

STATE OF NEW YORK

1735--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 12, 2017

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 compensating use taxes and granting municipalities the option to grant such limited exemption

The People of the State of New York, represented in Senate and Assembly, 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 § 2. Subdivision (a) of section 1115 of the tax law is amended by
4 adding a new paragraph 45 to read as follows:

5 (45) 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, or
9 at the consumer's direction, who is physically present at the location,
10 if such consumer cannot otherwise do so themselves, within one day prior
11 to sale.

12 § 3. Subdivision (b) of section 1107 of the tax law is amended by
13 adding a new clause 12 to read as follows:

14 (12) Except as otherwise provided by law, the exemption on fresh cut
15 evergreen trees during the two month period each year commencing on
16 November first and ending on December thirty-first, provided in para-
17 graph forty-five of subdivision (a) of section eleven hundred fifteen of
18 this article, shall be applicable pursuant to a local law, ordinance or
19 resolution adopted by a city subject to the provisions of this section.
20 Such city is empowered to adopt or repeal such a local law, ordinance or

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

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1 resolution. Such adoption or repeal shall also be deemed to amend any
2 local law, ordinance or resolution enacted by such a city imposing taxes
3 pursuant to the authority of subdivision (a) of section twelve hundred
4 ten of this chapter.

5 § 4. Paragraph 1 of subdivision (a) of section 1210 of the tax law is
6 amended by adding a new subparagraph (iii) to read as follows:

7 (iii) Any local law, ordinance or resolution enacted by any city,
8 county or school district, imposing the taxes authorized by this subdi-
9 vision, shall omit the fresh cut evergreen trees exemption during the
10 two month period each year commencing on November first, and ending on
11 December thirty-first, as provided for in paragraph forty-five of subdi-
12 vision (a) of section eleven hundred fifteen of this chapter, unless
13 such city, county or school district elects otherwise; provided that if
14 such a city having a population of one million or more enacts the resol-
15 ution described in subdivision (q) of this section or repeals such
16 resolution, such repeal or resolution shall also be deemed to amend any
17 local law, ordinance or resolution enacted by such a city imposing such
18 tax pursuant to the authority of this subdivision, whether or not such
19 taxes are suspended at the time such city enacts its resolution pursuant
20 to subdivision (q) of this section or at the time of any such repeal;
21 provided further that any such local law, ordinance or resolution and
22 section eleven hundred seven of this chapter, as deemed to be amended in
23 the event a city of one million or more enacts a resolution pursuant to
24 the authority of subdivision (q) of this section, shall be further
25 amended, as provided in section twelve hundred eighteen of this subpart,
26 so that fresh cut evergreen trees exemption during the two month period
27 each year commencing on November first, and ending on December thirty-
28 first, in any such local law, ordinance or resolution or in section
29 eleven hundred seven of this chapter is the same as the state fresh cut
30 evergreen trees exemption during the two month period each year commenc-
31 ing on November first, and ending on December thirty-first, in paragraph
32 forty-five of subdivision (a) of section eleven hundred fifteen of this
33 chapter.

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

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

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

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

27 (q) Notwithstanding any other provision of state or local law, ordi-
28 nance or resolution to the contrary:

29 (1) Any city having a population of one million or more in which the
30 taxes imposed by section eleven hundred seven of this chapter are in
31 effect, acting through its local legislative body, is hereby authorized
32 and empowered to elect to provide the same exemption from such taxes as
33 the fresh cut evergreen trees exemption during the two month period each
34 year commencing on November first and ending on December thirty-first,
35 from state sales and compensating use taxes described in paragraph
36 forty-five of subdivision (a) of section eleven hundred fifteen of this
37 chapter by enacting a resolution in the form set forth in paragraph two
38 of this subdivision; whereupon, upon compliance with the provisions of
39 subdivisions (d) and (e) of this section, such enactment of such resol-
40 ution shall be deemed to be an amendment to such section eleven hundred
41 seven and such section eleven hundred seven shall be deemed to incorpo-
42 rate such exemption as if it had been duly enacted by the state legisla-
43 ture and approved by the governor.

44 (2) Form of Resolution: Be it enacted by the (insert proper title of
45 local legislative body) as follows:

46 Section 1. Receipts from sales of and consideration given or
47 contracted to be given for purchases of fresh cut evergreen trees exempt
48 from state sales and compensating use taxes during a two month period
49 each year commencing on November first and ending on December thirty-
50 first, pursuant to paragraph forty-five of subdivision (a) of section
51 eleven hundred fifteen of the tax law shall also be exempt from sales
52 and compensating use taxes imposed in this jurisdiction.

53 2. This resolution shall take effect, (insert the date) and shall
54 apply to sales made and uses occurring on and after that date although
55 made or occurring under a prior contract.

1 § 7. This act shall take effect on the first day of the sales tax
2 quarterly period, as described in subdivision (b) of section 1136 of the
3 tax law, beginning at least 90 days after the date this act shall have
4 become a law and shall apply in accordance with the applicable transi-
5 tional provisions of sections 1106 and 1217 of the tax law; provided
6 that sections four and five of this act shall apply to sales made on or
7 after the date such sections shall have taken effect; and provided
8 further that the commissioner of taxation and finance shall be author-
9 ized on and after the date this act shall have become a law to adopt and
10 amend any rules or regulations necessary to implement this act on its
11 effective date.