STATE OF NEW YORK

3261

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. JENSEN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a sales tax holiday for various products for the period commencing on Black Friday and ending after Christmas day

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

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 47 to read as follows:

(47) Products purchased for less than five hundred dollars commencing on the fourth Friday in November and ending on the twenty-sixth day in December. For the purposes of this paragraph the term "products" shall include but not be limited to:

(A) clothing, footwear, jewelry, handbags, book bags, backpacks, luggage, wallets, watches;

(B) sporting goods, camping equipment;

(C) tools used for home improvement, automotive maintenance and repair;

(D) books, journals, paper, writing instruments, art supplies, greeting cards, post cards, paintings, drawings, photographs, sculptures, pottery, textiles;

(E) plants, floral arrangements;

(F) cosmetics, personal grooming items;

(G) musical instruments, cookware, small home appliances for residential use;

(H) bedding, towels, bath accessories;

(I) furniture; and

(J) toys, games, video games, video game consoles, any associated accessories for video game consoles, home electronics, computers, phones, tablets, stereo equipment.

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

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

(12) Except as otherwise provided by law, the exemption provided in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this article relating to products purchased for less than five hundred dollars shall be applicable pursuant to a local law, ordinance or resolution adopted by a city subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

§ 3. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as amended by section 5 of part J of chapter 59 of the laws of 2021, is amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. Notwithstanding 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 products purchased for less than five hundred dollars 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 products purchased for less than five hundred dollars exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the products purchased for less than five hundred dollars 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~~] chapter, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this [~~article~~] chapter, 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~~] chapter 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 subdivision (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 (p) to read as follows:

(p) 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 products purchased for less than five hundred dollars 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 products purchased for less than five hundred dollars 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 products purchased for less than five hundred dollars 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 ninety days after this act shall have become law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.