

3674

2011-2012 Regular Sessions

I N S E N A T E

March 1, 2011

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Energy and Telecommu-
nications

AN ACT to amend the tax law, in relation to exempting energy-star appli-
ances from state sales and compensating use taxes and granting munici-
palities the option to provide such exemption; and providing for the
repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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) RETAIL SALES OF THE FOLLOWING PRODUCTS, PROVIDED THAT THE PRODUCT
4 QUALIFIES AS AN ENERGY-STAR PRODUCT PURSUANT TO THE UNITED STATES ENVI-
5 RONMENTAL PROTECTION AGENCY ENERGY-STAR PROGRAM, SHALL BE EXEMPT FROM
6 THE SALES TAX PROVISIONS OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE:
7 CLOTHES WASHER, DISHWASHER, REFRIGERATOR, ROOM AIR CONDITIONER, CEILING
8 FAN, DEHUMIDIFIER, FREEZER, PROGRAMMABLE THERMOSTAT, AND VENTILATING
9 FAN. THE EXEMPTION PROVIDED FOR IN THIS SUBDIVISION SHALL NOT APPLY TO
10 THE RENTAL, LEASING, REPAIR OR SERVICING OF SUCH ENERGY-STAR PRODUCTS.
11 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
12 amended by section 3 of part GG of chapter 57 of the laws of 2010, is
13 amended to read as follows:
14 (1) Either, all of the taxes described in article twenty-eight of this
15 chapter, at the same uniform rate, as to which taxes all provisions of
16 the local laws, ordinances or resolutions imposing such taxes shall be
17 identical, except as to rate and except as otherwise provided, with the
18 corresponding provisions in such article twenty-eight, including the
19 definition and exemption provisions of such article, so far as the
20 provisions of such article twenty-eight can be made applicable to the
21 taxes imposed by such city or county and with such limitations and
22 special provisions as are set forth in this article. The taxes author-

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

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

31 S 3. Section 1210 of the tax law is amended by adding a new subdivi-
32 sion (p) to read as follows:

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

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

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

51 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
52 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES
53 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH
54 FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO
55 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-
56 DICTION.

1 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT
2 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2010) AND SHALL APPLY TO SALES
3 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN
4 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,
5 1216 AND 1217 OF THE NEW YORK TAX LAW.

6 S 4. This act shall take effect April 1, 2012 and shall be deemed
7 repealed April 1, 2017.