

STATE OF NEW YORK

8490--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 19, 2025

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing occupancy taxes in the city of Utica and the city of Rome; and providing for the repeal of such provisions upon the 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 1202-00 to
2 read as follows:

3 § 1202-00. Occupancy tax in the city of Utica. (1) Notwithstanding any
4 other provision of law to the contrary, the city of Utica, in the county
5 of Oneida, is hereby authorized and empowered to adopt and amend local
6 laws imposing in such city a tax, in addition to any other tax author-
7 ized and imposed pursuant to this article, such as the legislature has
8 or would have the power and authority to impose upon persons occupying
9 any room for hire in any hotel. For the purposes of this section, the
10 term "hotel" shall mean a building or portion of such building which is
11 rentable or consisting of rentable units providing lodging on an over-
12 night basis for guests. The term "hotel" includes an apartment hotel, a
13 motel, and facilities designated and commonly known as a "bed and break-
14 fast" and similar "tourist" facilities, whether or not meals are served.
15 The rate of such tax shall not exceed three percent of the per diem
16 rental rate for each room whether such room is rented on a daily or
17 longer basis.

18 (2) Such taxes may be collected and administered by the chief fiscal
19 officer of the city of Utica by such means and in such manner as other
20 taxes which are now collected and administered by such officer or as
21 otherwise may be provided by such local 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 the room for hire in the

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

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tourist home, inn, club, hotel, motel, or other similar place of public accommodation occupied or to the person entitled to be paid the rent or charge the room for hire in the tourist home, inn, club, hotel, motel, or other similar place of public accommodation occupied for and on account of the city of Utica imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the room for hire in the tourist home, inn, club, hotel, motel, or other similar place of public accommodation, or in respect to nonpayment of the tax by the person occupying the room for hire in the tourist home, inn, club, hotel, motel, or similar place of public accommodation, as if the taxes were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local laws, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

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

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

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

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

d. A permanent resident of a hotel or motel. For the purposes of this section, the term "permanent resident" shall mean a natural person occupying any room or rooms in a hotel or motel for at least ninety consecutive days.

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

a. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local laws or regulations shall be first deposited and there shall be filed an undertaking, issued by a surety company authorized to transact business in this state and

1 approved by the superintendent of financial services of this state as to
2 solvency and responsibility, in such amount as a justice of the supreme
3 court shall approve to the effect that if such proceeding be dismissed
4 or the tax confirmed the petitioner will pay all costs and charges which
5 may accrue in the prosecution of such proceeding; or

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

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

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

31 (9) All revenues resulting from the imposition of the tax under the
32 local laws shall be paid into the treasury of the city of Utica and
33 shall be credited to and deposited in the general fund of the city. Such
34 revenues may be used to support municipal services, infrastructure and
35 other essential expenditures as determined by the common council of the
36 city of Utica.

37 (10) Each enactment of such a local law may provide for the imposition
38 of a hotel or motel tax for a period of time no longer than two years
39 from the date of its enactment. Nothing in this section shall prohibit
40 the adoption and enactment of local laws, pursuant to the provisions of
41 this section, upon the expiration of any other local law adopted pursu-
42 ant to this section.

43 (11) If any provision of this section or the application thereof to
44 any person or circumstance shall be held invalid, the remainder of this
45 section and the application of such provision to other persons or
46 circumstances shall not be affected thereby.

47 § 2. The tax law is amended by adding a new section 1202-pp to read as
48 follows:

49 § 1202-pp. Occupancy tax in the city of Rome. (1) Notwithstanding any
50 other provision of law to the contrary, the city of Rome, in the county
51 of Oneida, is hereby authorized and empowered to adopt and amend local
52 laws imposing in such city a tax, in addition to any other tax author-
53 ized and imposed pursuant to this article, such as the legislature has
54 or would have the power and authority to impose upon persons occupying
55 any room for hire in any hotel. For the purposes of this section, the
56 term "hotel" shall mean a building or portion of such building which is

1 rentable or consisting of rentable units providing lodging on an over-
2 night basis for guests. The term "hotel" includes an apartment hotel, a
3 motel, and facilities designated and commonly known as a "bed and break-
4 fast" and similar "tourist" facilities, whether or not meals are served.
5 The rate of such tax shall not exceed three percent of the per diem
6 rental rate for each room whether such room is rented on a daily or
7 longer basis.

8 (2) Such taxes may be collected and administered by the chief fiscal
9 officer of the city of Rome by such means and in such manner as other
10 taxes which are now collected and administered by such officer or as
11 otherwise may be provided by such local law.

12 (3) Such local laws may provide that any taxes imposed shall be paid
13 by the person liable therefor to the owner of the room for hire in the
14 tourist home, inn, club, hotel, motel, or other similar place of public
15 accommodation occupied or to the person entitled to be paid the rent or
16 charge the room for hire in the tourist home, inn, club, hotel, motel,
17 or other similar place of public accommodation occupied for and on
18 account of the city of Rome imposing the tax and that such owner or
19 person entitled to be paid the rent or charge shall be liable for the
20 collection and payment of the tax; and that such owner or person enti-
21 tled to be paid the rent or charge shall have the same right in respect
22 to collecting the tax from the person occupying the room for hire in the
23 tourist home, inn, club, hotel, motel, or other similar place of public
24 accommodation, or in respect to nonpayment of the tax by the person
25 occupying the room for hire in the tourist home, inn, club, hotel,
26 motel, or similar place of public accommodation, as if the taxes were a
27 part of the rent or charge and payable at the same time as the rent or
28 charge; provided, however, that the chief fiscal officer of the city,
29 specified in such local laws, shall be joined as a party in any action
30 or proceeding brought to collect the tax by the owner or by the person
31 entitled to be paid the rent or charge.

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

35 (5) This section shall not authorize the imposition of such tax upon
36 any of the following:

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

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

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

54 d. A permanent resident of a hotel or motel. For the purposes of this
55 section, the term "permanent resident" shall mean a natural person occu-

1 pying any room or rooms in a hotel or motel for at least ninety consec-
2 utive days.

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

11 a. The amount of any tax sought to be reviewed, with such interest and
12 penalties thereon as may be provided for by local laws or regulations
13 shall be first deposited and there shall be filed an undertaking, issued
14 by a surety company authorized to transact business in this state and
15 approved by the superintendent of financial services of this state as to
16 solvency and responsibility, in such amount as a justice of the supreme
17 court shall approve to the effect that if such proceeding be dismissed
18 or the tax confirmed the petitioner will pay all costs and charges which
19 may accrue in the prosecution of such proceeding; or

20 b. At the option of the petitioner, such undertaking may be in a sum
21 sufficient to cover the taxes, interests and penalties stated in such
22 determination plus the costs and charges which may accrue against it in
23 the prosecution of the proceeding, in which event the petitioner shall
24 not be required to pay such taxes, interest or penalties as a condition
25 precedent to the application.

26 (7) Where any taxes imposed hereunder shall have been erroneously,
27 illegally or unconstitutionally collected and application for the refund
28 therefor duly made to the proper fiscal officer or officers, and such
29 officer or officers shall have made a determination denying such refund,
30 such determination shall be reviewable by a proceeding under article
31 seventy-eight of the civil practice law and rules, provided, however,
32 that such proceeding is instituted within thirty days after the giving
33 of the notice of such denial, that a final determination of tax due was
34 not previously made, and that an undertaking is filed with the proper
35 fiscal officer or officers in such amount and with such sureties as a
36 justice of the supreme court shall approve to the effect that if such
37 proceeding be dismissed or the taxes confirmed, the petitioner will pay
38 all costs and charges which may accrue in the prosecution of such
39 proceeding.

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

45 (9) All revenues resulting from the imposition of the tax under the
46 local laws shall be paid into the treasury of the city of Rome and shall
47 be credited to and deposited in the general fund of the city. Such
48 revenues may be used to support municipal services, infrastructure and
49 other essential expenditures as determined by the common council of the
50 city of Rome.

51 (10) Each enactment of such a local law may provide for the imposition
52 of a hotel or motel tax for a period of time no longer than two years
53 from the date of its enactment. Nothing in this section shall prohibit
54 the adoption and enactment of local laws, pursuant to the provisions of
55 this section, upon the expiration of any other local law adopted pursu-
56 ant to this section.

1 (11) If any provision of this section or the application thereof to
2 any person or circumstance shall be held invalid, the remainder of this
3 section and the application of such provision to other persons or
4 circumstances shall not be affected thereby.

5 § 3. This act shall take effect immediately and shall expire December
6 31, 2027 when upon such date the provisions of this act shall be deemed
7 repealed.