STATE OF NEW YORK

4070--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 1, 2019

Introduced by M. of A. SCHIMMINGER, McDONALD -- 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 terminal rental adjustment clauses in motor vehicle leases

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

Section 1. Paragraph (B) of subdivision (i) of section 1111 of the tax law, as amended by chapter 20 of the laws of 1992, is amended to read as follows:

(B) Notwithstanding any inconsistent provisions of this subdivision, with respect to a lease of a motor vehicle described in paragraph (A) of this subdivision for a term of one year or more (1) which includes an indeterminate number of options to renew or other similar contractual provisions or which includes thirty-six or more monthly options to renew beyond the initial term, and (2) under which lease the lessee of such motor vehicle has certified in the writing described in clause (i) of subparagraph (C) of paragraph two of subsection (h) of section 7701 of the internal revenue code of 1986, under penalty of perjury, that the lessee intends that more than fifty percent of the use of such vehicle is to be in a trade or business of the lessee, all receipts due or consideration given or contracted to be given under such lease for the first thirty-two months, or the period of the initial term if greater, of such lease shall be deemed to have been paid or given and shall be subject to tax in accordance with the provisions of this subdivision. For each such option to renew, or similar provision, or combination of them, exercised after the first thirty-two months, or the period of such initial term, if longer, of any such lease, tax due under this article shall be collected and paid or paid over without regard to this subdivi-

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

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sion. **If any such lease contains a "terminal rental adjustment clause" as defined in paragraph three of subsection (h) of section 7701 of the internal revenue code of 1986, (1) any increase in the consideration given pursuant to such clause upon termination of the lease shall be subject to tax, and (2) any decrease in the consideration given pursuant to such clause upon termination of the lease shall allow the lessor to exclude such amount from taxable receipts. No interest shall be allowed or paid on the execution of amounts from taxable receipts under this subdivision.**

§ 2. This act shall take effect immediately.