

County of Tioga

Local Law No. 1 of the Year 1969.

A Local Law amending Local Law No. 1 of 1968 which established 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:

Local Law No. 1 of 1968, establishing a sales tax and compensating use tax for the County of Tioga, is hereby amended as follows:

A. Paragraph (ii) of subdivision (d) of Section 2 is hereby amended to read as follows:

(ii) The tax imposed by this subdivision shall not apply to:

(A) food or drink which is sold to an air line for consumption while in flight;

(B) food or drink sold to a student of a nursery school, kindergarten, elementary or secondary school at a restaurant or cafeteria located on the premises of such a school, or food or drink, other than beer, wine, or other alcoholic beverages, sold at a restaurant, tavern or other establishment located on the premises of a college, university or a school (other than a nursery school, kindergarten, elementary or secondary school) to a student enrolled therein who purchases such food or drink under a contractual arrangement whereby the student does not pay cash at the time he is served, provided the school, college or university described in this sub-paragraph is operated by an exempt organization described in subdivision (a) of section 1116 of the Tax Law, or is created, incorporated, registered, or licensed by the State Legislature or pursuant to the Education Law or the regulations of the Commissioner of Education or is incorporated by the Regents of the University of the State of New York or with their consent or the consent of the Commissioner of Education as provided in section 216 of the Education Law.

B. Paragraph (6) of subdivision (a) of Section 6 is hereby amended to read as follows:

(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 by farming, including stock, dairy, poultry, fruit, fur bearing animals, and truck farming. The term farming shall also include ranching, operating nurseries, greenhouses or other similar structures used primarily for the raising of agricultural, horticultural or floricultural commodities, and operating orchards.

C. Subdivision (c) of Section 6 is hereby amended to read as follows:

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. Subdivision (b) of Section 7 is hereby amended to read as follows:

(b) Nothing in this section shall exempt:

(1) 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, or

(2) sales of food or drink in or by a restaurant, tavern or other establishment operated by an organization described in paragraph (1) or paragraph (4) of subdivision (a) of this section, other than sales exempt under paragraph (ii) of subdivision (d) of section 2,

from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

E. Sub-paragraphs (A) and (B) of paragraph (6) of Section 11 are hereby amended to read as follows:

(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 paid 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 of any of the services upon which such a sale or compensating use tax was paid to this State and any of its municipal corporations, except as provided in subparagraph (B) of paragraph (6) of this section.

(B) To the extent that a compensating use tax imposed by this resolution and the compensating use tax imposed by Article 28 of the Tax Law are at a higher aggregate rate than the rate of tax imposed in any other state or jurisdiction within any other state, the exemption provided in subparagraph (A) of paragraph 6 of this section shall be inapplicable and the taxes imposed by this resolution and by Article 28 shall apply to the extent of the difference between such aggregate rate and the rate paid in such other state or jurisdiction. Where a retail sales tax or a compensating use tax was legally due and paid to any municipal corporation in this State, without any right to a refund or credit thereof, with respect to the sale or use of tangible personal property or any of the services subject to sales or compensating use tax, if the use of such property or services is then subject to the compensatin use tax imposed by this resolution and such tax is at a higher rate than the rate of tax imposed by the first municipal corporation, the tax imposed by this resolution shall also apply but only to the extent of the difference in such rates.

F. There is hereby added to paragraph (6) of Section 11 the following new sub-paragraph:

(C) 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.

G. Section 12 is hereby amended to read as follows:

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 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 subcontractor 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 purposes 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 resolution or the enactment of a law increasing the rate of tax imposed under this resolution, 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 eleven hundred thirty-seven of the Tax Law. 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 twenty-eight of the Tax Law. With respect to a sale or use described in clause (3) above, the purchaser or user shall be entitled to a refund or credit of the amount of the taxes imposed by this resolution if enacted later than the date of such contract or bid, or of the amount reflecting an increase in the rate of tax enacted later than said date, as the case may be, but only to the extent that all such sales and use taxes paid on such sale or use under the aggregate statewide and local taxes imposed under article twenty-eight and by authority of article twenty-nine exceeded an amount computed by applying against such sale or use the aggregate of the rates of state-wide and local sales and use taxes that were in effect at the time such contract was entered into or such bid was submitted.

(b) A refund or credit equal to the amount of sales or compensating use tax imposed by article twenty-eight of the Tax Law and under this resolution, 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.

H. Effective Date.

This local law shall take effect immediately, except that the amendment to subdivision (c) of section 6, the amendment to subdivision (6) of section 11, the amendment to paragraph (6) of subdivision (a) of section 6, and the amendments to paragraph (ii) of subdivision (d) of section 2 and to subdivision (b) of section 7 shall all be deemed to have been in effect as of September 1, 1968.

(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 1969 of the (County) Tioga was duly passed by the Board of Supervisors on April 21, 1969, 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 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: