

SENATE CONCURRENT RESOLUTION No. 130

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1997

By Senators PALAIA, MATHEUSSEN, Cafiero, Bubba and Scott

1 A CONCURRENT RESOLUTION concerning legislative review of a Department  
2 of Treasury regulation pursuant to Article V, Section IV, paragraph 6 of  
3 the Constitution of the State of New Jersey.

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5 BE IT RESOLVED by the Senate of the State of New Jersey (the General  
6 Assembly concurring):

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8 1. Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the  
9 State of New Jersey, the Legislature may review any rule or regulation of any  
10 department to determine if the rule or regulation is consistent with the intent of  
11 the Legislature as expressed in the language of the statute which the rule or  
12 regulation is intended to implement.

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14 2. Taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30, are  
15 measured by the "amount of the sales price" of the property sold or used,  
16 pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2). Recognizing that some  
17 taxpayers might understate the taxes due, the Legislature in section 19 of  
18 P.L.1966, c.30 (C.54:32B-19) authorized the Director of the Division of  
19 Taxation in the Department of the Treasury to determine the amount of tax due  
20 from such information as may be available if a tax return is not filed or if a  
21 return when filed is incorrect or insufficient. If necessary, the tax may be  
22 estimated on the basis of "external indices."

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24 Automobiles are sometimes purchased directly from their non-auto dealer  
25 owners. Because the sellers are not professional retailers licensed to collect  
26 sales tax, the motor vehicle code contains a provision that allows the purchaser  
27 to pay the appropriate sales or use tax when the automobile is registered. It  
28 is the duty of the purchaser to report the amount of sales price for determining  
29 sales or use tax; this is a particularly tempting opportunity to understate  
30 purchase price and minimize taxes. The director uses the N.A.D.A. Official  
31 Used Car Guide as the "external index" to verify whether the purchase price  
32 claimed matches standard value, and sends "notices of deficiency" to  
33 taxpayers who claim to have paid less than standard fair value. Taxpayers may  
34 contest such a notice, and provide information verifying the purchase price  
35 claimed.

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1 the actual amount of the price paid for the car being the basis of tax.  
2 The Director of the Division of Taxation will have 30 days to withdraw or  
3 amend the inconsistent regulations or the Legislature may, by the passage of  
4 another concurrent resolution, invalidate the regulation in whole or in part.  
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9 Determines that Division of Taxation regulations regarding sales and use taxes  
10 imposed on motor vehicles are inconsistent with Legislative intent.