

7355

2015-2016 Regular Sessions

I N A S S E M B L Y

May 6, 2015

Introduced by M. of A. DILAN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting energy-star appliances from state sales and compensating use taxes and granting municipalities the option to provide such exemption; and providing for the repeal of such provisions upon expiration thereof

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) RETAIL SALES OF THE FOLLOWING PRODUCTS, PROVIDED THAT THE PRODUCT
4 QUALIFIES AS AN ENERGY-STAR PRODUCT PURSUANT TO THE UNITED STATES ENVI-
5 RONMENTAL PROTECTION AGENCY ENERGY-STAR PROGRAM, SHALL BE EXEMPT FROM
6 THE SALES TAX PROVISIONS OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE:
7 CLOTHES WASHER, DISHWASHER, REFRIGERATOR, ROOM AIR CONDITIONER, CEILING
8 FAN, DEHUMIDIFIER, FREEZER, PROGRAMMABLE THERMOSTAT, AND VENTILATING
9 FAN. THE EXEMPTION PROVIDED FOR IN THIS SUBDIVISION SHALL NOT APPLY TO
10 THE RENTAL, LEASING, REPAIR OR SERVICING OF SUCH ENERGY-STAR PRODUCTS.

11 S 2. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
12 amended by chapter 13 of the laws of 2013, is amended to read as
13 follows:

14 (1) Either, all of the taxes described in article twenty-eight of this
15 chapter, at the same uniform rate, as to which taxes all provisions of
16 the local laws, ordinances or resolutions imposing such taxes shall be
17 identical, except as to rate and except as otherwise provided, with the
18 corresponding provisions in such article twenty-eight, including the
19 definition and exemption provisions of such article, so far as the
20 provisions of such article twenty-eight can be made applicable to the
21 taxes imposed by such city or county and with such limitations and
22 special provisions as are set forth in this article. The taxes author-
23 ized under this subdivision may not be imposed by a city or county

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

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1 unless the local law, ordinance or resolution imposes such taxes so as
2 to include all portions and all types of receipts, charges or rents,
3 subject to state tax under sections eleven hundred five and eleven
4 hundred ten of this chapter, except as otherwise provided. (i) Any local
5 law, ordinance or resolution enacted by any city of less than one
6 million or by any county or school district, imposing the taxes author-
7 ized by this subdivision, shall, notwithstanding any provision of law to
8 the contrary, exclude from the operation of such local taxes all sales
9 of tangible personal property for use or consumption directly and
10 predominantly in the production of tangible personal property, gas,
11 electricity, refrigeration or steam, for sale, by manufacturing, proc-
12 essing, generating, assembly, refining, mining or extracting; and all
13 sales of tangible personal property for use or consumption predominantly
14 either in the production of tangible personal property, for sale, by
15 farming or in a commercial horse boarding operation, or in both; and,
16 unless such city, county or school district elects otherwise, shall omit
17 the provision for credit or refund contained in clause six of subdivi-
18 sion (a) or subdivision (d) of section eleven hundred nineteen of this
19 chapter. (ii) Any local law, ordinance or resolution enacted by any
20 city, county or school district, imposing the taxes authorized by this
21 subdivision, shall omit the residential solar energy systems equipment
22 exemption provided for in subdivision (ee), the commercial solar energy
23 systems equipment exemption provided for in subdivision (ii) and the
24 clothing and footwear exemption provided for in paragraph thirty of
25 subdivision (a) of section eleven hundred fifteen of this chapter, AND
26 THE ENERGY-STAR PRODUCT EXEMPTION PROVIDED FOR IN PARAGRAPH FORTY-FOUR
27 OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER
28 unless such city, county or school district elects otherwise as to
29 either such residential solar energy systems equipment exemption, such
30 commercial solar energy systems equipment exemption or such clothing and
31 footwear exemption OR SUCH ENERGY-STAR PRODUCT EXEMPTION.

32 S 3. Section 1210 of the tax law is amended by adding a new subdivi-
33 sion (q) to read as follows:

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

36 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
37 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
38 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
39 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTIONS FROM SUCH TAXES AS
40 THE ENERGY-STAR PRODUCT EXEMPTION FROM STATE SALES AND COMPENSATING USE
41 TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION
42 ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION IN THE
43 FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION; WHEREUPON, UPON
44 COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND (E) OF THIS
45 SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED TO BE AN
46 AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION ELEVEN
47 HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTIONS AS IF THEY
48 HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE
49 GOVERNOR.

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

52 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
53 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES
54 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH
55 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE

1 EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDIC-
2 TION.

3 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT
4 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2015) AND SHALL APPLY TO SALES
5 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN
6 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,
7 1216 AND 1217 OF THE NEW YORK TAX LAW.

8 S 4. This act shall take effect April 1, 2016 and shall be deemed
9 repealed April 1, 2021.