

7072

2015-2016 Regular Sessions

I N   A S S E M B L Y

April 23, 2015

---

Introduced by M. of A. OAKS, BARCLAY, HAWLEY, FINCH, MONTESANO, SALADINO, BORELLI, DiPIETRO, WALTER, NOJAY, RAIA -- Multi-Sponsored by -- M. of A. CROUCH, KOLB, McDONOUGH, McLAUGHLIN, PALMESANO, STEC, TENNEY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting certain motor vehicles, parts and services therefor and railroad rolling stock, parts and services therefor from the sales and use tax imposed by the state

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 two new subparagraphs (xii) and (xiii) to read  
3 as follows:  
4     (XII) SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND REPAIR OF  
5 RAILROAD AND ROLLING STOCK, PARTS THEREOF AND THE STRUCTURAL COMPONENTS  
6 OF THE RAILROAD AS DEFINED IN PARAGRAPH FORTY-FIVE OF SUBDIVISION (A) OF  
7 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.  
8     (XIII) SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE AND REPAIR OF  
9 MOTOR VEHICLES AND THE PARTS THEREOF AS DEFINED IN PARAGRAPH FORTY-FOUR  
10 OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE.  
11     S 2. Clause 1 of subdivision (b) of section 1107 of the tax law, as  
12 amended by chapter 472 of the laws of 2000, is amended to read as  
13 follows:  
14     (1) The exemptions provided for in PARAGRAPHS FORTY-FOUR AND  
15 FORTY-FIVE OF SUBDIVISION (A) AND subdivision (c) of section eleven  
16 hundred fifteen AND THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII)  
17 AND (XIII) OF PARAGRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN  
18 HUNDRED FIVE shall not apply to fuel, gas, electricity, refrigeration  
19 and steam, and gas, electric, refrigeration and steam service of whatever  
20 nature for use or consumption directly and exclusively in the  
21 production of gas, electricity, refrigeration or steam.

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

LBD05930-02-5

1 S 3. Subdivision (b) of section 1108 of the tax law is amended by  
2 adding a new paragraph 6 to read as follows:

3 (6) THE EXEMPTIONS PROVIDED FOR IN PARAGRAPHS FORTY-FOUR AND  
4 FORTY-FIVE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN AND THE  
5 EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARAGRAPH  
6 THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE SHALL NOT APPLY.

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

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

29 S 5. Subdivision (a) of section 1115 of the tax law is amended by  
30 adding two new paragraphs 44 and 45 to read as follows:

31 (44) MOTOR VEHICLES AS DEFINED IN SUBDIVISION TWO OF SECTION FIVE  
32 HUNDRED ONE OF THIS CHAPTER WHETHER PURCHASED OR LEASED AND PARTS THERE-  
33 OF AND THE SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE OF SUCH  
34 MOTOR VEHICLES AND PARTS.

35 (45) RAILROAD ROLLING STOCK WHETHER PURCHASED OR LEASED BY A RAILROAD  
36 WHICH IS ENGAGED IN INTRASTATE OR INTERSTATE COMMERCE, PARTS THEREOF,  
37 STRUCTURAL COMPONENTS RELATING TO THE RIGHT OF WAY OF THE RAILROAD,  
38 SERVICES RENDERED WITH RESPECT TO THE MAINTENANCE OF SUCH VEHICLES,  
39 PARTS AND STRUCTURAL COMPONENTS. THE TERM "STRUCTURAL COMPONENTS" SHALL  
40 INCLUDE BUT IS NOT LIMITED TO RAIL, BRIDGES, CROSSING ARMS AND TRAFFIC  
41 SIGNALS.

42 S 6. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
43 amended by section 3 of part Z of chapter 59 of the laws of 2015, is  
44 amended to read as follows:

45 (1) Either, all of the taxes described in article twenty-eight of this  
46 chapter, at the same uniform rate, as to which taxes all provisions of  
47 the local laws, ordinances or resolutions imposing such taxes shall be  
48 identical, except as to rate and except as otherwise provided, with the  
49 corresponding provisions in such article twenty-eight, including the  
50 definition and exemption provisions of such article, EXCEPT THE  
51 EXEMPTIONS PROVIDED FOR IN PARAGRAPHS FORTY-FOUR AND FORTY-FIVE OF  
52 SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER AND  
53 THE EXCEPTIONS PROVIDED FOR IN SUBPARAGRAPHS (XII) AND (XIII) OF PARA-  
54 GRAPH THREE OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS  
55 CHAPTER SHALL NOT APPLY so far as the provisions of such article twen-  
56 ty-eight can be made applicable to the taxes imposed by such city or

1 county and with such limitations and special provisions as are set forth  
2 in this article. The taxes authorized under this subdivision may not be  
3 imposed by a city or county unless the local law, ordinance or resol-  
4 ution imposes such taxes so as to include all portions and all types of  
5 receipts, charges or rents, subject to state tax under sections eleven  
6 hundred five and eleven hundred ten of this chapter, except as otherwise  
7 provided. (i) Any local law, ordinance or resolution enacted by any city  
8 of less than one million or by any county or school district, imposing  
9 the taxes authorized by this subdivision, shall, notwithstanding any  
10 provision of law to the contrary, exclude from the operation of such  
11 local taxes all sales of tangible personal property for use or consump-  
12 tion directly and predominantly in the production of tangible personal  
13 property, gas, electricity, refrigeration or steam, for sale, by manu-  
14 facturing, processing, generating, assembly, refining, mining or  
15 extracting; and all sales of tangible personal property for use or  
16 consumption predominantly either in the production of tangible personal  
17 property, for sale, by farming or in a commercial horse boarding opera-  
18 tion, or in both; and, unless such city, county or school district  
19 elects otherwise, shall omit the provision for credit or refund  
20 contained in clause six of subdivision (a) or subdivision (d) of section  
21 eleven hundred nineteen of this chapter. (ii) Any local law, ordinance  
22 or resolution enacted by any city, county or school district, imposing  
23 the taxes authorized by this subdivision, shall omit the residential  
24 solar energy systems equipment and electricity exemption provided for in  
25 subdivision (ee), the commercial solar energy systems equipment and  
26 electricity exemption provided for in subdivision (ii) and the clothing  
27 and footwear exemption provided for in paragraph thirty of subdivision  
28 (a) of section eleven hundred fifteen of this chapter, unless such city,  
29 county or school district elects otherwise as to either such residential  
30 solar energy systems equipment and electricity exemption, such commer-  
31 cial solar energy systems equipment and electricity exemption or such  
32 clothing and footwear exemption.

33 S 7. This act shall take effect December 1, 2015; provided, however,  
34 that if section 3 of part Z of chapter 59 of the laws of 2015 shall not  
35 have taken effect on or before such date then section six of this act  
36 shall take effect on the same date and in the same manner as such chap-  
37 ter of the laws of 2015 takes effect provided, further, that the  
38 exemptions and exceptions provided for in sections one through six of  
39 this act shall apply to retail sales or uses occurring on and after  
40 January 1, 2016.