

# STATE OF NEW YORK

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642--A

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing an exemption for geothermal heat pump systems equipment

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 47 to read as follows:

3 (47) Receipts from the retail sale of residential geothermal heat pump  
4 systems equipment and of the service of installing such systems shall be  
5 exempt from tax under this article. For purposes of this paragraph,  
6 "residential geothermal heat pump system equipment" shall mean an  
7 arrangement or combination of components installed in and around a resi-  
8 dential building that uses the ground or ground water as a thermal ener-  
9 gy source or as a thermal energy sink designed to provide and distribute  
10 heating, and/or cooling, and/or hot water, also commonly referred to as  
11 ground source heat pump systems. Such arrangement or components shall  
12 not include any sort of recreational facility or equipment used as a  
13 storage medium.

14 § 2. Section 1115 of the tax law is amended by adding a new subdivi-  
15 sion (11) to read as follows:

16 (11) Receipts from the retail sale of commercial geothermal heat pump  
17 systems equipment and of the service of installing such systems shall be  
18 exempt from taxes imposed by sections eleven hundred five and eleven  
19 hundred ten of this article. For purposes of this subdivision, "commer-  
20 cial geothermal heat pump system equipment" shall mean an arrangement or  
21 combination of components installed in and around a commercial building

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

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1 that uses the ground or ground water as a thermal energy source or as a  
2 thermal energy sink designed to provide and distribute heating, and/or  
3 cooling, and/or hot water, also commonly referred to as ground source  
4 heat pump systems. Such arrangement or components shall not include any  
5 sort of recreational facility or equipment used as a storage medium.

6 § 3. Subparagraph (ii) of paragraph 1 and subparagraph (xiv) of para-  
7 graph 4 of subdivision (a) of section 1210 of the tax law, subparagraph  
8 (ii) of paragraph 1 as amended and subparagraph (xiv) of paragraph 4 as  
9 added by section 2 of part WW of chapter 60 of the laws of 2016, are  
10 amended and a new subparagraph (xvi) is added to paragraph 4 to read as  
11 follows:

12 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
13 ty or school district, imposing the taxes authorized by this subdivi-  
14 sion, shall omit the residential solar energy systems equipment and  
15 electricity exemption provided for in subdivision (ee), the commercial  
16 solar energy systems equipment and electricity exemption provided for in  
17 subdivision (ii), the commercial fuel cell electricity generating  
18 systems equipment and electricity generated by such equipment exemption  
19 provided for in subdivision (kk), the residential geothermal heat pump  
20 systems equipment and installation exemption provided for in paragraph  
21 forty-seven of subdivision (a), the commercial geothermal heat pump  
22 systems equipment and installation exemption provided for in subdivision  
23 (ll) and the clothing and footwear exemption provided for in paragraph  
24 thirty of subdivision (a) of section eleven hundred fifteen of this  
25 chapter, unless such city, county or school district elects otherwise as  
26 to such residential solar energy systems equipment and electricity  
27 exemption, such commercial solar energy systems equipment and electric-  
28 ity exemption, commercial fuel cell electricity generating systems  
29 equipment and electricity generated by such equipment exemption, such  
30 residential geothermal heat pump systems equipment and installation  
31 exemption, such commercial geothermal heat pump systems equipment and  
32 installation exemption or such clothing and footwear exemption.

33 [~~(xiv)~~] (xv) shall omit, unless such city elects otherwise, the  
34 exemption for commercial fuel cell electricity generating systems equip-  
35 ment and electricity generated by such equipment provided in subdivision  
36 (kk) of section eleven hundred fifteen of this chapter[~~+~~]; and (xvi)  
37 shall omit unless such city elects otherwise, the residential geothermal  
38 heat pump systems equipment and installation exemption provided for in  
39 paragraph forty-seven of subdivision (a) of section eleven hundred  
40 fifteen of this chapter; and shall omit unless such city elects other-  
41 wise, the commercial geothermal heat pump systems equipment and instal-  
42 lation exemption provided for in subdivision (ll) of section eleven  
43 hundred fifteen of this chapter.

44 § 4. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
45 1210 of the tax law, as amended by section 5 of part J of chapter 59 of  
46 the laws of 2021, is amended to read as follows:

47 (ii) Any local law, ordinance or resolution enacted by any city, coun-  
48 ty or school district, imposing the taxes authorized by this subdivi-  
49 sion, shall omit the residential solar energy systems equipment and  
50 electricity exemption provided for in subdivision (ee), the commercial  
51 solar energy systems equipment and electricity exemption provided for in  
52 subdivision (ii), the commercial fuel cell electricity generating  
53 systems equipment and electricity generated by such equipment exemption  
54 provided for in subdivision (kk), the residential geothermal heat pump  
55 systems equipment and installation exemption provided for in paragraph  
56 forty-seven of subdivision (a), the commercial geothermal heat pump

1 systems equipment and installation exemption provided for in subdivision  
2 (11) and the clothing and footwear exemption provided for in paragraph  
3 thirty of subdivision (a) of section eleven hundred fifteen of this  
4 chapter, unless such city, county or school district elects otherwise as  
5 to such residential solar energy systems equipment and electricity  
6 exemption, such commercial solar energy systems equipment and electric-  
7 ity exemption, commercial fuel cell electricity generating systems  
8 equipment and electricity generated by such equipment exemption or such  
9 clothing and footwear exemption, such residential geothermal heat pump  
10 systems equipment and installation exemption, such commercial geothermal  
11 heat pump systems equipment and installation exemption or such clothing  
12 and footwear exemption.

13 § 5. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as  
14 amended by section 3 of part WW of chapter 60 of the laws of 2016, is  
15 amended to read as follows:

16 (1) Or, one or more of the taxes described in subdivisions (b), (d),  
17 (e) and (f) of section eleven hundred five of this chapter, at the same  
18 uniform rate, including the transitional provisions in section eleven  
19 hundred six of this chapter covering such taxes, but not the taxes  
20 described in subdivisions (a) and (c) of section eleven hundred five of  
21 this chapter. Provided, further, that where the tax described in subdivi-  
22 sion (b) of section eleven hundred five of this chapter is imposed,  
23 the compensating use taxes described in clauses (E), (G) and (H) of  
24 subdivision (a) of section eleven hundred ten of this chapter shall also  
25 be imposed. Provided, further, that where the taxes described in subdivi-  
26 sion (b) of section eleven hundred five are imposed, such taxes shall  
27 omit: (A) the provision for refund or credit contained in subdivision  
28 (d) of section eleven hundred nineteen of this chapter with respect to  
29 such taxes described in such subdivision (b) of section eleven hundred  
30 five unless such city or county elects to provide such provision or, if  
31 so elected, to repeal such provision; (B) the exemption provided in  
32 paragraph two of subdivision (ee) of section eleven hundred fifteen of  
33 this chapter unless such county or city elects otherwise; (C) the  
34 exemption provided in paragraph two of subdivision (ii) of section eleven  
35 hundred fifteen of this chapter, unless such county or city elects  
36 otherwise; ~~and~~ (D) the exemption provided in paragraph two of subdivi-  
37 sion (kk) of section eleven hundred fifteen of this chapter, unless such  
38 county or city elects otherwise; (E) the exemption provided in paragraph  
39 forty-seven of subdivision (a) of section eleven hundred fifteen of this  
40 chapter, unless such county or city elects otherwise; and (F) the  
41 exemption provided in subdivision (11) of section eleven hundred fifteen  
42 of this chapter, unless such county or city elects otherwise.

43 § 6. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as  
44 amended by section 6 of part J of chapter 59 of the laws of 2021, is  
45 amended to read as follows:

46 (1) Or, one or more of the taxes described in subdivisions (b), (d),  
47 (e) and (f) of section eleven hundred five of this chapter, at the same  
48 uniform rate, including the transitional provisions in section eleven  
49 hundred six of this chapter covering such taxes, but not the taxes  
50 described in subdivisions (a) and (c) of section eleven hundred five of  
51 this chapter. Provided, further, that where the tax described in subdivi-  
52 sion (b) of section eleven hundred five of this chapter is imposed,  
53 the compensating use taxes described in clauses (E), (G) and (H) of  
54 subdivision (a) of section eleven hundred ten of this chapter shall also  
55 be imposed. Provided, further, that where the taxes described in subdivi-  
56 sion (b) of section eleven hundred five of this chapter are imposed,

1 such taxes shall omit: (A) the provision for refund or credit contained  
2 in subdivision (d) of section eleven hundred nineteen of this chapter  
3 with respect to such taxes described in such subdivision (b) of section  
4 eleven hundred five unless such city or county elects to provide such  
5 provision or, if so elected, to repeal such provision; (B) the exemption  
6 provided in paragraph two of subdivision (ee) of section eleven hundred  
7 fifteen of this chapter unless such county or city elects otherwise; (C)  
8 the exemption provided in paragraph two of subdivision (ii) of section  
9 eleven hundred fifteen of this chapter, unless such county or city  
10 elects otherwise; and (D) the exemption provided in paragraph two of  
11 subdivision (kk) of section eleven hundred fifteen of this chapter,  
12 unless such county or city elects otherwise; and provided further that  
13 where the tax described in subdivision (f) of such section eleven  
14 hundred five is imposed, such tax shall not apply to charges for admis-  
15 sion to race tracks and simulcast facilities; (E) the exemption provided  
16 in paragraph forty-seven of subdivision (a) of section eleven hundred  
17 fifteen of this chapter, unless such county or city elects otherwise;  
18 and (F) the exemption provided in subdivision (ll) of section eleven  
19 hundred fifteen of this chapter, unless such county or city elects  
20 otherwise.

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

24 (d) A local law, ordinance or resolution imposing any tax pursuant to  
25 this section, increasing or decreasing the rate of such tax, repealing  
26 or suspending such tax, exempting from such tax the energy sources and  
27 services described in paragraph three of subdivision (a) or of subdivi-  
28 sion (b) of this section or changing the rate of tax imposed on such  
29 energy sources and services or providing for the credit or refund  
30 described in clause six of subdivision (a) of section eleven hundred  
31 nineteen of this chapter, or electing or repealing the exemption for  
32 residential solar equipment and electricity in subdivision (ee) of  
33 section eleven hundred fifteen of this article, or the exemption for  
34 commercial solar equipment and electricity in subdivision (ii) of  
35 section eleven hundred fifteen of this article, or electing or repealing  
36 the exemption for commercial fuel cell electricity generating systems  
37 equipment and electricity generated by such equipment in subdivision  
38 (kk) of section eleven hundred fifteen of this article, or electing or  
39 repealing the exemption for residential geothermal heat pump systems  
40 equipment and installation in paragraph forty-seven of subdivision (a)  
41 of section eleven hundred fifteen of this article, or electing or  
42 repealing the exemption for commercial geothermal heat pump systems  
43 equipment and installation in subdivision (ll) of section eleven hundred  
44 fifteen of this article must go into effect only on one of the following  
45 dates: March first, June first, September first or December first;  
46 provided, that a local law, ordinance or resolution providing for the  
47 exemption described in paragraph thirty of subdivision (a) of section  
48 eleven hundred fifteen of this chapter or repealing any such exemption  
49 or a local law, ordinance or resolution providing for a refund or credit  
50 described in subdivision (d) of section eleven hundred nineteen of this  
51 chapter or repealing such provision so provided must go into effect only  
52 on March first. No such local law, ordinance or resolution shall be  
53 effective unless a certified copy of such law, ordinance or resolution  
54 is mailed by registered or certified mail to the commissioner at the  
55 commissioner's office in Albany at least ninety days prior to the date  
56 it is to become effective. However, the commissioner may waive and

1 reduce such ninety-day minimum notice requirement to a mailing of such  
2 certified copy by registered or certified mail within a period of not  
3 less than thirty days prior to such effective date if the commissioner  
4 deems such action to be consistent with the commissioner's duties under  
5 section twelve hundred fifty of this article and the commissioner acts  
6 by resolution. Where the restriction provided for in section twelve  
7 hundred twenty-three of this article as to the effective date of a tax  
8 and the notice requirement provided for therein are applicable and have  
9 not been waived, the restriction and notice requirement in section  
10 twelve hundred twenty-three of this article shall also apply.

11 § 8. Subdivision (a) of section 1212 of the tax law, as amended by  
12 section 5 of part WW of chapter 60 of the laws of 2016, is amended to  
13 read as follows:

14 (a) Any school district which is coterminous with, partly within or  
15 wholly within a city having a population of less than one hundred twen-  
16 ty-five thousand, is hereby authorized and empowered, by majority vote  
17 of the whole number of its school authorities, to impose for school  
18 district purposes, within the territorial limits of such school district  
19 and without discrimination between residents and nonresidents thereof,  
20 the taxes described in subdivision (b) of section eleven hundred five  
21 (but excluding the tax on prepaid telephone calling services) and the  
22 taxes described in clauses (E) and (H) of subdivision (a) of section  
23 eleven hundred ten, including the transitional provisions in subdivision  
24 (b) of section eleven hundred six of this chapter, so far as such  
25 provisions can be made applicable to the taxes imposed by such school  
26 district and with such limitations and special provisions as are set  
27 forth in this article, such taxes to be imposed at the rate of one-half,  
28 one, one and one-half, two, two and one-half or three percent which rate  
29 shall be uniform for all portions and all types of receipts and uses  
30 subject to such taxes. In respect to such taxes, all provisions of the  
31 resolution imposing them, except as to rate and except as otherwise  
32 provided herein, shall be identical with the corresponding provisions in  
33 ~~such~~ article twenty-eight of this chapter, including the applicable  
34 definition and exemption provisions of such article, so far as the  
35 provisions of such article twenty-eight of this chapter can be made  
36 applicable to the taxes imposed by such school district and with such  
37 limitations and special provisions as are set forth in this article. The  
38 taxes described in subdivision (b) of section eleven hundred five (but  
39 excluding the tax on prepaid telephone calling service) and clauses (E)  
40 and (H) of subdivision (a) of section eleven hundred ten, including the  
41 transitional provision in subdivision (b) of such section eleven hundred  
42 six of this chapter, may not be imposed by such school district unless  
43 the resolution imposes such taxes so as to include all portions and all  
44 types of receipts and uses subject to tax under such subdivision (but  
45 excluding the tax on prepaid telephone calling service) and clauses.  
46 Provided, however, that, where a school district imposes such taxes,  
47 such taxes shall omit the provision for refund or credit contained in  
48 subdivision (d) of section eleven hundred nineteen of this chapter with  
49 respect to such taxes described in such subdivision (b) of section elev-  
50 en hundred five unless such school district elects to provide such  
51 provision or, if so elected, to repeal such provision, and shall omit  
52 the exemptions provided in paragraph two of subdivision (ee) and para-  
53 graph two of subdivision (ii) of section eleven hundred fifteen of this  
54 chapter unless such school district elects otherwise, and shall omit the  
55 exemption provided in paragraph two of subdivision (kk) of section elev-  
56 en hundred fifteen of this chapter unless such school district elects



1 otherwise, and shall omit the exemption provided in paragraph forty-sev-  
2 en of subdivision (a) of section eleven hundred fifteen of this chapter  
3 unless such school district elects otherwise, and shall omit the  
4 exemption provided in subdivision (11) of section eleven hundred fifteen  
5 of this chapter unless such school district elects otherwise.

6 § 9. Section 1224 of the tax law is amended by adding two new subdivi-  
7 sions (c-3) and (c-4) to read as follows:

8 (c-3) Notwithstanding any other provision of law: (1) Where a county  
9 containing one or more cities with a population of less than one million  
10 has elected the exemption for residential geothermal heat pump systems  
11 equipment and installation provided in paragraph forty-seven of subdivi-  
12 sion (a) of section eleven hundred fifteen of this chapter, a city with-  
13 in such county shall have the prior right to impose tax on such exempt  
14 equipment and/or installation to the extent of one half of the maximum  
15 rates authorized under subdivision (a) of section twelve hundred ten of  
16 this article;

17 (2) Where a city of less than one million has elected the exemption  
18 for residential geothermal heat pump systems equipment and installation  
19 provided in paragraph forty-seven of subdivision (a) of section eleven  
20 hundred fifteen of this chapter, the county in which such city is  
21 located shall have the prior right to impose tax on such exempt equip-  
22 ment and/or installation to the extent of one half of the maximum rates  
23 authorized under subdivision (a) of section twelve hundred ten of this  
24 article.

25 (c-4) Notwithstanding any other provision of law: (1) Where a county  
26 containing one or more cities with a population of less than one million  
27 has elected the exemption for commercial geothermal heat pump systems  
28 equipment and installation provided in subdivision (11) of section elev-  
29 en hundred fifteen of this chapter, a city within such county shall have  
30 the prior right to impose tax on such exempt equipment and/or installa-  
31 tion to the extent of one half of the maximum rates authorized under  
32 subdivision (a) of section twelve hundred ten of this article;

33 (2) Where a city of less than one million has elected the exemption  
34 for commercial geothermal heat pump systems equipment and installation  
35 provided in subdivision (11) of section eleven hundred fifteen of this  
36 chapter, the county in which such city is located shall have the prior  
37 right to impose tax on such exempt equipment and/or installation to the  
38 extent of one half of the maximum rates authorized under subdivision (a)  
39 of section twelve hundred ten of this article.

40 § 10. This act shall take effect on the first day of a sales tax quar-  
41 terly period, as described in subdivision (b) of section 1136 of the tax  
42 law, beginning at least ninety days after the date this act shall have  
43 become a law and shall apply to sales made on or after such date;  
44 provided that sections four and six of this act shall take effect on the  
45 same date and in the same manner as part J of chapter 59 of the laws of  
46 2021 takes effect.