

3674--A

2011-2012 Regular Sessions

I N   S E N A T E

March 1, 2011

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Introduced by Sens. MARCELLINO, AVELLA, DUANE, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 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

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

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

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

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

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

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

54 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
55 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
56 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH

1 FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO  
2 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-  
3 DICTION.  
4 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT  
5 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2011) AND SHALL APPLY TO SALES  
6 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN  
7 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,  
8 1216 AND 1217 OF THE NEW YORK TAX LAW.  
9 S 4. This act shall take effect April 1, 2013 and shall be deemed  
10 repealed April 1, 2018.