

Introduced by Presiding Officer, on request of the County Executive

**RESOLUTION NO. 798 -2013, EXTENDING EXISTING ONE PERCENT SALES AND COMPENSATING USE TAX FOR THE PERIOD BEGINNING DECEMBER 1, 2013 AND ENDING NOVEMBER 30, 2015, PURSUANT TO AUTHORITY OF SECTION 1210 OF ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK**

**WHEREAS**, Chapter 27 of the Laws of 2001 authorized the imposition of an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning June 1, 2001 and ending November 30, 2003; and

**WHEREAS**, Chapter 368 of the Laws of 2003 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2003 and ending November 30, 2005; and

**WHEREAS**, Chapter 202 of the Laws of 2005 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2005 and ending November 30, 2007; and

**WHEREAS**, Chapter 684 of the Laws of 2007 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2007 and ending November 30, 2009; and

**WHEREAS**, Chapter 283 of the Laws of 2009 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2009 and ending November 30, 2011; and

**WHEREAS**, Chapter 122 of the Laws of 2011 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2011 and ending November 30, 2013; and

**WHEREAS**, Chapter 225 of the Laws of 2013 authorized the County to continue to impose an additional sales and compensating use tax within the territorial limits of the County at the rate of one percent for the period beginning December 1, 2013 and ending November 30, 2015; and

**WHEREAS**, it is now desired to continue to impose such additional one percent rate of sales and compensating use tax from December 1, 2013 through November 30, 2015, as authorized by Section 1210 of the New York Tax Law, as amended; now, therefore be it

**1st**            **BE IT RESOLVED**, by the County Legislature of the County of Suffolk, New York, as follows:

**SECTION 1.** The first sentence of section two of Resolution No. 745-1968, as amended, is amended to read as follows:

**SECTION 2.** Imposition of sales tax.

On and after June 1, 2001, there is hereby imposed and there shall be paid a tax of four and one-quarter percent, provided, however, that on and after December 1, 2015<sup>[3]</sup>, there is hereby imposed and there shall be paid a tax of three and one-quarter percent, and provided further, however, that on and after December 1, 2030, there is hereby imposed and there shall be paid a tax of three percent, upon:

**SECTION 2.** Subdivision (j) of section three of Resolution No. 745-1968, as amended, is amended to read as follows:

(j) With respect to the additional tax of one percent imposed for the period commencing June 1, 2001, and ending November 30, 2015<sup>[3]</sup>, 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 June 1, 2001, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to February 1, 2001, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to May 31, 2001. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to June 1, 2001, any transaction which may not be subject to the additional tax imposed effective on that date.

**SECTION 3.** Section four of Resolution No. 745-1968, 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 June 1, 2001, 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 beginning June 1, 2001, and ending November 30, 2015<sup>[3]</sup>, the tax shall be at the rate of four and one-quarter percent, for the period beginning December 1, 2015<sup>[3]</sup>, and ending November 30, 2030, the tax shall be at the rate of three and one-quarter percent, and on and after December 1, 2030, 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 the purposes of this subclause (i) of clause (B) of subdivision (a) of this section, for the period beginning June 1, 2001, and ending November 30, 2015<sup>[3]</sup>, the tax shall be at the rate of four and one-quarter percent, for the period beginning December 1, 2015<sup>[3]</sup>, and ending November 30, 2030, the tax shall be at the rate of three and one-quarter percent, and on and after December 1, 2030, 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 beginning June 1, 2001, and ending November 30, 2015<sup>[3]</sup>, the tax shall be at a rate of four and one-quarter percent, for the period beginning December 1, 2015<sup>[3]</sup>, and ending November 30, 2030, the tax shall be at a rate of three and one-quarter percent, and on and after December 1, 2030, the tax rate 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 the purpose of clauses (C), (D) and (E) of subdivision (a) of this section, for the period beginning June 1, 2001, and ending November 30, 2015[3], the tax shall be at the rate of four and one-quarter percent, for the period beginning December 1, 2015[3], and ending November 30, 2030, the tax shall be at the rate of three and one-quarter percent, and on and after December 1, 2030, 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 beginning June 1, 2001, and ending November 30, 2015[3], the tax rate shall be at the rate of four and one-quarter percent, for the period beginning December 1, 2015[3], and ending November 30, 2030, the tax shall be at the rate of three and one-quarter percent, and on and after December 1, 2030, 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 taxable use by such person.

**SECTION 4.** Paragraph (D) of subdivision (1) of section 11 of Resolution No. 745-1968, as amended, is amended to read as follows:

(1)(D) With respect to the additional tax of one percent imposed for the period beginning June 1, 2001, and ending November 30, 2015[3], in respect to the use of the property used by the purchaser in this County prior to June 1, 2001.

**SECTION 5.** Subdivision (b) of section 14 of Resolution No. 745-1968, as amended, is amended to read as follows:

(b)(ii) Notwithstanding any provision of law to the contrary, of the net collections received by the County as a result of the increase of one percent to the tax authorized by section twelve hundred ten of the Tax Law for the period beginning June first, two thousand one

and ending November thirtieth, two thousand fifteen [thirteen], imposed by resolution by simple majority by the County Legislature, and signed by the County Executive, an amount equal to not less than one-eighth and no more than three-eighths of the net collections received from the imposition of the one percent rate increase shall be dedicated for public safety purposes and the balance shall be deposited in the general fund of the County.

**SECTION 6.** This Resolution shall take effect December 1, 2013.

**2nd** **BE IT FURTHER RESOLVED**, that the Clerk of this Legislature is hereby directed to forward a certified copy of this Resolution by registered or certified mail to the New York State Commissioner of Taxation and Finance in accordance with section 1210 of the Tax Law, and certified copies of this Resolution to the County Clerk, the New York State Secretary of State, and the New York State Comptroller within five (5) days after enactment of this Resolution.

[ ] Brackets denote deletion of language

\_ Underlining denotes addition of new language

DATED: October 8, 2013

APPROVED BY:

/s/ Dennis M. Cohen  
Chief Deputy County Executive of Suffolk County

Date: October 9, 2013