for the same hot or prepared food items exempt
34 from state sales and compensating use taxes described in paragraph one-a
35 of subdivision (a) of section eleven hundred fifteen of this chapter by
36 enacting a resolution in the form set forth in paragraph two of this
37 subdivision; whereupon, upon compliance with the provisions of subdivi-
38 sions (d) and (e) of this section, such enactment of such resolution
39 shall be deemed to be an amendment to such section eleven hundred seven
40 and such section eleven hundred seven shall be deemed to incorporate
41 such exemption as if it had been duly enacted by the state legislature
42 and approved by the governor.

43 (2) Form of resolution: Be it enacted by the (insert proper title of
44 local legislative body) as follows:

45 Section one. Receipts from sales of and consideration given or
46 contracted to be given for purchases of hot or prepared food items
47 exempt from state sales and compensating use taxes pursuant to paragraph
48 one-a of subdivision (a) of section eleven hundred fifteen of this chap-
49 ter shall also be exempt from sales and compensating use taxes imposed
50 in this jurisdiction.

51 Section two. This resolution shall take effect, (insert the date) and
52 shall apply to sales made and uses occurring on and after that date
53 although made or occurring under a prior contract.

54 § 6. The commissioner of taxation and finance is hereby authorized to
55 implement the provisions of this act with respect to the elimination of
56 the imposition of sales tax, additional taxes, and supplemental taxes on

1 hot and prepared food items and all other taxes so addressed by this
2 act.

3 § 7. This act shall take effect on the first day of the sales tax
4 quarterly period, as described in subdivision (b) of section 1136 of the
5 tax law, beginning at least 90 days after the date this act shall have
6 become a law and shall apply in accordance with the applicable transi-
7 tional provisions of sections 1106 and 1217 of the tax law and shall
8 expire and be deemed repealed two years after such date; provided,
9 however that if section 5 of part J of chapter 59 of the laws of 2021
10 shall not have taken effect on or before such date then section three of
11 this act shall take effect on the same date and in the same manner as
12 such chapter of the laws of 2021, takes effect.

13 § 2. Severability. If any clause, sentence, paragraph, section or part
14 of this act shall be adjudged by any court of competent jurisdiction to
15 be invalid and after exhaustion of all further judicial review, the
16 judgment shall not affect, impair, or invalidate the remainder thereof,
17 but shall be confined in its operation to the clause, sentence, para-
18 graph, section or part of this act directly involved in the controversy
19 in which the judgment shall have been rendered.

20 § 3. This act shall take effect immediately provided, however, that
21 the applicable effective date of Parts A through D of this act shall be
22 as specifically set forth in the last section of such Parts.