

County of Tioga

Local Law No. 1 of the Year 1968.

A Local Law establishing a Sales Tax and Compensating Use Tax for the County of Tioga.

Be It Enacted by the Board of Supervisors of the County of Tioga as follows:

SECTION 1:

Definitions.

(a) When used in this local law, the term "person" includes an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise and any combination of the foregoing.

(b) When used in this local law for the purposes of the taxes imposed by subdivisions (a), (b), (c) and (d) of section 2 and by section 4, the following terms shall mean:

(1) Purchase at retail. A purchase by any person for any purpose other than those set forth in clauses (A) and (B) of subparagraph (i) of paragraph (4) of this subdivision.

(2) Purchaser. A person who purchases property or to whom are rendered services, the receipts from which are taxable under this local law.

(3) Receipt. The amount of the sale price of any property and the charge for any service taxable under this local law, valued in money whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for tangible personal property accepted in part payment and intended for resale and excluding the cost of transportation of tangible personal property sold at retail where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For special rules governing computation of receipts, see section 5.

(4) Retail sale. (i) A sale of tangible personal property to any person for any purposes, other than (A) for resale of such or as a physical component part of tangible personal property, or (B) for use by that person in performing the services subject to tax under paragraphs (1), (2), (3) and (5) of subdivision (c) of section 2 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(ii) The term retail sale does not include:

(A) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the law of New York or any other jurisdiction.

(B) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(C) The distribution of property by a partnership to its partners in whole or partial liquidation.

(D) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(E) The contribution of property to a partnership in consideration for a partnership interest therein.

(5) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this local law, for a consideration or any agreement therefor.

(6) Tangible personal property. Corporeal personal property of any nature. However, except for purposes of the tax imposed by subdivision (b) of section 2, such term shall not include gas, electricity, refrigeration and steam.

(7) Use. The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property, or any consumption of such property.

(8) Vendor. (i) The term "vendor" includes:

(A) A person making sales of tangible personal property or services, the receipts from which are taxed by this local law;

(B) A person maintaining a place of business in the State of New York and making sales, whether at such place of business or elsewhere, to persons within the County of Tioga of tangible personal property or services, the use of which is taxed by this local law;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the County of Tioga of tangible personal property or services, the use of which is taxed by this local law;

(D) Any other person making sales to persons within the County of Tioga of tangible personal property or services, the use of which is taxed by this local law, who may be authorized by the New York State Tax Commission to collect such tax.

(E) The State of New York, any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons.

(ii) Any salesman, representative, peddler or canvasser who is treated by the New York State Tax Commission as a vendor, pursuant to the provisions of section 1101 (b)(8)(ii) of the Tax Law of the State of New York.

(c) When used in this local law for the purpose of the tax imposed under subdivision (e) of section 2, the following terms shall mean:

(1) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(2) Occupancy. The use or possession, or the right to the use or possession, of any room in a hotel.

(3) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(4) Operator. Any person operating a hotel.

(5) **Permanent resident.** Any occupancy of any room or rooms in a hotel for at least ninety consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(6) **Rent.** The consideration received for occupancy valued in money, whether received in money or otherwise.

(7) **Room.** Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(d) When used in this local law for purposes of the tax imposed under subdivision (f) of section 2, the following terms shall mean:

(1) **Active annual member.** A member who is not a life member but who enjoys full club privileges as distinguished from the privileges enjoyed by a person holding a nonresident membership, an associate membership, or other partial or restricted membership.

(2) **Admission charge.** The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(3) **Amusement charge.** Any admission charge, dues or charge of roof garden, cabaret or other similar place.

(4) **Charge of a roof garden, cabaret or other similar place.** Any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(5) **Dramatic or musical arts admission charge.** Any admission charge paid for admission to a theatre, opera house, concert hall or other hall or place of assembly for a live dramatic, choreographic or musical performance.

(6) **Dues.** Any dues or membership fee including any assessment, irrespective of the purpose for which made, and any charges for social or sports privileges or facilities. Dues of a life member shall be an annual equivalent to the amount paid as dues, within this definition, by an active annual member, whether or not the life member paid for his life membership prior to the imposition of the tax by this local law.

(7) **Initiation fee.** Any payment, contribution, or loan required as a condition precedent to membership, whether or not such payment,

contribution or loan is evidenced by a certificate of interest or indebtedness or share of stock, and irrespective of the person or organization to whom paid, contributed or loaned.

(8) Lessor. Any person who is the owner, licensee, or lessee of any place of amusement or roof garden, cabaret or other similar place which he leases, subleases or grants a license to use to other persons who make amusement charges or admission charges.

(9) Patron. Any person who pays an amusement charge or who is otherwise required to pay the tax imposed under such subdivision (f) of section 2.

(10) Place of amusement. Any place where any facilities for entertainment, amusement, or sports are provided.

(11) Recipient. Any person who collects or receives or is under a duty to collect an amusement charge.

(12) Roof garden, cabaret or other similar place. Any roof garden, cabaret or other similar place which furnishes a public performance for profit.

(13) Social or athletic club. Any club or organization of which a material purpose or activity is social or athletic.

SECTION 2:

Imposition of sales tax.

On and after September first, nineteen hundred sixty-eight, there is hereby imposed and there shall be paid a tax of two percent upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this local law.

(b) The receipts from every sale, other than sales for resale, of gas, electricity, refrigeration and steam and gas, electric, refrigeration and steam service of whatever nature, and from every sale, other than sales for resale, of telephony and telegraphy and telephone and telegraph service of whatever nature except interstate and international telephony and telegraphy and telephone and telegraph service.

(c) The receipts from every sale, except for resale, of the following services:

(1) The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news.

(2) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(3) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except such services rendered by an individual who is engaged directly by a private home owner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, and except any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining, and except for installing property which, when installed, will constitute an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the Real Property Tax Law, and except such services rendered with respect to commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than with respect to articles purchased for the original equipping of a new ship); provided however, that nothing contained in this paragraph shall be construed to exclude from tax under this paragraph or under subdivision (b) of this section any charge, made by a person furnishing service subject to tax under subdivision (b) of this section, for installing property at the premises of a purchaser of such a taxable service for use in connection with such service.

(4) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(5) Maintaining, servicing or repairing real property, property or land, as such terms are defined in the Real Property Tax Law, whether the services

are performed in or outside of a building, as distinguished from adding to or improving such real property, property or land, by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding interior cleaning and maintenance services performed on a regular contractual basis for a term of not less than thirty days, other than window cleaning, rodent and pest control and trash removal from buildings.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in paragraphs (1) through (5) of this subdivision (c) are not receipts subject to the taxes imposed under such subdivision.

(d) (i) Irrespective of price, when beer, wine or other alcoholic beverages are sold, or when the charge to the patron or customer is one dollar or more for a sale of food and drink of any nature or of food alone, receipts from every such sale in or by restaurants, taverns or other establishments in this county, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers (except those receipts taxed pursuant to subdivision (f) of this section):

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods.

(ii) The tax imposed by this subdivision shall not apply to food or drink which is sold to an airline for consumption while in flight.

(e) The rent for every occupancy of a room or rooms in a hotel in this county, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of two dollars per day.

(f) (1) Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in this county, except charges for admission to race tracks, boxing, sparring or wrestling matches or exhibitions which charges are taxed under the laws of this state, except taxes imposed by Article 28 of the Tax Law of the State of New York, or dramatic or musical arts performances, or motion picture theaters, and except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The dues paid to any social or athletic club in this county if the dues of an active annual member, exclusion of the initiation fee, are in excess of ten dollars per year, and on the initiation fee alone, regardless of the amount of dues, if such initiation fee is in excess of ten dollars, except that the tax shall not apply to a fraternal society, order or association operating under the lodge system or any fraternal association of students of a college or university. Where the tax on dues applies to any such social or athletic club, the tax shall be paid by all members thereof regardless of the amount of their dues, and shall be paid on all dues or initiation fees for a period commencing on or after September first, nineteen hundred sixty-eight. In the case of a life membership, the tax shall be upon the annual amount paid by active annual members as dues, whether or not the life member paid for or was admitted to such membership prior to the imposition of the tax under this local law, and shall be paid annually by the person holding such life membership at the time for payment of dues by active annual members.

(3) The amount paid as charges of a roof garden, cabaret or other similar place in the state.

SECTION 3:

Transitional provisions.

(a) The taxes imposed under subdivisions (a), (c) and (d) of section 2 shall be paid upon all sales made and services rendered on or after September first, nineteen hundred sixty-eight although made on or rendered under a prior contract, except as provided in section 12, and except that a delivery or transfer of possession of tangible personal property made after said date pursuant to an agreement for the sale of said property made before May first, nineteen

hundred sixty-eight shall not be subject to tax if: (1) such agreement for the sale of said property was made in writing, (2) the particular item or items of property so sold or agreed to be sold were segregated before May first, nineteen hundred sixty-eight, from any other similar property in the possession of the vendor and identified as having been appropriated to such sale or agreement of sale, and (3) the purchaser, before September first, nineteen hundred sixty-eight shall have paid to the vendor not less than ten percent of the sale price of said property.

(b) The tax imposed under subdivision (b) of section 2 shall be paid with respect to receipts for property or services sold on or after September first, nineteen hundred sixty-eight although made under a prior contract. Where property or service is sold on a monthly, quarterly or other term basis and the bills for such property or service are based on meter readings, the amount received on such bill for such property or service for a month or other term shall be a receipt subject to the tax, but such tax shall be applicable to all bills based on meters read on or after September first, nineteen hundred sixty-eight only where more than one-half of the number of days included in the month or other period billed are days subsequent to August thirty-first, nineteen hundred sixty-eight; provided, however, that where such bills are for telephone or telegraph service the tax shall apply to all receipts on such bills dated on or after September first, nineteen hundred sixty-eight, for which no previous bill was rendered, excepting, however, charges for services furnished before the date of the first of such bills.

(c) The tax imposed under subdivision (e) of section 2 shall be paid upon any occupancy on and after September first, nineteen hundred sixty-eight, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed under such subdivision (e) to the extent that it covers any period on and after September first, nineteen hundred sixty-eight and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

(d) Except as otherwise hereinafter provided, the tax imposed under subdivision (f) of section 2 shall be applicable to any admission to or the use of facilities of a place of amusement occurring on or after September first, nineteen hundred sixty-eight, whether or not the admission charge has been paid prior to such date, unless the tickets were actually sold and delivered (other than for resale) prior to September first, nineteen hundred sixty-eight to a person attending the performance occurring on or after such date.

(e) A refund or credit equal to the amount of the sales or compensating use tax paid on the sale or use of tangible personal property, under a local law, ordinance or resolution imposed pursuant to the authority of chapter eight hundred seventy-three of the laws of nineteen hundred thirty-four, as amended, or chapter two hundred seventy-eight of the laws of nineteen hundred forty-seven, as amended, shall be allowed, upon application to the tax commission as provided for herein, where such property has been used by the purchaser or user in performing the services subject to tax under paragraphs (1), (2), (3) and (5) of subdivision (c) of section 2 and such property has become a physical component part of the property upon which the services are performed or has been transferred to the purchaser of the service in conjunction with the performance of the service subject to tax, except that such refund or credit may not exceed the combined state and local taxes , if any, paid pursuant to Article 28 of the Tax Law and under the tax imposed by this local law, on the sale or use of the service in connection with which such property was used. No interest shall be allowed or paid upon any refund made or credit allowed pursuant to this subdivision.

SECTION 4:

Imposition of compensating use tax.

Unless property or services have already been or will be subject to the sales tax under this local law, there is hereby imposed on every person a use tax for the use within this county on and after Setpember first, nineteen hundred sixty-eight, except as otherwise exempted under this local law:

(A) of any tangible personal property purchased at retail.

(B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business.

(C) of any of the services described in paragraph (1) of subdivision (c) of section 2, and

(D) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any of the services described under paragraphs (2) and (3) of subdivision (c) of section 2 have been performed. For purposes of clause (A) of this section, the tax shall be at the rate of two percent of the consideration given or contracted to be given for such property, or for the use of such property, but excluding any credit for tangible personal property accepted in part payment and intended for resale, plus the cost of transportation except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For

purposes of clause (B) of this section, the tax shall be at the rate of two percent of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clauses (C) and (D) of this section, the tax shall be at the rate of two percent of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation of property so transferred and of the tangible personal property upon which the service was performed, except where such cost is separately stated in the written contract if any, and on the bill rendered to the purchaser.

SECTION 5:

Special rules for computing receipts and consideration.

(a) The retail sales tax imposed under subdivision (a) of section 2 and the compensating use tax imposed under section 4, when computed in respect to tangible personal property wherever manufactured, processed or assembled and used by such manufacturer, processor or assembler in the regular course of business within this county, shall be based on the price at which items of the same kind of tangible personal property are offered for sale by him.

(b) Tangible personal property, which has been purchased by a resident of this county outside of this county for use outside this county and subsequently becomes subject to the compensating use tax imposed under this local law shall be taxed on the basis of the purchase price of such property provided, however:

(1) That where a taxpayer affirmatively shows that the property was used outside this county by him for more than six months prior to its use within this county, such property shall be taxed on the basis of current market value of the property at the time of its first use within this county. The value of such property, for compensating use tax purposes may not exceed its cost.

(2) That the compensating use tax on such tangible personal property brought into this county (other than for complete consumption or for incorporation into real property located in this county) and used in the performance of a contract or sub-contract within this county by a purchaser or user for a period of less than six months may be based, at the option of the taxpayer, on the fair rental value of such property for the period of use within this county.

(c) With respect to property leased, or sold under a contract deferring payments, tax shall be payable at such times and in such amounts as may be prescribed by the State Tax Commission as provided in section 1132 of the Tax Law of the State of New York.

(d) If the State Tax Commission has prescribed or shall prescribe schedules of the amount of tax to be collected upon each gallon of motor fuel and diesel motor fuel sold at retail service stations, or upon each pack of cigarettes, as provided in Section 1111 of the Tax Law of the State of New York, the tax thereon shall be collected as prescribed in such schedules.

SECTION 6:

Exemptions from sales and use taxes.

(a) Receipts from the following shall be exempt from the tax on retail sales imposed under subdivision (a) of section 2 and the compensating use tax imposed under section 4.

(1) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confestionery (ii) fruit drinks which contain less than seventy percent of natural fruit juice (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section 2.

(2) Water, when delivered to the consumer through mains or pipes.

(3) Drugs and medicines intended for use internally or externally, in the cure, mitigation, treatment or prevention of illnesses or diseases in human beings and products consumed by humans for the preservation of health but not including medical equipment and supplies other than such drugs and medicines, or cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein.

(4) Prosthetic aids, hearing aids, or eyeglasses and artificial devices designed for the use of a particular individual to correct or alleviate physical incapacity.

(5) Newspapers and periodicals.

(6) Tangible personal property, except property incorporated in a building or structure, for use or consumption directly and exclusively in the production for sale of tangible personal property on farms including stock, dairy, poultry, fruit, fur bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(7) Tangible personal property sold by a mortician, undertaker, or funeral director. However, all tangible personal property sold to a mortician, undertaker or funeral director for use in the conducting of funerals shall not be deemed a sale for resale within the meaning of paragraph (4) of subdivision (b) of section 1 of this local law and shall not be exempt from the retail sales tax.

(8) Commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship).

(9) Fuel sold to an airline for use in its airplanes.

(10) Tangible personal property purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

(11) The flags of the United States of America and the State of New York.

(12) Tangible personal property sold through coin-operated vending machines at ten cents or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the State Tax Commission.

(b) (i) Telephony and telegraphy and telephone and telegraph service used by newspapers, radio broadcasters and television broadcasters in the collection or dissemination of news shall be exempt from the tax imposed under subdivision (b) of section 2 if the charge for such services is a toll charge or a charge for mileage services, including the associated station terminal equipment.

(ii) Gas, electricity, refrigeration and steam and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in research and development in the experimental or laboratory sense shall be exempt from the tax imposed under subdivision (b) of section 2. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

(c) All sales of tangible personal property for use or consumption directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale by manufacturing, processing, generating, assembling, refining, mining, extracting, farming, agriculture, horticulture or floriculture, and all sales of telephone central office equipment and station apparatus or comparable telegraph equipment for use directly and exclusively in receiving at destination or in initiating and switching telephone or telegraph communication shall be exempt from the taxes imposed under subdivisions (a) and (b) of section 2.

(d) Services otherwise taxable under paragraphs (1), (2) or (3) or subdivision (c) of section 2 shall be exempt from tax under this local law if the tangible personal property upon which the services were performed is delivered to the purchaser outside this county, for use outside this county.

(e) Telephone and telegraph service paid for by inserting coins in coin-operated telephones where the charge is ten cents or less shall be exempt from the tax imposed under subdivision (b) of section 2.

(f) Services rendered by a veterinarian licensed and registered as required by the education law which constitute the practice of veterinary medicine as defined in said law, including hospitalization for which no separate boarding charge is made, shall not be subject to tax under paragraph (3) of subdivision (c) of section 2, but the exemption allowed by this subdivision shall not apply to other services provided by a veterinarian to pets and other animals, including, but not limited to, boarding, grooming and clipping. Articles of tangible personal property designed for use in some manner relating to domestic animals or poultry, when sold by such a veterinarian, shall not be subject to tax under subdivision (a) of section 2 or under section 4. However, the sale of any such articles of tangible personal property to a veterinarian shall not be deemed a sale for resale within the meaning of paragraph (4) of subdivision (b) of section 1 and shall not be exempt from retail sales tax.

SECTION 7:

Exempt organizations.

(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this local law:

(1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user, or consumer, or where it sells services or property of a kind not ordinarily sold by private persons; and

(4) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(b) Nothing in this section shall exempt retail sales of tangible personal property by any shop or store operated by an organization described in paragraph (4) of subdivision (a) of this section from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

(c) Where any organization described in paragraph (4) of subdivision (a) of this section carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

(d) (1) Except as provided in paragraph (2) of this subdivision, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subdivision (f) of section 2.

(A) An organization described in paragraph (4) of subdivision (a) of this section;

(B) A society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions;

(C) National guard organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in this state, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or

(D) A police or fire department of a political subdivision of the state, or a voluntary fire or ambulance company, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subdivision shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in paragraph (4) of subdivision (a) of this section; or

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation.

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subdivision (f) of section 2:

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

SECTION 8:

Deliveries outside the county; deliveries within the county of property sold or serviced elsewhere.

Where a sale of tangible personal property or services other than those described in subdivision (b) of section 2, including an agreement therefor, is made in this county, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser elsewhere, such sale shall not be subject to tax under this local law. However, if delivery occurs or will occur in a city, county or school district imposing a tax on the sale or use of such property, pursuant to the authority of Article 29 of the Tax Law of the State of New York, the vendor shall be required to collect from the purchaser, as provided in section 1254 of the Tax Law of the State of New York, the aggregate sales or compensating use taxes imposed by the city, if any, county and school district in which delivery occurs or will occur, for distribution by the State Tax Commission to such taxing jurisdiction or jurisdictions.

Where a sale of tangible personal property or services other than those described in subdivision (b) of section 2, including an agreement therefor, is made outside this county, but the property sold or the property upon which the services were performed is or will be delivered to the purchaser in this county, such sale and use of such property or services shall be subject to tax under this local law and the vendor shall be required to collect from the purchaser, as provided in section 1254 of the Tax Law of the State of New York the sale or use tax imposed by this local law, for distribution by the State Tax Commission to this county.

For the purposes of this section, delivery shall be deemed to include transfer of possession to the purchaser and the receiving of the property by the purchaser.

SECTION 9:

Certain sales of motor vehicles; proof required for registration of motor vehicles.

(a) Where a sale of a motor vehicle, including an agreement therefor, is made in this county to a nonresident thereof, such sale shall not be subject to tax under this local law, despite the fact that such motor vehicle is delivered to the purchaser within this county, provided the purchaser furnishes to the vendor, prior to taking delivery, proof satisfactory to the Tax Commission that the purchaser:

(1) is a nonresident of this county.

(2) has no permanent place of abode within this county;

(3) is not engaged in carrying on in this county any employment, trade, business or profession in which the motor vehicle will be used in this county, and such other proof as the State Tax Commission may require to insure proper administration of the taxes imposed under subdivision (a) of section 2. However, if the purchaser resides in a city, county or school district imposing a tax on the use of such motor vehicle, the vendor shall be required to collect from the purchaser, as provided in section 1254 of the Tax Law of the State of New York, the aggregate compensating use taxes imposed by the city, if any, county and school district in which the purchaser resides, for distribution by the State Tax Commission to such taxing jurisdiction or jurisdictions.

(b) A vendor shall not be liable for failure to collect tax on such sale of a motor vehicle provided the proof furnished to him by the purchaser pursuant to subdivision (a) of this section shows that the purchaser's residence is not in any city, county or school district which imposes a tax on the use of such motor vehicle, and provided the vendor keeps such proof available for inspection by the State Tax Commission and further provided that such proof is not known by the vendor, prior to making physical delivery of the motor vehicle, to be false.

(c) For purposes of this section, the term "motor vehicle" shall include a motor vehicle as defined in section 125 of the Vehicle and Traffic Law of the State of New York, and a trailer as defined in section 156 of such law.

SECTION 10:

Territorial limitations.

Any tax imposed under the authority of this local law shall apply only within the territorial limits of this county.

SECTION 11:

Exemptions from use tax.

The following uses of property shall not be subject to the compensating use tax imposed under this local law:

(1) In respect to the use of property used by the purchaser in this county prior to September first, nineteen hundred sixty-eight.

(2) In respect to the use of property purchased by the user while a nonresident of this county, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the county. A person while engaged in any manner in carrying on in this county any employment, trade, business or profession, shall not be deemed a nonresident with respect to the use in this county of property in such employment, trade, business or profession.

(3) In respect to the use of property or services upon the sale of which the purchaser would be expressly exempt from the taxes imposed under subdivision (a), (b) or (c) of section 2.

(4) In respect to the use of property which is converted into or becomes a component part of a product produced for sale by the purchaser.

(5) In respect to the use of paper in the publication of newspapers and periodicals.

(6) (A) In respect to the use of property or services to the extent that a retail sales tax or a compensating use tax was legally due and unpaid thereon, without any right to a refund or credit thereof to (a) any municipal corporation in this state or (b) any other state or jurisdiction within any other state, but only when it is shown that such other state or jurisdiction allows a corresponding exemption with respect to the sale or use of tangible personal property or services upon which such a sale or compensating use tax was paid to this state and any of its municipal corporations. For the purposes of this paragraph, a payment to the State Tax Commission of a tax imposed by a

municipal corporation shall be deemed a payment to such municipal corporation.

(B) To the extent that a compensating use tax imposed pursuant to this local law and the compensating use tax imposed by Article 28 of the Tax Law of the State of New York are at a higher aggregate rate than the rate of tax imposed in the first taxing jurisdiction, the exemption provided in subparagraph (A) of paragraph (6) of this section shall be inapplicable and the taxes imposed pursuant to this local law and by Article 28 of the Tax Law of the State of New York shall apply to the extent of the difference between such aggregate rate and the rate paid in the first taxing jurisdiction.

SECTION 12:

Refunds or credits based on proof of certain uses.

(a) Subject to the conditions and limitations provided for herein, a refund or credit shall be allowed for a tax paid pursuant to subdivision (a) of section 2 or of section 4 (1) on the sale or use within this county of tangible personal property if the purchaser or user, in the performance of a contract, later incorporates that tangible personal property into real property located outside this county, (2) on the sale or use of tangible personal property purchased in bulk, or any portion thereof, which is stored and not used by the purchaser or user within this county if that property is subsequently reshipped by such purchaser or user to a point outside this county for use outside this county, (3) on the sale to or use by a contractor or sub-contractor of tangible personal property if that property is used by him solely in the performance of a pre-existing lump sum or unit price construction contract or (4) on the sale or use within this county of tangible personal property, not purchased for resale, if the use of such property in this county is restricted to fabricating such property (including incorporating it into or assembling it with other tangible personal property), processing, printing or imprinting such property and such property is then shipped to a point outside this county for use outside this county. (For the purpose of clause (3) of the preceding sentence, the term "pre-existing lump sum or unit price construction contract" shall mean a contract for the construction of improvements to real property under which the amount payable to the contractor or subcontractor is fixed without regard to the costs incurred by him in the performance thereof, and which (i) was irrevocably entered into prior to the date of the enactment of this local law or the enactment of a local law increasing the rate of tax imposed under this local law, or (ii) resulted from the acceptance by a governmental agency of a bid accompanied by a bond or other performance guaranty which was irrevocably submitted prior to such date.) Where the tax on the sale or use of such tangible personal property has been paid to the vendor, to qualify for such refund or

credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above or used in the manner described in clauses (3) or (4) above within three years after the date such tax was payable to the State Tax Commission by the vendor pursuant to section 1137 of the Tax Law of the State of New York. Where the tax on the sale or use of such tangible personal property was paid by the applicant for the credit or refund directly to the State Tax Commission, to qualify for such refund or credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above or used in the manner described in clauses (3) or (4) above within three years after the date such tax was payable to the State Tax Commission by such applicant pursuant to Article 28 of the Tax Law of the State of New York.

(b) A refund or credit equal to the amount of sales or compensating use tax imposed by Article 28 of the Tax Law of the State of New York and under this local law, and paid on the sale or use of tangible personal property, shall be allowed where such property has been used by the purchaser or user in performing the services subject to tax under paragraphs (1), (2), (3) and (5) of subdivision (c) of section 2 and such property has become a physical component part of the property upon which the services are performed or has been transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

SECTION 13:

Administration and collection.

The taxes imposed under the authority of this local law shall be administered and collected by the State Tax Commission in the same manner as the taxes imposed under Article 28 of the Tax Law of the State of New York are administered and collected by such Commission. All of the provisions of said Article 28 relating to or applicable to the administration and collection of the taxes imposed by that Article shall apply to the taxes imposed by this local law, including sections 1101, 1106, subdivision (e), 1111, 1118, 1119 and 1131 through 1147, with the same force and effect as if those provisions had been incorporated in full into this local law except as otherwise provided in section 1250 of the Tax Law of the State of New York.

SECTION 14:

Disposition of Revenues.

Net collections distributed to the county by the State Tax Commission pursuant to section 1262 of the Tax Law of the State of New York shall be disposed of as follows:

(a) One-half of such monies is hereby set aside for county purposes and shall be available for any county purpose.

(b) The remaining one-half of such monies shall be allocated first to reduce county taxes levied upon real property in the several towns of the county and any balance remaining shall then be applied to reduce general town taxes levied upon real property in such area.

(c) The amount to be applied to reduce the county taxes and general town taxes in each town shall be determined on the basis of the respective populations of the several towns in the county, determined in accordance with the latest federal census or special population census taken pursuant to section 20 of the General Municipal Law, completed and published prior to the end of the quarter for which the allocation is made, which special census must be as broad in its geographic coverage as the latest federal census.

(d) If any village, by local law, ordinance, or resolution shall so provide, the amounts which would be so applied to reduce the county tax and general town tax levied upon real property in such village shall be paid directly to such village in lieu of such tax reduction. In such case, the balance of the amount allocated to the town in which said village is wholly or partially situated shall be applied to reduce county taxes and general town taxes in the area of the town outside such village or villages. If the amount allocated to a town exceeds the amount of the county taxes and general town taxes levied upon such property in the town, the excess shall be apportioned between the town and each village, if any, wholly or partially situated therein, in the ratios that the full valuation of real property in each such village or portion thereof within the town, and the full valuation of real property in the portion of the town outside of such village or villages, respectively, bear to the aggregate full valuation of the entire town. The share of each such village shall be paid directly to such village. The share of the town shall be applied, first, to reduce taxes levied for part-town activities, and any balance remaining shall be paid directly to the town, to be used only for part-town activities.

(e) As used in this section, the following terms shall mean or include:

(1) Net collections. The moneys collected from a tax or taxes imposed pursuant to Article 29 of the Tax Law of the State of New York after deducting therefrom expenses of administration and collection and amounts refunded or to be refunded.

(2) **General Town taxes.** Taxes levied for any town purpose, including highways, upon the entire area of a town.

(3) **Full valuation of real property.** The assessed valuation of real property divided by the equalization rate as determined by the board of supervisors or commissioners of equalization of the county.

(4) **Part-town activities.** Activities of town government, including highway programs, which are chargeable to the area of the town outside of villages, exclusive of special district purposes.

SECTION 15:

Construction and Enforcement.

This local law shall be construed and enforced in conformity with Articles 28 and 29 of the Tax Law of the State of New York pursuant to which the same is enacted.

SECTION 16:

Separability.

If any provision of this local law or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered, and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 17:

Effective Date.

This local law shall take effect on the first day of September, nineteen hundred sixty-eight, except that certificates of registration may be filed with the State Tax Commission and certificates of authority to collect tax may be issued by the State Tax Commission prior to said date.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1968 of the (County) Tioga was duly passed by the Board of Supervisors on May 20, 1968, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County) (City) (Town) (Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on and was deemed duly adopted on , 19 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 19 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on , 19 , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the (County)(City)(Town)(Village) of was duly passed by the on , 19 , and was (approved)(not disapproved)(repassed after disapproval) by the on , 19 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of , 19 , in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on , 19 , become operative.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19

of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1____, above.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date:

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

State of New York

County of Tioga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title
County of Tioga
City
Town
Village

Date: