

ASSEMBLY, No. 108

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblywoman GAIL PHOEBUS

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblyman Webber

SYNOPSIS

Decreases sales and use tax rate from 7% to 6%.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT concerning the sales and use tax, amending P.L.1966, c.30,
2 P.L.1980, c.105, P.L.2003, c.114, and repealing section 19 of
3 P.L.2006, c.44.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read
9 as follows:

10 3. There is imposed and there shall be paid a tax of **[7%]** 6%
11 upon:

12 (a) The receipts from every retail sale of tangible personal
13 property or digital property, except as otherwise provided in this
14 act.

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

17 (1) Producing, fabricating, processing, printing or imprinting
18 tangible personal property or digital property, performed for a
19 person who directly or indirectly furnishes the tangible personal
20 property or digital property, not purchased by him for resale, upon
21 which such services are performed.

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

41 (3) Storing all tangible personal property not held for sale in the
42 regular course of business; the rental of safe deposit boxes or
43 similar space; and the furnishing of space for storage of tangible
44 personal property by a person engaged in the business of furnishing
45 space for such storage.

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.

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1 "Space for storage" means secure areas, such as rooms, units,
2 compartments or containers, whether accessible from outside or
3 from within a building, that are designated for the use of a customer
4 and wherein the customer has free access within reasonable
5 business hours, or upon reasonable notice to the furnisher of space
6 for storage, to store and retrieve property. Space for storage shall
7 not include the lease or rental of an entire building, such as a
8 warehouse or airplane hanger.

9 (4) Maintaining, servicing or repairing real property, other than
10 a residential heating system unit serving not more than three
11 families living independently of each other and doing their cooking
12 on the premises, whether the services are performed in or outside of
13 a building, as distinguished from adding to or improving such real
14 property by a capital improvement, but excluding services rendered
15 by an individual who is not in a regular trade or business offering
16 his services to the public, and excluding garbage removal and sewer
17 services performed on a regular contractual basis for a term not less
18 than 30 days.

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

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

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

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

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

29 (10) Tattooing, including all permanent body art and permanent
30 cosmetic make-up applications.

31 (11) Investigation and security services.

32 (12) Information services.

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

36 (14) Telephone answering services.

37 (15) Radio subscription services.

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

42 Services otherwise taxable under paragraph (1) or (2) of this
43 subsection (b) are not subject to the taxes imposed under this
44 subsection, where the tangible personal property or digital property
45 upon which the services were performed is delivered to the
46 purchaser outside this State for use outside this State.

47 (c) (1) Receipts from the sale of prepared food in or by
48 restaurants, taverns, or other establishments in this State, or by

1 caterers, including in the amount of such receipts any cover,
2 minimum, entertainment or other charge made to patrons or
3 customers, except for meals especially prepared for and delivered to
4 homebound elderly, age 60 or older, and to disabled persons, or
5 meals prepared and served at a group-sitting at a location outside of
6 the home to otherwise homebound elderly persons, age 60 or older,
7 and otherwise homebound disabled persons, as all or part of any
8 food service project funded in whole or in part by government or as
9 part of a private, nonprofit food service project available to all such
10 elderly or disabled persons residing within an area of service
11 designated by the private nonprofit organization; and

12 (2) Receipts from sales of food and beverages sold through
13 vending machines, at the wholesale price of such sale, which shall
14 be defined as 70% of the retail vending machine selling price,
15 except sales of milk, which shall not be taxed. Nothing herein
16 contained shall affect other sales through coin-operated vending
17 machines taxable pursuant to subsection (a) above or the exemption
18 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

21 (3) For the purposes of this subsection:

22 "Food and beverages sold through vending machines" means
23 food and beverages dispensed from a machine or other mechanical
24 device that accepts payment; and

25 "Prepared food" means:

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

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

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

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

40 A. food sold by a seller whose proper primary NAICS
41 classification is manufacturing in section 311, except subsector
42 3118 (bakeries);

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

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

1 (d) The rent for every occupancy of a room or rooms in a hotel
2 in this State, except that the tax shall not be imposed upon a
3 permanent resident.

4 (e) (1) Any admission charge to or for the use of any place of
5 amusement in the State, including charges for admission to race
6 tracks, baseball, football, basketball or exhibitions, dramatic or
7 musical arts performances, motion picture theaters, except charges
8 for admission to boxing, wrestling, kick boxing or combative sports
9 exhibitions, events, performances or contests which charges are
10 taxed under any other law of this State or under section 20 of
11 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
12 admission to, or use of, facilities for sporting activities in which
13 such patron is to be a participant, such as bowling alleys and
14 swimming pools. For any person having the permanent use or
15 possession of a box or seat or lease or a license, other than a season
16 ticket, for the use of a box or seat at a place of amusement, the tax
17 shall be upon the amount for which a similar box or seat is sold for
18 each performance or exhibition at which the box or seat is used or
19 reserved by the holder, licensee or lessee, and shall be paid by the
20 holder, licensee or lessee.

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

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

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

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

30 (h) Charges in the nature of initiation fees, membership fees or
31 dues for access to or use of the property or facilities of a health and
32 fitness, athletic, sporting or shopping club or organization in this
33 State, except for: (1) membership in a club or organization whose
34 members are predominantly age 18 or under; and (2) charges in the
35 nature of membership fees or dues for access to or use of the
36 property or facilities of a health and fitness, athletic, sporting or
37 shopping club or organization that is exempt from taxation pursuant
38 to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30
39 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph
40 (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 and that
41 has complied with subsection (d) of section 9 of P.L.1966, c.30.

42 (i) The receipts from parking, storing or garaging a motor
43 vehicle, excluding charges for the following: residential parking;
44 employee parking, when provided by an employer or at a facility
45 owned or operated by the employer; municipal parking, storing or
46 garaging; receipts from charges or fees imposed pursuant to section
47 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
48 between the Casino Reinvestment Development Authority and a

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1 casino operator in effect on the date of enactment of P.L.2007,
2 c.105; and receipts from parking, storing or garaging a motor
3 vehicle subject to tax pursuant to any other law or ordinance.

4 For the purposes of this subsection, "municipal parking, storing
5 or garaging" means any motor vehicle parking, storing or garaging
6 provided by a municipality or county, or a parking authority
7 thereof.

8 (cf: P.L.2008, c.123, s.2)

9

10 2. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read
11 as follows:

12 4. a. For the purpose of adding and collecting the tax imposed
13 by this act, or an amount equal as nearly as possible or practicable
14 to the average equivalent thereof, to be reimbursed to the seller by
15 the purchaser, a seller shall use one of the two following options:

16 (1) a tax shall be calculated based on the following formula:

17

18 Amount of Sale	Amount of Tax
19 【\$0.01 to \$0.10	No Tax
20 0.11 to 0.19	\$0.01
21 0.20 to 0.32	0.02
22 0.33 to 0.47	0.03
23 0.48 to 0.62	0.04
24 0.63 to 0.77	0.05
25 0.78 to 0.90	0.06
26 0.91 to \$1.10	0.07】

27

28 <u>\$0.01 to \$0.10</u>	<u>No Tax</u>
29 <u>0.11 to 0.22</u>	<u>\$0.01</u>
30 <u>0.23 to 0.38</u>	<u>0.02</u>
31 <u>0.39 to 0.56</u>	<u>0.03</u>
32 <u>0.57 to 0.72</u>	<u>0.04</u>
33 <u>0.73 to 0.88</u>	<u>0.05</u>
34 <u>0.89 to \$1.10</u>	<u>0.06</u>

35

36 and in addition to a tax of **【\$0.07】** \$0.06 on each full dollar, a
37 tax shall be collected on each part of a dollar in excess of a full
38 dollar, in accordance with the above formula; or

39 (2) tax shall be calculated to the third decimal place. One-half
40 cent (\$0.005) or higher shall be rounded up to the next cent; less
41 than \$0.005 shall be dropped in order to round the result down.

42 Sellers may compute the tax due on a transaction on either an
43 item or an invoice basis.

44 b. (Deleted by amendment, P.L.2008, c.123)

45 (cf: P.L.2008, c.123, s.4)

46

47 3. Section 5 of P.L.1966, c.30 (C.54:32B-5) is amended to read
48 as follows:

1 5. **【Transitional provisions.】** a. (1) Except as otherwise
2 provided in this act, receipts received from all sales made and
3 services rendered on and after January 3, 1983 but prior to July 1,
4 1990, are subject to the taxes imposed under subsections (a), (b),
5 (c), and (f) of section 3 of this act at the rate, if any, in effect for
6 such sales and services on June 30, 1990, except if the property so
7 sold is delivered or the services so sold are rendered on or after July
8 1, 1990 but prior to July 1, 1992, in which case the tax shall be
9 computed and paid at the rate of 7%; provided, however, that if a
10 service or maintenance agreement taxable under this act covers any
11 period commencing on or after January 3, 1983 and ending after
12 June 30, 1990 but prior to July 1, 1992, the receipts from such
13 agreement are subject to tax at the rate, if any, applicable to each
14 period as set forth hereinabove and shall be apportioned on the
15 basis of the ratio of the number of days falling within each of the
16 said periods to the total number of days covered thereby.

17 (2) Except as otherwise provided in this act, receipts received
18 from all sales made and services rendered on and after July 1, 1990
19 but prior to July 1, 1992, are subject to the taxes imposed under
20 subsections (a), (b), (c) and (f) of section 3 of this act at the rate of
21 7%, except if the property so sold is delivered or the services so
22 sold are rendered on or after July 1, 1992 but prior to July 15, 2006,
23 in which case the tax shall be computed and paid at the rate of 6%,
24 provided, however, that if a service or maintenance agreement
25 taxable under this act covers any period commencing on or after
26 July 1, 1990, and ending after July 1, 1992, the receipts from such
27 agreement are subject to tax at the rate applicable to each period as
28 set forth hereinabove and shall be apportioned on the basis of the
29 ratio of the number of days falling within each of the said periods to
30 the total number of days covered thereby.

31 (3) Except as otherwise provided in this act, receipts received
32 from all sales made and services rendered on and after July 1, 1992
33 but prior to July 15, 2006, are subject to the taxes imposed under
34 subsections (a), (b), (c), (f) and (g) of section 3 of P.L.1966, c.30
35 (C.54:32B-3) at the rate of 6%, except if the property so sold is
36 delivered or the services so sold are rendered on or after July 15,
37 2006 but prior to the effective date of P.L. , c. (pending before
38 the Legislature as this bill), in which case the tax shall be computed
39 and paid at the rate of 7%, provided, however, that if a service or
40 maintenance agreement taxable under this act covers any period
41 commencing on or after July 1, 1992, and ending after July 15,
42 2006, the receipts from such agreement are subject to tax at the rate
43 applicable to each period as set forth hereinabove and shall be
44 apportioned on the basis of the ratio of the number of days falling
45 within each of the said periods to the total number of days covered
46 thereby; provided however, if a service or maintenance agreement
47 in effect on July 14, 2006 covers billing periods ending after July
48 15, 2006, the seller shall charge and collect from the purchaser a tax

1 on such sales at the rate of 6%, unless the billing period starts on or
2 after July 15, 2006 in which case the seller shall charge and collect
3 a tax at the rate of 7%.

4 (4) Except as otherwise provided in this act, receipts received
5 from all sales made and services rendered on and after July 15,
6 2006, are subject to the taxes imposed under subsections (a), (b), (c)
7 and (f) of section 3 of this act at the rate of 7%, except if the
8 property so sold is delivered or the services so sold are rendered on
9 or after the effective date of P.L. , c. (pending before the
10 Legislature as this bill), in which case the tax shall be computed and
11 paid at the rate of 6%, provided, however, that if a service or
12 maintenance agreement taxable under this act covers any period
13 commencing on or after July 15, 2006, and ending after the
14 effective date of P.L. , c. (pending before the Legislature as this
15 bill), the receipts from such agreement are subject to tax at the rate
16 applicable to each period as set forth hereinabove and shall be
17 apportioned on the basis of the ratio of the number of days falling
18 within each of the said periods to the total number of days covered
19 thereby.

20 b. (1) The tax imposed under subsection (d) of section 3 shall
21 be paid at the rate of 7% upon any occupancy on and after July 1,
22 1990 but prior to July 1, 1992, although such occupancy is pursuant
23 to a prior contract, lease or other arrangement. If an occupancy,
24 taxable under this act, covers any period on or after January 3, 1983
25 but prior to July 1, 1990, the rent for the period of occupancy prior
26 to July 1, 1990 shall be taxed at the rate of 6%. If rent is paid on a
27 weekly, monthly or other term basis, the rent applicable to each
28 period as set forth hereinabove shall be apportioned on the basis of
29 the ratio of the number of days falling within each of the said
30 periods to the total number of days covered thereby.

31 (2) The tax imposed under subsection (d) of section 3 shall be
32 paid at the rate of 6% upon any occupancy on and after July 1, 1992
33 but prior to July 15, 2006, although such occupancy is pursuant to a
34 prior contract, lease or other arrangement. If an occupancy, taxable
35 under this act, covers any period on or after July 1, 1990 but prior
36 to July 1, 1992, the rent for the period of occupancy prior to July 1,
37 1992 shall be taxed at the rate of 7%. If rent is paid on a weekly,
38 monthly or other term basis, the rent applicable to each period as set
39 forth hereinabove shall be apportioned on the basis of the ratio of
40 the number of days falling within each of the said periods to the
41 total number of days covered thereby.

42 (3) The tax imposed under subsection (d) of section 3 shall be
43 paid at the rate of 7% upon any occupancy on and after July 15,
44 2006 but prior to the effective date of P.L. , c. (pending before
45 the Legislature as this bill), although such occupancy is pursuant to
46 a prior contract, lease or other arrangement. If an occupancy,
47 taxable under this act, covers any period on or after July 1, 1992 but
48 prior to July 15, 2006, the rent for the period of occupancy prior to

1 July 15, 2006 shall be taxed at the rate of 6%. If rent is paid on a
2 weekly, monthly or other term basis, the rent applicable to each
3 period as set forth hereinabove shall be apportioned on the basis of
4 the ratio of the number of days falling within each of the said
5 periods to the total number of days covered thereby.

6 (4) The tax imposed under subsection (d) of section 3 shall be
7 paid at the rate of 6% upon any occupancy on and after the effective
8 date of P.L. , c. (pending before the Legislature as this bill),
9 although such occupancy is pursuant to a prior contract, lease or
10 other arrangement. If an occupancy, taxable under this act, covers
11 any period on or after July 15, 2006 but prior to the effective date of
12 P.L. , c. (pending before the Legislature as this bill), the rent for
13 the period of occupancy prior to the effective date of P.L. ,
14 c. (pending before the Legislature as this bill) shall be taxed at the
15 rate of 7%. If rent is paid on a weekly, monthly or other term basis,
16 the rent applicable to each period as set forth hereinabove shall be
17 apportioned on the basis of the ratio of the number of days falling
18 within each of the said periods to the total number of days covered
19 thereby.

20 c. (1) Except as otherwise hereinafter provided, the tax
21 imposed under subsection (e) of section 3 shall be applicable at the
22 rate of 7% to any admission to or for the use of facilities of a place
23 of amusement occurring on or after July 1, 1990 but prior to July 1,
24 1992, whether or not the admission charge has been paid prior to
25 July 1, 1990, unless the tickets were actually sold and delivered,
26 other than for resale, prior to July 1, 1990 and the tax imposed
27 under this act during the period January 3, 1983 through June 30,
28 1990 shall have been paid.

29 (2) Except as otherwise hereinafter provided, the tax imposed
30 under subsection (e) of section 3 shall be applicable at the rate of
31 6% to any admission to or for the use of facilities of a place of
32 amusement occurring on or after July 1, 1992 but prior to July 15,
33 2006, whether or not the admission charge has been paid prior to
34 July 1, 1992, unless the tickets were actually sold and delivered,
35 other than for resale, prior to July 1, 1992 and the tax imposed
36 under this act during the period July 1, 1990 through December 31,
37 1990 shall have been paid.

38 (3) Except as otherwise hereinafter provided, the tax imposed
39 under subsection (e) of section 3 shall be applicable at the rate of
40 7% to any admission to or for the use of facilities of a place of
41 amusement occurring on or after July 15, 2006, whether or not the
42 admission charge has been paid prior to that date, unless the tickets
43 were actually sold and delivered, other than for resale, prior to July
44 15, 2006 and the tax imposed under this act during the period July
45 1, 1992 through July 14, 2006 shall have been paid.

46 (4) Except as otherwise hereinafter provided, the tax imposed
47 under subsection (e) of section 3 shall be applicable at the rate of
48 6% to any admission to or for the use of facilities of a place of

1 amusement occurring on or after the effective date of P.L. _____,
2 c. (pending before the Legislature as this bill), whether or not the
3 admission charge has been paid prior to the effective date of P.L. _____,
4 c. (pending before the Legislature as this bill), unless the tickets
5 were actually sold and delivered, other than for resale, prior to the
6 effective date of P.L. _____, c. (pending before the Legislature as this
7 bill) and the tax imposed under this act during the period July 15,
8 2006 through the day prior to the effective date of P.L. _____,
9 c. (pending before the Legislature as this bill) shall have been
10 paid.

11 d. (1) Sales made on and after July 1, 1990 but prior to July 1,
12 1992 to contractors, subcontractors or repairmen of materials,
13 supplies, or services for use in erecting structures for others, or
14 building on, or otherwise improving, altering or repairing real
15 property of others shall be subject to the taxes imposed by
16 subsections (a) and (b) of section 3 and section 6 hereof at the rate
17 of 7%; provided, however, that if such sales are made for use in
18 performance of a contract which is either of a fixed price not
19 subject to change or modification, or entered into pursuant to the
20 obligation of a formal written bid which cannot be altered or
21 withdrawn, and, in either case, such contract was entered into or
22 such bid was made on or after January 3, 1983 but prior to July 1,
23 1990, such sales shall be subject to tax at the rate of 6%, but the
24 vendor shall charge and collect from the purchaser a tax on such
25 sales at the rate of 7%.

26 (2) Sales made on or after July 1, 1992 but prior to July 15,
27 2006 to contractors, subcontractors or repairmen of materials,
28 supplies, or services for use in erecting structures for others, or
29 building on, or otherwise improving, altering or repairing real
30 property of others shall be subject to the taxes imposed by
31 subsections (a) and (b) of section 3 and section 6 hereof at the rate
32 of 6%; provided, however, that if such sales are made for use in
33 performance of a contract which is either of a fixed price not
34 subject to change or modification, or entered into pursuant to the
35 obligation of a formal written bid which cannot be altered or
36 withdrawn, and, in either case, such contract was entered into or
37 such bid was made on or after July 1, 1990, but prior to July 1,
38 1992, such sales shall be subject to tax at the rate of 7%.

39 (3) Sales made on or after July 15, 2006 but prior to the
40 effective date of P.L. _____, c. (pending before the Legislature as this
41 bill) to contractors, subcontractors or repairmen of materials,
42 supplies, or services for use in erecting structures for others, or
43 building on, or otherwise improving, altering or repairing real
44 property of others shall be subject to the taxes imposed by
45 subsections (a) and (b) of section 3 and section 6 hereof at the rate
46 of 7%; provided, however, that if such sales are made for use in
47 performance of a contract which is either of a fixed price not
48 subject to change or modification, or entered into pursuant to the

1 obligation of a formal written bid which cannot be altered or
2 withdrawn, and, in either case, such contract was entered into or
3 such bid was made on or after July 1, 1992, but prior to July 15,
4 2006, such sales shall be subject to tax at the rate of 6%, but the
5 vendor shall charge and collect from the purchaser a tax on such
6 sales at the rate of 7%.

7 (4) Sales made on or after July 15, 2006 but prior to the
8 effective date of P.L. , c. (pending before the Legislature as this
9 bill) to contractors, subcontractors or repairmen of materials,
10 supplies, or services for use in erecting structures for others, or
11 building on, or otherwise improving, altering or repairing real
12 property of others shall be subject to the taxes imposed by
13 subsections (a) and (b) of section 3 and section 6 hereof at the rate
14 of 6%; provided, however, that if such sales are made for use in
15 performance of a contract which is either of a fixed price not
16 subject to change or modification, or entered into pursuant to the
17 obligation of a formal written bid which cannot be altered or
18 withdrawn, and, in either case, such contract was entered into or
19 such bid was made on or after July 15, 2006, but prior to the
20 effective date of P.L. , c. (pending before the Legislature as this
21 bill), such sales shall be subject to tax at the rate of 7%.

22 e. (1) As to sales other than those referred to in d. above, the
23 taxes imposed under subsections (a) and (b) of section 3 and section
24 6 hereof, and the taxes imposed under subsection (f) of section 3
25 and section 6 hereof, upon receipts received on or after July 1, 1990
26 and on or before December 31, 1990, shall be at the rate in effect on
27 June 30, 1990, in case of sales made or services rendered pursuant
28 to a written contract entered on or after January 3, 1983 but prior to
29 July 1, 1990, and accompanied by a deposit or partial payment of
30 the contract price, except in the case of a contract which, in the
31 usage of trade, is not customarily accompanied by a deposit or
32 partial payment of the contract price, but the vendor shall charge
33 and collect from the purchaser on such sales at the rate of 7%,
34 which tax shall be reduced to the rate, if any, in effect on June 30,
35 1990, only by a claim for refund filed by the purchaser with the
36 director within 90 days after receipt of said receipts and otherwise
37 pursuant to the provisions of section 20 of P.L.1966, c.30
38 (C.54:32B-20). A claim for refund shall not be allowed if there has
39 been no deposit or partial payment of the contract price unless the
40 claimant shall establish by clear and convincing evidence that, in
41 the usage of trade, such contracts are not customarily accompanied
42 by a deposit or partial payment of the contract price.

43 (2) As to sales other than those referred to in d. above, the taxes
44 imposed under subsections (a) and (b) of section 3 and section 6
45 hereof, and the taxes imposed under subsections (f) and (g) of
46 section 3 and section 6 hereof, upon receipts received on or after
47 July 15, 2006 and on or before December 31, 2006, shall be at the
48 rate in effect on July 14, 2006, in case of sales made or services

1 rendered pursuant to a written contract entered on or after July 1,
2 1992 but prior to July 15, 2006, and accompanied by a deposit or
3 partial payment of the contract price, except in the case of a
4 contract which, in the usage of trade, is not customarily
5 accompanied by a deposit or partial payment of the contract price,
6 but the vendor shall charge and collect from the purchaser on such
7 sales at the rate of 7%, which tax shall be reduced to the rate, if any,
8 in effect on July 14, 2006, only by a claim for refund filed by the
9 purchaser with the director within 90 days after receipt of said
10 receipts and otherwise pursuant to the provisions of section 20 of
11 P.L.1966, c.30 (C.54:32B-20). A claim for refund shall not be
12 allowed if there has been no deposit or partial payment of the
13 contract price unless the claimant shall establish by clear and
14 convincing evidence that, in the usage of trade, such contracts are
15 not customarily accompanied by a deposit or partial payment of the
16 contract price.

17 f. (1) The taxes imposed under subsections (a), (b), (c) and (f)
18 of section 3 upon receipts received on or after July 1, 1990 but prior
19 to July 1, 1992 shall be at the rate, if any, in effect on June 30, 1990
20 in the case of sales made or services rendered, if delivery of the
21 property which was the subject matter of the sale has been
22 completed or such services have been entirely rendered prior to July
23 1, 1990.

24 (2) The taxes imposed under subsections (a), (b), (c) and (f) of
25 section 3 upon receipts received on or after July 1, 1992 but prior to
26 July 15, 2006 shall be at the rate of 7% in the case of sales made or
27 services rendered, where delivery of the property which was the
28 subject matter of the sale has been completed or such services have
29 been entirely rendered on or after July 1, 1990 but prior to July 1,
30 1992.

31 (3) The taxes imposed under subsections (a), (b), (c), (f) and (g)
32 of section 3 upon receipts received on or after July 15, 2006 shall be
33 at the rate of 6% in the case of sales made or services rendered,
34 where delivery of the property which was the subject matter of the
35 sale has been completed or such services have been entirely
36 rendered on or after July 1, 1992 but prior to July 15, 2006.

37 (4) The taxes imposed under subsections (a), (b), (c) and (f) of
38 section 3 upon receipts received on or after the effective date of
39 P.L. , c. (pending before the Legislature as this bill) shall be at
40 the rate of 7% in the case of sales made or services rendered, where
41 delivery of the property which was the subject matter of the sale has
42 been completed or such services have been entirely rendered on or
43 after July 15, 2006 but prior to the effective date of P.L. ,
44 c. (pending before the Legislature as this bill).

45 g. The director is empowered to promulgate rules and
46 regulations to implement the provisions of this section.

47 (cf: P.L.2006, c.44, s.4)

A108 SPACE, PHOEBUS

1 4. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read
2 as follows:
3 6. Unless property or services have already been or will be
4 subject to the sales tax under this act, there is hereby imposed on
5 and there shall be paid by every person a use tax for the use within
6 this State of ~~7%~~ 6%, except as otherwise exempted under this act,
7 (A) of any tangible personal property or digital property purchased
8 at retail, including energy, provided however, that electricity
9 consumed by the generating facility that produced it shall not be
10 subject to tax, (B) of any tangible personal property or digital
11 property manufactured, processed or assembled by the user, if items
12 of the same kind of tangible personal property or digital property
13 are offered for sale by him in the regular course of business, or if
14 items of the same kind of tangible personal property are not offered
15 for sale by him in the regular course of business and are used as
16 such or incorporated into a structure, building or real property, (C)
17 of any tangible personal property or digital property, however
18 acquired, where not acquired for purposes of resale, upon which any
19 taxable services described in paragraphs (1) and (2) of subsection
20 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been
21 performed, (D) of intrastate, interstate, or international
22 telecommunications services described in subsection (f) of section 3
23 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184),
24 (F) of utility service provided to persons in this State for use in this
25 State, provided however, that utility service used by the facility that
26 provides the service shall not be subject to tax, (G) of mail
27 processing services described in paragraph (5) of subsection (b) of
28 section 3 of P.L.1966, c.30 (C.54:32B-3), (H) (Deleted by
29 amendment, P.L.2008, c.123), (I) of any services subject to tax
30 pursuant to subsection (11), (12), (13), (14) or (15) of subsection
31 (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), and (J) of access to
32 or use of the property or facilities of a health and fitness, athletic,
33 sporting or shopping club or organization in this State. For
34 purposes of clause (A) of this section, the tax shall be at the
35 applicable rate, as set forth hereinabove, of the consideration given
36 or contracted to be given for such property or for the use of such
37 property including delivery charges made by the seller, but
38 excluding any credit for property of the same kind accepted in part
39 payment and intended for resale. For the purposes of clause (B) of
40 this section, the tax shall be at the applicable rate, as set forth
41 hereinabove, of the price at which items of the same kind of
42 tangible personal property or digital property are offered for sale by
43 the user, or if items of the same kind of tangible personal property
44 are not offered for sale by the user in the regular course of business
45 and are used as such or incorporated into a structure, building or
46 real property the tax shall be at the applicable rate, as set forth
47 hereinabove, of the consideration given or contracted to be given
48 for the tangible personal property manufactured, processed or

1 assembled by the user into the tangible personal property the use of
2 which is subject to use tax pursuant to this section, and the mere
3 storage, keeping, retention or withdrawal from storage of tangible
4 personal property or digital property by the person who
5 manufactured, processed or assembled such property shall not be
6 deemed a taxable use by him. For purposes of clause (C) of this
7 section, the tax shall be at the applicable rate, as set forth
8 hereinabove, of the consideration given or contracted to be given
9 for the service, including the consideration for any tangible personal
10 property or digital property transferred in conjunction with the
11 performance of the service, including delivery charges made by the
12 seller. For the purposes of clause (D) of this section, the tax shall
13 be at the applicable rate on the charge made by the
14 telecommunications service provider; provided however, that for
15 prepaid calling services and prepaid wireless calling services the tax
16 shall be at the applicable rate on the consideration given or
17 contracted to be given for the prepaid calling service or prepaid
18 wireless calling service or the recharge of the prepaid calling
19 service or prepaid wireless calling service. For purposes of clause
20 (F) of this section, the tax shall be at the applicable rate on the
21 charge made by the utility service provider. For purposes of clause
22 (G) of this section, the tax shall be at the applicable rate on that
23 proportion of the amount of all processing costs charged by a mail
24 processing service provider that is attributable to the service
25 distributed in this State. For purposes of clause (I) of this section,
26 the tax shall be at the applicable rate on the charge made by the
27 service provider. For purposes of clause (J) of this section, the tax
28 shall be at the applicable rate on the charges in the nature of
29 initiation fees, membership fees or dues.

30 (cf: P.L.2008, c.123, s.5)

31

32 5. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended
33 to read as follows:

34 31. Receipts from sales of tangible personal property and
35 services taxable under any municipal ordinance which was adopted
36 pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) and was in effect
37 on April 27, 1966 are exempt from the tax imposed under the
38 **【Sales and Use Tax Act】** “Sales and Use Tax Act,” P.L.1966, c.30
39 (C.54:32B-1 et seq.), subject to the following conditions:

40 a. To the extent that the tax that is or would be imposed under
41 section 3 of P.L.1966, c.30 (C.54:32B-3) is greater than the tax
42 imposed by such ordinance, such sales shall not be exempt under
43 this section; and

44 b. Irrespective of the rate of tax imposed by such ordinance,
45 such sales shall be exempt only to the extent that the rate of taxation
46 imposed by the ordinance exceeds 6%, except that the combined
47 rate of taxation imposed under the ordinance and under this section

1 shall not exceed ~~13%~~ 12%.

2 (cf: P.L.2006, c.44, s.10)

3

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

6 1. a. In addition to any other tax, assessment or use fee
7 authorized by law, there is imposed and shall be paid a hotel and
8 motel occupancy fee of 7% for occupancies on and after August 1,
9 2003 but before July 1, 2004, and of 5% for occupancies on and
10 after July 1, 2004, upon the rent for every occupancy of a room or
11 rooms in a hotel subject to taxation pursuant to subsection (d) of
12 section 3 of P.L.1966, c.30 (C.54:32B-3), which every person
13 required to collect tax shall collect from the customer when
14 collecting the rent to which it applies; provided however, that on
15 and after the tenth day following a certification by the Director of
16 the Division of Budget and Accounting in the Department of the
17 Treasury pursuant to subsection d. of section 2 of P.L.2003, c.114
18 (C.54:32D-2), no such fee shall be paid or collected; and provided
19 further that:

20 (1) the combined rates of the fee imposed under this section,
21 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
22 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
23 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of ~~14%~~
24 13%, and to the extent that the total combined rate of taxation for
25 the listed fees and taxes would exceed ~~14%~~ 13%, the fee imposed
26 under this section shall be reduced so that the total combined rate
27 equals ~~14%~~ 13%;

28 (2) the combined rates of the fee imposed under this section,
29 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
30 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
31 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
32 total rate of ~~14%~~ 13%, and to the extent that the total combined
33 rate of taxation for the listed fees and taxes would exceed ~~14%~~
34 13%, the fee imposed under this section shall be reduced so that the
35 total combined rate equals ~~14%~~ 13%; and

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

39 b. The hotel and motel occupancy fee imposed by subsection a.
40 of this section shall not be imposed on the rent for an occupancy if
41 the purchaser, user or consumer is an entity exempt from the tax
42 imposed on an occupancy under the "Sales and Use Tax Act"
43 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
44 9).

45 c. Terms used in this section shall have the meaning given
46 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

47 (cf: P.L.2006, c.44, s.18)

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16

1 7. Section 19 of P.L.2006, c.44 (C.54:32B-4.1) is repealed.

2

3 8. This act shall take effect immediately.

4

5

6

STATEMENT

7

8 This bill decreases the rate of the sales and use tax from 7% to

9 6%, effective immediately upon its enactment.