

RESOLVED, that this County Legislature hereby urges and approves the adoption and passage of said Assembly Bill A9231-B and Senate Bill S6490-B entitled "An Act to Amend the Tax Law in Relation to Authorizing the County of Broome to Impose an Additional One Percent of Sales and Compensating Use Taxes", and hereby declares that a necessity exists for the passage of such bill and that the local legislative body of the County of Broome does not have the power to enact such legislation by local law, and be it

FURTHER RESOLVED, that a Home Rule Request be submitted to the Senate and Assembly of the New York State Legislature indicating that the necessity exists for the enactment of said legislation.

Mr. Augostini moved, seconded by Mrs. Wagstaff to **call the question** on the resolution.

The question was **called**. Ayes-15, Absent-4 (Brown, Burger, Hudak & Pasquale)

The resolution **carried**.

Ayes-11(Augostini, Coffey, Harbachuk, Harris, Howard, Kavulich, Lindsey, Malley, Mather, Taylor & Whalen)

Nays-4 (Pazzaglini, Schofield, Wagstaff & Shafer)

Absent-4 (Brown, Burger, Hudak & Pasquale)

Mr. Augostini moved, seconded by Mrs. Coffey to adjourn at 5:10 pm.

**Carried**. Ayes-15, Absent-4 (Brown, Burger, Hudak & Pasquale)

**BROOME COUNTY LEGISLATURE  
SPECIAL SESSION  
FEBRUARY 3, 1994**

The Legislature convened at 5:00 p.m. with a call to order by the Chairman, Arthur J. Shafer.

The Clerk, Richard R. Blythe, read the fire exit announcement and then called the Attendance roll: Present-16, (Mr. Harbachuk and Ms. Harris arrived during discussion of the resolution). Absent-3 (Brown, Coffey, Taylor).

The Chairman, Mr. Shafer, led the members of the Legislature in the Pledge of Allegiance to the Flag, followed by a moment of silent meditation.

**RESOLUTION NO. 60**

by Finance Committee

Seconded by Mr. Whalen

**RESOLUTION INCREASING THE RATE OF TAXES ON SALES AND USES OF TANGIBLE PERSONAL PROPERTY AND ON CERTAIN SERVICES, AND ON OCCUPANCY OF HOTEL ROOMS AND AMUSEMENT CHARGES, PURSUANT TO ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK**

Be it enacted by the Legislature of the County of Broome, as follows:

SECTION 1. The first sentence of section two of Resolution No. 180 of 1965, as amended, is amended to read as follows:

SECTION 2. Imposition of sales tax.

On and after June 1, 1974, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing March 1, 1994, and ending November 30, 1995, there is hereby imposed and there shall be paid an additional tax of one percent upon:

SECTION 2. A new subdivision (e) of section three of Resolution No. 180 of 1965, as amended, is added to read as follows:

(e) With respect to the additional tax of one percent imposed for the period commencing March 1, 1994, and ending November 30, 1995, the provisions of subdivisions (a), (b), (c), (d) and (e) of this section apply, except that for the purposes of this subdivision, all

references in said subdivisions (a), (b), (c) and (d) to an effective date shall be read as referring to March 1, 1994, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to November 1, 1993, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to February 28, 1994. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to March 1, 1994, any transaction which may not be subject to the additional tax imposed effective on that date.

SECTION 3. Section four of Resolution No. 180 of 1965, as amended, is amended to read as follows:

SECTION 4. Imposition of compensating use tax.

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this enactment, there is hereby imposed on every person a use tax for the use within this taxing jurisdiction on and after March 1, 1994, except as otherwise exempted under this enactment, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property (other than computer software used by the author or other creator) manufactured, processed or assembled by the user, (i) if items of the same kind of tangible personal property are offered for sale by him in the regular course of business or (ii) if items are used as such or incorporated into a structure, building or real property, by a contractor, subcontractor or repairman in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land, as the terms real property, property or land are defined in the real property tax law, if items of the same kind are not offered for sale as such by such contractor, subcontractor or repairman or other user in the regular course of business, (C) of any of the services described in paragraphs (1), (7) and (8) of subdivision (c) of section two, (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), (3) and

(7) of subdivision (c) of section two have been performed, (E) of any telephone answering service described in subdivision (b) of section two and (F) of any computer software written or otherwise created by the user if the user offers software of a similar kind for sale as such or as a component part of other property in the regular course of business.

(b) For purposes of clause (A) of subdivision (a) of this section, for the period commencing March 1, 1994, and ending November 30, 1995, the tax shall be at the rate of four percent, and on and after December 1, 1995, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

(c) For purposes of subclause (i) of clause (B) of subdivision (a) of this section, for the period commencing March 1, 1994 and ending November 30, 1995, the tax shall be at the rate of four percent, and on and after December 1, 1995, the tax shall be at the rate of three 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.

(d) For purposes of subclause (ii) of clause (B) of subdivision (a) of this section, for the period commencing March 1, 1994, and ending November 30, 1995, the tax shall be at the rate of four percent, and on and after December 1, 1995, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled into the tangible personal property the use of which is subject to tax, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one.

(e) Notwithstanding the foregoing provisions of this section, for

purposes of clause (B) of subdivision (a) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of 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, over and above the prevailing normal purchase price prior to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land.

(f) For purposes of clauses (C), (D), and (E) of subdivision (a) of this section, for the period March 1, 1994, and ending November 30, 1995, the tax shall be at the rate of four percent, and on and after December 1, 1995, the tax shall be at the rate of three 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 and also including any charges for shipping and delivery of the property so transferred and of the tangible personal property upon which the service was performed as such charges are described in paragraph three of subdivision (b) of section one.

(g) For purposes of clause (F) of subdivision (a) of this section, for the period commencing March 1, 1994, and ending November 30, 1995, the tax shall be at the rate of four percent, and on and after December 1, 1995, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property which constitutes the blank medium, such as disks or tapes, used in conjunction with the software, or for the use of such property, and the mere storage, keeping, retention or withdrawal from storage of computer software described in such clause (F) by its author or other creator shall not be deemed a taxable use by such person.

SECTION 4. Section six of Resolution No. 180 of 1965, as amended, is amended by adding a new subdivision (k) to read as follows:

(k) Exemption of certain energy sources and related services from additional one percent rate of tax. Notwithstanding any inconsistent provision of this resolution, receipts from the retail sale or use of fuel oil and coal used for residential purposes; the receipts from the retail sale or use of wood used for residential heating purposes; and the receipts from every sale, other than for resale, or use of propane (except when sold in containers of less than one hundred pounds), natural gas, electricity, steam and gas, electric and steam services used for residential purposes shall be exempt from the additional one percent rate of sales and compensating use taxes imposed by section 2 and 4, respectively, of this resolution for the period commencing March 1, 1994, and ending November 30, 1995.

SECTION 5. Subdivision one of section eleven of Resolution no. 180 of 1965, as amended, is amended to read as follows:

(1)(A) In respect to the use of property used by the purchaser in this County prior to August 1, 1965.

(B) With respect to the additional tax of one percent imposed for the period beginning March 1, 1994, and ending November 30, 1995, in respect to the use of property used by the purchaser in this County prior to March 1, 1994.

SECTION 6. Subdivision (d) of section fourteen of Resolution No. 180 of 1965, as amended, is redesignated to be subdivision (f), subdivision (e) of such section is redesignated to be subdivision (d), and a new subdivision (e) is added to such section fourteen, to read as follows:

(e) Notwithstanding any other provision of this section to the contrary, one hundred percent of the net collections attributable to the additional one percent rate of sales and compensating use taxes imposed for the period March 1, 1994 through November 30, 1995, is hereby set aside for county purposes and shall be available for any

county purpose. Provided, however, that where a city in the county imposes the same taxes described in section 1210 of the Tax law that the county imposes, then the provisions of subdivision (c) of this section shall apply.

SECTION 7. This enactment shall take effect on March 1, 1994.

Mr. Augostini moved, seconded by Mr. Pasquale to **call the question** on the resolution. The question was **called**. Ayes-16, Absent-3 (Brown, Coffey, Taylor)

The resolution **carried**.

Ayes-11(Augostini, Burger, Harbachuk, Harris, Howard, Kavulich, Lindsey, Malley, Mather, Pasquale, Whalen)

Nays-5 (Hudak, Pazzaglini, Schofield, Wagstaff, Shafer)

Absent-3 (Brown, Coffey, Taylor)

Mr. Augostini moved, seconded by Mr. Pasquale to adjourn @ 5:10 P.M.

**Carried**. Ayes-16, Absent-3 (Brown, Coffey, Taylor)