

# STATE OF NEW YORK

5840--A

2019-2020 Regular Sessions

## IN ASSEMBLY

February 20, 2019

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing the county of Westchester to impose an additional rate of sales and compensating use tax; and to amend chapter 272 of the laws of 1991, amending the tax law relating to the method of disposition of sales and compensating use tax revenue in Westchester county and enacting the Westchester county spending limitation act, in relation to extending the expiration thereof

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 amended by adding a new clause 42 to read as follows:

(42) the county of Westchester is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes at a rate that is one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning March first, two thousand nineteen and ending November thirtieth, two thousand twenty-two;

§ 2. Section 1224 of the tax law is amended by adding a new subdivision (jj) to read as follows:

(jj) The county of Westchester shall have the sole right to impose the additional one percent rate of tax which such county is authorized to impose pursuant to the authority of section twelve hundred ten of this article. Such additional rate of tax shall be in addition to any other tax which such county may impose or may be imposing pursuant to this article or any other law and such additional rate of tax shall not be subject to preemption. The maximum three percent rate referred to in this section shall be calculated without reference to the additional one percent rate of tax which the county of Westchester is authorized and

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

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1 empowered to adopt pursuant to section twelve hundred ten of this arti-  
2 cle.

3 § 3. Section 1262-b of the tax law, as amended by section 1 of part A  
4 of chapter 8 of the laws of 2004, is amended to read as follows:

5 § 1262-b. The Westchester county property tax stabilization and relief  
6 act. (a) Notwithstanding any other provision of law to the contrary, if  
7 the county of Westchester imposes sales and compensating use taxes  
8 pursuant to [~~subdivision (a)~~] clause forty-two of subparagraph (i) of  
9 the opening paragraph of section twelve hundred ten of this article at  
10 the rate of [~~three~~] four percent:

11 (1) The county shall allocate net collections from such taxes imposed  
12 at the rate of one and one-half percent countywide among the cities and  
13 towns of the county on the basis of the ratio which the full valuation  
14 of real property in each city or town bears to the aggregate full valu-  
15 ation of real property in all cities and towns of the county. Amounts  
16 so allocated shall be credited to each of said cities and towns against  
17 the county taxes levied upon real property in said cities and towns.

18 (2) The county shall allocate and credit or pay net collections  
19 received by the county by reason of its additional one percent rate of  
20 such taxes on the area of the county outside any city imposing sales and  
21 compensating use taxes at a rate of one and one-half percent or greater  
22 pursuant to the authority of subdivision (a) or at any rate pursuant to  
23 the authority of [~~subdivision (b)~~] clause forty-two of subparagraph (i)  
24 of the opening paragraph of section twelve hundred ten of this article  
25 as follows:

26 (A) One-third of such net collections shall be allocated and credited  
27 in the manner set forth in paragraph one of this subdivision.

28 (B) One-sixth of such net collections shall be allocated and paid  
29 quarterly by the county commissioner of finance, in cash, to the several  
30 school districts in such area of the county outside any such city impos-  
31 ing sales and compensating use taxes. Such allocation and payment, to  
32 such several school districts, shall be made on the basis of the ratio  
33 which the population of each such school district bears to the aggregate  
34 population of all of the school districts in such area. In the case of  
35 school districts which are partially within and partially without the  
36 county, or partially within or partially without the area of the county  
37 outside a city imposing sales and compensating use taxes, the allocation  
38 and payment to each such school district shall be made on the basis of  
39 the population in such school district in the county, or in such area of  
40 the county outside a city imposing sales and compensating use taxes, as  
41 the case may be. Such populations shall be determined in accordance with  
42 the latest federal census or special population census under section  
43 twenty of the general municipal law completed and published prior to the  
44 end of the quarter in which such allocation and payment are made, which  
45 special population census shall include the entire area of the county;  
46 provided that such special population census shall not be taken more  
47 than once in every two years. A school district split between Westches-  
48 ter county and another county shall apply such allocation and payment  
49 solely to the benefit of the residents of the county in which the sales  
50 and compensating use taxes are imposed.

51 (C) One-half of such net collections shall be allocated and paid quar-  
52 terly by the county commissioner of finance, in cash, to the cities not  
53 imposing sales and compensating use taxes and to the towns and villages  
54 on which such additional one percent rate is imposed, on the basis of  
55 the ratio which the population of each such city, town or village on  
56 which such additional one percent rate is imposed bears to the entire

1 population of all such cities, towns and villages in the area on which  
2 such additional one percent rate is imposed. Such populations shall be  
3 determined in accordance with the latest federal census or special popu-  
4 lation census under section twenty of the general municipal law  
5 completed and published prior to the end of the quarter in which such  
6 allocation is made, which special population census shall include the  
7 entire area of the county; provided that such special population census  
8 shall not be taken more than once in every two years.

9 (D) The quarterly allocation and payment of cash to cities, towns,  
10 villages and school districts provided for under this paragraph and  
11 under paragraph three of this subdivision may be made after payment by  
12 the state comptroller to the county of the net collections subject to  
13 such allocation and receipt by the county commissioner of finance of the  
14 quarterly settlement report issued by the department, and may include  
15 adjustments for corrections applicable to such allocations. All ratios  
16 established by the county commissioner of finance with respect to allo-  
17 cations to cities, towns, villages and school districts under this  
18 subdivision shall be carried to four decimal places. The allocation of  
19 net collections and payment of cash provided for under this paragraph  
20 and under paragraph three of this subdivision shall be made to a town  
21 based upon the population of the town less the population of any village  
22 therein, provided that a town/village or village/town shall be deemed a  
23 village for the purpose of determining such allocation. The allocation  
24 of net collections and payment of cash provided for under this paragraph  
25 and under paragraph three of this subdivision shall be applied by the  
26 cities, towns, villages and school districts receiving such allocation  
27 and payment as a credit against the taxes upon real property imposed by  
28 such municipalities and school districts, respectively. The allocation  
29 and payment received by towns shall be credited against real property  
30 taxes in either the general fund town-wide or the town outside village  
31 fund or a combination thereof.

32 (3) The county shall allocate and credit or pay net collections  
33 received by the county by reason of its additional one and one-half  
34 percent rate of such taxes imposed on the area of the county outside any  
35 city imposing sales and compensating use taxes at a rate of one and  
36 one-half percent or greater pursuant to the authority of subdivision (a)  
37 or at any rate pursuant to the authority of subdivision (b) of section  
38 twelve hundred ten of this article as follows:

39 (A) Seventy percent of such net collections shall be retained by the  
40 county to be used for any county purpose.

41 (B) Ten percent of such net collections shall be allocated and paid in  
42 the manner set forth in subparagraph (B) of paragraph two of this subdi-  
43 vision.

44 (C) Twenty percent of such net collections shall be allocated and paid  
45 in the manner set forth in subparagraph (C) of paragraph two of this  
46 subdivision.

47 (b) Nothing in this section shall be construed to impair the powers of  
48 a city currently imposing sales and compensating use taxes pursuant to  
49 the authority of section twelve hundred ten of this article from contin-  
50 uing to do so in accordance with law. No school district in any city  
51 imposing such sales and compensating use taxes shall be entitled to  
52 receive a cash allocation and payment under paragraph two or three of  
53 subdivision (a) of this section. No city, town or village authorized or  
54 entitled to receive an allocation under subparagraph (C) of paragraph  
55 two or subparagraph (C) of paragraph three of subdivision (a) of this

1 section shall be authorized or entitled to receive any cash allocation  
2 under section twelve hundred sixty-two of this article.

3 § 4. Subdivision e of section 4 and sections 5, 7 and 16 of chapter  
4 272 of the laws of 1991, amending the tax law relating to the method of  
5 disposition of sales and compensating use tax revenue in Westchester  
6 county and enacting the Westchester county spending limitation act, as  
7 amended by chapter 81 of the laws of 2017, are amended to read as  
8 follows:

9 e. "Spending limitation" means the maximum amount of county spending  
10 established in county fiscal years 1992, 1993, 1994, 1995, 1996, 1997,  
11 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009,  
12 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 ~~[and]~~, 2020,  
13 2021 and 2022.

14 § 5. Establishment of annual spending limitation. a. For county fiscal  
15 years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002,  
16 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014,  
17 2015, 2016, 2017, 2018, 2019 ~~[and]~~, 2020, 2021 and 2022 there shall be  
18 in effect an annual spending limitation. The spending limitation shall  
19 be derived from a fixed percentage reflecting the ratio of base year  
20 spending to county personal income. County personal income for such  
21 calculation shall be for the period January 1, 1986 through December 31,  
22 1986. Such percentage shall be applied to county personal income for the  
23 period January 1, 1989 through December 31, 1989, to determine the  
24 spending limitation for county fiscal year 1992; to determine the spend-  
25 ing limitation for county fiscal year 1993, such percentage shall be  
26 applied to county personal income for the period January 1, 1990 through  
27 December 31, 1990; to determine the spending limitation for county  
28 fiscal year 1994, such percentage shall be applied to county personal  
29 income for the period January 1, 1991 through December 31, 1991; to  
30 determine the spending limitation for county fiscal year 1995, such  
31 percentage shall be applied to county personal income for the period  
32 January 1, 1992 through December 31, 1992; to determine the spending  
33 limitation for county fiscal year 1996, such percentage shall be applied  
34 to county personal income for the period January 1, 1993 through Decem-  
35 ber 31, 1993; to determine the spending limitation for county fiscal  
36 year 1997, such percentage shall be applied to county personal income  
37 for the period January 1, 1994 through December 31, 1994; to determine  
38 the spending limitation for county fiscal year 1998, such percentage  
39 shall be applied to county personal income for the period January 1,  
40 1995 through December 31, 1995; to determine the spending limitation for  
41 county fiscal year 1999, such percentage shall be applied to county  
42 personal income for the period January 1, 1996 through December 31,  
43 1996; to determine the spending limitation for county fiscal year 2000,  
44 such percentage shall be applied to county personal income for the peri-  
45 od January 1, 1997 through December 31, 1997; to determine the spending  
46 limitation for county fiscal year 2001, such percentage shall be applied  
47 to county personal income for the period January 1, 1998 through Decem-  
48 ber 31, 1998; to determine the spending limitation for county fiscal  
49 year 2002, such percentage shall be applied to county personal income  
50 for the period January 1, 1999 through December 31, 1999; to determine  
51 the spending limitation for county fiscal year 2003, such percentage  
52 shall be applied to county personal income for the period January 1,  
53 2000 through December 31, 2000; to determine the spending limitation for  
54 county fiscal year 2004, such percentage shall be applied to county  
55 personal income for the period January 1, 2001 through December 31,  
56 2001; to determine the spending limitation for county fiscal year 2005,

1 such percentage shall be applied to county personal income for the peri-  
2 od January 1, 2002 through December 31, 2002; to determine the spending  
3 limitation for county fiscal year 2006, such percentage shall be applied  
4 to county personal income for the period January 1, 2003 through Decem-  
5 ber 31, 2003; to determine the spending limitation for the county fiscal  
6 year 2007, such percentage shall be applied to county personal income  
7 for the period January 1, 2004 through December 31, 2004; to determine  
8 the spending limitation for the county fiscal year 2008, such percentage  
9 shall be applied to county personal income for the period January 1,  
10 2005 through December 31, 2005; to determine the spending limitation for  
11 the county fiscal year 2009, such percentage shall be applied to county  
12 personal income for the period January 1, 2006 through December 31,  
13 2006; to determine the spending limitation for the county fiscal year  
14 2010, such percentage shall be applied to county personal income for the  
15 period January 1, 2007 through December 31, 2007; to determine the  
16 spending limitation for the county fiscal year 2011, such percentage  
17 shall be applied to county personal income for the period January 1,  
18 2008 through December 31, 2008; to determine the spending limitation for  
19 the county fiscal year 2012, such percentage shall be applied to county  
20 personal income for the period January 1, 2009 through December 31,  
21 2009; to determine the spending limitation for the county fiscal year  
22 2013, such percentage shall be applied to county personal income for the  
23 period January 1, 2010 through December 31, 2010; to determine the  
24 spending limitation for the county fiscal year 2014, such percentage  
25 shall be applied to county personal income for the period January 1,  
26 2011 through December 31, 2011; to determine the spending limitation for  
27 the county fiscal year 2015, such percentage shall be applied to county  
28 personal income for the period January 1, 2012 through December 31,  
29 2012; to determine the spending limitation for county fiscal year 2016,  
30 such percentage shall be applied to the county personal income for the  
31 period January 1, 2013 through December 31, 2013; to determine the  
32 spending limitation for the county fiscal year 2017, such percentage  
33 shall be applied to county personal income for the period January 1,  
34 2014 through December 31, 2014; and to determine the spending limitation  
35 for county fiscal year 2018, such percentage shall be applied to the  
36 county personal income for the period January 1, 2015 through December  
37 31, 2015; to determine the spending limitation for the county fiscal  
38 year 2019, such percentage shall be applied to county personal income  
39 for the period January 1, 2016 through December 31, 2016; and to deter-  
40 mine the spending limitation for county fiscal year 2020, such percent-  
41 age shall be applied to the county personal income for the period Janu-  
42 ary 1, 2017 through December 31, 2017; and to determine the spending  
43 limitation for the county fiscal year 2021, such percentage shall be  
44 applied to county personal income for the period January 1, 2018 through  
45 December 31, 2018; and to determine the spending limitation for the  
46 county fiscal year 2022, such percentage shall be applied to county  
47 personal income for the period January 1, 2019 through December 31,  
48 2019.

49 b. The spending limitation shall serve as a statutory cap on county  
50 spending to be reflected in the tentative budget as well as the enacted  
51 budget for county fiscal years beginning in 1992.

52 § 7. Mandatory tax reduction. In the event that the county spending  
53 subject to the spending limitation exceeds such limitation in the adop-  
54 tive county budget for county fiscal year 1992, 1993, 1994, 1995, 1996,  
55 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,

1 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019 [~~or~~],  
2 2020, 2021 or 2022 then section 1262-b of the tax law shall be repealed.

3 § 16. This act shall take effect immediately, provided, however, that  
4 sections one through seven of this act shall be in full force and effect  
5 until [~~May 31, 2020, provided, however, that if the county of Westches-~~  
6 ~~ter imposes the tax authorized by section 1210 of the tax law in excess~~  
7 ~~of three percent, then sections one through seven of this act shall be~~  
8 ~~deemed repealed; provided that the commissioner of taxation and finance~~  
9 ~~shall notify the legislative bill drafting commission upon the repeal of~~  
10 ~~section 1262-b of the tax law pursuant to section seven of the Westches-~~  
11 ~~ter county spending limitation act in order that the commission may~~  
12 ~~maintain an accurate and timely effective data base of the official text~~  
13 ~~of laws of the state of New York in furtherance of effecting the~~  
14 ~~provisions of section 44 of the legislative law and section 70-b of the~~  
15 ~~public officers law~~] November 30, 2022.

16 § 5. This act shall take effect immediately; provided that the amend-  
17 ments to section 1262-b of the tax law made by section three of this act  
18 shall not affect the expiration of such section and shall expire there-  
19 with.