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

6003

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I N A S S E M B L Y

March 3, 2011

Introduced by M. of A. BURLING, CALHOUN, KOLB, FINCH, HAWLEY, MONTESANO, D. MILLER, ZEBROWSKI -- Multi-Sponsored by -- M. of A. CASTELLI, DUPREY, FITZPATRICK, JOHNS, JORDAN, J. MILLER, RAIA, SPANO, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting certain senior citizen groups from payment of sales and compensating use taxes

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

Section 1. Subdivision (a) of section 1116 of the tax law is amended by adding a new paragraph 10 to read as follows:

(10) ANY DULY ORGANIZED CHAPTER OR LOCAL GROUP PRIMARILY ENGAGED IN THE PROMOTION OF THE INTERESTS OF SENIOR CITIZENS, EDUCATING SENIOR CITIZENS AND THE GENERAL PUBLIC ABOUT THE AGING PROCESS AND AIDING RETIRED PERSONS IN THEIR SOCIAL, ECONOMIC AND INTELLECTUAL NEEDS:

(A) INCORPORATED UNDER SECTION TWO HUNDRED ONE OF THE NOT-FOR-PROFIT CORPORATION LAW; AND

(B) ORGANIZED AND OPERATED FOR AT LEAST ONE YEAR FOR CHARITABLE, EDUCATIONAL, RELIGIOUS, SCIENTIFIC, LITERARY OR CULTURAL PURPOSES, OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS; AND

(C) NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL; AND

(D) NO SUBSTANTIAL PART OF THE ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF ANY CANDIDATE FOR PUBLIC OFFICE.

S 2. Subdivision (b) of section 1116 of the tax law, as amended by chapter 888 of the laws of 1983, paragraph 1 as amended by section 1 of part KK-1 of chapter 57 of the laws of 2008, paragraph 5 as amended by chapter 619 of the laws of 1995, paragraph 6 as added by chapter 2 of

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

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the laws of 1995 and paragraph 7 as added by chapter 387 of the laws of 1996, is amended to read as follows:

(b) Nothing in this section shall exempt:

(1) (i) retail sales of tangible personal property by any shop or store operated by an organization described in paragraph [(4), (5) or (6)] FOUR, FIVE, SIX OR TEN of subdivision (a) of this section; (ii) sales, other than for resale, of services described in subdivision (b) or paragraph five of subdivision (c) of section eleven hundred five of this article by that organization, whether or not at a shop or store; (iii) retail sales of tangible personal property and sales, other than for resale, of those services by that organization, made with a degree of regularity, frequency, and continuity by remote means, such as by telephone, the internet, mail order or otherwise; or (iv) retail sales of tangible personal property by lease or rental by that organization as lessor, whether or not at a shop or store;

(2) sales of food or drink in or by a restaurant, tavern or other establishment operated by an organization described in paragraph [(1), paragraph (4), paragraph (5) or paragraph (6)] ONE, FOUR, FIVE, SIX OR TEN of subdivision (a) of this section, other than sales exempt under paragraph (ii) of subdivision (d) of section eleven hundred five OF THIS ARTICLE, from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section;

(3) sales of the service of providing parking, garaging or storing for motor vehicles by an organization described in paragraph [(4) or paragraph (5)] FOUR, FIVE OR TEN of subdivision (a) of this section operating a garage (other than a garage which is part of premises occupied solely as a private one or two family dwelling), parking lot or other place of business engaged in providing parking, garaging or storing for motor vehicles; [or]

(4) sales of tangible personal property or services by cooperative and foreign corporations doing business in this state pursuant to the rural electric cooperative law, unless the purchaser is an organization exempt under this section[.];

(5) purchases of motor fuel or diesel motor fuel from the tax required to be prepaid pursuant to section eleven hundred two of this article and retail sales of motor fuel or diesel motor fuel subject to the tax imposed by sections eleven hundred five and eleven hundred ten of this article, except that purchases of such fuel by an organization described in paragraph one or two of subdivision (a) of this section for its own use or consumption, purchases of motor fuel by a hospital included in the organizations described in paragraph four of such subdivision for its own use and consumption, purchases of motor fuel and diesel motor fuel by a fire company or fire department, as defined in section three of the volunteer firefighters' benefit law or a voluntary ambulance service, as defined in section three thousand one of the public health law, for such department, company or service's own use and consumption for use in firefighting vehicles, apparatus or equipment, or emergency rescue or first aid response vehicles, apparatus or equipment, owned and operated by such department, company or service if such company, department or service qualifies as an exempt organization pursuant to the provisions of paragraph four of subdivision (a) of this section and purchases of diesel motor fuel by an organization described in paragraph four of such subdivision for its own heating use and consumption shall be exempt from such tax required to be prepaid and from retail sales and use taxes on such fuel[.];

(6) purchases of cigarettes from the tax required to be prepaid pursuant to section eleven hundred three of this article, except that no prepayment of tax shall be required on sales of cigarettes sold under such circumstances that this state is without power to impose such tax or sold to the United States or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States, to the extent provided in such regulations and written policy statements of such agency applicable to such sales[.]; OR

(7) rent received by a hotel operated by a college or university, where such hotel offers one hundred or more rooms for occupancy, and where the individual paying said rent is not doing business on behalf of any organization exempted pursuant to subdivision (a) of this section.

S 3. Paragraph 1 of subdivision (d) of section 1116 of the tax law, as amended by chapter 319 of the laws of 1974, subparagraph (A) as amended by chapter 530 of the laws of 1976, is amended to read as follows:

(1) Except as provided in paragraph [(2)] TWO of this subdivision, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subdivision (f) of section eleven hundred five OF THIS ARTICLE:

(A) an organization described in paragraph [(4), (5) or (6)] FOUR, FIVE, SIX OR TEN of subdivision (a) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions; or

(C) national guard organizations; or

(D) a police or fire department of a political subdivision of the state, or a voluntary fire or ambulance company, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

S 4. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.