

STATE OF NEW YORK

1690

2023-2024 Regular Sessions

IN ASSEMBLY

January 17, 2023

Introduced by M. of A. BARCLAY, RA, TANNOUSIS, J.
M. GIGLIO, BRABENEC,
BLANKENBUSH, GANDOLFO, TAGUE, WALSH, SMULLEN,
SMITH, SIMPSON, NORRIS,
PALMESANO, REILLY, MANKTELOW, LEMONDES, HAWLEY,
GOODELL, J. A. GIGLIO,
GALLAHAN, FRIEND, FITZPATRICK, DURSO,
DeSTEFANO, ANGELINO, K. BROWN,
JENSEN, MIKULIN, MORINELLO, MILLER, BYRNES,
McDONOUGH -- 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
10 in the last section of
11 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
Part in which it is found. Section three of this
act sets forth the
general effective date of this act.

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

1

PART A

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

3 by adding a new paragraph 47 to read as follows:

4 (47) Motor fuel and diesel motor fuel.

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

6 adding a new clause 12 to read as follows:

7 (12) Except as otherwise provided by law, the
exemption provided in

8 paragraph forty-seven of subdivision (a) of
section eleven hundred

9 fifteen of this article relating to motor fuel
and diesel motor fuel

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

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

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

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

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

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

16 ten of this chapter.

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

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

19 amended to read as follows:

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

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

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

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

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

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

47 production of tangible personal property, for
48 sale, by farming or in a
49 commercial horse boarding operation, or in both;
50 and all sales of fuel
51 sold for use in commercial aircraft and general
52 aviation aircraft; and,
53 unless such city, county or school district elects
54 otherwise, shall omit
55 the provision for credit or refund contained in
56 clause six of subdivi-
57 sion (a) or subdivision (d) of section eleven
58 hundred nineteen of this
59 chapter. (ii) Any local law, ordinance or
60 resolution enacted by any
61 city, county or school district, imposing the
62 taxes authorized by this
63 subdivision, shall omit the residential solar
64 energy systems equipment
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66 1 and electricity exemption provided for in
67 subdivision (ee), the commer-
68 cial solar energy systems equipment and electricity
69 exemption provided
70 for in subdivision (ii), the commercial fuel cell
71 electricity generating
72 systems equipment and electricity generated by
73 such equipment exemption
74 provided for in subdivision (kk) and the clothing
75 and footwear exemption
76 provided for in paragraph thirty of subdivision (a)
77 of section eleven
78 hundred fifteen of this chapter, unless such
79 city, county or school
80 district elects otherwise as to such residential
81 solar energy systems
82 equipment and electricity exemption, such
83 commercial solar energy
84 systems equipment and electricity exemption,
85 commercial fuel cell elec-
86 tricity generating systems equipment and
87 electricity generated by such
88 equipment exemption or such clothing and footwear
89 exemption. (iii) Any

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

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

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

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

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

24 restriction and notice requirement in section
twelve hundred twenty-

25 three of this article shall also apply.

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

27 sion (q) to read as follows:

28 (q) Notwithstanding any other provision of
state or local law, ordi-

29 nance or resolution to the contrary:

30 (1) Any city having a population of one million
or more in which the

31 taxes imposed by section eleven hundred seven
of this chapter are in

32 effect, acting through its local legislative body,
is hereby authorized

33 and empowered to elect to provide the exemption
from such taxes for the

34 same motor fuel and diesel motor fuel exempt
from state sales and

35 compensating use taxes described in paragraph
forty-seven of subdivision

36 (a) of section eleven hundred fifteen of this
chapter by enacting a

37 resolution in the form set forth in paragraph two
of this subdivision;

38 whereupon, upon compliance with the provisions of
subdivisions (d) and

39 (e) of this section, such enactment of such
resolution shall be deemed

40 to be an amendment to such section eleven hundred
seven and such section

41 eleven hundred seven shall be deemed to incorporate
such exemption as if

42 it had been duly enacted by the state
legislature and approved by the

43 governor.

44 (2) Form of Resolution: Be it enacted by the
(insert proper title of

45 local legislative body) as follows:

46 Section one. Receipts from sales of and
47 consideration given or
48 contracted to be given for purchases of motor fuel
49 and diesel motor fuel
50 exempt from state sales and compensating use taxes
51 pursuant to paragraph
52 forty-seven of subdivision (a) of section eleven
53 hundred fifteen of the
54 tax law shall also be exempt from sales and
55 compensating use taxes
56 imposed in this jurisdiction.

57 Section two. This resolution shall take effect,
58 (insert the date) and
59 shall apply to sales made and uses occurring
60 on and after that date
61 although made or occurring under a prior contract.

62 § 6. The commissioner of taxation and finance is
63 hereby authorized to
64 implement the provisions of this act with respect
65 to the elimination of
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67 the imposition of sales tax, additional taxes, and
68 supplemental taxes on
69 diesel motor fuel and motor fuel and all other
70 taxes so addressed by
71 this act.

72 § 7. This act shall take effect on the first
73 day of the sales tax
74 quarterly period, as described in subdivision (b)
75 of section 1136 of the
76 tax law, next commencing at least 90 days after
77 this act shall have
78 become a law and shall apply in accordance with
79 the applicable transi-
80 tional provisions of sections 1106 and 1217 of the
81 tax law and shall
82 expire and be deemed repealed two years after such
83 date.

84 10 PART B

85 11 Section 1. Paragraph 3 of subdivision (a) of
86 section 1115 of the tax

12 law, as amended by chapter 201 of the laws of 1976,
is amended to read

13 as follows:

14 (3) Drugs and medicines intended for use,
internally or externally, in
15 the cure, mitigation, treatment or prevention of
illnesses or diseases

16 in human beings, medical equipment (including
component parts thereof)

17 and supplies required for such use or to correct
or alleviate physical

18 incapacity, and products consumed by humans for
the preservation of

19 health but not including cosmetics [~~or toilet~~
~~articles~~] notwithstanding

20 the presence of medicinal ingredients therein
or medical equipment

21 (including component parts thereof) and supplies,
other than such drugs

22 and medicines, purchased at retail for use in
performing medical and

23 similar services for compensation.

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

25 adding a new paragraph 48 to read as follows:

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

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

28 adding a new clause 13 to read as follows:

29 (13) Except as otherwise provided by law, the
exemption provided in

30 paragraph forty-eight of subdivision (a) of
section eleven hundred

31 fifteen of this article relating to personal
care products shall be

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

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

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

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

36 nance or resolution enacted by such a city
37 imposing taxes pursuant to
38 the authority of subdivision (a) of section twelve
39 hundred ten of this
40 chapter.

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

42 (1) Either, all of the taxes described in article
twenty-eight of this
43 chapter, at the same uniform rate, as to which
taxes all provisions of
44 the local laws, ordinances or resolutions
imposing such taxes shall be
45 identical, except as to rate and except as
otherwise provided, with the
46 corresponding provisions in such article
twenty-eight, including the
47 definition and exemption provisions of such
article, so far as the
48 provisions of such article twenty-eight can be
made applicable to the
49 taxes imposed by such city or county and with
such limitations and
50 special provisions as are set forth in this
article. The taxes author-
51 ized under this subdivision may not be imposed by
a city or county
52 unless the local law, ordinance or resolution
imposes such taxes so as
53 to include all portions and all types of receipts,
charges or rents,
54 subject to state tax under sections eleven
hundred five and eleven

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1 hundred ten of this chapter, except as otherwise
provided. Notwith-

2 standing the foregoing, a tax imposed by a city
or county authorized

3 under this subdivision shall not include the tax
imposed on charges for

4 admission to race tracks and simulcast facilities
under subdivision (f)
5 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
6 nance or resolution enacted by any city of less
than one million or by
7 any county or school district, imposing the
taxes authorized by this
8 subdivision, shall, notwithstanding any provision
of law to the contra-
9 ry, exclude from the operation of such local taxes
all sales of tangible
10 personal property for use or consumption directly
and predominantly in
11 the production of tangible personal property, gas,
electricity, refrig-
12 eration or steam, for sale, by manufacturing,
processing, generating,
13 assembly, refining, mining or extracting; and all
sales of tangible
14 personal property for use or consumption
predominantly either in the
15 production of tangible personal property, for sale,
by farming or in a
16 commercial horse boarding operation, or in both;
and all sales of fuel
17 sold for use in commercial aircraft and general
aviation aircraft; and,
18 unless such city, county or school district elects
otherwise, shall omit
19 the provision for credit or refund contained in
clause six of subdivi-
20 sion (a) or subdivision (d) of section eleven
hundred nineteen of this
21 chapter. (ii) Any local law, ordinance or
resolution enacted by any
22 city, county or school district, imposing the taxes
authorized by this
23 subdivision, shall omit the residential solar
energy systems equipment
24 and electricity exemption provided for in
subdivision (ee), the commer-
25 cial solar energy systems equipment and
electricity exemption provided

26 for in subdivision (ii), the commercial fuel cell
electricity generating
27 systems equipment and electricity generated by such
equipment exemption
28 provided for in subdivision (kk) and the clothing
and footwear exemption
29 provided for in paragraph thirty of subdivision
(a) of section eleven
30 hundred fifteen of this chapter, unless such
city, county or school
31 district elects otherwise as to such residential
solar energy systems
32 equipment and electricity exemption, such
commercial solar energy
33 systems equipment and electricity exemption,
commercial fuel cell elec-
34 tricity generating systems equipment and
electricity generated by such
35 equipment exemption or such clothing and footwear
exemption. (iii) Any
36 local law, ordinance or resolution enacted by any
city, county or school
37 district, imposing the taxes authorized by this
subdivision, shall omit
38 the personal care products exemption provided
for in paragraph forty-
39 eight of subdivision (a) of section eleven hundred
fifteen of this chap-
40 ter, unless such city, county or school
district elects otherwise;
41 provided that if such a city having a population
of one million or more
42 enacts the resolution described in subdivision (r)
of this section or
43 repeals such resolution, such resolution or repeal
shall also be deemed
44 to amend any local law, ordinance or resolution
enacted by such a city
45 imposing such taxes pursuant to the authority
of this subdivision,
46 whether or not such taxes are suspended at the time
such city enacts its
47 resolution pursuant to subdivision (r) of this
section or at the time of

48 such repeal; provided, further, that any such local
49 law, ordinance or
50 resolution and section eleven hundred seven of
51 this chapter, as deemed
52 to be amended in the event a city of one million or
53 more enacts a resol-
54 ution pursuant to the authority of subdivision
55 (r) of this section,
56 shall be further amended, as provided in section
57 twelve hundred eighteen
58 of this subpart, so that the personal care
59 products exemption in any
60 such local law, ordinance or resolution or in
61 such section eleven
62 hundred seven of this chapter is the same as the
63 personal care products

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1 exemption in paragraph forty-eight of subdivision
2 (a) of section eleven
3 hundred fifteen of this chapter.

4 § 5. Subdivision (d) of section 1210 of the
5 tax law, as amended by

6 section 4 of part WW of chapter 60 of the laws of
7 2016, is amended to

8 read as follows:

9 (d) A local law, ordinance or resolution
10 imposing any tax pursuant to

11 this section, increasing or decreasing the rate of
12 such tax, repealing

13 or suspending such tax, exempting from such tax
14 the energy sources and

15 services described in paragraph three of
16 subdivision (a) or of subdivi-

17 sion (b) of this section or changing the rate
18 of tax imposed on such

19 energy sources and services or providing for
20 the credit or refund

21 described in clause six of subdivision (a) of
22 section eleven hundred

23 nineteen of this chapter, or electing or repealing
24 the exemption for

25 residential solar equipment and electricity in
26 subdivision (ee) of

15 section eleven hundred fifteen of this article, or
the exemption for
16 commercial solar equipment and electricity in
subdivision (ii) of
17 section eleven hundred fifteen of this article, or
electing or repealing
18 the exemption for commercial fuel cell electricity
generating systems
19 equipment and electricity generated by such
equipment in subdivision
20 (kk) of section eleven hundred fifteen of this
article must go into
21 effect only on one of the following dates:
March first, June first,
22 September first or December first; provided, that a
local law, ordinance
23 or resolution providing for the exemption described
in paragraph thirty
24 of subdivision (a) of section eleven hundred
fifteen of this chapter or
25 repealing any such exemption or a local law,
ordinance or resolution
26 providing for a refund or credit described in
subdivision (d) of section
27 eleven hundred nineteen of this chapter or
repealing such provision so
28 provided must go into effect only on March first;
provided, further,
29 that a local law, ordinance or resolution
providing for the exemption
30 described in paragraph forty-eight of subdivision
(a) of section eleven
31 hundred fifteen of this chapter or repealing
any such exemption so
32 provided and a resolution enacted pursuant to the
authority of subdivi-
33 sion (r) of this section providing such
exemption or repealing such
34 exemption so provided may go into effect
immediately. No such local law,
35 ordinance or resolution shall be effective unless a
certified copy of
36 such law, ordinance or resolution is mailed by
registered or certified

37 mail to the commissioner at the commissioner's
office in Albany at least
38 ninety days prior to the date it is to become
effective. However, the
39 commissioner may waive and reduce such
ninety-day minimum notice
40 requirement to a mailing of such certified copy by
registered or certi-
41 fied mail within a period of not less than
thirty days prior to such
42 effective date if the commissioner deems such
action to be consistent
43 with the commissioner's duties under section
twelve hundred fifty of
44 this article and the commissioner acts by
resolution. Where the
45 restriction provided for in section twelve hundred
twenty-three of this
46 article as to the effective date of a tax and the
notice requirement
47 provided for therein are applicable and have
not been waived, the
48 restriction and notice requirement in section
twelve hundred twenty-
49 three of this article shall also apply.

50 § 6. Section 1210 of the tax law is amended by
adding a new subdivi-
51 sion (r) to read as follows:

52 (r) Notwithstanding any other provision of state
or local law, ordi-
53 nance or resolution to the contrary: (1) Any city
having a population of
54 one million or more in which the taxes imposed by
section eleven hundred
55 seven of this chapter are in effect, acting
through its local legisla-
56 tive body, is hereby authorized and empowered to
elect to provide the

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1 exemption from such taxes for the same personal
care products exempt
2 from state sales and compensating use taxes
described in paragraph

3 forty-eight of subdivision (a) of section eleven
4 hundred fifteen of this
5 chapter by enacting a resolution in the form set
6 forth in paragraph two
7 of this subdivision; whereupon, upon compliance
8 with the provisions of
9 subdivisions (d) and (e) of this section, such
10 enactment of such resol-
11 ution shall be deemed to be an amendment to such
12 section eleven hundred
13 seven and such section eleven hundred seven shall
14 be deemed to incorpo-
15 rate such exemption as if it had been duly enacted
16 by the state legisla-
17 ture and approved by the governor.

18 (2) Form of resolution: Be it enacted by the
19 (insert proper title of
20 local legislative body) as follows:

21 Section one. Receipts from sales of and
22 consideration given or
23 contracted to be given for purchases of personal
24 care products exempt
25 from state sales and compensating use taxes
26 pursuant to paragraph
27 forty-eight of subdivision (a) of section eleven
28 hundred fifteen of the
29 tax law shall also be exempt from sales and
30 compensating use taxes
31 imposed in this jurisdiction.

32 Section two. This resolution shall take effect,
33 (insert the date) and
34 shall apply to sales made and uses occurring
35 on and after that date
36 although made or occurring under a prior contract.

37 § 7. The commissioner of taxation and finance is
38 hereby authorized to
39 implement the provisions of this act with respect
40 to the elimination of
41 the imposition of sales tax, additional taxes, and
42 supplemental taxes on
43 personal care products and all other taxes so
44 addressed by this act.

45 § 8. This act shall take effect on the first day
46 of the sales tax

27 quarterly period, as described in subdivision (b)
of section 1136 of the
28 tax law, beginning at least 90 days after the
date this act shall have
29 become a law and shall apply in accordance with the
applicable transi-
30 tional provisions of sections 1106 and 1217 of
the tax law and shall
31 expire and be deemed repealed two years after such
date.

32

PART C

33 Section 1. Subdivision (a) of section 1115 of the
tax law is amended
34 by adding a new paragraph 49 to read as follows:
35 (49) Housekeeping supplies as determined by the
commissioner.

36 § 2. Subdivision (b) of section 1107 of the
tax law is amended by
37 adding a new clause 14 to read as follows:

38 (14) Except as otherwise provided by law, the
exemption provided in
39 paragraph forty-nine of subdivision (a) of
section eleven hundred
40 fifteen of this article relating to housekeeping
supplies shall be
41 applicable pursuant to a local law, ordinance or
resolution adopted by a
42 city subject to the provisions of this section.
Such city is empowered
43 to adopt or repeal such a local law, ordinance
or resolution. Such
44 adoption or repeal shall also be deemed to amend
any local law, ordi-
45 nance or resolution enacted by such a city imposing
taxes pursuant to
46 the authority of subdivision (a) of section
twelve hundred ten of this
47 chapter.

48 § 3. Paragraph 1 of subdivision (a) of section
1210 of the tax law,
49 as amended by section 5 of part J of chapter 59 of
the laws of 2021, is

50 amended to read as follows:

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

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

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

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

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

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

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

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

5 special provisions as are set forth in this
article. The taxes author-

6 ized under this subdivision may not be
imposed by a city or county

7 unless the local law, ordinance or resolution
imposes such taxes so as

8 to include all portions and all types of
receipts, charges or rents,

9 subject to state tax under sections eleven
hundred five and eleven

10 hundred ten of this chapter, except as
otherwise provided. Notwith-

11 standing the foregoing, a tax imposed by a city
or county authorized

12 under this subdivision shall not include the tax
imposed on charges for

13 admission to race tracks and simulcast facilities
under subdivision (f)

14 of section eleven hundred five of this chapter. (i)
Any local law, ordi-

15 nance or resolution enacted by any city of less
than one million or by

16 any county or school district, imposing the taxes
authorized by this

17 subdivision, shall, notwithstanding any provision
of law to the contra-
18 ry, exclude from the operation of such local taxes
all sales of tangible
19 personal property for use or consumption directly
and predominantly in
20 the production of tangible personal property, gas,
electricity, refrig-
21 eration or steam, for sale, by manufacturing,
processing, generating,
22 assembly, refining, mining or extracting; and
all sales of tangible
23 personal property for use or consumption
predominantly either in the
24 production of tangible personal property, for
sale, by farming or in a
25 commercial horse boarding operation, or in both;
and all sales of fuel
26 sold for use in commercial aircraft and general
aviation aircraft; and,
27 unless such city, county or school district elects
otherwise, shall omit
28 the provision for credit or refund contained in
clause six of subdivi-
29 sion (a) or subdivision (d) of section eleven
hundred nineteen of this
30 chapter. (ii) Any local law, ordinance or
resolution enacted by any
31 city, county or school district, imposing the
taxes authorized by this
32 subdivision, shall omit the residential solar
energy systems equipment
33 and electricity exemption provided for in
subdivision (ee), the commer-
34 cial solar energy systems equipment and electricity
exemption provided
35 for in subdivision (ii), the commercial fuel cell
electricity generating
36 systems equipment and electricity generated by
such equipment exemption
37 provided for in subdivision (kk) and the clothing
and footwear exemption
38 provided for in paragraph thirty of subdivision (a)
of section eleven

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

40 district elects otherwise as to such residential
solar energy systems

41 equipment and electricity exemption, such
commercial solar energy

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

43 tricity generating systems equipment and
electricity generated by such

44 equipment exemption or such clothing and footwear
exemption. (iii) Any

45 local law, ordinance or resolution enacted by any
city, county or school

46 district, imposing the taxes authorized by this
subdivision, shall omit

47 the housekeeping supplies exemption provided for in
paragraph forty-nine

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

49 unless such city, county or school district
elects otherwise; provided

50 that if such a city having a population of one
million or more enacts

51 the resolution described in subdivision (s) of
this section or repeals

52 such resolution, such resolution or repeal shall
also be deemed to amend

53 any local law, ordinance or resolution enacted by
such a city imposing

54 such taxes pursuant to the authority of this
subdivision, whether or not

55 such taxes are suspended at the time such city
enacts its resolution

56 pursuant to subdivision (s) of this section or at
the time of such

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1 repeal; provided, further, that any such local
law, ordinance or resol-

2 ution and section eleven hundred seven of this
chapter, as deemed to be

3 amended in the event a city of one million or
more enacts a resolution

4 pursuant to the authority of subdivision (s) of
5 this section, shall be
6 further amended, as provided in section twelve
7 hundred eighteen of this
8 subpart, so that the housekeeping supplies
9 exemption in any such local
10 law, ordinance or resolution or in such section
11 eleven hundred seven of
12 this chapter is the same as the housekeeping
13 supplies exemption in para-
14 graph forty-nine of subdivision (a) of section
15 eleven hundred fifteen of
16 this chapter.

17 § 4. Subdivision (d) of section 1210 of the
18 tax law, as amended by
19 section 4 of part WW of chapter 60 of the laws of
20 2016, is amended to
21 read as follows:

22 (d) A local law, ordinance or resolution
23 imposing any tax pursuant to
24 this section, increasing or decreasing the rate of
25 such tax, repealing
26 or suspending such tax, exempting from such tax
the energy sources and
services described in paragraph three of
subdivision (a) or of subdivi-
sion (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, or
the exemption for
commercial solar equipment and electricity in
subdivision (ii) of
section eleven hundred fifteen of this article, or
electing or repealing
the exemption for commercial fuel cell electricity
generating systems

27 equipment and electricity generated by such
equipment in subdivision

28 (kk) of section eleven hundred fifteen of this
article must go into

29 effect only on one of the following dates:
March first, June first,

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

31 or resolution providing for the exemption described
in paragraph thirty

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

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

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

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

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

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

38 described in paragraph forty-nine of subdivision
(a) of section eleven

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

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

41 sion (s) of this section providing such
exemption or repealing such

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

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

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

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

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

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

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

49 filed mail within a period of not less than
thirty days prior to such
50 effective date if the commissioner deems such
action to be consistent
51 with the commissioner's duties under section
twelve hundred fifty of
52 this article and the commissioner acts by
resolution. Where the
53 restriction provided for in section twelve hundred
twenty-three of this
54 article as to the effective date of a tax and the
notice requirement
55 provided for therein are applicable and have
not been waived, the
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1 restriction and notice requirement in section
twelve hundred twenty-
2 three of this article shall also apply.
3 § 5. Section 1210 of the tax law is amended by
adding a new subdivi-
4 sion (s) to read as follows:
5 (s) Notwithstanding any other provision of state
or local law, ordi-
6 nance or resolution to the contrary: (1) Any city
having a population of
7 one million or more in which the taxes imposed by
section eleven hundred
8 seven of this chapter are in effect, acting
through its local legisla-
9 tive body, is hereby authorized and empowered to
elect to provide the
10 exemption from such taxes for the same housekeeping
supplies exempt from
11 state sales and compensating use taxes described in
paragraph forty-nine
12 of subdivision (a) of section eleven hundred
fifteen of this chapter by
13 enacting a resolution in the form set forth in
paragraph two of this
14 subdivision; whereupon, upon compliance with the
provisions of subdivi-
15 sions (d) and (e) of this section, such enactment
of such resolution

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

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

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

19 and approved by the governor.

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

21 local legislative body) as follows:

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

23 contracted to be given for purchases of
housekeeping supplies exempt

24 from state sales and compensating use taxes
pursuant to paragraph

25 forty-nine of subdivision (a) of section eleven
hundred fifteen of the

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

27 imposed in this jurisdiction.

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

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

30 although made or occurring under a prior contract.

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

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

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

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

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

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

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

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

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

40 expire and be deemed repealed two years after such
date.

41

PART D

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

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

44 (1-a) Food which is sold heated or prepared,
including food sold at

45 grocery stores, restaurants, diners, taverns,
food trucks, and food

46 courts at a mall and food that is catered.

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

48 adding a new clause 15 to read as follows:

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

50 paragraph one-a of subdivision (a) of section
eleven hundred fifteen of

51 this article relating to heated or prepared foods
shall be applicable

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

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

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

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1 or repeal shall also be deemed to amend any
local law, ordinance or

2 resolution enacted by such a city imposing taxes
pursuant to the author-

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

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

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

6 amended to read as follows:

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

8 chapter, at the same uniform rate, as to which
taxes all provisions of
9 the local laws, ordinances or resolutions
imposing such taxes shall be
10 identical, except as to rate and except as
otherwise provided, with the
11 corresponding provisions in such article
twenty-eight, including the
12 definition and exemption provisions of such
article, so far as the
13 provisions of such article twenty-eight can be
made applicable to the
14 taxes imposed by such city or county and with
such limitations and
15 special provisions as are set forth in this
article. The taxes author-
16 ized under this subdivision may not be imposed by
a city or county
17 unless the local law, ordinance or resolution
imposes such taxes so as
18 to include all portions and all types of receipts,
charges or rents,
19 subject to state tax under sections eleven
hundred five and eleven
20 hundred ten of this chapter, except as otherwise
provided. Notwith-
21 standing the foregoing, a tax imposed by a city
or county authorized
22 under this subdivision shall not include the tax
imposed on charges for
23 admission to race tracks and simulcast facilities
under subdivision (f)
24 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
25 nance or resolution enacted by any city of less
than one million or by
26 any county or school district, imposing the
taxes authorized by this
27 subdivision, shall, notwithstanding any provision
of law to the contra-
28 ry, exclude from the operation of such local taxes
all sales of tangible
29 personal property for use or consumption directly
and predominantly in

30 the production of tangible personal property, gas,
electricity, refrigeration or steam, for sale, by manufacturing,
31 eration or steam, for sale, by manufacturing,
processing, generating,
32 assembly, refining, mining or extracting; and all
sales of tangible
33 personal property for use or consumption
predominantly either in the
34 production of tangible personal property, for sale,
by farming or in a
35 commercial horse boarding operation, or in both;
and all sales of fuel
36 sold for use in commercial aircraft and general
aviation aircraft; and,
37 unless such city, county or school district elects
otherwise, shall omit
38 the provision for credit or refund contained in
clause six of subdivi-
39 sion (a) or subdivision (d) of section eleven
hundred nineteen of this
40 chapter. (ii) Any local law, ordinance or
resolution enacted by any
41 city, county or school district, imposing the taxes
authorized by this
42 subdivision, shall omit the residential solar
energy systems equipment
43 and electricity exemption provided for in
subdivision (ee), the commer-
44 cial solar energy systems equipment and
electricity exemption provided
45 for in subdivision (ii), the commercial fuel cell
electricity generating
46 systems equipment and electricity generated by such
equipment exemption
47 provided for in subdivision (kk) and the clothing
and footwear exemption
48 provided for in paragraph thirty of subdivision
(a) of section eleven
49 hundred fifteen of this chapter, unless such
city, county or school
50 district elects otherwise as to such residential
solar energy systems
51 equipment and electricity exemption, such
commercial solar energy

52 systems equipment and electricity exemption,
commercial fuel cell elec-
53 tricity generating systems equipment and
electricity generated by such
54 equipment exemption or such clothing and footwear
exemption. (iii) Any
55 local law, ordinance or resolution enacted by any
city, county or school
56 district, imposing the taxes authorized by this
subdivision, shall omit

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1 the hot or prepared food items exemption provided
for in paragraph one-a
2 of subdivision (a) of section eleven hundred
fifteen of this chapter,
3 unless such city, county or school district elects
otherwise; provided
4 that if such a city having a population of one
million or more enacts
5 the resolution described in subdivision (t) of this
section or repeals
6 such resolution, such resolution or repeal shall
also be deemed to amend
7 any local law, ordinance or resolution enacted by
such a city imposing
8 such taxes pursuant to the authority of this
subdivision, whether or not
9 such taxes are suspended at the time such city
enacts its resolution
10 pursuant to subdivision (t) of this section
or at the time of such
11 repeal; provided, further, that any such local law,
ordinance or resol-
12 ution and section eleven hundred seven of this
chapter, as deemed to be
13 amended in the event a city of one million or more
enacts a resolution
14 pursuant to the authority of subdivision (t) of
this section, shall be
15 further amended, as provided in section twelve
hundred eighteen of this
16 subpart, so that the hot or prepared food items
exemption in any such

17 local law, ordinance or resolution or in such
18 section eleven hundred
19 seven of this chapter is the same as the hot
20 or prepared food items
21 exemption in paragraph one-a of subdivision (a)
22 of section eleven
23 hundred fifteen of this chapter.

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

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

41 or resolution providing for the exemption described in paragraph thirty

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

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

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

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

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

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

48 described in paragraph one-a of subdivision (a) of section eleven

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

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

51 sion (t) of this section providing such exemption or repealing such

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

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

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

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

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

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

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

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

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

5 with the commissioner's duties under section
twelve hundred fifty of
6 this article and the commissioner acts by
resolution. Where the
7 restriction provided for in section twelve hundred
twenty-three of this
8 article as to the effective date of a tax and
the notice requirement
9 provided for therein are applicable and have
not been waived, the
10 restriction and notice requirement in section
twelve hundred twenty-
11 three of this article shall also apply.

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

14 (t) Notwithstanding any other provision of
state or local law, ordi-
15 nance or resolution to the contrary: (1) Any city
having a population of
16 one million or more in which the taxes imposed by
section eleven hundred
17 seven of this chapter are in effect, acting through
its local legisla-
18 tive body, is hereby authorized and empowered to
elect to provide the
19 exemption from such taxes for the same hot or
prepared food items exempt
20 from state sales and compensating use taxes
described in paragraph one-a
21 of subdivision (a) of section eleven hundred
fifteen of this chapter by
22 enacting a resolution in the form set forth in
paragraph two of this
23 subdivision; whereupon, upon compliance with the
provisions of subdivi-
24 sions (d) and (e) of this section, such
enactment of such resolution
25 shall be deemed to be an amendment to such section
eleven hundred seven
26 and such section eleven hundred seven shall be
deemed to incorporate
27 such exemption as if it had been duly enacted by
the state legislature

28 and approved by the governor.
29 (2) Form of resolution: Be it enacted by the
(insert proper title of
30 local legislative body) as follows:
31 Section one. Receipts from sales of and
consideration given or
32 contracted to be given for purchases of hot
or prepared food items
33 exempt from state sales and compensating use taxes
pursuant to paragraph
34 one-a of subdivision (a) of section eleven hundred
fifteen of this chap-
35 ter shall also be exempt from sales and
compensating use taxes imposed
36 in this jurisdiction.
37 Section two. This resolution shall take effect,
(insert the date) and
38 shall apply to sales made and uses occurring on
and after that date
39 although made or occurring under a prior contract.
40 § 6. The commissioner of taxation and finance is
hereby authorized to
41 implement the provisions of this act with respect
to the elimination of
42 the imposition of sales tax, additional taxes, and
supplemental taxes on
43 hot and prepared food items and all other taxes
so addressed by this
44 act.
45 § 7. This act shall take effect on the first day
of the sales tax
46 quarterly period, as described in subdivision (b)
of section 1136 of the
47 tax law, beginning at least 90 days after the
date this act shall have
48 become a law and shall apply in accordance with the
applicable transi-
49 tional provisions of sections 1106 and 1217 of
the tax law and shall
50 expire and be deemed repealed two years after such
date.
51 § 2. Severability. If any clause, sentence,
paragraph, section or part

52 of this act shall be adjudged by any court of
competent jurisdiction to
53 be invalid and after exhaustion of all further
judicial review, the
54 judgment shall not affect, impair, or invalidate
the remainder thereof,
55 but shall be confined in its operation to the
clause, sentence, para-
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1 graph, section or part of this act directly
involved in the controversy
2 in which the judgment shall have been rendered.
3 § 3. This act shall take effect immediately
provided, however, that
4 the applicable effective date of Parts A through D
of this act shall be
5 as specifically set forth in the last section of
such Parts.