

9499

I N A S S E M B L Y

January 7, 2010

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

AN ACT to amend the tax law, in relation to a tax on intra-state transportation services; and to repeal part U-1 of chapter 57 of the laws of 2009 amending the tax law relating to imposing state and local sales taxes on certain transportation services, relating to a tax on intra-state transportation services

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 article 28-C to read
2 as follows:

3 ARTICLE 28-C

4 TAX ON INTRA-STATE TRANSPORTATION SERVICES

5 SECTION 1180. SHORT TITLE.

6 1181. DEFINITIONS.

7 1182. IMPOSITION OF TAX.

8 1183. COLLECTION OF TAX.

9 1184. RETURNS.

10 1185. PAYMENT OF TAX.

11 1186. PENALTIES AND INTEREST.

12 1187. LIABILITY OF TAX.

13 1188. REFUND OF TAX.

14 1189. REGISTRATION.

15 1190. RECORDS TO BE KEPT.

16 1191. SECRECY OF RETURNS AND REPORTS.

17 1192. DEPOSIT AND DISPOSITION OF REVENUE.

18 S 1180. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
19 THE "TAX ON INTRA-STATE TRANSPORTATION SERVICES ACT".

20 S 1181. DEFINITIONS. AS USED IN THIS ARTICLE:

21 (A) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY
22 COMPANY, SOCIETY, ASSOCIATION, JOINT STOCK COMPANY, CORPORATION, ESTATE,
23 RECEIVER, TRUSTEE, ASSIGNEE, REFEREE OR ANY OTHER PERSON ACTING IN A
24 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.

LBD15121-01-9

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) "PASSENGER" MEANS AN INDIVIDUAL SEATED IN A MOTOR VEHICLE FOR HIRE
4 TO ONE OR MORE DESTINATIONS.

5 (C) "TRANSPORTATION SERVICE" MEANS THE SERVICE OF TRANSPORTING, CARRY-
6 ING OR CONVEYING A PASSENGER, WITH A DRIVER, INTRA-STATE BY LIVERY,
7 BLACK CAR OR LIMOUSINE, BUT EXCLUDES A TRANSPORTATION SERVICE PROVIDED
8 BY TAXICAB, LIVERY AS DEFINED IN COUNTIES AND CITIES WITH A POPULATION
9 OF ONE MILLION OR MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS
10 SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY,
11 BUS OR ANY SCHEDULED PUBLIC SERVICE.

12 (D) "INTRA-STATE" MEANS THAT THE LOCATION WHERE THE PASSENGER IS
13 PICKED UP AND DROPPED OFF IS WITHIN THE STATE, REGARDLESS OF WHETHER A
14 PORTION OF THE TRIP PASSES OUTSIDE THIS STATE AND REGARDLESS OF THE
15 LOCATION FROM WHERE THE MOTOR VEHICLE PROVIDING SUCH SERVICE ORIGINATES
16 OR TERMINATES. IF ANY PART OF THE TRANSPORTATION SERVICE INCLUDES A
17 DESTINATION, WHETHER FINAL OR INTERMEDIATE, IN ANOTHER STATE, SUCH
18 TRANSPORTATION SERVICE IS NOT INTRA-STATE.

19 (E) "TRIP" MEANS THE PROVISION OF A TRANSPORTATION SERVICE TO A
20 PASSENGER OR PASSENGERS.

21 (F) "BUS" IS A MOTOR VEHICLE WITH A SEATING CAPACITY OF FIFTEEN OR
22 MORE PASSENGERS IN ADDITION TO THE DRIVER AND USED FOR THE TRANSPORTA-
23 TION OF PASSENGERS.

24 (G) "TAXICAB" MEANS A MOTOR VEHICLE OTHER THAN A LIMOUSINE, BLACK CAR,
25 OR OTHER MOTOR VEHICLE, OR BUS, THAT IS USED IN THE BUSINESS OF TRANS-
26 PORTING PASSENGERS FOR COMPENSATION, IS OPERATED UNDER A LICENSE OR
27 PERMIT ISSUED BY A LOCAL AUTHORITY (COUNTY, CITY, TOWN, VILLAGE, ETC.),
28 CONTAINS A TAXIMETER AND CAN BE LEGALLY HAILED FOR SERVICE BY A CUSTOMER
29 (UNLESS THE LICENSING LOCALITY DOES NOT ALLOW THE HAILING OF MOTOR VEHI-
30 CLES) OR IS DEFINED AS LIVERY IN COUNTIES AND CITIES WITH A POPULATION
31 OF ONE MILLION OR MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS
32 SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY.

33 (H) "DRIVER" MEANS ANY PERSON WHO TRANSPORTS ONE OR MORE PASSENGERS IN
34 A MOTOR VEHICLE FOR COMPENSATION.

35 (I) "CUSTOMER" MEANS EVERY PERSON WHO PURCHASES TRANSPORTATION
36 SERVICES OR FOR WHOM TRANSPORTATION SERVICES ARE RENDERED.

37 (J) "TRANSPORTATION VENDOR" MEANS THE PERSON WHO RECEIVES REQUESTS FOR
38 TRANSPORTATION SERVICE FROM CUSTOMERS.

39 (K) "VOUCHERS" MEANS AN ORDER FORM (INCLUDING, BUT NOT LIMITED TO,
40 CREDIT CARD AUTHORIZATIONS) BY WHICH A CUSTOMER AGREES TO MAKE PAYMENT
41 TO A TRANSPORTATION VENDOR FOR TRANSPORTATION SERVICES.

42 S 1182. IMPOSITION OF TAX. THERE IS HEREBY IMPOSED A SALES TAX ON
43 CUSTOMERS WHO USE TRANSPORTATION SERVICES BASED ON THE FORMULA SET FORTH
44 HEREIN:

45 (A) IN ALL COUNTIES AND CITIES WITH A POPULATION OF ONE MILLION OR
46 MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS SEPARATE LICENSES OR
47 PERMITS CLASSIFYING A MOTOR VEHICLE AS A BLACK CAR OR LIMOUSINE, THERE
48 SHALL BE A TAX PER INTRA-STATE TRIP OF ONE DOLLAR FOR A BLACK CAR AND
49 ONE DOLLAR AND FIFTY CENTS FOR A LIMOUSINE.

50 (B) IN ALL COUNTIES AND CITIES WITH A POPULATION OF LESS THAN ONE
51 MILLION OR WHERE THE LOCAL LICENSING AUTHORITY DOES NOT GRANT SEPARATE
52 LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY, BLACK CAR
53 OR LIMOUSINE, THERE SHALL BE A TAX OF ONE DOLLAR PER INTRA-STATE TRIP.

54 NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE TO THE CONTRARY, THIS
55 TAX SHALL NOT BE IMPOSED ON ANY TRANSPORTATION SERVICE IN CONNECTION
56 WITH FUNERALS.

1 S 1183. COLLECTION OF TAX. EVERY TRANSPORTATION VENDOR SHALL COLLECT
2 THE TAX FROM THE CUSTOMER WHEN COLLECTING THE FEE TO WHICH IT APPLIES OR
3 FROM THE DRIVER WHERE SUCH FEE IS NOT REMITTED DIRECTLY TO THE TRANSPOR-
4 TATION VENDOR. IF THE CUSTOMER IS GIVEN ANY INVOICE, RECEIPT OR OTHER
5 STATEMENT OR MEMORANDUM OF THE FEE OR CHARGE PAID OR PAYABLE, THE TAX
6 SHALL BE STATED, CHARGED AND SHOWN SEPARATELY ON THE FIRST OF SUCH DOCU-
7 MENTS GIVEN TO THE CUSTOMER.

8 S 1184. RETURNS. EVERY TRANSPORTATION VENDOR SUBJECT TO THIS ARTICLE
9 AND EVERY PERSON TO WHOM A CERTIFICATE OF AUTHORITY WAS ISSUED PURSUANT
10 TO THIS ARTICLE SHALL FILE WITH THE COMMISSIONER ON OR BEFORE THE LAST
11 DAY OF EACH MONTH A RETURN FOR THE PRECEDING CALENDAR MONTH WHERE THE
12 TRANSPORTATION VENDOR'S TOTAL TAX LIABILITY UNDER THIS ARTICLE FOR THE
13 PRECEDING CALENDAR YEAR EXCEEDED FOUR THOUSAND DOLLARS. WHERE A TRANS-
14 PORTATION VENDOR'S TOTAL TAX LIABILITY UNDER THIS ARTICLE FOR THE
15 PRECEDING CALENDAR YEAR DID NOT EXCEED FOUR THOUSAND DOLLARS OR WHERE A
16 TRANSPORTATION VENDOR WAS NOT SUBJECT TO SUCH A TAX IN THE PRECEDING
17 CALENDAR YEAR, RETURNS SHALL BE FILED QUARTERLY, ON OR BEFORE THE LAST
18 DAY OF THE CALENDAR MONTH FOLLOWING EACH OF THE CALENDAR QUARTERS:
19 JANUARY THROUGH MARCH, APRIL THROUGH JUNE, JULY THROUGH SEPTEMBER AND
20 OCTOBER THROUGH DECEMBER. PROVIDED, HOWEVER, IF THE COMMISSIONER
21 CONSENTS THERETO IN WRITING, ANY TRANSPORTATION VENDOR MAY FILE A RETURN
22 ON OR BEFORE THE THIRTIETH DAY AFTER THE CLOSE OF ANY DIFFERENT PERIOD,
23 IF THE TRANSPORTATION VENDOR'S BOOKS ARE REGULARLY KEPT ON A PERIODIC
24 BASIS OTHER THAN A CALENDAR MONTH OR QUARTER. THE COMMISSIONER MAY
25 PERMIT THE FILING OF RETURNS ON AN ANNUAL BASIS, PROVIDED THE TRANSPOR-
26 TATION VENDOR WAS SUBJECT TO THE TAX UNDER THIS ARTICLE DURING THE
27 ENTIRE PRECEDING CALENDAR YEAR AND THE TRANSPORTATION VENDOR'S TOTAL TAX
28 LIABILITY UNDER THIS ARTICLE FOR SUCH YEAR DID NOT EXCEED TWO HUNDRED
29 FIFTY DOLLARS. SUCH ANNUAL RETURNS SHALL BE FILED ON OR BEFORE JANUARY
30 THIRTY-FIRST OF THE SUCCEEDING CALENDAR YEAR. RETURNS SHALL BE FILED
31 WITH THE COMMISSIONER ON FORMS TO BE FURNISHED BY SUCH COMMISSIONER FOR
32 SUCH PURPOSE AND SHALL CONTAIN SUCH DATA, INFORMATION OR MATTER AS THE
33 COMMISSIONER MAY REQUIRE BE INCLUDED. THE COMMISSIONER MAY GRANT A
34 REASONABLE EXTENSION OF TIME FOR FILING RETURNS WHENEVER GOOD CAUSE
35 EXISTS AND MAY WAIVE THE FILING OF RETURNS IF A TRANSPORTATION VENDOR IS
36 NOT SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE FOR THE PERIOD COVERED BY
37 THE RETURN.

38 S 1185. PAYMENT OF TAX. AT THE TIME OF FILING A RETURN, AS REQUIRED
39 BY THIS ARTICLE, EACH TRANSPORTATION VENDOR SHALL PAY TO THE TAX COMMIS-
40 SION THE TAX IMPOSED BY THIS ARTICLE FOR THE PERIOD COVERED BY SUCH
41 RETURN. SUCH TAX SHALL BE DUE AND PAYABLE AT THE TIME OF FILING THE
42 RETURN OR, IF A RETURN IS NOT FILED WHEN DUE, ON THE LAST DAY ON WHICH
43 THE RETURN IS REQUIRED TO BE FILED. THE TAX COMMISSION MAY GRANT A
44 REASONABLE EXTENSION OF TIME FOR PAYING THE TAX WHENEVER GOOD CAUSE
45 EXISTS.

46 S 1186. PENALTIES AND INTEREST. (A) ANY TRANSPORTATION VENDOR WHO OR
47 WHICH FAILS TO FILE A RETURN OR PAY ANY TAX WITHIN THE TIME REQUIRED BY
48 OR PURSUANT TO THIS ARTICLE (DETERMINED WITH REGARD TO ANY EXTENSION OF
49 TIME FOR FILING OR PAYING) SHALL BE SUBJECT TO A PENALTY OF TEN PER
50 CENTUM OF THE AMOUNT OF TAX DETERMINED TO BE DUE AS PROVIDED IN THIS
51 ARTICLE PLUS ONE PER CENTUM OF SUCH AMOUNT FOR EACH MONTH OR FRACTION
52 THEREOF DURING WHICH SUCH FAILURE CONTINUES AFTER THE EXPIRATION OF THE
53 FIRST MONTH AFTER SUCH RETURN WAS REQUIRED TO BE FILED OR SUCH TAX
54 BECAME DUE, NOT EXCEEDING THIRTY PER CENTUM IN THE AGGREGATE. IN THE
55 CASE OF A FAILURE BY A TRANSPORTATION VENDOR TO FILE SUCH RETURN WITHIN
56 SIXTY DAYS OF THE DATE PRESCRIBED FOR FILING OF SUCH RETURN BY OR PURSU-

ANT TO THIS ARTICLE (DETERMINED WITH REGARD TO ANY EXTENSION OF TIME FOR FILING), THE PENALTIES IMPOSED BY THIS SECTION SHALL NOT BE LESS THAN ONE HUNDRED DOLLARS OR ONE HUNDRED PER CENTUM OF THE AMOUNT REQUIRED TO BE SHOWN AS TAX ON SUCH RETURN. FOR THE PURPOSE OF THE PRECEDING SENTENCE, THE AMOUNT OF TAX REQUIRED TO BE SHOWN ON THE RETURN SHALL BE REDUCED BY THE AMOUNT OF ANY PART OF THE TAX WHICH IS PAID ON OR BEFORE THE DATE PRESCRIBED FOR PAYMENT OF THE TAX AND BY THE AMOUNT OF ANY CREDIT AGAINST THE TAX WHICH MAY BE CLAIMED UPON THE RETURN.

(B) IF ANY AMOUNT OF TAX IS NOT PAID ON OR BEFORE THE LAST DATE PRESCRIBED IN THIS ARTICLE FOR PAYMENT, INTEREST ON SUCH AMOUNT AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER PURSUANT TO SUBDIVISION TWENTY-SIXTH OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER SHALL BE PAID FOR THE PERIOD FROM SUCH LAST DATE TO THE DATE PAID, WHETHER OR NOT ANY EXTENSION OF TIME FOR PAYMENT WAS GRANTED. INTEREST UNDER THIS PARAGRAPH SHALL NOT BE PAID IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR.

(C) IF THE TAX COMMISSION DETERMINES THAT SUCH FAILURE WAS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLECT, IT SHALL REMIT ALL OR PART OF SUCH PENALTIES. THE TAX COMMISSION SHALL PROMULGATE RULES AND REGULATIONS AS TO WHAT CONSTITUTES REASONABLE CAUSE.

(D) IF THE FAILURE TO PAY ANY TAX DUE WITHIN THE TIME REQUIRED BY OR PURSUANT TO THIS ARTICLE IS DUE TO FRAUD, THERE SHALL BE ADDED TO THE TAX (I) A PENALTY OF FIFTY PER CENTUM OF THE AMOUNT OF TAX DUE, PLUS (II) INTEREST ON SUCH UNPAID TAX AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER PURSUANT TO SUBDIVISION TWENTY-SIXTH OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER FOR THE PERIOD BEGINNING ON THE LAST DAY PRESCRIBED BY THIS ARTICLE FOR THE PAYMENT OF SUCH TAX (DETERMINED WITHOUT REGARD TO ANY EXTENSION OF TIME FOR PAYING) AND ENDING ON THE DAY ON WHICH SUCH TAX IS PAID, PLUS (III) FOR THE PERIOD BEGINNING ON THE LAST DAY PRESCRIBED BY THIS ARTICLE FOR THE PAYMENT OF SUCH TAX (DETERMINED WITHOUT REGARD TO ANY EXTENSION OF TIME FOR PAYING) AND ENDING ON THE DAY THE AMOUNT OF TAX DUE IS FINALLY DETERMINED OR, IF EARLIER, ON THE DAY ON WHICH SUCH TAX IS PAID, AN AMOUNT EQUAL TO FIFTY PER CENTUM OF THE INTEREST PAYABLE UNDER PARAGRAPH (II) OF THIS SUBDIVISION ON THAT PORTION OF THE UNPAID TAX WHICH IS ATTRIBUTABLE TO FRAUD.

(E) THE PENALTIES AND INTEREST PROVIDED FOR IN THIS SECTION SHALL BE DETERMINED, ASSESSED, COLLECTED AND PAID IN THE SAME MANNER AS THE TAXES IMPOSED BY THIS ARTICLE AND SHALL BE DISPOSED OF AS HEREINAFTER PROVIDED WITH RESPECT TO MONEYS DERIVED FROM THE TAX. INTEREST UNDER THIS SECTION SHALL BE COMPOUNDED DAILY.

S 1187. LIABILITY OF TAX. (A) EVERY PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL BE LIABLE FOR THE TAX IMPOSED, COLLECTED OR REQUIRED TO BE COLLECTED UNDER THIS ARTICLE. ANY SUCH PERSON SHALL HAVE THE SAME RIGHT IN RESPECT TO COLLECTING THE TAX FROM HIS OR ITS CUSTOMER OR IN RESPECT TO NONPAYMENT OF THE TAX BY THE CUSTOMER AS IF THE TAX WERE A PART OF THE FEE OF THE TRANSPORTATION SERVICE, AND PAYABLE AT THE SAME TIME; PROVIDED, HOWEVER, THAT THE TAX COMMISSION SHALL BE JOINED AS A PARTY IN ANY ACTION OR PROCEEDING BROUGHT TO COLLECT THE TAX. IF THE TRANSPORTATION VENDOR ASSIGNS ITS RIGHT TO RECEIVE PAYMENT FROM A CUSTOMER TO A THIRD PARTY, THEN THE TRANSPORTATION VENDOR AND ASSIGNEE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE PAYMENT OF THE TAX REQUIRED UNDER THIS SECTION.

(B) NO PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL ADVERTISE OR HOLD OUT TO THE PUBLIC IN ANY MANNER, DIRECTLY OR INDIRECTLY, THAT THE TAX IS NOT CONSIDERED AS AN ELEMENT IN THE FEE PAYABLE BY CUSTOMERS.

1 S 1188. REFUND OF TAX. (A) IF THE TRANSPORTATION VENDOR, WHERE PAYMENT
2 IS MADE BY VOUCHER, DETERMINES THAT AN AMOUNT DUE FROM THE CUSTOMER IS
3 UNCOLLECTIBLE AND THE TRANSPORTATION VENDOR HAS ACTUALLY CHARGED OFF THE
4 AMOUNT FOR FEDERAL INCOME TAX PURPOSES, THE TRANSPORTATION VENDOR MAY
5 APPLY FOR A REFUND OR CREDIT IN THE AMOUNT OF THE TAX THAT THE TRANSPOR-
6 TATION VENDOR PAID WITH HIS OR ITS TAX RETURN ON SUCH AMOUNT. THE FORM
7 OF THE REFUND OR CREDIT SHALL BE PRESCRIBED BY THE TAX COMMISSION AND
8 SHALL CONTAIN SUCH INFORMATION AS IT MAY DEEM NECESSARY FOR THE PROPER
9 ADMINISTRATION OF THIS ARTICLE.

10 (B) UPON FILING AN APPLICATION FOR CREDIT, THE TRANSPORTATION VENDOR
11 MAY IMMEDIATELY TAKE A CREDIT ON ITS NEXT RETURN AND ATTACH A COPY OF
12 THE APPLICATION INDICATING ON THE APPLICATION IF IT HAS ALREADY APPLIED
13 FOR THE CREDIT.

14 S 1189. REGISTRATION. (A) EVERY PERSON REQUIRED TO COLLECT ANY TAX
15 IMPOSED BY THIS ARTICLE SHALL FILE WITH THE COMMISSIONER A CERTIFICATE
16 OF REGISTRATION, IN A FORM PRESCRIBED BY THE COMMISSIONER, AT LEAST
17 TWENTY DAYS PRIOR TO COMMENCING BUSINESS OR OPENING A NEW PLACE OF BUSI-
18 NESS OR SELLING OR RECEIVING PAYMENT FOR TRANSPORTATION SERVICES, WHICH-
19 EVER COMES FIRST. A DRIVER IS NOT REQUIRED TO FILE A CERTIFICATE OF
20 REGISTRATION IF IT PROVIDES TRANSPORTATION SERVICES ONLY WHEN DISPATCHED
21 THROUGH A CENTRAL FACILITY.

22 (B) THE COMMISSIONER, WITHIN FIVE DAYS AFTER RECEIPT OF A CERTIFICATE
23 OF REGISTRATION FILED AS PROVIDED FOR IN SUBDIVISION (A) OF THIS
24 SECTION, SHALL ISSUE, WITHOUT CHARGE, TO EACH REGISTRANT A CERTIFICATE
25 OF AUTHORITY EMPOWERING THE REGISTRANT TO COLLECT THE TAX AND A DUPLI-
26 CATE THEREOF FOR EACH ADDITIONAL PLACE OF BUSINESS OF SUCH REGISTRATION.
27 SUCH CERTIFICATE OF AUTHORITY MAY BE ISSUED FOR A SPECIFIED TERM OF NOT
28 LESS THAN THREE YEARS. ANY CERTIFICATE OF AUTHORITY REFERRED TO IN THIS
29 SUBDIVISION SHALL BE SUBJECT TO RENEWAL IN ACCORDANCE WITH THE RULES
30 PROMULGATED BY THE COMMISSIONER. WHETHER OR NOT SUCH CERTIFICATE OF
31 AUTHORITY IS ISSUED FOR A SPECIAL TERM, SUCH CERTIFICATE SHALL BE
32 SUBJECT TO SUSPENSION OR REVOCATION AS PROVIDED FOR IN THIS SECTION.
33 EACH CERTIFICATE OR DUPLICATE SHALL STATE THE BUSINESS TO WHICH IT IS
34 APPLICABLE. SUCH CERTIFICATE OF AUTHORITY OR DUPLICATE SHALL BE PROMI-
35 NENTLY DISPLAYED IN THE PLACE OF BUSINESS OF THE REGISTRANT TO WHICH IT
36 APPLIES. A REGISTRANT WHO HAS NO REGULAR PLACE OF DOING BUSINESS SHALL
37 ATTACH SUCH CERTIFICATE TO EACH OF REGISTRANT'S MOTOR VEHICLES. SUCH
38 CERTIFICATES OF AUTHORITY AND ANY DUPLICATE SHALL BE NONASSIGNABLE AND
39 NONTRANSFERABLE AND SHALL BE SURRENDERED TO THE COMMISSIONER IMMEDIATELY
40 UPON THE REGISTRANT'S CEASING TO DO BUSINESS OR IN THE EVENT THAT SUCH
41 BUSINESS IS NEVER COMMENCED.

42 (C) WHERE A PERSON (I) WILLFULLY FAILS TO FILE A REPORT OR RETURN
43 REQUIRED BY THIS ARTICLE, (II) WILLFULLY FAILS TO PREPAY, COLLECT,
44 TRUTHFULLY ACCOUNT FOR OR PAY OVER ANY TAX IMPOSED UNDER THIS ARTICLE,
45 OR (III) HAS BEEN CONVICTED OF A CRIME PROVIDED FOR IN THIS CHAPTER, THE
46 COMMISSIONER MAY REVOKE OR SUSPEND SUCH CERTIFICATE OF AUTHORITY AND ALL
47 DUPLICATES THEREOF. PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY REVOKE
48 OR SUSPEND A CERTIFICATE OF AUTHORITY BASED ON THE GROUNDS SET FORTH IN
49 PARAGRAPH (III) OF THIS SUBDIVISION ONLY WHERE THE CONVICTION REFERRED
50 TO OCCURRED NOT MORE THAN ONE YEAR PRIOR TO THE DATE OF REVOCATION OR
51 SUSPENSION.

52 (D) THE COMMISSIONER MAY REVOKE, SUSPEND OR REFUSE TO ISSUE A CERTIF-
53 ICATE OF AUTHORITY BASED ON THE GROUNDS SET FORTH IN CLAUSE (B) OF PARA-
54 GRAPH FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-FOUR OF
55 THIS CHAPTER.

1 (E) NOTICE OF PROPOSED REVOCATION, SUSPENSION OR REFUSAL TO ISSUE
2 SHALL BE GIVEN IN ACCORDANCE WITH CLAUSE (D) OF PARAGRAPH FOUR OF SUBDI-
3 VISION (A) OF SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS CHAPTER.

4 (F) AFTER THE COMMISSIONER HAS SUSPENDED OR REVOKED A PERSON'S CERTIF-
5 ICATE OF AUTHORITY, BY A NOTICE OF SUSPENSION OR REVOCATION, OR HAS
6 REFUSED TO ISSUE A CERTIFICATE OF AUTHORITY, BY A NOTICE OF REFUSAL, TO
7 SUCH PERSON AND SUCH DECISION HAS BECOME FINAL AS PROVIDED FOR IN SUBDI-
8 VISION (E) OF THIS SECTION, OR AFTER A PERSON'S CERTIFICATE OF AUTHORITY
9 HAS EXPIRED AND SUCH PERSON HAS FAILED TO RENEW SUCH CERTIFICATE OR
10 OBTAIN A NEW CERTIFICATE OF AUTHORITY, SUCH PERSON IS PROHIBITED FROM
11 ENGAGING IN THE BUSINESS OF SELLING OR RECEIVING PAYMENT FOR TRANSPORTA-
12 TION SERVICES IN THIS STATE FOR WHICH A CERTIFICATE OF AUTHORITY IS
13 REQUIRED. IF DESPITE SUCH PROHIBITION SUCH PERSON CONTINUES TO BE SO
14 ENGAGED IN BUSINESS, THE COMMISSIONER MAY BRING AN ACTION TO ENJOIN SUCH
15 PERSON FROM SO ENGAGING IN THE TRANSPORTATION SERVICE BUSINESS.

16 S 1190. RECORDS TO BE KEPT. EVERY PERSON REQUIRED TO COLLECT ANY TAX
17 IMPOSED BY THIS ARTICLE SHALL KEEP RECORDS OF EVERY SERVICE RIDE INCLUD-
18 ING, BUT NOT LIMITED TO DRIVER LOGS AND DISPATCH RECORDS, AND OF ALL
19 AMOUNTS PAID, CHARGED OR DUE THEREON, IN SUCH FORM AS THE COMMISSIONER
20 MAY BY REGULATION REQUIRE. SUCH RECORDS SHALL INCLUDE A TRUE COPY OF
21 EACH INVOICE, RECEIPT, STATEMENT OR MEMORANDUM UPON WHICH SECTION ELEVEN
22 HUNDRED EIGHTY-FOUR OF THIS ARTICLE REQUIRES THAT THE TAX BE STATED.
23 SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION AND EXAMINATION AT ANY
24 TIME UPON DEMAND BY THE COMMISSIONER OR THE COMMISSIONER'S DULY AUTHOR-
25 IZED AGENT OR EMPLOYEE AND SHALL BE PRESERVED FOR A PERIOD OF THREE
26 YEARS, EXCEPT THAT THE COMMISSIONER MAY CONSENT TO THEIR DESTRUCTION
27 WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY BE KEPT LONGER FOR A TOTAL
28 PERIOD NOT TO EXCEED FOUR YEARS. SUCH RECORDS MAY BE KEPT WITHIN THE
29 MEANING OF THIS SECTION WHEN REPRODUCED ON ANY PHOTOGRAPHIC, PHOTOSTAT-
30 IC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER PROCESS WHICH
31 ACTUALLY REPRODUCES THE ORIGINAL RECORD. IF THOSE RECORDS ARE MAINTAINED
32 IN AN ELECTRONIC FORMAT, THEY MUST BE AVAILABLE AND ACCESSIBLE TO THE
33 COMMISSIONER IN ELECTRONIC FORMAT.

34 S 1191. SECRECY OF RETURNS AND REPORTS. THE PROVISIONS OF SECTION
35 TWELVE HUNDRED EIGHTY-SEVEN OF THIS CHAPTER SHALL APPLY WITH RESPECT TO
36 MAINTAINING THE SECRECY OF RETURNS AND REPORTS FILED AND KEPT PURSUANT
37 TO THIS ARTICLE IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS
38 IF THE LANGUAGE OF SECTION TWELVE HUNDRED EIGHTY-SEVEN OF THIS CHAPTER
39 HAD BEEN INCORPORATED IN FULL INTO THIS ARTICLE AND HAD EXPRESSLY
40 REFERRED TO THE TAX UNDER THIS ARTICLE, EXCEPT TO THE EXTENT THAT ANY
41 SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS ARTICLE
42 OR IS NOT RELEVANT TO THIS ARTICLE.

43 S 1192. DEPOSIT AND DISPOSITION OF REVENUE. (A) ALL TAXES, INTEREST
44 AND PENALTIES COLLECTED OR RECEIVED BY THE COMMISSIONER UNDER THIS ARTI-
45 CLE SHALL BE DEPOSITED AND DISPOSED OF PURSUANT TO THE PROVISIONS OF
46 SECTION ONE HUNDRED SEVENTY-ONE-A OF THIS CHAPTER; PROVIDED HOWEVER, THE
47 COMPTROLLER SHALL ON OR BEFORE THE TWELFTH DAY OF EACH MONTH, PAY ALL
48 SUCH TAXES, INTEREST AND PENALTIES COLLECTED UNDER THIS ARTICLE AND
49 REMAINING TO THE COMPTROLLER'S CREDIT IN SUCH BANKS, BANKING HOUSES OR
50 TRUST COMPANIES AT THE CLOSE OF BUSINESS ON THE LAST DAY OF THE PRECED-
51 ING MONTH, INTO THE GENERAL FUND OF THE STATE TREASURY.

52 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, SUBDI-
53 VISION (A) OF SECTION TWELVE HUNDRED TEN AND SECTION TWELVE HUNDRED
54 EIGHTEEN OF THIS CHAPTER ARE INAPPLICABLE TO THIS ARTICLE.

1 S 2. Part U-1 of chapter 57 of the laws of 2009 amending the tax law
2 relating to imposing state and local sales taxes on certain transporta-
3 tion services is REPEALED.
4 S 3. This act shall take effect immediately.