

STATE OF NEW YORK

3159

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. FAHY, SIMON, SEAWRIGHT, VANEL, DICKENS, ROZIC, THIELE, COLTON, McDONOUGH, STECK, LUNSFORD, OTIS, SILLITTI, ZEBROWSKI, TAYLOR, ZINERMAN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to exempting the sale of the first thirty-five thousand dollars of a battery, electric, or plug-in hybrid electric vehicle from state sales and compensating use taxes, and to authorize cities and counties to elect such exemption

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

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

(47) The receipts from the first thirty-five thousand dollars of the retail sale or lease of a new or used battery, electric, or plug-in hybrid electric vehicle. For purposes of this paragraph the term "battery, electric, or plug-in hybrid electric vehicle" means a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, that:

(i) has four wheels;

(ii) was manufactured for use primarily on public streets, roads and highways;

(iii) the powertrain of which has not been modified from the original manufacturer's specifications;

(iv) is rated at not more than eight thousand five hundred pounds gross vehicle weight;

(v) has a maximum speed capability of at least fifty-five miles per hour; and

(vi) is propelled at least in part by an electronic motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a battery that:

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

LBD04065-01-3

1 (A) has a capacity of not less than four kilowatt hours; and
2 (B) is capable of being recharged from an external source of electric-
3 ity.

4 § 2. Section 1160 of the tax law is amended by adding a new subdivi-
5 sion (d) to read as follows:

6 (d) The new or used battery, electric, or plug-in hybrid electric
7 vehicles exemption provided for in paragraph forty-seven of subdivision
8 (a) of section eleven hundred fifteen of this chapter shall not apply to
9 or limit the imposition of the tax imposed pursuant to this article.

10 § 3. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
11 1210 of the tax law, as amended by section 5 of part J of chapter 59 of
12 the laws of 2021, is amended to read as follows:

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

34 § 4. Paragraph 47 of subdivision (a) of section 1115 of the tax law,
35 as added by section one of this act, is amended to read as follows:

36 (47) The receipts from the first thirty-five thousand dollars of the
37 retail sale or lease of a new or used battery~~[,]~~ or electric~~[, or plug-~~
38 ~~in hybrid electric]~~ vehicle. For purposes of this paragraph the term
39 "battery~~[,]~~ or electric~~[, or plug-in hybrid electric]~~ vehicle" means a
40 motor vehicle, as defined in section one hundred twenty-five of the
41 vehicle and traffic law, that:

42 (i) has four wheels;

43 (ii) was manufactured for use primarily on public streets, roads and
44 highways;

45 (iii) the powertrain of which has not been modified from the original
46 manufacturer's specifications;

47 (iv) is rated at not more than eight thousand five hundred pounds
48 gross vehicle weight;

49 (v) has a maximum speed capability of at least fifty-five miles per
50 hour; and

51 (vi) is propelled ~~[at least in part]~~ by an electronic motor and asso-
52 ciated power electronics which provide acceleration torque to the drive
53 wheels sometime during normal vehicle operation, and that draws elec-
54 tricity from a battery that:

55 (A) has a capacity of not less than four kilowatt hours; and

1 (B) is capable of being recharged from an external source of electric-
2 ity.

3 § 5. Subdivision (d) of section 1160 of the tax law, as added by
4 section two of this act, is amended to read as follows:

5 (d) The new or used battery[~~7~~] ~~or~~ electric[~~7~~, ~~or plug-in hybrid elec-~~
6 ~~trie~~] vehicles exemption provided for in paragraph forty-seven of subdivi-
7 sion (a) of section eleven hundred fifteen of this chapter shall not
8 apply to or limit the imposition of the tax imposed pursuant to this
9 article.

10 § 6. Subparagraph (ii) of paragraph 1 of subdivision (a) of section
11 1210 of the tax law, as amended by section three of this act, is amended
12 to read as follows:

13 (ii) Any local law, ordinance or resolution enacted by any city, coun-
14 ty or school district, imposing the taxes authorized by this subdivi-
15 sion, shall omit the residential solar energy systems equipment and
16 electricity exemption provided for in subdivision (ee), the commercial
17 solar energy systems equipment and electricity exemption provided for in
18 subdivision (ii), the commercial fuel cell electricity generating
19 systems equipment and electricity generated by such equipment exemption
20 provided for in subdivision (kk), the clothing and footwear exemption
21 provided for in paragraph thirty of subdivision (a) of section eleven
22 hundred fifteen of this chapter, and the battery[~~7~~] ~~or~~ electric[~~7~~, ~~or~~
23 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph
24 forty-seven of subdivision (a) of section eleven hundred fifteen of this
25 chapter unless such city, county or school district elects otherwise as
26 to such residential solar energy systems equipment and electricity
27 exemption, such commercial solar energy systems equipment and electric-
28 ity exemption, commercial fuel cell electricity generating systems
29 equipment and electricity generated by such equipment exemption, such
30 clothing and footwear exemption, or such battery[~~7~~] ~~or~~ electric[~~7~~, ~~or~~
31 ~~plug-in hybrid electric~~] vehicle exemption provided for in paragraph
32 forty-seven of subdivision (a) of section eleven hundred fifteen of this
33 chapter.

34 § 7. This act shall take effect on the first day of a sales tax quar-
35 terly period, as described in subdivision (b) of section 1136 of the tax
36 law, beginning at least one hundred twenty days after the date this act
37 shall have become a law and shall apply to sales made on or after such
38 date; provided, however, that sections four, five and six of this act
39 shall take effect ten years after such effective date and shall apply to
40 sales made on and after such date.