

# STATE OF NEW YORK

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569--A

2017-2018 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2017

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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:

1 Section 1. Subdivision (a) of section 1115 of the tax law is amended  
2 by adding a new paragraph 45 to read as follows:

3 (45) Motor fuel and diesel motor fuel.

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

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

16 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
17 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of  
18 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,

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

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

31 (n) Notwithstanding any other provision of state or local law, ordi-  
32 nance or resolution to the contrary:

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

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

49 Section one. Receipts from sales of and consideration given or  
50 contracted to be given for purchases of motor fuel and diesel motor fuel  
51 exempt from state sales and compensating use taxes pursuant to paragraph  
52 forty-five of subdivision (a) of section eleven hundred fifteen of the  
53 tax law shall also be exempt from sales and compensating use taxes  
54 imposed in this jurisdiction.

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

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

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