STATE OF NEW YORK

10584

IN ASSEMBLY

March 13, 2026

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing an exemption for alternative energy systems from the state's sales and compensating use taxes and authorizing counties and cities to elect such exemption from their sales and use taxes imposed by or pursuant to the authority of such law; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Subdivision (b) of section 1101 of the tax law is amended by adding a new paragraph 39 to read as follows:

(39) Alternative energy systems. New Energy Star appliances and tangible personal property used in or on habitable residential and non-residential structures for the purpose of improving the energy efficiency of such structures consist of: (i) systems which do not rely on petroleum products or natural gas as their energy source or fuel cell electric generation equipment as described in paragraph two of subsection (g-2) of section six hundred six of this chapter; (ii) new Energy Star appliances, including residential refrigerators, freezers, clothing washers (but not a combination washer/dryer unless the clothing is washed and dried in the same compartment), light fixtures which use a pin-based compact fluorescent bulb, non-commercial ceiling fans or ceiling fan and light kits, dishwasher or air conditioners, sold at retail, provided such appliances qualify for and are labeled with, an Energy Star label by the manufacturer, pursuant to an agreement among the manufacturer, the United States environmental protection agency and the United States department of energy; and (iii) tangible personal property that improves the energy efficiency of residential and non-residential heating and cooling systems, including but not limited to, insulation and weather stripping and products, such as roofing, windows, doors and skylights approved by the Energy Star program.

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

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

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(47) Alternative energy systems, new Energy Star appliances and tangible personal property used in or on habitable residential and non-residential structures for the purpose of improving the energy efficiency of such structures, as defined in paragraph thirty-nine of subdivision (b) of section eleven hundred one of this article.

§ 3. Clause 9 of subdivision (b) of section 1107 of the tax law, as amended by section 78 of part A of chapter 56 of the laws of 1998, is amended to read as follows:

(9) Except as otherwise provided by law, the [~~exemption~~] exemptions provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this article relating to clothing and footwear and paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this article relating to alternative energy systems shall not apply.

§ 4. Subdivision (f) of section 1109 of the tax law, as added by section 118-a of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(f) The [~~exemption~~] exemptions contained in [~~paragraph~~] paragraphs thirty and forty-seven of subdivision (a) of section eleven hundred fifteen of this article shall not apply.

§ 5. Section 1109 of the tax law is amended by adding a new subdivision (i) to read as follows:

(i) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (1) In the event that a county, city or school district located in the metropolitan commuter transportation district imposes taxes pursuant to the authority of subpart B of part I of article twenty-nine of this chapter and elects to provide the alternative energy systems exemption authorized in paragraph one of subdivision (a) of section twelve hundred ten of this chapter, or a city located in such district in which the taxes provided for in section eleven hundred seven of this part are in effect elects to provide such alternative energy systems exemption from such taxes pursuant to the authority of subdivision (p) of section twelve hundred ten of this chapter, or the taxes provided for in section eleven hundred eight of this part are in effect in a city located in such district, the exemption provided by paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this article shall be applicable in such portion of the metropolitan commuter transportation district in which such county, city or school district is located. The commissioner shall determine and certify to the comptroller the amount of revenue forgone at the rate of one-quarter of one percent under this section in such county, city or school district on account of sales of alternative energy systems in such county, city or school district.

(2) Commencing with the sales tax quarterly period which commences on June first, two thousand twenty-six, the commissioner shall make such determinations and certifications on the twelfth day of the month following the month in which sales tax quarterly returns are due under section eleven hundred thirty-six of this article with respect to such quarterly period for as long as such alternative energy systems exemptions from such taxes imposed pursuant to the authority of article twenty-nine of this chapter or by section eleven hundred seven or eleven hundred eight of this part are in effect. Neither the commissioner nor the comptroller shall be held liable for any inaccuracy in such determinations and certifications. Such determinations and certifications may be based on such information as may be available to the commissioner at the time such determinations and certifications must be made under this

subdivision and may be estimated on the basis of percentages or other indices calculated from distributions from prior periods. The commissioner shall be authorized to require such information as the commissioner deems necessary to comply with the requirements of this subdivision from persons required to file returns under section eleven hundred thirty-six of this article.

(3) By the fifteenth day of the month in which the commissioner has made the certifications to the comptroller described in paragraph two of this subdivision, the comptroller shall bill any county, city or school district in such metropolitan commuter transportation district which provides such alternative energy systems exemption, and any city in such district in which the taxes imposed by section eleven hundred seven of this part are in effect which has elected to provide such alternative energy systems exemption, and any city in such district in which the taxes imposed by section eleven hundred eight of this part are in effect, an amount equal to one-half of the amount certified to the comptroller by the commissioner in respect of such county, city or school district; and such county, city or school district shall pay the amount of such bill to the comptroller by the twenty-fifth day of such month. The comptroller shall deposit any such amounts received in the mass transportation operating assistance fund established by section eighty-eight-a of the state finance law to the credit of the metropolitan mass transportation operating assistance account therein.

(4) In the event that a county, city or school district imposing tax pursuant to the authority of subpart B of part I of article twenty-nine of this chapter does not pay in full a bill described in paragraph three of this subdivision by the twenty-fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of the next payment or payments due such county, city or school district pursuant to subdivision (c) of section twelve hundred sixty-one of this chapter until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation operating assistance fund to be credited as provided in paragraph three of this subdivision.

(5) In the event that a city in which the taxes imposed by section eleven hundred seven of this part are in effect does not pay in full a bill described in paragraph three of this subdivision by the twenty-fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of the next payment or payments due such city, with respect to taxes, penalty and interest imposed pursuant to the authority of section twelve hundred twelve-a of this chapter, pursuant to subdivision (c) of section twelve hundred sixty-one of this chapter, until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation operating assistance fund to be credited as provided in paragraph three of this subdivision.

(6) In the event that a city in which the taxes imposed by section eleven hundred eight of this part are in effect does not pay in full a bill described in paragraph three of this subdivision by the twenty-fifth day of the month described in paragraphs two and three of this subdivision, the comptroller shall deduct any amount not paid from the amount of any other moneys due such city from the comptroller, not otherwise pledged, dedicated or encumbered pursuant to other state law, until such amount not paid has been recovered. The comptroller shall deposit the amounts so deducted and recovered in the mass transportation

operating assistance fund to be credited as provided in paragraph three of this subdivision.

(7) The commissioner shall certify the amount of any over calculation or under calculation of any certification required to be made to the comptroller under paragraph three of this subdivision as soon after its discovery as reasonably possible and subsequent bills to a city, county or school district to which the over calculation or under calculation relates shall be adjusted accordingly, provided that the comptroller may adjust such number of subsequent bills as the comptroller shall consider reasonable in view of the amount of the adjustment and all other facts and circumstances.

(8) On the same date that the comptroller is required to bill a county, city or school district an amount as provided in paragraph three of this subdivision, the comptroller shall, after having first made any deposits required by section ninety-two-r of the state finance law and only to the extent that there are moneys remaining after having made such required deposits, withdraw from the state treasury, to the debit of the general fund, an amount equal to the total of the amounts required to be billed to counties, cities and school districts pursuant to such paragraph three and deposit such total amount in the mass transportation operating assistance fund to be credited as provided in such paragraph three. The amount of any over calculation or under calculation determined in paragraph seven of this subdivision shall likewise be applied to the amounts required to be deposited under this paragraph, so that the amounts deposited under this paragraph equal the total of the amounts required to be billed to counties, cities and school districts under such paragraph three, as adjusted, pursuant to paragraph seven of this subdivision.

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

(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 **and the alternative energy systems 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 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.

§ 7. 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~~] chapter, 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~~] chapter 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 or forty-seven 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. 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 certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 8. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(p) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary:

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

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

Section one. Receipts from sales of and consideration given or contracted to be given for, or for the use of, alternative energy systems exempt from state sales and compensating use taxes pursuant to paragraph forty-seven of subdivision (a) of section 1115 of the New York tax law shall also be exempt from sales and compensating use taxes imposed in this jurisdiction.

Section two. This resolution shall take effect March 1, (insert the year, but not earlier than the year 2026) and shall apply to sales made and uses occurring on or after such date in accordance with the applicable transitional provisions of sections 1106 and 1217 of the New York tax law.

§ 9. Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (a) Any county or city imposing sales and compensating use taxes pursuant to the authority of subpart B of part 1 of article 29 of the tax law, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for alternative energy systems exempt from state sales and compensating use taxes described in paragraph 45 of subdivision (a) of section 1115 of the tax law, whether such taxes are imposed by local law, ordinance or resolution, by enacting a resolution exactly in the form set forth in subdivision (c) of this section; whereupon, upon compliance with the provisions of subdivision (d) of this section, such enactment of such resolution shall be deemed to amend such local law, ordinance or resolution imposing such taxes, and such local law, ordinance or resolution shall thenceforth be deemed to incorporate such exemption.

(b) Any city of one million or more in which the taxes imposed by section 1107 of the tax law are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same alternative energy systems exempt from state sales and compensating use taxes described in paragraph 45 of subdivision (a) of section 1115 of the tax law by enacting a resolution exactly in the form set forth in subdivision (c) of this section; whereupon, upon compliance with the provisions of subdivision (d) of this section, such enactment of such resolution shall be deemed to amend such section 1107 of the tax law and such section 1107 shall thenceforth be deemed to incorporate such exemption as if it had been duly enacted by the state legislature and approved by the governor and such resolution 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 subdivision (a) of section 1210 of the tax law, whether or not such taxes are suspended at the time such city enacts its resolution.

(c) Form of Resolution:

Be it enacted by the (insert proper title of local legislative body) as follows:

Section one: The (county or city) of (insert locality's name) hereby elects the alternative energy systems exemption commencing in January of 2026.

Section two: This resolution shall take effect immediately and shall apply to sales made and uses occurring on or after such date, in accordance with applicable transitional provisions of the New York tax law.

(d) A resolution adopted pursuant to this section shall be effective only if it is adopted exactly as set forth in subdivision (c) of this section and such county or city adopts it by December 31, 2025, mails a certified copy of it to the commissioner of taxation and finance by certified mail by such date and otherwise complies with the requirements of subdivisions (d) and (e) of section 1210 of the tax law.

§ 10. This act shall take effect immediately and shall expire and be deemed repealed two years after such date and shall apply to sales made and uses occurring during exemption periods on or after that date in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.