

STATE OF NEW YORK

4940--B

2019-2020 Regular Sessions

IN SENATE

April 1, 2019

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing the county of Westchester to impose an additional rate of sales and compensating use tax; and 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:

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

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

9 § 2. Subdivision (a) of section 1223 of the tax law, as separately
10 amended by chapters 191 and 217 of the laws of 2013, is amended to read
11 as follows:

12 (a) No transaction taxable under sections twelve hundred two through
13 twelve hundred four of this article shall be taxed pursuant to this
14 article by any county or by any city located therein, or by both, at an
15 aggregate rate in excess of the highest rate set forth in the applicable
16 subdivision of section twelve hundred one of this article or, in the
17 case of any taxes imposed pursuant to the authority of section twelve

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

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1 hundred ten or twelve hundred eleven of this article (other than taxes
2 imposed by the county of Nassau, Erie, Steuben, Cattaraugus, Suffolk,
3 Oneida, Genesee, Greene, Franklin, Hamilton, Herkimer, Tioga, Orleans,
4 Allegany, Ulster, Albany, Rensselaer, Tompkins, Wyoming, Columbia,
5 Schuyler, Rockland, Chenango, Monroe, Chemung, Seneca, Sullivan, Wayne,
6 Livingston, Schenectady, Montgomery, Delaware, Clinton, Niagara, Yates,
7 Lewis, Essex, Dutchess, Schoharie, Putnam, Chautauqua, Orange, Oswego,
8 Ontario, Jefferson, St. Lawrence, Westchester or Onondaga and by the
9 county of Cortland and the city of Cortland and by the county of Broome
10 and the city of Binghamton and by the county of Cayuga and the city of
11 Auburn and by the county of Otsego and the city of Oneonta and by the
12 county of Madison and the city of Oneida and by the county of Fulton and
13 the city of Gloversville or the city of Johnstown as provided in section
14 twelve hundred ten of this article) at a rate in excess of three
15 percent, except that, [~~in the city of Yonkers,~~] in the city of Mount
16 Vernon, in the city of New Rochelle, in the city of Fulton [~~and,~~] in the
17 city of Oswego, [~~the rate may not be in excess of four percent~~] and in
18 the city of White Plains, the rate may not be in excess of four percent,
19 and in the city of Yonkers, the rate may not be in excess of four and
20 one-half percent, and except that in the city of Poughkeepsie in the
21 county of Dutchess, if such county withdraws from the metropolitan
22 commuter transportation district pursuant to section twelve hundred
23 seventy-nine-b of the public authorities law and if the revenues from a
24 three-eighths percent rate of such tax imposed by such county, pursuant
25 to the authority of section twelve hundred ten of this article, are
26 required by local laws, ordinances or resolutions to be set aside for
27 mass transportation purposes, the rate may not be in excess of three and
28 three-eighths percent.

29 § 3. Subdivision (a) of section 1223 of the tax law, as amended by
30 section two of this act, is amended to read as follows:

31 (a) No transaction taxable under sections twelve hundred two through
32 twelve hundred four of this article shall be taxed pursuant to this
33 article by any county or by any city located therein, or by both, at an
34 aggregate rate in excess of the highest rate set forth in the applicable
35 subdivision of section twelve hundred one of this article or, in the
36 case of any taxes imposed pursuant to the authority of section twelve
37 hundred ten or twelve hundred eleven of this article (other than taxes
38 imposed by the county of Nassau, Erie, Steuben, Cattaraugus, Suffolk,
39 Oneida, Genesee, Greene, Franklin, Hamilton, Herkimer, Tioga, Orleans,
40 Allegany, Ulster, Albany, Rensselaer, Tompkins, Wyoming, Columbia,
41 Schuyler, Rockland, Chenango, Monroe, Chemung, Seneca, Sullivan, Wayne,
42 Livingston, Schenectady, Montgomery, Delaware, Clinton, Niagara, Yates,
43 Lewis, Essex, Dutchess, Schoharie, Putnam, Chautauqua, Orange, Oswego,
44 Ontario, Jefferson, St. Lawrence, Westchester or Onondaga and by the
45 county of Cortland and the city of Cortland and by the county of Broome
46 and the city of Binghamton and by the county of Cayuga and the city of
47 Auburn and by the county of Otsego and the city of Oneonta and by the
48 county of Madison and the city of Oneida and by the county of Fulton and
49 the city of Gloversville or the city of Johnstown as provided in section
50 twelve hundred ten of this article) at a rate in excess of three
51 percent, except that, in the city of Yonkers, in the city of Mount
52 Vernon, in the city of New Rochelle, in the city of Fulton, in the city
53 of Oswego, and in the city of White Plains, the rate may not be in
54 excess of four percent[, ~~and in the city of Yonkers, the rate may not be~~
55 ~~in excess of four and one-half percent~~], and except that in the city of
56 Poughkeepsie in the county of Dutchess, if such county withdraws from

1 the metropolitan commuter transportation district pursuant to section
2 twelve hundred seventy-nine-b of the public authorities law and if the
3 revenues from a three-eighths percent rate of such tax imposed by such
4 county, pursuant to the authority of section twelve hundred ten of this
5 article, are required by local laws, ordinances or resolutions to be set
6 aside for mass transportation purposes, the rate may not be in excess of
7 three and three-eighths percent.

8 § 4. Section 1224 of the tax law is amended by adding a new subdivi-
9 sion (jj) to read as follows:

10 (jj) The county of Westchester shall have the sole right to impose the
11 additional one percent rate of tax which such county is authorized to
12 impose pursuant to the authority of section twelve hundred ten of this
13 article in the area of the county outside the cities of Mount Vernon,
14 New Rochelle, White Plains and Yonkers. Such additional rate of tax
15 shall be in addition to any other tax which such county may impose or
16 may be imposing pursuant to this article or any other law and such addi-
17 tional rate of tax shall not be subject to preemption. The maximum three
18 percent rate referred to in this section shall be calculated without
19 reference to the additional one percent rate of tax which the county of
20 Westchester is authorized and empowered to adopt pursuant to section
21 twelve hundred ten of this article.

22 § 5. Section 1262-b of the tax law, as amended by section 1 of part A
23 of chapter 8 of the laws of 2004, is amended to read as follows:

24 § 1262-b. The Westchester county property tax stabilization and relief
25 act. ~~[(a)]~~ Notwithstanding any other provision of law to the contrary~~;~~
26 ~~if~~: (a) If the county of Westchester imposes sales and compensating use
27 taxes pursuant to subdivision (a) of section twelve hundred ten of this
28 article at the rate of three percent:

29 (1) The county shall allocate one-half of net collections from such
30 taxes imposed ~~[at the rate of one and one-half percent]~~ pursuant to
31 subdivision (a) of section twelve hundred ten of this article countywide
32 among the cities and towns of the county on the basis of the ratio which
33 the full valuation of real property in each city or town bears to the
34 aggregate full valuation of real property in all cities and towns of the
35 county. Amounts so allocated shall be credited to each of said cities
36 and towns against the county taxes levied upon real property in said
37 cities and towns.

38 (2) The county shall allocate and credit or pay one-third of net
39 collections ~~[received by the county by reason of its additional one~~
40 ~~percent rate of]~~ from such taxes ~~[on]~~ imposed pursuant to subdivision
41 (a) of section twelve hundred ten of this article to the area of the
42 county outside any city imposing sales and compensating use taxes at a
43 rate of one and one-half percent or greater pursuant to the authority of
44 subdivision (a) or at any rate pursuant to the authority of subdivision
45 (b) of section twelve hundred ten of this article as follows:

46 (A) One-third of such net collections shall be allocated and credited
47 in the manner set forth in paragraph one of this subdivision.

48 (B) One-sixth of such net collections shall be allocated and paid
49 quarterly by the county commissioner of finance, in cash, to the several
50 school districts in such area of the county outside any such city impos-
51 ing sales and compensating use taxes. Such allocation and payment, to
52 such several school districts, shall be made on the basis of the ratio
53 which the population of each such school district bears to the aggregate
54 population of all of the school districts in such area. In the case of
55 school districts which are partially within and partially without the
56 county, or partially within or partially without the area of the county

1 outside a city imposing sales and compensating use taxes, the allocation
2 and payment to each such school district shall be made on the basis of
3 the population in such school district in the county, or in such area of
4 the county outside a city imposing sales and compensating use taxes, as
5 the case may be. Such populations shall be determined in accordance with
6 the latest federal census or special population census under section
7 twenty of the general municipal law completed and published prior to the
8 end of the quarter in which such allocation and payment are made, which
9 special population census shall include the entire area of the county;
10 provided that such special population census shall not be taken more
11 than once in every two years. A school district split between Westches-
12 ter county and another county shall apply such allocation and payment
13 solely to the benefit of the residents of the county in which the sales
14 and compensating use taxes are imposed.

15 (C) One-half of such net collections shall be allocated and paid quar-
16 terly by the county commissioner of finance, in cash, to the cities not
17 imposing sales and compensating use taxes and to the towns and villages
18 on which such ~~[additional one percent]~~ rate is imposed, on the basis of
19 the ratio which the population of each such city, town or village on
20 which such ~~[additional one percent]~~ rate is imposed bears to the entire
21 population of all such cities, towns and villages in the area on which
22 such ~~[additional one percent]~~ rate is imposed. Such populations shall be
23 determined in accordance with the latest federal census or special popu-
24 lation census under section twenty of the general municipal law
25 completed and published prior to the end of the quarter in which such
26 allocation is made, which special population census shall include the
27 entire area of the county; provided that such special population census
28 shall not be taken more than once in every two years.

29 (D) The quarterly allocation and payment of cash to cities, towns,
30 villages and school districts provided for under this paragraph and
31 under paragraph three of this subdivision and under subdivision (b) of
32 this section may be made after payment by the state comptroller to the
33 county of the net collections subject to such allocation and receipt by
34 the county commissioner of finance of the quarterly settlement report
35 issued by the department, and may include adjustments for corrections
36 applicable to such allocations. All ratios established by the county
37 commissioner of finance with respect to allocations to cities, towns,
38 villages and school districts under this subdivision and under subdivi-
39 sion (b) of this section shall be carried to four decimal places. The
40 allocation of net collections and payment of cash provided for under
41 this paragraph and under paragraph three of this subdivision and under
42 subdivision (b) of this section shall be made to a town based upon the
43 population of the town less the population of any village therein,
44 provided that a town/village or village/town shall be deemed a village
45 for the purpose of determining such allocation. The allocation of net
46 collections and payment of cash provided for under this paragraph and
47 under paragraph three of this subdivision and under subdivision (b) of
48 this section shall be applied by the cities, towns, villages and school
49 districts receiving such allocation and payment as a credit against the
50 taxes upon real property imposed by such municipalities and school
51 districts, respectively. The allocation and payment received by towns
52 shall be credited against real property taxes in either the general fund
53 town-wide or the town outside village fund or a combination thereof.

54 (3) The county shall allocate and credit or pay one-sixth of net
55 collections ~~[received by the county by reason of its additional one-half~~
56 ~~percent rate of]~~ from such taxes imposed ~~[on]~~ pursuant to subdivision

1 (a) of section twelve hundred ten of this article to the area of the
2 county outside any city imposing sales and compensating use taxes at a
3 rate of one and one-half percent or greater pursuant to the authority of
4 subdivision (a) or at any rate pursuant to the authority of subdivision
5 (b) of section twelve hundred ten of this article as follows:

6 (A) Seventy percent of such net collections shall be retained by the
7 county to be used for any county purpose.

8 (B) Ten percent of such net collections shall be allocated and paid in
9 the manner set forth in subparagraph (B) of paragraph two of this subdivi-
10 vision.

11 (C) Twenty percent of such net collections shall be allocated and paid
12 in the manner set forth in subparagraph (C) of paragraph two of this
13 subdivision.

14 (b) If the county of Westchester imposes the additional one percent
15 rate of sales and compensating use tax authorized by clause forty-two of
16 subparagraph (i) of the opening paragraph of section twelve hundred ten
17 of this article, the county shall allocate and credit or pay net
18 collections from such additional one percent rate in the manner set
19 forth in paragraph three of subdivision (a) of this section with respect
20 to the area of the county outside any city imposing sales and compensat-
21 ing use taxes at a rate of one and one-half percent or greater pursuant
22 to the authority of subdivision (a) of section twelve hundred ten of
23 this article or at any rate pursuant to the authority of subdivision (b)
24 of section twelve hundred ten of this article.

25 (c) Nothing in this section shall be construed to impair the powers of
26 a city currently imposing sales and compensating use taxes pursuant to
27 the authority of section twelve hundred ten of this article from contin-
28 uing to do so in accordance with law. No school district in any city
29 imposing such sales and compensating use taxes shall be entitled to
30 receive a cash allocation and payment under paragraph two or three of
31 subdivision (a) or under subdivision (b) of this section. No city, town
32 or village authorized or entitled to receive an allocation under subpar-
33 agraph (C) of paragraph two or subparagraph (C) of paragraph three of
34 subdivision (a) or under subdivision (b) of this section shall be
35 authorized or entitled to receive any cash allocation under section
36 twelve hundred sixty-two of this article.

37 § 6. Subdivision e of section 4 and sections 5, 7 and 16 of chapter
38 272 of the laws of 1991, amending the tax law relating to the method of
39 disposition of sales and compensating use tax revenue in Westchester
40 county and enacting the Westchester county spending limitation act, as
41 amended by chapter 81 of the laws of 2017, are amended to read as
42 follows:

43 e. "Spending limitation" means the maximum amount of county spending
44 established in county fiscal years 1992, 1993, 1994, 1995, 1996, 1997,
45 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009,
46 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020,
47 2021 and 2022.

48 § 5. Establishment of annual spending limitation. a. For county fiscal
49 years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002,
50 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014,
51 2015, 2016, 2017, 2018, 2019 [~~and~~], 2020, 2021 and 2022 there shall be
52 in effect an annual spending limitation. The spending limitation shall
53 be derived from a fixed percentage reflecting the ratio of base year
54 spending to county personal income. County personal income for such
55 calculation shall be for the period January 1, 1986 through December 31,
56 1986. Such percentage shall be applied to county personal income for the

1 period January 1, 1989 through December 31, 1989, to determine the
2 spending limitation for county fiscal year 1992; to determine the spend-
3 ing limitation for county fiscal year 1993, such percentage shall be
4 applied to county personal income for the period January 1, 1990 through
5 December 31, 1990; to determine the spending limitation for county
6 fiscal year 1994, such percentage shall be applied to county personal
7 income for the period January 1, 1991 through December 31, 1991; to
8 determine the spending limitation for county fiscal year 1995, such
9 percentage shall be applied to county personal income for the period
10 January 1, 1992 through December 31, 1992; to determine the spending
11 limitation for county fiscal year 1996, such percentage shall be applied
12 to county personal income for the period January 1, 1993 through Decem-
13 ber 31, 1993; to determine the spending limitation for county fiscal
14 year 1997, such percentage shall be applied to county personal income
15 for the period January 1, 1994 through December 31, 1994; to determine
16 the spending limitation for county fiscal year 1998, such percentage
17 shall be applied to county personal income for the period January 1,
18 1995 through December 31, 1995; to determine the spending limitation for
19 county fiscal year 1999, such percentage shall be applied to county
20 personal income for the period January 1, 1996 through December 31,
21 1996; to determine the spending limitation for county fiscal year 2000,
22 such percentage shall be applied to county personal income for the peri-
23 od January 1, 1997 through December 31, 1997; to determine the spending
24 limitation for county fiscal year 2001, such percentage shall be applied
25 to county personal income for the period January 1, 1998 through Decem-
26 ber 31, 1998; to determine the spending limitation for county fiscal
27 year 2002, such percentage shall be applied to county personal income
28 for the period January 1, 1999 through December 31, 1999; to determine
29 the spending limitation for county fiscal year 2003, such percentage
30 shall be applied to county personal income for the period January 1,
31 2000 through December 31, 2000; to determine the spending limitation for
32 county fiscal year 2004, such percentage shall be applied to county
33 personal income for the period January 1, 2001 through December 31,
34 2001; to determine the spending limitation for county fiscal year 2005,
35 such percentage shall be applied to county personal income for the peri-
36 od January 1, 2002 through December 31, 2002; to determine the spending
37 limitation for county fiscal year 2006, such percentage shall be applied
38 to county personal income for the period January 1, 2003 through Decem-
39 ber 31, 2003; to determine the spending limitation for the county fiscal
40 year 2007, such percentage shall be applied to county personal income
41 for the period January 1, 2004 through December 31, 2004; to determine
42 the spending limitation for the county fiscal year 2008, such percentage
43 shall be applied to county personal income for the period January 1,
44 2005 through December 31, 2005; to determine the spending limitation for
45 the county fiscal year 2009, such percentage shall be applied to county
46 personal income for the period January 1, 2006 through December 31,
47 2006; to determine the spending limitation for the county fiscal year
48 2010, such percentage shall be applied to county personal income for the
49 period January 1, 2007 through December 31, 2007; to determine the
50 spending limitation for the county fiscal year 2011, such percentage
51 shall be applied to county personal income for the period January 1,
52 2008 through December 31, 2008; to determine the spending limitation for
53 the county fiscal year 2012, such percentage shall be applied to county
54 personal income for the period January 1, 2009 through December 31,
55 2009; to determine the spending limitation for the county fiscal year
56 2013, such percentage shall be applied to county personal income for the

1 period January 1, 2010 through December 31, 2010; to determine the
2 spending limitation for the county fiscal year 2014, such percentage
3 shall be applied to county personal income for the period January 1,
4 2011 through December 31, 2011; to determine the spending limitation for
5 the county fiscal year 2015, such percentage shall be applied to county
6 personal income for the period January 1, 2012 through December 31,
7 2012; to determine the spending limitation for county fiscal year 2016,
8 such percentage shall be applied to the county personal income for the
9 period January 1, 2013 through December 31, 2013; to determine the
10 spending limitation for the county fiscal year 2017, such percentage
11 shall be applied to county personal income for the period January 1,
12 2014 through December 31, 2014; and to determine the spending limitation
13 for county fiscal year 2018, such percentage shall be applied to the
14 county personal income for the period January 1, 2015 through December
15 31, 2015; to determine the spending limitation for the county fiscal
16 year 2019, such percentage shall be applied to county personal income
17 for the period January 1, 2016 through December 31, 2016; and to deter-
18 mine the spending limitation for county fiscal year 2020, such percent-
19 age shall be applied to the county personal income for the period Janu-
20 ary 1, 2017 through December 31, 2017; and to determine the spending
21 limitation for the county fiscal year 2021, such percentage shall be
22 applied to county personal income for the period January 1, 2018 through
23 December 31, 2018; and to determine the spending limitation for the
24 county fiscal year 2022, such percentage shall be applied to county
25 personal income for the period January 1, 2019 through December 31,
26 2019.

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

30 § 7. Mandatory tax reduction. In the event that the county spending
31 subject to the spending limitation exceeds such limitation in the adop-
32 tive county budget for county fiscal year 1992, 1993, 1994, 1995, 1996,
33 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
34 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 ~~[or]~~,
35 2020, 2021 or 2022 then section 1262-b of the tax law shall be repealed.

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

49 § 7. This act shall take effect immediately; provided, however, that
50 section three of this act shall take effect December 1, 2020, provided,
51 further, that the amendments to section 1262-b of the tax law made by
52 section five of this act shall not affect the expiration of such section
53 and shall expire therewith; provided, further, that the amendments to
54 sections 4, 5, and 7 of chapter 272 of the laws of 1991 shall not affect
55 the expiration of such sections and shall expire therewith.