

STATE OF NEW YORK

313

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. PAULIN, STERN, TAYLOR, COLTON, ALVAREZ, BARRETT, ROSENTHAL, SIMONE, RAGA, GANDOLFO, DURSO, JACOBSON, RAJKUMAR, ANDERSON, LUNSFORD, BICHOTTE HERMELYN, SHIMSKY, RA, WOERNER, SLATER, SIMON, OTIS, LEVENBERG, HEVESI, CLARK, SEAWRIGHT, SHRESTHA, BURDICK, STECK, BLUMENCRANZ, FORREST -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a sales tax exemption for energy storage

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

1 Section 1. Section 1115 of the tax law is amended by adding a new
2 subdivision (mm) to read as follows:

3 (mm) The following shall be exempt from tax under this article: (1)
4 Receipts from the retail sale of, and consideration given or contracted
5 to be given for, or for the use of, commercial energy storage systems
6 equipment and the costs of installing such systems. For the purposes of
7 this subdivision, "commercial energy storage systems equipment" shall
8 mean an arrangement or combination of components installed upon non-re-
9 sidential premises that stores electricity for use at a later time to
10 provide heating, cooling, hot water and/or electricity.

11 (2) Receipts from the sale of electricity by a person primarily
12 engaged in the sale of energy storage system equipment and/or electric-
13 ity generated by such equipment pursuant to a written agreement under
14 which the electricity is generated by commercial energy system equipment
15 that is: (A) owned by a person other than the purchaser of such elec-
16 tricity; (B) installed on the non-residential premises of the purchaser
17 of such electricity; and (C) used to provide heating, cooling, hot water
18 or electricity to such premises.

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

LBD00319-01-5

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

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

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

4 (d) A local law, ordinance or resolution imposing any tax pursuant to
5 this section, increasing or decreasing the rate of such tax, repealing
6 or suspending such tax, exempting from such tax the energy sources and
7 services described in paragraph three of subdivision (a) or of subdivi-
8 sion (b) of this section or changing the rate of tax imposed on such
9 energy sources and services or providing for the credit or refund
10 described in clause six of subdivision (a) of section eleven hundred
11 nineteen of this chapter, or electing or repealing the exemption for
12 residential solar equipment and electricity in subdivision (ee) of
13 section eleven hundred fifteen of this article, or the exemption for
14 commercial solar equipment and electricity in subdivision (ii) of
15 section eleven hundred fifteen of this article, or electing or repealing
16 the exemption for commercial fuel cell electricity generating systems
17 equipment and electricity generated by such equipment in subdivision
18 (kk) of section eleven hundred fifteen of this article, or the exemption
19 for commercial energy storage equipment and electricity in subdivision
20 (mm) of section eleven hundred fifteen of this article must go into
21 effect only on one of the following dates: March first, June first,
22 September first or December first; provided, that a local law, ordinance
23 or resolution providing for the exemption described in paragraph thirty
24 of subdivision (a) of section eleven hundred fifteen of this chapter or
25 repealing any such exemption or a local law, ordinance or resolution
26 providing for a refund or credit described in subdivision (d) of section
27 eleven hundred nineteen of this chapter or repealing such provision so
28 provided must go into effect only on March first. No such local law,
29 ordinance or resolution shall be effective unless a certified copy of
30 such law, ordinance or resolution is mailed by registered or certified
31 mail to the commissioner at the commissioner's office in Albany at least
32 ninety days prior to the date it is to become effective. However, the
33 commissioner may waive and reduce such ninety-day minimum notice
34 requirement to a mailing of such certified copy by registered or certi-
35 fied mail within a period of not less than thirty days prior to such
36 effective date if the commissioner deems such action to be consistent
37 with the commissioner's duties under section twelve hundred fifty of
38 this article and the commissioner acts by resolution. Where the
39 restriction provided for in section twelve hundred twenty-three of this
40 article as to the effective date of a tax and the notice requirement
41 provided for therein are applicable and have not been waived, the
42 restriction and notice requirement in section twelve hundred twenty-
43 three of this article shall also apply.

44 § 4. This act shall take effect immediately.