

# STATE OF NEW YORK

5891--A

Cal. No. 928

2023-2024 Regular Sessions

## IN SENATE

March 21, 2023

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

AN ACT to amend the tax law, in relation to the imposition of a hotel and motel tax in the village of Woodbury; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The tax law is amended by adding a new section 1202-eee to  
2 read as follows:

3 § 1202-eee. Hotel or motel taxes in the village of Woodbury. (1)  
4 Notwithstanding any other provisions of law to the contrary, the village  
5 of Woodbury, in the county of Orange, is hereby authorized and empowered  
6 to adopt and amend local laws imposing in such village a tax, in addi-  
7 tion to any other tax authorized and imposed pursuant to this article  
8 such as the legislature has or would have the power and authority to  
9 impose upon persons occupying hotel or motel rooms in such village. For  
10 the purposes of this section, the term "hotel" or "motel" shall mean and  
11 include any facility consisting of rentable units and providing lodging  
12 on an overnight basis and shall include those facilities designated and  
13 commonly known as "bed and breakfast" and "tourist" facilities. The  
14 rates of such tax shall not exceed five percent of the per diem rental  
15 rate for each room, provided however, that such tax shall not be appli-  
16 cable to a permanent resident of a hotel or motel. For the purposes of  
17 this section the term "permanent resident" shall mean a person occupying  
18 any room or rooms in a hotel or motel for at least ninety consecutive  
19 days.

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

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1 (2) Such tax may be collected and administered by the chief fiscal  
2 officer of the village of Woodbury by such means and in such manner as  
3 other taxes which are now collected and administered by such officer or  
4 as otherwise may be provided by such local law.

5 (3) Such local laws may provide that any tax imposed shall be paid by  
6 the person liable therefor to the owner of the hotel or motel room occu-  
7 pied or to the person entitled to be paid the rent or charge for the  
8 hotel or motel room occupied for and on account of the village of Wood-  
9 bury imposing the tax and that such owner or person entitled to be paid  
10 the rent or charge shall be liable for the collection and payment of the  
11 tax; and that such owner or person entitled to be paid the rent or  
12 charge shall have the same right in respect to collecting the tax from  
13 the person occupying the hotel or motel room, or in respect to nonpay-  
14 ment of the tax by the person occupying the hotel or motel room, as if  
15 the tax were a part of the rent or charge and payable at the same time  
16 as the rent or charge; provided, however, that the chief fiscal officer  
17 of the village, specified in such local law, shall be joined as a party  
18 in any action or proceeding brought to collect the tax by the owner or  
19 by the person entitled to be paid the rent or charge.

20 (4) Such local laws may provide for the filing of returns and the  
21 payment of the tax on a monthly basis or on the basis of any longer or  
22 shorter period of time.

23 (5) This section shall not authorize the imposition of such tax upon  
24 any transaction, by or with any of the following in accordance with  
25 section twelve hundred thirty of this article:

26 a. The state of New York, or any public corporation (including a  
27 public corporation created pursuant to agreement or compact with another  
28 state or the Dominion of Canada), improvement district or other poli-  
29 tical subdivision of the state;

30 b. The United States of America, insofar as it is immune from taxa-  
31 tion;

32 c. Any corporation or association, or trust, or community chest, fund  
33 or foundation organized and operated exclusively for religious, charita-  
34 ble or educational purposes, or for the prevention of cruelty to chil-  
35 dren or animals, and no part of the net earnings of which inures to the  
36 benefit of any private shareholder or individual and no substantial part  
37 of the activities of which is carrying on propaganda, or otherwise  
38 attempting to influence legislation; provided, however, that nothing in  
39 this paragraph shall include an organization operated for the primary  
40 purpose of carrying on a trade or business for profit, whether or not  
41 all of its profits are payable to one or more organizations described in  
42 this paragraph.

43 (6) Any final determination of the amount of any tax payable hereunder  
44 shall be reviewable for error, illegality or unconstitutionality or any  
45 other reason whatsoever by a proceeding under article seventy-eight of  
46 the civil practice law and rules if application therefor is made to the  
47 supreme court within thirty days after the giving of the notice of such  
48 final determination, provided, however, that any such proceeding under  
49 article seventy-eight of the civil practice law and rules shall not be  
50 instituted unless:

51 a. The amount of any tax sought to be reviewed, with such interest and  
52 penalties thereon as may be provided for by local law shall be first  
53 deposited and there is filed an undertaking, issued by a surety company  
54 authorized to transact business in this state and approved by the super-  
55 intendent of insurance of this state as to solvency and responsibility,  
56 in such amount as a justice of the supreme court shall approve to the

1 effect that if such proceeding be dismissed or the tax confirmed the  
2 petitioner will pay all costs and charges which may accrue in the prose-  
3 cution of such proceeding; or

4 b. At the option of the petitioner such undertaking may be in a sum  
5 sufficient to cover the taxes, interests and penalties stated in such  
6 determination plus the costs and charges which may accrue against it in  
7 the prosecution of the proceeding, in which event the petitioner shall  
8 not be required to pay such taxes, interest or penalties as a condition  
9 precedent to the application.

10 (7) Where any tax imposed hereunder shall have been erroneously, ille-  
11 gally or unconstitutionally collected and application for the refund  
12 thereof duly made to the proper fiscal officer or officers, and such  
13 officer or officers shall have made a determination denying such refund,  
14 such determination shall be reviewable by a proceeding under article  
15 seventy-eight of the civil practice law and rules, provided, however,  
16 that such proceeding is instituted within thirty days after the giving  
17 of the notice of such denial, that a final determination of tax due was  
18 not previously made, and that an undertaking is filed with the proper  
19 fiscal officer or officers in such amount and with such sureties as a  
20 justice of the supreme court shall approve to the effect that if such  
21 proceeding be dismissed or the tax confirmed, the petitioner will pay  
22 all costs and charges which may accrue in the prosecution of such  
23 proceeding.

24 (8) Except in the case of a wilfully false or fraudulent return with  
25 intent to evade the tax, no assessment of additional tax shall be made  
26 after the expiration of more than three years from the date of the  
27 filing of a return, provided, however, that where no return has been  
28 filed as provided by law the tax may be assessed at any time.

29 (9) All revenues resulting from the imposition of the tax under the  
30 local laws shall be paid into the treasury of the village of Woodbury  
31 and shall be credited to and deposited in the general fund of the  
32 village. Such revenues may be used for any lawful purpose.

33 (10) If any provision of this section or the application thereof to  
34 any person or circumstance shall be held invalid, the remainder of this  
35 section and the application of such provision to other persons or  
36 circumstances shall not be affected thereby.

37 § 2. This act shall take effect immediately and shall expire and be  
38 deemed repealed 2 years after such date.