

# STATE OF NEW YORK

4459

2019-2020 Regular Sessions

## IN SENATE

March 12, 2019

Introduced by Sens. METZGER, FUNKE -- read twice and ordered printed,  
and when printed to be committed to the Committee on Budget and Revenue

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 one month period each year  
6 commencing on November first and ending on November thirtieth annually.  
7 For purposes of this paragraph, "fresh cut evergreen trees" shall mean  
8 evergreen trees that have been cut or harvested, and sold on the prem-  
9 ises of a Christmas tree farm.

10 § 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 one month period each year commencing on  
14 November first and ending on November thirtieth, provided in paragraph  
15 forty-five of subdivision (a) of section eleven hundred fifteen of this  
16 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

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

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1 pursuant to the authority of subdivision (a) of section twelve hundred  
2 ten of this chapter.

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

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

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

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

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

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

24 (k) Notwithstanding any other provision of state or local law, ordi-  
25 nance or resolution to the contrary:

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

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

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

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

53 § 7. This act shall take effect on the first day of the sales tax  
54 quarterly period, as described in subdivision (b) of section 1136 of the  
55 tax law, beginning at least 90 days after the date this act shall have  
56 become a law and shall apply in accordance with the applicable transi-

1 tional provisions of sections 1106 and 1217 of the tax law; provided  
2 that sections four and five of this act shall apply to sales made on or  
3 after the date such sections shall have taken effect; and provided  
4 further that the commissioner of taxation and finance shall be author-  
5 ized on and after the date this act shall have become a law to adopt and  
6 amend any rules or regulations necessary to implement this act on its  
7 effective date.