STATE OF NEW YORK

7262

2021-2022 Regular Sessions

IN ASSEMBLY

April 29, 2021

Introduced by M. of A. KELLES -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to imposing a special tax on artwork, antique furniture, and antique jewelry sold at auction; and to amend the state finance law, in relation to establishing the art education fund

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

Section 1. The tax law is amended by adding a new article 28-D to read as follows:

ARTICLE 28-D

SPECIAL TAX ON ARTWORK, ANTIQUE FURNITURE, AND ANTIQUE JEWELRY SOLD AT AUCTION

Section 1190. Definitions.
1191. Imposition of special tax.
1192. Administrative provisions.
1193. Deposit and disposition of revenue.
1194. Rules and regulations.

§ 1190. Definitions. As used in this article, the following terms shall have the following meanings:

(a) "Art" A work of art, artwork, art piece, piece of art or art object is an aesthetic physical item or artistic creation.

(b) "Antique furniture" shall be furniture created over one hundred twenty-five years ago.

(c) "Antique jewelry" shall be jewelry created over one hundred twenty-five years ago.

(d) "Auction" includes any auction taking place in the state or being managed by an entity that has a New York tax resale certificate or has a auctioneer's license in any locality that requires it within the state.

§ 1191. Imposition of special tax. In addition to any other tax imposed by this chapter or other law, there is hereby imposed a tax of

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

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three-tenths of one percent or one dollar, whichever is greater, on the receipts from the sale of art, antique furniture or antique jewelry at auction. The tax is imposed on the purchaser and shall be collected by the entity conducting the auction at the time of sale, provided however, that where the tax imposed pursuant to this section is not collected by the entity conducting the auction the purchaser shall remit such tax directly to the commissioner.

§ 1192. Administrative provisions. Every person required to collect or pay the tax imposed under section eleven hundred ninety-one of this article shall file a return and pay such tax required to be collected to the commissioner of taxation and finance on or before the twentieth day after the close of the quarterly period in which the sale took place, not delivery of object.

§ 1193. Deposit and disposition of revenue. The taxes collected or received by the commissioner under this article shall be deposited in the art education fund established pursuant to section ninety-seven-uuuu of the state finance law and disposed of pursuant to the provisions of such section.

§ 1194. Rules and regulations. The commissioner shall promulgate all rules and regulations necessary to carry out the provisions of this article.

§ 2. The state finance law is amended by adding a new section 97-uuuu to read as follows:

§ 97-uuuu. Art education fund. 1. There is hereby created in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the "art education fund".

2. Such fund shall consist of all revenues received by the department of taxation and finance, pursuant to the provisions of section eleven hundred ninety-two of the tax law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Monies in the fund shall be kept separate and shall not be commingled with any other monies otherwise appropriated or received except as hereby provided.

3. Monies of the fund, when allocated, shall be available to the New York state council on the arts for the purpose of providing assistance for art education and art supplies at the kindergarten through twelfth grade levels at public schools receiving federal funds pursuant to title I of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended. As used in this section, the term "art education" shall include the following activities: painting, visual arts, ceramics, field trips to museums or other institutions recognized by the New York state council on the arts, and stipends for artists in residence. Any monies remaining in the fund at the end of each fiscal year which have not been expended for art education or art supplies shall be deposited into the general fund.

4. The state council on the arts shall establish guidelines necessary to administer the fund. Guidelines shall include, but not be limited to, qualifications and conditions for assistance and any other terms and conditions the council may require as necessary to properly effectuate the provisions of this section.

5. The state council on the arts shall provide by September first of each year, to the governor, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee and the chairman of the assembly ways and means committee, a report containing guidelines and amendments established by the state council on the arts and a complete financial statement including, but not limited

to, monies allocated, collected, transferred or otherwise paid or credited to the fund. A projected schedule of disbursements and receipts of the fund for the next fiscal year shall be included in each report. In addition, any amendments to the guidelines shall be provided to the above listed individuals within thirty days of their establishment by the state council on the arts.

6. No monies shall be payable from this fund, except on the audit and warrant of the comptroller on vouchers certified and submitted by the chairman of the state council on the arts.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.