

# STATE OF NEW YORK

4744--A

2023-2024 Regular Sessions

## IN SENATE

February 14, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to exempting school supplies from sales tax during a specified period each year

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

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

3 (47) School supplies or items commonly used by a student in a course  
4 of study for which the receipt or consideration given or contracted to  
5 be given is less than one hundred ten dollars per item, which shall  
6 include, but not be limited to, book bags or backpacks, textbooks, pens,  
7 pencils, highlighters, crayons, markers, erasers, index cards, paper,  
8 notebooks, binders, folders, scissors, rulers and calculators. Only the  
9 purchases made during the fifteen-day period commencing on the fifteenth  
10 day immediately preceding the first Monday in September, known as Labor  
11 Day, and ending on Labor Day, during each calendar year shall be exempt  
12 under this paragraph.

13 § 2. 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

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

LBD07893-05-3

1 special provisions as are set forth in this article. The taxes author-  
2 ized under this subdivision may not be imposed by a city or county  
3 unless the local law, ordinance or resolution imposes such taxes so as  
4 to include all portions and all types of receipts, charges or rents,  
5 subject to state tax under sections eleven hundred five and eleven  
6 hundred ten of this chapter, except as otherwise provided. Notwith-  
7 standing the foregoing, a tax imposed by a city or county authorized  
8 under this subdivision shall not include the tax imposed on charges for  
9 admission to race tracks and simulcast facilities under subdivision (f)  
10 of section eleven hundred five of this chapter. (i) Any local law, ordi-  
11 nance or resolution enacted by any city of less than one million or by  
12 any county or school district, imposing the taxes authorized by this  
13 subdivision, shall, notwithstanding any provision of law to the contra-  
14 ry, exclude from the operation of such local taxes all sales of tangible  
15 personal property for use or consumption directly and predominantly in  
16 the production of tangible personal property, gas, electricity, refrig-  
17 eration or steam, for sale, by manufacturing, processing, generating,  
18 assembly, refining, mining or extracting; and all sales of tangible  
19 personal property for use or consumption predominantly either in the  
20 production of tangible personal property, for sale, by farming or in a  
21 commercial horse boarding operation, or in both; and all sales of fuel  
22 sold for use in commercial aircraft and general aviation aircraft; and,  
23 unless such city, county or school district elects otherwise, shall omit  
24 the provision for credit or refund contained in clause six of subdivi-  
25 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
26 chapter. (ii) Any local law, ordinance or resolution enacted by any  
27 city, county or school district, imposing the taxes authorized by this  
28 subdivision, shall omit the residential solar energy systems equipment  
29 and electricity exemption provided for in subdivision (ee), the commer-  
30 cial solar energy systems equipment and electricity exemption provided  
31 for in subdivision (ii), the commercial fuel cell electricity generating  
32 systems equipment and electricity generated by such equipment exemption  
33 provided for in subdivision (kk) [~~and~~], the clothing and footwear  
34 exemption provided for in paragraph thirty of subdivision (a) of section  
35 eleven hundred fifteen of this chapter, and the school supplies or items  
36 commonly used by a student in a course of study exemption provided for  
37 in paragraph forty-seven of subdivision (a) of section eleven hundred  
38 fifteen of this chapter, unless such city, county or school district  
39 elects otherwise as to such residential solar energy systems equipment  
40 and electricity exemption, such commercial solar energy systems equip-  
41 ment and electricity exemption, commercial fuel cell electricity gener-  
42 ating systems equipment and electricity generated by such equipment  
43 exemption or such clothing and footwear exemption, or such school  
44 supplies or items commonly used by a student in a course of study  
45 exemption.

46 § 3. Paragraph 4 of subdivision (a) of section 1210 of the tax law, as  
47 amended by section 2 of part WW, subparagraphs (xii) and (xiii) as sepa-  
48 rately amended and subparagraph (xiv) as added by section 6 of part Z of  
49 chapter 60 of the laws of 2016, is amended to read as follows:

50 (4) Notwithstanding any other provision of law to the contrary, any  
51 local law enacted by any city of one million or more that imposes the  
52 taxes authorized by this subdivision (i) may omit the exception provided  
53 in subparagraph (ii) of paragraph three of subdivision (c) of section  
54 eleven hundred five of this chapter for receipts from laundering, dry-  
55 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;  
56 (ii) may impose the tax described in paragraph six of subdivision (c) of

1 section eleven hundred five of this chapter at a rate in addition to the  
2 rate prescribed by this section not to exceed two percent in multiples  
3 of one-half of one percent; (iii) shall provide that the tax described  
4 in paragraph six of subdivision (c) of section eleven hundred five of  
5 this chapter does not apply to facilities owned and operated by the city  
6 or an agency or instrumentality of the city or a public corporation the  
7 majority of whose members are appointed by the chief executive officer  
8 of the city or the legislative body of the city or both of them; (iv)  
9 shall not include any tax on receipts from, or the use of, the services  
10 described in paragraph seven of subdivision (c) of section eleven  
11 hundred five of this chapter; (v) shall provide that, for purposes of  
12 the tax described in subdivision (e) of section eleven hundred five of  
13 this chapter, "permanent resident" means any occupant of any room or  
14 rooms in a hotel for at least one hundred eighty consecutive days with  
15 regard to the period of such occupancy; (vi) may omit the exception  
16 provided in paragraph one of subdivision (f) of section eleven hundred  
17 five of this chapter for charges to a patron for admission to, or use  
18 of, facilities for sporting activities in which the patron is to be a  
19 participant, such as bowling alleys and swimming pools; (vii) may  
20 provide the clothing and footwear exemption in paragraph thirty of  
21 subdivision (a) of section eleven hundred fifteen of this chapter, and,  
22 notwithstanding any provision of subdivision (d) of this section to the  
23 contrary, any local law providing for such exemption or repealing such  
24 exemption, may go into effect on any one of the following dates: March  
25 first, June first, September first or December first; (viii) shall omit  
26 the exemption provided in paragraph forty-one of subdivision (a) of  
27 section eleven hundred fifteen of this chapter; (ix) shall omit the  
28 exemption provided in subdivision (c) of section eleven hundred fifteen  
29 of this chapter insofar as it applies to fuel, gas, electricity, refrig-  
30 eration and steam, and gas, electric, refrigeration and steam service of  
31 whatever nature for use or consumption directly and exclusively in the  
32 production of gas, electricity, refrigeration or steam; (x) shall omit,  
33 unless such city elects otherwise, the provision for refund or credit  
34 contained in clause six of subdivision (a) or in subdivision (d) of  
35 section eleven hundred nineteen of this chapter; (xii) shall omit,  
36 unless such city elects otherwise, the exemption for residential solar  
37 energy systems equipment and electricity provided in subdivision (ee) of  
38 section eleven hundred fifteen of this chapter; (xiii) shall omit,  
39 unless such city elects otherwise, the exemption for commercial solar  
40 energy systems equipment and electricity provided in subdivision (ii) of  
41 section eleven hundred fifteen of this chapter; ~~and~~ (xiv) shall  
42 exclude from the operation of such local taxes all sales of fuel sold  
43 for use in commercial aircraft and general aviation aircraft~~[-(xiv)];~~  
44 (xv) shall omit, unless such city elects otherwise, the exemption for  
45 commercial fuel cell electricity generating systems equipment and elec-  
46 tricity generated by such equipment provided in subdivision (kk) of  
47 section eleven hundred fifteen of this chapter[-]; and (xvi) may  
48 provide the school supplies and items commonly used by a student in a  
49 course of study exemption in paragraph forty-seven of subdivision  
50 (a) of section eleven hundred fifteen of this chapter, and, notwith-  
51 standing any provision of subdivision (d) of this section to the  
52 contrary, any local law providing for such exemption or repealing such  
53 exemption, may be applicable only to the purchases made during the  
54 fifteen-day period commencing on the fifteenth day immediately preceding  
55 the first Monday in September, known as Labor Day, and ending on Labor  
56 Day, during each calendar year. Any reference in this chapter or in any

1 local law, ordinance or resolution enacted pursuant to the authority of  
2 this article to former subdivisions (n) or (p) of this section shall be  
3 deemed to be a reference to clauses (xii) or (xiii) of this paragraph,  
4 respectively, and any such local law, ordinance or resolution that  
5 provides the exemptions provided in such former subdivisions (n) and/or  
6 (p) shall be deemed instead to provide the exemptions provided in claus-  
7 es (xii) and/or (xiii) of this paragraph.

8 § 4. This act shall take effect immediately and shall be applicable to  
9 taxable periods beginning on and after August first in the year next  
10 succeeding the year in which it shall have become a law.