STATE OF NEW YORK

9587

IN ASSEMBLY

January 24, 2018

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

AN ACT to amend the tax law, in relation to exempting the sale of plug-in hybrid electric vehicles from state sales and compensating use taxes, and to authorize cities and counties to grant such exemption

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 45 to read as follows:

(45) The receipts from the retail sale of new plug-in hybrid electric vehicles. For purposes of this paragraph the term "plug-in hybrid electric vehicle" means a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, that:

(i) draws propulsion using a traction battery with at least four kilowatt hours of capacity;

(ii) uses an external source of energy to recharge such battery;

(iii) the original use of which commences with the taxpayer;

(iv) is acquired for use or lease by the taxpayer and not for resale; and

(v) is made by a manufacturer.

§ 2. Section 1160 of the tax law is amended by adding a new subdivision (c) to read as follows:

(c) The new plug-in hybrid electric vehicles exemption provided for in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter shall not apply to or limit the imposition of the tax imposed pursuant to this article.

§ 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in

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

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subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty **and the new plug-in hybrid electric vehicles exemption provided for in paragraph forty-five** of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption **or such new plug-in hybrid electric vehicle exemption**.

§ 4. Section 1210 of the tax law is amended by adding a new subdivision (q) to read as follows:

(q) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary:

(1) Any city having a population of one million or more in which the taxes imposed by section eleven hundred seven of this chapter are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the same exemptions from such taxes as the new plug-in hybrid electric vehicles exemption from state sales and compensating use taxes described in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter by enacting a resolution in the form set forth in paragraph two of this subdivision; whereupon, upon compliance with the provisions of subdivisions (d) and (e) of this section, such enactment of such resolution shall be deemed to be an amendment to such section eleven hundred seven and such section eleven hundred seven shall be deemed to incorporate such exemptions as if they had been duly enacted by the state legislature and approved by the governor.

(2) Form of Resolution: Be it enacted by the (insert proper title of local legislative body) as follows:

Section one. Receipts from sales of and consideration given or contracted to be given for, or for the use of, property and services exempt from state sales and compensating use taxes pursuant to paragraph forty-five of subdivision (a) of section 1115 of the New York tax law shall also be exempt from sales and compensating use taxes imposed in this jurisdiction.

Section two. This resolution shall take effect (insert date) and shall apply to sales made, services rendered and uses occurring on and after that date in accordance with the applicable transitional provisions in sections 1106, 1216 and 1217 of the New York tax law.

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law.