

1294--A

2015-2016 Regular Sessions

I N   S E N A T E

January 9, 2015

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Introduced by Sens. RANZENHOFER, GALLIVAN -- 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 (kk) to read as follows:  
3     (KK) 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 section 3 of part Z of chapter 59 of  
15    the laws of 2015, is 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 and  
19    electricity exemption provided for in subdivision (ee), the commercial

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

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

10 S 3. Subdivision (d) of section 1210 of the tax law, as amended by  
11 section 4-a of part Z of chapter 59 of the laws of 2015, is amended to  
12 read as follows:

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

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

50 (P) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-  
51 NANCE OR RESOLUTION TO THE CONTRARY:

52 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
53 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
54 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
55 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE  
56 SAME STATE OF EMERGENCY CLEAN-UP ACTIVITIES EXEMPT FROM STATE SALES AND

1 COMPENSATING USE TAXES, DURING THE SAME PERIODS EACH YEAR, DESCRIBED IN  
2 SUBDIVISION (KK) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY  
3 ENACTING A RESOLUTION EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF  
4 THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF  
5 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-  
6 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED  
7 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-  
8 RATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLA-  
9 TURE AND APPROVED BY THE GOVERNOR.

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

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

19 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
20 YEAR, BUT NOT EARLIER THAN THE YEAR 2016) AND SHALL APPLY TO SALES MADE  
21 AND USES OCCURRING DURING THE APPLICABLE EXEMPTION PERIODS EACH YEAR, IN  
22 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS OF SECTIONS 1106  
23 AND 1217 OF THE NEW YORK TAX LAW.

24 S 5. Notwithstanding any other provision of state or local law, ordi-  
25 nance or resolution to the contrary: (a) Any county or city imposing  
26 sales and compensating use taxes pursuant to the authority of subpart B  
27 of part I of article 29 of the tax law, acting through its local legis-  
28 lative body, is hereby authorized and empowered to elect to provide the  
29 exemption from such taxes for new state of emergency clean-up activities  
30 exempt from state sales and compensating use taxes described in subdivi-  
31 sion (kk) of section 1115 of the tax law, as added by section one of  
32 this act, for the periods described therein, whether such taxes are  
33 imposed by local law, ordinance or resolution, by enacting a resolution  
34 exactly in the form set forth in subdivision (c) of this section, such  
35 enactment of such resolution shall be deemed to amend such local law,  
36 ordinance or resolution imposing such taxes, and such local law, ordi-  
37 nance or resolution shall thenceforth be deemed to incorporate such  
38 exemptions.

39 (b) Any city of one million or more in which the taxes imposed by  
40 section 1107 of the tax law are in effect, acting through its local  
41 legislative body, is hereby authorized and empowered to elect to provide  
42 the exemption from such taxes for the same state of emergency clean-up  
43 activities exempt from state sales and compensating use taxes described  
44 in subdivision (kk) of section 1115 of the tax law, as added by section  
45 one of this act, for the periods described therein, by enacting a resol-  
46 ution exactly in the form set forth in subdivision (c) of this section,  
47 such enactment of such resolution shall be deemed to amend such section  
48 1107 of the tax law and such section 1107 shall thenceforth be deemed to  
49 incorporate such exemption for such periods as if it had been duly  
50 enacted by the state legislature and approved by the governor and such  
51 resolution shall also be deemed to amend any local law, ordinance or  
52 resolution enacted by such a city imposing such taxes pursuant to the  
53 authority of subdivision (a) of section 1210 of the tax law, whether or  
54 not such taxes are suspended at the time such city enacts its resol-  
55 ution.

56 (c) Form of Resolution:

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

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

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

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

16 S 6. This act shall take effect immediately and shall apply to sales  
17 made and uses occurring during exemption periods on or after such date  
18 in accordance with the applicable transitional provisions of sections  
19 1106 and 1217 of the tax law.