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2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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

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 13 of the laws of 2013, 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] PARAGRAPH six  
19 of subdivision (a) or subdivision (d) of section eleven hundred nineteen  
20 of this chapter. (ii) Any local law, ordinance or resolution enacted by  
21 any city, county or school district, imposing the taxes authorized by  
22 this subdivision, shall omit the residential solar energy systems equip-  
23 ment exemption provided for in subdivision (ee), the commercial solar  
24 energy systems equipment exemption provided for in subdivision (ii) AS  
25 AMENDED BY CHAPTER 13 OF THE LAWS OF 2013, and the clothing and footwear  
26 exemption provided for in paragraph thirty of subdivision (a) of section  
27 eleven hundred fifteen of this chapter, AND THE ENERGY-STAR PRODUCT  
28 EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF  
29 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER unless such city, county  
30 or school district elects otherwise as to either such residential solar  
31 energy systems equipment exemption, such commercial solar energy systems  
32 equipment exemption or such clothing and footwear exemption OR SUCH  
33 ENERGY-STAR PRODUCT EXEMPTION.

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

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

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

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

54 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
55 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
56 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH

1 FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO  
2 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-  
3 DICTION.

4 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT  
5 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2015) AND SHALL APPLY TO SALES  
6 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN  
7 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,  
8 1216 AND 1217 OF THE NEW YORK TAX LAW.

9 S 4. This act shall take effect twenty-four months after it shall have  
10 become a law and shall be deemed repealed sixty months after it shall  
11 have become a law.