

3230

2013-2014 Regular Sessions

I N A S S E M B L Y

January 24, 2013

Introduced by M. of A. RABBITT, RAIA, FINCH -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting electric vehicles from state sales and compensating use taxes and granting municipalities the option to provide 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) RETAIL SALES OF THE ELECTRIC VEHICLES, AS DESCRIBED IN 15 USCS S
4 2502(3), SHALL BE EXEMPT FROM THE SALES TAX PROVISIONS OF SECTION ELEVEN
5 HUNDRED FIVE OF THIS ARTICLE. THE EXEMPTION PROVIDED FOR IN THIS SUBDI-
6 VISION SHALL NOT APPLY TO THE RENTAL, LEASING, REPAIR OR SERVICING OF
7 SUCH ELECTRIC CARS.

8 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
9 amended chapter 406 of the laws of 2012, is 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

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

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

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

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

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

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

44 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
45 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY EXEMPT FROM
46 STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH FORTY-FOUR
47 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE EXEMPT
48 FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

49 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT JUNE 1, (INSERT THE
50 YEAR, BUT NOT EARLIER THAN THE YEAR 2013) AND SHALL APPLY TO SALES MADE
51 ON AND AFTER THAT DATE IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL
52 PROVISIONS IN SECTIONS 1106, 1216 AND 1217 OF THE NEW YORK TAX LAW.

53 S 4. This act shall take effect June 1, 2013 and shall apply to sales
54 of electric vehicles occurring on or after such effective date.