

# STATE OF NEW YORK

8226--A

2017-2018 Regular Sessions

## IN ASSEMBLY

June 2, 2017

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to taxpayer relief on cell phone taxes

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

1 Section 1. Section 1109 of the tax law is amended by adding a new  
2 subdivision (i) to read as follows:

3 (i) The exemption contained in subdivision (cc) of section eleven  
4 hundred fifteen of this article shall not apply.

5 § 2. Subdivision (cc) of section 1115 of the tax law, as added by  
6 section 11 of part S of chapter 85 of the laws of 2002, is amended to  
7 read as follows:

8 (cc) Notwithstanding any other provision of law to the contrary,  
9 receipts from the sale of mobile telecommunications service [~~by a home~~  
10 ~~service provider~~] shall be exempt from the taxes imposed by subparagraph  
11 (B) of paragraph one and paragraph two of subdivision (b) of section  
12 eleven hundred five of this article [~~if the mobile telecommunications~~  
13 ~~customer's place of primary use is within a taxing jurisdiction outside~~  
14 ~~this state~~].

15 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
16 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of  
17 the laws of 2016, is amended to read as follows:

18 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
19 ty or school district, imposing the taxes authorized by this subdivi-  
20 sion, shall omit the residential solar energy systems equipment and  
21 electricity exemption provided for in subdivision (ee), the commercial  
22 solar energy systems equipment and electricity exemption provided for in

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

LBD11592-03-8

1 subdivision (ii), the commercial fuel cell electricity generating  
 2 systems equipment and electricity generated by such equipment exemption  
 3 provided for in subdivision (kk) [~~and~~], the clothing and footwear  
 4 exemption provided for in paragraph thirty of subdivision (a) and the  
 5 mobile telecommunications service exemption provided for in subdivision  
 6 (cc) of section eleven hundred fifteen of this chapter, unless such  
 7 city, county or school district elects otherwise as to such residential  
 8 solar energy systems equipment and electricity exemption, such commer-  
 9 cial solar energy systems equipment and electricity exemption, commer-  
 10 cial fuel cell electricity generating systems equipment and electricity  
 11 generated by such equipment exemption [~~ex~~], such clothing and footwear  
 12 exemption or such telecommunications service exemption.

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

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

17 (1) Any city, county or school district, acting through its governing  
 18 body, is hereby authorized and empowered to elect to provide the same  
 19 exemptions from such taxes as the mobile telecommunications service  
 20 exemption from state sales and compensating use taxes described in  
 21 subdivision (cc) of section eleven hundred fifteen of this chapter by  
 22 enacting a resolution in the form set forth in paragraph two of this  
 23 subdivision; any city having a population of one million or more where-  
 24 upon, upon compliance with the provisions of subdivisions (d) and (e) of  
 25 this section, such enactment of such resolution shall be deemed to be an  
 26 amendment to such section eleven hundred seven and such section eleven  
 27 hundred seven shall be deemed to incorporate such exemptions as if they  
 28 had been duly enacted by the state legislature and approved by the  
 29 governor.

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

32 Section one. Receipts from sales of and consideration given or  
 33 contracted to be given for, or for the use of, mobile telecommunications  
 34 service exempt from state sales and compensating use taxes pursuant to  
 35 subdivision (cc) of section 1115 of the tax law shall also be exempt  
 36 from sales and compensating use taxes imposed in this jurisdiction.

37 Section two. This resolution shall take effect March 1, (insert the  
 38 year, but not earlier than the year 2019) and shall apply to sales made,  
 39 services rendered and uses occurring on and after that date in accord-  
 40 ance with the applicable transitional provisions in sections 1106, 1216  
 41 and 1217 of the New York tax law.

42 § 5. This act shall take effect immediately; provided, however, that  
 43 sections one and two of this act shall take effect March 1, 2019.