ASSEMBLY, No. 4105

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Requires Division of Taxation to provide certain information to municipalities concerning hotel occupancy taxes.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the municipal hotel occupancy tax and amending P.L.2003, c.114, R.S.54:50-8, and R.S.54:50-9.

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

1. Section 7 of P.L.2003, c.114 (C.40:48F-5) is amended to read as follows:

7. a. The Director of the Division of Taxation shall collect and administer any tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1). In carrying out the provisions of this section, the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to section 3 of P.L.2003, c.114 (C.40:48F-1).

c. (1) The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under subsection b. of this section. The State Treasurer shall include with each distribution of tax revenue a report containing a list of all of the hotels and motels in the municipality and a list of all the transient space marketplaces engaged in the business of providing transient accommodations or hotel rooms located in the municipality that submitted municipal occupancy tax revenue to the State as required in subsection a. of section 6 of P.L.2003, c.114 (C.40:48F-4) , and the amount of municipal occupancy tax revenue submitted by each hotel, motel, and transient space marketplace, for the period comprising the hotel tax distribution.

(2) The State Treasurer, upon the receipt of a written request from the chief fiscal officer of a municipality, shall transmit to the municipality a report containing the amount of municipal occupancy tax revenue submitted by each hotel and motel in the municipality, and the amount of municipal occupancy tax revenue submitted by each transient space marketplace engaged in the business of providing transient accommodations or hotel rooms located in the municipality, in each of the immediately preceding four tax years prior to the adoption of a municipal ordinance pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) or in each of the immediately preceding four tax years prior to the enactment of P.L. , c. (C.) (pending before the Legislature as this bill).

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.

d. A tax imposed pursuant to the provisions of section 3 of P.L.2003, c.114 (C.40:48F-1) shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.
(cf: P.L.2010, c.55, s.2)

2. R.S.54:50-8 is amended to read as follows:

54:50-8. a. The records and files of the director respecting the administration of the State Uniform Tax Procedure Law or of any State tax law shall be considered confidential and privileged and neither the director nor any employee engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom under subsection d., e., f., g., p., **[**or**]** q. , or r. of R.S.54:50-9 or any other provision of State law, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the director nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the State tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the State under some State tax law, or in any lawful proceeding for the investigation and prosecution of any violation of the criminal provisions of the State Uniform Tax Procedure Law or of any State tax law.

b. The prohibitions of this section, against unauthorized disclosure, use or examination by any present or former officer or employee of this State or any other individual having custody of such information obtained pursuant to the explicit authority of State law, shall specifically include, without limitation, violations involving the divulgence or examination of any information from or any copy of a federal return or federal return information required by New Jersey law to be attached to or included in any New Jersey return. Any person violating this section by divulging, disclosing or using information shall be guilty of a crime of the fourth degree. Any person violating this section by examining records or files for any reason other than a reason necessitated by the performance of official duties shall be guilty of a disorderly persons offense.

c. Whenever records and files are used in connection with the prosecution of any person for violating the provisions of this section by divulging, disclosing or using records or files or examining

records and files for any reason other than a reason necessitated by the performance of official duties, the defendant shall be given access to those records and files. The court shall review such records and files in camera, and that portion of the court record containing the records and files shall be sealed by the court.
(cf: P.L.2019, c.367, s.1)

3. R.S.54:50-9 is amended to read as follows:

54:50-9 Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being

required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer provided wage and tax withholding information contained in tax

reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the State Treasurer of reports provided to a municipality pursuant to subsection c. of section 7 of P.L.2003, c.114 (C.40:48F-5).

(cf: P.L. 2019, c.367, s.2)

4. This act shall take effect immediately.

STATEMENT

This bill requires the State to provide municipalities with additional information regarding the collection of municipal hotel occupancy tax revenues. This legislation implements recommendations regarding the disclosure of additional information related to municipal hotel occupancy tax adopted by the New Jersey State League of Municipalities at its 2018 annual conference.

P.L.2003, c.114 allows most of New Jersey's municipalities to adopt an ordinance imposing a tax not to exceed three percent on a guest's occupancy of a room in a hotel or motel located in a municipality imposing the tax. P.L.2018, c.49 permits municipalities to impose the occupancy tax on charges for the occupancy of a transient space accommodation.

The State acts as the collection agent of the occupancy tax on behalf of municipalities, and distributes the occupancy tax revenue on a periodic basis. The State also provides to each municipality a list of all hotels and motels located in that municipality that submitted municipal occupancy tax revenue for the period comprising the hotel tax distribution.

This bill makes two changes to the information that is provided to municipalities by the State Treasurer in conjunction with the distribution of occupancy tax revenues. First, the bill requires the State Treasurer to include transient space marketplaces on the list of

hotels and motels that submitted municipal occupancy tax revenue. Second, the bill directs the State Treasurer to provide each municipality with the amount of municipal occupancy tax revenue submitted by each hotel, motel, and transient space marketplace for the period comprising the hotel tax distribution.

The bill also directs the State Treasurer to transmit additional information regarding occupancy tax collections from hotels, motels, and transient space marketplaces with each municipality in the four-year period prior to adoption of an ordinance imposing a municipal occupancy tax or the four-year period prior to enactment of the bill.