

9114--A

I N A S S E M B L Y

January 28, 2016

Introduced by M. of A. WOERNER, BARRETT, RA, BRABENEC -- Multi-Sponsored
by -- M. of A. MAGEE -- read once and referred to the Committee on
Ways and Means -- committee discharged, bill amended, ordered
reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to enacting the "New York State
Go Green Season Act" and creating a limited sales tax exemption for
the sale of fresh cut evergreen trees from state sales and compensat-
ing use taxes and granting municipalities the option to grant such
limited exemption

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 State Go Green Season Act".
3 S 2. Subdivision (a) of section 1115 of the tax law is amended by
4 adding a new paragraph 44 to read as follows:
5 (44) FRESH CUT EVERGREEN TREES DURING THE TWO MONTH PERIOD EACH YEAR
6 COMMENCING ON NOVEMBER FIRST AND ENDING ON DECEMBER THIRTY-FIRST ANNUAL-
7 LY. FOR PURPOSES OF THIS PARAGRAPH, "FRESH CUT EVERGREEN TREES" SHALL
8 MEAN EVERGREEN TREES THAT HAVE BEEN CUT OR HARVESTED BY THE CONSUMER
9 WITHIN ONE DAY PRIOR TO SALE.
10 S 3. Subdivision (b) of section 1107 of the tax law is amended by
11 adding a new clause 12 to read as follows:
12 (12) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE EXEMPTION ON FRESH CUT
13 EVERGREEN TREES DURING THE TWO MONTH PERIOD EACH YEAR COMMENCING ON
14 NOVEMBER FIRST AND ENDING ON DECEMBER THIRTY-FIRST, PROVIDED IN PARA-
15 GRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
16 THIS ARTICLE, SHALL BE APPLICABLE PURSUANT TO A LOCAL LAW, ORDINANCE OR
17 RESOLUTION ADOPTED BY A CITY SUBJECT TO THE PROVISIONS OF THIS SECTION.
18 SUCH CITY IS EMPOWERED TO ADOPT OR REPEAL SUCH A LOCAL LAW, ORDINANCE OR
19 RESOLUTION. SUCH ADOPTION OR REPEAL SHALL ALSO BE DEEMED TO AMEND ANY
20 LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED BY SUCH A CITY IMPOSING TAXES
21 PURSUANT TO THE AUTHORITY OF SUBDIVISION (A) OF SECTION TWELVE HUNDRED
22 TEN OF THIS CHAPTER.

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

LBD13176-09-6

1 S 4. Paragraph 1 of subdivision (a) of section 1210 of the tax law, as
2 amended by section 3 of part Z of chapter 59 of the laws of 2015, is
3 amended to read as follows:

4 (1) Either, all of the taxes described in article twenty-eight of this
5 chapter, at the same uniform rate, as to which taxes all provisions of
6 the local laws, ordinances or resolutions imposing such taxes shall be
7 identical, except as to rate and except as otherwise provided, with the
8 corresponding provisions in such article twenty-eight, including the
9 definition and exemption provisions of such article, so far as the
10 provisions of such article twenty-eight can be made applicable to the
11 taxes imposed by such city or county and with such limitations and
12 special provisions as are set forth in this article. The taxes author-
13 ized under this subdivision may not be imposed by a city or county
14 unless the local law, ordinance or resolution imposes such taxes so as
15 to include all portions and all types of receipts, charges or rents,
16 subject to state tax under sections eleven hundred five and eleven
17 hundred ten of this chapter, except as otherwise provided. (i) Any local
18 law, ordinance or resolution enacted by any city of less than one
19 million or by any county or school district, imposing the taxes author-
20 ized by this subdivision, shall, notwithstanding any provision of law to
21 the contrary, exclude from the operation of such local taxes all sales
22 of tangible personal property for use or consumption directly and
23 predominantly in the production of tangible personal property, gas,
24 electricity, refrigeration or steam, for sale, by manufacturing, proc-
25 essing, generating, assembly, refining, mining or extracting; and all
26 sales of tangible personal property for use or consumption predominantly
27 either in the production of tangible personal property, for sale, by
28 farming or in a commercial horse boarding operation, or in both; and,
29 unless such city, county or school district elects otherwise, shall omit
30 the provision for credit or refund contained in clause six of subdivi-
31 sion (a) or subdivision (d) of section eleven hundred nineteen of this
32 chapter. (ii) Any local law, ordinance or resolution enacted by any
33 city, county or school district, imposing the taxes authorized by this
34 subdivision, shall omit the residential solar energy systems equipment
35 and electricity exemption provided for in subdivision (ee), the commer-
36 cial solar energy systems equipment and electricity exemption provided
37 for in subdivision (ii) and the clothing and footwear exemption provided
38 for in paragraph thirty of subdivision (a) of section eleven hundred
39 fifteen of this chapter, unless such city, county or school district
40 elects otherwise as to either such residential solar energy systems
41 equipment and electricity exemption, such commercial solar energy
42 systems equipment and electricity exemption or such clothing and foot-
43 wear exemption. (III) ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED BY
44 ANY CITY, COUNTY OR SCHOOL DISTRICT, IMPOSING THE TAXES AUTHORIZED BY
45 THIS SUBDIVISION, SHALL OMIT THE FRESH CUT EVERGREEN TREES EXEMPTION
46 DURING THE TWO MONTH PERIOD EACH YEAR COMMENCING ON NOVEMBER FIRST, AND
47 ENDING ON DECEMBER THIRTY-FIRST, AS PROVIDED FOR IN PARAGRAPH FORTY-FOUR
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 (Q) OF THIS SECTION OR REPEALS
52 SUCH RESOLUTION, SUCH REPEAL OR RESOLUTION SHALL ALSO BE DEEMED TO AMEND
53 ANY LOCAL LAW, ORDINANCE OR RESOLUTION ENACTED BY SUCH A CITY IMPOSING
54 SUCH TAX 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 (Q) OF THIS SECTION OR AT THE TIME OF ANY SUCH

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 (Q) OF THIS SECTION, SHALL BE
5 FURTHER AMENDED, AS PROVIDED IN SECTION TWELVE HUNDRED EIGHTEEN OF THIS
6 SUBPART, SO THAT FRESH CUT EVERGREEN TREES EXEMPTION DURING THE TWO
7 MONTH PERIOD EACH YEAR COMMENCING ON NOVEMBER FIRST, AND ENDING ON
8 DECEMBER THIRTY-FIRST, IN ANY SUCH LOCAL LAW, ORDINANCE OR RESOLUTION OR
9 IN SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER IS THE SAME AS THE STATE
10 FRESH CUT EVERGREEN TREES EXEMPTION DURING THE TWO MONTH PERIOD EACH
11 YEAR COMMENCING ON NOVEMBER FIRST, AND ENDING ON DECEMBER THIRTY-FIRST,
12 IN PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED
13 FIFTEEN OF THIS CHAPTER.

14 S 5. Subdivision (d) of section 1210 of the tax law, as amended by
15 section 4-a of part Z of chapter 59 of the laws of 2015, is amended to
16 read as follows:

17 (d) A local law, ordinance or resolution imposing any tax pursuant to
18 this section, increasing or decreasing the rate of such tax, repealing
19 or suspending such tax, exempting from such tax the energy sources and
20 services described in paragraph three of subdivision (a) or of subdivi-
21 sion (b) of this section or changing the rate of tax imposed on such
22 energy sources and services or providing for the credit or refund
23 described in clause six of subdivision (a) of section eleven hundred
24 nineteen of this chapter, or electing or repealing the exemption for
25 residential solar equipment and electricity in subdivision (ee) of
26 section eleven hundred fifteen of this article, or the exemption for
27 commercial solar equipment and electricity in subdivision (ii) of
28 section eleven hundred fifteen of this article must go into effect only
29 on one of the following dates: March first, June first, September first
30 or December first; provided, that a local law, ordinance or resolution
31 providing for the exemption described in paragraph thirty of subdivision
32 (a) of section eleven hundred fifteen of this chapter or repealing any
33 such exemption or a local law, ordinance or resolution providing for a
34 refund or credit described in subdivision (d) of section eleven hundred
35 nineteen of this chapter or repealing such provision so provided must go
36 into effect only on March first; PROVIDED FURTHER THAT A LOCAL LAW,
37 ORDINANCE OR RESOLUTION PROVIDING FOR THE EXEMPTION DESCRIBED IN PARA-
38 GRAPH FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF
39 THIS CHAPTER OR REPEALING ANY SUCH EXEMPTION SO PROVIDED AND A RESOL-
40 UTION ENACTED PURSUANT TO THE AUTHORITY OF SUBDIVISION (Q) OF THIS
41 SECTION PROVIDED SUCH EXEMPTION OR REPEALING SUCH EXEMPTION SO PROVIDED
42 MAY GO INTO EFFECT IMMEDIATELY. No such local law, ordinance or resol-
43 ution shall be effective unless a certified copy of such law, ordinance
44 or resolution is mailed by registered or certified mail to the commis-
45 sioner at the commissioner's office in Albany at least ninety days prior
46 to the date it is to become effective. However, the commissioner may
47 waive and reduce such ninety-day minimum notice requirement to a mailing
48 of such certified copy by registered or certified mail within a period
49 of not less than thirty days prior to such effective date if the commis-
50 sioner deems such action to be consistent with the commissioner's duties
51 under section twelve hundred fifty of this article and the commissioner
52 acts by resolution. Where the restriction provided for in section twelve
53 hundred twenty-three of this article as to the effective date of a tax
54 and the notice requirement provided for therein are applicable and have
55 not been waived, the restriction and notice requirement in section
56 twelve hundred twenty-three of this article shall also apply.

1 S 6. Section 1210 of the tax law is amended by adding a new subdivi-
2 sion (q) to read as follows:

3 (Q) NOTWITHSTANDING ANY OTHER PROVISION OF STATE OR LOCAL LAW, ORDI-
4 NANCE OR RESOLUTION TO THE CONTRARY:

5 (1) ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE IN WHICH THE
6 TAXES IMPOSED BY SECTION ELEVEN HUNDRED SEVEN OF THIS CHAPTER ARE IN
7 EFFECT, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
8 AND EMPOWERED TO ELECT TO PROVIDE THE SAME EXEMPTION FROM SUCH TAXES AS
9 THE FRESH CUT EVERGREEN TREES EXEMPTION DURING THE TWO MONTH PERIOD EACH
10 YEAR COMMENCING ON NOVEMBER FIRST AND ENDING ON DECEMBER THIRTY-FIRST,
11 FROM STATE SALES AND COMPENSATING USE TAXES DESCRIBED IN PARAGRAPH
12 FORTY-FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS
13 CHAPTER BY ENACTING A RESOLUTION IN THE FORM SET FORTH IN PARAGRAPH TWO
14 OF THIS SUBDIVISION; WHEREUPON, UPON COMPLIANCE WITH THE PROVISIONS OF
15 SUBDIVISIONS (D) AND (E) OF THIS SECTION, SUCH ENACTMENT OF SUCH RESOL-
16 UTION SHALL BE DEEMED TO BE AN AMENDMENT TO SUCH SECTION ELEVEN HUNDRED
17 SEVEN AND SUCH SECTION ELEVEN HUNDRED SEVEN SHALL BE DEEMED TO INCORPO-
18 RATE SUCH EXEMPTION AS IF IT HAD BEEN DULY ENACTED BY THE STATE LEGISLA-
19 TURE 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 1. RECEIPTS FROM SALES OF AND CONSIDERATION GIVEN OR
23 CONTRACTED TO BE GIVEN FOR PURCHASES OF FRESH CUT EVERGREEN TREES EXEMPT
24 FROM STATE SALES AND COMPENSATING USE TAXES DURING A TWO MONTH PERIOD
25 EACH YEAR COMMENCING ON NOVEMBER FIRST AND ENDING ON DECEMBER
26 THIRTY-FIRST, PURSUANT TO PARAGRAPH FORTY-FOUR OF SUBDIVISION (A) OF
27 SECTION ELEVEN HUNDRED FIFTEEN OF THE TAX LAW SHALL ALSO BE EXEMPT FROM
28 SALES AND COMPENSATING USE TAXES IMPOSED IN THIS JURISDICTION.

29 2. THIS RESOLUTION SHALL TAKE EFFECT, (INSERT THE DATE) AND SHALL
30 APPLY TO SALES MADE AND USES OCCURRING ON AND AFTER THAT DATE ALTHOUGH
31 MADE OR OCCURRING UNDER A PRIOR CONTRACT.

32 S 7. This act shall take effect on the first day of the sales tax
33 quarterly period, as described in subdivision (b) of section 1136 of the
34 tax law, beginning at least 90 days after the date this act shall have
35 become a law and shall apply in accordance with the applicable transi-
36 tional provisions of sections 1106 and 1217 of the tax law; provided
37 that sections four and five of this act shall apply to sales made on or
38 after the date such sections shall have taken effect; and provided
39 further that the commissioner of taxation and finance shall be author-
40 ized on and after the date this act shall have become a law to adopt and
41 amend any rules or regulations necessary to implement this act on its
42 effective date.