

STATE OF NEW YORK

5456

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 2025

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

AN ACT to amend the tax law, in relation to authorizing the village of Atlantic Beach to impose a hotel, motel and beach club tax; 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-kk to
2 read as follows:

3 § 1202-kk. Hotel, motel or beach club taxes in the village of Atlantic
4 Beach. (1) Notwithstanding any other provisions of law to the contrary,
5 the village of Atlantic Beach, in the county of Nassau, is hereby
6 authorized and empowered to adopt and amend local laws imposing in such
7 village a tax, in addition to any other tax authorized and imposed
8 pursuant to this article such as the legislature has or would have the
9 power and authority to impose upon persons occupying hotel, motel rooms
10 or beach clubs in such village. For the purposes of this section, the
11 term "hotel" or "motel" shall mean and include any facility consisting
12 of rentable units and providing lodging on an overnight basis and shall
13 include those facilities designated and commonly known as "bed and
14 breakfast" and "tourist" facilities. The term "beach club" shall mean a
15 facility formed, organized or operated by any person, firm or corpo-
16 ration, located on or contiguous to an ocean beach, permitting sunbath-
17 ing, swimming and other allied recreation activities, including such
18 uses operated by a hotel, cooperative complex or other entity. The rates
19 of such tax shall not exceed three percent of the per diem rental rate
20 for each room or beach club facility, provided however, that such tax
21 shall not be applicable to a permanent resident of a hotel or motel. For
22 the purposes of this section the term "permanent resident" shall mean a
23 person occupying any room or rooms in a hotel or motel for at least
24 ninety consecutive 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 Atlantic Beach by such means and in such
3 manner as other taxes which are now collected and administered by such
4 officer or 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, motel room or
7 beach club occupied or to the person entitled to be paid the rent or
8 charge for the hotel, motel room or beach club occupied for and on
9 account of the village of Atlantic Beach imposing the tax and that such
10 owner or person entitled to be paid the rent or charge shall be liable
11 for the collection and payment of the tax; and that such owner or person
12 entitled to be paid the rent or charge shall have the same right in
13 respect to collecting the tax from the person occupying the hotel, motel
14 room or beach club, or in respect to nonpayment of the tax by the person
15 occupying the hotel, motel room or beach club, as if the tax were a part
16 of the rent or charge and payable at the same time as the rent or
17 charge; provided, however, that the chief fiscal officer of the village,
18 specified in such local law, shall be joined as a party in any action or
19 proceeding brought to collect the tax by the owner or by the person
20 entitled to be paid the rent or charge.

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

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

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

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

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

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

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

1 sibility, in such amount as a justice of the supreme court shall approve
2 to the effect that if such proceeding be dismissed or the tax confirmed
3 the petitioner will pay all costs and charges which may accrue in the
4 prosecution of such proceeding; or

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

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

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

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

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

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