ASSEMBLY, No. 2855

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

SYNOPSIS

Exempts certain credit unions from sales and use tax.

CURRENT VERSION OF TEXT

As introduced.

AN ACT providing exempt organization status under the sales and use tax to certain credit unions and amending P.L.1966, c.30.

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

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

9. (a) Except as to motor vehicles sold by any of the following, any sale, service or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

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

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

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

(4) A credit union regulated pursuant to "The Credit Union Act of 1984," P.L.1984, c.171, sections 2 to 46 (C.17:30-80 to C.17:13-124), except that the provisions of this paragraph shall expire if federally chartered credit unions lose their exemption from state sales tax pursuant to 12 U.S.C. s.1768. The exemption provided by this paragraph shall not apply if the credit union is a purchaser or user of tangible personal property for the purpose of being a lessor of the tangible personal property.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the following, where such sale, charge, use or occupancy is directly related to the purposes for which the following have been organized, shall not be subject to the sales and use taxes imposed under this act: a corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively (1) for religious, charitable, scientific, testing for public safety, literary or educational purposes; or (2) for the prevention of cruelty to children or animals; or (3) as a volunteer fire company, rescue, ambulance, first aid or emergency company or squad; or (4)

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.

as a National Guard organization, post or association, or as a post or organization of war veterans, or the Marine Corps League, or as an auxiliary unit or society of any such post, organization or association; or (5) as an association of parents and teachers of an elementary or secondary public or private school exempt under the provisions of this section. Such a sale, charge, use or occupancy by, or a sale or charge to, an organization enumerated in this subsection, shall not be subject to the sales and use taxes only if no part of the net earnings of the organization inures to the benefit of any private shareholder or individual, no substantial part of the activities of the organization is carrying on propaganda, or otherwise attempting to influence legislation, and the organization does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

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

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

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

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

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

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

(f) (1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of

the taxes imposed under subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3):

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

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

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

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

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

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b) of this section;

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

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

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

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

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

(cf: P.L.2018, c.49, s.21)

2. This act shall take effect on the first day of the second month following the date of enactment.

STATEMENT

This bill provides that credit unions regulated pursuant to the laws of this State are exempt from paying or charging sales and use tax.

Federally chartered credit unions enjoy an exemption from state sales taxes and most other state taxes pursuant to the "Federal Credit Union Act" (12 U.S.C. s.1768). The sales and use tax imposed on State-chartered credit unions creates a competitive disadvantage compared to their federal counterparts. The exemption establishes sales tax parity between State and federally chartered credit unions.

The exemption in the bill expires if federally chartered credit unions lose their current exemption from state sales taxes. Additionally, the exemption does not apply if the credit union is a purchaser or user of tangible personal property for the purpose of being a lessor.