

1804--A

2015-2016 Regular Sessions

I N S E N A T E

January 14, 2015

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.

LBD04079-05-5

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.