

762--B

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

January 7, 2015

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 providing an exemption for alternative energy systems from the state's sales and compensating use taxes and authorizing counties and cities to elect such exemption from their sales and use taxes imposed by or pursuant to the authority of such law; 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 (b) of section 1101 of the tax law is amended  
2     by adding a new paragraph 39 to read as follows:  
3     (39) ALTERNATIVE ENERGY SYSTEMS. NEW ENERGY STAR APPLIANCES AND TANGI-  
4     BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-  
5     DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF  
6     SUCH STRUCTURES CONSIST OF: (I) SYSTEMS WHICH DO NOT RELY ON PETROLEUM  
7     PRODUCTS OR NATURAL GAS AS THEIR ENERGY SOURCE OR FUEL CELL ELECTRIC  
8     GENERATION EQUIPMENT AS DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (G-2)  
9     OF SECTION SIX HUNDRED SIX OF THIS CHAPTER; (II) NEW ENERGY STAR APPLI-  
10    ANCES, INCLUDING RESIDENTIAL REFRIGERATORS, FREEZERS, CLOTHING WASHERS  
11    (BUT NOT A COMBINATION WASHER/DRYER UNLESS THE CLOTHING IS WASHED AND  
12    DRIED IN THE SAME COMPARTMENT), LIGHT FIXTURES WHICH USE A PIN-BASED  
13    COMPACT FLUORESCENT BULB, NON-COMMERCIAL CEILING FANS OR CEILING FAN AND  
14    LIGHT KITS, DISHWASHER OR AIR CONDITIONERS, SOLD AT RETAIL, PROVIDED

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

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1 SUCH APPLIANCES QUALIFY FOR AND ARE LABELED WITH, AN ENERGY STAR LABEL  
2 BY THE MANUFACTURER, PURSUANT TO AN AGREEMENT AMONG THE MANUFACTURER,  
3 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE UNITED STATES  
4 DEPARTMENT OF ENERGY; AND (III) TANGIBLE PERSONAL PROPERTY THAT IMPROVES  
5 THE ENERGY EFFICIENCY OF RESIDENTIAL AND NON-RESIDENTIAL HEATING AND  
6 COOLING SYSTEMS, INCLUDING BUT NOT LIMITED TO, INSULATION AND WEATHER  
7 STRIPPING AND PRODUCTS, SUCH AS ROOFING, WINDOWS, DOORS AND SKYLIGHTS  
8 APPROVED BY THE ENERGY STAR PROGRAM.

9 S 2. Subdivision (a) of section 1115 of the tax law is amended by  
10 adding a new paragraph 44 to read as follows:

11 (44) ALTERNATIVE ENERGY SYSTEMS, NEW ENERGY STAR APPLIANCES AND TANGI-  
12 BLE PERSONAL PROPERTY USED IN OR ON HABITABLE RESIDENTIAL AND NON-RESI-  
13 DENTIAL STRUCTURES FOR THE PURPOSE OF IMPROVING THE ENERGY EFFICIENCY OF  
14 SUCH STRUCTURES, AS DEFINED IN PARAGRAPH THIRTY-NINE OF SUBDIVISION (B)  
15 OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE.

16 S 3. Clause 9 of subdivision (b) of section 1107 of the tax law, as  
17 amended by section 78 of part A of chapter 56 of the laws of 1998, is  
18 amended to read as follows:

19 (9) Except as otherwise provided by law, the [exemption] EXEMPTIONS  
20 provided for in paragraph thirty of subdivision (a) of section eleven  
21 hundred fifteen OF THIS ARTICLE relating to clothing and footwear AND  
22 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED  
23 FIFTEEN OF THIS ARTICLE RELATING TO ALTERNATIVE ENERGY SYSTEMS shall not  
24 apply.

25 S 4. Subdivision (f) of section 1109 of the tax law, as added by  
26 section 118-a of part A of chapter 389 of the laws of 1997, is amended  
27 to read as follows:

28 (f) The [exemption] EXEMPTIONS contained in [paragraph] PARAGRAPHS  
29 thirty AND FORTY-FOUR of subdivision (a) of section eleven hundred  
30 fifteen of this article shall not apply.

31 S 5. Section 1109 of the tax law is amended by adding a new subdivi-  
32 sion (i) to read as follows:

33 (I) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-  
34 NANCE OR RESOLUTION TO THE CONTRARY: (1) IN THE EVENT THAT A COUNTY,  
35 CITY OR SCHOOL DISTRICT LOCATED IN THE METROPOLITAN COMMUTER TRANSPORTA-  
36 TION DISTRICT IMPOSES TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF  
37 PART I OF ARTICLE TWENTY-NINE OF THIS CHAPTER AND ELECTS TO PROVIDE THE  
38 ALTERNATIVE ENERGY SYSTEMS EXEMPTION AUTHORIZED IN PARAGRAPH ONE OF  
39 SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS CHAPTER, OR A CITY  
40 LOCATED IN SUCH DISTRICT IN WHICH THE TAXES PROVIDED FOR IN SECTION  
41 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT ELECTS TO PROVIDE SUCH  
42 ALTERNATIVE ENERGY SYSTEMS EXEMPTION FROM SUCH TAXES PURSUANT TO THE  
43 AUTHORITY OF SUBDIVISION (Q) OF SECTION TWELVE HUNDRED TEN OF THIS CHAP-  
44 TER, OR THE TAXES PROVIDED FOR IN SECTION ELEVEN HUNDRED EIGHT OF THIS  
45 PART ARE IN EFFECT IN A CITY LOCATED IN SUCH DISTRICT, THE EXEMPTION  
46 PROVIDED BY PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN  
47 HUNDRED FIFTEEN OF THIS ARTICLE SHALL BE APPLICABLE IN SUCH PORTION OF  
48 THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN WHICH SUCH COUNTY,  
49 CITY OR SCHOOL DISTRICT IS LOCATED. THE COMMISSIONER SHALL DETERMINE AND  
50 CERTIFY TO THE COMPTROLLER THE AMOUNT OF REVENUE FORGONE AT THE RATE OF  
51 ONE-QUARTER OF ONE PERCENT UNDER THIS SECTION IN SUCH COUNTY, CITY OR  
52 SCHOOL DISTRICT ON ACCOUNT OF SALES OF ALTERNATIVE ENERGY SYSTEMS IN  
53 SUCH COUNTY, CITY OR SCHOOL DISTRICT.

54 (2) COMMENCING WITH THE SALES TAX QUARTERLY PERIOD WHICH COMMENCES ON  
55 JUNE FIRST, TWO THOUSAND SIXTEEN, THE COMMISSIONER SHALL MAKE SUCH  
56 DETERMINATIONS AND CERTIFICATIONS ON THE TWELFTH DAY OF THE MONTH

1 FOLLOWING THE MONTH IN WHICH SALES TAX QUARTERLY RETURNS ARE DUE UNDER  
2 SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS ARTICLE WITH RESPECT TO SUCH  
3 QUARTERLY PERIOD FOR AS LONG AS SUCH ALTERNATIVE ENERGY SYSTEMS  
4 EXEMPTIONS FROM SUCH TAXES IMPOSED PURSUANT TO THE AUTHORITY OF ARTICLE  
5 TWENTY-NINE OF THIS CHAPTER OR BY SECTION ELEVEN HUNDRED SEVEN OR ELEVEN  
6 HUNDRED EIGHT OF THIS PART ARE IN EFFECT. NEITHER THE COMMISSIONER NOR  
7 THE COMPTROLLER SHALL BE HELD LIABLE FOR ANY INACCURACY IN SUCH DETERMI-  
8 NATIONS AND CERTIFICATIONS. SUCH DETERMINATIONS AND CERTIFICATIONS MAY  
9 BE BASED ON SUCH INFORMATION AS MAY BE AVAILABLE TO THE COMMISSIONER AT  
10 THE TIME SUCH DETERMINATIONS AND CERTIFICATIONS MUST BE MADE UNDER THIS  
11 SUBDIVISION AND MAY BE ESTIMATED ON THE BASIS OF PERCENTAGES OR OTHER  
12 INDICES CALCULATED FROM DISTRIBUTIONS FROM PRIOR PERIODS. THE COMMIS-  
13 SIONER SHALL BE AUTHORIZED TO REQUIRE SUCH INFORMATION AS THE COMMIS-  
14 SIONER DEEMS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVI-  
15 SION FROM PERSONS REQUIRED TO FILE RETURNS UNDER SECTION ELEVEN HUNDRED  
16 THIRTY-SIX OF THIS ARTICLE.

17 (3) BY THE FIFTEENTH DAY OF THE MONTH IN WHICH THE COMMISSIONER HAS  
18 MADE THE CERTIFICATIONS TO THE COMPTROLLER DESCRIBED IN PARAGRAPH TWO OF  
19 THIS SUBDIVISION, THE COMPTROLLER SHALL BILL ANY COUNTY, CITY OR SCHOOL  
20 DISTRICT IN SUCH METROPOLITAN COMMUTER TRANSPORTATION DISTRICT WHICH  
21 PROVIDES SUCH ALTERNATIVE ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH  
22 DISTRICT IN WHICH THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF  
23 THIS PART ARE IN EFFECT WHICH HAS ELECTED TO PROVIDE SUCH ALTERNATIVE  
24 ENERGY SYSTEMS EXEMPTION, AND ANY CITY IN SUCH DISTRICT IN WHICH THE  
25 TAXES IMPOSED BY SECTION ELEVEN HUNDRED EIGHT OF THIS PART ARE IN  
26 EFFECT, AN AMOUNT EQUAL TO ONE-HALF OF THE AMOUNT CERTIFIED TO THE COMP-  
27 TROLLER BY THE COMMISSIONER IN RESPECT OF SUCH COUNTY, CITY OR SCHOOL  
28 DISTRICT; AND SUCH COUNTY, CITY OR SCHOOL DISTRICT SHALL PAY THE AMOUNT  
29 OF SUCH BILL TO THE COMPTROLLER BY THE TWENTY-FIFTH DAY OF SUCH MONTH.  
30 THE COMPTROLLER SHALL DEPOSIT ANY SUCH AMOUNTS RECEIVED IN THE MASS  
31 TRANSPORTATION OPERATING ASSISTANCE FUND ESTABLISHED BY SECTION EIGHTY-  
32 EIGHT-A OF THE STATE FINANCE LAW TO THE CREDIT OF THE METROPOLITAN MASS  
33 TRANSPORTATION OPERATING ASSISTANCE ACCOUNT THEREIN.

34 (4) IN THE EVENT THAT A COUNTY, CITY OR SCHOOL DISTRICT IMPOSING TAX  
35 PURSUANT TO THE AUTHORITY OF SUBPART B OF PART I OF ARTICLE TWENTY-NINE  
36 OF THIS CHAPTER DOES NOT PAY IN FULL A BILL DESCRIBED IN PARAGRAPH THREE  
37 OF THIS SUBDIVISION BY THE TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN  
38 PARAGRAPHS TWO AND THREE OF THIS SUBDIVISION, THE COMPTROLLER SHALL  
39 DEDUCT ANY AMOUNT NOT PAID FROM THE AMOUNT OF THE NEXT PAYMENT OR  
40 PAYMENTS DUE SUCH COUNTY, CITY OR SCHOOL DISTRICT PURSUANT TO SUBDIVI-  
41 SION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER UNTIL SUCH  
42 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE  
43 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING  
44 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS  
45 SUBDIVISION.

46 (5) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION  
47 ELEVEN HUNDRED SEVEN OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A  
48 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE  
49 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF  
50 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM  
51 THE AMOUNT OF THE NEXT PAYMENT OR PAYMENTS DUE SUCH CITY, WITH RESPECT  
52 TO TAXES, PENALTY AND INTEREST IMPOSED PURSUANT TO THE AUTHORITY OF  
53 SECTION TWELVE HUNDRED TWELVE-A OF THIS CHAPTER, PURSUANT TO SUBDIVISION  
54 (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THIS CHAPTER, UNTIL SUCH  
55 AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL DEPOSIT THE  
56 AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION OPERATING

1 ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE OF THIS  
2 SUBDIVISION.

3 (6) IN THE EVENT THAT A CITY IN WHICH THE TAXES IMPOSED BY SECTION  
4 ELEVEN HUNDRED EIGHT OF THIS PART ARE IN EFFECT DOES NOT PAY IN FULL A  
5 BILL DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION BY THE  
6 TWENTY-FIFTH DAY OF THE MONTH DESCRIBED IN PARAGRAPHS TWO AND THREE OF  
7 THIS SUBDIVISION, THE COMPTROLLER SHALL DEDUCT ANY AMOUNT NOT PAID FROM  
8 THE AMOUNT OF ANY OTHER MONEYS DUE SUCH CITY FROM THE COMPTROLLER, NOT  
9 OTHERWISE PLEDGED, DEDICATED OR ENCUMBERED PURSUANT TO OTHER STATE LAW,  
10 UNTIL SUCH AMOUNT NOT PAID HAS BEEN RECOVERED. THE COMPTROLLER SHALL  
11 DEPOSIT THE AMOUNTS SO DEDUCTED AND RECOVERED IN THE MASS TRANSPORTATION  
12 OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN PARAGRAPH THREE  
13 OF THIS SUBDIVISION.

14 (7) THE COMMISSIONER SHALL CERTIFY THE AMOUNT OF ANY OVER CALCULATION  
15 OR UNDER CALCULATION OF ANY CERTIFICATION REQUIRED TO BE MADE TO THE  
16 COMPTROLLER UNDER PARAGRAPH THREE OF THIS SUBDIVISION AS SOON AFTER ITS  
17 DISCOVERY AS REASONABLY POSSIBLE AND SUBSEQUENT BILLS TO A CITY, COUNTY  
18 OR SCHOOL DISTRICT TO WHICH THE OVER CALCULATION OR UNDER CALCULATION  
19 RELATES SHALL BE ADJUSTED ACCORDINGLY, PROVIDED THAT THE COMPTROLLER MAY  
20 ADJUST SUCH NUMBER OF SUBSEQUENT BILLS AS THE COMPTROLLER SHALL CONSIDER  
21 REASONABLE IN VIEW OF THE AMOUNT OF THE ADJUSTMENT AND ALL OTHER FACTS  
22 AND CIRCUMSTANCES.

23 (8) ON THE SAME DATE THAT THE COMPTROLLER IS REQUIRED TO BILL A COUN-  
24 TY, CITY OR SCHOOL DISTRICT AN AMOUNT AS PROVIDED IN PARAGRAPH THREE OF  
25 THIS SUBDIVISION, THE COMPTROLLER SHALL, AFTER HAVING FIRST MADE ANY  
26 DEPOSITS REQUIRED BY SECTION NINETY-TWO-R OF THE STATE FINANCE LAW AND  
27 ONLY TO THE EXTENT THAT THERE ARE MONEYS REMAINING AFTER HAVING MADE  
28 SUCH REQUIRED DEPOSITS, WITHDRAW FROM THE STATE TREASURY, TO THE DEBIT  
29 OF THE GENERAL FUND, AN AMOUNT EQUAL TO THE TOTAL OF THE AMOUNTS  
30 REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS PURSUANT  
31 TO SUCH PARAGRAPH THREE AND DEPOSIT SUCH TOTAL AMOUNT IN THE MASS TRANS-  
32 PORTATION OPERATING ASSISTANCE FUND TO BE CREDITED AS PROVIDED IN SUCH  
33 PARAGRAPH THREE. THE AMOUNT OF ANY OVER CALCULATION OR UNDER CALCULATION  
34 DETERMINED IN PARAGRAPH SEVEN OF THIS SUBDIVISION SHALL LIKEWISE BE  
35 APPLIED TO THE AMOUNTS REQUIRED TO BE DEPOSITED UNDER THIS PARAGRAPH, SO  
36 THAT THE AMOUNTS DEPOSITED UNDER THIS PARAGRAPH EQUAL THE TOTAL OF THE  
37 AMOUNTS REQUIRED TO BE BILLED TO COUNTIES, CITIES AND SCHOOL DISTRICTS  
38 UNDER SUCH PARAGRAPH THREE, AS ADJUSTED, PURSUANT TO PARAGRAPH SEVEN OF  
39 THIS SUBDIVISION.

40 S 6. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as  
41 amended by section 3 of part Z of chapter 59 of the laws of 2015, is  
42 amended to read as follows:

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

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

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

32 (d) A local law, ordinance or resolution imposing any tax pursuant to  
33 this section, increasing or decreasing the rate of such tax, repealing  
34 or suspending such tax, exempting from such tax the energy sources and  
35 services described in paragraph three of subdivision (a) or of subdivi-  
36 sion (b) of this section or changing the rate of tax imposed on such  
37 energy sources and services or providing for the credit or refund  
38 described in clause six of subdivision (a) of section eleven hundred  
39 nineteen of this chapter, or electing or repealing the exemption for  
40 residential solar equipment and electricity in subdivision (ee) of  
41 section eleven hundred fifteen of this article, or the exemption for  
42 commercial solar equipment and electricity in subdivision (ii) of  
43 section eleven hundred fifteen of this article must go into effect only  
44 on one of the following dates: March first, June first, September first  
45 or December first; provided, that a local law, ordinance or resolution  
46 providing for the exemption described in paragraph thirty OR FORTY-FOUR  
47 of subdivision (a) of section eleven hundred fifteen of this chapter or  
48 repealing any such exemption or a local law, ordinance or resolution  
49 providing for a refund or credit described in subdivision (d) of section  
50 eleven hundred nineteen of this chapter or repealing such provision so  
51 provided must go into effect only on March first. No such local law,  
52 ordinance or resolution shall be effective unless a certified copy of  
53 such law, ordinance or resolution is mailed by registered or certified  
54 mail to the commissioner at the commissioner's office in Albany at least  
55 ninety days prior to the date it is to become effective. However, the  
56 commissioner may waive and reduce such ninety-day minimum notice

1 requirement to a mailing of such certified copy by registered or certi-  
2 fied mail within a period of not less than thirty days prior to such  
3 effective date if the commissioner deems such action to be consistent  
4 with the commissioner's duties under section twelve hundred fifty of  
5 this article and the commissioner acts by resolution. Where the  
6 restriction provided for in section twelve hundred twenty-three of this  
7 article as to the effective date of a tax and the notice requirement  
8 provided for therein are applicable and have not been waived, the  
9 restriction and notice requirement in section twelve hundred twenty-  
10 three of this article shall also apply.

11 S 8. Section 1210 of the tax law is amended by adding a new subdivi-  
12 sion (q) to read as follows:

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

15 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE  
16 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN  
17 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED  
18 AND EMPOWERED TO ELECT TO PROVIDE THE EXEMPTION FROM SUCH TAXES FOR THE  
19 SAME ALTERNATIVE ENERGY SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING  
20 USE TAXES DESCRIBED IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF  
21 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER BY ENACTING A RESOLUTION  
22 EXACTLY IN THE FORM SET FORTH IN PARAGRAPH TWO OF THIS SUBDIVISION;  
23 WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF SUBDIVISIONS (D) AND  
24 (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOLUTION SHALL BE DEEMED  
25 TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED SEVEN AND SUCH SECTION  
26 ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPORATE SUCH EXEMPTION AS IF  
27 IT HAD BEEN DULY ENACTED BY THE STATE LEGISLATURE AND APPROVED BY THE  
28 GOVERNOR.

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

31 SECTION ONE. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR  
32 CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, ALTERNATIVE ENERGY  
33 SYSTEMS EXEMPT FROM STATE SALES AND COMPENSATING USE TAXES PURSUANT TO  
34 PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION 1115 OF THE NEW YORK  
35 TAX LAW SHALL ALSO BE EXEMPT FROM SALES AND COMPENSATING USE TAXES  
36 IMPOSED IN THIS JURISDICTION.

37 SECTION TWO. THIS RESOLUTION SHALL TAKE EFFECT MARCH 1, (INSERT THE  
38 YEAR, BUT NOT EARLIER THAN THE YEAR 2017) AND SHALL APPLY TO SALES MADE  
39 AND USES OCCURRING ON OR AFTER SUCH DATE IN ACCORDANCE WITH THE APPLICA-  
40 BLE TRANSITIONAL PROVISIONS OF SECTIONS 1106 AND 1217 OF THE NEW YORK  
41 TAX LAW.

42 S 9. Notwithstanding any other provision of state or local law, ordi-  
43 nance or resolution to the contrary: (a) Any county or city imposing  
44 sales and compensating use taxes pursuant to the authority of subpart B  
45 of part 1 of article 29 of the tax law, acting through its local legis-  
46 lative body, is hereby authorized and empowered to elect to provide the  
47 exemption from such taxes for alternative energy systems exempt from  
48 state sales and compensating use taxes described in paragraph 44 of  
49 subdivision (a) of section 1115 of the tax law, whether such taxes are  
50 imposed by local law, ordinance or resolution, by enacting a resolution  
51 exactly in the form set forth in subdivision (c) of this section; where-  
52 upon, upon compliance with the provisions of subdivision (d) of this  
53 section, such enactment of such resolution shall be deemed to amend such  
54 local law, ordinance or resolution imposing such taxes, and such local  
55 law, ordinance or resolution shall thenceforth be deemed to incorporate  
56 such exemption.

1 (b) Any city of one million or more in which the taxes imposed by  
2 section 1107 of the tax law are in effect, acting through its local  
3 legislative body, is hereby authorized and empowered to elect to provide  
4 the exemption from such taxes for the same alternative energy systems  
5 exempt from state sales and compensating use taxes described in para-  
6 graph 44 of subdivision (a) of section 1115 of the tax law by enacting a  
7 resolution exactly in the form set forth in subdivision (c) of this  
8 section; whereupon, upon compliance with the provisions of subdivision  
9 (d) of this section, such enactment of such resolution shall be deemed  
10 to amend such section 1107 of the tax law and such section 1107 shall  
11 thenceforth be deemed to incorporate such exemption as if it had been  
12 duly enacted by the state legislature and approved by the governor and  
13 such resolution shall also be deemed to amend any local law, ordinance  
14 or resolution enacted by such a city imposing such taxes pursuant to the  
15 authority of subdivision (a) of section 1210 of the tax law, whether or  
16 not such taxes are suspended at the time such city enacts its resolu-  
17 tion.

18 (c) Form of Resolution:

19 Be it enacted by the (insert proper title of local legislative body)  
20 as follows:

21 Section one: The (county or city) of (insert locality's name) hereby  
22 elects the alternative energy systems exemption commencing in January of  
23 2017.

24 Section two: This resolution shall take effect immediately and shall  
25 apply to sales made and uses occurring on or after such date, in accord-  
26 ance with applicable transitional provisions of the New York tax law.

27 (d) A resolution adopted pursuant to this section shall be effective  
28 only if it is adopted exactly as set forth in subdivision (c) of this  
29 section and such county or city adopts it by December 31, 2016, mails a  
30 certified copy of it to the commissioner of taxation and finance by  
31 certified mail by such date and otherwise complies with the requirements  
32 of subdivisions (d) and (e) of section 1210 of the tax law.

33 S 10. This act shall take effect immediately and shall expire and be  
34 deemed repealed two years after such date and shall apply to sales made  
35 and uses occurring during exemption periods on or after that date in  
36 accordance with the applicable transitional provisions of sections 1106  
37 and 1217 of the tax law.