

STATE OF NEW YORK

204--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. MARCHIONE, FUNKE, SEWARD -- 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

AN ACT to amend the tax law, in relation to the imposition of sales tax on snowmobiles and all terrain vehicles

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

1 Section 1. Section 1117 of the tax law, as amended by chapter 481 of
2 the laws of 2000, is amended to read as follows:
3 § 1117. Certain sales of motor vehicles [~~and~~], vessels, snowmobiles
4 and all terrain vehicles. (a) Receipts from any sale of a motor vehicle
5 [~~or~~], vessel, snowmobile or all terrain vehicle shall not be subject to
6 the retail sales tax imposed under subdivision (a) of section eleven
7 hundred five of this article, despite the taking of physical possession
8 by the purchaser within this state, provided that:
9 (1) the purchaser, at the time of taking delivery
10 (i) is a nonresident of this state,
11 (ii) has no permanent place of abode in this state, and
12 (iii) is not engaged in carrying on in this state any employment,
13 trade, business or profession in which the motor vehicle [~~or~~], vessel,
14 snowmobile or all terrain vehicle will be used in this state;
15 (2) (i) the vendor of such motor vehicle does not issue to such
16 purchaser with respect to such motor vehicle either a temporary certifi-
17 cate of registration pursuant to subdivision seven of section four
18 hundred twenty of the vehicle and traffic law or a temporary registra-
19 tion pursuant to section four hundred twenty-a of the vehicle and traf-
20 fic law, or other like certificate or registration; or

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

LBD02979-02-7

1 (ii) the vendor of such vessel does not assign to such vessel a New
2 York registration number or issue to such purchaser with respect to such
3 vessel a temporary registration pursuant to section twenty-two hundred
4 fifty-five of the vehicle and traffic law, or other like registration or
5 temporary certificate of registration; or

6 (iii) the vendor of such snowmobile does not assign to such snowmobile
7 a New York registration number or issue to such purchaser with respect
8 to such snowmobile a temporary registration pursuant to subdivision four
9 of section twenty-two hundred twenty-five of the vehicle and traffic
10 law, or other like registration or temporary certificate of registra-
11 tion; or

12 (iv) the vendor of such all terrain vehicle does not assign to such
13 all terrain vehicle a New York registration number or issue to such
14 purchaser with respect to such all terrain vehicle a temporary registra-
15 tion pursuant to subdivision four of section twenty-two hundred eighty-
16 five of the vehicle and traffic law, or other like registration or
17 temporary certificate of registration;

18 (3) the purchaser does not register such motor vehicle [~~or~~], vessel,
19 snowmobile or all terrain vehicle, as the case may be, in this state
20 prior to registering such motor vehicle or vessel in another state or
21 jurisdiction; and

22 (4) prior to taking delivery such purchaser furnishes to such vendor
23 any affidavit, statement or additional evidence, documentary or other-
24 wise, which the commissioner may require to ensure proper administration
25 of the tax imposed under subdivision (a) of section eleven hundred five
26 of this article.

27 (b) A vendor shall not be liable for failure to collect tax on
28 receipts from any sale of a motor vehicle [~~or~~], vessel, snowmobile or
29 all terrain vehicle provided that the vendor prior to making delivery
30 obtains and keeps available for inspection by the commissioner any affi-
31 davit, statement or additional evidence, documentary or otherwise, as
32 may be required to be furnished under subdivision (a) of this section;
33 provided that such affidavit, statement or additional evidence is not
34 known by the vendor, prior to making physical delivery of the motor
35 vehicle [~~or~~], vessel, snowmobile or all terrain vehicle, to be false.

36 (c) For purposes of this section, the term:

37 (1) "Motor vehicle" shall include a motor vehicle as defined in
38 section one hundred twenty-five of the vehicle and traffic law and a
39 trailer as defined in section one hundred fifty-six of the vehicle and
40 traffic law.

41 (2) "Vessel" shall (i) include a vessel as defined in section twenty-
42 two hundred fifty of the vehicle and traffic law, including any inboard
43 or outboard motor and any trailer, as defined in section one hundred
44 fifty-six of the vehicle and traffic law, sold with the vessel for use
45 with such vessel; (ii) but not include a vessel weighing two hundred
46 pounds or less, inclusive of any mast and sail or other rigging, which
47 is not equipped with a motor and which is exempt from registration under
48 paragraph (g) of subdivision one of section twenty-two hundred fifty-two
49 of the vehicle and traffic law.

50 (3) "Snowmobile" shall include a snowmobile as defined in section
51 twenty-two hundred twenty-one of the vehicle and traffic law.

52 (4) "All terrain vehicle" shall include an all terrain vehicle as
53 defined in section twenty-two hundred eighty-one of the vehicle and
54 traffic law.

55 (d) Nothing in this section or section twelve hundred fourteen of this
56 chapter shall be construed as meaning that the provisions of subdivision

1 (i) of section eleven hundred eleven of this article do not apply to
2 leases of motor vehicles, vessels and trailers described in subdivision
3 (i) of section eleven hundred eleven of this article.

4 § 2. Section 1214 of the tax law, as amended by chapter 481 of the
5 laws of 2000, is amended to read as follows:

6 § 1214. Certain sales of motor vehicles [~~and~~], vessels, snowmobiles
7 and all terrain vehicles: proof required for registration of motor vehi-
8 cles [~~and~~], vessels, snowmobiles and all terrain vehicles. (a) (1)

9 Except as provided in paragraph three of this subdivision, where a sale
10 of a motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle,
11 including an agreement therefor, is made in any city, county or school
12 district to a nonresident thereof, such sale shall not be subject to tax
13 by such city, county or school district, despite the fact that such
14 motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle is deliv-
15 ered to the purchaser within such jurisdiction, provided the purchaser
16 furnishes to the vendor, prior to taking delivery, proof satisfactory to
17 the commissioner that the purchaser:

18 (i) is a nonresident of the jurisdiction in which the sale is made,

19 (ii) has no permanent place of abode within such jurisdiction,

20 (iii) is not engaged in carrying on in such jurisdiction any employ-
21 ment, trade, business or profession in which the motor vehicle [~~or~~],
22 vessel, snowmobile or all terrain vehicle will be used in such jurisdic-
23 tion, and such other proof as the commissioner may require to ensure
24 proper administration of the taxes imposed under the authority of
25 sections twelve hundred ten and twelve hundred eleven of this article.

26 (2) However, if such purchaser resides in a city, county or school
27 district imposing a tax on the use of such motor vehicle [~~or~~], vessel,
28 snowmobile or all terrain vehicle, the vendor shall be required to
29 collect from such purchaser, as provided in section twelve hundred
30 fifty-four of this article, the aggregate compensating use taxes imposed
31 by the city, if any, county and school district in which such purchaser
32 resides, for distribution by the commissioner to such taxing jurisdic-
33 tion or jurisdictions.

34 (3) Provided, however, the exclusion from tax provided in paragraph
35 one of this subdivision shall not apply where the receipts from such
36 sale would have been excluded from tax pursuant to section eleven
37 hundred seventeen of this chapter but for failure to satisfy either the
38 condition set forth in paragraph two of subdivision (a) of section elev-
39 en hundred seventeen of this chapter or the condition set forth in para-
40 graph three of subdivision (a) of section eleven hundred seventeen of
41 this chapter.

42 (b) A vendor shall not be liable for failure to collect tax on such
43 sale of a motor vehicle [~~or~~], vessel, snowmobile or all terrain vehicle
44 provided the proof furnished to such vendor by the purchaser pursuant to
45 subdivision (a) of this section shows that the purchaser's residence is
46 not in any city, county or school district which imposes a tax on the
47 use of such motor vehicle [~~or~~], vessel, snowmobile or all terrain vehi-
48 cle, and provided the vendor keeps such proof available for inspection
49 by the commissioner and further provided that such proof is not known by
50 the vendor, prior to making physical delivery of the motor vehicle [~~or~~],
51 vessel, snowmobile or all terrain vehicle, to be false.

52 (c) For purposes of subdivisions (a) and (b) of this section, the
53 term:

54 (1) "Motor vehicle" shall include a motor vehicle as defined in
55 section one hundred twenty-five of the vehicle and traffic law and a

1 trailer as defined in section one hundred fifty-six of the vehicle and
2 traffic law.

3 (2) "Vessel" shall (i) include a vessel as defined in section twenty-
4 two hundred fifty of the vehicle and traffic law, including any inboard
5 or outboard motor and any trailer, as defined in section one hundred
6 fifty-six of the vehicle and traffic law, sold with the vessel for use
7 with such vessel; (ii) but not include a vessel weighing two hundred
8 pounds or less, inclusive of any mast and sail or other rigging, which
9 is not equipped with a motor and which is exempt from registration under
10 paragraph (g) of subdivision one of section twenty-two hundred fifty-two
11 of the vehicle and traffic law.

12 (3) "Snowmobile: shall include a snowmobile as defined in section
13 twenty-two hundred twenty-one of the vehicle and traffic law.

14 (4) "All terrain vehicle" shall include an all terrain vehicle as
15 defined in section twenty-two hundred eighty-one of the vehicle and
16 traffic law.

17 (d) The commissioner of motor vehicles shall not issue a registration
18 certificate, except in renewal of registration by the same owner, (1)
19 for any passenger motor vehicle not used to carry passengers for hire,
20 any snowmobile, as defined in section twenty-two hundred twenty-one of
21 the vehicle and traffic law, trailer, as defined in section one hundred
22 fifty-six of the vehicle and traffic law, vessel, as defined in section
23 twenty-two hundred fifty of such law, or all terrain vehicle, as defined
24 in section twenty-two hundred eighty-one of such law, which is owned by
25 an individual whose residence is within any city or county imposing the
26 taxes authorized by subdivision (a) of section twelve hundred ten of
27 this article, or (2) for any motor vehicle, snowmobile, trailer, vessel
28 or all terrain vehicle except as provided in paragraph one of this
29 subdivision, owned by a person whose residence or business address is
30 within any such city or county, except upon proof, in a form approved by
31 the commissioner and the commissioner of motor vehicles that any tax
32 imposed by such city or county with respect to the sale of the motor
33 vehicle, snowmobile, trailer, vessel or all terrain vehicle to the
34 registrant or his use thereof has been paid, or that no such tax is due.

35 § 3. Paragraph 1 of subdivision (g) of section 1132 of the tax law, as
36 amended by chapter 402 of the laws of 1986, is amended to read as
37 follows:

38 (1) The clerk of each county when performing the function of registra-
39 tion of a motor vehicle, snowmobile, vessel or all terrain vehicle or
40 accepting an application for a certificate of title of a motor vehicle
41 or vessel, pursuant to the authority of the vehicle and traffic law, or
42 the commissioner of motor vehicles, when such commissioner performs such
43 functions, prior to performing such functions, shall act as the agent of
44 the state tax commission to collect any retail sales tax due under this
45 article and under a sales tax imposed pursuant to section twelve hundred
46 ten or twelve hundred eleven of this chapter upon sales of such motor
47 vehicles, snowmobiles, vessels or all terrain vehicles by persons other
48 than dealers registered under sections four hundred fifteen, twenty-two
49 hundred twenty-two, twenty-two hundred fifty-seven and twenty-two
50 hundred eighty-two of the vehicle and traffic law. Such county clerks
51 and such commissioner shall also act as such agents to collect any
52 compensating use tax due under section eleven hundred ten of this arti-
53 cle and under a compensating use tax imposed pursuant to section twelve
54 hundred ten or twelve hundred eleven of this chapter for the use of a
55 motor vehicle, snowmobile, vessel or all terrain vehicle within this
56 state. The commissioner of motor vehicles shall act as such agent with-

1 out fee. Each such county clerk shall, after deducting his fee as
2 provided in paragraph two of this subdivision, and such commissioner
3 shall remit to the tax commission all funds collected pursuant to this
4 subdivision and shall follow such procedures and keep such records as
5 shall be prescribed by the tax commission. Sales or compensating use
6 taxes collected pursuant to the provisions of this section on snowmo-
7 biles or all terrain vehicles shall be determined by reference to place
8 of residence of the owner of the snowmobile or all terrain vehicle.
9 § 4. This act shall take effect immediately and shall apply to sales
10 made and uses occurring on or after the first day of a sales tax quar-
11 terly period, as described in subdivision (b) of section 1136 of the tax
12 law, next commencing at least 90 days after this act shall have become a
13 law, although made or used under a prior contract; provided that the
14 commissioner of taxation and finance shall be authorized on and after
15 the date this act shall have become a law to adopt and amend any rules
16 or regulations and issue any procedures, forms or instructions necessary
17 to implement the provisions of this act on its effective date.