

STATE OF NEW YORK

1755

2017-2018 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. RODRIGUEZ, STECK, GOTTFRIED -- Multi-Sponsored by
-- M. of A. BLAKE, COOK, GLICK, SIMON -- read once and referred to
the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing a tax on transportation network company rides in the metropolitan commuter transportation district

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The tax law is amended by adding a new article 29-B to read as follows:

ARTICLE 29-B

TAX ON TRANSPORTATION NETWORK COMPANY RIDES IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT

Section 1291. Definitions.

1292. Imposition of tax.

1293. Presumption of taxability.

1294. Returns.

1295. Payment of tax.

1296. Records to be kept.

1297. Secrecy of returns and reports.

1298. Deposit and disposition of revenue.

1299. Cooperation by city.

1299-a. Practice and procedure.

§ 1291. Definitions. When used in this article, unless otherwise expressly stated, the following words and terms shall have the following meanings:

(a) "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or

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

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1 otherwise, any combination of individuals, and any other form of unin-
2 corporated enterprise owned or conducted by two or more persons.

3 (b) "MCTD" means the metropolitan commuter transportation district
4 established by section twelve hundred sixty-two of the public authori-
5 ties law.

6 (c) "City" means a city of a million or more located in the MCTD.

7 (d) "Transportation network company vehicle" means a motor vehicle
8 carrying passengers for hire in the city that uses an online-enabled
9 platform to connect passengers with drivers using a personal, non-com-
10 mercial vehicle.

11 (e) "Passenger" means an individual seated in a transportation network
12 company vehicle for travel for hire to a given destination.

13 § 1292. Imposition of tax. In addition to any other tax imposed by
14 this chapter or other law, there is hereby imposed on every transporta-
15 tion network company vehicle owner a tax of fifty cents per ride on
16 every ride that originates in the city and terminates anywhere within
17 the territorial boundaries of the MCTD.

18 § 1293. Presumption of taxability. For the purpose of the proper
19 administration of this article and to prevent evasion of the tax imposed
20 by this article, it shall be presumed that every transportation network
21 company vehicle ride that originates in the city is subject to the tax
22 imposed by this article. This presumption shall prevail until the
23 contrary is proven, and the burden of proving the contrary shall be on
24 the person liable for payment of the tax.

25 § 1294. Returns. Every person liable for the tax imposed by this arti-
26 cle shall file a return quarterly with the commissioner. Each return
27 shall show the number of rides in the quarter for which the return is
28 filed, together with such other information as the commissioner may
29 require. The returns required by this section shall be filed for quar-
30 terly periods ending on the last day of March, June, September, and
31 December of each year, and each return shall be filed within twenty days
32 after the end of the quarterly period covered thereby. Every such person
33 shall also file a return with the commissioner for the period of Novem-
34 ber and December two thousand seventeen, by January twentieth, two thou-
35 sand eighteen, containing the information described above. If the
36 commissioner deems it necessary in order to ensure the payment of the
37 tax imposed by this article, the commissioner may require returns to be
38 made for shorter periods than prescribed by the foregoing provisions of
39 this section, and upon such dates as the commissioner may specify. The
40 form of returns shall be prescribed by the commissioner and shall
41 contain such information as the commissioner may deem necessary for the
42 proper administration of this article. The commissioner may require
43 amended returns to be filed within twenty days after notice and to
44 contain the information specified in the notice. The commissioner may
45 require that the returns be filed electronically.

46 § 1295. Payment of tax. Every person required to file a return under
47 this article shall, at the time of filing such return, pay to the
48 commissioner the total of all tax imposed by this article, on the
49 correct number of rides subject to tax under this article. The amount so
50 payable to the commissioner for the period for which a return is
51 required to be filed shall be due and payable to the commissioner on the
52 date limited for the filing of the return for such period, without
53 regard to whether a return is filed or whether the return which is filed
54 correctly shows the correct number of rides or the amount of tax due
55 thereon. The commissioner may require that the tax be paid electron-
56 ically.

1 § 1296. Records to be kept. Every person required to pay any tax
2 imposed by this article shall keep records of every ride originating in
3 the city and of all amounts paid, charged or due thereon and of the tax
4 payable thereon, in such form as the commissioner may require. Every
5 such person shall also keep a true and complete copy of every contract,
6 agreement, or arrangement concerning the lease, rental, or license to
7 use a transportation network company vehicle for which the person is
8 required to remit the tax on rides imposed by this article on such
9 person. Such records shall be available for inspection and examination
10 at any time upon demand by the commissioner or the commissioner's duly
11 authorized agent or employee and shall be preserved for a period of
12 three years, except that the commissioner may consent to their
13 destruction within that period or may require that they be kept longer.
14 Such records may be kept within the meaning of this section when
15 reproduced on any photographic, photostatic, microfilm, micro-card,
16 miniature photographic or other process which actually reproduces the
17 original record. If those records are maintained in an electronic
18 format, they must be made available and accessible to the commissioner
19 in electronic format.

20 § 1297. Secrecy of returns and reports. (a) Except in accordance with
21 proper judicial order or as otherwise provided by law, it shall be
22 unlawful for the commissioner, any officer or employee of the depart-
23 ment, any person engaged or retained by the department on an independent
24 contract basis, or any person who in any manner may acquire knowledge of
25 the contents of a return or report filed with the commissioner pursuant
26 to this article, to divulge or make known in any manner any particulars
27 set forth or disclosed in any such return or report. The officers
28 charged with the custody of such returns and reports shall not be
29 required to produce any of them or evidence of anything contained in
30 them in any action or proceeding in any court, except on behalf of the
31 commissioner in an action or proceeding under the provisions of this
32 chapter or in any other action or proceeding involving the collection of
33 a tax due under this chapter to which the state or the commissioner is a
34 party or a claimant, or on behalf of any party to any action, proceeding
35 or hearing under the provisions of this article when the returns,
36 reports or facts shown thereby are directly involved in such action,
37 proceeding or hearing, in any of which events the court, or in the case
38 of a hearing, the division of tax appeals may require the production of,
39 and may admit into evidence, so much of said returns, reports or of the
40 facts shown thereby, as are pertinent to the action, proceeding or hear-
41 ing and no more. The commissioner or the division of tax appeals may,
42 nevertheless, publish a copy or a summary of any decision rendered after
43 a hearing required by this article. Nothing in this section shall be
44 construed to prohibit the delivery to a person who has filed a return or
45 report or to such person's duly authorized representative of a certified
46 copy of any return or report filed in connection with such person's tax.
47 Nor shall anything in this section be construed to prohibit the publica-
48 tion of statistics so classified as to prevent the identification of
49 particular returns or reports and the items thereof, or the inspection
50 by the attorney general or other legal representatives of the state of
51 the return or report of any person required to pay the tax who shall
52 bring action to review the tax based thereon, or against whom an action
53 or proceeding under this chapter has been recommended by the commis-
54 sioner or the attorney general or has been instituted, or the inspection of
55 the returns or reports required under this article by the comptroller or
56 duly designated officer or employee of the state department of audit and

1 control, for purposes of the audit of a refund of any tax paid by a
2 person required to pay the tax under this article. Provided, further,
3 nothing in this section shall be construed to prohibit the disclosure,
4 in such manner as the commissioner deems appropriate, of the names and
5 other appropriate identifying information of those persons required to
6 pay tax under this article.

7 (b) Notwithstanding the provisions of subdivision (a) of this section,
8 the commissioner may, in his or her discretion, permit the proper offi-
9 cer of a city that regulates transportation network company vehicles or
10 the duly authorized representative of such officer, to inspect any
11 return filed under this article, or may furnish to such officer or such
12 officer's authorized representative an abstract of any such return or
13 supply such person with information concerning an item contained in any
14 such return, or disclosed by any investigation of tax liability under
15 this article; but such permission shall be granted or such information
16 furnished only if such city shall have furnished the commissioner with
17 all information requested by the commissioner pursuant to this article
18 and shall have permitted the commissioner or the commissioner's author-
19 ized representative to make any inspection of any records or reports
20 concerning transportation network company vehicles and their owners or
21 operators filed with or possessed by such city which the commissioner
22 may have requested from such city.

23 (c) Notwithstanding the provisions of subdivision (a) of this section,
24 the commissioner, in his or her discretion, may require or permit any or
25 all persons liable for any tax imposed by this article, to make payment
26 to banks, banking houses or trust companies designated by the commis-
27 sioner and to file returns with such banks, banking houses or trust
28 companies as agents of the commissioner, in lieu of paying any such tax
29 directly to the commissioner. However, the commissioner shall designate
30 only such banks, banking houses or trust companies as are already desig-
31 nated by the comptroller as depositories pursuant to section twelve
32 hundred eighty-eight of this chapter.

33 (d) Notwithstanding the provisions of subdivision (a) of this section,
34 the commissioner may permit the secretary of the treasury of the United
35 States or such secretary's delegate, or the authorized representative of
36 either such officer, to inspect any return filed under this article, or
37 may furnish to such officer or such officer's authorized representative
38 an abstract of any such return or supply such person with information
39 concerning an item contained in any such return, or disclosed by any
40 investigation of tax liability under this article, but such permission
41 shall be granted or such information furnished only if the laws of the
42 United States grant substantially similar privileges to the commissioner
43 or officer of this state charged with the administration of the tax
44 imposed by this article, and only if such information is to be used for
45 tax purposes only; and provided further the commissioner may furnish to
46 the commissioner of internal revenue or such commissioner's authorized
47 representative such returns filed under this article and other tax
48 information, as such commissioner may consider proper, for use in court
49 actions or proceedings under the internal revenue code, whether civil or
50 criminal, where a written request therefor has been made to the commis-
51 sioner by the secretary of the treasury of the United States or such
52 secretary's delegate, provided the laws of the United States grant
53 substantially similar powers to the secretary of the treasury of the
54 United States or his or her delegate. Where the commissioner has so
55 authorized use of returns and other information in such actions or
56 proceedings, officers and employees of the department may testify in

1 such actions or proceedings in respect to such returns or other informa-
2 tion.

3 (e) Returns and reports filed under this article shall be preserved
4 for three years and thereafter until the commissioner orders them to be
5 destroyed.

6 (f) (1) Any officer or employee of the state who willfully violates
7 the provisions of subdivision (a) of this section shall be dismissed
8 from office and be incapable of holding any public office for a period
9 of five years thereafter.

10 (2) Cross-reference: For criminal penalties, see article thirty-seven
11 of this chapter.

12 § 1298. Deposit and disposition of revenue. Notwithstanding any
13 provision of law to the contrary: (a) All taxes, interest and penalties
14 collected or received by the commissioner pursuant to this article shall
15 be deposited daily with such responsible banks, banking houses or trust
16 companies, as may be designated by the comptroller, to the credit of the
17 comptroller. Such an account may be established in one or more of such
18 depositories. Such deposits shall be kept separate and apart from all
19 other money in the possession of the comptroller. The comptroller shall
20 require adequate security from all such depositories. Of the total
21 revenue collected or received under this section, the comptroller shall
22 retain in the comptroller's hands such amount as the commissioner may
23 determine to be necessary for refunds under this article. The commis-
24 sioner is authorized and directed to deduct from such amounts collected
25 or received under this article, before deposit into the accounts speci-
26 fied by the comptroller, a reasonable amount necessary to effectuate
27 refunds of appropriations of the department to reimburse the department
28 for the costs to administer, collect and distribute the taxes imposed by
29 this article.

30 (b) On or before the twelfth day following the end of each month,
31 after reserving such amount for such refunds and such costs, the commis-
32 sioner shall certify to the comptroller the amount of all revenues so
33 received pursuant to this article during the prior month as a result of
34 the taxes, interest and penalties so imposed.

35 (c) The comptroller shall pay over the amount of revenues so certified
36 by the commissioner to the metropolitan transportation authority aid
37 trust account of the metropolitan transportation authority financial
38 assistance fund established by section ninety-two-ff of the state
39 finance law for deposit, subject to appropriation, in the corporate
40 transportation account of the metropolitan transportation authority
41 special assistance fund established by section twelve hundred seventy-a
42 of the public authorities law to be applied as provided in paragraph (e)
43 of subdivision four of such section twelve hundred seventy-a. Any money
44 collected pursuant to this article that is deposited by the comptroller
45 in the metropolitan transportation authority aid trust account of the
46 metropolitan transportation authority financial assistance fund shall be
47 held in such fund free and clear of any claim by any person or entity
48 paying the tax pursuant to this article, including, without limiting the
49 generality of the foregoing, any right or claim against the metropolitan
50 transportation authority, any of its bondholders, or any subsidiary or
51 affiliate of the metropolitan transportation authority.

52 § 1299. Cooperation by city. The city shall cooperate with and assist
53 the commissioner to effect the purposes of this article and the commis-
54 sioner's responsibilities under this article. Such cooperation shall
55 include furnishing the names, addresses and all other information
56 concerning every owner, operator and driver of transportation network

1 company vehicles in the city, together with any other information the
2 commissioner requests, all without cost to the commissioner.

3 § 1299-a. Practice and procedure. The provisions of article twenty-
4 seven of this chapter shall apply with respect to the administration of
5 and procedure with respect to the tax imposed by this article in the
6 same manner and with the same force and effect as if the language of
7 such article twenty-seven had been incorporated in full into this arti-
8 cle and had expressly referred to the tax under this article, except to
9 the extent that any such provision is either inconsistent with a
10 provision of this article or is not relevant to this article.

11 § 2. This act shall take effect immediately.