

6617

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 6, 2009

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Introduced by M. of A. BURLING, BACALLES, ERRIGO, FINCH -- Multi-Sponsored by -- M. of A. KOLB -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to sales and use tax exemption for services rendered with respect to the maintenance and repair of trucks having a gross weight exceeding 26,000 pounds

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph 3 of subdivision (c) of section 1105 of the tax  
2     law is amended by adding a new subparagraph (xii) to read as follows:  
3     (XII) SUCH SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND  
4     REPAIR OF TRUCKS AND PROPERTY USED BY OR PURCHASED FOR SUCH TRUCKS, AS  
5     SUCH TRUCKS AND PROPERTY ARE SPECIFIED IN PARAGRAPH FORTY-FOUR OF SUBDI-  
6     VISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.  
7     S 2. Clause 1 of subdivision (b) of section 1107 of the tax law, as  
8     amended by chapter 472 of the laws of 2000, is amended to read as  
9     follows:  
10    (1) The exemptions provided for in PARAGRAPH FORTY-FOUR OF SUBDIVISION  
11    (A) AND subdivision (c) of section eleven hundred fifteen OF THIS ARTI-  
12    CLE AND THE EXCEPTION PROVIDED FOR IN SUBPARAGRAPH (XII) OF PARAGRAPH  
13    THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART  
14    shall not apply to fuel, gas, electricity, refrigeration and steam, and  
15    gas, electric, refrigeration and steam service of whatever nature for  
16    use or consumption directly and exclusively in the production of gas,  
17    electricity, refrigeration or steam.  
18    S 3. Subdivision (b) of section 1108 of the tax law is amended by  
19    adding a new paragraph 6 to read as follows:  
20    (6) THE EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION  
21    (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE AND THE EXCEPTION  
22    PROVIDED FOR IN SUBPARAGRAPH (XII) OF PARAGRAPH THREE OF SUBDIVISION (C)  
23    OF SECTION ELEVEN HUNDRED FIVE OF THIS PART SHALL NOT APPLY.

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

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1 S 4. Subdivision (a) of section 1109 of the tax law, as amended by  
2 section 1 of part BB of chapter 61 of the laws of 2005, is amended to  
3 read as follows:

4 (a) General. In addition to the taxes imposed by sections eleven  
5 hundred five and eleven hundred ten of this [article] PART, there is  
6 hereby imposed within the territorial limits of the metropolitan commu-  
7 ter transportation district created and established pursuant to section  
8 twelve hundred sixty-two of the public authorities law, and there shall  
9 be paid, additional taxes, at the rate of three-eighths of one percent,  
10 which shall be identical to the taxes imposed by sections eleven hundred  
11 five and eleven hundred ten of this [article] PART, EXCEPT THAT WITH  
12 RESPECT TO THE TAX IMPOSED BY THIS SECTION THE EXEMPTION PROVIDED FOR IN  
13 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
14 FIFTEEN OF THIS ARTICLE AND THE EXCEPTION PROVIDED FOR IN SUBPARAGRAPH  
15 (XII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED  
16 FIVE OF THIS PART SHALL NOT APPLY. Such sections ELEVEN HUNDRED FIVE  
17 AND ELEVEN HUNDRED TEN OF THIS PART and the other sections of this arti-  
18 cle, including the definition and THE OTHER exemption provisions, shall  
19 apply for purposes of the taxes imposed by this section in the same  
20 manner and with the same force and effect as if the language of those  
21 sections had been incorporated in full into this section and had  
22 expressly referred to the taxes imposed by this section.

23 S 5. Subdivision (a) of section 1115 of the tax law is amended by  
24 adding a new paragraph 44 to read as follows:

25 (44) TRUCKS, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED  
26 FIFTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW, WHETHER PURCHASED OR LEASED,  
27 AND PROPERTY INSTALLED ON SUCH VEHICLES FOR THEIR EQUIPPING, MAINTENANCE  
28 OR REPAIR, PROVIDED SUCH VEHICLES HAVE A GROSS VEHICLE WEIGHT WHICH  
29 EXCEEDS TWENTY-SIX THOUSAND POUNDS.

30 S 6. Subparagraph (i) of paragraph 1 of subdivision (a) of section  
31 1210 of the tax law, as amended by section 4 of part SS-1 of chapter 57  
32 of the laws of 2008, is amended to read as follows:

33 (i) Either, all of the taxes described in article twenty-eight of this  
34 chapter, at the same uniform rate, as to which taxes all provisions of  
35 the local laws, ordinances or resolutions imposing such taxes shall be  
36 identical, except as to rate and except as otherwise provided, with the  
37 corresponding provisions in such article twenty-eight, including the  
38 definition and exemption provisions of such article, EXCEPT THAT THE  
39 EXEMPTION PROVIDED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION  
40 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER AND THE EXCEPTION PROVIDED FOR IN  
41 SUBPARAGRAPH (XII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION  
42 ELEVEN HUNDRED FIVE OF THIS CHAPTER SHALL NOT APPLY, so far as the  
43 provisions of such article twenty-eight can be made applicable to the  
44 taxes imposed by such city or county and with such limitations and  
45 special provisions as are set forth in this article. The taxes author-  
46 ized under this subdivision may not be imposed by a city or county  
47 unless the local law, ordinance or resolution imposes such taxes so as  
48 to include all portions and all types of receipts, charges or rents,  
49 subject to state tax under sections eleven hundred five and eleven  
50 hundred ten of this chapter, except as otherwise provided. Any local  
51 law, ordinance or resolution enacted by any city of less than one  
52 million or by any county or school district, imposing the taxes author-  
53 ized by this subdivision, shall, notwithstanding any provision of law to  
54 the contrary, exclude from the operation of such local taxes all sales  
55 of tangible personal property for use or consumption directly and  
56 predominantly in the production of tangible personal property, gas,

1 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
2 essing, generating, assembly, refining, mining or extracting; and all  
3 sales of tangible personal property for use or consumption predominantly  
4 either in the production of tangible personal property, for sale, by  
5 farming or in a commercial horse boarding operation, or in both; 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) of section eleven hundred nineteen of this chapter. Any local  
9 law, ordinance or resolution enacted by any city, county or school  
10 district, imposing the taxes authorized by this subdivision, shall omit  
11 the residential solar energy systems equipment exemption provided for in  
12 subdivision (ee), the clothing and footwear exemption provided for in  
13 paragraph thirty of subdivision (a) and the qualified empire zone enter-  
14 prise exemptions provided for in subdivision (z) of section eleven  
15 hundred fifteen of this chapter, unless such city, county or school  
16 district elects otherwise as to either such residential solar energy  
17 systems equipment exemption or such clothing and footwear exemption or  
18 such qualified empire zone enterprise exemptions; provided that if such  
19 a city having a population of one million or more in which the taxes  
20 imposed by section eleven hundred seven of this chapter are in effect  
21 enacts the resolution described in subdivision (k) of this section or  
22 repeals such resolution or enacts the resolution described in subdivi-  
23 sion (l) of this section or repeals such resolution or enacts the resol-  
24 ution described in subdivision (n) of this section or repeals such  
25 resolution, such resolution or repeal shall also be deemed to amend any  
26 local law, ordinance or resolution enacted by such a city imposing such  
27 taxes pursuant to the authority of this subdivision, whether or not such  
28 taxes are suspended at the time such city enacts its resolution pursuant  
29 to subdivision (k), (l) or (n) of this section or at the time of any  
30 such repeal; provided, further, that any such local law, ordinance or  
31 resolution and section eleven hundred seven of this chapter, as deemed  
32 to be amended in the event a city of one million or more enacts a resol-  
33 ution pursuant to the authority of subdivision (k), (l) or (n) of this  
34 section, shall be further amended, as provided in section twelve hundred  
35 eighteen of this subpart, so that the residential solar energy systems  
36 equipment exemption or the clothing and footwear exemption or the quali-  
37 fied empire zone enterprise exemptions in any such local law, ordinance  
38 or resolution or in such section eleven hundred seven are the same, as  
39 the case may be, as the residential solar energy systems equipment  
40 exemption provided for in subdivision (ee), the clothing and footwear  
41 exemption in paragraph thirty of subdivision (a) or the qualified empire  
42 zone enterprise exemptions in subdivision (z) of section eleven hundred  
43 fifteen of this chapter.

44 S 7. This act shall take effect December 1, 2009; provided however,  
45 that the exemption and exception provided for in sections one through  
46 six of this act shall apply to retail sales or uses occurring on or  
47 after December 1, 2009.