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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

April 9, 2013

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

**IMMEDIATE CONSIDERATION REQUESTED**

**Re: Home Rule Request - Extension Of Additional 1% and .75% Sales Tax**

Dear Honorable Members:

Please find enclosed for your approval a Home Rule Request to reauthorize the County's imposition of the an additional 1.0% and 0.75% sales and compensating use tax for the period December 1, 2013 to November 30, 2015.

The County's authority to impose the additional 1.0% and 0.75% sales and compensating use tax expires on November 30, 2013. Every two years the County must request the approval of legislation in the New York State Assembly and New York State Senate to allow Erie County to continue this critical revenue stream.

Your Honorable Body unanimously approved a an Assembly and Bill Request for Legislation Authorizing Extension of Additional 1.0% and 0.75% Sales and Compensating Use Tax at your January 20, 2013 session. Assemblymember Robin Schimminger and Senator Michael Ranzenhofer subsequently introduced this legislation. The Assembly and Senate now require the County to approve a Home Rule Request before they act.

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  
Erie County Executive

MCP/bb  
Enclosure

cc: Erie County Fiscal Stability Authority  
Erie County 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:** Home Rule Request - Extension Of Additional 1% and .75% Sales Tax  
**Date:** April 9, 2013

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### **SUMMARY**

It is recommended that the Erie County Legislature timely adopt the attached resolution which requests the enactment of Assembly Bill No. A.6533 and Senate Bill No. S.4458, now pending before the New York State Legislature, which would authorize an extension of the additional 1% and .75% sales and compensating use tax from December 1, 2013 through November 30, 2015.

### **FISCAL IMPLICATIONS**

Positive - \$265 million in annual revenue.

### **REASONS FOR RECOMMENDATION**

Approval of a Home Rule Request for extension of addition 1% and .75% sales and compensating use tax is required prior to subsequent action.

### **BACKGROUND INFORMATION**

On January 20, 2013, the Erie County Legislature unanimously approved Comm. 2E-29 (2013), an Assembly and Senate Bill Request for Legislation Authorizing Extension of Additional 1.0% and 0.75% Sales and Compensating Use Tax. Assemblymember Robin Schimminger and Senator Michael Ranzenhofer have subsequently introduced this legislation. The Assembly and Senate now require the County to approve a Home Rule Request before their approval.

### **CONSEQUENCE OF NEGATIVE ACTION**

Failure to extend the addition 1% and .75% sales and compensating use tax 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 Assembly would approve Assembly Bill No. A.6533 and Senate would approve Senate Bill No. S.4458. After the Governor signs the bills into law, 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 New York State Department of Taxation and Finance in Albany.

EXTENSION OF ADDITIONAL 1% AND .75% SALES AND COMPENSATING USE TAX

ASSEMBLY

WHEREAS, the additional 1% and .75% Erie County sales and compensating use tax, will expire on November 30, 2013 unless further extended and imposed, and

WHEREAS, failure to extend the imposition of the additional 1% and .75% sales and compensating use tax will result in an estimated annual shortfall of more than \$265 million in the Erie County budget, and

WHEREAS, Assembly Bill No. A.6533 and Senate Bill No. S.4458, now pending before the New York State Legislature, would authorize an extension of the additional 1% and .75% sales and compensating use tax, from December 1, 2013 to November 30, 2015;

NOW, THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

TO THE LEGISLATURE:

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Assembly Bill No. A.6533 entitled "AN ACT to amend the tax law, in relation to the imposition of additional rates of sales and compensating use taxes by Erie County"

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Other facts as set forth in the following explanation establish such necessity.

Failure to authorize the extended imposition of the additional 1% and .75% sales and compensating use tax will result in an estimated annual shortfall of more than \$265 million in the Erie County budget, the cessation of services essential to the people of Erie County and jeopardize any sharing of net collections therefrom with Erie County's cities, towns and villages.

Such request is made by the local legislative body of such local government, at least two-thirds of the total membership thereof having voted in favor of such request.

AND BE IT FURTHER

RESOLVED, that the Clerk of the Legislature be directed to forward copies of this Home Rule Request, certified by the Clerk of the Erie County Legislature, as follows: two copies to the New York State Assembly and two copies to the New York State Senate.

EXTENSION OF ADDITIONAL 1% AND .75% SALES AND COMPENSATING USE TAX

SENATE

WHEREAS, the additional 1% and .75% Erie County sales and compensating use tax, will expire on November 30, 2013 unless further extended and imposed, and

WHEREAS, failure to extend the imposition of the additional 1% and .75% sales and compensating use tax will result in an estimated annual shortfall of more than \$265 million in the Erie County budget, and

WHEREAS, Senate Bill No. S.4458 and Assembly Bill No. A.6533, now pending before the New York State Legislature, would authorize an extension of the additional 1% and .75% sales and compensating use tax, from December 1, 2013 to November 30, 2015;

NOW, THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

TO THE LEGISLATURE:

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Senate Bill No. S.4458, entitled "AN ACT to amend the tax law, in relation to the imposition of additional rates of sales and compensating use taxes by Erie County"

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Other facts as set forth in the following explanation establish such necessity.

Failure to authorize the extended imposition of the additional 1% and .75% sales and compensating use tax will result in an estimated annual shortfall of more than \$265 million in the Erie County budget, the cessation of services essential to the people of Erie County and jeopardize any sharing of net collections therefrom with Erie County's cities, towns and villages.

Such request is made by the local legislative body of such local government, at least two-thirds of the total membership thereof having voted in favor of such request.

AND BE IT FURTHER

RESOLVED, that the Clerk of the Legislature be directed to forward copies of this Home Rule Request, certified by the Clerk of the Erie County Legislature, as follows: two copies to the New York State Senate and two copies to the New York State Assembly.



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**A06533 Summary:**

BILL NO      A06533

SAME AS      SAME AS S04458

SPONSOR      Schimminger

COSPNSR

MLTSPNSR

Amd SS1210 & 1262-q, Tax L

Authorizes Erie County to impose an additional one percent and three-quarters percent sales and compensating use tax.

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**A06533 Actions:**

BILL NO      A06533

04/04/2013 referred to ways and means

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**A06533 Votes:**

*There are no votes for this bill in this legislative session.*

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**A06533 Memo:**

*Memo not available*

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**A06533 Text:**

S T A T E   O F   N E W   Y O R K

6533

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 4, 2013

Introduced by M. of A. SCHIMMINGER -- read once and referred to the Committee on Ways and Means

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 Section 1. Clause 4 of subparagraph (i) of the opening paragraph of  
2 section 1210 of the tax law, as amended by chapter 243 of the laws of  
3 2011, is amended to read as follows:

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

15 S 2. Subdivision 2 of section 1262-q of the tax law, as added by chap-  
16 ter 243 of the laws of 2011, is amended to read as follows:

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

27 S 3. This act shall take effect immediately.

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

LBD08514-01-3

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