

# STATE OF NEW YORK

540

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. KAPLAN -- 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 exempting from sales and compensating use taxes and establishing a tax credit for 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 a new paragraph 46 to read as follows:

3 (46) Any equipment or product, including materials used in the  
4 construction of physical barriers, including but not limited to plastic  
5 shielding walls, strip curtains, cubicle walls, plexiglass or similar  
6 materials, or other impermeable dividers or partitions, purchased by a  
7 small business doing business in this state that is directly used by  
8 such small business to be in compliance with a COVID-19 health and safe-  
9 ty plan. For purposes of this paragraph, the term "small business" shall  
10 mean a business with one hundred or fewer employees.

11 § 2. Section 210-B of the tax law is amended by adding a new subdivi-  
12 sion 55 to read as follows:

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

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

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

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

9 § 3. Section 606 of the tax law is amended by adding a new subsection  
 10 (kkk) to read as follows:

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

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

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

28 § 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
 29 of the tax law is amended by adding a new clause (xlvi) to read as  
 30 follows:

31 <u>(xlvi) Sales tax paid on materials</u>	<u>Sales tax paid on</u>
32 <u>for COVID-19 health and safety</u>	<u>materials for</u>
33 <u>plan compliance under</u>	<u>COVID-19 health</u>
34 <u>subsection (kkk)</u>	<u>and safety plan</u>
35	<u>compliance under</u>
36	<u>subdivision fifty-five</u>
37	<u>of section two</u>
38	<u>hundred ten-B</u>

39 § 5. This act shall take effect on the first day of the sales tax  
 40 quarterly period commencing after this act shall have become a law, and  
 41 shall apply to sales made and uses occurring on and after such date in  
 42 accordance with applicable transitional provisions of sections 1106 and  
 43 1217 of the tax law; provided that the commissioner of taxation and  
 44 finance shall be authorized on and after the date this act shall have  
 45 become a law to take steps necessary to implement the provisions of this  
 46 act on its effective date.