SYNOPSIS
Provides for collection of sales tax from certain remote sellers.

CURRENT VERSION OF TEXT
As amended on August 27, 2018 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 7/2/2018)
AN ACT concerning the collection of the State sales and use tax, and

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

1. (New section) a. Notwithstanding the provisions of the
"Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or
any other law, rule, or regulation to the contrary, a seller, who
makes a retail sale of tangible personal property, specified digital
products, or taxable services for delivery into the State and who
does not have a physical presence in the State, shall be subject to
the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30
(C.54:32B-1 et seq.), and shall collect the tax in accordance with
the provisions of P.L.1966, c.30 (C.54:32B-1 et seq.) if the seller
meets either of the following criteria:

   (1) The seller's gross revenue from delivery of tangible personal
property, a specified digital product, or services into the State in the
calendar year in which a sale occurred or the prior calendar year exceeds $100,000; or

   (2) The seller sold tangible personal property, a specified digital
product, or services for delivery into the State in 200 or more
separate transactions during the calendar year in which a sale occurred or the prior calendar year.

b. A taxpayer complying with the provisions of P.L.1966, c.30
(C.54:32B-1 et seq.) and this section, voluntarily or otherwise, may
seek a refund or credit of a tax, penalty, or interest by following the
However, the director shall not grant an application for a refund or
credit submitted to the director pursuant to section 20 of P.L.1966,
c.30 (C.54:32B-20) on the basis that a taxpayer lacked a physical
presence in the State and complied with the provisions of P.L.1966,
c.30 (C.54:32B-1 et seq.) and this section voluntarily. Nothing in
this subsection shall limit the ability of a taxpayer to obtain a refund
or credit on any other basis set forth in section 20 of P.L.1966, c.30
(C.54:32B-20).

c. A seller who remits the tax imposed under the "Sales and
Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), voluntarily or
otherwise, shall not be liable to a purchaser who claims that the
sales tax has been over-collected because a provision of
P.L. , c. (C. ) (pending before the Legislature as this bill) is later
deemed unlawful.

d. Nothing in P.L. , c. (C. ) (pending before the Legislature
as this bill) shall affect the obligation of any purchaser from this

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 floor amendments adopted June 25, 2018.
2Assembly amendments adopted in accordance with Governor's
recommendations August 27, 2018.
State to remit use tax as to any applicable transaction in which the
seller does not collect and remit the sales tax or remit an offsetting
sales tax.

e. The tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.)
upon sellers who meet the criteria set forth in this section and are
not otherwise subject to the tax shall apply only to sales following
the effective date of this section and no obligation to collect and
remit the tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.) by
sellers who meet the criteria set forth in this section may be applied
retroactively.

1. (New section)  a. As used in this section:

"Forum" means a physical or electronic place, including, but not
limited to, a store, a booth, an Internet web site, a catalog, or a
dedicated sales software application, where tangible personal
property, specified digital products, or taxable services are
offered for sale.

"Marketplace facilitator" means a person who provides a forum
that lists, advertises, stores, or processes orders for tangible
personal property, specified digital products, or taxable services
subject to tax under the "Sales and Use Tax Act," P.L.1966, c.30
(C.54:32B-1 et seq.), and directly or indirectly through an
agreement or arrangement with a third party, collects receipts from
a purchaser and remits payment to a marketplace seller, regardless
of whether the person receives compensation or other consideration
for such services.

"Marketplace seller" means a seller that makes retail sales
through a forum operated by a marketplace facilitator.

b. Following the effective date of P.L. , c. (pending before
the Legislature as this bill), a marketplace facilitator shall collect
and pay to the director the tax imposed under P.L.1966, c.30
(C.54:32B-1 et seq.) on any retail sale made and delivered to a
purchaser in this State; provided, however, a marketplace facilitator
shall not be required to collect and pay the tax imposed under
P.L.1966, c.30 (C.54:32B-1 et seq.) on a retail sale if the
marketplace seller for whom the retail sale is facilitated holds a
certificate of registration pursuant to section 15 of P.L.1966, c.30
(C.54:32B-15) and provides a copy of the certificate of registration
to the marketplace facilitator prior to the retail sale. Nothing in this
subsection shall be construed to interfere with the ability of a
marketplace facilitator and a marketplace seller to enter into an
agreement with each other regarding the collection of the tax
imposed under P.L.1966, c.30 (C.54:32B-1 et seq.).

c. A marketplace facilitator shall not be liable to a marketplace
seller for failure to collect and remit the correct amount of the tax
imposed under P.L.1966, c.30 (C.54:32B-1 et seq.), provided the
failure was the result of the marketplace seller providing the
marketplace facilitator with incorrect information.
d. Following each retail sale made, the marketplace facilitator shall provide to the purchaser a sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, which shall state, charge, and show the tax separately.

e. A marketplace facilitator shall file a return in accordance with the provisions of P.L. 1966, c.30 (C.54:32B-1 et seq.) on a special return which the director shall prescribe.

f. Upon the request of the director, a marketplace facilitator shall demonstrate compliance with the provisions of this section and P.L.1966, c.30 (C.54:32B-1 et seq.). A marketplace facilitator otherwise shall not be subject to audit by the division with respect to the retail sales for which it is required to collect and remit the tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.) pursuant to subsection b. of this section. Nothing in this subsection shall preclude the department from auditing a marketplace facilitator on the marketplace seller’s behalf.

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

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

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

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

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

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

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

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

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

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

(4) The term "retail sale" does not include:
(A) Professional, insurance, or personal service transactions
which involve the transfer of tangible personal property as an
inconsequential element, for which no separate charges are made.

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

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

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

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

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

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

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

(g) "Tangible personal property" means personal property that
can be seen, weighed, measured, felt, or touched, or that is in any
other manner perceptible to the senses. "Tangible personal
property" includes electricity, water, gas, steam, and prewritten
computer software including prewritten computer software
delivered electronically.
(h) "Use" means the exercise of any right or power over tangible personal property, specified digital products, services or property or products, or services by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any consumption of such property or products. Use also includes the exercise of any right or power over intrastate or interstate telecommunications and prepaid calling services. Use also includes the exercise of any right or power over utility service. Use also includes the derivation of a direct or indirect benefit from a service.

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

(1) The term "seller" includes:

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

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

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

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

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

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

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

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

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

(I) A person engaged in the business of parking, storing or garaging motor vehicles; and

(J) A person making sales, leases, or rentals of tangible personal property, who meets the criteria set forth in paragraph (1) or (2) of section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

(k) "Occupancy" means the use or possession or the right to the
use or possession, of any room in a hotel.

(l) "Occupant" means a person who, for a consideration, uses,
possesses, or has the right to use or possess, any room in a hotel
under any lease, concession, permit, right of access, license to use
or other agreement, or otherwise.

(m) "Permanent resident" means any occupant of any room or
rooms in a hotel for at least 90 consecutive days shall be considered
a permanent resident with regard to the period of such occupancy.

(n) "Room" means any room or rooms of any kind in any part or
portion of a hotel, which is available for or let out for any purpose
other than a place of assembly.

(o) "Admission charge" means the amount paid for admission,
including any service charge and any charge for entertainment or
amusement or for the use of facilities therefor.

(p) "Amusement charge" means any admission charge, dues or
charge of a roof garden, cabaret or other similar place.

(q) "Charge of a roof garden, cabaret or other similar place"
means any charge made for admission, refreshment, service, or
merchandise at a roof garden, cabaret or other similar place.

(r) "Dramatic or musical arts admission charge" means any
admission charge paid for admission to a theater, opera house,
concert hall or other hall or place of assembly for a live, dramatic,
choreographic or musical performance.

(s) "Lessor" means any person who is the owner, licensee, or
lessee of any premises, tangible personal property or a specified
digital product which the person leases, subleases, or grants a
license to use to other persons.

(t) "Place of amusement" means any place where any facilities
for entertainment, amusement, or sports are provided.

(u) "Casual sale" means an isolated or occasional sale of an item
of tangible personal property or a specified digital product by a
person who is not regularly engaged in the business of making retail
sales of such property or product where the item of tangible
personal property or the specified digital product was obtained by
the person making the sale, through purchase or otherwise, for the
person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise
than by muscular power (excepting such vehicles as run only upon
rails or tracks), trailers, semitrailers, house trailers, or any other
type of vehicle drawn by a motor-driven vehicle, and motorcycles,
designed for operation on the public highways.
(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, specified digital products or services; every recipient of amusement charges; every operator of a hotel; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

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

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

(z) "Director" means the Director of the Division of Taxation in the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.
"Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

1. "Lease or rental" does not include:
   (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
   (B) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100 or one percent of the total required payments; or
   (C) Providing tangible personal property or a specified digital product along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set-up the tangible personal property or specified digital product.

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

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

"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points.

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

"Telecommunications service" shall not include:

1. (Deleted by amendment, P.L.2008, c.123);
2. (Deleted by amendment, P.L.2008, c.123);
3. (Deleted by amendment, P.L.2008, c.123);
4. (Deleted by amendment, P.L.2008, c.123);
5. (Deleted by amendment, P.L.2008, c.123);
6. (Deleted by amendment, P.L.2008, c.123);
(7) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

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

(9) tangible personal property;

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

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

(12) internet access service;

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

(14) ancillary services; or

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

For the purposes of this subsection:

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

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

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

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

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

"voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical service that a customer may be required to have to utilize the voice mail service.
(dd) (1) "Intrastate telecommunications" means a telecommunications service that originates in one United States state or a United States territory or possession or federal district, and terminates in the same United States state or United States territory or possession or federal district.

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

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

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

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

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

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

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

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

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

(II) "Pre-paid calling service" means the right to access exclusively telecommunications services, which shall be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.
"Mobile telecommunications service" means the same as that term is defined in the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252).

Deleted by amendment, P.L.2008, c.123

"Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;
(B) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
(C) Charges by the seller for any services necessary to complete the sale;
(D) Delivery charges;
(E) (Deleted by amendment, P.L.2011, c.49); and
(F) (Deleted by amendment, P.L.2008, c.123).

"Sales price" does not include:
(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party, that are allowed by a seller and taken by a purchaser on a sale;
(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;
(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or
(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

"Sales price" includes consideration received by the seller from third parties if:
(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(D) One of the following criteria is met:
(i) the purchaser presents a coupon, certificate, or other
documentation to the seller to claim a price reduction or discount
where the coupon, certificate, or documentation is authorized,
distributed, or granted by a third party with the understanding that
the third party will reimburse any seller to whom the coupon,
certificate, or documentation is presented;
(ii) the purchaser identifies himself to the seller as a member of
a group or organization entitled to a price reduction or discount;
provided however, that a preferred customer card that is available to
any patron does not constitute membership in such a group; or
(iii) the price reduction or discount is identified as a third party
price reduction or discount on the invoice received by the purchaser
or on a coupon, certificate, or other documentation presented by the
purchaser.

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

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

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

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

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

(tt) "Streamlined Sales and Use Tax Agreement" means the
agreement entered into as governed and authorized by the "Uniform
Sales and Use Tax Administration Act," P.L.2001, c.431
(C.54:32B-44 et seq.).

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

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

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

(xx) "Investigation and security services” means:

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

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

(3) armored car services; and

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

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

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

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

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

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

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

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

(cf: P.L.2014, c.13, s.4)
Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

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

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

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

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

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

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

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

(2) For the purposes of this act, the term "retail sale" includes:

sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

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

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

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.
(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

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

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

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

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

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

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

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

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

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

1. The term "seller" includes:

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

(B) A person maintaining a place of business in the State or having an agent maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to
persons within the State of tangible personal property, specified
digital products or services, the use of which is taxed by this act;
(C) A person who solicits business either by employees,
independent contractors, agents or other representatives or by
distribution of catalogs or other advertising matter and by reason
thereof makes sales to persons within the State of tangible personal
property, specified digital products or services, the use of which is
taxed by this act.
A person making sales of tangible personal property, specified
digital products, or services taxable under the "Sales and Use Tax
Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be
soliciting business through an independent contractor or other
representative if the person making sales enters into an agreement
with an independent contractor having physical presence in this
State or other representative having physical presence in this State,
for a commission or other consideration, under which the
independent contractor or representative directly or indirectly refers
potential customers, whether by a link on an internet website or
otherwise, and the cumulative gross receipts from sales to
customers in this State who were referred by all independent
contractors or representatives that have this type of an agreement
with the person making sales are in excess of $10,000 during the
preceding four quarterly periods ending on the last day of March,
June, September, and December. This presumption may be rebutted
by proof that the independent contractor or representative with
whom the person making sales has an agreement did not engage in
any solicitation in the State on behalf of the person that would
satisfy the nexus requirements of the United States Constitution
during the four quarterly periods in question. Nothing in this
subparagraph shall be construed to narrow the scope of the terms
independent contractor or other representative for purposes of any
other provision of the "Sales and Use Tax Act," P.L.1966, c.30
(C.54:32B-1 et seq.);
(D) Any other person making sales to persons within the State of
tangible personal property, specified digital products or services,
the use of which is taxed by this act, who may be authorized by the
director to collect the tax imposed by this act;
(E) The State of New Jersey, any of its agencies,
instrumentalities, public authorities, public corporations (including
a public corporation created pursuant to agreement or compact with
another state) or political subdivisions when such entity sells
services or property of a kind ordinarily sold by private persons;
(F) (Deleted by amendment, P.L.2005, c.126);
(G) A person who sells, stores, delivers or transports energy to
users or customers in this State whether by mains, lines or pipes
located within this State or by any other means of delivery;
(H) A person engaged in collecting charges in the nature of
initiation fees, membership fees or dues for access to or use of the
property or facilities of a health and fitness, athletic, sporting or
shopping club or organization; [and]

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

(J) A person making sales, leases, or rentals of tangible personal
property, specified digital products, or taxable services who meets
the criteria set forth in paragraph (1) or (2) of section 1 of
P.L. c. (C. ) (pending before the Legislature as this bill); and

(K) A marketplace facilitator.

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

(3) Notwithstanding any other provision of law or
administrative action to the contrary, transient space marketplaces
shall be required to collect and pay on behalf of persons engaged in
the business of providing transient accommodations or hotel rooms
located in this State the tax for transactions solely consummated
through the transient space marketplace. For not less than four years
following the end of the calendar year in which the transaction
occurred, the transient space marketplace shall maintain the
following data for those transactions consummated through the
transient space marketplace:

(1) The name of the person who provided the transient
accommodation or hotel room;

(2) The name of the customer who procured occupancy of the
transient accommodation or hotel room;

(3) The address, including any unit designation, of the transient
accommodation or hotel room;

(4) The dates and nightly rates for which the consumer procured
occupancy of the transient accommodation or hotel room;
(5) The municipal transient accommodation registration number, if applicable;

(6) A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;

(7) The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and

(8) Such other information as the Division of Taxation may by rule require.

The Division of Taxation may audit transient space marketplaces as necessary to ensure data accuracy and enforce tax compliance.

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

(k) "Occupancy" means the use or possession or the right to the use or possession, of any room in a hotel or transient accommodation.

(l) "Occupant" means a person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel or transient accommodation under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) "Permanent resident" means any occupant of any room or rooms in a hotel or transient accommodation for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) "Room" means any room or rooms of any kind in any part or portion of a hotel or transient accommodation, which is available for or let out for any purpose other than a place of assembly.

(o) "Admission charge" means the amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) "Amusement charge" means any admission charge, dues or charge of a roof garden, cabaret or other similar place.

(q) "Charge of a roof garden, cabaret or other similar place" means any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) "Dramatic or musical arts admission charge" means any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.
(s) "Lessor" means any person who is the owner, licensee, or lessee of any premises, tangible personal property or a specified digital product which the person leases, subleases, or grants a license to use to other persons.

(t) "Place of amusement" means any place where any facilities for entertainment, amusement, or sports are provided.

(u) "Casual sale" means an isolated or occasional sale of an item of tangible personal property or a specified digital product by a person who is not regularly engaged in the business of making retail sales of such property or product where the item of tangible personal property or the specified digital product was obtained by the person making the sale, through purchase or otherwise, for the person's own use.

(v) "Motor vehicle" includes all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, house trailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" includes: every seller of tangible personal property, specified digital products or services; every recipient of amusement charges; every operator of a hotel or transient accommodation; every seller of a telecommunications service; every recipient of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization; and every recipient of charges for parking, storing or garaging a motor vehicle; every marketplace facilitator; and every transient space marketplace. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership.

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

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

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

(aa) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

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

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

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

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

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

(3) The definition of "lease or rental" provided in this subsection shall be used for the purposes of this act regardless of whether a transaction is characterized as a lease or rental under generally
accepted accounting principles, the federal Internal Revenue Code
or other provisions of federal, state or local law.
(cc) "Telecommunications service" means the electronic
transmission, conveyance, or routing of voice, data, audio, video, or
any other information or signals to a point, or between or among
points.
"Telecommunications service" shall include such transmission,
conveyance, or routing in which computer processing applications
are used to act on the form, code, or protocol of the content for
purposes of transmission, conveyance, or routing without regard to
whether such service is referred to as voice over Internet protocol
services or is classified by the Federal Communications
Commission as enhanced or value added.
"Telecommunications service" shall not include:
(1) (Deleted by amendment, P.L.2008, c.123);
(2) (Deleted by amendment, P.L.2008, c.123);
(3) (Deleted by amendment, P.L.2008, c.123);
(4) (Deleted by amendment, P.L.2008, c.123);
(5) (Deleted by amendment, P.L.2008, c.123);
(6) (Deleted by amendment, P.L.2008, c.123);
(7) data processing and information services that allow data to
be generated, acquired, stored, processed, or retrieved and delivered
by an electronic transmission to a purchaser where such purchaser's
primary purpose for the underlying transaction is the processed data
or information;
(8) installation or maintenance of wiring or equipment on a
customer's premises;
(9) tangible personal property;
(10) advertising, including but not limited to directory
advertising;
(11) billing and collection services provided to third parties;
(12) internet access service;
(13) radio and television audio and video programming services,
regardless of the medium, including the furnishing of transmission,
conveyance, and routing of such services by the programming
service provider. Radio and television audio and video
programming services shall include but not be limited to cable
service as defined in section 47 U.S.C. s.522(6) and audio and video
programming services delivered by commercial mobile radio
service providers, as defined in section 47 C.F.R. 20.3;
(14) ancillary services; or
(15) digital products delivered electronically, including but not
limited to software, music, video, reading materials, or ringtones.
For the purposes of this subsection:
"ancillary service" means a service that is associated with or
incidental to the provision of telecommunications services,
including but not limited to detailed telecommunications billing,
directory assistance, vertical service, and voice mail service;
"conference bridging service" means an ancillary service that links
two or more participants of an audio or video conference call and
may include the provision of a telephone number. Conference
bridging service does not include the telecommunications services
used to reach the conference bridge;
"detailed telecommunications billing service" means an ancillary
service of separately stating information pertaining to individual
calls on a customer's billing statement;
"directory assistance" means an ancillary service of providing
telephone number information or address information or both;
"vertical service" means an ancillary service that is offered in
connection with one or more telecommunications services, which
offers advanced calling features that allow customers to identify
callers and to manage multiple calls and call connections, including
conference bridging services; and
"voice mail service" means an ancillary service that enables the
customer to store, send, or receive recorded messages. Voice mail
service does not include any vertical service that a customer may be
required to have to utilize the voice mail service.
(dd) (1) "Intrastate telecommunications" means a
telecommunications service that originates in one United States
state or a United States territory or possession or federal district,
and terminates in the same United States state or United States
territory or possession or federal district.
(2) "Interstate telecommunications" means a
telecommunications service that originates in one United States
state or a United States territory or possession or federal district,
and terminates in a different United States state or United States
territory or possession or federal district.
(3) "International telecommunications" means a
telecommunications service that originates or terminates in the
United States and terminates or originates outside the United States,
respectively. "United States" includes the District of Columbia or a
United States territory or possession.
(ee) (Deleted by amendment, P.L.2008, c.123)
(ff) "Natural gas" means any gaseous fuel distributed through a
pipeline system.
(gg) "Energy" means natural gas or electricity.
(hh) "Utility service" means the transportation or transmission of
natural gas or electricity by means of mains, wires, lines or pipes, to
users or customers.
(ii) "Self-generation unit" means a facility located on the user's
property, or on property purchased or leased from the user by the
person owning the self-generation unit and such property is
contiguous to the user's property, which generates electricity to be
used only by that user on the user's property and is not transported
to the user over wires that cross a property line or public
thoroughfare unless the property line or public thoroughfare merely
bifurcates the user's or self-generation unit owner's otherwise
contiguous property.

(jj) "Co-generation facility" means a facility the primary
purpose of which is the sequential production of electricity and
steam or other forms of useful energy which are used for industrial
or commercial heating or cooling purposes and which is designated
by the Federal Energy Regulatory Commission, or its successor, as
a "qualifying facility" pursuant to the provisions of the "Public

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

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

(mm) "Mobile telecommunications service" means the same as
that term is defined in the federal "Mobile Telecommunications

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

(oo) (1) "Sales price" is the measure subject to sales tax and
means the total amount of consideration, including cash, credit,
property, and services, for which personal property or services are
sold, leased, or rented, valued in money, whether received in money
or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor or service cost, interest,
losses, all costs of transportation to the seller, all taxes imposed on
the seller, and any other expense of the seller;

(C) Charges by the seller for any services necessary to complete
the sale;

(D) Delivery charges;

(E) (Deleted by amendment, P.L.2011, c.49); and

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

(2) "Sales price" does not include:

(A) Discounts, including cash, term, or coupons that are not
reimbursed by a third party, that are allowed by a seller and taken
by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit
extended on the sale of personal property or services, if the amount
is separately stated on the invoice, bill of sale, or similar document
given to the purchaser;
(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(D) The amount of sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.); or

(E) Credit for any trade-in of property of the same kind accepted in part payment and intended for resale if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(3) "Sales price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) One of the following criteria is met:

(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

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

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

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

(pp) "Purchase price" means the measure subject to use tax and has the same meaning as "sales price."
"Sales tax" means the tax imposed on certain transactions pursuant to the provisions of the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

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

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

"Streamlined Sales and Use Tax Agreement" means the agreement entered into as governed and authorized by the "Uniform Sales and Use Tax Administration Act," P.L.2001, c.431 (C.54:32B-44 et seq.).

"Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

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

"Investigation and security services" means:

1. investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph, missing person tracing and skip tracing services;
2. security guard and patrol services, including bodyguard and personal protection, guard dog, guard, patrol, and security services;
3. armored car services; and
4. security systems services, including security, burglar, and fire alarm installation, repair or monitoring services.
"Information services" means the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information which is not incorporated into reports furnished to other people.

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

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

"Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including a ringtone.

"Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

"Transferred electronically" means obtained by the purchaser by means other than tangible storage media.

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

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

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences. "Transient accommodation" does not include: a hotel or hotel room; a room, group of rooms, or other living or sleeping space used as a place of assembly; a dormitory or other similar residential facility of an elementary or secondary school or a college or university; a hospital, nursing home, or other similar residential facility of a provider of services for the care, support and treatment of individuals that is licensed by the State; a campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; a furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes and similar living units, where no maid service, room service, linen changing service or other common hotel services are made available by the lessor and where the keys to the furnished or unfurnished private residential property, whether a physical key, access to a keyless locking mechanism, or other means of physical ingress to the furnished or unfurnished private residential property, are provided to the lessee at the location of an offsite real estate broker licensed by the New Jersey
Real Estate Commission pursuant to R.S.45:15-1 et seq.; or leases of real property with a term of at least 90 consecutive days.

(hhh) "Transient space marketplace" means an online marketplace through which a person may offer transient accommodations or hotel rooms to individuals. A "transient space marketplace" allows transient accommodations or hotel rooms to be advertised or listed through an online marketplace in exchange for consideration or provides a means for a customer to arrange for the occupancy of the transient accommodation or hotel room in exchange for consideration. A 'transient space marketplace' shall not include an online marketplace operated by or on behalf of a hotel or hotel corporation that facilitates customer occupancy solely for the hotel or hotel corporation’s owned or managed hotels and franchisees.¹

(cf: P.L.2018, c.49, s.19)

³[3.] ⁴ This act shall take effect immediately and shall apply to receipts from sales of tangible personal property by sellers who have no physical presence in the State and meet the criteria set forth in section 1 made on or after the first day of the first month of the first calendar quarter beginning at least 90 days after the date of enactment October 1, 2018, provided however, the Director of the Division of Taxation shall take such anticipatory action in advance of that date as may be necessary for the timely implementation of this act¹.