

**SENATE, No. 1418**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED MARCH 3, 2008

**Sponsored by:**  
**Senator PAUL A. SARLO**  
**District 36 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Revises sales and use tax to conform with Streamlined Sales and Use Tax Agreement.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT revising the sales and use tax to conform with the  
2 Streamlined Sales and Use Tax Agreement, amending P.L.2005,  
3 c.126, P.L.1980, c.105, and P.L.1985, c.24, amending and  
4 supplementing P.L.1966, c.30, and repealing section 27 of  
5 P.L.2005, c.126 and section 1 of P.L.2006, c.41.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read  
11 as follows:

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

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

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

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

23 (d) "Receipt" means the amount of the sales price of any  
24 tangible personal property or digital property or service taxable  
25 under this act.

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

28 (1) For the purposes of this act a sale is for "resale, sublease, or  
29 subrent" if it is a sale (A) for resale either as such or as converted  
30 into or as a component part of a product produced for sale by the  
31 purchaser, including the conversion of natural gas into another  
32 intermediate or end product, other than electricity or thermal  
33 energy, produced for sale by the purchaser, **[or]** (B) for use by that  
34 person in performing the services subject to tax under subsection  
35 (b) of section 3 where the property so sold becomes a physical  
36 component part of the property upon which the services are  
37 performed or where the property so sold is later actually transferred  
38 to the purchaser of the service in conjunction with the performance  
39 of the service subject to tax, or (C) of telecommunications service  
40 to a telecommunications service provider for use as a component  
41 part of telecommunications service provided to an ultimate  
42 customer.

43 (2) For the purposes of this act, the term "retail sale" includes:  
44 sales of tangible personal property to all contractors, subcontractors  
45 or repairmen of materials and supplies for use by them in erecting

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 structures for others, or building on, or otherwise improving,  
2 altering, or repairing real property of others.

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

34 (2) In addition, when in the opinion of the director it is  
35 necessary for the efficient administration of this act to treat any  
36 salesman, representative, peddler or canvasser as the agent of the  
37 seller, distributor, supervisor or employer under whom the agent  
38 operates or from whom the agent obtains tangible personal property  
39 or digital property sold by the agent or for whom the agent solicits  
40 business, the director may, in the director's discretion, treat such  
41 agent as the seller jointly responsible with the agent's principal,  
42 distributor, supervisor or employer for the collection and payment  
43 over of the tax. A person is an agent of a seller in all cases, but not  
44 limited to such cases, that: (A) the person and the seller have the  
45 relationship of a "related person" described pursuant to section 2 of  
46 P.L.1993, c.170 (C.54:10A-5.5); and (B) the seller and the person  
47 use an identical or substantially similar name, tradename,  
48 trademark, or goodwill, to develop, promote, or maintain sales, or

1 the person and the seller pay for each other's services in whole or in  
2 part contingent upon the volume or value of sales, or the person and  
3 the seller share a common business plan or substantially coordinate  
4 their business plans, or the person provides services to, or that inure  
5 to the benefit of, the seller related to developing, promoting, or  
6 maintaining the seller's market.

7 (j) "Hotel" means a building or portion of it which is regularly  
8 used and kept open as such for the lodging of guests. The term  
9 "hotel" includes an apartment hotel, a motel, boarding house or  
10 club, whether or not meals are served.

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

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

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

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

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

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

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

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

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

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

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

46 (v) "Motor vehicle" includes all vehicles propelled otherwise  
47 than by muscular power (excepting such vehicles as run only upon  
48 rails or tracks), trailers, semitrailers, house trailers, or any other

1 type of vehicle drawn by a motor-driven vehicle, and motorcycles,  
2 designed for operation on the public highways.

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

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

24 (y) "Property and services the use of which is subject to tax"  
25 includes: (1) all property sold to a person within the State, whether  
26 or not the sale is made within the State, the use of which property is  
27 subject to tax under section 6 or will become subject to tax when  
28 such property is received by or comes into the possession or control  
29 of such person within the State; (2) all services rendered to a person  
30 within the State, whether or not such services are performed within  
31 the State, upon tangible personal property or digital property the use  
32 of which is subject to tax under section 6 or will become subject to  
33 tax when such property is distributed within the State or is received  
34 by or comes into possession or control of such person within the  
35 State; (3) intrastate **[or]** , interstate, or international  
36 telecommunications sourced to this State pursuant to section 29 of  
37 P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by amendment,  
38 P.L.1995, c.184); (5) energy sold, exchanged or delivered in this  
39 State for use in this State; (6) utility service sold, exchanged or  
40 delivered in this State for use in this State; (7) **[direct]** mail  
41 processing services in connection with **[direct mail]** printed  
42 advertising material distributed in this State; (8) (Deleted by  
43 amendment, P.L.2005, c.126); and (9) services the benefit of which  
44 are received in this State.

45 (z) "Director " means the Director of the Division of Taxation of  
46 the State Department of the Treasury, or any officer, employee or  
47 agency of the Division of Taxation in the Department of the  
48 Treasury duly authorized by the director (directly, or indirectly by

1 one or more redelegations of authority) to perform the functions  
2 mentioned or described in this act.

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

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

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

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

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

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

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

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

32 (cc) "Telecommunications service" means the [act or privilege  
33 of originating or receiving messages or information through the use  
34 of any kind of one-way or two-way communication; including but  
35 not limited to voice, video, facsimile, teletypewriter, computer,  
36 mobile telecommunications service or any other type of  
37 communication; using electronic or electromagnetic methods, and  
38 all services and equipment provided in connection therewith or by  
39 means thereof] electronic transmission, conveyance, or routing of  
40 voice, data, audio, video, or any other information or signals to a  
41 point, or between or among points.

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

1 "Telecommunications service" shall not include:

2 (1) ~~【one-way radio or television broadcasting transmissions~~  
3 ~~available universally to the general public without a fee】(Deleted~~  
4 ~~by amendment, P.L. , c. ) (pending before the Legislature as this~~  
5 ~~bill);~~

6 (2) ~~【purchases of telecommunications by a telecommunications~~  
7 ~~provider for use as a component part of telecommunications~~  
8 ~~provided to an ultimate retail consumer who (A) originates or~~  
9 ~~terminates the taxable end-to-end communications or (B) pays~~  
10 ~~charges exempt from taxation pursuant to paragraph (5) of this~~  
11 ~~subsection】(Deleted by amendment, P.L. , c. ) (pending before~~  
12 ~~the Legislature as this bill);~~

13 (3) ~~【services provided by a person, or by that person's wholly~~  
14 ~~owned subsidiary, not engaged in the business of rendering or~~  
15 ~~offering telecommunications services to the public, for private and~~  
16 ~~exclusive use within its organization, provided however, that~~  
17 ~~"telecommunications" shall include the sale of telecommunications~~  
18 ~~services attributable to the excess unused telecommunications~~  
19 ~~capacity of that person to another】(Deleted by amendment, P.L. ,~~  
20 ~~c. ) (pending before the Legislature as this bill);~~

21 (4) ~~【charges in the nature of subscription fees paid by~~  
22 ~~subscribers for cable television service】(Deleted by amendment,~~  
23 ~~P.L. , c. ) (pending before the Legislature as this bill);~~

24 (5) ~~【charges subject to the local calling rate paid by inserting~~  
25 ~~coins into a coin operated telecommunications device available to~~  
26 ~~the public】(Deleted by amendment, P.L. , c. ) (pending before~~  
27 ~~the Legislature as this bill); ~~【and】~~~~

28 (6) ~~【purchases of telecommunications using a prepaid calling~~  
29 ~~service】(Deleted by amendment, P.L. , c. ) (pending before the~~  
30 ~~Legislator as this bill);~~

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

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

38 ~~(9) tangible personal property;~~

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

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

42 ~~(12) internet access service;~~

43 ~~(13) radio and television audio and video programming services,~~  
44 ~~regardless of the medium, including the furnishing of transmission,~~  
45 ~~conveyance, and routing of such services by the programming~~  
46 ~~service provider. Radio and television audio and video~~  
47 ~~programming services shall include but not be limited to cable~~



1 service as defined in section 47 U.S.C. s.522(6) and audio and video  
2 programming services delivered by commercial mobile radio  
3 service providers, as defined in section 47 C.F.R. 20.3;

4 (14) ancillary services; or

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

7 For the purposes of this subsection:

8 “ancillary service” means a service that is associated with or  
9 incidental to the provision of telecommunications services,  
10 including but not limited to detailed telecommunications billing,  
11 directory assistance, vertical service, and voice mail service;

12 “conference bridging service” means an ancillary service that  
13 links two or more participants of an audio or video conference call  
14 and may include the provision of a telephone number. Conference  
15 bridging service does not include the telecommunications services  
16 used to reach the conference bridge;

17 “detailed telecommunications billing service” means an ancillary  
18 service of separately stating information pertaining to individual  
19 calls on a customer’s billing statement;

20 “directory assistance” means an ancillary service of providing  
21 telephone number information or address information or both;

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

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

31 (dd) (1) “Intrastate telecommunications” means a  
32 telecommunications service that originates in one United States  
33 state or a United States territory or possession or federal district,  
34 and terminates in the same United States state or United States  
35 territory or possession or federal district.

36 (2) “Interstate [telecommunication] telecommunications” means  
37 [any] a [telecommunication] telecommunications service that  
38 originates in one United States state or a United States territory or  
39 possession or federal district, and [or] terminates [inside this State,  
40 including international telecommunication. In the case of mobile  
41 telecommunications service, “interstate telecommunication” means  
42 any mobile telecommunications service that originates in one state  
43 and terminates in another state, territory, or foreign country that is  
44 provided to a customer with a place of primary use in this State] in  
45 a different United States state or United States territory or  
46 possession or federal district.

47 (3) “International telecommunications” means a  
48 telecommunications service that originates or terminates in the

1 United States and terminates or originates outside the United States,  
2 respectively. "United States" includes the District of Columbia or a  
3 United States territory or possession.

4 (ee) **["Intrastate telecommunication" means any**  
5 **telecommunication that originates and terminates within this State.**  
6 **In the case of mobile telecommunications service, "intrastate**  
7 **telecommunication" means any mobile telecommunications service**  
8 **that originates and terminates within the same state that is provided**  
9 **to a customer with a place of primary use in this State.]** ~~(Deleted by~~  
10 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
11 ~~bill)~~

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

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

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

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

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

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

38 (ll) "Pre-paid calling service" means the right to **[purchase]**  
39 **access** exclusively telecommunications services, **[that must] which**  
40 **shall** be paid for in advance **[, that] and which** enables the  
41 origination of calls using an access number or authorization code,  
42 whether manually or electronically dialed**[:provided, that the**  
43 **remaining amount of units of service that have been pre-paid shall**  
44 **be known by the service provider on a continuous basis] , and that**  
45 **is sold in predetermined units or dollars of which the number**  
46 **declines with use in a known amount.**

1 (mm) "Mobile telecommunications service" [means commercial  
2 mobile radio service, as defined in section 20.3 of title 47 of the  
3 Code of Federal Regulations as in effect on June 1, 1999] means  
4 the same as that term is defined in the federal "Mobile  
5 Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-  
6 252).

7 (nn) ["Place of primary use" means the street address  
8 representative of where the customer's use of the mobile  
9 telecommunications service primarily occurs, which shall be the  
10 residential street address or the primary business street address of  
11 the customer and within the licensed service area of the home  
12 service provider. For the purposes of determining the primary place  
13 of use, the terms used shall have the meanings provided pursuant to  
14 the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C.  
15 s.124 (Pub.L.106-252).] (Deleted by amendment, P.L. , c. )  
16 (pending before the Legislature as this bill)

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

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

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

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

28 (D) Delivery charges;

29 (E) Installation charges; and

30 (F) [The value of exempt personal property given to the  
31 purchaser where taxable and exempt personal property have been  
32 bundled together and sold by the seller as a single product or piece  
33 of merchandise] (Deleted by amendment, P.L. , c. ) (pending  
34 before the Legislature as this bill).

35 (2) "Sales price" does not include:

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

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

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

46 (D) The amount of sales price for which food stamps have been  
47 properly tendered in full or part payment pursuant to the federal

1 Food Stamp Act of 1977, Pub.L. 95-113 (7 U.S.C. s.2011 et seq.);  
2 or

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

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

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

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

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

17 (D) One of the following criteria is met:

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

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

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

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

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

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

46 (rr) "Delivery charges" means charges by the seller for  
47 preparation and delivery to a location designated by the purchaser  
48 of personal property or services including, but not limited to,

1 transportation, shipping, postage, handling, crating, and packing. If  
2 a shipment includes both exempt and taxable property, the seller  
3 should allocate the delivery charge by using: (1) a percentage based  
4 on the total sales price of the taxable property compared to the total  
5 sales price of all property in the shipment; or (2) a percentage based  
6 on the total weight of the taxable property compared to the total  
7 weight of all property in the shipment. The seller shall tax the  
8 percentage of the delivery charge allocated to the taxable property  
9 but is not required to tax the percentage allocated to the exempt  
10 property.

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

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

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

28 (vv) "Digital property" means electronically delivered music,  
29 ringtones, movies, books, audio and video works and similar  
30 products, where the customer is granted a right or license to use,  
31 retain or make a copy of such item. Digital property does not  
32 include video programming services, including video on demand  
33 television services, and broadcasting services, including content to  
34 provide such services.

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

40 (xx) "Investigation and security services" means:

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

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

46 (3) armored car services; and

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

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

6 (cf: P.L.2006, c.44, s.1)

7  
8 2. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read  
9 as follows:

10 3. There is imposed and there shall be paid a tax of 7% upon:

11 (a) The receipts from every retail sale of tangible personal  
12 property or digital property, except as otherwise provided in this  
13 act.

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

16 (1) Producing, fabricating, processing, printing or imprinting  
17 tangible personal property or digital property, performed for a  
18 person who directly or indirectly furnishes the tangible personal  
19 property or digital property, not purchased by him for resale, upon  
20 which such services are performed.

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

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

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

1 business hours, or upon reasonable notice to the furnisher of space  
2 for storage, to store and retrieve property. Space for storage shall  
3 not include the lease or rental of an entire building, such as a  
4 warehouse or airplane hanger.

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

15 (5) **【Direct-mail】** Mail processing services for printed  
16 advertising material, except for **【direct-mail】** mail processing  
17 services in connection with distribution of 【direct mail】 printed  
18 advertising material to out-of-State recipients.

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

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

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

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

26 (10) Tattooing, including all permanent body art and permanent  
27 cosmetic make-up applications.

28 (11) Investigation and security services.

29 (12) Information services.

30 (13) Transportation services originating in this State and  
31 provided by a limousine operator, as permitted by law, except such  
32 services provided in connection with funeral services.

33 (14) Telephone answering services.

34 (15) Radio subscription services.

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

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

44 (c) (1) Receipts from the sale of prepared food in or by  
45 restaurants, taverns, or other establishments in this State, or by  
46 caterers, including in the amount of such receipts any cover,  
47 minimum, entertainment or other charge made to patrons or  
48 customers, except for meals especially prepared for and delivered to

1 homebound elderly, age 60 or older, and to disabled persons, or  
2 meals prepared and served at a group-sitting at a location outside of  
3 the home to otherwise homebound elderly persons, age 60 or older,  
4 and otherwise homebound disabled persons, as all or part of any  
5 food service project funded in whole or in part by government or as  
6 part of a private, nonprofit food service project available to all such  
7 elderly or disabled persons residing within an area of service  
8 designated by the private nonprofit organization; and

9 (2) Receipts from sales of food and beverages sold through  
10 vending machines, at the wholesale price of such sale, which shall  
11 be defined as 70% of the retail vending machine selling price,  
12 except sales of milk, which shall not be taxed. Nothing herein  
13 contained shall affect other sales through coin-operated vending  
14 machines taxable pursuant to subsection (a) above or the exemption  
15 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

18 (3) For the purposes of this subsection:

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

22 "Prepared food" means:

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

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

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

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

38 A. food sold by a seller whose proper primary NAICS  
39 classification is manufacturing in section 311, except subsector  
40 3118 (bakeries);

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

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

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



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

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

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

25 (2) ~~【The receipts from every sale, except for resale, of intrastate~~  
26 ~~or interstate mobile telecommunications services billed by or for a~~  
27 ~~customer's home service provider and provided to a customer with a~~  
28 ~~place of primary use in this State. The provisions and definitions of~~  
29 ~~the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C.~~  
30 ~~ss.116-126 (Pub.L.106-252), are applicable herein.】(Deleted by~~  
31 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
32 ~~bill)~~

33 (g) ~~【The receipts from every sale, except for resale, of prepaid~~  
34 ~~calling service and the recharge of prepaid calling service.】~~  
35 ~~(Deleted by amendment, P.L. , c. ) (pending before the~~  
36 ~~Legislature as this bill)~~

37 (h) Charges in the nature of initiation fees, membership fees or  
38 dues for access to or use of the property or facilities of a health and  
39 fitness, athletic, sporting or shopping club or organization in this  
40 State, except for: (1) membership in a club or organization whose  
41 members are predominantly age 18 or under; and (2) charges in the  
42 nature of membership fees or dues for access to or use of the  
43 property or facilities of a health and fitness, athletic, sporting or  
44 shopping club or organization that is exempt from taxation pursuant  
45 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30  
46 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph

1 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that  
2 has complied with subsection (d) of section 9 of P.L.1966, c.30.

3 (i) The receipts from parking, storing or garaging a motor  
4 vehicle, excluding charges for the following: residential parking;  
5 employee parking, when provided by an employer or at a facility  
6 owned or operated by the employer; municipal parking, storing or  
7 garaging; receipts from charges or fees imposed pursuant to section  
8 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement  
9 between the Casino Reinvestment Development Authority and a  
10 casino operator in effect on the date of enactment of P.L.2007,  
11 c.105; and receipts from parking, storing or garaging a motor  
12 vehicle subject to tax pursuant to any other law or ordinance.

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

17 (cf: P.L.2007, c.105, s.1)

18  
19 3. Section 29 of P.L.2005, c.126 (C.54:32B-3.4) is amended to  
20 reads as follows:

21 29. a. Notwithstanding the general sourcing provisions of  
22 section 26 of P.L.2005, c.126 (C.54:32B-3.1), except for the  
23 telecommunication services enumerated in subsection c. of this  
24 section, the sale of telecommunication service sold on a call-by-call  
25 basis shall be sourced to:

26 (1) each level of taxing jurisdiction where the call originates and  
27 terminates in that jurisdiction; or

28 (2) each level of taxing jurisdiction where the call either  
29 originates or terminates and in which the service address is also  
30 located.

31 b. Except for the telecommunication services enumerated in  
32 subsection c. of this section, a sale of telecommunications services  
33 sold on a basis other than a call-by-call basis shall be sourced to the  
34 customer's place of primary use.

35 c. The sale of the following telecommunication services shall  
36 be sourced to each level of taxing jurisdiction as follows:

37 (1) A sale of mobile telecommunications services other than air-  
38 to-ground radiotelephone service and prepaid calling service shall  
39 be sourced to the customer's place of primary use as required by the  
40 federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.116  
41 et seq.

42 (2) A sale of post-paid calling service shall be sourced to the  
43 origination point of the telecommunications signal as first identified  
44 by either:

45 (a) the seller's telecommunications system; or

46 (b) information received by the seller from its service provider,  
47 if the system used to transport such signals is not that of the seller.

1 (3) A sale of prepaid calling service or a sale of a prepaid  
2 wireless calling service shall be sourced in accordance with the  
3 general sourcing provisions of section 26 of P.L.2005, c.126  
4 (C.54:32B-3.1); provided however, that in the case of a sale of  
5 **【mobile telecommunications service that is a】** prepaid  
6 **【telecommunications】** wireless calling service, the rule provided in  
7 paragraph (5) of subsection (a) of that section shall include as an  
8 option the location associated with the mobile telephone number.

9 (4) A sale of a private communication service shall be sourced  
10 as follows:

11 (a) Service for a separate charge related to a customer channel  
12 termination point shall be sourced to each level of jurisdiction in  
13 which such customer channel termination point is located.

14 (b) Service for which all customer termination points are located  
15 entirely within one jurisdiction or levels of jurisdiction shall be  
16 sourced to such jurisdiction in which the customer channel  
17 termination points are located.

18 (c) Service for segments of a channel between two customer  
19 channel termination points located in different jurisdictions and  
20 which segments of channel are separately charged shall be sourced  
21 fifty percent to each level of jurisdiction in which the customer  
22 channel termination points are located.

23 (d) Service for segments of a channel located in more than one  
24 jurisdiction or levels of jurisdiction and which segments of channel  
25 are not separately billed shall be sourced to each jurisdiction based  
26 on the percentage determined by dividing the number of customer  
27 channel termination points in such jurisdiction by the total number  
28 of customer channel termination points.

29 (5) A sale of an ancillary service shall be sourced to the  
30 customer's place of primary use.

31 d. For the purposes of this section:

32 "Air-to-ground radiotelephone service" means a radio service, as  
33 that term is defined in 47 CFR 22.99, in which common carriers are  
34 authorized to offer and provide radio telecommunications service  
35 for hire to subscribers in aircraft;

36 "Ancillary service" means a service that is associated with or  
37 incidental to the provision of telecommunication services, including  
38 but not limited to detailed telecommunications billing, directory  
39 assistance, vertical service, and voice mail services;

40 "Call-by-call basis" means any method of charging for  
41 telecommunications services in which the price is measured by  
42 individual calls;

43 "Communications channel" means a physical or virtual path of  
44 communications over which signals are transmitted between or  
45 among customer channel termination points;

46 "Customer" means the person or entity that contracts with the  
47 seller of telecommunications services. If the end user of  
48 telecommunications services is not the contracting party, then the

1 end user of the telecommunications service is the customer of the  
2 telecommunication service, but this provision applies only for the  
3 purpose of sourcing sales of telecommunications services under this  
4 section. "Customer" does not include a reseller of  
5 telecommunications service or, for mobile telecommunications  
6 service **[of]**, a serving carrier under an agreement to serve the  
7 customer outside the home service provider's licensed service area;

8 "Customer channel termination point" means the location where  
9 the customer either inputs or receives the communications;

10 "End user" means the person who utilizes the telecommunication  
11 service. In the case of an entity, "end user" means the individual  
12 who utilizes the service on behalf of the entity;

13 "Home service provider" has the same meaning as that term is  
14 defined by the federal "Mobile Telecommunications Sourcing Act,"  
15 4 U.S.C. s.124;

16 "Mobile telecommunications service" has the same meaning as  
17 that term is defined by the federal "Mobile Telecommunications  
18 Sourcing Act," 4 U.S.C. s.124;

19 "Place of primary use" means the street address representative of  
20 where the customer's use of the telecommunications service  
21 primarily occurs, which shall be the residential street address or the  
22 primary business street address of the customer. In the case of  
23 mobile telecommunications services, "place of primary use" shall  
24 be within the licensed service area of the home service provider;

25 "Post-paid calling service" means the telecommunications  
26 service obtained by making a payment on a call-by-call basis either  
27 through the use of a credit card or payment mechanism such as a  
28 bank card, travel card, credit card, or debit card, or by a charge  
29 made to a telephone number which is not associated with the  
30 origination or termination of the telecommunications service. A  
31 post-paid calling service includes a telecommunications service,  
32 except a prepaid wireless calling service, that would be a prepaid  
33 calling service except it is not exclusively a telecommunications  
34 service;

35 "Prepaid calling service" means the right to access exclusively  
36 telecommunications services, which shall be paid for in advance  
37 **[that]** and which enables the origination of calls using an access  
38 number or authorization code, whether manually or electronically  
39 dialed, and that is sold in predetermined units or dollars of which  
40 the number declines with use in a known amount;

41 "Prepaid wireless calling service" means a telecommunications  
42 service that provides the right to utilize mobile wireless service as  
43 well as other non-telecommunications services, including the  
44 download of digital products delivered electronically, content, and  
45 ancillary services, which must be paid for in advance and that is  
46 sold in predetermined units or dollars of which the number declines  
47 with use in a known amount;

1 "Private communication service" means a telecommunication  
2 service that entitles the customer to exclusive or priority use of a  
3 communications channel or group of channels between or among  
4 termination points, regardless of the manner in which such channel  
5 or channels are connected, and includes switching capacity,  
6 extension lines, stations, and any other associated services that are  
7 provided in connection with the use of such channel or channels;  
8 and

9 "Service address" means

10 (1) The location of the telecommunications equipment to which  
11 a customer's call is charged and from which the call originates or  
12 terminates, regardless of where the call is billed or paid;

13 (2) If the location in paragraph (1) of this definition is not  
14 known, "service address" means the origination point of the signal  
15 of the telecommunications services first identified by either the  
16 seller's telecommunications system or in information received by  
17 the seller from its service provider, in the case that the system used  
18 to transport such signals is not that of the seller; or

19 (3) If the locations in paragraphs (1) and (2) of this definition  
20 are not known, "service address" means the location of the  
21 customer's place of primary use.

22 (cf: P.L.2005, c.126, s.29)

23

24 4. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read  
25 as follows:

26 4. a. For the purpose of adding and collecting the tax imposed  
27 by this act, or an amount equal as nearly as possible or practicable  
28 to the average equivalent thereof, to be reimbursed to the seller by  
29 the purchaser, a seller shall use one of the two following options:

30 (1) a tax shall be calculated based on the following formula:

31 Amount of Sale	Amount of Tax
32 \$0.01 to \$0.10	No Tax
33 0.11 to 0.19	\$0.01
34 0.20 to 0.32	0.02
35 0.33 to 0.47	0.03
36 0.48 to 0.62	0.04
37 0.63 to 0.77	0.05
38 0.78 to 0.90	0.06
39 0.91 to \$1.10	0.07

40 and in addition to a tax of \$0.07 on each full dollar, a tax shall be  
41 collected on each part of a dollar in excess of a full dollar, in  
42 accordance with the above formula; or

43 (2) tax shall be calculated to the third decimal place. One-half  
44 cent (\$0.005) or higher shall be rounded up to the next cent; less  
45 than \$0.005 shall be dropped in order to round the result down.

46 Sellers may compute the tax due on a transaction on either an  
47 item or an invoice basis.

1       b. **【**For charges paid by inserting coins into a coin operated  
2 telecommunications device available to the public the tax shall be  
3 computed to the nearest multiple of five cents of the tax otherwise  
4 due pursuant to subsection a. of this section, except that, if the  
5 amount of the tax is midway between multiples of five cents, the  
6 next higher multiple shall apply.**】** (Deleted by amendment, P.L. \_\_, c. \_\_)  
7 (pending before the Legislature as this bill)  
8 (cf: P.L.2006, c.44, s.3)  
9

10       5. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read  
11 as follows:

12       6. Unless property or services have already been or will be  
13 subject to the sales tax under this act, there is hereby imposed on  
14 and there shall be paid by every person a use tax for the use within  
15 this State of 7%, except as otherwise exempted under this act, (A)  
16 of any tangible personal property or digital property purchased at  
17 retail, including energy, provided however, that electricity  
18 consumed by the generating facility that produced it shall not be  
19 subject to tax, (B) of any tangible personal property or digital  
20 property manufactured, processed or assembled by the user, if items  
21 of the same kind of tangible personal property or digital property  
22 are offered for sale by him in the regular course of business, or if  
23 items of the same kind of tangible personal property are not offered  
24 for sale by him in the regular course of business and are used as  
25 such or incorporated into a structure, building or real property, (C)  
26 of any tangible personal property or digital property, however  
27 acquired, where not acquired for purposes of resale, upon which any  
28 taxable services described in paragraphs (1) and (2) of subsection  
29 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been  
30 performed, (D) of **【**interstate or**】** intrastate, interstate, or  
31 international telecommunications services **【**and mobile  
32 telecommunications**】** described in subsection (f) of section 3 of  
33 P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184), (F)  
34 of utility service provided to persons in this State for use in this  
35 State, provided however, that utility service used by the facility that  
36 provides the service shall not be subject to tax, (G) of **【**direct-mail  
37 mail processing services described in paragraph (5) of subsection  
38 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), (H) **【**of prepaid  
39 calling service and the recharge of prepaid calling service**】** (Deleted  
40 by amendment, P.L. \_\_, c. \_\_) (pending before the Legislature as this  
41 bill), (I) of any services subject to tax pursuant to subsection (11),  
42 (12), **【**or**】** (13), (14) or (15) of subsection (b) of section 3 of  
43 P.L.1966, c.30 (C.54:32B-3), and (J) of access to or use of the  
44 property or facilities of a health and fitness, athletic, sporting or  
45 shopping club or organization in this State. For purposes of clause  
46 (A) of this section, the tax shall be at the applicable rate, as set forth  
47 hereinabove, of the consideration given or contracted to be given

1 for such property or for the use of such property including delivery  
2 charges made by the seller, but excluding any credit for property of  
3 the same kind accepted in part payment and intended for resale. For  
4 the purposes of clause (B) of this section, the tax shall be at the  
5 applicable rate, as set forth hereinabove, of the price at which items  
6 of the same kind of tangible personal property or digital property  
7 are offered for sale by the user, or if items of the same kind of  
8 tangible personal property are not offered for sale by the user in the  
9 regular course of business and are used as such or incorporated into  
10 a structure, building or real property the tax shall be at the  
11 applicable rate, as set forth hereinabove, of the consideration given  
12 or contracted to be given for the tangible personal property  
13 manufactured, processed or assembled by the user into the tangible  
14 personal property the use of which is subject to use tax pursuant to  
15 this section, and the mere storage, keeping, retention or withdrawal  
16 from storage of tangible personal property or digital property by the  
17 person who manufactured, processed or assembled such property  
18 shall not be deemed a taxable use by him. For purposes of clause  
19 (C) of this section, the tax shall be at the applicable rate, as set forth  
20 hereinabove, of the consideration given or contracted to be given  
21 for the service, including the consideration for any tangible personal  
22 property or digital property transferred in conjunction with the  
23 performance of the service, plus the cost of transportation, except  
24 where such cost is separately stated in the written contract, if any,  
25 and on the bill rendered to the purchaser. For the purposes of  
26 clause (D) of this section, the tax shall be at the applicable rate on  
27 the charge made by the telecommunications service provider;  
28 provided however, that for prepaid calling services and prepaid  
29 wireless calling services the tax shall be at the applicable rate on the  
30 consideration given or contracted to be given for the prepaid calling  
31 service or prepaid wireless calling service or the recharge of the  
32 prepaid calling service or prepaid wireless calling service. For  
33 purposes of clause (F) of this section, the tax shall be at the  
34 applicable rate on the charge made by the utility service provider.  
35 For purposes of clause (G) of this section, the tax shall be at the  
36 applicable rate on that proportion of the amount of all processing  
37 costs charged by a **【direct-mail】** mail processing service provider  
38 that is attributable to the service distributed in this State. **【**For the  
39 purposes of clause (H) of this section, the tax shall be at the  
40 applicable rate on the consideration given or contracted to be given  
41 for the prepaid calling service or the recharge of the prepaid calling  
42 service.**】** For purposes of clause (I) of this section, the tax shall be  
43 at the applicable rate on the charge made by the service provider.  
44 For purposes of clause (J) of this section, the tax shall be at the  
45 applicable rate on the charges in the nature of initiation fees,  
46 membership fees or dues.  
47 (cf: P.L.2006, c.44, s.5)

1       6. Section 13 of P.L.1980, c.105 (C.54:32B-8.1) is amended to  
2 read as follows:

3       13. a. Receipts from sales of the following sold for human use  
4 are exempt from the tax imposed under the "Sales and Use Tax  
5 Act":

- 6       (1) drugs sold pursuant to a doctor's prescription;
- 7       (2) over-the-counter drugs;
- 8       (3) diabetic supplies;
- 9       (4) prosthetic devices;
- 10       (5) tampons or like products;
- 11       (6) medical oxygen;
- 12       (7) human blood and its derivatives;
- 13       (8) durable medical equipment for home use;
- 14       (9) mobility enhancing equipment sold by prescription; and
- 15       (10) repair and replacement parts for any of the foregoing  
16 exempt devices and equipment.

17       b. As used in this section:

18       "Drug" means a compound, substance or preparation, and any  
19 component of a compound, substance or preparation, other than  
20 food and food ingredients, dietary supplements or alcoholic  
21 beverages:

- 22       (1) recognized in the official United States Pharmacopoeia,  
23 official Homeopathic Pharmacopoeia of the United States, or  
24 official National Formulary, and supplement to any of them; or
- 25       (2) intended for use in the diagnosis, cure, mitigation, treatment,  
26 or prevention of disease; or
- 27       (3) intended to affect the structure or any function of the body.

28       "Over-the-counter-drug" means a drug that contains a label  
29 which identifies the product as a drug, required by 21 CFR 201.66.  
30 The label includes:

- 31       (1) a "Drug Facts" panel or
- 32       (2) a statement of the "active ingredient" or "active ingredients"  
33 with a list of those ingredients contained in the compound,  
34 substance or preparation. "Over-the-counter drug" does not include  
35 a grooming and hygiene product.

36       "Grooming and hygiene product" is soap or cleaning solution,  
37 shampoo, toothpaste, mouthwash, anti-perspirant, or sun tan lotion  
38 or screen, regardless of whether the item meets the definition of  
39 "over-the-counter drug."

40       "Prescription" means an order, formula or recipe issued in any  
41 form of oral, written, electronic, or other means of transmission by  
42 a duly licensed practitioner authorized by the laws of this State.

43       "Prosthetic device" means a replacement, corrective, or  
44 supportive device including repair and replacement parts for same  
45 worn on or in the body in order to:

- 46       (1) artificially replace a missing portion of the body; or
- 47       (2) prevent or correct a physical deformity or malfunction; or
- 48       (3) support a weak or deformed portion of the body.



1 "Durable medical equipment" means equipment, including repair  
2 and replacement parts, but not including mobility enhancing  
3 equipment, that:

4 (1) can withstand repeated use;

5 (2) is primarily and customarily used to serve a medical  
6 purpose;

7 3. is generally not useful to a person in the absence of illness or  
8 injury; and

9 4. is not worn in or on the body.

10 "Mobility enhancing equipment" means equipment, including  
11 repair and replacement parts, other than durable medical equipment,  
12 that:

13 1. is primarily and customarily used to provide or increase the  
14 ability to move from one place to another and which is appropriate  
15 for use either at home or in a motor vehicle; and

16 2. is not generally used by persons with normal mobility; and

17 3. does not include any motor vehicle or equipment on a motor  
18 vehicle normally provided by a motor vehicle manufacturer.

19 c. Receipts from sales of [medical equipment, durable medical  
20 equipment, and] supplies [other than medicines and drugs,]  
21 purchased for use in providing medical services for compensation,  
22 but not transferred to the purchaser of the service in conjunction  
23 with the performance of the service, shall be considered taxable  
24 receipts from retail sales notwithstanding the exemption from the  
25 tax imposed under the "Sales and Use Tax Act" provided under this  
26 section.

27 (cf: P.L.2005, c.126, s.7)

28

29 7. Section 14 of P.L.1980, c.105 (C.54:32B-8.2) is amended to  
30 read as follows:

31 14. a. Receipts from the following are exempt from the tax  
32 imposed under the "Sales and Use Tax Act:" sales of food and food  
33 ingredients and dietary supplements, sold for human consumption  
34 off the premises where sold but not including (1) candy, and (2) soft  
35 drinks, all of which shall be subject to the retail sales and  
36 compensating use taxes[, whether or not the item is sold in liquid  
37 form].

38 b. The exemption in this section is not applicable to prepared  
39 food subject to tax under subsection (c) of section 3 of the Sales and  
40 Use Tax Act (C.54:32B-3).

41 c. As used in this section:

42 "Candy" means a preparation of sugar, honey, or other natural or  
43 artificial sweeteners in combination with chocolate, fruits, nuts or  
44 other ingredients or flavorings in the form of bars, drops, or pieces.  
45 "Candy" does not include any preparation containing flour or  
46 requiring refrigeration;

47 "Dietary supplement" means any product, other than tobacco,  
48 intended to supplement the diet, that:

1 (1) contains one or more of the following dietary ingredients: a  
2 vitamin; a mineral; an herb or other botanical; an amino acid; a  
3 dietary substance for use by humans to supplement the diet by  
4 increasing the total dietary intake; a concentrate, metabolite,  
5 constituent, extract, or combination of any ingredient described  
6 herein;

7 (2) is intended for ingestion in tablet, capsule, powder, softgel,  
8 gelcap, or liquid form, or if not intended for ingestion in such a  
9 form, is not represented as conventional food and is not represented  
10 for use as a sole item of a meal or of the diet; and

11 (3) is required to be labeled as a dietary supplement, identifiable  
12 by the "Supplemental Facts" box found on the label and as required  
13 pursuant to 21 C.F.R. s.101.36;

14 "Food and food ingredients" means substances, whether in  
15 liquid, concentrated, solid, frozen, dried, or dehydrated form, that  
16 are sold for ingestion or chewing by humans and are consumed for  
17 their taste or nutritional value, "Food and food ingredients" does not  
18 include alcoholic beverages or tobacco;

19 "Soft drinks" means non-alcoholic beverages that contain natural  
20 or artificial sweeteners. "Soft drinks" does not include beverages  
21 that contain: milk or milk products; soy, rice or similar milk  
22 substitutes; or greater than fifty percent of vegetable or fruit juice  
23 by volume; and

24 "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or  
25 any other item that contains tobacco.

26 (cf: P.L.2005, c.126, s.8)

27  
28 8. Section 16 of P.L.1980, c.105 (C.54:32B-8.4) is amended to  
29 read as follows:

30 16. a. Receipts from sales of articles of clothing and footwear  
31 for human use are exempt from the tax imposed under the "Sales  
32 and Use Tax Act." This exemption does not apply to fur clothing,  
33 clothing accessories or equipment, sport or recreational equipment,  
34 or protective equipment.

35 b. Receipts from sales of protective equipment necessary for  
36 the daily work of the user are exempt from the tax imposed under  
37 the "Sales and Use Tax Act."

38 c. Receipts from sales of sewing materials, such as fabrics,  
39 thread, knitting yarn, buttons and zippers, purchased by  
40 noncommercial purchasers for incorporation into clothing as a  
41 constituent part thereof, are exempt from the tax imposed under the  
42 "Sales and Use Tax Act."

43 d. As used in this section:

44 "Clothing" means all human wearing apparel suitable for general  
45 use. Clothing shall not include: clothing accessories or equipment,  
46 sport or recreational equipment, protective equipment, sewing  
47 equipment and supplies, or sewing materials that become part of  
48 clothing.

1 "Clothing accessories or equipment" means incidental items  
2 worn on the person or in conjunction with clothing.

3 "Fur clothing" means clothing that is required to be labeled as a  
4 fur product under 15 U.S.C. s.69, and the value of the fur  
5 components in the product is more than three times the value of the  
6 next most valuable tangible component. For the purposes of this  
7 section, "fur" means any animal skin or part thereof with hair,  
8 fleece, or fur fibers attached thereto, either in its raw or processed  
9 state, but shall not include such skins that have been converted into  
10 leather or suede, or which in processing the hair, fleece, or fur fiber  
11 has been completely removed.

12 "Protective equipment" means items for human wear and  
13 designed as protection of the wearer against injury or disease or as  
14 protections against damage or injury of other persons or property  
15 but not suitable for general use.

16 "Sport or recreational equipment" means items designed for  
17 human use and worn in conjunction with an athletic or recreational  
18 activity that are not suitable for general use.

19 (cf: P.L.2005, c.126, s.9)

20

21 9. Section 26 of P.L.1980, c.105 (C.54:32B-8.14) is amended  
22 to read as follows:

23 26. Receipts from sales of tangible personal property, except  
24 energy, and digital property purchased for use or consumption  
25 directly and exclusively in research and development in the  
26 experimental or laboratory sense are exempt from the tax imposed  
27 under the Sales and Use Tax Act. Such research and development  
28 shall not be deemed to include the ordinary testing or inspection of  
29 materials or products for quality control, efficiency surveys,  
30 management studies, consumer surveys, advertising, promotions or  
31 research in connection with literary, historical or similar projects.

32 (cf: P.L.1997, c.162, s.24)

33

34 10. Section 1 of P.L.1985, c.24 (C.54:32B-8.39) is amended to  
35 read as follows:

36 1. Receipts from sales of **【direct mail】** printed advertising  
37 material for distribution to out-of-State recipients and receipts from  
38 sales of **【direct-mail】** processing services in connection with  
39 distribution of **【direct mail】** printed advertising material to out-of-  
40 State recipients are exempt from the tax imposed under the "Sales  
41 and Use Tax Act." The exemption provided by this section shall  
42 apply to receipts from charges for the printing or production of  
43 **【direct mail】** printed advertising material whether prepared in, or  
44 shipped into New Jersey after preparation and stored for subsequent  
45 shipment to out-of-State customers. The **【direct-mail】** mail  
46 processing services exemption provided by this section shall apply  
47 to receipts from charges for all **【direct】** mail processing services for

1 distribution to out-of-State recipients, including but not limited to  
2 the following: preparing and maintaining mailing lists, addressing,  
3 separating, folding, inserting, sorting and packaging **【direct mail】**  
4 printed advertising materials and transporting to the point of  
5 shipment by the mail service or other carrier.

6 (cf: P.L.2005, c.126, s.13)

7  
8 11. Section 15 of P.L.2005, c.126 (C.54:32B-8.56) is amended  
9 to read as follows:

10 15. Receipts from sales of prewritten software delivered  
11 electronically and used directly and exclusively in the conduct of  
12 the purchaser's business, trade or occupation are exempt from the  
13 tax imposed under the "Sales and Use Tax Act", P.L.1966, c.30  
14 (C.54:32B-1 et seq.). The exemption provided by this section shall  
15 not apply to receipts from sales of prewritten software delivered by  
16 a load and leave method.

17 "Computer" means an electronic device that accepts information  
18 in digital or similar form and manipulates it for a result based on a  
19 sequence of instructions.

20 "Computer software" means a set of coded instruction designed  
21 to cause a computer or automatic data processing equipment to  
22 perform a task.

23 "Delivered electronically" means delivered **【from the seller】** to  
24 the purchaser by means other than tangible storage media.

25 "Electronic" means relating to technology having electrical,  
26 digital magnetic, wireless, optical, electromagnetic, or similar  
27 capabilities.

28 "Load and leave" means delivery to the purchaser by the use of a  
29 tangible storage medium where the tangible storage medium is not  
30 physically transferred to the purchaser.

31 "Prewritten computer software" means computer software,  
32 including prewritten upgrades, which is not designed and developed  
33 by the author or other creator to the specifications of a specific  
34 purchaser. The combining of two or more prewritten computer  
35 software programs or prewritten portions thereof shall not cause the  
36 combination to be other than prewritten computer software.

37 "Prewritten computer software" includes software designed and  
38 developed by the author or other creator to the specifications of a  
39 specific purchaser when it is sold to a person other than such  
40 purchaser. If a person modifies or enhances computer software of  
41 which that person is not the author or creator, the person shall be  
42 deemed to be the author or creator only of such person's  
43 modifications or enhancements. Prewritten software or a prewritten  
44 portion thereof that is modified or enhanced to any degree, where  
45 such modification or enhancement is designed and developed to the  
46 specifications of a specific purchaser, shall remain prewritten  
47 software; provided, however, that if there is a reasonable, separately  
48 stated charge or an invoice or other statement of the price given to

1 the purchaser for such modification or enhancement, such  
2 modification or enhancement shall not constitute pre-written  
3 computer software. **["Prewritten computer software" shall not**  
4 **include software delivered electronically].**

5 (cf: P.L.2006, c.44, s.12)  
6

7 12. Section 12 of P.L.1966, c.30 (C.54:32B-12) is amended to  
8 read as follows:

9 12. (a) Every person required to collect the tax shall collect the  
10 tax from the customer when collecting the price, service charge,  
11 amusement charge or rent to which it applies. If the customer is  
12 given any sales slip, invoice, receipt or other statement or  
13 memorandum of the price, service charge, amusement charge or  
14 rent paid or payable, the tax shall be stated, charged and shown  
15 separately on the first of such documents given to him. The tax  
16 shall be paid to the person required to collect it as trustee for and on  
17 account of the State.

18 (b) For the purpose of the proper administration of this act and  
19 to prevent evasion of the tax hereby imposed, and subject to the  
20 rules regarding the administration of exemptions authorized by the  
21 Streamlined Sales and Use Tax Agreement, it shall be presumed  
22 that all receipts for property or services of any type mentioned in  
23 subsections (a), (b) **[and]** ~~\_, (c), and (f)~~ of section 3, all rents for  
24 occupancy of the type mentioned in subsection (d) of said section,  
25 **[and]** all amusement charges of any type mentioned in subsection  
26 (e) of said section, all charges in the nature of initiation fees,  
27 membership fees or dues mentioned in subsection (h) of said  
28 section, and all receipts from parking, storing or garaging a motor  
29 vehicle mentioned in subsection (i) of said section are subject to tax  
30 until the contrary is established, and the burden of proving that any  
31 such receipt, **[amusement]** charge or rent is not taxable hereunder  
32 shall be upon the person required to collect tax or the customer.  
33 Unless a seller shall have taken from the purchaser a certificate,  
34 signed by the purchaser if in paper form, and bearing the  
35 purchaser's name and address and the number of the purchaser's  
36 registration certificate, to the effect that the property or service was  
37 purchased for resale or was otherwise exempt pursuant to the  
38 provisions of the "Sales and Use Tax Act," P.L.1966, c.30  
39 (C.54:32B-1 et seq.), or the purchaser, prior to taking delivery,  
40 furnishes to the seller any affidavit, statement or additional  
41 evidence, documentary or otherwise, which the director may require  
42 demonstrating that the purchaser is an exempt organization  
43 described in section 9(b)(1), the sale shall be deemed a taxable  
44 retail sale. Provided however, the director may, in the director's  
45 discretion, authorize a purchaser, who acquires tangible personal  
46 property, digital property or services under circumstances which  
47 make it impossible at the time of acquisition to determine the

1 manner in which the tangible personal property, digital property or  
2 services will be used, to pay the tax directly to the director and  
3 waive the collection of the tax by the seller or provide for direct pay  
4 authority under rules adopted under the Streamlined Sales and Use  
5 Tax Agreement. Provided further, the director shall authorize any  
6 eligible person, as defined in section 34 of P.L.1997, c.162  
7 (C.54:32B-14.1), who purchases natural gas from a non-utility on  
8 and after January 1, 1998 through December 31, 2002, to pay the  
9 tax on the commodity directly to the director and waive the  
10 collection of the tax by the seller. No such authority shall be  
11 granted or exercised except upon application to the director, and the  
12 issuance by the director of a direct payment permit. If a direct  
13 payment permit is granted, its use shall be subject to conditions  
14 specified by the director, and the payment of tax on all acquisitions  
15 pursuant to the permit shall be made directly to the director by the  
16 permit holder.

17 (c) The director may provide by regulation that the tax upon  
18 receipts from sales on the installment plan may be paid on the  
19 amount of each installment and upon the date when such installment  
20 is due. He may also provide by regulation for the exclusion from  
21 taxable receipts, amusement charges or rents of amounts subject, as  
22 applicable, to the provisions of section 30 of P.L.2005, c.126  
23 (C.54:32B-12.1), representing sales where the contract of sale has  
24 been canceled, the property returned or the receipt, charge or rent  
25 has been ascertained to be uncollectible or, in the case the tax has  
26 been paid upon such receipt, charge or rent, for refund or credit of  
27 the tax so paid.

28 (cf: P.L.2006, c.44, s.14)

29

30 13. Section 16 of P.L.1966, c.30 (C.54:32B-16) is amended to  
31 read as follows:

32 16. Every person required to collect any tax imposed by this act  
33 shall keep records of every purchase, purchase for lease, sale or  
34 amusement charge or occupancy and of all amounts paid, charged  
35 or due thereon and of the tax payable thereon, in such form as the  
36 director may by regulation require. Such records shall include a true  
37 copy of each sales slip, invoice, receipt, statement or memorandum  
38 upon which subsection (a) of section 12 requires that the tax be  
39 stated separately. Such records shall be available for inspection and  
40 examination at any time upon demand by the director or his duly  
41 authorized agent or employee and shall be preserved for a period of  
42 **[three]** four years, except that the director may consent to their  
43 destruction within that period or may require that they be kept  
44 longer.

45 (cf: P.L.1989, c.123, s.9)

46

47 14. Section 17 of P.L.1966, c.30 (C.54:32B-17) is amended to  
48 read as follows:

1        17. (a) Every person required to collect or pay tax under this act  
2 shall on or before August 28, 1966, and on or before the twentieth  
3 day of each month thereafter, make and file a return for the  
4 preceding month with the director. The return of a seller of tangible  
5 personal property, digital property or services shall show his  
6 receipts from sales and also the aggregate value of tangible personal  
7 property, digital property and services sold by him, the use of which  
8 is subject to tax under this act, and the amount of taxes required to  
9 be collected with respect to such sales and use. The return of a  
10 recipient of amusement charges shall show all such charges and the  
11 amount of tax thereon, and the return of a person required to collect  
12 tax on leases or rentals shall show all lease or rental payments  
13 received or charged and the amount of tax thereon. The return of a  
14 recipient of initiation fees, membership fees or dues for access to or  
15 use of the property or facilities of a health and fitness, athletic,  
16 sporting or shopping club or organization shall show all such  
17 charges and the amount of tax thereon. The return of the recipient  
18 of charges from parking, storing or garaging a motor vehicle shall  
19 show all such charges and the amount of tax thereon.

20        (b) The director may permit or require returns to be made  
21 covering other periods and upon such dates as he may specify. In  
22 addition, the director may require payments of tax liability at such  
23 intervals and based upon such classifications as he may designate.  
24 In prescribing such other periods to be covered by the return or  
25 intervals or classifications for payment of tax liability, the director  
26 may take into account the dollar volume of tax involved as well as  
27 the need for insuring the prompt and orderly collection of the taxes  
28 imposed.

29        (c) The form of returns shall be prescribed by the director and  
30 shall contain such information as he may deem necessary for the  
31 proper administration of this act. The director may require  
32 amended returns to be filed within 20 days after notice and to  
33 contain the information specified in the notice.

34        (d) Pursuant to the Streamlined Sales and Use Tax Agreement,  
35 the director is authorized to accept certified automated systems and  
36 certified service providers to aid in the administration of the  
37 collection of the tax imposed under the "Sales and Use Tax Act".

38        (e) Subject to the limitations of this subsection and other  
39 provisions of the "Sales and Use Tax Act":

40        (1) In addition to the powers of the director prescribed pursuant  
41 to section 24 of P.L.1966, c.30 (C.54:32B-24) and the "State  
42 Uniform Tax Procedure Law," R.S.54:48-1 et seq., and  
43 notwithstanding the provisions of any other law to the contrary, the  
44 director shall grant "amnesty" for uncollected or unpaid sales or use  
45 tax to a seller that registers to collect and remit applicable sales or  
46 use tax on sales made to purchasers in this State in accordance with  
47 the terms of the Streamlined Sales and Use Tax Agreement,  
48 provided that the seller was not so registered in this State in the

1 twelve-month period preceding the commencement of this State's  
2 participation in the agreement.

3 (2) Under terms of the "amnesty" granted pursuant to paragraph  
4 (1) of this subsection, a seller that registers shall not be assessed for  
5 uncollected or unpaid sales or use tax and shall not be assessed  
6 penalties or interest for sales made during the period the seller was  
7 not registered in this State, provided that the seller registers  
8 pursuant to paragraph (1) of this subsection within twelve months  
9 of the effective date of this State's participation in the Streamlined  
10 Sales and Use Tax Agreement.

11 (3) The limitations on deficiency assessments, penalties and  
12 interest pursuant to paragraph (2) of this subsection shall not be  
13 available to a seller with respect to any matter for which the seller  
14 received notice of the commencement of an audit and which audit is  
15 not yet finally resolved including any related administrative and  
16 judicial processes.

17 (4) The limitations on deficiency assessments, penalties and  
18 interest pursuant to paragraph (2) of this subsection shall not be  
19 available for sales or use taxes already paid or remitted to the State  
20 or to taxes already collected by the seller.

21 (5) The "amnesty" limitations on deficiency assessments,  
22 penalties and interest pursuant to paragraph (2) of this subsection  
23 shall be in full effect and the director shall not assess deficiencies  
24 for uncollected or unpaid sales or use tax and shall not assess  
25 penalties or interest for sales made during the period the seller was  
26 not registered in this State so long as the seller continues  
27 registration and continues collection and remittance of applicable  
28 sales or use taxes for a period of at least 36 months: provided  
29 however that the director may make such assessments by reason of  
30 the seller's fraud or intentional misrepresentation of a material fact.  
31 The statutes of limitations applicable to asserting tax liabilities,  
32 deficiencies, penalties and interest are tolled for this 36 month  
33 period.

34 (6) The "amnesty" granted pursuant to paragraph (1) of this  
35 subsection shall apply only to sales or use taxes due from a seller in  
36 its capacity as a seller and shall not apply to sales or use taxes due  
37 from a seller in its capacity as a buyer.

38 (cf: P.L.2006, c.44, s.16)

39

40 15. (New section) a. Receipts from sales of coin-operated  
41 telephone service are exempt from the tax imposed under the "Sales  
42 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

43 b. For purposes of this section:

44 "Coin-operated telephone service" means a telecommunications  
45 service paid for by inserting money into a telephone accepting  
46 direct deposits of money to operate.



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1 with the defined terms provided under the agreement. This bill  
2 allows the State to maintain compliance by: (1) replacing the  
3 current “telecommunications” term with a more specific, narrowly  
4 focused definition of “telecommunications service;” (2) redefining  
5 “intrastate, interstate, and international telecommunications;” (3)  
6 revising pre-paid calling and mobile telecommunications; and (4)  
7 incorporating “ancillary service,” “directory assistance,” “detailed  
8 telecommunications billing service” and “voice mail service” into  
9 the statutes of defined terms.

10 The reorganization of telecommunications definitions requires  
11 the elimination of current explicit language imposing taxation on  
12 mobile telecommunications and certain prepaid calling services, and  
13 requires the explicit imposition of tax on telephone answering and  
14 radio subscription services. These changes do not extend the base  
15 of the sales and use tax to new services or omit previously taxed  
16 telecommunications from coverage.

17 Similarly, the reorganization of telecommunications definitions  
18 requires the State to: (1) adopt the SSUTA telecommunications  
19 bundled transaction administrative rule for unbundling the taxable  
20 and nontaxable components of a sale of mixed telecommunications  
21 services that relies on the service providers internal records; (2)  
22 clarify the imposition of the use tax on radio subscription services;  
23 and (3) reorganize the telecommunications definition that requires  
24 the deletion of a use tax measurement rule for prepaid calling  
25 services which is currently taxed separately from  
26 telecommunications.

27 Beyond telecommunications, the changes to the definition of  
28 “sales price” reflect another reorganization in the SSUTA  
29 definitions, but essentially codify the policy on the effect of  
30 coupons and rebates that has been used under the State’s sales tax  
31 for the last 20 years. Additionally, the changes to the direct mail  
32 definitions allow the maintenance of the New Jersey taxation of  
33 mail processing services in compliance with SSUTA definitions.

34 Another SSUTA reorganizational change that requires a  
35 corresponding New Jersey change is the elimination of a “non-  
36 distinction” between solid and liquid food.

37 For reasons of compliance with SSUTA provisions concerning  
38 the medical products exemption, the bill narrows a broad limitation  
39 currently affecting all medical equipment to affect only certain  
40 medical supplies, while limiting the exemption for mobility  
41 enhancing equipment to that sold by prescription.

42 For reasons of compliance with SSUTA provisions, the bill  
43 provides a full sales and use tax exemption for receipts from coin-  
44 paid sales of telecommunications service using pay phones. The bill  
45 expands the current exemption, which only provides an exemption  
46 for coin-operated calls at the local calling rate (coin-paid long-  
47 distance phone calls are currently subject to tax).

1       For reasons of compliance with SSUTA provisions, the bill  
2       repeals the 6 percent gross receipts tax on retail sales of fur  
3       clothing, imposed under the provisions of P.L.2006, c.41  
4       (C.54:32G-1), and imposes the 7 percent sales tax on sales of “fur  
5       clothing” as defined by the SSUTA.

6       For reasons of compliance with SSUTA provisions, the bill  
7       repeals the multiple points of use (MPU) exemption.

8       In addition, this bill revises the State’s sales and use tax to make  
9       technical clarifications to the research and development exemption  
10      to explicitly include as exempt the receipts from sales of digital  
11      property, and to the business prewritten software exemption to  
12      delete contradictory language about prewritten computer software  
13      delivered electronically. Technical clarifications under the bill also  
14      include a provision extending the length of time during which tax  
15      records must be maintained under the sales and use tax, and an  
16      additional reference stipulating the process of providing returns for  
17      initiation and membership fees and dues as well as storing or  
18      garaging motor vehicles.

19      Further changes to the State’s sales and use tax under the bill  
20      include a provision to make explicit the “purchase for resale”  
21      exemption for purchases of telecommunications services for use as  
22      a component part of telecommunications services provided to a  
23      final end user, and the insertion of additional language reinstating  
24      an exemption for the “in house” use of telecommunications services  
25      provided by a user not in the business of providing  
26      telecommunications to the public or by the user’s subsidiary.