

CHAPTER 374

AN ACT extending the eligibility for the sales and use tax exemption of energy and utility service purchases by certain manufacturing-intensive businesses in Urban Enterprise Zones and certain counties with reduced sales tax and amending P.L.2004, c.65.

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

1. Section 23 of P.L.2004, c.65 (C.52:27H-87.1) is amended to read as follows:

C.52:27H-87.1 Exemption for some retail sales of energy and utility service.

23. a. Retail sales of energy and utility service to:

(1) a qualified business that employs at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process, for the exclusive use or consumption of such business within an enterprise zone, and

(2) a group of two or more persons: (a) each of which is a qualified business that are all located within a single redevelopment area adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.); (b) that collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process; (c) are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and (d) collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone;

are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

A qualified business will continue to be subject to applicable Board of Public Utilities tariff regulations except that its bills from utility companies and third party suppliers for energy and utility service shall not include charges for sales and use tax.

b. A business that meets the requirements of subsection a. of this section shall not be allowed the exemption granted pursuant to this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission shall provide prompt notice to the President of the Board of Public Utilities and to the Director of the Division of Taxation in the Department of the Treasury, of a qualified business that has qualified for the exemption under this subsection, shall provide the president and the director an annual list of all businesses that qualify.

c. (1) Retail sales of energy and utility service to a business facility located within a county that is designated for the 50% tax exemption under section 1 of P.L.1993, c.373 (C.54:32B-8.45) are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.); provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

(2) A business facility that meets the requirements of paragraph (1) of this subsection may file an application for the energy and utility service sales tax exemption with the Chief Executive Officer and Secretary of the Commerce, Economic Growth and Tourism Commission, who shall promulgate regulations and forms for that purpose. The Chief Executive Officer and Secretary of the Commerce, Economic Growth and Tourism Commission shall process an application submitted under this paragraph within 20 business days of receipt thereof. An exemption shall commence for a business upon notice of approval of its application and shall expire for any year in which the business fails to meet the requirements of paragraph (1) of this subsection. Upon approval, the Chief Executive Officer and Secretary of the Commerce, Economic Growth and Tourism Commission shall provide prompt notice to the applicant and also shall provide prompt notice to the President of the Board of Public Utilities and to the Director of the Division of Taxation in the Department of the Treasury. The Chief Executive Officer and Secretary of the Commerce, Economic Growth and Tourism Commission also shall provide the president and the director with an annual list of all businesses that have been approved under this subsection.

2. This act shall take effect immediately.

Approved January 12, 2006.