

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3158

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED MAY 13, 2019

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

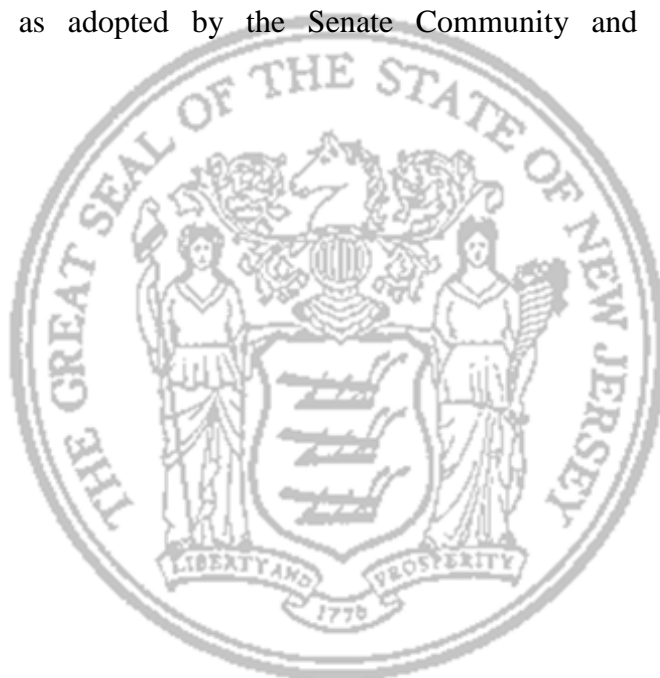
Senator O'Scanlon

SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Community and Urban Affairs Committee.



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, c.19
10 (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, c.19
14 (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, c.19
22 (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
45 individuals that is licensed by the State; a campsite, cabin, lean-to,
46 or other similar residential facility of a campground or an adult or

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

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

27 "Transient space marketplace" does not include a marketplace or
28 travel agency that exclusively offers transient accommodations
29 owned by the owner of the transient space marketplace.
30 (cf: P.L.2018, c.132, s.4)

31
32 2. Section 85 of P.L.2015, c.19 (C.5:10A-85) is amended to
33 read as follows:

34 85. a. (1) Beginning on the first day of the first month next
35 following the enactment of P.L.2015 c.19 (C.5:10A-1 et al.), there
36 is imposed a Meadowlands regional hotel use assessment on the
37 rent for the occupancy of every room in every hotel or transient
38 accommodation located in the Meadowlands district, including any
39 hotels located on land owned by the State.

40 (2) Beginning on the first day of the first month next following
41 the enactment of P.L.2018, c.52, the Meadowlands regional hotel
42 use assessment shall be applied on the rent for the occupancy of
43 every room in every hotel or transient accommodation located
44 outside of the Meadowlands district, but within a constituent
45 municipality, including any hotels located on land owned by the
46 State.

47 (3) The assessment imposed under this subsection shall be 3%
48 of the rent charged for every occupancy of a room or rooms in a

1 hotel or transient accommodation subject to taxation pursuant to
2 subsection (d) of section 3 of P.L.1966, c.30 (C.54:32B-3), and
3 shall be paid to the Director of the Division of Taxation by each
4 person required to collect the tax not later than the 10th day of each
5 month based on the occupancy of rooms in that hotel or transient
6 accommodation during the previous calendar month.

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

14 Each person required to collect the assessment shall be
15 personally liable for the assessment imposed, collected, or required
16 to be paid, collected, or remitted under this section. Any such
17 person shall have the same right in respect to collecting the fee from
18 that person's customer or in respect to non-payment of the fee by
19 the customer as if the fee were a part of the purchase price of the
20 occupancy or rent, as the case may be, and payable at the same
21 time; provided, however, that the director shall be joined as a party
22 in any action or proceeding brought to collect the fee.

23 Notwithstanding any other provision of law or administrative
24 action to the contrary, transient space marketplaces that facilitate an
25 average of 100 transient accommodation occupancies a month in the
26 State shall be required to collect and pay on behalf of persons
27 engaged in the business of providing transient accommodations **【or**
28 **hotel rooms】** located in this State the tax for transactions solely
29 consummated through the transient space marketplace. For not less
30 than four years following the end of the calendar year in which the
31 transaction occurred, the transient space marketplace shall maintain
32 the following data for those transactions consummated through the
33 transient space marketplace:

34 (1) The name of the person who provided the transient
35 accommodation **【or hotel room】**;

36 (2) The name of the customer who procured occupancy of the
37 transient accommodation **【or hotel room】**;

38 (3) The address, including any unit designation, of the transient
39 accommodation **【or hotel room】**;

40 (4) The dates and nightly rates for which the consumer procured
41 occupancy of the transient accommodation **【or hotel room】**;

42 (5) The municipal transient accommodation registration number,
43 if applicable;

44 (6) A statement as to whether such booking services will be
45 provided in connection with (i) short-term rental of the entirety of
46 such unit, (ii) short-term rental of part of such unit, but not the
47 entirety of such unit, and/or (iii) short-term rental of the entirety of

1 such unit, or part thereof, in which a non-short-term occupant will
2 continue to occupy such unit for the duration of such short-term
3 rental;

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

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

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

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

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

21 c. Assessment revenue shall be collected by the Director of the
22 Division of Taxation and shall be deposited by the Director of the
23 Division of Taxation into the intermunicipal account established
24 pursuant to section 53 of P.L.2015, c.19 (C.5:10A-53), and shall be
25 used to pay meadowlands adjustment payments to municipalities in
26 the Meadowlands district pursuant to the provisions of sections 1
27 through 68 of P.L.2015, c.19 (C.5:10A-1 et seq.). If in any year,
28 assessment revenue in the intermunicipal account exceeds the
29 amount necessary to pay meadowlands adjustment payments to
30 municipalities in the Meadowlands district, that remaining
31 assessment revenue may be used for the purposes set forth in
32 subsection e. of this section.

33 d. In the event sufficient assessment revenue is unavailable in
34 any year to pay all of the required meadowlands adjustment
35 payments to municipalities in the Meadowlands district, the State
36 Treasurer shall provide the commission with such funds as may be
37 necessary to make all of the required payments to those
38 municipalities.

39 e. In the event that in any year, after the required meadowlands
40 adjustment payments have been made to municipalities in the
41 Meadowlands district, assessment revenue remains in the
42 intermunicipal account, that remaining assessment revenue may be
43 used in that year for the following purposes:

44 (1) the commission may perform projects in the areas of flood
45 control, traffic, renewable energy, or other infrastructure
46 improvement projects and utilize monies from the project fund for
47 property acquisition, demolition, clearance, removal, relocation,
48 renovation, alteration, construction, reconstruction, installation, or

1 repair of a structure or improvement, and the costs associated
2 therewith including the costs of appraisal, economic and
3 environmental analyses or engineering, planning, design,
4 architectural, surveying, or other professional services;

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

7 (3) the commission may fund the acquisition of property for the
8 purpose of open space preservation and the costs associated
9 therewith including the costs of appraisal, economic and
10 environmental analyses or engineering, surveying, or other
11 professional services; or

12 (4) the commission may fund the creation of parks and other
13 recreational facilities and the costs associated therewith, including
14 the costs of appraisal, economic and environmental analyses or
15 engineering planning, design, architectural, surveying, or other
16 professional services.

17 Not later than the first day of the third month next following the
18 enactment of P.L.2015, c.19 (C.5:10A-1 et al.) and pursuant to the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
20 1 et seq.), the commission shall adopt, by resolution, standards for
21 the disbursement in any year of any remaining assessment revenue
22 for projects and uses set forth in subsection e. of this section.

23 f. Terms used in this section shall have the meaning given
24 those terms pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2).

25 (cf: P.L.2018, c.52, s.2)

26
27 3. Section 3 of P.L.2007, c.30 (C.34:1B-192) is amended to
28 read as follows:

29 3. As used in this act:

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

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

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

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

47 "Infrastructure improvements" means the construction or
48 rehabilitation of any street, highway, utility, transportation or

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

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

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

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

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

32 "State Treasurer" or "treasurer" means the treasurer of the State
33 of New Jersey.

34 "Transient accommodation" means a room, group of rooms, or
35 other living or sleeping space for the lodging of occupants, if
36 obtained through a transient space marketplace, including but not
37 limited to residences or buildings used as residences. "Transient
38 accommodation" does not include: a hotel or hotel room; a room,
39 group of rooms, or other living or sleeping space used as a place of
40 assembly; a dormitory or other similar residential facility of an
41 elementary or secondary school or a college or university; a
42 hospital, nursing home, or other similar residential facility of a
43 provider of services for the care, support and treatment of
44 individuals that is licensed by the State; a campsite, cabin, lean-to,
45 or other similar residential facility of a campground or an adult or
46 youth camp; a furnished or unfurnished private residential property,
47 including but not limited to condominiums, bungalows, single-
48 family homes and similar living units, where no maid service, room

1 service, linen changing service or other common hotel services are
2 made available by the lessor and where the keys to the furnished or
3 unfurnished private residential property, whether a physical key,
4 access to a keyless locking mechanism, or other means of physical
5 ingress to the furnished or unfurnished private residential property,
6 are provided to the lessee at the location of an offsite real estate
7 broker licensed by the New Jersey Real Estate Commission
8 pursuant to R.S.45:15-1 et seq.; or leases of real property with a
9 term of at least 90 consecutive days.

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

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

28
29 4. Section 7 of P.L.2007, c.30 (C.34:1B-196) is amended to
30 read as follows:

31 7. a. A tax imposed pursuant to a municipal ordinance
32 adopted under the provisions of subsection a. of section 5 of
33 P.L.2007, c.30 (C.34:1B-194) shall be collected on behalf of the
34 municipality by the person collecting the receipts, charges or rent
35 from the customer.

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

44 c. Notwithstanding any other provision of law or
45 administrative action to the contrary, transient space marketplaces
46 that facilitate an average of 100 transient accommodation
47 occupancies a month in the State shall be required to collect and
48 pay on behalf of persons engaged in the business of providing

1 transient accommodations **【or hotel rooms】** located in this State the
2 tax for transactions solely consummated through the transient space
3 marketplace. For not less than four years following the end of the
4 calendar year in which the transaction occurred, the transient space
5 marketplace shall maintain the following data for those transactions
6 consummated through the transient space marketplace:

7 (1) The name of the person who provided the transient
8 accommodation **【or hotel room】**;

9 (2) The name of the customer who procured occupancy of the
10 transient accommodation **【or hotel room】**;

11 (3) The address, including any unit designation, of the transient
12 accommodation **【or hotel room】**;

13 (4) The dates and nightly rates for which the consumer procured
14 occupancy of the transient accommodation **【or hotel room】**;

15 (5) The municipal transient accommodation registration number,
16 if applicable;

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

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

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

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

32 (cf: P.L.2018, c.49, s.5)

33
34 5. Section 2 of P.L.1947, c.71 (C.40:48-8.16) is amended to
35 read as follows:

36 2. As used in this act:

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

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

41 (2) Any cover charge, minimum charge, entertainment, or other
42 similar charge made to any patron of any restaurant, cafe, bar, hotel
43 or other similar establishment;

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

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

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

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

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

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

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

39 "Transient space marketplace" means **[an online]** a marketplace
40 or travel agency through which a person may offer transient
41 accommodations **[or hotel rooms]** to **[individuals]** customers and
42 through which customers may arrange and pay for occupancies of
43 transient accommodations. **[A "transient space marketplace" allows**
44 transient accommodations or hotel rooms to be advertised or listed
45 through an online marketplace in exchange for consideration or
46 provides a means for a customer to arrange for the occupancy of the
47 transient accommodation or hotel room in exchange for
48 consideration. A 'transient space marketplace' shall not include an

1 online marketplace operated by or on behalf of a hotel or hotel
2 corporation that facilitates customer occupancy solely for the hotel
3 or hotel corporation's owned or managed hotels and franchisees,
4 and shall not include a travel agency or an online travel agency. **】**
5 “Transient space marketplace” does not include a marketplace or
6 travel agency that exclusively offers transient accommodations
7 owned by the owner of the transient space marketplace.
8 (cf: P.L.2018, c.132, s.6)
9

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

12 1. As used in this act:

13 a. "Convention center operating authority" means, in the case
14 of any eligible municipality, the public authority or other
15 governmental entity empowered to operate convention hall and the
16 convention center facilities in the eligible municipality.

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

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

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

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

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

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

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

13 h. "Transient space marketplace" means **[an online]** a
14 marketplace or travel agency through which a person may offer
15 transient accommodations **[or hotel rooms]** to **[individuals]**
16 customers and through which customers may arrange and pay for
17 occupancies of transient accommodations. **[A "transient space**
18 **marketplace"** allows transient accommodations or hotel rooms to be
19 advertised or listed through an online marketplace in exchange for
20 consideration or 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 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.] "Transient space marketplace" does not include a
28 marketplace or travel agency that exclusively offers transient
29 accommodations owned by the owner of the transient space
30 marketplace.

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

32

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

35 5. The fees under this act shall be collected and administered
36 by the director, notwithstanding the provisions of any other law to
37 the contrary. In carrying out the provisions of this section, the
38 director shall have all the powers granted in P.L.1966, c.30
39 (C.54:32B-1 et seq.). The director shall determine and certify to the
40 State Treasurer on a monthly basis the amount of revenues collected
41 by the director pursuant to this section on account of the fees
42 imposed pursuant to this act in an eligible municipality which are
43 payable to the convention center operating authority operating
44 convention center facilities in such eligible municipality. The State
45 Treasurer upon the certification of the director and upon the warrant
46 of the State Comptroller, shall pay and distribute on a monthly basis
47 to the convention center operating authority the amount so
48 determined and certified.

1 Notwithstanding any other provision of law or administrative
2 action to the contrary, transient space marketplaces that facilitate an
3 average of 100 transient accommodation occupancies a month in the
4 State shall be required to collect and pay on behalf of persons
5 engaged in the business of providing transient accommodations [or
6 hotel rooms] located in this State the tax for transactions solely
7 consummated through the transient space marketplace. For not less
8 than four years following the end of the calendar year in which the
9 transaction occurred, the transient space marketplace shall maintain
10 the following data for those transactions consummated through the
11 transient space marketplace:

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

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

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

18 (4) The dates and nightly rates for which the consumer procured
19 occupancy of the transient accommodation [or hotel room];

20 (5) The municipal transient accommodation registration number,
21 if applicable;

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

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

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

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

37 (cf: P.L.2018, c.49, s.11)

38
39 8. Section 2 of P.L.1981, c.77 (C.40:48E-2) is amended to read
40 as follows:

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

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

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

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

27 "Transient space marketplace" means **[an online]** a marketplace
28 or travel agency through which a person may offer transient
29 accommodations **[or hotel rooms]** to **[individuals]** customers and
30 through which customers may arrange and pay for occupancies of
31 transient accommodations. **[A "transient space marketplace" allows**
32 **transient accommodations or hotel rooms to be advertised or listed**
33 **through an online marketplace in exchange for consideration or**
34 **provides a means for a customer to arrange for the occupancy of the**
35 **transient accommodation or hotel room in exchange for**
36 **consideration. A 'transient space marketplace' shall not include an**
37 **online marketplace operated by or on behalf of a hotel or hotel**
38 **corporation that facilitates customer occupancy solely for the hotel**
39 **or hotel corporation's owned or managed hotels and franchisees,**
40 **and shall not include a travel agency or an online travel agency.]**
41 "Transient space marketplace" does not include a marketplace or
42 travel agency that exclusively offers transient accommodations
43 owned by the owner of the transient space marketplace.

44 (cf: P.L.2018, c.132, s.8)

45
46 9. Section 4 of P.L.1981, c.77 (C.40:48E-4) is amended to read
47 as follows:

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

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

12 c. Notwithstanding any other provision of law or
13 administrative action to the contrary, transient space marketplaces
14 that facilitate an average of 100 transient accommodation
15 occupancies a month in the State shall be required to collect and
16 pay on behalf of persons engaged in the business of providing
17 transient accommodations **【or hotel rooms】** located in this State the
18 tax for transactions solely consummated through the transient space
19 marketplace. For not less than four years following the end of the
20 calendar year in which the transaction occurred, the transient space
21 marketplace shall maintain the following data for those transactions
22 consummated through the transient space marketplace:

23 (1) The name of the person who provided the transient
24 accommodation **【or hotel room】**;

25 (2) The name of the customer who procured occupancy of the
26 transient accommodation **【or hotel room】**;

27 (3) The address, including any unit designation, of the transient
28 accommodation **【or hotel room】**;

29 (4) The dates and nightly rates for which the consumer procured
30 occupancy of the transient accommodation **【or hotel room】**;

31 (5) The municipal transient accommodation registration number,
32 if applicable;

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

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

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

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

1 d. No person required to collect any tax hereunder shall
2 advertise or hold out to any person or to the public in general, in
3 any manner, directly or indirectly, that the tax will not be separately
4 charged and stated to the customer or that the tax will be refunded
5 to the customer.

6 e. All revenues collected from the tax shall be remitted to the
7 chief fiscal officer of the city on or before the dates on which
8 municipal real property taxes are due.

9 f. The city shall enforce the payment of delinquent hotel
10 occupancy taxes in the same manner as provided for municipal real
11 property taxes.

12 (cf: P.L.2018, c.49, s.14)

13
14 10. Section 5 of P.L.2003, c.114 (C.40:48F-3) is amended to
15 read as follows:

16 5. a. A tax imposed pursuant to a municipal ordinance
17 adopted under the provisions of section 3 of P.L.2003, c.114
18 (C.40:48F-1) shall be collected on behalf of the municipality by the
19 person collecting the rent from the hotel or transient
20 accommodation customer.

21 b. Each person required to collect a tax imposed by the
22 ordinance shall be personally liable for the tax imposed, collected
23 or required to be collected hereunder. Any such person shall have
24 the same right in respect to collecting the tax from a customer as if
25 the tax were a part of the rent and payable at the same time;
26 provided, however, that the chief fiscal officer of the municipality
27 shall be joined as a party in any action or proceeding brought to
28 collect the tax.

29 c. Notwithstanding any other provision of law or
30 administrative action to the contrary, transient space marketplaces
31 that facilitate an average of 100 transient accommodation
32 occupancies a month in the State shall be required to collect and
33 pay on behalf of persons engaged in the business of providing
34 transient accommodations **【or hotel rooms】** located in this State the
35 tax for transactions solely consummated through the transient space
36 marketplace. For not less than four years following the end of the
37 calendar year in which the transaction occurred, the transient space
38 marketplace shall maintain the following data for those transactions
39 consummated through the transient space marketplace:

40 (1) The name of the person who provided the transient
41 accommodation **【or hotel room】**;

42 (2) The name of the customer who procured occupancy of the
43 transient accommodation **【or hotel room】**;

44 (3) The address, including any unit designation, of the transient
45 accommodation **【or hotel room】**;

46 (4) The dates and nightly rates for which the consumer procured
47 occupancy of the transient accommodation **【or hotel room】**;

1 (5) The municipal transient accommodation registration number,
2 if applicable;

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

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

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

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

18 (cf: P.L.2018, c.49, s.16)

19
20 11. 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, c.165
25 (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, c.165
6 (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, c.30
22 (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
6 elementary or secondary school or a college or university; a
7 hospital, nursing home, or other similar residential facility of a
8 provider of services for the care, support and treatment of
9 individuals that is licensed by the State; a campsite, cabin, lean-to,
10 or other similar residential facility of a campground or an adult or
11 youth camp; a furnished or unfurnished private residential property,
12 including but not limited to condominiums, bungalows, single-
13 family homes and similar living units, where no maid service, room
14 service, linen changing service or other common hotel services are
15 made available by the lessor and where the keys to the furnished or
16 unfurnished private residential property, whether a physical key,
17 access to a keyless locking mechanism, or other means of physical
18 ingress to the furnished or unfurnished private residential property,
19 are provided to the lessee at the location of an offsite real estate
20 broker licensed by the New Jersey Real Estate Commission
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.

23 "Transient space marketplace" means **[an online]** a marketplace
24 or travel agency through which a person may offer transient
25 accommodations **[or hotel rooms]** to **[individuals]** customers and
26 through which customers may arrange and pay for occupancies of
27 transient accommodations. **[A "transient space marketplace" allows**
28 transient accommodations or hotel rooms to be advertised or listed
29 through an online marketplace in exchange for consideration or
30 provides a means for a customer to arrange for the occupancy of the
31 transient accommodation or hotel room in exchange for
32 consideration. A 'transient space marketplace' shall not include an
33 online marketplace operated by or on behalf of a hotel or hotel
34 corporation that facilitates customer occupancy solely for the hotel
35 or hotel corporation's owned or managed hotels and franchisees,
36 and shall not include a travel agency or an online travel agency.]

37 "Transient space marketplace" does not include a marketplace or
38 travel agency that exclusively offers transient accommodations
39 owned by the owner of the transient space marketplace.

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

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

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

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

3 9. a. (1) A vendor required to collect the tax upon
4 predominantly tourism related retail receipts or tourism assessment
5 imposed pursuant to this act shall on or before the dates required
6 pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to
7 the director the tax and assessments collected in the preceding
8 month and make and file a return for the preceding month with the
9 director on any form and containing any information as the Director
10 of the Division of Taxation in the Department of the Treasury shall
11 prescribe by rule or regulation as necessary to determine liability
12 for the tax and assessment in the preceding month during which the
13 person was required to collect the tax.

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

26 For purposes of this paragraph, "vendor" includes: an individual,
27 partnership, corporation, or an officer, director, stockholder, or
28 employee of a corporation, or a member or employee of a
29 partnership, who as such officer, director, stockholder, employee, or
30 member is under the duty to perform the act in respect of which the
31 violation occurs.

32 (3) Notwithstanding any other provision of law or
33 administrative action to the contrary, transient space marketplaces
34 that facilitate an average of 100 transient accommodation
35 occupancies a month in the State shall be required to collect and
36 pay on behalf of persons engaged in the business of providing
37 transient accommodations **【or hotel rooms】** located in this State the
38 tax for transactions solely consummated through the transient space
39 marketplace. For not less than four years following the end of the
40 calendar year in which the transaction occurred, the transient space
41 marketplace shall maintain the following data for those transactions
42 consummated through the transient space marketplace:

43 (1) The name of the person who provided the transient
44 accommodation **【or hotel room】**;

45 (2) The name of the customer who procured occupancy of the
46 transient accommodation **【or hotel room】**;

47 (3) The address, including any unit designation, of the transient
48 accommodation **【or hotel room】**;

(4) The dates and nightly rates for which the consumer procured occupancy of the transient accommodation **【or hotel room】**;

(5) The municipal transient accommodation registration number, if applicable;

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

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

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

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

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

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

d. The director shall inform the authority for each month in which this tax and assessment is collected and returns made of the amount so collected in each month.

(cf: P.L.2018, c.49, s.18)

13. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (1) The term "seller" includes:

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

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

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

46 A person making sales of tangible personal property, specified
47 digital products, or services taxable under the "Sales and Use Tax
48 Act," P.L.1966, c.30 (C.54:32B-1 et seq.) shall be presumed to be

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

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

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

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

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

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

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

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

46 (K) A marketplace facilitator.

47 (2) In addition, when in the opinion of the director it is
48 necessary for the efficient administration of this act to treat any

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

20 (3) Notwithstanding any other provision of law or
21 administrative action to the contrary, transient space marketplaces
22 that facilitate an average of 100 transient accommodation
23 occupancies a month in the State shall be required to collect and
24 pay on behalf of persons engaged in the business of providing
25 transient accommodations **【or hotel rooms】** located in this State the
26 tax for transactions solely consummated through the transient space
27 marketplace. For not less than four years following the end of the
28 calendar year in which the transaction occurred, the transient space
29 marketplace shall maintain the following data for those transactions
30 consummated through the transient space marketplace:

31 (A) The name of the person who provided the transient
32 accommodation **【or hotel room】**;

33 (B) The name of the customer who procured occupancy of the
34 transient accommodation **【or hotel room】**;

35 (C) The address, including any unit designation, of the transient
36 accommodation **【or hotel room】**;

37 (D) The dates and nightly rates for which the consumer procured
38 occupancy of the transient accommodation **【or hotel room】**;

39 (E) The municipal transient accommodation registration number,
40 if applicable;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (u) "Casual sale" means an isolated or occasional sale of an item
47 of tangible personal property or a specified digital product by a
48 person who is not regularly engaged in the business of making retail

1 sales of such property or product where the item of tangible
2 personal property or the specified digital product was obtained by
3 the person making the sale, through purchase or otherwise, for the
4 person's own use.

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

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

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

33 (y) "Property and services the use of which is subject to tax"
34 includes: (1) all property sold to a person within the State, whether
35 or not the sale is made within the State, the use of which property is
36 subject to tax under section 6 or will become subject to tax when
37 such property is received by or comes into the possession or control
38 of such person within the State; (2) all services rendered to a person
39 within the State, whether or not such services are performed within
40 the State, upon tangible personal property or a specified digital
41 product the use of which is subject to tax under section 6 or will
42 become subject to tax when such property or product is distributed
43 within the State or is received by or comes into possession or
44 control of such person within the State; (3) intrastate, interstate, or
45 international telecommunications sourced to this State pursuant to
46 section 29 of P.L.2005, c.126 (C.54:32B-3.4); (4) (Deleted by
47 amendment, P.L.1995, c.184); (5) energy sold, exchanged or
48 delivered in this State for use in this State; (6) utility service sold,

1 exchanged or delivered in this State for use in this State; (7) mail
2 processing services in connection with printed advertising material
3 distributed in this State; (8) (Deleted by amendment, P.L.2005,
4 c.126); and (9) services the benefit of which are received in this
5 State.

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

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

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

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

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

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

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

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

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

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

46 "Telecommunications service" shall include such transmission,
47 conveyance, or routing in which computer processing applications
48 are used to act on the form, code, or protocol of the content for

1 purposes of transmission, conveyance, or routing without regard to
2 whether such service is referred to as voice over Internet protocol
3 services or is classified by the Federal Communications
4 Commission as enhanced or value added.

5 "Telecommunications service" shall not include:

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

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

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

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

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

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

12 (7) data processing and information services that allow data to
13 be generated, acquired, stored, processed, or retrieved and delivered
14 by an electronic transmission to a purchaser where such purchaser's
15 primary purpose for the underlying transaction is the processed data
16 or information;

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

19 (9) tangible personal property;

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

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

23 (12) internet access service;

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

32 (14) ancillary services; or

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

35 For the purposes of this subsection:

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

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

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

- 1 "directory assistance" means an ancillary service of providing
2 telephone number information or address information or both;
- 3 "vertical service" means an ancillary service that is offered in
4 connection with one or more telecommunications services, which
5 offers advanced calling features that allow customers to identify
6 callers and to manage multiple calls and call connections, including
7 conference bridging services; and
- 8 "voice mail service" means an ancillary service that enables the
9 customer to store, send, or receive recorded messages. Voice mail
10 service does not include any vertical service that a customer may be
11 required to have to utilize the voice mail service.
- 12 (dd) (1) "Intrastate telecommunications" means a
13 telecommunications service that originates in one United States
14 state or a United States territory or possession or federal district,
15 and terminates in the same United States state or United States
16 territory or possession or federal district.
- 17 (2) "Interstate 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 a different United States state or United States
21 territory or possession or federal district.
- 22 (3) "International telecommunications" means a
23 telecommunications service that originates or terminates in the
24 United States and terminates or originates outside the United States,
25 respectively. "United States" includes the District of Columbia or a
26 United States territory or possession.
- 27 (ee) (Deleted by amendment, P.L.2008, c.123)
- 28 (ff) "Natural gas" means any gaseous fuel distributed through a
29 pipeline system.
- 30 (gg) "Energy" means natural gas or electricity.
- 31 (hh) "Utility service" means the transportation or transmission of
32 natural gas or electricity by means of mains, wires, lines or pipes, to
33 users or customers.
- 34 (ii) "Self-generation unit" means a facility located on the user's
35 property, or on property purchased or leased from the user by the
36 person owning the self-generation unit and such property is
37 contiguous to the user's property, which generates electricity to be
38 used only by that user on the user's property and is not transported
39 to the user over wires that cross a property line or public
40 thoroughfare unless the property line or public thoroughfare merely
41 bifurcates the user's or self-generation unit owner's otherwise
42 contiguous property.
- 43 (jj) "Co-generation facility" means a facility the primary
44 purpose of which is the sequential production of electricity and
45 steam or other forms of useful energy which are used for industrial
46 or commercial heating or cooling purposes and which is designated
47 by the Federal Energy Regulatory Commission, or its successor, as

1 a "qualifying facility" pursuant to the provisions of the "Public
2 Utility Regulatory Policies Act of 1978," Pub.L.95-617.

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

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

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

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

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

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

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

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

28 (D) Delivery charges;

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

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

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

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

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

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

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

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

- 1 (3) "Sales price" includes consideration received by the seller
2 from third parties if:
- 3 (A) The seller actually receives consideration from a party other
4 than the purchaser and the consideration is directly related to a price
5 reduction or discount on the sale;
- 6 (B) The seller has an obligation to pass the price reduction or
7 discount through to the purchaser;
- 8 (C) The amount of the consideration attributable to the sale is
9 fixed and determinable by the seller at the time of the sale of the
10 item to the purchaser; and
- 11 (D) One of the following criteria is met:
- 12 (i) the purchaser presents a coupon, certificate, or other
13 documentation to the seller to claim a price reduction or discount
14 where the coupon, certificate, or documentation is authorized,
15 distributed, or granted by a third party with the understanding that
16 the third party will reimburse any seller to whom the coupon,
17 certificate, or documentation is presented;
- 18 (ii) the purchaser identifies himself to the seller as a member of
19 a group or organization entitled to a price reduction or discount;
20 provided however, that a preferred customer card that is available to
21 any patron does not constitute membership in such a group; or
- 22 (iii) the price reduction or discount is identified as a third party
23 price reduction or discount on the invoice received by the purchaser
24 or on a coupon, certificate, or other documentation presented by the
25 purchaser.
- 26 (4) In the case of a bundled transaction that includes a
27 telecommunications service, an ancillary service, internet access, or
28 an audio or video programming service, if the price is attributable to
29 products that are taxable and products that are nontaxable, the
30 portion of the price attributable to the nontaxable products is
31 subject to tax unless the provider can identify by reasonable and
32 verifiable standards such portion from its books and records that are
33 kept in the regular course of business for other purposes, including
34 non-tax purposes.
- 35 (pp) "Purchase price" means the measure subject to use tax and
36 has the same meaning as "sales price."
- 37 (qq) "Sales tax" means the tax imposed on certain transactions
38 pursuant to the provisions of the "Sales and Use Tax Act,"
39 P.L.1966, c.30 (C.54:32B-1 et seq.).
- 40 (rr) "Delivery charges" means charges by the seller for
41 preparation and delivery to a location designated by the purchaser
42 of personal property or services including, but not limited to,
43 transportation, shipping, postage, handling, crating, and packing. If
44 a shipment includes both exempt and taxable property, the seller
45 should allocate the delivery charge by using: (1) a percentage based
46 on the total sales price of the taxable property compared to the total
47 sales price of all property in the shipment; or (2) a percentage based
48 on the total weight of the taxable property compared to the total

1 weight of all property in the shipment. The seller shall tax the
2 percentage of the delivery charge allocated to the taxable property
3 but is not required to tax the percentage allocated to the exempt
4 property.

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

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

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

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

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

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

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

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

33 (3) armored car services; and

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

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

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

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

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

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

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

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

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

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

39 (hhh) "Transient space marketplace" means **【an online】** a
40 marketplace or travel agency through which a person may offer
41 transient accommodations **【or hotel rooms】** to **【individuals】**
42 customers and through which customers may arrange and pay for
43 occupancies of transient accommodations. **【A "transient space**
44 **marketplace" allows transient accommodations or hotel rooms to be**
45 **advertised or listed through an online marketplace in exchange for**
46 **consideration or provides a means for a customer to arrange for the**
47 **occupancy of the transient accommodation or hotel room in**
48 **exchange for consideration. A 'transient space marketplace' shall**

1 not include an online marketplace operated by or on behalf of a
2 hotel or hotel corporation that facilitates customer occupancy solely
3 for the hotel or hotel corporation's owned or managed hotels and
4 franchisees, and shall not include a travel agency or an online travel
5 agency.】 “Transient space marketplace” does not include a
6 marketplace or travel agency that exclusively offers transient
7 accommodations owned by the owner of the transient space
8 marketplace.

9 (cf: P.L.2018, c.132, s.3)

10
11 14. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to
12 read as follows:

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

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

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

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

43 (2) For purposes of this subsection, "vendor" includes: an
44 individual, partnership, corporation, or an officer, director,
45 stockholder, or employee of a corporation, or a member or
46 employee of a partnership, who as such officer, director,
47 stockholder, employee, or member is under the duty to perform the
48 act in respect of which the violation occurs.

1 e. Notwithstanding any other provision of law or
2 administrative action to the contrary, transient space marketplaces
3 that facilitate an average of 100 transient accommodation
4 occupancies a month in the State shall be required to collect and
5 pay on behalf of persons engaged in the business of providing
6 transient accommodations **【or hotel rooms】** located in this State the
7 tax for transactions solely consummated through the transient space
8 marketplace. For not less than four years following the end of the
9 calendar year in which the transaction occurred, the transient space
10 marketplace shall maintain the following data for those transactions
11 consummated through the transient space marketplace:

12 (1) The name of the person who provided the transient
13 accommodation **【or hotel room】**;

14 (2) The name of the customer who procured occupancy of the
15 transient accommodation **【or hotel room】**;

16 (3) The address, including any unit designation, of the transient
17 accommodation **【or hotel room】**;

18 (4) The dates and nightly rates for which the consumer procured
19 occupancy of the transient accommodation **【or hotel room】**;

20 (5) The municipal transient accommodation registration number,
21 if applicable;

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

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

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

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

37 (cf: P.L.2018, c.49, s.7)

38
39 15. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to
40 read as follows:

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

45 (1) of the fees collected for occupancies during State Fiscal
46 Year 2004: \$16,000,000 shall be allocated for appropriation to the
47 New Jersey State Council on the Arts for cultural projects;

1 \$2,700,000 shall be allocated for appropriation to the New Jersey
2 Historical Commission for the purposes of subsection a. of section 3
3 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated
4 for appropriation to the New Jersey Commerce and Economic
5 Growth Commission for tourism advertising and promotion; and
6 \$500,000 shall be allocated for appropriation to the New Jersey
7 Cultural Trust; and

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

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

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

41 For purposes of this paragraph, "person" includes: an individual,
42 partnership, corporation, or an officer, director, stockholder, or
43 employee of a corporation, or a member or employee of a
44 partnership, who as such officer, director, stockholder, employee, or
45 member is under the duty to perform the act in respect of which the
46 violation occurs.

47 (3) Notwithstanding any other provision of law or
48 administrative action to the contrary, transient space marketplaces

1 that facilitate an average of 100 transient accommodation
2 occupancies a month in the State shall be required to collect and
3 pay on behalf of persons engaged in the business of providing
4 transient accommodations **【or hotel rooms】** located in this State the
5 tax for transactions solely consummated through the transient space
6 marketplace. For not less than four years following the end of the
7 calendar year in which the transaction occurred, the transient space
8 marketplace shall maintain the following data for those transactions
9 consummated through the transient space marketplace:

10 (1) The name of the person who provided the transient
11 accommodation **【or hotel room】**;

12 (2) The name of the customer who procured occupancy of the
13 transient accommodation **【or hotel room】**;

14 (3) The address, including any unit designation, of the transient
15 accommodation **【or hotel room】**;

16 (4) The dates and nightly rates for which the consumer procured
17 occupancy of the transient accommodation **【or hotel room】**;

18 (5) The municipal transient accommodation registration number,
19 if applicable;

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

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

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

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

35 c. The annual appropriations act for each State Fiscal Year,
36 commencing with fiscal year 2005, shall appropriate and distribute
37 during that fiscal year amounts not less than the amounts otherwise
38 specified for State Fiscal Year 2004 in paragraph (1) of subsection
39 a. of this section for the purposes specified in paragraph (1) of
40 subsection a. of this section.

41 d. If the provisions of subsection c. of this section are not met
42 on the effective date of an annual appropriations act for the State
43 fiscal year, or if an amendment or supplement to an annual
44 appropriations act for the State fiscal year should violate the
45 provisions of subsection c. of this section, the Director of the
46 Division of Budget and Accounting in the Department of the
47 Treasury shall, not later than five days after the enactment of the

1 annual appropriations act, or an amendment or supplement thereto,
2 that violates the provisions of subsection c. of this section, certify to
3 the Director of the Division of Taxation that the requirements of
4 subsection c. of this section have not been met.

5 e. The Director of the Division of Taxation shall, no later than
6 five days after certification by the Director of the Division of
7 Budget and Accounting in the Department of the Treasury pursuant
8 to subsection d. of this section that the provisions of subsection c.
9 of this section have not been met or have been violated by an
10 amendment or supplement to the annual appropriations act, notify
11 each person required to collect tax of the certification and that the
12 fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1)
13 shall no longer be paid or collected.
14 (cf: P.L.2018, c.49, s.23)

15
16 16. This act shall take effect immediately but shall remain
17 inoperative until the first day of the first calendar quarter beginning
18 at least 60 days following the date of enactment.