

# STATE OF NEW YORK

876

2017-2018 Regular Sessions

## IN SENATE

January 5, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the tax law, in relation to providing an exemption for geothermal heat pump systems equipment

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

1 Section 1. Section 1115 of the tax law is amended by adding a new  
2 subdivision (ll) to read as follows:

3 (ll) Receipts from the retail sale of residential geothermal heat pump  
4 systems equipment and of the service of installing such systems shall be  
5 exempt from tax under this article. For purposes of this subdivision,  
6 "residential geothermal heat pump system equipment" shall mean an  
7 arrangement or combination of components installed in and around a resi-  
8 dential building that uses the ground or ground water as a thermal ener-  
9 gy source or as a thermal energy sink designed to provide and distribute  
10 heating, and/or cooling, and/or hot water, also commonly referred to as  
11 ground source heat pump systems. Such arrangement or components shall  
12 not include any sort of recreational facility or equipment used as a  
13 storage medium.

14 § 2. Section 1115 of the tax law is amended by adding a new subdivi-  
15 sion (mm) to read as follows:

16 (mm) Receipts from the retail sale of commercial geothermal heat pump  
17 systems equipment and of the service of installing such systems shall be  
18 exempt from taxes imposed by sections eleven hundred five and eleven  
19 hundred ten of this article. For purposes of this subdivision, "commer-  
20 cial geothermal heat pump system equipment" shall mean an arrangement or  
21 combination of components installed in and around a commercial building  
22 that uses the ground or ground water as a thermal energy source or as a  
23 thermal energy sink designed to provide and distribute heating, and/or  
24 cooling, and/or hot water, also commonly referred to as ground source

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

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1 heat pump systems. Such arrangement or components shall not include any  
2 sort of recreational facility or equipment used as a storage medium.

3 § 3. Subparagraph (ii) of paragraph 1 and subparagraph (xiv) of para-  
4 graph 4 of subdivision (a) of section 1210 of the tax law, subparagraph  
5 (ii) of paragraph (a) as amended and subparagraph (xiv) of paragraph 4  
6 as added by section 2 of part WW of chapter 60 of the laws of 2016, are  
7 amended and a new subparagraph (xv) is added to paragraph 4 to read as  
8 follows:

9 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
10 ty or school district, imposing the taxes authorized by this subdivi-  
11 sion, shall omit the residential solar energy systems equipment and  
12 electricity exemption provided for in subdivision (ee), the commercial  
13 solar energy systems equipment and electricity exemption provided for in  
14 subdivision (ii), the commercial fuel cell electricity generating  
15 systems equipment and electricity generated by such equipment exemption  
16 provided for in subdivision (kk), the residential geothermal heat pump  
17 systems equipment and installation exemption provided for in subdivision  
18 (ll), the commercial geothermal heat pump systems equipment and instal-  
19 lation exemption provided for in subdivision (mm) and the clothing and  
20 footwear exemption provided for in paragraph thirty of subdivision (a)  
21 of section eleven hundred fifteen of this chapter, unless such city,  
22 county or school district elects otherwise as to such residential solar  
23 energy systems equipment and electricity exemption, such commercial  
24 solar energy systems equipment and electricity exemption, commercial  
25 fuel cell electricity generating systems equipment and electricity  
26 generated by such equipment exemption, such residential geothermal heat  
27 pump systems equipment and installation exemption, such commercial  
28 geothermal heat pump systems equipment and installation exemption or  
29 such clothing and footwear exemption.

30 (xiv) shall omit, unless such city elects otherwise, the exemption for  
31 commercial fuel cell electricity generating systems equipment and elec-  
32 tricity generated by such equipment provided in subdivision (kk) of  
33 section eleven hundred fifteen of this chapter[-]; and (xv) shall omit  
34 unless such city elects otherwise, the residential geothermal heat pump  
35 systems equipment and installation exemption provided for in subdivision  
36 (ll) of section eleven hundred fifteen of this chapter; and shall omit  
37 unless such city elects otherwise, the commercial geothermal heat pump  
38 systems equipment and installation exemption provided for in subdivision  
39 (mm) of section eleven hundred fifteen of this chapter.

40 § 4. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as  
41 amended by section 3 of part WW of chapter 60 of the laws of 2016, is  
42 amended to read as follows:

43 (1) Or, one or more of the taxes described in subdivisions (b), (d),  
44 (e) and (f) of section eleven hundred five of this chapter, at the same  
45 uniform rate, including the transitional provisions in section eleven  
46 hundred six of this chapter covering such taxes, but not the taxes  
47 described in subdivisions (a) and (c) of section eleven hundred five of  
48 this chapter. Provided, further, that where the tax described in subdivi-  
49 sion (b) of section eleven hundred five of this chapter is imposed,  
50 the compensating use taxes described in clauses (E), (G) and (H) of  
51 subdivision (a) of section eleven hundred ten of this chapter shall also  
52 be imposed. Provided, further, that where the taxes described in subdivi-  
53 sion (b) of section eleven hundred five are imposed, such taxes shall  
54 omit: (A) the provision for refund or credit contained in subdivision  
55 (d) of section eleven hundred nineteen of this chapter with respect to  
56 such taxes described in such subdivision (b) of section eleven hundred

1 five unless such city or county elects to provide such provision or, if  
2 so elected, to repeal such provision; (B) the exemption provided in  
3 paragraph two of subdivision (ee) of section eleven hundred fifteen of  
4 this chapter unless such county or city elects otherwise; (C) the  
5 exemption provided in paragraph two of subdivision (ii) of section elev-  
6 en hundred fifteen of this chapter, unless such county or city elects  
7 otherwise; ~~and~~ (D) the exemption provided in paragraph two of subdivi-  
8 sion (kk) of section eleven hundred fifteen of this chapter, unless such  
9 county or city elects otherwise; (E) the exemption provided in paragraph  
10 two of subdivision (ll) of section eleven hundred fifteen of this chap-  
11 ter, unless such county or city elects otherwise; and (F) the exemption  
12 provided in paragraph two of subdivision (mm) of section eleven hundred  
13 fifteen of this chapter, unless such county or city elects otherwise.

14 § 5. Subdivision (d) of section 1210 of the tax law, as amended by  
15 section 4 of part WW of chapter 60 of the laws of 2016, is amended to  
16 read as follows:

17 (d) A local law, ordinance or resolution imposing any tax pursuant to  
18 this section, increasing or decreasing the rate of such tax, repealing  
19 or suspending such tax, exempting from such tax the energy sources and  
20 services described in paragraph three of subdivision (a) or of subdivi-  
21 sion (b) of this section or changing the rate of tax imposed on such  
22 energy sources and services or providing for the credit or refund  
23 described in clause six of subdivision (a) of section eleven hundred  
24 nineteen of this chapter, or electing or repealing the exemption for  
25 residential solar equipment and electricity in subdivision (ee) of  
26 section eleven hundred fifteen of this article, or the exemption for  
27 commercial solar equipment and electricity in subdivision (ii) of  
28 section eleven hundred fifteen of this article, or electing or repealing  
29 the exemption for commercial fuel cell electricity generating systems  
30 equipment and electricity generated by such equipment in subdivision  
31 (kk) of section eleven hundred fifteen of this article, or electing or  
32 repealing the exemption for residential geothermal heat pump systems  
33 equipment and installation in subdivision (ll) of section eleven hundred  
34 fifteen of this article, or electing or repealing the exemption for  
35 commercial geothermal heat pump systems equipment and installation in  
36 subdivision (mm) of section eleven hundred fifteen of this article must  
37 go into effect only on one of the following dates: March first, June  
38 first, September first or December first; provided, that a local law,  
39 ordinance or resolution providing for the exemption described in para-  
40 graph thirty of subdivision (a) of section eleven hundred fifteen of  
41 this chapter or repealing any such exemption or a local law, ordinance  
42 or resolution providing for a refund or credit described in subdivision  
43 (d) of section eleven hundred nineteen of this chapter or repealing such  
44 provision so provided must go into effect only on March first. No such  
45 local law, ordinance or resolution shall be effective unless a certified  
46 copy of such law, ordinance or resolution is mailed by registered or  
47 certified mail to the commissioner at the commissioner's office in Alba-  
48 ny at least ninety days prior to the date it is to become effective.  
49 However, the commissioner may waive and reduce such ninety-day minimum  
50 notice requirement to a mailing of such certified copy by registered or  
51 certified mail within a period of not less than thirty days prior to  
52 such effective date if the commissioner deems such action to be consist-  
53 ent with the commissioner's duties under section twelve hundred fifty of  
54 this article and the commissioner acts by resolution. Where the  
55 restriction provided for in section twelve hundred twenty-three of this  
56 article as to the effective date of a tax and the notice requirement

1 provided for therein are applicable and have not been waived, the  
2 restriction and notice requirement in section twelve hundred twenty-  
3 three of this article shall also apply.

4 § 6. Subdivision (a) of section 1212 of the tax law, as amended by  
5 section 5 of part WW of chapter 60 of the laws of 2016, is amended to  
6 read as follows:

7 (a) Any school district which is coterminous with, partly within or  
8 wholly within a city having a population of less than one hundred twen-  
9 ty-five thousand, is hereby authorized and empowered, by majority vote  
10 of the whole number of its school authorities, to impose for school  
11 district purposes, within the territorial limits of such school district  
12 and without discrimination between residents and nonresidents thereof,  
13 the taxes described in subdivision (b) of section eleven hundred five  
14 (but excluding the tax on prepaid telephone calling services) and the  
15 taxes described in clauses (E) and (H) of subdivision (a) of section  
16 eleven hundred ten, including the transitional provisions in subdivision  
17 (b) of section eleven hundred six of this chapter, so far as such  
18 provisions can be made applicable to the taxes imposed by such school  
19 district and with such limitations and special provisions as are set  
20 forth in this article, such taxes to be imposed at the rate of one-half,  
21 one, one and one-half, two, two and one-half or three percent which rate  
22 shall be uniform for all portions and all types of receipts and uses  
23 subject to such taxes. In respect to such taxes, all provisions of the  
24 resolution imposing them, except as to rate and except as otherwise  
25 provided herein, shall be identical with the corresponding provisions in  
26 such article twenty-eight of this chapter, including the applicable  
27 definition and exemption provisions of such article, so far as the  
28 provisions of such article twenty-eight of this chapter can be made  
29 applicable to the taxes imposed by such school district and with such  
30 limitations and special provisions as are set forth in this article. The  
31 taxes described in subdivision (b) of section eleven hundred five (but  
32 excluding the tax on prepaid telephone calling service) and clauses (E)  
33 and (H) of subdivision (a) of section eleven hundred ten, including the  
34 transitional provision in subdivision (b) of such section eleven hundred  
35 six of this chapter, may not be imposed by such school district unless  
36 the resolution imposes such taxes so as to include all portions and all  
37 types of receipts and uses subject to tax under such subdivision (but  
38 excluding the tax on prepaid telephone calling service) and clauses.  
39 Provided, however, that, where a school district imposes such taxes,  
40 such taxes shall omit the provision for refund or credit contained in  
41 subdivision (d) of section eleven hundred nineteen of this chapter with  
42 respect to such taxes described in such subdivision (b) of section elev-  
43 en hundred five unless such school district elects to provide such  
44 provision or, if so elected, to repeal such provision, and shall omit  
45 the exemptions provided in paragraph two of subdivision (ee) and para-  
46 graph two of subdivision (ii) of section eleven hundred fifteen of this  
47 chapter unless such school district elects otherwise, and shall omit the  
48 exemption provided in paragraph two of subdivision (kk) of section elev-  
49 en hundred fifteen of this chapter unless such school district elects  
50 otherwise, and shall omit the exemption provided in subdivision (ll) of  
51 section eleven hundred fifteen of this chapter unless such school  
52 district elects otherwise, and shall omit the exemption provided in  
53 subdivision (mm) of section eleven hundred fifteen of this chapter  
54 unless such school district elects otherwise.

55 § 7. Section 1224 of the tax law is amended by adding two new subdivi-  
56 sions (c-3) and (c-4) to read as follows:

1 (c-3) Notwithstanding any other provision of law: (1) Where a county  
2 containing one or more cities with a population of less than one million  
3 has elected the exemption for residential geothermal heat pump systems  
4 equipment and installation provided in subdivision (ll) of section elev-  
5 en hundred fifteen of this chapter, a city within such county shall have  
6 the prior right to impose tax on such exempt equipment and/or installa-  
7 tion to the extent of one half of the maximum rates authorized under  
8 subdivision (a) of section twelve hundred ten of this article;

9 (2) Where a city of less than one million has elected the exemption  
10 for residential geothermal heat pump systems equipment and installation  
11 provided in subdivision (ll) of section eleven hundred fifteen of this  
12 chapter, the county in which such city is located shall have the prior  
13 right to impose tax on such exempt equipment and/or installation to the  
14 extent of one half of the maximum rates authorized under subdivision (a)  
15 of section twelve hundred ten of this article.

16 (c-4) Notwithstanding any other provision of law: (1) Where a county  
17 containing one or more cities with a population of less than one million  
18 has elected the exemption for commercial geothermal heat pump systems  
19 equipment and installation provided in subdivision (mm) of section elev-  
20 en hundred fifteen of this chapter, a city within such county shall have  
21 the prior right to impose tax on such exempt equipment and/or installa-  
22 tion to the extent of one half of the maximum rates authorized under  
23 subdivision (a) of section twelve hundred ten of this article;

24 (2) Where a city of less than one million has elected the exemption  
25 for commercial geothermal heat pump systems equipment and installation  
26 provided in subdivision (mm) of section eleven hundred fifteen of this  
27 chapter, the county in which such city is located shall have the prior  
28 right to impose tax on such exempt equipment and/or installation to the  
29 extent of one half of the maximum rates authorized under subdivision (a)  
30 of section twelve hundred ten of this article.

31 § 8. This act shall take effect immediately.