

1804--A

2015-2016 Regular Sessions

I N   S E N A T E

January 14, 2015

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Introduced by Sens. MARCELLINO, ADDABBO, AVELLA, BOYLE, MARTINS, MURPHY, PANEPINTO -- 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 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, AIR PURIFIER, CLOTHES DRYER 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

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

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

37 S 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
38 amended by section 3 of part Z of chapter 59 of the laws of 2015, is  
39 amended to read as follows:

40 (1) Either, all of the taxes described in article twenty-eight of this  
41 chapter, at the same uniform rate, as to which taxes all provisions of  
42 the local laws, ordinances or resolutions imposing such taxes shall be  
43 identical, except as to rate and except as otherwise provided, with the  
44 corresponding provisions in such article twenty-eight, including the  
45 definition and exemption provisions of such article, so far as the  
46 provisions of such article twenty-eight can be made applicable to the  
47 taxes imposed by such city or county and with such limitations and  
48 special provisions as are set forth in this article. The taxes author-  
49 ized under this subdivision may not be imposed by a city or county  
50 unless the local law, ordinance or resolution imposes such taxes so as  
51 to include all portions and all types of receipts, charges or rents,  
52 subject to state tax under sections eleven hundred five and eleven  
53 hundred ten of this chapter, except as otherwise provided. (i) Any local  
54 law, ordinance or resolution enacted by any city of less than one  
55 million or by any county or school district, imposing the taxes author-  
56 ized by this subdivision, shall, notwithstanding any provision of law to

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

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

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

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

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

46 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
47 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, PROPERTY AND SERVICES  
48 EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO PARAGRAPH  
49 44 OF SUBDIVISION (A) OF SECTION 1115 OF THE TAX LAW SHALL ALSO BE  
50 EXEMPT FROM SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDIC-  
51 TION.

52 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT SEPTEMBER 1, (INSERT  
53 THE YEAR, BUT NOT EARLIER THAN THE YEAR 2015) AND SHALL APPLY TO SALES  
54 MADE, SERVICES RENDERED AND USES OCCURRING ON AND AFTER THAT DATE IN  
55 ACCORDANCE WITH THE APPLICABLE TRANSITIONAL PROVISIONS IN SECTIONS 1106,  
56 1216 AND 1217 OF THE NEW YORK TAX LAW.

1 S 5. This act shall take effect April 1, 2016; provided that:

2 a. the amendments to paragraph 1 of subdivision (a) of section 1210 of  
3 the tax law made by section three of this act shall take effect on the  
4 same date and in the same manner as section 3 of part Z of chapter 59 of  
5 the laws of 2015 takes effect; and

6 b. this act shall expire and be deemed repealed on April 1, 2021.