



EC LEG FEB 9 '23 PM 1:45

ERIE COUNTY COMPTROLLER
KEVIN R. HARDWICK

February 9, 2023

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 Additional 0.75% Sales and Compensating Use Tax
Immediate Consideration Requested**

Dear Honorable Members:

Please find enclosed for your approval the introductory request in 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, 2023 through November 30, 2026.

The County's authority to impose the additional 1.0% and additional 0.75% sales and compensating use tax expires on November 30, 2023. Every three 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 NYS Bill extending the additional sales and compensating use tax rates along with a sponsors' 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 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,



Kevin R. Hardwick
Erie County Comptroller

KRH

MEMORANDUM

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

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, 2023 through November 30, 2026.

FISCAL IMPLICATIONS

Positive - \$364 million in annual revenue.

REASONS FOR RECOMENDATION

A resolution requesting introduction of State Legislation to the Assembly and Senate 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 additional 0.75% sales and compensating use tax during the period of December 1, 2023 through November 30, 2026 is needed for Erie County's sponsoring Assembly member and Senator member to act on such request.

CONSEQUENCES OF NEGATIVE ACTION

Failure to extend the additional 1.0% and additional 0.75% sales tax rate would mean the annual loss of \$364 million in County revenue, some 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 Assembly and the Senate 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 the adopted resolution amending the Erie County Sales and Compensating Use Tax Resolution will then be filed by the County Attorney with the Commissioner of the New York State Department of Taxation and Finance in Albany.

A RESOLUTION SUBMITTED BY:
OFFICE OF THE COUNTY COMPTROLLER

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 additional 0.75% sales tax rate will expire at midnight on November 30, 2023 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, 2023 and ending November 30, 2026; 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 Assembly Majority Leader Crystal Peoples-Stokes and Senator Tim Kennedy, together with the Erie County Division of Budget and Management, the County Attorney, and the County Executive.