

# STATE OF NEW YORK

8016

2019-2020 Regular Sessions

## IN ASSEMBLY

May 30, 2019

Introduced by M. of A. JEAN-PIERRE -- 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:

Section 1. Subdivision 1 of section 171-a of the tax law, as amended by section 3 of part MM of chapter 59 of the laws of 2018, 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-B, twenty-one, twenty-two, twenty-four, 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

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

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

1 credit of the general fund from amounts subsequently payable to the  
2 department of social services, the state university of New York, the  
3 city university of New York, or the higher education services corpo-  
4 ration, or the revenue arrearage account or special offset fiduciary  
5 account pursuant to section ninety-one-a or ninety-one-c of the state  
6 finance law, as the case may be, whichever had been credited the amount  
7 originally withheld from such overpayment, and (vii) with respect to  
8 amounts originally withheld from such overpayment pursuant to section  
9 one hundred seventy-one-l of this article and paid to the city of New  
10 York, the comptroller shall collect a like amount from the city of New  
11 York.

12 § 2. Subdivision 1 of section 171-a of the tax law, as amended by  
13 section 3 of part XX of chapter 59 of the laws of 2019, is amended to  
14 read as follows:

15 1. All taxes, interest, penalties and fees collected or received by  
16 the commissioner or the commissioner's duly authorized agent under arti-  
17 cles nine (except section one hundred eighty-two-a thereof and except as  
18 otherwise provided in section two hundred five thereof), nine-A,  
19 twelve-A (except as otherwise provided in section two hundred eighty-  
20 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
21 section three hundred twelve thereof), eighteen, nineteen, twenty  
22 (except as otherwise provided in section four hundred eighty-two there-  
23 of), twenty-B, twenty-D, twenty-one, twenty-two, twenty-four, twenty-  
24 six, twenty-eight (except as otherwise provided in section eleven  
25 hundred two or eleven hundred three thereof), twenty-eight-A, ~~twenty-~~  
26 ~~nine-B,~~ thirty-one (except as otherwise provided in section fourteen  
27 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
28 chapter shall be deposited daily in one account with such responsible  
29 banks, banking houses or trust companies as may be designated by the  
30 comptroller, to the credit of the comptroller. Such an account may be  
31 established in one or more of such depositories. Such deposits shall be  
32 kept separate and apart from all other money in the possession of the  
33 comptroller. The comptroller shall require adequate security from all  
34 such depositories. Of the total revenue collected or received under such  
35 articles of this chapter, the comptroller shall retain in the comp-  
36 troller's hands such amount as the commissioner may determine to be  
37 necessary for refunds or reimbursements under such articles of this  
38 chapter out of which amount the comptroller shall pay any refunds or  
39 reimbursements to which taxpayers shall be entitled under the provisions  
40 of such articles of this chapter. The commissioner and the comptroller  
41 shall maintain a system of accounts showing the amount of revenue  
42 collected or received from each of the taxes imposed by such articles.  
43 The comptroller, after reserving the amount to pay such refunds or  
44 reimbursements, shall, on or before the tenth day of each month, pay  
45 into the state treasury to the credit of the general fund all revenue  
46 deposited under this section during the preceding calendar month and  
47 remaining to the comptroller's credit on the last day of such preceding  
48 month, (i) except that the comptroller shall pay to the state department  
49 of social services that amount of overpayments of tax imposed by article  
50 twenty-two of this chapter and the interest on such amount which is  
51 certified to the comptroller by the commissioner as the amount to be  
52 credited against past-due support pursuant to subdivision six of section  
53 one hundred seventy-one-c of this article, (ii) and except that the  
54 comptroller shall pay to the New York state higher education services  
55 corporation and the state university of New York or the city university  
56 of New York respectively that amount of overpayments of tax imposed by

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

46 § 3. Subdivision 1 of section 171-a of the tax law, as amended by  
47 section 4 of part XX of chapter 59 of the laws of 2019, is amended to  
48 read as follows:

49 1. All taxes, interest, penalties and fees collected or received by  
50 the commissioner or the commissioner's duly authorized agent under arti-  
51 cles nine (except section one hundred eighty-two-a thereof and except as  
52 otherwise provided in section two hundred five thereof), nine-A,  
53 twelve-A (except as otherwise provided in section two hundred eighty-  
54 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
55 section three hundred twelve thereof), eighteen, nineteen, twenty  
56 (except as otherwise provided in section four hundred eighty-two there-

1 of), twenty-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-  
2 eight (except as otherwise provided in section eleven hundred two or  
3 eleven hundred three thereof), twenty-eight-A, [~~twenty-nine-B,~~] thirty-  
4 one (except as otherwise provided in section fourteen hundred twenty-one  
5 thereof), thirty-three and thirty-three-A of this chapter shall be  
6 deposited daily in one account with such responsible banks, banking  
7 houses or trust companies as may be designated by the comptroller, to  
8 the credit of the comptroller. Such an account may be established in one  
9 or more of such depositories. Such deposits shall be kept separate and  
10 apart from all other money in the possession of the comptroller. The  
11 comptroller shall require adequate security from all such depositories.  
12 Of the total revenue collected or received under such articles of this  
13 chapter, the comptroller shall retain in the comptroller's hands such  
14 amount as the commissioner may determine to be necessary for refunds or  
15 reimbursements under such articles of this chapter out of which amount  
16 the comptroller shall pay any refunds or reimbursements to which taxpay-  
17 ers shall be entitled under the provisions of such articles of this  
18 chapter. The commissioner and the comptroller shall maintain a system of  
19 accounts showing the amount of revenue collected or received from each  
20 of the taxes imposed by such articles. The comptroller, after reserving  
21 the amount to pay such refunds or reimbursements, shall, on or before  
22 the tenth day of each month, pay into the state treasury to the credit  
23 of the general fund all revenue deposited under this section during the  
24 preceding calendar month and remaining to the comptroller's credit on  
25 the last day of such preceding month, (i) except that the comptroller  
26 shall pay to the state department of social services that amount of  
27 overpayments of tax imposed by article twenty-two of this chapter and  
28 the interest on such amount which is certified to the comptroller by the  
29 commissioner as the amount to be credited against past-due support  
30 pursuant to subdivision six of section one hundred seventy-one-c of this  
31 article, (ii) and except that the comptroller shall pay to the New York  
32 state higher education services corporation and the state university of  
33 New York or the city university of New York respectively that amount of  
34 overpayments of tax imposed by article twenty-two of this chapter and  
35 the interest on such amount which is certified to the comptroller by the  
36 commissioner as the amount to be credited against the amount of defaults  
37 in repayment of guaranteed student loans and state university loans or  
38 city university loans pursuant to subdivision five of section one  
39 hundred seventy-one-d and subdivision six of section one hundred seven-  
40 ty-one-e of this article, (iii) and except further that, notwithstanding  
41 any law, the comptroller shall credit to the revenue arrearage account,  
42 pursuant to section ninety-one-a of the state finance law, that amount  
43 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-  
44 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
45 thereon, which is certified to the comptroller by the commissioner as  
46 the amount to be credited against a past-due legally enforceable debt  
47 owed to a state agency pursuant to paragraph (a) of subdivision six of  
48 section one hundred seventy-one-f of this article, provided, however, he  
49 shall credit to the special offset fiduciary account, pursuant to  
50 section ninety-one-c of the state finance law, any such amount credita-  
51 ble as a liability as set forth in paragraph (b) of subdivision six of  
52 section one hundred seventy-one-f of this article, (iv) and except  
53 further that the comptroller shall pay to the city of New York that  
54 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
55 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
56 interest thereon that is certified to the comptroller by the commission-

er as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the 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.

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

§ 1298. Deposit and disposition of revenue. (a) All taxes, fees, interest and penalties collected or received by the commissioner under this article shall be deposited ~~[and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter]~~ daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, to the credit of the comptroller for disposal pursuant to section eighty-eight-a of the state finance law. An account may be established in one or more such depositories. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from the amounts it receives under this article, before deposit into the trust accounts designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect and distribute the taxes imposed by this article.

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

(c) The commissioner and comptroller are authorized to consult with the director of the division of budget and the commissioner of transportation in determining which account of the mass transportation operating



1 assistance fund to deposit and dispose of revenues collected or received  
2 under this article.

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

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

12 (d) (i) The comptroller is hereby authorized and directed to transfer  
13 the taxes, fees, interest and penalties collected or received pursuant  
14 to article twenty-nine-B of the tax law on TNC prearranged trips origi-  
15 nating outside the metropolitan transportation commuter district to the  
16 public transportation system operating assistance account established  
17 under this subdivision. These transfers shall not be included for  
18 purposes of calculating the sales tax growth factor established in para-  
19 graph (c) of this subdivision, and shall supplement the additional  
20 transfers indexed to the sales tax growth factor required under this  
21 subdivision. Transfers provided under this paragraph shall not be used  
22 to offset reduced transfers under paragraph (c) of this subdivision.

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

27 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-  
28 troller is authorized to withhold the transfer of taxes, fees, interest  
29 and penalties collected or received pursuant to article twenty-nine-B of  
30 the tax law from public transportation systems eligible to receive oper-  
31 ating assistance pursuant to section eighteen-b of the transportation  
32 law in the event that a county or municipality reduces its annual oper-  
33 ating payments to a public transportation system or mass transportation  
34 service. The comptroller is further authorized to consult with the  
35 director of the division of budget and the commissioner of transporta-  
36 tion in making that determination.

37 § 6. Subdivision 7 of section 88-a of the state finance law is amended  
38 by adding a new paragraph (c) to read as follows:

39 (c)(i) The comptroller is hereby authorized and directed to transfer  
40 the taxes, fees, interest and penalties collected or received pursuant  
41 to article twenty-nine-B of the tax law on TNC prearranged trips origi-  
42 nating outside of the city of New York within the metropolitan transpor-  
43 tation commuter district to the metropolitan mass transportation operat-  
44 ing assistance account. Transfers provided under this paragraph shall  
45 supplement the aggregate amount of funds appropriated and disbursed from  
46 the metropolitan mass transportation operating assistance account for  
47 the state fiscal year ending March thirty-first, two thousand twenty.  
48 Provided, further, that the director of the division of budget shall not  
49 withhold an additional percentage of disbursements relative to the  
50 enacted budget financial plan for the state fiscal year ending March  
51 thirty-first, two thousand twenty from metropolitan mass transportation  
52 operating assistance account revenues generated in subsequent fiscal  
53 years.

54 (ii) Provided, further, that taxes, fees, interest and penalties  
55 transferred pursuant to subparagraph (i) of this paragraph shall only be  
56 distributed to public transportation systems providing mass transporta-

1 tion services outside the city of New York. For purposes of this subpar-  
2 agraph, mass transportation services provided outside the city of New  
3 York shall include commuter rail provided in the metropolitan transpor-  
4 tation commuter district. Taxes, fees, interest and penalties shall be  
5 transferred in proportion to the location where the prearranged trip  
6 originated, provided that fifty percent of transfers shall be disbursed  
7 to bus lines and fifty percent of transfers shall be disbursed to commu-  
8 ter rail in localities where both mass transportation services are  
9 provided. The comptroller is authorized to consult with the commissioner  
10 of taxation and finance, the director of the division of budget and the  
11 commissioner of transportation in determining the appropriate public  
12 transportation systems and mass transportation services that should  
13 receive the transfers.

14 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-  
15 troller is authorized to withhold the transfer of taxes, fees, interest  
16 and penalties collected or received pursuant to article twenty-nine-B of  
17 the tax law from public transportation systems eligible to receive oper-  
18 ating assistance pursuant to section eighteen-b of the transportation  
19 law in the event that a county or municipality reduces its annual oper-  
20 ating payments to a public transportation system or mass transportation  
21 service. The comptroller is further authorized to consult with the  
22 director of the division of budget and the commissioner of transporta-  
23 tion in making that determination.

24 § 7. This act shall take effect on the first of July next succeeding  
25 the date on which it shall have become a law; provided, however, that if  
26 part XX of chapter 59 of the laws of 2019 shall not have taken effect on  
27 or before such date, then section two shall take effect on the same date  
28 and in the same manner as part XX of chapter 59 of the laws of 2019  
29 takes effect; and provided further, however, that the amendments to  
30 subdivision 1 of section 171-a of the tax law made by section two of  
31 this act shall be subject to the expiration of such subdivision pursuant  
32 to section 12 of chapter 90 of the laws of 2014, when upon such date the  
33 provisions of section three of this act shall take effect. Effective  
34 immediately, the addition, amendment and/or repeal of any rule or regu-  
35 lation necessary for the implementation of this act on its effective  
36 date are authorized to be made and completed on or before such effective  
37 date.