

CHAPTER 97

AN ACT concerning the imposition of the sales and use tax for signs, amending P.L.1966, c.30 (C.54:32B-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

C.54:32B-2 Definitions.

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) "Person" includes an individual, trust, partnership, limited partnership, limited liability company, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, fiduciary and any other legal entity.

(b) "Purchase at retail" means a purchase by any person at a retail sale.

(c) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(d) "Receipt" means the amount of the sales price of any tangible personal property, specified digital product or service taxable under this act.

(e) "Retail sale" means any sale, lease, or rental for any purpose, other than for resale, sublease, or subrent.

(1) For the purposes of this act a sale is for "resale, sublease, or subrent" if it is a sale (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, produced for sale by the purchaser, (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax, (C) of telecommunications service to a telecommunications service provider for use as a component part of telecommunications service provided to an ultimate customer, or (D) to a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person, other than rights to redistribute based on statutory or common law doctrine such as fair use.

(2) For the purposes of this act, the term "retail sale" includes: sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others, with the exception of signs and materials purchased for use in sign fabrication.

(3) (Deleted by amendment, P.L.2005, c.126).

(4) The term "retail sale" does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the seller.

(f) "Sale, selling or purchase" means any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software including prewritten computer software delivered electronically.

(h) "Use" means the exercise of any right or power over tangible personal property, specified digital products, services to property or products, or services by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any consumption of such property or products. Use also includes the exercise of any right or power over intrastate or interstate telecommunications and prepaid calling services. Use also includes the exercise of any right or power over utility service. Use also includes the derivation of a direct or indirect benefit from a service.

(i) "Seller" means a person making sales, leases or rentals of personal property or services.

(1) The term "seller" includes:

(A) A person making sales, leases or rentals of tangible personal property, specified digital products or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State or having an agent maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act.

A person making sales of tangible personal property, specified digital products, or services taxable under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be soliciting business through an independent contractor or other representative if the person making sales enters into an agreement with an independent contractor having physical presence in this State or other representative having physical presence in this State, for a commission or other consideration, under which the independent contractor or representative directly or indirectly refers potential customers, whether by a link on an internet website or otherwise, and the cumulative gross receipts from sales to customers in this State who were referred by all independent contractors or representatives that have this type of an agreement with the person making sales are in excess of \$10,000 during the preceding four

quarterly periods ending on the last day of March, June, September, and December. This presumption may be rebutted by proof that the independent contractor or representative with whom the person making sales has an agreement did not engage in any solicitation in the State on behalf of the person that would satisfy the nexus requirements of the United States Constitution during the four quarterly periods in question. Nothing in this subparagraph shall be construed to narrow the scope of the terms independent contractor or other representative for purposes of any other provision of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.);

(D) Any other person making sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) (Deleted by amendment, P.L.2005, c.126);

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery;

(H) A person engaged in collecting charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization;

(I) A person engaged in the business of parking, storing or garaging motor vehicles;

(J) A person making sales, leases, or rentals of tangible personal property, specified digital products, or taxable services who meets the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018, c.132 (C.54:32B-3.5); and

(K) A marketplace facilitator.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the seller, distributor, supervisor or employer under whom the agent operates or from whom the agent obtains tangible personal property or a specified digital product sold by the agent or for whom the agent solicits business, the director may, in the director's discretion, treat such agent as the seller jointly responsible with the agent's principal, distributor, supervisor or employer for the collection and payment over of the tax. A person is an agent of a seller in all cases, but not limited to such cases, that: (A) the person and the seller have the relationship of a "related person" described pursuant to section 2 of P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller and the person use an identical or substantially similar name, tradename, trademark, or goodwill, to develop, promote, or maintain sales, or the person and the seller pay for each other's services in whole or in part contingent upon the volume or value of sales, or the person and the seller share a common business plan or substantially coordinate their business plans, or the person provides services to, or that inure to the benefit of, the seller related to developing, promoting, or maintaining the seller's market.

(3) Notwithstanding any other provision of law or administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons engaged in the business of providing transient accommodations located in this State the tax for transactions obtained through the transient space marketplace. For not less than four years following the end of the calendar year in which the transaction occurred, the transient space

marketplace shall maintain the following data for those transactions consummated through the transient space marketplace:

- (A) The name of the person who provided the transient accommodation;
- (B) The name of the customer who procured occupancy of the transient accommodation;
- (C) The address, including any unit designation, of the transient accommodation;
- (D) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation;
- (E) The municipal transient accommodation registration number, if applicable;
- (F) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- (G) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- (H) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

(j) "Hotel" means a building or portion of a building which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, a motel, inn, and rooming or boarding house or club, whether or not meals are served, but does not include a transient accommodation.

(k) "Occupancy" means the use or possession or the right to the use or possession, of any room in a hotel or transient accommodation.

(l) "Occupant" means a person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel or transient accommodation under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) "Permanent resident" means any occupant of any room or rooms in a hotel or transient accommodation for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) "Room" means any room or rooms of any kind in any part or portion of a hotel or transient accommodation, which is available for or let out for any purpose other than a place of assembly.

(o) "Admission charge" means the amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) "Amusement charge" means any admission charge, dues or charge of a roof garden, cabaret or other similar place.

(q) "Charge of a roof garden, cabaret or other similar place" means any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) "Dramatic or musical arts admission charge" means any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) "Lessor" means any person who is the owner, licensee, or lessee of any premises, tangible personal property or a specified digital product which the person leases, subleases, or grants a license to use to other persons.

(t) "Place of amusement" means any place where any facilities for entertainment, amusement, or sports are provided.

(u) "Casual sale" means an isolated or occasional sale of an item of tangible personal property or a specified digital product by a person who is not regularly engaged in the business of making retail sales of such property or product where the item of tangible personal property or the specified digital product was obtained by the person making the sale, through purchase or otherwise, for the person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, house trailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, specified digital products or services; every recipient of amusement charges; every operator of a hotel or transient accommodation; every transient space marketplace; every marketplace facilitator; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

(x) "Customer" includes: every purchaser of tangible personal property, specified digital products or services; every patron paying or liable for the payment of any amusement charge; every occupant of a room or rooms in a hotel or transient accommodation; every person paying charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every purchaser of parking, storage or garaging a motor vehicle.

(y) "Property and services the use of which is subject to tax" includes: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property or a specified digital product the use of which is subject to tax under section 6 or will become subject to tax when such property or product is distributed within the State or is received by or comes into possession or control of such person within the State; (3) intrastate, interstate, or international telecommunications sourced to this State pursuant to section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; (6) utility service sold, exchanged or delivered in this State for use in this State; (7) mail processing services in connection with printed advertising material distributed in this State; (8) (Deleted by amendment, P.L.2005, c.126); and (9) services the benefit of which are received in this State.

(z) "Director" means the Director of the Division of Taxation in the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

(1) "Lease or rental" does not include:

(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or one percent of the total required payments; or

(C) Providing tangible personal property or a specified digital product along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property or specified digital product.

(2) "Lease or rental" does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. s.7701(h)(1).

(3) The definition of "lease or rental" provided in this subsection shall be used for the purposes of this act regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the federal Internal Revenue Code or other provisions of federal, state or local law.

(bb) (Deleted by amendment, P.L.2005, c.126).

(cc) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

"Telecommunications service" shall include such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

"Telecommunications service" shall not include:

(1) (Deleted by amendment, P.L.2008, c.123);

(2) (Deleted by amendment, P.L.2008, c.123);

(3) (Deleted by amendment, P.L.2008, c.123);

(4) (Deleted by amendment, P.L.2008, c.123);

(5) (Deleted by amendment, P.L.2008, c.123);

(6) (Deleted by amendment, P.L.2008, c.123);

(7) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(8) installation or maintenance of wiring or equipment on a customer's premises;

(9) tangible personal property;

(10) advertising, including but not limited to directory advertising;

(11) billing and collection services provided to third parties;

(12) internet access service;

(13) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the

programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in section 47 U.S.C. s.522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in section 47 C.F.R. 20.3;

(14) ancillary services; or

(15) digital products delivered electronically, including but not limited to software, music, video, reading materials, or ringtones.

For the purposes of this subsection:

"ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail service; "conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;

"detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;

"directory assistance" means an ancillary service of providing telephone number information or address information or both;

"vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and

"voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical service that a customer may be required to have to utilize the voice mail service.

(dd) (1) "Intrastate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in the same United States state or United States territory or possession or federal district.

(2) "Interstate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in a different United States state or United States territory or possession or federal district.

(3) "International telecommunications" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. "United States" includes the District of Columbia or a United States territory or possession.

(ee) (Deleted by amendment, P.L.2008, c.123)

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

(ll) "Pre-paid calling service" means the right to access exclusively telecommunications services, which shall be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(mm) "Mobile telecommunications service" means the same as that term is defined in the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

(nn) (Deleted by amendment, P.L.2008, c.123)

(oo) (1) "Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(C) Charges by the seller for any services necessary to complete the sale;

(D) Delivery charges;

(E) (Deleted by amendment, P.L.2011, c.49); and

(F) (Deleted by amendment, P.L.2008, c.123).

(2) "Sales price" does not include:

(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(3) "Sales price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) One of the following criteria is met:

(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(ii) the purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount; provided however, that a preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(4) In the case of a bundled transaction that includes a telecommunications service, an ancillary service, internet access, or an audio or video programming service, if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products is subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes.

(pp) "Purchase price" means the measure subject to use tax and has the same meaning as "sales price."

(qq) "Sales tax" means the tax imposed on certain transactions pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

(rr) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. The seller shall tax the percentage of the delivery charge allocated to the taxable property but is not required to tax the percentage allocated to the exempt property.

(ss) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser in cases in which the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(tt) "Streamlined Sales and Use Tax Agreement" means the agreement entered into as governed and authorized by the "Uniform Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44 et seq.).

(uu) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

(vv) (Deleted by amendment, P.L.2011, c.49)

(ww) "Landscaping services" means services that result in a capital improvement to land other than structures of any kind whatsoever, such as: seeding, sodding or grass plugging of new lawns; planting trees, shrubs, hedges, plants; and clearing and filling land.

(xx) "Investigation and security services" means:

(1) investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph, missing person tracing and skip tracing services;

(2) security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services;

(3) armored car services; and

(4) security systems services, including security, burglar, and fire alarm installation, repair or monitoring services.

(yy) "Information services" means the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information which is not incorporated into reports furnished to other people.

(zz) "Specified digital product" means an electronically transferred digital audio-visual work, digital audio work, or digital book; provided however, that a digital code which provides a purchaser with a right to obtain the product shall be treated in the same manner as a specified digital product.

(aaa) "Digital audio-visual work" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(bbb) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including a ringtone.

(ccc) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(ddd) "Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

(eee) "Ringtone" means a digitized sound file that is downloaded onto a device and that may be used to alert the purchaser with respect to a communication.

(fff) "Residence" means a house, condominium, or other residential dwelling unit in a building or structure or part of a building or structure that is designed, constructed, leased, rented, let or hired out, or otherwise made available for use as a residence.

(ggg) "Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences, that is obtained through a transient space marketplace or is a professionally managed unit. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

(hhh) "Transient space marketplace" means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may

arrange for occupancies of transient accommodations. "Transient space marketplace" does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

(iii) "Professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

(jjj) "Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

C.54:32B-3 Taxes imposed.

3. There is imposed and there shall be paid a tax of 7% on or before December 31, 2016, 6.875% on and after January 1, 2017 but before January 1, 2018, and 6.625% on and after January 1, 2018 upon:

(a) The receipts from every retail sale of tangible personal property or a specified digital product for permanent use or less than permanent use, and regardless of whether continued payment is required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-1 et seq.).

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing, or imprinting tangible personal property or a specified digital product, performed for a person who directly or indirectly furnishes the tangible personal property or specified digital product, not purchased by the person for resale, upon which these services are performed.

(2) Installing tangible personal property or a specified digital product, or maintaining, servicing, repairing tangible personal property or a specified digital product not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property or specified digital product is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, or pressing clothing, and shoe repairing and shoeshining, and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land, other than landscaping services and other than installing carpeting and other flooring, and other than sign installation services.

(3) Storing all tangible personal property not held for sale in the regular course of business; the rental of safe deposit boxes or similar space; and the furnishing of space for storage of tangible personal property by a person engaged in the business of furnishing space for such storage.

"Space for storage" means secure areas, such as rooms, units, compartments, or containers, whether accessible from outside or from within a building, that are designated for the use of a customer and wherein the customer has free access within reasonable business hours, or upon

reasonable notice to the furnisher of space for storage, to store and retrieve property. Space for storage shall not include the lease or rental of an entire building, such as a warehouse or airplane hangar.

(4) Maintaining, servicing, or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving the real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Mail processing services for printed advertising material, except for mail processing services in connection with distribution of printed advertising material to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184)

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

(8) Tanning services, including the application of a temporary tan provided by any means.

(9) Massage, bodywork, or somatic services, except such services provided pursuant to a doctor's prescription.

(10) Tattooing, including all permanent body art and permanent cosmetic make-up applications, except such services provided pursuant to a doctor's prescription in conjunction with reconstructive breast surgery.

(11) Investigation and security services.

(12) Information services.

(13) (Deleted by amendment, P.L.2017, c.27)

(14) Telephone answering services.

(15) Radio subscription services.

Wages, salaries, and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under subsection (b) of this section.

Services otherwise taxable under paragraph (1) or (2) of subsection (b) of this section are not subject to the taxes imposed under this subsection, where the tangible personal property or specified digital product upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) (1) Receipts from the sale of prepared food in or by restaurants, taverns, or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment, or other charge made to patrons or customers, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to persons with disabilities, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound persons with disabilities, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or persons with disabilities residing within an area of service designated by the private nonprofit organization; and

(2) Receipts from sales of food and beverages sold through vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall

affect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

The tax imposed by subsection (c) of this section shall not apply to food or drink which is sold to an airline for consumption while in flight.

(3) For the purposes of this subsection:

"Food and beverages sold through vending machines" means food and beverages dispensed from a machine or other mechanical device that accepts payment; and

"Prepared food" means:

(i) A. food sold in a heated state or heated by the seller; or

B. two or more food ingredients mixed or combined by the seller for sale as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses; or

C. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;

provided however, that

(ii) "prepared food" does not include the following sold without eating utensils:

A. food sold by a seller whose proper primary NAICS classification is manufacturing in section 311, except subsector 3118 (bakeries);

B. food sold in an unheated state by weight or volume as a single item; or

C. bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(d) The rent for every occupancy of a room or rooms in a hotel or transient accommodation in this State, except that the tax shall not be imposed upon a permanent resident.

(e) (1) Any admission charge to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing, or combative sports exhibitions, events, performances, or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee, or lessee, and shall be paid by the holder, licensee, or lessee.

(2) The amount paid as charge of a roof garden, cabaret, or other similar place in this State, to the extent that a tax upon these charges has not been paid pursuant to subsection (c) hereof.

(f) (1) The receipts from every sale, except for resale, of intrastate, interstate, or international telecommunications services and ancillary services sourced to this State in accordance with section 29 of P.L.2005, c.126 (C.54:32B-3.4).

(2) (Deleted by amendment, P.L.2008, c.123)

(g) (Deleted by amendment, P.L.2008, c.123)

(h) Charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization in this State, except for: (1) membership in a club or organization whose members

are predominantly age 18 or under; and (2) charges in the nature of membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization that is exempt from taxation pursuant to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) and that has complied with subsection (d) of section 9 of P.L.1966, c.30 (C.54:32B-9).

(i) The receipts from parking, storing, or garaging a motor vehicle, excluding charges for the following: residential parking; employee parking, when provided by an employer or at a facility owned or operated by the employer; municipal parking, storing, or garaging; receipts from charges or fees imposed pursuant to section 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement between the Casino Reinvestment Development Authority and a casino operator in effect on the date of enactment of P.L.2007, c.105; and receipts from parking, storing, or garaging a motor vehicle subject to tax pursuant to any other law or ordinance.

For the purposes of this subsection, "municipal parking, storing, or garaging" means any motor vehicle parking, storing, or garaging provided by a municipality or county, or a parking authority thereof.

3. The Director of the Division of Taxation may adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations necessary to effectuate the purpose of section 2 of P.L.2022, c.97 (C.54:32B-3).

4. This act shall take effect immediately and apply to sign fabrication and installation services rendered on or after October 1, 2022.

Approved August 5, 2022.