S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 27, 2009

Introduced by M. of A. ESPAILLAT, SWEENEY, MAISEL, WALKER, BENEDETTO, PHEFFER, TOBACCO, BROOK-KRASNY, TITONE, MILLMAN, LANCMAN, WRIGHT -- Multi-Sponsored by -- M. of A. BACALLES, BING, BOYLAND, BRENNAN, CALHOUN, CAMARA, DIAZ, McDONOUGH, REILLY, SCHIMEL, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting qualifying vehicles from local sales and compensating use taxes imposed in or by any city having a population of one million or more; 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 1107 of the tax law is amended by adding a new clause 12 to read as follows:

(12) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, RECEIPTS FROM THE RETAIL SALE OR USE OF ANY QUALIFYING VEHICLE SHALL BE EXEMPT FROM THE TAXES IMPOSED BY THIS SECTION. FOR PURPOSES OF THIS CLAUSE, "QUALIFYING VEHICLE" SHALL MEAN A LOW-EMISSION AND ENERGY EFFICIENT VEHICLE AS CERTIFIED BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO 23 U.S.C. S 166(F)(3). IF THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS NOT SO CERTIFIED ANY VEHICLE AS LOW-EMISSION AND ENERGY EFFICIENT VEHICLE, THEN, UNTIL SUCH CERTIFICATION OCCURS, "QUALIFYING VEHICLE" SHALL MEAN ANY VEHICLE THAT HAS ACHIEVED AN AIR POLLUTION SCORE OF NINE OR BETTER AND A GREENHOUSE GAS SCORE OF NINE OR BETTER ON THE GREEN VEHICLE GUIDE MAINTAINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. THE DEPARTMENT SHALL POST ON ITS WEB SITE A LIST OF QUALIFYING VEHICLES BY MAKE AND MODEL YEAR AND SUCH OTHER SPECIFICATIONS AS MAY BE NECESSARY TO IDENTIFY A QUALIFYING VEHICLE, AND SHALL UPDATE SUCH LIST AS NECESSARY TO PROVIDE A COMPLETE LIST OF QUALIFYING VEHICLES.

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

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S 2. Subparagraph (i) of paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 4 of part SS-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(i) 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. 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, 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, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) of section eleven hundred nineteen of this chapter. 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 exemption provided for in subdivision (ee), the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) and the qualified empire zone enterprise exemptions provided for in subdivision (z) 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 exemption or such clothing and footwear exemption or such qualified empire zone enterprise exemptions; provided that if such a 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 enacts the resolution described in subdivision (k) of this section or repeals such resolution or enacts the resolution described in subdivision (l) of this section or repeals such resolution or enacts the resolution described in subdivision (n) 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 (k), (l) or (n) 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 (k), (l) or (n) of this

section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the residential solar energy systems equipment exemption or the clothing and footwear exemption or the qualified empire zone enterprise exemptions in any such local law, ordinance or resolution or in such section eleven hundred seven are the same, as the case may be, as the residential solar energy systems equipment exemption provided for in subdivision (ee), the clothing and footwear exemption in paragraph thirty of subdivision (a) or the qualified empire zone enterprise exemptions in subdivision (z) of section eleven hundred fifteen of this chapter. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, RECEIPTS FROM THE RETAIL SALE OR USE OF ANY QUALIFYING VEHICLE SHALL BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED BY A CITY OF ONE MILLION OR MORE. FOR PURPOSES OF THIS SUBPARAGRAPH, "QUALIFYING VEHICLE" SHALL MEAN A LOW-EMISSION AND ENERGY EFFICIENT VEHICLE AS CERTIFIED BY THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO 23 U.S.C S166(F)(3). IF THE ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS NOT SO CERTIFIED ANY VEHICLE AS A LOW-EMISSION AND ENERGY EFFICIENT VEHICLE, THEN, UNTIL SUCH CERTIFICATION OCCURS, "QUALIFYING VEHICLE" SHALL MEAN ANY VEHICLE THAT HAS ACHIEVED AN AIR POLLUTION SCORE OF NINE OR BETTER AND A GREENHOUSE GAS SCORE OF NINE OR BETTER ON THE GREEN VEHICLE GUIDE MAINTAINED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. THE DEPARTMENT SHALL POST ON ITS WEB SITE A LIST OF QUALIFYING VEHICLES BY MAKE AND MODEL YEAR AND SUCH OTHER SPECIFICATIONS AS MAY BE NECESSARY TO IDENTIFY A QUALIFYING VEHICLE, AND SHALL UPDATE SUCH LIST AS NECESSARY TO PROVIDE A COMPLETE LIST OF QUALIFYING VEHICLES.

S 3. This act shall take effect on the first day of the quarterly sales tax period, as set forth in subdivision (b) of section 1136 of the tax law, next succeeding the thirtieth day after it shall have become a law and shall remain in effect for a total of twenty consecutive quarterly sales tax periods, when it shall be deemed repealed; provided, however, that the commission of taxation and finance may take any action necessary for the timely implementation of this act on or before the date on which it shall have become a law.