

6476

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 1, 2013

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Introduced by M. of A. DIPIETRO -- Multi-Sponsored by -- M. of A. HAWLEY  
-- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to sales and use tax exemption for services rendered with respect to the maintenance and repair of trucks having a gross weight exceeding 26,000 pounds

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

1     Section 1. Paragraph 3 of subdivision (c) of section 1105 of the tax  
2     law is amended by adding a new subparagraph (xii) to read as follows:  
3     (XII) SUCH SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND  
4     REPAIR OF TRUCKS AND PROPERTY USED BY OR PURCHASED FOR SUCH TRUCKS, AS  
5     SUCH TRUCKS AND PROPERTY ARE SPECIFIED IN PARAGRAPH FORTY-FOUR OF SUBDI-  
6     VISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.  
7     S 2. Clause 1 of subdivision (b) of section 1107 of the tax law, as  
8     amended by chapter 472 of the laws of 2000, is amended to read as  
9     follows:  
10    (1) The exemptions provided for in PARAGRAPH FORTY-FOUR OF SUBDIVISION  
11    (A) AND subdivision (c) of section eleven hundred fifteen OF THIS ARTI-  
12    CLE AND THE EXCEPTION PROVIDED FOR IN SUBPARAGRAPH (XII) OF PARAGRAPH  
13    THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS PART  
14    shall not apply to fuel, gas, electricity, refrigeration and steam, and  
15    gas, electric, refrigeration and steam service of whatever nature for  
16    use or consumption directly and exclusively in the production of gas,  
17    electricity, refrigeration or steam.  
18    S 3. Subdivision (b) of section 1108 of the tax law is amended by  
19    adding a new paragraph 6 to read as follows:  
20    (6) THE EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION  
21    (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE AND THE EXCEPTION  
22    PROVIDED FOR IN SUBPARAGRAPH (XII) OF PARAGRAPH THREE OF SUBDIVISION (C)  
23    OF SECTION ELEVEN HUNDRED FIVE OF THIS PART SHALL NOT APPLY.

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

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1 S 4. Subdivision (a) of section 1109 of the tax law, as amended by  
2 section 1 of part BB of chapter 61 of the laws of 2005, is amended to  
3 read as follows:

4 (a) General. In addition to the taxes imposed by sections eleven  
5 hundred five and eleven hundred ten of this [article] PART, there is  
6 hereby imposed within the territorial limits of the metropolitan commu-  
7 ter transportation district created and established pursuant to section  
8 twelve hundred sixty-two of the public authorities law, and there shall  
9 be paid, additional taxes, at the rate of three-eighths of one percent,  
10 which shall be identical to the taxes imposed by sections eleven hundred  
11 five and eleven hundred ten of this [article] PART, EXCEPT THAT WITH  
12 RESPECT TO THE TAX IMPOSED BY THIS SECTION THE EXEMPTION PROVIDED FOR IN  
13 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
14 FIFTEEN OF THIS ARTICLE AND THE EXCEPTION PROVIDED FOR IN SUBPARAGRAPH  
15 (XII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED  
16 FIVE OF THIS PART SHALL NOT APPLY. Such sections ELEVEN HUNDRED FIVE  
17 AND ELEVEN HUNDRED TEN OF THIS PART and the other sections of this arti-  
18 cle, including the definition and THE OTHER exemption provisions, shall  
19 apply for purposes of the taxes imposed by this section in the same  
20 manner and with the same force and effect as if the language of those  
21 sections had been incorporated in full into this section and had  
22 expressly referred to the taxes imposed by this section.

23 S 5. Subdivision (a) of section 1115 of the tax law is amended by  
24 adding a new paragraph 44 to read as follows:

25 (44) TRUCKS, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED  
26 FIFTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW, WHETHER PURCHASED OR LEASED,  
27 AND PROPERTY INSTALLED ON SUCH VEHICLES FOR THEIR EQUIPPING, MAINTENANCE  
28 OR REPAIR, PROVIDED SUCH VEHICLES HAVE A GROSS VEHICLE WEIGHT WHICH  
29 EXCEEDS TWENTY-SIX THOUSAND POUNDS.

30 S 6. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
31 amended by chapter 406 of the laws of 2012, is amended to read as  
32 follows:

33 (1) Either, all of the taxes described in article twenty-eight of this  
34 chapter, at the same uniform rate, as to which taxes all provisions of  
35 the local laws, ordinances or resolutions imposing such taxes shall be  
36 identical, except as to rate and except as otherwise provided, with the  
37 corresponding provisions in such article twenty-eight, including the  
38 definition and exemption provisions of such article, EXCEPT THAT THE  
39 EXEMPTION PROVIDED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION  
40 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER AND THE EXCEPTION PROVIDED FOR IN  
41 SUBPARAGRAPH (XII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION  
42 ELEVEN HUNDRED FIVE OF THIS CHAPTER SHALL NOT APPLY, so far as the  
43 provisions of such article twenty-eight can be made applicable to the  
44 taxes imposed by such city or county and with such limitations and  
45 special provisions as are set forth in this article. The taxes author-  
46 ized under this subdivision may not be imposed by a city or county  
47 unless the local law, ordinance or resolution imposes such taxes so as  
48 to include all portions and all types of receipts, charges or rents,  
49 subject to state tax under sections eleven hundred five and eleven  
50 hundred ten of this chapter, except as otherwise provided. (i) Any local  
51 law, ordinance or resolution enacted by any city of less than one  
52 million or by any county or school district, imposing the taxes author-  
53 ized by this subdivision, shall, notwithstanding any provision of law to  
54 the contrary, exclude from the operation of such local taxes all sales  
55 of tangible personal property for use or consumption directly and  
56 predominantly in the production of tangible personal property, gas,

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

20 S 7. This act shall take effect December 1, 2013; provided however,  
21 that the exemption and exception provided for in sections one through  
22 six of this act shall apply to retail sales or uses occurring on or  
23 after December 1, 2013.