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I N S E N A T E

February 2, 2016

Introduced by Sen. SERINO -- 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 drugs and medicines for companion and farm animals

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 3-a to read as follows:
3 (3-A) DRUGS AND MEDICINES INTENDED FOR USE, INTERNALLY OR EXTERNALLY,
4 IN THE CURE, MITIGATION, TREATMENT OR PREVENTION OF ILLNESSES OR
5 DISEASES IN COMPANION ANIMALS, AS DEFINED BY SUBDIVISION FIVE OF SECTION
6 THREE HUNDRED FIFTY OF THE AGRICULTURE AND MARKETS LAW, AND FARM
7 ANIMALS, AS DEFINED BY SUBDIVISION FOUR OF SECTION THREE HUNDRED FIFTY
8 OF THE AGRICULTURE AND MARKETS LAW, MEDICAL EQUIPMENT (INCLUDING COMPO-
9 NENT PARTS THEREOF) AND SUPPLIES REQUIRED FOR SUCH USE OR TO CORRECT OR
10 ALLEVIATE PHYSICAL INCAPACITY.
11 S 2. Subdivision (b) of section 1107 of the tax law is amended by
12 adding a new clause 12 to read as follows:
13 (12) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EXEMPTION PROVIDED BY
14 PARAGRAPH THREE-A OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN
15 OF THIS ARTICLE RELATING TO DRUGS AND MEDICINES INTENDED FOR USE IN
16 COMPANION ANIMALS AND FARM ANIMALS SHALL BE APPLICABLE PURSUANT TO A
17 LOCAL LAW, ORDINANCE OR RESOLUTION ADOPTED BY A CITY SUBJECT TO THE
18 PROVISIONS OF THIS CLAUSE. SUCH CITY IS EMPOWERED TO ADOPT OR REPEAL
19 SUCH A LOCAL LAW, ORDINANCE OR RESOLUTION. SUCH ADOPTION OR REPEAL SHALL
20 ALSO BE DEEMED TO AMEND ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED
21 BY SUCH A CITY IMPOSING TAXES PURSUANT TO THE AUTHORITY OF SUBDIVISION
22 (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER.
23 S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
24 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
25 amended to read as follows:
26 (1) Either, all of the taxes described in article twenty-eight of this
27 chapter, at the same uniform rate, as to which taxes all provisions of

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

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1 the local laws, ordinances or resolutions imposing such taxes shall be
2 identical, except as to rate and except as otherwise provided, with the
3 corresponding provisions in such article twenty-eight, including the
4 definition and exemption provisions of such article, so far as the
5 provisions of such article twenty-eight can be made applicable to the
6 taxes imposed by such city or county and with such limitations and
7 special provisions as are set forth in this article. The taxes author-
8 ized under this subdivision may not be imposed by a city or county
9 unless the local law, ordinance or resolution imposes such taxes so as
10 to include all portions and all types of receipts, charges or rents,
11 subject to state tax under sections eleven hundred five and eleven
12 hundred ten of this chapter, except as otherwise provided. (i) Any local
13 law, ordinance or resolution enacted by any city of less than one
14 million or by any county or school district, imposing the taxes author-
15 ized by this subdivision, shall, notwithstanding any provision of law to
16 the contrary, exclude from the operation of such local taxes all sales
17 of tangible personal property for use or consumption directly and
18 predominantly in the production of tangible personal property, gas,
19 electricity, refrigeration or steam, for sale, by manufacturing, proc-
20 essing, generating, assembly, refining, mining or extracting; and all
21 sales of tangible personal property for use or consumption predominantly
22 either in the production of tangible personal property, for sale, by
23 farming or in a commercial horse boarding operation, or in both; and,
24 unless such city, county or school district elects otherwise, shall omit
25 the provision for credit or refund contained in clause six of subdivi-
26 sion (a) or subdivision (d) of section eleven hundred nineteen of this
27 chapter. (ii) Any local law, ordinance or resolution enacted by any
28 city, county or school district, imposing the taxes authorized by this
29 subdivision, shall omit the residential solar energy systems equipment
30 and electricity exemption provided for in subdivision (ee) OF SECTION
31 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, the commercial solar energy
32 systems equipment and electricity exemption provided for in subdivision
33 (ii) and the clothing and footwear exemption provided for in paragraph
34 thirty of subdivision (a) of section eleven hundred fifteen of this
35 chapter, unless such city, county or school district elects otherwise as
36 to either such residential solar energy systems equipment and electric-
37 ity exemption, such commercial solar energy systems equipment and elec-
38 tricity exemption or such clothing and footwear exemption. ANY LOCAL
39 LAW, ORDINANCE OR RESOLUTION ENACTED BY ANY CITY, COUNTY OR SCHOOL
40 DISTRICT, IMPOSING THE TAXES AUTHORIZED BY THIS SUBDIVISION, SHALL OMIT
41 MEDICINES INTENDED FOR USE IN COMPANION ANIMALS AND FARM ANIMALS
42 EXEMPTION PROVIDED FOR IN PARAGRAPH THREE-A OF SUBDIVISION (A) OF
43 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH CITY, COUNTY
44 OR SCHOOL DISTRICT ELECTS OTHERWISE; PROVIDED THAT IF SUCH A CITY HAVING
45 A POPULATION OF ONE MILLION OR MORE ENACTS THE RESOLUTION DESCRIBED IN
46 SUBDIVISION (Q) OF THIS SECTION OR REPEALS SUCH RESOLUTION, SUCH RESOL-
47 UTION OR REPEAL SHALL ALSO BE DEEMED TO AMEND ANY LOCAL LAW, ORDINANCE
48 OR RESOLUTION ENACTED BY SUCH A CITY IMPOSING SUCH TAXES PURSUANT TO THE
49 AUTHORITY OF THIS SUBDIVISION, WHETHER OR NOT SUCH TAXES ARE SUSPENDED
50 AT THE TIME SUCH CITY ENACTS ITS RESOLUTION PURSUANT TO SUBDIVISION (Q)
51 OF THIS SECTION OR AT THE TIME OF ANY SUCH REPEAL; PROVIDED, FURTHER,
52 THAT ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION AND SECTION ELEVEN
53 HUNDRED SEVEN OF THIS CHAPTER, AS DEEMED TO BE AMENDED IN THE EVENT A
54 CITY OF ONE MILLION OR MORE ENACTS A RESOLUTION PURSUANT TO THE AUTHORI-
55 TY OF SUBDIVISION (Q) OF THIS SECTION, SHALL BE FURTHER AMENDED, AS
56 PROVIDED IN SECTION TWELVE HUNDRED EIGHTEEN OF THIS SUBPART, SO THAT THE

1 MEDICINES INTENDED FOR USE IN COMPANION ANIMALS AND FARM ANIMALS
2 EXEMPTION IN ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION OR IN SUCH
3 SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER IS THE SAME AS THE MEDI-
4 CINES INTENDED FOR USE IN COMPANION ANIMALS AND FARM ANIMALS IN PARA-
5 GRAPH THREE-A OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
6 THIS CHAPTER.

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

10 (d) A local law, ordinance or resolution imposing any tax pursuant to
11 this section, increasing or decreasing the rate of such tax, repealing
12 or suspending such tax, exempting from such tax the energy sources and
13 services described in paragraph three of subdivision (a) or of subdivi-
14 sion (b) of this section or changing the rate of tax imposed on such
15 energy sources and services or providing for the credit or refund
16 described in clause six of subdivision (a) of section eleven hundred
17 nineteen of this chapter, or electing or repealing the exemption for
18 residential solar equipment and electricity in subdivision (ee) of
19 section eleven hundred fifteen of this [article] CHAPTER, or the
20 exemption for commercial solar equipment and electricity in subdivision
21 (ii) of section eleven hundred fifteen of this [article] CHAPTER must go
22 into effect only on one of the following dates: March first, June first,
23 September first or December first; provided, that a local law, ordinance
24 or resolution providing for the exemption described in paragraph thirty
25 of subdivision (a) of section eleven hundred fifteen of this chapter or
26 repealing any such exemption or a local law, ordinance or resolution
27 providing for a refund or credit described in subdivision (d) of section
28 eleven hundred nineteen of this chapter or repealing such provision so
29 provided must go into effect only on March first; PROVIDED, FURTHER,
30 THAT A LOCAL LAW, ORDINANCE OR RESOLUTION PROVIDING FOR THE EXEMPTION
31 DESCRIBED IN PARAGRAPH THREE-A OF SUBDIVISION (A) OF SECTION ELEVEN
32 HUNDRED FIFTEEN OF THIS CHAPTER OR REPEALING ANY SUCH EXEMPTION SO
33 PROVIDED AND A RESOLUTION ENACTED PURSUANT TO THE AUTHORITY OF SUBDIVI-
34 SION (Q) OF THIS SECTION PROVIDING SUCH EXEMPTION OR REPEALING SUCH
35 EXEMPTION SO PROVIDED MAY GO INTO EFFECT IMMEDIATELY. No such local
36 law, ordinance or resolution shall be effective unless a certified copy
37 of such law, ordinance or resolution is mailed by registered or certi-
38 fied mail to the commissioner at the commissioner's office in Albany at
39 least ninety days prior to the date it is to become effective. However,
40 the commissioner may waive and reduce such ninety-day minimum notice
41 requirement to a mailing of such certified copy by registered or certi-
42 fied mail within a period of not less than thirty days prior to such
43 effective date if the commissioner deems such action to be consistent
44 with the commissioner's duties under section twelve hundred fifty of
45 this article and the commissioner acts by resolution. Where the
46 restriction provided for in section twelve hundred twenty-three of this
47 article as to the effective date of a tax and the notice requirement
48 provided for therein are applicable and have not been waived, the
49 restriction and notice requirement in section twelve hundred twenty-
50 three of this article shall also apply.

51 S 5. Section 1210 of the tax law is amended by adding a new subdivi-
52 sion (q) to read as follows:

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

55 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
56 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN

1 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
2 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE
3 SAME MEDICINES INTENDED FOR USE IN COMPANION ANIMALS AND FARM ANIMALS
4 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARA-
5 GRAPH THREE-A OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
6 THIS CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH
7 TWO OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS
8 OF SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH
9 RESOLUTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN
10 HUNDRED SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO
11 INCORPORATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE
12 LEGISLATURE AND APPROVED BY THE GOVERNOR.

13 (2) THE RESOLUTION DESCRIBED IN PARAGRAPH (1) OF THIS SUBDIVISION
14 SHALL READ AS FOLLOWS: BE IT ENACTED BY THE (INSERT PROPER TITLE OF
15 LOCAL LEGISLATIVE BODY) AS FOLLOWS:

16 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
17 CONTRACTED TO BE GIVEN FOR PURCHASES OF MEDICINES INTENDED FOR USE IN
18 COMPANION ANIMALS AND FARM ANIMALS EXEMPT FROM STATE SALES AND COMPEN-
19 SATING USE TAXES PURSUANT TO PARAGRAPH THREE-A OF SUBDIVISION (A) OF
20 SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX LAW SHALL ALSO BE EXEMPT FROM
21 SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

22 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT, (INSERT THE DATE) AND
23 SHALL APPLY TO SALES MADE AND USES OCCURRING ON AND AFTER THAT DATE
24 ALTHOUGH MADE OR OCCURRING UNDER A PRIOR CONTRACT.

25 S 6. The commissioner of taxation and finance is hereby authorized to
26 implement the provisions of this act with respect to the elimination of
27 the imposition of sales tax, additional taxes, and supplemental taxes on
28 medicines intended for use in companion animals and farm animals and all
29 other taxes so addressed by this act.

30 S 7. This act shall take effect on the first day of the sales tax
31 quarterly period, as described in subdivision (b) of section 1136 of the
32 tax law, next commencing at least 90 days after this act shall have
33 become a law and shall apply in accordance with the applicable transi-
34 tional provisions of sections 1106 and 1217 of the tax law.