S T A T E O F N E W Y O R K

4003

2015-2016 Regular Sessions

I N S E N A T E

February 25, 2015

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to providing an exemption for certain tangible personal property or services from the sales and compensating use tax

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

Section 1. Section 1115 of the tax law is amended by adding a new subdivision (jj) to read as follows:

(JJ) TANGIBLE PERSONAL PROPERTY OR SERVICES OTHERWISE TAXABLE UNDER THIS ARTICLE SOLD TO A RELATED PERSON SHALL NOT BE SUBJECT TO THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE OR THE COMPENSATING USE TAX IMPOSED UNDER SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE WHERE THE PURCHASER CAN SHOW THAT THE FOLLOWING CONDITIONS HAVE BEEN MET TO THE EXTENT THEY ARE APPLICABLE: (1)(I) THE VENDOR AND THE PURCHASER ARE REFERENCED AS EITHER A "COVERED COMPANY" AS DESCRIBED IN SUBDIVISION (F) OF SECTION 243.2 OR A "MATERIAL ENTITY" AS DESCRIBED IN SUBDIVISION (L) OF SECTION 243.2 OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS IN A RESOLUTION PLAN THAT HAS BEEN SUBMITTED TO AN AGENCY OF THE UNITED STATES FOR THE PURPOSE OF SATISFYING SUBPARAGRAPH ONE OF PARAGRAPH (D) OF SECTION ONE HUNDRED SIXTY-FIVE OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT (THE "ACT") OR ANY SUCCESSOR LAW, OR (II) THE VENDOR AND THE PURCHASER ARE SEPARATE LEGAL ENTITIES PURSUANT TO A DIVESTITURE DIRECTED PURSUANT TO SUBPARAGRAPH FIVE OF PARAGRAPH (D) OF SECTION ONE HUNDRED SIXTY-FIVE OF SUCH ACT OR ANY SUCCESSOR LAW; (2) THE SALE WOULD NOT HAVE OCCURRED BETWEEN SUCH RELATED PERSONS WERE IT NOT FOR SUCH RESOLUTION PLAN OR DIVESTITURE; AND (3) IN ACQUIRING SUCH PROPERTY OR SERVICES, THE VENDOR DID NOT CLAIM AN EXEMPTION FROM THE TAX IMPOSED BY THIS STATE OR ANOTHER STATE BASED ON THE VENDOR'S INTENT TO RESELL SUCH SERVICES OR PROPERTY. A PERSON IS RELATED TO ANOTHER PERSON

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

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FOR PURPOSES OF THIS SUBDIVISION IF THE PERSON BEARS A RELATIONSHIP TO SUCH PERSON DESCRIBED IN SECTION TWO HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE. THE EXEMPTION PROVIDED BY THIS SUBDIVISION SHALL NOT APPLY AFTER JUNE THIRTIETH, TWO THOUSAND NINETEEN, EXCEPT WITH RESPECT TO TRANSACTIONS OCCURRING PURSUANT TO BINDING CONTRACTS ENTERED INTO ON OR BEFORE SUCH DATE.

S 2. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing September 1, 2015 and shall apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law; provided, further, that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and issue any procedure, forms or instructions necessary to implement this act on its effective date.