

# STATE OF NEW YORK

8956--A

## IN ASSEMBLY

January 9, 2018

Introduced by M. of A. O'DONNELL -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the tax law and the administrative code of the city of New York, in relation to authorizing and imposing a tax surcharge on the personal income of certain high-income residents of such city in order to fund transit infrastructure improvements and reduced fares for low-income residents of such city

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

1 Section 1. Section 1205 of the public authorities law is amended by  
2 adding a new subdivision 9 to read as follows:

3 9. Notwithstanding any other provision of law, the authority and any  
4 of its subsidiary corporations shall establish and implement a half-fare  
5 rate program for low-income residents of the city who are eighteen years  
6 of age or older and younger than sixty-five years of age. For purposes  
7 of this subdivision, the term "low-income" shall mean an annual income  
8 that is below the federal poverty line as determined by the United  
9 States department of health and human services pursuant to subdivision 2  
10 of section 9902 of title 42 of the United States code. The half-fare  
11 rate program established and implemented pursuant to this subdivision  
12 shall include subway and bus service, exclusive of express bus service  
13 during peak hours. Such half-rate program shall not be made available to  
14 such low-income residents of the city eighteen years of age or older and  
15 younger than sixty-five years of age who are eligible for the half-fare  
16 rate programs available to seniors and people with disabilities pursuant  
17 to subdivision two or eight of this section. Upon the written request of  
18 the mayor and in accordance with such request, the authority or its  
19 subsidiary corporations shall delegate authority to the city to assist  
20 with the administration of such half-fare rate program, including the  
21 eligibility of applicants.

22 § 2. The public authorities law is amended by adding a new section  
23 1270-i to read as follows:

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

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1 § 1270-i. New York city dedicated personal income tax surcharge fund.  
2 1. The authority shall establish a fund to be known as the "New York  
3 city dedicated personal income tax surcharge fund" which shall be kept  
4 separate from and shall not be commingled with any other moneys of the  
5 authority. The fund shall consist of a "transit infrastructure improve-  
6 ment account" and a "low-income resident reduced fare account."

7 2. There shall be deposited into the New York city dedicated personal  
8 income tax surcharge fund the moneys transferred to the metropolitan  
9 transportation authority from the New York city transitional finance  
10 authority pursuant to subsection (e) of section thirteen hundred four-E  
11 of the tax law, and any other provision of law directing or permitting  
12 the deposit of moneys in such fund, to be used exclusively for the  
13 financing of transit infrastructure improvements and reduced fares for  
14 low-income residents of the city of New York.

15 3. Moneys in the transit infrastructure improvement account (a) shall  
16 be used to fund capital projects that satisfy the following criteria:  
17 (i) defined as state of good repair, normal replacement, or an Americans  
18 with Disabilities Act related system improvement within the capital  
19 program of the authority; and (ii) included in any of the following  
20 categories within the capital program of the authority: New York city  
21 transit authority buses, subway cars, track, line equipment, line struc-  
22 tures, signals and communications, traction power, shops and yards,  
23 depots, service vehicles, passenger station projects, as needed to  
24 comply with the Americans with Disabilities Act, Staten Island railway  
25 and authority bus company projects; and (b) may be (i) pledged by the  
26 authority as security for the payment of principal and interest on bonds  
27 issued after July first, two thousand eighteen to finance capital  
28 projects that meet the criteria identified in paragraph (a) of this  
29 subdivision, including bonds issued to refund such bonds and (ii) used  
30 for payment of principal and interest on such bonds, funding of reserves  
31 required in connection with such bonds, and the payment of costs of  
32 issuance related to such bonds. To the extent moneys in the transit  
33 infrastructure improvement account have been pledged by the authority to  
34 secure the payment of principal and interest on bonds as herein  
35 provided, moneys deposited into the New York city dedicated personal  
36 income tax surcharge fund shall first be deposited into the transit  
37 infrastructure account to the extent necessary to make payments pursuant  
38 to paragraph (b) of this subdivision. After making such payments, moneys  
39 deposited in the transit infrastructure improvement account shall be  
40 used to fund projects that meet the criteria identified in paragraph (a)  
41 of this subdivision.

42 4. The state does hereby pledge and agree with the holders of any  
43 issue of bonds secured by pledge described in paragraph (b) of subdivi-  
44 sion three of this section that the state will not limit or alter the  
45 rights hereby vested in the metropolitan transportation authority to  
46 fulfill the terms of any agreements made with bondholders pursuant to  
47 this title, or in any way impair the rights and remedies of such holders  
48 or the security for such bonds until such bonds are fully paid and  
49 discharged. Nothing contained in this section shall be deemed to  
50 restrict the right of the state to amend, modify, repeal or otherwise  
51 alter statutes imposing or relating to the taxes payable to the New York  
52 city transitional finance authority pursuant to section thirteen hundred  
53 thirteen of the tax law, but such taxes shall in all events continue to  
54 be so payable so long as any such taxes are imposed. Nothing in this  
55 section shall be deemed to obligate the state to make any additional

1 payments or impose any taxes to satisfy the debt service obligations of  
2 the metropolitan transportation authority.

3 5. Moneys in the low-income resident reduced fare account shall be  
4 used to fund the half-fare rate program for low-income residents of the  
5 city of New York pursuant to subdivision nine of section twelve hundred  
6 five of this article and may be used for payment of the reasonable oper-  
7 ating costs incurred by the New York city transit authority for the  
8 administration of the half-fare rate program, provided that no more than  
9 one percent of the moneys deposited into the low-income resident reduced  
10 fare account pursuant to subdivision six of this section shall be used  
11 for such costs.

12 6. The moneys deposited into the fund from the New York city transi-  
13 tional finance authority shall be equally divided between the transit  
14 infrastructure improvement account and the low-income resident reduced  
15 fare account.

16 7. Twice each calendar year, the mayor of the city of New York shall  
17 conduct a review of the amount of moneys deposited in each of the two  
18 accounts. To the extent such review indicates that:

19 a. the moneys in the transit infrastructure improvement account are  
20 sufficient to satisfy the requirements of any debt service incurred in  
21 such calendar year as a result of obligations issued and secured pursu-  
22 ant to paragraph b of subdivision three of this section, and the moneys  
23 in the low-income resident reduced fare account are insufficient to  
24 satisfy the total needs of the low-income resident reduced fare program  
25 established pursuant to subdivision nine of section twelve hundred five  
26 of this article, the mayor of the city of New York, or such mayor's  
27 designee, may direct the metropolitan transportation authority to trans-  
28 fer a specified amount of moneys from the transit infrastructure  
29 improvement account to the low-income resident reduced fare account; and

30 b. the moneys in the low-income resident reduced fare account are  
31 sufficient to satisfy the needs of the half-fare rate program for low-  
32 income residents of the city of New York established pursuant to subdivi-  
33 sion nine of section twelve hundred five of this article, in such  
34 calendar year, the mayor of the city of New York, or such mayor's desig-  
35 nee, may direct the metropolitan transportation authority to transfer a  
36 specified amount of moneys from the low-income resident reduced fare  
37 account to the transit infrastructure improvement account.

38 § 3. Subdivision 5 of section 2799-hh of the public authorities law,  
39 as added by chapter 16 of the laws of 1997, is amended to read as  
40 follows:

41 5. Tax revenues received by the authority pursuant to section thirteen  
42 hundred thirteen of the tax law, together with any alternative revenues  
43 received by the authority, shall be applied in the following order of  
44 priority: first pursuant to the authority's contracts with bondholders,  
45 then to pay the authority's operating expenses not otherwise provided  
46 for, then to a dedicated personal income tax surcharge fund pursuant to  
47 subsection (d) of section thirteen hundred four-E of the tax law in the  
48 amount provided for in such section, and then pursuant to the authori-  
49 ty's agreements with the city, which agreements shall require the  
50 authority to transfer the balance of such taxes not required to meet  
51 contractual or other obligations of the authority to the city as  
52 frequently as practicable.

53 § 4. The tax law is amended by adding a new section 1304-E to read as  
54 follows:

55 § 1304-E. Tax surcharge for transit infrastructure improvements and  
56 reduced fares for low-income residents of the city of New York. (a) In

1 addition to the taxes authorized by subsection (a) of section thirteen  
2 hundred one of this article, any city imposing such taxes is hereby  
3 authorized and empowered to adopt and amend local laws imposing in any  
4 such city for each taxable year beginning after two thousand seventeen,  
5 a tax surcharge on the city taxable income of certain city resident  
6 individuals, estates and trusts.

7 (b) A tax surcharge imposed pursuant to the authority of this section  
8 shall be determined as follows:

9 (1) Resident married individuals filing joint returns and resident  
10 surviving spouses. The tax surcharge under this section on the city  
11 taxable income of certain city resident married individuals who make a  
12 single return jointly with his or her spouse under subsection (b) of  
13 section thirteen hundred six of this article and on the city taxable  
14 income of certain city resident surviving spouses shall be determined in  
15 accordance with the following table:

16 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$1,000,000</u>	<u>.534% of excess over \$1,000,000</u>

19 (2) Resident heads of households. The tax surcharge under this section  
20 on the city taxable income of certain city resident heads of households  
21 shall be determined in accordance with the following table:

22 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$750,000</u>	<u>.534% of excess over \$750,000</u>

25 (3) Resident unmarried individuals, resident married individuals  
26 filing separate returns and resident estates and trusts. The tax  
27 surcharge under this section on the city taxable income of certain city  
28 resident individuals who are not city resident married individuals who  
29 make a single return jointly with his or her spouse under subsection (b)  
30 of section thirteen hundred six of this article or city resident heads  
31 of households or city resident surviving spouses, and on the city taxa-  
32 ble income of certain city resident estates and trusts shall be deter-  
33 mined in accordance with the following table:

34 For taxable years beginning after two thousand seventeen:

<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$500,000</u>	<u>.534% of excess over \$500,000</u>

37 (c) A tax surcharge imposed pursuant to the authority of this section  
38 shall be administered and collected in the same manner as the taxes  
39 imposed pursuant to the authority of this article, and all of the  
40 provisions of this article, including section thirteen hundred ten,  
41 shall apply to the tax surcharge imposed pursuant to the authority of  
42 this section.

43 (d) Subject to the priority of payments identified in section twenty-  
44 seven hundred ninety-nine-hh of the public authorities law, the New York  
45 city transitional finance authority shall transfer to the metropolitan  
46 transportation authority the amount estimated by the mayor of the city  
47 of New York to be the amount received by the New York city transitional  
48 finance authority from the tax surcharge imposed pursuant to the author-  
49 ity of this section, up to the total amount available after deducting  
50 from revenues received by the New York city transitional finance author-  
51 ity pursuant to this section and subsection (c) of section thirteen  
52 hundred thirteen of this article amounts to be paid pursuant to the New  
53 York city transitional finance authority's contracts with bondholders  
54 and the New York city transitional finance authority's operating  
55 expenses not otherwise provided for. After the mayor of the city of New  
56 York has received data from the department allowing such mayor to deter-

1 mine the actual amount of revenues received by the New York city transi-  
2 tional finance authority that are attributable to the tax surcharge  
3 imposed pursuant to the authority of this section, such mayor shall  
4 inform the New York city transitional finance authority of such actual  
5 amount, minus any actual operating costs assumed by the city of New York  
6 attributable to the half-fare rate program pursuant to subdivision nine  
7 of section twelve hundred five of the public authorities law, and the  
8 New York city transitional finance authority shall adjust the next  
9 payment to be made to the metropolitan transportation authority pursuant  
10 to this section to reflect any difference between such actual amount  
11 minus such operating costs and the estimate previously provided by such  
12 mayor.

13 (e) Any revenues transferred to the metropolitan transportation  
14 authority pursuant to subsection (d) of this section shall be paid into  
15 a dedicated personal income tax surcharge fund to be used exclusively  
16 for the financing of transit infrastructure improvements and reduced  
17 fares for low-income residents of the city of New York in accordance  
18 with the provisions of section twelve hundred seventy-i of the public  
19 authorities law. Such revenues shall only supplement and shall not  
20 supplant any federal, state, or local funds expended by the metropolitan  
21 transportation authority for New York city transit authority, the metro-  
22 politan transportation authority bus company or Staten Island rapid  
23 transit operating authority projects, and shall not affect any payment  
24 by the city of New York pursuant to agreements relating to the metropol-  
25 itan transportation authority bus company and Staten Island rapid trans-  
26 it operating authority.

27 § 5. Paragraphs 1 and 2 of subsection (e) of section 1310 of the tax  
28 law, as added by chapter 481 of the laws of 1997, are amended to read as  
29 follows:

30 (1) Notwithstanding any other provision of law to the contrary, any  
31 city imposing a tax under this article is hereby authorized and  
32 empowered to adopt and amend local laws for any taxable year beginning  
33 after nineteen hundred ninety-seven, as specified in such local laws,  
34 providing for a credit as provided in paragraph two of this subsection  
35 against the taxes imposed pursuant to the authority granted by section  
36 thirteen hundred one of this article on the city taxable income deter-  
37 mined pursuant to sections thirteen hundred four, thirteen hundred  
38 four-A ~~and~~, thirteen hundred four-B and thirteen hundred four-E of  
39 this article and on the ordinary income portion of a lump sum distrib-  
40 ution determined pursuant to section thirteen hundred one-B of this  
41 article, to any city resident individual, estate or trust whose city  
42 adjusted gross income includes income, gain, loss or deductions from one  
43 or more unincorporated businesses conducted by such city resident indi-  
44 vidual, estate or trust on which a tax is imposed by chapter five of  
45 title eleven of the administrative code of the city of New York, or a  
46 distributive share of income, gain, loss and deductions of, or guaran-  
47 teed payments from, one or more partnerships on which a tax is imposed  
48 by such chapter. Any such local laws may contain provisions to ensure  
49 that such credit shall not reduce the tax paid by a city resident below  
50 that which would be paid by such city resident if such city resident  
51 were a city nonresident.

52 (2) (A) Subject to the limitation set forth in subparagraph (B) of  
53 this paragraph, the credit allowed to a taxpayer for a taxable year  
54 shall be equal to all or a portion of the amount determined in paragraph  
55 three of this subsection, provided, however, such portion shall not be  
56 less than:

1 (i) If the city taxable income is forty-two thousand dollars or less,  
2 sixty-five percent of the amount determined in paragraph three of this  
3 subsection.

4 (ii) If the city taxable income is greater than forty-two thousand  
5 dollars but not greater than one hundred forty-two thousand dollars, a  
6 percentage of the amount determined in paragraph three of this  
7 subsection to be determined by subtracting from sixty-five percent, one  
8 tenth of a percentage point (.001) for every increment of two hundred  
9 dollars, or fractional part thereof, of city taxable income in excess of  
10 forty-two thousand dollars.

11 (iii) If the city taxable income is greater than one hundred forty-two  
12 thousand dollars, fifteen percent of the amount determined in paragraph  
13 three of this subsection.

14 (B) Notwithstanding anything to the contrary in subparagraph (A) of  
15 this paragraph, the credit allowed to a taxpayer for a taxable year  
16 under this subsection shall not exceed the sum of the taxes that would  
17 otherwise be imposed on such taxpayer for such taxable year pursuant to  
18 the authority granted by section thirteen hundred one of this article on  
19 the city taxable income determined pursuant to sections thirteen hundred  
20 four, thirteen hundred four-A ~~and~~, thirteen hundred four-B and thir-  
21 teen hundred four-E of this article and on the ordinary income portion  
22 of a lump sum distribution determined pursuant to section thirteen  
23 hundred one-B of this article, reduced by the credits allowed to such  
24 taxpayer pursuant to subsections (a), (c) and (d) of this section.

25 § 6. The opening paragraph of subsection (c) of section 1313 of the  
26 tax law, as amended by section 8 of part C of chapter 58 of the laws of  
27 2005, is amended to read as follows:

28 Subject to the provisions of subsection (g) of this section, the comp-  
29 troller, after reserving such refund fund and such costs shall, commenc-  
30 ing on or before the fifteenth day of each month, pay to the New York  
31 city transitional finance authority on a daily basis the balance of  
32 taxes imposed pursuant to the authority of this article or former arti-  
33 cle two-E of the general city law to be applied by the authority, in the  
34 following order of priority: first pursuant to the authority's contracts  
35 with bondholders, then to pay the authority's operating expenses not  
36 otherwise provided for, then to a dedicated personal income tax  
37 surcharge fund pursuant to subsection (d) of section thirteen hundred  
38 four-E of this article and then pursuant to the authority's agreements  
39 with the city, which agreements shall require the authority to transfer  
40 the balance of such taxes not required to meet contractual or other  
41 obligations of the authority to the city as frequently as practicable;  
42 except that the comptroller shall:

43 § 7. The administrative code of the city of New York is amended by  
44 adding a new section 11-1704.2 to read as follows:

45 § 11-1704.2 Tax surcharge for transit infrastructure improvements and  
46 reduced fares for low-income residents of the city. (a) In addition to  
47 the taxes imposed by sections 11-1701, 11-1703, 11-1704 and 11-1704.1 of  
48 this subchapter, there is hereby imposed for each taxable year beginning  
49 after two thousand seventeen, a tax surcharge on the city taxable income  
50 of certain city resident individuals, estates and trusts.

51 (b) The tax surcharge imposed pursuant to this section shall be deter-  
52 mined as follows:

53 (1) Resident married individuals filing joint returns and resident  
54 surviving spouses. The tax surcharge under this section on the city  
55 taxable income of certain city resident married individuals who make a  
56 single return jointly with his or her spouse under subdivision (b) of

section 11-1751 of this chapter and on the city taxable income of certain city resident surviving spouses shall be determined in accordance with the following table:

<u>For taxable years beginning after two thousand seventeen:</u>	
<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$1,000,000</u>	<u>.534% of excess over \$1,000,000</u>

(2) Resident heads of households. The tax surcharge under this section on the city taxable income of certain city resident heads of households shall be determined in accordance with the following table:

<u>For taxable years beginning after two thousand seventeen:</u>	
<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$750,000</u>	<u>.534% of excess over \$750,000</u>

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax surcharge under this section on the city taxable income of certain city resident individuals who are not city resident married individuals who make a single return jointly with his or her spouse under subdivision (b) of section 11-1751 of this chapter or city resident heads of households or city resident surviving spouses, and on the city taxable income of certain city resident estates and trusts shall be determined in accordance with the following table:

<u>For taxable years beginning after two thousand seventeen:</u>	
<u>If the city taxable income is:</u>	<u>The tax surcharge is:</u>
<u>Over \$500,000</u>	<u>.534% of excess over \$500,000</u>

(c) The tax surcharge imposed pursuant to this section shall be administered and collected in the same manner as the taxes imposed pursuant to sections 11-1701, 11-1703, 11-1704 and 11-1704.1, and shall be distributed in accordance with subsection (d) of section 1304-E of the tax law, and all of the provisions of this chapter, including section 11-1706 of this subchapter, and sections 11-1721 and 11-1773 of this chapter, shall apply to the tax surcharge imposed pursuant to this section.

§ 8. Paragraphs 1 and 2 of subdivision (c) of section 11-1706 of the administrative code of the city of New York, as added by chapter 481 of the laws of 1997, subparagraph (A) of paragraph 2 as amended by local law number 35 of the city of New York for the year 2007, are amended to read as follows:

(1) A city resident individual, estate or trust whose city adjusted gross income includes income, gain, loss or deductions from one or more unincorporated businesses conducted by such city resident individual, estate or trust that are subject to the tax imposed by chapter five of this title, or a distributive share of income, gain, loss and deductions of, or guaranteed payments from, one or more partnerships that are subject to the tax imposed by such chapter, shall be allowed a credit as provided in paragraph two of this subdivision against the tax otherwise due under sections 11-1701, 11-1703, 11-1704 [and], 11-1704.1 and 11-1704.2 of this [chapter] subchapter.

(2) (A) Subject to the limitation set forth in subparagraph (B) of this paragraph, the credit allowed to a taxpayer for a taxable year under this subdivision shall be determined as follows:

(i) For taxable years beginning on or after January first, nineteen hundred ninety-seven and before January first, two thousand seven:

(I) If the city taxable income is forty-two thousand dollars or less, the credit shall be sixty-five percent of the amount determined in paragraph three of this subdivision.

1 (II) If the city taxable income is greater than forty-two thousand  
2 dollars but not greater than one hundred forty-two thousand dollars, the  
3 amount of the credit shall be a percentage of the amount determined in  
4 paragraph three of this subdivision, such percentage to be determined by  
5 subtracting from sixty-five percent, one-tenth of a percentage point  
6 (.001) for every increment of two hundred dollars, or fractional part  
7 thereof, of city taxable income in excess of forty-two thousand dollars.

8 (III) If the city taxable income is greater than one hundred forty-two  
9 thousand dollars, the credit shall be fifteen percent of the amount  
10 determined in paragraph three of this subdivision.

11 (ii) For taxable years beginning on or after January first, two thou-  
12 sand seven:

13 (I) If the city taxable income is forty-two thousand dollars or less,  
14 the credit shall be one hundred percent of the amount determined in  
15 paragraph three of this subdivision.

16 (II) If the city taxable income is greater than forty-two thousand  
17 dollars but less than one hundred forty-two thousand dollars, the amount  
18 of the credit shall be a percentage of the amount determined in para-  
19 graph three of this subdivision, such percentage to be determined by  
20 subtracting from one hundred percent, a percentage determined by  
21 subtracting forty-two thousand dollars from city taxable income, divid-  
22 ing the result by one hundred thousand dollars and multiplying by seven-  
23 ty-seven percent.

24 (III) If the city taxable income is one hundred forty-two thousand  
25 dollars or greater, the credit shall be twenty-three percent of the  
26 amount determined in paragraph three of this subdivision.

27 (B) Notwithstanding anything to the contrary in subparagraph (A) of  
28 this paragraph, the credit allowed to a taxpayer for a taxable year  
29 under this subdivision shall not exceed the sum of the taxes that would  
30 otherwise be imposed by sections 11-1701, 11-1703, 11-1704 [~~and~~],  
31 11-1704.1 and 11-1704.2 of this [~~chapter~~] subchapter on such taxpayer  
32 for such taxable year after the allowance of any other credits allowed  
33 by this section or section 11-1721 of this chapter.

34 § 9. This act shall take effect immediately and shall be deemed to  
35 have been in full force and effect on and after January 1, 2018;  
36 provided that subdivision 9 of section 1205 of the public authorities  
37 law, as added by section one of this act, shall take effect January 1,  
38 2019.