

STATE OF NEW YORK

9253

IN SENATE

May 7, 2024

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing the county of Columbia to establish hotel and motel taxes

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

1 Section 1. The tax law is amended by adding a new section 1202-jj to
2 read as follows:

3 § 1202-jj. Hotel or motel taxes in Columbia county. (1) a. Notwith-
4 standing any other provisions of law to the contrary, the county of
5 Columbia is hereby authorized and empowered to adopt and amend local
6 laws imposing in such county a tax, in addition to any other tax author-
7 ized and imposed pursuant to this article such as the legislature has or
8 would have the power and authority to impose upon persons occupying
9 hotel or motel rooms in such county. For the purposes of this section,
10 the term "hotel" or "motel" shall mean and include any facility provid-
11 ing lodging on an overnight basis and shall include those facilities
12 designated and commonly known as "bed and breakfasts", inns and tourist
13 homes.

14 b. (i) The rates of such tax shall not exceed four percent of the per
15 diem rental rate for each room, provided however, that such tax shall
16 not be applicable to a permanent resident of a hotel or motel. For the
17 purposes of this section the term "permanent resident" shall mean a
18 person occupying any room or rooms in a hotel or motel for at least
19 thirty consecutive days. Notwithstanding any other provision of this
20 section, any city in the county of Columbia imposing hotel or motel
21 taxes pursuant to the authority of this subpart shall have the prior
22 right to impose such taxes in such city, up to the maximum rate of tax
23 authorized for such city in this subpart; and the rate of tax authorized
24 to be imposed by the county pursuant to the authority of this section in
25 any such city imposing such a tax shall be reduced by the rate of such
26 city's tax.

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

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1 (ii) Provided further that, any such city tax, to the extent that it
2 would require a reduction in the county's tax rate imposed pursuant to
3 this section in such city, shall not become effective before the
4 commencement of the county's next succeeding fiscal year and then only
5 if the city shall have given notice to such county of its imposition of
6 such tax at least six months prior to the commencement of such fiscal
7 year, provided, however, that the local legislative body of such county
8 may waive the requirement of such notice and postponement of the effec-
9 tive date of such city tax.

10 (2) Such tax may be collected and administered by the county treasurer
11 or other fiscal officers of Columbia county by such means and in such
12 manner as other taxes which are now collected and administered by such
13 officers or as otherwise may be provided by such local law.

14 (3) Such local laws may provide that any tax imposed shall be paid by
15 the person liable therefor to the owner of the hotel or motel room occu-
16 piied or to the person entitled to be paid the rent or charge for the
17 hotel or motel room occupied for and on account of the county of Colum-
18 bia imposing the tax and that such owner or person entitled to be paid
19 the rent or charge shall be liable for the collection and payment of the
20 tax; and that such owner or person entitled to be paid the rent or
21 charge shall have the same right in respect to collecting the tax from
22 the person occupying the hotel or motel room, or in respect to non-pay-
23 ment of the tax by the person occupying the hotel or motel room, as if
24 the tax were a part of the rent or charge and payable at the same time
25 as the rent or charge; provided, however, that the county treasurer or
26 other fiscal officers of the county, specified in such local law, shall
27 be joined as a party in any action or proceeding brought to collect the
28 tax by the owner or by the person entitled to be paid the rent or
29 charge.

30 (4) Such local laws may provide for the filing of returns and the
31 payment of the tax on a monthly basis or on the basis of any longer or
32 shorter period of time.

33 (5) This section shall not authorize the imposition of such tax upon
34 any transaction, by or with any of the following in accordance with
35 section twelve hundred thirty of this article:

36 a. The state of New York, or any public corporation (including a
37 public corporation created pursuant to agreement or compact with another
38 state or the Dominion of Canada), improvement district or other poli-
39 tical subdivision of the state;

40 b. The United States of America, insofar as it is immune from taxa-
41 tion;

42 c. Any corporation or association, or trust, or community chest, fund
43 or foundation organized and operated exclusively for religious, charita-
44 ble or educational purposes, or for the prevention of cruelty to chil-
45 dren or animals, and no part of the net earnings of which inures to the
46 benefit of any private shareholder or individual and no substantial part
47 of the activities of which is carrying on propaganda, or otherwise
48 attempting to influence legislation; provided, however, that nothing in
49 this paragraph shall include an organization operated for the primary
50 purpose of carrying on a trade or business for profit, whether or not
51 all of its profits are payable to one or more organizations described in
52 this paragraph.

53 (6) Any final determination of the amount of any tax payable hereunder
54 shall be reviewable for error, illegality or unconstitutionality or any
55 other reason whatsoever by a proceeding under article seventy-eight of
56 the civil practice law and rules if application therefor is made to the

1 supreme court within thirty days after the giving of the notice of such
2 final determination, provided, however, that any such proceeding under
3 article seventy-eight of the civil practice law and rules shall not be
4 instituted unless:

5 a. The amount of any tax sought to be reviewed, with such interest and
6 penalties thereon as may be provided for by local law or regulation
7 shall be first deposited and there is filed an undertaking, issued by a
8 surety company authorized to transact business in this state and
9 approved by the superintendent of financial services of this state as to
10 solvency and responsibility, in such amount as a justice of the supreme
11 court shall approve to the effect that if such proceeding be dismissed
12 or the tax confirmed the petitioner will pay all costs and charges which
13 may accrue in the prosecution of such proceeding; or

14 b. At the option of the petitioner such undertaking may be in a sum
15 sufficient to cover the taxes, interests and penalties stated in such
16 determination plus the costs and charges which may accrue against it in
17 the prosecution of the proceeding, in which event the petitioner shall
18 not be required to pay such taxes, interest or penalties as a condition
19 precedent to the application.

20 (7) Where any tax imposed hereunder shall have been erroneously, ille-
21 gally or unconstitutionally collected and application for the refund
22 thereof duly made to the proper fiscal officer or officers, and such
23 officer or officers shall have made a determination denying such refund,
24 such determination shall be reviewable by a proceeding under article
25 seventy-eight of the civil practice law and rules, provided, however,
26 that such proceeding is instituted within thirty days after the giving
27 of the notice of such denial, that a final determination of tax due was
28 not previously made, and that an undertaking is filed with the proper
29 fiscal officer or officers in such amount and with such sureties as a
30 justice of the supreme court shall approve the effect that if such
31 proceeding be dismissed or the tax confirmed, the petitioner will pay
32 all costs and charges which may accrue in the prosecution of such
33 proceeding.

34 (8) Except in the case of a wilfully false or fraudulent return with
35 intent to evade the tax, no assessment of additional tax shall be made
36 after the expiration of more than three years from the date of the
37 filing of a return, provided, however, that where no return has been
38 filed as provided by law the tax may be assessed at any time.

39 (9) All revenues resulting from the imposition of the tax under the
40 local laws shall be paid into the treasury of the county of Columbia and
41 shall be credited to and deposited in the general fund of the county
42 thereafter to be used for any lawful purpose.

43 (10) Each enactment of a local law may provide for the imposition of a
44 hotel or motel tax for a period of time no longer than three years from
45 the date of its enactment. Nothing in this section shall prohibit the
46 adoption and enactment of local laws, pursuant to the provisions of this
47 section, upon the expiration of any other local law adopted pursuant to
48 this section.

49 (11) If any provision of this section or the application thereof to
50 any person or circumstance shall be held invalid, the remainder of this
51 section and the application of such provision to other persons or
52 circumstances shall not be affected thereby.

53 § 2. This act shall take effect immediately.