

P.L. 2021, CHAPTER 213, *approved September 16, 2021*
Assembly, No. 5121

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

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 1 of P.L.2019, c.437 (C.54:32B-8.47b) is amended
8 to read as follows:

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

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

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

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

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

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

20 "Recovered materials manufacturing facility" means a facility
21 that: (1) received service under an electric public utility rate that
22 applied only to the owner of the facility on January 1, 2004; (2)
23 manufactures products made from recovered materials, provided
24 however, that not less than 50 percent of the content of such
25 products produced in this State meet the definition of recovered
26 materials; (3) completed a comprehensive energy audit not more
27 than 48 months before but not later than 90 days after the effective
28 date of P.L.2019, c.437 (C.54:32B-8.47b et seq.); and (4) employed,
29 individually or collectively with an affiliated facility, not less than
30 250 employees in this State on January 1, 2019.

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

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

42 "Tax exemption period" means:

43 (1) for a recovered materials manufacturing facility, a period of

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

6 (2) for a recycled materials manufacturing facility, an initial
7 period of seven years beginning on a date specified by the owner of
8 a recycled materials manufacturing facility following consultation
9 and filing of notice with the division, provided, however, that the
10 beginning date shall be specified to occur after the effective date of
11 P.L. , c (C.) (pending before the Legislature as this bill).

12 (cf: P.L.2019, c.437, s.1)

13
14 2. Section 2 of P.L.2019, c.437 (C.54:32B-8.47c) is amended
15 to read as follows:

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

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

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

41 (2) The State Treasurer shall notify the director of the relocation
42 of a recovered materials manufacturing facility or a recycled
43 materials manufacturing facility to a location outside this State, and
44 the director shall issue a tax assessment for the recapture of tax,
45 equal to the amount of tax for which an exemption shall have been
46 allowed and refunded in accordance with subsection b. of this
47 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.
(cf: P.L.2019, c.437, s.2)

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

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. **【The】**

(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.

(cf: P.L.2019, c.437, s.3)

Concerns provision of energy to certain manufacturing facilities by providing exemptions to certain energy related taxes.