

STATE OF NEW YORK

9271--A

Cal. No. 1434

IN SENATE

May 8, 2024

Introduced by Sen. HINCHEY -- 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 report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the tax law, in relation to establishing an occupancy tax in the village of Coxsackie; 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-jj to
2 read as follows:

3 § 1202-jj. Occupancy tax in the of village of Coxsackie. (1) Notwith-
4 standing any other provisions of law to the contrary, the village of
5 Coxsackie, in the county of Greene, 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 any facility or short-term rental provid-
10 ing lodging on an overnight basis. The rates of such tax shall be four
11 percent of the per diem rental rate for each room provided, however,
12 such tax shall not be applicable to a permanent resident of facility or
13 short-term rental. For the purposes of this section the term "permanent
14 resident" shall mean a person occupying any room or rooms in any facili-
15 ty or short-term rental providing lodging on an overnight basis for at
16 least thirty consecutive days.

17 (2) Such taxes may be collected and administered by the village treas-
18 urer or other fiscal officers of the village of Coxsackie by such means
19 and in such manner as other taxes which are now collected and adminis-
20 tered by such officers or as otherwise may be provided by such local
21 law.

22 (3) Such local laws may provide that any taxes imposed shall be paid
23 by the person liable therefor to the owner of any facility or short-term
24 rental providing lodging on an overnight basis occupied or to the person

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

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1 entitled to be paid the rent or charge for the facility or short-term
2 rental providing lodging on an overnight basis occupied for and on
3 account of the village of Coxsackie imposing the taxes and that such
4 owner or person entitled to be paid the rent or charge shall be liable
5 for the collection and payment of the taxes; and that such owner or
6 person entitled to be paid the rent or charge shall have the same right
7 in respect to collecting the taxes from the person occupying the facili-
8 ty or short-term rental providing lodging on an overnight basis or in
9 respect to nonpayment of the taxes by the person occupying the facility
10 or short-term rental providing lodging on an overnight basis, as if the
11 taxes were a part of the rent or charge and payable at the same time as
12 the rent or charge; provided, however, that the village treasurer or
13 other fiscal officers of the village, specified in such local laws,
14 shall be joined as a party in any action or proceeding brought to
15 collect the taxes by the owner or by the person entitled to be paid the
16 rent or charge.

17 (4) Such local laws may provide for the filing of returns and the
18 payment of the taxes on a monthly basis or on the basis of any longer or
19 shorter period of time.

20 (5) This section shall not authorize the imposition of such taxes upon
21 any of the following:

22 a. The state of New York, or any public corporation (including a
23 public corporation created pursuant to agreement or compact with another
24 state or the dominion of Canada), improvement district or other poli-
25 tical subdivision of the state;

26 b. The United States of America, insofar as it is immune from taxa-
27 tion; and

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

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

47 a. The amount of any taxes sought to be reviewed, with such interest
48 and penalties thereon as may be provided for by local laws or regu-
49 lations shall be first deposited and there is filed an undertaking,
50 issued by a surety company authorized to transact business in this state
51 and approved by the superintendent of financial services of this state
52 as to solvency and responsibility, in such amount as a justice of the
53 supreme court shall approve to the effect that if such proceeding be
54 dismissed or the taxes confirmed the petitioner will pay all costs and
55 charges which may accrue in the prosecution of such proceeding; or

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

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

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

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

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

34 § 2. This act shall take effect immediately and shall expire December
35 31, 2027 when upon such date the provisions of this act shall be deemed
36 repealed.