

STATE OF NEW YORK

1694

2019-2020 Regular Sessions

IN SENATE

January 15, 2019

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.

LBD06908-01-9

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.