

STATE OF NEW YORK

8481

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. BARCLAY, RA, TANNOUSIS, J.
M. GIGLIO, BRABENEC,
BLANKENBUSH, ASHBY, GANDOLFO, SALKA, TAGUE,
WALSH, WALCZYK, SMULLEN,
SMITH, SIMPSON, NORRIS, MONTESANO, M. MILLER,
PALMESANO, REILLY,
SCHMITT, MANKTELOW, LEMONDES, LAWLER, HAWLEY,
GOODELL, J. A. GIGLIO,
GALLAHAN, FRIEND, FITZPATRICK, DURSO,
DeSTEFANO, ANGELINO, BROWN,
JENSEN, MIKULIN, B. MILLER, MORINELLO -- read
once and referred to the
Committee on Ways and Means

AN ACT to amend the tax law, in relation to
eliminating state sales and
compensating use taxes on motor fuels and
diesel motor fuels and
authorizing localities to eliminate such taxes at
the local level; and
providing for the repeal of such provisions upon
expiration thereof
(Part A); to amend the tax law, in relation to
exemptions from sales

and use taxes; and providing for the repeal of such provisions upon expiration thereof (Part B); to amend the tax law, in relation to providing a sales tax exemption for housekeeping supplies; and providing for the repeal of such provisions upon expiration thereof (Part C); and to amend the tax law, in relation to providing a sales tax exemption for ready-to-eat foods; and providing for the repeal of such provisions upon expiration thereof (Part D)

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

1 Section 1. This act enacts into law components of
2 legislation relating
3 to establishing various exemptions from New York's
4 sales and compensat-
5 ing use tax. Each component is wholly contained
6 within a Part identi-
7 fied as Parts A through D. The effective
8 date for each particular
9 provision contained within such Part is set forth
in the last section of
such Part. Any provision in any section contained
within a Part, includ-
ing the effective date of the Part, which makes a
reference to a section
"of this act", when used in connection with that
particular component,
shall be deemed to mean and refer to the
corresponding section of the

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

1 Part in which it is found. Section three of this
act sets forth the
2 general effective date of this act.

3 PART A

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

6 (47) Motor fuel and diesel motor fuel.

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 relating to motor fuel
and diesel motor fuel

12 shall be applicable pursuant to a local law,
ordinance or resolution

13 adopted by a city subject to the provisions of
this section. Such city

14 is empowered to adopt or repeal such a local law,
ordinance or resol-

15 ution. Such adoption or repeal shall also be
deemed to amend any local

16 law, ordinance or resolution enacted by such a
city imposing taxes

17 pursuant to the authority of subdivision (a) of
section twelve hundred

18 ten of this chapter.

19 § 3. 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:

22 (1) Either, all of the taxes described in article
twenty-eight of this

23 chapter, at the same uniform rate, as to which
taxes all provisions of

24 the local laws, ordinances or resolutions imposing
such taxes shall be

25 identical, except as to rate and except as
otherwise provided, with the
26 corresponding provisions in such article twenty-
eight, including the
27 definition and exemption provisions of such
article, so far as the
28 provisions of such article twenty-eight can be made
applicable to the
29 taxes imposed by such city or county and with
such limitations and
30 special provisions as are set forth in this
article. The taxes author-
31 ized under this subdivision may not be
imposed by a city or county
32 unless the local law, ordinance or resolution
imposes such taxes so as
33 to include all portions and all types of
receipts, charges or rents,
34 subject to state tax under sections eleven
hundred five and eleven
35 hundred ten of this chapter, except as
otherwise provided. Notwith-
36 standing the foregoing, a tax imposed by a city
or county authorized
37 under this subdivision shall not include the tax
imposed on charges for
38 admission to race tracks and simulcast facilities
under subdivision (f)
39 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
40 nance or resolution enacted by any city of less
than one million or by
41 any county or school district, imposing the taxes
authorized by this
42 subdivision, shall, notwithstanding any provision
of law to the contra-
43 ry, exclude from the operation of such local taxes
all sales of tangible
44 personal property for use or consumption directly
and predominantly in
45 the production of tangible personal property, gas,
electricity, refrigeration or steam, for sale, by manufacturing,
46 processing, generating,

47 assembly, refining, mining or extracting; and
all sales of tangible

48 personal property for use or consumption
predominantly either in the

49 production of tangible personal property, for
sale, by farming or in a

50 commercial horse boarding operation, or in both;
and all sales of fuel

51 sold for use in commercial aircraft and general
aviation aircraft; and,

52 unless such city, county or school district elects
otherwise, shall omit

53 the provision for credit or refund contained in
clause six of subdivi-

54 sion (a) or subdivision (d) of section eleven
hundred nineteen of this

A. 8481

3

1 chapter. (ii) Any local law, ordinance or
resolution enacted by any

2 city, county or school district, imposing the
taxes authorized by this

3 subdivision, shall omit the residential solar
energy systems equipment

4 and electricity exemption provided for in
subdivision (ee), the commer-

5 cial solar energy systems equipment and electricity
exemption provided

6 for in subdivision (ii), the commercial fuel cell
electricity generating

7 systems equipment and electricity generated by
such equipment exemption

8 provided for in subdivision (kk) and the clothing
and footwear exemption

9 provided for in paragraph thirty of subdivision (a)
of section eleven

10 hundred fifteen of this chapter, unless such
city, county or school

11 district elects otherwise as to such residential
solar energy systems

12 equipment and electricity exemption, such
commercial solar energy

13 systems equipment and electricity exemption,
commercial fuel cell elec-

14 tricity generating systems equipment and
electricity generated by such
15 equipment exemption or such clothing and footwear
exemption. Any local
16 law, ordinance or resolution enacted by any
city, county or school
17 district, imposing the taxes authorized by this
subdivision, shall omit
18 the motor fuel and diesel motor fuel exemption
provided for in paragraph
19 forty-seven of subdivision (a) of section eleven
hundred fifteen of this
20 chapter, unless such city, county or school
district elects otherwise;
21 provided that if such a city having a population of
one million or more
22 enacts the resolution described in subdivision
(q) of this section or
23 repeals such resolution, such resolution or repeal
shall also be deemed
24 to amend any local law, ordinance or resolution
enacted by such a city
25 imposing such taxes pursuant to the authority
of this subdivision,
26 whether or not such taxes are suspended at the time
such city enacts its
27 resolution pursuant to subdivision (q) of this
section or at the time of
28 any such repeal; provided, further, that any such
local law, ordinance
29 or resolution and section eleven hundred seven
of this chapter, as
30 deemed to be amended in the event a city of one
million or more enacts a
31 resolution pursuant to the authority of subdivision
(q) of this section,
32 shall be further amended, as provided in section
twelve hundred eighteen
33 of this subpart, so that the motor fuel and diesel
motor fuel exemption
34 in any such local law, ordinance or resolution or
in such section eleven
35 hundred seven of this chapter is the same as the
motor fuel and diesel

36 motor fuel exemption in paragraph forty-seven
of subdivision (a) of
37 section eleven hundred fifteen of this chapter.
(iii) Any local law,
38 ordinance or resolution enacted by any city,
county or school district,
39 imposing the taxes authorized by this subdivision,
shall omit the resi-
40 dential solar energy systems equipment and
electricity exemption
41 provided for in subdivision (ee) of section eleven
hundred fifteen of
42 this chapter, the commercial solar energy
systems equipment and elec-
43 tricity exemption provided for in subdivision (ii)
and the clothing and
44 footwear exemption provided for in paragraph
thirty of subdivision (a)
45 of section eleven hundred fifteen of this chapter,
unless such city,
46 county or school district elects otherwise as to
either such residential
47 solar energy systems equipment and electricity
exemption, such commer-
48 cial solar energy systems equipment and electricity
exemption or such
49 clothing and footwear exemption. Any local law,
ordinance or resolution
50 enacted by any city, county or school district,
imposing the taxes
51 authorized by this subdivision, shall omit the
mobile telecommunication
52 services exemption provided for in subdivision (cc)
of section eleven
53 hundred fifteen of this chapter, unless such
city, county or school
54 district elects otherwise; provided that if such a
city having a popu-
55 lation of one million or more repeals a
resolution described in former
56 subdivision (p) of this section, such repeal shall
also be deemed to

1 amend any local law, ordinance or resolution
2 enacted by such a city
3 imposing such taxes pursuant to the authority
4 of this subdivision,
5 whether or not such taxes are suspended at the
6 time such city repeals
7 its resolution enacted pursuant to former
8 subdivision (p) of this
9 section; provided, further, that any such local
10 law, ordinance or resol-
11 ution and section eleven hundred seven of this
12 chapter, as deemed to be
13 amended in the event a city of one million or more
14 repeals a resolution
15 enacted pursuant to the authority of former
16 subdivision (p) of this
17 section, shall be further amended, as provided in
18 section twelve hundred
19 eighteen of this subpart, so that the
20 wireless telecommunications
21 services exemption in any such local law, ordinance
22 or resolution or in
23 such section eleven hundred seven of this
24 chapter is the same as the
25 mobile telecommunication services exemption in
26 subdivision (cc) of
27 section eleven hundred fifteen of this
28 chapter. (iv) Any local law,
29 ordinance or resolution enacted by any city, county
30 or school district,
31 imposing the taxes authorized by this subdivision,
32 shall omit the resi-
33 dential solar energy systems equipment and
34 electricity exemption
35 provided for in subdivision (ee) of section
36 eleven hundred fifteen of
37 this chapter, the commercial solar energy systems
38 equipment and elec-
39 tricity exemption provided for in subdivision (ii)
40 and the clothing and
41 footwear exemption provided for in paragraph thirty
42 of subdivision (a)
43 of section eleven hundred fifteen of this
44 chapter, unless such city,

23 county or school district elects otherwise as to
24 either such residential
25 solar energy systems equipment and electricity
26 exemption, such commer-
27 cial solar energy systems equipment and
28 electricity exemption or such
29 clothing and footwear exemption.

27 § 4. Subdivision (d) of section 1210 of the tax law, as amended by
28 section 4 of part WW of chapter 60 of the laws of 2016, is amended to
29 read as follows:
30 (d) A local law, ordinance or resolution imposing any tax pursuant to
31 this section, increasing or decreasing the rate of such tax, repealing
32 or suspending such tax, exempting from such tax the energy sources and
33 services described in paragraph three of subdivision (a) or of subdivi-
34 sion (b) of this section or changing the rate of tax imposed on such
35 energy sources and services or providing for the credit or refund
36 described in clause six of subdivision (a) of section eleven hundred
37 nineteen of this chapter, or electing or repealing the exemption for
38 residential solar equipment and electricity in subdivision (ee) of
39 section eleven hundred fifteen of this article, or the exemption for
40 commercial solar equipment and electricity in subdivision (ii) of
41 section eleven hundred fifteen of this article, or electing or repealing
42 the exemption for commercial fuel cell electricity generating systems
43 equipment and electricity generated by such equipment in subdivision
44 (kk) of section eleven hundred fifteen of this article must go into
45 effect only on one of the following dates: March first, June first,

46 September first or December first; provided, that a
local law, ordinance

47 or resolution providing for the exemption
described in paragraph thirty

48 of subdivision (a) of section eleven hundred
fifteen of this chapter or

49 repealing any such exemption or a local law,
ordinance or resolution

50 providing for a refund or credit described in
subdivision (d) of section

51 eleven hundred nineteen of this chapter or
repealing such provision so

52 provided must go into effect only on March
first; provided, further,

53 that a local law, ordinance or resolution providing
for the exemption

54 described in paragraph forty-seven of subdivision
(a) of section eleven

55 hundred fifteen of this chapter or repealing any
such exemption so

56 provided and a resolution enacted pursuant to the
authority of subdivi-

A. 8481

5

1 sion (q) of this section providing such exemption
or repealing such

2 exemption so provided may go into effect
immediately. No such local law,

3 ordinance or resolution shall be effective
unless a certified copy of

4 such law, ordinance or resolution is mailed by
registered or certified

5 mail to the commissioner at the commissioner's
office in Albany at least

6 ninety days prior to the date it is to become
effective. However, the

7 commissioner may waive and reduce such
ninety-day minimum notice

8 requirement to a mailing of such certified copy by
registered or certi-

9 fied mail within a period of not less than
thirty days prior to such

10 effective date if the commissioner deems such
action to be consistent

11 with the commissioner's duties under section
12 twelve hundred fifty of
13 this article and the commissioner acts by
14 resolution. Where the
15 restriction provided for in section twelve hundred
16 twenty-three of this
17 article as to the effective date of a tax and the
18 notice requirement
19 provided for therein are applicable and have
20 not been waived, the
21 restriction and notice requirement in section
22 twelve hundred twenty-
23 three of this article shall also apply.

18 § 5. Section 1210 of the tax law is amended by
adding a new subdivi-
19 sion (q) to read as follows:

20 (q) Notwithstanding any other provision of state
or local law, ordi-
21 nance or resolution to the contrary:
22 (1) Any city having a population of one million
or more in which the
23 taxes imposed by section eleven hundred seven of
this chapter are in
24 effect, acting through its local legislative body,
is hereby authorized
25 and empowered to elect to provide the exemption
from such taxes for the
26 same motor fuel and diesel motor fuel exempt
from state sales and
27 compensating use taxes described in paragraph
forty-seven of subdivision
28 (a) of section eleven hundred fifteen of this
chapter by enacting a
29 resolution in the form set forth in paragraph two
of this subdivision;
30 whereupon, upon compliance with the provisions of
subdivisions (d) and
31 (e) of this section, such enactment of such
resolution shall be deemed
32 to be an amendment to such section eleven hundred
seven and such section
33 eleven hundred seven shall be deemed to incorporate
such exemption as if

34 it had been duly enacted by the state legislature
and approved by the
35 governor.

36 (2) Form of Resolution: Be it enacted by the
(insert proper title of
37 local legislative body) as follows:

38 Section one. Receipts from sales of and
consideration given or
39 contracted to be given for purchases of motor fuel
and diesel motor fuel

40 exempt from state sales and compensating use taxes
pursuant to paragraph

41 forty-seven of subdivision (a) of section eleven
hundred fifteen of the

42 tax law shall also be exempt from sales and
compensating use taxes

43 imposed in this jurisdiction.

44 Section two. This resolution shall take effect,
(insert the date) and

45 shall apply to sales made and uses occurring on
and after that date

46 although made or occurring under a prior contract.

47 § 6. The commissioner of taxation and finance is
hereby authorized to

48 implement the provisions of this act with respect
to the elimination of

49 the imposition of sales tax, additional taxes, and
supplemental taxes on

50 diesel motor fuel and motor fuel and all other
taxes so addressed by

51 this act.

52 § 7. This act shall take effect on the first day
of the sales tax

53 quarterly period, as described in subdivision (b)
of section 1136 of the

54 tax law, next commencing at least 90 days
after this act shall have

55 become a law and shall apply in accordance with the
applicable transi-

56 tional provisions of sections 1106 and 1217 of
the tax law and shall

1 expire and be deemed repealed two years after
such date; provided,
2 however that if section 5 of part J of chapter
59 of the laws of 2021
3 shall not have taken effect on or before such date
then section three of
4 this act shall take effect on the same date and
in the same manner as
5 such chapter of the laws of 2021, takes effect.

6 PART B

7 Section 1. Paragraph 3 of subdivision (a) of
section 1115 of the tax
8 law, as amended by chapter 201 of the laws of
1976, is amended to read

9 as follows:

10 (3) Drugs and medicines intended for use,
internally or externally, in
11 the cure, mitigation, treatment or prevention of
illnesses or diseases
12 in human beings, medical equipment (including
component parts thereof)
13 and supplies required for such use or to correct or
alleviate physical
14 incapacity, and products consumed by humans
for the preservation of
15 health but not including cosmetics [~~or toilet~~
articles] notwithstanding
16 the presence of medicinal ingredients therein
or medical equipment
17 (including component parts thereof) and supplies,
other than such drugs
18 and medicines, purchased at retail for use in
performing medical and
19 similar services for compensation.

20 § 2. Subdivision (a) of section 1115 of the tax
law is amended by

21 adding a new paragraph 48 to read as follows:

22 **(48) Personal care products as determined by the
commissioner.**

23 § 3. Subdivision (b) of section 1107 of the
tax law is amended by

24 adding a new clause 13 to read as follows:

25 (13) Except as otherwise provided by law, the
26 exemption provided in
27 paragraph forty-eight of subdivision (a) of
28 section eleven hundred
29 fifteen of this article relating to personal care
30 products shall be
31 applicable pursuant to a local law, ordinance or
32 resolution adopted by a
33 city subject to the provisions of this section.
34 Such city is empowered
35 to adopt or repeal such a local law, ordinance
36 or resolution. Such
37 adoption or repeal shall also be deemed to amend
38 any local law, ordi-
39 nance or resolution enacted by such a city imposing
40 taxes pursuant to
41 the authority of subdivision (a) of section
42 twelve hundred ten of this
43 chapter.

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

38 (1) Either, all of the taxes described in article
twenty-eight of this
39 chapter, at the same uniform rate, as to which
taxes all provisions of
40 the local laws, ordinances or resolutions imposing
such taxes shall be
41 identical, except as to rate and except as
otherwise provided, with the
42 corresponding provisions in such article twenty-
eight, including the
43 definition and exemption provisions of such
article, so far as the
44 provisions of such article twenty-eight can be made
applicable to the
45 taxes imposed by such city or county and with
such limitations and
46 special provisions as are set forth in this
article. The taxes author-
47 ized under this subdivision may not be
imposed by a city or county

48 unless the local law, ordinance or resolution
imposes such taxes so as
49 to include all portions and all types of
receipts, charges or rents,
50 subject to state tax under sections eleven
hundred five and eleven
51 hundred ten of this chapter, except as
otherwise provided. Notwith-
52 standing the foregoing, a tax imposed by a city
or county authorized
53 under this subdivision shall not include the tax
imposed on charges for
54 admission to race tracks and simulcast facilities
under subdivision (f)
A. 8481 7

1 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
2 nance or resolution enacted by any city of less
than one million or by
3 any county or school district, imposing the taxes
authorized by this
4 subdivision, shall, notwithstanding any provision
of law to the contra-
5 ry, exclude from the operation of such local taxes
all sales of tangible
6 personal property for use or consumption directly
and predominantly in
7 the production of tangible personal property, gas,
electricity, refrig-
8 eration or steam, for sale, by manufacturing,
processing, generating,
9 assembly, refining, mining or extracting; and
all sales of tangible
10 personal property for use or consumption
predominantly either in the
11 production of tangible personal property, for
sale, by farming or in a
12 commercial horse boarding operation, or in both;
and all sales of fuel
13 sold for use in commercial aircraft and general
aviation aircraft; and,
14 unless such city, county or school district elects
otherwise, shall omit

15 the provision for credit or refund contained in
16 clause six of subdivi-
17 sion (a) or subdivision (d) of section eleven
18 hundred nineteen of this
19 chapter. (ii) Any local law, ordinance or
20 resolution enacted by any
21 city, county or school district, imposing the
22 taxes authorized by this
23 subdivision, shall omit the residential solar
24 energy systems equipment
25 and electricity exemption provided for in
26 subdivision (ee), the commer-
27 cial solar energy systems equipment and electricity
28 exemption provided
29 for in subdivision (ii), the commercial fuel cell
30 electricity generating
31 systems equipment and electricity generated by
32 such equipment exemption
33 provided for in subdivision (kk) and the clothing
34 and footwear exemption
35 provided for in paragraph thirty of subdivision (a)
36 of section eleven
37 hundred fifteen of this chapter, unless such
38 city, county or school
39 district elects otherwise as to such residential
40 solar energy systems
41 equipment and electricity exemption, such
42 commercial solar energy
43 systems equipment and electricity exemption,
44 commercial fuel cell elec-
45 tricity generating systems equipment and
46 electricity generated by such
47 equipment exemption or such clothing and footwear
48 exemption. Any local
49 law, ordinance or resolution enacted by any
50 city, county or school
51 district, imposing the taxes authorized by this
52 subdivision, shall omit
53 the personal care products exemption provided
54 for in paragraph forty-
55 eight of subdivision (a) of section eleven hundred
56 fifteen of this chap-
57 ter, unless such city, county or school
58 district elects otherwise;

37 provided that if such a city having a population
38 of one million or more
39 enacts the resolution described in subdivision (r)
40 of this section or
41 repeals such resolution, such resolution or repeal
42 shall also be deemed
43 to amend any local law, ordinance or resolution
44 enacted by such a city
45 imposing such taxes pursuant to the authority
46 of this subdivision,
47 whether or not such taxes are suspended at the time
48 such city enacts its
49 resolution pursuant to subdivision (r) of this
50 section or at the time of
51 such repeal; provided, further, that any such local
52 law, ordinance or
53 resolution and section eleven hundred seven of
54 this chapter, as deemed
55 to be amended in the event a city of one million or
56 more enacts a resol-
57 ution pursuant to the authority of subdivision
58 (r) of this section,
59 shall be further amended, as provided in section
60 twelve hundred eighteen
61 of this subpart, so that the personal care
62 products exemption in any
63 such local law, ordinance or resolution or in
64 such section eleven
65 hundred seven of this chapter is the same as the
66 personal care products
67 exemption in paragraph forty-eight of subdivision
68 (a) of section eleven
69 hundred fifteen of this chapter. (iii) Any
70 local law, ordinance or
71 resolution enacted by any city, county or school
72 district, imposing the
73 taxes authorized by this subdivision, shall omit
74 the residential solar
75 energy systems equipment and electricity
76 exemption provided for in

A. 8481

8

1 subdivision (ee) of section eleven hundred fifteen
2 of this chapter, the

2 commercial solar energy systems equipment and
3 electricity exemption
4 provided for in subdivision (ii) and the clothing
5 and footwear exemption
6 provided for in paragraph thirty of subdivision
7 (a) of section eleven
8 hundred fifteen of this chapter, unless such
9 city, county or school
10 district elects otherwise as to either such
11 residential solar energy
12 systems equipment and electricity exemption, such
13 commercial solar ener-
14 gy systems equipment and electricity exemption or
15 such clothing and
16 footwear exemption. Any local law, ordinance or
17 resolution enacted by
18 any city, county or school district, imposing the
19 taxes authorized by
20 this subdivision, shall omit the mobile
21 telecommunication services
22 exemption provided for in subdivision (cc) of
23 section eleven hundred
24 fifteen of this chapter, unless such city,
25 county or school district
26 elects otherwise; provided that if such a city
27 having a population of
28 one million or more repeals a resolution described
29 in former subdivision
30 (p) of this section, such repeal shall also be
31 deemed to amend any local
32 law, ordinance or resolution enacted by such a
33 city imposing such taxes
34 pursuant to the authority of this subdivision,
35 whether or not such taxes
36 are suspended at the time such city repeals its
37 resolution enacted
38 pursuant to former subdivision (p) of this
39 section; provided, further,
40 that any such local law, ordinance or resolution
41 and section eleven
42 hundred seven of this chapter, as deemed to be
43 amended in the event a
44 city of one million or more repeals a resolution
45 enacted pursuant to the

24 authority of former subdivision (p) of this
25 section, shall be further
26 amended, as provided in section twelve hundred
27 eighteen of this subpart,
28 so that the wireless telecommunications services
29 exemption in any such
30 local law, ordinance or resolution or in such
31 section eleven hundred
32 seven of this chapter is the same as the
33 mobile telecommunication
34 services exemption in subdivision (cc) of section
35 eleven hundred fifteen
36 of this chapter. (iv) Any local law, ordinance or
37 resolution enacted by
38 any city, county or school district, imposing the
39 taxes authorized by
40 this subdivision, shall omit the residential solar
41 energy systems equip-
42 ment and electricity exemption provided for
43 in subdivision (ee) of
44 section eleven hundred fifteen of this chapter,
45 the commercial solar
46 energy systems equipment and electricity
47 exemption provided for in
48 subdivision (ii) and the clothing and footwear
49 exemption provided for in
50 paragraph thirty of subdivision (a) of section
51 eleven hundred fifteen of
52 this chapter, unless such city, county or school
53 district elects other-
54 wise as to either such residential solar energy
55 systems equipment and
56 electricity exemption, such commercial solar
57 energy systems equipment
58 and electricity exemption or such clothing and
59 footwear exemption.

42 § 5. Subdivision (d) of section 1210 of the
tax law, as amended by
43 section 4 of part WW of chapter 60 of the laws of
2016, is amended to
44 read as follows:
45 (d) A local law, ordinance or resolution
imposing any tax pursuant to

46 this section, increasing or decreasing the rate of
such tax, repealing
47 or suspending such tax, exempting from such tax
the energy sources and
48 services described in paragraph three of
subdivision (a) or of subdivi-
49 sion (b) of this section or changing the rate
of tax imposed on such
50 energy sources and services or providing for
the credit or refund
51 described in clause six of subdivision (a) of
section eleven hundred
52 nineteen of this chapter, or electing or repealing
the exemption for
53 residential solar equipment and electricity in
subdivision (ee) of
54 section eleven hundred fifteen of this article, or
the exemption for
55 commercial solar equipment and electricity in
subdivision (ii) of
56 section eleven hundred fifteen of this article, or
electing or repealing
A. 8481 9

1 the exemption for commercial fuel cell electricity
generating systems
2 equipment and electricity generated by such
equipment in subdivision
3 (kk) of section eleven hundred fifteen of this
article must go into
4 effect only on one of the following dates:
March first, June first,
5 September first or December first; provided, that a
local law, ordinance
6 or resolution providing for the exemption described
in paragraph thirty
7 of subdivision (a) of section eleven hundred
fifteen of this chapter or
8 repealing any such exemption or a local law,
ordinance or resolution
9 providing for a refund or credit described in
subdivision (d) of section
10 eleven hundred nineteen of this chapter or
repealing such provision so

11 provided must go into effect only on March first;
provided, further,
12 that a local law, ordinance or resolution
providing for the exemption
13 described in paragraph forty-eight of subdivision
(a) of section eleven
14 hundred fifteen of this chapter or repealing
any such exemption so
15 provided and a resolution enacted pursuant to the
authority of subdivi-
16 sion (r) of this section providing such
exemption or repealing such
17 exemption so provided may go into effect
immediately. No such local law,
18 ordinance or resolution shall be effective unless a
certified copy of
19 such law, ordinance or resolution is mailed by
registered or certified
20 mail to the commissioner at the commissioner's
office in Albany at least
21 ninety days prior to the date it is to become
effective. However, the
22 commissioner may waive and reduce such
ninety-day minimum notice
23 requirement to a mailing of such certified copy by
registered or certi-
24 fied mail within a period of not less than
thirty days prior to such
25 effective date if the commissioner deems such
action to be consistent
26 with the commissioner's duties under section
twelve hundred fifty of
27 this article and the commissioner acts by
resolution. Where the
28 restriction provided for in section twelve hundred
twenty-three of this
29 article as to the effective date of a tax and the
notice requirement
30 provided for therein are applicable and have
not been waived, the
31 restriction and notice requirement in section
twelve hundred twenty-
32 three of this article shall also apply.

33 § 6. Section 1210 of the tax law is amended by
adding a new subdivi-
34 sion (r) to read as follows:
35 (r) Notwithstanding any other provision of state
or local law, ordi-
36 nance or resolution to the contrary: (1) Any city
having a population of
37 one million or more in which the taxes imposed by
section eleven hundred
38 seven of this chapter are in effect, acting
through its local legisla-
39 tive body, is hereby authorized and empowered to
elect to provide the
40 exemption from such taxes for the same personal
care products exempt
41 from state sales and compensating use taxes
described in paragraph
42 forty-eight of subdivision (a) of section eleven
hundred fifteen of this
43 chapter by enacting a resolution in the form set
forth in paragraph two
44 of this subdivision; whereupon, upon compliance
with the provisions of
45 subdivisions (d) and (e) of this section, such
enactment of such resol-
46 ution shall be deemed to be an amendment to such
section eleven hundred
47 seven and such section eleven hundred seven shall
be deemed to incorpo-
48 rate such exemption as if it had been duly enacted
by the state legisla-
49 ture and approved by the governor.
50 (2) Form of resolution: Be it enacted by the
(insert proper title of
51 local legislative body) as follows:
52 Section one. Receipts from sales of and
consideration given or
53 contracted to be given for purchases of personal
care products exempt
54 from state sales and compensating use taxes
pursuant to paragraph
55 forty-eight of subdivision (a) of section eleven
hundred fifteen of the

1 tax law shall also be exempt from sales and
2 compensating use taxes

3 imposed in this jurisdiction.

4 Section two. This resolution shall take effect,
5 (insert the date) and

6 shall apply to sales made and uses occurring on
7 and after that date

8 although made or occurring under a prior contract.

9 § 7. The commissioner of taxation and finance is
10 hereby authorized to

11 implement the provisions of this act with respect
12 to the elimination of

13 the imposition of sales tax, additional taxes, and
14 supplemental taxes on

15 personal care products and all other taxes so
16 addressed by this act.

17 § 8. This act shall take effect on the first
18 day of the sales tax

19 quarterly period, as described in subdivision (b)
20 of section 1136 of the

21 tax law, beginning at least 90 days after the date
22 this act shall have

23 become a law and shall apply in accordance with
24 the applicable transi-

25 tional provisions of sections 1106 and 1217 of the
26 tax law and shall

27 expire and be deemed repealed two years after
28 such date; provided,

29 however that if section 5 of part J of chapter 59
30 of the laws of 2021

31 shall not have taken effect on or before such date
32 then section four of

33 this act shall take effect on the same date and in
34 the same manner as

35 such chapter of the laws of 2021, takes effect.

36
37 PART C

38 Section 1. Subdivision (a) of section 1115 of
39 the tax law is amended

40 by adding a new paragraph 49 to read as follows:

41 (49) Housekeeping supplies as determined by the
42 commissioner.

24 § 2. Subdivision (b) of section 1107 of the tax
law is amended by

25 adding a new clause 14 to read as follows:

26 (14) Except as otherwise provided by law, the
exemption provided in

27 paragraph forty-nine of subdivision (a) of
section eleven hundred

28 fifteen of this article relating to
housekeeping supplies shall be

29 applicable pursuant to a local law, ordinance or
resolution adopted by a

30 city subject to the provisions of this section.
Such city is empowered

31 to adopt or repeal such a local law,
ordinance or resolution. Such

32 adoption or repeal shall also be deemed to amend
any local law, ordi-

33 nance or resolution enacted by such a city
imposing taxes pursuant to

34 the authority of subdivision (a) of section twelve
hundred ten of this

35 chapter.

36 § 3. Paragraph 1 of subdivision (a) of section
1210 of the tax law,

37 as amended by section 5 of part J of chapter 59 of
the laws of 2021, is

38 amended to read as follows:

39 (1) Either, all of the taxes described in article
twenty-eight of this

40 chapter, at the same uniform rate, as to which
taxes all provisions of

41 the local laws, ordinances or resolutions imposing
such taxes shall be

42 identical, except as to rate and except as
otherwise provided, with the

43 corresponding provisions in such article twenty-
eight, including the

44 definition and exemption provisions of such
article, so far as the

45 provisions of such article twenty-eight can be made
applicable to the

46 taxes imposed by such city or county and with
such limitations and

47 special provisions as are set forth in this
article. The taxes author-
48 ized under this subdivision may not be
imposed by a city or county
49 unless the local law, ordinance or resolution
imposes such taxes so as
50 to include all portions and all types of
receipts, charges or rents,
51 subject to state tax under sections eleven
hundred five and eleven
52 hundred ten of this chapter, except as
otherwise provided. Notwith-
53 standing the foregoing, a tax imposed by a city
or county authorized
54 under this subdivision shall not include the tax
imposed on charges for

A. 8481

11

1 admission to race tracks and simulcast facilities
under subdivision (f)
2 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
3 nance or resolution enacted by any city of less
than one million or by
4 any county or school district, imposing the
taxes authorized by this
5 subdivision, shall, notwithstanding any provision
of law to the contra-
6 ry, exclude from the operation of such local taxes
all sales of tangible
7 personal property for use or consumption directly
and predominantly in
8 the production of tangible personal property, gas,
electricity, refrig-
9 eration or steam, for sale, by manufacturing,
processing, generating,
10 assembly, refining, mining or extracting; and all
sales of tangible
11 personal property for use or consumption
predominantly either in the
12 production of tangible personal property, for sale,
by farming or in a
13 commercial horse boarding operation, or in both;
and all sales of fuel

14 sold for use in commercial aircraft and general
aviation aircraft; and,
15 unless such city, county or school district elects
otherwise, shall omit
16 the provision for credit or refund contained in
clause six of subdivi-
17 sion (a) or subdivision (d) of section eleven
hundred nineteen of this
18 chapter. (ii) Any local law, ordinance or
resolution enacted by any
19 city, county or school district, imposing the taxes
authorized by this
20 subdivision, shall omit the residential solar
energy systems equipment
21 and electricity exemption provided for in
subdivision (ee), the commer-
22 cial solar energy systems equipment and
electricity exemption provided
23 for in subdivision (ii), the commercial fuel cell
electricity generating
24 systems equipment and electricity generated by such
equipment exemption
25 provided for in subdivision (kk) and the clothing
and footwear exemption
26 provided for in paragraph thirty of subdivision
(a) of section eleven
27 hundred fifteen of this chapter, unless such
city, county or school
28 district elects otherwise as to such residential
solar energy systems
29 equipment and electricity exemption, such
commercial solar energy
30 systems equipment and electricity exemption,
commercial fuel cell elec-
31 tricity generating systems equipment and
electricity generated by such
32 equipment exemption or such clothing and footwear
exemption. Any local
33 law, ordinance or resolution enacted by any
city, county or school
34 district, imposing the taxes authorized by this
subdivision, shall omit
35 the housekeeping supplies exemption provided for in
paragraph forty-nine

36 of subdivision (a) of section eleven hundred
15 fifteen of this chapter,
37 unless such city, county or school district
16 elects otherwise; provided
38 that if such a city having a population of one
17 million or more enacts
39 the resolution described in subdivision (s) of
18 this section or repeals
40 such resolution, such resolution or repeal shall
19 also be deemed to amend
41 any local law, ordinance or resolution enacted by
20 such a city imposing
42 such taxes pursuant to the authority of this
21 subdivision, whether or not
43 such taxes are suspended at the time such city
22 enacts its resolution
44 pursuant to subdivision (s) of this section or at
23 the time of such
45 repeal; provided, further, that any such local
24 law, ordinance or resol-
46 ution and section eleven hundred seven of this
25 chapter, as deemed to be
47 amended in the event a city of one million or
26 more enacts a resolution
48 pursuant to the authority of subdivision (s) of
27 this section, shall be
49 further amended, as provided in section twelve
28 hundred eighteen of this
50 subpart, so that the housekeeping supplies
29 exemption in any such local
51 law, ordinance or resolution or in such section
30 eleven hundred seven of
52 this chapter is the same as the housekeeping
31 supplies exemption in para-
53 graph forty-nine of subdivision (a) of section
32 eleven hundred fifteen of
54 this chapter. (iii) Any local law, ordinance or
33 resolution enacted by
55 any city, county or school district, imposing
34 the taxes authorized by
56 this subdivision, shall omit the residential solar
35 energy systems equip-

1 ment and electricity exemption provided for in
2 subdivision (ee) of
3 section eleven hundred fifteen of this chapter,
4 the commercial solar
5 energy systems equipment and electricity
6 exemption provided for in
7 subdivision (ii) and the clothing and footwear
8 exemption provided for in
9 paragraph thirty of subdivision (a) of section
10 eleven hundred fifteen of
11 this chapter, unless such city, county or school
12 district elects other-
13 wise as to either such residential solar energy
14 systems equipment and
15 electricity exemption, such commercial solar
16 energy systems equipment
17 and electricity exemption or such clothing and
18 footwear exemption. Any
19 local law, ordinance or resolution enacted by any
20 city, county or school
21 district, imposing the taxes authorized by this
22 subdivision, shall omit
23 the mobile telecommunication services exemption
24 provided for in subdivi-
25 sion (cc) of section eleven hundred fifteen of this
26 chapter, unless such
27 city, county or school district elects otherwise;
28 provided that if such
29 a city having a population of one million or more
30 repeals a resolution
31 described in former subdivision (p) of this
32 section, such repeal shall
33 also be deemed to amend any local law, ordinance
34 or resolution enacted
35 by such a city imposing such taxes pursuant to the
36 authority of this
37 subdivision, whether or not such taxes are
38 suspended at the time such
39 city repeals its resolution enacted pursuant to
40 former subdivision (p)
41 of this section; provided, further, that any such
42 local law, ordinance
43 or resolution and section eleven hundred seven
44 of this chapter, as

23 deemed to be amended in the event a city of one
million or more repeals
24 a resolution enacted pursuant to the authority of
former subdivision (p)
25 of this section, shall be further amended, as
provided in section twelve
26 hundred eighteen of this subpart, so that the
wireless telecommuni-
27 cations services exemption in any such local
law, ordinance or resol-
28 ution or in such section eleven hundred seven of
this chapter is the
29 same as the mobile telecommunication services
exemption in subdivision
30 (cc) of section eleven hundred fifteen of this
chapter. (iv) Any local
31 law, ordinance or resolution enacted by any
city, county or school
32 district, imposing the taxes authorized by this
subdivision, shall omit
33 the residential solar energy systems equipment and
electricity exemption
34 provided for in subdivision (ee) of section
eleven hundred fifteen of
35 this chapter, the commercial solar energy systems
equipment and elec-
36 tricity exemption provided for in subdivision (ii)
and the clothing and
37 footwear exemption provided for in paragraph thirty
of subdivision (a)
38 of section eleven hundred fifteen of this
chapter, unless such city,
39 county or school district elects otherwise as to
either such residential
40 solar energy systems equipment and electricity
exemption, such commer-
41 cial solar energy systems equipment and
electricity exemption or such
42 clothing and footwear exemption.

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

46 (d) A local law, ordinance or resolution imposing
any tax pursuant to
47 this section, increasing or decreasing the rate
of such tax, repealing
48 or suspending such tax, exempting from such tax the
energy sources and
49 services described in paragraph three of
subdivision (a) or of subdivi-
50 sion (b) of this section or changing the rate of
tax imposed on such
51 energy sources and services or providing for
the credit or refund
52 described in clause six of subdivision (a) of
section eleven hundred
53 nineteen of this chapter, or electing or
repealing the exemption for
54 residential solar equipment and electricity in
subdivision (ee) of
55 section eleven hundred fifteen of this article,
or the exemption for
56 commercial solar equipment and electricity in
subdivision (ii) of
A. 8481 13

1 section eleven hundred fifteen of this article, or
electing or repealing
2 the exemption for commercial fuel cell
electricity generating systems
3 equipment and electricity generated by such
equipment in subdivision
4 (kk) of section eleven hundred fifteen of this
article must go into
5 effect only on one of the following dates: March
first, June first,
6 September first or December first; provided, that a
local law, ordinance
7 or resolution providing for the exemption
described in paragraph thirty
8 of subdivision (a) of section eleven hundred
fifteen of this chapter or
9 repealing any such exemption or a local law,
ordinance or resolution
10 providing for a refund or credit described in
subdivision (d) of section

11 eleven hundred nineteen of this chapter or
repealing such provision so
12 provided must go into effect only on March
first; provided, further,
13 that a local law, ordinance or resolution providing
for the exemption
14 described in paragraph forty-nine of subdivision
(a) of section eleven
15 hundred fifteen of this chapter or repealing any
such exemption so
16 provided and a resolution enacted pursuant to the
authority of subdivi-
17 sion (s) of this section providing such exemption
or repealing such
18 exemption so provided may go into effect
immediately. No such local law,
19 ordinance or resolution shall be effective
unless a certified copy of
20 such law, ordinance or resolution is mailed by
registered or certified
21 mail to the commissioner at the commissioner's
office in Albany at least
22 ninety days prior to the date it is to become
effective. However, the
23 commissioner may waive and reduce such
ninety-day minimum notice
24 requirement to a mailing of such certified copy by
registered or certi-
25 fied mail within a period of not less than thirty
days prior to such
26 effective date if the commissioner deems such
action to be consistent
27 with the commissioner's duties under section
twelve hundred fifty of
28 this article and the commissioner acts by
resolution. Where the
29 restriction provided for in section twelve hundred
twenty-three of this
30 article as to the effective date of a tax and
the notice requirement
31 provided for therein are applicable and have
not been waived, the
32 restriction and notice requirement in section
twelve hundred twenty-

33 three of this article shall also apply.

34 § 5. Section 1210 of the tax law is amended by
adding a new subdivi-

35 sion (s) to read as follows:

36 (s) Notwithstanding any other provision of
state or local law, ordi-
37 nance or resolution to the contrary: (1) Any city
having a population of
38 one million or more in which the taxes imposed by
section eleven hundred
39 seven of this chapter are in effect, acting through
its local legisla-
40 tive body, is hereby authorized and empowered to
elect to provide the
41 exemption from such taxes for the same housekeeping
supplies exempt from
42 state sales and compensating use taxes described in
paragraph forty-nine
43 of subdivision (a) of section eleven hundred
fifteen of this chapter by
44 enacting a resolution in the form set forth in
paragraph two of this
45 subdivision; whereupon, upon compliance with the
provisions of subdivi-
46 sions (d) and (e) of this section, such
enactment of such resolution
47 shall be deemed to be an amendment to such section
eleven hundred seven
48 and such section eleven hundred seven shall be
deemed to incorporate
49 such exemption as if it had been duly enacted by
the state legislature
50 and approved by the governor.
51 (2) Form of resolution: Be it enacted by the
(insert proper title of
52 local legislative body) as follows:
53 Section one. Receipts from sales of and
consideration given or
54 contracted to be given for purchases of
housekeeping supplies exempt
55 from state sales and compensating use taxes
pursuant to paragraph
56 forty-nine of subdivision (a) of section eleven
hundred fifteen of the

1 tax law shall also be exempt from sales and
2 compensating use taxes

3 imposed in this jurisdiction.

4 Section two. This resolution shall take effect,
5 (insert the date) and

6 shall apply to sales made and uses occurring on
7 and after that date

8 although made or occurring under a prior contract.

9 § 6. The commissioner of taxation and finance is
10 hereby authorized to

11 implement the provisions of this act with respect
12 to the elimination of

13 the imposition of sales tax, additional taxes, and
14 supplemental taxes on

15 housekeeping supplies and all other taxes so
16 addressed by this act.

17 § 7. This act shall take effect on the first
18 day of the sales tax

19 quarterly period, as described in subdivision (b)
20 of section 1136 of the

21 tax law, beginning at least 90 days after the date
22 this act shall have

23 become a law and shall apply in accordance with
24 the applicable transi-

25 tional provisions of sections 1106 and 1217 of the
26 tax law and shall

27 expire and be deemed repealed two years after
28 such date; provided,

29 however that if section 5 of part J of chapter 59
30 of the laws of 2021

31 shall not have taken effect on or before such date
32 then section three of

33 this act shall take effect on the same date and
34 in the same manner as

35 such chapter of the laws of 2021, takes effect.

36

PART D

37 Section 1. Subdivision (a) of section 1115 of the
38 tax law is amended

39 by adding a new paragraph (1-a) to read as follows:

23 (1-a) Food which is sold heated or prepared,
including food sold at
24 grocery stores, restaurants, diners, taverns,
food trucks, and food
25 courts at a mall and food that is catered.

26 § 2. Subdivision (b) of section 1107 of the
tax law is amended by
27 adding a new clause 15 to read as follows:

28 (15) Except as otherwise provided by law, the
exemption provided in

29 paragraph one-a of subdivision (a) of section
eleven hundred fifteen of
30 this article relating to heated or prepared foods
shall be applicable

31 pursuant to a local law, ordinance or
resolution adopted by a city

32 subject to the provisions of this section. Such
city is empowered to

33 adopt or repeal such a local law, ordinance or
resolution. Such adoption

34 or repeal shall also be deemed to amend any
local law, ordinance or
35 resolution enacted by such a city imposing taxes
pursuant to the author-

36 ity of subdivision (a) of section twelve hundred
ten of this chapter.

37 § 3. Paragraph 1 of subdivision (a) of section
1210 of the tax law, as

38 amended by section 5 of part J of chapter 59 of the
laws of 2021, is

39 amended to read as follows:

40 (1) Either, all of the taxes described in article
twenty-eight of this

41 chapter, at the same uniform rate, as to which
taxes all provisions of

42 the local laws, ordinances or resolutions imposing
such taxes shall be

43 identical, except as to rate and except as
otherwise provided, with the

44 corresponding provisions in such article twenty-
eight, including the

45 definition and exemption provisions of such
article, so far as the

46 provisions of such article twenty-eight can be made
applicable to the
47 taxes imposed by such city or county and with
such limitations and
48 special provisions as are set forth in this
article. The taxes author-
49 ized under this subdivision may not be
imposed by a city or county
50 unless the local law, ordinance or resolution
imposes such taxes so as
51 to include all portions and all types of
receipts, charges or rents,
52 subject to state tax under sections eleven
hundred five and eleven
53 hundred ten of this chapter, except as
otherwise provided. Notwith-
54 standing the foregoing, a tax imposed by a city
or county authorized

A. 8481

15

1 under this subdivision shall not include the tax
imposed on charges for
2 admission to race tracks and simulcast facilities
under subdivision (f)
3 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
4 nance or resolution enacted by any city of less
than one million or by
5 any county or school district, imposing the taxes
authorized by this
6 subdivision, shall, notwithstanding any provision
of law to the contra-
7 ry, exclude from the operation of such local taxes
all sales of tangible
8 personal property for use or consumption directly
and predominantly in
9 the production of tangible personal property, gas,
electricity, refrig-
10 eration or steam, for sale, by manufacturing,
processing, generating,
11 assembly, refining, mining or extracting; and
all sales of tangible
12 personal property for use or consumption
predominantly either in the

13 production of tangible personal property, for
14 sale, by farming or in a
15 commercial horse boarding operation, or in both;
16 and all sales of fuel
17 sold for use in commercial aircraft and general
18 aviation aircraft; and,
19 unless such city, county or school district elects
20 otherwise, shall omit
21 the provision for credit or refund contained in
22 clause six of subdivi-
23 sion (a) or subdivision (d) of section eleven
24 hundred nineteen of this
25 chapter. (ii) Any local law, ordinance or
26 resolution enacted by any
27 city, county or school district, imposing the
28 taxes authorized by this
29 subdivision, shall omit the residential solar
30 energy systems equipment
31 and electricity exemption provided for in
32 subdivision (ee), the commer-
33 cial solar energy systems equipment and electricity
34 exemption provided
35 for in subdivision (ii), the commercial fuel cell
36 electricity generating
37 systems equipment and electricity generated by
38 such equipment exemption
39 provided for in subdivision (kk) and the clothing
40 and footwear exemption
41 provided for in paragraph thirty of subdivision (a)
42 of section eleven
43 hundred fifteen of this chapter, unless such
44 city, county or school
45 district elects otherwise as to such residential
46 solar energy systems
47 equipment and electricity exemption, such
48 commercial solar energy
49 systems equipment and electricity exemption,
50 commercial fuel cell elec-
51 tricity generating systems equipment and
52 electricity generated by such
53 equipment exemption or such clothing and footwear
54 exemption. Any local
55 law, ordinance or resolution enacted by any
56 city, county or school

35 district, imposing the taxes authorized by this
36 subdivision, shall omit
37 the hot or prepared food items exemption provided
38 for in paragraph one-a
39 of subdivision (a) of section eleven hundred
40 fifteen of this chapter,
41 unless such city, county or school district elects
42 otherwise; provided
43 that if such a city having a population of one
44 million or more enacts
45 the resolution described in subdivision (t) of this
46 section or repeals
47 such resolution, such resolution or repeal shall
48 also be deemed to amend
49 any local law, ordinance or resolution enacted by
50 such a city imposing
51 such taxes pursuant to the authority of this
52 subdivision, whether or not
53 such taxes are suspended at the time such city
54 enacts its resolution
55 pursuant to subdivision (t) of this section
56 or at the time of such
57 repeal; provided, further, that any such local law,
58 ordinance or resol-
59 ution and section eleven hundred seven of this
60 chapter, as deemed to be
61 amended in the event a city of one million or more
62 enacts a resolution
63 pursuant to the authority of subdivision (t) of
64 this section, shall be
65 further amended, as provided in section twelve
66 hundred eighteen of this
67 subpart, so that the hot or prepared food items
68 exemption in any such
69 local law, ordinance or resolution or in such
70 section eleven hundred
71 seven of this chapter is the same as the hot
72 or prepared food items
73 exemption in paragraph one-a of subdivision (a)
74 of section eleven
75 hundred fifteen of this chapter. (iii) Any
76 local law, ordinance or
77 resolution enacted by any city, county or school
78 district, imposing the

1 taxes authorized by this subdivision, shall omit
2 the residential solar
3 energy systems equipment and electricity
4 exemption provided for in
5 subdivision (ee) of section eleven hundred fifteen
6 of this chapter, the
7 commercial solar energy systems equipment and
8 electricity exemption
9 provided for in subdivision (ii) and the clothing
10 and footwear exemption
11 provided for in paragraph thirty of subdivision (a)
12 of section eleven
13 hundred fifteen of this chapter, unless such
14 city, county or school
15 district elects otherwise as to either such
16 residential solar energy
17 systems equipment and electricity exemption, such
18 commercial solar ener-
19 gy systems equipment and electricity exemption
20 or such clothing and
21 footwear exemption. Any local law, ordinance or
22 resolution enacted by
23 any city, county or school district, imposing
24 the taxes authorized by
25 this subdivision, shall omit the mobile
26 telecommunication services
27 exemption provided for in subdivision (cc) of
28 section eleven hundred
29 fifteen of this chapter, unless such city, county
30 or school district
31 elects otherwise; provided that if such a city
32 having a population of
33 one million or more repeals a resolution described
34 in former subdivision
35 (p) of this section, such repeal shall also be
36 deemed to amend any local
37 law, ordinance or resolution enacted by such a city
38 imposing such taxes
39 pursuant to the authority of this subdivision,
40 whether or not such taxes
41 are suspended at the time such city repeals
42 its resolution enacted

22 pursuant to former subdivision (p) of this section;
23 provided, further,
24 that any such local law, ordinance or
25 resolution and section eleven
26 hundred seven of this chapter, as deemed to be
27 amended in the event a
28 city of one million or more repeals a resolution
29 enacted pursuant to the
30 authority of former subdivision (p) of this
31 section, shall be further
32 amended, as provided in section twelve hundred
33 eighteen of this subpart,
34 so that the wireless telecommunications services
35 exemption in any such
36 local law, ordinance or resolution or in such
37 section eleven hundred
38 seven of this chapter is the same as the
39 mobile telecommunication
40 services exemption in subdivision (cc) of section
41 eleven hundred fifteen
42 of this chapter. (iv) Any local law, ordinance or
43 resolution enacted by
44 any city, county or school district, imposing
45 the taxes authorized by
46 this subdivision, shall omit the residential solar
47 energy systems equip-
48 ment and electricity exemption provided for in
49 subdivision (ee) of
50 section eleven hundred fifteen of this chapter,
51 the commercial solar
52 energy systems equipment and electricity
53 exemption provided for in
54 subdivision (ii) and the clothing and footwear
55 exemption provided for in
56 paragraph thirty of subdivision (a) of section
57 eleven hundred fifteen of
58 this chapter, unless such city, county or school
59 district elects other-
60 wise as to either such residential solar energy
61 systems equipment and
62 electricity exemption, such commercial solar
63 energy systems equipment
64 and electricity exemption or such clothing and
65 footwear exemption.

44 § 4. Subdivision (d) of section 1210 of the tax
law, as amended by
45 section 4 of part WW of chapter 60 of the laws
of 2016, is amended to
46 read as follows:
47 (d) A local law, ordinance or resolution imposing
any tax pursuant to
48 this section, increasing or decreasing the rate
of such tax, repealing
49 or suspending such tax, exempting from such tax the
energy sources and
50 services described in paragraph three of
subdivision (a) or of subdivi-
51 sion (b) of this section or changing the rate of
tax imposed on such
52 energy sources and services or providing for
the credit or refund
53 described in clause six of subdivision (a) of
section eleven hundred
54 nineteen of this chapter, or electing or
repealing the exemption for
55 residential solar equipment and electricity in
subdivision (ee) of
56 section eleven hundred fifteen of this article,
or the exemption for

A. 8481

17

1 commercial solar equipment and electricity in
subdivision (ii) of
2 section eleven hundred fifteen of this article, or
electing or repealing
3 the exemption for commercial fuel cell
electricity generating systems
4 equipment and electricity generated by such
equipment in subdivision
5 (kk) of section eleven hundred fifteen of this
article must go into
6 effect only on one of the following dates:
March first, June first,
7 September first or December first; provided, that a
local law, ordinance
8 or resolution providing for the exemption described
in paragraph thirty

9 of subdivision (a) of section eleven hundred
fifteen of this chapter or
10 repealing any such exemption or a local law,
ordinance or resolution
11 providing for a refund or credit described in
subdivision (d) of section
12 eleven hundred nineteen of this chapter or
repealing such provision so
13 provided must go into effect only on March first;
provided, further,
14 that a local law, ordinance or resolution
providing for the exemption
15 described in paragraph one-a of subdivision (a)
of section eleven
16 hundred fifteen of this chapter or repealing
any such exemption so
17 provided and a resolution enacted pursuant to the
authority of subdivi-
18 sion (t) of this section providing such
exemption or repealing such
19 exemption so provided may go into effect
immediately. No such local law,
20 ordinance or resolution shall be effective unless a
certified copy of
21 such law, ordinance or resolution is mailed by
registered or certified
22 mail to the commissioner at the commissioner's
office in Albany at least
23 ninety days prior to the date it is to become
effective. However, the
24 commissioner may waive and reduce such
ninety-day minimum notice
25 requirement to a mailing of such certified copy by
registered or certi-
26 fied mail within a period of not less than
thirty days prior to such
27 effective date if the commissioner deems such
action to be consistent
28 with the commissioner's duties under section
twelve hundred fifty of
29 this article and the commissioner acts by
resolution. Where the
30 restriction provided for in section twelve hundred
twenty-three of this

31 article as to the effective date of a tax and the
notice requirement

32 provided for therein are applicable and have
not been waived, the

33 restriction and notice requirement in section
twelve hundred twenty-

34 three of this article shall also apply.

35 § 5. Section 1210 of the tax law is amended by
adding a new subdivi-

36 sion (t) to read as follows:

37 (t) Notwithstanding any other provision of state
or local law, ordi-

38 nance or resolution to the contrary: (1) Any city
having a population of

39 one million or more in which the taxes imposed by
section eleven hundred

40 seven of this chapter are in effect, acting
through its local legisla-

41 tive body, is hereby authorized and empowered to
elect to provide the

42 exemption from such taxes for the same hot or
prepared food items exempt

43 from state sales and compensating use taxes
described in paragraph one-a

44 of subdivision (a) of section eleven hundred
fifteen of this chapter by

45 enacting a resolution in the form set forth in
paragraph two of this

46 subdivision; whereupon, upon compliance with the
provisions of subdivi-

47 sions (d) and (e) of this section, such enactment
of such resolution

48 shall be deemed to be an amendment to such section
eleven hundred seven

49 and such section eleven hundred seven shall be
deemed to incorporate

50 such exemption as if it had been duly enacted by
the state legislature

51 and approved by the governor.

52 (2) Form of resolution: Be it enacted by the
(insert proper title of

53 local legislative body) as follows:

54 Section one. Receipts from sales of and
consideration given or

55 contracted to be given for purchases of hot or
prepared food items
56 exempt from state sales and compensating use taxes
pursuant to paragraph

A. 8481

18

1 one-a of subdivision (a) of section eleven hundred
fifteen of this chap-

2 ter shall also be exempt from sales and
compensating use taxes imposed

3 in this jurisdiction.

4 Section two. This resolution shall take effect,
(insert the date) and

5 shall apply to sales made and uses occurring on
and after that date

6 although made or occurring under a prior contract.

7 § 6. The commissioner of taxation and finance is
hereby authorized to

8 implement the provisions of this act with respect
to the elimination of

9 the imposition of sales tax, additional taxes, and
supplemental taxes on

10 hot and prepared food items and all other taxes
so addressed by this

11 act.

12 § 7. This act shall take effect on the first day
of the sales tax

13 quarterly period, as described in subdivision (b)
of section 1136 of the

14 tax law, beginning at least 90 days after the
date this act shall have

15 become a law and shall apply in accordance with the
applicable transi-

16 tional provisions of sections 1106 and 1217 of
the tax law and shall

17 expire and be deemed repealed two years after
such date; provided,

18 however that if section 5 of part J of chapter
59 of the laws of 2021

19 shall not have taken effect on or before such date
then section three of

20 this act shall take effect on the same date and in
the same manner as

21 such chapter of the laws of 2021, takes effect.

22 § 2. Severability. If any clause, sentence,
paragraph, section or part
23 of this act shall be adjudged by any court of
competent jurisdiction to
24 be invalid and after exhaustion of all further
judicial review, the
25 judgment shall not affect, impair, or invalidate
the remainder thereof,
26 but shall be confined in its operation to the
clause, sentence, para-
27 graph, section or part of this act directly
involved in the controversy
28 in which the judgment shall have been rendered.
29 § 3. This act shall take effect immediately
provided, however, that
30 the applicable effective date of Parts A through D
of this act shall be
31 as specifically set forth in the last section of
such Parts.