

CHAPTER 213
(CORRECTED COPY)

AN ACT concerning provision of energy to certain manufacturing facilities, and amending P.L.2019, c.437.

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

1. Section 1 of P.L.2019, c.437 (C.54:32B-8.47b) is amended to read as follows:

C.54:32B-8.47b Definitions relative to provision of energy to certain manufacturing facilities.

1. As used in P.L.2019, c.437 (C.54:32B-8.47b et seq.):

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

"Comprehensive energy audit" means the same as defined in section 2 of P.L.1995, c.180 (C.48:2-21.25).

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

"Division" means the Division of Taxation in the Department of the Treasury.

"Recovered materials" means the same as defined in 40 C.F.R. s.247.3.

"Recovered materials manufacturing facility" means a facility that: (1) received service under an electric public utility rate that applied only to the owner of the facility on January 1, 2004; (2) manufactures products made from recovered materials, provided however, that not less than 50 percent of the content of such products produced in this State meet the definition of recovered materials; (3) completed a comprehensive energy audit not more than 48 months before but not later than 90 days after the effective date of P.L.2019, c.437 (C.54:32B-8.47b et seq.); and (4) employed, individually or collectively with an affiliated facility, not less than 250 employees in this State on January 1, 2019.

"Recycled materials" means any item or commodity which is manufactured or produced in whole or in part from post-consumer waste material.

"Recycled materials manufacturing facility" means a facility that: (1) received service under an electric public utility rate that applied only to the owner of the facility on January 1, 2004 at or above 110 kilovolts delivery; (2) manufactures products made from recycled materials, provided however, that not less than 90 percent of the content of such products produced in this State meet the definition of recycled materials; and (3) employed not less than 200 employees in this State on January 1, 2020.

"Tax exemption period" means:

(1) for a recovered materials manufacturing facility, a period of seven years beginning on a date specified by the owner of a recovered materials manufacturing facility following consultation and filing of notice with the division, provided, however, that the beginning date shall be specified to occur after December 31, 2019 and before January 1, 2023; or

(2) for a recycled materials manufacturing facility, an initial period of seven years beginning on a date specified by the owner of a recycled materials manufacturing facility following consultation and filing of notice with the division, provided, however, that the beginning date shall be specified to occur after the effective date of P.L.2021, c.213.

2. Section 2 of P.L.2019, c.437 (C.54:32B-8.47c) is amended to read as follows:

C.54:32B-8.47c Exemption for certain receipts.

2. a. Receipts from the sale or use of energy and utility service to or by a recovered materials manufacturing facility or a recycled materials manufacturing facility for use or consumption directly and primarily in the production of tangible personal property shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), during the tax exemption period.

b. Notwithstanding the provisions of subsection a. of this section, a seller of energy and utility service shall charge and collect from a purchaser that is a recovered materials manufacturing facility or a recycled materials manufacturing facility, and remit to the division, the sales and use tax at the rate then in effect, and the tax shall be refunded to the purchaser by the filing, within 30 days of the close of the calendar quarter in which the sale or use is made or rendered, of a claim with the director for a refund of sales and use taxes paid for energy and utility service, which refund shall be paid within 60 days of the filing of a claim for refund. Proof of claim for refund shall be made by the submission of auditable receipts and such other documentation as the director may require.

c. (1) If the owner of a recovered materials manufacturing facility or a recycled materials manufacturing facility relocates the facility to a location outside this State during the tax exemption period, the owner of the facility shall pay the director the amount of tax for which an exemption shall have been allowed and refunded in accordance with subsection b. of this section.

(2) The State Treasurer shall notify the director of the relocation of a recovered materials manufacturing facility or a recycled materials manufacturing facility to a location outside this State, and the director shall issue a tax assessment for the recapture of tax, equal to the amount of tax for which an exemption shall have been allowed and refunded in accordance with subsection b. of this section.

(3) The recapture of tax shall be a State tax subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., and shall be deposited in the General Fund.

3. Section 3 of P.L.2019, c.437 (C.54:32B-8.47d) is amended to read as follows:

C.54:32B-8.47d Annual review of financial records.

3. a. The division, in consultation with the authority, shall annually review the financial records of a recovered materials manufacturing facility or a recycled materials manufacturing facility that is eligible for a sales and use tax exemption pursuant to section 2 of P.L.2019, c.437 (C.54:32B-8.47c), in order to determine whether it is economically feasible for the State to continue to allow that recovered materials manufacturing facility or recycled materials manufacturing facility to receive that sales and use tax exemption.

b. (1) Upon the completion of the review required by this section, the division, in consultation with the authority, shall prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), an annual report to the Legislature containing their recommendation as to whether the sales and use tax exemption should be continued or whether the exemption should be altered, terminated, or repealed.

(2) For a recovered materials manufacturing facility, the division, in consultation with the authority, shall submit the first annual report on the first day of the ninth month following the commencement of the tax exemption period and shall review the period beginning with the first day after the commencement of the tax exemption period and extending for the subsequent six months. Each of the six subsequent annual reports shall review the 12-month period beginning on the first day after the close of the prior reporting period. For a recycled materials manufacturing facility, the division, in consultation with the authority, shall submit the first annual report on the first day of the ninth month following the commencement of the

tax exemption period and shall review the period beginning with the first day after the commencement of the tax exemption period. Each subsequent annual report shall review the 12-month period beginning on the first day after the close of the prior reporting period.

c. The annual reports shall review the financial records of such a recovered materials manufacturing facility or recycled materials manufacturing facility for the preceding one-year period. As a condition of receiving the sales and use tax exemption, the recovered materials manufacturing facility or recycled materials manufacturing facility shall make its financial records available to the division and the authority and shall provide such other information as may be required by the division and the authority to complete their review and assessment pursuant to this section.

d. Related to the sales and use tax exemption for recycled materials manufacturing facilities, if the division, in consultation with the authority, continues to recommend the sales and use tax exemption for recycled materials manufacturing facilities as a part of the seventh annual review, the sales and use tax exemption for recycled materials manufacturing facilities shall remain in effect for an additional year. The provision of the sales and use tax exemption for recycled materials manufacturing facilities shall be extended on a yearly basis and remain in effect until such time that the division, in consultation with the authority, recommends the termination of that sales and use tax exemption.

4. This act shall take effect immediately and shall apply to receipts from the sale or use of energy and utility service to or by a recycled materials manufacturing facility made on or after the effective date.

Approved September 16, 2021.