STATE OF NEW YORK

569--A

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. YOUNG, FUNKE, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications 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 eliminating state sales and compensating use taxes on motor fuels and diesel motor fuels and authorizing localities to eliminate such taxes at the local level

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 45 to read as follows:

(45) Motor fuel and diesel motor fuel.

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

(12) Except as otherwise provided by law, the exemption provided in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this article relating to motor fuel and diesel motor fuel shall be applicable pursuant to a local law, ordinance or resolution adopted by a city subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

§ 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:

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

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(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), 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) 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. **Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the motor fuel and diesel motor fuel exemption provided for in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (n) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (n) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (n) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the motor fuel and diesel motor fuel exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the motor fuel and diesel motor fuel exemption in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter.**

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

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first,

September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first**; provided, further, that a local law, ordinance or resolution providing for the exemption described in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivision (n) of this section providing such exemption or repealing such exemption so provided may go into effect immediately**. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 5. Section 1210 of the tax law is amended by adding a new subdivision (n) to read as follows:

(n) 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 exemption from such taxes for the same motor fuel and diesel motor fuel exempt from state sales and compensating use taxes described in paragraph forty-five 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 exemption as if it 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 purchases of motor fuel and diesel motor fuel exempt from state sales and compensating use taxes pursuant to paragraph forty-five of subdivision (a) of section eleven hundred fifteen 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, (insert the date) and shall apply to sales made and uses occurring on and after that date although made or occurring under a prior contract.

§ 6. The commissioner of taxation and finance is hereby authorized to implement the provisions of this act with respect to the elimination of the imposition of sales tax, additional taxes, and supplemental taxes on diesel motor fuel and motor fuel and all other taxes so addressed by this act.

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