

CHAPTER 24
SALES AND USE TAX ACT

Authority

N.J.S.A. 54:32B-24.

Source and Effective Date

R.1998 d.288, effective May 8, 1998.
See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).

Executive Order No. 66(1978) Expiration Date

Chapter 24, Sales and Use Tax Act, expires on May 8, 2003.

Chapter Historical Note

All provisions of this chapter became effective prior to September 1, 1969.

1969 Revisions: Amendments became effective December 23, 1969 as R.1969 d.36. See: 2 N.J.R. 7(b).

1970 Revisions: Amendments became effective July 1, 1979 as R.1979 d.70. See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

1971 Revisions: Amendments became effective September 2, 1971 as R.1971 d.157. See: 3 N.J.R. 211(a), 3 N.J.R. 162(b). Further amendments became effective November 1, 1971 as R.1971 d.194. See: 3 N.J.R. 275(b), 3 N.J.R. 207(c). Further amendments became effective December 10, 1971 as R.1971 d.218. See: 4 N.J.R. 13(c), 3 N.J.R. 234(b).

1972 Revisions: Subchapter 21 was adopted as R.1972 d.126, effective July 1, 1972. See: 4 N.J.R. 197(d). Amendments became effective February 9, 1972 as R.1972 d.27. See: 4 N.J.R. 54(b), 4 N.J.R. 12(b). Also, on December 18, 1972 as R.1972 d.258. See: 4 N.J.R. 19(c), 5 N.J.R. 23(b).

1973 Revisions: Amendments became effective May 30, 1973 as R.1973 d.139. See: 5 N.J.R. 246(b). Further amendments became effective December 4, 1973 as R. 1973 d.336. See: 5 N.J.R. 392(a), 6 N.J.R. 38(a).

1974 Revisions: Subchapter 22 was adopted as R.1974 d.123, effective May 20, 1974. See: 6 N.J.R. 85(a), 6 N.J.R. 251(a). Subchapter 23 became effective April 19, 1974 as R.1974 d.96. See: 6 N.J.R. 123(a), 6 N.J.R. 208(a). Amendments became effective August 30, 1974 as R.1974 d.244. See: 6 N.J.R. 326(a), 6 N.J.R. 414(e). Subchapter 24 was adopted as R.1974 d.252, effective September 17, 1974. See: 6 N.J.R. 415(a).

1975 Revisions: Amendments became effective January 13, 1975 as R.1975 d.4. See: 6 N.J.R. 494(b), 7 N.J.R. 77(a). Further amendments became effective June 26, 1975 as R.1975 d.187. See: 7 N.J.R. 282(a), 7 N.J.R. 350(b). Further amendments became effective August 15, 1975 as R.1975 d.246. See: 7 N.J.R. 347(a), 7 N.J.R. 446(b). Subchapter 24 became effective September 17, 1974 as R.1974 d.252. See: 6 N.J.R. 415(a).

1976 Revisions: Amendments became effective February 27, 1976 as R.1976 d.62. See: 8 N.J.R. 87(b), 8 N.J.R. 209(a). June 21, 1976 as R.1976 d.190. See: 8 N.J.R. 356(e).

1977 Revisions: Amendments became effective February 3, 1977 as R.1977 d.29. See: 9 N.J.R. 44(b), 9 N.J.R. 147(b). Further amendments became effective September 30, 1977 as R.1977 d.365. See: 9 N.J.R. 445(a), 9 N.J.R. 544(a). Further amendments became effective December 29, 1977 as R.1977 d.484. See: 9 N.J.R. 594(a), 10 N.J.R. 81(a).

1978 Revisions: Subchapter 25 became effective May 4, 1978 as R.1978 d.142. See: 10 N.J.R. 173(a), 10 N.J.R. 265(e). Subchapter 26 became effective August 15, 1978 as R.1978 d.285. See: 10 N.J.R. 300(a), 10 N.J.R. 407(a). Further amendments became effective September 13, 1978 as R.1978 d.320. See: 10 N.J.R. 362(a), 10 N.J.R. 457(b).

1979 Revisions: Amendments became effective March 8, 1979 as R.1979 d.89. See: 11 N.J.R. 103(a), 11 N.J.R. 210(d). Further amendments became effective May 4, 1979 as R.1979 d.179. See: 11 N.J.R. 209(b), 11 N.J.R. 305(a). Further amendments became effective September 28, 1979 as R.1979 d.384. See: 11 N.J.R. 472(b), 11 N.J.R. 595(a).

1980 Revisions: Amendments became effective March 15, 1980 as R.1980 d.102. See: 12 N.J.R. 96(b), 12 N.J.R. 224(d). Further amendments became effective April 9, 1980 as R.1980 d.149 and d.150. See: 12 N.J.R. 161(b), 12 N.J.R. 293(e); 12 N.J.R. 161(c), 12 N.J.R. 293(f). Further amendments became effective May 6, 1980 as R.1980 d.197. See: 12 N.J.R. 219(b), 12 N.J.R. 355(a). Further amendments became effective November 6, 1980 as R.1980 d.489. See: 12 N.J.R. 619(a), 12 N.J.R. 729(b).

1981 Revisions: Subchapter 27 was adopted as R.1981 d.208, effective July 9, 1981. See: 13 N.J.R. 164(a), 13 N.J.R. 465(d). Amendments became effective July 9, 1981 as R.1981 d.209 and d.210. See: 13 N.J.R. 163(a), 13 N.J.R. 465(a); 13 N.J.R. 111(a), 13 N.J.R. 465(c). Subchapter 28 was adopted as R.1981 d.436, effective November 16, 1981. See: 13 N.J.R. 622(a), 13 N.J.R. 847(c).

1982 Revisions: Amendments became effective February 16, 1982 as R.1982 d.36. See: 13 N.J.R. 751(a), 14 N.J.R. 212(b). Further amendments became effective April 5, 1982 as R.1982 d.85. See: 13 N.J.R. 883(b), 14 N.J.R. 348(a). Further amendments became effective May 3, 1982 as R.1982 d.141. See: 14 N.J.R. 140(b), 14 N.J.R. 430(b).

1983 Revisions: Amendments became effective June 20, 1983 as R.1983 d.220. See: 15 N.J.R. 324(a), 15 N.J.R. 1039(b). Subchapter 29 was adopted as R.1983 d.324, effective August 15, 1983. See: 15 N.J.R. 797(a), 15 N.J.R. 1384(a). This chapter was readopted pursuant to Executive Order 66(1978) effective August 12, 1983 as R.1983 d.357. See: 15 N.J.R. 1086(a), 15 N.J.R. 1487(d). Further amendments became effective September 6, 1983 as R.1983 d.367. See: 15 N.J.R. 1088(a), 15 N.J.R. 1488(a).

1984 Revisions: Amendments became effective January 17, 1984 as R.1983 d.619. See: 15 N.J.R. 1565(a), 16 N.J.R. 148(c). Further amendments became effective April 16, 1984 d.126. See: 16 N.J.R. 235(a), 16 N.J.R. 926(b). Further amendments became effective May 7, 1984 as R.1984 d.156. See: 16 N.J.R. 359(a), 16 N.J.R. 1098(a). Further amendments became effective September 4, 1984 as R.1984 d.380. See: 16 N.J.R. 1466(a), 16 N.J.R. 2379(c). Further amendments became effective October 1, 1984 as R.1984 d.431. See: 16 N.J.R. 1965(a), 16 N.J.R. 2689(a). Subchapter 31 was adopted as R.1984 d.495, effective November 5, 1984. See: 16 N.J.R. 1332(a), 16 N.J.R. 3059(a).

1985 Revisions: Amendments became effective February 4, 1985 as R.1985 d.31. See: 16 N.J.R. 3193(a), 17 N.J.R. 320(c). Further amendments became effective February 19, 1985 as R.1985 d.44. See: 16 N.J.R. 3298(b), 17 N.J.R. 480(a). Subchapter 12 title was changed from "Criteria for Determining Taxability of Food" and the subchapter was revised effective June 3, 1985 as R.1985 d.280. See: 17 N.J.R. 178(a), 17 N.J.R. 1440(a).

1986 Revisions: Amendments became effective January 6, 1986 as R.1985 d.651 and d.652. See: 17 N.J.R. 2387(a), 18 N.J.R. 94(b); 17 N.J.R. 2240(a), 18 N.J.R. 94(a).

1987 Revisions: Amendments became effective August 17, 1987 as R.1987 d.325. See: 19 N.J.R. 858(a), 19 N.J.R. 1570(a). Further amendments became effective November 16, 1987 as R.1987 d.474. See: 19 N.J.R. 1181(b), 19 N.J.R. 2201(b).

1988 Revisions: This chapter was readopted effective June 7, 1988 as R.1988 d.298. See: 20 N.J.R. 512(a), 20 N.J.R. 1570(d).

Pursuant to Executive Order No. 66(1978), Chapter 24, Sales and Use Tax Act, was readopted as R.1993 d.313, effective June 4, 1993. See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c). Subchapter 21, Accounting Procedures relating to Sales of Alcoholic Beverages, and Subchapter 24, Sale and Installation of Gasoline Service Station Equipment, were repealed by R.1993 d.313, effective July 6, 1993. See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Pursuant to Executive Order No. 66(1978), Chapter 24, Sales and Use Tax Act, was readopted as R.1998 d.288, effective May 8, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. FORMS

18:24-1.1 Sales and Use Tax Act forms enumerated

(a) The following list reflects sales and use tax forms currently available for use under N.J.S.A. 54:32B-1 et seq.

REGISTRATION APPLICATIONS

- REG-1 Application for Registration with the Division of Taxation
- REG-1E Application for Exempt Organization Permit
- ST-2 Sales Tax Certificate of Authority
- UZ-1 Urban Enterprise Zone Application for Reduced Sales Tax Collection

SPECIALIZED USE FORMS

- ST-3 Resale Certificate
- ST-3NR Resale Certificate for Non-New Jersey Vendors
- ST-4 Exempt Use Certificate
- ST-5 Exempt Organization Certificate
- ST-6 Direct Payment Permit
- ST-6A Direct Payment Certificate
- ST-6E Direct Payment Permit/Certificate (Energy)
- ST-7 Farmers Exemption Certificate
- ST-8 Certificate of Capital Improvement
- ST-10 Motor Vehicle Dealer Sales and Use Tax Exemption Report
- ST-10A Aircraft Dealer Sales and Use Exemption Report
- ST-10V Vessel Dealer Sales and Use Tax Exemption Report

- ST-10V Supplement 1—Supplement for a Foreign Corporation
- ST-11 Report of Sales Tax on Motor Vehicles
- ST-13 Contractor's Exempt Purchase Certificate
- ST-16 Exemption Certificate for Student Books
- ST-40 Lessor's Certification

SALES AND USE TAX RETURNS

- ST-18 Use Tax Return
- ST-18B Annual Business Use Tax Return
- ST-50 Sales and Use Tax Quarterly Return
- ST-50EN Sales and Use Tax Quarterly Return (Energy)
- ST-51 Monthly Remittance Statement
- ST-52 Consolidated Return Schedule
- ST-20A Deduction Worksheet for Computing New Jersey/New York Deductions

ATLANTIC CITY LUXURY TAX

- ST-250 Atlantic City Luxury Tax/State Sales Tax Monthly Return
- ST-252 Atlantic City Luxury Tax Certificate of Authority

NEW JERSEY/NEW YORK COOPERATIVE TAX PROGRAM

- ST-20 New Jersey/New York Combined Sales Tax and Use Tax Return
- ST-20A Deduction Worksheet for Computing New Jersey Deductions
- ST-21 New Jersey/New York Combined State Sales and Use Tax Remittance
- DTF-24 Application for New Jersey and New York Simplified Sales and Use Tax Reporting
- DTF-17.1 Business Description (used in computing form DTF-24)

URBAN ENTERPRISE ZONE FORMS

- UZ-2 Urban Enterprise Sales Tax Certificate of Authority
- UZ-4 Urban Enterprise Zone Contractor's Exempt Purchase Certificate
- UZ-4A/5A Exempt Qualified Business Permit/Exempt Purchase Permit
- UZ-5 Urban Enterprise Exempt Purchase Certificate
- UZ-50 Combined Sales and Use Tax/Urban Enterprise

EXEMPTION STATUS

- ST-5A Exempt Organization Permit
- New Rule, R.1987 d.246, effective June 15, 1987.
 See: 18 N.J.R. 2192(a), 19 N.J.R. 1104(a).
 Amended by R.1993 d.313, effective July 6, 1993.
 See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).
 Amended by R.1998 d.288, effective June 1, 1998.
 See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).
 In (a), inserted REG-1E and deleted ST-5B from list of registration applications, inserted ST-3NR and ST-6E in list of specialized use forms, and inserted ST-18B and ST-50EN in list of sales and use tax returns.

18:24-1.2 Newspaper defined

(a) A "newspaper" means a publication which generally conforms to all the following indicia:

- (6) Paving of driveway;
- (7) Shrubbery, trees, and so forth, planted;
- (8) Paneling, installation of;
- (9) In-ground swim pool, installation of;
- (10) New central air conditioner installation;
- (11) Porch enclosure, construction of;
- (12) New heating system installation;
- (13) Rewiring;
- (14) New electrical outlets installed;
- (15) New siding, installation of;
- (16) Garage, construction of;
- (17) Patio, construction of;
- (18) Storm doors and windows, installation of;
- (19) New hot water heater installation.

iv. In general, a contractor who accepts a certificate of capital improvement in "good faith" is relieved of liability for collection or payment of tax upon transactions covered by the certificate. The question of "good faith" is one of fact and depends upon a consideration of all the conditions surrounding the transaction. A contractor is presumed to be familiar with the law and the regulations pertinent to the business in which he deals. In order for "good faith" to be established, the following conditions must be met:

- (1) The certificate must contain no statement or entry which the contractor knows, or has reason to know, is false or misleading.
- (2) The certificate must be an officially promulgated certificate form or a substantial and proper reproduction thereof.
- (3) The certificate must be dated and executed in accordance with the published instructions, and must be complete and regular in every respect.

v. The contractor may, therefore, under the circumstances, accept this "good faith" certificate of capital improvement as a basis for not collecting sales tax with respect to service or labor charges.

vi. The use of the Certificate of Capital Improvement, form ST-8, is required in all applicable transactions.

7. Contractor's Exempt Purchase Certificate (Form ST-13).

i. Form ST-13 must be completed and issued to the supplier of a contractor in every instance where purchases are made by contractor and exemption from sales and use taxes is claimed, except as provided in (a)3 above.

8. An Exempt Qualified Business Permit/Exempt Purchase Permit (Form UZ-4A/5A) must be completed by the contractor when the contractor purchases materials or supplies exclusively for performing work for a qualified business at the business's real property located in an urban enterprise zone. The UZ-4 is obtainable only from the qualified business. After completing the UZ-4, the contractor must issue copies to its vendors and its subcontractors. Any subcontractor receiving a UZ-4 must attach its name, address, and Certificate of Authority number (in addition to the name, address, and number of the contractor) and then give the UZ-4 and attachments to its vendors. "Qualified business" means a person or entity that the Urban Enterprise Zone Authority has certified to be a qualified business according to the criteria in N.J.S.A. 52:27H-62c.

9. If a qualified housing sponsor, as defined in N.J.S.A. 55:14K-3 of the New Jersey Housing and Mortgage Finance Agency Law of 1983, has received Federal, State or local government subsidies, as verified by the New Jersey Housing and Mortgage Finance Agency on a Certification of Housing Sponsor form, in addition to New Jersey Housing and Mortgage Finance Agency financing for the specific housing project, contractors of the housing sponsor, pursuant to P.L. 1988, c.83, may purchase materials, supplies and services tax free for the specific housing project. The contractor must receive a copy of the housing sponsor's Letter of Exemption for his records and may then issue a Contractor's Exempt Purchase Certificate (Form ST-13) to his suppliers to document his exempt purchases for the housing project.

Amended by R.1975 d.246, effective August 15, 1975.

See: 7 N.J.R. 347(a), 7 N.J.R. 446(b).

Amended by R.1993 d.313, effective July 6, 1993.

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

Amended by R.1998 d.288, effective June 1, 1998.

See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).

In (a)6vi, deleted an Editor's Note.

Case Notes

Providing hardwood floor refinishing services did not entitle taxpayer to capital improvement exemption. *Newman v. Director, Div. of Taxation*, 14 N.J.Tax 313 (1994), affirmed 15 N.J. Tax 228.

Taxpayer, by acquiring and installing property used in transaction, exercised such power and control over property so as to constitute use of the property within the meaning of the Sales and Use Tax Act; taxpayer not entitled to rely on customers' certificates of exemption; taxpayer's sale and installation of hydraulic deck level held not exempt from sales tax as an improvement to real property. *Elbert Lively & Co., Inc. v. Director, Div. of Taxation*, 5 N.J.Tax 431 (Tax Ct.1983).

Where a contractor installs property that becomes part of real property, the contractor is not to collect sales tax from the customer, but must obtain from the customer a completed Certificate of Capital Improvement for permanent retention; installation charges for above ground pool not sales tax exempt where contractor failed to prove installation was a capital improvement absent certificate. *H.J. Bradley, Inc. v. Taxation Div. Director*, 4 N.J.Tax 213 (Tax Ct.1982).

18:24-5.17 Penalty for fraudulent issuance of exemption certificates

Any person who issues or accepts an exemption certificate, known to him to be false, for the purpose of avoiding payment or collection of sales or use taxes is guilty of a misdemeanor under the provisions of N.J.S.A. 54:32B-26(b), the penalty for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.

18:24-5.18 Records

Contractors and fabricator/contractors are required to maintain records in compliance with the rules set forth in Subchapter 2 of this Chapter.

SUBCHAPTER 6. CLOTHING AND FOOTWEAR**18:24-6.1 Clothing and footwear exempt**

Section 8.4 of the New Jersey Sales and Use Tax, N.J.S.A. 54:32B-1 et seq., exempts receipts from the sale of articles of clothing and footwear for human use except articles made of fur on the hide or pelt of an animal, where such fur is the component material or chief value of the article.

Amended by R.1993 d.313, effective July 6, 1993.
See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Case Notes

Rules concerning exemptions from sales and use tax for receipts from retail sales of clothing and footwear valid; ski boots not exempt because they are not adaptable for general use as footwear. *Ski Haus, Inc. v. Taxation Div. Director*, 5 N.J.Tax 26 (Tax Ct.1982).

18:24-6.2 Clothing and footwear defined

For the purposes of Section 8.4 (see N.J.A.C. 18:24-6.1), clothing and footwear means all inner and outer wear, footwear, headwear, gloves and mittens, neckwear and hosiery customarily worn on the human body, and shall include baby blankets and bunting, diapers and diaper inserts and baby pants. For the purpose of section 8.4 special clothing or safety clothing necessary for the daily work of the user shall be considered clothing and footwear.

Amended by R.1993 d.313, effective July 6, 1993.
See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Case Notes

Rules concerning exemptions from sales and use tax for receipts from retail sales of clothing and footwear valid; ski boots not exempt because they are not adaptable for general use as footwear. *Ski Haus, Inc. v. Taxation Div. Director*, 5 N.J.Tax 26 (Tax Ct.1982).

18:24-6.3 Specific articles of clothing and footwear exempt

(a) The following articles of clothing and footwear are deemed exempt from the sales and use tax under N.J.S.A. 54:23B-8.4 and N.J.S.A. 54:32B-24:

1. Aprons, household and shop;
2. Bathing suits;
3. Beach capes and coats;
4. Belts and suspenders;
5. Bibs;
6. Bowling shirts if suitable for ordinary wear;
7. Bridal apparel and accessories;
8. Camp clothes;
9. Chesterfield overcoats and opera capes (evening wear);
10. Coats and wraps for evening wear; coats and wraps for daytime wear;
11. Incontinence briefs;
12. Children's costumes;
13. Crib blankets;
14. Dress shields;
15. Dresses—evening gowns and dresses, regular or short, baretop or straps, cocktail dresses, party dresses and skirts for formal wear and bodices for evening wear;
16. Garters and garter belts;
17. Girdles;
18. Gloves, except for use in sports;
19. Hairbows;
20. Head and neck scarves;
21. Headwear and millinery, all types;
22. Hosiery and peds;
23. Leotards and tights;
24. Mackinaws;
25. Men's formal wear;
26. Neckwear;
27. Overshoes;
28. Rainwear;
29. Receiving blankets;
30. Rubber gloves for home or work use;
31. Safety clothing normally worn in hazardous occupations;
32. Scout uniforms;