8481

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

- Introduced by M. of A. BARCLAY, RA, TANNOUSIS, J. M. GIGLIO, BRABENEC, BLANKENBUSH, ASHBY, GANDOLFO, SALKA, TAGUE, WALSH, WALCZYK, SMULLEN, SMITH, SIMPSON, NORRIS, MONTESANO, M. MILLER, PALMESANO, REILLY, SCHMITT, MANKTELOW, LEMONDES, LAWLER, HAWLEY, GOODELL, J. A. GIGLIO, GALLAHAN, FRIEND, FITZPATRICK, DURSO, DeSTEFANO, ANGELINO, BROWN, JENSEN, MIKULIN, B. MILLER, MORINELLO -- read once and referred to the Committee on Ways and Means
- AN ACT to amend the tax law, in relation to eliminating state sales and compensating use taxes on motor fuels and diesel motor fuels and authorizing localities to eliminate such taxes at the local level; and providing for the repeal of such provisions upon expiration thereof (Part A); to amend the tax law, in relation to exemptions from sales and use taxes; and providing for the repeal of such provisions upon expiration thereof (Part B); to amend the tax law, in relation to providing a sales tax exemption for housekeeping supplies; and providing for the repeal of such provisions upon expiration thereof (Part C); and to amend the tax law, in relation to providing a sales tax exemption for ready-to-eat foods; and providing for the repeal of such provisions upon expiration thereof (Part D)

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

Section 1. This act enacts into law components of legislation relating 1 2 to establishing various exemptions from New York's sales and compensat-3 ing use tax. Each component is wholly contained within a Part identi-4 fied as Parts A through D. The effective date for each particular 5 provision contained within such Part is set forth in the last section of 6 such Part. Any provision in any section contained within a Part, includ-7 ing the effective date of the Part, which makes a reference to a section 8 "of this act", when used in connection with that particular component, 9 shall be deemed to mean and refer to the corresponding section of the

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

LBD13450-02-1

1 Part in which it is found. Section three of this act sets forth the 2 general effective date of this act.

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PART A

4 Section 1. Subdivision (a) of section 1115 of the tax law is amended
5 by adding a new paragraph 47 to read as follows:
6 (47) Motor fuel and diesel motor fuel.
7 § 2. Subdivision (b) of section 1107 of the tax law is amended by
8 adding a new clause 12 to read as follows:

adding a new clause 12 to read as follows: 9 (12) Except as otherwise provided by law, the exemption provided in 10 paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this article relating to motor fuel and diesel motor fuel 11 shall be applicable pursuant to a local law, ordinance or resolution 12 13 adopted by a city subject to the provisions of this section. Such city 14 is empowered to adopt or repeal such a local law, ordinance or resol-15 ution. Such adoption or repeal shall also be deemed to amend any local 16 law, ordinance or resolution enacted by such a city imposing taxes 17 pursuant to the authority of subdivision (a) of section twelve hundred 18 ten of this chapter.

19 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as 20 amended by section 5 of part J of chapter 59 of the laws of 2021, is 21 amended to read as follows:

22 (1) Either, all of the taxes described in article twenty-eight of this 23 chapter, at the same uniform rate, as to which taxes all provisions of 24 the local laws, ordinances or resolutions imposing such taxes shall be 25 identical, except as to rate and except as otherwise provided, with the 26 corresponding provisions in such article twenty-eight, including the 27 definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the 28 29 taxes imposed by such city or county and with such limitations and 30 special provisions as are set forth in this article. The taxes author-31 ized under this subdivision may not be imposed by a city or county 32 unless the local law, ordinance or resolution imposes such taxes so as 33 include all portions and all types of receipts, charges or rents, to 34 subject to state tax under sections eleven hundred five and eleven 35 hundred ten of this chapter, except as otherwise provided. Notwithstanding the foregoing, a tax imposed by a city or county authorized 36 under this subdivision shall not include the tax imposed on charges for 37 38 admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter. (i) Any local law, ordi-39 40 nance or resolution enacted by any city of less than one million or by 41 any county or school district, imposing the taxes authorized by this 42 subdivision, shall, notwithstanding any provision of law to the contra-43 ry, exclude from the operation of such local taxes all sales of tangible 44 personal property for use or consumption directly and predominantly in 45 the production of tangible personal property, gas, electricity, refrig-46 eration or steam, for sale, by manufacturing, processing, generating, 47 assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the 48 49 production of tangible personal property, for sale, by farming or in a 50 commercial horse boarding operation, or in both; and all sales of fuel 51 sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit 52 53 the provision for credit or refund contained in clause six of subdivi-54 sion (a) or subdivision (d) of section eleven hundred nineteen of this

chapter. (ii) Any local law, ordinance or resolution enacted by any 1 city, county or school district, imposing the taxes authorized by this 2 3 subdivision, shall omit the residential solar energy systems equipment 4 and electricity exemption provided for in subdivision (ee), the commer-5 cial solar energy systems equipment and electricity exemption provided б for in subdivision (ii), the commercial fuel cell electricity generating 7 systems equipment and electricity generated by such equipment exemption 8 provided for in subdivision (kk) and the clothing and footwear exemption 9 provided for in paragraph thirty of subdivision (a) of section eleven 10 hundred fifteen of this chapter, unless such city, county or school 11 district elects otherwise as to such residential solar energy systems 12 equipment and electricity exemption, such commercial solar energy 13 systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such 14 15 equipment exemption or such clothing and footwear exemption. Any local 16 law, ordinance or resolution enacted by any city, county or school 17 district, imposing the taxes authorized by this subdivision, shall omit the motor fuel and diesel motor fuel exemption provided for in paragraph 18 forty-seven of subdivision (a) of section eleven hundred fifteen of this 19 20 chapter, unless such city, county or school district elects otherwise; 21 provided that if such a city having a population of one million or more 22 enacts the resolution described in subdivision (q) of this section or 23 repeals such resolution, such resolution or repeal shall also be deemed 24 to amend any local law, ordinance or resolution enacted by such a city 25 imposing such taxes pursuant to the authority of this subdivision, 26 whether or not such taxes are suspended at the time such city enacts its 27 resolution pursuant to subdivision (q) of this section or at the time of 28 any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as 29 30 deemed to be amended in the event a city of one million or more enacts a 31 resolution pursuant to the authority of subdivision (q) of this section, 32 shall be further amended, as provided in section twelve hundred eighteen 33 of this subpart, so that the motor fuel and diesel motor fuel exemption 34 in any such local law, ordinance or resolution or in such section eleven 35 hundred seven of this chapter is the same as the motor fuel and diesel 36 motor fuel exemption in paragraph forty-seven of subdivision (a) of 37 section eleven hundred fifteen of this chapter. (iii) Any local law, 38 ordinance or resolution enacted by any city, county or school district, 39 imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption 40 provided for in subdivision (ee) of section eleven hundred fifteen of 41 42 this chapter, the commercial solar energy systems equipment and elec-43 tricity exemption provided for in subdivision (ii) and the clothing and 44 footwear exemption provided for in paragraph thirty of subdivision (a) 45 of section eleven hundred fifteen of this chapter, unless such city, 46 county or school district elects otherwise as to either such residential 47 solar energy systems equipment and electricity exemption, such commer-48 cial solar energy systems equipment and electricity exemption or such 49 clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes 50 authorized by this subdivision, shall omit the mobile telecommunication 51 52 services exemption provided for in subdivision (cc) of section eleven 53 hundred fifteen of this chapter, unless such city, county or school 54 district elects otherwise; provided that if such a city having a population of one million or more repeals a resolution described in former 55 subdivision (p) of this section, such repeal shall also be deemed to 56

1 amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, 2 3 whether or not such taxes are suspended at the time such city repeals 4 its resolution enacted pursuant to former subdivision (p) of this 5 section; provided, further, that any such local law, ordinance or resolб ution and section eleven hundred seven of this chapter, as deemed to be 7 amended in the event a city of one million or more repeals a resolution enacted pursuant to the authority of former subdivision (p) of this 8 9 section, shall be further amended, as provided in section twelve hundred 10 eighteen of this subpart, so that the wireless telecommunications 11 services exemption in any such local law, ordinance or resolution or in 12 such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of 13 section eleven hundred fifteen of this chapter. (iv) Any local law, 14 15 ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the resi-16 17 dential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of 18 this chapter, the commercial solar energy systems equipment and elec-19 20 tricity exemption provided for in subdivision (ii) and the clothing and 21 footwear exemption provided for in paragraph thirty of subdivision (a) 22 of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential 23 24 solar energy systems equipment and electricity exemption, such commer-25 cial solar energy systems equipment and electricity exemption or such 26 clothing and footwear exemption.

§ 4. Subdivision (d) of section 1210 of the tax law, as amended by section 4 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

30 (d) A local law, ordinance or resolution imposing any tax pursuant to 31 this section, increasing or decreasing the rate of such tax, repealing 32 or suspending such tax, exempting from such tax the energy sources and 33 services described in paragraph three of subdivision (a) or of subdivi-34 sion (b) of this section or changing the rate of tax imposed on such 35 energy sources and services or providing for the credit or refund 36 described in clause six of subdivision (a) of section eleven hundred 37 nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of 38 39 section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of 40 section eleven hundred fifteen of this article, or electing or repealing 41 42 the exemption for commercial fuel cell electricity generating systems 43 equipment and electricity generated by such equipment in subdivision 44 (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, 45 46 September first or December first; provided, that a local law, ordinance 47 or resolution providing for the exemption described in paragraph thirty 48 of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution 49 providing for a refund or credit described in subdivision (d) of section 50 51 eleven hundred nineteen of this chapter or repealing such provision so 52 provided must go into effect only on March first; provided, further, 53 that a local law, ordinance or resolution providing for the exemption 54 described in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so 55 56 provided and a resolution enacted pursuant to the authority of subdivi-

sion (q) of this section providing such exemption or repealing such 1 exemption so provided may go into effect immediately. No such local law, 2 ordinance or resolution shall be effective unless a certified copy of 3 such law, ordinance or resolution is mailed by registered or certified 4 5 mail to the commissioner at the commissioner's office in Albany at least 6 ninety days prior to the date it is to become effective. However, the 7 commissioner may waive and reduce such ninety-day minimum notice 8 requirement to a mailing of such certified copy by registered or certi-9 fied mail within a period of not less than thirty days prior to such 10 effective date if the commissioner deems such action to be consistent 11 with the commissioner's duties under section twelve hundred fifty of 12 this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this 13 14 article as to the effective date of a tax and the notice requirement 15 provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-16 17 three of this article shall also apply. 18 Section 1210 of the tax law is amended by adding a new subdivi-§ 5. 19 sion (q) to read as follows: 20 (q) Notwithstanding any other provision of state or local law, ordi-21 nance or resolution to the contrary: 22 (1) Any city having a population of one million or more in which the 23 taxes imposed by section eleven hundred seven of this chapter are in effect, acting through its local legislative body, is hereby authorized 24 25 and empowered to elect to provide the exemption from such taxes for the 26 same motor fuel and diesel motor fuel exempt from state sales and 27 compensating use taxes described in paragraph forty-seven of subdivision 28 (a) of section eleven hundred fifteen of this chapter by enacting a 29 resolution in the form set forth in paragraph two of this subdivision; 30 whereupon, upon compliance with the provisions of subdivisions (d) and 31 (e) of this section, such enactment of such resolution shall be deemed 32 to be an amendment to such section eleven hundred seven and such section 33 eleven hundred seven shall be deemed to incorporate such exemption as if 34 it had been duly enacted by the state legislature and approved by the 35 governor. 36 (2) Form of Resolution: Be it enacted by the (insert proper title of 37 local legislative body) as follows: 38 Section one. Receipts from sales of and consideration given or 39 contracted to be given for purchases of motor fuel and diesel motor fuel 40 exempt from state sales and compensating use taxes pursuant to paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of the 41 tax law shall also be exempt from sales and compensating use taxes 42 43 imposed in this jurisdiction. Section two. This resolution shall take effect, (insert the date) and 44 45 shall apply to sales made and uses occurring on and after that date 46 although made or occurring under a prior contract. 47 § 6. The commissioner of taxation and finance is hereby authorized to 48 implement the provisions of this act with respect to the elimination of the imposition of sales tax, additional taxes, and supplemental taxes on 49 50 diesel motor fuel and motor fuel and all other taxes so addressed by 51 this act. 52 § 7. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the 53 54 tax law, next commencing at least 90 days after this act shall have 55 become a law and shall apply in accordance with the applicable transi-56 tional provisions of sections 1106 and 1217 of the tax law and shall

1 expire and be deemed repealed two years after such date; provided, 2 however that if section 5 of part J of chapter 59 of the laws of 2021 3 shall not have taken effect on or before such date then section three of 4 this act shall take effect on the same date and in the same manner as 5 such chapter of the laws of 2021, takes effect.

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PART B

7 Section 1. Paragraph 3 of subdivision (a) of section 1115 of the tax 8 law, as amended by chapter 201 of the laws of 1976, is amended to read 9 as follows:

10 (3) Drugs and medicines intended for use, internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases 11 12 in human beings, medical equipment (including component parts thereof) 13 and supplies required for such use or to correct or alleviate physical 14 incapacity, and products consumed by humans for the preservation of 15 health but not including cosmetics [or toilet articles] notwithstanding the presence of medicinal ingredients therein or medical equipment 16 17 (including component parts thereof) and supplies, other than such drugs and medicines, purchased at retail for use in performing medical and 18 19 similar services for compensation.

20 § 2. Subdivision (a) of section 1115 of the tax law is amended by 21 adding a new paragraph 48 to read as follows:

(48) Personal care products as determined by the commissioner.

23 § 3. Subdivision (b) of section 1107 of the tax law is amended by 24 adding a new clause 13 to read as follows:

25 (13) Except as otherwise provided by law, the exemption provided in 26 paragraph forty-eight of subdivision (a) of section eleven hundred 27 fifteen of this article relating to personal care products shall be 28 applicable pursuant to a local law, ordinance or resolution adopted by a 29 city subject to the provisions of this section. Such city is empowered 30 to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordi-31 32 nance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this 33 34 chapter.

35 § 4. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as 36 amended by section 5 of part J of chapter 59 of the laws of 2021, is 37 amended to read as follows:

38 (1) Either, all of the taxes described in article twenty-eight of this 39 chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be 40 41 identical, except as to rate and except as otherwise provided, with the 42 corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the 43 44 provisions of such article twenty-eight can be made applicable to the 45 taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes author-46 ized under this subdivision may not be imposed by a city or county 47 unless the local law, ordinance or resolution imposes such taxes so as 48 49 to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven 50 51 hundred ten of this chapter, except as otherwise provided. Notwith-52 standing the foregoing, a tax imposed by a city or county authorized 53 under this subdivision shall not include the tax imposed on charges for 54 admission to race tracks and simulcast facilities under subdivision (f)

of section eleven hundred five of this chapter. (i) Any local law, ordi-1 nance or resolution enacted by any city of less than one million or by 2 any county or school district, imposing the taxes authorized by this 3 4 subdivision, shall, notwithstanding any provision of law to the contra-5 ry, exclude from the operation of such local taxes all sales of tangible 6 personal property for use or consumption directly and predominantly in 7 the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, 8 generating, 9 assembly, refining, mining or extracting; and all sales of tangible 10 personal property for use or consumption predominantly either in the 11 production of tangible personal property, for sale, by farming or in a 12 commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, 13 14 unless such city, county or school district elects otherwise, shall omit 15 the provision for credit or refund contained in clause six of subdivi-16 sion (a) or subdivision (d) of section eleven hundred nineteen of this 17 chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this 18 19 subdivision, shall omit the residential solar energy systems equipment 20 and electricity exemption provided for in subdivision (ee), the commer-21 cial solar energy systems equipment and electricity exemption provided 22 for in subdivision (ii), the commercial fuel cell electricity generating 23 systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption 24 25 provided for in paragraph thirty of subdivision (a) of section eleven 26 hundred fifteen of this chapter, unless such city, county or school 27 district elects otherwise as to such residential solar energy systems 28 equipment and electricity exemption, such commercial solar energy 29 systems equipment and electricity exemption, commercial fuel cell elec-30 tricity generating systems equipment and electricity generated by such 31 equipment exemption or such clothing and footwear exemption. Any local 32 law, ordinance or resolution enacted by any city, county or school 33 district, imposing the taxes authorized by this subdivision, shall omit 34 the personal care products exemption provided for in paragraph forty-35 eight of subdivision (a) of section eleven hundred fifteen of this chap-36 ter, unless such city, county or school district elects otherwise; 37 provided that if such a city having a population of one million or more 38 enacts the resolution described in subdivision (r) of this section or 39 repeals such resolution, such resolution or repeal shall also be deemed 40 to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, 41 42 whether or not such taxes are suspended at the time such city enacts its 43 resolution pursuant to subdivision (r) of this section or at the time of 44 such repeal; provided, further, that any such local law, ordinance or 45 resolution and section eleven hundred seven of this chapter, as deemed 46 to be amended in the event a city of one million or more enacts a resol-47 ution pursuant to the authority of subdivision (r) of this section, 48 shall be further amended, as provided in section twelve hundred eighteen 49 of this subpart, so that the personal care products exemption in any 50 such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the personal care products 51 52 exemption in paragraph forty-eight of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or 53 54 resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar 55 energy systems equipment and electricity exemption provided for in 56

subdivision (ee) of section eleven hundred fifteen of this chapter, the 1 commercial solar energy systems equipment and electricity exemption 2 provided for in subdivision (ii) and the clothing and footwear exemption 3 4 provided for in paragraph thirty of subdivision (a) of section eleven 5 hundred fifteen of this chapter, unless such city, county or school б district elects otherwise as to either such residential solar energy 7 systems equipment and electricity exemption, such commercial solar ener-8 gy systems equipment and electricity exemption or such clothing and 9 footwear exemption. Any local law, ordinance or resolution enacted by 10 any city, county or school district, imposing the taxes authorized by 11 this subdivision, shall omit the mobile telecommunication services 12 exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district 13 elects otherwise; provided that if such a city having a population of 14 15 one million or more repeals a resolution described in former subdivision (p) of this section, such repeal shall also be deemed to amend any local 16 17 law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes 18 are suspended at the time such city repeals its resolution enacted 19 20 pursuant to former subdivision (p) of this section; provided, further, 21 that any such local law, ordinance or resolution and section eleven 22 hundred seven of this chapter, as deemed to be amended in the event a city of one million or more repeals a resolution enacted pursuant to the 23 authority of former subdivision (p) of this section, shall be further 24 25 amended, as provided in section twelve hundred eighteen of this subpart, 26 so that the wireless telecommunications services exemption in any such 27 local law, ordinance or resolution or in such section eleven hundred 28 seven of this chapter is the same as the mobile telecommunication 29 services exemption in subdivision (cc) of section eleven hundred fifteen 30 of this chapter. (iv) Any local law, ordinance or resolution enacted by 31 any city, county or school district, imposing the taxes authorized by 32 this subdivision, shall omit the residential solar energy systems equip-33 ment and electricity exemption provided for in subdivision (ee) of 34 section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in 35 36 subdivision (ii) and the clothing and footwear exemption provided for in 37 paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects other-38 39 wise as to either such residential solar energy systems equipment and 40 electricity exemption, such commercial solar energy systems equipment 41 and electricity exemption or such clothing and footwear exemption.

42 § 5. Subdivision (d) of section 1210 of the tax law, as amended by 43 section 4 of part WW of chapter 60 of the laws of 2016, is amended to 44 read as follows:

45 (d) A local law, ordinance or resolution imposing any tax pursuant to 46 this section, increasing or decreasing the rate of such tax, repealing 47 or suspending such tax, exempting from such tax the energy sources and 48 services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such 49 energy sources and services or providing for the credit or refund 50 described in clause six of subdivision (a) of section eleven hundred 51 nineteen of this chapter, or electing or repealing the exemption for 52 53 residential solar equipment and electricity in subdivision (ee) of 54 section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of 55 section eleven hundred fifteen of this article, or electing or repealing 56

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the exemption for commercial fuel cell electricity generating systems 1 equipment and electricity generated by such equipment in subdivision 2 (kk) of section eleven hundred fifteen of this article must go into 3 4 effect only on one of the following dates: March first, June first, 5 September first or December first; provided, that a local law, ordinance 6 or resolution providing for the exemption described in paragraph thirty 7 of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution 8 9 providing for a refund or credit described in subdivision (d) of section 10 eleven hundred nineteen of this chapter or repealing such provision so 11 provided must go into effect only on March first; provided, further, 12 that a local law, ordinance or resolution providing for the exemption described in paragraph forty-eight of subdivision (a) of section eleven 13 14 hundred fifteen of this chapter or repealing any such exemption so 15 provided and a resolution enacted pursuant to the authority of subdivision (r) of this section providing such exemption or repealing such 16 17 exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of 18 19 such law, ordinance or resolution is mailed by registered or certified 20 mail to the commissioner at the commissioner's office in Albany at least 21 ninety days prior to the date it is to become effective. However, the 22 commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certi-23 24 fied mail within a period of not less than thirty days prior to such 25 effective date if the commissioner deems such action to be consistent 26 with the commissioner's duties under section twelve hundred fifty of 27 this article and the commissioner acts by resolution. Where the 28 restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement 29 provided for therein are applicable and have not been waived, the 30 31 restriction and notice requirement in section twelve hundred twenty-32 three of this article shall also apply. 33 6. Section 1210 of the tax law is amended by adding a new subdivi-8 sion (r) to read as follows: 34 35 (r) Notwithstanding any other provision of state or local law, ordi-36 nance or resolution to the contrary: (1) Any city having a population of 37 one million or more in which the taxes imposed by section eleven hundred seven of this chapter are in effect, acting through its local legisla-38 39 tive body, is hereby authorized and empowered to elect to provide the 40 exemption from such taxes for the same personal care products exempt from state sales and compensating use taxes described in paragraph 41 42 forty-eight of subdivision (a) of section eleven hundred fifteen of this 43 chapter by enacting a resolution in the form set forth in paragraph two 44 of this subdivision; whereupon, upon compliance with the provisions of 45 subdivisions (d) and (e) of this section, such enactment of such resol-46 ution shall be deemed to be an amendment to such section eleven hundred 47 seven and such section eleven hundred seven shall be deemed to incorpo-48 rate such exemption as if it had been duly enacted by the state legisla-49 ture and approved by the governor. 50 (2) Form of resolution: Be it enacted by the (insert proper title of 51 local legislative body) as follows: 52 Section one. Receipts from sales of and consideration given or contracted to be given for purchases of personal care products exempt 53 54 from state sales and compensating use taxes pursuant to paragraph

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2	imposed in	this ju	urisdicti	.on.					
3	Section	two. Th	<u>nis resol</u>	ution sha	all take	effect	(insert the	e date)	and
4	shall apply	y to sal	les made	and uses	occurrin	ng on	and after	that	date

5 although made or occurring under a prior contract.

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6 § 7. The commissioner of taxation and finance is hereby authorized to 7 implement the provisions of this act with respect to the elimination of 8 the imposition of sales tax, additional taxes, and supplemental taxes on 9 personal care products and all other taxes so addressed by this act.

10 8. This act shall take effect on the first day of the sales tax S 11 quarterly period, as described in subdivision (b) of section 1136 of the 12 tax law, beginning at least 90 days after the date this act shall have become a law and shall apply in accordance with the applicable transi-13 14 tional provisions of sections 1106 and 1217 of the tax law and shall 15 expire and be deemed repealed two years after such date; provided, however that if section 5 of part J of chapter 59 of the laws of 16 2021 17 shall not have taken effect on or before such date then section four of this act shall take effect on the same date and in the same manner as 18 such chapter of the laws of 2021, takes effect. 19

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PART C

21 Section 1. Subdivision (a) of section 1115 of the tax law is amended 22 by adding a new paragraph 49 to read as follows:

23 (49) Housekeeping supplies as determined by the commissioner.

24 § 2. Subdivision (b) of section 1107 of the tax law is amended by 25 adding a new clause 14 to read as follows:

26 (14) Except as otherwise provided by law, the exemption provided in 27 paragraph forty-nine of subdivision (a) of section eleven hundred 28 fifteen of this article relating to housekeeping supplies shall be 29 applicable pursuant to a local law, ordinance or resolution adopted by a 30 city subject to the provisions of this section. Such city is empowered 31 to adopt or repeal such a local law, ordinance or resolution. Such 32 adoption or repeal shall also be deemed to amend any local law, ordi-33 nance or resolution enacted by such a city imposing taxes pursuant to 34 the authority of subdivision (a) of section twelve hundred ten of this 35 chapter.

36 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, 37 as amended by section 5 of part J of chapter 59 of the laws of 2021, is 38 amended to read as follows:

39 (1) Either, all of the taxes described in article twenty-eight of this 40 chapter, at the same uniform rate, as to which taxes all provisions of 41 the local laws, ordinances or resolutions imposing such taxes shall be 42 identical, except as to rate and except as otherwise provided, with the 43 corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the 44 45 provisions of such article twenty-eight can be made applicable to the 46 taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes author-47 ized under this subdivision may not be imposed by a city or county 48 49 unless the local law, ordinance or resolution imposes such taxes so as 50 include all portions and all types of receipts, charges or rents, to 51 subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. Notwith-52 53 standing the foregoing, a tax imposed by a city or county authorized 54 under this subdivision shall not include the tax imposed on charges for

admission to race tracks and simulcast facilities under subdivision (f) 1 2 of section eleven hundred five of this chapter. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by 3 4 any county or school district, imposing the taxes authorized by this 5 subdivision, shall, notwithstanding any provision of law to the contra-6 ry, exclude from the operation of such local taxes all sales of tangible 7 personal property for use or consumption directly and predominantly in 8 the production of tangible personal property, gas, electricity, refrig-9 eration or steam, for sale, by manufacturing, processing, generating, 10 assembly, refining, mining or extracting; and all sales of tangible 11 personal property for use or consumption predominantly either in the 12 production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel 13 14 sold for use in commercial aircraft and general aviation aircraft; and, 15 unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivi-16 17 sion (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any 18 city, county or school district, imposing the taxes authorized by this 19 20 subdivision, shall omit the residential solar energy systems equipment 21 and electricity exemption provided for in subdivision (ee), the commer-22 solar energy systems equipment and electricity exemption provided cial 23 for in 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 exemption provided for in paragraph thirty of subdivision (a) of section eleven 26 27 hundred fifteen of this chapter, unless such city, county or school 28 district elects otherwise as to such residential solar energy systems 29 equipment and electricity exemption, such commercial solar energy 30 systems equipment and electricity exemption, commercial fuel cell elec-31 tricity generating systems equipment and electricity generated by such 32 equipment exemption or such clothing and footwear exemption. Any local 33 law, ordinance or resolution enacted by any city, county or school 34 district, imposing the taxes authorized by this subdivision, shall omit 35 the housekeeping supplies exemption provided for in paragraph forty-nine 36 of subdivision (a) of section eleven hundred fifteen of this chapter, 37 unless such city, county or school district elects otherwise; provided 38 that if such a city having a population of one million or more enacts 39 the resolution described in subdivision (s) of this section or repeals 40 such resolution, such resolution or repeal shall also be deemed to amend 41 any local law, ordinance or resolution enacted by such a city imposing 42 such taxes pursuant to the authority of this subdivision, whether or not 43 such taxes are suspended at the time such city enacts its resolution 44 pursuant to subdivision (s) of this section or at the time of such repeal; provided, further, that any such local law, ordinance or resol-45 46 ution and section eleven hundred seven of this chapter, as deemed to be 47 amended in the event a city of one million or more enacts a resolution 48 pursuant to the authority of subdivision (s) of this section, shall be 49 further amended, as provided in section twelve hundred eighteen of this 50 subpart, so that the housekeeping supplies exemption in any such local 51 law, ordinance or resolution or in such section eleven hundred seven of 52 this chapter is the same as the housekeeping supplies exemption in para-53 graph forty-nine of subdivision (a) of section eleven hundred fifteen of 54 this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by 55

56 this subdivision, shall omit the residential solar energy systems equip-

ment and electricity exemption provided for in subdivision (ee) of 1 section eleven hundred fifteen of this chapter, the commercial solar 2 energy systems equipment and electricity exemption provided for in 3 4 subdivision (ii) and the clothing and footwear exemption provided for in 5 paragraph thirty of subdivision (a) of section eleven hundred fifteen of б this chapter, unless such city, county or school district elects other-7 wise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment 8 and electricity exemption or such clothing and footwear exemption. Any 9 10 local law, ordinance or resolution enacted by any city, county or school 11 district, imposing the taxes authorized by this subdivision, shall omit 12 the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such 13 14 city, county or school district elects otherwise; provided that if such 15 a city having a population of one million or more repeals a resolution 16 described in former subdivision (p) of this section, such repeal shall 17 also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this 18 19 subdivision, whether or not such taxes are suspended at the time such 20 city repeals its resolution enacted pursuant to former subdivision (p) 21 of this section; provided, further, that any such local law, ordinance 22 or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more repeals 23 a resolution enacted pursuant to the authority of former subdivision (p) 24 25 of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommuni-26 27 cations services exemption in any such local law, ordinance or resol-28 ution or in such section eleven hundred seven of this chapter is the 29 same as the mobile telecommunication services exemption in subdivision 30 (cc) of section eleven hundred fifteen of this chapter. (iv) Any local 31 law, ordinance or resolution enacted by any city, county or school 32 district, imposing the taxes authorized by this subdivision, shall omit 33 the residential solar energy systems equipment and electricity exemption 34 provided for in subdivision (ee) of section eleven hundred fifteen of 35 this chapter, the commercial solar energy systems equipment and elec-36 tricity exemption provided for in subdivision (ii) and the clothing and 37 footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, 38 39 county or school district elects otherwise as to either such residential 40 solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such 41 42 clothing and footwear exemption.

43 § 4. Subdivision (d) of section 1210 of the tax law, as amended by 44 section 4 of part WW of chapter 60 of the laws of 2016, is amended to 45 read as follows:

46 (d) A local law, ordinance or resolution imposing any tax pursuant to 47 this section, increasing or decreasing the rate of such tax, repealing 48 or suspending such tax, exempting from such tax the energy sources and 49 services described in paragraph three of subdivision (a) or of subdivi-50 sion (b) of this section or changing the rate of tax imposed on such 51 energy sources and services or providing for the credit or refund 52 described in clause six of subdivision (a) of section eleven hundred 53 nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of 54 section eleven hundred fifteen of this article, or the exemption for 55 56 commercial solar equipment and electricity in subdivision (ii) of

section eleven hundred fifteen of this article, or electing or repealing 1 the exemption for commercial fuel cell electricity generating systems 2 equipment and electricity generated by such equipment in subdivision 3 4 (kk) of section eleven hundred fifteen of this article must go into 5 effect only on one of the following dates: March first, June first, 6 September first or December first; provided, that a local law, ordinance 7 or resolution providing for the exemption described in paragraph thirty 8 of subdivision (a) of section eleven hundred fifteen of this chapter or 9 repealing any such exemption or a local law, ordinance or resolution 10 providing for a refund or credit described in subdivision (d) of section 11 eleven hundred nineteen of this chapter or repealing such provision so 12 provided must go into effect only on March first; provided, further, that a local law, ordinance or resolution providing for the exemption 13 described in paragraph forty-nine of subdivision (a) of section eleven 14 hundred fifteen of this chapter or repealing any such exemption so 15 provided and a resolution enacted pursuant to the authority of subdivi-16 17 sion (s) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, 18 ordinance or resolution shall be effective unless a certified copy of 19 20 such law, ordinance or resolution is mailed by registered or certified 21 mail to the commissioner at the commissioner's office in Albany at least 22 ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice 23 24 requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such 25 26 effective date if the commissioner deems such action to be consistent 27 with the commissioner's duties under section twelve hundred fifty of 28 this article and the commissioner acts by resolution. Where the 29 restriction provided for in section twelve hundred twenty-three of this 30 article as to the effective date of a tax and the notice requirement 31 provided for therein are applicable and have not been waived, the 32 restriction and notice requirement in section twelve hundred twenty-33 three of this article shall also apply. § 5. Section 1210 of the tax law is amended by adding a new subdivi-34 35 sion (s) to read as follows: 36 (s) Notwithstanding any other provision of state or local law, ordi-37 nance or resolution to the contrary: (1) Any city having a population of 38 one million or more in which the taxes imposed by section eleven hundred 39 seven of this chapter are in effect, acting through its local legisla-40 tive body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same housekeeping supplies exempt from 41 42 state sales and compensating use taxes described in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this chapter by 43 44 enacting a resolution in the form set forth in paragraph two of this 45 subdivision; whereupon, upon compliance with the provisions of subdivi-46 sions (d) and (e) of this section, such enactment of such resolution 47 shall be deemed to be an amendment to such section eleven hundred seven 48 and such section eleven hundred seven shall be deemed to incorporate 49 such exemption as if it had been duly enacted by the state legislature 50 and approved by the governor. (2) Form of resolution: Be it enacted by the (insert proper title of 51 52 local legislative body) as follows: 53 Section one. Receipts from sales of and consideration given or 54 contracted to be given for purchases of housekeeping supplies exempt

55 from state sales and compensating use taxes pursuant to paragraph

56 forty-nine of subdivision (a) of section eleven hundred fifteen of the

1 tax law shall also be exempt from sales and compensating use taxes
2 imposed in this jurisdiction.

3 Section two. This resolution shall take effect, (insert the date) and 4 shall apply to sales made and uses occurring on and after that date 5 although made or occurring under a prior contract.

6 § 6. The commissioner of taxation and finance is hereby authorized to 7 implement the provisions of this act with respect to the elimination of 8 the imposition of sales tax, additional taxes, and supplemental taxes on 9 housekeeping supplies and all other taxes so addressed by this act.

10 Ş 7. This act shall take effect on the first day of the sales tax 11 quarterly period, as described in subdivision (b) of section 1136 of the 12 tax law, beginning at least 90 days after the date this act shall have become a law and shall apply in accordance with the applicable transi-13 14 tional provisions of sections 1106 and 1217 of the tax law and shall 15 expire and be deemed repealed two years after such date; provided, 16 however that if section 5 of part J of chapter 59 of the laws of 2021 17 shall not have taken effect on or before such date then section three of this act shall take effect on the same date and in the same manner as 18 such chapter of the laws of 2021, takes effect. 19

20

PART D

21 Section 1. Subdivision (a) of section 1115 of the tax law is amended 22 by adding a new paragraph (1-a) to read as follows:

23 <u>(1-a) Food which is sold heated or prepared, including food sold at</u> 24 grocery stores, restaurants, diners, taverns, food trucks, and food 25 <u>courts at a mall and food that is catered.</u>

26 § 2. Subdivision (b) of section 1107 of the tax law is amended by 27 adding a new clause 15 to read as follows:

28 (15) Except as otherwise provided by law, the exemption provided in 29 paragraph one-a of subdivision (a) of section eleven hundred fifteen of 30 this article relating to heated or prepared foods shall be applicable 31 pursuant to a local law, ordinance or resolution adopted by a city 32 subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption 33 34 or repeal shall also be deemed to amend any local law, ordinance or 35 resolution enacted by such a city imposing taxes pursuant to the author-36 ity of subdivision (a) of section twelve hundred ten of this chapter.

37 § 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as 38 amended by section 5 of part J of chapter 59 of the laws of 2021, is 39 amended to read as follows:

40 (1) Either, all of the taxes described in article twenty-eight of this 41 chapter, at the same uniform rate, as to which taxes all provisions of 42 the local laws, ordinances or resolutions imposing such taxes shall be 43 identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the 44 45 definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the 46 47 taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes author-48 ized under this subdivision may not be imposed by a city or county 49 50 unless the local law, ordinance or resolution imposes such taxes so as 51 to include all portions and all types of receipts, charges or rents, 52 subject to state tax under sections eleven hundred five and eleven 53 hundred ten of this chapter, except as otherwise provided. Notwithstanding the foregoing, a tax imposed by a city or county authorized 54

under this subdivision shall not include the tax imposed on charges for 1 2 admission to race tracks and simulcast facilities under subdivision (f) of section eleven hundred five of this chapter. (i) Any local law, ordi-3 4 nance or resolution enacted by any city of less than one million or by 5 any county or school district, imposing the taxes authorized by this б subdivision, shall, notwithstanding any provision of law to the contra-7 ry, exclude from the operation of such local taxes all sales of tangible 8 personal property for use or consumption directly and predominantly in 9 the production of tangible personal property, gas, electricity, refrig-10 eration or steam, for sale, by manufacturing, processing, generating, 11 assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the 12 production of tangible personal property, for sale, by farming or in a 13 14 commercial horse boarding operation, or in both; and all sales of fuel 15 sold for use in commercial aircraft and general aviation aircraft; and, 16 unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivi-17 sion (a) or subdivision (d) of section eleven hundred nineteen of this 18 chapter. (ii) Any local law, ordinance or resolution enacted by any 19 20 city, county or school district, imposing the taxes authorized by this 21 subdivision, shall omit the residential solar energy systems equipment 22 and electricity exemption provided for in subdivision (ee), the commer-23 cial solar energy systems equipment and electricity exemption provided 24 for in subdivision (ii), the commercial fuel cell electricity generating 25 systems equipment and electricity generated by such equipment exemption 26 provided for in subdivision (kk) and the clothing and footwear exemption 27 provided for in paragraph thirty of subdivision (a) of section eleven 28 hundred fifteen of this chapter, unless such city, county or school 29 district elects otherwise as to such residential solar energy systems 30 equipment and electricity exemption, such commercial solar energy 31 systems equipment and electricity exemption, commercial fuel cell elec-32 tricity generating systems equipment and electricity generated by such 33 equipment exemption or such clothing and footwear exemption. Any local 34 law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit 35 36 the hot or prepared food items exemption provided for in paragraph one-a 37 of subdivision (a) of section eleven hundred fifteen of this chapter, 38 unless such city, county or school district elects otherwise; provided 39 that if such a city having a population of one million or more enacts 40 the resolution described in subdivision (t) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend 41 42 any local law, ordinance or resolution enacted by such a city imposing 43 such taxes pursuant to the authority of this subdivision, whether or not 44 such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (t) of this section or at the time of such 45 46 repeal; provided, further, that any such local law, ordinance or resol-47 ution and section eleven hundred seven of this chapter, as deemed to be 48 amended in the event a city of one million or more enacts a resolution 49 pursuant to the authority of subdivision (t) of this section, shall be further amended, as provided in section twelve hundred eighteen of this 50 subpart, so that the hot or prepared food items exemption in any such 51 52 local law, ordinance or resolution or in such section eleven hundred 53 seven of this chapter is the same as the hot or prepared food items 54 exemption in paragraph one-a of subdivision (a) of section eleven 55 hundred fifteen of this chapter. (iii) Any local law, ordinance or

taxes authorized by this subdivision, shall omit the residential solar 1 energy systems equipment and electricity exemption provided for in 2 subdivision (ee) of section eleven hundred fifteen of this chapter, the 3 4 commercial solar energy systems equipment and electricity exemption 5 provided for in subdivision (ii) and the clothing and footwear exemption б provided for in paragraph thirty of subdivision (a) of section eleven 7 hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy 8 9 systems equipment and electricity exemption, such commercial solar ener-10 gy systems equipment and electricity exemption or such clothing and 11 footwear exemption. Any local law, ordinance or resolution enacted by 12 any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services 13 exemption provided for in subdivision (cc) of section eleven hundred 14 15 fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of 16 17 one million or more repeals a resolution described in former subdivision (p) of this section, such repeal shall also be deemed to amend any local 18 19 law, ordinance or resolution enacted by such a city imposing such taxes 20 pursuant to the authority of this subdivision, whether or not such taxes 21 are suspended at the time such city repeals its resolution enacted 22 pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance or resolution and section eleven 23 hundred seven of this chapter, as deemed to be amended in the event a 24 25 city of one million or more repeals a resolution enacted pursuant to the 26 authority of former subdivision (p) of this section, shall be further 27 amended, as provided in section twelve hundred eighteen of this subpart, 28 so that the wireless telecommunications services exemption in any such 29 local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication 30 31 services exemption in subdivision (cc) of section eleven hundred fifteen 32 of this chapter. (iv) Any local law, ordinance or resolution enacted by 33 any city, county or school district, imposing the taxes authorized by 34 this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of 35 36 section eleven hundred fifteen of this chapter, the commercial solar 37 energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in 38 39 paragraph thirty of subdivision (a) of section eleven hundred fifteen of 40 this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and 41 42 electricity exemption, such commercial solar energy systems equipment 43 and electricity exemption or such clothing and footwear exemption. 44 § 4. Subdivision (d) of section 1210 of the tax law, as amended by 45 section 4 of part WW of chapter 60 of the laws of 2016, is amended to 46 read as follows:

47 (d) A local law, ordinance or resolution imposing any tax pursuant to 48 this section, increasing or decreasing the rate of such tax, repealing 49 or suspending such tax, exempting from such tax the energy sources and 50 services described in paragraph three of subdivision (a) or of subdivi-51 sion (b) of this section or changing the rate of tax imposed on such 52 energy sources and services or providing for the credit or refund 53 described in clause six of subdivision (a) of section eleven hundred 54 nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of 55 56 section eleven hundred fifteen of this article, or the exemption for

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commercial solar equipment and electricity in subdivision (ii) of 1 section eleven hundred fifteen of this article, or electing or repealing 2 the exemption for commercial fuel cell electricity generating systems 3 equipment and electricity generated by such equipment in subdivision 4 5 (kk) of section eleven hundred fifteen of this article must go into 6 effect only on one of the following dates: March first, June first, 7 September first or December first; provided, that a local law, ordinance 8 or resolution providing for the exemption described in paragraph thirty 9 of subdivision (a) of section eleven hundred fifteen of this chapter or 10 repealing any such exemption or a local law, ordinance or resolution 11 providing for a refund or credit described in subdivision (d) of section 12 eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided, further, 13 14 that a local law, ordinance or resolution providing for the exemption 15 described in paragraph one-a of subdivision (a) of section eleven 16 hundred fifteen of this chapter or repealing any such exemption so 17 provided and a resolution enacted pursuant to the authority of subdivi-18 sion (t) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, 19 20 ordinance or resolution shall be effective unless a certified copy of 21 such law, ordinance or resolution is mailed by registered or certified 22 mail to the commissioner at the commissioner's office in Albany at least 23 ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice 24 25 requirement to a mailing of such certified copy by registered or certi-26 fied mail within a period of not less than thirty days prior to such 27 effective date if the commissioner deems such action to be consistent 28 with the commissioner's duties under section twelve hundred fifty of 29 this article and the commissioner acts by resolution. Where the 30 restriction provided for in section twelve hundred twenty-three of this 31 article as to the effective date of a tax and the notice requirement 32 provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-33 34 three of this article shall also apply. 35 S 5. Section 1210 of the tax law is amended by adding a new subdivi-36 sion (t) to read as follows: 37 (t) Notwithstanding any other provision of state or local law, ordi-38 nance or resolution to the contrary: (1) Any city having a population of 39 one million or more in which the taxes imposed by section eleven hundred 40 seven of this chapter are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the 41 42 exemption from such taxes for the same hot or prepared food items exempt 43 from state sales and compensating use taxes described in paragraph one-a 44 of subdivision (a) of section eleven hundred fifteen of this chapter by enacting a resolution in the form set forth in paragraph two of this 45 46 subdivision; whereupon, upon compliance with the provisions of subdivi-47 sions (d) and (e) of this section, such enactment of such resolution 48 shall be deemed to be an amendment to such section eleven hundred seven 49 and such section eleven hundred seven shall be deemed to incorporate 50 such exemption as if it had been duly enacted by the state legislature and approved by the governor. 51 52 (2) Form of resolution: Be it enacted by the (insert proper title of 53 local legislative body) as follows: 54 Section one. Receipts from sales of and consideration given or

55 contracted to be given for purchases of hot or prepared food items

56 exempt from state sales and compensating use taxes pursuant to paragraph

one-a of subdivision (a) of section eleven hundred fifteen of this chap-1 ter shall also be exempt from sales and compensating use taxes imposed 2 3 in this jurisdiction. Section two. This resolution shall take effect, (insert the date) and 4 5 shall apply to sales made and uses occurring on and after that date 6 although made or occurring under a prior contract. 7 § 6. The commissioner of taxation and finance is hereby authorized to 8 implement the provisions of this act with respect to the elimination of 9 the imposition of sales tax, additional taxes, and supplemental taxes on 10 hot and prepared food items and all other taxes so addressed by this 11 act. 12 § 7. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the 13 14 tax law, beginning at least 90 days after the date this act shall have 15 become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law and shall 16 expire and be deemed repealed two years after such date; provided, 17 however that if section 5 of part J of chapter 59 of the laws of 2021 18 shall not have taken effect on or before such date then section three of 19 this act shall take effect on the same date and in the same manner as 20 21 such chapter of the laws of 2021, takes effect. 22 § 2. Severability. If any clause, sentence, paragraph, section or part 23 of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the 24 judgment shall not affect, impair, or invalidate the remainder thereof, 25 26 but shall be confined in its operation to the clause, sentence, para-27 graph, section or part of this act directly involved in the controversy 28 in which the judgment shall have been rendered. § 3. This act shall take effect immediately provided, however, that 29

30 the applicable effective date of Parts A through D of this act shall be 31 as specifically set forth in the last section of such Parts.