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

5578

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. OAKS, BACALLES, FINCH, HAWLEY -- Multi-Sponsored by -- M. of A. BURLING, CROUCH, ERRIGO, JORDAN, KOLB, McDONOUGH, MILLER, TOWNSEND -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting certain motor vehicles, parts and services therefor and railroad rolling stock, parts and services therefor from the sales and use tax imposed by the state

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

Section 1. Paragraph 3 of subdivision (c) of section 1105 of the tax law is amended by adding two new subparagraphs (xii) and (xiii) to read as follows:

(XII) SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND REPAIR OF RAILROAD AND ROLLING STOCK, PARTS THEREOF AND THE STRUCTURAL COMPONENTS OF THE RAILROAD AS DEFINED IN PARAGRAPH FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.

(XIII) SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND REPAIR OF MOTOR VEHICLES AND THE PARTS THEREOF AS DEFINED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.

S 2. Clause 1 of subdivision (b) of section 1107 of the tax law, as amended by chapter 472 of the laws of 2000, is amended to read as follows:

(1) The exemptions provided for in PARAGRAPHS FORTY-FOUR AND FORTY-FIVE OF SUBDIVISION (A) AND subdivision (c) of section eleven hundred fifteen AND THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE shall not apply to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in the production of gas, electricity, refrigeration or steam.

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

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S 3. Subdivision (b) of section 1108 of the tax law is amended by adding a new paragraph 6 to read as follows:

(6) THE EXEMPTIONS PROVIDED FOR IN PARAGRAPHS FORTY-FOUR AND FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN AND THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE SHALL NOT APPLY.

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

(a) General. In addition to the taxes imposed by sections eleven hundred five and eleven hundred ten of this article, there is hereby imposed within the territorial limits of the metropolitan commuter transportation district created and established pursuant to section twelve hundred sixty-two of the public authorities law, and there shall be paid, additional taxes, at the rate of three-eighths of one percent, which shall be identical to the taxes imposed by sections eleven hundred five and eleven hundred ten of this article, EXCEPT THAT WITH RESPECT TO THE TAX IMPOSED BY THIS SECTION THE EXEMPTIONS PROVIDED FOR IN PARAGRAPHS FORTY-FOUR AND FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN AND THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE SHALL NOT APPLY. Such sections ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED TEN and the other sections of this article, including the definition and THE OTHER exemption provisions, shall apply for purposes of the taxes imposed by this section in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this section and had expressly referred to the taxes imposed by this section.

S 5. Subdivision (a) of section 1115 of the tax law is amended by adding two new paragraphs 44 and 45 to read as follows:

(44) MOTOR VEHICLES AS DEFINED IN SUBDIVISION TWO OF SECTION FIVE HUNDRED ONE OF THIS CHAPTER WHETHER PURCHASED OR LEASED AND PARTS THEREOF AND THE SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE OF SUCH MOTOR VEHICLES AND PARTS.

(45) RAILROAD ROLLING STOCK WHETHER PURCHASED OR LEASED BY A RAILROAD WHICH IS ENGAGED IN INTRASTATE OR INTERSTATE COMMERCE, PARTS THEREOF, STRUCTURAL COMPONENTS RELATING TO THE RIGHT OF WAY OF THE RAILROAD, SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE OF SUCH VEHICLES, PARTS AND STRUCTURAL COMPONENTS. THE TERM "STRUCTURAL COMPONENTS" SHALL INCLUDE BUT IS NOT LIMITED TO RAIL, BRIDGES, CROSSING ARMS AND TRAFFIC SIGNALS.

S 6. 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, EXCEPT THE EXEMPTIONS PROVIDED FOR IN PARAGRAPHS FORTY-FOUR AND FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER AND THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS CHAPTER SHALL NOT APPLY 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.

S 7. This act shall take effect December 1, 2009 provided, however, that the exemptions and exceptions provided for in sections one through six of this act shall apply to retail sales or uses occurring on and after January 1, 2010.