

STATE OF NEW YORK

838--A

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

Introduced by Sens. FUNKE, RITCHIE, AKSHAR, AMEDORE, BOYLE, GALLIVAN, HANNON, HELMING, MARCHIONE, ROBACH, SAVINO, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- 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

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

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resolution adopted by a city subject to the provisions of this section. Such city is empowered to adopt or repeal such a local law, ordinance or resolution. Such adoption or repeal shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing taxes pursuant to the authority of subdivision (a) of section twelve hundred ten of this chapter.

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

(iii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the fresh cut evergreen trees exemption during the two month period each year commencing on November first, and ending on December thirty-first, as provided for in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise; provided that if such a city having a population of one million or more enacts the resolution described in subdivision (q) of this section or repeals such resolution, such repeal or resolution shall also be deemed to amend any local law, ordinance or resolution enacted by such a city imposing such tax pursuant to the authority of this subdivision, whether or not such taxes are suspended at the time such city enacts its resolution pursuant to subdivision (q) of this section or at the time of any such repeal; provided further that any such local law, ordinance or resolution and section eleven hundred seven of this chapter, as deemed to be amended in the event a city of one million or more enacts a resolution pursuant to the authority of subdivision (q) of this section, shall be further amended, as provided in section twelve hundred eighteen of this subpart, so that fresh cut evergreen trees exemption during the two month period each year commencing on November first, and ending on December thirty-first, in any such local law, ordinance or resolution or in section eleven hundred seven of this chapter is the same as the state fresh cut evergreen trees exemption during the two month period each year commencing on November first, and ending on December thirty-first, in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter.

§ 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 subdivision (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 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 paragraph thirty

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

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

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

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

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

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

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

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