

ASSEMBLY, No. 2329

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Assemblywoman FARRAGHER and Assemblyman
DeCROCE

1 AN ACT concerning the taxation of personal property used in the
2 business of telecommunications service providers, amending
3 R.S.54:4-1 and repealing section 19 of P.L.1989, c.3.
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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. R.S.54:4-1 is amended to read as follows:

9 54:4-1. All property real and personal within the jurisdiction of this
10 State not expressly exempted from taxation or expressly excluded
11 from the operation of this chapter shall be subject to taxation annually
12 under this chapter. Such property shall be valued and assessed at the
13 taxable value prescribed by law. Land in agricultural or horticultural
14 use which is being taxed under the "Farmland Assessment Act of
15 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and
16 assessed as provided by that act. An executory contract for the sale
17 of land, under which the vendee is entitled to or does take possession
18 thereof, shall be deemed, for the purpose of this act, a mortgage of
19 said land for the unpaid balance of purchase price. Personal property
20 taxable under this chapter shall include, however, only the machinery,
21 apparatus or equipment of a petroleum refinery that is directly used to
22 manufacture petroleum products from crude oil in any of the series of
23 petroleum refining processes commencing with the introduction of
24 crude oil and ending with refined petroleum products, but shall
25 exclude items of machinery, apparatus or equipment which are located
26 on the grounds of a petroleum refinery but which are not directly used
27 to refine crude oil into petroleum products and shall include the
28 tangible goods and chattels, exclusive of inventories, used in business
29 of [local exchange telephone, telegraph and messenger systems,
30 companies, corporations or associations subject to tax under P.L.1940,
31 c.4 (C.54:30A-16 et seq.), as amended,] providers of
32 telecommunications services offering telecommunications for a fee
33 directly to the public, or to such classes of users as to be effectively

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

Matter underlined thus is new matter.

1 available directly to the public, regardless of the facilities used, and
2 shall not include any intangible personal property whatsoever whether
3 or not such personalty is evidenced by a tangible or intangible chose
4 in action except as otherwise provided by R.S.54:4-20. As used in this
5 section, ["local exchange telephone company" means a
6 telecommunications carrier providing dial tone and access to
7 substantially all of a local telephone exchange]"telecommunications"
8 means the transmission, between or among points specified by the
9 user, of information of the user's choosing, without change in the form
10 or content of the information as sent and received. Property omitted
11 from any assessment may be assessed by the county board of taxation,
12 or otherwise, within such time and in such manner as shall be provided
13 by law. Real property taxable under this chapter means all land and
14 improvements thereon and includes personal property affixed to the
15 real property or an appurtenance thereto, unless:

16 a. (1) The personal property so affixed can be removed or severed
17 without material injury to the real property;

18 (2) The personal property so affixed can be removed or severed
19 without material injury to the personal property itself; and

20 (3) The personal property so affixed is not ordinarily intended
21 to be affixed permanently to real property; or

22 b. The personal property so affixed is machinery, apparatus, or
23 equipment used or held for use in business and is neither a structure
24 nor machinery, apparatus or equipment the primary purpose of which
25 is to enable a structure to support, shelter, contain, enclose or house
26 persons or property. For purposes of this subsection, real property
27 shall include pipe racks, and piping and electrical wiring up to the
28 point of connections with the machinery, apparatus, or equipment of
29 a production process as defined in this section.

30 Real property, as defined herein, shall not be construed to affect any
31 transaction or security interest provided for under the provisions of
32 chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101
33 et seq.). The provisions of this section shall not be construed to repeal
34 or in any way alter any exemption from, or any exception to, real
35 property taxation or any definition of personal property otherwise
36 provided by statutory law.

37 The Director of the Division of Taxation in the Department of the
38 Treasury may adopt rules and regulations pursuant to the provisions
39 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
40 et seq.) as may be deemed necessary to implement and administer the
41 provisions of this act.

42 (cf: P.L.1992, c.24, s.3)

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44 2. Section 19 of P.L.1989, c.3 (C.48:2-21.15) is repealed.

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46 3. This act shall take effect immediately and shall first apply to

1 assessments of business personal property to be entered on each tax
2 list and duplicate on January 10 next following enactment by at least
3 180 days.

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STATEMENT

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8 This bill subjects the business personal property of
9 telecommunications service providers to the property tax. Currently,
10 the only tangible personal property subject to the local property tax in
11 this State is the personal property used in the business of local
12 exchange telephone companies that are also subject to the public utility
13 gross receipts and franchise tax. Historically, telecommunications
14 providers serving different regulated sectors of the changing
15 telecommunications industry have been subject to different taxes. This
16 bill seeks to advance tax parity under the local personal property tax
17 for all telecommunications service providers as deregulation of the
18 industry under the federal "Telecommunications Act of 1996,"
19 Pub.L.104, c.104, unleashes competitive market forces in previously
20 limited market-based segments of that industry. Under that law, cable
21 television companies will be able to move into the telecommunications
22 industry and long-distance telephone companies and local-service
23 telephone companies will be permitted to enter into each other's fields.
24 The convergence of different providers into one service industry will
25 blur the distinctions among the types of telecommunications providers
26 upon which different local tax burdens were based. By extending the
27 local personal property tax to all new telecommunications service
28 providers, the competitive disadvantage of a tax imposed on only one
29 part of the market is removed.

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34 Extends local personal property tax to business property of all
35 telecommunications service providers.