

S03124 Text:

STATE OF NEW YORK

3124

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to 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
12 within a Part, includ-
13 ing the effective date of the Part, which makes a
14 reference to a section
15 "of this act", when used in connection with that
16 particular component,
17 shall be deemed to mean and refer to the
18 corresponding section of the
19 Part in which it is found. Section three of this
20 act sets forth the
21 general effective date of this act.

12 PART A

13 Section 1. Subdivision (a) of section 1115 of
14 the tax law is amended
15 by adding a new paragraph 47 to read as follows:
16 **(47) Motor fuel and diesel motor fuel.**

EXPLANATION--Matter in **italics** (underscored) is
new; matter in brackets

[-] is old law to be omitted.

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

2 adding a new clause 12 to read as follows:

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

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

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

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

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

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

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

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

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

12 ten of this chapter.

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

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

15 amended to read as follows:

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

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

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

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

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

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

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

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

45 sold for use in commercial aircraft and general
aviation aircraft; and,
46 unless such city, county or school district elects
otherwise, shall omit
47 the provision for credit or refund contained in
clause six of subdivi-
48 sion (a) or subdivision (d) of section eleven
hundred nineteen of this
49 chapter. (ii) Any local law, ordinance or
resolution enacted by any
50 city, county or school district, imposing the
taxes authorized by this
51 subdivision, shall omit the residential solar
energy systems equipment
52 and electricity exemption provided for in
subdivision (ee), the commer-
53 cial solar energy systems equipment and electricity
exemption provided
54 for in subdivision (ii), the commercial fuel cell
electricity generating
55 systems equipment and electricity generated by
such equipment exemption
56 provided for in subdivision (kk) and the clothing
and footwear exemption

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1 provided for in paragraph thirty of subdivision (a)
of section eleven
2 hundred fifteen of this chapter, unless such
city, county or school
3 district elects otherwise as to such residential
solar energy systems
4 equipment and electricity exemption, such
commercial solar energy
5 systems equipment and electricity exemption,
commercial fuel cell elec-
6 tricity generating systems equipment and
electricity generated by such
7 equipment exemption or such clothing and footwear
exemption. (iii) Any
8 local law, ordinance or resolution enacted by any
city, county or school
9 district, imposing the taxes authorized by this
subdivision, shall omit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 with the commissioner's duties under section
twelve hundred fifty of

15 this article and the commissioner acts by
resolution. Where the

16 restriction provided for in section twelve hundred
twenty-three of this

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

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

19 restriction and notice requirement in section
twelve hundred twenty-

20 three of this article shall also apply.

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

22 sion (q) to read as follows:

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

24 nance or resolution to the contrary:

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

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

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

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

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

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

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

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

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

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

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

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

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

38 governor.

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

40 local legislative body) as follows:

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

42 contracted to be given for purchases of motor fuel
and diesel motor fuel

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

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

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

48 imposed in this jurisdiction.

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

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

53 although made or occurring under a prior contract.

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

56 implement the provisions of this act with respect
57 to the elimination of

58 the imposition of sales tax, additional taxes, and
59 supplemental taxes on

60 diesel motor fuel and motor fuel and all other
61 taxes so addressed by

62 this act.

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

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

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

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

72 tional provisions of sections 1106 and 1217 of
73 the tax law and shall

74 expire and be deemed repealed two years after such
75 date.

5

PART B

6 Section 1. Paragraph 3 of subdivision (a) of
7 section 1115 of the tax

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

10 as follows:

11 (3) Drugs and medicines intended for use,
12 internally or externally, in

10 the cure, mitigation, treatment or prevention of
11 illnesses or diseases

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

14 and supplies required for such use or to correct
15 or alleviate physical

16 incapacity, and products consumed by humans for
17 the preservation of

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

20 the presence of medicinal ingredients therein
21 or medical equipment

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

24 and medicines, purchased at retail for use in
25 performing medical and

26 similar services for compensation.

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

29 adding a new paragraph 48 to read as follows:

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

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

34 adding a new clause 13 to read as follows:

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

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

39 fifteen of this article relating to personal
40 care products shall be

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

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

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

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

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

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

53 chapter.

34 § 4. Paragraph 1 of subdivision (a) of section
1210 of the tax law, as
35 amended by section 5 of part J of chapter 59 of
the laws of 2021, is
36 amended to read as follows:
37 (1) Either, all of the taxes described in article
twenty-eight of this
38 chapter, at the same uniform rate, as to which
taxes all provisions of
39 the local laws, ordinances or resolutions
imposing such taxes shall be
40 identical, except as to rate and except as
otherwise provided, with the
41 corresponding provisions in such article
twenty-eight, including the
42 definition and exemption provisions of such
article, so far as the
43 provisions of such article twenty-eight can be
made applicable to the
44 taxes imposed by such city or county and with
such limitations and
45 special provisions as are set forth in this
article. The taxes author-
46 ized under this subdivision may not be imposed by
a city or county
47 unless the local law, ordinance or resolution
imposes such taxes so as
48 to include all portions and all types of receipts,
charges or rents,
49 subject to state tax under sections eleven
hundred five and eleven
50 hundred ten of this chapter, except as otherwise
provided. Notwith-
51 standing the foregoing, a tax imposed by a city
or county authorized
52 under this subdivision shall not include the tax
imposed on charges for
53 admission to race tracks and simulcast facilities
under subdivision (f)
54 of section eleven hundred five of this chapter. (i)
Any local law, ordi-

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

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

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

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

26 district elects otherwise as to such residential
solar energy systems

27 equipment and electricity exemption, such
commercial solar energy

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

29 tricity generating systems equipment and
electricity generated by such

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

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

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

33 the personal care products exemption provided
for in paragraph forty-

34 eight of subdivision (a) of section eleven hundred
fifteen of this chap-

35 ter, unless such city, county or school
district elects otherwise;

36 provided that if such a city having a population
of one million or more

37 enacts the resolution described in subdivision (r)
of this section or

38 repeals such resolution, such resolution or repeal
shall also be deemed

39 to amend any local law, ordinance or resolution
enacted by such a city

40 imposing such taxes pursuant to the authority
of this subdivision,

41 whether or not such taxes are suspended at the time
such city enacts its

42 resolution pursuant to subdivision (r) of this
section or at the time of

43 such repeal; provided, further, that any such local
law, ordinance or

44 resolution and section eleven hundred seven of
this chapter, as deemed

45 to be amended in the event a city of one million or
46 more enacts a resol-
47 ution pursuant to the authority of subdivision
48 (r) of this section,
49 shall be further amended, as provided in section
50 twelve hundred eighteen
51 of this subpart, so that the personal care
52 products exemption in any
53 such local law, ordinance or resolution or in
54 such section eleven
55 hundred seven of this chapter is the same as the
56 personal care products
57 exemption in paragraph forty-eight of subdivision
58 (a) of section eleven
59 hundred fifteen of this chapter.

60 § 5. Subdivision (d) of section 1210 of the
61 tax law, as amended by
62 section 4 of part WW of chapter 60 of the laws of
63 2016, is amended to
64 read as follows:
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1 (d) A local law, ordinance or resolution
2 imposing any tax pursuant to
3 this section, increasing or decreasing the rate of
4 such tax, repealing
5 or suspending such tax, exempting from such tax
6 the energy sources and
7 services described in paragraph three of
8 subdivision (a) or of subdivi-
9 sion (b) of this section or changing the rate
10 of tax imposed on such
11 energy sources and services or providing for
12 the credit or refund
13 described in clause six of subdivision (a) of
14 section eleven hundred
15 nineteen of this chapter, or electing or repealing
16 the exemption for
17 residential solar equipment and electricity in
18 subdivision (ee) of
19 section eleven hundred fifteen of this article, or
20 the exemption for
21 commercial solar equipment and electricity in
22 subdivision (ii) of

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

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

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

47 (r) Notwithstanding any other provision of state
or local law, ordi-
48 nance or resolution to the contrary: (1) Any city
having a population of
49 one million or more in which the taxes imposed by
section eleven hundred
50 seven of this chapter are in effect, acting
through its local legisla-
51 tive body, is hereby authorized and empowered to
elect to provide the
52 exemption from such taxes for the same personal
care products exempt
53 from state sales and compensating use taxes
described in paragraph
54 forty-eight of subdivision (a) of section eleven
hundred fifteen of this
55 chapter by enacting a resolution in the form set
forth in paragraph two
56 of this subdivision; whereupon, upon compliance
with the provisions of

1 subdivisions (d) and (e) of this section, such
2 enactment of such resol-
3 ution shall be deemed to be an amendment to such
4 section eleven hundred
5 seven and such section eleven hundred seven shall
6 be deemed to incorpo-
7 rate such exemption as if it had been duly enacted
8 by the state legisla-
9 ture and approved by the governor.
10 (2) Form of resolution: Be it enacted by the
11 (insert proper title of
12 local legislative body) as follows:
13 Section one. Receipts from sales of and
14 consideration given or
15 contracted to be given for purchases of personal
16 care products exempt
17 from state sales and compensating use taxes
18 pursuant to paragraph
19 forty-eight of subdivision (a) of section eleven
20 hundred fifteen of the
21 tax law shall also be exempt from sales and
22 compensating use taxes
23 imposed in this jurisdiction.
24 Section two. This resolution shall take effect,
25 (insert the date) and
26 shall apply to sales made and uses occurring on
27 and after that date
28 although made or occurring under a prior contract.
29 § 7. The commissioner of taxation and finance is
30 hereby authorized to
31 implement the provisions of this act with respect
32 to the elimination of
33 the imposition of sales tax, additional taxes, and
34 supplemental taxes on
35 personal care products and all other taxes so
36 addressed by this act.
37 § 8. This act shall take effect on the first
38 day of the sales tax
39 quarterly period, as described in subdivision (b)
40 of section 1136 of the
41 tax law, beginning at least 90 days after the date
42 this act shall have

24 become a law and shall apply in accordance with
the applicable transi-
25 tional provisions of sections 1106 and 1217 of the
tax law and shall
26 expire and be deemed repealed two years after such
date.

27

PART C

28 Section 1. Subdivision (a) of section 1115 of
the tax law is amended
29 by adding a new paragraph 49 to read as follows:

30 (49) Housekeeping supplies as determined by the
commissioner.

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

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

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

35 fifteen of this article relating to
housekeeping supplies shall be

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

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

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

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

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

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

42 chapter.

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

45 amended to read as follows:

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

47 chapter, at the same uniform rate, as to which
taxes all provisions of
48 the local laws, ordinances or resolutions imposing
such taxes shall be
49 identical, except as to rate and except as
otherwise provided, with the
50 corresponding provisions in such article twenty-
eight, including the
51 definition and exemption provisions of such
article, so far as the
52 provisions of such article twenty-eight can be made
applicable to the
53 taxes imposed by such city or county and with
such limitations and
54 special provisions as are set forth in this
article. The taxes author-

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1 ized under this subdivision may not be
imposed by a city or county
2 unless the local law, ordinance or resolution
imposes such taxes so as
3 to include all portions and all types of
receipts, charges or rents,
4 subject to state tax under sections eleven
hundred five and eleven
5 hundred ten of this chapter, except as otherwise
provided. Notwith-
6 standing the foregoing, a tax imposed by a city
or county authorized
7 under this subdivision shall not include the tax
imposed on charges for
8 admission to race tracks and simulcast facilities
under subdivision (f)
9 of section eleven hundred five of this chapter. (i)
Any local law, ordi-
10 nance or resolution enacted by any city of less
than one million or by
11 any county or school district, imposing the
taxes authorized by this
12 subdivision, shall, notwithstanding any provision
of law to the contra-
13 ry, exclude from the operation of such local taxes
all sales of tangible

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

36 equipment and electricity exemption, such
commercial solar energy
37 systems equipment and electricity exemption,
commercial fuel cell elec-
38 tricity generating systems equipment and
electricity generated by such
39 equipment exemption or such clothing and footwear
exemption. (iii) Any
40 local law, ordinance or resolution enacted by any
city, county or school
41 district, imposing the taxes authorized by this
subdivision, shall omit
42 the housekeeping supplies exemption provided for in
paragraph forty-nine
43 of subdivision (a) of section eleven hundred
fifteen of this chapter,
44 unless such city, county or school district elects
otherwise; provided
45 that if such a city having a population of one
million or more enacts
46 the resolution described in subdivision (s) of this
section or repeals
47 such resolution, such resolution or repeal shall
also be deemed to amend
48 any local law, ordinance or resolution enacted by
such a city imposing
49 such taxes pursuant to the authority of this
subdivision, whether or not
50 such taxes are suspended at the time such city
enacts its resolution
51 pursuant to subdivision (s) of this section
or at the time of such
52 repeal; provided, further, that any such local law,
ordinance or resol-
53 ution and section eleven hundred seven of this
chapter, as deemed to be
54 amended in the event a city of one million or more
enacts a resolution
55 pursuant to the authority of subdivision (s) of
this section, shall be
56 further amended, as provided in section twelve
hundred eighteen of this

1 subpart, so that the housekeeping supplies
2 exemption in any such local
3 law, ordinance or resolution or in such section
4 eleven hundred seven of
5 this chapter is the same as the housekeeping
6 supplies exemption in para-
7 graph forty-nine of subdivision (a) of section
8 eleven hundred fifteen of
9 this chapter.

6 § 4. Subdivision (d) of section 1210 of the
tax law, as amended by
7 section 4 of part WW of chapter 60 of the laws of
2016, is amended to

8 read as follows:

9 (d) A local law, ordinance or resolution
imposing any tax pursuant to
10 this section, increasing or decreasing the rate of
such tax, repealing
11 or suspending such tax, exempting from such tax
the energy sources and
12 services described in paragraph three of
subdivision (a) or of subdivi-
13 sion (b) of this section or changing the rate
of tax imposed on such
14 energy sources and services or providing for
the credit or refund
15 described in clause six of subdivision (a) of
section eleven hundred
16 nineteen of this chapter, or electing or repealing
the exemption for
17 residential solar equipment and electricity in
subdivision (ee) of
18 section eleven hundred fifteen of this article, or
the exemption for
19 commercial solar equipment and electricity in
subdivision (ii) of
20 section eleven hundred fifteen of this article, or
electing or repealing
21 the exemption for commercial fuel cell electricity
generating systems
22 equipment and electricity generated by such
equipment in subdivision
23 (kk) of section eleven hundred fifteen of this
article must go into

24 effect only on one of the following dates:
March first, June first,
25 September first or December first; provided, that a
local law, ordinance
26 or resolution providing for the exemption described
in paragraph thirty
27 of subdivision (a) of section eleven hundred
fifteen of this chapter or
28 repealing any such exemption or a local law,
ordinance or resolution
29 providing for a refund or credit described in
subdivision (d) of section
30 eleven hundred nineteen of this chapter or
repealing such provision so
31 provided must go into effect only on March first;
provided, further,
32 that a local law, ordinance or resolution
providing for the exemption
33 described in paragraph forty-nine of subdivision
(a) of section eleven
34 hundred fifteen of this chapter or repealing
any such exemption so
35 provided and a resolution enacted pursuant to the
authority of subdivi-
36 sion (s) of this section providing such
exemption or repealing such
37 exemption so provided may go into effect
immediately. No such local law,
38 ordinance or resolution shall be effective unless a
certified copy of
39 such law, ordinance or resolution is mailed by
registered or certified
40 mail to the commissioner at the commissioner's
office in Albany at least
41 ninety days prior to the date it is to become
effective. However, the
42 commissioner may waive and reduce such
ninety-day minimum notice
43 requirement to a mailing of such certified copy by
registered or certi-
44 fied mail within a period of not less than
thirty days prior to such
45 effective date if the commissioner deems such
action to be consistent

46 with the commissioner's duties under section
twelve hundred fifty of
47 this article and the commissioner acts by
resolution. Where the
48 restriction provided for in section twelve hundred
twenty-three of this
49 article as to the effective date of a tax and the
notice requirement
50 provided for therein are applicable and have
not been waived, the
51 restriction and notice requirement in section
twelve hundred twenty-
52 three of this article shall also apply.

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

54 sion (s) to read as follows:

55 (s) Notwithstanding any other provision of state
or local law, ordi-

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

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

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

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

4 exemption from such taxes for the same housekeeping
supplies exempt from

5 state sales and compensating use taxes described in
paragraph forty-nine

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

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

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

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

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

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

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

13 and approved by the governor.

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

15 local legislative body) as follows:

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

17 contracted to be given for purchases of
17 housekeeping supplies exempt

18 from state sales and compensating use taxes
18 pursuant to paragraph

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

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

21 imposed in this jurisdiction.

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

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

24 although made or occurring under a prior contract.

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

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

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

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

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

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

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

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

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

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

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

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

38 (1-a) Food which is sold heated or prepared,
including food sold at
39 grocery stores, restaurants, diners, taverns,
food trucks, and food
40 courts at a mall and food that is catered.

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

42 adding a new clause 15 to read as follows:

43 (15) Except as otherwise provided by law, the
exemption provided in
44 paragraph one-a of subdivision (a) of section
eleven hundred fifteen of
45 this article relating to heated or prepared foods
shall be applicable
46 pursuant to a local law, ordinance or
resolution adopted by a city
47 subject to the provisions of this section. Such
city is empowered to
48 adopt or repeal such a local law, ordinance or
resolution. Such adoption
49 or repeal shall also be deemed to amend any
local law, ordinance or
50 resolution enacted by such a city imposing taxes
pursuant to the author-
51 ity of subdivision (a) of section twelve hundred
ten of this chapter.

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

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

54 amended to read as follows:

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

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

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

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

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

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

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

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

51 the hot or prepared food items exemption provided
for in paragraph one-a

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

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

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

55 the resolution described in subdivision (t) of this
section or repeals

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

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

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

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

4 pursuant to subdivision (t) of this section
or at the time of such

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

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

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

8 pursuant to the authority of subdivision (t) of
this section, shall be

9 further amended, as provided in section twelve
hundred eighteen of this

10 subpart, so that the hot or prepared food items
exemption in any such

11 local law, ordinance or resolution or in such
section eleven hundred

12 seven of this chapter is the same as the hot
or prepared food items

13 exemption in paragraph one-a of subdivision (a)
14 of section eleven

14 hundred fifteen of this chapter.

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

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

17 read as follows:

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

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

20 or suspending such tax, exempting from such tax
the energy sources and

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

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

23 energy sources and services or providing for
the credit or refund

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

25 nineteen of this chapter, or electing or repealing
the exemption for

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

27 section eleven hundred fifteen of this article, or
the exemption for

28 commercial solar equipment and electricity in
subdivision (ii) of

29 section eleven hundred fifteen of this article, or
electing or repealing

30 the exemption for commercial fuel cell electricity
generating systems

31 equipment and electricity generated by such
equipment in subdivision

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

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

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

35 or resolution providing for the exemption described
in paragraph thirty

36 of subdivision (a) of section eleven hundred
fifteen of this chapter or
37 repealing any such exemption or a local law,
ordinance or resolution
38 providing for a refund or credit described in
subdivision (d) of section
39 eleven hundred nineteen of this chapter or
repealing such provision so
40 provided must go into effect only on March first;
provided, further,
41 that a local law, ordinance or resolution
providing for the exemption
42 described in paragraph one-a of subdivision (a)
of section eleven
43 hundred fifteen of this chapter or repealing
any such exemption so
44 provided and a resolution enacted pursuant to the
authority of subdivi-
45 sion (t) of this section providing such
exemption or repealing such
46 exemption so provided may go into effect
immediately. No such local law,
47 ordinance or resolution shall be effective unless a
certified copy of
48 such law, ordinance or resolution is mailed by
registered or certified
49 mail to the commissioner at the commissioner's
office in Albany at least
50 ninety days prior to the date it is to become
effective. However, the
51 commissioner may waive and reduce such
ninety-day minimum notice
52 requirement to a mailing of such certified copy by
registered or certi-
53 fied mail within a period of not less than
thirty days prior to such
54 effective date if the commissioner deems such
action to be consistent
55 with the commissioner's duties under section
twelve hundred fifty of
56 this article and the commissioner acts by
resolution. Where the

1 restriction provided for in section twelve hundred
twenty-three of this
2 article as to the effective date of a tax and the
notice requirement
3 provided for therein are applicable and have
not been waived, the
4 restriction and notice requirement in section
twelve hundred twenty-
5 three of this article shall also apply.

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

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

25 Section one. Receipts from sales of and
26 consideration given or
27 contracted to be given for purchases of hot
28 or prepared food items
29 exempt from state sales and compensating use taxes
30 pursuant to paragraph
31 one-a of subdivision (a) of section eleven hundred
32 fifteen of this chap-
33 ter shall also be exempt from sales and
34 compensating use taxes imposed
35 in this jurisdiction.

36 Section two. This resolution shall take effect,
37 (insert the date) and
38 shall apply to sales made and uses occurring on
39 and after that date
40 although made or occurring under a prior contract.

41 § 6. The commissioner of taxation and finance is
42 hereby authorized to
43 implement the provisions of this act with respect
44 to the elimination of
45 the imposition of sales tax, additional taxes, and
46 supplemental taxes on
47 hot and prepared food items and all other taxes
48 so addressed by this
49 act.

50 § 7. This act shall take effect on the first day
51 of the sales tax
52 quarterly period, as described in subdivision (b)
53 of section 1136 of the
54 tax law, beginning at least 90 days after the
55 date this act shall have
56 become a law and shall apply in accordance with the
57 applicable transi-
58 tional provisions of sections 1106 and 1217 of
59 the tax law and shall
60 expire and be deemed repealed two years after such
61 date.

62 § 2. Severability. If any clause, sentence,
63 paragraph, section or part
64 of this act shall be adjudged by any court of
65 competent jurisdiction to
66 be invalid and after exhaustion of all further
67 judicial review, the

48 judgment shall not affect, impair, or invalidate
the remainder thereof,

49 but shall be confined in its operation to the
clause, sentence, para-

50 graph, section or part of this act directly
involved in the controversy

51 in which the judgment shall have been rendered.

52 § 3. This act shall take effect immediately
provided, however, that

53 the applicable effective date of Parts A through D
of this act shall be

54 as specifically set forth in the last section of
such Parts.