

4775

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

Introduced by Sen. FUNKE -- 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 the sale of plug-in hybrid electric vehicles from state sales and compensating use taxes, and to authorize cities and counties to grant such exemption

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) THE RECEIPTS FROM THE RETAIL SALE OF NEW PLUG-IN HYBRID ELECTRIC  
4 VEHICLES. FOR PURPOSES OF THIS PARAGRAPH THE TERM "PLUG-IN HYBRID ELEC-  
5 TRIC VEHICLE" MEANS A MOTOR VEHICLE, AS DEFINED IN SECTION ONE HUNDRED  
6 TWENTY-FIVE OF THE VEHICLE AND TRAFFIC LAW, THAT:

7 (I) DRAWS PROPULSION USING A TRACTION BATTERY WITH AT LEAST FOUR KILO-  
8 WATT HOURS OF CAPACITY;

9 (II) USES AN EXTERNAL SOURCE OF ENERGY TO RECHARGE SUCH BATTERY;

10 (III) THE ORIGINAL USE OF WHICH COMMENCES WITH THE TAXPAYER;

11 (IV) IS ACQUIRED FOR USE OR LEASE BY THE TAXPAYER AND NOT FOR RESALE;  
12 AND

13 (V) IS MADE BY A MANUFACTURER.

14 S 2. Section 1160 of the tax law is amended by adding a new subdivi-  
15 sion (c) to read as follows:

16 (C) THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION PROVIDED FOR IN  
17 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
18 FIFTEEN OF THIS CHAPTER SHALL NOT APPLY TO OR LIMIT THE IMPOSITION OF  
19 THE TAX IMPOSED PURSUANT TO THIS ARTICLE.

20 S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
21 amended by chapter 13 of the laws of 2013, is amended to read as  
22 follows:

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

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1 (1) Either, all of the taxes described in article twenty-eight of this  
2 chapter, at the same uniform rate, as to which taxes all provisions of  
3 the local laws, ordinances or resolutions imposing such taxes shall be  
4 identical, except as to rate and except as otherwise provided, with the  
5 corresponding provisions in such article twenty-eight, including the  
6 definition and exemption provisions of such article, so far as the  
7 provisions of such article twenty-eight can be made applicable to the  
8 taxes imposed by such city or county and with such limitations and  
9 special provisions as are set forth in this article. The taxes author-  
10 ized under this subdivision may not be imposed by a city or county  
11 unless the local law, ordinance or resolution imposes such taxes so as  
12 to include all portions and all types of receipts, charges or rents,  
13 subject to state tax under sections eleven hundred five and eleven  
14 hundred ten of this chapter, except as otherwise provided. (i) Any local  
15 law, ordinance or resolution enacted by any city of less than one  
16 million or by any county or school district, imposing the taxes author-  
17 ized by this subdivision, shall, notwithstanding any provision of law to  
18 the contrary, exclude from the operation of such local taxes all sales  
19 of tangible personal property for use or consumption directly and  
20 predominantly in the production of tangible personal property, gas,  
21 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
22 essing, generating, assembly, refining, mining or extracting; and all  
23 sales of tangible personal property for use or consumption predominantly  
24 either in the production of tangible personal property, for sale, by  
25 farming or in a commercial horse boarding operation, or in both; and,  
26 unless such city, county or school district elects otherwise, shall omit  
27 the provision for credit or refund contained in clause six of subdivi-  
28 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
29 chapter. (ii) Any local law, ordinance or resolution enacted by any  
30 city, county or school district, imposing the taxes authorized by this  
31 subdivision, shall omit the residential solar energy systems equipment  
32 exemption provided for in subdivision (ee), the commercial solar energy  
33 systems equipment exemption provided for in subdivision (ii) and the  
34 clothing and footwear exemption provided for in paragraph thirty AND THE  
35 NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION PROVIDED FOR IN PARAGRAPH  
36 FORTY-FOUR of subdivision (a) of section eleven hundred fifteen of this  
37 chapter, unless such city, county or school district elects otherwise as  
38 to either such residential solar energy systems equipment exemption,  
39 such commercial solar energy systems equipment exemption or such cloth-  
40 ing and footwear exemption OR SUCH NEW PLUG-IN HYBRID ELECTRIC VEHICLE  
41 EXEMPTION.

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

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

46 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
47 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
48 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
49 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS  
50 THE NEW PLUG-IN HYBRID ELECTRIC VEHICLES EXEMPTION FROM STATE SALES AND  
51 COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION  
52 (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A  
53 RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;  
54 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND  
55 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED  
56 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION

1 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS  
2 IF THEY HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY  
3 THE GOVERNOR.

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

6 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
7 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
8 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
9 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK TAX LAW SHALL ALSO  
10 BE EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURIS-  
11 DICTION.

12 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
13 YEAR, BUT NOT EARLIER THAN THE YEAR 2015) AND SHALL APPLY TO SALES MADE,  
14 SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN ACCORD-  
15 ANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106, 1216  
16 AND 1217 OF THE NEW YORK TAX LAW.

17 S 5. This act shall take effect October 1, 2015.