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# COUNTY OF ERIE

**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

January 16, 2013

The Honorable  
Erie County Legislature  
92 Franklin Street – Fourth Floor  
Buffalo, New York 14202

**Re: Assembly and Senate Bill Request for Legislation Authorizing Extension of Additional 1.0% and 0.75% Sales and Compensating Use Tax  
Immediate Consideration Requested**

Dear Honorable Members:

Please find enclosed for your approval the introductory request for the multi-step process of reauthorizing the County's imposition of an additional 1.0% and an additional 0.75% sales and compensating use tax for the period December 1, 2011 through November 30, 2015.

The County's authority to impose the additional 1.0% and additional 0.75% sales and compensating use tax expires on November 30, 2013. Every two years the County must request the introduction and approval of legislation in the New York State Assembly and New York State Senate to allow Erie County to continue this critical revenue stream. The attached request is the first of a multi-step process requiring the approval of your Honorable Body.

Because this reauthorization process is lengthy and takes months to complete, requiring multiple approvals by your Honorable Body as well as the New York State Assembly and New York State Senate, I am requesting immediate consideration so that the County can formally request the introduction of bills in the State Legislature.

Attached for your information, you will also find a proposed copy of the NYS Bill extending the additional sales and compensating use tax rates. Please note that the resolution submitted for consideration at this point requests that the state legislators who serve as our delegation in Albany sponsor and introduce this Bill to the collective membership of both the Assembly and the Senate. Once the Bill has been introduced and assigned bill numbers we will again ask your Honorable Body to pass respective home rule requests for the consideration of the Assembly and Senate. After the Bill is passed in both the Assembly and the Senate and the Governor has signed the Bill into law, your Honorable Body will be presented with a final resolution to formally amend the Erie County Sales and Use Tax Resolution to incorporate the new State Legislation. The County Attorney's Office will then comply with the filing requirements set out in New York State Tax Law and the two extensions will be complete.

Should your Honorable Body require further information, I encourage you to contact the Division of Budget and Management or the County Attorney's Office. Thank you for your consideration on this matter.

Sincerely,



Mark C. Poloncarz, Esq.  
Erie County Executive

**MCP**

**cc: Erie County Fiscal Stability Authority  
Comptroller Stefan I. Mychajliw  
Robert W. Keating, Director of Budget and Management**

## MEMORANDUM

**To:** Honorable Members of the Erie County Legislature  
**From:** Office of the County Executive  
**Re:** Assembly and Senate Bill Request for Legislation Authorizing Extension of Additional 1.0% and 0.75% Sales and Compensating Use Tax  
**Date:** January 16, 2013

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### **SUMMARY**

It is recommended that the Erie County Legislature timely adopt the attached resolution which requests the introduction of bills in the New York State Assembly and New York State Senate authorizing Erie County to continue the imposition of the additional 1.0% and additional 0.75% rate of sales and compensating use tax in Erie County during the period from December 1, 2011 through November 30, 2015. *Please note: the reference to and use of the date December 1, 2011 is necessary for technical reasons associated with the State. The County's authority to impose the current 1.75% sales and compensating use taxes expires on November 30, 2013.*

### **FISCAL IMPLICATIONS**

Positive - \$265 million in annual revenue.

### **REASONS FOR RECOMENDATION**

A resolution requesting introduction of the State Assembly and Senate Legislation is required prior to subsequent action.

### **BACKGROUND INFORMATION**

A request for the introduction of a State bill authorizing Erie County to continue the imposition of its additional 1.0% and 0.75% sales and compensating use tax during the period of December 1, 2011 through November 30, 2015 is needed for Erie County's sponsoring Senator and Assembly member to act on such request.

### **CONSEQUENCES OF NEGATIVE ACTION**

Failure to extend the additional 1.0% and 0.75% sales tax rate would mean the annual loss of \$265 million in County revenue, \$12.5 million of which is shared with local governments, and would create a severe challenge to the continued operation of County government and its delivery of services.

### **STEPS FOLLOWING APPROVAL**

The State Bill will be introduced in both the Senate and the Assembly and assigned respective Bill numbers. Once the Bill numbers are assigned your Honorable Body will be presented with Home Rule Requests which will ask the Senate and Assembly to pass the Bill. Once passed by both bodies, the Governor will sign into law and your Honorable Body will once again be presented with a final resolution amending the Erie County Sales and Use Tax Resolution to incorporate the newly authorized extension. A certified copy of this adopted resolution amending the Erie County Sales and Compensating Use Tax Resolution must be timely sent by registered or certified mail to the Commissioner of the New York State Department of Taxation and Finance in Albany.

**A RESOLUTION SUBMITTED BY:  
OFFICE OF THE COUNTY EXECUTIVE**

**WHEREAS, Erie County is requesting authorization to continue to impose an additional one percent and three quarters percent sales and compensating use tax pursuant to New York State Tax Law 1210 (i)(4); and**

**WHEREAS, the revenue anticipated from this additional tax will allow the County of Erie to continue to provide services deemed vital to the community, while maintaining a balanced budget and providing approximately \$265 million in annual revenue; and**

**WHEREAS, Erie County derives all of its tax imposing authority directly from State law; and**

**WHEREAS, the Erie County Department of Law has prepared the necessary State authorizing legislation to effectuate the continued imposition of sales and compensation use tax; and**

**WHEREAS, Erie County's authority to impose its additional 1.0% and 0.75 % sales tax rate will expire at midnight on November 30, 2013 absent enactment of new State authorizing legislation.**

**NOW, THEREFORE BE IT**

**RESOLVED, that the Erie County Legislature hereby memorializes to the NYS Assembly and Senate, particularly those lawmakers who serve as Western New York's delegation in Albany, that immediate introduction of new State authorizing legislation is needed so that Erie County can continue to impose its additional 1.0% and 0.75% sales tax rate for the period beginning December 1, 2013 and ending November 30, 2015; and be it further**

**RESOLVED, that, as the proposed Bill indicates, if the county of Erie imposes the additional one percent rate of sales and compensating use taxes authorized by item (i) of clause (4) of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article during the period beginning January first, two thousand seven, or thereafter, the county shall allocate each calendar year the first twelve million five hundred thousand dollars of the net collections from such one percent rate to the cities of such county and the area in such county outside its cities to be applied or distributed in the same manner and proportion as the net collections for such cities and area are applied or distributed under the revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part in effect on January first, two thousand six, and subject to all provisions of such agreement governing the net collections for such cities and area and shall retain the remainder of such net collections for any county purpose; and be it further**

**RESOLVED, that certified copies of this resolution be transmitted to Assemblyman Robin Schimminger and Senator Michael Ranzenhofer, together with the Erie County Division of Budget and Management, the County Attorney, and the County Comptroller.**

AN ACT to amend the tax law, in relation to the imposition of  
additional rates of sales and compensating use taxes  
by Erie County

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§1. Clause 4 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by chapter 243 of the laws of 2011, is amended to read as follows:

(4) the county of Erie is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes (i) at a rate which is one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning January tenth, nineteen hundred eighty-eight and ending November thirtieth, two thousand [thirteen] fifteen; and (ii) at a rate which is three-quarters of one percent additional to the three percent rate authorized above in this paragraph, and which is also additional to the one percent rate also authorized above in this clause for such county, for the period beginning December first, two thousand eleven, and ending November thirtieth, two thousand [thirteen] fifteen;

§2. Paragraph 2 of Section 1262-q of the tax law, as amended by chapter 243 of the laws of 2011, is amended to read as follows:

(2) Net collections from the additional three-quarters of one percent rate of sales and compensating use taxes which the county may impose during the period commencing December first, two thousand eleven, and ending November thirtieth, two thousand [thirteen] fifteen, pursuant to the authority of item (ii) of clause (4) of subparagraph (i) of the opening paragraph of section twelve hundred ten of this article shall be used by the county solely for county purposes

and shall not be subject to any revenue distribution agreement the county entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of this part.

§ 3. This act shall take effect immediately.