

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2080
STATE OF NEW JERSEY
220th LEGISLATURE
SUMMARY

DATED: OCTOBER 31, 2022

Synopsis: Repeals \$100,000 cap on sales and use tax exemption for certain capital improvements made by businesses participating in Urban Enterprise Zone program.

Type of Impact: State revenue loss to the General Fund and Property Tax Relief Fund.

Agencies Affected: Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2023 & Thereafter</u>
State Revenue Loss	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate loss of State revenues deposited in the General Fund and the Property Tax Relief Fund. The OLS cannot quantify the bill’s fiscal impact, as it lacks the data upon which to make a reliable estimate.
- Current law provides an exemption for only the first \$100,000 in annual taxable purchases of construction materials, supplies, and services made by all contractors hired to perform work at the business property. At the current sales tax rate of 6.625 percent, the maximum State revenue loss would be \$6,625 per qualified business location.

BILL DESCRIPTION

The bill retroactively repeals the \$100,000 cap on the sales tax exemption for retail sales of materials, supplies, and services for the exclusive use of erecting structures or buildings on, or improving, altering, or repairing the real property of a qualified business, or a contractor hired by the qualified business, to make such improvements, alterations, or repairs. This sales tax exemption is currently available to qualified businesses participating in the State Urban Enterprise Zone (UEZ) program.

The sales tax exemption was enacted in August of 2021 and applies to sales and uses on or after January 1, 2022. The bill maintains the sales and use tax exemption but eliminates the \$100,000 limit retroactively to January 1, 2022.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes the bill will result in an indeterminate loss of State revenues deposited into the General Fund and the Property Tax Relief Fund.

Under the UEZ program, a qualified business may use a UZ-4 certificate to make tax-exempt purchases of materials, supplies, and services for the exclusive use of erecting a structure, or building, on, or improving, altering, or repairing the real property of a qualified business. A qualified business may also give a UZ-4 certificate to building contractors to make these purchases on the business's behalf. A UZ-4 certificate may be used to make tax-exempt purchases of construction materials, supplies, and services at each business location.

Current law provides an exemption for only the first \$100,000 in annual taxable purchases of construction materials, supplies, and services made by all contractors hired to perform work at the business property. At the current sales tax rate of 6.625 percent, the maximum State revenue loss would be \$6,625 per qualified business location. By removing the \$100,000 cap, all of these purchases would be exempt from the sales and use tax. Data on the total value of purchases of materials, supplies, and services for the exclusive use of erecting structures or buildings on, or improving, altering, or repairing the real property of a qualified business, made by qualified businesses or contractor on their behalf, are not available.

Commissioned by the Department of Community Affairs in 2019, the New Jersey Urban Enterprise Zone Program Assessment measured the economic and fiscal impact of the UEZ program and made recommendations regarding its future. The report includes data on the value of the State tax expenditure resulting from the sales and use tax exemption for capital improvement purchases made by contractors employed by UEZ businesses. Using data in the assessment report, the OLS estimates that UEZ businesses reported UZ-4 expenditures totaling approximately \$394.0 million from 2013 through 2017. Applying the sales tax rate in effect at that time (7 percent) yields a total State revenue loss of \$27.6 million, or \$5.5 million per year.

The OLS notes that the sales tax exemption for capital improvement purchases made by contractors employed by UEZ businesses was different from the current exemption. Prior to the enactment of P.L.2021, c.197, a previously enacted statute provided the sales and use tax exemption only for receipts from sales made to contractors or repairmen and did not cap the amount of purchases exempt from sales and use tax (see N.J.S.A.54:32B-8.22). The current sales and use tax exemption allows the exemption for capital improvement purchases made by a qualified business or a contractor hired by the qualified businesses and caps the amount of exempt purchases at \$100,000. Therefore, removing the \$100,000 cap from current law is likely to result in a higher State revenue loss.

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 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).