

STATE OF NEW YORK

7628

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

Introduced by M. of A. SANTABARBARA -- 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 food and non-alcoholic beverages sold at certain establishments during the second full week of February and the third full week of August

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) Food and non-alcoholic beverages sold at a restaurant, diner, or
4 cafe licensed under article twenty-C of the agriculture and markets law
5 during the second full week of February and the third full week of
6 August.

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

9 (12) Except as otherwise provided by law, the exemption provided in
10 paragraph forty-seven of subdivision (a) of section eleven hundred
11 fifteen of this article shall be applicable pursuant to a local law,
12 ordinance or resolution adopted by a city subject to the provisions of
13 this section. Such city is empowered to adopt or repeal such a local
14 law, ordinance or resolution. Such adoption or repeal shall also be
15 deemed to amend any local law, ordinance or resolution enacted by such a
16 city imposing taxes pursuant to the authority of subdivision (a) of
17 section twelve hundred ten of this chapter.

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

21 (1) Either, all of the taxes described in article twenty-eight of this
22 chapter, at the same uniform rate, as to which taxes all provisions of
23 the local laws, ordinances or resolutions imposing such taxes shall be

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

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

subdivision (p) 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 (p) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that the exemption in any such local law, ordinance or resolution or in such section eleven hundred seven of this chapter is the same as the exemption in paragraph forty-seven 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]~~ 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 (p) 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 (p) to read as follows:

5 (p) 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 described in paragraph forty-seven of subdivision (a) of
11 section eleven hundred fifteen of this chapter by enacting a resolution
12 in the form set forth in paragraph two of this subdivision; whereupon,
13 upon compliance with the provisions of subdivisions (d) and (e) of this
14 section, such enactment of such resolution shall be deemed to be an
15 amendment to such section eleven hundred seven and such section eleven
16 hundred seven shall be deemed to incorporate such exemption as if it had
17 been duly enacted by the state legislature and approved by the governor.
18 (2) Form of Resolution: Be it enacted by the (insert proper title of
19 local legislative body) as follows: Section one. Receipts from sales of
20 and consideration given or contracted to be given for purchases of food
21 and non-alcoholic beverages sold at a restaurant, diner, or cafe
22 licensed under article twenty-C of the agriculture and markets law,
23 during the second full week of February and the third full week of
24 August exempt from state sales and compensating use taxes pursuant to
25 paragraph forty-seven of subdivision (a) of section eleven hundred
26 fifteen of the tax law shall also be exempt from sales and compensating
27 use taxes imposed in this jurisdiction. Section two. This resolution
28 shall take effect, (insert the date) and shall apply to sales made and
29 uses occurring on and after that date although made or occurring under a
30 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 food and non-alcoholic beverages sold at a restaurant, diner, or cafe
35 licensed under article twenty-C of the agriculture and markets law
36 during the second full week of February and the third full week of
37 August and all other taxes so addressed by this act.

38 § 7. Two years after the effective date of this act, the department of
39 taxation and finance shall conduct an economic impact analysis to evalu-
40 ate the effectiveness of the tax holiday established by this act. Such
41 department shall report on the results of such analysis to the governor,
42 the temporary president of the senate and the speaker of the assembly no
43 later than three years after the effective date of this act.

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