

# STATE OF NEW YORK

3124

2023-2024 Regular Sessions

## IN SENATE

January 27, 2023

Introduced by Sen. ORTT -- 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 eliminating state sales and compensating use taxes on motor fuels and diesel motor fuels and authorizing localities to eliminate such taxes at the local level; and providing for the repeal of such provisions upon expiration thereof (Part A); to amend the tax law, in relation to exemptions from sales and use taxes; and providing for the repeal of such provisions upon expiration thereof (Part B); to amend the tax law, in relation to providing a sales tax exemption for housekeeping supplies; and providing for the repeal of such provisions upon expiration thereof (Part C); and to amend the tax law, in relation to providing a sales tax exemption for ready-to-eat foods; and providing for the repeal of such provisions upon expiration thereof (Part D)

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

1 Section 1. This act enacts into law components of legislation relating  
2 to establishing various exemptions from New York's sales and compensat-  
3 ing use tax. Each component is wholly contained within a Part identi-  
4 fied as Parts A through D. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, includ-  
7 ing the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

### 12 PART A

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

15 (47) Motor fuel and diesel motor fuel.

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

LBD05328-01-3

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

3     (12) Except as otherwise provided by law, the exemption provided in  
4 paragraph forty-seven of subdivision (a) of section eleven hundred  
5 fifteen of this article relating to motor fuel and diesel motor fuel  
6 shall be applicable pursuant to a local law, ordinance or resolution  
7 adopted by a city subject to the provisions of this section. Such city  
8 is empowered to adopt or repeal such a local law, ordinance or resolu-  
9 tion. Such adoption or repeal shall also be deemed to amend any local  
10 law, ordinance or resolution enacted by such a city imposing taxes  
11 pursuant to the authority of subdivision (a) of section twelve hundred  
12 ten of this chapter.

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

16     (1) Either, all of the taxes described in article twenty-eight of this  
17 chapter, at the same uniform rate, as to which taxes all provisions of  
18 the local laws, ordinances or resolutions imposing such taxes shall be  
19 identical, except as to rate and except as otherwise provided, with the  
20 corresponding provisions in such article twenty-eight, including the  
21 definition and exemption provisions of such article, so far as the  
22 provisions of such article twenty-eight can be made applicable to the  
23 taxes imposed by such city or county and with such limitations and  
24 special provisions as are set forth in this article. The taxes author-  
25 ized under this subdivision may not be imposed by a city or county  
26 unless the local law, ordinance or resolution imposes such taxes so as  
27 to include all portions and all types of receipts, charges or rents,  
28 subject to state tax under sections eleven hundred five and eleven  
29 hundred ten of this chapter, except as otherwise provided. Notwith-  
30 standing the foregoing, a tax imposed by a city or county authorized  
31 under this subdivision shall not include the tax imposed on charges for  
32 admission to race tracks and simulcast facilities under subdivision (f)  
33 of section eleven hundred five of this chapter. (i) Any local law, ordi-  
34 nance or resolution enacted by any city of less than one million or by  
35 any county or school district, imposing the taxes authorized by this  
36 subdivision, shall, notwithstanding any provision of law to the contra-  
37 ry, exclude from the operation of such local taxes all sales of tangible  
38 personal property for use or consumption directly and predominantly in  
39 the production of tangible personal property, gas, electricity, refriger-  
40 eration or steam, for sale, by manufacturing, processing, generating,  
41 assembly, refining, mining or extracting; and all sales of tangible  
42 personal property for use or consumption predominantly either in the  
43 production of tangible personal property, for sale, by farming or in a  
44 commercial horse boarding operation, or in both; and all sales of fuel  
45 sold for use in commercial aircraft and general aviation aircraft; and,  
46 unless such city, county or school district elects otherwise, shall omit  
47 the provision for credit or refund contained in clause six of subdivi-  
48 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
49 chapter. (ii) Any local law, ordinance or resolution enacted by any  
50 city, county or school district, imposing the taxes authorized by this  
51 subdivision, shall omit the residential solar energy systems equipment  
52 and electricity exemption provided for in subdivision (ee), the commer-  
53 cial solar energy systems equipment and electricity exemption provided  
54 for in subdivision (ii), the commercial fuel cell electricity generating  
55 systems equipment and electricity generated by such equipment exemption  
56 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. (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 motor fuel and diesel motor fuel 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 motor fuel and diesel motor fuel exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the motor fuel and diesel motor fuel exemption in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter.

§ 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, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, 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 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

1 described in paragraph forty-seven of subdivision (a) of section eleven  
2 hundred fifteen of this chapter or repealing any such exemption so  
3 provided and a resolution enacted pursuant to the authority of subdivi-  
4 sion (q) of this section providing such exemption or repealing such  
5 exemption so provided may go into effect immediately. No such local law,  
6 ordinance or resolution shall be effective unless a certified copy of  
7 such law, ordinance or resolution is mailed by registered or certified  
8 mail to the commissioner at the commissioner's office in Albany at least  
9 ninety days prior to the date it is to become effective. However, the  
10 commissioner may waive and reduce such ninety-day minimum notice  
11 requirement to a mailing of such certified copy by registered or certi-  
12 fied mail within a period of not less than thirty days prior to such  
13 effective date if the commissioner deems such action to be consistent  
14 with the commissioner's duties under section twelve hundred fifty of  
15 this article and the commissioner acts by resolution. Where the  
16 restriction provided for in section twelve hundred twenty-three of this  
17 article as to the effective date of a tax and the notice requirement  
18 provided for therein are applicable and have not been waived, the  
19 restriction and notice requirement in section twelve hundred twenty-  
20 three of this article shall also apply.

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

23 (q) Notwithstanding any other provision of state or local law, ordi-  
24 nance or resolution to the contrary:

25 (1) Any city having a population of one million or more in which the  
26 taxes imposed by section eleven hundred seven of this chapter are in  
27 effect, acting through its local legislative body, is hereby authorized  
28 and empowered to elect to provide the exemption from such taxes for the  
29 same motor fuel and diesel motor fuel exempt from state sales and  
30 compensating use taxes described in paragraph forty-seven of subdivision  
31 (a) of section eleven hundred fifteen of this chapter by enacting a  
32 resolution in the form set forth in paragraph two of this subdivision;  
33 whereupon, upon compliance with the provisions of subdivisions (d) and  
34 (e) of this section, such enactment of such resolution shall be deemed  
35 to be an amendment to such section eleven hundred seven and such section  
36 eleven hundred seven shall be deemed to incorporate such exemption as if  
37 it had been duly enacted by the state legislature and approved by the  
38 governor.

39 (2) Form of Resolution: Be it enacted by the (insert proper title of  
40 local legislative body) as follows:

41 Section one. Receipts from sales of and consideration given or  
42 contracted to be given for purchases of motor fuel and diesel motor fuel  
43 exempt from state sales and compensating use taxes pursuant to paragraph  
44 forty-seven of subdivision (a) of section eleven hundred fifteen of the  
45 tax law shall also be exempt from sales and compensating use taxes  
46 imposed in this jurisdiction.

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

50 § 6. The commissioner of taxation and finance is hereby authorized to  
51 implement the provisions of this act with respect to the elimination of  
52 the imposition of sales tax, additional taxes, and supplemental taxes on  
53 diesel motor fuel and motor fuel and all other taxes so addressed by  
54 this act.

55 § 7. This act shall take effect on the first day of the sales tax  
56 quarterly period, as described in subdivision (b) of section 1136 of the

1 tax law, next commencing at least 90 days after this act shall have  
2 become a law and shall apply in accordance with the applicable transi-  
3 tional provisions of sections 1106 and 1217 of the tax law and shall  
4 expire and be deemed repealed two years after such date.

## PART B

6 Section 1. Paragraph 3 of subdivision (a) of section 1115 of the tax  
7 law, as amended by chapter 201 of the laws of 1976, is amended to read  
8 as follows:

9 (3) Drugs and medicines intended for use, internally or externally, in  
10 the cure, mitigation, treatment or prevention of illnesses or diseases  
11 in human beings, medical equipment (including component parts thereof)  
12 and supplies required for such use or to correct or alleviate physical  
13 incapacity, and products consumed by humans for the preservation of  
14 health but not including cosmetics [~~or toilet articles~~] notwithstanding  
15 the presence of medicinal ingredients therein or medical equipment  
16 (including component parts thereof) and supplies, other than such drugs  
17 and medicines, purchased at retail for use in performing medical and  
18 similar services for compensation.

19 § 2. Subdivision (a) of section 1115 of the tax law is amended by  
20 adding a new paragraph 48 to read as follows:

21 (48) Personal care products as determined by the commissioner.

22 § 3. Subdivision (b) of section 1107 of the tax law is amended by  
23 adding a new clause 13 to read as follows:

24 (13) Except as otherwise provided by law, the exemption provided in  
25 paragraph forty-eight of subdivision (a) of section eleven hundred  
26 fifteen of this article relating to personal care products shall be  
27 applicable pursuant to a local law, ordinance or resolution adopted by a  
28 city subject to the provisions of this section. Such city is empowered  
29 to adopt or repeal such a local law, ordinance or resolution. Such  
30 adoption or repeal shall also be deemed to amend any local law, ordi-  
31 nance or resolution enacted by such a city imposing taxes pursuant to  
32 the authority of subdivision (a) of section twelve hundred ten of this  
33 chapter.

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

37 (1) Either, all of the taxes described in article twenty-eight of this  
38 chapter, at the same uniform rate, as to which taxes all provisions of  
39 the local laws, ordinances or resolutions imposing such taxes shall be  
40 identical, except as to rate and except as otherwise provided, with the  
41 corresponding provisions in such article twenty-eight, including the  
42 definition and exemption provisions of such article, so far as the  
43 provisions of such article twenty-eight can be made applicable to the  
44 taxes imposed by such city or county and with such limitations and  
45 special provisions as are set forth in this article. The taxes author-  
46 ized under this subdivision may not be imposed by a city or county  
47 unless the local law, ordinance or resolution imposes such taxes so as  
48 to include all portions and all types of receipts, charges or rents,  
49 subject to state tax under sections eleven hundred five and eleven  
50 hundred ten of this chapter, except as otherwise provided. Notwith-  
51 standing the foregoing, a tax imposed by a city or county authorized  
52 under this subdivision shall not include the tax imposed on charges for  
53 admission to race tracks and simulcast facilities under subdivision (f)  
54 of section eleven hundred five of this chapter. (i) Any local law, ordi-

1 nance or resolution enacted by any city of less than one million or by  
2 any county or school district, imposing the taxes authorized by this  
3 subdivision, shall, notwithstanding any provision of law to the contra-  
4 ry, exclude from the operation of such local taxes all sales of tangible  
5 personal property for use or consumption directly and predominantly in  
6 the production of tangible personal property, gas, electricity, refriger-  
7 ation or steam, for sale, by manufacturing, processing, generating,  
8 assembly, refining, mining or extracting; and all sales of tangible  
9 personal property for use or consumption predominantly either in the  
10 production of tangible personal property, for sale, by farming or in a  
11 commercial horse boarding operation, or in both; and all sales of fuel  
12 sold for use in commercial aircraft and general aviation aircraft; and,  
13 unless such city, county or school district elects otherwise, shall omit  
14 the provision for credit or refund contained in clause six of subdivi-  
15 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
16 chapter. (ii) Any local law, ordinance or resolution enacted by any  
17 city, county or school district, imposing the taxes authorized by this  
18 subdivision, shall omit the residential solar energy systems equipment  
19 and electricity exemption provided for in subdivision (ee), the commer-  
20 cial solar energy systems equipment and electricity exemption provided  
21 for in subdivision (ii), the commercial fuel cell electricity generating  
22 systems equipment and electricity generated by such equipment exemption  
23 provided for in subdivision (kk) and the clothing and footwear exemption  
24 provided for in paragraph thirty of subdivision (a) of section eleven  
25 hundred fifteen of this chapter, unless such city, county or school  
26 district elects otherwise as to such residential solar energy systems  
27 equipment and electricity exemption, such commercial solar energy  
28 systems equipment and electricity exemption, commercial fuel cell elec-  
29 tricity generating systems equipment and electricity generated by such  
30 equipment exemption or such clothing and footwear exemption. (iii) Any  
31 local law, ordinance or resolution enacted by any city, county or school  
32 district, imposing the taxes authorized by this subdivision, shall omit  
33 the personal care products exemption provided for in paragraph forty-  
34 eight of subdivision (a) of section eleven hundred fifteen of this chap-  
35 ter, unless such city, county or school district elects otherwise;  
36 provided that if such a city having a population of one million or more  
37 enacts the resolution described in subdivision (r) of this section or  
38 repeals such resolution, such resolution or repeal shall also be deemed  
39 to amend any local law, ordinance or resolution enacted by such a city  
40 imposing such taxes pursuant to the authority of this subdivision,  
41 whether or not such taxes are suspended at the time such city enacts its  
42 resolution pursuant to subdivision (r) of this section or at the time of  
43 such repeal; provided, further, that any such local law, ordinance or  
44 resolution and section eleven hundred seven of this chapter, as deemed  
45 to be amended in the event a city of one million or more enacts a resol-  
46 ution pursuant to the authority of subdivision (r) of this section,  
47 shall be further amended, as provided in section twelve hundred eighteen  
48 of this subpart, so that the personal care products exemption in any  
49 such local law, ordinance or resolution or in such section eleven  
50 hundred seven of this chapter is the same as the personal care products  
51 exemption in paragraph forty-eight of subdivision (a) of section eleven  
52 hundred fifteen of this chapter.

53 § 5. Subdivision (d) of section 1210 of the tax law, as amended by  
54 section 4 of part WW of chapter 60 of the laws of 2016, is amended to  
55 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, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, 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 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-eight 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 (r) 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.

§ 6. Section 1210 of the tax law is amended by adding a new subdivision (r) to read as follows:

(r) 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 personal care products exempt from state sales and compensating use taxes described in paragraph forty-eight 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 personal care products exempt from state sales and compensating use taxes pursuant to paragraph forty-eight 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.

§ 7. 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 personal care products and all other taxes so addressed by this act.

§ 8. 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, beginning at least 90 days after the date this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law and shall expire and be deemed repealed two years after such date.

#### PART C

Section 1. Subdivision (a) of section 1115 of the tax law is amended by adding a new paragraph 49 to read as follows:

(49) Housekeeping supplies as determined by the commissioner.

§ 2. Subdivision (b) of section 1107 of the tax law is amended by adding a new clause 14 to read as follows:

(14) Except as otherwise provided by law, the exemption provided in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this article relating to housekeeping supplies 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 author-

1 ized under this subdivision may not be imposed by a city or county  
2 unless the local law, ordinance or resolution imposes such taxes so as  
3 to include all portions and all types of receipts, charges or rents,  
4 subject to state tax under sections eleven hundred five and eleven  
5 hundred ten of this chapter, except as otherwise provided. Notwith-  
6 standing the foregoing, a tax imposed by a city or county authorized  
7 under this subdivision shall not include the tax imposed on charges for  
8 admission to race tracks and simulcast facilities under subdivision (f)  
9 of section eleven hundred five of this chapter. (i) Any local law, ordi-  
10 nance or resolution enacted by any city of less than one million or by  
11 any county or school district, imposing the taxes authorized by this  
12 subdivision, shall, notwithstanding any provision of law to the contra-  
13 ry, exclude from the operation of such local taxes all sales of tangible  
14 personal property for use or consumption directly and predominantly in  
15 the production of tangible personal property, gas, electricity, refriger-  
16 eration or steam, for sale, by manufacturing, processing, generating,  
17 assembly, refining, mining or extracting; and all sales of tangible  
18 personal property for use or consumption predominantly either in the  
19 production of tangible personal property, for sale, by farming or in a  
20 commercial horse boarding operation, or in both; and all sales of fuel  
21 sold for use in commercial aircraft and general aviation aircraft; and,  
22 unless such city, county or school district elects otherwise, shall omit  
23 the provision for credit or refund contained in clause six of subdivi-  
24 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
25 chapter. (ii) Any local law, ordinance or resolution enacted by any  
26 city, county or school district, imposing the taxes authorized by this  
27 subdivision, shall omit the residential solar energy systems equipment  
28 and electricity exemption provided for in subdivision (ee), the commer-  
29 cial solar energy systems equipment and electricity exemption provided  
30 for in subdivision (ii), the commercial fuel cell electricity generating  
31 systems equipment and electricity generated by such equipment exemption  
32 provided for in subdivision (kk) and the clothing and footwear exemption  
33 provided for in paragraph thirty of subdivision (a) of section eleven  
34 hundred fifteen of this chapter, unless such city, county or school  
35 district elects otherwise as to such residential solar energy systems  
36 equipment and electricity exemption, such commercial solar energy  
37 systems equipment and electricity exemption, commercial fuel cell elec-  
38 tricity generating systems equipment and electricity generated by such  
39 equipment exemption or such clothing and footwear exemption. (iii) Any  
40 local law, ordinance or resolution enacted by any city, county or school  
41 district, imposing the taxes authorized by this subdivision, shall omit  
42 the housekeeping supplies exemption provided for in paragraph forty-nine  
43 of subdivision (a) of section eleven hundred fifteen of this chapter,  
44 unless such city, county or school district elects otherwise; provided  
45 that if such a city having a population of one million or more enacts  
46 the resolution described in subdivision (s) of this section or repeals  
47 such resolution, such resolution or repeal shall also be deemed to amend  
48 any local law, ordinance or resolution enacted by such a city imposing  
49 such taxes pursuant to the authority of this subdivision, whether or not  
50 such taxes are suspended at the time such city enacts its resolution  
51 pursuant to subdivision (s) of this section or at the time of such  
52 repeal; provided, further, that any such local law, ordinance or resol-  
53 ution and section eleven hundred seven of this chapter, as deemed to be  
54 amended in the event a city of one million or more enacts a resolution  
55 pursuant to the authority of subdivision (s) of this section, shall be  
56 further amended, as provided in section twelve hundred eighteen of this

subpart, so that the housekeeping supplies exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the housekeeping supplies exemption in paragraph forty-nine of subdivision (a) of section eleven hundred fifteen of this chapter.

§ 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, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this article, 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 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-nine 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 (s) 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 (s) to read as follows:

(s) 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 housekeeping supplies exempt from state sales and compensating use taxes described in paragraph forty-nine 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 housekeeping supplies exempt from state sales and compensating use taxes pursuant to paragraph forty-nine 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 housekeeping supplies 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, beginning at least 90 days after the date this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law and shall expire and be deemed repealed two years after such date.

#### PART D

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

(1-a) Food which is sold heated or prepared, including food sold at grocery stores, restaurants, diners, taverns, food trucks, and food courts at a mall and food that is catered.

§ 2. Subdivision (b) of section 1107 of the tax law is amended by adding a new clause 15 to read as follows:

(15) Except as otherwise provided by law, the exemption provided in paragraph one-a of subdivision (a) of section eleven hundred fifteen of this article relating to heated or prepared foods 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. (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 hot or prepared food items exemption provided for in paragraph one-a 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 (t) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend

1 any local law, ordinance or resolution enacted by such a city imposing  
2 such taxes pursuant to the authority of this subdivision, whether or not  
3 such taxes are suspended at the time such city enacts its resolution  
4 pursuant to subdivision (t) of this section or at the time of such  
5 repeal; provided, further, that any such local law, ordinance or resol-  
6 ution and section eleven hundred seven of this chapter, as deemed to be  
7 amended in the event a city of one million or more enacts a resolution  
8 pursuant to the authority of subdivision (t) of this section, shall be  
9 further amended, as provided in section twelve hundred eighteen of this  
10 subpart, so that the hot or prepared food items exemption in any such  
11 local law, ordinance or resolution or in such section eleven hundred  
12 seven of this chapter is the same as the hot or prepared food items  
13 exemption in paragraph one-a of subdivision (a) of section eleven  
14 hundred fifteen of this chapter.

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

18 (d) A local law, ordinance or resolution imposing any tax pursuant to  
19 this section, increasing or decreasing the rate of such tax, repealing  
20 or suspending such tax, exempting from such tax the energy sources and  
21 services described in paragraph three of subdivision (a) or of subdivi-  
22 sion (b) of this section or changing the rate of tax imposed on such  
23 energy sources and services or providing for the credit or refund  
24 described in clause six of subdivision (a) of section eleven hundred  
25 nineteen of this chapter, or electing or repealing the exemption for  
26 residential solar equipment and electricity in subdivision (ee) of  
27 section eleven hundred fifteen of this article, or the exemption for  
28 commercial solar equipment and electricity in subdivision (ii) of  
29 section eleven hundred fifteen of this article, or electing or repealing  
30 the exemption for commercial fuel cell electricity generating systems  
31 equipment and electricity generated by such equipment in subdivision  
32 (kk) of section eleven hundred fifteen of this article must go into  
33 effect only on one of the following dates: March first, June first,  
34 September first or December first; provided, that a local law, ordinance  
35 or resolution providing for the exemption described in paragraph thirty  
36 of subdivision (a) of section eleven hundred fifteen of this chapter or  
37 repealing any such exemption or a local law, ordinance or resolution  
38 providing for a refund or credit described in subdivision (d) of section  
39 eleven hundred nineteen of this chapter or repealing such provision so  
40 provided must go into effect only on March first; provided, further,  
41 that a local law, ordinance or resolution providing for the exemption  
42 described in paragraph one-a of subdivision (a) of section eleven  
43 hundred fifteen of this chapter or repealing any such exemption so  
44 provided and a resolution enacted pursuant to the authority of subdivi-  
45 sion (t) of this section providing such exemption or repealing such  
46 exemption so provided may go into effect immediately. No such local law,  
47 ordinance or resolution shall be effective unless a certified copy of  
48 such law, ordinance or resolution is mailed by registered or certified  
49 mail to the commissioner at the commissioner's office in Albany at least  
50 ninety days prior to the date it is to become effective. However, the  
51 commissioner may waive and reduce such ninety-day minimum notice  
52 requirement to a mailing of such certified copy by registered or certi-  
53 fied mail within a period of not less than thirty days prior to such  
54 effective date if the commissioner deems such action to be consistent  
55 with the commissioner's duties under section twelve hundred fifty of  
56 this article and the commissioner acts by resolution. Where the

1 restriction provided for in section twelve hundred twenty-three of this  
2 article as to the effective date of a tax and the notice requirement  
3 provided for therein are applicable and have not been waived, the  
4 restriction and notice requirement in section twelve hundred twenty-  
5 three of this article shall also apply.

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

8 (t) Notwithstanding any other provision of state or local law, ordi-  
9 nance or resolution to the contrary: (1) Any city having a population of  
10 one million or more in which the taxes imposed by section eleven hundred  
11 seven of this chapter are in effect, acting through its local legisla-  
12 tive body, is hereby authorized and empowered to elect to provide the  
13 exemption from such taxes for the same hot or prepared food items exempt  
14 from state sales and compensating use taxes described in paragraph one-a  
15 of subdivision (a) of section eleven hundred fifteen of this chapter by  
16 enacting a resolution in the form set forth in paragraph two of this  
17 subdivision; whereupon, upon compliance with the provisions of subdivi-  
18 sions (d) and (e) of this section, such enactment of such resolution  
19 shall be deemed to be an amendment to such section eleven hundred seven  
20 and such section eleven hundred seven shall be deemed to incorporate  
21 such exemption as if it had been duly enacted by the state legislature  
22 and approved by the governor.

23 (2) Form of resolution: Be it enacted by the (insert proper title of  
24 local legislative body) as follows:

25 Section one. Receipts from sales of and consideration given or  
26 contracted to be given for purchases of hot or prepared food items  
27 exempt from state sales and compensating use taxes pursuant to paragraph  
28 one-a of subdivision (a) of section eleven hundred fifteen of this chap-  
29 ter shall also be exempt from sales and compensating use taxes imposed  
30 in this jurisdiction.

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

34 § 6. The commissioner of taxation and finance is hereby authorized to  
35 implement the provisions of this act with respect to the elimination of  
36 the imposition of sales tax, additional taxes, and supplemental taxes on  
37 hot and prepared food items and all other taxes so addressed by this  
38 act.

39 § 7. This act shall take effect on the first day of the sales tax  
40 quarterly period, as described in subdivision (b) of section 1136 of the  
41 tax law, beginning at least 90 days after the date this act shall have  
42 become a law and shall apply in accordance with the applicable transi-  
43 tional provisions of sections 1106 and 1217 of the tax law and shall  
44 expire and be deemed repealed two years after such date.

45 § 2. Severability. If any clause, sentence, paragraph, section or part  
46 of this act shall be adjudged by any court of competent jurisdiction to  
47 be invalid and after exhaustion of all further judicial review, the  
48 judgment shall not affect, impair, or invalidate the remainder thereof,  
49 but shall be confined in its operation to the clause, sentence, para-  
50 graph, section or part of this act directly involved in the controversy  
51 in which the judgment shall have been rendered.

52 § 3. This act shall take effect immediately provided, however, that  
53 the applicable effective date of Parts A through D of this act shall be  
54 as specifically set forth in the last section of such Parts.