

STATE OF NEW YORK

5840

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and the general municipal law, in relation to authorizing the county of Westchester to impose an additional rate of sales and compensating use tax; to amend chapter 272 of the laws of 1991, amending the tax law relating to the method of disposition of sales and compensating use tax revenue in Westchester county and enacting the Westchester county spending limitation act, in relation to extending the expiration thereof

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

Section 1. Subparagraph (i) of the opening paragraph of section 1210 of the tax law is amended by adding a new clause 42 to read as follows:

(42) the county of Westchester is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes at a rate that is one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning March first, two thousand nineteen and ending November thirtieth, two thousand twenty-two;

§ 2. Section 1224 of the tax law is amended by adding a new subdivision (jj) to read as follows:

(jj) The county of Westchester shall have the sole right to impose the additional one percent rate of tax which such county is authorized to impose pursuant to the authority of section twelve hundred ten of this article. Such additional rate of tax shall be in addition to any other tax which such county may impose or may be imposing pursuant to this article or any other law and such additional rate of tax shall not be subject to preemption. The maximum three percent rate referred to in this section shall be calculated without reference to the additional one percent rate of tax which the county of Westchester is authorized and

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

LBD09824-02-9

1 empowered to adopt pursuant to section twelve hundred ten of this arti-
2 cle.

3 § 3. The opening paragraph and the opening paragraph of paragraph 2 of
4 subdivision (a) of section 1262-b of the tax law, as amended by section
5 1 of part A of chapter 8 of the laws of 2004, are amended to read as
6 follows:

7 Notwithstanding any other provision of law to the contrary, if the
8 county of Westchester imposes sales and compensating use taxes pursuant
9 to [~~subdivision (a)~~] clause forty-two of subparagraph (i) of the opening
10 paragraph of section twelve hundred ten of this article at the rate of
11 three percent:

12 The county shall allocate and credit or pay net collections received
13 by the county by reason of its additional one percent rate of such taxes
14 on the area of the county outside any city imposing sales and compensat-
15 ing use taxes at a rate of one and one-half percent or greater pursuant
16 to the authority of subdivision (a) or at any rate pursuant to the
17 authority of [~~subdivision (b)~~] clause forty-two of subparagraph (i) of
18 the opening paragraph of section twelve hundred ten of this article as
19 follows:

20 § 4. Subdivision e of section 4 and sections 5, 7 and 16 of chapter
21 272 of the laws of 1991, amending the tax law relating to the method of
22 disposition of sales and compensating use tax revenue in Westchester
23 county and enacting the Westchester county spending limitation act, as
24 amended by chapter 81 of the laws of 2017, are amended to read as
25 follows:

26 e. "Spending limitation" means the maximum amount of county spending
27 established in county fiscal years 1992, 1993, 1994, 1995, 1996, 1997,
28 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009,
29 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020,
30 2021 and 2022.

31 § 5. Establishment of annual spending limitation. a. For county fiscal
32 years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002,
33 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014,
34 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, 2021 and 2022 there shall be
35 in effect an annual spending limitation. The spending limitation shall
36 be derived from a fixed percentage reflecting the ratio of base year
37 spending to county personal income. County personal income for such
38 calculation shall be for the period January 1, 1986 through December 31,
39 1986. Such percentage shall be applied to county personal income for the
40 period January 1, 1989 through December 31, 1989, to determine the
41 spending limitation for county fiscal year 1992; to determine the spend-
42 ing limitation for county fiscal year 1993, such percentage shall be
43 applied to county personal income for the period January 1, 1990 through
44 December 31, 1990; to determine the spending limitation for county
45 fiscal year 1994, such percentage shall be applied to county personal
46 income for the period January 1, 1991 through December 31, 1991; to
47 determine the spending limitation for county fiscal year 1995, such
48 percentage shall be applied to county personal income for the period
49 January 1, 1992 through December 31, 1992; to determine the spending
50 limitation for county fiscal year 1996, such percentage shall be applied
51 to county personal income for the period January 1, 1993 through Decem-
52 ber 31, 1993; to determine the spending limitation for county fiscal
53 year 1997, such percentage shall be applied to county personal income
54 for the period January 1, 1994 through December 31, 1994; to determine
55 the spending limitation for county fiscal year 1998, such percentage
56 shall be applied to county personal income for the period January 1,

1 1995 through December 31, 1995; to determine the spending limitation for
2 county fiscal year 1999, such percentage shall be applied to county
3 personal income for the period January 1, 1996 through December 31,
4 1996; to determine the spending limitation for county fiscal year 2000,
5 such percentage shall be applied to county personal income for the peri-
6 od January 1, 1997 through December 31, 1997; to determine the spending
7 limitation for county fiscal year 2001, such percentage shall be applied
8 to county personal income for the period January 1, 1998 through Decem-
9 ber 31, 1998; to determine the spending limitation for county fiscal
10 year 2002, such percentage shall be applied to county personal income
11 for the period January 1, 1999 through December 31, 1999; to determine
12 the spending limitation for county fiscal year 2003, such percentage
13 shall be applied to county personal income for the period January 1,
14 2000 through December 31, 2000; to determine the spending limitation for
15 county fiscal year 2004, such percentage shall be applied to county
16 personal income for the period January 1, 2001 through December 31,
17 2001; to determine the spending limitation for county fiscal year 2005,
18 such percentage shall be applied to county personal income for the peri-
19 od January 1, 2002 through December 31, 2002; to determine the spending
20 limitation for county fiscal year 2006, such percentage shall be applied
21 to county personal income for the period January 1, 2003 through Decem-
22 ber 31, 2003; to determine the spending limitation for the county fiscal
23 year 2007, such percentage shall be applied to county personal income
24 for the period January 1, 2004 through December 31, 2004; to determine
25 the spending limitation for the county fiscal year 2008, such percentage
26 shall be applied to county personal income for the period January 1,
27 2005 through December 31, 2005; to determine the spending limitation for
28 the county fiscal year 2009, such percentage shall be applied to county
29 personal income for the period January 1, 2006 through December 31,
30 2006; to determine the spending limitation for the county fiscal year
31 2010, such percentage shall be applied to county personal income for the
32 period January 1, 2007 through December 31, 2007; to determine the
33 spending limitation for the county fiscal year 2011, such percentage
34 shall be applied to county personal income for the period January 1,
35 2008 through December 31, 2008; to determine the spending limitation for
36 the county fiscal year 2012, such percentage shall be applied to county
37 personal income for the period January 1, 2009 through December 31,
38 2009; to determine the spending limitation for the county fiscal year
39 2013, such percentage shall be applied to county personal income for the
40 period January 1, 2010 through December 31, 2010; to determine the
41 spending limitation for the county fiscal year 2014, such percentage
42 shall be applied to county personal income for the period January 1,
43 2011 through December 31, 2011; to determine the spending limitation for
44 the county fiscal year 2015, such percentage shall be applied to county
45 personal income for the period January 1, 2012 through December 31,
46 2012; to determine the spending limitation for county fiscal year 2016,
47 such percentage shall be applied to the county personal income for the
48 period January 1, 2013 through December 31, 2013; to determine the
49 spending limitation for the county fiscal year 2017, such percentage
50 shall be applied to county personal income for the period January 1,
51 2014 through December 31, 2014; and to determine the spending limitation
52 for county fiscal year 2018, such percentage shall be applied to the
53 county personal income for the period January 1, 2015 through December
54 31, 2015; to determine the spending limitation for the county fiscal
55 year 2019, such percentage shall be applied to county personal income
56 for the period January 1, 2016 through December 31, 2016; and to deter-

mine the spending limitation for county fiscal year 2020, such percentage shall be applied to the county personal income for the period January 1, 2017 through December 31, 2017; and to determine the spending limitation for the county fiscal year 2021, such percentage shall be applied to county personal income for the period January 1, 2018 through December 31, 2018; and to determine the spending limitation for the county fiscal year 2022, such percentage shall be applied to county personal income for the period January 1, 2019 through December 31, 2019.

b. The spending limitation shall serve as a statutory cap on county spending to be reflected in the tentative budget as well as the enacted budget for county fiscal years beginning in 1992.

§ 7. Mandatory tax reduction. In the event that the county spending subject to the spending limitation exceeds such limitation in the adoptive county budget for county fiscal year 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 ~~[or]~~, 2020, 2021 or 2022 then section 1262-b of the tax law shall be repealed.

§ 16. This act shall take effect immediately, provided, however, that sections one through seven of this act shall be in full force and effect until ~~[May 31, 2020, provided, however, that if the county of Westchester imposes the tax authorized by section 1210 of the tax law in excess of three percent, then sections one through seven of this act shall be deemed repealed; provided that the commissioner of taxation and finance shall notify the legislative bill drafting commission upon the repeal of section 1262-b of the tax law pursuant to section seven of the Westchester county spending limitation act in order that the commission may maintain an accurate and timely effective data base of the official text of laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law]~~ November 30, 2022.

§ 5. Paragraph (a) of subdivision 2 of section 3-c of the general municipal law, as added by section 1 of part A of chapter 97 of the laws of 2011, is amended to read as follows:

(a) "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths, except in the county of Westchester where it shall be one and fifteen one-thousandths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

§ 6. This act shall take effect immediately; provided that the amendments to section 1262-b of the tax law made by section three of this act shall not affect the expiration of such section and shall expire therewith; provided, further, that the amendments to section 3-c of the general municipal law made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided, further, that the amendments to sections 4, 5 and 7 of chapter 272 of the laws of 1991 made by section four of this act shall not affect the expiration of such sections and shall expire therewith.