

# STATE OF NEW YORK

3827--B

2019-2020 Regular Sessions

## IN SENATE

February 15, 2019

Introduced by Sens. METZGER, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Budget and Revenue 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 exempting the sale of the first thirty-five thousand dollars of a battery, electric, or plug-in hybrid electric vehicle from state sales and compensating use taxes, and to authorize cities and counties to elect such exemption

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 46 to read as follows:

3 (46) The receipts from the first thirty-five thousand dollars of the  
4 retail sale or lease of a new battery, electric, or plug-in hybrid elec-  
5 tric vehicle. For purposes of this paragraph the term "battery, elec-  
6 tric, or plug-in hybrid electric vehicle" means a motor vehicle, as  
7 defined in section one hundred twenty-five of the vehicle and traffic  
8 law, that:

9 (i) has four wheels;

10 (ii) was manufactured for use primarily on public streets, roads and  
11 highways;

12 (iii) the powertrain of which has not been modified from the original  
13 manufacturer's specifications;

14 (iv) is rated at not more than eight thousand five hundred pounds  
15 gross vehicle weight;

16 (v) has a maximum speed capability of at least fifty-five miles per  
17 hour; and

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

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1 (vi) is propelled at least in part by an electronic motor and associ-  
 2 ated power electronics which provide acceleration torque to the drive  
 3 wheels sometime during normal vehicle operation, and that draws elec-  
 4 tricity from a battery that:

5 (A) has a capacity of not less than four kilowatt hours; and

6 (B) is capable of being recharged from an external source of electric-  
 7 ity.

8 § 2. Section 1160 of the tax law is amended by adding a new subdivi-  
 9 sion (c) to read as follows:

10 (c) The new battery, electric, or plug-in hybrid electric vehicles  
 11 exemption provided for in paragraph forty-six of subdivision (a) of  
 12 section eleven hundred fifteen of this chapter shall not apply to or  
 13 limit the imposition of the tax imposed pursuant to this article.

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

17 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
 18 ty or school district, imposing the taxes authorized by this subdivi-  
 19 sion, shall omit the residential solar energy systems equipment and  
 20 electricity exemption provided for in subdivision (ee), the commercial  
 21 solar energy systems equipment and electricity exemption provided for in  
 22 subdivision (ii), the commercial fuel cell electricity generating  
 23 systems equipment and electricity generated by such equipment exemption  
 24 provided for in subdivision (kk) [~~and~~], the clothing and footwear  
 25 exemption provided for in paragraph thirty of subdivision (a) of section  
 26 eleven hundred fifteen of this chapter, and the battery, electric, or  
 27 plug-in hybrid electric vehicle exemption provided for in paragraph  
 28 forty-six of subdivision (a) of section eleven hundred fifteen of this  
 29 chapter unless such city, county or school district elects otherwise as  
 30 to such residential solar energy systems equipment and electricity  
 31 exemption, such commercial solar energy systems equipment and electric-  
 32 ity exemption, commercial fuel cell electricity generating systems  
 33 equipment and electricity generated by such equipment exemption [~~or~~],  
 34 such clothing and footwear exemption or such battery, electric, or plug-  
 35 in hybrid electric vehicle exemption provided for in paragraph forty-six  
 36 of subdivision (a) of section eleven hundred fifteen of this chapter.

37 § 4. Paragraph 46 of subdivision (a) of section 1115 of the tax law,  
 38 as added by section one of this act, is amended to read as follows:

39 (46) The receipts from the first thirty-five thousand dollars of the  
 40 retail sale or lease of a new battery[~~7~~] or electric[~~7~~ ~~or plug-in hybrid~~  
 41 ~~electric~~] vehicle. For purposes of this paragraph the term "battery[~~7~~]  
 42 or electric[~~7~~ ~~or plug-in hybrid electric~~] vehicle" means a motor vehi-  
 43 cle, as defined in section one hundred twenty-five of the vehicle and  
 44 traffic law, that:

45 (i) has four wheels;

46 (ii) was manufactured for use primarily on public streets, roads and  
 47 highways;

48 (iii) the powertrain of which has not been modified from the original  
 49 manufacturer's specifications;

50 (iv) is rated at not more than eight thousand five hundred pounds  
 51 gross vehicle weight;

52 (v) has a maximum speed capability of at least fifty-five miles per  
 53 hour; and

54 (vi) is propelled [~~at least in part~~] by an electronic motor and asso-  
 55 ciated power electronics which provide acceleration torque to the drive

1 wheels sometime during normal vehicle operation, and that draws elec-  
2 tricity from a battery that:

- 3 (A) has a capacity of not less than four kilowatt hours; and  
4 (B) is capable of being recharged from an external source of electric-  
5 ity.

6 § 5. Subdivision (c) of section 1160 of the tax law, as added by  
7 section two of this act, is amended to read as follows:

8 (c) The new battery[~~7~~] or electric[~~7~~, ~~or plug-in hybrid electric~~] vehi-  
9 cles exemption provided for in paragraph forty-six of subdivision (a) of  
10 section eleven hundred fifteen of this chapter shall not apply to or  
11 limit the imposition of the tax imposed pursuant to this article.

12 § 6. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
13 1210 of the tax law, as amended by section three of this act, is amended  
14 to read as follows:

15 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
16 ty or school district, imposing the taxes authorized by this subdivi-  
17 sion, shall omit the residential solar energy systems equipment and  
18 electricity exemption provided for in subdivision (ee), the commercial  
19 solar energy systems equipment and electricity exemption provided for in  
20 subdivision (ii), the commercial fuel cell electricity generating  
21 systems equipment and electricity generated by such equipment exemption  
22 provided for in subdivision (kk), the clothing and footwear exemption  
23 provided for in paragraph thirty of subdivision (a) of section eleven  
24 hundred fifteen of this chapter, and the battery[~~7~~] or electric[~~7~~, ~~or~~  
25 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph  
26 forty-six of subdivision (a) of section eleven hundred fifteen of this  
27 chapter unless such city, county or school district elects otherwise as  
28 to such residential solar energy systems equipment and electricity  
29 exemption, such commercial solar energy systems equipment and electric-  
30 ity exemption, commercial fuel cell electricity generating systems  
31 equipment and electricity generated by such equipment exemption, such  
32 clothing and footwear exemption or such battery[~~7~~] or electric[~~7~~, ~~or~~  
33 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph  
34 forty-six of subdivision (a) of section eleven hundred fifteen of this  
35 chapter.

36 § 7. This act shall take effect on the first day of a sales tax quar-  
37 terly period, as described in subdivision (b) of section 1136 of the tax  
38 law, beginning at least one hundred twenty days after the date this act  
39 shall have become a law and shall apply to sales made on or after such  
40 date; provided, however, that sections four, five and six of this act  
41 shall take effect ten years after such effective date and shall apply to  
42 sales made on and after such date.