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:

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

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

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

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

§ 3. 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

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

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subdivision (ii), 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 (a) **and the mobile telecommunications service exemption provided for in subdivision (cc)** 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 telecommunications service exemption**.

§ 4. 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, county or school district, acting through its governing body, is hereby authorized and empowered to elect to provide the same exemptions from such taxes as the mobile telecommunications service exemption from state sales and compensating use taxes described in subdivision (cc) of section eleven hundred fifteen of this chapter by enacting a resolution in the form set forth in paragraph two of this subdivision; any city having a population of one million or more 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, mobile telecommunications service exempt from state sales and compensating use taxes pursuant to subdivision (cc) 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 March 1, (insert the year, but not earlier than the year 2019) 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.

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