

# STATE OF NEW YORK

952--A

2017-2018 Regular Sessions

## IN SENATE

January 5, 2017

Introduced by Sen. FUNKE -- 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 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:

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

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

7 (i) draws propulsion using a traction battery with at least four kilo-  
8 watt hours of capacity;

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

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

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

13 (v) is made by a manufacturer.

14 § 2. Section 1160 of the tax law is amended by adding a new subdivi-  
15 sion (c) to read as follows:

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

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

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

4 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
5 ty or school district, imposing the taxes authorized by this subdivi-  
6 sion, shall omit the residential solar energy systems equipment and  
7 electricity exemption provided for in subdivision (ee), the commercial  
8 solar energy systems equipment and electricity exemption provided for in  
9 subdivision (ii), the commercial fuel cell electricity generating  
10 systems equipment and electricity generated by such equipment exemption  
11 provided for in subdivision (kk) and the clothing and footwear exemption  
12 provided for in paragraph thirty and the new plug-in hybrid electric  
13 vehicles exemption provided for in paragraph forty-five of subdivision  
14 (a) of section eleven hundred fifteen of this chapter, unless such city,  
15 county or school district elects otherwise as to such residential solar  
16 energy systems equipment and electricity exemption, such commercial  
17 solar energy systems equipment and electricity exemption, commercial  
18 fuel cell electricity generating systems equipment and electricity  
19 generated by such equipment exemption or such clothing and footwear  
20 exemption or such new plug-in hybrid electric vehicle exemption.

21 § 4. Section 1210 of the tax law is amended by adding a new subdivi-  
22 sion (q) to read as follows:

23 (q) Notwithstanding any other provision of state or local law, ordi-  
24 nance or resolution to the contrary:

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

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

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

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

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