STATE OF NEW YORK

6566

2017-2018 Regular Sessions

IN SENATE

June 4, 2017

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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

Section 1. Subparagraph (i) of the opening paragraph of section 1210 of the tax law is REPEALED and a new subparagraph (i) is added to read as follows:

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

(2) the following counties that impose taxes described in subdivision (a) of this section at the rate of three percent as authorized above in this paragraph are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the three percent rate authorized above in this paragraph, and, in the case of a county authorized to impose more than one additional rate, also in addition to each other:

(A) One-quarter of one percent - None;

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

(C) Three-quarters of one percent - Dutchess, Orange;

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

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(D) One percent - Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Onondaga, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St. Lawrence, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming, Yates;

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

(F) One and one-half percent - Allegany;

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

Provided, however, that (I) the county of Rockland may impose additional rates of five-eighths percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (II) the county of Ontario may impose additional rates of one-eighth percent and three-eighths percent, in lieu of imposing such additional rate in quarter percent increments; (III) three-quarters percent of the additional rate authorized to be imposed by the county of Nassau shall be subject to the limitation set forth in section twelve hundred sixty-two-e of this article.

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

(ii) the following cities that impose taxes described in subdivision (a) of this section at the rate of one and one-half percent or higher as authorized above in this paragraph for such cities are hereby further authorized and empowered to adopt and amend local laws, ordinances, or resolutions imposing such taxes at additional rates, in quarter percent increments, not to exceed the following rates, which rates are additional to the one and one-half percent or higher rates authorized above in this paragraph and, in the case of a city authorized to impose more than one additional rate, also in addition to each other:

(1) One-quarter of one percent - None;

(2) One-half of one percent - None;

(3) Three-quarters of one percent - None;

(4) One percent - Mount Vernon; New Rochelle for the period beginning January first, two thousand fifteen and ending December thirty-first, two thousand seventeen; Oswego for the period beginning December first, two thousand fifteen and ending November thirtieth, two thousand seventeen; White Plains for the period beginning September first, two thousand seventeen and ending August thirty-first, two thousand nineteen;

(5) One and one-quarter percent - None;

(6) One and one-half percent - Yonkers for the period beginning December first, two thousand fifteen and ending November thirtieth, two thousand seventeen;

(7) One and three-quarters percent - None;

§ 3. Subparagraphs (iii) and (iv) of the opening paragraph of section 1210 of the tax law are REPEALED and a new subparagraph (iii) is added to read as follows:

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

§ 4. Section 1210 of the tax law is amended by adding a new subdivision (p) to read as follows:

(p) Notwithstanding any provision of this section or other law to the contrary, a county authorized to impose an additional rate or rates of sales and compensating use taxes by clause two of subparagraph (i) of the opening paragraph of this section may adopt a local law, ordinance or resolution by a majority vote of its governing body imposing such rate or rates for a period not to exceed two years. Any such local law, ordinance, or resolution shall also be subject to the provisions of subdivisions (d) and (e) of this section.

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

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

§ 7. Section 1224 of the tax law is amended by adding three new subdivisions (d), (e), and (f) to read as follows:

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

(e) Each of the following counties and cities shall have the sole right to impose the following additional rate of sales and compensating use taxes in excess of three percent that such county or city is authorized to impose pursuant to subparagraph (i) or (ii) of the opening paragraph of section twelve hundred ten of this article. Such additional rates of tax shall not be subject to preemption.

(1) Counties:

(A) One-quarter of one percent - None;

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

(C) Three-quarters of one percent - Dutchess, Lewis, Orange;

(D) One percent - Albany, Broome, Chautauqua, Cattaraugus, Chemung, Chenango, Clinton, Columbia, Delaware, Essex, Franklin, Genesee, Greene, Hamilton, Jefferson, Livingston, Monroe, Montgomery, Niagara, Onondaga, Orleans, Oswego, Otsego, Putnam, Rensselaer, Rockland, St. Lawrence, Schoharie, Schuyler, Seneca, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming, Yates;

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

(F) One and one-half percent - Allegany;

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

(2) Cities:

(A) One-quarter of one percent - Rome;

(B) One-half of one percent - None;

(C) Three-quarters of one percent - None;

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

(f) Each of the following cities is authorized to preempt the taxes imposed by the county in which it is located pursuant to the authority of section twelve hundred ten of this article, to the extent of one-half the maximum aggregate rate authorized under section twelve hundred ten of this article, including the additional rate that the county in which such city is located is authorized to impose: Auburn, in Cayuga county; Cortland, in Cortland county; Gloversville and Johnstown, in Fulton county; Oneida, in Madison county; Oneonta, in Otsego county. As of the date this subdivision takes effect, any such preemption by such a city

in effect on such date shall continue in full force and effect until the effective date of a local law, ordinance, or resolution adopted or amended by the city to change such preemption. Any preemption by such a city pursuant to this subdivision that takes effect after the date this subdivision takes effect shall be subject to the notice requirements in section twelve hundred twenty-three of this subpart and to the other requirements of this article.

§ 8. Section 1262-g of the tax law, as amended by chapter 185 of the laws of 2015, is amended to read as follows:

§ 1262-g. Oneida county allocation and distribution of net collections from the additional one percent rate of sales and compensating use taxes. Notwithstanding any contrary provision of law, (a) if the county of Oneida imposes sales and compensating use taxes at a rate which is one percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized by such section, [~~(a)~~] (i) where a city in such county imposes tax pursuant to the authority of subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city one-half of the net collections attributable to such additional one percent rate of the county's taxes collected in such city's boundaries; [~~(b)~~] (ii) where a city in such county does not impose tax pursuant to the authority of such subdivision (a) of such section twelve hundred ten, such county shall allocate, distribute and pay in cash quarterly to such city not so imposing tax a portion of the net collections attributable to one-half of the county's additional one percent rate of tax calculated on the basis of the ratio which such city's population bears to the county's total population, such populations as determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county; [~~and (c)~~] provided, however, that such county shall dedicate the first one million five hundred thousand dollars of net collections attributable to such additional one percent rate of tax received by such county after the county receives in the aggregate eighteen million five hundred thousand dollars of net collections from such additional one percent rate of tax imposed for any of the periods: September first, two thousand twelve through August thirty-first, two thousand thirteen; September first, two thousand thirteen through August thirty-first, two thousand fourteen; and September first, two thousand fourteen through August thirty-first, two thousand fifteen; September first, two thousand fifteen through August thirty-first, two thousand sixteen; and September first, two thousand sixteen through August thirty-first, two thousand seventeen, to an allocation on a per capita basis, utilizing figures from the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law, completed and published prior to the end of the year for which such allocation is made, which special census must include the entire area of such county, to be allocated and distributed among the towns of Oneida county by appropriation of its board of legislators; provided, further, that nothing herein shall require such board of legislators to make any such appropriation until it has been notified by any town by appropriate resolution and, in any case where there is a village wholly or partly located within a town, a resolution of every such village, embodying the agreement of such town and village or villages upon the amount of such

appropriation to be distributed to such village or villages out of the allocation to the town or towns in which it is located.

(b) if the county of Oneida imposes sales and compensating use taxes at a rate which is one and three-quarters percent additional to the three percent rate authorized by section twelve hundred ten of this article, as authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections attributable to the additional three-quarters percent of such additional rate shall not be subject to any revenue distribution agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 9. The opening paragraph of section 1262-r of the tax law, as added by chapter 37 of the laws of 2006, is amended to read as follows:

(1) Notwithstanding any contrary provision of law, if the county of Ontario imposes the additional one-eighth of one percent and the additional three-eighths of one percent rates of tax authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from such additional three-eighths of one percent rate of such taxes shall be set aside for county purposes and shall not be subject to any agreement entered into by the county and the cities in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

(2) Notwithstanding the provisions of subdivision (c) of section twelve hundred sixty-two of this part to the contrary, if the cities of Canandaigua and Geneva in the county of Ontario do not impose sales and compensating use taxes pursuant to the authority of section twelve hundred ten of this article and such cities and county enter into an agreement pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part to be effective March first, two thousand six, such agreement may provide that:

§ 10. The tax law is amended by adding a new section 1262-u to read as follows:

§ 1262-u. Disposition of net collections from the additional rate of sales and compensating use tax in Clinton county. Notwithstanding any contrary provision of law, if the county of Clinton imposes the additional one percent rate of sales and compensating use taxes authorized pursuant to clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article, net collections from such additional rate shall be paid to the county and the county shall set aside such net collections and use them solely for county purposes. Such net collections shall not be subject to any revenue distribution agreement entered into by the county and the city in the county pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

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

§ 1262-s. Disposition of net collections from the additional one-quarter of one percent rate of sales and compensating use taxes in the county of Herkimer. Notwithstanding any contrary provision of law, if the county of Herkimer imposes [~~the additional~~] **sales and compensating use taxes at a rate which is one and** one-quarter of one percent [~~rate of sales and compensating use taxes~~] **additional to the three percent rate authorized by section twelve hundred ten of this article, as** authorized by [~~section twelve hundred ten-E~~] **clause two of subparagraph (i) of the opening paragraph of section twelve hundred ten** of this article [~~for all~~

~~or any portion of the period beginning December first, two thousand seven and ending November thirtieth, two thousand seventeen~~], the county shall use all net collections [~~from such~~] attributable to the additional one-quarter [~~of one~~] percent of such additional rate to pay the county's expenses for the construction of additional correctional facilities. The net collections from [~~the~~] such additional one-quarter percent of such additional rate [~~imposed pursuant to section twelve hundred ten-E~~] shall be deposited in a special fund to be created by such county separate and apart from any other funds and accounts of the county. Any and all remaining net collections from such additional tax, after the expenses of such construction are paid, shall be deposited by the county of Herkimer in the general fund of such county for any county purpose.

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

§ 1265. References to certain provisions authorizing additional rates or to expirations of a period. Notwithstanding any provision of law to the contrary, any reference in any section of this chapter or other law, or in any local law, ordinance, or resolution adopted pursuant to the authority of this article, to net collections or revenues from a tax imposed by a county or city pursuant to the authority of a clause, or to subclause of a clause, of subparagraph (i) or (ii) of the opening paragraph of section twelve hundred ten of this article repealed by section one or two of the chapter of the laws of two thousand seventeen that added this section or pursuant to section twelve hundred ten-E of this article repealed by section five of such chapter shall be deemed to be a reference to net collections or revenues from a tax imposed by that county or city pursuant to the authority of the equivalent provision of clause two of subparagraph (i) or to subparagraph (ii) of the opening paragraph of such section twelve hundred ten as added by such section one or two of such chapter.

§ 13. This act shall take effect immediately.