

1294--A

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

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.