

ASSEMBLY, No. 1502

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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SYNOPSIS

Provides sales and use tax rebate for certain purchases made by, or on behalf of, individuals and small businesses affected by natural disasters.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/7/2014)

1 AN ACT providing a rebate of the sales and use tax paid for certain
2 purchases made by, or on behalf of, individuals and small
3 businesses affected by natural disasters, supplementing P.L.1966,
4 c.30 (C.54:32B-1 et seq.).
5

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

9 1. As used in P.L. , c. (C.) (pending before the
10 Legislature as this bill):

11 “Carpeting and other flooring” includes, but shall not be limited
12 to, wall-to-wall carpeting, area rugs, linoleum, tile, hardwood,
13 marble, and padding and other similar carpeting and other flooring
14 underlayment;

15 “Construction equipment” means vehicles, machines, tools,
16 implements, or other devices used or consumed in connection with
17 the reconstruction, repair, or rehabilitation of a principal residence
18 or small business, which vehicles, machines, tools, implements, or
19 other devices are not incorporated into the principal residence or
20 small business as a physical component part of the residence or
21 business and which vehicles, machines, tools, implements, or other
22 devices are not necessarily consumed in the performance of the
23 reconstruction, repair, or rehabilitation;

24 “Construction materials” means items of tangible personal
25 property used or consumed in connection with the reconstruction,
26 repair, or rehabilitation of a principal residence or small business,
27 which items are incorporated into the principal residence or small
28 business as a physical component part of the residence or business;

29 “Construction supplies” means items of tangible personal
30 property used or consumed in connection with the reconstruction,
31 repair, or rehabilitation of a principal residence or small business,
32 which items are not incorporated into the principal residence or
33 small business as a physical component part of the residence or
34 business;

35 “Consumer electronic devices” means mass market audio and
36 video electronic devices and other similar brown goods, including
37 computers, that are manufactured, in whole or in part, for
38 entertainment purposes or to facilitate communication between or
39 among two or more persons and that are intended to last for at least
40 three years;

41 “Contractor” means an individual, partnership, corporation, or
42 other commercial entity engaged in a business that is involved in
43 the erection of structures for others, or building, or otherwise
44 improving, altering, or repairing real property of others;

45 “Designated disaster area” means an area in this State that is: (1)
46 deemed a major disaster area pursuant to a Presidential declaration,

1 or (2) affected by a natural disaster during a State of emergency, as
2 defined by section 23 of P.L.2011, c.19 (C.5:12-45.3);

3 “Disaster victim” means a person whose principal residence or
4 small business is located in a designated disaster area and was
5 damaged, destroyed, or lost as a result of wind, flooding, or other
6 storm conditions caused by or attributable to a natural disaster;

7 “Durable domestic appliances” means mass market domestic
8 appliances and other similar white goods that are manufactured, in
9 whole or in part, to accomplish or assist in accomplishing common
10 housekeeping tasks or domestic chores and that are intended to last
11 for at least three years;

12 “Principal residence” means “principal residence” as defined by
13 section 2 of P.L.1996, c.60 (C.54A:3A-16);

14 “Recovery period” means the period beginning on the date the
15 natural disaster first occurs and ending one year following the end
16 of the natural disaster period pursuant to the Presidential declaration
17 of a major disaster area or the State of emergency; and

18 “Small business” means a business that is eligible to receive
19 financial disaster assistance, as a small business, from the federal
20 Small Business Administration; provided however, that a “small
21 business” shall not include a business that derives its income
22 exclusively from the rental of a vacation home or other similar real
23 property that also is used for the personal use of the owner or
24 operator of the small business for more than 14 days during the
25 calendar year.

26
27 2. Receipts from sales of construction materials, construction
28 supplies, and construction equipment that are made during the
29 recovery period to a disaster victim, or to a contractor on behalf of a
30 disaster victim, and that are used or consumed by the disaster
31 victim, or a contractor on behalf of the disaster victim, to
32 reconstruct, repair, or rehabilitate the disaster victim’s principal
33 residence or small business that is located in a designated disaster
34 area and was damaged, destroyed, or lost as a result of wind,
35 flooding, or other storm conditions caused by or attributable to a
36 natural disaster, are exempt from the tax imposed pursuant to the
37 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

38
39 3. Receipts from sales of services that are rendered during the
40 recovery period to install, maintain, service, or repair construction
41 materials, construction supplies, and construction equipment that
42 are purchased during the recovery period by a disaster victim, or a
43 contractor on behalf of a disaster victim, and that are used or
44 consumed by the disaster victim, or a contractor on behalf of the
45 disaster victim, to reconstruct, repair, or rehabilitate the disaster
46 victim’s principal residence or small business that is located in a
47 designated disaster area and was damaged, destroyed, or lost as a

1 result of wind, flooding, or other storm conditions caused by or
2 attributable to a natural disaster, are exempt from the tax imposed
3 pursuant to the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-
4 1 et seq.).

5
6 4. Receipts from sales of carpeting and other flooring, heating
7 and cooling systems, durable domestic appliances, and consumer
8 electronic devices that are made during the recovery period to a
9 disaster victim, or to a contractor on behalf of a disaster victim, and
10 that are used or consumed by the disaster victim, or a contractor on
11 behalf of the disaster victim, to replace carpeting and other flooring,
12 heating and cooling systems, durable domestic appliances, and
13 consumer electronic devices that were damaged, destroyed, or lost
14 as a result of wind, flooding, or other storm conditions caused by or
15 attributable to a natural disaster in a designated disaster area, are
16 exempt from the tax imposed pursuant to the “Sales and Use Tax
17 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

18
19 5. Receipts from sales of services that are rendered during the
20 recovery period to install carpeting and other flooring, heating and
21 cooling systems, durable domestic appliances, and consumer
22 electronic devices that are purchased during the recovery period by
23 a disaster victim, or a contractor on behalf of a disaster victim, and
24 that are used or consumed by the disaster victim, or a contractor on
25 behalf of the disaster victim, to replace carpeting and other flooring,
26 heating and cooling systems, durable domestic appliances, and
27 consumer electronic devices that were damaged, destroyed, or lost
28 as a result of wind, flooding, or other storm conditions caused by or
29 attributable to a natural disaster in a designated disaster area, are
30 exempt from the tax imposed pursuant to the “Sales and Use Tax
31 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

32
33 6. Receipts from sales of services that are rendered during the
34 recovery period to maintain, service, or repair the carpeting and
35 other flooring, heating and cooling systems, durable domestic
36 appliances, and consumer electronic devices of a disaster victim
37 that were damaged as a result of wind, flooding, or other storm
38 conditions caused by or attributable to a natural disaster in a
39 designated disaster area, are exempt from the tax imposed pursuant
40 to the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et
41 seq.).

42
43 7. Receipts from sales of motor vehicles that are made during
44 the recovery period to a disaster victim, and that are used or
45 consumed by the disaster victim to replace a motor vehicle that is
46 registered, or principally garaged, in this State and was damaged,
47 destroyed, or lost as a result of wind, flooding, or other storm

1 conditions caused by or attributable to a natural disaster in a
2 designated disaster area, are exempt from the tax imposed pursuant
3 to the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et
4 seq.).

5
6 8. Receipts from sales of services that are rendered during the
7 recovery period to maintain, service, or repair a motor vehicle of a
8 disaster victim that is registered, or principally garaged, in this State
9 and was damaged as a result of wind, flooding, or other storm
10 conditions caused by or attributable to a natural disaster in a
11 designated disaster area, are exempt from the tax imposed pursuant
12 to the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et
13 seq.).

14
15 9. a. Notwithstanding the provisions of sections 2 through 8 of
16 P.L. , c. (C.) (pending before the Legislature as this bill), the
17 seller shall charge and collect the tax imposed pursuant to the
18 “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.) from
19 the purchaser on eligible sales of tangible personal property and
20 services at the rate then in effect, and the tax shall be returned as a
21 rebate to the disaster victim by the filing of a claim with the director
22 within 180 days following the end of the recovery period for a
23 rebate of the sales and use tax paid.

24 b. The filing of a claim for a rebate of the sales and use tax
25 paid in accordance with this section shall be made by the disaster
26 victim on forms furnished by the director, and shall be accompanied
27 by an approved Federal Emergency Management Agency
28 application for disaster assistance, by insurance claim, or by such
29 information and documentation as may be determined to be
30 necessary by the director to verify the tax paid on eligible sales, to
31 confirm the location of the disaster victim’s principal residence or
32 small business or to confirm the place where the disaster victim’s
33 motor vehicle is registered or principally garaged, and to
34 demonstrate the damage, destruction, or loss as a result of the wind,
35 flooding, or other storm conditions caused by or attributable to a
36 natural disaster in a designated disaster area.

37 c. The director shall review or cause to be reviewed each
38 complete claim filed by a disaster victim for a rebate of the sales
39 and use tax paid in accordance with this section, and shall
40 determine or cause to be determined the amount to be returned as a
41 rebate for the sales and use tax paid in connection with eligible
42 purchases of tangible personal property and services based on the
43 tax separately stated on the sales slip, invoice, receipt, or other
44 statement or memorandum given to the purchaser at the time of
45 purchase; provided however, that the director shall determine the
46 amount to be returned as a rebate for the tax paid in connection with
47 eligible purchases of construction materials, construction supplies,

1 construction equipment, carpeting and other flooring, heating and
2 cooling systems, durable domestic appliances, and consumer
3 electronic devices made by a contractor on behalf of a disaster
4 victim based upon the separately stated cost of the materials,
5 supplies, equipment, carpeting and other flooring, systems,
6 appliances, and devices to the disaster victim, or, if the cost for the
7 materials, supplies, equipment, carpeting and other flooring,
8 systems, appliances, and devices is not separately stated on the
9 contract, bill, or invoice given to the disaster victim by the
10 contractor, the amount to be returned as a rebate shall be based on
11 50 percent of the total amount of the sales price paid; provided
12 further, that the director shall determine the amount to be returned
13 as a rebate for the tax paid in connection with eligible purchases of
14 motor vehicles based on the amount actually paid for the motor
15 vehicle, net of any credit for property of the same kind traded-in, up
16 to the average retail value of the motor vehicle damaged, destroyed,
17 or lost as a result of wind, flooding, or other storm conditions
18 caused by or attributable to a natural disaster in a designated
19 disaster area, as reported in the current National Automobile
20 Dealers Association Guide, or \$2,000, whichever is greater.

21 d. The director shall return or cause to be returned to each
22 disaster victim that has filed a complete claim for a rebate of the
23 sales and use tax paid in accordance with this section the amount
24 determined to be returned as a rebate within 180 days of the date
25 the complete claim is filed.

26 e. The director shall pay or cause to be paid to a disaster victim
27 interest on any amount determined to be returned as a rebate that is
28 not returned within 180 days of the date the complete claim is filed,
29 as is allowed and paid on overpayments of tax pursuant to section 7
30 of P.L.1992, c.175 (C.54:49-15.1).

31

32 10. Notwithstanding the provisions of the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
34 contrary, the director may adopt immediately upon filing with the
35 Office of Administrative Law such rules and regulations as the
36 director determines to be necessary and appropriate to effectuate the
37 purposes of P.L. , c. (C.) (pending before the Legislature as
38 this bill), which rules and regulations shall be effective for a period
39 not to exceed 180 days following the effective date of
40 P.L. , c. (C.) (pending before the Legislature as this bill) and
41 may thereafter be amended, adopted, or readopted by the director in
42 accordance with P.L.1968, c.410 (C.52:14B-1 et seq.)

43

44 11. This act shall take effect immediately and apply
45 retroactively to sales made and services rendered on or after
46 October 28, 2012.

STATEMENT

This bill provides a permanent rebate of the sales and use tax paid for certain purchases of taxable goods and services made by, or on behalf of, (1) an individual or small business affected by Hurricane Sandy, and (2) an individual or small business that will be affected by a future natural disaster in a designated disaster area.

Under the bill, receipts from sales of goods and services to install, maintain, service, or repair goods that were damaged, destroyed, or lost due to a natural disaster in a designated disaster area in this State are eligible for a rebate during the recovery period. Receipts from sales of such goods and services are eligible for a rebate whether the sales are made to disaster victims or to contractors on behalf of disaster victims. The following goods and services thereof are eligible for a rebate under the bill:

- construction materials, construction supplies, and construction equipment;

- carpeting and other flooring, heating and cooling systems, durable domestic appliances, and consumer electronic devices; and

- motor vehicles that are used or consumed to replace a motor vehicle of a disaster victim that is registered or principally garaged in this State.

The bill provides that to receive the benefit of the tax rebate disaster victims affected by a natural disaster and contractors making purchases on behalf of disaster victims must pay the applicable tax at the current rates in effect on purchases of eligible goods and services at the point of purchase. The bill specifies that disaster victims must then file a claim with the Director of the Division of Taxation in the Department of the Treasury for a rebate of the sales and use taxes paid.

The bill provides that claims for rebate filed with the director must be made on forms furnished by the director, and must be accompanied by an approved Federal Emergency Management Agency application for disaster assistance, by insurance claim, or by such information and documentation as may be determined to be necessary by the director to verify the tax paid, to confirm the location of the disaster victim's principal residence or small business or to confirm the registration or place where the disaster victim's motor vehicle is principally garaged, and to demonstrate the damage, destruction, or loss caused by or attributable to a natural disaster in a designated disaster area.

The bill requires the director to review each complete claim filed by a disaster victim, and to determine the rebate amount for each complete claim. The bill provides that the director's determination will be based on the tax separately stated on the sales slip, invoice, receipt, or other statement or memorandum given to the purchaser at the time of purchase, but specifies certain rules that apply to

1 purchases made by contractors on behalf of disaster victims and
2 certain rules that apply to purchases of motor vehicles.

3 The bill requires the director to return the amount of any rebate
4 of sales and use tax paid to the disaster victim within 180 days of
5 the date the complete claim is filed. The bill requires the director to
6 pay interest on rebates not returned to disaster victims within that
7 frame of time.

8 The bill takes effect immediately and applies retroactively to
9 sales made and services rendered on or after October 28, 2012.

10 The purpose of this bill is to provide tax relief to individuals and
11 small businesses affected by Hurricane Sandy and future natural
12 disasters. The tax rebate will reduce the overall cost of purchasing
13 the goods and services necessary to rebuild following the
14 destruction and put more money back in the pockets of those
15 devastated by Hurricane Sandy and future natural disasters.