

# STATE OF NEW YORK

5455

2023-2024 Regular Sessions

## IN SENATE

March 6, 2023

Introduced by Sens. JACKSON, LIU, MAY -- read twice and ordered printed,  
and when printed to be committed to the Committee on Budget and Revenue

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 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:

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

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

LBD04065-02-3

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

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

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

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

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

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

35 (47) The receipts from the first thirty-five thousand dollars of the  
36 retail sale or lease of a new battery[~~7~~] or electric[~~7~~, ~~or plug-in hybrid~~  
37 ~~electric~~] vehicle. For purposes of this paragraph the term "battery[~~7~~]  
38 or electric[~~7~~, ~~or plug-in hybrid electric~~] vehicle" means a motor vehi-  
39 cle, as defined in section one hundred twenty-five of the vehicle and  
40 traffic law, that:

41 (i) has four wheels;

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

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

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

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

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

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

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

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

3 (d) The new battery[~~7~~] ~~or electric[~~7~~ or plug-in hybrid electric]~~ vehi-  
4 cles exemption provided for in paragraph forty-seven of subdivision (a)  
5 of section eleven hundred fifteen of this chapter shall not apply to or  
6 limit the imposition of the tax imposed pursuant to this article.

7 § 6. Subparagraph (ii) of paragraph 1 of subdivision (a) of section  
8 1210 of the tax law, as amended by section three of this act, is amended  
9 to read as follows:

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

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