

ASSEMBLY, No. 4587

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 15, 2017

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Imposes State sales and use tax and hotel and motel occupancy fee on transient accommodations; authorizes various municipal taxes and fees on transient accommodations.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/16/2017)

1 AN ACT imposing the State sales and use tax and hotel and motel
2 occupancy fee on transient accommodations and authorizing
3 various municipal taxes and fees on transient accommodations,
4 amending various parts of the statutory law, and supplementing
5 P.L.1966, c.30 (C.54:32B-1 et seq.).
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

10 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to
11 read as follows:

12 84. As used in sections 82 through 85 of P.L.2015,
13 c.19 (C.5:10A-82 et seq.):

14 "Commission" means the New Jersey Sports and Exposition
15 Authority, which may be referred to as the "Meadowlands Regional
16 Commission," as established by section 6 of P.L.2015,
17 c.19 (C.5:10A-6).

18 "Meadowlands district" means the Hackensack Meadowlands
19 District, the area delineated within section 5 of P.L.2015,
20 c.19 (C.5:10A-5).

21 "Public venue" means any place located within the Meadowlands
22 district, whether publicly or privately owned, where any facilities
23 for entertainment, amusement, or sports are provided, but shall not
24 include a movie theater.

25 "Public event" means any spectator sporting event, trade show,
26 exposition, concert, amusement, or other event open to the public
27 that takes place at a public venue, but shall not include a major
28 league football game.

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

33 "Transient accommodation" means a room, group of rooms, or
34 other living or sleeping space for the lodging of occupants,
35 including but not limited to residences or buildings used as
36 residences. "Transient accommodation" does not include: a hotel or
37 hotel room; a room, group of rooms, or other living or sleeping
38 space used as a place of assembly; a dormitory or other similar
39 residential facility of an elementary or secondary school or a
40 college or university; a hospital, nursing home, or other similar
41 residential facility of a provider of services for the care, support and
42 treatment of individuals that is licensed by the State; a cabin, lean-
43 to, or other similar residential facility of an adult or youth camp; or
44 a room, group of rooms, or other living or sleeping space listed with
45 a real estate agent or real estate broker licensed by the New Jersey
46 Real Estate Commission pursuant to R.S.45:15-1 et seq.

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 “Transient space marketplace” means an online marketplace
2 through which a person may offer transient accommodations or
3 hotel rooms to individuals. A “transient space marketplace” allows
4 transient accommodations or hotel rooms to be advertised or listed
5 through an online marketplace and provides a means for a customer
6 to arrange for the occupancy of the transient accommodation or
7 hotel room in exchange for consideration directly through the online
8 marketplace.

9 (cf: P.L.2015, c.72, s.27)

10
11 2. Section 85 of P.L.2015, c.19 (C.5:10A-85) is amended to
12 read as follows:

13 85. a. Beginning on the first day of the first month next
14 following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there
15 is imposed a Meadowlands regional hotel use assessment on the
16 rent for the occupancy of every room in every hotel or transient
17 accommodation located in the Meadowlands district, including any
18 hotels located on land owned by the State. The assessment imposed
19 under this subsection shall be 3% of the rent charged for every
20 occupancy of a room or rooms in a hotel or transient
21 accommodation subject to taxation pursuant to subsection (d) of
22 section 3 of P.L.1966, c.30 (C.54:32B-3), and shall be paid to the
23 Director of the Division of Taxation by each person required to
24 collect the tax not later than the 10th day of each month based on
25 the occupancy of rooms in that hotel or transient accommodation
26 during the previous calendar month.

27 b. In carrying out the provisions of subsection a. of this
28 section, the director shall have all of the powers and authority
29 granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be
30 filed and paid in a manner prescribed by the Director of the
31 Division of Taxation. The director shall promulgate such rules and
32 regulations as the director determines are necessary to effectuate the
33 provisions of this section.

34 Each person required to collect the assessment shall be
35 personally liable for the assessment imposed, collected, or required
36 to be paid, collected, or remitted under this section. Any such
37 person shall have the same right in respect to collecting the fee from
38 that person's customer or in respect to non-payment of the fee by
39 the customer as if the fee were a part of the purchase price of the
40 occupancy or rent, as the case may be, and payable at the same
41 time; provided, however, that the director shall be joined as a party
42 in any action or proceeding brought to collect the fee.

43 Notwithstanding any other provision of this section to the
44 contrary, the director may enter into an agreement with the owner
45 or operator of a transient space marketplace for the purpose of
46 collection and payment of the tax for transactions solely
47 consummated through the transient space marketplace. Upon
48 entering an agreement with the owner or operator of a transient

1 space marketplace, the director may waive the responsibility of a
2 person engaged in the business of providing transient
3 accommodations or hotel rooms to collect and pay the tax. The
4 owner or operator of the transient space marketplace shall agree to
5 be personally liable for the collection and payment of the tax on
6 behalf of a person engaged in the business of providing transient
7 accommodations or hotel rooms.

8 For purposes of this section, "person" includes: an individual,
9 partnership, corporation, or an officer, director, stockholder, or
10 employee of a corporation, or a member or employee of a
11 partnership, who as such officer, director, stockholder, employee, or
12 member is under the duty to perform the act in respect of which the
13 violation occurs.

14 An assessment imposed under this section shall be in addition to
15 any other tax or fee imposed pursuant to statute or local ordinance
16 or resolution by any governmental entity.

17 c. Assessment revenue shall be collected by the Director of the
18 Division of Taxation and shall be deposited by the Director of the
19 Division of Taxation into the intermunicipal account established
20 pursuant to section 53 of P.L.2015, c.19 (C.5:10A-53), and shall be
21 used to pay meadowlands adjustment payments to municipalities in
22 the Meadowlands district pursuant to the provisions of sections 1
23 through 68 of P.L.2015, c.19 (C.5:10A-1 et seq.). If in any year,
24 assessment revenue in the intermunicipal account exceeds the
25 amount necessary to pay meadowlands adjustment payments to
26 municipalities in the Meadowlands district, that remaining
27 assessment revenue may be used for the purposes set forth in
28 subsection e. of this section.

29 d. In the event sufficient assessment revenue is unavailable in
30 any year to pay all of the required meadowlands adjustment
31 payments to municipalities in the Meadowlands district, the State
32 Treasurer shall provide the commission with such funds as may be
33 necessary to make all of the required payments to those
34 municipalities.

35 e. In the event that in any year, after the required meadowlands
36 adjustment payments have been made to municipalities in the
37 Meadowlands district, assessment revenue remains in the
38 intermunicipal account, that remaining assessment revenue may be
39 used in that year for the following purposes:

40 (1) the commission may perform projects in the areas of flood
41 control, traffic, renewable energy, or other infrastructure
42 improvement projects and utilize monies from the project fund for
43 property acquisition, demolition, clearance, removal, relocation,
44 renovation, alteration, construction, reconstruction, installation, or
45 repair of a structure or improvement, and the costs associated
46 therewith including the costs of appraisal, economic and
47 environmental analyses or engineering, planning, design,
48 architectural, surveying, or other professional services;

1 (2) the commission may expend funds towards the promotion of
2 the Meadowlands district as a tourism destination;

3 (3) the commission may fund the acquisition of property for the
4 purpose of open space preservation and the costs associated
5 therewith including the costs of appraisal, economic and
6 environmental analyses or engineering, surveying, or other
7 professional services; or

8 (4) the commission may fund the creation of parks and other
9 recreational facilities and the costs associated therewith, including
10 the costs of appraisal, economic and environmental analyses or
11 engineering planning, design, architectural, surveying, or other
12 professional services.

13 Not later than the first day of the third month next following the
14 enactment of P.L.2015, c.19 (C.5:10A-1 et al.) and pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), the commission shall adopt, by resolution, standards for the
17 disbursement in any year of any remaining assessment revenue for
18 projects and uses set forth in subsection e. of this section.

19 f. Terms used in this section shall have the meaning given
20 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
21 (cf: P.L.2015, c.72, s.28)

22

23 3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
24 read as follows:

25 3. As used in this act:

26 "Authority" means the New Jersey Economic Development
27 Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et
28 seq.).

29 "Developer" means any person or entity, whether public or
30 private, including a State entity, that proposes to undertake a project
31 pursuant to a development agreement.

32 "District" or "sports and entertainment district" means a
33 geographic area which includes a project as set forth in the
34 ordinance pursuant to section 4 of P.L.2007, c.30 (C.34:1B-193).

35 "Eligible municipality" means a municipality: (1) in which is
36 located part of an urban enterprise zone that has been designated
37 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
38 supplement thereto; and (2) which has a population greater than
39 25,000 and less than 29,000 according to the latest federal decennial
40 census in a county of the third class with a population density
41 greater than 295 and less than 304 persons per square mile
42 according to the latest federal decennial census.

43 "Infrastructure improvements" means the construction or
44 rehabilitation of any street, highway, utility, transportation or
45 parking facilities, or other similar improvements; the acquisition of
46 any interest in land as necessary or convenient for the acquisition of
47 any right-of-way or other easement for the purpose of constructing
48 infrastructure improvements; the acquisition, construction or

1 reconstruction of land and site improvements, including demolition,
2 clearance, removal, construction, reconstruction, fill, environmental
3 enhancement or abatement, or other site preparation for
4 development of a sports and entertainment district.

5 "Project" means a sports and entertainment facility and may
6 include infrastructure improvements that are associated with the
7 sports and entertainment facility.

8 "Project cost" means the cost of a project, including the
9 financing, acquisition, development, construction, redevelopment,
10 rehabilitation, reconstruction and improvement costs thereof,
11 financing costs and the administrative costs, including any
12 administrative costs of the authority if bonds are issued pursuant to
13 section 16 of P.L.2007, c.30 (C.34:1B-205) and incurred in
14 connection with a sports and entertainment facility which is
15 financed, in whole or in part, by the revenues dedicated by a
16 municipality to a project as authorized pursuant to section 5 of
17 P.L.2007, c.30 (C.34:1B-194).

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

22 "Sports and entertainment facility" means any privately or
23 publicly owned or operated facility located in a sports and
24 entertainment district that is used primarily for sports contests,
25 entertainment, or both, such as a theater, stadium, museum, arena,
26 automobile racetrack, or other place where performances, concerts,
27 exhibits, games or contests are held.

28 "State Treasurer" or "treasurer" means the treasurer of the State
29 of New Jersey.

30 "Transient accommodation" means a room, group of rooms, or
31 other living or sleeping space for the lodging of occupants,
32 including but not limited to residences or buildings used as
33 residences. "Transient accommodation" does not include: a hotel or
34 hotel room; a room, group of rooms, or other living or sleeping
35 space used as a place of assembly; a dormitory or other similar
36 residential facility of an elementary or secondary school or a
37 college or university; a hospital, nursing home, or other similar
38 residential facility of a provider of services for the care, support and
39 treatment of individuals that is licensed by the State; a cabin, lean-
40 to, or other similar residential facility of an adult or youth camp; or
41 a room, group of rooms, or other living or sleeping space listed with
42 a real estate agent or real estate broker licensed by the New Jersey
43 Real Estate Commission pursuant to R.S.45:15-1 et seq.

44 "Transient space marketplace" means an online marketplace
45 through which a person may offer transient accommodations or
46 hotel rooms to individuals. A "transient space marketplace" allows
47 transient accommodations or hotel rooms to be advertised or listed
48 through an online marketplace and provides a means for a customer

1 to arrange for the occupancy of the transient accommodation or
2 hotel room in exchange for consideration directly through the online
3 marketplace.

4 (cf: P.L.2007, c.30, s.3)

5

6 4. Section 5 of P.L.2007, c.30 (C.34:1B-194) is amended to
7 read as follows:

8 5. The governing body of a municipality that establishes a
9 sports and entertainment district may, as part of the ordinance
10 establishing the district: impose one or more of the taxes
11 enumerated in subsection a. of this section; dedicate some or all of
12 those taxes; and dedicate some or all of the taxes enumerated in
13 subsection b. of this section solely for the purposes of financing the
14 project costs of a sports and entertainment facility for the life of the
15 project, as appropriate, except that none of the taxes enumerated in
16 subsection a. or b. of this section shall be imposed or dedicated for
17 a period of more than 30 years.

18 a. The municipality may, by ordinance, impose any or all of the
19 following:

20 (1) a tax at the rate of 2% on the receipts from every sale within
21 the district of tangible personal property subject to taxation
22 pursuant to subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-
23 3);

24 (2) a tax at the rate of 2% on the receipts from every sale within
25 the district of food and drink subject to taxation pursuant to
26 subsection (c) of section 3 of P.L.1966, c.30 (C.54:32B-3);

27 (3) a tax at the rate of 2% on charges of rent for every
28 occupancy of a room or rooms in a hotel or transient
29 accommodation located within the district and subject to taxation
30 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-
31 3); or

32 (4) a tax at the rate of 2% on the admission charge to a place of
33 amusement within the district and subject to taxation pursuant to
34 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3).

35 b. The municipality may dedicate, by ordinance, any hotel and
36 motel occupancy tax revenues collected within the district that the
37 municipality is authorized to impose pursuant to section 3 of
38 P.L.2003, c.114 (C.40:48F-1) and, at the discretion of the
39 municipality, an additional charge of 2%.

40 c. A tax imposed under subsection a. of this section shall be in
41 addition to any other tax or fee imposed pursuant to statute or local
42 ordinance or resolution by any governmental entity upon the same
43 transaction.

44 d. A copy of an ordinance adopted pursuant to section 4 of
45 P.L.2007, c.30 (C.34:1B-193) shall be transmitted upon adoption or
46 amendment thereof to the State Treasurer. An ordinance so adopted
47 or any amendment thereto shall provide that the tax provisions of
48 the ordinance or any amendment to the tax provisions shall take

1 effect on the first day of the first full month occurring 90 days after
2 the date of transmittal to the State Treasurer.

3 e. A municipality that creates a district pursuant to section 4 of
4 P.L.2007, c.30 (C.34:1B-193), which overlaps, in whole or in part,
5 with an urban enterprise zone in which the receipts of certain sales
6 are exempt to the extent of 50% of the tax imposed under the "Sales
7 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), pursuant to
8 section 21 of P.L.1983, c.303 (C.52:27H-80), shall continue to
9 administer those sales tax revenues collected within the designated
10 urban enterprise zone as otherwise provided pursuant to P.L.1983,
11 c.303 (C.52:27H-60 et seq.).
12 (cf: P.L.2007, c.30, s.5)

13
14 5. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to
15 read as follows:

16 7. a. A tax imposed pursuant to a municipal ordinance adopted
17 under the provisions of subsection a. of section 5 of P.L.2007,
18 c.30 (C.34:1B-194) shall be collected on behalf of the municipality
19 by the person collecting the receipts, charges or rent from the
20 customer.

21 b. Each person required to collect a tax imposed by the
22 ordinance shall be personally liable for the tax imposed, collected
23 or required to be collected hereunder. Any such person shall have
24 the same right in respect to collecting the tax from a customer as if
25 the tax were a part of the rent and payable at the same time;
26 provided, however, that the chief fiscal officer of the municipality
27 shall be joined as a party in any action or proceeding brought to
28 collect the tax.

29 c. Notwithstanding any other provision of this section to the
30 contrary, the Director of the Division of Taxation in the Department
31 of the Treasury may enter into an agreement with the owner or
32 operator of a transient space marketplace for the purpose of
33 collection and payment of the tax for transactions solely
34 consummated through the transient space marketplace. Upon
35 entering an agreement with the owner or operator of a transient
36 space marketplace, the director may waive the responsibility of a
37 person engaged in the business of providing transient
38 accommodations or hotel rooms to collect and pay the tax. The
39 owner or operator of the transient space marketplace shall agree to
40 be personally liable for the collection and payment of the tax on
41 behalf of a person engaged in the business of providing transient
42 accommodations or hotel rooms.

43 (cf: P.L.2007, c.30, s.7)

44
45 6. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to
46 read as follows:

47 2. As used in this act:

48 "Retail sale" or "sale at retail" means and includes:

- 1 (1) Any sale in the ordinary course of business for consumption
2 of whiskey, beer or other alcoholic beverages by the drink in
3 restaurants, cafes, bars, hotels and other similar establishments;
- 4 (2) Any cover charge, minimum charge, entertainment, or other
5 similar charge made to any patron of any restaurant, cafe, bar, hotel
6 or other similar establishment;
- 7 (3) The hiring, with or without service, of any room in any
8 hotel, transient accommodation, inn, rooming or boarding house;
- 9 (4) The hiring of any rolling chair, beach chair or cabana; and
- 10 (5) The granting or sale of any ticket, license or permit for
11 admission to any theatre, moving picture exhibition or show, pier,
12 exhibition, or place of amusement, except charges for admission to
13 boxing, wrestling, kick boxing or combative sports events, matches,
14 or exhibitions, which charges are taxed pursuant to section 20 of
15 P.L. 1985, c. 83 (C. 5:2A-20).
- 16 "Vendor" means any person selling or hiring property or services
17 to another person upon the receipts from which a tax is imposed.
- 18 "Purchaser" means any person purchasing or hiring property or
19 services from another person, the receipts from which are taxable.
- 20 "Residence" means a house, condominium, or other residential
21 dwelling unit in a building or structure or part of a building or
22 structure that is designed, constructed, leased, rented, let or hired
23 out, or otherwise made available for use as a residence.
- 24 "Transient accommodation" means a room, group of rooms, or
25 other living or sleeping space for the lodging of occupants,
26 including but not limited to residences or buildings used as
27 residences. "Transient accommodation" does not include: a hotel or
28 hotel room; a room, group of rooms, or other living or sleeping
29 space used as a place of assembly; a dormitory or other similar
30 residential facility of an elementary or secondary school or a
31 college or university; a hospital, nursing home, or other similar
32 residential facility of a provider of services for the care, support and
33 treatment of individuals that is licensed by the State; a cabin, lean-
34 to, or other similar residential facility of an adult or youth camp; or
35 a room, group of rooms, or other living or sleeping space listed with
36 a real estate agent or real estate broker licensed by the New Jersey
37 Real Estate Commission pursuant to R.S.45:15-1 et seq.
- 38 "Transient space marketplace" means an online marketplace
39 through which a person may offer transient accommodations or
40 hotel rooms to individuals. A "transient space marketplace" allows
41 transient accommodations or hotel rooms to be advertised or listed
42 through an online marketplace and provides a means for a customer
43 to arrange for the occupancy of the transient accommodation or
44 hotel room in exchange for consideration directly through the online
45 marketplace.
- 46 (cf: P.L.1985, c.83, s.34)

1 7. Section 5 of P.L.1947, c.71 (C.40:48-8.19) is amended to
2 read as follows:

3 5. Such ordinance shall provide for the collection of such tax
4 by an officer of such municipality who shall be designated in such
5 ordinance; shall provide methods for enforcement; and may provide
6 penalties for the violation of any of the provisions of such
7 ordinance.

8 The officer of a municipality may enter into an agreement with
9 the owner or operator of a transient space marketplace for the
10 purpose of collection and payment of the tax for transactions solely
11 consummated through the transient space marketplace. Upon
12 entering an agreement with the owner or operator of a transient
13 space marketplace, the officer may waive the responsibility of a
14 person engaged in the business of providing transient
15 accommodations or hotel rooms to collect and pay the tax. The
16 owner or operator of the transient space marketplace shall agree to
17 be personally liable for the collection and payment of the tax on
18 behalf of a person engaged in the business of providing transient
19 accommodations or hotel rooms.

20 (cf: P.L.1947, c.71, s.5)

21

22 8. Section 1 of P.L.1991, c.376 (C.40:48-8.45) is amended to
23 read as follows:

24 1. As used in this act:

25 a. "Convention center operating authority" means, in the case
26 of any eligible municipality, the public authority or other
27 governmental entity empowered to operate convention hall and the
28 convention center facilities in the eligible municipality.

29 b. "Director" means the Director of the Division of Taxation in
30 the Department of the Treasury.

31 c. "Eligible municipality" means any municipality in which any
32 portion of the proceeds of a retail sales tax levied by ordinance
33 adopted by the municipality pursuant to section 1 of P.L.1947,
34 c.71 (C.40:48-8.15) is applied as authorized by law to the payment
35 of costs of convention center facilities located in the municipality.

36 d. "Hotel" means a building or a portion of a building which is
37 regularly used and kept open for the lodging of guests and includes
38 a hotel, motel, inn, and rooming or boarding house, whether or not
39 meals are served.

40 e. "Occupied room" means a room or rooms of any kind in any
41 part of a hotel or transient accommodation, other than a place of
42 assembly, which is used or possessed by a guest or guests, whether
43 or not for consideration.

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

1 g. “Transient accommodation” means a room, group of rooms,
2 or other living or sleeping space for the lodging of occupants,
3 including but not limited to residences or buildings used as
4 residences. “Transient accommodation” does not include: a hotel or
5 hotel room; a room, group of rooms, or other living or sleeping
6 space used as a place of assembly; a dormitory or other similar
7 residential facility of an elementary or secondary school or a
8 college or university; a hospital, nursing home, or other similar
9 residential facility of a provider of services for the care, support and
10 treatment of individuals that is licensed by the State; a cabin, lean-
11 to, or other similar residential facility of an adult or youth camp; or
12 a room, group of rooms, or other living or sleeping space listed with
13 a real estate agent or real estate broker licensed by the New Jersey
14 Real Estate Commission pursuant to R.S.45:15-1 et seq.

15 h. “Transient space marketplace” means an online marketplace
16 through which a person may offer transient accommodations or
17 hotel rooms to individuals. A “transient space marketplace” allows
18 transient accommodations or hotel rooms to be advertised or listed
19 through an online marketplace and provides a means for a customer
20 to arrange for the occupancy of the transient accommodation or
21 hotel room in exchange for consideration directly through the online
22 marketplace.

23 (cf: P.L.1991, c.376, s.1)

24
25 9. Section 2 of P.L.1991, c.376 (C.40:48-8.46) is amended to
26 read as follows:

27 2. There is authorized to be imposed on and collected from
28 hotels and transient accommodations in an eligible municipality,
29 fees for the promotion of tourism, conventions, resorts and casino
30 gaming, if any, in the eligible municipality.

31 (cf: P.L.1991, c.376, s.2)

32
33 10. Section 4 of P.L.1991, c.376 (C.40:48-8.48) is amended to
34 read as follows:

35 4. Fees under this act with respect to any eligible municipality
36 shall be adopted by resolution of the convention center operating
37 authority operating convention center facilities within the eligible
38 municipality. The rate thereof shall be \$2 per day for each occupied
39 room in the case of any hotels in the eligible municipality which
40 provide casino gaming, and \$1 per day for each occupied room in
41 the case of the other hotels or transient accommodations in the
42 eligible municipality. A certified copy of the resolution shall be
43 provided to the State Treasurer and the director.

44 (cf: P.L.1991, c.376, s.4)

45
46 11. Section 5 of P.L.1991, c.376 (C.40:48-8.49) is amended to
47 read as follows:

1 5. The fees under this act shall be collected and administered
2 by the director, notwithstanding the provisions of any other law to
3 the contrary. In carrying out the provisions of this section, the
4 director shall have all the powers granted in P.L.1966,
5 c.30 (C.54:32B-1 et seq.). The director shall determine and certify
6 to the State Treasurer on a monthly basis the amount of revenues
7 collected by the director pursuant to this section on account of the
8 fees imposed pursuant to this act in an eligible municipality which
9 are payable to the convention center operating authority operating
10 convention center facilities in such eligible municipality. The State
11 Treasurer upon the certification of the director and upon the warrant
12 of the State Comptroller, shall pay and distribute on a monthly basis
13 to the convention center operating authority the amount so
14 determined and certified.

15 The director may enter into an agreement with the owner or
16 operator of a transient space marketplace for the purpose of
17 collection and payment of the fee for transactions solely
18 consummated through the transient space marketplace. Upon
19 entering an agreement with the owner or operator of a transient
20 space marketplace, the director may waive the responsibility of a
21 person engaged in the business of providing transient
22 accommodations or hotel rooms to collect and pay the fee. The
23 owner or operator of the transient space marketplace shall agree to
24 be personally liable for the collection and payment of the fee on
25 behalf of a person engaged in the business of providing transient
26 accommodations or hotel rooms.

27 (cf: P.L.1991, c.376, s.5)

28

29 12. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
30 as follows:

31 2. As used in this act "hotel" means a building or portion of it
32 which is regularly used and kept open as such for the lodging of
33 guests, and includes an apartment hotel, a motel, boarding house or
34 club, whether or not meals are served.

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

39 "Transient accommodation" means a room, group of rooms, or
40 other living or sleeping space for the lodging of occupants,
41 including but not limited to residences or buildings used as
42 residences. "Transient accommodation" does not include: a hotel or
43 hotel room; a room, group of rooms, or other living or sleeping
44 space used as a place of assembly; a dormitory or other similar
45 residential facility of an elementary or secondary school or a
46 college or university; a hospital, nursing home, or other similar
47 residential facility of a provider of services for the care, support and
48 treatment of individuals that is licensed by the State; a cabin, lean-

1 to, or other similar residential facility of an adult or youth camp; or
2 a room, group of rooms, or other living or sleeping space listed with
3 a real estate agent or real estate broker licensed by the New Jersey
4 Real Estate Commission pursuant to R.S.45:15-1 et seq.

5 “Transient space marketplace” means an online marketplace
6 through which a person may offer transient accommodations or
7 hotel rooms to individuals. A “transient space marketplace” allows
8 transient accommodations or hotel rooms to be advertised or listed
9 through an online marketplace and provides a means for a customer
10 to arrange for the occupancy of the transient accommodation or
11 hotel room in exchange for consideration directly through the online
12 marketplace.

13 (cf: P.L.1981, c.77, s.2)

14
15 13. Section 3 of P.L.1981, c.77 (C.40:48E-3) is amended to read
16 as follows:

17 3. The governing body of any city of the first class or the
18 governing body of any city of the second class in which there is
19 located a terminal of an international airport may make, amend,
20 repeal and enforce an ordinance imposing in the city a tax, not to
21 exceed 6%, on charges for the use or occupation of rooms in hotels
22 or transient accommodations which tax shall be in addition to any
23 other tax imposed by law.

24 (cf: P.L.1991, c.23, s.3)

25
26 14. Section 4 of P.L.1981, c.77 (C.40:48E-4) is amended to read
27 as follows:

28 4. a. The tax shall be collected on behalf of the city by the
29 person collecting the use or occupancy charge from the hotel or
30 transient accommodation customer.

31 b. Every person required to collect any tax imposed by the
32 ordinance shall be personally liable for the tax imposed, collected
33 or required to be collected hereunder. Any such person shall have
34 the same right in respect to collecting the tax from his customer as
35 if the tax were a part of the use or occupancy charge and payable at
36 the same time; provided, however, that the chief fiscal officer of the
37 city shall be joined as a party in any action or proceeding brought to
38 collect the tax.

39 c. The chief fiscal officer of a municipality may enter into an
40 agreement with the owner or operator of a transient space
41 marketplace for the purpose of collection and payment of the tax for
42 transactions solely consummated through the transient space
43 marketplace. Upon entering an agreement with the owner or
44 operator of a transient space marketplace, the officer may waive the
45 responsibility of a person engaged in the business of providing
46 transient accommodations or hotel rooms to collect and pay the tax.
47 The owner or operator of the transient space marketplace shall
48 agree to be personally liable for the collection and payment of the

1 tax on behalf of a person engaged in the business of providing
2 transient accommodations or hotel rooms.

3 **【c.】** d. No person required to collect any tax hereunder shall
4 advertise or hold out to any person or to the public in general, in
5 any manner, directly or indirectly, that the tax will not be separately
6 charged and stated to the customer or that the tax will be refunded
7 to the customer.

8 **【d.】** e. All revenues collected from the tax shall be remitted to
9 the chief fiscal officer of the city on or before the dates on which
10 municipal real property taxes are due.

11 **【e.】** f. The city shall enforce the payment of delinquent hotel
12 occupancy taxes in the same manner as provided for municipal real
13 property taxes.

14 (cf: P.L.1981, c.77, s.4)

15

16 15. Section 3 of P.L.2003, c.114 (C.40:48F-1) is amended to
17 read as follows:

18 3. The governing body of a municipality, other than a city of
19 the first class or a city of the second class in which the tax
20 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a
21 city of the fourth class in which the tax authorized under P.L.1947,
22 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which
23 the tax and assessment authorized under section 4 of P.L.1992,
24 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a
25 tax, at a uniform percentage rate not to exceed 1% on charges of
26 rent for every occupancy on or after July 1, 2003 but before July 1,
27 2004, and not to exceed 3% on charges of rent for every occupancy
28 on or after July 1, 2004, of a room or rooms in a hotel or transient
29 accommodation subject to taxation pursuant to subsection (d) of
30 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted
31 may also require that unpaid taxes under this section shall be
32 subject to interest at the rate of 5% per annum.

33 A tax imposed under this section shall be in addition to any other
34 tax or fee imposed pursuant to statute or local ordinance or
35 resolution by any governmental entity upon the occupancy of a
36 hotel room.

37 A copy of an ordinance adopted pursuant to this section shall be
38 transmitted upon adoption or amendment to the State Treasurer,
39 together with a list of the names and addresses of all of the hotels
40 and motels located in the municipality. An ordinance so adopted or
41 any amendment thereto shall provide that the tax provisions of the
42 ordinance or any amendment to the tax provisions shall take effect
43 on the first day of the first full month occurring 30 days after the
44 date of transmittal to the State Treasurer for ordinances adopted in
45 calendar year 2003 and on the first day of the first full month
46 occurring 90 days after the date of transmittal to the State Treasurer
47 for ordinances adopted in calendar year 2004 and thereafter.

1 A municipality that has adopted an ordinance pursuant to this
2 section shall annually provide to the State Treasurer, not later than
3 January 1 of each year, a list of the names and addresses of all of
4 the hotels and motels located in the municipality. A municipality
5 shall also provide to the State Treasurer the name and address of
6 any hotel or motel that commences operation after January 1 of any
7 year.

8 (cf: P.L.2010, c.55, s.1)

9

10 16. Section 5 of P.L.2003, c.114 (C.40:48F-3) is amended to
11 read as follows:

12 5. a. A tax imposed pursuant to a municipal ordinance adopted
13 under the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1)
14 shall be collected on behalf of the municipality by the person
15 collecting the rent from the hotel customer.

16 b. Each person required to collect a tax imposed by the
17 ordinance shall be personally liable for the tax imposed, collected
18 or required to be collected hereunder. Any such person shall have
19 the same right in respect to collecting the tax from a customer as if
20 the tax were a part of the rent and payable at the same time;
21 provided, however, that the chief fiscal officer of the municipality
22 shall be joined as a party in any action or proceeding brought to
23 collect the tax.

24 c. Notwithstanding any other provision of this section to the
25 contrary, the Director of the Division of Taxation in the Department
26 of the Treasury may enter into an agreement with the owner or
27 operator of a transient space marketplace for the purpose of
28 collection and payment of the tax for transactions solely
29 consummated through the transient space marketplace. Upon
30 entering an agreement with the owner or operator of a transient
31 space marketplace, the director may waive the responsibility of a
32 person engaged in the business of providing transient
33 accommodations or hotel rooms to collect and pay the tax. The
34 owner or operator of the transient space marketplace shall agree to
35 be personally liable for the collection and payment of the tax on
36 behalf of a person engaged in the business of providing transient
37 accommodations or hotel rooms.

38 (cf: P.L.2003, c.114, s.5)

39

40 17. Section 3 of P.L.1992, c.165 (C.40:54D-3) is amended to
41 read as follows:

42 3. As used in this act:

43 "Authority" means a tourism improvement and development
44 authority created pursuant to section 18 of this act, P.L.1992,
45 c.165 (C.40:54D-18).

46 "Beach operation offset payment " means a payment made by an
47 authority to municipalities in its district for tourism development
48 activities related to operating and maintaining public beaches within

1 a zone to seaward of a line of demarcation located not more than
2 1,000 feet from the mean high water line.

3 "Bond" means any bond or note issued by an authority pursuant
4 to the provisions of this act.

5 "Commissioner" means the Commissioner of the Department of
6 Commerce and Economic Development.

7 "Construction" means the planning, designing, construction,
8 reconstruction, rehabilitation, replacement, repair, extension,
9 enlargement, improvement and betterment of a project, and includes
10 the demolition, clearance and removal of buildings or structures on
11 land acquired, held, leased or used for a project.

12 "Convention center facility" means any convention hall or center
13 or like structure or building, and shall include all facilities,
14 including commercial, office, community service, parking facilities
15 and all property rights, easements and interests, and other facilities
16 constructed for the accommodation and entertainment of tourists
17 and visitors, constructed in conjunction with a convention center
18 facility and forming reasonable appurtenances thereto but does not
19 mean the Wildwood convention center facility as defined in this
20 section.

21 "Tourism project" means the convention center facility or
22 outdoor special events arena, or both, located in the territorial limits
23 of the district, and any costs associated therewith but does not mean
24 the Wildwood convention center facility as defined in this section.

25 "Cost" means all or any part of the expenses incurred in
26 connection with the acquisition, construction and maintenance of
27 any real property, lands, structures, real or personal property rights,
28 rights-of-way, franchises, easements, and interests acquired or used
29 for a project; any financing charges and reserves for the payment of
30 principal and interest on bonds or notes; the expenses of
31 engineering, appraisal, architectural, accounting, financial and legal
32 services; and other expenses as may be necessary or incident to the
33 acquisition, construction and maintenance of a project, the
34 financing thereof and the placing of the project into operation.

35 "County" means a county of the sixth class.

36 "Director" means the Director of the Division of Taxation in the
37 Department of the Treasury.

38 "Fund" means a Reserve Fund created pursuant to section 13 of
39 P.L.1992, c.165 (C.40:54D-13).

40 "Outdoor special events arena" means a facility or structure for
41 the holding outdoors of public events, entertainments, sporting
42 events, concerts or similar activities, and shall include all facilities,
43 property rights and interests, and all appurtenances reasonably
44 related thereto, constructed for the accommodation and
45 entertainment of tourists and visitors.

46 "Participant amusement" means a sporting activity or amusement
47 the charge for which is exempt from taxation under the "Sales and
48 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the

1 participation of the patron in the activity or amusement, such as
2 bowling alleys, swimming pools, water slides, miniature golf,
3 boardwalk or carnival games and amusements, baseball batting
4 cages, tennis courts, and fishing and sightseeing boats.

5 "Predominantly tourism related retail receipts" means:

6 a. The rent for every occupancy of a room or rooms in a hotel
7 or transient accommodation subject to taxation pursuant to
8 subsection (d) of section 3 of the "Sales and Use Tax Act,"
9 P.L.1966, c.30 (C.54:32B-3);

10 b. Receipts from the sale of food and drink in or by restaurants,
11 taverns, or other establishments in the district, or by caterers,
12 including in the amount of such receipt any cover, minimum,
13 entertainment or other charge made to patrons or customers, subject
14 to taxation pursuant to subsection (c) of section 3 of the "Sales and
15 Use Tax Act," P.L.1966, c.30 (C.54:32B-3) but excluding receipts
16 from sales of food and beverages sold through coin operated
17 vending machines; and

18 c. Admissions charges to or the use of any place of amusement
19 or of any roof garden, cabaret or similar place, subject to taxation
20 pursuant to subsection (e) of section 3 of the "Sales and Use Tax
21 Act," P.L.1966, c.30 (C.54:32B-3).

22 "Purchaser" means any person purchasing or hiring property or
23 services from another person, the receipts or charges from which
24 are taxable by an ordinance authorized under P.L.1992,
25 c.165 (C.40:54D-1 et seq.).

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

30 "Sports authority" means the New Jersey Sports and Exposition
31 Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et
32 seq.).

33 "Tourism" means activities involved in providing and marketing
34 services and products, including accommodations, for nonresidents
35 and residents who travel to and in New Jersey for recreation and
36 pleasure.

37 "Tourism assessment" means an assessment on the rent for every
38 occupancy of a room or rooms in a hotel or transient
39 accommodation subject to taxation pursuant to subsection (d) of
40 section 3 of the "Sales and Use Tax Act," P.L.1966,
41 c.30 (C.54:32B-3).

42 "Tourism development activities" include operations of the
43 authority to carry out its statutory duty to promote, advertise and
44 market the district, including making beach operation offset
45 payments.

46 "Tourism development fee" means a fee imposed by ordinance
47 pursuant to section 15 of P.L.1992, c.165 (C.40:54D-15).

1 "Tourism improvement and development district" or "district"
2 means an area within two or more contiguous municipalities within
3 a county of the sixth class established pursuant to ordinance enacted
4 by those municipalities, for the purposes of promoting the
5 acquisition, construction, maintenance, operation and support of a
6 tourism project, and to devote the revenue and the proceeds from
7 taxes upon predominantly tourism related retail receipts and from
8 tourism development fees to the purposes as herein defined.

9 "Tourist industry" means the industry consisting of private and
10 public organizations which directly or indirectly provide services
11 and products to nonresidents and residents who travel to and in New
12 Jersey for recreation and pleasure.

13 "Tourism lodging" means any dwelling unit, other than a
14 dwelling unit in a hotel the rent for which is subject to taxation
15 under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et
16 seq.), regardless of the form of ownership of the unit, rented with or
17 without a lease, whether rented by the owner or by an agent for the
18 owner.

19 "Transient accommodation" means a room, group of rooms, or
20 other living or sleeping space for the lodging of occupants,
21 including but not limited to residences or buildings used as
22 residences. "Transient accommodation" does not include: a hotel or
23 hotel room; a room, group of rooms, or other living or sleeping
24 space used as a place of assembly; a dormitory or other similar
25 residential facility of an elementary or secondary school or a
26 college or university; a hospital, nursing home, or other similar
27 residential facility of a provider of services for the care, support and
28 treatment of individuals that is licensed by the State; a cabin, lean-
29 to, or other similar residential facility of an adult or youth camp; or
30 a room, group of rooms, or other living or sleeping space listed with
31 a real estate agent or real estate broker licensed by the New Jersey
32 Real Estate Commission pursuant to R.S.45:15-1 et seq.

33 "Transient space marketplace" means an online marketplace
34 through which a person may offer transient accommodations or
35 hotel rooms to individuals. A "transient space marketplace" allows
36 transient accommodations or hotel rooms to be advertised or listed
37 through an online marketplace and provides a means for a customer
38 to arrange for the occupancy of the transient accommodation or
39 hotel room in exchange for consideration directly through the online
40 marketplace.

41 "Vendor" means a person selling or hiring property or services to
42 another person, the receipts or charges from which are taxable by an
43 ordinance authorized under P.L.1992, c.165 (C.40:54D-1 et seq.).

44 "Wildwood convention center facility" means the project
45 authorized by paragraph (12) of subsection a. of section 6 of
46 P.L.1971, c.137 (C.5:10-6).
47 (cf: P.L.2005, c.78, s.1)

1 18. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to
2 read as follows:

3 9. a. (1) A vendor required to collect the tax upon
4 predominantly tourism related retail receipts or tourism assessment
5 imposed pursuant to this act shall on or before the dates required
6 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to
7 the director the tax and assessments collected in the preceding
8 month and make and file a return for the preceding month with the
9 director on any form and containing any information as the Director
10 of the Division of Taxation in the Department of the Treasury shall
11 prescribe by rule or regulation as necessary to determine liability
12 for the tax and assessment in the preceding month during which the
13 person was required to collect the tax.

14 (2) A vendor required to collect the tax upon predominantly
15 tourism related retail receipts and the tourism assessment shall be
16 personally liable for the tax or assessment imposed, collected, or
17 required to be paid, collected, or remitted under section 4 of
18 P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the
19 same right in respect to collecting the tax or assessment from that
20 vendor's customer or in respect to non-payment of the tax or
21 assessment by the customer as if the tax or assessment were a part
22 of the purchase price of the property or service, amusement charge
23 or rent, as the case may be, and payable at the same time; provided
24 however, that the director shall be joined as a party in any action or
25 proceeding brought to collect the tax or assessment.

26 For purposes of this paragraph, "vendor" includes: an individual,
27 partnership, corporation, or an officer, director, stockholder, or
28 employee of a corporation, or a member or employee of a
29 partnership, who as such officer, director, stockholder, employee, or
30 member is under the duty to perform the act in respect of which the
31 violation occurs.

32 (3) Notwithstanding any other provision of this section to the
33 contrary, the Director of the Division of Taxation in the Department
34 of the Treasury may enter into an agreement with the owner or
35 operator of a transient space marketplace for the purpose of
36 collection and payment of the tax for transactions solely
37 consummated through the transient space marketplace. Upon
38 entering an agreement with the owner or operator of a transient
39 space marketplace, the director may waive the responsibility of a
40 person engaged in the business of providing transient
41 accommodations or hotel rooms to collect and pay the tax. The
42 owner or operator of the transient space marketplace shall agree to
43 be personally liable for the collection and payment of the tax on
44 behalf of a person engaged in the business of providing transient
45 accommodations or hotel rooms.

46 b. The director may permit or require returns to be made
47 covering other periods and upon any dates as the director may
48 specify. In addition, the director may require payments of tax and

1 assessment liability at any intervals and based upon any
2 classifications as the director may designate. In prescribing any
3 other periods to be covered by the return or intervals or
4 classifications for payment of tax and assessment liability, the
5 director may take into account the dollar volume of tax and
6 assessment involved as well as the need for ensuring the prompt and
7 orderly collection of the tax imposed.

8 c. The director may require amended returns to be filed within
9 20 days after notice and to contain the information specified in the
10 notice.

11 d. The director shall inform the authority for each month in
12 which this tax and assessment is collected and returns made of the
13 amount so collected in each month.

14 (cf: P.L.2007, c.102, s.1)

15

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

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

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

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

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

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

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

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

1 electronically for further commercial broadcast, rebroadcast,
2 transmission, retransmission, licensing, relicensing, distribution,
3 redistribution or exhibition of the product, in whole or in part, to
4 another person, other than rights to redistribute based on statutory
5 or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

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

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

43 (h) "Use" means the exercise of any right or power over tangible
44 personal property, specified digital products, services to property or
45 products, or services by the purchaser thereof and includes, but is
46 not limited to, the receiving, storage or any keeping or retention for
47 any length of time, withdrawal from storage, any distribution, any
48 installation, any affixation to real or personal property, or any

1 consumption of such property or products. Use also includes the
2 exercise of any right or power over intrastate or interstate
3 telecommunications and prepaid calling services. Use also includes
4 the exercise of any right or power over utility service. Use also
5 includes the derivation of a direct or indirect benefit from a service.

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

8 (1) The term "seller" includes:

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

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

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

23 A person making sales of tangible personal property, specified
24 digital products, or services taxable under the "Sales and Use Tax
25 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
26 soliciting business through an independent contractor or other
27 representative if the person making sales enters into an agreement
28 with an independent contractor having physical presence in this
29 State or other representative having physical presence in this State,
30 for a commission or other consideration, under which the
31 independent contractor or representative directly or indirectly refers
32 potential customers, whether by a link on an internet website or
33 otherwise, and the cumulative gross receipts from sales to
34 customers in this State who were referred by all independent
35 contractors or representatives that have this type of an agreement
36 with the person making sales are in excess of \$10,000 during the
37 preceding four quarterly periods ending on the last day of March,
38 June, September, and December. This presumption may be rebutted
39 by proof that the independent contractor or representative with
40 whom the person making sales has an agreement did not engage in
41 any solicitation in the State on behalf of the person that would
42 satisfy the nexus requirements of the United States Constitution
43 during the four quarterly periods in question. Nothing in this
44 subparagraph shall be construed to narrow the scope of the terms
45 independent contractor or other representative for purposes of any
46 other provision of the "Sales and Use Tax Act," P.L.1966,
47 c.30 (C.54:32B-1 et seq.);

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

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

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

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

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

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

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

41 (3) Notwithstanding any other provision of this section to the
42 contrary, the director may enter into an agreement with the owner
43 or operator of a transient space marketplace for the purpose of
44 collection and payment of the tax for transactions solely
45 consummated through the transient space marketplace. Upon
46 entering an agreement with the owner or operator of a transient
47 space marketplace, the director may waive the responsibility of a
48 person engaged in the business of providing transient

1 accommodations or hotel rooms to collect and pay the tax. The
2 owner or operator of the transient space marketplace shall agree to
3 be personally liable for the collection and payment of the tax on
4 behalf of a person engaged in the business of providing transient
5 accommodations or hotel rooms.

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

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

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

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

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

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

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

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

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

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

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

43 (u) "Casual sale" means an isolated or occasional sale of an item
44 of tangible personal property or a specified digital product by a
45 person who is not regularly engaged in the business of making retail
46 sales of such property or product where the item of tangible
47 personal property or the specified digital product was obtained by

1 the person making the sale, through purchase or otherwise, for the
2 person's own use.

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

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

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

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

1 c.126); and (9) services the benefit of which are received in this
2 State.

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

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

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

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

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

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

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

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

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

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

43 "Telecommunications service" shall include such transmission,
44 conveyance, or routing in which computer processing applications
45 are used to act on the form, code, or protocol of the content for
46 purposes of transmission, conveyance, or routing without regard to
47 whether such service is referred to as voice over Internet protocol

1 services or is classified by the Federal Communications
2 Commission as enhanced or value added.

3 "Telecommunications service" shall not include:

- 4 (1) (Deleted by amendment, P.L.2008, c.123);
- 5 (2) (Deleted by amendment, P.L.2008, c.123);
- 6 (3) (Deleted by amendment, P.L.2008, c.123);
- 7 (4) (Deleted by amendment, P.L.2008, c.123);
- 8 (5) (Deleted by amendment, P.L.2008, c.123);
- 9 (6) (Deleted by amendment, P.L.2008, c.123);
- 10 (7) data processing and information services that allow data to
11 be generated, acquired, stored, processed, or retrieved and delivered
12 by an electronic transmission to a purchaser where such purchaser's
13 primary purpose for the underlying transaction is the processed data
14 or information;
- 15 (8) installation or maintenance of wiring or equipment on a
16 customer's premises;
- 17 (9) tangible personal property;
- 18 (10) advertising, including but not limited to directory
19 advertising;
- 20 (11) billing and collection services provided to third parties;
- 21 (12) internet access service;
- 22 (13) radio and television audio and video programming services,
23 regardless of the medium, including the furnishing of transmission,
24 conveyance, and routing of such services by the programming
25 service provider. Radio and television audio and video
26 programming services shall include but not be limited to cable
27 service as defined in section 47 U.S.C. s.522(6) and audio and video
28 programming services delivered by commercial mobile radio
29 service providers, as defined in section 47 C.F.R. 20.3;
- 30 (14) ancillary services; or
- 31 (15) digital products delivered electronically, including but not
32 limited to software, music, video, reading materials, or ringtones.

33 For the purposes of this subsection:

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

38 "conference bridging service" means an ancillary service that
39 links two or more participants of an audio or video conference call
40 and may include the provision of a telephone number. Conference
41 bridging service does not include the telecommunications services
42 used to reach the conference bridge;

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

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

- 1 "vertical service" means an ancillary service that is offered in
2 connection with one or more telecommunications services, which
3 offers advanced calling features that allow customers to identify
4 callers and to manage multiple calls and call connections, including
5 conference bridging services; and
- 6 "voice mail service" means an ancillary service that enables the
7 customer to store, send, or receive recorded messages. Voice mail
8 service does not include any vertical service that a customer may be
9 required to have to utilize the voice mail service.
- 10 (dd) (1) "Intrastate telecommunications" means a
11 telecommunications service that originates in one United States
12 state or a United States territory or possession or federal district,
13 and terminates in the same United States state or United States
14 territory or possession or federal district.
- 15 (2) "Interstate telecommunications" means a
16 telecommunications service that originates in one United States
17 state or a United States territory or possession or federal district,
18 and terminates in a different United States state or United States
19 territory or possession or federal district.
- 20 (3) "International telecommunications" means a
21 telecommunications service that originates or terminates in the
22 United States and terminates or originates outside the United States,
23 respectively. "United States" includes the District of Columbia or a
24 United States territory or possession.
- 25 (ee) (Deleted by amendment, P.L.2008, c.123)
- 26 (ff) "Natural gas" means any gaseous fuel distributed through a
27 pipeline system.
- 28 (gg) "Energy" means natural gas or electricity.
- 29 (hh) "Utility service" means the transportation or transmission
30 of natural gas or electricity by means of mains, wires, lines or pipes,
31 to users or customers.
- 32 (ii) "Self-generation unit" means a facility located on the user's
33 property, or on property purchased or leased from the user by the
34 person owning the self-generation unit and such property is
35 contiguous to the user's property, which generates electricity to be
36 used only by that user on the user's property and is not transported
37 to the user over wires that cross a property line or public
38 thoroughfare unless the property line or public thoroughfare merely
39 bifurcates the user's or self-generation unit owner's otherwise
40 contiguous property.
- 41 (jj) "Co-generation facility" means a facility the primary
42 purpose of which is the sequential production of electricity and
43 steam or other forms of useful energy which are used for industrial
44 or commercial heating or cooling purposes and which is designated
45 by the Federal Energy Regulatory Commission, or its successor, as
46 a "qualifying facility" pursuant to the provisions of the "Public
47 Utility Regulatory Policies Act of 1978," Pub.L.95-617.

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

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

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

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

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

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

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

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

26 (D) Delivery charges;

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

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

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

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

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

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

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

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

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

- 1 (A) The seller actually receives consideration from a party other
2 than the purchaser and the consideration is directly related to a price
3 reduction or discount on the sale;
- 4 (B) The seller has an obligation to pass the price reduction or
5 discount through to the purchaser;
- 6 (C) The amount of the consideration attributable to the sale is
7 fixed and determinable by the seller at the time of the sale of the
8 item to the purchaser; and
- 9 (D) One of the following criteria is met:
- 10 (i) the purchaser presents a coupon, certificate, or other
11 documentation to the seller to claim a price reduction or discount
12 where the coupon, certificate, or documentation is authorized,
13 distributed, or granted by a third party with the understanding that
14 the third party will reimburse any seller to whom the coupon,
15 certificate, or documentation is presented;
- 16 (ii) the purchaser identifies himself to the seller as a member of
17 a group or organization entitled to a price reduction or discount;
18 provided however, that a preferred customer card that is available to
19 any patron does not constitute membership in such a group; or
- 20 (iii) the price reduction or discount is identified as a third party
21 price reduction or discount on the invoice received by the purchaser
22 or on a coupon, certificate, or other documentation presented by the
23 purchaser.
- 24 (4) In the case of a bundled transaction that includes a
25 telecommunications service, an ancillary service, internet access, or
26 an audio or video programming service, if the price is attributable to
27 products that are taxable and products that are nontaxable, the
28 portion of the price attributable to the nontaxable products is
29 subject to tax unless the provider can identify by reasonable and
30 verifiable standards such portion from its books and records that are
31 kept in the regular course of business for other purposes, including
32 non-tax purposes.
- 33 (pp) "Purchase price" means the measure subject to use tax and
34 has the same meaning as "sales price."
- 35 (qq) "Sales tax" means the tax imposed on certain transactions
36 pursuant to the provisions of the "Sales and Use Tax Act,"
37 P.L.1966, c.30 (C.54:32B-1 et seq.).
- 38 (rr) "Delivery charges" means charges by the seller for
39 preparation and delivery to a location designated by the purchaser
40 of personal property or services including, but not limited to,
41 transportation, shipping, postage, handling, crating, and packing. If
42 a shipment includes both exempt and taxable property, the seller
43 should allocate the delivery charge by using: (1) a percentage based
44 on the total sales price of the taxable property compared to the total
45 sales price of all property in the shipment; or (2) a percentage based
46 on the total weight of the taxable property compared to the total
47 weight of all property in the shipment. The seller shall tax the
48 percentage of the delivery charge allocated to the taxable property

1 but is not required to tax the percentage allocated to the exempt
2 property.

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

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

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

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

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

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

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

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

32 (3) armored car services; and

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

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

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

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

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

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

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

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

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

15 (ggg) "Transient accommodation" means a room, group of
16 rooms, or other living or sleeping space for the lodging of
17 occupants, including but not limited to residences or buildings used
18 as residences. "Transient accommodation" does not include: a hotel
19 or hotel room; a room, group of rooms, or other living or sleeping
20 space used as a place of assembly; a dormitory or other similar
21 residential facility of an elementary or secondary school or a
22 college or university; a hospital, nursing home, or other similar
23 residential facility of a provider of services for the care, support and
24 treatment of individuals that is licensed by the State; a cabin, lean-
25 to, or other similar residential facility of an adult or youth camp; or
26 a room, group of rooms, or other living or sleeping space listed with
27 a real estate agent or real estate broker licensed by the New Jersey
28 Real Estate Commission pursuant to R.S.45:15-1 et seq.

29 (hhh) "Transient space marketplace" means an online
30 marketplace through which a person may offer transient
31 accommodations or hotel rooms to individuals. A "transient space
32 marketplace" allows transient accommodations or hotel rooms to be
33 advertised or listed through an online marketplace and provides a
34 means for a customer to arrange for the occupancy of the transient
35 accommodation or hotel room in exchange for consideration
36 directly through the online marketplace.

37 (cf: P.L.2014, c.13, s.4)

38

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

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

45 (a) The receipts from every retail sale of tangible personal
46 property or a specified digital product for permanent use or less
47 than permanent use, and regardless of whether continued payment is
48 required, except as otherwise provided in this act.

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

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

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

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

32 "Space for storage" means secure areas, such as rooms, units,
33 compartments or containers, whether accessible from outside or
34 from within a building, that are designated for the use of a customer
35 and wherein the customer has free access within reasonable
36 business hours, or upon reasonable notice to the furnisher of space
37 for storage, to store and retrieve property. Space for storage shall
38 not include the lease or rental of an entire building, such as a
39 warehouse or airplane hangar.

40 (4) Maintaining, servicing or repairing real property, other than
41 a residential heating system unit serving not more than three
42 families living independently of each other and doing their cooking
43 on the premises, whether the services are performed in or outside of
44 a building, as distinguished from adding to or improving such real
45 property by a capital improvement, but excluding services rendered
46 by an individual who is not in a regular trade or business offering
47 his services to the public, and excluding garbage removal and sewer

1 services performed on a regular contractual basis for a term not less
2 than 30 days.

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

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

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

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

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

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

17 (11) Investigation and security services.

18 (12) Information services.

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

22 (14) Telephone answering services.

23 (15) Radio subscription services.

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

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

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

46 (2) Receipts from sales of food and beverages sold through
47 vending machines, at the wholesale price of such sale, which shall
48 be defined as 70% of the retail vending machine selling price,

1 except sales of milk, which shall not be taxed. Nothing herein
2 contained shall affect other sales through coin-operated vending
3 machines taxable pursuant to subsection (a) above or the exemption
4 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

7 (3) For the purposes of this subsection:

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

11 "Prepared food" means:

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

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

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

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

27 A. food sold by a seller whose proper primary NAICS
28 classification is manufacturing in section 311, except subsector
29 3118 (bakeries);

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

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

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

38 (e) (1) Any admission charge to or for the use of any place of
39 amusement in the State, including charges for admission to race
40 tracks, baseball, football, basketball or exhibitions, dramatic or
41 musical arts performances, motion picture theaters, except charges
42 for admission to boxing, wrestling, kick boxing or combative sports
43 exhibitions, events, performances or contests which charges are
44 taxed under any other law of this State or under section 20 of
45 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
46 admission to, or use of, facilities for sporting activities in which
47 such patron is to be a participant, such as bowling alleys and
48 swimming pools. For any person having the permanent use or

1 possession of a box or seat or lease or a license, other than a season
2 ticket, for the use of a box or seat at a place of amusement, the tax
3 shall be upon the amount for which a similar box or seat is sold for
4 each performance or exhibition at which the box or seat is used or
5 reserved by the holder, licensee or lessee, and shall be paid by the
6 holder, licensee or lessee.

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

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

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

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

16 (h) Charges in the nature of initiation fees, membership fees or
17 dues for access to or use of the property or facilities of a health and
18 fitness, athletic, sporting or shopping club or organization in this
19 State, except for: (1) membership in a club or organization whose
20 members are predominantly age 18 or under; and (2) charges in the
21 nature of membership fees or dues for access to or use of the
22 property or facilities of a health and fitness, athletic, sporting or
23 shopping club or organization that is exempt from taxation pursuant
24 to paragraph (1) of subsection (a) of section 9 of P.L.1966,
25 c.30 (C.54:32B-9), or that is exempt from taxation pursuant to
26 paragraph (1) or (2) of subsection (b) of section 9 of P.L.1966,
27 c.30 and that has complied with subsection (d) of section 9 of
28 P.L.1966, c.30.

29 (i) The receipts from parking, storing or garaging a motor
30 vehicle, excluding charges for the following: residential parking;
31 employee parking, when provided by an employer or at a facility
32 owned or operated by the employer; municipal parking, storing or
33 garaging; receipts from charges or fees imposed pursuant to section
34 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
35 between the Casino Reinvestment Development Authority and a
36 casino operator in effect on the date of enactment of P.L.2007,
37 c.105; and receipts from parking, storing or garaging a motor
38 vehicle subject to tax pursuant to any other law or ordinance.

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

43 (cf: P.L.2016, c.57, s.1)

44

45 21. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read
46 as follows:

47 9. (a) Except as to motor vehicles sold by any of the following,
48 any sale, service or amusement charge by or to any of the following

1 or any use or occupancy by any of the following shall not be subject
2 to the sales and use taxes imposed under this act:

3 (1) The State of New Jersey, or any of its agencies,
4 instrumentalities, public authorities, public corporations (including
5 a public corporation created pursuant to agreement or compact with
6 another state) or political subdivisions where it is the purchaser,
7 user or consumer, or where it is a seller of services or property of a
8 kind not ordinarily sold by private persons;

9 (2) The United States of America, and any of its agencies and
10 instrumentalities, insofar as it is immune from taxation where it is
11 the purchaser, user or consumer, or where it sells services or
12 property of a kind not ordinarily sold by private persons;

13 (3) The United Nations or any international organization of
14 which the United States of America is a member where it is the
15 purchaser, user or consumer, or where it sells services or property
16 of a kind not ordinarily sold by private persons.

17 (b) Except as otherwise provided in this section any sale or
18 amusement charge by or to any of the following or any use or
19 occupancy by any of the following, where such sale, charge, use or
20 occupancy is directly related to the purposes for which the
21 following have been organized, shall not be subject to the sales and
22 use taxes imposed under this act: a corporation, association, trust,
23 or community chest, fund or foundation, organized and operated
24 exclusively (1) for religious, charitable, scientific, testing for public
25 safety, literary or educational purposes; or (2) for the prevention of
26 cruelty to children or animals; or (3) as a volunteer fire company,
27 rescue, ambulance, first aid or emergency company or squad; or (4)
28 as a National Guard organization, post or association, or as a post or
29 organization of war veterans, or the Marine Corps League, or as an
30 auxiliary unit or society of any such post, organization or
31 association; or (5) as an association of parents and teachers of an
32 elementary or secondary public or private school exempt under the
33 provisions of this section. Such a sale, charge, use or occupancy
34 by, or a sale or charge to, an organization enumerated in this
35 subsection, shall not be subject to the sales and use taxes only if no
36 part of the net earnings of the organization inures to the benefit of
37 any private shareholder or individual, no substantial part of the
38 activities of the organization is carrying on propaganda, or
39 otherwise attempting to influence legislation, and the organization
40 does not participate in, or intervene in (including the publishing or
41 distributing of statements), any political campaign on behalf of any
42 candidate for public office.

43 (c) Nothing in this section shall exempt from the taxes imposed
44 under the "Sales and Use Tax Act":

45 (1) the sale of a motor vehicle by an organization described in
46 subsection (b) of this section, unless the purchaser is an
47 organization exempt under this section;

1 (2) retail sales of tangible personal property or specified digital
2 products by any shop or store operated by an organization described
3 in subsection (b) of this section, unless the tangible personal
4 property or specified digital product was received by the
5 organization as a gift or contribution and the shop or store is one in
6 which substantially all the work in carrying on the business of the
7 shop or store is performed for the organization without
8 compensation and substantially all of the shop's or store's
9 merchandise has been received by the organization as gifts or
10 contributions or unless the purchaser is an organization exempt
11 under this section; or

12 (3) the sale or use of energy or utility service to or by an
13 organization described in paragraph (1) of subsection (a) or
14 subsection (b) of this section.

15 (d) Any organization enumerated in subsection (b) of this
16 section shall not be entitled to an exemption granted pursuant to this
17 section unless it has complied with such requirements for obtaining
18 a tax immunity authorization as may be provided in this act.

19 (e) Where any organization described in subsection (b) of this
20 subsection carries on its activities in furtherance of the purposes for
21 which it was organized, in premises in which, as part of those
22 activities, it operates a hotel or transient accommodation,
23 occupancy of rooms in the premises and rents from those rooms
24 received by the organization shall not be subject to tax under the
25 "Sales and Use Tax Act."

26 (f) (1) Except as provided in paragraph (2) of this subsection,
27 any admissions all of the proceeds of which inure exclusively to the
28 benefit of the following organizations shall not be subject to any of
29 the taxes imposed under subsection (e) of section 3 of P.L.1966,
30 c.30 (C.54:32B-3):

31 (A) an organization described in paragraph (1) of subsection (a)
32 or subsection (b) of this section;

33 (B) a society or organization conducted for the sole purpose of
34 maintaining symphony orchestras or operas and receiving
35 substantial support from voluntary contributions; or

36 (C) (Deleted by amendment, P.L.1999, c.416).

37 (D) a police or fire department of a political subdivision of the
38 State, or a volunteer fire company, ambulance, first aid, or
39 emergency company or squad, or exclusively to a retirement,
40 pension or disability fund for the sole benefit of members of a
41 police or fire department or to a fund for the heirs of such members.

42 (2) The exemption provided under paragraph (1) of this
43 subsection shall not apply in the case of admissions to:

44 (A) Any athletic game or exhibition unless the proceeds shall
45 inure exclusively to the benefit of elementary or secondary schools
46 or unless in the case of an athletic game between two elementary or
47 secondary schools, the entire gross proceeds from such game shall

1 inure to the benefit of one or more organizations described in
2 subsection (b) of this section;

3 (B) Carnivals, rodeos, or circuses in which any professional
4 performer or operator participates for compensation;

5 (3) Admission charges for admission to the following places or
6 events shall not be subject to any of the taxes imposed under
7 subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

8 (A) Any admission to agricultural fairs if no part of the net
9 earnings thereof inures to the benefit of any stockholders or
10 members of the association conducting the same; provided the
11 proceeds therefrom are used exclusively for the improvement,
12 maintenance and operation of such agricultural fairs.

13 (B) Any admission to a home or garden which is temporarily
14 open to the general public as a part of a program conducted by a
15 society or organization to permit the inspection of historical homes
16 and gardens; provided no part of the net earnings thereof inures to
17 the benefit of any private stockholder or individual.

18 (C) Any admissions to historic sites, houses and shrines, and
19 museums conducted in connection therewith, maintained and
20 operated by a society or organization devoted to the preservation
21 and maintenance of such historic sites, houses, shrines and
22 museums; provided no part of the net earnings thereof inures to the
23 benefit of any private stockholder or individual.

24 (cf: P.L.2011, c.49, s.10)

25

26 22. Section 1 of P.L.2003, c.114 (C.54:32D-1) is amended to
27 read as follows:

28 1. a. In addition to any other tax, assessment or use fee
29 authorized by law, there is imposed and shall be paid a hotel and
30 motel occupancy fee of 7% for occupancies on and after August 1,
31 2003 but before July 1, 2004, and of 5% for occupancies on and
32 after July 1, 2004, upon the rent for every occupancy of a room or
33 rooms in a hotel or transient accommodation subject to taxation
34 pursuant to subsection (d) of section 3 of P.L.1966, c.30 (C:54:32B-
35 3), which every person required to collect tax shall collect from the
36 customer when collecting the rent to which it applies; provided
37 however, that on and after the tenth day following a certification by
38 the Director of the Division of Budget and Accounting in the
39 Department of the Treasury pursuant to subsection d. of section 2 of
40 P.L.2003, c.114 (C.54:32D-2), no such fee shall be paid or
41 collected; and provided further that:

42 (1) the combined rates of the fee imposed under this section,
43 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
44 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
45 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
46 or before December 31, 2016, 13.875% on and after January 1,
47 2017 but before January 1, 2018, and 13.625% on and after January
48 1, 2018, and to the extent that the total combined rate of taxation for

1 the listed fees and taxes would exceed 14% on or before December
2 31, 2016, 13.875% on and after January 1, 2017 but before January
3 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed
4 under this section shall be reduced so that the total combined rate
5 equals 14% on or before December 31, 2016, 13.875% on and after
6 January 1, 2017 but before January 1, 2018, and 13.625% on and
7 after January 1, 2018;

8 (2) the combined rates of the fee imposed under this section,
9 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
10 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
11 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
12 total rate of 14% on or before December 31, 2016, 13.875% on and
13 after January 1, 2017 but before January 1, 2018, and 13.625% on
14 and after January 1, 2018, and to the extent that the total combined
15 rate of taxation for the listed fees and taxes would exceed 14% on
16 or before December 31, 2016, 13.875% on and after January 1,
17 2017 but before January 1, 2018, and 13.625% on and after January
18 1, 2018, the fee imposed under this section shall be reduced so that
19 the total combined rate equals 14% on or before December 31,
20 2016, 13.875% on and after January 1, 2017 but before January 1,
21 2018, and 13.625% on and after January 1, 2018; and

22 (3) the fee imposed under this section shall be at the rate of 1%
23 in a city in which the tax authorized under P.L.1981,
24 c.77 (C.40:48E-1 et seq.) is imposed.

25 b. The hotel and motel occupancy fee imposed by subsection a.
26 of this section shall not be imposed on the rent for an occupancy if
27 the purchaser, user or consumer is an entity exempt from the tax
28 imposed on an occupancy under the "Sales and Use Tax Act"
29 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
30 9).

31 c. Terms used in this section shall have the meaning given
32 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).
33 (cf: P.L.2016, c.57, s.6)

34

35 23. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to
36 read as follows:

37 2. a. The Director of the Division of Taxation shall collect and
38 administer the fee imposed pursuant to section 1 of P.L.2003,
39 c.114 (C.54:32D-1). The fees collected shall be deposited to the
40 General Fund, and shall be allocated as follows:

41 (1) of the fees collected for occupancies during State Fiscal
42 Year 2004: \$16,000,000 shall be allocated for appropriation to the
43 New Jersey State Council on the Arts for cultural projects;
44 \$2,700,000 shall be allocated for appropriation to the New Jersey
45 Historical Commission for the purposes of subsection a. of section 3
46 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
47 for appropriation to the New Jersey Commerce and Economic
48 Growth Commission for tourism advertising and promotion; and

1 \$500,000 shall be allocated for appropriation to the New Jersey
2 Cultural Trust; and

3 (2) of the fees collected for occupancies during State Fiscal
4 Year 2005 and thereafter: 22.68 percent shall be annually allocated
5 for appropriation to the New Jersey State Council on the Arts for
6 cultural projects, provided that the amount allocated shall not be
7 less than \$22,680,000; 3.84 percent shall be allocated for
8 appropriation to the New Jersey Historical Commission for the
9 purposes of subsection a. of section 3 of P.L.1999,
10 c.131 (C.18A:73-22.3), provided that the amount allocated shall not
11 be less than \$3,840,000; 12.76 percent shall be allocated for
12 appropriation to the New Jersey Commerce and Economic Growth
13 Commission for tourism advertising and promotion, provided that
14 the amount allocated shall not be less than \$12,760,000; and .72
15 percent shall be allocated for appropriation to the New Jersey
16 Cultural Trust, provided that the amount allocated shall not be less
17 than \$720,000.

18 b. (1) In carrying out the provisions of section 1 of P.L.2003,
19 c.114 (C.54:32D-1) and this section, the director shall have all of
20 the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et
21 seq.). The tax shall be filed and paid in a manner prescribed by the
22 Director of the Division of Taxation. The director shall promulgate
23 such rules and regulations as the director determines are necessary
24 to effectuate the provisions of section 1 of P.L.2003,
25 c.114 (C.54:32D-1) and this section.

26 (2) Each person required to collect the hotel and motel
27 occupancy fee shall be personally liable for the fee imposed,
28 collected, or required to be paid, collected, or remitted under
29 section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall
30 have the same right in respect to collecting the fee from that
31 person's customer or in respect to non-payment of the fee by the
32 customer as if the fee were a part of the purchase price of the
33 occupancy or rent, as the case may be, and payable at the same
34 time; provided however, that the director shall be joined as a party
35 in any action or proceeding brought to collect the fee.

36 For purposes of this paragraph, "person" includes: an individual,
37 partnership, corporation, or an officer, director, stockholder, or
38 employee of a corporation, or a member or employee of a
39 partnership, who as such officer, director, stockholder, employee, or
40 member is under the duty to perform the act in respect of which the
41 violation occurs.

42 (3) Notwithstanding any other provision of this section to the
43 contrary, the director may enter into an agreement with the owner
44 or operator of a transient space marketplace for the purpose of
45 collection and payment of the fee for transactions solely
46 consummated through the transient space marketplace. Upon
47 entering an agreement with the owner or operator of a transient
48 space marketplace, the director may waive the responsibility of a

1 person engaged in the business of providing transient
2 accommodations or hotel rooms to collect and pay the fee. The
3 owner or operator of the transient space marketplace shall agree to
4 be personally liable for the collection and payment of the fee on
5 behalf of a person engaged in the business of providing transient
6 accommodations or hotel rooms.

7 c. The annual appropriations act for each State Fiscal Year,
8 commencing with fiscal year 2005, shall appropriate and distribute
9 during that fiscal year amounts not less than the amounts otherwise
10 specified for State Fiscal Year 2004 in paragraph (1) of subsection
11 a. of this section for the purposes specified in paragraph (1) of
12 subsection a. of this section.

13 d. If the provisions of subsection c. of this section are not met
14 on the effective date of an annual appropriations act for the State
15 fiscal year, or if an amendment or supplement to an annual
16 appropriations act for the State fiscal year should violate the
17 provisions of subsection c. of this section, the Director of the
18 Division of Budget and Accounting in the Department of the
19 Treasury shall, not later than five days after the enactment of the
20 annual appropriations act, or an amendment or supplement thereto,
21 that violates the provisions of subsection c. of this section, certify to
22 the Director of the Division of Taxation that the requirements of
23 subsection c. of this section have not been met.

24 e. The Director of the Division of Taxation shall, no later than
25 five days after certification by the Director of the Division of
26 Budget and Accounting in the Department of the Treasury pursuant
27 to subsection d. of this section that the provisions of subsection c.
28 of this section have not been met or have been violated by an
29 amendment or supplement to the annual appropriations act, notify
30 each person required to collect tax of the certification and that the
31 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
32 shall no longer be paid or collected.

33 (cf: P.L.2007, c.102, s.4)

34

35 24. (New section) Notwithstanding the provisions of the
36 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
37 seq.) to the contrary, the Director of the Division of Taxation in the
38 Department of the Treasury, in consultation with the Director of the
39 Division of Local Government Services in the Department of
40 Community Affairs, may adopt immediately upon filing with the
41 Office of Administrative Law such rules and regulations as the
42 director determines to be necessary to effectuate the purposes of
43 P.L. , c. (C.) (pending before the Legislature as this bill),
44 which rules and regulations shall be effective for a period not to
45 exceed 360 days following the effective date of P.L. ,
46 c. (C.) (pending before the Legislature as this bill) and may
47 thereafter be amended, adopted, or readopted by the director in

1 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
2 et seq.).

3

4 25. This act shall take effect immediately, but sections one
5 through 23 shall remain inoperative until the first day of the first
6 full calendar quarter beginning at least 90 days following the date
7 of enactment.

8

9

10 STATEMENT

11

12 This bill subjects charges of rent for providing transient
13 accommodations in this State to the State sales and use tax, and the
14 State hotel and motel occupancy fee, and authorizes municipalities
15 to impose the hotel occupancy fee, Atlantic City luxury tax,
16 Atlantic City promotion fee, Cape May County tourism sales tax,
17 Cape May County tourism assessment, municipal occupancy tax,
18 sports and entertainment facility tax, and Meadowlands regional
19 hotel use assessment, where applicable. A transient accommodation
20 is defined in the bill as a room, group of rooms, or other living or
21 sleeping space for the lodging of occupants, including but not
22 limited to residences or buildings used as residences; however, the
23 bill exempts transient accommodations listed with a real estate
24 agent or real estate broker licensed by the New Jersey Real Estate
25 Commission from taxation.

26 The bill permits the Director of the Division of Taxation in the
27 Department of the Treasury or the chief fiscal officer of a
28 municipality (when applicable) to enter into an agreement with the
29 owner or operator of a transient space marketplace for the purpose
30 of collecting the taxes and fees imposed and authorized under the
31 bill. A transient space marketplace allows transient
32 accommodations or hotel rooms to be advertised or listed through
33 an online marketplace and provides a means for a customer to
34 arrange for the occupancy of the transient accommodation or hotel
35 room in exchange for consideration directly through the online
36 marketplace.

37 Under current law, the State imposes the sales and use tax (at a
38 rate of 6.875% on and after January 1, 2017 but before January 1,
39 2018, and 6.625% on and after January 1, 2018) and the hotel and
40 motel occupancy fee (at a rate of 5%) on the rent for each
41 occupancy of a room or rooms in a hotel in this State. Further,
42 current law authorizes municipalities to impose various taxes and
43 fees, where applicable, on the rent for each occupancy of a room or
44 rooms in a hotel in those municipalities. Current law does not
45 impose taxes and fees on short-term rentals (transient
46 accommodations) for occupancies that occur in other types of real
47 property, such as the rental of a spare bedroom in an apartment or
48 the lease of living or sleeping spaces in a single-family house.

1 In addition to imposing the State sales and use tax and the State
2 hotel and motel occupancy on transient accommodations, the bill
3 authorizes municipalities to impose the following taxes and fees on
4 transient accommodations where applicable:

- 5 • Hotel Occupancy Tax (C.40:48E-1 et seq.);
- 6 • Atlantic City Luxury Tax (C.40:48-8.15 et seq.);
- 7 • Atlantic City Promotion Fee (C.40:48-8.45 et seq.);
- 8 • Cape May County Tourism Sales Tax (C.40:54D-1 et seq.);
- 9 • Cape May County Tourism Assessment (C.40:54D-1 et
10 seq.);
- 11 • Municipal Occupancy Tax (C.40:48F-1 et seq.);
- 12 • Sports and Entertainment Facility Tax (C.34:1B-190 et seq.);
- 13 and
- 14 • Meadowlands Regional Hotel Use Assessment (C.5:10A-82
15 et seq.).

16 The bill treats permanent residents and charitable, non-profit
17 organizations that lease or rent transient accommodations consistent
18 with how those individuals and organizations are treated for
19 purposes of hotel and motel occupancies. The bill provides that
20 charges of rent for providing transient accommodations to a
21 permanent resident are not subject to tax or fee, and provides that
22 charitable, non-profit organizations (that have been granted tax
23 immunity authorization) are exempt from tax and fee collection
24 responsibilities when providing transient accommodations in
25 furtherance of the purposes for which it was organized. The bill
26 creates an additional exemption for transient accommodations listed
27 with a real estate agent or real estate broker licensed by the New
28 Jersey Real Estate Commission.