

2767--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations 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 suspending the state sales and compensating use tax on certain disaster clean-up items during a state of emergency and authorizing localities to waive such tax during the same period

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

1 Section 1. Section 1115 of the tax law is amended by adding a new
2 subdivision (jj) to read as follows:
3 (JJ) THE GOVERNOR MAY TEMPORARILY SUSPEND SALES AND COMPENSATING USE
4 TAXES ASSOCIATED WITH SERVICES OTHERWISE TAXABLE UNDER SUBDIVISION (C)
5 OF SECTION ELEVEN HUNDRED FIVE OR UNDER SECTION ELEVEN HUNDRED TEN OF
6 THIS ARTICLE RENDERED IN CLEAN-UP AND REPAIR OF REAL PROPERTY, PROPERTY
7 OR LAND, AS SUCH TERMS ARE DEFINED IN THE REAL PROPERTY TAX LAW, WHEN
8 SUCH SERVICES ARE PROVIDED BY A CONTRACTOR, SUBCONTRACTOR, REPAIRPERSON
9 OR OWNER OF SUCH REAL PROPERTY, PROPERTY OR LAND LOCATED IN AN AFFECTED
10 COUNTY DURING THE PERIOD OF TIME DECLARED BY THE GOVERNOR AS A STATE
11 DISASTER EMERGENCY, AS DEFINED BY PARAGRAPH B OF SUBDIVISION TWO OF
12 SECTION TWENTY OF THE EXECUTIVE LAW, AND UP TO SIXTY DAYS THEREAFTER.
13 S 2. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
14 1210 of the tax law, as amended by chapter 13 of the laws of 2013, is
15 amended to read as follows:
16 (ii) Any local law, ordinance or resolution enacted by any city, coun-
17 ty or school district, imposing the taxes authorized by this subdivi-
18 sion, shall omit the residential solar energy systems equipment
19 exemption provided for in subdivision (ee), the commercial solar energy

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

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1 systems equipment exemption provided for in subdivision (ii), THE STATE
2 OF EMERGENCY CLEAN-UP ACTIVITIES PROVIDED FOR IN SUBDIVISION (JJ) and
3 the clothing and footwear exemption provided for in paragraph thirty of
4 subdivision (a) of section eleven hundred fifteen of this chapter,
5 unless such city, county or school district elects otherwise as to
6 either such residential solar energy systems equipment exemption, such
7 commercial solar energy systems equipment exemption or such clothing and
8 footwear exemption.

9 S 3. Subdivision (d) of section 1210 of the tax law, as amended by
10 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
11 read as follows:

12 (d) A local law, ordinance or resolution imposing any tax pursuant to
13 this section, increasing or decreasing the rate of such tax, repealing
14 or suspending such tax, exempting from such tax the energy sources and
15 services described in paragraph three of subdivision (a) or of subdivi-
16 sion (b) of this section or changing the rate of tax imposed on such
17 energy sources and services or providing for the credit or refund
18 described in clause six of subdivision (a) of section eleven hundred
19 nineteen of this chapter must go into effect only on one of the follow-
20 ing dates: March first, June first, September first or December first;
21 provided, that a local law, ordinance or resolution providing for the
22 exemption described in paragraph thirty of subdivision (a) OR SUBDIVI-
23 SION (JJ) of section eleven hundred fifteen of this chapter or repealing
24 any such exemption or a local law, ordinance or resolution providing for
25 a refund or credit described in subdivision (d) of section eleven
26 hundred nineteen of this chapter or repealing such provision so provided
27 must go into effect only on March first. No such local law, ordinance or
28 resolution shall be effective unless a certified copy of such law, ordi-
29 nance or resolution is mailed by registered or certified mail to the
30 commissioner at the commissioner's office in Albany at least ninety days
31 prior to the date it is to become effective. However, the commissioner
32 may waive and reduce such ninety-day minimum notice requirement to a
33 mailing of such certified copy by registered or certified mail within a
34 period of not less than thirty days prior to such effective date if the
35 commissioner deems such action to be consistent with the commissioner's
36 duties under section twelve hundred fifty of this article and the
37 commissioner acts by resolution. Where the restriction provided for in
38 section twelve hundred twenty-three of this article as to the effective
39 date of a tax and the notice requirement provided for therein are appli-
40 cable and have not been waived, the restriction and notice requirement
41 in section twelve hundred twenty-three of this article shall also apply.

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

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

46 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
47 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
48 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
49 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE
50 SAME STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND
51 COMPENSATING USE TAXES, DURING THE SAME PERIODS EACH YEAR, DESCRIBED IN
52 SUBDIVISION (JJ) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY
53 ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF
54 THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF
55 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-
56 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED

SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE GOVERNOR.

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

SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO SUBDIVISION (JJ) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION, DURING THE SAME PERIODS SET FORTH IN SUCH SUBDIVISION.

SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE YEAR, BUT NOT EARLIER THAN THE YEAR 2014) AND SHALL APPLY TO SALES MADE AND USES OCCURRING DURING THE APPLICABLE EXEMPTION PERIODS EACH YEAR, IN ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK TAX LAW.

S 5. Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (a) Any county or city imposing sales and compensating use taxes pursuant to the authority of subpart B of part I of article 29 of the tax law, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for new state of emergency clean-up activities exempt from state sales and compensating use taxes described in subdivision (jj) of section 1115 of the tax law, as added by section one of this act, for the periods described therein, whether such taxes are imposed by local law, ordinance or resolution, by enacting a resolution exactly in the form set forth in subdivision (c) of this section, such enactment of such resolution shall be deemed to amend such local law, ordinance or resolution imposing such taxes, and such local law, ordinance or resolution shall thenceforth be deemed to incorporate such exemptions.

(b) Any city of one million or more in which the taxes imposed by section 1107 of the tax law are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same state of emergency clean-up activities exempt from state sales and compensating use taxes described in subdivision (jj) of section 1115 of the tax law, as added by section one of this act, for the periods described therein, by enacting a resolution exactly in the form set forth in subdivision (c) of this section, such enactment of such resolution shall be deemed to amend such section 1107 of the tax law and such section 1107 shall thenceforth be deemed to incorporate such exemption for such periods as if it had been duly enacted by the state legislature and approved by the governor and such resolution shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of subdivision (a) of section 1210 of the tax law, whether or not such taxes are suspended at the time such city enacts its resolution.

(c) Form of Resolution:

Be it enacted by the (insert proper title of local legislative body) as follows:

Section one: The (county or city) of (locality's name) hereby elects the state of emergency clean-up activities exemption periods commencing (commencement period).

1 Section two: This resolution shall take effect immediately and shall
2 apply to sales made and uses occurring during the applicable periods
3 each year, in accordance with applicable transitional provisions of the
4 New York Tax Law.

5 (d) A resolution adopted pursuant to this section shall be effective
6 only if it is adopted exactly as set forth in subdivision (c) of this
7 section and such county or city adopts it, mails a certified copy of it
8 to the commissioner of taxation and finance by certified mail and other-
9 wise complies with the requirements of subdivisions (d) and (e) of
10 section 1210 of the tax law.

11 S 6. This act shall take effect immediately and shall apply to sales
12 made and uses occurring during exemption periods on or after such date
13 in accordance with the applicable transitional provisions of sections
14 1106 and 1217 of the tax law.