

# STATE OF NEW YORK

5883--A

2021-2022 Regular Sessions

## IN ASSEMBLY

March 1, 2021

Introduced by M. of A. STIRPE -- 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 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 establishments 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 47, 48 and 49 to read as follows:

3 (47) 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 (48) 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 (49) Any equipment or product, including materials used in the  
16 construction of physical barriers, including but not limited to plastic  
17 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
18 materials, or other impermeable dividers or partitions, purchased by a

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

LBD03340-04-1

1 small business doing business in this state that is directly used by  
2 such small business to be in compliance with a COVID-19 health and safe-  
3 ty plan. For purposes of this paragraph, the term "small business" shall  
4 mean a business with one hundred or fewer employees.

5 § 2. Section 210-B of the tax law is amended by adding two new subdivi-  
6 sions 58 and 59 to read as follows:

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

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

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

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

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

36 § 3. Section 606 of the tax law is amended by adding two new  
37 subsections (nnn) and (ooo) to read as follows:

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

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

49 (ooo) Sales tax paid on materials for COVID-19 health and safety plan  
50 compliance. (1) For the period beginning May fifteenth, two thousand  
51 twenty and ending on the effective date of this subsection, a taxpayer  
52 who owns a small business shall be allowed a credit for sales tax paid  
53 for any equipment or product, including materials used in the  
54 construction of physical barriers, including but not limited to plastic  
55 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
56 materials, or other impermeable dividers or partitions, purchased by

1 such small business in order to be in compliance with a COVID-19 health  
2 and safety plan.

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

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

10 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
11 of the tax law is amended by adding two new clauses (xlix) and (l) to  
12 read as follows:

13 <u>(xlix) Sales tax paid on outdoor</u>	<u>Sales tax paid on outdoor dining</u>
14 <u>dining equipment credit under</u>	<u>equipment credit under subdivision</u>
15 <u>subsection (nnn)</u>	<u>fifty-eight of section two hundred</u>
16	<u>ten-B</u>

17 <u>(l) Sales tax paid on</u>	<u>Sales tax paid on materials</u>
18 <u>materials for COVID-19 health</u>	<u>for COVID-19 health and safety</u>
19 <u>and safety plan compliance</u>	<u>plan compliance under subdivision</u>
20 <u>under subsection (ooo)</u>	<u>fifty-nine of section two</u>
21	<u>hundred ten-B</u>

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