

# STATE OF NEW YORK

---

1143--A

2021-2022 Regular Sessions

## IN ASSEMBLY

January 7, 2021

---

Introduced by M. of A. PAULIN, EICHENSTEIN -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to codifying existing guidance on the application of sales and use tax

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

1 Section 1. Paragraph 3 of subdivision (b) of section 1101 of the tax  
2 law, as amended by section 21 of part Y of chapter 63 of the laws of  
3 2000, is amended to read as follows:

4 (3) Receipt. (i) The amount of the sale price of any property and the  
5 charge for any service taxable under this article, including gas and gas  
6 service and electricity and electric service of whatever nature, valued  
7 in money, whether received in money or otherwise, including any amount  
8 for which credit is allowed by the vendor to the purchaser, without any  
9 deduction for expenses or early payment discounts and also including any  
10 charges by the vendor to the purchaser for shipping or delivery, and,  
11 with respect to gas and gas service and electricity and electric  
12 service, any charges by the vendor for transportation, transmission or  
13 distribution, regardless of whether such charges are separately stated  
14 in the written contract, if any, or on the bill rendered to such  
15 purchaser and regardless of whether such shipping or delivery or trans-  
16 portation, transmission, or distribution is provided by such vendor or a  
17 third party, but excluding any credit for tangible personal property  
18 accepted in part payment and intended for resale. For special rules  
19 governing computation of receipts, see section eleven hundred eleven of  
20 this article.

21 (ii) Receipt shall include consideration received by the vendor from  
22 third parties if:

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

LBD02128-05-1

1 (A) The vendor receives consideration from a third party and the  
2 consideration is directly related to a rebate, discount or similar price  
3 reduction on the sale;

4 (B) The vendor has an obligation to pass such consideration through to  
5 the purchaser in the form of a rebate, discount or similar price  
6 reduction;

7 (C) The amount of the consideration to be paid by the third party is  
8 fixed and determinable by the vendor at the time of the sale of the  
9 property or service to the purchaser; and

10 (D) One of the following criteria is met:

11 (I) the purchaser presents a coupon, certificate or other documenta-  
12 tion to the vendor to claim a rebate, discount or similar price  
13 reduction where the coupon, certificate or documentation is authorized,  
14 distributed or granted by a third party with the understanding that the  
15 third party shall reimburse any vendor to whom the coupon, certificate  
16 or documentation is presented;

17 (II) the purchaser presents identification as a member of a group or  
18 organization entitled to a rebate, discount or similar price reduction;  
19 or

20 (III) the rebate, discount or similar price reduction is identified as  
21 a third party rebate, discount or similar price reduction on the invoice  
22 received by the purchaser or on a coupon, certificate or other documen-  
23 tation presented by the purchaser.

24 (iii) Subparagraph (ii) of this paragraph shall not apply to rebates,  
25 discounts or similar price reductions that are reimbursed by a third  
26 party on sales of motor vehicles.

27 (iv) For the purposes of subclause (II) of clause (D) of subparagraph  
28 (ii) of this paragraph, "identification as a member of a group or organ-  
29 ization entitled to a rebate, discount or similar price reduction" shall  
30 not include the presentation of a customer loyalty or related rewards  
31 program card.

32 § 2. This act shall take effect on the first day of a sales tax quar-

33 terly period described in subdivision (b) of section 1136 of the tax law

34 next commencing at least 90 days after this act shall have become a law,

35 and shall apply to sales occurring on and after such date.