

SUSPENSION



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

March 9, 2015

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 Additional 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, 2015 through November 30, 2017.

The County's authority to impose the additional 1.0% and additional 0.75% sales and compensating use tax expires on November 30, 2015. 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. This 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.

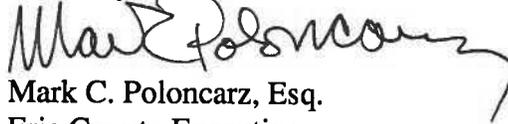
Attached for your information, you will also find a copy of the proposed New York State Bill extending the additional sales and compensating use tax rates along with a sponsor's memorandum in support of same. Please note however, that the resolution submitted for consideration today simply requests that those lawmakers who serve as Western New York's state delegation, sponsor and introduce this Bill to the collective membership of both the Assembly and the Senate. Once the Bill has been introduced and has been 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

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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,

A handwritten signature in black ink, appearing to read "Mark C. Poloncarz", with a long, sweeping flourish extending to the right.

Mark C. Poloncarz, Esq.
Erie County Executive

MCP

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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: March 9, 2015

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, 2015 through November 30, 2017.

FISCAL IMPLICATIONS

Positive - \$265.6 million in budgeted annual revenue.

REASONS FOR RECOMENDATION

Absent this authorization effective December 1, 2015, the County will not be authorized to continue to impose the 1.75% sales tax and would lose a massive amount of revenue supporting County operations.

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, 2015 through November 30, 2017 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 \$278 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 Assembly and Senate to pass the Bill. Once passed by both bodies, the Governor will sign the Bills into law and your Honorable Body will then 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 will be filed by the County Attorney with the Commissioner of the New York State Department of Taxation and Finance in Albany.

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A RESOLUTION SUBMITTED BY: OFFICE OF THE COUNTY EXECUTIVE

WHEREAS, Erie County is requesting authorization to continue to impose an additional one percent and additional 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

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, 2015 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 its additional 0.75% sales tax rate for the period beginning December 1, 2015 and ending November 30, 2017; 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 New York State Tax Law (NYSTL) 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 NYSTL 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.

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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 §1. Clause 4 of subparagraph (i) of the opening paragraph of section 1210 of the tax law,
2 as amended by chapter 324 of the laws of 2013, is amended to read as follows:

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

12 §2. Paragraph 2 of Section 1262-q of the tax law, as amended by chapter 324 of the laws
13 of 2013, is amended to read as follows:

14 (2) Net collections from the additional three-quarters of one percent rate of sales and
15 compensating use taxes which the county may impose during the period commencing December
16 first, two thousand eleven, and ending November thirtieth, two thousand [fifteen] seventeen,
17 pursuant to the authority of item (ii) of clause (4) of subparagraph (i) of the opening paragraph of
18 section twelve hundred ten of this article shall be used by the county solely for county purposes
19 and shall not be subject to any revenue distribution agreement the county entered into pursuant to
20 the authority of subdivision (c) of section twelve hundred sixty-two of this part.

21 § 3. This act shall take effect immediately.

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SPONSORS MEMO:

NEW YORK STATE ASSEMBLY MEMORANDUM IN SUPPORT OF LEGISLATION submitted in accordance with Assembly Rule III, Sec 1(e)

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

Bill Number:

Sponsor:

Purpose: To authorize Erie County to impose an additional one percent rate and an additional three-quarters of one percent rate of sales and compensating use taxes, for the period commencing December 1, 2015, and ending November 30, 2017, and to provide for retention for solely county purposes of all net collections from the additional three-quarters of one percent rate.

Summary of Provisions: Bill section 1 would amend clause 4 of subparagraph (i) of the opening paragraph of section 1210 of the Tax Law, which authorizes counties and cities to impose sales and use taxes at specified rates. Clause 4 would authorize Erie County to impose an additional one percent rate and an additional three-quarters of one percent rate of such taxes for the period commencing December 1, 2015, and ending November 30, 2017. Currently the county is authorized to impose these two additional rates through November 30, 2015 pursuant to section 1210 of the Tax Law.

Bill section 2 would amend paragraph 2 of Tax Law section 1262-q to continue to provide that net collections from the additional three-quarters of one percent rate shall be used by the county solely for county purposes and shall not be subject to any revenue distribution agreement the county entered into under section 1262(c) of the Tax Law.

Bill section 3 provides that the bill would take effect immediately.

Existing Law: Section 1210 of the Tax Law authorizes counties and cities to impose sales and compensating use taxes generally at a rate not to exceed three percent. More than 50 counties outside New York City and five cities are each authorized to impose an additional rate of tax in excess of three percent. Pursuant to section 1210(a), a county or city can impose the "general" sales and use taxes, consisting of the six subdivisions of section 1105 of the Tax Law, which imposes the State's sales taxes, and of the related compensating use taxes in section 1110 of the Tax Law, which imposes the State's use taxes. Or, pursuant to section 1210(b), a county or city can impose one or more of the taxes described in section 1105(b), (d), (e), or (f), which are

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known as the “segmented taxes,” plus related use taxes. Erie County currently imposes the “general” sales and use taxes at the rate of three percent. The county is also authorized to, and does, impose an additional one percent rate pursuant to section 1210 of the Tax Law for the period December 1, 2013, through November 30, 2015. The county is also authorized to, and does, impose an additional three-quarters of one percent rate pursuant to section 1210 of the Tax Law for the period December 1, 2013, through November 30, 2015.

Justification: Erie County has requested authorization to impose an additional one percent and three-quarters percent sales and compensating use tax. 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.

Budget Implications: None to the State. Failure to extend the additional one percent and three-quarters percent sales and compensating use tax rate would mean the annual loss of nearly \$265 million in County revenue and \$12.5 million in revenue to other local governments and would create a severe challenge to the continued operation of County government and its delivery of services. This loss in revenue would require an exorbitant property tax increase of 100 percent, more than doubling the existing levy. In addition, it would be likely that entire departments not mandated by state law would be eliminated and Erie County would put a stop to all capital work, including road and bridge reconstruction throughout our community. Finally, Erie County shares its sales tax revenue with its municipalities and school districts. If the sales tax extension is not approved, Erie County’s cities, towns, and villages would lose \$12.5 million annually.

Effective Date: This act shall take effect immediately.