STATE OF NEW YORK

5290

2017-2018 Regular Sessions

IN ASSEMBLY

February 7, 2017

Introduced by M. of A. ROSENTHAL -- Multi-Sponsored by -- M. of A. PERRY -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting energy-star appliances from state sales and compensating use taxes and granting municipalities the option to provide such exemption; and providing for the repeal of such provisions upon expiration thereof

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 44 to read as follows:

(44) Retail sales of the following products, provided that the product qualifies as an energy-star product pursuant to the United States environmental protection agency energy-star program, shall be exempt from the sales tax provisions of section eleven hundred five of this article: clothes washer, dishwasher, refrigerator, room air conditioner, ceiling fan, dehumidifier, freezer, programmable thermostat, and ventilating fan. The exemption provided for in this subdivision shall not apply to the rental, leasing, repair or servicing of such energy-star products.

§ 2. 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 subdivision (ii) **as amended by section two of part Z of chapter fifty-nine of the laws of two thousand fifteen**, 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 of subdivision

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

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(a) of section eleven hundred fifteen of this chapter, and the energy-star product exemption provided for in paragraph forty-four 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 energy-star product exemption.

§ 3. 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 energy-star product exemption from state sales and compensating use taxes described in paragraph forty-four 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-four of subdivision (a) of section 1115 of the tax law shall also be exempt from sales and compensating use taxes imposed in this jurisdiction.

Section two. This resolution shall take effect September 1, (insert the year, but not earlier than the year 2017) 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.

§ 4. This act shall take effect twenty-four months after it shall have become a law and shall be deemed repealed sixty months after it shall have become a law.