

STATE OF NEW YORK

7820--A

2025-2026 Regular Sessions

IN SENATE

May 9, 2025

Introduced by Sen. OBERACKER -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing the town of Gardiner 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 1202-11 to
2 read as follows:

3 § 1202-11. Hotel or motel taxes in the town of Gardiner. (1) Notwith-
4 standing any other provisions of law to the contrary, the town of Gardi-
5 ner, in the county of Ulster, is hereby authorized and empowered to
6 adopt and amend local laws imposing in such town a tax, in addition to
7 any other tax authorized and imposed pursuant to this article such as
8 the legislature has or would have the power and authority to impose upon
9 persons occupying hotel or motel rooms in such town. For the purposes of
10 this section the term "hotel" or "motel" shall mean any facility or
11 portion thereof where single rooms or suites of rooms are rented or
12 hired out to be occupied or which are occupied by transient guests who
13 are lodged overnight, with or without meals, for sleeping purposes for
14 compensation, whether the compensation be paid directly or indirectly
15 and shall include those facilities designated and commonly known as "bed
16 and breakfast" and "tourist" facilities. The rates of such tax shall not
17 exceed five percent of the per diem rental rate for each room, provided
18 however, that such tax shall not be applicable to a permanent resident
19 of a hotel or motel. For the purposes of this section the term "perma-

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

LBD11917-04-6

1 nent resident" shall mean a person occupying any room or rooms in a
2 hotel or motel for at least ninety consecutive days.

3 (2) Such tax may be collected and administered by the chief fiscal
4 officer of the town of Gardiner by such means and in such manner as
5 other taxes which are now collected and administered by such officer or
6 as otherwise may be provided by such local law.

7 (3) Such local laws may provide that any tax imposed shall be paid by
8 the person liable therefor to the owner of the hotel or motel room occu-
9 piated or to the person entitled to be paid the rent or charge for the
10 hotel or motel room occupied for and on account of the town of Gardiner
11 imposing the tax and that such owner or person entitled to be paid the
12 rent or charge shall be liable for the collection and payment of the
13 tax; and that such owner or person entitled to be paid the rent or
14 charge shall have the same right in respect to collecting the tax from
15 the person occupying the hotel or motel room, or in respect to nonpay-
16 ment of the tax by the person occupying the hotel or motel room, as if
17 the tax were a part of the rent or charge and payable at the same time
18 as the rent or charge; provided, however, that the chief fiscal officer
19 of the town, specified in such local law, shall be joined as a party in
20 any action or proceeding brought to collect the tax by the owner or by
21 the person entitled to be paid the rent or charge.

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

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

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

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

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

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

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

1 intendent of financial services of this state as to solvency and respon-
2 sibility, in such amount as a justice of the supreme court shall approve
3 to the effect that if such proceeding be dismissed or the tax confirmed
4 the petitioner will pay all costs and charges which may accrue in the
5 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 tax imposed hereunder shall have been erroneously, ille-
13 gally or unconstitutionally collected and application for the refund
14 thereof 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 tax 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 town of Gardiner and
33 shall be credited to and deposited in the general fund of the town. Such
34 revenues may be used to support municipal services, infrastructure, and
35 other essential expenditures as determined by the town board.

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

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