

ASSEMBLY, No. 4520

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED OCTOBER 15, 2018

Sponsored by:

Assemblyman **JOHN F. MCKEON**

District 27 (Essex and Morris)

Assemblyman **WAYNE P. DEANGELO**

District 14 (Mercer and Middlesex)

Assemblywoman **NANCY J. PINKIN**

District 18 (Middlesex)

Co-Sponsored by:

Assemblywoman **Handlin**, Assemblymen **A.M.Bucco**, **McGuckin**, **Wolfe**,
DePhillips, **Danielsen**, **Dancer**, **Peterson**, **Land**, **Andrzejczak**,
Assemblywoman **Carter**, Assemblyman **Rumpf**, Assemblywomen **Gove**,
Vainieri **Huttle**, Assemblymen **Peters**, **Thomson** and **Milam**

SYNOPSIS

Excludes transient accommodations in shore counties from various State and local taxes.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/12/2019)

1 AN ACT excluding transient accommodations in shore counties
2 from the sales and use tax, hotel and motel occupancy fee, and
3 various municipal taxes and fees, amending various parts of the
4 statutory law.

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

8
9 1. Section 84 of P.L.2015, c.19 (C.5:10A-84) is amended to
10 read as follows:

11 84. As used in sections 82 through 85 of P.L.2015, c.19
12 (C.5:10A-82 et seq.):

13 "Commission" means the New Jersey Sports and Exposition
14 Authority, which may be referred to as the "Meadowlands Regional
15 Commission," as established by section 6 of P.L.2015, c.19
16 (C.5:10A-6).

17 "Constituent municipality" means any of the following
18 municipalities: Carlstadt, East Rutherford, Little Ferry, Lyndhurst,
19 Moonachie, North Arlington, Ridgefield, Rutherford, South
20 Hackensack, and Teterboro in Bergen county; and Jersey City,
21 Kearny, North Bergen, and Secaucus in Hudson county.

22 "Meadowlands district" means the Hackensack Meadowlands
23 District, the area delineated within section 5 of P.L.2015, c.19
24 (C.5:10A-5).

25 "Public venue" means any place located within the Meadowlands
26 district, whether publicly or privately owned, where any facilities
27 for entertainment, amusement, or sports are provided, but shall not
28 include a movie theater.

29 "Public event" means any spectator sporting event, trade show,
30 exposition, concert, amusement, or other event open to the public
31 that takes place at a public venue, but shall not include a major
32 league football game.

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

37 "Transient accommodation" means a room, group of rooms, or
38 other living or sleeping space for the lodging of occupants,
39 including but not limited to residences or buildings used as
40 residences, other than those in counties of the fifth or sixth class.

41 "Transient accommodation" does not include: a hotel or hotel room;
42 a room, group of rooms, or other living or sleeping space used as a
43 place of assembly; a dormitory or other similar residential facility
44 of an elementary or secondary school or a college or university; a
45 hospital, nursing home, or other similar residential facility of a

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.

1 provider of services for the care, support and treatment of
2 individuals that is licensed by the State; a campsite, cabin, lean-to,
3 or other similar residential facility of a campground or an adult or
4 youth camp; a furnished or unfurnished private residential property,
5 including but not limited to condominiums, bungalows, single-
6 family homes and similar living units, where no maid service, room
7 service, linen changing service or other common hotel services are
8 made available by the lessor and where the keys to the furnished or
9 unfurnished private residential property, whether a physical key,
10 access to a keyless locking mechanism, or other means of physical
11 ingress to the furnished or unfurnished private residential property,
12 are provided to the lessee at the location of an offsite real estate
13 broker licensed by the New Jersey Real Estate Commission
14 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
15 term of at least 90 consecutive days.

16 "Transient space marketplace" means an online marketplace
17 through which a person may offer transient accommodations or
18 hotel rooms to individuals. A "transient space marketplace" allows
19 transient accommodations or hotel rooms to be advertised or listed
20 through an online marketplace in exchange for consideration or
21 provides a means for a customer to arrange for the occupancy of the
22 transient accommodation or hotel room in exchange for
23 consideration. A 'transient space marketplace' shall not include an
24 online marketplace operated by or on behalf of a hotel or hotel
25 corporation that facilitates customer occupancy solely for the hotel
26 or hotel corporation's owned or managed hotels and franchisees.

27 (cf: P.L.2018, c.52, s.1)

28

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

31 3. As used in this act:

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

35 "Developer" means any person or entity, whether public or
36 private, including a State entity, that proposes to undertake a project
37 pursuant to a development agreement.

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

41 "Eligible municipality" means a municipality: (1) in which is
42 located part of an urban enterprise zone that has been designated
43 pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or any
44 supplement thereto; and (2) which has a population greater than
45 25,000 and less than 29,000 according to the latest federal decennial
46 census in a county of the third class with a population density
47 greater than 295 and less than 304 persons per square mile
48 according to the latest federal decennial census.

1 "Infrastructure improvements" means the construction or
2 rehabilitation of any street, highway, utility, transportation or
3 parking facilities, or other similar improvements; the acquisition of
4 any interest in land as necessary or convenient for the acquisition of
5 any right-of-way or other easement for the purpose of constructing
6 infrastructure improvements; the acquisition, construction or
7 reconstruction of land and site improvements, including demolition,
8 clearance, removal, construction, reconstruction, fill, environmental
9 enhancement or abatement, or other site preparation for
10 development of a sports and entertainment district.

11 "Project" means a sports and entertainment facility and may
12 include infrastructure improvements that are associated with the
13 sports and entertainment facility.

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

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

28 "Sports and entertainment facility" means any privately or
29 publicly owned or operated facility located in a sports and
30 entertainment district that is used primarily for sports contests,
31 entertainment, or both, such as a theater, stadium, museum, arena,
32 automobile racetrack, or other place where performances, concerts,
33 exhibits, games or contests are held.

34 "State Treasurer" or "treasurer" means the treasurer of the State
35 of New Jersey.

36 "Transient accommodation" means a room, group of rooms, or
37 other living or sleeping space for the lodging of occupants,
38 including but not limited to residences or buildings used as
39 residences, other than those in counties of the fifth or sixth class.

40 "Transient accommodation" does not include: a hotel or hotel room;
41 a room, group of rooms, or other living or sleeping space used as a
42 place of assembly; a dormitory or other similar residential facility
43 of an elementary or secondary school or a college or university; a
44 hospital, nursing home, or other similar residential facility of a
45 provider of services for the care, support and treatment of
46 individuals that is licensed by the State; a campsite, cabin, lean-to,
47 or other similar residential facility of a campground or an adult or
48 youth camp; a furnished or unfurnished private residential property,
49 including but not limited to condominiums, bungalows, single-

1 family homes and similar living units, where no maid service, room
2 service, linen changing service or other common hotel services are
3 made available by the lessor and where the keys to the furnished or
4 unfurnished private residential property, whether a physical key,
5 access to a keyless locking mechanism, or other means of physical
6 ingress to the furnished or unfurnished private residential property,
7 are provided to the lessee at the location of an offsite real estate
8 broker licensed by the New Jersey Real Estate Commission
9 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
10 term of at least 90 consecutive days.

11 "Transient space marketplace" means an online marketplace
12 through which a person may offer transient accommodations or
13 hotel rooms to individuals. A "transient space marketplace" allows
14 transient accommodations or hotel rooms to be advertised or listed
15 through an online marketplace in exchange for consideration or
16 provides a means for a customer to arrange for the occupancy of the
17 transient accommodation or hotel room in exchange for
18 consideration. A 'transient space marketplace' shall not include an
19 online marketplace operated by or on behalf of a hotel or hotel
20 corporation that facilitates customer occupancy solely for the hotel
21 or hotel corporation's owned or managed hotels and franchisees.

22 (cf: P.L.2018, c.49, s.3)

23

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

26 2. As used in this act:

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

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

31 (2) Any cover charge, minimum charge, entertainment, or other
32 similar charge made to any patron of any restaurant, cafe, bar, hotel
33 or other similar establishment;

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

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

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

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

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

47 "Residence" means a house, condominium, or other residential
48 dwelling unit in a building or structure or part of a building or
49 structure that is designed, constructed, leased, rented, let or hired

1 out, or otherwise made available for use as a residence.

2 "Transient accommodation" means a room, group of rooms, or
3 other living or sleeping space for the lodging of occupants,
4 including but not limited to residences or buildings used as
5 residences, other than those in counties of the fifth or sixth class.

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

26 "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 in exchange for consideration or
31 provides a means for a customer to arrange for the occupancy of the
32 transient accommodation or hotel room in exchange for
33 consideration. A 'transient space marketplace' shall not include an
34 online marketplace operated by or on behalf of a hotel or hotel
35 corporation that facilitates customer occupancy solely for the hotel
36 or hotel corporation's owned or managed hotels and franchisees.

37 (cf: P.L.2018, c.49, s.6)

38

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

41 1. As used in this act:

42 a. "Convention center operating authority" means, in the case
43 of any eligible municipality, the public authority or other
44 governmental entity empowered to operate convention hall and the
45 convention center facilities in the eligible municipality.

46 b. "Director" means the Director of the Division of Taxation in
47 the Department of the Treasury.

48 c. "Eligible municipality" means any municipality in which any
49 portion of the proceeds of a retail sales tax levied by ordinance

1 adopted by the municipality pursuant to section 1 of P.L.1947, c.71
2 (C.40:48-8.15) is applied as authorized by law to the payment of
3 costs of convention center facilities located in the municipality.

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

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

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

17 g. "Transient accommodation" means a room, group of rooms,
18 or other living or sleeping space for the lodging of occupants,
19 including but not limited to residences or buildings used as
20 residences, other than those in counties of the fifth or sixth class.
21 "Transient accommodation" does not include: a hotel or hotel room;
22 a room, group of rooms, or other living or sleeping space used as a
23 place of assembly; a dormitory or other similar residential facility
24 of an elementary or secondary school or a college or university; a
25 hospital, nursing home, or other similar residential facility of a
26 provider of services for the care, support and treatment of
27 individuals that is licensed by the State; a campsite, cabin, lean-to,
28 or other similar residential facility of a campground or an adult or
29 youth camp; a furnished or unfurnished private residential property,
30 including but not limited to condominiums, bungalows, single-
31 family homes and similar living units, where no maid service, room
32 service, linen changing service or other common hotel services are
33 made available by the lessor and where the keys to the furnished or
34 unfurnished private residential property, whether a physical key,
35 access to a keyless locking mechanism, or other means of physical
36 ingress to the furnished or unfurnished private residential property,
37 are provided to the lessee at the location of an offsite real estate
38 broker licensed by the New Jersey Real Estate Commission
39 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
40 term of at least 90 consecutive days.

41 h. "Transient space marketplace" means an online marketplace
42 through which a person may offer transient accommodations or
43 hotel rooms to individuals. A "transient space marketplace" allows
44 transient accommodations or hotel rooms to be advertised or listed
45 through an online marketplace in exchange for consideration or
46 provides a means for a customer to arrange for the occupancy of the
47 transient accommodation or hotel room in exchange for
48 consideration. A 'transient space marketplace' shall not include an
49 online marketplace operated by or on behalf of a hotel or hotel

1 corporation that facilitates customer occupancy solely for the hotel
2 or hotel corporation's owned or managed hotels and franchisees.
3 (cf: P.L.2018, c.49, s.8)

4

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

7 2. As used in this act "hotel" means a building or portion of a
8 building which is regularly used and kept open as such for the
9 lodging of guests. "Hotel" includes an apartment hotel, a motel, inn,
10 and rooming or boarding house or club, whether or not meals are
11 served, but does not include a transient accommodation.

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

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

39 "Transient space marketplace" means an online marketplace
40 through which a person may offer transient accommodations or
41 hotel rooms to individuals, other than those in counties of the fifth
42 or sixth class. A "transient space marketplace" allows transient
43 accommodations or hotel rooms to be advertised or listed through
44 an online marketplace in exchange for consideration or provides a
45 means for a customer to arrange for the occupancy of the transient
46 accommodation or hotel room in exchange for consideration. A
47 'transient space marketplace' shall not include an online marketplace
48 operated by or on behalf of a hotel or hotel corporation that

1 facilitates customer occupancy solely for the hotel or hotel
2 corporation's owned or managed hotels and franchisees.
3 (cf: 2018, c.49, s.12)

4

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

7 3. As used in this act:

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

11 "Beach operation offset payment " means a payment made by an
12 authority to municipalities in its district for tourism development
13 activities related to operating and maintaining public beaches within
14 a zone to seaward of a line of demarcation located not more than
15 1,000 feet from the mean high water line.

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

18 "Commissioner" means the Commissioner of the Department of
19 Commerce and Economic Development.

20 "Construction" means the planning, designing, construction,
21 reconstruction, rehabilitation, replacement, repair, extension,
22 enlargement, improvement and betterment of a project, and includes
23 the demolition, clearance and removal of buildings or structures on
24 land acquired, held, leased or used for a project.

25 "Convention center facility" means any convention hall or center
26 or like structure or building, and shall include all facilities,
27 including commercial, office, community service, parking facilities
28 and all property rights, easements and interests, and other facilities
29 constructed for the accommodation and entertainment of tourists
30 and visitors, constructed in conjunction with a convention center
31 facility and forming reasonable appurtenances thereto but does not
32 mean the Wildwood convention center facility as defined in this
33 section.

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

38 "Cost" means all or any part of the expenses incurred in
39 connection with the acquisition, construction and maintenance of
40 any real property, lands, structures, real or personal property rights,
41 rights-of-way, franchises, easements, and interests acquired or used
42 for a project; any financing charges and reserves for the payment of
43 principal and interest on bonds or notes; the expenses of
44 engineering, appraisal, architectural, accounting, financial and legal
45 services; and other expenses as may be necessary or incident to the
46 acquisition, construction and maintenance of a project, the
47 financing thereof and the placing of the project into operation.

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

1 "Director" means the Director of the Division of Taxation in the
2 Department of the Treasury.

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

5 "Outdoor special events arena" means a facility or structure for
6 the holding outdoors of public events, entertainments, sporting
7 events, concerts or similar activities, and shall include all facilities,
8 property rights and interests, and all appurtenances reasonably
9 related thereto, constructed for the accommodation and
10 entertainment of tourists and visitors.

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

18 "Predominantly tourism related retail receipts" means:

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

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

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

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

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

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

46 "Tourism" means activities involved in providing and marketing
47 services and products, including accommodations, for nonresidents
48 and residents who travel to and in New Jersey for recreation and
49 pleasure.

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

6 "Tourism development activities" include operations of the
7 authority to carry out its statutory duty to promote, advertise and
8 market the district, including making beach operation offset
9 payments.

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

12 "Tourism improvement and development district" or "district"
13 means an area within two or more contiguous municipalities within
14 a county of the sixth class established pursuant to ordinance enacted
15 by those municipalities, for the purposes of promoting the
16 acquisition, construction, maintenance, operation and support of a
17 tourism project, and to devote the revenue and the proceeds from
18 taxes upon predominantly tourism related retail receipts and from
19 tourism development fees to the purposes as herein defined.

20 "Tourist industry" means the industry consisting of private and
21 public organizations which directly or indirectly provide services
22 and products to nonresidents and residents who travel to and in New
23 Jersey for recreation and pleasure.

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

30 "Transient accommodation" means a room, group of rooms, or
31 other living or sleeping space for the lodging of occupants,
32 including but not limited to residences or buildings used as
33 residences, other than those in counties of the fifth or sixth class.

34 "Transient accommodation" does not include: a hotel or hotel room;
35 a room, group of rooms, or other living or sleeping space used as a
36 place of assembly; a dormitory or other similar residential facility
37 of an elementary or secondary school or a college or university; a
38 hospital, nursing home, or other similar residential facility of a
39 provider of services for the care, support and treatment of
40 individuals that is licensed by the State; a campsite, cabin, lean-to,
41 or other similar residential facility of a campground or an adult or
42 youth camp; a furnished or unfurnished private residential property,
43 including but not limited to condominiums, bungalows, single-
44 family homes and similar living units, where no maid service, room
45 service, linen changing service or other common hotel services are
46 made available by the lessor and where the keys to the furnished or
47 unfurnished private residential property, whether a physical key,
48 access to a keyless locking mechanism, or other means of physical
49 ingress to the furnished or unfurnished private residential property,

1 are provided to the lessee at the location of an offsite real estate
2 broker licensed by the New Jersey Real Estate Commission
3 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
4 term of at least 90 consecutive days.

5 "Transient space marketplace" means an online marketplace
6 through which a person may offer transient accommodations or
7 hotel rooms to individuals. A "transient space marketplace" allows
8 transient accommodations or hotel rooms to be advertised or listed
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10 provides a means for a customer to arrange for the occupancy of the
11 transient accommodation or hotel room in exchange for
12 consideration. A 'transient space marketplace' shall not include an
13 online marketplace operated by or on behalf of a hotel or hotel
14 corporation that facilitates customer occupancy solely for the hotel
15 or hotel corporation's owned or managed hotels and franchisees.

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

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

22 (cf: P.L.2018, c.49, s.17)

23

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

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

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

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

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

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

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

42 (1) For the purposes of this act a sale is for "resale, sublease, or
43 subrent" if it is a sale (A) for resale either as such or as converted
44 into or as a component part of a product produced for sale by the
45 purchaser, including the conversion of natural gas into another
46 intermediate or end product, other than electricity or thermal
47 energy, produced for sale by the purchaser, (B) for use by that
48 person in performing the services subject to tax under subsection
49 (b) of section 3 where the property so sold becomes a physical

1 component part of the property upon which the services are
2 performed or where the property so sold is later actually transferred
3 to the purchaser of the service in conjunction with the performance
4 of the service subject to tax, (C) of telecommunications service to a
5 telecommunications service provider for use as a component part of
6 telecommunications service provided to an ultimate customer, or
7 (D) to a person who receives by contract a product transferred
8 electronically for further commercial broadcast, rebroadcast,
9 transmission, retransmission, licensing, relicensing, distribution,
10 redistribution or exhibition of the product, in whole or in part, to
11 another person, other than rights to redistribute based on statutory
12 or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (1) The term "seller" includes:

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

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

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

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

1 subparagraph shall be construed to narrow the scope of the terms
2 independent contractor or other representative for purposes of any
3 other provision of the "Sales and Use Tax Act," P.L.1966, c.30
4 (C.54:32B-1 et seq.);

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

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

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

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

18 (H) A person engaged in collecting charges in the nature of
19 initiation fees, 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; and

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

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

45 (3) Notwithstanding any other provision of law or
46 administrative action to the contrary, transient space marketplaces
47 shall be required to collect and pay on behalf of persons engaged in
48 the business of providing transient accommodations or hotel rooms
49 located in this State the tax for transactions solely consummated

1 through the transient space marketplace. For not less than four years
2 following the end of the calendar year in which the transaction
3 occurred, the transient space marketplace shall maintain the
4 following data for those transactions consummated through the
5 transient space marketplace:

6 **[(1)] (A)** The name of the person who provided the transient
7 accommodation or hotel room;

8 **[(2)] (B)** The name of the customer who procured occupancy
9 of the transient accommodation or hotel room;

10 **[(3)] (C)** The address, including any unit designation, of the
11 transient accommodation or hotel room;

12 **[(4)] (D)** The dates and nightly rates for which the consumer
13 procured occupancy of the transient accommodation or hotel room;

14 **[(5)] (E)** The municipal transient accommodation registration
15 number, if applicable;

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

23 **[(7)] (G)** The individualized name or number of each such
24 advertisement or listing connected to such unit and the uniform
25 resource locator (URL) for each such listing or advertisement,
26 where applicable; and

27 **[(8)] (H)** Such other information as the Division of Taxation
28 may by rule require.

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

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

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

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

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

- 1 (n) "Room" means any room or rooms of any kind in any part or
2 portion of a hotel or transient accommodation, which is available
3 for or let out for any purpose other than a place of assembly.
- 4 (o) "Admission charge" means the amount paid for admission,
5 including any service charge and any charge for entertainment or
6 amusement or for the use of facilities therefor.
- 7 (p) "Amusement charge" means any admission charge, dues or
8 charge of a roof garden, cabaret or other similar place.
- 9 (q) "Charge of a roof garden, cabaret or other similar place"
10 means any charge made for admission, refreshment, service, or
11 merchandise at a roof garden, cabaret or other similar place.
- 12 (r) "Dramatic or musical arts admission charge" means any
13 admission charge paid for admission to a theater, opera house,
14 concert hall or other hall or place of assembly for a live, dramatic,
15 choreographic or musical performance.
- 16 (s) "Lessor" means any person who is the owner, licensee, or
17 lessee of any premises, tangible personal property or a specified
18 digital product which the person leases, subleases, or grants a
19 license to use to other persons.
- 20 (t) "Place of amusement" means any place where any facilities
21 for entertainment, amusement, or sports are provided.
- 22 (u) "Casual sale" means an isolated or occasional sale of an item
23 of tangible personal property or a specified digital product by a
24 person who is not regularly engaged in the business of making retail
25 sales of such property or product where the item of tangible
26 personal property or the specified digital product was obtained by
27 the person making the sale, through purchase or otherwise, for the
28 person's own use.
- 29 (v) "Motor vehicle" includes all vehicles propelled otherwise
30 than by muscular power (excepting such vehicles as run only upon
31 rails or tracks), trailers, semitrailers, house trailers, or any other
32 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
33 designed for operation on the public highways.
- 34 (w) "Persons required to collect tax" or "persons required to
35 collect any tax imposed by this act" includes: every seller of
36 tangible personal property, specified digital products or services;
37 every recipient of amusement charges; every operator of a hotel or
38 transient accommodation; every seller of a telecommunications
39 service; every recipient of initiation fees, membership fees or dues
40 for access to or use of the property or facilities of a health and
41 fitness, athletic, sporting or shopping club or organization; and
42 every recipient of charges for parking, storing or garaging a motor
43 vehicle. Said terms shall also include any officer or employee of a
44 corporation or of a dissolved corporation who as such officer or
45 employee is under a duty to act for such corporation in complying
46 with any requirement of this act and any member of a partnership.
- 47 (x) "Customer" includes: every purchaser of tangible personal
48 property, specified digital products or services; every patron paying
49 or liable for the payment of any amusement charge; every occupant

1 of a room or rooms in a hotel or transient accommodation; every
2 person paying charges in the nature of initiation fees, membership
3 fees or dues for access to or use of the property or facilities of a
4 health and fitness, athletic, sporting or shopping club or
5 organization; and every purchaser of parking, storage or garaging a
6 motor vehicle.

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

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

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

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

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

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

46 (C) Providing tangible personal property or a specified digital
47 product along with an operator for a fixed or indeterminate period
48 of time. A condition of this exclusion is that the operator is
49 necessary for the equipment to perform as designed. For the

1 purpose of this subparagraph, an operator must do more than
2 maintain, inspect, or set-up the tangible personal property or
3 specified digital product.

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

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

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

15 (cc) "Telecommunications service" means the electronic
16 transmission, conveyance, or routing of voice, data, audio, video, or
17 any other information or signals to a point, or between or among
18 points.

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

26 "Telecommunications service" shall not include:

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

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

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

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

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

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

33 (7) data processing and information services that allow data to
34 be generated, acquired, stored, processed, or retrieved and delivered
35 by an electronic transmission to a purchaser where such purchaser's
36 primary purpose for the underlying transaction is the processed data
37 or information;

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

40 (9) tangible personal property;

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

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

44 (12) internet access service;

45 (13) radio and television audio and video programming services,
46 regardless of the medium, including the furnishing of transmission,
47 conveyance, and routing of such services by the programming
48 service provider. Radio and television audio and video
49 programming services shall include but not be limited to cable

1 service as defined in section 47 U.S.C. s.522(6) and audio and video
2 programming services delivered by commercial mobile radio
3 service providers, as defined in section 47 C.F.R. 20.3;

4 (14) ancillary services; or

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

7 For the purposes of this subsection:

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

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

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

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

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

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

31 (dd) (1) "Intrastate telecommunications" means a
32 telecommunications service that originates in one United States
33 state or a United States territory or possession or federal district,
34 and terminates in the same United States state or United States
35 territory or possession or federal district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (D) Delivery charges;

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

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

48 (2) "Sales price" does not include:

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

4 (B) Interest, financing, and carrying charges from credit
5 extended on the sale of personal property or services, if the amount
6 is separately stated on the invoice, bill of sale, or similar document
7 given to the purchaser;

8 (C) Any taxes legally imposed directly on the consumer that are
9 separately stated on the invoice, bill of sale, or similar document
10 given to the purchaser;

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

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

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

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

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

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

28 (D) One of the following criteria is met:

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

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

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

43 (4) In the case of a bundled transaction that includes a
44 telecommunications service, an ancillary service, internet access, or
45 an audio or video programming service, if the price is attributable to
46 products that are taxable and products that are nontaxable, the
47 portion of the price attributable to the nontaxable products is
48 subject to tax unless the provider can identify by reasonable and
49 verifiable standards such portion from its books and records that are

1 kept in the regular course of business for other purposes, including
2 non-tax purposes.

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

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

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

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

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

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

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

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

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

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

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

49 (3) armored car services; and

- 1 (4) security systems services, including security, burglar, and
2 fire alarm installation, repair or monitoring services.
- 3 (yy) "Information services" means the furnishing of information
4 of any kind, which has been collected, compiled, or analyzed by the
5 seller, and provided through any means or method, other than
6 personal or individual information which is not incorporated into
7 reports furnished to other people.
- 8 (zz) "Specified digital product" means an electronically
9 transferred digital audio-visual work, digital audio work, or digital
10 book; provided however, that a digital code which provides a
11 purchaser with a right to obtain the product shall be treated in the
12 same manner as a specified digital product.
- 13 (aaa) "Digital audio-visual work" means a series of related
14 images which, when shown in succession, impart an impression of
15 motion, together with accompanying sounds, if any.
- 16 (bbb) "Digital audio work" means a work that results from the
17 fixation of a series of musical, spoken, or other sounds, including a
18 ringtone.
- 19 (ccc) "Digital book" means a work that is generally recognized
20 in the ordinary and usual sense as a book.
- 21 (ddd) "Transferred electronically" means obtained by the
22 purchaser by means other than tangible storage media.
- 23 (eee) "Ringtone" means a digitized sound file that is
24 downloaded onto a device and that may be used to alert the
25 purchaser with respect to a communication.
- 26 (fff) "Residence" means a house, condominium, or other
27 residential dwelling unit in a building or structure or part of a
28 building or structure that is designed, constructed, leased, rented, let
29 or hired out, or otherwise made available for use as a residence.
- 30 (ggg) "Transient accommodation" means a room, group of
31 rooms, or other living or sleeping space for the lodging of
32 occupants, including but not limited to residences or buildings used
33 as residences, other than those in counties of the fifth or sixth class.
34 "Transient accommodation" does not include: a hotel or hotel room;
35 a room, group of rooms, or other living or sleeping space used as a
36 place of assembly; a dormitory or other similar residential facility
37 of an elementary or secondary school or a college or university; a
38 hospital, nursing home, or other similar residential facility of a
39 provider of services for the care, support and treatment of
40 individuals that is licensed by the State; a campsite, cabin, lean-to,
41 or other similar residential facility of a campground or an adult or
42 youth camp; a furnished or unfurnished private residential property,
43 including but not limited to condominiums, bungalows, single-
44 family homes and similar living units, where no maid service, room
45 service, linen changing service or other common hotel services are
46 made available by the lessor and where the keys to the furnished or
47 unfurnished private residential property, whether a physical key,
48 access to a keyless locking mechanism, or other means of physical
49 ingress to the furnished or unfurnished private residential property,

1 are provided to the lessee at the location of an offsite real estate
2 broker licensed by the New Jersey Real Estate Commission
3 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
4 term of at least 90 consecutive days.

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

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

18

19 8. This act shall take effect immediately.

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21

22

STATEMENT

23

24 This bill provides that the taxes imposed and authorized by
25 P.L.2018, c.49, do not apply to transient accommodations in
26 counties of the fifth or sixth class (Monmouth, Ocean, Atlantic, and
27 Cape May counties). P.L.2018, c.49, imposed the State sales and
28 use tax and hotel and motel occupancy fee on transient
29 accommodations and authorized various municipal taxes and fees
30 on transient accommodations.