

STATE OF NEW YORK

31--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, GAUGHRAN, HARCKHAM, HOYLMAN, JORDAN -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting certain personal protective clothing and equipment from the tax on sales and the compensating use tax, exempting from sales and compensating use taxes any equipment or product purchased by restaurant or food service establishment for use in outdoor dining during the novel coronavirus (COVID-19) and exempting from sales and compensating use taxes any equipment or product purchased by a small business that is used to comply with a COVID-19 health and safety plan

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

1 Section 1. Subdivision (a) of section 1115 of the tax law is amended
2 by adding three new paragraphs 46, 47 and 48 to read as follows:

3 (46) Personal protective clothing and equipment worn for protection
4 against illness from infectious disease or materials or to help prevent
5 or reduce the spread of infectious disease or illness. Personal protec-
6 tive clothing and equipment shall include, but not be limited to,
7 isolation gowns and coveralls, gloves, facemasks, face shields, goggles,
8 and any other clothing or equipment determined by the commissioner of
9 health to be effective in protecting the wearer against illness from
10 infectious disease or materials or to help prevent or reduce the spread
11 of infectious disease or illness.

12 (47) Any equipment or product purchased by any restaurant or food
13 service establishment for the use in outdoor dining during the novel
14 coronavirus (COVID-19) pandemic.

15 (48) Any equipment or product, including materials used in the
16 construction of physical barriers, including but not limited to plastic

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

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1 shielding walls, strip curtains, cubicle walls, plexiglass or similar
2 materials, or other impermeable dividers or partitions, purchased by a
3 small business doing business in this state that is directly used by
4 such small business to be in compliance with a COVID-19 health and safe-
5 ty plan. For purposes of this paragraph, the term "small business" shall
6 mean a business with one hundred or fewer employees.

7 § 2. Section 210-B of the tax law is amended by adding two new subdi-
8 visions 55 and 56 to read as follows:

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

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

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

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

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

38 § 3. Section 606 of the tax law is amended by adding two new
39 subsections (kkk) and (lll) to read as follows:

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

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

51 (lll) Sales tax paid on materials for COVID-19 health and safety plan
52 compliance. (1) For the period beginning May fifteenth, two thousand
53 twenty and ending on the effective date of this subsection, a taxpayer
54 who owns a small business shall be allowed a credit for sales tax paid
55 for any equipment or product, including materials used in the
56 construction of physical barriers, including but not limited to plastic

1 shielding walls, strip curtains, cubicle walls, plexiglass or similar
 2 materials, or other impermeable dividers or partitions, purchased by
 3 such small business in order to be in compliance with a COVID-19 health
 4 and safety plan.

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

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

12 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 13 of the tax law is amended by adding two new clauses (xlvi) and (xlvii)
 14 to read as follows:

<p>15 <u>(xlvi) Sales tax paid on outdoor</u> 16 <u>dining equipment credit under</u> 17 <u>subsection (kkk)</u> 18</p>	<p><u>Sales tax paid on outdoor dining</u> <u>equipment credit under subdivision</u> <u>fifty-five of section two hundred</u> <u>ten-B</u></p>
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<p>19 <u>(xlvii) Sales tax paid on</u> 20 <u>materials for COVID-19 health</u> 21 <u>and safety plan compliance</u> 22 <u>under subsection (lll)</u> 23</p>	<p><u>Sales tax paid on materials</u> <u>for COVID-19 health and safety</u> <u>plan compliance under subdivision</u> <u>fifty-six of section two</u> <u>hundred ten-B</u></p>
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24 § 5. This act shall take effect on the first day of the sales tax
 25 quarterly period commencing after this act shall have become a law, and
 26 shall apply to sales made and uses occurring on and after such date in
 27 accordance with applicable transitional provisions of sections 1106 and
 28 1217 of the tax law; provided that the commissioner of taxation and
 29 finance shall be authorized on and after the date this act shall have
 30 become a law to take steps necessary to implement the provisions of this
 31 act on its effective date.