

[Second Reprint]

ASSEMBLY, No. 4587

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 15, 2017

Sponsored by:

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Assemblyman Gusciora

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 reported by the Assembly Budget Committee on May 11, 2017, with amendments.

(Sponsorship Updated As Of: 6/20/2017)

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, c.19
 13 (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, c.19
 17 (C.5:10A-6).

18 "Meadowlands district" means the Hackensack Meadowlands
 19 District, the area delineated within section 5 of P.L.2015, c.19
 20 (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 ²campsite,²
 43 cabin, lean-to, or other similar residential facility of ²a campground
 44 or² an adult or youth camp; ¹[or a room, group of rooms, or other

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ATG committee amendments adopted February 27, 2017.

²Assembly ABU committee amendments adopted May 11, 2017.

1 living or sleeping space listed with a real estate agent or real estate
2 broker licensed by the New Jersey Real Estate Commission
3 pursuant to R.S.45:15-1 et seq] or a furnished or unfurnished
4 private residential property, including but not limited to
5 condominiums, bungalows, single-family homes and similar living
6 units, where no maid service, room service, linen changing service
7 or other common hotel services are made available by the lessor and
8 where the keys to the ²furnished or unfurnished private residential²
9 property ², whether a physical key, access to a keyless locking
10 mechanism, or other means of physical ingress to the furnished or
11 unfurnished private residential property,² are provided to the lessee
12 at the location of an offsite real estate broker licensed by the New
13 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

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

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

23

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

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

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

1 Each person required to collect the assessment shall be
2 personally liable for the assessment imposed, collected, or required
3 to be paid, collected, or remitted under this section. Any such
4 person shall have the same right in respect to collecting the fee from
5 that person's customer or in respect to non-payment of the fee by
6 the customer as if the fee were a part of the purchase price of the
7 occupancy or rent, as the case may be, and payable at the same
8 time; provided, however, that the director shall be joined as a party
9 in any action or proceeding brought to collect the fee.

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

23 For purposes of this section, "person" includes: an individual,
24 partnership, corporation, or an officer, director, stockholder, or
25 employee of a corporation, or a member or employee of a
26 partnership, who as such officer, director, stockholder, employee, or
27 member is under the duty to perform the act in respect of which the
28 violation occurs.

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

32 c. Assessment revenue shall be collected by the Director of the
33 Division of Taxation and shall be deposited by the Director of the
34 Division of Taxation into the intermunicipal account established
35 pursuant to section 53 of P.L.2015, c.19 (C.5:10A-53), and shall be
36 used to pay meadowlands adjustment payments to municipalities in
37 the Meadowlands district pursuant to the provisions of sections 1
38 through 68 of P.L.2015, c.19 (C.5:10A-1 et seq.). If in any year,
39 assessment revenue in the intermunicipal account exceeds the
40 amount necessary to pay meadowlands adjustment payments to
41 municipalities in the Meadowlands district, that remaining
42 assessment revenue may be used for the purposes set forth in
43 subsection e. of this section.

44 d. In the event sufficient assessment revenue is unavailable in
45 any year to pay all of the required meadowlands adjustment
46 payments to municipalities in the Meadowlands district, the State
47 Treasurer shall provide the commission with such funds as may be

1 necessary to make all of the required payments to those
2 municipalities.

3 e. In the event that in any year, after the required meadowlands
4 adjustment payments have been made to municipalities in the
5 Meadowlands district, assessment revenue remains in the
6 intermunicipal account, that remaining assessment revenue may be
7 used in that year for the following purposes:

8 (1) the commission may perform projects in the areas of flood
9 control, traffic, renewable energy, or other infrastructure
10 improvement projects and utilize monies from the project fund for
11 property acquisition, demolition, clearance, removal, relocation,
12 renovation, alteration, construction, reconstruction, installation, or
13 repair of a structure or improvement, and the costs associated
14 therewith including the costs of appraisal, economic and
15 environmental analyses or engineering, planning, design,
16 architectural, surveying, or other professional services;

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

19 (3) the commission may fund the acquisition of property for the
20 purpose of open space preservation and the costs associated
21 therewith including the costs of appraisal, economic and
22 environmental analyses or engineering, surveying, or other
23 professional services; or

24 (4) the commission may fund the creation of parks and other
25 recreational facilities and the costs associated therewith, including
26 the costs of appraisal, economic and environmental analyses or
27 engineering planning, design, architectural, surveying, or other
28 professional services.

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

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

38

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

41 3. As used in this act:

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

45 "Developer" means any person or entity, whether public or
46 private, including a State entity, that proposes to undertake a project
47 pursuant to a development agreement.

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

4 "Eligible municipality" means a municipality: (1) in which is
5 located part of an urban enterprise zone that has been designated
6 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
7 supplement thereto; and (2) which has a population greater than
8 25,000 and less than 29,000 according to the latest federal decennial
9 census in a county of the third class with a population density
10 greater than 295 and less than 304 persons per square mile
11 according to the latest federal decennial census.

12 "Infrastructure improvements" means the construction or
13 rehabilitation of any street, highway, utility, transportation or
14 parking facilities, or other similar improvements; the acquisition of
15 any interest in land as necessary or convenient for the acquisition of
16 any right-of-way or other easement for the purpose of constructing
17 infrastructure improvements; the acquisition, construction or
18 reconstruction of land and site improvements, including demolition,
19 clearance, removal, construction, reconstruction, fill, environmental
20 enhancement or abatement, or other site preparation for
21 development of a sports and entertainment district.

22 "Project" means a sports and entertainment facility and may
23 include infrastructure improvements that are associated with the
24 sports and entertainment facility.

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

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 "Sports and entertainment facility" means any privately or
40 publicly owned or operated facility located in a sports and
41 entertainment district that is used primarily for sports contests,
42 entertainment, or both, such as a theater, stadium, museum, arena,
43 automobile racetrack, or other place where performances, concerts,
44 exhibits, games or contests are held.

45 "State Treasurer" or "treasurer" means the treasurer of the State
46 of New Jersey.

47 "Transient accommodation" means a room, group of rooms, or
48 other living or sleeping space for the lodging of occupants,

1 including but not limited to residences or buildings used as
2 residences. “Transient accommodation” does not include: a hotel or
3 hotel room; a room, group of rooms, or other living or sleeping
4 space used as a place of assembly; a dormitory or other similar
5 residential facility of an elementary or secondary school or a
6 college or university; a hospital, nursing home, or other similar
7 residential facility of a provider of services for the care, support and
8 treatment of individuals that is licensed by the State; a ²campsite,²
9 cabin, lean-to, or other similar residential facility of ²a campground
10 or² an adult or youth camp; ¹[or a room, group of rooms, or other
11 living or sleeping space listed with a real estate agent or real estate
12 broker licensed by the New Jersey Real Estate Commission
13 pursuant to R.S.45:15-1 et seq] or a furnished or unfurnished
14 private residential property, including but not limited to
15 condominiums, bungalows, single-family homes and similar living
16 units, where no maid service, room service, linen changing service
17 or other common hotel services are made available by the lessor and
18 where the keys to the ²furnished or unfurnished private residential²
19 property ², whether a physical key, access to a keyless locking
20 mechanism, or other means of physical ingress to the furnished or
21 unfurnished private residential property,² are provided to the lessee
22 at the location of an offsite real estate broker licensed by the New
23 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

24 “Transient space marketplace” means an online marketplace
25 through which a person may offer transient accommodations or
26 hotel rooms to individuals. A “transient space marketplace” allows
27 transient accommodations or hotel rooms to be advertised or listed
28 through an online marketplace and provides a means for a customer
29 to arrange for the occupancy of the transient accommodation or
30 hotel room in exchange for consideration directly through the online
31 marketplace.

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

33

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

36 5. The governing body of a municipality that establishes a
37 sports and entertainment district may, as part of the ordinance
38 establishing the district: impose one or more of the taxes
39 enumerated in subsection a. of this section; dedicate some or all of
40 those taxes; and dedicate some or all of the taxes enumerated in
41 subsection b. of this section solely for the purposes of financing the
42 project costs of a sports and entertainment facility for the life of the
43 project, as appropriate, except that none of the taxes enumerated in
44 subsection a. or b. of this section shall be imposed or dedicated for
45 a period of more than 30 years.

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

1 (1) a tax at the rate of 2% on the receipts from every sale within
2 the district of tangible personal property subject to taxation
3 pursuant to subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-
4 3);

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

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

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

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

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

25 d. A copy of an ordinance adopted pursuant to section 4 of
26 P.L.2007, c.30 (C.34:1B-193) shall be transmitted upon adoption or
27 amendment thereof to the State Treasurer. An ordinance so adopted
28 or any amendment thereto shall provide that the tax provisions of
29 the ordinance or any amendment to the tax provisions shall take
30 effect on the first day of the first full month occurring 90 days after
31 the date of transmittal to the State Treasurer.

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

42
43 5. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to
44 read as follows:

45 7. a. A tax imposed pursuant to a municipal ordinance adopted
46 under the provisions of subsection a. of section 5 of P.L.2007,
47 c.30 (C.34:1B-194) shall be collected on behalf of the municipality

1 by the person collecting the receipts, charges or rent from the
2 customer.

3 b. Each person required to collect a tax imposed by the
4 ordinance shall be personally liable for the tax imposed, collected
5 or required to be collected hereunder. Any such person shall have
6 the same right in respect to collecting the tax from a customer as if
7 the tax were a part of the rent and payable at the same time;
8 provided, however, that the chief fiscal officer of the municipality
9 shall be joined as a party in any action or proceeding brought to
10 collect the tax.

11 c. Notwithstanding any other provision of this section to the
12 contrary, the Director of the Division of Taxation in the Department
13 of the Treasury may enter into an agreement with the owner or
14 operator of a transient space marketplace for the purpose of
15 collection and payment of the tax for transactions solely
16 consummated through the transient space marketplace. Upon
17 entering an agreement with the owner or operator of a transient
18 space marketplace, the director may waive the responsibility of a
19 person engaged in the business of providing transient
20 accommodations or hotel rooms to collect and pay the tax. The
21 owner or operator of the transient space marketplace shall agree to
22 be personally liable for the collection and payment of the tax on
23 behalf of a person engaged in the business of providing transient
24 accommodations or hotel rooms.

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

26

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

29 2. As used in this act:

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

31 (1) Any sale in the ordinary course of business for consumption
32 of whiskey, beer or other alcoholic beverages by the drink in
33 restaurants, cafes, bars, hotels and other similar establishments;

34 (2) Any cover charge, minimum charge, entertainment, or other
35 similar charge made to any patron of any restaurant, cafe, bar, hotel
36 or other similar establishment;

37 (3) The hiring, with or without service, of any room in any hotel,
38 transient accommodation, inn, rooming or boarding house;

39 (4) The hiring of any rolling chair, beach chair or cabana; and

40 (5) The granting or sale of any ticket, license or permit for
41 admission to any theatre, moving picture exhibition or show, pier,
42 exhibition, or place of amusement, except charges for admission to
43 boxing, wrestling, kick boxing or combative sports events, matches,
44 or exhibitions, which charges are taxed pursuant to section 20 of
45 P.L. 1985, c. 83 (C. 5:2A-20).

46 "Vendor" means any person selling or hiring property or services
47 to another person upon the receipts from which a tax is imposed.

1 "Purchaser" means any person purchasing or hiring property or
2 services from another person, the receipts from which are taxable.

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

7 "Transient accommodation" means a room, group of rooms, or
8 other living or sleeping space for the lodging of occupants,
9 including but not limited to residences or buildings used as
10 residences. "Transient accommodation" does not include: a hotel or
11 hotel room; a room, group of rooms, or other living or sleeping
12 space used as a place of assembly; a dormitory or other similar
13 residential facility of an elementary or secondary school or a
14 college or university; a hospital, nursing home, or other similar
15 residential facility of a provider of services for the care, support and
16 treatment of individuals that is licensed by the State; a ²campsite,²
17 cabin, lean-to, or other similar residential facility of ²a campground
18 or² an adult or youth camp; ¹【or a room, group of rooms, or other
19 living or sleeping space listed with a real estate agent or real estate
20 broker licensed by the New Jersey Real Estate Commission
21 pursuant to R.S.45:15-1 et seq】 or a furnished or unfurnished
22 private residential property, including but not limited to
23 condominiums, bungalows, single-family homes and similar living
24 units, where no maid service, room service, linen changing service
25 or other common hotel services are made available by the lessor and
26 where the keys to the ²furnished or unfurnished private residential²
27 property ², whether a physical key, access to a keyless locking
28 mechanism, or other means of physical ingress to the furnished or
29 unfurnished private residential property,² are provided to the lessee
30 at the location of an offsite real estate broker licensed by the New
31 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

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

40 (cf: P.L.1985, c.83, s.34)

41

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

44 5. Such ordinance shall provide for the collection of such tax
45 by an officer of such municipality who shall be designated in such
46 ordinance; shall provide methods for enforcement; and may provide

1 penalties for the violation of any of the provisions of such
2 ordinance.

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

15 (cf: P.L.1947, c.71, s.5)]²

16

17 ²⁷. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
18 read as follows:

19 1. a. The director shall collect and administer any tax imposed
20 pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.),
21 amended and supplemented by P.L.1979, c.273, notwithstanding the
22 provisions of any other law or ordinance to the contrary. In
23 carrying out the provisions of this supplementary act the director
24 shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et
25 seq.).

26 b. The director shall determine and certify to the State
27 Treasurer on a monthly basis the amount of revenues payable to any
28 municipality which has enacted a tax pursuant to P.L.1947, c.71
29 (C.40:48-8.15 et seq.) and collected by the director pursuant to this
30 supplementary act. The State Treasurer upon the certification of the
31 director and upon the warrant of the State Comptroller, shall pay
32 and distribute on a monthly basis to each municipality the amount
33 so determined and certified.

34 c. The director may furnish to a municipality, at his discretion,
35 copies of tax reports or returns relating to taxes imposed under any
36 municipal ordinance heretofore adopted by that municipality
37 pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.).

38 d. (1) Each vendor required to collect the tax imposed by a
39 municipal ordinance which was adopted pursuant to the provisions
40 of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable
41 for the tax imposed, collected, or required to be paid, collected, or
42 remitted under the ordinance. Any such vendor shall have the same
43 right in respect to collecting the tax from that vendor's customer or
44 in respect to non-payment of the tax by the customer as if the tax
45 were a part of the purchase price of the property or service,
46 amusement charge or rent, as the case may be, and payable at the
47 same time; provided however, that the director shall be joined as a
48 party in any action or proceeding brought to collect the tax.

1 (2) For purposes of this subsection, "vendor" includes: an
2 individual, partnership, corporation, or an officer, director,
3 stockholder, or employee of a corporation, or a member or
4 employee of a partnership, who as such officer, director,
5 stockholder, employee, or member is under the duty to perform the
6 act in respect of which the violation occurs.

7 e. Notwithstanding any other provision of this section to the
8 contrary, the director may enter into an agreement with the owner
9 or operator of a transient space marketplace for the purpose of
10 collection and payment of the tax imposed pursuant to the
11 provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.) for transactions
12 solely consummated through the transient space marketplace. Upon
13 entering an agreement with the owner or operator of a transient
14 space marketplace, the director may waive the responsibility of a
15 person engaged in the business of providing transient
16 accommodations or hotel rooms to collect and pay the tax. The
17 owner or operator of the transient space marketplace shall agree to
18 be personally liable for the collection and payment of the tax on
19 behalf of a person engaged in the business of providing transient
20 accommodations or hotel rooms.²

21 (cf: P.L.2007, c.102, s.3)

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

25 1. As used in this act:

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

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

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

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

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

45 f. "Residence" means a house, condominium, or other
46 residential dwelling unit in a building or structure or part of a
47 building or structure that is designed, constructed, leased, rented, let
48 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 ²campsite,²
11 cabin, lean-to, or other similar residential facility of ²a campground
12 or² an adult or youth camp; ¹【or a room, group of rooms, or other
13 living or sleeping space listed with a real estate agent or real estate
14 broker licensed by the New Jersey Real Estate Commission
15 pursuant to R.S.45:15-1 et seq】 or a furnished or unfurnished
16 private residential property, including but not limited to
17 condominiums, bungalows, single-family homes and similar living
18 units, where no maid service, room service, linen changing service
19 or other common hotel services are made available by the lessor and
20 where the keys to the ²furnished or unfurnished private residential²
21 property ², whether a physical key, access to a keyless locking
22 mechanism, or other means of physical ingress to the furnished or
23 unfurnished private residential property,² are provided to the lessee
24 at the location of an offsite real estate broker licensed by the New
25 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

26 h. “Transient space marketplace” means an online marketplace
27 through which a person may offer transient accommodations or
28 hotel rooms to individuals. A “transient space marketplace” allows
29 transient accommodations or hotel rooms to be advertised or listed
30 through an online marketplace and provides a means for a customer
31 to arrange for the occupancy of the transient accommodation or
32 hotel room in exchange for consideration directly through the online
33 marketplace.

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

35

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

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

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

43

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

46 4. Fees under this act with respect to any eligible municipality
47 shall be adopted by resolution of the convention center operating

1 authority operating convention center facilities within the eligible
2 municipality. The rate thereof shall be \$2 per day for each occupied
3 room in the case of any hotels in the eligible municipality which
4 provide casino gaming, and \$1 per day for each occupied room in
5 the case of the other hotels or transient accommodations in the
6 eligible municipality. A certified copy of the resolution shall be
7 provided to the State Treasurer and the director.

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

9

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

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

26 The director 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 fee 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 fee. The
34 owner or operator of the transient space marketplace shall agree to
35 be personally liable for the collection and payment of the fee on
36 behalf of a person engaged in the business of providing transient
37 accommodations or hotel rooms.

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

39

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

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

46 "Residence" means a house, condominium, or other residential
47 dwelling unit in a building or structure or part of a building or

1 structure that is designed, constructed, leased, rented, let or hired
2 out, or otherwise made available for use as a residence.

3 “Transient accommodation” means a room, group of rooms, or
4 other living or sleeping space for the lodging of occupants,
5 including but not limited to residences or buildings used as
6 residences. “Transient accommodation” does not include: a hotel or
7 hotel room; a room, group of rooms, or other living or sleeping
8 space used as a place of assembly; a dormitory or other similar
9 residential facility of an elementary or secondary school or a
10 college or university; a hospital, nursing home, or other similar
11 residential facility of a provider of services for the care, support and
12 treatment of individuals that is licensed by the State; a ²campsite,²
13 cabin, lean-to, or other similar residential facility of ²a campground
14 or² an adult or youth camp; ¹[or a room, group of rooms, or other
15 living or sleeping space listed with a real estate agent or real estate
16 broker licensed by the New Jersey Real Estate Commission
17 pursuant to R.S.45:15-1 et seq] or a furnished or unfurnished
18 private residential property, including but not limited to
19 condominiums, bungalows, single-family homes and similar living
20 units, where no maid service, room service, linen changing service
21 or other common hotel services are made available by the lessor and
22 where the keys to the ²furnished or unfurnished private residential²
23 property ², whether a physical key, access to a keyless locking
24 mechanism, or other means of physical ingress to the furnished or
25 unfurnished private residential property,² are provided to the lessee
26 at the location of an offsite real estate broker licensed by the New
27 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

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

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

37

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

40 3. The governing body of any city of the first class or the
41 governing body of any city of the second class in which there is
42 located a terminal of an international airport may make, amend,
43 repeal and enforce an ordinance imposing in the city a tax, not to
44 exceed 6%, on charges for the use or occupation of rooms in hotels
45 or transient accommodations which tax shall be in addition to any
46 other tax imposed by law.

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

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

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

6 b. Every person required to collect any tax imposed by the
7 ordinance shall be personally liable for the tax imposed, collected
8 or required to be collected hereunder. Any such person shall have
9 the same right in respect to collecting the tax from his customer as
10 if the tax were a part of the use or occupancy charge and payable at
11 the same time; provided, however, that the chief fiscal officer of the
12 city shall be joined as a party in any action or proceeding brought to
13 collect the tax.

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

26 **[c.]** d. No person required to collect any tax hereunder shall
27 advertise or hold out to any person or to the public in general, in
28 any manner, directly or indirectly, that the tax will not be separately
29 charged and stated to the customer or that the tax will be refunded
30 to the customer.

31 **[d.]** e. All revenues collected from the tax shall be remitted to
32 the chief fiscal officer of the city on or before the dates on which
33 municipal real property taxes are due.

34 **[e.]** f. The city shall enforce the payment of delinquent hotel
35 occupancy taxes in the same manner as provided for municipal real
36 property taxes.

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

38

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

41 3. The governing body of a municipality, other than a city of
42 the first class or a city of the second class in which the tax
43 authorized under P.L.1981, c.77 (C.40:48E-1 et seq.) is imposed, a
44 city of the fourth class in which the tax authorized under P.L.1947,
45 c.71 (C.40:48-8.15 et seq.) is imposed, or a municipality in which
46 the tax and assessment authorized under section 4 of P.L.1992,
47 c.165 (C.40:54D-4) is imposed, may adopt an ordinance imposing a
48 tax, at a uniform percentage rate not to exceed 1% on charges of

1 rent for every occupancy on or after July 1, 2003 but before July 1,
2 2004, and not to exceed 3% on charges of rent for every occupancy
3 on or after July 1, 2004, of a room or rooms in a hotel or transient
4 accommodation subject to taxation pursuant to subsection (d) of
5 section 3 of P.L.1966, c.30 (C.54:32B-3). An ordinance so adopted
6 may also require that unpaid taxes under this section shall be
7 subject to interest at the rate of 5% per annum.

8 A tax imposed under this section shall be in addition to any other
9 tax or fee imposed pursuant to statute or local ordinance or
10 resolution by any governmental entity upon the occupancy of a
11 hotel room.

12 A copy of an ordinance adopted pursuant to this section shall be
13 transmitted upon adoption or amendment to the State Treasurer,
14 together with a list of the names and addresses of all of the hotels
15 and motels located in the municipality. An ordinance so adopted or
16 any amendment thereto shall provide that the tax provisions of the
17 ordinance or any amendment to the tax provisions shall take effect
18 on the first day of the first full month occurring 30 days after the
19 date of transmittal to the State Treasurer for ordinances adopted in
20 calendar year 2003 and on the first day of the first full month
21 occurring 90 days after the date of transmittal to the State Treasurer
22 for ordinances adopted in calendar year 2004 and thereafter.

23 A municipality that has adopted an ordinance pursuant to this
24 section shall annually provide to the State Treasurer, not later than
25 January 1 of each year, a list of the names and addresses of all of
26 the hotels and motels located in the municipality. A municipality
27 shall also provide to the State Treasurer the name and address of
28 any hotel or motel that commences operation after January 1 of any
29 year.

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

31

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

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

38 b. Each person required to collect a tax imposed by the
39 ordinance shall be personally liable for the tax imposed, collected
40 or required to be collected hereunder. Any such person shall have
41 the same right in respect to collecting the tax from a customer as if
42 the tax were a part of the rent and payable at the same time;
43 provided, however, that the chief fiscal officer of the municipality
44 shall be joined as a party in any action or proceeding brought to
45 collect the tax.

46 c. Notwithstanding any other provision of this section to the
47 contrary, the Director of the Division of Taxation in the Department
48 of the Treasury may enter into an agreement with the owner or

1 operator of a transient space marketplace for the purpose of
2 collection and payment of the tax for transactions solely
3 consummated through the transient space marketplace. Upon
4 entering an agreement with the owner or operator of a transient
5 space marketplace, the director may waive the responsibility of a
6 person engaged in the business of providing transient
7 accommodations or hotel rooms to collect and pay the tax. The
8 owner or operator of the transient space marketplace shall agree to
9 be personally liable for the collection and payment of the tax on
10 behalf of a person engaged in the business of providing transient
11 accommodations or hotel rooms.

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

13

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

16 3. As used in this act:

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

20 "Beach operation offset payment " means a payment made by an
21 authority to municipalities in its district for tourism development
22 activities related to operating and maintaining public beaches within
23 a zone to seaward of a line of demarcation located not more than
24 1,000 feet from the mean high water line.

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

27 "Commissioner" means the Commissioner of the Department of
28 Commerce and Economic Development.

29 "Construction" means the planning, designing, construction,
30 reconstruction, rehabilitation, replacement, repair, extension,
31 enlargement, improvement and betterment of a project, and includes
32 the demolition, clearance and removal of buildings or structures on
33 land acquired, held, leased or used for a project.

34 "Convention center facility" means any convention hall or center
35 or like structure or building, and shall include all facilities,
36 including commercial, office, community service, parking facilities
37 and all property rights, easements and interests, and other facilities
38 constructed for the accommodation and entertainment of tourists
39 and visitors, constructed in conjunction with a convention center
40 facility and forming reasonable appurtenances thereto but does not
41 mean the Wildwood convention center facility as defined in this
42 section.

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

47 "Cost" means all or any part of the expenses incurred in
48 connection with the acquisition, construction and maintenance of

1 any real property, lands, structures, real or personal property rights,
2 rights-of-way, franchises, easements, and interests acquired or used
3 for a project; any financing charges and reserves for the payment of
4 principal and interest on bonds or notes; the expenses of
5 engineering, appraisal, architectural, accounting, financial and legal
6 services; and other expenses as may be necessary or incident to the
7 acquisition, construction and maintenance of a project, the
8 financing thereof and the placing of the project into operation.

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

10 "Director" means the Director of the Division of Taxation in the
11 Department of the Treasury.

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

14 "Outdoor special events arena" means a facility or structure for
15 the holding outdoors of public events, entertainments, sporting
16 events, concerts or similar activities, and shall include all facilities,
17 property rights and interests, and all appurtenances reasonably
18 related thereto, constructed for the accommodation and
19 entertainment of tourists and visitors.

20 "Participant amusement" means a sporting activity or amusement
21 the charge for which is exempt from taxation under the "Sales and
22 Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) by virtue of the
23 participation of the patron in the activity or amusement, such as
24 bowling alleys, swimming pools, water slides, miniature golf,
25 boardwalk or carnival games and amusements, baseball batting
26 cages, tennis courts, and fishing and sightseeing boats.

27 "Predominantly tourism related retail receipts" means:

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

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

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

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

1 “Residence” means a house, condominium, or other residential
2 dwelling unit in a building or structure or part of a building or
3 structure that is designed, constructed, leased, rented, let or hired
4 out, or otherwise made available for use as a residence.

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

8 "Tourism" means activities involved in providing and marketing
9 services and products, including accommodations, for nonresidents
10 and residents who travel to and in New Jersey for recreation and
11 pleasure.

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

17 "Tourism development activities" include operations of the
18 authority to carry out its statutory duty to promote, advertise and
19 market the district, including making beach operation offset
20 payments.

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

23 "Tourism improvement and development district" or "district"
24 means an area within two or more contiguous municipalities within
25 a county of the sixth class established pursuant to ordinance enacted
26 by those municipalities, for the purposes of promoting the
27 acquisition, construction, maintenance, operation and support of a
28 tourism project, and to devote the revenue and the proceeds from
29 taxes upon predominantly tourism related retail receipts and from
30 tourism development fees to the purposes as herein defined.

31 "Tourist industry" means the industry consisting of private and
32 public organizations which directly or indirectly provide services
33 and products to nonresidents and residents who travel to and in New
34 Jersey for recreation and pleasure.

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

41 “Transient accommodation” means a room, group of rooms, or
42 other living or sleeping space for the lodging of occupants,
43 including but not limited to residences or buildings used as
44 residences. “Transient accommodation” does not include: a hotel or
45 hotel room; a room, group of rooms, or other living or sleeping
46 space used as a place of assembly; a dormitory or other similar
47 residential facility of an elementary or secondary school or a
48 college or university; a hospital, nursing home, or other similar

1 residential facility of a provider of services for the care, support and
2 treatment of individuals that is licensed by the State; a ²campsite,²
3 cabin, lean-to, or other similar residential facility of ²a campground
4 or² an adult or youth camp; ¹[or a room, group of rooms, or other
5 living or sleeping space listed with a real estate agent or real estate
6 broker licensed by the New Jersey Real Estate Commission
7 pursuant to R.S.45:15-1 et seq] or a furnished or unfurnished
8 private residential property, including but not limited to
9 condominiums, bungalows, single-family homes and similar living
10 units, where no maid service, room service, linen changing service
11 or other common hotel services are made available by the lessor and
12 where the keys to the ²furnished or unfurnished private residential²
13 property ², whether a physical key, access to a keyless locking
14 mechanism, or other means of physical ingress to the furnished or
15 unfurnished private residential property,² are provided to the lessee
16 at the location of an offsite real estate broker licensed by the New
17 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

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

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

29 "Wildwood convention center facility" means the project
30 authorized by paragraph (12) of subsection a. of section 6 of
31 P.L.1971, c.137 (C.5:10-6).

32 (cf: P.L.2005, c.78, s.1)

33

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

36 9. a. (1) A vendor required to collect the tax upon
37 predominantly tourism related retail receipts or tourism assessment
38 imposed pursuant to this act shall on or before the dates required
39 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to
40 the director the tax and assessments collected in the preceding
41 month and make and file a return for the preceding month with the
42 director on any form and containing any information as the Director
43 of the Division of Taxation in the Department of the Treasury shall
44 prescribe by rule or regulation as necessary to determine liability
45 for the tax and assessment in the preceding month during which the
46 person was required to collect the tax.

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

13 For purposes of this paragraph, "vendor" includes: an individual,
14 partnership, corporation, or an officer, director, stockholder, or
15 employee of a corporation, or a member or employee of a
16 partnership, who as such officer, director, stockholder, employee, or
17 member is under the duty to perform the act in respect of which the
18 violation occurs.

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

33 b. The director may permit or require returns to be made
34 covering other periods and upon any dates as the director may
35 specify. In addition, the director may require payments of tax and
36 assessment liability at any intervals and based upon any
37 classifications as the director may designate. In prescribing any
38 other periods to be covered by the return or intervals or
39 classifications for payment of tax and assessment liability, the
40 director may take into account the dollar volume of tax and
41 assessment involved as well as the need for ensuring the prompt and
42 orderly collection of the tax imposed.

43 c. The director may require amended returns to be filed within
44 20 days after notice and to contain the information specified in the
45 notice.

46 d. The director shall inform the authority for each month in

1 which this tax and assessment is collected and returns made of the
2 amount so collected in each month.

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

4

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

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

9 (a) "Person" includes an individual, trust, partnership, limited
10 partnership, limited liability company, society, association, joint
11 stock company, corporation, public corporation or public authority,
12 estate, receiver, trustee, assignee, referee, fiduciary and any other
13 legal entity.

14 (b) "Purchase at retail" means a purchase by any person at a
15 retail sale.

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

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

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

23 (1) For the purposes of this act a sale is for "resale, sublease, or
24 subrent" if it is a sale (A) for resale either as such or as converted
25 into or as a component part of a product produced for sale by the
26 purchaser, including the conversion of natural gas into another
27 intermediate or end product, other than electricity or thermal
28 energy, produced for sale by the purchaser, (B) for use by that
29 person in performing the services subject to tax under subsection
30 (b) of section 3 where the property so sold becomes a physical
31 component part of the property upon which the services are
32 performed or where the property so sold is later actually transferred
33 to the purchaser of the service in conjunction with the performance
34 of the service subject to tax, (C) of telecommunications service to a
35 telecommunications service provider for use as a component part of
36 telecommunications service provided to an ultimate customer, or
37 (D) to a person who receives by contract a product transferred
38 electronically for further commercial broadcast, rebroadcast,
39 transmission, retransmission, licensing, relicensing, distribution,
40 redistribution or exhibition of the product, in whole or in part, to
41 another person, other than rights to redistribute based on statutory
42 or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

20 (f) "Sale, selling or purchase" means any transfer of title or
21 possession or both, exchange or barter, rental, lease or license to
22 use or consume, conditional or otherwise, in any manner or by any
23 means whatsoever for a consideration, or any agreement therefor,
24 including the rendering of any service, taxable under this act, for a
25 consideration or any agreement therefor.

26 (g) "Tangible personal property" means personal property that
27 can be seen, weighed, measured, felt, or touched, or that is in any
28 other manner perceptible to the senses. "Tangible personal
29 property" includes electricity, water, gas, steam, and prewritten
30 computer software including prewritten computer software
31 delivered electronically.

32 (h) "Use" means the exercise of any right or power over tangible
33 personal property, specified digital products, services to property or
34 products, or services by the purchaser thereof and includes, but is
35 not limited to, the receiving, storage or any keeping or retention for
36 any length of time, withdrawal from storage, any distribution, any
37 installation, any affixation to real or personal property, or any
38 consumption of such property or products. Use also includes the
39 exercise of any right or power over intrastate or interstate
40 telecommunications and prepaid calling services. Use also includes
41 the exercise of any right or power over utility service. Use also
42 includes the derivation of a direct or indirect benefit from a service.

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

45 (1) The term "seller" includes:

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

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

6 (C) A person who solicits business either by employees,
7 independent contractors, agents or other representatives or by
8 distribution of catalogs or other advertising matter and by reason
9 thereof makes sales to persons within the State of tangible personal
10 property, specified digital products or services, the use of which is
11 taxed by this act .

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

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

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

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

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

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

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

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

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

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

- 1 (k) "Occupancy" means the use or possession or the right to the
2 use or possession, of any room in a hotel or transient
3 accommodation.
- 4 (l) "Occupant" means a person who, for a consideration, uses,
5 possesses, or has the right to use or possess, any room in a hotel or
6 transient accommodation under any lease, concession, permit, right
7 of access, license to use or other agreement, or otherwise.
- 8 (m) "Permanent resident" means any occupant of any room or
9 rooms in a hotel or transient accommodation for at least 90
10 consecutive days shall be considered a permanent resident with
11 regard to the period of such occupancy.
- 12 (n) "Room" means any room or rooms of any kind in any part or
13 portion of a hotel or transient accommodation, which is available
14 for or let out for any purpose other than a place of assembly.
- 15 (o) "Admission charge" means the amount paid for admission,
16 including any service charge and any charge for entertainment or
17 amusement or for the use of facilities therefor.
- 18 (p) "Amusement charge" means any admission charge, dues or
19 charge of a roof garden, cabaret or other similar place.
- 20 (q) "Charge of a roof garden, cabaret or other similar place"
21 means any charge made for admission, refreshment, service, or
22 merchandise at a roof garden, cabaret or other similar place.
- 23 (r) "Dramatic or musical arts admission charge" means any
24 admission charge paid for admission to a theater, opera house,
25 concert hall or other hall or place of assembly for a live, dramatic,
26 choreographic or musical performance.
- 27 (s) "Lessor" means any person who is the owner, licensee, or
28 lessee of any premises, tangible personal property or a specified
29 digital product which the person leases, subleases, or grants a
30 license to use to other persons.
- 31 (t) "Place of amusement" means any place where any facilities
32 for entertainment, amusement, or sports are provided.
- 33 (u) "Casual sale" means an isolated or occasional sale of an item
34 of tangible personal property or a specified digital product by a
35 person who is not regularly engaged in the business of making retail
36 sales of such property or product where the item of tangible
37 personal property or the specified digital product was obtained by
38 the person making the sale, through purchase or otherwise, for the
39 person's own use.
- 40 (v) "Motor vehicle" includes all vehicles propelled otherwise
41 than by muscular power (excepting such vehicles as run only upon
42 rails or tracks), trailers, semitrailers, house trailers, or any other
43 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
44 designed for operation on the public highways.
- 45 (w) "Persons required to collect tax" or "persons required to
46 collect any tax imposed by this act" includes: every seller of
47 tangible personal property, specified digital products or services;
48 every recipient of amusement charges; every operator of a hotel or

1 transient accommodation; every seller of a telecommunications
2 service; every recipient of initiation fees, membership fees or dues
3 for access to or use of the property or facilities of a health and
4 fitness, athletic, sporting or shopping club or organization; and
5 every recipient of charges for parking, storing or garaging a motor
6 vehicle. Said terms shall also include any officer or employee of a
7 corporation or of a dissolved corporation who as such officer or
8 employee is under a duty to act for such corporation in complying
9 with any requirement of this act and any member of a partnership.

10 (x) "Customer" includes: every purchaser of tangible personal
11 property, specified digital products or services; every patron paying
12 or liable for the payment of any amusement charge; every occupant
13 of a room or rooms in a hotel or transient accommodation; every
14 person paying charges in the nature of initiation fees, membership
15 fees or dues for access to or use of the property or facilities of a
16 health and fitness, athletic, sporting or shopping club or
17 organization; and every purchaser of parking, storage or garaging a
18 motor vehicle.

19 (y) "Property and services the use of which is subject to tax"
20 includes: (1) all property sold to a person within the State, whether
21 or not the sale is made within the State, the use of which property is
22 subject to tax under section 6 or will become subject to tax when
23 such property is received by or comes into the possession or control
24 of such person within the State; (2) all services rendered to a person
25 within the State, whether or not such services are performed within
26 the State, upon tangible personal property or a specified digital
27 product the use of which is subject to tax under section 6 or will
28 become subject to tax when such property or product is distributed
29 within the State or is received by or comes into possession or
30 control of such person within the State; (3) intrastate, interstate, or
31 international telecommunications sourced to this State pursuant to
32 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
33 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
34 delivered in this State for use in this State; (6) utility service sold,
35 exchanged or delivered in this State for use in this State; (7) mail
36 processing services in connection with printed advertising material
37 distributed in this State; (8) (Deleted by amendment, P.L.2005,
38 c.126); and (9) services the benefit of which are received in this
39 State.

40 (z) "Director" means the Director of the Division of Taxation in
41 the State Department of the Treasury, or any officer, employee or
42 agency of the Division of Taxation in the Department of the
43 Treasury duly authorized by the director (directly, or indirectly by
44 one or more redelegations of authority) to perform the functions
45 mentioned or described in this act.

46 (aa) "Lease or rental" means any transfer of possession or control
47 of tangible personal property for a fixed or indeterminate term for

1 consideration. A "lease or rental" may include future options to
2 purchase or extend.

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

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

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

11 (C) Providing tangible personal property or a specified digital
12 product along with an operator for a fixed or indeterminate period
13 of time. A condition of this exclusion is that the operator is
14 necessary for the equipment to perform as designed. For the
15 purpose of this subparagraph, an operator must do more than
16 maintain, inspect, or set-up the tangible personal property or
17 specified digital product.

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

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

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

29 (cc) "Telecommunications service" means the electronic
30 transmission, conveyance, or routing of voice, data, audio, video, or
31 any other information or signals to a point, or between or among
32 points.

33 "Telecommunications service" shall include such transmission,
34 conveyance, or routing in which computer processing applications
35 are used to act on the form, code, or protocol of the content for
36 purposes of transmission, conveyance, or routing without regard to
37 whether such service is referred to as voice over Internet protocol
38 services or is classified by the Federal Communications
39 Commission as enhanced or value added.

40 "Telecommunications service" shall not include:

41 (1) (Deleted by amendment, P.L.2008, c.123);

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

43 (3) (Deleted by amendment, P.L.2008, c.123);

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

45 (5) (Deleted by amendment, P.L.2008, c.123);

46 (6) (Deleted by amendment, P.L.2008, c.123);

47 (7) data processing and information services that allow data to
48 be generated, acquired, stored, processed, or retrieved and delivered

1 by an electronic transmission to a purchaser where such purchaser's
2 primary purpose for the underlying transaction is the processed data
3 or information;

4 (8) installation or maintenance of wiring or equipment on a
5 customer's premises;

6 (9) tangible personal property;

7 (10) advertising, including but not limited to directory
8 advertising;

9 (11) billing and collection services provided to third parties;

10 (12) internet access service;

11 (13) radio and television audio and video programming services,
12 regardless of the medium, including the furnishing of transmission,
13 conveyance, and routing of such services by the programming
14 service provider. Radio and television audio and video
15 programming services shall include but not be limited to cable
16 service as defined in section 47 U.S.C. s.522(6) and audio and video
17 programming services delivered by commercial mobile radio
18 service providers, as defined in section 47 C.F.R. 20.3;

19 (14) ancillary services; or

20 (15) digital products delivered electronically, including but not
21 limited to software, music, video, reading materials, or ringtones.

22 For the purposes of this subsection:

23 "ancillary service" means a service that is associated with or
24 incidental to the provision of telecommunications services,
25 including but not limited to detailed telecommunications billing,
26 directory assistance, vertical service, and voice mail service;

27 "conference bridging service" means an ancillary service that
28 links two or more participants of an audio or video conference call
29 and may include the provision of a telephone number. Conference
30 bridging service does not include the telecommunications services
31 used to reach the conference bridge;

32 "detailed telecommunications billing service" means an ancillary
33 service of separately stating information pertaining to individual
34 calls on a customer's billing statement;

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

37 "vertical service" means an ancillary service that is offered in
38 connection with one or more telecommunications services, which
39 offers advanced calling features that allow customers to identify
40 callers and to manage multiple calls and call connections, including
41 conference bridging services; and

42 "voice mail service" means an ancillary service that enables the
43 customer to store, send, or receive recorded messages. Voice mail
44 service does not include any vertical service that a customer may be
45 required to have to utilize the voice mail service.

46 (dd) (1) "Intrastate telecommunications" means a
47 telecommunications service that originates in one United States
48 state or a United States territory or possession or federal district,

1 and terminates in the same United States state or United States
2 territory or possession or federal district.

3 (2) "Interstate telecommunications" means a
4 telecommunications service that originates in one United States
5 state or a United States territory or possession or federal district,
6 and terminates in a different United States state or United States
7 territory or possession or federal district.

8 (3) "International telecommunications" means a
9 telecommunications service that originates or terminates in the
10 United States and terminates or originates outside the United States,
11 respectively. "United States" includes the District of Columbia or a
12 United States territory or possession.

13 (ee) (Deleted by amendment, P.L.2008, c.123)

14 (ff) "Natural gas" means any gaseous fuel distributed through a
15 pipeline system.

16 (gg) "Energy" means natural gas or electricity.

17 (hh) "Utility service" means the transportation or transmission of
18 natural gas or electricity by means of mains, wires, lines or pipes, to
19 users or customers.

20 (ii) "Self-generation unit" means a facility located on the user's
21 property, or on property purchased or leased from the user by the
22 person owning the self-generation unit and such property is
23 contiguous to the user's property, which generates electricity to be
24 used only by that user on the user's property and is not transported
25 to the user over wires that cross a property line or public
26 thoroughfare unless the property line or public thoroughfare merely
27 bifurcates the user's or self-generation unit owner's otherwise
28 contiguous property.

29 (jj) "Co-generation facility" means a facility the primary purpose
30 of which is the sequential production of electricity and steam or
31 other forms of useful energy which are used for industrial or
32 commercial heating or cooling purposes and which is designated by
33 the Federal Energy Regulatory Commission, or its successor, as a
34 "qualifying facility" pursuant to the provisions of the "Public Utility
35 Regulatory Policies Act of 1978," Pub.L.95-617.

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

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

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

- 1 (nn) (Deleted by amendment, P.L.2008, c.123)
- 2 (oo) (1) "Sales price" is the measure subject to sales tax and
3 means the total amount of consideration, including cash, credit,
4 property, and services, for which personal property or services are
5 sold, leased, or rented, valued in money, whether received in money
6 or otherwise, without any deduction for the following:
- 7 (A) The seller's cost of the property sold;
- 8 (B) The cost of materials used, labor or service cost, interest,
9 losses, all costs of transportation to the seller, all taxes imposed on
10 the seller, and any other expense of the seller;
- 11 (C) Charges by the seller for any services necessary to complete
12 the sale;
- 13 (D) Delivery charges;
- 14 (E) (Deleted by amendment, P.L.2011, c.49); and
- 15 (F) (Deleted by amendment, P.L.2008, c.123).
- 16 (2) "Sales price" does not include:
- 17 (A) Discounts, including cash, term, or coupons that are not
18 reimbursed by a third party, that are allowed by a seller and taken
19 by a purchaser on a sale;
- 20 (B) Interest, financing, and carrying charges from credit
21 extended on the sale of personal property or services, if the amount
22 is separately stated on the invoice, bill of sale, or similar document
23 given to the purchaser;
- 24 (C) Any taxes legally imposed directly on the consumer that are
25 separately stated on the invoice, bill of sale, or similar document
26 given to the purchaser;
- 27 (D) The amount of sales price for which food stamps have been
28 properly tendered in full or part payment pursuant to the federal
29 Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
- 30 (E) Credit for any trade-in of property of the same kind accepted
31 in part payment and intended for resale if the amount is separately
32 stated on the invoice, bill of sale, or similar document given to the
33 purchaser.
- 34 (3) "Sales price" includes consideration received by the seller
35 from third parties if:
- 36 (A) The seller actually receives consideration from a party other
37 than the purchaser and the consideration is directly related to a price
38 reduction or discount on the sale;
- 39 (B) The seller has an obligation to pass the price reduction or
40 discount through to the purchaser;
- 41 (C) The amount of the consideration attributable to the sale is
42 fixed and determinable by the seller at the time of the sale of the
43 item to the purchaser; and
- 44 (D) One of the following criteria is met:
- 45 (i) the purchaser presents a coupon, certificate, or other
46 documentation to the seller to claim a price reduction or discount
47 where the coupon, certificate, or documentation is authorized,
48 distributed, or granted by a third party with the understanding that

1 the third party will reimburse any seller to whom the coupon,
2 certificate, or documentation is presented;

3 (ii) the purchaser identifies himself to the seller as a member of a
4 group or organization entitled to a price reduction or discount;
5 provided however, that a preferred customer card that is available to
6 any patron does not constitute membership in such a group; or

7 (iii) the price reduction or discount is identified as a third party
8 price reduction or discount on the invoice received by the purchaser
9 or on a coupon, certificate, or other documentation presented by the
10 purchaser.

11 (4) In the case of a bundled transaction that includes a
12 telecommunications service, an ancillary service, internet access, or
13 an audio or video programming service, if the price is attributable to
14 products that are taxable and products that are nontaxable, the
15 portion of the price attributable to the nontaxable products is
16 subject to tax unless the provider can identify by reasonable and
17 verifiable standards such portion from its books and records that are
18 kept in the regular course of business for other purposes, including
19 non-tax purposes.

20 (pp) "Purchase price" means the measure subject to use tax and
21 has the same meaning as "sales price."

22 (qq) "Sales tax" means the tax imposed on certain transactions
23 pursuant to the provisions of the "Sales and Use Tax Act,"
24 P.L.1966, c.30 (C.54:32B-1 et seq.).

25 (rr) "Delivery charges" means charges by the seller for
26 preparation and delivery to a location designated by the purchaser
27 of personal property or services including, but not limited to,
28 transportation, shipping, postage, handling, crating, and packing. If
29 a shipment includes both exempt and taxable property, the seller
30 should allocate the delivery charge by using: (1) a percentage based
31 on the total sales price of the taxable property compared to the total
32 sales price of all property in the shipment; or (2) a percentage based
33 on the total weight of the taxable property compared to the total
34 weight of all property in the shipment. The seller shall tax the
35 percentage of the delivery charge allocated to the taxable property
36 but is not required to tax the percentage allocated to the exempt
37 property.

38 (ss) "Direct mail" means printed material delivered or distributed
39 by United States mail or other delivery service to a mass audience
40 or to addresses on a mailing list provided by the purchaser or at the
41 direction of the purchaser in cases in which the cost of the items are
42 not billed directly to the recipients. "Direct mail" includes tangible
43 personal property supplied directly or indirectly by the purchaser to
44 the direct mail seller for inclusion in the package containing the
45 printed material. "Direct mail" does not include multiple items of
46 printed material delivered to a single address.

47 (tt) "Streamlined Sales and Use Tax Agreement" means the
48 agreement entered into as governed and authorized by the "Uniform

1 Sales and Use Tax Administration Act," P.L.2001, c.431
2 (C.54:32B-44 et seq.).

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

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

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

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

13 (1) investigation and detective services, including detective
14 agencies and private investigators, and fingerprint, polygraph,
15 missing person tracing and skip tracing services;

16 (2) security guard and patrol services, including bodyguard and
17 personal protection, guard dog, guard, patrol, and security services;

18 (3) armored car services; and

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

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

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

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

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

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

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

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

44 (fff) "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 (ggg) “Transient accommodation” means a room, group of
2 rooms, or other living or sleeping space for the lodging of
3 occupants, including but not limited to residences or buildings used
4 as residences. “Transient accommodation” does not include: a hotel
5 or 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 ²campsite,²
11 cabin, lean-to, or other similar residential facility of ²a campground
12 or² an adult or youth camp; ¹【or a room, group of rooms, or other
13 living or sleeping space listed with a real estate agent or real estate
14 broker licensed by the New Jersey Real Estate Commission
15 pursuant to R.S.45:15-1 et seq】 or a furnished or unfurnished
16 private residential property, including but not limited to
17 condominiums, bungalows, single-family homes and similar living
18 units, where no maid service, room service, linen changing service
19 or other common hotel services are made available by the lessor and
20 where the keys to the ²furnished or unfurnished private residential²
21 property ², whether a physical key, access to a keyless locking
22 mechanism, or other means of physical ingress to the furnished or
23 unfurnished private residential property,² are provided to the lessee
24 at the location of an offsite real estate broker licensed by the New
25 Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq¹ .

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

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

35

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

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

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

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

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

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

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

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

38 (4) Maintaining, servicing or repairing real property, other than
39 a residential heating system unit serving not more than three
40 families living independently of each other and doing their cooking
41 on the premises, whether the services are performed in or outside of
42 a building, as distinguished from adding to or improving such real
43 property by a capital improvement, but excluding services rendered
44 by an individual who is not in a regular trade or business offering
45 his services to the public, and excluding garbage removal and sewer
46 services performed on a regular contractual basis for a term not less
47 than 30 days.

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

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

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

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

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

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

15 (11) Investigation and security services.

16 (12) Information services.

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

20 (14) Telephone answering services.

21 (15) Radio subscription services.

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

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

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

44 (2) Receipts from sales of food and beverages sold through
45 vending machines, at the wholesale price of such sale, which shall
46 be defined as 70% of the retail vending machine selling price,
47 except sales of milk, which shall not be taxed. Nothing herein
48 contained shall affect other sales through coin-operated vending

1 machines taxable pursuant to subsection (a) above or the exemption
2 thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

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

5 (3) For the purposes of this subsection:

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

9 "Prepared food" means:

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

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

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

22 provided however, that

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

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

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

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

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

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

1 shall be upon the amount for which a similar box or seat is sold for
2 each performance or exhibition at which the box or seat is used or
3 reserved by the holder, licensee or lessee, and shall be paid by the
4 holder, licensee or lessee.

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

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

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

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

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

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

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

41 (cf: P.L.2016, c.57, s.1)]²

42

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

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

1 (a) The receipts from every retail sale of tangible personal
2 property or a specified digital product for permanent use or less
3 than permanent use, and regardless of whether continued payment is
4 required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-
5 1 et seq.).

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

8 (1) Producing, fabricating, processing, printing, or imprinting
9 tangible personal property or a specified digital product, performed
10 for a person who directly or indirectly furnishes the tangible
11 personal property or specified digital product, not purchased by the
12 person for resale, upon which these services are performed.

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

32 (3) Storing all tangible personal property not held for sale in the
33 regular course of business; the rental of safe deposit boxes or
34 similar space; and the furnishing of space for storage of tangible
35 personal property by a person engaged in the business of furnishing
36 space for such storage.

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

45 (4) Maintaining, servicing, or repairing real property, other than
46 a residential heating system unit serving not more than three
47 families living independently of each other and doing their cooking
48 on the premises, whether the services are performed in or outside of

1 a building, as distinguished from adding to or improving the real
2 property by a capital improvement, but excluding services rendered
3 by an individual who is not in a regular trade or business offering
4 his services to the public, and excluding garbage removal and sewer
5 services performed on a regular contractual basis for a term not less
6 than 30 days.

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

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

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

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

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

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

21 (11) Investigation and security services.

22 (12) Information services.

23 (13) (Deleted by amendment, P.L.2017, c.27)

24 (14) Telephone answering services.

25 (15) Radio subscription services.

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

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

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

1 disabilities residing within an area of service designated by the
2 private nonprofit organization; and

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

10 The tax imposed by subsection (c) of this section shall not apply
11 to food or drink which is sold to an airline for consumption while in
12 flight.

13 (3) For the purposes of this subsection:

14 "Food and beverages sold through vending machines" means
15 food and beverages dispensed from a machine or other mechanical
16 device that accepts payment; and

17 "Prepared food" means:

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

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

26 C. food sold with eating utensils provided by the seller,
27 including plates, knives, forks, spoons, glasses, cups, napkins, or
28 straws. A plate does not include a container or packaging used to
29 transport the food;

30 provided however, that

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

33 A. food sold by a seller whose proper primary NAICS
34 classification is manufacturing in section 311, except subsector
35 3118 (bakeries);

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

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

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

44 (e) (1) Any admission charge to or for the use of any place of
45 amusement in the State, including charges for admission to race
46 tracks, baseball, football, basketball or exhibitions, dramatic or
47 musical arts performances, motion picture theaters, except charges
48 for admission to boxing, wrestling, kick boxing, or combative

1 sports exhibitions, events, performances, or contests which charges
2 are taxed under any other law of this State or under section 20 of
3 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
4 admission to, or use of, facilities for sporting activities in which the
5 patron is to be a participant, such as bowling alleys and swimming
6 pools. For any person having the permanent use or possession of a
7 box or seat or lease or a license, other than a season ticket, for the
8 use of a box or seat at a place of amusement, the tax shall be upon
9 the amount for which a similar box or seat is sold for each
10 performance or exhibition at which the box or seat is used or
11 reserved by the holder, licensee, or lessee, and shall be paid by the
12 holder, licensee, or lessee.

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

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

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

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

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

35 (i) The receipts from parking, storing, or garaging a motor
36 vehicle, excluding charges for the following: residential parking;
37 employee parking, when provided by an employer or at a facility
38 owned or operated by the employer; municipal parking, storing, or
39 garaging; receipts from charges or fees imposed pursuant to section
40 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement
41 between the Casino Reinvestment Development Authority and a
42 casino operator in effect on the date of enactment of P.L.2007,
43 c.105; and receipts from parking, storing, or garaging a motor
44 vehicle subject to tax pursuant to any other law or ordinance.

45 For the purposes of this subsection, "municipal parking, storing,
46 or garaging" means any motor vehicle parking, storing, or garaging

1 provided by a municipality or county, or a parking authority
2 thereof.²

3 (cf: P.L.2017, c.27, s.1)

4

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

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

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

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

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

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

1 distributing of statements), any political campaign on behalf of any
2 candidate for public office.

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

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

8 (2) retail sales of tangible personal property or specified digital
9 products by any shop or store operated by an organization described
10 in subsection (b) of this section, unless the tangible personal
11 property or specified digital product 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
14 shop or store is performed for the organization without
15 compensation and substantially all of the shop's or store's
16 merchandise has been received by the organization as gifts or
17 contributions or unless the purchaser is an organization exempt
18 under this section; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31

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

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

1 (1) the combined rates of the fee imposed under this section,
2 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
3 c.30 (C.54:32B-1 et seq.), plus any tax imposed under P.L.1947,
4 c.71 (C.40:48-8.15 et seq.), shall not exceed a total rate of 14% on
5 or before December 31, 2016, 13.875% on and after January 1,
6 2017 but before January 1, 2018, and 13.625% on and after January
7 1, 2018, and to the extent that the total combined rate of taxation for
8 the listed fees and taxes would exceed 14% on or before December
9 31, 2016, 13.875% on and after January 1, 2017 but before January
10 1, 2018, and 13.625% on and after January 1, 2018, the fee imposed
11 under this section shall be reduced so that the total combined rate
12 equals 14% on or before December 31, 2016, 13.875% on and after
13 January 1, 2017 but before January 1, 2018, and 13.625% on and
14 after January 1, 2018;

15 (2) the combined rates of the fee imposed under this section,
16 plus the tax imposed under the "Sales and Use Tax Act", P.L.1966,
17 c.30 (C.54:32B-1 et seq.), plus any tax and assessment imposed
18 under section 4 of P.L.1992, c.165 (C.40:54D-4), shall not exceed a
19 total rate of 14% on or before December 31, 2016, 13.875% on and
20 after January 1, 2017 but before January 1, 2018, and 13.625% on
21 and after January 1, 2018, and to the extent that the total combined
22 rate of taxation for the listed fees and taxes would exceed 14% on
23 or before December 31, 2016, 13.875% on and after January 1,
24 2017 but before January 1, 2018, and 13.625% on and after January
25 1, 2018, the fee imposed under this section shall be reduced so that
26 the total combined rate equals 14% on or before December 31,
27 2016, 13.875% on and after January 1, 2017 but before January 1,
28 2018, and 13.625% on and after January 1, 2018; and

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

32 b. The hotel and motel occupancy fee imposed by subsection a.
33 of this section shall not be imposed on the rent for an occupancy if
34 the purchaser, user or consumer is an entity exempt from the tax
35 imposed on an occupancy under the "Sales and Use Tax Act"
36 pursuant to subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-
37 9).

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

41

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

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

1 (1) of the fees collected for occupancies during State Fiscal
2 Year 2004: \$16,000,000 shall be allocated for appropriation to the
3 New Jersey State Council on the Arts for cultural projects;
4 \$2,700,000 shall be allocated for appropriation to the New Jersey
5 Historical Commission for the purposes of subsection a. of section 3
6 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
7 for appropriation to the New Jersey Commerce and Economic
8 Growth Commission for tourism advertising and promotion; and
9 \$500,000 shall be allocated for appropriation to the New Jersey
10 Cultural Trust; and

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

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

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

44 For purposes of this paragraph, "person" includes: an individual,
45 partnership, corporation, or an officer, director, stockholder, or
46 employee of a corporation, or a member or employee of a
47 partnership, who as such officer, director, stockholder, employee, or

1 member is under the duty to perform the act in respect of which the
2 violation occurs.

3 (3) Notwithstanding any other provision of this section to the
4 contrary, the director may enter into an agreement with the owner
5 or operator of a transient space marketplace for the purpose of
6 collection and payment of the fee for transactions solely
7 consummated through the transient space marketplace. Upon
8 entering an agreement with the owner or operator of a transient
9 space marketplace, the director may waive the responsibility of a
10 person engaged in the business of providing transient
11 accommodations or hotel rooms to collect and pay the fee. The
12 owner or operator of the transient space marketplace shall agree to
13 be personally liable for the collection and payment of the fee on
14 behalf of a person engaged in the business of providing transient
15 accommodations or hotel rooms.

16 c. The annual appropriations act for each State Fiscal Year,
17 commencing with fiscal year 2005, shall appropriate and distribute
18 during that fiscal year amounts not less than the amounts otherwise
19 specified for State Fiscal Year 2004 in paragraph (1) of subsection
20 a. of this section for the purposes specified in paragraph (1) of
21 subsection a. of this section.

22 d. If the provisions of subsection c. of this section are not met
23 on the effective date of an annual appropriations act for the State
24 fiscal year, or if an amendment or supplement to an annual
25 appropriations act for the State fiscal year should violate the
26 provisions of subsection c. of this section, the Director of the
27 Division of Budget and Accounting in the Department of the
28 Treasury shall, not later than five days after the enactment of the
29 annual appropriations act, or an amendment or supplement thereto,
30 that violates the provisions of subsection c. of this section, certify to
31 the Director of the Division of Taxation that the requirements of
32 subsection c. of this section have not been met.

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

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

43
44 24. (New section) Notwithstanding the provisions of the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.) to the contrary, the Director of the Division of Taxation in the
47 Department of the Treasury, in consultation with the Director of the
48 Division of Local Government Services in the Department of

1 Community Affairs, may adopt immediately upon filing with the
2 Office of Administrative Law such rules and regulations as the
3 director determines to be necessary to effectuate the purposes of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 which rules and regulations shall be effective for a period not to
6 exceed 360 days following the effective date of P.L. ,
7 c. (C.) (pending before the Legislature as this bill) and may
8 thereafter be amended, adopted, or readopted by the director in
9 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
10 et seq.).

11

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