STATE OF NEW YORK

4097

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

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

AN ACT to amend the tax law, in relation to exempting certain senior citizen organizations from paying sales and compensating use taxes

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

Section 1. Subdivision (a) of section 1116 of the tax law, as amended by chapter 530 of the laws of 1976, paragraph 4 as amended by chapter 407 of the laws of 2019, paragraph 5 as amended by chapter 366 of the laws of 1983, subparagraph (B) of paragraph 5 as amended by chapter 418 of the laws of 2004, subparagraph (C) of paragraph 5 as amended by chapter 296 of the laws of 2006, paragraph 7 as added by chapter 903 of the laws of 1980, paragraph 8 as added by chapter 888 of the laws of 1983, paragraph 9 as amended by chapter 591 of the laws of 2005, is amended to read as follows:

(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

(1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons[~~;~~]*.*

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons[~~;~~]*.*

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or

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

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consumer, or where it sells services or property of a kind not ordinarily sold by private persons[~~;~~].

(4) Any corporation, association, trust, or community chest, fund, foundation, or limited liability company, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. The provisions of this paragraph regarding political campaign activity shall be interpreted in the same manner as section 501(c)(3) of the United States internal revenue code has been interpreted as of the effective date of [~~the~~] chapter four hundred seven of the laws of two thousand nineteen [~~that amended this paragraph;~~].

(5) A post or organization of past or present members of the armed forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:

(A) organized in this state,

(B) at least seventy-five percent of the members of which are past or present members of the armed forces of the United States as defined in section thirteen-a of the general construction law and substantially all of the other members of which are individuals who are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the armed forces of the United States or of cadets, and

(C) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) The following Indian nations or tribes residing in New York state: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda and Tuscarora, where it is the purchaser, user or consumer.

(7) A not-for-profit corporation operating as a health maintenance organization subject to the provisions of article forty-four of the public health law.

(8) Cooperative and foreign corporations doing business in this state pursuant to the rural electric cooperative law.

(9) A credit union, as defined in subdivision nine of section two of the banking law, where it is the purchaser, user, or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons.

(10) Senior citizen organizations organized pursuant to section 501(c)(3) or section 501(c)(7) of the Internal Revenue Code (26 U.S.C. §501) which limit membership to members age fifty and older, and which are organized for pleasure, social, educational, recreational and/or other non-profit purposes, provided:

(A) no part of the net earnings of which inure to the benefit of any private shareholder or individual;

(B) no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; and

(C) the exemption applies only to purchases that are made by the organization itself and not for purchases by any of its members individually.

§ 2. Subdivision (g) of section 1116 of the tax law, as amended by chapter 3 of the laws of 2004, is amended to read as follows:

(g) For purposes of [~~paragraph~~] paragraphs five and ten of subdivision (a) of this section, duly authorized representatives of any such post or organization, while acting on behalf of such post or organization, shall not be subject to the tax imposed under subdivision (e) of section eleven hundred five or the unit fee imposed by section eleven hundred four of this article, provided that such representatives provide an exempt organization certificate from such post or organization certifying that such representative is acting on its behalf.

§ 3. The commissioner of taxation and finance is authorized and directed to develop and place into effect all rules and regulations, and take all other measures necessary, to implement the provisions of this act on or before its effective date, including, but not limited to making all necessary changes to the "Application for an Exempt Organization Certificate" (Form ST-119.2) and any other forms utilized by tax-exempt entities.

§ 4. This act shall take effect January 1, 2022.