

STATE OF NEW YORK

1792

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

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

AN ACT to amend the tax law and the state finance law, in relation to authorizing funds to be transferred to the public transportation system operating assistance account and the metropolitan mass transportation operating assistance account

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

1 Section 1. Subdivision 1 of section 171-a of the tax law, as amended
2 by section 3 of part XX of chapter 59 of the laws of 2019, is amended to
3 read as follows:
4 1. All taxes, interest, penalties and fees collected or received by
5 the commissioner or the commissioner's duly authorized agent under arti-
6 cles nine (except section one hundred eighty-two-a thereof and except as
7 otherwise provided in section two hundred five thereof), nine-A,
8 twelve-A (except as otherwise provided in section two hundred eighty-
9 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
10 section three hundred twelve thereof), eighteen, nineteen, twenty
11 (except as otherwise provided in section four hundred eighty-two there-
12 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-
13 six, twenty-eight (except as otherwise provided in section eleven
14 hundred two or eleven hundred three thereof), twenty-eight-A, [~~twenty-~~
15 ~~nine-B,~~] thirty-one (except as otherwise provided in section fourteen
16 hundred twenty-one thereof), thirty-three and thirty-three-A of this
17 chapter shall be deposited daily in one account with such responsible
18 banks, banking houses or trust companies as may be designated by the
19 comptroller, to the credit of the comptroller. Such an account may be
20 established in one or more of such depositories. Such deposits shall be
21 kept separate and apart from all other money in the possession of the
22 comptroller. The comptroller shall require adequate security from all
23 such depositories. Of the total revenue collected or received under such

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

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1 articles of this chapter, the comptroller shall retain in the comp-
2 troller's hands such amount as the commissioner may determine to be
3 necessary for refunds or reimbursements under such articles of this
4 chapter out of which amount the comptroller shall pay any refunds or
5 reimbursements to which taxpayers shall be entitled under the provisions
6 of such articles of this chapter. The commissioner and the comptroller
7 shall maintain a system of accounts showing the amount of revenue
8 collected or received from each of the taxes imposed by such articles.
9 The comptroller, after reserving the amount to pay such refunds or
10 reimbursements, shall, on or before the tenth day of each month, pay
11 into the state treasury to the credit of the general fund all revenue
12 deposited under this section during the preceding calendar month and
13 remaining to the comptroller's credit on the last day of such preceding
14 month, (i) except that the comptroller shall pay to the state department
15 of social services that amount of overpayments of tax imposed by article
16 twenty-two of this chapter and the interest on such amount which is
17 certified to the comptroller by the commissioner as the amount to be
18 credited against past-due support pursuant to subdivision six of section
19 one hundred seventy-one-c of this article, (ii) and except that the
20 comptroller shall pay to the New York state higher education services
21 corporation and the state university of New York or the city university
22 of New York respectively that amount of overpayments of tax imposed by
23 article twenty-two of this chapter and the interest on such amount which
24 is certified to the comptroller by the commissioner as the amount to be
25 credited against the amount of defaults in repayment of guaranteed
26 student loans and state university loans or city university loans pursu-
27 ant to subdivision five of section one hundred seventy-one-d and subdivi-
28 sion six of section one hundred seventy-one-e of this article, (iii)
29 and except further that, notwithstanding any law, the comptroller shall
30 credit to the revenue arrearage account, pursuant to section
31 ninety-one-a of the state finance law, that amount of overpayment of tax
32 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B
33 or thirty-three of this chapter, and any interest thereon, which is
34 certified to the comptroller by the commissioner as the amount to be
35 credited against a past-due legally enforceable debt owed to a state
36 agency pursuant to paragraph (a) of subdivision six of section one
37 hundred seventy-one-f of this article, provided, however, he shall cred-
38 it to the special offset fiduciary account, pursuant to section ninety-
39 one-c of the state finance law, any such amount creditable as a liabil-
40 ity as set forth in paragraph (b) of subdivision six of section one
41 hundred seventy-one-f of this article, (iv) and except further that the
42 comptroller shall pay to the city of New York that amount of overpayment
43 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,
44 thirty-B or thirty-three of this chapter and any interest thereon that
45 is certified to the comptroller by the commissioner as the amount to be
46 credited against city of New York tax warrant judgment debt pursuant to
47 section one hundred seventy-one-l of this article, (v) and except
48 further that the comptroller shall pay to a non-obligated spouse that
49 amount of overpayment of tax imposed by article twenty-two of this chap-
50 ter and the interest on such amount which has been credited pursuant to
51 section one hundred seventy-one-c, one hundred seventy-one-d, one
52 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-
53 ty-one-l of this article and which is certified to the comptroller by
54 the commissioner as the amount due such non-obligated spouse pursuant to
55 paragraph six of subsection (b) of section six hundred fifty-one of this
56 chapter; and (vi) the comptroller shall deduct a like amount which the

1 comptroller shall pay into the treasury to the credit of the general
2 fund from amounts subsequently payable to the department of social
3 services, the state university of New York, the city university of New
4 York, or the higher education services corporation, or the revenue
5 arrearage account or special offset fiduciary account pursuant to
6 section ninety-one-a or ninety-one-c of the state finance law, as the
7 case may be, whichever had been credited the amount originally withheld
8 from such overpayment, and (vii) with respect to amounts originally
9 withheld from such overpayment pursuant to section one hundred seventy-
10 one-l of this article and paid to the city of New York, the comptroller
11 shall collect a like amount from the city of New York.

12 § 2. Subdivision 1 of section 171-a of the tax law, as amended by
13 section 4 of part XX of chapter 59 of the laws of 2019, is amended to
14 read as follows:

15 1. All taxes, interest, penalties and fees collected or received by
16 the commissioner or the commissioner's duly authorized agent under arti-
17 cles nine (except section one hundred eighty-two-a thereof and except as
18 otherwise provided in section two hundred five thereof), nine-A,
19 twelve-A (except as otherwise provided in section two hundred eighty-
20 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
21 section three hundred twelve thereof), eighteen, nineteen, twenty
22 (except as otherwise provided in section four hundred eighty-two there-
23 of), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-
24 eight (except as otherwise provided in section eleven hundred two or
25 eleven hundred three thereof), twenty-eight-A, ~~twenty-nine-B,~~ thirty-
26 one (except as otherwise provided in section fourteen hundred twenty-one
27 thereof), thirty-three and thirty-three-A of this chapter shall be
28 deposited daily in one account with such responsible banks, banking
29 houses or trust companies as may be designated by the comptroller, to
30 the credit of the comptroller. Such an account may be established in one
31 or more of such depositories. Such deposits shall be kept separate and
32 apart from all other money in the possession of the comptroller. The
33 comptroller shall require adequate security from all such depositories.
34 Of the total revenue collected or received under such articles of this
35 chapter, the comptroller shall retain in the comptroller's hands such
36 amount as the commissioner may determine to be necessary for refunds or
37 reimbursements under such articles of this chapter out of which amount
38 the comptroller shall pay any refunds or reimbursements to which taxpay-
39 ers shall be entitled under the provisions of such articles of this
40 chapter. The commissioner and the comptroller shall maintain a system of
41 accounts showing the amount of revenue collected or received from each
42 of the taxes imposed by such articles. The comptroller, after reserving
43 the amount to pay such refunds or reimbursements, shall, on or before
44 the tenth day of each month, pay into the state treasury to the credit
45 of the general fund all revenue deposited under this section during the
46 preceding calendar month and remaining to the comptroller's credit on
47 the last day of such preceding month, (i) except that the comptroller
48 shall pay to the state department of social services that amount of
49 overpayments of tax imposed by article twenty-two of this chapter and
50 the interest on such amount which is certified to the comptroller by the
51 commissioner as the amount to be credited against past-due support
52 pursuant to subdivision six of section one hundred seventy-one-c of this
53 article, (ii) and except that the comptroller shall pay to the New York
54 state higher education services corporation and the state university of
55 New York or the city university of New York respectively that amount of
56 overpayments of tax imposed by article twenty-two of this chapter and

1 the interest on such amount which is certified to the comptroller by the
2 commissioner as the amount to be credited against the amount of defaults
3 in repayment of guaranteed student loans and state university loans or
4 city university loans pursuant to subdivision five of section one
5 hundred seventy-one-d and subdivision six of section one hundred seven-
6 ty-one-e of this article, (iii) and except further that, notwithstanding
7 any law, the comptroller shall credit to the revenue arrearage account,
8 pursuant to section ninety-one-a of the state finance law, that amount
9 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-
10 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest
11 thereon, which is certified to the comptroller by the commissioner as
12 the amount to be credited against a past-due legally enforceable debt
13 owed to a state agency pursuant to paragraph (a) of subdivision six of
14 section one hundred seventy-one-f of this article, provided, however, he
15 shall credit to the special offset fiduciary account, pursuant to
16 section ninety-one-c of the state finance law, any such amount credita-
17 ble as a liability as set forth in paragraph (b) of subdivision six of
18 section one hundred seventy-one-f of this article, (iv) and except
19 further that the comptroller shall pay to the city of New York that
20 amount of overpayment of tax imposed by article nine, nine-A, twenty-
21 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any
22 interest thereon that is certified to the comptroller by the commission-
23 er as the amount to be credited against city of New York tax warrant
24 judgment debt pursuant to section one hundred seventy-one-l of this
25 article, (v) and except further that the comptroller shall pay to a
26 non-obligated spouse that amount of overpayment of tax imposed by arti-
27 cle twenty-two of this chapter and the interest on such amount which has
28 been credited pursuant to section one hundred seventy-one-c, one hundred
29 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or
30 one hundred seventy-one-l of this article and which is certified to the
31 comptroller by the commissioner as the amount due such non-obligated
32 spouse pursuant to paragraph six of subsection (b) of section six
33 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct
34 a like amount which the comptroller shall pay into the treasury to the
35 credit of the general fund from amounts subsequently payable to the
36 department of social services, the state university of New York, the
37 city university of New York, or the higher education services corpo-
38 ration, or the revenue arrearage account or special offset fiduciary
39 account pursuant to section ninety-one-a or ninety-one-c of the state
40 finance law, as the case may be, whichever had been credited the amount
41 originally withheld from such overpayment, and (vii) with respect to
42 amounts originally withheld from such overpayment pursuant to section
43 one hundred seventy-one-l of this article and paid to the city of New
44 York, the comptroller shall collect a like amount from the city of New
45 York.

46 § 3. Section 1298 of the tax law, as added by section 18 of part AAA
47 of chapter 59 of the laws of 2017, is amended to read as follows:

48 § 1298. Deposit and disposition of revenue. (a) All taxes, fees,
49 interest and penalties collected or received by the commissioner under
50 this article shall be deposited [~~and disposed of pursuant to the~~
51 ~~provisions of section one hundred seventy-one-a of this chapter~~] daily
52 with such responsible banks, banking houses or trust companies, as may
53 be designated by the comptroller, to the credit of the comptroller for
54 disposal pursuant to section eighty-eight-a of the state finance law. An
55 account may be established in one or more such depositories. The comp-
56 troller shall require adequate security from all such depositories. Of

1 the total revenue collected or received under this article, the comp-
2 troller shall retain such amount as the commissioner may determine to be
3 necessary for refunds under this article. The commissioner is authorized
4 and directed to deduct from the amounts it receives under this article,
5 before deposit into the trust accounts designated by the comptroller, a
6 reasonable amount necessary to effectuate refunds of appropriations of
7 the department to reimburse the department for the costs incurred to
8 administer, collect and distribute the taxes imposed by this article.

9 (b) On or before the twelfth and twenty-sixth day of each succeeding
10 month, after reserving such amount for such refunds and deducting such
11 amounts for such costs, as provided for in subdivision (a) of this
12 section, the commissioner shall certify to the comptroller the amount of
13 all revenues so received during the prior month as a result of the
14 taxes, fees, interest and penalties so imposed. The amount of revenues
15 so certified shall be paid over by the fifteenth and the final business
16 day of each succeeding month from such account into the mass transporta-
17 tion operating assistance fund for payment pursuant to paragraph (d) of
18 subdivision five or paragraph (c) of subdivision seven of section eight-
19 y-eight-a of the state finance law.

20 (c) The commissioner and comptroller are authorized to consult with
21 the director of the division of budget and the commissioner of transpor-
22 tation in determining which account of the mass transportation operating
23 assistance fund to deposit and dispose of revenues collected or received
24 under this article.

25 § 4. Paragraph (a) of subdivision 5 of section 88-a of the state
26 finance law, as added by chapter 481 of the laws of 1981, is amended and
27 a new paragraph (d) is added to read as follows:

28 (a) The "public transportation systems operating assistance account"
29 shall consist of revenues required to be deposited therein pursuant to
30 the provisions of section one hundred eighty-two-a of the tax law,
31 section twelve hundred ninety-eight of the tax law and all other moneys
32 credited or transferred thereto from any other fund or source pursuant
33 to law.

34 (d) (i) The comptroller is hereby authorized and directed to transfer
35 the taxes, fees, interest and penalties collected or received pursuant
36 to article twenty-nine-B of the tax law on TNC prearranged trips origi-
37 nating outside the metropolitan transportation commuter district to the
38 public transportation system operating assistance account established
39 under this subdivision. These transfers shall not be included for
40 purposes of calculating the sales tax growth factor established in para-
41 graph (c) of this subdivision, and shall supplement the additional
42 transfers indexed to the sales tax growth factor required under this
43 subdivision. Transfers provided under this paragraph shall not be used
44 to offset reduced transfers under paragraph (c) of this subdivision.

45 (ii) The comptroller is authorized to consult with the director of the
46 division of budget and the commissioner of transportation in determining
47 whether to transfer the taxes, fees, interest and penalties collected or
48 received to the public transportation system operating account.

49 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-
50 troller is authorized to withhold the transfer of taxes, fees, interest
51 and penalties collected or received pursuant to article twenty-nine-B of
52 the tax law from public transportation systems eligible to receive oper-
53 ating assistance pursuant to section eighteen-b of the transportation
54 law in the event that a county or municipality reduces its annual oper-
55 ating payments to a public transportation system or mass transportation
56 service. The comptroller is further authorized to consult with the

1 director of the division of budget and the commissioner of transporta-
2 tion in making that determination.

3 § 5. Subdivision 7 of section 88-a of the state finance law is amended
4 by adding a new paragraph (c) to read as follows:

5 (c)(i) The comptroller is hereby authorized and directed to transfer
6 the taxes, fees, interest and penalties collected or received pursuant
7 to article twenty-nine-B of the tax law on TNC prearranged trips origi-
8 nating outside of the city of New York within the metropolitan transpor-
9 tation commuter district to the metropolitan mass transportation operat-
10 ing assistance account. Transfers provided under this paragraph shall
11 supplement the aggregate amount of funds appropriated and disbursed from
12 the metropolitan mass transportation operating assistance account for
13 the state fiscal year ending March thirty-first, two thousand twenty-
14 two. Provided, further, that the director of the division of budget
15 shall not withhold an additional percentage of disbursements relative to
16 the enacted budget financial plan for the state fiscal year ending March
17 thirty-first, two thousand twenty-two from metropolitan mass transporta-
18 tion operating assistance account revenues generated in subsequent
19 fiscal years.

20 (ii) Provided, further, that taxes, fees, interest and penalties
21 transferred pursuant to subparagraph (i) of this paragraph shall only be
22 distributed to public transportation systems providing mass transporta-
23 tion services outside the city of New York. For purposes of this subpar-
24 agraph, mass transportation services provided outside the city of New
25 York shall include commuter rail provided in the metropolitan transpor-
26 tation commuter district. Taxes, fees, interest and penalties shall be
27 transferred in proportion to the location where the prearranged trip
28 originated, provided that fifty percent of transfers shall be disbursed
29 to bus lines and fifty percent of transfers shall be disbursed to commu-
30 ter rail in localities where both mass transportation services are
31 provided. The comptroller is authorized to consult with the commissioner
32 of taxation and finance, the director of the division of budget and the
33 commissioner of transportation in determining the appropriate public
34 transportation systems and mass transportation services that should
35 receive the transfers.

36 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-
37 troller is authorized to withhold the transfer of taxes, fees, interest
38 and penalties collected or received pursuant to article twenty-nine-B of
39 the tax law from public transportation systems eligible to receive oper-
40 ating assistance pursuant to section eighteen-b of the transportation
41 law in the event that a county or municipality reduces its annual oper-
42 ating payments to a public transportation system or mass transportation
43 service. The comptroller is further authorized to consult with the
44 director of the division of budget and the commissioner of transporta-
45 tion in making that determination.

46 § 6. This act shall take effect on the first of July next succeeding
47 the date on which it shall have become a law; provided, however, that
48 the amendments to subdivision 1 of section 171-a of the tax law made by
49 section one of this act shall be subject to the expiration of such
50 subdivision pursuant to section 12 of chapter 90 of the laws of 2014,
51 when upon such date the provisions of section two of this act shall take
52 effect. Effective immediately, the addition, amendment and/or repeal of
53 any rule or regulation necessary for the implementation of this act on
54 its effective date are authorized to be made and completed on or before
55 such effective date.