

STATE OF NEW YORK

4950

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

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

AN ACT to amend the tax law, in relation to providing an exemption for drugs and medicines for companion and farm animals

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 3-b to read as follows:

3 (3-b) Drugs and medicines intended for use, internally or externally,
4 in the cure, mitigation, treatment or prevention of illnesses or
5 diseases in companion animals, as defined by subdivision five of section
6 three hundred fifty of the agriculture and markets law, and farm
7 animals, as defined by subdivision four of section three hundred fifty
8 of the agriculture and markets law, medical equipment (including compo-
9 nent parts thereof) and supplies required for such use or to correct or
10 alleviate physical incapacity.

11 § 2. Subdivision (b) of section 1107 of the tax law is amended by
12 adding a new clause 12 to read as follows:

13 (12) Except as otherwise provided by law, the exemption provided by
14 paragraph three-b of subdivision (a) of section eleven hundred fifteen
15 of this article relating to drugs and medicines intended for use in
16 companion animals and farm animals shall be applicable pursuant to a
17 local law, ordinance or resolution adopted by a city subject to the
18 provisions of this clause. Such city is empowered to adopt or repeal
19 such a local law, ordinance or resolution. Such adoption or repeal shall
20 also be deemed to amend any local law, ordinance or resolution enacted
21 by such a city imposing taxes pursuant to the authority of subdivision
22 (a) of section twelve hundred ten of this chapter.

23 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
24 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of

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

LBD06514-01-7

1 the laws of 2016, is amended, and a new subparagraph (iii) is added to
2 read as follows:

3 (ii) Any local law, ordinance or resolution enacted by any city, coun-
4 ty or school district, imposing the taxes authorized by this subdivi-
5 sion, shall omit the residential solar energy systems equipment and
6 electricity exemption provided for in subdivision (ee) of section eleven
7 hundred fifteen of this chapter, the commercial solar energy systems
8 equipment and electricity exemption provided for in subdivision (ii),
9 the commercial fuel cell electricity generating systems equipment and
10 electricity generated by such equipment exemption provided for in subdivi-
11 sion (kk) of section eleven hundred fifteen of this chapter and the
12 clothing and footwear exemption provided for in paragraph thirty of
13 subdivision (a) of section eleven hundred fifteen of this chapter,
14 unless such city, county or school district elects otherwise as to such
15 residential solar energy systems equipment and electricity exemption,
16 such commercial solar energy systems equipment and electricity
17 exemption, commercial fuel cell electricity generating systems equipment
18 and electricity generated by such equipment exemption or such clothing
19 and footwear exemption. (iii) Any local law, ordinance or resolution
20 enacted by any city, county or school district, imposing the taxes
21 authorized by this subdivision, shall omit medicines intended for use in
22 companion animals and farm animals exemption provided for in paragraph
23 three-b of subdivision (a) of section eleven hundred fifteen of this
24 chapter, unless such city, county or school district elects otherwise;
25 provided that if such a city having a population of one million or more
26 enacts the resolution described in subdivision (q) of this section or
27 repeals such resolution, such resolution or repeal shall also be deemed
28 to amend any local law, ordinance or resolution enacted by such a city
29 imposing such taxes pursuant to the authority of this subdivision,
30 whether or not such taxes are suspended at the time such city enacts its
31 resolution pursuant to subdivision (q) of this section or at the time of
32 any such repeal; provided, further, that any such local law, ordinance
33 or resolution and section eleven hundred seven of this chapter, as
34 deemed to be amended in the event a city of one million or more enacts a
35 resolution pursuant to the authority of subdivision (q) of this section,
36 shall be further amended, as provided in section twelve hundred eighteen
37 of this subpart, so that the medicines intended for use in companion
38 animals and farm animals exemption in any such local law, ordinance or
39 resolution or in such section eleven hundred seven of this chapter is
40 the same as the medicines intended for use in companion animals and farm
41 animals in paragraph three-b of subdivision (a) of section eleven
42 hundred fifteen of this chapter.

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

46 (d) A local law, ordinance or resolution imposing any tax pursuant to
47 this section, increasing or decreasing the rate of such tax, repealing
48 or suspending such tax, exempting from such tax the energy sources and
49 services described in paragraph three of subdivision (a) or of subdivi-
50 sion (b) of this section or changing the rate of tax imposed on such
51 energy sources and services or providing for the credit or refund
52 described in clause six of subdivision (a) of section eleven hundred
53 nineteen of this chapter, or electing or repealing the exemption for
54 residential solar equipment and electricity in subdivision (ee) of
55 section eleven hundred fifteen of this [~~article~~] chapter, or the
56 exemption for commercial solar equipment and electricity in subdivision

1 (ii) of section eleven hundred fifteen of this [~~article~~] chapter, or
2 electing or repealing the exemption for commercial fuel cell electricity
3 generating systems equipment and electricity generated by such equipment
4 in subdivision (kk) of section eleven hundred fifteen of this article
5 must go into effect only on one of the following dates: March first,
6 June first, September first or December first; provided, that a local
7 law, ordinance or resolution providing for the exemption described in
8 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
9 this chapter or repealing any such exemption or a local law, ordinance
10 or resolution providing for a refund or credit described in subdivision
11 (d) of section eleven hundred nineteen of this chapter or repealing such
12 provision so provided must go into effect only on March first; provided,
13 further, that a local law, ordinance or resolution providing for the
14 exemption described in paragraph three-b of subdivision (a) of section
15 eleven hundred fifteen of this chapter or repealing any such exemption
16 so provided and a resolution enacted pursuant to the authority of subdivi-
17 vision (q) of this section providing such exemption or repealing such
18 exemption so provided may go into effect immediately. No such local
19 law, ordinance or resolution shall be effective unless a certified copy
20 of such law, ordinance or resolution is mailed by registered or certi-
21 fied mail to the commissioner at the commissioner's office in Albany at
22 least ninety days prior to the date it is to become effective. However,
23 the commissioner may waive and reduce such ninety-day minimum notice
24 requirement to a mailing of such certified copy by registered or certi-
25 fied mail within a period of not less than thirty days prior to such
26 effective date if the commissioner deems such action to be consistent
27 with the commissioner's duties under section twelve hundred fifty of
28 this article and the commissioner acts by resolution. Where the
29 restriction provided for in section twelve hundred twenty-three of this
30 article as to the effective date of a tax and the notice requirement
31 provided for therein are applicable and have not been waived, the
32 restriction and notice requirement in section twelve hundred twenty-
33 three of this article shall also apply.

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

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

38 (1) Any city having a population of one million or more in which the
39 taxes imposed by section eleven hundred seven of this chapter are in
40 effect, acting through its local legislative body, is hereby authorized
41 and empowered to elect to provide the exemption from such taxes for the
42 same medicines intended for use in companion animals and farm animals
43 exempt from state sales and compensating use taxes described in para-
44 graph three-b of subdivision (a) of section eleven hundred fifteen of
45 this chapter by enacting a resolution in the form set forth in paragraph
46 two of this subdivision; whereupon, upon compliance with the provisions
47 of subdivisions (d) and (e) of this section, such enactment of such
48 resolution shall be deemed to be an amendment to such section eleven
49 hundred seven and such section eleven hundred seven shall be deemed to
50 incorporate such exemption as if it had been duly enacted by the state
51 legislature and approved by the governor.

52 (2) The resolution described in paragraph (1) of this subdivision
53 shall read as follows: Be it enacted by the (insert proper title of
54 local legislative body) as follows:

55 Section one. Receipts from sales of and consideration given or
56 contracted to be given for purchases of medicines intended for use in

1 companion animals and farm animals exempt from state sales and compen-
2 sating use taxes pursuant to paragraph three-b of subdivision (a) of
3 section eleven hundred fifteen of the tax law shall also be exempt from
4 sales and compensating use taxes imposed in this jurisdiction.

5 Section two. This resolution shall take effect, (insert the date) and
6 shall apply to sales made and uses occurring on and after that date
7 although made or occurring under a prior contract.

8 § 6. The commissioner of taxation and finance is hereby authorized to
9 implement the provisions of this act with respect to the elimination of
10 the imposition of sales tax, additional taxes, and supplemental taxes on
11 medicines intended for use in companion animals and farm animals and all
12 other taxes so addressed by this act.

13 § 7. This act shall take effect on the first day of the sales tax
14 quarterly period, as described in subdivision (b) of section 1136 of the
15 tax law, next commencing at least 90 days after this act shall have
16 become a law and shall apply in accordance with the applicable transi-
17 tional provisions of sections 1106 and 1217 of the tax law.