

5815

2009-2010 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, HOOPER, HOYT, MAGNARELLI, LUPARDO, GALEF, ORTIZ, BRADLEY, SCHIMMINGER, BING, ROSENTHAL, O'DONNELL, TITUS, CAHILL, JAFFEE, WALKER, BENEDETTO, KELLNER, PHEFFER, ESPAILLAT, KOON, ALESSI -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, BRENNAN, GREENE, V. LOPEZ, MAISEL, PEOPLES, J. RIVERA, SWEENEY, TITONE, WEISENBERG -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting the sale of hybrid vehicles and certain high-efficiency vehicles from state sales and compensating use taxes, and to authorize cities and counties to grant such exemption

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)(I) THE RECEIPTS FROM THE RETAIL SALE OF A NEW OR USED HYBRID  
4     VEHICLE AND HIGH-EFFICIENCY VEHICLES.  
5     (II) AS USED IN THIS PARAGRAPH:  
6     (A) "HIGH-EFFICIENCY VEHICLE" MEANS A MODEL YEAR TWO THOUSAND EIGHT OR  
7     LATER MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF  
8     THE VEHICLE AND TRAFFIC LAW, THAT IS CERTIFIED IN THE TWO THOUSAND EIGHT  
9     OR LATER FUEL ECONOMY GUIDE OF THE FEDERAL ENVIRONMENTAL PROTECTION  
10    AGENCY TO HAVE A HIGHWAY FUEL ECONOMY ESTIMATE OF THIRTY-FIVE MILES PER  
11    GALLON OR BETTER, OR WHICH USES NO MOTOR FUEL OR DIESEL FUEL.  
12    (B) "HYBRID VEHICLE" MEANS A MOTOR VEHICLE, AS DEFINED IN SECTION ONE  
13    HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT:  
14    (I) DRAWS PROPULSION ENERGY FROM BOTH:  
15    (A) AN INTERNAL COMBUSTION ENGINE (OR HEAT ENGINE THAT USES COMBUSTI-  
16    BLE FUEL), AND  
17    (B) AN ENERGY SOURCE DEVICE; AND  
18    (II) EMPLOYS A REGENERATIVE VEHICLE BRAKING SYSTEM THAT RECOVERS WASTE  
19    ENERGY TO CHARGE SUCH ENERGY STORAGE DEVICE.

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

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1 S 2. Section 1160 of the tax law is amended by adding a new subdivi-  
2 sion (c) to read as follows:

3 (C) THE NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES  
4 EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF  
5 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER SHALL NOT APPLY TO OR  
6 LIMIT THE IMPOSITION OF THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

7 S 3. Subparagraph (i) of paragraph 1 of subdivision (a) of section  
8 1210 of the tax law, as amended by section 4 of part SS-1 of chapter 57  
9 of the laws of 2008, is amended to read as follows:

10 (i) Either, all of the taxes described in article twenty-eight of this  
11 chapter, at the same uniform rate, as to which taxes all provisions of  
12 the local laws, ordinances or resolutions imposing such taxes shall be  
13 identical, except as to rate and except as otherwise provided, with the  
14 corresponding provisions in such article twenty-eight, including the  
15 definition and exemption provisions of such article, so far as the  
16 provisions of such article twenty-eight can be made applicable to the  
17 taxes imposed by such city or county and with such limitations and  
18 special provisions as are set forth in this article. The taxes author-  
19 ized under this subdivision may not be imposed by a city or county  
20 unless the local law, ordinance or resolution imposes such taxes so as  
21 to include all portions and all types of receipts, charges or rents,  
22 subject to state tax under sections eleven hundred five and eleven  
23 hundred ten of this chapter, except as otherwise provided. Any local  
24 law, ordinance or resolution enacted by any city of less than one  
25 million or by any county or school district, imposing the taxes author-  
26 ized by this subdivision, shall, notwithstanding any provision of law to  
27 the contrary, exclude from the operation of such local taxes all sales  
28 of tangible personal property for use or consumption directly and  
29 predominantly in the production of tangible personal property, gas,  
30 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
31 essing, generating, assembly, refining, mining or extracting; and all  
32 sales of tangible personal property for use or consumption predominantly  
33 either in the production of tangible personal property, for sale, by  
34 farming or in a commercial horse boarding operation, or in both; and,  
35 unless such city, county or school district elects otherwise, shall omit  
36 the provision for credit or refund contained in clause six of subdivi-  
37 sion (a) of section eleven hundred nineteen of this chapter. Any local  
38 law, ordinance or resolution enacted by any city, county or school  
39 district, imposing the taxes authorized by this subdivision, shall omit  
40 the residential solar energy systems equipment exemption provided for in  
41 subdivision (ee) OF THIS SECTION, the clothing and footwear exemption  
42 provided for in paragraph thirty AND THE NEW AND USED HYBRID VEHICLES  
43 AND HIGH-EFFICIENCY VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-  
44 FOUR of subdivision (a) and the qualified empire zone enterprise  
45 exemptions provided for in subdivision (z) of section eleven hundred  
46 fifteen of this chapter, unless such city, county or school district  
47 elects otherwise as to either such residential solar energy systems  
48 equipment exemption or such clothing and footwear exemption, SUCH NEW  
49 AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES EXEMPTION or such  
50 qualified empire zone enterprise exemptions; provided that if such a  
51 city having a population of one million or more in which the taxes  
52 imposed by section eleven hundred seven of this chapter are in effect  
53 enacts the resolution described in subdivision (k) of this section or  
54 repeals such resolution or enacts the resolution described in subdivi-  
55 sion (l) of this section or repeals such resolution or enacts the resol-  
56 ution described in subdivision (n) of this section or repeals such

1 resolution OR ENACTS THE RESOLUTION DESCRIBED IN SUBDIVISION (P) OF THIS  
2 SECTION OR REPEALS SUCH RESOLUTION, such resolution or repeal shall also  
3 be deemed to amend any local law, ordinance or resolution enacted by  
4 such a city imposing such taxes pursuant to the authority of this subdivi-  
5 sion, whether or not such taxes are suspended at the time such city  
6 enacts its resolution pursuant to subdivision (k), (l) [or], (n) OR (P)  
7 of this section or at the time of any such repeal; provided, further,  
8 that any such local law, ordinance or resolution and section eleven  
9 hundred seven of this chapter, as deemed to be amended in the event a  
10 city of one million or more enacts a resolution pursuant to the authori-  
11 ty of subdivision (k), (l) [or], (n) OR (P) of this section, shall be  
12 further amended, as provided in section twelve hundred eighteen of this  
13 subpart, so that the residential solar energy systems equipment  
14 exemption or the clothing and footwear exemption OR THE NEW AND USED  
15 HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES EXEMPTION or the qualified  
16 empire zone enterprise exemptions in any such local law, ordinance or  
17 resolution or in such section eleven hundred seven are the same, as the  
18 case may be, as the residential solar energy systems equipment exemption  
19 provided for in subdivision (ee), the clothing and footwear exemption in  
20 paragraph thirty OR THE NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY  
21 VEHICLES EXEMPTION IN PARAGRAPH FORTY-FOUR of subdivision (a) or the  
22 qualified empire zone enterprise exemptions in subdivision (z) of  
23 section eleven hundred fifteen of this chapter.

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

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

28 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
29 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
30 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
31 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
32 THE NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES EXEMPTION  
33 FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH  
34 FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS  
35 CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO  
36 OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF  
37 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-  
38 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED  
39 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-  
40 RATE SUCH EXEMPTIONS AS IF THEY HAD BEEN DULY ENACTED BY THE STATE  
41 LEGISLATURE AND APPROVED BY THE GOVERNOR.

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

44 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
45 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
46 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
47 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE  
48 EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDIC-  
49 TION.

50 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
51 YEAR, BUT NOT EARLIER THAN THE YEAR 2010) AND SHALL APPLY TO SALES MADE,  
52 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
53 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
54 AND 1217 OF THE NEW YORK TAX LAW.

55 S 5. This act shall take effect October 1, 2010.