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

CURRENT VERSION OF TEXT
As amended by the Senate on June 25, 2018.
AN ACT concerning the collection of the State sales and use tax, and

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

1. (New section) a. Notwithstanding the provisions of the
"Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or
any other law, rule, or regulation to the contrary, a seller, who
makes a retail sale of tangible personal property for delivery into
the State and who does not have a physical presence in the State,
shall be subject to the tax imposed under the "Sales and Use Tax
Act," P.L.1966, c.30 (C.54:32B-1 et seq.), and shall collect the tax
in accordance with the provisions of P.L.1966, c.30 (C.54:32B-1 et
seq.) if the seller meets either of the following criteria:
   (1) The seller's gross revenue from delivery of tangible personal
property, a specified digital product, or services into the State in the
calendar year in which a sale of tangible personal property occurred
or the prior calendar year exceeds $100,000; or
   (2) The seller sold tangible personal property, a specified digital
product, or services for delivery into the State in 200 or more
separate transactions during the calendar year in which a sale of
tangible personal property occurred or the prior calendar year.

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

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

   d. Nothing in P.L. , c. (C. ) (pending before the Legislature
as this bill) shall affect the obligation of any purchaser from this
State to remit use tax as to any applicable transaction in which the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate floor amendments adopted June 25, 2018.
seller does not collect and remit the sales tax or remit an offsetting sales tax.

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

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

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

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

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

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

c. A marketplace facilitator shall not be liable to a marketplace seller for failure to collect and remit the correct amount of the tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.), provided the failure was the result of the marketplace seller providing the marketplace facilitator with incorrect information.

d. Following each retail sale made, the marketplace facilitator shall provide to the purchaser a sales slip, invoice, receipt, or other
statement or memorandum of the price paid or payable, which shall
state, charge, and show the tax separately.
e. A marketplace facilitator shall file a return in accordance
with the provisions of P.L.1966, c.30 (C.54:32B-1 et seq.) on a
special return which the director shall prescribe.
f. Upon the request of the director, a marketplace facilitator
shall demonstrate compliance with the provisions of this section and
P.L.1966, c.30 (C.54:32B-1 et seq.). A marketplace facilitator
otherwise shall not be subject to audit by the department with
respect to the retail sales for which it is required to collect and remit
the tax imposed under P.L.1966, c.30 (C.54:32B-1 et seq.) pursuant
to subsection b. of this section. Nothing in this subsection shall
preclude the department from auditing a marketplace seller with
respect to retail sales facilitated by a marketplace facilitator on the
marketplace seller’s behalf.

Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended
to read as follows:
2. Unless the context in which they occur requires otherwise,
the following terms when used in this act shall mean:
(a) "Person" includes an individual, trust, partnership, limited
partnership, limited liability company, society, association, joint
stock company, corporation, public corporation or public authority,
estate, receiver, trustee, assignee, referee, fiduciary and any other
legal entity.
(b) "Purchase at retail" means a purchase by any person at a
retail sale.
(c) "Purchaser" means a person to whom a sale of personal
property is made or to whom a service is furnished.
(d) "Receipt" means the amount of the sales price of any
tangible personal property, specified digital product or service
taxable under this act.
(e) "Retail sale" means any sale, lease, or rental for any purpose,
other than for resale, sublease, or subrent.
(1) For the purposes of this act a sale is for "resale, sublease, or
subrent" if it is a sale (A) for resale either as such or as converted
into or as a component part of a product produced for sale by the
purchaser, including the conversion of natural gas into another
intermediate or end product, other than electricity or thermal
energy, produced for sale by the purchaser, (B) for use by that
person in performing the services subject to tax under subsection
(b) of section 3 where the property so sold becomes a physical
component part of the property upon which the services are
performed or where the property so sold is later actually transferred
to the purchaser of the service in conjunction with the performance
of the service subject to tax, (C) of telecommunications service to a
telecommunications service provider for use as a component part of
telecommunications service provided to an ultimate customer, or
(D) to a person who receives by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to another person, other than rights to redistribute based on statutory or common law doctrine such as fair use.

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

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

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

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

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

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

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

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

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

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

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

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

(h) "Use" means the exercise of any right or power over tangible personal property, specified digital products, services to property or products, or services by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any distribution, any installation, any affixation to real or personal property, or any
consumption of such property or products. Use also includes the 
exercise of any right or power over intrastate or interstate 
telecommunications and prepaid calling services. Use also includes 
the exercise of any right or power over utility service. Use also 
includes the derivation of a direct or indirect benefit from a service. 
(i) "Seller" means a person making sales, leases or rentals of 
personal property or services. 
(1) The term "seller" includes: 
(A) A person making sales, leases or rentals of tangible personal 
property, specified digital products or services, the receipts from 
which are taxed by this act; 
(B) A person maintaining a place of business in the State or 
having an agent maintaining a place of business in the State and 
making sales, whether at such place of business or elsewhere, to 
persons within the State of tangible personal property, specified 
digital products or services, the use of which is taxed by this act; 
(C) A person who solicits business either by employees, 
independent contractors, agents or other representatives or by 
distribution of catalogs or other advertising matter and by reason 
thereof makes sales to persons within the State of tangible personal 
property, specified digital products or services, the use of which is 
taxed by this act.
A person making sales of tangible personal property, specified 
digital products, or services taxable under the "Sales and Use Tax 
Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be 
soliciting business through an independent contractor or other 
representative if the person making sales enters into an agreement 
with an independent contractor having physical presence in this 
State or other representative having physical presence in this State, 
for a commission or other consideration, under which the 
independent contractor or representative directly or indirectly refers 
potential customers, whether by a link on an internet website or 
otherwise, and the cumulative gross receipts from sales to 
customers in this State who were referred by all independent 
contractors or representatives that have this type of an agreement 
with the person making sales are in excess of $10,000 during the 
preceding four quarterly periods ending on the last day of March, 
June, September, and December. This presumption may be rebutted 
by proof that the independent contractor or representative with 
whom the person making sales has an agreement did not engage in 
any solicitation in the State on behalf of the person that would 
satisfy the nexus requirements of the United States Constitution 
during the four quarterly periods in question. Nothing in this 
subparagraph shall be construed to narrow the scope of the terms 
independent contractor or other representative for purposes of any 
other provision of the "Sales and Use Tax Act," P.L.1966, c.30 
(C.54:32B-1 et seq.);
(D) Any other person making sales to persons within the State of tangible personal property, specified digital products or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "Lease or rental" does not include:
(A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

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

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

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

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

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

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

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

"Telecommunications service" shall not include:

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

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

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

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

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

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

(7) data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;
(8) installation or maintenance of wiring or equipment on a customer's premises;
(9) tangible personal property;
(10) advertising, including but not limited to directory advertising;
(11) billing and collection services provided to third parties;
(12) internet access service;
(13) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in section 47 U.S.C. s.522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in section 47 C.F.R. 20.3;
(14) ancillary services; or
(15) digital products delivered electronically, including but not limited to software, music, video, reading materials, or ringtones.

For the purposes of this subsection:
"ancillary service" means a service that is associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail service;
"conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;
"detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement;
"directory assistance" means an ancillary service of providing telephone number information or address information or both;
"vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and
"voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical service that a customer may be required to have to utilize the voice mail service.

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

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

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

"Energy" means natural gas or electricity.

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

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

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

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

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

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

(Deleted by amendment, P.L.2008, c.123)
(oo) (1) "Sales price" is the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

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

(2) "Sales price" does not include:

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

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

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(D) One of the following criteria is met:
(i) the purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that
the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

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

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

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

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

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

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

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

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

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

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

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

(xx) "Investigation and security services" means:

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

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

(3) armored car services; and

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

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

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

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

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

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

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

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

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

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