

STATE OF NEW YORK

S. 7437

A. 9046

SENATE - ASSEMBLY

January 18, 2018

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

IN ASSEMBLY -- Introduced by M. of A. PELLEGRINO -- 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 15 of part AAA of chapter 59 of the laws of 2017, is amended
3 to 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-one, twenty-two, twenty-six, twenty-eight (except
13 as otherwise provided in section eleven hundred two or eleven hundred
14 three thereof), twenty-eight-A, [~~twenty-nine-B,~~] thirty-one (except as
15 otherwise provided in section fourteen hundred twenty-one thereof),
16 thirty-three and thirty-three-A of this chapter shall be deposited daily
17 in one account with such responsible banks, banking houses or trust
18 companies as may be designated by the comptroller, to the credit of the
19 comptroller. Such an account may be established in one or more of such
20 depositories. Such deposits shall be kept separate and apart from all
21 other money in the possession of the comptroller. The comptroller shall
22 require adequate security from all such depositories. Of the total
23 revenue collected or received under such articles of this chapter, the
24 comptroller shall retain in the comptroller's hands such amount as the
25 commissioner may determine to be necessary for refunds or reimbursements

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

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

city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

§ 2. Subdivision 1 of section 171-a of the tax law, as amended by section 16 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-one, twenty-two, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, ~~twenty-nine-B,~~ thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults

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

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

46 § 1298. Deposit and disposition of revenue. (a) All taxes, fees,
47 interest and penalties collected or received by the commissioner under
48 this article shall be deposited [~~and disposed of pursuant to the~~
49 ~~provisions of section one hundred seventy-one-a of this chapter~~] daily
50 with such responsible banks, banking houses or trust companies, as may
51 be designated by the comptroller, to the credit of the comptroller for
52 disposal pursuant to section eighty-eight-a of the state finance law. An
53 account may be established in one or more such depositories. The comp-
54 troller shall require adequate security from all such depositories. Of
55 the total revenue collected or received under this article, the comp-
56 troller shall retain such amount as the commissioner may determine to be

1 necessary for refunds under this article. The commissioner is authorized
2 and directed to deduct from the amounts it receives under this article,
3 before deposit into the trust accounts designated by the comptroller, a
4 reasonable amount necessary to effectuate refunds of appropriations of
5 the department to reimburse the department for the costs incurred to
6 administer, collect and distribute the taxes imposed by this article.

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

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

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

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

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

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

48 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-
49 troller is authorized to withhold the transfer of taxes, fees, interest
50 and penalties collected or received pursuant to article twenty-nine-B of
51 the tax law from public transportation systems eligible to receive oper-
52 ating assistance pursuant to section eighteen-b of the transportation
53 law in the event that a county or municipality reduces its annual oper-
54 ating payments to a public transportation system or mass transportation
55 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 inating 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 eighteen.
14 Provided, further, that the director of the division of budget shall not
15 withhold an additional percentage of disbursements relative to the
16 enacted budget financial plan for the state fiscal year ending March
17 thirty-first, two thousand eighteen 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 the
48 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 26 of part AAA of chapter 59 of the laws
51 of 2017, when upon such date the provisions of section two of this act
52 shall take effect; provided, however, that effective immediately the
53 addition, amendment and/or repeal of any rule or regulation necessary
54 for the implementation of this act on its effective date are authorized
55 and directed to be made and completed on or before such effective date.