

STATE OF NEW YORK

7010

2021-2022 Regular Sessions

IN ASSEMBLY

April 19, 2021

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to taxpayer relief on cell phone taxes

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

1 Section 1. Section 1109 of the tax law is amended by adding a new
2 subdivision (i) to read as follows:

3 (i) The exemption contained in subdivision (cc) of section eleven
4 hundred fifteen of this article shall not apply.

5 § 2. Subdivision (cc) of section 1115 of the tax law, as added by
6 section 11 of part S of chapter 85 of the laws of 2002, is amended to
7 read as follows:

8 (cc) Notwithstanding any other provision of law to the contrary,
9 receipts from the sale of mobile telecommunications service [~~by a home~~
10 ~~service provider~~] shall be exempt from the taxes imposed by subparagraph
11 (B) of paragraph one and paragraph two of subdivision (b) of section
12 eleven hundred five of this article [~~if the mobile telecommunications~~
13 ~~customer's place of primary use is within a taxing jurisdiction outside~~
14 ~~this state~~].

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

18 (ii) Any local law, ordinance or resolution enacted by any city, coun-
19 ty or school district, imposing the taxes authorized by this subdivi-
20 sion, shall omit the residential solar energy systems equipment and
21 electricity exemption provided for in subdivision (ee), the commercial
22 solar energy systems equipment and electricity exemption provided for in
23 subdivision (ii), the commercial fuel cell electricity generating
24 systems equipment and electricity generated by such equipment exemption
25 provided for in subdivision (kk) [~~and~~], the clothing and footwear

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

LBD06947-01-1

1 exemption provided for in paragraph thirty of subdivision (a) and the
2 mobile telecommunications service exemption provided for in subdivision
3 (cc) of section eleven hundred fifteen of this chapter, unless such
4 city, county or school district elects otherwise as to such residential
5 solar energy systems equipment and electricity exemption, such commer-
6 cial solar energy systems equipment and electricity exemption, commer-
7 cial fuel cell electricity generating systems equipment and electricity
8 generated by such equipment exemption [~~or~~], such clothing and footwear
9 exemption or such telecommunications service exemption.

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

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

14 (1) Any city, county or school district, acting through its governing
15 body, is hereby authorized and empowered to elect to provide the same
16 exemptions from such taxes as the mobile telecommunications service
17 exemption from state sales and compensating use taxes described in
18 subdivision (cc) of section eleven hundred fifteen of this chapter by
19 enacting a resolution in the form set forth in paragraph two of this
20 subdivision; any city having a population of one million or more where-
21 upon, upon compliance with the provisions of subdivisions (d) and (e) of
22 this section, such enactment of such resolution shall be deemed to be an
23 amendment to section eleven hundred seven and such section eleven
24 hundred seven shall be deemed to incorporate such exemptions as if they
25 had been duly enacted by the state legislature and approved by the
26 governor.

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

29 Section one. Receipts from sales of and consideration given or
30 contracted to be given for, or for the use of, mobile telecommunications
31 service exempt from state sales and compensating use taxes pursuant to
32 subdivision (cc) of section 1115 of the tax law shall also be exempt
33 from sales and compensating use taxes imposed in this jurisdiction.

34 Section two. This resolution shall take effect March 1, (insert the
35 year, but not earlier than the year 2022) and shall apply to sales made,
36 services rendered and uses occurring on and after that date in accord-
37 ance with the applicable transitional provisions in sections 1106, 1216
38 and 1217 of the tax law.

39 § 5. This act shall take effect immediately; provided, however, that
40 sections one and two of this act shall take effect March 1, 2022.