

procedures which assure the accuracy and completeness of the transactions recorded in the books and records.

2. The records are not maintained in accordance with the general outline of this chapter.

(b) If the records of a seller are determined to be incorrect or insufficient, the return(s) filed on the basis of the information obtained from such records may be deemed to be incorrect or insufficient and the Director may determine the amount of tax due the State by using any information available, whether from the seller's place of business or from any other source.

R.1982 d.36, effective February 16, 1982.

See: 13 N.J.R. 751(a), 14 N.J.R. 212(b).

Amended by R.2008 d.356, effective December 1, 2008.

See: 40 N.J.R. 1777(a), 40 N.J.R. 6832(a).

Substituted "seller" for "vendor" throughout; and in (b), substituted "Director" for "director" and "seller's" for "vendor's".

### **18:24-2.16 Admission records and information; promoter registration**

(a) Every person who contracts, agrees to or otherwise arranges to hold, produce or sponsor an event, entertainment, or amusement the admission to which is subject to tax under N.J.S.A. 54:32B-3(e) of the Sales and Use Tax Act is deemed to be a promoter and a person required to collect sales tax and shall, within three days after commencing business, file with the Division of Revenue an application for registration (NJ-REG) for New Jersey sales tax purposes. When registration is granted, it will be for an indefinite period. However, the applicant must notify the Division of Taxation of any change of address, ownership, and business activity.

(b) Every person required to collect sales tax shall collect the tax on receipts from sales of taxable admissions for events, entertainments, or amusements to be held in New Jersey, including exempt organizations described in N.J.S.A. 54:32B-9 of the Sales and Use Tax Act. If the customer is given a ticket or other evidence of a right to admission which states the price of the admission, there must be a separate statement thereon of the sales tax imposed and collected with respect to the sale of the admission for remittance to the Division of Taxation.

(c) Any person who sells admission tickets or collects admission charges for a promoter is considered the recipient of amusement charges and is also a person required to register and collect and remit sales tax; provided, however, that the sales tax collected may be turned over to and remitted to the Division of Taxation by the promoter for whom the admissions were sold if all the following requirements are met:

1. The ticket sales agent is acting under a written agreement with the promoter which accounts for the sales tax and provides for the tax collected to be remitted by the promoter;
2. The promoter provides the ticket sales agent with a copy of its New Jersey Certificate of Authority;

3. The ticket sales agent has no reason to believe the sales tax will not be remitted by the promoter;

4. The ticket sales agent maintains records showing the promoter's name, address, telephone number, a copy of the promoter's New Jersey Certificate of Authority, the number of tickets sold or admissions granted, gross receipts from admission ticket sales, sales tax collected for New Jersey, and such other information as the Director may specify from time to time; and,

5. The Division of Taxation has not instructed the ticket sales agent in writing to remit the tax collected for that promoter directly to the State.

(d) A person who sells admission tickets or collects admission charges for a promoter or who rents or leases space for an event, amusement or entertainment the admission to which is subject to tax shall, upon request, furnish information to the Division of Taxation concerning any such New Jersey events, entertainment or amusements and their promoters.

New Rule, R.1992 d.140, effective March 16, 1992.

See: 23 N.J.R. 3275(b), 24 N.J.R. 969(b).

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

In (a), substituted "Revenue" for "Taxation" and substituted "NJ-REG" for "REG-1" in the first sentence.

## **SUBCHAPTER 3. HOTEL ROOM OCCUPANCY SUBJECT TO SALES TAX**

### **18:24-3.1 Taxes on hotel room occupancy**

(a) The rent for every occupancy of a room or rooms in a hotel, as defined in N.J.A.C. 18:24-3.2, is subject to sales tax, except that the tax is not imposed upon:

1. A permanent resident who is in residence for at least 90 consecutive days; or
2. A daily rental of not more than \$2.00.

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

In (a)1, substituted "is" for "shall be".

### **18:24-3.2 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Hotel" means a building or portion thereof, which is regularly used and kept open as such for the purpose of furnishing sleeping accommodations and related services for pay to tourists, transients, or travelers. It includes, but is not limited to, the following:

1. An apartment hotel, bed and breakfast, motel, inn, tourist home, tourist house or court, tourist cabin and club;

2. A boarding house or rooming house containing eight or more units; and

3. Any other building or group of buildings in which sleeping accommodations are normally available to the public on a transient basis.

“Unit” means any portion of a building which is, or may be, rented or leased separately to any individual or family.

Amended by R.2008 d.356, effective December 1, 2008.

See: 40 N.J.R. 1777(a), 40 N.J.R. 6832(a).

In the introductory paragraph, substituted “subchapter” for “Subchapter”; in the introductory paragraph of definition “Hotel”, inserted a comma following “thereof” and “limited to” and inserted “and related services”; and in paragraph 1, inserted “bed and breakfast.”

### 18:24-3.3 Guest house

A boarding or rooming house containing fewer than eight units must be registered and collect and remit sales tax on taxable occupancies as a hotel unless it is held out by the operator and kept open for the residence of permanent boarders or lodgers. A permanent boarder or lodger is any person who occupies or has the right to occupy a room or rooms in the house for at least 90 consecutive days.

Repeal and New Rule, R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Section was “Effective date tax payable”.

## SUBCHAPTER 4. MANUFACTURING, PROCESSING, ASSEMBLING AND REFINING INDUSTRIES

### 18:24-4.1 Scope of subchapter

(a) This subchapter is intended to clarify the application of the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) to:

1. Manufacturing, processing, assembling and refining industries; and

2. Services performed on real or tangible personal property.

As amended, R.1977 d.365, effective September 30, 1977.

See: 9 N.J.R. 445(a), 9 N.J.R. 544(a).

### 18:24-4.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Assembling” means the collecting or gathering together of the parts of a product, and placing them in their proper relation to each other.

“Machinery, apparatus, or equipment” means any complex, mechanical, electrical or electronic device, mechanism or instrument which is adapted to the accomplishment of a production process, and which is designed to be used, and is

used, in manufacturing, converting, processing, fabricating, assembling, or refining tangible personal property for sale.

“Manufacturing or processing” means the performance of an operation or series of operations, the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character must be a substantial change, and it must result in a transformation of property into a different or substantially more usable product.

“Motor vehicle” means all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailer, house trailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

“Part” means an item used as a replacement for any portion of a machine and which is attached or affixed to the machine of which it is a part permanently or during periods of use. A part cannot accomplish the work for which it was designed independent of the machine of which it is intended to be a component.

“Refining” means the making fine or pure, or partially free from extraneous or undesirable matter.

“Supplies” means items of tangible personal property used in the maintenance of a building, work area, or machinery, apparatus, and equipment, and may include items of tangible personal property consumed or used in production whose uses are incidental to such production. Supplies include, but are not limited to, such items as lubricants, cleaning materials, boiler compounds and light bulbs.

“Tool” means a hand-held and manually operated work instrument which is simple in design and used in the performance of simple work functions.

“Year” means a standard calendar year of 12 months.

#### Law Review and Journal Commentaries

Tax Law. Robert J. Alter, Jay Soled, 135 N.J.L.J. S53 (1993).

#### Case Notes

Manufacturing tax exemption applied to equipment used to produce property which is used to produce other property sold to consumers. GE Solid State, Inc. v. Director, Div. of Taxation, 132 N.J. 298, 625 A.2d 468 (1993).

Interpretation of manufacturing exemption to sales and use tax was not manifestly unreasonable. GE Solid State, Inc. v. Director, Div. of Taxation, 11 N.J. Tax 320 (1990), affirmed 254 N.J. Super. 653, 604 A.2d 189, certification granted 130 N.J. 394, 614 A.2d 617, reversed 132 N.J. 298, 625 A.2d 468.

Receipts from purchase of photomask machinery by manufacturer of integrated circuits did not qualify for exemption from sales or use tax. GE Solid State, Inc. v. Director, Div. of Taxation, 11 N.J. Tax 320 (1990), affirmed 254 N.J. Super. 653, 604 A.2d 189, certification granted 130 N.J. 394, 614 A.2d 617, reversed 132 N.J. 298, 625 A.2d 468.