

DRAFT LBDC

Part EE

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:

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

4 TAX ON MEDALLION TAXICAB [RIDES] TRIPS

5 IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT

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

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

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

18 (f) "Taxicab owner" or "owner" means a person [owning a taxicab and
19 shall include a purchaser under a reserve title contract, conditional
20 sales agreement or vendor's lien agreement. In addition, an owner shall

1 be deemed to include any lessee, licensee or bailee having the exclusive
2 use of a taxicab, under a lease or otherwise, for a period of thirty
3 days or more] licensed by the TLC to own and operate a medallion
4 taxicab.

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

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

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

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

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

27 (m) "Trip record," also known as a trip sheet or trip log, means the
28 written, computerized, automated or electronic accounting of a taxicab

1 ride. The trip data to be transmitted or recorded shall include the
2 taxicab license number (medallion number); the taxicab driver's license
3 number; the location of trip initiation; the time of trip initiation;
4 the number of passengers; the location of trip termination; the time of
5 trip termination; the itemized metered fare for the trip (tolls,
6 surcharge, and tip if paid by credit or debit card); the distance of the
7 trip, the trip number, the method of payment, the total number of
8 passengers, as well as such other information as may be required by the
9 TLC.

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

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

14 § 1281. Imposition of tax. In addition to any other tax imposed by
15 this chapter or other law, there is hereby imposed on every taxicab
16 owner a tax of fifty cents per taxicab [ride] trip on every [ride] trip
17 that originates in the city and terminates anywhere within the territo-
18 rial boundaries of the MCTD.

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

21 § 1282. Presumption of taxability. For the purpose of the proper
22 administration of this article and to prevent evasion of the tax imposed
23 by this article, it shall be presumed that every taxicab [ride] trip
24 that originates in the city is subject to the tax imposed by this arti-
25 cle. This presumption shall prevail until the contrary is proven, and
26 the burden of proving the contrary shall be on the person liable for
27 [payment of the] tax.

1 § 5. Section 1283 of the tax law, as added by section 1 of part E of
2 chapter 25 of the laws of 2009, is amended to read as follows:

3 § 1283. [~~Special~~] Liability for tax; special provisions. Notwithstand-
4 ing any [~~provisions~~] provision of [this article] law to the contrary:

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

8 (1) the owner is deemed to provide such taxicab rides during the day or

9 other period that the unrelated person uses the taxicab to provide such

10 rides; (2) the tax imposed by this article shall be imposed on such

11 owner; and (3) the owner must pay the tax imposed by this article on the

12 number of rides subject to such tax provided by such unrelated person

13 during the day or other period] The taxicab owner shall be liable for

14 the tax imposed by this article. If the owner has designated an agent,

15 then the agent shall be jointly liable with the owner for the tax on

16 trips occurring during the period that such designation is in effect.

17 Even if the TLC has specified that the owner's agent cannot operate as

18 an agent, that agent shall be jointly liable with the owner if the agent

19 has acted for the owner. During the period that an owner's designation

20 of an agent is in effect, the agent shall file the returns required by

21 this article and pay any tax due with such return, but the owner shall

22 not be relieved of liability for tax, penalty or interest due under this

23 article, or for the filing of returns required to be filed, unless the

24 agent has timely filed accurate returns and timely paid the tax required

25 to be paid under this article. If an owner has designated an agent, then

26 the agent must perform any act this article requires an owner to

27 perform, but the failure of such agent to perform any such act shall not

1 relieve the owner from the obligation to perform such act or from any
2 liability that may arise from failure to perform the act.

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

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

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

26 [(c) For purposes of this section, "unrelated person" means a person
27 other than a related person as defined for purposes of section fourteen
28 of this chapter.]

1 § 6. Section 1284 of the tax law, as added by section 1 of part E of
2 chapter 25 of the laws of 2009, is amended to read as follows:

3 § 1284. Returns. Every person liable for the tax imposed by this arti-
4 cle shall file a return quarterly with the commissioner. Each return
5 shall show the number of [rides] trips in the quarter for which the
6 return is filed, together with such other information as the commission-
7 er may require. The returns required by this section shall be filed for
8 quarterly periods ending on the last day of March, June, September, and
9 December of each year, and each return shall be filed within twenty days
10 after the end of the quarterly period covered thereby. Every such person
11 shall also file a return with the commissioner for the period of Novem-
12 ber and December two thousand nine, by January twentieth, two thousand
13 ten, containing the information described above. If the commissioner
14 deems it necessary in order to ensure the payment of the tax imposed by
15 this article, the commissioner may require returns to be made for short-
16 er periods than prescribed by the foregoing provisions of this section,
17 and upon such dates as the commissioner may specify. The form of returns
18 shall be prescribed by the commissioner and shall contain such informa-
19 tion as the commissioner may deem necessary for the proper adminis-
20 tration of this article. The commissioner may require amended returns to
21 be filed within twenty days after notice and to contain the information
22 specified in the notice. The commissioner may require that the returns
23 be filed electronically.

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

26 § 1285. Payment of tax. Every person required to file a return under
27 this article shall, at the time of filing such return, pay to the
28 commissioner the total of all tax imposed by this article, on the

1 correct number of [rides] trips subject to tax under this article. The
2 amount so payable to the commissioner for the period for which a return
3 is required to be filed shall be due and payable to the commissioner on
4 the date limited for the filing of the return for such period, without
5 regard to whether a return is filed or whether the return which is filed
6 correctly shows the correct number of [rides] trips or the amount of tax
7 due thereon. The commissioner may require that the tax be paid electron-
8 ically.

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

11 § 1286. Records to be kept. (a) Every person [required to pay] liable
12 for any tax imposed by this article shall keep:

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

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

21 (3) a true and complete copy of every contract, agreement, or arrange-
22 ment concerning the appointment of an agent;

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

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

27 [Such] (b) The records required to be kept by this section shall be
28 available for inspection and examination at any time upon demand by the

1 commissioner or the commissioner's duly authorized agent or employee and
2 shall be preserved for a period of three years, except that the commis-
3 sioner may consent to their destruction within that period or may
4 require that they be kept longer. Such records may be kept within the
5 meaning of this section when reproduced on any photographic, photostat-
6 ic, microfilm, micro-card, miniature photographic or other process which
7 actually reproduces the original record. If those records are maintained
8 in an electronic format, they must be made available and accessible to
9 the commissioner in electronic format.

10 § 9. Subdivision (b) of section 1287 of the tax law, as added by
11 section 1 of part E of chapter 25 of the laws of 2009, is amended to
12 read as follows:

13 (b) Notwithstanding the provisions of subdivision (a) of this section,
14 the commissioner may, in his or her discretion, permit the proper offi-
15 cer of [a] the city [that regulates taxicabs] or the duly authorized
16 representative of such officer, to inspect any return filed under this
17 article, or may furnish to such officer or such officer's authorized
18 representative an abstract of any such return or supply such person with
19 information concerning an item contained in any such return, or
20 disclosed by any investigation of tax liability under this article; but
21 such permission shall be granted or such information furnished only if
22 [such] the city or the TLC shall have furnished the commissioner with
23 all information requested by the commissioner pursuant to this article
24 and shall have permitted the commissioner or the commissioner's author-
25 ized representative to make any inspection of any records or reports
26 concerning taxicabs [and their], taxicab owners [or operators], and
27 agents filed with or possessed by such city or the TLC which the commis-
28 sioner may have requested from such city or the TLC. Provided, further,

1 that the commissioner may disclose to the city or the TLC whether or not
2 a person liable for the tax imposed by this article has paid all of the
3 tax due under this article as of any given date.

4 § 10. Section 1289 of the tax law, as added by section 1 of part E of
5 chapter 25 of the laws of 2009, is amended to read as follows:

6 § 1289. Cooperation by city. The city and the TLC shall cooperate with
7 and assist the commissioner to effect the purposes of this article and
8 the commissioner's responsibilities under this article. Such cooperation
9 shall include furnishing the names, addresses and all other information
10 concerning every taxicab owner, operator, and driver of taxicabs in the
11 city, and concerning every agent and vehicle owner, and the trip records
12 and other records of any of them, in the city's possession or in the
13 possession of any of its agencies or instrumentalities, together with
14 any other information the commissioner requests, all without cost to the
15 commissioner.

16 § 11. Section 1290 of the tax law, as added by section 1 of part E of
17 chapter 25 of the laws of 2009, is amended to read as follows:

18 § 1290. Practice and procedure. The provisions of article twenty-seven
19 of this chapter shall apply with respect to the administration of and
20 procedure with respect to the tax imposed by this article in the same
21 manner and with the same force and effect as if the language of such
22 article twenty-seven had been incorporated in full into this article and
23 had expressly referred to the tax under this article, except to the
24 extent that any such provision is either inconsistent with a provision
25 of this article or is not relevant to this article. [Criminal penalties
26 provided in section one thousand eight hundred twenty of this chapter
27 shall apply in the same manner and with the same force and effect with
28 respect to this article.]

1 § 12. The tax law is amended by adding a new section 1821 to read as
2 follows:

3 § 1821. Medallion taxicab owners tax in the metropolitan commuter
4 transportation district. Any willful act or omission by any person which
5 constitutes a violation of any provision of article twenty-nine-A of
6 this chapter shall constitute a misdemeanor.

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

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

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

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

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