

STATE OF NEW YORK

3007

2019-2020 Regular Sessions

IN SENATE

January 31, 2019

Introduced by Sens. FUNKE, RITCHIE, AKSHAR, AMEDORE, BOYLE, GALLIVAN, HELMING, ROBACH, SEWARD -- 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 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
21 resolution. Such adoption or repeal shall also be deemed to amend any

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

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1 local law, ordinance or resolution enacted by such a city imposing taxes
2 pursuant to the authority of subdivision (a) of section twelve hundred
3 ten of this chapter.

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

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

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

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

eleven hundred nineteen of this chapter or repealing such provision so provided must go into effect only on March first; provided further that a local law, ordinance or resolution providing for the exemption described in paragraph forty-five of subdivision (a) of section eleven hundred fifteen of this chapter or repealing any such exemption so provided and a resolution enacted pursuant to the authority of subdivision (q) of this section provided such exemption or repealing such exemption so provided may go into effect immediately. No such local law, ordinance or resolution shall be effective unless a certified copy of such law, ordinance or resolution is mailed by registered or certified mail to the commissioner at the commissioner's office in Albany at least ninety days prior to the date it is to become effective. However, the commissioner may waive and reduce such ninety-day minimum notice requirement to a mailing of such certified copy by registered or certified mail within a period of not less than thirty days prior to such effective date if the commissioner deems such action to be consistent with the commissioner's duties under section twelve hundred fifty of this article and the commissioner acts by resolution. Where the restriction provided for in section twelve hundred twenty-three of this article as to the effective date of a tax and the notice requirement provided for therein are applicable and have not been waived, the restriction and notice requirement in section twelve hundred twenty-three of this article shall also apply.

§ 6. Section 1210 of the tax law is amended by adding a new subdivision (q) to read as follows:

(q) Notwithstanding any other provision of state or local law, ordinance or resolution to the contrary:

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

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

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

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

§ 7. This act shall take effect on the first day of the sales tax quarterly period, as described in subdivision (b) of section 1136 of the

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