STATE OF NEW YORK

7647--A

2017-2018 Regular Sessions

IN ASSEMBLY

May 5, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

(10) A cemetery corporation, as defined in paragraph (a) of section fifteen hundred two of the not-for-profit corporation law, including but not limited to those cemeteries regulated by the religious corporations

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

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law where it is the purchaser, user, or consumer, or where it is the vendor of services or property exclusively to be used on the grounds or buildings of the corporation.

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

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

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

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

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

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

(f) With respect to any existing installment payment agreement of an eligible taxpayer, where such agreement applies to a tax liability with respect to which amnesty is sought by such taxpayer, notwithstanding any terms of such agreement to the contrary, such taxpayer, as a condition of receiving amnesty, must pay any such liability in full by the later

of the last day of the prescribed amnesty period, or the date prescribed therefor on a bill issued by the commissioner.

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

§ 5. On or before February 28, 2021, the commissioner of taxation and finance shall submit a report to the chairperson of the assembly ways and means committee, the ranking minority member of the assembly ways and means committee, the chairperson of the senate finance committee, the ranking minority member of the senate finance committee and the director of the budget regarding the amnesty program established pursuant to this act. The report shall contain the following information as of the report cutoff date: (i) the gross revenue collected under each tax and the year or other applicable period for or during which the liability was incurred; (ii) the amount of money spent on advertising, notification, and outreach activities, by each activity, and a description of the form and content of such activities, by each activity; (iii) the amount paid by the department of taxation and finance for services and expenses related to the establishment of the amnesty program; and (iv) an estimate of the net revenue generated from the amnesty program.

§ 6. This act shall take effect immediately.