

STATE OF NEW YORK

10092

IN ASSEMBLY

January 30, 2026

Introduced by M. of A. SEMPOLINSKI -- 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 Ellicottville to impose a hotel and motel 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-uuu to
2 read as follows:

3 § 1202-uuu. Hotel or motel taxes in the village of Ellicottville. (1)

4 a. Notwithstanding any other provisions of law to the contrary, the
5 village of Ellicottville, Cattaraugus county, is hereby authorized and
6 empowered to adopt and amend local laws imposing in such village a tax,
7 in addition to any other tax authorized and imposed pursuant to this
8 article such as the legislature has or would have the power and authori-
9 ty to impose upon persons occupying hotel or motel rooms in such
10 village. For the purposes of this section, the term "hotel" or "motel"
11 shall mean and include any facility providing lodging on an overnight
12 basis and shall include those facilities designated and commonly known
13 as "bed and breakfast" and "tourist" facilities.

14 b. The rates of such tax shall not exceed five percent of the per diem
15 rental rate for each room, provided however, that such tax shall not be
16 applicable to a permanent resident of a hotel or motel. For the purposes
17 of this section, the term "permanent resident" shall mean a person occu-
18 pying any room or rooms in a hotel or motel for at least thirty consec-
19 utive days.

20 (2) Such tax may be collected and administered by the chief fiscal
21 officer of the village of Ellicottville by such means and in such manner
22 as other taxes which are now collected and administered by such officer
23 or as otherwise may be provided by such local law.

24 (3) Such local laws may provide that any tax imposed shall be paid by
25 the person liable therefor to the owner of the hotel or motel room occu-
26 pied or to the person entitled to be paid the rent or charge for the
27 hotel or motel room occupied for and on account of the village of Elli-

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

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1 cottville imposing the tax and that such owner or person entitled to be
2 paid the rent or charge shall be liable for the collection and payment
3 of the tax; and that such owner or person entitled to be paid the rent
4 or charge shall have the same right in respect to collecting the tax
5 from the person occupying the hotel or motel room, or in respect to
6 nonpayment of the tax by the person occupying the hotel or motel room,
7 as if the tax were a part of the rent or charge and payable at the same
8 time as the rent or charge; provided, however, that the chief fiscal
9 officer of the village, specified in such local law, shall be joined as
10 a party in any action or proceeding brought to collect the tax by the
11 owner or by the person entitled to be paid the rent or charge.

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

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

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

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

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

35 (6) Any final determination of the amount of any tax payable pursuant
36 to this section shall be reviewable for error, illegality or unconstitu-
37 tionality or any other reason whatsoever by a proceeding under article
38 seventy-eight of the civil practice law and rules if application there-
39 for is made to the supreme court within thirty days after the giving of
40 the notice of such final determination, provided, however, that any such
41 proceeding under article seventy-eight of the civil practice law and
42 rules shall not be instituted unless:

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

52 b. At the option of the petitioner such undertaking may be in a sum
53 sufficient to cover the taxes, interests and penalties stated in such
54 determination plus the costs and charges which may accrue against it in
55 the prosecution of the proceeding, in which event the petitioner shall

1 not be required to pay such taxes, interest or penalties as a condition
2 precedent to the application.

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

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

22 (9) All revenues resulting from the imposition of the tax under the
23 local laws shall be paid into the treasury of the village of Ellicott-
24 ville and shall be credited to and deposited in the general fund of the
25 village. The village shall be authorized to retain the necessary reven-
26 ue, in an amount not to exceed four percent of the total revenue, to
27 defer the expense of the village in administering such tax and the
28 balance of such revenues shall be allocated to community and economic
29 development, planning and tourism.

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 (11) Each enactment of such local law may provide for the imposition
35 of a hotel or motel tax for a period of time no longer than three years
36 from the effective date of its enactment. Nothing in this section shall
37 prohibit the adoption and enactment of local laws, pursuant to the
38 provisions of this section, upon the expiration of any other local law
39 adopted pursuant to this section.

40 § 2. This act shall take effect immediately and shall expire and be
41 deemed repealed September 1, 2027.