

SENATE, No. 2292

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator SINGER

1 AN ACT eliminating the sales and use tax on the maintenance of
2 residential septic systems, amending P.L.1966, c.30.

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

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7 1. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as
8 follows:

9 3. There is imposed and there shall be paid a tax of 6% upon:

10 (a) The receipts from every retail sale of tangible personal
11 property, except as otherwise provided in this act. If the lessor of
12 tangible personal property purchased for lease elects to pay tax on the
13 amount of the sales price as provided in paragraph (2) of subsection
14 (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any and each
15 subsequent lease or rental is a retail sale, and a subsequent sale of such
16 property is a retail sale.

17 (b) The receipts from every sale, except for resale, of the following
18 services:

19 (1) Producing, fabricating, processing, printing or imprinting
20 tangible personal property, performed for a person who directly or
21 indirectly furnishes the tangible personal property, not purchased by
22 him for resale, upon which such services are performed.

23 (2) Installing tangible personal property, or maintaining, servicing,
24 repairing tangible personal property not held for sale in the regular
25 course of business, whether or not the services are performed directly
26 or by means of coin-operated equipment or by any other means, and
27 whether or not any tangible personal property is transferred in
28 conjunction therewith, except (i) such services rendered by an
29 individual who is engaged directly by a private homeowner or lessee
30 in or about his residence and who is not in a regular trade or business
31 offering his services to the public, (ii) such services rendered with
32 respect to personal property exempt from taxation hereunder pursuant
33 to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by
34 amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry

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 cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining
2 and (v) services rendered in installing property which, when installed,
3 will constitute an addition or capital improvement to real property,
4 property or land.

5 (3) Storing all tangible personal property not held for sale in the
6 regular course of business and the rental of safe deposit boxes or
7 similar space.

8 (4) Maintaining, servicing or repairing real property, other than a
9 residential heating system unit serving not more than three families
10 living independently of each other and doing their cooking on the
11 premises, whether the services are performed in or outside of a
12 building, as distinguished from adding to or improving such real
13 property by a capital improvement, but excluding services rendered by
14 an individual who is not in a regular trade or business offering his
15 services to the public, and excluding garbage removal and sewer
16 services performed on a regular contractual basis for a term not less
17 than 30 days, and excluding maintenance services of a residential
18 septic system.

19 (5) Advertising services, except advertising services for use
20 directly and primarily for publication in newspapers and magazines and
21 except for direct-mail advertising processing services in connection
22 with distribution to out-of-State recipients.

23 (6) (Deleted by amendment, P.L.1995, c.184).

24 (7) Utility service provided to persons in this State, any right or
25 power over which is exercised in this State.

26 Wages, salaries and other compensation paid by an employer to an
27 employee for performing as an employee the services described in this
28 subsection are not receipts subject to the taxes imposed under this
29 subsection (b).

30 Services otherwise taxable under paragraph (1) or (2) of this
31 subsection (b) are not subject to the taxes imposed under this
32 subsection, where the tangible personal property upon which the
33 services were performed is delivered to the purchaser outside this
34 State for use outside this State.

35 (c) Receipts from the sale of food and drink in or by restaurants,
36 taverns, vending machines or other establishments in this State, or by
37 caterers, including in the amount of such receipts any cover, minimum,
38 entertainment or other charge made to patrons or customers:

39 (1) In all instances where the sale is for consumption on the
40 premises where sold;

41 (2) In those instances where the vendor or any person whose
42 services are arranged for by the vendor, after the delivery of the food
43 or drink by or on behalf of the vendor for consumption off the
44 premises of the vendor, serves or assists in serving, cooks, heats or
45 provides other services with respect to the food or drink, except for
46 meals especially prepared for and delivered to homebound elderly, age

1 60 or older, and to disabled persons, or meals prepared and served at
2 a group-sitting at a location outside of the home to otherwise
3 homebound elderly persons, age 60 or older, and otherwise
4 homebound disabled persons, as all or part of any food service project
5 funded in whole or in part by government or as part of a private,
6 nonprofit food service project available to all such elderly or disabled
7 persons residing within an area of service designated by the private
8 nonprofit organization;

9 (3) In those instances where the sale is for consumption off the
10 premises of the vendor, and consists of a meal, or food prepared and
11 ready to be eaten, of a kind obtainable in restaurants as the main
12 course of a meal, including a sandwich, except where food other than
13 sandwiches is sold in an unheated state and is of a type commonly sold
14 in the same form and condition in food stores other than those which
15 are principally engaged in selling prepared foods; and

16 (4) Sales of food and beverages sold through coin-operated
17 vending machines, at the wholesale price of such sale, which shall be
18 defined as 70% of the retail vending machine selling price, except sales
19 of milk, which shall not be taxed. Nothing herein contained shall
20 affect other sales through coin-operated vending machines taxable
21 pursuant to subsection (a) above or the exemption thereto provided by
22 section 21 of P.L.1980, c.105 (C.54:32B-8.9).

23 The tax imposed by this subsection (c) shall not apply to food or
24 drink which is sold to an airline for consumption while in flight.

25 (d) The rent for every occupancy of a room or rooms in a hotel in
26 this State, except that the tax shall not be imposed upon (1) a
27 permanent resident, or (2) where the rent is not more than at the rate
28 of \$2.00 per day.

29 (e) (1) Any admission charge, where such admission charge is in
30 excess of \$0.75 to or for the use of any place of amusement in the
31 State, including charges for admission to race tracks, baseball,
32 football, basketball or exhibitions, dramatic or musical arts
33 performances, motion picture theaters, except charges for admission
34 to boxing, wrestling, kick boxing or combative sports exhibitions,
35 events, performances or contests which charges are taxed under any
36 other law of this State or under section 20 of P.L.1985, c.83
37 (C.5:2A-20), and, except charges to a patron for admission to, or use
38 of, facilities for sporting activities in which such patron is to be a
39 participant, such as bowling alleys and swimming pools. For any
40 person having the permanent use or possession of a box or seat or
41 lease or a license, other than a season ticket, for the use of a box or
42 seat at a place of amusement, the tax shall be upon the amount for
43 which a similar box or seat is sold for each performance or exhibition
44 at which the box or seat is used or reserved by the holder, licensee or
45 lessee, and shall be paid by the holder, licensee or lessee.

46 (2) The amount paid as charge of a roof garden, cabaret or other

1 similar place in this State, to the extent that a tax upon such charges
2 has not been paid pursuant to subsection (c) hereof.

3 (f) The receipts from every sale, except for resale, of intrastate or
4 interstate telecommunications charged to an address in this State,
5 regardless of where the services are billed or paid.
6 (cf: P.L.1997, c.162, s.18)

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8 2. This act shall take effect on the first day of the fourth month
9 following enactment.

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STATEMENT

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14 This bill provides for the elimination of the sales and use tax on
15 maintenance services such as the "pumping out" of residential septic
16 systems. There are approximately 300,000 individual homes with
17 septic systems in the State. Generally, to be properly maintained most
18 septic systems should be "pumped out" at least every other year with
19 normal usage.

20 This bill would offer tax parity with the customers of public
21 sewerage systems, as households with sewers hooked up to public
22 systems do not pay a sales tax.

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27 Eliminates sales and use tax on maintenance of a residential septic
28 system.