

# STATE OF NEW YORK

3261

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

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

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

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

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

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

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

(B) sporting goods, camping equipment;

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

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

(E) plants, floral arrangements;

(F) cosmetics, personal grooming items;

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

(H) bedding, towels, bath accessories;

(I) furniture; and

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

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

LBD06568-01-3

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

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

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

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

provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the products purchased for less than five hundred dollars exemption provided for in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (q) of this section or repeals such resolution, such resolution or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (q) of this section or at the time of any such repeal; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (q) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the products purchased for less than five hundred dollars exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the products purchased for less than five hundred dollars exemption in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter. (iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption. Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the mobile telecommunication services exemption provided for in subdivision (cc) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more repeals a resolution described in former subdivision (p) of this section, such repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such taxes pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city repeals its resolution enacted pursuant to former subdivision (p) of this section; provided, further, that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more repeals a resolution

enacted pursuant to the authority of former subdivision (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the wireless telecommunications services exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the mobile telecommunication services exemption in subdivision (cc) of section eleven hundred fifteen of this chapter. (iv) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee) of section eleven hundred fifteen of this chapter, the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption or such clothing and footwear exemption.

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

(d) A local law, ordinance or resolution imposing any tax pursuant to this section, increasing or decreasing the rate of such tax, repealing or suspending such tax, exempting from such tax the energy sources and services described in paragraph three of subdivision (a) or of subdivision (b) of this section or changing the rate of tax imposed on such energy sources and services or providing for the credit or refund described in clause six of subdivision (a) of section eleven hundred nineteen of this chapter, or electing or repealing the exemption for residential solar equipment and electricity in subdivision (ee) of section eleven hundred fifteen of this ~~[article]~~ chapter, or the exemption for commercial solar equipment and electricity in subdivision (ii) of section eleven hundred fifteen of this ~~[article]~~ chapter, or electing or repealing the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment in subdivision (kk) of section eleven hundred fifteen of this ~~[article]~~ chapter must go into effect only on one of the following dates: March first, June first, September first or December first; provided, that a local law, ordinance or resolution providing for the exemption described in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption or a local law, ordinance or resolution providing for a refund or credit described in subdivision (d) of section eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided, further, that a local law, ordinance or resolution providing for the exemption described in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivision (q) of this section providing such exemption or repealing such exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum

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

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

13 (p) Notwithstanding any other provision of state or local law, ordi-  
14 nance or resolution to the contrary: (1) Any city having a population of  
15 one million or more in which the taxes imposed by section eleven hundred  
16 seven of this chapter are in effect, acting through its local legisla-  
17 tive body, is hereby authorized and empowered to elect to provide the  
18 exemption from such taxes for the same products purchased for less than  
19 five hundred dollars exempt from state sales and compensating use taxes  
20 described in paragraph forty-seven of subdivision (a) of section eleven  
21 hundred fifteen of this chapter by enacting a resolution in the form set  
22 forth in paragraph two of this subdivision; whereupon, upon compliance  
23 with the provisions of subdivisions (d) and (e) of this section, such  
24 enactment of such resolution shall be deemed to be an amendment to such  
25 section eleven hundred seven and such section eleven hundred seven shall  
26 be deemed to incorporate such exemption as if it had been duly enacted  
27 by the state legislature and approved by the governor. (2) Form of  
28 Resolution: Be it enacted by the (insert proper title of local legisla-  
29 tive body) as follows: Section one. Receipts from sales of and consid-  
30 eration given or contracted to be given for purchases of products  
31 purchased for less than five hundred dollars exempt from state sales and  
32 compensating use taxes pursuant to paragraph forty-seven of subdivision  
33 (a) of section eleven hundred fifteen of the tax law shall also be  
34 exempt from sales and compensating use taxes imposed in this jurisdic-  
35 tion. Section two. This resolution shall take effect, (insert the date)  
36 and shall apply to sales made and uses occurring on and after that date  
37 although made or occurring under a prior contract.

38 § 6. The commissioner of taxation and finance is hereby authorized to  
39 implement the provisions of this act with respect to the elimination of  
40 the imposition of sales tax, additional taxes, and supplemental taxes on  
41 products purchased for less than five hundred dollars and all other  
42 taxes so addressed by this act.

43 § 7. This act shall take effect on the first day of the sales tax  
44 quarterly period, as described in subdivision (b) of section 1136 of the  
45 tax law, next commencing at least ninety days after this act shall have  
46 become law and shall apply in accordance with the applicable transi-  
47 tional provisions of sections 1106 and 1217 of the tax law. Effective  
48 immediately, the addition, amendment and/or repeal of any rule or regu-  
49 lation necessary for the implementation of this act on its effective  
50 date are authorized to be made and completed on or before such effective  
51 date.