STATE OF NEW YORK

1690

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BARCLAY, RA, TANNOUSIS, J. M. GIGLIO, BRABENEC, BLANKENBUSH, GANDOLFO, TAGUE, WALSH, SMULLEN, SMITH, SIMPSON, NORRIS, PALMESANO, REILLY, MANKTELOW, LEMONDES, HAWLEY, GOODELL, J. A. GIGLIO, GALLAHAN, FRIEND, FITZPATRICK, DURSO, DeSTEFANO, ANGELINO, K. BROWN, JENSEN, MIKULIN, MORINELLO, MILLER, BYRNES, McDONOUGH -- read once and referred to the Committee on Ways and Means

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:

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

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

LBD05328-01-3

PART A

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

(47) Motor fuel and diesel motor fuel.

§ 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 motor fuel and diesel motor fuel 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 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 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 (q) to read as follows:

(q) 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 motor fuel and diesel motor fuel 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 motor fuel and diesel motor fuel 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 diesel motor fuel and motor fuel 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 90 days after 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 B

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

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

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

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

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

(13) Except as otherwise provided by law, the exemption provided in paragraph forty-eight of subdivision (a) of section eleven hundred fifteen of this article relating to personal care products 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.

§ 4. 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 personal care products exemption provided for in paragraph forty-eight 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 (r) 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 (r) of this section or at the time of 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 (r) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the personal care products exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the personal care products**

exemption in paragraph forty-eight of subdivision (a) of section eleven hundred fifteen of this chapter.

§ 5. 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-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 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 housekeeping supplies exemption provided for in paragraph forty-nine 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 (s) 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 (s) of this section or at the time of 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 (s) of this section, shall be 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 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 (t) of this section or at the time of 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 (t) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the hot or prepared food items exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the hot or prepared food items exemption in paragraph one-a 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 one-a 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 (t) 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 (t) to read as follows:

(t) 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 hot or prepared food items exempt from state sales and compensating use taxes described in paragraph one-a 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 hot or prepared food items exempt from state sales and compensating use taxes pursuant to paragraph one-a of subdivision (a) of section eleven hundred fifteen of this chapter 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 hot and prepared food items 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.

§ 2. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, para-

graph, section or part of this act directly involved in the controversy in which the judgment shall have been rendered.

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