

# STATE OF NEW YORK

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1792

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

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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 trans-  
portation operating assistance account

The People of the State of New York, represented in Senate and Assem-  
bly, 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 XX of chapter 59 of the laws of 2019, 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-D, twenty-one, twenty-two, twenty-four, twenty-  
13 six, twenty-eight (except as otherwise provided in section eleven  
14 hundred two or eleven hundred three thereof), twenty-eight-A, [~~twenty-~~  
15 ~~nine-B,~~] thirty-one (except as otherwise provided in section fourteen  
16 hundred twenty-one thereof), thirty-three and thirty-three-A of this  
17 chapter shall be deposited daily in one account with such responsible  
18 banks, banking houses or trust companies as may be designated by the  
19 comptroller, to the credit of the comptroller. Such an account may be  
20 established in one or more of such depositories. Such deposits shall be  
21 kept separate and apart from all other money in the possession of the  
22 comptroller. The comptroller shall require adequate security from all  
23 such depositories. Of the total revenue collected or received under such

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

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

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

12 § 2. Subdivision 1 of section 171-a of the tax law, as amended by  
13 section 4 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-D, twenty-one, twenty-two, twenty-four, twenty-six, twenty-  
24 eight (except as otherwise provided in section eleven hundred two or  
25 eleven hundred three thereof), twenty-eight-A, ~~twenty-nine-B,~~ thirty-  
26 one (except as otherwise provided in section fourteen hundred twenty-one  
27 thereof), thirty-three and thirty-three-A of this chapter shall be  
28 deposited daily in one account with such responsible banks, banking  
29 houses or trust companies as may be designated by the comptroller, to  
30 the credit of the comptroller. Such an account may be established in one  
31 or more of such depositories. Such deposits shall be kept separate and  
32 apart from all other money in the possession of the comptroller. The  
33 comptroller shall require adequate security from all such depositories.  
34 Of the total revenue collected or received under such articles of this  
35 chapter, the comptroller shall retain in the comptroller's hands such  
36 amount as the commissioner may determine to be necessary for refunds or  
37 reimbursements under such articles of this chapter out of which amount  
38 the comptroller shall pay any refunds or reimbursements to which taxpay-  
39 ers shall be entitled under the provisions of such articles of this  
40 chapter. The commissioner and the comptroller shall maintain a system of  
41 accounts showing the amount of revenue collected or received from each  
42 of the taxes imposed by such articles. The comptroller, after reserving  
43 the amount to pay such refunds or reimbursements, shall, on or before  
44 the tenth day of each month, pay into the state treasury to the credit  
45 of the general fund all revenue deposited under this section during the  
46 preceding calendar month and remaining to the comptroller's credit on  
47 the last day of such preceding month, (i) except that the comptroller  
48 shall pay to the state department of social services that amount of  
49 overpayments of tax imposed by article twenty-two of this chapter and  
50 the interest on such amount which is certified to the comptroller by the  
51 commissioner as the amount to be credited against past-due support  
52 pursuant to subdivision six of section one hundred seventy-one-c of this  
53 article, (ii) and except that the comptroller shall pay to the New York  
54 state higher education services corporation and the state university of  
55 New York or the city university of New York respectively that amount of  
56 overpayments of tax imposed by article twenty-two of this chapter and

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

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

48 § 1298. Deposit and disposition of revenue. (a) All taxes, fees,  
49 interest and penalties collected or received by the commissioner under  
50 this article shall be deposited [~~and disposed of pursuant to the~~  
51 ~~provisions of section one hundred seventy-one-a of this chapter~~] daily  
52 with such responsible banks, banking houses or trust companies, as may  
53 be designated by the comptroller, to the credit of the comptroller for  
54 disposal pursuant to section eighty-eight-a of the state finance law. An  
55 account may be established in one or more such depositories. The comp-  
56 troller shall require adequate security from all such depositories. Of

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

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

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

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

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

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

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

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

1 director of the division of budget and the commissioner of transporta-  
2 tion in making that determination.

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

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

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

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

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