

# STATE OF NEW YORK

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345

2017-2018 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2017

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Introduced by Sen. PERALTA -- 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 the imposition of sales tax upon transportation service; and to repeal certain provisions 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. Paragraph 34 of subdivision (b) of section 1101 of the tax  
2 law, as amended by section 1 of part WW of chapter 57 of the laws of  
3 2010, is amended to read as follows:

4 (34) Transportation service. The service of transporting, carrying or  
5 conveying a person or persons by livery service; whether to a single  
6 destination or to multiple destinations; and whether the compensation  
7 paid by or on behalf of the passenger is based on mileage, trip, time  
8 consumed or any other basis. A service that begins and ends in this  
9 state is deemed intra-state even if it passes outside this state during  
10 a portion of the trip. However, transportation service does not include  
11 transportation of persons in connection with funerals. Transportation  
12 service includes transporting, carrying, or conveying property of the  
13 person being transported, whether owned by or in the care of such  
14 person. In addition to what is included in the definition of "receipt"  
15 in paragraph three of this subdivision, receipts from the sale of trans-  
16 portation service subject to tax include any handling, carrying,  
17 baggage, booking service, administrative, mark-up, additional, or other  
18 charge, of any nature, made in conjunction with the transportation  
19 service. Livery service means service provided by limousine, black car  
20 or other motor vehicle, with a driver, but excluding (i) a taxicab, (ii)  
21 a bus, and (iii), in a city of one million or more in this state, an  
22 affiliated livery vehicle, and excluding any scheduled public service.

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

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1 Limousine means a vehicle with a seating capacity of up to fourteen  
2 persons, excluding the driver. Black car means a for-hire vehicle  
3 dispatched from a central facility. "Affiliated livery vehicle" means a  
4 for-hire motor vehicle with a seating capacity of up to six persons,  
5 including the driver, ~~[other than a black car or luxury limousine,]~~ that  
6 is authorized and licensed by the taxi and limousine commission of a  
7 city of one million or more to be dispatched by a base station located  
8 in such a city and regulated by such taxi and limousine commission; and  
9 the charges for service provided by an affiliated livery vehicle are on  
10 the basis of flat rate, time, mileage, or zones and not on a garage to  
11 garage basis. An affiliated livery vehicle shall not include a for-hire  
12 vehicle dispatched from a central facility which has certified to the  
13 satisfaction of the taxi and limousine commission of a city with a popu-  
14 lation of one million or more that more than ninety percent of its for-  
15 hire business is conducted by electronic hail.

16 § 2. Paragraph 10 of subdivision (c) of section 1105 of the tax law is  
17 REPEALED.

18 § 3. Subdivision (o) of section 1111 of the tax law is REPEALED.

19 § 4. Subdivision (hh) of section 1115 of the tax law is REPEALED.

20 § 5. Section 1213 of the tax law, as amended by section 2 of part WW  
21 of chapter 57 of the laws of 2010, is amended to read as follow:

22 § 1213. Deliveries outside the jurisdiction where sale is made. Where  
23 a sale of tangible personal property or services, including prepaid  
24 telephone calling services, but not including other services described  
25 in subdivision (b) of section eleven hundred five of this chapter,  
26 including an agreement therefor, is made in any city, county or school  
27 district, but the property sold, the property upon which the services  
28 were performed or prepaid telephone calling or other service is or will  
29 be delivered to the purchaser elsewhere, such sale shall not be subject  
30 to tax by such city, county or school district. However, if delivery  
31 occurs or will occur in a city, county or school district imposing a tax  
32 on the sale or use of such property, prepaid telephone calling or other  
33 services, the vendor shall be required to collect from the purchaser, as  
34 provided in section twelve hundred fifty-four of this article, the  
35 aggregate sales or compensating use taxes imposed by the city, if any,  
36 county and school district in which delivery occurs or will occur, for  
37 distribution by the commissioner to such taxing jurisdiction or juris-  
38 dictions. For the purposes of this section delivery shall be deemed to  
39 include transfer of possession to the purchaser and the receiving of the  
40 property or of the service, including prepaid telephone calling service,  
41 by the purchaser. ~~[Notwithstanding the foregoing, where a transportation~~  
42 ~~service described in paragraph ten of subdivision (c) of section eleven~~  
43 ~~hundred five of this chapter begins in one jurisdiction but ends in~~  
44 ~~another jurisdiction, any tax imposed pursuant to the authority of this~~  
45 ~~article shall be due the jurisdiction or jurisdictions where the service~~  
46 ~~commenced.]~~

47 § 6. Section 1283 of the tax law is REPEALED.

48 § 7. This act shall take effect on the first of July next succeeding  
49 the date on which it shall have become a law.