

ASSEMBLY, No. 1840

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 23, 1998

Sponsored by:

Assemblyman JOSEPH AZZOLINA

District 13 (Middlesex and Monmouth)

Assemblyman MICHAEL J. ARNONE

District 12 (Monmouth)

Co-Sponsored by:

Assemblywoman Farragher, Assemblymen Corodemus, LeFevre, Blee and Thompson

SYNOPSIS

Exempts sales by certain charity shops from the sales and use tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/1998)

A1840 AZZOLINA, ARNONE

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1 AN ACT exempting sales of donated goods by certain shops operated
2 by tax exempt organizations from the sales and use tax, amending
3 P.L.1966, c.30.

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

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

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

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

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

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

28 (b) Except as otherwise provided in this section any sale or
29 amusement charge by or to any of the following or any use or
30 occupancy by any of the following, where such sale, charge, use or
31 occupancy is directly related to the purposes for which the following
32 have been organized, shall not be subject to the sales and use taxes
33 imposed under this act: **[(1) Any]** a corporation, association, trust,
34 or community chest, fund or foundation, organized and operated
35 exclusively for religious, charitable, scientific, testing for public safety,
36 literary or educational purposes, or for the prevention of cruelty to
37 children or animals, or as a volunteer fire company, rescue, ambulance,
38 first aid or emergency company or squad, and an association of parents
39 and teachers of an elementary or secondary public or private school
40 exempt under the provisions of this section **[9]**, no part of the net
41 earnings of which inures to the benefit of any private shareholder or
42 individual, no substantial part of the activities of which is carrying on
43 propaganda, or otherwise attempting to influence legislation, and

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

Matter underlined thus is new matter.

1 which does not participate in, or intervene in (including the publishing
2 or distributing of statements), any political campaign on behalf of any
3 candidate for public office.

4 (c) **[(1)]** Nothing in this section shall exempt from the taxes
5 imposed under the "Sales and Use Tax Act":

6 (1) the sale of a motor vehicle by an organization described in
7 subsection (b)**[(1)]** of this section, unless the purchaser is an
8 organization exempt under this section; [or]

9 (2) retail sales of tangible personal property by any shop or store
10 operated by **[such]** an organization described in subsection (b) of this
11 section, unless the tangible personal property was received by the
12 organization as a gift or contribution and the shop or store is one in
13 which substantially all the work in carrying on the business of the shop
14 or store is performed for the organization without compensation and
15 substantially all of the shop's or store's merchandise has been received
16 by the organization as gifts or contributions or [from the taxes
17 imposed hereunder,] unless the purchaser is an organization exempt
18 under this section**[.]; or**

19 **[(2)]** Nothing in this section shall exempt **(3)** the sale or use of
20 energy or utility service to or by an organization described in
21 paragraph (1) of subsection [(a)(1)] (a) or [(b)(1)] subsection (b) of
22 this section.

23 (d) Any organization enumerated in subsection (b)**[(1) hereof]** of
24 this section shall not be entitled to **[the]** an exemption [herein]
25 granted pursuant to this section unless it has complied with such
26 requirements for obtaining a tax immunity authorization as may be
27 provided in this act.

28 (e) Where any organization described in subsection (b) **[(1)**
29 **hereof]** of this section carries on its activities in furtherance of the
30 purposes for which it was organized, in premises in which, as part of
31 **[said]** those activities, it operates a hotel, occupancy of rooms in the
32 premises and rents [therefrom] from those rooms received by [such
33 corporation or association]the organization shall not be subject to tax
34 **[hereunder] under the "Sales and Use Tax Act."**

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

40 (A) an organization described in paragraph (1) of subsection
41 (a)**[(1)]** or subsection (b) of this section;

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

45 (C) national guard organizations, posts or organizations of war

1 veterans, or auxiliary units or societies of any such posts or
2 organizations, if such posts, organizations, units or societies are
3 organized in this State, and if no part of their net earnings inures to the
4 benefit of any private stockholder or individual;or

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

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

12 (A) Any athletic game or exhibition unless the proceeds shall inure
13 exclusively to the benefit of elementary or secondary schools or unless
14 in the case of an athletic game between two elementary or secondary
15 schools, the entire gross proceeds from such game shall inure to the
16 benefit of one or more organizations described in subsection (b) **[(1)]**
17 of this section;

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

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

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

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

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

39 (cf: P.L.1997, c.162, s.27)

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41 2. This act shall take effect immediately but remain inoperative
42 until the first day of the third month following enactment.

STATEMENT

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This bill allows certain charitable and public safety organizations to make tax exempt sales of donated property at certain shops.

Currently, various charitable and public safety organizations are allowed a tax exemption for the purchases and sales they make in relation to their public purposes. (These exempt organizations include (1) any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, (2) any voluntary fire company and any rescue, ambulance, first aid or emergency company or squad, and (3) any parent-teachers association.) However, no exemption is allowed to these organizations for retail sales of tangible personal property that they make through a shop or store.

The bill allows the exempt charitable and public safety organizations to make tax-exempt sales of tangible personal property received by gift or contribution at stores that meet two limiting requirements: substantially all of the work at the stores must be done by volunteers, and substantially all of the store's merchandise must have been donated. "Substantially all" is intended to have the same meaning it has in a parallel federal statute: all except an inconsiderable amount.