A BUDGET BILL submitted by the Governor in accordance with Article VII of the Constitution

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to the taxicab ride tax imposed in the metropolitan commuter transportation district by article 29-A of the tax law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The article heading of article 29-A of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

TAX ON MEDALLION TAXICAB [RIDES] TRIPS
IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT

§ 2. Subdivisions (d), (e), (f) and (h) of section 1280 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, are amended and six new subdivisions (i), (j), (k), (l), (m) and (n) are added to read as follows:

(d) "Taxicab" means a motor vehicle [carrying passengers for hire in the city, duly] licensed by the [taxi and limousine commission of the city] TLC to carry passengers for hire and [permitted] authorized to accept hails from prospective passengers in the street.

(e) "Taxicab [ride] trip" means a taxicab [ride] trip provided to one or more passengers [to a given destination] regardless of the number of stops, for which the taximeter is required to be in the recording or hired position.

(f) "Taxicab owner" or "owner" means a person [owning a taxicab and shall include a purchaser under a reserve title contract, conditional sales agreement or vendor's lien agreement. In addition, an owner shall
be deemed to include any lessee, licensee or bailee having the exclusive
use of a taxicab, under a lease or otherwise, for a period of thirty
days or more licensed by the TLC to own and operate a medallion
taxicab.

(h) "Taximeter" [shall include any device which, when affixed to a
motor vehicle, is so constructed as to operate as a fare indicator and a
time and distance register for the purpose of automatically determining
the charge for which a passenger becomes liable] means an instrument or
device approved by the TLC by which the charge to a passenger for hire
of a licensed taxicab is automatically calculated and on which such
charge is plainly indicated.

(i) "TLC" means the taxi and limousine commission of the city.

(j) "Agent" means a person that acts, by employment, contract, or
otherwise, on behalf of one or more taxicab owners to operate or provide
for the operation of a licensed medallion taxicab in accordance with the
TLC's rules. "Agent" shall not include an attorney or representative
who appears on behalf of one or more owners before the TLC, the TLC
hearing tribunal, the commissioner, or the New York state division of
tax appeals, and taxicab drivers licensed pursuant to chapter five of
title nineteen of the administrative code of the city of New York when
acting in that capacity.

(k) "Medallion" means a plate issued by the TLC as the physical
evidence of a taxicab license, and affixed to the outside of such taxi-
cab.

(l) "Taxicab license" means the authority granted by the TLC to an
owner to operate a designated vehicle as a taxicab in the city.

(m) "Trip record," also known as a trip sheet or trip log, means the
written, computerized, automated or electronic accounting of a taxicab
ride. The trip data to be transmitted or recorded shall include the
taxicab license number (medallion number); the taxicab driver's license
number; the location of trip initiation; the time of trip initiation;
the number of passengers; the location of trip termination; the time of
trip termination; the itemized metered fare for the trip (tolls,
surcharge, and tip if paid by credit or debit card); the distance of the
trip, the trip number, the method of payment, the total number of
passengers, as well as such other information as may be required by the
TLC.

(n) "Medallion taxicab" means a taxicab to which a medallion has been
affixed in accordance with applicable law and regulations.

§ 3. Section 1281 of the tax law, as added by section 1 of part E of
chapter 25 of the laws of 2009, is amended to read as follows:

§ 1281. Imposition of tax. In addition to any other tax imposed by
this chapter or other law, there is hereby imposed on every taxicab
owner a tax of fifty cents per taxicab [ride] trip on every [ride] trip
that originates in the city and terminates anywhere within the territo-
rial boundaries of the MCTD.

§ 4. Section 1282 of the tax law, as added by section 1 of part E of
chapter 25 of the laws of 2009, is amended to read as follows:

§ 1282. Presumption of taxability. For the purpose of the proper
administration of this article and to prevent evasion of the tax imposed
by this article, it shall be presumed that every taxicab [ride] trip
that originates in the city is subject to the tax imposed by this arti-
cle. This presumption shall prevail until the contrary is proven, and
the burden of proving the contrary shall be on the person liable for
[payment of the] tax.
§ 5. Section 1283 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1283. [Special] Liability for tax; special provisions. Notwithstanding any provision of this article law to the contrary:

(a) [If a taxicab owner subject to the tax imposed by this article leases, rents or otherwise furnishes a taxicab to an unrelated person who uses the taxicab to provide taxicab rides originating in the city, then:

(1) the owner is deemed to provide such taxicab rides during the day or other period that the unrelated person uses the taxicab to provide such rides; (2) the tax imposed by this article shall be imposed on such owner; and (3) the owner must pay the tax imposed by this article on the number of rides subject to such tax provided by such unrelated person during the day or other period] The taxicab owner shall be liable for the tax imposed by this article. If the owner has designated an agent, then the agent shall be jointly liable with the owner for the tax on trips occurring during the period that such designation is in effect.

Even if the TLC has specified that the owner's agent cannot operate as an agent, that agent shall be jointly liable with the owner if the agent has acted for the owner. During the period that an owner's designation of an agent is in effect, the agent shall file the returns required by this article and pay any tax due with such return, but the owner shall not be relieved of liability for tax, penalty or interest due under this article, or for the filing of returns required to be filed, unless the agent has timely filed accurate returns and timely paid the tax required to be paid under this article. If an owner has designated an agent, then the agent must perform any act this article requires an owner to perform, but the failure of such agent to perform any such act shall not
relieve the owner from the obligation to perform such act or from any
liability that may arise from failure to perform the act.

(b) [Notwithstanding any law to the contrary:] (1) Although the tax is
imposed on the taxicab owner, the [taxicab owner must pass along the]
city or the TLC shall adopt or amend ordinances or regulations to ensure
that the economic incidence of the tax is passed through to [the passen-
gers, such as by [adjusting the fare for the ride, and the]
increasing taxicab trip fares. The passing along of such economic inci-
dence may not be construed by any court or administrative body as impos-
ing the tax on [the] any person [or entity that pays the fare for a
ride] other than the taxicab owner. [A] The city [that regulates taxi-
cabs or taxicab fares] or the TLC must adjust [the] trip fares [author-
ized] to include therein the pass-through of the economic incidence of
the tax imposed by this article, as the rate of such tax may from time
to time change, and must timely require that any taximeter in a taxicab
used to provide [rides] trips that originate in the city be adjusted to
include the [tax] pass-through.

(2) A taxicab owner in such city must timely adjust the taximeter in
any of such person's taxicabs so that it reflects [the tax imposed by
this article] such pass-through as such [rate] pass-through amount may
from time to time change.

(3) Neither the failure of such city or the TLC to adjust fares nor
the failure of a taxicab owner or other person to adjust a taximeter
will relieve any person liable for the tax imposed by this article from
the obligation to pay such tax timely, at the correct rate.

[(c) For purposes of this section, "unrelated person" means a person
other than a related person as defined for purposes of section fourteen
of this chapter.]
§ 6. Section 1284 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1284. Returns. Every person liable for the tax imposed by this article shall file a return quarterly with the commissioner. Each return shall show the number of [rides] trips in the quarter for which the return is filed, together with such other information as the commissioner may require. The returns required by this section shall be filed for quarterly periods ending on the last day of March, June, September, and December of each year, and each return shall be filed within twenty days after the end of the quarterly period covered thereby. Every such person shall also file a return with the commissioner for the period of November and December two thousand nine, by January twentieth, two thousand ten, containing the information described above. If the commissioner deems it necessary in order to ensure the payment of the tax imposed by this article, the commissioner may require returns to be made for shorter periods than prescribed by the foregoing provisions of this section, and upon such dates as the commissioner may specify. The form of returns shall be prescribed by the commissioner and shall contain such information as the commissioner may deem necessary for the proper administration of this article. The commissioner may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice. The commissioner may require that the returns be filed electronically.

§ 7. Section 1285 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1285. Payment of tax. Every person required to file a return under this article shall, at the time of filing such return, pay to the commissioner the total of all tax imposed by this article, on the
correct number of [rides] trips subject to tax under this article. The amount so payable to the commissioner for the period for which a return is required to be filed shall be due and payable to the commissioner on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the correct number of [rides] trips or the amount of tax due thereon. The commissioner may require that the tax be paid electronically.

§ 8. Section 1286 of the tax law, as added by section 1 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

§ 1286. Records to be kept. (a) Every person [required to pay] liable for any tax imposed by this article shall keep:

(1) records of every [ride] taxicab trip originating in the city and of all amounts paid, charged or due thereon and of the tax payable thereon, in such form as the commissioner may require. Every such person shall also keep:

(2) a true and complete copy of every contract, agreement, or arrangement concerning the lease, rental, or license to use a taxicab for which the person is required to remit the tax on [rides] trips imposed by this article on such person;

(3) a true and complete copy of every contract, agreement, or arrangement concerning the appointment of an agent;

(4) true and complete copies of any records required to be kept by the TLC; and

(5) such other records and information as the commissioner may require to perform his or her duties under this article.

[Such] (b) The records required to be kept by this section shall be available for inspection and examination at any time upon demand by the
commissioner or the commissioner's duly authorized agent or employee and
shall be preserved for a period of three years, except that the commis-
sioner may consent to their destruction within that period or may
require that they be kept longer. Such records may be kept within the
meaning of this section when reproduced on any photographic, photostat-
ic, microfilm, micro-card, miniature photographic or other process which
actually reproduces the original record. If those records are maintained
in an electronic format, they must be made available and accessible to
the commissioner in electronic format.
§ 9. Subdivision (b) of section 1287 of the tax law, as added by
section 1 of part E of chapter 25 of the laws of 2009, is amended to
read as follows:
(b) Notwithstanding the provisions of subdivision (a) of this section,
the commissioner may, in his or her discretion, permit the proper offi-
cer of [a] the city [that regulates taxicabs] or the duly authorized
representative of such officer, to inspect any return filed under this
article, or may furnish to such officer or such officer's authorized
representative an abstract of any such return or supply such person with
information concerning an item contained in any such return, or
disclosed by any investigation of tax liability under this article; but
such permission shall be granted or such information furnished only if
[such] the city or the TLC shall have furnished the commissioner with
all information requested by the commissioner pursuant to this article
and shall have permitted the commissioner or the commissioner's author-
ized representative to make any inspection of any records or reports
concerning taxicabs [and their] taxicab owners [or operators], and
agents filed with or possessed by such city or the TLC which the commis-
sioner may have requested from such city or the TLC. Provided, further,
that the commissioner may disclose to the city or the TLC whether or not
a person liable for the tax imposed by this article has paid all of the
tax due under this article as of any given date.
§ 10. Section 1289 of the tax law, as added by section 1 of part E of
chapter 25 of the laws of 2009, is amended to read as follows:
§ 1289. Cooperation by city. The city and the TLC shall cooperate with
and assist the commissioner to effect the purposes of this article and
the commissioner's responsibilities under this article. Such cooperation
shall include furnishing the names, addresses and all other information
concerning every taxicab owner, operator, and driver of taxicabs in the
city, and concerning every agent and vehicle owner, and the trip records
and other records of any of them, in the city's possession or in the
possession of any of its agencies or instrumentalities, together with
any other information the commissioner requests, all without cost to the
commissioner.
§ 11. Section 1290 of the tax law, as added by section 1 of part E of
chapter 25 of the laws of 2009, is amended to read as follows:
§ 1290. Practice and procedure. The provisions of article twenty-seven
of this chapter shall apply with respect to the administration of and
procedure with respect to the tax imposed by this article in the same
manner and with the same force and effect as if the language of such
article twenty-seven had been incorporated in full into this article and
had expressly referred to the tax under this article, except to the
extent that any such provision is either inconsistent with a provision
of this article or is not relevant to this article. [Criminal penalties
provided in section one thousand eight hundred twenty of this chapter
shall apply in the same manner and with the same force and effect with
respect to this article.]
§ 12. The tax law is amended by adding a new section 1821 to read as follows:

§ 1821. Medallion taxicab owners tax in the metropolitan commuter transportation district. Any willful act or omission by any person which constitutes a violation of any provision of article twenty-nine-A of this chapter shall constitute a misdemeanor.

§ 13. Section 19-504 of the administrative code of the city of New York is amended by adding a new subdivision q to read as follows:

q. Notwithstanding any contrary provision of law, the commission shall not issue or renew a taxicab license unless the applicant or holder, as the case may be, avows under penalty of perjury that such person has fully paid all and any tax imposed on such person by article twenty-nine-A of the tax law. The commission may ask the commissioner of taxation and finance for confirmation that such person has paid such tax. Nothing in this subdivision shall prevent a person to whom a taxicab license has been issued from moving the medallion which evidences the license to a standby vehicle if the TLC's regulations permit such person to do so.

§ 14. This act shall take effect July 1, 2010, and shall apply to taxicab trips commencing on or after that date; provided that:

(a) the provisions of article 29-A of the tax law in existence prior to that date shall continue to apply to all liabilities accrued up to that date; and

(b) sections nine, ten, eleven and twelve of this act shall be deemed to have taken effect on the same date and apply in the same manner that part E of chapter 25 of the laws of 2009 took effect.