

STATE OF NEW YORK

522

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. TEDISCO, BOYLE, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to providing an exemption for drugs and medicines for companion and farm animals

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 a new paragraph 3-b to read as follows:

3 (3-b) Drugs and medicines intended for use, internally or externally,
4 in the cure, mitigation, treatment or prevention of illnesses or
5 diseases in companion animals, as defined by subdivision five of section
6 three hundred fifty of the agriculture and markets law, and farm
7 animals, as defined by subdivision four of section three hundred fifty
8 of the agriculture and markets law, medical equipment (including compo-
9 nent parts thereof) and supplies required for such use or to correct or
10 alleviate physical incapacity.

11 § 2. Subdivision (b) of section 1107 of the tax law is amended by
12 adding a new clause 12 to read as follows:

13 (12) Except as otherwise provided by law, the exemption provided by
14 paragraph three-b of subdivision (a) of section eleven hundred fifteen
15 of this article relating to drugs and medicines intended for use in
16 companion animals and farm animals shall be applicable pursuant to a
17 local law, ordinance or resolution adopted by a city subject to the
18 provisions of this clause. Such city is empowered to adopt or repeal
19 such a local law, ordinance or resolution. Such adoption or repeal shall
20 also be deemed to amend any local law, ordinance or resolution enacted
21 by such a city imposing taxes pursuant to the authority of subdivision
22 (a) of section twelve hundred ten of this chapter.

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

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1 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
2 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of
3 the laws of 2016, is amended, and a new subparagraph (iii) is added to
4 read as follows:

5 (ii) Any local law, ordinance or resolution enacted by any city, coun-
6 ty or school district, imposing the taxes authorized by this subdivi-
7 sion, shall omit the residential solar energy systems equipment and
8 electricity exemption provided for in subdivision (ee) of section eleven
9 hundred fifteen of this chapter, the commercial solar energy systems
10 equipment and electricity exemption provided for in subdivision (ii) of
11 section eleven hundred fifteen of this chapter, the commercial fuel cell
12 electricity generating systems equipment and electricity generated by
13 such equipment exemption provided for in subdivision (kk) of section
14 eleven hundred fifteen of this chapter and the clothing and footwear
15 exemption provided for in paragraph thirty of subdivision (a) of section
16 eleven hundred fifteen of this chapter, unless such city, county or
17 school district elects otherwise as to such residential solar energy
18 systems equipment and electricity exemption, such commercial solar ener-
19 gy systems equipment and electricity exemption, commercial fuel cell
20 electricity generating systems equipment and electricity generated by
21 such equipment exemption or such clothing and footwear exemption. (iii)
22 Any local law, ordinance or resolution enacted by any city, county or
23 school district, imposing the taxes authorized by this subdivision,
24 shall omit medicines intended for use in companion animals and farm
25 animals exemption provided for in paragraph three-b of subdivision (a)
26 of section eleven hundred fifteen of this chapter, unless such city,
27 county or school district elects otherwise; provided that if such a city
28 having a population of one million or more enacts the resolution
29 described in subdivision (p) of this section or repeals such resolution,
30 such resolution or repeal shall also be deemed to amend any local law,
31 ordinance or resolution enacted by such a city imposing such taxes
32 pursuant to the authority of this subdivision, whether or not such taxes
33 are suspended at the time such city enacts its resolution pursuant to
34 subdivision (p) of this section or at the time of any such repeal;
35 provided, further, that any such local law, ordinance or resolution and
36 section eleven hundred seven of this chapter, as deemed to be amended in
37 the event a city of one million or more enacts a resolution pursuant to
38 the authority of subdivision (p) of this section, shall be further
39 amended, as provided in section twelve hundred eighteen of this subpart,
40 so that the medicines intended for use in companion animals and farm
41 animals exemption in any such local law, ordinance or resolution or in
42 such section eleven hundred seven of this chapter is the same as the
43 medicines intended for use in companion animals and farm animals in
44 paragraph three-b of subdivision (a) of section eleven hundred fifteen
45 of this chapter.

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

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

1 residential solar equipment and electricity in subdivision (ee) of
2 section eleven hundred fifteen of this [~~article~~] ~~chapter~~, or the
3 exemption for commercial solar equipment and electricity in subdivision
4 (ii) of section eleven hundred fifteen of this [~~article~~] ~~chapter~~, or
5 electing or repealing the exemption for commercial fuel cell electricity
6 generating systems equipment and electricity generated by such equipment
7 in subdivision (kk) of section eleven hundred fifteen of this article
8 must go into effect only on one of the following dates: March first,
9 June first, September first or December first; provided, that a local
10 law, ordinance or resolution providing for the exemption described in
11 paragraph thirty of subdivision (a) of section eleven hundred fifteen of
12 this chapter or repealing any such exemption or a local law, ordinance
13 or resolution providing for a refund or credit described in subdivision
14 (d) of section eleven hundred nineteen of this chapter or repealing such
15 provision so provided must go into effect only on March first; provided,
16 further, that a local law, ordinance or resolution providing for the
17 exemption described in paragraph three-b of subdivision (a) of section
18 eleven hundred fifteen of this chapter or repealing any such exemption
19 so provided and a resolution enacted pursuant to the authority of subdivi-
20 vision (p) of this section providing such exemption or repealing such
21 exemption so provided may go into effect immediately. No such local
22 law, ordinance or resolution shall be effective unless a certified copy
23 of such law, ordinance or resolution is mailed by registered or certi-
24 fied mail to the commissioner at the commissioner's office in Albany at
25 least ninety days prior to the date it is to become effective. However,
26 the commissioner may waive and reduce such ninety-day minimum notice
27 requirement to a mailing of such certified copy by registered or certi-
28 fied mail within a period of not less than thirty days prior to such
29 effective date if the commissioner deems such action to be consistent
30 with the commissioner's duties under section twelve hundred fifty of
31 this article and the commissioner acts by resolution. Where the
32 restriction provided for in section twelve hundred twenty-three of this
33 article as to the effective date of a tax and the notice requirement
34 provided for therein are applicable and have not been waived, the
35 restriction and notice requirement in section twelve hundred twenty-
36 three of this article shall also apply.

37 § 5. Section 1210 of the tax law is amended by adding a new subdivi-
38 sion (p) to read as follows:

39 (p) Notwithstanding any other provision of state or local law, ordi-
40 nance or resolution to the contrary:

41 (1) Any city having a population of one million or more in which the
42 taxes imposed by section eleven hundred seven of this chapter are in
43 effect, acting through its local legislative body, is hereby authorized
44 and empowered to elect to provide the exemption from such taxes for the
45 same medicines intended for use in companion animals and farm animals
46 exempt from state sales and compensating use taxes described in para-
47 graph three-b of subdivision (a) of section eleven hundred fifteen of
48 this chapter by enacting a resolution in the form set forth in paragraph
49 two of this subdivision; whereupon, upon compliance with the provisions
50 of subdivisions (d) and (e) of this section, such enactment of such
51 resolution shall be deemed to be an amendment to such section eleven
52 hundred seven and such section eleven hundred seven shall be deemed to
53 incorporate such exemption as if it had been duly enacted by the state
54 legislature and approved by the governor.

1 (2) The resolution described in paragraph (1) of this subdivision
2 shall read as follows: Be it enacted by the (insert proper title of
3 local legislative body) as follows:

4 Section one. Receipts from sales of and consideration given or
5 contracted to be given for purchases of medicines intended for use in
6 companion animals and farm animals exempt from state sales and compen-
7 sating use taxes pursuant to paragraph three-b of subdivision (a) of
8 section eleven hundred fifteen of the tax law shall also be exempt from
9 sales and compensating use taxes imposed in this jurisdiction.

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

13 § 6. The commissioner of taxation and finance is hereby authorized to
14 implement the provisions of this act with respect to the elimination of
15 the imposition of sales tax, additional taxes, and supplemental taxes on
16 medicines intended for use in companion animals and farm animals and all
17 other taxes so addressed by this act.

18 § 7. This act shall take effect on the first day of the sales tax
19 quarterly period, as described in subdivision (b) of section 1136 of the
20 tax law, next commencing at least 90 days after this act shall have
21 become a law and shall apply in accordance with the applicable transi-
22 tional provisions of sections 1106 and 1217 of the tax law.