

# STATE OF NEW YORK

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1694

2019-2020 Regular Sessions

## IN SENATE

January 15, 2019

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Introduced by Sen. BROOKS -- 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 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:

1 Section 1. Subdivision 1 of section 171-a of the tax law, as amended  
2 by section 3 of part MM of chapter 59 of the laws of 2018, is amended to  
3 read as follows:  
4 1. All taxes, interest, penalties and fees collected or received by  
5 the commissioner or the commissioner's duly authorized agent under arti-  
6 cles nine (except section one hundred eighty-two-a thereof and except as  
7 otherwise provided in section two hundred five thereof), nine-A,  
8 twelve-A (except as otherwise provided in section two hundred eighty-  
9 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
10 section three hundred twelve thereof), eighteen, nineteen, twenty  
11 (except as otherwise provided in section four hundred eighty-two there-  
12 of), twenty-B, twenty-one, twenty-two, twenty-four, twenty-six, twenty-  
13 eight (except as otherwise provided in section eleven hundred two or  
14 eleven hundred three thereof), twenty-eight-A, [~~twenty-nine-B,~~] thirty-  
15 one (except as otherwise provided in section fourteen hundred twenty-one  
16 thereof), thirty-three and thirty-three-A of this chapter shall be  
17 deposited daily in one account with such responsible banks, banking  
18 houses or trust companies as may be designated by the comptroller, to  
19 the credit of the comptroller. Such an account may be established in one  
20 or more of such depositories. Such deposits shall be kept separate and  
21 apart from all other money in the possession of the comptroller. The  
22 comptroller shall require adequate security from all such depositories.

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

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

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

13 § 2. Subdivision 1 of section 171-a of the tax law, as amended by  
14 section 4 of part MM of chapter 59 of the laws of 2018, is amended to  
15 read as follows:

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

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

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

49 § 1298. Deposit and disposition of revenue. (a) All taxes, fees,  
50 interest and penalties collected or received by the commissioner under  
51 this article shall be deposited [~~and disposed of pursuant to the~~  
52 ~~provisions of section one hundred seventy-one-a of this chapter~~] daily  
53 with such responsible banks, banking houses or trust companies, as may  
54 be designated by the comptroller, to the credit of the comptroller for  
55 disposal pursuant to section eighty-eight-a of the state finance law. An  
56 account may be established in one or more such depositories. The comp-

1 troller shall require adequate security from all such depositories. Of  
2 the total revenue collected or received under this article, the comp-  
3 troller shall retain such amount as the commissioner may determine to be  
4 necessary for refunds under this article. The commissioner is authorized  
5 and directed to deduct from the amounts it receives under this article,  
6 before deposit into the trust accounts designated by the comptroller, a  
7 reasonable amount necessary to effectuate refunds of appropriations of  
8 the department to reimburse the department for the costs incurred to  
9 administer, collect and distribute the taxes imposed by this article.

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

21 (c) The commissioner and comptroller are authorized to consult with  
22 the director of the division of budget and the commissioner of transpor-  
23 tation in determining which account of the mass transportation operating  
24 assistance fund to deposit and dispose of revenues collected or received  
25 under this article.

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

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

35 (d) (i) The comptroller is hereby authorized and directed to transfer  
36 the taxes, fees, interest and penalties collected or received pursuant  
37 to article twenty-nine-B of the tax law on TNC prearranged trips origi-  
38 inating outside the metropolitan transportation commuter district to the  
39 public transportation system operating assistance account established  
40 under this subdivision. These transfers shall not be included for  
41 purposes of calculating the sales tax growth factor established in para-  
42 graph (c) of this subdivision, and shall supplement the additional  
43 transfers indexed to the sales tax growth factor required under this  
44 subdivision. Transfers provided under this paragraph shall not be used  
45 to offset reduced transfers under paragraph (c) of this subdivision.

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

50 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-  
51 troller is authorized to withhold the transfer of taxes, fees, interest  
52 and penalties collected or received pursuant to article twenty-nine-B of  
53 the tax law from public transportation systems eligible to receive oper-  
54 ating assistance pursuant to section eighteen-b of the transportation  
55 law in the event that a county or municipality reduces its annual oper-  
56 ating payments to a public transportation system or mass transportation

1 service. The comptroller is further authorized to consult with the  
2 director of the division of budget and the commissioner of transporta-  
3 tion in making that determination.

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

6 (c)(i) The comptroller is hereby authorized and directed to transfer  
7 the taxes, fees, interest and penalties collected or received pursuant  
8 to article twenty-nine-B of the tax law on TNC prearranged trips origi-  
9 inating outside of the city of New York within the metropolitan transpor-  
10 tation commuter district to the metropolitan mass transportation operat-  
11 ing assistance account. Transfers provided under this paragraph shall  
12 supplement the aggregate amount of funds appropriated and disbursed from  
13 the metropolitan mass transportation operating assistance account for  
14 the state fiscal year ending March thirty-first, two thousand twenty.  
15 Provided, further, that the director of the division of budget shall not  
16 withhold an additional percentage of disbursements relative to the  
17 enacted budget financial plan for the state fiscal year ending March  
18 thirty-first, two thousand twenty from metropolitan mass transportation  
19 operating assistance account revenues generated in subsequent fiscal  
20 years.

21 (ii) Provided, further, that taxes, fees, interest and penalties  
22 transferred pursuant to subparagraph (i) of this paragraph shall only be  
23 distributed to public transportation systems providing mass transporta-  
24 tion services outside the city of New York. For purposes of this subpar-  
25 agraph, mass transportation services provided outside the city of New  
26 York shall include commuter rail provided in the metropolitan transpor-  
27 tation commuter district. Taxes, fees, interest and penalties shall be  
28 transferred in proportion to the location where the prearranged trip  
29 originated, provided that fifty percent of transfers shall be disbursed  
30 to bus lines and fifty percent of transfers shall be disbursed to commu-  
31 ter rail in localities where both mass transportation services are  
32 provided. The comptroller is authorized to consult with the commissioner  
33 of taxation and finance, the director of the division of budget and the  
34 commissioner of transportation in determining the appropriate public  
35 transportation systems and mass transportation services that should  
36 receive the transfers.

37 (iii) Notwithstanding paragraph (b) of this subdivision, the comp-  
38 troller is authorized to withhold the transfer of taxes, fees, interest  
39 and penalties collected or received pursuant to article twenty-nine-B of  
40 the tax law from public transportation systems eligible to receive oper-  
41 ating assistance pursuant to section eighteen-b of the transportation  
42 law in the event that a county or municipality reduces its annual oper-  
43 ating payments to a public transportation system or mass transportation  
44 service. The comptroller is further authorized to consult with the  
45 director of the division of budget and the commissioner of transporta-  
46 tion in making that determination.

47 § 6. This act shall take effect on the first of July next succeeding  
48 the date on which it shall have become a law; provided however, that the  
49 amendments to subdivision 1 of section 171-a of the tax law made by  
50 section one of this act shall be subject to the expiration of such  
51 subdivision pursuant to section 12 of chapter 90 of the laws of 2014,  
52 when upon such date the provisions of section two of this act shall take  
53 effect; provided, however, that effective immediately the addition,  
54 amendment and/or repeal of any rule or regulation necessary for the  
55 implementation of this act on its effective date are authorized and  
56 directed to be made and completed on or before such effective date.