

STATE OF NEW YORK

3726

2019-2020 Regular Sessions

IN ASSEMBLY

January 30, 2019

Introduced by M. of A. DINOWITZ, HYNDMAN, JEAN-PIERRE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing an exemption for tangible personal property and services sold by a cemetery; in relation to establishing an amnesty program for cemetery corporations

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

1 Section 1. Declaration of policy. The people of this state have a
2 vital interest in the maintenance and preservation of cemetery corpo-
3 rations to prevent them from becoming a burden upon local governments
4 and the community. The preservation of cemetery funds is vital to the
5 long-term maintenance and preservation of these burial grounds to
6 prevent abandonment and dilapidation. In order to preserve this order,
7 and the uniqueness of cemetery corporations, clarifications of cemetery
8 sales tax collections are necessary.

9 § 2. Subdivision (a) of section 1115 of the tax law is amended by
10 adding a new paragraph 7-a to read as follows:

11 (7-a) Tangible personal property and services sold by a cemetery for
12 the exclusive use on the grounds and in the buildings of the cemetery
13 corporation including but not limited to the additional services
14 provided by a cemetery as defined in paragraph (b) of section fifteen
15 hundred nine of the not-for-profit corporation law and for the mainte-
16 nance and preservation of lots, plots and parts thereof.

17 § 3. Subdivision (a) of section 1116 of the tax law is amended by
18 adding a new paragraph 10 to read as follows:

19 (10) A cemetery corporation, as defined in paragraph (a) of section
20 fifteen hundred two of the not-for-profit corporation law, including but
21 not limited to those cemeteries regulated by the religious corporations
22 law where it is the purchaser, user, or consumer, or where it is the
23 vendor of services or property exclusively to be used on the grounds or
24 buildings of the corporation.

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

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1 § 4. The tax law is amended by adding a new section 1149 to read as
2 follows:

3 § 1149. Amnesty program. (a) Notwithstanding the provisions of any
4 other law to the contrary, there is hereby established an amnesty
5 program as described herein, to be administered by the commissioner, to
6 be effective for the period as prescribed by such commissioner, for all
7 eligible taxpayers as described herein, owing any tax or surcharge
8 imposed or formerly imposed by sections eleven hundred five and eleven
9 hundred ten of this article, and administered by such commissioner.

10 (b) Such amnesty program shall apply to tax liabilities for the taxes
11 set forth in sections eleven hundred five and eleven hundred ten of this
12 article for taxable periods ending or transactions or uses occurring on
13 or before December thirty-first, two thousand nineteen.

14 (c) For purposes of the amnesty program established under this
15 section, an eligible taxpayer is a cemetery corporation as defined by
16 paragraph (a) of section fifteen hundred two of the not-for-profit
17 corporation law who or which has a tax liability with regard to one or
18 more of the designated taxes for the period of time described in subdi-
19 vision (b) of this section.

20 (d) The amnesty program established herein shall provide, that upon
21 application, including applicable returns, which application and returns
22 shall be in such form and submitted in such manner as prescribed by the
23 commissioner, by an eligible taxpayer, and upon payment in such form and
24 in such manner as prescribed by such commissioner, which payment shall
25 either accompany such application or be made within the time stated on a
26 bill issued by such commissioner to such taxpayer, of the amount of a
27 tax liability under one or more of the designated taxes with respect to
28 which amnesty is sought, such commissioner shall waive any applicable
29 penalties and interest (including the additional rate of interest
30 prescribed under section eleven hundred forty-five of this part). In
31 addition, no civil, administrative or criminal action or proceeding
32 shall be brought against such an eligible taxpayer relating to the tax
33 liability covered by such waiver. Failure to pay all such taxes by the
34 later of March fifteenth, two thousand twenty, or the date prescribed
35 therefor on a bill issued by such commissioner, shall invalidate any
36 amnesty granted pursuant to the amnesty program established under this
37 section.

38 (e) Amnesty tax return forms shall be in a form, contain such informa-
39 tion and be submitted as prescribed by the commissioner and shall
40 provide for specifications by the applicant of the tax liability with
41 respect to which amnesty is sought. The applicant must also provide such
42 additional information as is required by such commissioner. Amnesty
43 shall be granted only with respect to the tax liabilities specified by
44 the taxpayer on such forms. Any return or report filed under the amnesty
45 program established herein is subject to verification and assessment as
46 provided by statute. If the applicant files a false or fraudulent tax
47 return or report, or attempts in any manner to defeat or evade a tax
48 under the amnesty program, amnesty shall be denied or rescinded.

49 (f) With respect to any existing installment payment agreement of an
50 eligible taxpayer, where such agreement applies to a tax liability with
51 respect to which amnesty is sought by such taxpayer, notwithstanding any
52 terms of such agreement to the contrary, such taxpayer, as a condition
53 of receiving amnesty, must pay any such liability in full by the later
54 of the last day of the prescribed amnesty period, or the date prescribed
55 therefor on a bill issued by the commissioner.

1 (g) The commissioner may promulgate regulations, issue forms and
2 instructions and take any and all other actions necessary to implement
3 the provisions of the amnesty program established under this section.
4 Such commissioner shall publicize the amnesty program provided for in
5 this section so as to maximize public awareness of and participation in
6 such program.

7 § 5. On or before February 28, 2022, the commissioner of taxation and
8 finance shall submit a report to the chairperson of the assembly ways
9 and means committee, the ranking minority member of the assembly ways
10 and means committee, the chairperson of the senate finance committee,
11 the ranking minority member of the senate finance committee and the
12 director of the budget regarding the amnesty program established pursu-
13 ant to this act. The report shall contain the following information as
14 of the report cutoff date: (i) the gross revenue collected under each
15 tax and the year or other applicable period for or during which the
16 liability was incurred; (ii) the amount of money spent on advertising,
17 notification, and outreach activities, by each activity, and a
18 description of the form and content of such activities, by each activ-
19 ity; (iii) the amount paid by the department of taxation and finance for
20 services and expenses related to the establishment of the amnesty
21 program; and (iv) an estimate of the net revenue generated from the
22 amnesty program.

23 § 6. This act shall take effect immediately.