

3854

2013-2014 Regular Sessions

I N S E N A T E

February 25, 2013

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the tax law, in relation to exempting energy-star appliances from state sales and compensating use taxes and granting municipalities the option to provide such exemption; and providing for the repeal of such provisions upon expiration thereof

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 FOLLOWING PRODUCTS, PROVIDED THAT THE PRODUCT
4 QUALIFIES AS AN ENERGY-STAR PRODUCT PURSUANT TO THE UNITED STATES ENVI-
5 RONMENTAL PROTECTION AGENCY ENERGY-STAR PROGRAM, SHALL BE EXEMPT FROM
6 THE SALES TAX PROVISIONS OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE:
7 CLOTHES WASHER, DISHWASHER, REFRIGERATOR, ROOM AIR CONDITIONER, CEILING
8 FAN, DEHUMIDIFIER, FREEZER, PROGRAMMABLE THERMOSTAT, AND VENTILATING
9 FAN. THE EXEMPTION PROVIDED FOR IN THIS SUBDIVISION SHALL NOT APPLY TO
10 THE RENTAL, LEASING, REPAIR OR SERVICING OF SUCH ENERGY-STAR PRODUCTS.

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

14 (1) Either, all of the taxes described in article twenty-eight of this
15 chapter, at the same uniform rate, as to which taxes all provisions of
16 the local laws, ordinances or resolutions imposing such taxes shall be
17 identical, except as to rate and except as otherwise provided, with the
18 corresponding provisions in such article twenty-eight, including the
19 definition and exemption provisions of such article, so far as the
20 provisions of such article twenty-eight can be made applicable to the
21 taxes imposed by such city or county and with such limitations and
22 special provisions as are set forth in this article. The taxes author-

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

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1 ized under this subdivision may not be imposed by a city or county
2 unless the local law, ordinance or resolution imposes such taxes so as
3 to include all portions and all types of receipts, charges or rents,
4 subject to state tax under sections eleven hundred five and eleven
5 hundred ten of this chapter, except as otherwise provided. (i) Any local
6 law, ordinance or resolution enacted by any city of less than one
7 million or by any county or school district, imposing the taxes author-
8 ized by this subdivision, shall, notwithstanding any provision of law to
9 the contrary, exclude from the operation of such local taxes all sales
10 of tangible personal property for use or consumption directly and
11 predominantly in the production of tangible personal property, gas,
12 electricity, refrigeration or steam, for sale, by manufacturing, proc-
13 essing, generating, assembly, refining, mining or extracting; and all
14 sales of tangible personal property for use or consumption predominantly
15 either in the production of tangible personal property, for sale, by
16 farming or in a commercial horse boarding operation, or in both; and,
17 unless such city, county or school district elects otherwise, shall omit
18 the provision for credit or refund contained in clause six of subdivi-
19 sion (a) or subdivision (d) of section eleven hundred nineteen of this
20 chapter. (ii) Any local law, ordinance or resolution enacted by any
21 city, county or school district, imposing the taxes authorized by this
22 subdivision, shall omit the residential solar energy systems equipment
23 exemption provided for in subdivision (ee), the commercial solar energy
24 systems equipment exemption provided for in subdivision (hh) and the
25 clothing and footwear exemption provided for in paragraph thirty of
26 subdivision (a) of section eleven hundred fifteen of this chapter AND
27 THE ENERGY-STAR PRODUCT EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR
28 OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER,
29 unless such city, county or school district elects otherwise as to
30 either such residential solar energy systems equipment exemption, such
31 commercial solar energy systems equipment exemption [or], such clothing
32 and footwear exemption OR SUCH ENERGY-STAR PRODUCT EXEMPTION.

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

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

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

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

53 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
54 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES
55 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH
56 FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO

1 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-
2 DICTION.

3 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT
4 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2013) AND SHALL APPLY TO SALES
5 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN
6 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,
7 1216 AND 1217 OF THE NEW YORK TAX LAW.

8 S 4. This act shall take effect April 1, 2014 and shall be deemed
9 repealed April 1, 2019.