

# STATE OF NEW YORK

3508

2017-2018 Regular Sessions

## IN ASSEMBLY

January 27, 2017

Introduced by M. of A. GALEF, JAFFEE, KOLB, LUPARDO, RAIA, GUNTHER, GOTTFRIED, BRABENEC, McLAUGHLIN, OAKS, McDONALD, BARCLAY, McKEVITT -- Multi-Sponsored by -- M. of A. CROUCH, GIGLIO, GRAF, HAWLEY, MAGEE, McDONOUGH, MONTESANO, PALMESANO, PAULIN, RA, RIVERA, SALADINO, SIMON, SKARTADOS, THIELE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the authority of counties to impose sales and compensating use taxes pursuant to the authority of article 29 of such law; and to repeal certain provisions of sections 1210 and 1224 and section 1210-E of such law relating thereto

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2 of the tax law is REPEALED and a new subparagraph (i) is added to read  
3 as follows:

4 (i) with respect to a city of one million or more and the following  
5 counties (1) any such city having a population of one million or more is  
6 hereby authorized and empowered to adopt and amend local laws, ordi-  
7 nanances or resolutions imposing such taxes in any such city, at the rate  
8 of four and one-half percent;

9 (2) the following counties that impose taxes described in subdivision  
10 (a) of this section at the rate of three percent as authorized above in  
11 this paragraph for such counties are hereby further authorized and  
12 empowered to adopt and amend local laws, ordinances, or resolutions  
13 imposing such taxes described in subdivision (a) of this section at the  
14 following additional rates, in quarter percent increments, which rates  
15 are additional to the three percent rate authorized above in this para-  
16 graph, and, in the case of a county authorized to impose more than one  
17 additional rate, also in addition to each other, for each such county,  
18 provided that (A) the county of Rockland may impose additional rates of  
19 five-eighths percent and three-eighths percent, in lieu of imposing such

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

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1 additional rate in quarter percent increments; (B) the county of Ontario  
 2 may impose additional rates of one-eighth percent and three-eighths  
 3 percent, in lieu of imposing such additional rate in quarter percent  
 4 increments; (C) three-quarters percent of the additional rate authorized  
 5 to be imposed by the county of Nassau shall be subject to the limitation  
 6 set forth in section twelve hundred sixty-two-e of this article:

7 (I) One-quarter of one percent - None.

8 (II) One-half of one percent - Ontario, Schenectady.

9 (III) Three-quarters of one percent - Dutchess, Essex, Lewis, Orange.

10 (IV) One percent - Albany, Broome, Cattaraugus, Cayuga, Chautauqua,  
 11 Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Franklin,  
 12 Fulton, Genesee, Greene, Jefferson, Livingston, Madison, Monroe, Mont-  
 13 gomery, Niagara, Onondaga, Orleans, Oswego, Otsego, Putnam, Rensselaer,  
 14 Rockland, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan,  
 15 Tioga, Tompkins, Ulster, Wayne, Wyoming, Yates.

16 (V) One and one-quarter percent - Herkimer, Nassau.

17 (VI) One and one-half percent - Allegany.

18 (VII) One and three-quarters percent - Erie, Oneida.

19 § 2. Subparagraph (ii) of the opening paragraph of section 1210 of the  
 20 tax law is REPEALED and a new subparagraph (ii) is added to read as  
 21 follows:

22 (ii) the following cities that impose taxes described in subdivision  
 23 (a) of this section at the rate of one and one-half percent or higher as  
 24 authorized above in this paragraph for such cities are hereby further  
 25 authorized and empowered to adopt and amend local laws, ordinances, or  
 26 resolutions imposing such taxes described in subdivision (a) of this  
 27 section at the following additional rates, in quarter percent incre-  
 28 ments, which rates are additional to the one and one-half percent or  
 29 higher rates authorized above in this paragraph and, in the case of a  
 30 city authorized to impose more than one additional rate, also in addi-  
 31 tion to each other, for each such city:

32 (1) One-quarter of one percent - None.

33 (2) One-half of one percent - None.

34 (3) Three-quarters of one percent - None.

35 (4) One percent - Mount Vernon; Yonkers; Oswego, for the period begin-  
 36 ning December first, two thousand eighteen, and ending November thirti-  
 37 eth, two thousand twenty; New Rochelle, for the period beginning January  
 38 first, two thousand nineteen, and ending December thirty-first, two  
 39 thousand twenty-one; White Plains, for the period beginning September  
 40 first, two thousand eighteen, and ending August thirty-first, two thou-  
 41 sand twenty.

42 (5) One and one-quarter percent - None.

43 (6) One and one-half percent - None.

44 (7) One and three-quarters percent - None.

45 § 3. Subparagraph (iii) of the opening paragraph of section 1210 of  
 46 the tax law is REPEALED and a new subparagraph (iii) is added to read as  
 47 follows:

48 (iii) the maximum rate referred to in section twelve hundred twenty-  
 49 four of this article shall be calculated without reference to the addi-  
 50 tional rates authorized for counties, other than the counties of Cayuga,  
 51 Cortland, Fulton, Madison, and Otsego in subparagraph (i) and the cities  
 52 in subparagraph (ii) of this paragraph.

53 § 4. Section 1210 of the tax law is amended by adding a new subdivi-  
 54 sion (q) to read as follows:

55 (q) Notwithstanding any provision of this section or any other law, a  
 56 county may, by a majority vote of its governing body, pass a local law,

1 ordinance or resolution to impose the additional rate or rates of such  
2 sales and compensating use taxes authorized by clause two of subpara-  
3 graph (i) of the opening paragraph of this section for a period not to  
4 exceed two years. Any such local law, ordinance, or resolution shall  
5 also be subject to the provisions of subdivisions (d) and (e) of this  
6 section.

7 § 5. Section 1210-E of the tax law is REPEALED.

8 § 6. Subdivisions (d), (e), (f), (g), (h), (i), (j), (k), (l), (m),  
9 (n), (o), (p), (q), (r), (t), (u), (v), (w), (x), (y), (z), (z-1), (aa),  
10 (bb), (cc), (dd), (ee), (ff) and (gg) of section 1224 of the tax law are  
11 REPEALED.

12 § 7. Section 1224 of the tax law is amended by adding four new subdi-  
13 visions (d), (e), (f), and (g) to read as follows:

14 (d) For purposes of this section, the term "prior right" shall mean  
15 the preferential right to impose any tax described in sections twelve  
16 hundred two and twelve hundred three, or twelve hundred ten and twelve  
17 hundred eleven, of this article and thereby to preempt such tax and to  
18 preclude another municipal corporation from imposing or continuing the  
19 imposition of such tax to the extent that such right is exercised.  
20 However, the right of preemption shall only apply within the territorial  
21 limits of the taxing jurisdiction having the right or preemption.

22 (e) Each of the following counties and cities shall have the sole  
23 right to impose the following additional rate of sales and compensating  
24 use taxes in excess of three percent that such county or city is author-  
25 ized to impose pursuant to the authority of subdivision (a) of section  
26 twelve hundred ten of this article. Such additional rates of tax shall  
27 not be subject to preemption.

28 (1) Counties:

29 (A) One-quarter of one percent - None.

30 (B) One-half of one percent - Ontario, Schenectady.

31 (C) Three-quarters of one percent - Dutchess, Essex, Lewis, Orange.

32 (D) One percent - Albany, Broome, Cattaraugus, Chautauqua, Chemung,  
33 Chenango, Clinton, Columbia, Delaware, Franklin, Genesee, Greene,  
34 Jefferson, Livingston, Monroe, Montgomery, Niagara, Onondaga, Orleans,  
35 Otsego, Putnam, Rensselaer, Rockland, Schoharie, Schuyler, Seneca, Steu-  
36 ben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming, Yates.

37 (E) One and one-quarter percent - Herkimer, Nassau.

38 (F) One and one-half percent - Allegany.

39 (G) One and three-quarters percent - Erie, Oneida.

40 (2) Cities:

41 (A) One-quarter of one percent - None.

42 (B) One-half of one percent - None.

43 (C) Three-quarters of one percent - None.

44 (D) One percent - Mount Vernon, New Rochelle, White Plains.

45 (E) One and one-half percent - Yonkers.

46 (f) Each of the following cities is authorized to preempt the taxes  
47 imposed by the county in which it is located pursuant to the authority  
48 of subdivision (a) of section twelve hundred ten of this article, to the  
49 extent of one-half the maximum aggregate rate authorized under section  
50 twelve hundred ten of this article, including the additional rate that  
51 the county in which such city is located is authorized to impose:  
52 Auburn, in Cayuga county; Cortland, in Cortland county; Gloversville and  
53 Johnstown, in Fulton county; Oneida, in Madison county; Oneonta, in  
54 Otsego county. As of the date this subdivision takes effect, any such  
55 preemption by such a city in effect on such date shall continue in full  
56 force and effect until the effective date of a local law, ordinance, or

1 resolution adopted or amended by the city to change such preemption,  
2 provided such a city's rate of tax in excess of one and one-half percent  
3 shall not continue in effect if the county in which it is located does  
4 not extend its additional rate in excess of three percent. Any  
5 preemption by such a city to take effect under this subdivision after  
6 the date this subdivision takes effect shall be subject to the notice  
7 requirements in section twelve hundred twenty-three of this subpart and  
8 to the other requirements of this article.

9 (g) Notwithstanding the foregoing provisions of this section or other  
10 law, if the county of Dutchess, the county of Orange or the county of  
11 Rockland withdraws from the metropolitan commuter transportation  
12 district and imposes the additional three-eighths percent rate of tax,  
13 the net collections from which the county has set aside for mass trans-  
14 portation purposes, as authorized by subparagraph (iv) of the opening  
15 paragraph of section twelve hundred ten of this article, such additional  
16 three-eighths percent rate of tax shall be in addition to any other  
17 additional rate of tax such county is authorized to impose and shall not  
18 be subject to preemption and such county shall not include such addi-  
19 tional three-eighths percent rate of tax in determining its additional  
20 rate of tax on the area of the county outside any city in the county  
21 imposing tax for purposes of subdivision (d) of section twelve hundred  
22 sixty-two of this article.

23 § 8. The tax law is amended by adding three new sections 1262-u,  
24 1262-v and 1262-w to read as follows:

25 § 1262-u. Oneida county net collections from additional rate of tax.  
26 Net collections from an additional three-quarters percent rate of Oneida  
27 county's sales and compensating use taxes imposed pursuant to the  
28 authority of clause two of subparagraph (i) of the opening paragraph of  
29 section twelve hundred ten of this article shall not be subject to any  
30 revenue distribution agreement entered into by the county and the cities  
31 in the county under subdivision (c) of section twelve hundred sixty-two  
32 of this part.

33 § 1262-v. Clinton county net collections from additional rate of tax.  
34 Net collections from any additional rate of sales and compensating use  
35 taxes Clinton county imposes pursuant to the authority of clause two of  
36 subparagraph (i) of the opening paragraph of section twelve hundred ten  
37 of this article shall be paid to the county and the county shall set  
38 aside such net collections and use them solely for county purposes. Such  
39 net collections shall not be subject to any revenue distribution agree-  
40 ment entered into by the county and the city in the county under subdivi-  
41 vision (c) of section twelve hundred sixty-two of this part.

42 § 1262-w. Ontario county net collections from additional rate of tax.  
43 Notwithstanding any law to the contrary, after Ontario county allocates  
44 net collections from its additional one-eighth of one percent rate of  
45 sales and compensating use taxes pursuant to the authority of section  
46 twelve hundred sixty-two-r of this part, as added by chapter thirty-sev-  
47 en of the laws of two thousand six, net collections from the county's  
48 additional three-eighths of one percent rate of such taxes shall be set  
49 aside for county purposes and shall not be subject to any agreement  
50 entered into by the county and the cities in the county under subdivi-  
51 sion (c) of section twelve hundred sixty-two or section twelve hundred  
52 sixty-two-r of this part, as added by chapter thirty-seven of the laws  
53 of two thousand six.

54 § 9. Section 1262-s of the tax law, as amended by chapter 286 of the  
55 laws of 2015, is amended to read as follows:

1 § 1262-s. Disposition of net collections from the additional one-quarter  
2 ter of one percent rate of sales and compensating use taxes in the county  
3 of Herkimer. Notwithstanding any contrary provision of law, if the  
4 county of Herkimer imposes the additional one-quarter of one percent  
5 rate of sales and compensating use taxes in excess of four percent  
6 authorized by section twelve hundred [~~ten-E~~] ten of this article [~~for~~  
7 ~~all or any portion of the period beginning December first, two thousand~~  
8 ~~seven and ending November thirtieth, two thousand seventeen~~], the county  
9 shall use all net collections from such additional one-quarter of one  
10 percent rate to pay the county's expenses for the construction of additional  
11 correctional facilities. The net collections from [~~the~~] such  
12 additional rate [~~imposed pursuant to section twelve hundred ten-E~~] shall  
13 be deposited in a special fund to be created by such county separate and  
14 apart from any other funds and accounts of the county. Any and all  
15 remaining net collections from such additional tax, after the expenses  
16 of such construction are paid, shall be deposited by the county of  
17 Herkimer in the general fund of such county for any county purpose.

18 § 10. The tax law is amended by adding a new section 1265 to read as  
19 follows:

20 § 1265. References to certain provisions authorizing additional rates  
21 or to expirations of a period. Notwithstanding any provision of law to  
22 the contrary: Any reference in any section of this chapter or other law,  
23 or in any local law, ordinance, or resolution adopted pursuant to the  
24 authority of this article, or in any agreement entered into by a county  
25 and all the cities in that county under subdivision (c) of section  
26 twelve hundred sixty-two of this part, to net collections or revenues  
27 from a tax imposed by a county or city pursuant to the authority of a  
28 clause, or to a subclause of a clause, of subparagraph (i) or (ii) of  
29 the opening paragraph of section twelve hundred ten of this article  
30 repealed by section one or two of the chapter of the laws of two thou-  
31 sand seventeen that added this section or to section twelve hundred  
32 ten-E of this article repealed by section five of such chapter of the  
33 laws of two thousand seventeen shall be deemed to be a reference to net  
34 collections or revenues from a tax imposed by that county or city pursu-  
35 ant to the authority of the equivalent provision of clause two of  
36 subparagraph (i) or to subparagraph (ii) of the opening paragraph of  
37 such section twelve hundred ten as added by such section one or two of  
38 such chapter of the laws of two thousand seventeen.

39 § 11. Severability. If any provision of this act shall for any reason  
40 be finally adjudged by any court of competent jurisdiction to be inval-  
41 id, such judgment shall not affect, impair, or invalidate the remainder  
42 of this act, but shall be confined in its operation to the provision  
43 directly involved in the controversy in which such judgment shall have  
44 been rendered. It is hereby declared to be the intent of the legislature  
45 that this act would have been enacted even if such invalid provision had  
46 not been included in this act.

47 § 12. This act shall take effect immediately.