

# STATE OF NEW YORK

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31--A

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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Introduced by Sens. KAPLAN, GAUGHRAN, HARCKHAM, HOYLMAN, JORDAN -- 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

AN ACT to amend the tax law, in relation to exempting certain personal protective clothing and equipment from the tax on sales and the compensating use tax, exempting from sales and compensating use taxes any equipment or product purchased by restaurant or food service establishment for use in outdoor dining during the novel coronavirus (COVID-19) and exempting from sales and compensating use taxes any equipment or product purchased by a small business that is used to comply with a COVID-19 health and safety plan

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 three new paragraphs 46, 47 and 48 to read as follows:

3 (46) Personal protective clothing and equipment worn for protection  
4 against illness from infectious disease or materials or to help prevent  
5 or reduce the spread of infectious disease or illness. Personal protec-  
6 tive clothing and equipment shall include, but not be limited to,  
7 isolation gowns and coveralls, gloves, facemasks, face shields, goggles,  
8 and any other clothing or equipment determined by the commissioner of  
9 health to be effective in protecting the wearer against illness from  
10 infectious disease or materials or to help prevent or reduce the spread  
11 of infectious disease or illness.

12 (47) Any equipment or product purchased by any restaurant or food  
13 service establishment for the use in outdoor dining during the novel  
14 coronavirus (COVID-19) pandemic.

15 (48) Any equipment or product, including materials used in the  
16 construction of physical barriers, including but not limited to plastic

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

LBD03340-02-1

1 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
2 materials, or other impermeable dividers or partitions, purchased by a  
3 small business doing business in this state that is directly used by  
4 such small business to be in compliance with a COVID-19 health and safe-  
5 ty plan. For purposes of this paragraph, the term "small business" shall  
6 mean a business with one hundred or fewer employees.

7 § 2. Section 210-B of the tax law is amended by adding two new subdi-  
8 visions 55 and 56 to read as follows:

9 55. Sales tax paid on outdoor dining equipment credit. (1) For the  
10 period beginning June fourth, two thousand twenty and ending on the  
11 effective date of this subdivision, a taxpayer who owns a restaurant or  
12 food service establishment shall be allowed a credit for sales tax paid  
13 for any equipment or product purchased by such taxpayer for use in  
14 outdoor dining during the novel coronavirus (COVID-19) pandemic.

15 (2) If the amount of the credit allowed under this subdivision for any  
16 taxable year shall exceed the taxpayer's tax for such year, the excess  
17 shall be treated as an overpayment of tax to be credited or refunded in  
18 accordance with the provisions of section six hundred eighty-six of this  
19 article, provided, however, that no interest shall be paid thereon.

20 56. Sales tax paid on materials for COVID-19 health and safety plan  
21 compliance. (1) For the period beginning May fifteenth, two thousand  
22 twenty and ending on the effective date of this subdivision, a taxpayer  
23 who owns a small business shall be allowed a credit for sales tax paid  
24 for any equipment or product, including materials used in the  
25 construction of physical barriers, including but not limited to plastic  
26 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
27 materials, or other impermeable dividers or partitions, purchased by  
28 such small business in order to be in compliance with a COVID-19 health  
29 and safety plan.

30 (2) If the amount of the credit allowed under this subdivision for any  
31 taxable year shall exceed the small business's tax for such year, the  
32 excess shall be treated as an overpayment of tax to be credited or  
33 refunded in accordance with the provisions of section six hundred eight-  
34 y-six of this chapter, provided, however, that no interest shall be paid  
35 thereon.

36 (3) For purposes of this subdivision, the term "small business" shall  
37 mean a business with one hundred or fewer employees.

38 § 3. Section 606 of the tax law is amended by adding two new  
39 subsections (kkk) and (lll) to read as follows:

40 (kkk) Sales tax paid on outdoor dining equipment credit. (1) For the  
41 period beginning June fourth, two thousand twenty and ending on the  
42 effective date of this subsection, a taxpayer who owns a restaurant or  
43 food service establishment shall be allowed a credit for sales tax paid  
44 for any equipment or product purchased by such taxpayer for use in  
45 outdoor dining during the novel coronavirus (COVID-19) pandemic.

46 (2) If the amount of the credit allowed under this subsection for any  
47 taxable year shall exceed the taxpayer's tax for such year, the excess  
48 shall be treated as an overpayment of tax to be credited or refunded in  
49 accordance with the provisions of section six hundred eighty-six of this  
50 article, provided, however, that no interest shall be paid thereon.

51 (lll) Sales tax paid on materials for COVID-19 health and safety plan  
52 compliance. (1) For the period beginning May fifteenth, two thousand  
53 twenty and ending on the effective date of this subsection, a taxpayer  
54 who owns a small business shall be allowed a credit for sales tax paid  
55 for any equipment or product, including materials used in the  
56 construction of physical barriers, including but not limited to plastic

1 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
2 materials, or other impermeable dividers or partitions, purchased by  
3 such small business in order to be in compliance with a COVID-19 health  
4 and safety plan.

5 (2) If the amount of the credit allowed under this subsection for any  
6 taxable year shall exceed the taxpayer's tax for such year, the excess  
7 shall be treated as an overpayment of tax to be credited or refunded in  
8 accordance with the provisions of section six hundred eighty-six of this  
9 article, provided, however, that no interest shall be paid thereon.

10 (3) For purposes of this subsection, the term "small business" shall  
11 mean a business with one hundred or fewer employees.

12 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
13 of the tax law is amended by adding two new clauses (xlvi) and (xlvii)  
14 to read as follows:

15 <u>(xlvi) Sales tax paid on outdoor</u>	<u>Sales tax paid on outdoor dining</u>
16 <u>dining equipment credit under</u>	<u>equipment credit under subdivision</u>
17 <u>subsection (kkk)</u>	<u>fifty-five of section two hundred</u>
18	<u>ten-B</u>

19 <u>(xlvii) Sales tax paid on</u>	<u>Sales tax paid on materials</u>
20 <u>materials for COVID-19 health</u>	<u>for COVID-19 health and safety</u>
21 <u>and safety plan compliance</u>	<u>plan compliance under subdivision</u>
22 <u>under subsection (lll)</u>	<u>fifty-six of section two</u>
23	<u>hundred ten-B</u>

24 § 5. This act shall take effect on the first day of the sales tax  
25 quarterly period commencing after this act shall have become a law, and  
26 shall apply to sales made and uses occurring on and after such date in  
27 accordance with applicable transitional provisions of sections 1106 and  
28 1217 of the tax law; provided that the commissioner of taxation and  
29 finance shall be authorized on and after the date this act shall have  
30 become a law to take steps necessary to implement the provisions of this  
31 act on its effective date.