

5611

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 24, 2011

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Introduced by M. of A. ENGLEBRIGHT, HOOPER, HOYT, MAGNARELLI, LUPARDO, GALEF, ORTIZ, SCHIMMINGER, BING, ROSENTHAL, O'DONNELL, TITUS, CAHILL, JAFFEE, BENEDETTO, KELLNER, PHEFFER -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, BRENNAN, V. LOPEZ, MAISEL, PEOPLES-STOKES, J. RIVERA, SWEENEY, TITONE, WEISENBERG -- 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 hybrid vehicles and certain high-efficiency 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)(I) THE RECEIPTS FROM THE RETAIL SALE OF A NEW OR USED HYBRID  
4     VEHICLE AND HIGH-EFFICIENCY VEHICLES.  
5     (II) AS USED IN THIS PARAGRAPH:  
6     (A) "HIGH-EFFICIENCY VEHICLE" MEANS A MODEL YEAR TWO THOUSAND EIGHT OR  
7     LATER MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED TWENTY-FIVE OF  
8     THE VEHICLE AND TRAFFIC LAW, THAT IS CERTIFIED IN THE TWO THOUSAND EIGHT  
9     OR LATER FUEL ECONOMY GUIDE OF THE FEDERAL ENVIRONMENTAL PROTECTION  
10    AGENCY TO HAVE A HIGHWAY FUEL ECONOMY ESTIMATE OF THIRTY-FIVE MILES PER  
11    GALLON OR BETTER, OR WHICH USES NO MOTOR FUEL OR DIESEL FUEL.  
12    (B) "HYBRID VEHICLE" MEANS A MOTOR VEHICLE, AS DEFINED IN SECTION ONE  
13    HUNDRED TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT:  
14    (I) DRAWS PROPULSION ENERGY FROM BOTH:  
15    (A) AN INTERNAL COMBUSTION ENGINE (OR HEAT ENGINE THAT USES COMBUSTI-  
16    BLE FUEL), AND  
17    (B) AN ENERGY SOURCE DEVICE; AND  
18    (II) EMPLOYS A REGENERATIVE VEHICLE BRAKING SYSTEM THAT RECOVERS WASTE  
19    ENERGY TO CHARGE SUCH ENERGY STORAGE DEVICE.

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

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

3 (C) THE NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES  
4 EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF  
5 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER SHALL NOT APPLY TO OR  
6 LIMIT THE IMPOSITION OF THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

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

10 (1) Either, all of the taxes described in article twenty-eight of this  
11 chapter, at the same uniform rate, as to which taxes all provisions of  
12 the local laws, ordinances or resolutions imposing such taxes shall be  
13 identical, except as to rate and except as otherwise provided, with the  
14 corresponding provisions in such article twenty-eight, including the  
15 definition and exemption provisions of such article, so far as the  
16 provisions of such article twenty-eight can be made applicable to the  
17 taxes imposed by such city or county and with such limitations and  
18 special provisions as are set forth in this article. The taxes author-  
19 ized under this subdivision may not be imposed by a city or county  
20 unless the local law, ordinance or resolution imposes such taxes so as  
21 to include all portions and all types of receipts, charges or rents,  
22 subject to state tax under sections eleven hundred five and eleven  
23 hundred ten of this chapter, except as otherwise provided. (i) Any local  
24 law, ordinance or resolution enacted by any city of less than one  
25 million or by any county or school district, imposing the taxes author-  
26 ized by this subdivision, shall, notwithstanding any provision of law to  
27 the contrary, exclude from the operation of such local taxes all sales  
28 of tangible personal property for use or consumption directly and  
29 predominantly in the production of tangible personal property, gas,  
30 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
31 essing, generating, assembly, refining, mining or extracting; and all  
32 sales of tangible personal property for use or consumption predominantly  
33 either in the production of tangible personal property, for sale, by  
34 farming or in a commercial horse boarding operation, or in both; and,  
35 unless such city, county or school district elects otherwise, shall omit  
36 the provision for credit or refund contained in clause six of subdivi-  
37 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
38 chapter. (ii) Any local law, ordinance or resolution enacted by any  
39 city, county or school district, imposing the taxes authorized by this  
40 subdivision, shall omit the residential solar energy systems equipment  
41 exemption provided for in subdivision (ee) [and] OF THIS SECTION, the  
42 clothing and footwear exemption provided for in paragraph thirty AND THE  
43 NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES EXEMPTION  
44 PROVIDED FOR IN PARAGRAPH FORTY-FOUR of subdivision (a) of section elev-  
45 en hundred fifteen of this chapter, unless such city, county or school  
46 district elects otherwise as to either such residential solar energy  
47 systems equipment exemption or such clothing and footwear exemption OR  
48 SUCH NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES  
49 EXEMPTION.

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

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

54 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
55 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
56 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED

1 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
2 THE NEW AND USED HYBRID VEHICLES AND HIGH-EFFICIENCY VEHICLES EXEMPTION  
3 FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH  
4 FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS  
5 CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO  
6 OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF  
7 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-  
8 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED  
9 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-  
10 RATE SUCH EXEMPTIONS AS IF THEY HAD BEEN DULY ENACTED BY THE STATE  
11 LEGISLATURE AND APPROVED BY THE GOVERNOR.

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

14 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
15 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
16 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
17 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE  
18 EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDIC-  
19 TION.

20 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
21 YEAR, BUT NOT EARLIER THAN THE YEAR 2012) AND SHALL APPLY TO SALES MADE,  
22 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
23 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
24 AND 1217 OF THE NEW YORK TAX LAW.

25 S 5. This act shall take effect October 1, 2012.