STATE OF NEW YORK

986

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. RIVERA, BARRETT, BRABENEC, BURKE, BURDICK, P. CARROLL, R. CARROLL, DAVILA, DILAN, GALLAGHER, GLICK, HEVESI, JACOBSON, KELLES, LUNSFORD, LUPARDO, MEEKS, MITAYNES, OTIS, PAULIN, SEAWRIGHT, SIMON, STERN, STECK, ROSENTHAL, CONRAD -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing an exemption for geothermal heat pump systems equipment

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) Receipts from the retail sale of residential geothermal heat pump systems equipment and of the service of installing such systems shall be exempt from tax under this article. For purposes of this paragraph, "residential geothermal heat pump system equipment" shall mean an arrangement or combination of components installed in and around a residential building that uses the ground or ground water as a thermal energy source or as a thermal energy sink designed to provide and distribute heating, and/or cooling, and/or hot water, also commonly referred to as ground source heat pump systems. Such arrangement or components shall not include any sort of recreational facility or equipment used as a storage medium.

§ 2. Section 1115 of the tax law is amended by adding a new subdivision (mm) to read as follows:

(mm) Receipts from the retail sale of commercial geothermal heat pump systems equipment and of the service of installing such systems shall be exempt from taxes imposed by sections eleven hundred five and eleven hundred ten of this article. For purposes of this subdivision, "commercial geothermal heat pump system equipment" shall mean an arrangement or combination of components installed in and around a commercial building

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

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that uses the ground or ground water as a thermal energy source or as a thermal energy sink designed to provide and distribute heating, and/or cooling, and/or hot water, also commonly referred to as ground source heat pump systems. Such arrangement or components shall not include any sort of recreational facility or equipment used as a storage medium.

§ 3. Subparagraph (xiv) of paragraph 4 of subdivision (a) of section 1210 of the tax law, as added by section 2 of part WW of chapter 60 of the laws of 2016, is amended and a new subparagraph (xvi) is added to paragraph 4 to read as follows:

[~~(xiv)~~] **(xv)** shall omit, unless such city elects otherwise, the exemption for commercial fuel cell electricity generating systems equipment and electricity generated by such equipment provided in subdivision (kk) of section eleven hundred fifteen of this chapter[~~.~~]**; and (xvi) shall omit unless such city elects otherwise, the residential geothermal heat pump systems equipment and installation exemption provided for in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter; and shall omit unless such city elects otherwise, the commercial geothermal heat pump systems equipment and installation exemption provided for in subdivision (mm) of section eleven hundred fifteen of this chapter.**

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

(ii) 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), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk)**, the residential geothermal heat pump systems equipment and installation exemption provided for in paragraph forty-seven of subdivision (a), the commercial geothermal heat pump systems equipment and installation exemption provided for in subdivision (mm)** 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**, such residential geothermal heat pump systems equipment and installation exemption, such commercial geothermal heat pump systems equipment and installation exemption or such clothing and footwear exemption**.

§ 5. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as amended by section 6 of part J of chapter 59 of the laws of 2021, is amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in [~~clauses~~] **paragraphs** (E), (G)

and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdivision (b) of section eleven hundred five of this chapter are imposed, such taxes shall omit: (A) the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such city or county elects to provide such provision or, if so elected, to repeal such provision; (B) the exemption provided in paragraph two of subdivision (ee) of section eleven hundred fifteen of this chapter unless such county or city elects otherwise; (C) the exemption provided in paragraph two of subdivision (ii) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise; [~~and~~] (D) the exemption provided in paragraph two of subdivision (kk) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise; and provided further that where the tax described in subdivision (f) of such section eleven hundred five is imposed, such tax shall not apply to charges for admission to race tracks and simulcast facilities**; (E) the exemption provided in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise; and (F) the exemption provided in subdivision (mm) of section eleven hundred fifteen of this chapter, unless such county or city elects otherwise**.

§ 6. 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, or electing or repealing the exemption for residential geothermal heat pump systems equipment and installation in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter or electing or repealing the exemption for commercial geothermal heat pump systems equipment and installation in subdivision (mm) of section eleven hundred fifteen of this 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. 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 restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 7. Subdivision (a) of section 1212 of the tax law, as amended by section 5 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(a) Any school district which is coterminous with, partly within or wholly within a city having a population of less than one hundred twenty-five thousand, is hereby authorized and empowered, by majority vote of the whole number of its school authorities, to impose for school district purposes, within the territorial limits of such school district and without discrimination between residents and nonresidents thereof, the taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling services) and the taxes described in [~~clauses~~] **paragraphs** (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provisions in subdivision (b) of section eleven hundred six of this chapter, so far as such provisions can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article, such taxes to be imposed at the rate of one-half, one, one and one-half, two, two and one-half or three percent which rate shall be uniform for all portions and all types of receipts and uses subject to such taxes. In respect to such taxes, all provisions of the resolution imposing them, except as to rate and except as otherwise provided herein, shall be identical with the corresponding provisions in [~~such~~] article twenty-eight of this chapter, including the applicable definition and exemption provisions of such article, so far as the provisions of such article twenty-eight of this chapter can be made applicable to the taxes imposed by such school district and with such limitations and special provisions as are set forth in this article. The taxes described in subdivision (b) of section eleven hundred five (but excluding the tax on prepaid telephone calling service) and [~~clauses~~] **paragraphs** (E) and (H) of subdivision (a) of section eleven hundred ten, including the transitional provision in subdivision (b) of such section eleven hundred six of this chapter, may not be imposed by such school district unless the resolution imposes such taxes so as to include all portions and all types of receipts and uses subject to tax under such subdivision (but excluding the tax on prepaid telephone calling service) and [~~clauses~~] **paragraphs**. Provided, however, that, where a school district imposes such taxes, such taxes shall omit the provision for refund or credit contained in subdivision (d) of section eleven hundred nineteen of this chapter with respect to such taxes described in such subdivision (b) of section eleven hundred five unless such school district elects to provide such provision or, if so elected, to repeal such provision, and shall omit the exemptions provided in paragraph two of subdivision (ee) and paragraph two of subdivision (ii) of section eleven hundred fifteen of this chapter unless such school district elects otherwise, and shall omit the exemption provided in paragraph two of subdivision (kk) of section eleven hundred fifteen of this chapter unless such school district elects otherwise, and shall omit the exemption provided in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter unless such school district elects otherwise, and shall omit the exemption provided in subdivision (mm) of section eleven hundred fifteen of this chapter unless such school district elects otherwise.

§ 8. Section 1224 of the tax law is amended by adding two new subdivisions (c-3) and (c-4) to read as follows:

(c-3) Notwithstanding any other provision of law: (1) Where a county containing one or more cities with a population of less than one million has elected the exemption for residential geothermal heat pump systems equipment and installation provided in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, a city within such county shall have the prior right to impose tax on such exempt equipment and/or installation to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article;

(2) Where a city of less than one million has elected the exemption for residential geothermal heat pump systems equipment and installation provided in paragraph forty-seven of subdivision (a) of section eleven hundred fifteen of this chapter, the county in which such city is located shall have the prior right to impose tax on such exempt equipment and/or installation to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article.

(c-4) Notwithstanding any other provision of law: (1) Where a county containing one or more cities with a population of less than one million has elected the exemption for commercial geothermal heat pump systems equipment and installation provided in subdivision (mm) of section eleven hundred fifteen of this chapter, a city within such county shall have the prior right to impose tax on such exempt equipment and/or installation to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article;

(2) Where a city of less than one million has elected the exemption for commercial geothermal heat pump systems equipment and installation provided in subdivision (mm) of section eleven hundred fifteen of this chapter, the county in which such city is located shall have the prior right to impose tax on such exempt equipment and/or installation to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article.

§ 9. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, beginning at least ninety days after the date this act shall have become a law and shall apply to sales made on or after such date.