

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4901

STATE OF NEW JERSEY

DATED: JULY 7, 2006

The Assembly Budget Committee reports favorably Assembly Bill No. 4901.

Assembly Bill No. 4901 increases the rate of the sales and use tax from 6% to 7%, beginning July 15, 2006.

This bill also extends the base of the sales and use tax, beginning October 1, 2006, encompassing product categories that have come into being with new technologies, limiting some exclusions from taxation, and extending the tax to new services.

The bill establishes the new taxable category of "digital property." Digital property is electronically delivered music, ringtones, movies, books, audio and video works and similar products, where the customer is granted a right or license to use, retain or make a copy of such item. This means that downloaded music, downloaded movies and downloaded books will be subject to tax in the same way that records, movie DVDs and books purchased in a store are taxed now. The bill also limits the current exemption for prewritten software delivered electronically to electronically delivered software that is used directly and exclusively in the conduct of the purchaser's business, trade or occupation.

The bill eliminates the exemption for seller delivery charges that are separately stated from the purchase price of an item. Currently, separately stated delivery charges are nontaxable while "included" delivery is taxable. This bill treats the cost of all items, including delivery charges, as the taxable cost of the items whether separately stated or not. The bill provides for the taxation of delivery charges on taxable items and the exemption of delivery charges on nontaxable items like food and clothing.

The bill specifically limits the sales tax exemptions for laundering, dry cleaning, tailoring, weaving, and pressing to providing those services to clothing. An old administrative decision currently allows the exemption to apply to other items, like drapery and carpets.

The bill limits the exemption for the building contractor services of landscaping and the installation of carpeting and other flooring. Current law provides an exemption for property installation services that constitute a "capital improvement." This bill eliminates that exemption for landscaping and the installation of flooring.

The bill extends the sales tax to charges for the following services:

- furnishing of space for storage, such as charges for self-storage rentals;
- tanning services;
- massage services, exempting medically prescribed services;
- tattooing, including permanent body art and permanent cosmetic make-up;
- investigation and security services;
- information services;
- limousine services originating in this State, except as provided in connection with funeral services;
- 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, except for membership in a club or organization whose members are predominantly age 18 or under;
- parking, storing or garaging a motor vehicle (other than employee parking, municipal metered parking and parking subject to municipal parking taxes); and

The bill makes two technical changes. First, the bill includes a provision that clarifies the sales and use tax collection responsibility of a corporation that does not maintain a place of business in New Jersey but, through another corporation that is related through common ownership, conducts business activity in New Jersey through the actions of the related New Jersey agent corporation in furtherance of common marketing, promotion, selling or service activity.

Second, the bill incorporates several rate change provisions of the Streamlined Sales and Use Tax Agreement, in which New Jersey is a participant, into the New Jersey sales and use tax. The agreement requires a rate change for services to first apply for a rate increase to the first billing period starting on or after the effective date of the increase and for a rate decrease to first apply to bills rendered on or after the effective date of the decrease. Under the agreement, this State shall make a reasonable effort to: provide sellers with as much advance notice as practicable of a rate change, limit the effective date of a rate change to the first day of a calendar quarter, and notify sellers of legislative changes in the tax base and amendments to sales and use tax rules and regulations; however, failure of a seller to receive notice or failure of the State to provide notice or limit the effective date of a rate change shall not relieve the seller of its obligation to collect sales or use taxes.

FISCAL IMPACT:

The increase in the sales tax rate from 6% to 7% has been estimated to yield approximately \$1.2 billion annually.

The changes to the tax base under the bill take effect October 1, 2006. For the nine months of State Fiscal Year 2006-2007 remaining

thereafter, the following revenues have been estimated, expressed in millions of dollars:

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| Digital property | \$09.6 |
| Delivery charges | \$32.7 |
| Flooring and carpeting installation | \$08.8 |
| Storage space | \$10.2 |
| Tanning, massage and tattooing | \$08.8 |
| Information services | \$12.3 |
| Limousine service. | \$27.1 |
| Membership fees | \$74.7 |
| Parking | \$07.0 |
| Non-clothing cleaning services | \$04.4 |
| Landscaping services | \$81.7 |
| Magazines and periodicals | \$12.0 |
| Investigation and security services | \$43.0 |
| Total | \$332.3 million |