

1377

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. CAHILL, GUNTHER, ROSENTHAL, SWEENEY, CYMBROWITZ, KEARNS, BENEDETTO, BARRON, COLTON, MOYA, CRESPO, ZEBROWSKI, RYAN, WEPRIN -- Multi-Sponsored by -- M. of A. CERETTO, CLARK, FINCH, GIBSON, MAGEE, RABBITT, RAIA, SIMANOWITZ, THIELE -- 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 plug-in hybrid electric 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) THE RECEIPTS FROM THE RETAIL SALE OF NEW PLUG-IN HYBRID ELECTRIC  
4     VEHICLES. FOR PURPOSES OF THIS PARAGRAPH THE TERM "PLUG-IN HYBRID ELEC-  
5     TRIC VEHICLE" MEANS A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED  
6     TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT:  
7     (I) DRAWS PROPULSION USING A TRACTION BATTERY WITH AT LEAST FOUR KILO-  
8     WATT HOURS OF CAPACITY;  
9     (II) USES AN EXTERNAL SOURCE OF ENERGY TO RECHARGE SUCH BATTERY;  
10    (III) THE ORIGINAL USE OF WHICH COMMENCES WITH THE TAXPAYER;  
11    (IV) IS ACQUIRED FOR USE OR LEASE BY THE TAXPAYER AND NOT FOR RESALE;  
12    AND  
13    (V) IS MADE BY A MANUFACTURER.  
14    S 2. Section 1160 of the tax law is amended by adding a new subdivi-  
15    sion (c) to read as follows:  
16    (C) THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION PROVIDED FOR IN  
17    PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
18    FIFTEEN OF THIS CHAPTER SHALL NOT APPLY TO OR LIMIT THE IMPOSITION OF  
19    THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

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

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1 S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
2 amended by chapter 406 of the laws of 2012, is amended to read as  
3 follows:

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

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

47 (Q) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-  
48 NANCE OR RESOLUTION TO THE CONTRARY:

49 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
50 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
51 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
52 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
53 THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION FROM STATE SALES AND  
54 COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION  
55 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A  
56 RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;

1 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND  
2 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED  
3 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION  
4 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS  
5 IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY  
6 THE GOVERNOR.

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

9 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
10 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
11 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
12 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO  
13 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-  
14 DICTION.

15 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
16 YEAR, BUT NOT EARLIER THAN THE YEAR 2013) AND SHALL APPLY TO SALES MADE,  
17 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
18 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
19 AND 1217 OF THE NEW YORK TAX LAW.

20 S 5. This act shall take effect October 1, 2013.