

CHAPTER 27

AN ACT concerning limousine service, amending P.L.1966, c.30 and P.L.1980, c.105.

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

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

C.54:32B-3 Taxes imposed.

3. There is imposed and there shall be paid a tax of 7% on or before December 31, 2016, 6.875% on and after January 1, 2017 but before January 1, 2018, and 6.625% on and after January 1, 2018 upon:

(a) The receipts from every retail sale of tangible personal property or a specified digital product for permanent use or less than permanent use, and regardless of whether continued payment is required, except as otherwise provided in P.L.1966, c.30 (C.54:32B-1 et seq.).

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

(1) Producing, fabricating, processing, printing, or imprinting tangible personal property or a specified digital product, performed for a person who directly or indirectly furnishes the tangible personal property or specified digital product, not purchased by the person for resale, upon which these services are performed.

(2) Installing tangible personal property or a specified digital product, or maintaining, servicing, repairing tangible personal property or a specified digital product not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property or specified digital product is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, or pressing clothing, and shoe repairing and shoeshining, and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land, other than landscaping services and other than installing carpeting and other flooring.

(3) Storing all tangible personal property not held for sale in the regular course of business; the rental of safe deposit boxes or similar space; and the furnishing of space for storage of tangible personal property by a person engaged in the business of furnishing space for such storage.

"Space for storage" means secure areas, such as rooms, units, compartments, or containers, whether accessible from outside or from within a building, that are designated for the use of a customer and wherein the customer has free access within reasonable business hours, or upon reasonable notice to the furnisher of space for storage, to store and retrieve property. Space for storage shall not include the lease or rental of an entire building, such as a warehouse or airplane hangar.

(4) Maintaining, servicing, or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving the real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade

or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Mail processing services for printed advertising material, except for mail processing services in connection with distribution of printed advertising material to out-of-State recipients.

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

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

(8) Tanning services, including the application of a temporary tan provided by any means.

(9) Massage, bodywork, or somatic services, except such services provided pursuant to a doctor's prescription.

(10) Tattooing, including all permanent body art and permanent cosmetic make-up applications, except such services provided pursuant to a doctor's prescription in conjunction with reconstructive breast surgery.

(11) Investigation and security services.

(12) Information services.

(13) (Deleted by amendment, P.L.2017, c.27)

(14) Telephone answering services.

(15) Radio subscription services.

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

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

(c) (1) Receipts from the sale of prepared food in or by restaurants, taverns, or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment, or other charge made to patrons or customers, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to persons with disabilities, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound persons with disabilities, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or persons with disabilities residing within an area of service designated by the private nonprofit organization; and

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

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

(3) For the purposes of this subsection:

"Food and beverages sold through vending machines" means food and beverages dispensed from a machine or other mechanical device that accepts payment; and

"Prepared food" means:

- (i) A. food sold in a heated state or heated by the seller; or
 - B. two or more food ingredients mixed or combined by the seller for sale as a single item, but not including food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses; or
 - C. food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;
provided however, that
 - (ii) "prepared food" does not include the following sold without eating utensils:
 - A. food sold by a seller whose proper primary NAICS classification is manufacturing in section 311, except subsector 3118 (bakeries);
 - B. food sold in an unheated state by weight or volume as a single item; or
 - C. bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
- (d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon a permanent resident.
- (e) (1) Any admission charge to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing, or combative sports exhibitions, events, performances, or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which the patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee, or lessee, and shall be paid by the holder, licensee, or lessee.
- (2) The amount paid as charge of a roof garden, cabaret, or other similar place in this State, to the extent that a tax upon these charges has not been paid pursuant to subsection (c) hereof.
- (f) (1) The receipts from every sale, except for resale, of intrastate, interstate, or international telecommunications services and ancillary services sourced to this State in accordance with section 29 of P.L.2005, c.126 (C.54:32B-3.4).
- (2) (Deleted by amendment, P.L.2008, c.123)
- (g) (Deleted by amendment, P.L.2008, c.123)
- (h) Charges in the nature of initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization in this State, except for: (1) membership in a club or organization whose members are predominantly age 18 or under; and (2) charges in the nature of membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization that is exempt from taxation pursuant to paragraph (1) of subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9), or that is exempt from taxation pursuant to paragraph (1) or (2) of subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) and that has complied with subsection (d) of section 9 of P.L.1966, c.30 (C.54:32B-9).

(i) The receipts from parking, storing, or garaging a motor vehicle, excluding charges for the following: residential parking; employee parking, when provided by an employer or at a facility owned or operated by the employer; municipal parking, storing, or garaging; receipts from charges or fees imposed pursuant to section 3 of P.L.1993, c.159 (C.5:12-173.3) or pursuant to an agreement between the Casino Reinvestment Development Authority and a casino operator in effect on the date of enactment of P.L.2007, c.105; and receipts from parking, storing, or garaging a motor vehicle subject to tax pursuant to any other law or ordinance.

For the purposes of this subsection, "municipal parking, storing, or garaging" means any motor vehicle parking, storing, or garaging provided by a municipality or county, or a parking authority thereof.

2. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

C.54:32B-6 Imposition of compensating use tax.

6. Unless property or services have already been or will be subject to the sales tax under P.L.1966, c.30 (C.54:32B-1 et seq.), there is hereby imposed on and there shall be paid by every person a use tax for the use within this State of 7% on or before December 31, 2016, 6.875% on and after January 1, 2017 but before January 1, 2018, and 6.625% on and after January 1, 2018, except as otherwise exempted under P.L.1966, c.30 (C.54:32B-1 et seq.), (A) of any tangible personal property or specified digital product purchased at retail, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (B) of any tangible personal property or specified digital product manufactured, processed, or assembled by the user, if items of the same kind of tangible personal property or specified digital products are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorporated into a structure, building, or real property, (C) of any tangible personal property or specified digital product, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of intrastate, interstate, or international telecommunications services described in subsection (f) of section 3 of P.L.1966, c.30 (C.54:32B-3), (E) (Deleted by amendment, P.L.1995, c.184), (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax, (G) of mail processing services described in paragraph (5) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), (H) (Deleted by amendment, P.L.2008, c.123), (I) of any services subject to tax pursuant to subsection (11), (12), (14), or (15) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3), and (J) of access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization in this State. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the property or for the use of the property including delivery charges made by the seller, but excluding any credit for property of the same kind accepted in part payment and intended for resale. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property or specified digital products are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of

business and are used as such or incorporated into a structure, building, or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed, or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention, or withdrawal from storage of tangible personal property or specified digital products by the person who manufactured, processed, or assembled the property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property or specified digital product transferred in conjunction with the performance of the service, including delivery charges made by the seller. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider; provided however, that for prepaid calling services and prepaid wireless calling services the tax shall be at the applicable rate on the consideration given or contracted to be given for the prepaid calling service or prepaid wireless calling service or the recharge of the prepaid calling service or prepaid wireless calling service. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider. For purposes of clause (G) of this section, the tax shall be at the applicable rate on that proportion of the amount of all processing costs charged by a mail processing service provider that is attributable to the service distributed in this State. For purposes of clause (I) of this section, the tax shall be at the applicable rate on the charge made by the service provider. For purposes of clause (J) of this section, the tax shall be at the applicable rate on the charges in the nature of initiation fees, membership fees or dues.

3. Section 23 of P.L.1980, c.105 (C.54:32B-8.11) is amended to read as follows:

C.54:32B-8.11 Transportation charges, exceptions.

23. Receipts from charges for the transportation of persons or property are exempt from the tax imposed under the "Sales and Use Tax Act," except for delivery charges; and the transportation of energy.

4. This act shall take effect immediately and apply to services rendered on or after the first day of the third month following the date of enactment.

Approved February 10, 2017.