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I N S E N A T E

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Introduced by Sens. HANNON, DeFRANCISCO, FUSCHILLO, O. JOHNSON, LARKIN, LAVALLE, LIBOUS, MAZIARZ, PADAVAN, RANZENHOFER, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the tax law, in relation to providing a sales and compensating use tax exemption on Energy Star appliances

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

1 Section 1. Subdivision (a) of section 1115 of the tax law is amended
2 by adding a new paragraph 44 to read as follows:

3 (44) ALTERNATIVE ENERGY SYSTEMS AND TANGIBLE PERSONAL PROPERTY USED IN
4 OR ON HABITABLE RESIDENTIAL AND NON-RESIDENTIAL STRUCTURES FOR THE
5 PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF SUCH STRUCTURES. FOR
6 PURPOSES OF THIS SUBDIVISION: (I) ALTERNATIVE ENERGY SYSTEMS SHALL
7 INCLUDE SYSTEMS WHICH DO NOT RELY ON PETROLEUM PRODUCTS OR NATURAL GAS
8 AS THEIR ENERGY SOURCE OR FUEL CELL ELECTRIC GENERATING EQUIPMENT AS
9 DESCRIBED IN PARAGRAPH TWO OF SUBSECTION G-TWO OF SECTION SIX HUNDRED
10 SIX OF THIS CHAPTER; AND (II) TANGIBLE PERSONAL PROPERTY SHALL INCLUDE
11 ROOF PRODUCTS, WINDOWS, DOORS AND SKYLIGHTS APPROVED BY THE ENERGY STAR
12 PROGRAM AND PRODUCTS, SUCH AS INSULATION AND WEATHERSTRIPPING, THAT
13 IMPROVE THE ENERGY EFFICIENCY OF RESIDENTIAL AND NON-RESIDENTIAL HEATING
14 AND COOLING SYSTEMS.

15 S 2. The New York state energy research and development authority, in
16 consultation with manufacturers, retailers and public interest groups,
17 shall develop public information programs and materials to identify and
18 encourage the sales of products eligible for the tax incentives provided
19 under paragraph 44 of subdivision (a) of section 1115 of the tax law.

20 S 3. Subdivision (b) of section 1101 of the tax law is amended by
21 adding a new paragraph 37 to read as follows:

22 (37) NEW ENERGY STAR APPLIANCE. A RESIDENTIAL REFRIGERATOR, COMBINA-
23 TION RESIDENTIAL REFRIGERATOR/FREEZER, RESIDENTIAL FREEZER, RESIDENTIAL
24 CLOTHES WASHER AND RESIDENTIAL CLOTHES DRYER (INCLUDING A COMBINATION
25 WASHER/DRYER), RESIDENTIAL LIGHT FIXTURE WHICH USES EXCLUSIVELY A
26 PIN-BASED COMPACT FLUORESCENT BULB, NON-COMMERCIAL CEILING FAN WITH OR

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

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1 WITHOUT A LIGHT, NON-COMMERCIAL CEILING FAN LIGHT KIT, NON-COMMERCIAL
2 DISHWASHER, ROOM OR CENTRAL AIR CONDITIONER, NON-COMMERCIAL FURNACE,
3 NON-COMMERCIAL BOILER AND NON-COMMERCIAL HOT WATER HEATER, NON-COMMER-
4 CIAL DEHUMIDIFIER, NON-COMMERCIAL AIR-SOURCE AND GEOTHERMAL HEAT PUMP,
5 NON-COMMERCIAL HOME SEALING, NON-COMMERCIAL PROGRAMMABLE THERMOSTAT AND
6 NON-COMMERCIAL ROOM AIR CLEANER WHICH IS SOLD FOR THE FIRST TIME AT
7 RETAIL, PROVIDED SUCH APPLIANCE QUALIFIES FOR AND IS LABELED WITH AN
8 ENERGY STAR LABEL BY THE MANUFACTURER, PURSUANT TO AN AGREEMENT AMONG
9 THE MANUFACTURER, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND
10 THE UNITED STATES DEPARTMENT OF ENERGY.

11 S 4. Subdivision (a) of section 1115 of the tax law is amended by
12 adding a new paragraph 45 to read as follows:

13 (45) DURING THE FIRST WEEK OF EACH SALES TAX QUARTER, NEW ENERGY STAR
14 APPLIANCES.

15 S 5. Clause 9 of subdivision (b) of section 1107 of the tax law, as
16 amended by section 78 of part A of chapter 56 of the laws of 1998, is
17 amended to read as follows:

18 (9) Except as otherwise provided by law, the [exemption] EXEMPTIONS
19 provided for in paragraph thirty of subdivision (a) of section eleven
20 hundred fifteen relating to clothing and footwear AND PARAGRAPH
21 FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN RELATING
22 TO NEW ENERGY STAR APPLIANCES shall not apply.

23 S 6. Subdivision (f) of section 1109 of the tax law, as added by
24 section 118-a of part A of chapter 389 of the laws of 1997, is amended
25 to read as follows:

26 (f) The [exemption] EXEMPTIONS contained in [paragraph] PARAGRAPHS
27 thirty AND FORTY-FIVE of subdivision (a) of section eleven hundred
28 fifteen of this article shall not apply.

29 S 7. Section 1109 of the tax law is amended by adding a new subdivi-
30 sion (i) to read as follows:

31 (I) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
32 NANCE OR RESOLUTION TO THE CONTRARY: (1) IN THE EVENT THAT A COUNTY,
33 CITY OR SCHOOL DISTRICT LOCATED IN THE METROPOLITAN COMMUTER TRANSPORTA-
34 TION DISTRICT IMPOSES TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF
35 PART 1 OF ARTICLE TWENTY-NINE OF THIS CHAPTER AND ELECTS TO PROVIDE THE
36 NEW ENERGY STAR APPLIANCES EXEMPTION AUTHORIZED IN PARAGRAPH ONE OF
37 SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER, OR A CITY
38 LOCATED IN SUCH DISTRICT IN WHICH THE TAXES PROVIDED FOR IN SECTION
39 ELEVEN HUNDRED SEVEN OF THIS ARTICLE ARE IN EFFECT ELECTS TO PROVIDE
40 SUCH NEW ENERGY STAR APPLIANCES EXEMPTION FROM SUCH TAXES PURSUANT TO
41 THE AUTHORITY OF SUBDIVISION (P) OF SUCH SECTION TWELVE HUNDRED TEN OR
42 OF SECTION ELEVEN OF THE CHAPTER OF THE LAWS OF TWO THOUSAND TEN WHICH
43 ADDED THIS SUBDIVISION, OR THE TAXES PROVIDED FOR IN SECTION ELEVEN
44 HUNDRED EIGHT OF THIS ARTICLE ARE IN EFFECT IN A CITY LOCATED IN SUCH
45 DISTRICT, THE EXEMPTION PROVIDED BY PARAGRAPH FORTY-FIVE OF SUBDIVISION
46 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE SHALL BE APPLICA-
47 BLE IN SUCH PORTION OF THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT
48 IN WHICH SUCH COUNTY, CITY OR SCHOOL DISTRICT IS LOCATED. THE COMMIS-
49 SIONER SHALL DETERMINE AND CERTIFY TO THE COMPTROLLER THE AMOUNT OF
50 REVENUE FORGONE AT THE RATE OF ONE-QUARTER OF ONE PERCENT UNDER THIS
51 SECTION IN SUCH COUNTY, CITY OR SCHOOL DISTRICT ON ACCOUNT OF SALES OF
52 NEW ENERGY STAR APPLIANCES IN SUCH COUNTY, CITY OR SCHOOL DISTRICT.

53 (2) COMMENCING WITH THE SALES TAX QUARTERLY PERIOD WHICH COMMENCES ON
54 MARCH FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL MAKE SUCH
55 DETERMINATIONS AND CERTIFICATIONS ON THE TWELFTH DAY OF THE MONTH
56 FOLLOWING THE MONTH IN WHICH SALES TAX QUARTERLY RETURNS ARE DUE UNDER

1 SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE WITH RESPECT TO SUCH
2 QUARTERLY PERIOD FOR AS LONG AS SUCH NEW ENERGY STAR APPLIANCES
3 EXEMPTIONS FROM SUCH TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE
4 TWENTY-NINE OF THIS CHAPTER OR BY SECTION ELEVEN HUNDRED SEVEN OR ELEVEN
5 HUNDRED EIGHT OF THIS ARTICLE ARE IN EFFECT. NEITHER THE COMMISSIONER
6 NOR THE COMPTROLLER SHALL BE HELD LIABLE FOR ANY INACCURACY IN SUCH
7 DETERMINATIONS AND CERTIFICATIONS. SUCH DETERMINATIONS AND CERTIF-
8 ICATIONS MAY BE BASED ON SUCH INFORMATION AS MAY BE AVAILABLE TO THE
9 COMMISSIONER AT THE TIME SUCH DETERMINATIONS AND CERTIFICATIONS MUST BE
10 MADE UNDER THIS SUBDIVISION AND MAY BE ESTIMATED ON THE BASIS OF
11 PERCENTAGES OR OTHER INDICES CALCULATED FROM DISTRIBUTIONS FROM PRIOR
12 PERIODS. THE COMMISSIONER SHALL BE AUTHORIZED TO REQUIRE SUCH INFORMA-
13 TION AS THE COMMISSIONER DEEMS NECESSARY TO COMPLY WITH THE REQUIREMENTS
14 OF THIS SUBDIVISION FROM PERSONS REQUIRED TO FILE RETURNS UNDER SUCH
15 SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE.

16 (3) BY THE FIFTEENTH DAY OF THE MONTH IN WHICH THE COMMISSIONER HAS
17 MADE THE CERTIFICATIONS TO THE COMPTROLLER DESCRIBED IN PARAGRAPH TWO OF
18 THIS SUBDIVISION, THE COMPTROLLER SHALL BILL ANY COUNTY, CITY OR SCHOOL
19 DISTRICT IN SUCH METROPOLITAN COMMUTER TRANSPORTATION DISTRICT WHICH
20 PROVIDES SUCH NEW ENERGY STAR APPLIANCES EXEMPTION, AND ANY CITY IN SUCH
21 DISTRICT IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF
22 THIS PART ARE IN EFFECT WHICH HAS ELECTED TO PROVIDE SUCH NEW ENERGY
23 STAR APPLIANCES EXEMPTION, AND ANY CITY IN SUCH DISTRICT IN WHICH THE
24 TAXES IMPOSED BY SECTION ELEVEN HUNDRED EIGHT OF THIS PART ARE IN
25 EFFECT, AN AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT CERTIFIED TO THE COMP-
26 TROLLER BY THE COMMISSIONER IN RESPECT OF SUCH COUNTY, CITY OR SCHOOL
27 DISTRICT; AND SUCH COUNTY, CITY OR SCHOOL DISTRICT SHALL PAY THE AMOUNT
28 OF SUCH BILL TO THE COMPTROLLER BY THE TWENTY-FIFTH DAY OF SUCH MONTH.
29 THE COMPTROLLER SHALL DEPOSIT ANY SUCH AMOUNTS RECEIVED IN THE MASS
30 TRANSPORTATION OPERATING ASSISTANCE FUND ESTABLISHED BY SECTION EIGHTY-
31 EIGHT-A OF THE STATE FINANCE LAW TO THE CREDIT OF THE METROPOLITAN MASS
32 TRANSPORTATION OPERATING ASSISTANCE ACCOUNT THEREIN.

33 (4) IN THE EVENT THAT A COUNTY, CITY OR SCHOOL DISTRICT IMPOSING TAX
34 PURSUANT TO THE AUTHORITY OF SUBPART B OF PART I OF ARTICLE TWENTY-NINE
35 OF THIS CHAPTER DOES NOT PAY IN FULL A BILL DESCRIBED IN PARAGRAPH THREE
36 OF THIS SUBDIVISION BY THE TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN
37 PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION, THE COMPTROLLER SHALL
38 DEDUCT ANY AMOUNT NOT PAID FROM THE AMOUNT OF THE NEXT PAYMENT OR
39 PAYMENTS DUE SUCH COUNTY, CITY OR SCHOOL DISTRICT PURSUANT TO SUBDIVI-
40 SION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER UNTIL SUCH
41 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
42 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING
43 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
44 SUBDIVISION.

45 (5) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
46 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
47 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
48 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
49 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
50 THE AMOUNT OF THE NEXT PAYMENT OR PAYMENTS DUE SUCH CITY, WITH RESPECT
51 TO TAXES, PENALTY AND INTEREST IMPOSED PURSUANT TO THE AUTHORITY OF
52 SECTION TWELVE HUNDRED TWELVE-A OF THIS CHAPTER, PURSUANT TO SUBDIVISION
53 (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER, UNTIL SUCH
54 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE
55 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING

1 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS
2 SUBDIVISION.

3 (6) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION
4 ELEVEN HUNDRED EIGHT OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A
5 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE
6 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF
7 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM
8 THE AMOUNT OF ANY OTHER MONEYS DUE SUCH CITY FROM THE COMPTROLLER, NOT
9 OTHERWISE PLEDGED, DEDICATED OR ENCUMBERED PURSUANT TO OTHER STATE LAW,
10 UNTIL SUCH AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL
11 DEPOSIT THE AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION
12 OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE
13 OF THIS SUBDIVISION.

14 (7) THE COMMISSIONER SHALL CERTIFY THE AMOUNT OF ANY OVER CALCULATION
15 OR UNDER CALCULATION OF ANY CERTIFICATION REQUIRED TO BE MADE TO THE
16 COMPTROLLER UNDER PARAGRAPH THREE OF THIS SUBDIVISION AS SOON AFTER ITS
17 DISCOVERY AS REASONABLY POSSIBLE AND SUBSEQUENT BILLS TO A CITY, COUNTY
18 OR SCHOOL DISTRICT TO WHICH THE OVER CALCULATION OR UNDER CALCULATION
19 RELATES SHALL BE ADJUSTED ACCORDINGLY, PROVIDED THAT THE COMPTROLLER MAY
20 ADJUST SUCH NUMBER OF SUBSEQUENT BILLS AS THE COMPTROLLER SHALL CONSIDER
21 REASONABLE IN VIEW OF THE AMOUNT OF THE ADJUSTMENT AND ALL OTHER FACTS
22 AND CIRCUMSTANCES.

23 (8) ON THE SAME DATE THAT THE COMPTROLLER IS REQUIRED TO BILL A COUN-
24 TY, CITY OR SCHOOL DISTRICT AN AMOUNT AS PROVIDED IN PARAGRAPH THREE OF
25 THIS SUBDIVISION, THE COMPTROLLER SHALL, AFTER HAVING FIRST MADE ANY
26 DEPOSITS REQUIRED BY SECTION NINETY-TWO-R OF THE STATE FINANCE LAW AND
27 ONLY TO THE EXTENT THAT THERE ARE MONEYS REMAINING AFTER HAVING MADE
28 SUCH REQUIRED DEPOSITS, WITHDRAW FROM THE STATE TREASURY, TO THE DEBIT
29 OF THE GENERAL FUND, AN AMOUNT EQUAL TO THE TOTAL OF THE AMOUNTS
30 REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS PURSUANT
31 TO SUCH PARAGRAPH THREE AND DEPOSIT SUCH TOTAL AMOUNT IN THE MASS TRANS-
32 PORTATION OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN SUCH
33 PARAGRAPH THREE. THE AMOUNT OF ANY OVER CALCULATION OR UNDER CALCULATION
34 DETERMINED IN PARAGRAPH SEVEN OF THIS SUBDIVISION SHALL LIKEWISE BE
35 APPLIED TO THE AMOUNTS REQUIRED TO BE DEPOSITED UNDER THIS PARAGRAPH, SO
36 THAT THE AMOUNTS DEPOSITED UNDER THIS PARAGRAPH EQUAL THE TOTAL OF THE
37 AMOUNTS REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS
38 UNDER SUCH PARAGRAPH THREE, AS ADJUSTED, PURSUANT TO PARAGRAPH SEVEN OF
39 THIS SUBDIVISION.

40 S 8. Subparagraph (i) of paragraph 1 of subdivision (a) of section
41 1210 of the tax law, as amended by section 34 of part S-1 of chapter 57
42 of the laws of 2009, is amended to read as follows:

43 (i) Either, all of the taxes described in article twenty-eight of this
44 chapter, at the same uniform rate, as to which taxes all provisions of
45 the local laws, ordinances or resolutions imposing such taxes shall be
46 identical, except as to rate and except as otherwise provided, with the
47 corresponding provisions in such article twenty-eight, including the
48 definition and exemption provisions of such article, so far as the
49 provisions of such article twenty-eight can be made applicable to the
50 taxes imposed by such city or county and with such limitations and
51 special provisions as are set forth in this article. The taxes author-
52 ized under this subdivision may not be imposed by a city or county
53 unless the local law, ordinance or resolution imposes such taxes so as
54 to include all portions and all types of receipts, charges or rents,
55 subject to state tax under sections eleven hundred five and eleven
56 hundred ten of this chapter, except as otherwise provided. (i) Any local

1 law, ordinance or resolution enacted by any city of less than one
2 million or by any county or school district, imposing the taxes author-
3 ized by this subdivision, shall, notwithstanding any provision of law to
4 the contrary, exclude from the operation of such local taxes all sales
5 of tangible personal property for use or consumption directly and
6 predominantly in the production of tangible personal property, gas,
7 electricity, refrigeration or steam, for sale, by manufacturing, proc-
8 essing, generating, assembly, refining, mining or extracting; and all
9 sales of tangible personal property for use or consumption predominantly
10 either in the production of tangible personal property, for sale, by
11 farming or in a commercial horse boarding operation, or in both; and,
12 unless such city, county or school district elects otherwise, shall omit
13 the provision for credit or refund contained in clause six of subdivi-
14 sion (a) or subdivision (d) of section eleven hundred nineteen of this
15 chapter. (ii) Any local law, ordinance or resolution enacted by any
16 city, county or school district, imposing the taxes authorized by this
17 subdivision, shall omit the residential solar energy systems equipment
18 exemption provided for in subdivision (ee) [and], the clothing and foot-
19 wear exemption provided for in paragraph thirty of subdivision (a) AND
20 THE NEW ENERGY STAR APPLIANCES EXEMPTION PROVIDED FOR IN PARAGRAPH
21 FORTY-FIVE OF SUBDIVISION (A) of section eleven hundred fifteen of this
22 chapter, unless such city, county or school district elects otherwise as
23 to either such residential solar energy systems equipment exemption
24 [or], such clothing and footwear exemption OR SUCH NEW ENERGY STAR
25 APPLIANCES EXEMPTION.

26 S 9. Subdivision (d) of section 1210 of the tax law, as amended by
27 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
28 read as follows:

29 (d) A local law, ordinance or resolution imposing any tax pursuant to
30 this section, increasing or decreasing the rate of such tax, repealing
31 or suspending such tax, exempting from such tax the energy sources and
32 services described in paragraph three of subdivision (a) or of subdivi-
33 sion (b) of this section or changing the rate of tax imposed on such
34 energy sources and services or providing for the credit or refund
35 described in clause six of subdivision (a) of section eleven hundred
36 nineteen of this chapter must go into effect only on one of the follow-
37 ing dates: March first, June first, September first or December first;
38 provided, that a local law, ordinance or resolution providing for the
39 exemption described in paragraph thirty OR FORTY-FIVE of subdivision (a)
40 of section eleven hundred fifteen of this chapter or repealing any such
41 exemption or a local law, ordinance or resolution providing for a refund
42 or credit described in subdivision (d) of section eleven hundred nine-
43 teen of this chapter or repealing such provision so provided must go
44 into effect only on March first. No such local law, ordinance or resol-
45 ution shall be effective unless a certified copy of such law, ordinance
46 or resolution is mailed by registered or certified mail to the commis-
47 sioner at the commissioner's office in Albany at least ninety days prior
48 to the date it is to become effective. However, the commissioner may
49 waive and reduce such ninety-day minimum notice requirement to a mailing
50 of such certified copy by registered or certified mail within a period
51 of not less than thirty days prior to such effective date if the commis-
52 sioner deems such action to be consistent with the commissioner's duties
53 under section twelve hundred fifty of this article and the commissioner
54 acts by resolution. Where the restriction provided for in section twelve
55 hundred twenty-three of this article as to the effective date of a tax
56 and the notice requirement provided for therein are applicable and have

1 not been waived, the restriction and notice requirement in section
2 twelve hundred twenty-three of this article shall also apply.

3 S 10. Section 1210 of the tax law is amended by adding a new subdivi-
4 sion (p) to read as follows:

5 (P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
6 NANCE OR RESOLUTION TO THE CONTRARY:

7 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
8 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
9 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
10 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE
11 SAME NEW ENERGY STAR APPLIANCES EXEMPT FROM STATE SALES AND COMPENSATING
12 USE TAXES, DURING THE SAME PERIODS EACH YEAR, DESCRIBED IN PARAGRAPH
13 FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS
14 CHAPTER BY ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARA-
15 GRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE
16 PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT
17 OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION
18 ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE
19 DEEMED TO INCORPORATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY
20 THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

21 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
22 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

23 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
24 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, NEW ENERGY STAR APPLI-
25 ANCES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO
26 PARAGRAPH 45 OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW
27 SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN
28 THIS JURISDICTION, DURING THE SAME PERIODS SET FORTH IN SUCH PARAGRAPH
29 45.

30 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, 2011 AND SHALL
31 APPLY TO SALES MADE AND USES OCCURRING DURING THE APPLICABLE EXEMPTIONS
32 PERIODS EACH YEAR, IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL
33 PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

34 S 11. Notwithstanding any other provision of state or local law, ordi-
35 nance or resolution to the contrary: (a) Any county or city imposing
36 sales and compensating use taxes pursuant to the authority of subpart B
37 of part 1 of article 29 of the tax law, acting through its local legis-
38 lative body, is hereby authorized and empowered to elect to provide the
39 exemption from such taxes for new Energy Star appliances exempt from
40 state sales and compensating use taxes described in paragraph 45 of
41 subdivision (a) of section 1115 of the tax law, for the periods
42 described therein, whether such taxes are imposed by local law, ordi-
43 nance or resolution, by enacting a resolution exactly in the form set
44 forth in subdivision (c) of this section; whereupon, upon compliance
45 with the provisions of subdivision (d) of this section, such enactment
46 of such resolution shall be deemed to amend such local law, ordinance or
47 resolution imposing such taxes, and such local law, ordinance or resol-
48 ution shall thenceforth be deemed to incorporate such exemption for such
49 periods.

50 (b) Any city of one million or more in which the taxes imposed by
51 section 1107 of the tax law are in effect, acting through its local
52 legislative body, is hereby authorized and empowered to elect to provide
53 the exemption from such taxes for the same new Energy Star appliances
54 exempt from state sales and compensating use taxes described in para-
55 graph 45 of subdivision (a) of section 1115 of the tax law, for the
56 periods described therein, by enacting a resolution exactly in the form

1 set forth in subdivision (c) of this section; whereupon, upon compliance
2 with the provisions of subdivision (d) of this section, such enactment
3 of such resolution shall be deemed to amend such section 1107 of the tax
4 law and such section 1107 shall thenceforth be deemed to incorporate
5 such exemption for such periods as if it had been duly enacted by the
6 state legislature and approved by the governor and such resolution shall
7 also be deemed to amend any local law, ordinance or resolution enacted
8 by such a city imposing such taxes pursuant to the authority of subdivi-
9 sion (a) of section 1210 of the tax law, whether or not such taxes are
10 suspended at the time such city enacts its resolution.

11 (c) Form of Resolution:

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

14 Section one: The (county or city) of (insert locality's name) hereby
15 elects the two annual one-week new Energy Star appliance exemption peri-
16 ods commencing in the spring of 2011.

17 Section two: This resolution shall take effect immediately and shall
18 apply to sales made and uses occurring during the applicable periods
19 each year, in accordance with applicable transitional provisions of the
20 New York Tax Law.

21 (d) A resolution adopted pursuant to this section shall be effective
22 only if it is adopted exactly as set forth in subdivision (c) of this
23 section and such county or city adopts it by March 1, 2011, mails a
24 certified copy of it to the commissioner of taxation and finance by
25 certified mail by such date and otherwise complies with the requirements
26 of subdivisions (d) and (e) of section 1210 of the tax law.

27 S 12. This act shall take effect immediately and shall apply to sales
28 made and uses occurring during exemption periods on or after that date
29 in accordance with the applicable transitional provisions of sections
30 1106 and 1217 of the tax law.