

10572

I N A S S E M B L Y

June 6, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Rosenthal)
-- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting energy-star appliances from state sales and compensating use taxes and granting municipalities 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 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) RETAIL SALES OF THE FOLLOWING PRODUCTS, PROVIDED THAT THE PRODUCT
4 QUALIFIES AS AN ENERGY-STAR PRODUCT PURSUANT TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY-STAR PROGRAM, SHALL BE EXEMPT FROM
5 THE SALES TAX PROVISIONS OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE:
6 CLOTHES WASHER, DISHWASHER, REFRIGERATOR, ROOM AIR CONDITIONER, CEILING
7 FAN, DEHUMIDIFIER, FREEZER, PROGRAMMABLE THERMOSTAT, AND VENTILATING
8 FAN. THE EXEMPTION PROVIDED FOR IN THIS SUBDIVISION SHALL NOT APPLY TO
9 THE RENTAL, LEASING, REPAIR OR SERVICING OF SUCH ENERGY-STAR PRODUCTS.
10 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
11 amended by section 3 of part GG of chapter 57 of the laws of 2010, is
12 amended to read as follows:
13 (1) Either, all of the taxes described in article twenty-eight of this
14 chapter, at the same uniform rate, as to which taxes all provisions of
15 the local laws, ordinances or resolutions imposing such taxes shall be
16 identical, except as to rate and except as otherwise provided, with the
17 corresponding provisions in such article twenty-eight, including the
18 definition and exemption provisions of such article, so far as the
19 provisions of such article twenty-eight can be made applicable to the
20 taxes imposed by such city or county and with such limitations and
21 special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county
22 unless the local law, ordinance or resolution imposes such taxes so as
23 to include all portions and all types of receipts, charges or rents,
24 subject to state tax under sections eleven hundred five and eleven
25
26

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

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1 hundred ten of this chapter, except as otherwise provided. (i) Any local
2 law, ordinance or resolution enacted by any city of less than one
3 million or by any county or school district, imposing the taxes author-
4 ized by this subdivision, shall, notwithstanding any provision of law to
5 the contrary, exclude from the operation of such local taxes all sales
6 of tangible personal property for use or consumption directly and
7 predominantly in the production of tangible personal property, gas,
8 electricity, refrigeration or steam, for sale, by manufacturing, proc-
9 essing, generating, assembly, refining, mining or extracting; and all
10 sales of tangible personal property for use or consumption predominantly
11 either in the production of tangible personal property, for sale, by
12 farming or in a commercial horse boarding operation, or in both; and,
13 unless such city, county or school district elects otherwise, shall omit
14 the provision for credit or refund contained in clause six of subdivi-
15 sion (a) or subdivision (d) of section eleven hundred nineteen of this
16 chapter. (ii) Any local law, ordinance or resolution enacted by any
17 city, county or school district, imposing the taxes authorized by this
18 subdivision, shall omit the residential solar energy systems equipment
19 exemption provided for in subdivision (ee) and the clothing and footwear
20 exemption provided for in paragraph thirty of subdivision (a) of section
21 eleven hundred fifteen of this chapter AND THE ENERGY-STAR PRODUCT
22 EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF
23 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, unless such city, county
24 or school district elects otherwise as to either such residential solar
25 energy systems equipment exemption or such clothing and footwear
26 exemption OR SUCH ENERGY-STAR PRODUCT EXEMPTION.

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

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

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

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

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

53 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT
54 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2011) AND SHALL APPLY TO SALES
55 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN

1 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,
2 1216 AND 1217 OF THE NEW YORK TAX LAW.
3 S 4. This act shall take effect April 1, 2013 and shall be deemed
4 repealed April 1, 2018.