

10356

I N   A S S E M B L Y

May 24, 2012

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Introduced by M. of A. CAHILL -- 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 plug-in hybrid electric 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) THE RECEIPTS FROM THE RETAIL SALE OF NEW PLUG-IN HYBRID ELECTRIC  
4     VEHICLES. FOR PURPOSES OF THIS PARAGRAPH THE TERM "PLUG-IN HYBRID ELEC-  
5     TRIC VEHICLE" MEANS A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED  
6     TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT:

7     (I) DRAWS PROPULSION USING A TRACTION BATTERY WITH AT LEAST FOUR KILO-  
8     WATT HOURS OF CAPACITY;

9     (II) USES AN EXTERNAL SOURCE OF ENERGY TO RECHARGE SUCH BATTERY;

10    (III) THE ORIGINAL USE OF WHICH COMMENCES WITH THE TAXPAYER;

11    (IV) IS ACQUIRED FOR USE OR LEASE BY THE TAXPAYER AND NOT FOR RESALE;  
12    AND

13    (V) IS MADE BY A MANUFACTURER.

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

16    (C) THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION PROVIDED FOR IN  
17    PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
18    FIFTEEN OF THIS CHAPTER SHALL NOT APPLY TO OR LIMIT THE IMPOSITION OF  
19    THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

20    S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
21    amended by section 3 of part GG of chapter 57 of the laws of 2010, is  
22    amended to read as follows:

23    (1) Either, all of the taxes described in article twenty-eight of this  
24    chapter, at the same uniform rate, as to which taxes all provisions of  
25    the local laws, ordinances or resolutions imposing such taxes shall be  
26    identical, except as to rate and except as otherwise provided, with the  
27    corresponding provisions in such article twenty-eight, including the

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

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1 definition and exemption provisions of such article, so far as the  
2 provisions of such article twenty-eight can be made applicable to the  
3 taxes imposed by such city or county and with such limitations and  
4 special provisions as are set forth in this article. The taxes author-  
5 ized under this subdivision may not be imposed by a city or county  
6 unless the local law, ordinance or resolution imposes such taxes so as  
7 to include all portions and all types of receipts, charges or rents,  
8 subject to state tax under sections eleven hundred five and eleven  
9 hundred ten of this chapter, except as otherwise provided. (i) Any local  
10 law, ordinance or resolution enacted by any city of less than one  
11 million or by any county or school district, imposing the taxes author-  
12 ized by this subdivision, shall, notwithstanding any provision of law to  
13 the contrary, exclude from the operation of such local taxes all sales  
14 of tangible personal property for use or consumption directly and  
15 predominantly in the production of tangible personal property, gas,  
16 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
17 essing, generating, assembly, refining, mining or extracting; and all  
18 sales of tangible personal property for use or consumption predominantly  
19 either in the production of tangible personal property, for sale, by  
20 farming or in a commercial horse boarding operation, or in both; and,  
21 unless such city, county or school district elects otherwise, shall omit  
22 the provision for credit or refund contained in clause six of subdivi-  
23 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
24 chapter. (ii) Any local law, ordinance or resolution enacted by any  
25 city, county or school district, imposing the taxes authorized by this  
26 subdivision, shall omit the residential solar energy systems equipment  
27 exemption provided for in subdivision (ee) [and], the clothing and foot-  
28 wear exemption provided for in paragraph thirty AND THE NEW PLUG-IN  
29 HYBRID ELECTRIC VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR  
30 of subdivision (a) of section eleven hundred fifteen of this chapter,  
31 unless such city, county or school district elects otherwise as to  
32 either such residential solar energy systems equipment exemption or such  
33 clothing and footwear exemption OR SUCH NEW PLUG-IN HYBRID ELECTRIC  
34 VEHICLE EXEMPTION.

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

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

39 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
40 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
41 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
42 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
43 THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION FROM STATE SALES AND  
44 COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION  
45 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A  
46 RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;  
47 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND  
48 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED  
49 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION  
50 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS  
51 IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY  
52 THE GOVERNOR.

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

55 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
56 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES

1 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
2 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO  
3 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-  
4 DICTION.  
5 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
6 YEAR, BUT NOT EARLIER THAN THE YEAR 2012) AND SHALL APPLY TO SALES MADE,  
7 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
8 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
9 AND 1217 OF THE NEW YORK TAX LAW.  
10 S 5. This act shall take effect October 1, 2012.