

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

5522--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, BOYLAND, COOK, JAFFEE, COLTON, REILLY, MAISEL, CASTRO, GUNTHER, MCENENY, LAVINE -- Multi-Sponsored by -- M. of A. BOYLE, CASTELLI, GLICK, LATIMER, SCHIMEL, TITONE -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting the sale and installation of commercial solar energy systems equipment from state sales and compensating use taxes and granting municipalities the option to grant such exemption

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

1 Section 1. Section 1115 of the tax law is amended by adding a new
2 subdivision (hh) to read as follows:
3 (HH) RECEIPTS FROM THE RETAIL SALE OF COMMERCIAL SOLAR ENERGY SYSTEMS
4 EQUIPMENT AND OF THE SERVICE OF INSTALLING SUCH SYSTEMS SHALL BE EXEMPT
5 FROM TAXES IMPOSED BY SECTIONS ELEVEN HUNDRED FIVE AND ELEVEN HUNDRED
6 ELEVEN OF THIS ARTICLE. FOR THE PURPOSES OF THIS SUBDIVISION, "COMMER-
7 CIAL SOLAR ENERGY SYSTEMS EQUIPMENT" SHALL MEAN AN ARRANGEMENT OR COMBI-
8 NATION OF COMPONENTS INSTALLED UPON NON-RESIDENTIAL PREMISES THAT
9 UTILIZE SOLAR RADIATION TO PRODUCE ENERGY DESIGNED TO PROVIDE HEATING,
10 COOLING, HOT WATER AND/OR ELECTRICITY. SUCH ARRANGEMENT OR COMPONENTS
11 SHALL NOT INCLUDE EQUIPMENT THAT IS PART OF A NON-SOLAR ENERGY SYSTEM.
12 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
13 amended by section 3 of part GG of chapter 57 of the laws of 2010, is
14 amended to read as follows:
15 (1) Either, all of the taxes described in article twenty-eight of this
16 chapter, at the same uniform rate, as to which taxes all provisions of

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

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

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

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

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

1 (2) FORM OF RESOLUTION: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
2 LOCAL LEGISLATIVE BODY) AS FOLLOWS:
3 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
4 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES
5 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO SUBDIVI-
6 SION (HH) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE EXEMPT FROM SALES
7 AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.
8 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT JANUARY 1, (INSERT THE
9 YEAR, BUT NOT EARLIER THAN THE YEAR 2012) AND SHALL APPLY TO SALES MADE,
10 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-
11 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216
12 AND 1217 OF THE NEW YORK TAX LAW.
13 S 4. This act shall take effect immediately, provided that section one
14 of this act shall take effect on the first of January next succeeding
15 the date on which this act shall have become a law.