

# STATE OF NEW YORK

5454

2023-2024 Regular Sessions

## IN SENATE

March 6, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

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:

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

3 ARTICLE 28-E

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

6 Section 1199. Definitions.

7 1199-a. Imposition of special tax.

8 1199-b. Administrative provisions.

9 1199-c. Deposit and disposition of revenue.

10 1199-d. Rules and regulations.

11 § 1199. Definitions. As used in this article, the following terms  
12 shall have the following meanings:

13 (a) "Art" shall be a work of art, artwork, art piece, piece of art or  
14 art object that is an aesthetic physical item or artistic creation.

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

17 (c) "Antique jewelry" shall be jewelry created over one hundred twen-  
18 ty-five years ago.

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

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

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1 § 1199-a. Imposition of special tax. In addition to any other tax  
2 imposed by this chapter or other law, there is hereby imposed a tax of  
3 three-tenths of one percent or one dollar, whichever is greater, on the  
4 receipts from the sale of art, antique furniture or antique jewelry at  
5 auction. The tax is imposed on the purchaser and shall be collected by  
6 the entity conducting the auction at the time of sale, provided however,  
7 that where the tax imposed pursuant to this section is not collected by  
8 the entity conducting the auction the purchaser shall remit such tax  
9 directly to the commissioner.

10 § 1199-b. Administrative provisions. Every person required to collect  
11 or pay the tax imposed under section eleven hundred ninety-nine-a of  
12 this article shall file a return and pay such tax required to be  
13 collected to the commissioner of taxation and finance on or before the  
14 twentieth day after the close of the quarterly period in which the sale  
15 took place, not delivery of object.

16 § 1199-c. Deposit and disposition of revenue. The taxes collected or  
17 received by the commissioner under this article shall be deposited in  
18 the art education fund established pursuant to section ninety-seven-uuuu  
19 of the state finance law and disposed of pursuant to the provisions of  
20 such section.

21 § 1199-d. Rules and regulations. The commissioner shall promulgate all  
22 rules and regulations necessary to carry out the provisions of this  
23 article.

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

26 § 97-uuuu. Art education fund. 1. There is hereby created in the joint  
27 custody of the state comptroller and the commissioner of taxation and  
28 finance a fund to be known as the "art education fund".

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

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

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

53 5. The state council on the arts shall provide by September first of  
54 each year, to the governor, the temporary president of the senate, the  
55 speaker of the assembly, the chairman of the senate finance committee  
56 and the chairman of the assembly ways and means committee, a report

1 containing guidelines and amendments established by the state council on  
2 the arts and a complete financial statement including, but not limited  
3 to, monies allocated, collected, transferred or otherwise paid or cred-  
4 ited to the fund. A projected schedule of disbursements and receipts of  
5 the fund for the next fiscal year shall be included in each report. In  
6 addition, any amendments to the guidelines shall be provided to the  
7 above listed individuals within thirty days of their establishment by  
8 the state council on the arts.

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

12 § 3. This act shall take effect on the first of January next succeed-  
13 ing the date on which it shall have become a law. Effective immediately,  
14 the addition, amendment and/or repeal of any rule or regulation neces-  
15 sary for the implementation of this act on its effective date are  
16 authorized to be made and completed on or before such effective date.