

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4814 and 4520

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MAY 20, 2019

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Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman JOHN ARMATO

District 2 (Atlantic)

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Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman MATTHEW W. MILAM

District 1 (Atlantic, Cape May and Cumberland)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

**Assemblyman Peters, Assemblywomen Schepisi, Jasey and Assemblyman
Rooney**

SYNOPSIS

Makes transient accommodation taxes and fees only applicable if rented through marketplace.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

(Sponsorship Updated As Of: 5/24/2019)

1 **AN ACT** concerning transient accommodation taxes and fees,
2 amending various parts of the statutory law.

3

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

6

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

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

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

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

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

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

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

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

35 "Transient accommodation" means a room, group of rooms, or
36 other living or sleeping space for the lodging of occupants, if
37 obtained through a transient space marketplace, including but not
38 limited to residences or buildings used as residences. "Transient
39 accommodation" does not include: a hotel or hotel room; a room,
40 group of rooms, or other living or sleeping space used as a place of
41 assembly; a dormitory or other similar residential facility of an
42 elementary or secondary school or a college or university; a
43 hospital, nursing home, or other similar residential facility of a
44 provider of services for the care, support and treatment of

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

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

28 (cf: P.L.2018, c.132, s.4)

29

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

32 3. As used in this act:

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

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

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

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

1 greater than 295 and less than 304 persons per square mile
2 according to the latest federal decennial census.

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

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

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

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

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

36 "State Treasurer" or "treasurer" means the treasurer of the State
37 of New Jersey.

38 "Transient accommodation" means a room, group of rooms, or
39 other living or sleeping space for the lodging of occupants, if
40 obtained through a transient space marketplace, including but not
41 limited to residences or buildings used as residences. "Transient
42 accommodation" does not include: a hotel or hotel room; a room,
43 group of rooms, or other living or sleeping space used as a place of
44 assembly; a dormitory or other similar residential facility of an
45 elementary or secondary school or a college or university; a
46 hospital, nursing home, or other similar residential facility of a
47 provider of services for the care, support and treatment of
48 individuals that is licensed by the State; a campsite, cabin, lean-to,

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

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

27 (cf: P.L.2018, c.132, s.5)

28

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

31 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

33 "Transient space marketplace" means **[an online]** a marketplace
34 through which a person may offer transient accommodations or
35 hotel rooms to individuals. A "transient space marketplace" allows
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38 **[or]** and provides a means for a customer to arrange for the
39 occupancy of the transient accommodation or hotel room in
40 exchange for consideration. A 'transient space marketplace' shall
41 not include **[an online]** a marketplace operated by or on behalf of a
42 hotel or hotel corporation that facilitates customer occupancy solely
43 for the hotel or hotel corporation's owned or managed hotels and
44 franchisees, and shall not include a travel agency or an online travel
45 agency.

46 (cf: P.L.2018, c.132, s.6)

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

- 1 1. As used in this act:
- 2 a. "Convention center operating authority" means, in the case
3 of any eligible municipality, the public authority or other
4 governmental entity empowered to operate convention hall and the
5 convention center facilities in the eligible municipality.
- 6 b. "Director" means the Director of the Division of Taxation in
7 the Department of the Treasury.
- 8 c. "Eligible municipality" means any municipality in which any
9 portion of the proceeds of a retail sales tax levied by ordinance
10 adopted by the municipality pursuant to section 1 of P.L.1947,
11 c.71 (C.40:48-8.15) is applied as authorized by law to the payment
12 of costs of convention center facilities located in the municipality.
- 13 d. "Hotel" means a building or a portion of a building which is
14 regularly used and kept open as such for the lodging of guests.
15 "Hotel" includes an apartment hotel, a motel, inn, and rooming or
16 boarding house or club, whether or not meals are served, but does
17 not include a transient accommodation.
- 18 e. "Occupied room" means a room or rooms of any kind in any
19 part of a hotel or transient accommodation, other than a place of
20 assembly, which is used or possessed by a guest or guests, whether
21 or not for consideration.
- 22 f. "Residence" means a house, condominium, or other
23 residential dwelling unit in a building or structure or part of a
24 building or structure that is designed, constructed, leased, rented, let
25 or hired out, or otherwise made available for use as a residence.
- 26 g. "Transient accommodation" means a room, group of rooms,
27 or other living or sleeping space for the lodging of occupants, if
28 obtained through a transient space marketplace, including but not
29 limited to residences or buildings used as residences. "Transient
30 accommodation" does not include: a hotel or hotel room; a room,
31 group of rooms, or other living or sleeping space used as a place of
32 assembly; a dormitory or other similar residential facility of an
33 elementary or secondary school or a college or university; a
34 hospital, nursing home, or other similar residential facility of a
35 provider of services for the care, support and treatment of
36 individuals that is licensed by the State; a campsite, cabin, lean-to,
37 or other similar residential facility of a campground or an adult or
38 youth camp; a furnished or unfurnished private residential property,
39 including but not limited to condominiums, bungalows, single-
40 family homes and similar living units, where no maid service, room
41 service, linen changing service or other common hotel services are
42 made available by the lessor and where the keys to the furnished or
43 unfurnished private residential property, whether a physical key,
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45 ingress to the furnished or unfurnished private residential property,
46 are provided to the lessee at the location of an offsite real estate
47 broker licensed by the New Jersey Real Estate Commission

1 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
2 term of at least 90 consecutive days.

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

16 (cf: P.L.2018, c.132, s.7)

17

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

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

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

29 "Transient accommodation" means a room, group of rooms, or
30 other living or sleeping space for the lodging of occupants, if
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32 limited to residences or buildings used as residences. "Transient
33 accommodation" does not include: a hotel or hotel room; a room,
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36 elementary or secondary school or a college or university; a
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38 provider of services for the care, support and treatment of
39 individuals that is licensed by the State; a campsite, cabin, lean-to,
40 or other similar residential facility of a campground or an adult or
41 youth camp; a furnished or unfurnished private residential property,
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43 family homes and similar living units, where no maid service, room
44 service, linen changing service or other common hotel services are
45 made available by the lessor and where the keys to the furnished or
46 unfurnished private residential property, whether a physical key,
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48 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.

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10 **[or]** and 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]** a 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, and shall not include a travel agency or an online travel
17 agency.
18 (cf: 2018, c.132, s.8)

19

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

22 3. As used in this act:

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

26 "Beach operation offset payment " means a payment made by an
27 authority to municipalities in its district for tourism development
28 activities related to operating and maintaining public beaches within
29 a zone to seaward of a line of demarcation located not more than
30 1,000 feet from the mean high water line.

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

33 "Commissioner" means the Commissioner of the Department of
34 Commerce and Economic Development.

35 "Construction" means the planning, designing, construction,
36 reconstruction, rehabilitation, replacement, repair, extension,
37 enlargement, improvement and betterment of a project, and includes
38 the demolition, clearance and removal of buildings or structures on
39 land acquired, held, leased or used for a project.

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

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

5 "Cost" means all or any part of the expenses incurred in
6 connection with the acquisition, construction and maintenance of
7 any real property, lands, structures, real or personal property rights,
8 rights-of-way, franchises, easements, and interests acquired or used
9 for a project; any financing charges and reserves for the payment of
10 principal and interest on bonds or notes; the expenses of
11 engineering, appraisal, architectural, accounting, financial and legal
12 services; and other expenses as may be necessary or incident to the
13 acquisition, construction and maintenance of a project, the
14 financing thereof and the placing of the project into operation.

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

16 "Director" means the Director of the Division of Taxation in the
17 Department of the Treasury.

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

20 "Outdoor special events arena" means a facility or structure for
21 the holding outdoors of public events, entertainments, sporting
22 events, concerts or similar activities, and shall include all facilities,
23 property rights and interests, and all appurtenances reasonably
24 related thereto, constructed for the accommodation and
25 entertainment of tourists and visitors.

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

33 "Predominantly tourism related retail receipts" means:

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

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

46 c. Admissions charges to or the use of any place of amusement
47 or of any roof garden, cabaret or similar place, subject to taxation

1 pursuant to subsection (e) of section 3 of the "Sales and Use Tax
2 Act," P.L.1966, c.30 (C.54:32B-3).

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

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

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

14 "Tourism" means activities involved in providing and marketing
15 services and products, including accommodations, for nonresidents
16 and residents who travel to and in New Jersey for recreation and
17 pleasure.

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

23 "Tourism development activities" include operations of the
24 authority to carry out its statutory duty to promote, advertise and
25 market the district, including making beach operation offset
26 payments.

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

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

37 "Tourist industry" means the industry consisting of private and
38 public organizations which directly or indirectly provide services
39 and products to nonresidents and residents who travel to and in New
40 Jersey for recreation and pleasure.

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

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

1 obtained through a transient space marketplace, including but not
2 limited to residences or buildings used as residences. "Transient
3 accommodation" does not include: a hotel or hotel room; a room,
4 group of rooms, or other living or sleeping space used as a place of
5 assembly; a dormitory or other similar residential facility of an
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8 provider of services for the care, support and treatment of
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21 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
22 term of at least 90 consecutive days.

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28 **[or]** and provides a means for a customer to arrange for the
29 occupancy of the transient accommodation or hotel room in
30 exchange for consideration. A 'transient space marketplace' shall
31 not include **[an online]** a marketplace operated by or on behalf of a
32 hotel or hotel corporation that facilitates customer occupancy solely
33 for the hotel or hotel corporation's owned or managed hotels and
34 franchisees, and shall not include a travel agency or an online travel
35 agency.

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

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

42 (cf: P.L.2018, c.132, s.9)

43

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) The term "seller" includes:

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

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

46 (C) A person who solicits business either by employees,
47 independent contractors, agents or other representatives or by
48 distribution of catalogs or other advertising matter and by reason

1 thereof makes sales to persons within the State of tangible personal
2 property, specified digital products or services, the use of which is
3 taxed by this act.

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

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

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

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

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

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

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

1 (J) A person making sales, leases, or rentals of tangible personal
2 property, specified digital products, or taxable services who meets
3 the criteria set forth in paragraph (1) or (2) of section 1 of P.L.2018,
4 c.132 (C.54:32B-3.5); and

5 (K) A marketplace facilitator.

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

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

37 (A) The name of the person who provided the transient
38 accommodation or hotel room;

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

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

43 (D) The dates and nightly rates for which the consumer procured
44 occupancy of the transient accommodation or hotel room;

45 (E) The municipal transient accommodation registration number,
46 if applicable;

47 (F) A statement as to whether such booking services will be
48 provided in connection with (i) short-term rental of the entirety of

1 such unit, (ii) short-term rental of part of such unit, but not the
2 entirety of such unit, and/or (iii) short-term rental of the entirety of
3 such unit, or part thereof, in which a non-short-term occupant will
4 continue to occupy such unit for the duration of such short-term
5 rental;

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

10 (H) Such other information as the Division of Taxation may by
11 rule require.

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

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

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

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

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

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

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

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

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

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

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

- 1 (t) "Place of amusement" means any place where any facilities
2 for entertainment, amusement, or sports are provided.
- 3 (u) "Casual sale" means an isolated or occasional sale of an item
4 of tangible personal property or a specified digital product by a
5 person who is not regularly engaged in the business of making retail
6 sales of such property or product where the item of tangible
7 personal property or the specified digital product was obtained by
8 the person making the sale, through purchase or otherwise, for the
9 person's own use.
- 10 (v) "Motor vehicle" includes all vehicles propelled otherwise
11 than by muscular power (excepting such vehicles as run only upon
12 rails or tracks), trailers, semitrailers, house trailers, or any other
13 type of vehicle drawn by a motor-driven vehicle, and motorcycles,
14 designed for operation on the public highways.
- 15 (w) "Persons required to collect tax" or "persons required to
16 collect any tax imposed by this act" includes: every seller of
17 tangible personal property, specified digital products or services;
18 every recipient of amusement charges; every operator of a hotel or
19 transient accommodation; every transient space marketplace; every
20 marketplace facilitator; every seller of a telecommunications
21 service; every recipient of initiation fees, membership fees or dues
22 for access to or use of the property or facilities of a health and
23 fitness, athletic, sporting or shopping club or organization; and
24 every recipient of charges for parking, storing or garaging a motor
25 vehicle. Said terms shall also include any officer or employee of a
26 corporation or of a dissolved corporation who as such officer or
27 employee is under a duty to act for such corporation in complying
28 with any requirement of this act and any member of a partnership.
- 29 (x) "Customer" includes: every purchaser of tangible personal
30 property, specified digital products or services; every patron paying
31 or liable for the payment of any amusement charge; every occupant
32 of a room or rooms in a hotel or transient accommodation; every
33 person paying charges in the nature of initiation fees, membership
34 fees or dues for access to or use of the property or facilities of a
35 health and fitness, athletic, sporting or shopping club or
36 organization; and every purchaser of parking, storage or garaging a
37 motor vehicle.
- 38 (y) "Property and services the use of which is subject to tax"
39 includes: (1) all property sold to a person within the State, whether
40 or not the sale is made within the State, the use of which property is
41 subject to tax under section 6 or will become subject to tax when
42 such property is received by or comes into the possession or control
43 of such person within the State; (2) all services rendered to a person
44 within the State, whether or not such services are performed within
45 the State, upon tangible personal property or a specified digital
46 product the use of which is subject to tax under section 6 or will
47 become subject to tax when such property or product is distributed
48 within the State or is received by or comes into possession or

1 control of such person within the State; (3) intrastate, interstate, or
2 international telecommunications sourced to this State pursuant to
3 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
4 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
5 delivered in this State for use in this State; (6) utility service sold,
6 exchanged or delivered in this State for use in this State; (7) mail
7 processing services in connection with printed advertising material
8 distributed in this State; (8) (Deleted by amendment, P.L.2005,
9 c.126); and (9) services the benefit of which are received in this
10 State.

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

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

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

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

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

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

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

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

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

47 (cc) "Telecommunications service" means the electronic
48 transmission, conveyance, or routing of voice, data, audio, video, or

1 any other information or signals to a point, or between or among
2 points.

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

10 "Telecommunications service" shall not include:

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

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

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

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

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

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

17 (7) data processing and information services that allow data to
18 be generated, acquired, stored, processed, or retrieved and delivered
19 by an electronic transmission to a purchaser where such purchaser's
20 primary purpose for the underlying transaction is the processed data
21 or information;

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

24 (9) tangible personal property;

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

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

28 (12) internet access service;

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

37 (14) ancillary services; or

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

40 For the purposes of this subsection:

41 "ancillary service" means a service that is associated with or
42 incidental to the provision of telecommunications services,
43 including but not limited to detailed telecommunications billing,
44 directory assistance, vertical service, and voice mail service;
45 "conference bridging service" means an ancillary service that links
46 two or more participants of an audio or video conference call and
47 may include the provision of a telephone number. Conference

1 bridging service does not include the telecommunications services
2 used to reach the conference bridge;

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

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

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

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

17 (dd) (1) "Intrastate telecommunications" means a
18 telecommunications service that originates in one United States
19 state or a United States territory or possession or federal district,
20 and terminates in the same United States state or United States
21 territory or possession or federal district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (D) Delivery charges;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (rr) "Delivery charges" means charges by the seller for
48 preparation and delivery to a location designated by the purchaser

1 of personal property or services including, but not limited to,
2 transportation, shipping, postage, handling, crating, and packing. If
3 a shipment includes both exempt and taxable property, the seller
4 should allocate the delivery charge by using: (1) a percentage based
5 on the total sales price of the taxable property compared to the total
6 sales price of all property in the shipment; or (2) a percentage based
7 on the total weight of the taxable property compared to the total
8 weight of all property in the shipment. The seller shall tax the
9 percentage of the delivery charge allocated to the taxable property
10 but is not required to tax the percentage allocated to the exempt
11 property.

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

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

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

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

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

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

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

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

40 (3) armored car services; and

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

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

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

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

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

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

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

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

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

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

47 (hhh) "Transient space marketplace" means **[an online]** a
48 marketplace through which a person may offer transient

1 accommodations or hotel rooms to individuals. A "transient space
2 marketplace" allows transient accommodations or hotel rooms to be
3 advertised or listed through **[an online]** a marketplace in exchange
4 for consideration **[or]** and provides a means for a customer to
5 arrange for the occupancy of the transient accommodation or hotel
6 room in exchange for consideration. A 'transient space marketplace'
7 shall not include **[an online]** a marketplace operated by or on
8 behalf of a hotel or hotel corporation that facilitates customer
9 occupancy solely for the hotel or hotel corporation's owned or
10 managed hotels and franchisees, and shall not include a travel
11 agency or an online travel agency.
12 (cf: P.L.2018, c.132, s.3).

13

14 8. This act shall take effect immediately.