

STATE OF NEW YORK

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, SALK, 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:

1 Section 1. This act enacts into law components of legislation relating
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 italics (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.

3 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:

9 (12) Except as otherwise provided by law, the exemption provided in
10 paragraph forty-seven of subdivision (a) of section eleven hundred
11 fifteen of this article relating to motor fuel and diesel motor fuel
12 shall be applicable pursuant to a local law, ordinance or resolution
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
28 provisions of such article twenty-eight can be made applicable to the
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 to include all portions and all types of receipts, charges or rents,
34 subject to state tax under sections eleven hundred five and eleven
35 hundred ten of this chapter, except as otherwise provided. Notwith-
36 standing the foregoing, a tax imposed by a city or county authorized
37 under this subdivision shall not include the tax imposed on charges for
38 admission to race tracks and simulcast facilities under subdivision (f)
39 of section eleven hundred five of this chapter. (i) Any local law, ordi-
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
48 personal property for use or consumption predominantly either in the
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,
52 unless such city, county or school district elects otherwise, shall omit
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 city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the motor fuel and diesel motor fuel exemption provided for in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (q) of this section or repeals such resolution, such resolution or repeal shall 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 subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (q) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance 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 enacts a resolution pursuant to the authority of subdivision (q) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the motor fuel and diesel motor fuel exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the motor fuel and diesel motor fuel exemption in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of 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 law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city repeals its resolution enacted pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance 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 a resolution enacted pursuant to the authority of former subdivision (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommunications services exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of section eleven hundred fifteen of this chapter. (iv) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such 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:

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided, further, that a local law, ordinance or resolution providing for the exemption described in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivi-

sion (q) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice 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 effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 5. Section 1210 of the tax law is amended by adding a new subdivision (q) to read as follows:

(q) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary:

(1) Any city having a population of one million or more in which the taxes imposed by section eleven hundred seven of this chapter are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same motor fuel and diesel motor fuel exempt from state sales and compensating use taxes described in paragraph forty-seven 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 subdivision; whereupon, upon compliance with the provisions of subdivisions (d) and (e) of this section, such enactment of such resolution shall be deemed to be an amendment to such section eleven hundred seven and such section eleven hundred seven shall be deemed to incorporate such exemption as if it had been duly enacted by the state legislature and approved by the governor.

(2) Form of Resolution: Be it enacted by the (insert proper title of local legislative body) as follows:

Section one. Receipts from sales of and consideration given or contracted to be given for purchases of motor fuel and diesel motor fuel exempt from state sales and compensating use taxes pursuant to paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of the tax law shall also be exempt from sales and compensating use taxes imposed in this jurisdiction.

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

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

§ 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 tax law, next commencing at least 90 days after this act shall have become a law and shall apply in accordance with the applicable transitional 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.

6

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
11 the cure, mitigation, treatment or prevention of illnesses or diseases
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
16 the presence of medicinal ingredients therein or medical equipment
17 (including component parts thereof) and supplies, other than such drugs
18 and medicines, purchased at retail for use in performing medical and
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:

22 (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
31 adoption or repeal shall also be deemed to amend any local law, ordi-
32 nance or resolution enacted by such a city imposing taxes pursuant to
33 the authority of subdivision (a) of section twelve hundred ten of this
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
40 the local laws, ordinances or resolutions imposing such taxes shall be
41 identical, except as to rate and except as otherwise provided, with the
42 corresponding provisions in such article twenty-eight, including the
43 definition and exemption provisions of such article, so far as the
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
46 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 unless the local law, ordinance or resolution imposes such taxes so as
49 to include all portions and all types of receipts, charges or rents,
50 subject to state tax under sections eleven hundred five and eleven
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)

1 of section eleven hundred five of this chapter. (i) Any local law, ordi-
2 nance or resolution enacted by any city of less than one million or by
3 any county or school district, imposing the taxes authorized by this
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, refrig-
8 eration or steam, for sale, by manufacturing, processing, 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
13 sold for use in commercial aircraft and general aviation aircraft; and,
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
18 city, county or school district, imposing the taxes authorized by this
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
24 provided for in subdivision (kk) and the clothing and footwear exemption
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
41 imposing such taxes pursuant to the authority of this subdivision,
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
51 hundred seven of this chapter is the same as the personal care products
52 exemption in paragraph forty-eight of subdivision (a) of section eleven
53 hundred fifteen of this chapter. (iii) Any local law, ordinance or
54 resolution enacted by any city, county or school district, imposing the
55 taxes authorized by this subdivision, shall omit the residential solar
56 energy systems equipment and electricity exemption provided for in

subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of 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 law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city repeals its resolution enacted pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance 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 a resolution enacted pursuant to the authority of former subdivision (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommunications services exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of section eleven hundred fifteen of this chapter. (iv) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption.

§ 5. 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:

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this article, or the exemption for 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 (kk) of section eleven hundred fifteen of this article must go into
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
8 repealing any such exemption or a local law, ordinance or resolution
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
13 described in paragraph forty-eight 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 sion (r) of this section providing such exemption or repealing such
17 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 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
23 requirement to a mailing of such certified copy by registered or certi-
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
29 article as to the effective date of a tax and the notice requirement
30 provided for therein are applicable and have not been waived, the
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-
34 sion (r) to read as follows:

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
38 seven of this chapter are in effect, acting through its local legisla-
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
41 from state sales and compensating use taxes described in paragraph
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
53 contracted to be given for purchases of personal care products exempt
54 from state sales and compensating use taxes pursuant to paragraph
55 forty-eight 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 § 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
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
13 become a law and shall apply in accordance with the applicable transi-
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 four of
18 this act shall take effect on the same date and in the same manner as
19 such chapter of the laws of 2021, takes effect.

20 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
44 definition and exemption provisions of such article, so far as the
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
47 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 unless the local law, ordinance or resolution imposes such taxes so as
50 to include all portions and all types of receipts, charges or rents,
51 subject to state tax under sections eleven hundred five and eleven
52 hundred ten of this chapter, except as otherwise provided. Notwith-
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) 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 any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the housekeeping supplies exemption provided for in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (s) of this section or repeals such resolution, such resolution or repeal shall 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 subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (s) of this section or at the time of such repeal; provided, further, that any such local law, ordinance 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 enacts a resolution pursuant to the authority of subdivision (s) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the housekeeping supplies exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the housekeeping supplies exemption in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equip-

1 ment and electricity exemption provided for in subdivision (ee) of
2 section eleven hundred fifteen of this chapter, the commercial solar
3 energy systems equipment and electricity exemption provided for in
4 subdivision (ii) and the clothing and footwear exemption provided for in
5 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
6 this chapter, unless such city, county or school district elects other-
7 wise as to either such residential solar energy systems equipment and
8 electricity exemption, such commercial solar energy systems equipment
9 and electricity exemption or such clothing and footwear exemption. Any
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 subdivi-
13 sion (cc) of section eleven hundred fifteen of this chapter, unless such
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
18 by such a city imposing such taxes pursuant to the authority of this
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
23 deemed to be amended in the event a city of one million or more repeals
24 a resolution enacted pursuant to the authority of former subdivision (p)
25 of this section, shall be further amended, as provided in section twelve
26 hundred eighteen of this subpart, so that the wireless telecommuni-
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)
38 of section eleven hundred fifteen of this chapter, unless such city,
39 county or school district elects otherwise as to either such residential
40 solar energy systems equipment and electricity exemption, such commer-
41 cial solar energy systems equipment and electricity exemption or such
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
54 residential solar equipment and electricity in subdivision (ee) of
55 section eleven hundred fifteen of this article, or the exemption for
56 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 (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,
13 that a local law, ordinance or resolution providing for the exemption
14 described in paragraph forty-nine of subdivision (a) of section eleven
15 hundred fifteen of this chapter or repealing any such exemption so
16 provided and a resolution enacted pursuant to the authority of subdivi-
17 sion (s) of this section providing such exemption or repealing such
18 exemption so provided may go into effect immediately. No such local law,
19 ordinance or resolution shall be effective unless a certified copy of
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
23 commissioner may waive and reduce such ninety-day minimum notice
24 requirement to a mailing of such certified copy by registered or certi-
25 fied mail within a period of not less than thirty days prior to such
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.

34 § 5. Section 1210 of the tax law is amended by adding a new subdivi-
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
41 exemption from such taxes for the same housekeeping supplies exempt from
42 state sales and compensating use taxes described in paragraph forty-nine
43 of subdivision (a) of section eleven hundred fifteen of this chapter by
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.

51 (2) Form of resolution: Be it enacted by the (insert proper title of
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 § 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
13 become a law and shall apply in accordance with the applicable transi-
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
18 this act shall take effect on the same date and in the same manner as
19 such chapter of the laws of 2021, takes effect.

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

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
33 adopt or repeal such a local law, ordinance or resolution. Such adoption
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
44 corresponding provisions in such article twenty-eight, including the
45 definition and exemption provisions of such article, so far as the
46 provisions of such article twenty-eight can be made applicable to the
47 taxes imposed by such city or county and with such limitations and
48 special provisions as are set forth in this article. The taxes author-
49 ized under this subdivision may not be imposed by a city or county
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. Notwith-
54 standing the foregoing, a tax imposed by a city or county authorized

under this subdivision shall not include the tax imposed on charges for admission to race tracks and simulcast facilities under subdivision (f) 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 any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and all sales of fuel sold for use in commercial aircraft and general aviation aircraft; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the hot or prepared food items exemption provided for in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (t) of this section or repeals such resolution, such resolution or repeal shall 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 subdivision, whether or not 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 repeal; provided, further, that any such local law, ordinance 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 enacts a resolution pursuant to the authority of subdivision (t) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the hot or prepared food items exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the hot or prepared food items exemption in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the

1 taxes authorized by this subdivision, shall omit the residential solar
2 energy systems equipment and electricity exemption provided for in
3 subdivision (ee) of section eleven hundred fifteen of this chapter, the
4 commercial solar energy systems equipment and electricity exemption
5 provided for in subdivision (ii) and the clothing and footwear exemption
6 provided for in paragraph thirty of subdivision (a) of section eleven
7 hundred fifteen of this chapter, unless such city, county or school
8 district elects otherwise as to either such residential solar energy
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
13 this subdivision, shall omit the mobile telecommunication services
14 exemption provided for in subdivision (cc) of section eleven hundred
15 fifteen of this chapter, unless such city, county or school district
16 elects otherwise; provided that if such a city having a population of
17 one million or more repeals a resolution described in former subdivision
18 (p) of this section, such repeal shall also be deemed to amend any local
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,
23 that any such local law, ordinance or resolution and section eleven
24 hundred seven of this chapter, as deemed to be amended in the event a
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
30 seven of this chapter is the same as the mobile telecommunication
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 equip-
35 ment and electricity exemption provided for in subdivision (ee) of
36 section eleven hundred fifteen of this chapter, the commercial solar
37 energy systems equipment and electricity exemption provided for in
38 subdivision (ii) and the clothing and footwear exemption provided for in
39 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
40 this chapter, unless such city, county or school district elects other-
41 wise as to either such residential solar energy systems equipment and
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
55 residential solar equipment and electricity in subdivision (ee) of
56 section eleven hundred fifteen of this article, or the exemption for

commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this article must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided, further, that a local law, ordinance or resolution providing for the exemption described in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivision (t) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice 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 effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 5. Section 1210 of the tax law is amended by adding a new subdivision (t) to read as follows:

(t) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary: (1) Any city having a population of one million or more in which the taxes imposed by section eleven hundred seven of this chapter are in effect, acting through its local legislative body, is hereby authorized and empowered to elect to provide the exemption from such taxes for the same hot or prepared food items exempt from state sales and compensating use taxes described in paragraph one-a 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 subdivision; whereupon, upon compliance with the provisions of subdivisions (d) and (e) of this section, such enactment of such resolution shall be deemed to be an amendment to such section eleven hundred seven and such section eleven hundred seven shall be deemed to incorporate such exemption as if it had been duly enacted by the state legislature and approved by the governor.

(2) Form of resolution: Be it enacted by the (insert proper title of local legislative body) as follows:

Section one. Receipts from sales of and consideration given or contracted to be given for purchases of hot or prepared food items exempt from state sales and compensating use taxes pursuant to paragraph

1 one-a of subdivision (a) of section eleven hundred fifteen of this chap-
2 ter shall also be exempt from sales and compensating use taxes imposed
3 in this jurisdiction.

4 Section two. This resolution shall take effect, (insert the date) and
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
13 quarterly period, as described in subdivision (b) of section 1136 of the
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 transi-
16 tional provisions of sections 1106 and 1217 of the tax law and shall
17 expire and be deemed repealed two years after such date; provided,
18 however that if section 5 of part J of chapter 59 of the laws of 2021
19 shall not have taken effect on or before such date then section three of
20 this act shall take effect on the same date and in the same manner as
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
24 be invalid and after exhaustion of all further judicial review, the
25 judgment shall not affect, impair, or invalidate the remainder thereof,
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.

29 § 3. This act shall take effect immediately provided, however, that
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.