

STATE OF NEW YORK

602

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. L. ROSENTHAL, RAIA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing an exemption for drugs and medicines for companion and farm animals

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 3-b to read as follows:

(3-b) Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in companion animals, as defined by subdivision five of section three hundred fifty of the agriculture and markets law, and farm animals, as defined by subdivision four of section three hundred fifty of the agriculture and markets law, medical equipment (including component parts thereof) and supplies required for such use or to correct or alleviate physical incapacity.

§ 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 by paragraph three-b of subdivision (a) of section eleven hundred fifteen of this article relating to drugs and medicines intended for use in companion animals and farm animals shall be applicable pursuant to a local law, ordinance or resolution adopted by a city subject to the provisions of this clause. 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

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

LBD03590-01-9

the laws of 2016, is amended, and a new subparagraph (iii) is added 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) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) of section eleven hundred fifteen of this chapter, the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) of section eleven hundred fifteen of this chapter 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. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit medicines intended for use in companion animals and farm animals exemption provided for in paragraph three-b 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 (p) 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 (p) 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 (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the medicines intended for use in companion animals and farm animals exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the medicines intended for use in companion animals and farm animals in paragraph three-b 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~~ chapter, or the

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

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

37 (p) Notwithstanding any other provision of state or local law, ordi-
38 nance or resolution to the contrary:

39 (1) Any city having a population of one million or more in which the
40 taxes imposed by section eleven hundred seven of this chapter are in
41 effect, acting through its local legislative body, is hereby authorized
42 and empowered to elect to provide the exemption from such taxes for the
43 same medicines intended for use in companion animals and farm animals
44 exempt from state sales and compensating use taxes described in para-
45 graph three-b of subdivision (a) of section eleven hundred fifteen of
46 this chapter by enacting a resolution in the form set forth in paragraph
47 two of this subdivision; whereupon, upon compliance with the provisions
48 of subdivisions (d) and (e) of this section, such enactment of such
49 resolution shall be deemed to be an amendment to such section eleven
50 hundred seven and such section eleven hundred seven shall be deemed to
51 incorporate such exemption as if it had been duly enacted by the state
52 legislature and approved by the governor.

53 (2) The resolution described in paragraph (1) of this subdivision
54 shall read as follows: Be it enacted by the (insert proper title of
55 local legislative body) as follows:

1 Section one. Receipts from sales of and consideration given or
2 contracted to be given for purchases of medicines intended for use in
3 companion animals and farm animals exempt from state sales and compen-
4 sating use taxes pursuant to paragraph three-b of subdivision (a) of
5 section eleven hundred fifteen of the tax law shall also be exempt from
6 sales and compensating use taxes imposed in this jurisdiction.

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

10 § 6. The commissioner of taxation and finance is hereby authorized to
11 implement the provisions of this act with respect to the elimination of
12 the imposition of sales tax, additional taxes, and supplemental taxes on
13 medicines intended for use in companion animals and farm animals and all
14 other taxes so addressed by this act.

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