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

1906--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting the retail sale of fuel-efficient vehicles, zero-emission vehicles, flexible-fuel vehicles and alternative-fuel vehicles from the tax on sales and the compensating use tax; and to amend the tax law, in relation to providing a credit against the personal income tax and the corporate franchise tax for the purchase of fuel-efficient vehicles

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

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

(44) (I) THE RECEIPTS FROM THE RETAIL SALE OF NEW FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES.

(II) AS USED IN THIS PARAGRAPH:

(A) "FUEL-EFFICIENT VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, THAT IS RATED AT ONE HUNDRED TEN PERCENT OR GREATER OF THE AVERAGE FUEL EFFICIENCY FOR VEHICLES IN ITS CLASS BASED ON PASSENGER AND CARGO VOLUME;

(B) "ZERO-EMISSION VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, WHICH PROVIDES ZERO EMISSIONS UNDER ANY AND ALL POSSIBLE OPERATIONAL NEEDS AND CONDITIONS;

(C) "FLEXIBLE-FUEL VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, THAT IS ENGINEERED AND DESIGNED TO BE OPERATED USING GASOLINE AND/OR AN ALTERNATIVE-FUEL MIXTURE OR BLEND; AND

(D) "ALTERNATIVE-FUEL VEHICLE" MEANS A VEHICLE, AS DEFINED IN SECTION ONE HUNDRED FIFTY-NINE OF THE VEHICLE AND TRAFFIC LAW, WHICH IS POWERED

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

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BY A FUEL SOURCE OTHER THAN GASOLINE OR DIESEL FUEL THAT CAN BE REGISTERED FOR USE UPON THE ROADS OF THE STATE.

S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by chapter 306 of the laws of 2005, subparagraph (i) as amended by section 4 of part SS-1 of chapter 57 of the laws of 2008, subparagraph (ii) as amended by chapter 144 of the laws of 2006, is amended to read as follows:

(1) (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) AND THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) 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 OR SUCH FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER; 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 subdivi-

sion (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) OR (P) 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) OR (P) 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 OR THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION 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) OR THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) of section eleven hundred fifteen of this chapter.

(ii) Notwithstanding any other provision of the law to the contrary, any county, imposing the taxes authorized by this subdivision, having a population of not less than one hundred thirty-nine thousand and not more than one hundred forty thousand, determined in accordance with the two thousand decennial federal census, may by local law, ordinance or resolution elect to exempt from such local sales and compensating use taxes clothing and footwear, as defined in paragraph fifteen of subdivision (b) of section eleven hundred one of this chapter, for which the receipt or consideration given or contracted to be given is less than one hundred ten dollars per article of clothing, per pair of shoes or other articles of footwear or per item used or consumed to make or repair such clothing and which becomes a physical component part of such clothing. Every such county shall comply with the provisions of subdivisions (d) and (e) of this section, including such provisions applicable to providing or repealing the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter.

S 3. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDINANCE OR RESOLUTION TO THE CONTRARY:

(1) ANY 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, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS THE FUEL-EFFICIENT VEHICLES, ZERO-EMISSION VEHICLES, FLEXIBLE-FUEL VEHICLES OR ALTERNATIVE-FUEL VEHICLES EXEMPTION FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS IF THEY

HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

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

SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2009) AND SHALL APPLY TO SALES MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216 AND 1217 OF THE NEW YORK TAX LAW.

S 4. Section 606 of the tax law is amended by adding a new subsection (qq) to read as follows:

(QQ) FUEL-EFFICIENT VEHICLES CREDIT. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF A FUEL-EFFICIENT VEHICLE, ZERO-EMISSION VEHICLE, FLEXIBLE-FUEL VEHICLE OR ALTERNATIVE-FUEL VEHICLE. SUCH CREDIT SHALL BE EQUAL TO ONE THOUSAND DOLLARS FOR EACH SUCH VEHICLE PURCHASED DURING THE TAXABLE YEAR. FOR PURPOSES OF THIS SUBSECTION, THE TERMS "FUEL-EFFICIENT VEHICLE", "ZERO-EMISSION VEHICLE", "FLEXIBLE-FUEL VEHICLE" AND "ALTERNATIVE-FUEL VEHICLE" SHALL HAVE THE SAME MEANING AS THE MEANING SET FORTH IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

(2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 5. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. FUEL-EFFICIENT VEHICLES CREDIT. (A) A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR THE PURCHASE OF A FUEL-EFFICIENT VEHICLE, ZERO-EMISSION VEHICLE, FLEXIBLE-FUEL VEHICLE OR ALTERNATIVE-FUEL VEHICLE. SUCH CREDIT SHALL BE EQUAL TO ONE THOUSAND DOLLARS FOR EACH SUCH VEHICLE PURCHASED DURING THE TAXABLE YEAR. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS "FUEL-EFFICIENT VEHICLE", "ZERO-EMISSION VEHICLE", "FLEXIBLE-FUEL VEHICLE" AND "ALTERNATIVE-FUEL VEHICLE" SHALL HAVE THE SAME MEANING AS THE MEANING SET FORTH IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER.

(B) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2010.