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I N   A S S E M B L Y

January 9, 2014

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Introduced by M. of A. McDONALD -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting certain senior citizen organizations from paying sales and compensating use taxes

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

- 1     Section 1. Subdivision (a) of section 1116 of the tax law, as amended  
2     by chapter 530 of the laws of 1976, paragraph 4 as amended by chapter  
3     270 of the laws of 2001, paragraph 5 as amended by chapter 366 of the  
4     laws of 1983, subparagraph (B) of paragraph 5 as amended by chapter 418  
5     of the laws of 2004, subparagraph (C) of paragraph 5 as amended by chap-  
6     ter 296 of the laws of 2006, paragraph 7 as added by chapter 903 of the  
7     laws of 1980, paragraph 8 as added by chapter 888 of the laws of 1983,  
8     paragraph 9 as amended by chapter 591 of the laws of 2005, is amended to  
9     read as follows:
- 10    (a) Except as otherwise provided in this section, any sale or amuse-  
11    ment charge by or to any of the following or any use or occupancy by any  
12    of the following shall not be subject to the sales and compensating use  
13    taxes imposed under this article:
- 14    (1) The state of New York, or any of its agencies, instrumentalities,  
15    public corporations (including a public corporation created pursuant to  
16    agreement or compact with another state or Canada) or political subdivi-  
17    sions where it is the purchaser, user or consumer, or where it is a  
18    vendor of services or property of a kind not ordinarily sold by private  
19    persons[;].
- 20    (2) The United States of America, and any of its agencies and instru-  
21    mentalities, insofar as it is immune from taxation where it is the  
22    purchaser, user or consumer, or where it sells services or property of a  
23    kind not ordinarily sold by private persons[;].
- 24    (3) The United Nations or any international organization of which the  
25    United States of America is a member where it is the purchaser, user or  
26    consumer, or where it sells services or property of a kind not ordinar-  
27    ily sold by private persons[;].

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

1 (4) Any corporation, association, trust, or community chest, fund,  
2 foundation, or limited liability company, organized and operated exclu-  
3 sively for religious, charitable, scientific, testing for public safety,  
4 literary or educational purposes, or to foster national or international  
5 amateur sports competition (but only if no part of its activities  
6 involve the provision of athletic facilities or equipment), or for the  
7 prevention of cruelty to children or animals, no part of the net earn-  
8 ings of which inures to the benefit of any private shareholder or indi-  
9 vidual, no substantial part of the activities of which is carrying on  
10 propaganda, or otherwise attempting to influence legislation, (except as  
11 otherwise provided in subsection (h) of section five hundred one of the  
12 United States internal revenue code of nineteen hundred fifty-four, as  
13 amended), and which does not participate in, or intervene in (including  
14 the publishing or distributing of statements), any political campaign on  
15 behalf of any candidate for public office[;].

16 (5) A post or organization of past or present members of the armed  
17 forces of the United States, or an auxiliary unit or society of, or a  
18 trust or foundation for, any such post or organization:

19 (A) organized in this state,

20 (B) at least seventy-five percent of the members of which are past or  
21 present members of the armed forces of the United States as defined in  
22 section thirteen-a of the general construction law and substantially all  
23 of the other members of which are individuals who are cadets or are  
24 spouses, widows, widowers, ancestors, or lineal descendants of past or  
25 present members of the armed forces of the United States or of cadets,  
26 and

27 (C) no part of the net earnings of which inures to the benefit of any  
28 private shareholder or individual.

29 (6) The following Indian nations or tribes residing in New York state:  
30 Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shin-  
31 necock, Tonawanda and Tuscarora, where it is the purchaser, user or  
32 consumer.

33 (7) A not-for-profit corporation operating as a health maintenance  
34 organization subject to the provisions of article forty-four of the  
35 public health law.

36 (8) Cooperative and foreign corporations doing business in this state  
37 pursuant to the rural electric cooperative law.

38 (9) A credit union, as defined in subdivision nine of section two of  
39 the banking law, where it is the purchaser, user, or consumer, or where  
40 it is a vendor of services or property of a kind not ordinarily sold by  
41 private persons.

42 (10) SENIOR CITIZEN ORGANIZATIONS ORGANIZED PURSUANT TO SECTION  
43 501(C)(3) OR SECTION 501(C)(7) OF THE INTERNAL REVENUE CODE (26 U.S.C.  
44 S501) WHICH LIMIT MEMBERSHIP TO MEMBERS AGE FIFTY AND OLDER, AND WHICH  
45 ARE ORGANIZED FOR PLEASURE, SOCIAL, EDUCATIONAL, RECREATIONAL AND/OR  
46 OTHER NON-PROFIT PURPOSES, PROVIDED:

47 (A) NO PART OF THE NET EARNINGS OF WHICH INURE TO THE BENEFIT OF ANY  
48 PRIVATE SHAREHOLDER OR INDIVIDUAL;

49 (B) NO SUBSTANTIAL PART OF THE ACTIVITIES OF WHICH IS CARRYING ON  
50 PROPAGANDA, OR OTHERWISE ATTEMPTING TO INFLUENCE LEGISLATION, (EXCEPT AS  
51 OTHERWISE PROVIDED IN SUBSECTION (H) OF SECTION FIVE HUNDRED ONE OF THE  
52 UNITED STATES INTERNAL REVENUE CODE OF NINETEEN HUNDRED FIFTY-FOUR, AS  
53 AMENDED), AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING  
54 THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON  
55 BEHALF OF ANY CANDIDATE FOR PUBLIC OFFICE; AND

1 (C) THE EXEMPTION APPLIES ONLY TO PURCHASES THAT ARE MADE BY THE  
2 ORGANIZATION ITSELF AND NOT FOR PURCHASES BY ANY OF ITS MEMBERS INDIVID-  
3 UALLY.

4 S 2. Subdivision (g) of section 1116 of the tax law, as amended by  
5 chapter 3 of the laws of 2004, is amended to read as follows:

6 (g) For purposes of [paragraph] PARAGRAPHS five AND TEN of subdivision  
7 (a) of this section, duly authorized representatives of any such post or  
8 organization, while acting on behalf of such post or organization, shall  
9 not be subject to the tax imposed under subdivision (e) of section elev-  
10 en hundred five or the unit fee imposed by section eleven hundred four  
11 of this article, provided that such representatives provide an exempt  
12 organization certificate from such post or organization certifying that  
13 such representative is acting on its behalf.

14 S 3. The commissioner of taxation and finance is authorized and  
15 directed to develop and place into effect all rules and regulations, and  
16 take all other measures necessary, to implement the provisions of this  
17 act on or before its effective date, including, but not limited to  
18 making all necessary changes to the "Application for an Exempt Organiza-  
19 tion Certificate" (Form ST-119.2) and any other forms utilized by tax-  
20 exempt entities.

21 S 4. This act shall take effect January 1, 2015.