

STATE OF NEW YORK

1527

2025-2026 Regular Sessions

IN SENATE

January 10, 2025

Introduced by Sens. PARKER, ADDABBO, ASHBY, BAILEY, CLEARE, COONEY, FERNANDEZ, GALLIVAN, HARCKHAM, HELMING, HINCHEY, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, PALUMBO, RHOADS, ROLISON, S. RYAN, SANDERS, SEPULVEDA, SERRANO, SKOUFIS, TEDISCO, WEBB -- 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 establishing a sales tax exemption for energy storage

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

1 Section 1. Section 1115 of the tax law is amended by adding a new
2 subdivision (mm) to read as follows:

3 (mm) The following shall be exempt from tax under this article: (1)
4 Receipts from the retail sale of, and consideration given or contracted
5 to be given for, or for the use of, commercial energy storage systems
6 equipment and the costs of installing such systems. For the purposes of
7 this subdivision, "commercial energy storage systems equipment" shall
8 mean an arrangement or combination of components installed upon non-re-
9 sidential premises that stores electricity for use at a later time to
10 provide heating, cooling, hot water and/or electricity.

11 (2) Receipts from the sale of electricity by a person primarily
12 engaged in the sale of energy storage system equipment and/or electric-
13 ity generated by such equipment pursuant to a written agreement under
14 which the electricity is generated by commercial energy system equipment
15 that is: (A) owned by a person other than the purchaser of such elec-
16 tricity; (B) installed on the non-residential premises of the purchaser
17 of such electricity; and (C) used to provide heating, cooling, hot water
18 or electricity to such premises.

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

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

LBD00319-01-5

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

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

55 (d) A local law, ordinance or resolution imposing any tax pursuant to
56 this section, increasing or decreasing the rate of such tax, repealing

1 or suspending such tax, exempting from such tax the energy sources and
2 services described in paragraph three of subdivision (a) or of subdivi-
3 sion (b) of this section or changing the rate of tax imposed on such
4 energy sources and services or providing for the credit or refund
5 described in clause six of subdivision (a) of section eleven hundred
6 nineteen of this chapter, or electing or repealing the exemption for
7 residential solar equipment and electricity in subdivision (ee) of
8 section eleven hundred fifteen of this article, or the exemption for
9 commercial solar equipment and electricity in subdivision (ii) of
10 section eleven hundred fifteen of this article, or electing or repealing
11 the exemption for commercial fuel cell electricity generating systems
12 equipment and electricity generated by such equipment in subdivision
13 (kk) of section eleven hundred fifteen of this article, or the exemption
14 for commercial energy storage equipment and electricity in subdivision
15 (mm) of section eleven hundred fifteen of this article must go into
16 effect only on one of the following dates: March first, June first,
17 September first or December first; provided, that a local law, ordinance
18 or resolution providing for the exemption described in paragraph thirty
19 of subdivision (a) of section eleven hundred fifteen of this chapter or
20 repealing any such exemption or a local law, ordinance or resolution
21 providing for a refund or credit described in subdivision (d) of section
22 eleven hundred nineteen of this chapter or repealing such provision so
23 provided must go into effect only on March first. No such local law,
24 ordinance or resolution shall be effective unless a certified copy of
25 such law, ordinance or resolution is mailed by registered or certified
26 mail to the commissioner at the commissioner's office in Albany at least
27 ninety days prior to the date it is to become effective. However, the
28 commissioner may waive and reduce such ninety-day minimum notice
29 requirement to a mailing of such certified copy by registered or certi-
30 fied mail within a period of not less than thirty days prior to such
31 effective date if the commissioner deems such action to be consistent
32 with the commissioner's duties under section twelve hundred fifty of
33 this article and the commissioner acts by resolution. Where the
34 restriction provided for in section twelve hundred twenty-three of this
35 article as to the effective date of a tax and the notice requirement
36 provided for therein are applicable and have not been waived, the
37 restriction and notice requirement in section twelve hundred twenty-
38 three of this article shall also apply.

39 § 4. This act shall take effect immediately.