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

136

Eighteenth Extraordinary Session

I N  S E N A T E

July 7, 2009

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to increasing certain sales and compensating use taxes in cities having a population of one million or more persons

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

Section 1. Clause 1 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section 3 of part SS-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(1) [for the period beginning August first, two thousand eight,] any such city having a population of one million or more is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes in any such city, at the rate of four AND ONE-HALF percent;

S 2. Paragraph 4 of subdivision (a) of section 1210 of the tax law, as amended by section 5 of part SS-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(4) Notwithstanding any other provision of law to the contrary, any local law enacted by any city of one million or more that imposes the taxes authorized by this subdivision (i) may omit the exception provided in subparagraph (ii) of paragraph three of subdivision (c) of section eleven hundred five of this chapter for receipts from laundering, drycleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; (ii) may impose the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter at a rate in addition to the rate prescribed by this section not to exceed two percent in multiples of one-half of one percent; (iii) shall provide that the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter does not apply to facilities owned and operated by the city

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

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or an agency or instrumentality of the city or a public corporation the majority of whose members are appointed by the chief executive officer of the city or the legislative body of the city or both of them; (iv) shall not include any tax on receipts from, or the use of, the services described in paragraph seven of subdivision (c) of section eleven hundred five of this chapter; (v) shall provide that, for purposes of the tax described in subdivision (e) of section eleven hundred five of this chapter, "permanent resident" means any occupant of any room or rooms in a hotel for at least one hundred eighty consecutive days with regard to the period of such occupancy; (vi) may omit the exception provided in paragraph one of subdivision (f) of section eleven hundred five of this chapter for charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools; (vii) [shall not] MAY provide the clothing and footwear exemption in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter [but must exempt clothing and footwear and any item used or consumed to make or repair exempt clothing and which becomes a physical component part of that exempt clothing], AND, NOTWITHSTANDING ANY PROVISION OF SUBDIVISION (D) OF THIS SECTION TO THE CONTRARY, ANY LOCAL LAW PROVIDING FOR SUCH EXEMPTION OR REPEALING SUCH EXEMPTION, MAY GO INTO EFFECT ON ANY ONE OF THE FOLLOWING DATES: MARCH FIRST, JUNE FIRST, SEPTEMBER FIRST OR DECEMBER FIRST; (viii) shall omit the exemption provided in paragraph forty-one of subdivision (a) of section eleven hundred fifteen of this chapter; (ix) shall omit the exemption provided in subdivision (c) of section eleven hundred fifteen of this chapter insofar as it applies 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; [and] (x) shall omit, unless such city elects otherwise, the provision for refund or credit contained in clause six of subdivision (a) of section eleven hundred nineteen of this chapter; AND (XI) SHALL PROVIDE THAT SECTION ELEVEN HUNDRED FIVE-C OF THIS CHAPTER DOES NOT APPLY TO SUCH TAXES, AND SHALL TAX RECEIPTS FROM EVERY SALE, OTHER THAN SALES FOR RESALE, OF GAS SERVICE OR ELECTRIC SERVICE OF WHATEVER NATURE, INCLUDING THE TRANSPORTATION, TRANSMISSION OR DISTRIBUTION OF GAS OR ELECTRICITY, EVEN IF SOLD SEPARATELY, AT THE RATE SET FORTH IN CLAUSE ONE OF SUBPARAGRAPH (I) OF THE OPENING PARAGRAPH OF THIS SECTION.

S 3. Paragraph 4 of subdivision (a) of section 1210 of the tax law, as amended by section 35 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(4) Notwithstanding any other provision of law to the contrary, any local law enacted by any city of one million or more that imposes the taxes authorized by this subdivision (i) may omit the exception provided in subparagraph (ii) of paragraph three of subdivision (c) of section eleven hundred five of this chapter for receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; (ii) may impose the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter at a rate in addition to the rate prescribed by this section not to exceed two percent in multiples of one-half of one percent; (iii) shall provide that the tax described in paragraph six of subdivision (c) of section eleven hundred five of this chapter does not apply to facilities owned and operated by the city or an agency or instrumentality of the city or a public corporation the majority of whose members are appointed by the chief executive officer of the city or the legislative body of the city or both of them; (iv)

shall not include any tax on receipts from, or the use of, the services described in paragraph seven of subdivision (c) of section eleven hundred five of this chapter; (v) shall provide that, for purposes of the tax described in subdivision (e) of section eleven hundred five of this chapter, "permanent resident" means any occupant of any room or rooms in a hotel for at least one hundred eighty consecutive days with regard to the period of such occupancy; (vi) may omit the exception provided in paragraph one of subdivision (f) of section eleven hundred five of this chapter for charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools; (vii) [shall not] MAY provide the clothing and footwear exemption in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter [but must exempt clothing and footwear and any item used or consumed to make or repair exempt clothing and which becomes a physical component part of that exempt clothing], AND, NOTWITHSTANDING ANY PROVISION OF SUBDIVISION (D) OF THIS SECTION TO THE CONTRARY, ANY LOCAL LAW PROVIDING FOR SUCH EXEMPTION OR REPEALING SUCH EXEMPTION, MAY GO INTO EFFECT ON ANY ONE OF THE FOLLOWING DATES: MARCH FIRST, JUNE FIRST, SEPTEMBER FIRST OR DECEMBER FIRST; (viii) shall omit the exemption provided in paragraph forty-one of subdivision (a) of section eleven hundred fifteen of this chapter; (ix) shall omit the exemption provided in subdivision (c) of section eleven hundred fifteen of this chapter insofar as it applies 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; [and] (x) shall omit, unless such city elects otherwise, the provision for refund or credit contained in clause six of subdivision (a) or in subdivision (d) of section eleven hundred nineteen of this chapter; AND (XI) SHALL PROVIDE THAT SECTION ELEVEN HUNDRED FIVE-C OF THIS CHAPTER DOES NOT APPLY TO SUCH TAXES, AND SHALL TAX RECEIPTS FROM EVERY SALE, OTHER THAN SALES FOR RESALE, OF GAS SERVICE OR ELECTRIC SERVICE OF WHATEVER NATURE, INCLUDING THE TRANSPORTATION, TRANSMISSION OR DISTRIBUTION OF GAS OR ELECTRICITY, EVEN IF SOLD SEPARATELY, AT THE RATE SET FORTH IN CLAUSE ONE OF SUBPARAGRAPH (I) OF THE OPENING PARAGRAPH OF THIS SECTION.

S 4. Paragraphs 2 and 3 of subdivision (a) of section 1212-A of the tax law, paragraph 2 as amended by chapter 190 of the laws of 1990 and paragraph 3 as amended by chapter 525 of the laws of 2008, are amended to read as follows:

(2) a tax, at the same uniform rate, but at a rate not to exceed four AND ONE-HALF per centum, in multiples of one-half of one per centum, on the receipts from every sale of the following services: beauty, barbering, hair restoring, manicuring, pedicuring, electrolysis, massage services and similar services, and every sale of services by weight control salons, health salons, gymnasiums, turkish and sauna bath and similar establishments and every charge for the use of such facilities, whether or not any tangible personal property is transferred in conjunction therewith; but excluding services rendered by a physician, osteopath, dentist, nurse, physiotherapist, chiropractor, podiatrist, optometrist, ophthalmic dispenser or a person performing similar services licensed under title VIII of the education law, as amended, and excluding such services when performed on pets and other animals.

(3) [for a period beginning no earlier than January first, nineteen hundred ninety and ending December thirty-first, two thousand eleven,] a tax, at the same uniform rate, but at a rate not to exceed four AND

ONE-HALF per centum, in multiples of one-half of one per centum, on the receipts from every sale of any or all of the following services in whole or in part: credit rating, credit reporting, credit adjustment and collection services, including, but not limited to, those services provided by mercantile and consumer credit rating or reporting bureaus or agencies and credit adjustment or collection bureaus or agencies, whether rendered in written or oral form or in any other manner, except to the extent otherwise taxable under article twenty-eight of this chapter; notwithstanding the foregoing, collection services shall not include those services performed by a law office or a law and collection office, the maintenance or conduct of which constitutes the practice of law, if the services are performed by an attorney at law who has been duly licensed and admitted to practice law in this state. The local law imposing the taxes authorized by this paragraph may provide for exclusions and exemptions in addition to those provided for in such paragraph. PROVIDED, HOWEVER, THAT THE TAX HEREBY AUTHORIZED SHALL NOT BE IMPOSED AFTER NOVEMBER THIRTIETH, TWO THOUSAND ELEVEN.

S 5. Subdivisions (a) and (b) of section 11-2001 of the administrative code of the city of New York, as added by section 13 of part SS-1 of chapter 57 of the laws of 2008, are amended to read as follows:

(a) [On and after August first, two thousand eight, there] THERE are hereby imposed and there shall be paid all of the sales and compensating use taxes described in article twenty-eight of the tax law as authorized by subdivision (a) of section twelve hundred ten of the tax law, at the rate of four AND ONE-HALF percent, provided that the taxes described in paragraph six of subdivision (c) of section eleven hundred five of the tax law shall be imposed and paid at the rate of six percent.

(b) Notwithstanding any contrary provision of this section or other law, this section:

(1) does not impose tax on (i) receipts from the sale of the services of laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining described in subparagraph (ii) of paragraph three of subdivision (c) of section eleven hundred five of the tax law; (ii) receipts from the sale of services described in paragraph six of subdivision (c) of section eleven hundred five of the tax law at facilities owned and operated by the city or an agency or instrumentality of the city or a public corporation the majority of whose members are appointed by the mayor or the city council or both of them;

(2) for purposes of the tax described in subdivision (e) of section eleven hundred five of the tax law, defines "permanent resident" to mean any occupant of any room or rooms in a hotel for at least one hundred eighty consecutive days with regard to the period of such occupancy;

(3) does not omit from the tax described in paragraph one of subdivision (f) of section eleven hundred five of the tax law charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools;

(4) [does not provide] PROVIDES the clothing and footwear exemption in paragraph thirty of subdivision (a) of section eleven hundred fifteen of the tax law [but does exempt clothing and footwear and any item used or consumed to make or repair exempt clothing and which becomes a physical component part of that exempt clothing];

(5) omits the exemption provided in paragraph forty-one of subdivision (a) of section eleven hundred fifteen of the tax law;

(6) omits the exemption provided in subdivision (c) of section eleven hundred fifteen of the tax law insofar as it applies to fuel, gas, elec-

tricity, 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; [and]

(7) omits the provision for refund or credit contained in clause six of subdivision (a) of section eleven hundred nineteen of the tax law; AND

(8) MAKES INAPPLICABLE SECTION ELEVEN HUNDRED FIVE-C OF THE TAX LAW, AND IMPOSES TAX ON RECEIPTS FROM EVERY SALE, OTHER THAN SALES FOR RESALE, OF GAS SERVICE OR ELECTRIC SERVICE OF WHATEVER NATURE, INCLUDING THE TRANSPORTATION, TRANSMISSION OR DISTRIBUTION OF GAS OR ELECTRICITY, EVEN IF SOLD SEPARATELY, AT THE RATE SET FORTH IN SUBDIVISION (A) OF THIS SECTION.

S 6. Subdivision (a) of section 11-2002 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 2008, is amended to read as follows:

(a) [For the period commencing August first, two thousand eight, and ending December thirty-first, two thousand eleven, there] THERE are hereby imposed and there shall be paid sales taxes at the rate of four AND ONE-HALF percent on receipts from every sale of the services of beauty, barbering, hair restoring, manicuring, pedicuring, electrolysis, massage services and similar services, and every sale of services by weight control salons, health salons, gymnasiums, turkish and sauna bath and similar establishments and every charge for the use of such facilities, whether or not any tangible personal property is transferred in conjunction therewith; but excluding services rendered by a physician, osteopath, dentist, nurse, physiotherapist, chiropractor, podiatrist, optometrist, ophthalmic dispenser or a person performing similar services licensed under title eight of the education law, as amended, and excluding such services when performed on pets and other animals, as authorized by subdivision (a) of section twelve hundred twelve-A of the tax law. PROVIDED, HOWEVER, THAT THE TAX HEREBY IMPOSED SHALL NOT BE IMPOSED AFTER NOVEMBER THIRTIETH, TWO THOUSAND ELEVEN.

S 7. The opening paragraph of subdivision (a) of section 11-2040 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 2008, is amended to read as follows:

[On and after September first, nineteen hundred seventy-five, there] THERE is hereby imposed within the city and there shall be paid a tax at the rate of four AND ONE-HALF percent upon the receipts from every sale, except for resale, of the following services, provided, however, that the tax hereby imposed shall not be imposed after [December thirty-first] NOVEMBER THIRTIETH, two thousand eleven, on receipts from sales of the services specified in paragraph one of this subdivision:

S 8. This act shall take effect on the first day of the month next commencing after it shall have become a law and shall apply to sales made, uses occurring and services rendered on or after that date in accordance with applicable transitional provisions in sections 1106 and 1217 of the tax law; provided, however, that section three of this act shall take effect on the same date and in the same manner as section 35 of part S-1 of chapter 57 of the laws of 2009, as amended, takes effect.