

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:

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.

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

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

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

38 (d) A local law, ordinance or resolution imposing any tax pursuant to
39 this section, increasing or decreasing the rate of such tax, repealing
40 or suspending such tax, exempting from such tax the energy sources and
41 services described in paragraph three of subdivision (a) or of subdivision
42 (b) of this section or changing the rate of tax imposed on such
43 energy sources and services or providing for the credit or refund
44 described in clause six of subdivision (a) of section eleven hundred
45 nineteen of this chapter, or electing or repealing the exemption for
46 residential solar equipment and electricity in subdivision (ee) of
47 section eleven hundred fifteen of this article, or the exemption for
48 commercial solar equipment and electricity in subdivision (ii) of
49 section eleven hundred fifteen of this article, or electing or repealing
50 the exemption for commercial fuel cell electricity generating systems
51 equipment and electricity generated by such equipment in subdivision
52 (kk) of section eleven hundred fifteen of this article must go into
53 effect only on one of the following dates: March first, June first,
54 September first or December first; provided, that a local law, ordinance
55 or resolution providing for the exemption described in paragraph thirty
56 of subdivision (a) of section eleven hundred fifteen of this chapter or

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

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

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

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

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

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

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

55 § 6. The commissioner of taxation and finance is hereby authorized to
56 implement the provisions of this act with respect to the elimination of

1 the imposition of sales tax, additional taxes, and supplemental taxes on
2 diesel motor fuel and motor fuel and all other taxes so addressed by
3 this act.

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

10 PART B

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

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

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

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

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

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

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

42 (1) Either, all of the taxes described in article twenty-eight of this
43 chapter, at the same uniform rate, as to which taxes all provisions of
44 the local laws, ordinances or resolutions imposing such taxes shall be
45 identical, except as to rate and except as otherwise provided, with the
46 corresponding provisions in such article twenty-eight, including the
47 definition and exemption provisions of such article, so far as the
48 provisions of such article twenty-eight can be made applicable to the
49 taxes imposed by such city or county and with such limitations and
50 special provisions as are set forth in this article. The taxes author-
51 ized under this subdivision may not be imposed by a city or county
52 unless the local law, ordinance or resolution imposes such taxes so as
53 to include all portions and all types of receipts, charges or rents,
54 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

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

1 restriction and notice requirement in section twelve hundred twenty-
2 three of this article shall also apply.

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

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

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

22 Section one. Receipts from sales of and consideration given or
23 contracted to be given for purchases of housekeeping supplies exempt
24 from state sales and compensating use taxes pursuant to paragraph
25 forty-nine of subdivision (a) of section eleven hundred fifteen of the
26 tax law shall also be exempt from sales and compensating use taxes
27 imposed in this jurisdiction.

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

31 § 6. The commissioner of taxation and finance is hereby authorized to
32 implement the provisions of this act with respect to the elimination of
33 the imposition of sales tax, additional taxes, and supplemental taxes on
34 housekeeping supplies and all other taxes so addressed by this act.

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

41 PART D

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

44 (1-a) Food which is sold heated or prepared, including food sold at
45 grocery stores, restaurants, diners, taverns, food trucks, and food
46 courts at a mall and food that is catered.

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

49 (15) Except as otherwise provided by law, the exemption provided in
50 paragraph one-a of subdivision (a) of section eleven hundred fifteen of
51 this article relating to heated or prepared foods shall be applicable
52 pursuant to a local law, ordinance or resolution adopted by a city
53 subject to the provisions of this section. Such city is empowered to
54 adopt or repeal such a local law, ordinance or resolution. Such adoption

1 or repeal shall also be deemed to amend any local law, ordinance or
2 resolution enacted by such a city imposing taxes pursuant to the author-
3 ity of subdivision (a) of section twelve hundred ten of this chapter.

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

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

1 the hot or prepared food items exemption provided for in paragraph one-a
2 of subdivision (a) of section eleven hundred fifteen of this chapter,
3 unless such city, county or school district elects otherwise; provided
4 that if such a city having a population of one million or more enacts
5 the resolution described in subdivision (t) of this section or repeals
6 such resolution, such resolution or repeal shall also be deemed to amend
7 any local law, ordinance or resolution enacted by such a city imposing
8 such taxes pursuant to the authority of this subdivision, whether or not
9 such taxes are suspended at the time such city enacts its resolution
10 pursuant to subdivision (t) of this section or at the time of such
11 repeal; provided, further, that any such local law, ordinance or resolu-
12 tion and section eleven hundred seven of this chapter, as deemed to be
13 amended in the event a city of one million or more enacts a resolution
14 pursuant to the authority of subdivision (t) of this section, shall be
15 further amended, as provided in section twelve hundred eighteen of this
16 subpart, so that the hot or prepared food items exemption in any such
17 local law, ordinance or resolution or in such section eleven hundred
18 seven of this chapter is the same as the hot or prepared food items
19 exemption in paragraph one-a of subdivision (a) of section eleven
20 hundred fifteen of this chapter.

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

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

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

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

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

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

31 Section one. Receipts from sales of and consideration given or
32 contracted to be given for purchases of hot or prepared food items
33 exempt from state sales and compensating use taxes pursuant to paragraph
34 one-a of subdivision (a) of section eleven hundred fifteen of this chap-
35 ter shall also be exempt from sales and compensating use taxes imposed
36 in this jurisdiction.

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

40 § 6. The commissioner of taxation and finance is hereby authorized to
41 implement the provisions of this act with respect to the elimination of
42 the imposition of sales tax, additional taxes, and supplemental taxes on
43 hot and prepared food items and all other taxes so addressed by this
44 act.

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

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

1 graph, section or part of this act directly involved in the controversy
2 in which the judgment shall have been rendered.
3 § 3. This act shall take effect immediately provided, however, that
4 the applicable effective date of Parts A through D of this act shall be
5 as specifically set forth in the last section of such Parts.