# STATE OF NEW YORK

9319

2025-2026 Regular Sessions

# IN ASSEMBLY

December 10, 2025

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

AN ACT to amend the tax law and the real property tax law, in relation to exempting retail food stores from various state and local taxes

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

Section 1. Section 209 of the tax law is amended by adding a new subsection 13 to read as follows:

**13. Any retail food store, as defined in section five hundred or section five hundred-a of the agriculture and markets law, provided such store derives at least seventy percent of its annual gross sales from staple foods and food products for off-premises consumption, shall be exempt from taxation under the provisions of this article. The commissioner of taxation and finance, in consultation with the commissioner of agriculture and markets, shall establish an application, documentation, and annual recertification process to identify and certify qualifying retail food stores, including criteria for revocation of certification.**

§ 2. Subsection (i) of section 601 of the tax law is relettered subsection (j) and a new subsection (i) is added to read as follows:

**(i) Any retail food store, as defined in section five hundred or section five hundred-a of the agriculture and markets law, provided such store derives at least seventy percent of its annual gross sales from staple foods and food products for off-premises consumption, shall be exempt from taxation under the provisions of this article with respect only to business income derived from the operation of such retail food store. Nothing in this subsection shall be construed to exempt wages, investment income, or other non-business income of any owner or shareholder. The commissioner of taxation and finance, in consultation with the commissioner of agriculture and markets, shall establish an application, documentation, and annual recertification process to identify and**

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

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certify qualifying retail food stores, including criteria for revocation of certification.

§ 3. Section 801 of the tax law is amended by adding a new subsection (d) to read as follows:

(d) Any retail food store, as defined in section five hundred or section five hundred-a of the agriculture and markets law, provided such store derives at least seventy percent of its annual gross sales from staple foods and food products for off-premises consumption, shall be exempt from taxation under the provisions of this article. The commissioner of taxation and finance, in consultation with the commissioner of agriculture and markets, shall establish an application, documentation, and annual recertification process to identify and certify qualifying retail food stores, including criteria for revocation of certification.

§ 4. Subparagraph (A) of paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part CCC of chapter 59 of the laws of 2019, is amended to read as follows:

(A) Food, food products, food which is sold heated or prepared at a retail food store as defined in section five hundred or section five hundred-a of the agriculture and markets law, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Provided, however, that items described in clauses (i) through (iv) of this subparagraph shall be exempt when sold by a retail food store as defined in section five hundred or section five hundred-a of the agriculture and markets law. Nothing in this subparagraph shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five of this article.

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

(12) Except as otherwise provided by law, the exemption provided in paragraph one of subdivision (a) of section eleven hundred fifteen of this article relating to heated or prepared foods and the products not included unless sold in a retail food store shall be applicable pursuant to a local law, ordinance or resolution adopted by a county or city subject to the provisions of this section. Such county or 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 county or city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

§ 6. The real property tax law is amended by adding a new section 433 to read as follows:

§ 433. Exemption for retail food stores. 1. Notwithstanding any other provision of law, real property owned by a retail food store as defined in section five hundred or section five hundred-a of the agriculture and markets law, provided such store derives at least seventy percent of its annual gross sales from staple foods and food products for off-premises consumption shall be exempt from taxation to the extent of one hundred per centum of the assessed valuation thereof. Provided however, that no exemption shall be given for any portion of the square footage of a

retail food store not being primarily used where food and food products are offered to the consumer and intended for off-premises consumption.

2. The local legislative body of a county, city, town, village, or the governing body in the case of a school district, may:

(a) after a public hearing, adopt a local law to grant the exemption authorized pursuant to this section; and

(b) adopt a local law to reduce the maximum exemption allowable.

3. If, during the term of an exemption granted pursuant to this section, a retail food store ceases to be used for eligible purposes, such exemption shall cease.

§ 7. This act shall take effect immediately and shall apply to taxable years commencing on and after January 1, 2026.