STATE OF NEW YORK

876
2017-2018 Regular Sessions

IN SENATE

January 5, 2017

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

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

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

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

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

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

(mm) Receipts from the retail sale of commercial geothermal heat pump systems equipment and of the service of installing such systems shall be exempt from taxes imposed by sections eleven hundred five and eleven hundred ten of this article. For purposes of this subdivision, "commercial geothermal heat pump system equipment" shall mean an arrangement or combination of components installed in and around a commercial building that uses the ground or ground water as a thermal energy source or as a thermal energy sink designed to provide and distribute heating, and/or cooling, and/or hot water, also commonly referred to as ground source heat pump systems.

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

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§ 3. Subparagraph (ii) of paragraph 1 and subparagraph (xiv) of paragraph 4 of subdivision (a) of section 1210 of the tax law, subparagraph (ii) of paragraph (a) as amended and subparagraph (xiv) of paragraph 4 as added by section 2 of part WW of chapter 60 of the laws of 2016, are amended and a new subparagraph (xv) is added to paragraph 4 to read as follows:

(ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment and electricity exemption provided for in subdivision (ee), the commercial solar energy systems equipment and electricity exemption provided for in subdivision (ii), the commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption provided for in subdivision (kk), the residential geothermal heat pump systems equipment and installation exemption provided for in subdivision (ll), the commercial geothermal heat pump systems equipment and installation exemption provided for in subdivision (mm) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to such residential solar energy systems equipment and electricity exemption, such commercial solar energy systems equipment and electricity exemption, commercial fuel cell electricity generating systems equipment and electricity generated by such equipment exemption, such residential geothermal heat pump systems equipment and installation exemption, such commercial geothermal heat pump systems equipment and installation exemption or such clothing and footwear exemption.

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

§ 4. Paragraph 1 of subdivision (b) of section 1210 of the tax law, as amended by section 3 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(1) Or, one or more of the taxes described in subdivisions (b), (d), (e) and (f) of section eleven hundred five of this chapter, at the same uniform rate, including the transitional provisions in section eleven hundred six of this chapter covering such taxes, but not the taxes described in subdivisions (a) and (c) of section eleven hundred five of this chapter. Provided, further, that where the tax described in subdivision (b) of section eleven hundred five of this chapter is imposed, the compensating use taxes described in clauses (E), (G) and (H) of subdivision (a) of section eleven hundred ten of this chapter shall also be imposed. Provided, further, that where the taxes described in subdi-
vision (b) of section eleven hundred five are imposed, such taxes shall
omit: (A) the provision for refund or credit contained in subdivision
(d) of section eleven hundred nineteen of this chapter with respect to
such taxes described in such subdivision (b) of section eleven hundred
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five unless such city or county elects to provide such provision or, if
so elected, to repeal such provision; (B) the exemption provided in
paragraph two of subdivision (ee) of section eleven hundred fifteen of
this chapter unless such city or county elects otherwise; (C) the
exemption provided in paragraph two of subdivision (ii) of section ele-
ven hundred fifteen of this chapter, unless such city or county elects
otherwise; [and] (D) the exemption provided in paragraph two of subdi-
vision (kk) of section eleven hundred fifteen of this chapter, unless such
county or city elects otherwise; (E) the exemption provided in paragraph
two of subdivision (ll) of section eleven hundred fifteen of this chap-
ter, unless such county or city elects otherwise; and (F) the exemption
provided in paragraph two of subdivision (mm) of section eleven hundred
fifteen of this chapter, unless such county or city elects otherwise.

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

(d) A local law, ordinance or resolution imposing any tax pursuant to
this section, increasing or decreasing the rate of such tax, repealing
or suspending such tax, exempting from such tax the energy sources and
services described in paragraph three of subdivision (a) or of 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
equipment and electricity generated by such equipment in subdivision
(kk) of section eleven hundred fifteen of this article, or electing or repealing the exemption for
residential geothermal heat pump systems equipment and installation in
subdivision (ll) of section eleven hundred fifteen of this article, or electing or repealing the exemption for
commercial geothermal heat pump systems equipment and installation in
subdivision (mm) of section eleven hundred fifteen of this article must
go into effect only on one of the following dates: March first, June
first, September first or December first; provided, that a local law,
ordinance or resolution providing for the exemption described in para-
graph thirty of subdivision (a) of section eleven hundred fifteen of
this chapter or repealing any such exemption or a local law, ordinance
or resolution providing for a refund or credit described in subdivision
(d) of section eleven hundred nineteen of this chapter or repealing such
provision so provided must go into effect only on March first. No such
local law, ordinance or resolution shall be effective unless a certified
copy of such law, ordinance or resolution is mailed by registered or
certified mail to the commissioner at the commissioner's office in Alba-
ny at least ninety days prior to the date it is to become effective.
However, the commissioner may waive and reduce such ninety-day minimum
notice requirement to a mailing of such certified copy by registered or
certified mail within a period of not less than thirty days prior to
such effective date if the commissioner deems such action to be consist-
ent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement
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provided for therein are applicable and have not been waived, the
restriction and notice requirement in section twelve hundred twenty-
three of this article shall also apply.

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

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

http://www.nystatewatch.net/htbin/web_dttex.com?NY17RSB00876.FIL
§ 7. Section 1224 of the tax law is amended by adding two new subdivisions (c-3) and (c-4) to read as follows:
(c-3) Notwithstanding any other provision of law: (1) Where a county containing one or more cities with a population of less than one million has elected the exemption for residential geothermal heat pump systems equipment and installation provided in subdivision (ll) of section eleven hundred fifteen of this chapter, a city within such county shall have the prior right to impose tax on such exempt equipment and/or installation to the extent of one half of the maximum rates authorized under subdivision (a) of section twelve hundred ten of this article;

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

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

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

§ 8. This act shall take effect immediately.