

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

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(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:

Reference to N.J.A.C. 18:24-15.1 added and reference to N.J.A.C. 18:24-14.1 deleted.

18:24-15.3 Tax computation; inclusion on invoice

(a) The tax must be calculated at the rate of six percent on the adjusted charge as set forth in N.J.A.C. 18:24-15.2.

(b) The invoice given to the customer must show the total charge prior to the reduction, the percentage reduction and the net total charge subject to the sales tax. It must also contain a calculation showing a multiplication by .06 times the net charge to effectuate the imposition of the five percent tax due.

New Rule, R.1971 d.194, effective November 1, 1971.

See: 3 N.J.R. 275(b), 3 N.J.R. 207(c).

Amended by R.1980 d.489, effective November 6, 1980.

See: 12 N.J.R. 619(a), 12 N.J.R. 729(b).

(a) Reference to N.J.A.C. 18:24-15.2 added and reference to N.J.A.C. 18:24-14.2 deleted.

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

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

18:24-15.4 Improper indication of tax rate

It is improper for a vendor of linen furnishings to indicate that the effective rate of tax is two percent of the total charge.

New Rule, R.1971 d.194, effective November 1, 1971.

See: 3 N.J.R. 275(b), 3 N.J.R. 207(c).

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

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

18:24-15.5 Subchapter inapplicable in certain situations

The provisions of this subchapter are not applicable to those invoices where the charge for the rental of the linens and the charge for laundering services are separately stated. In such situations the charge for the laundering service would be exempt from the tax, but the full rental charge would be subject to the tax.

18:24-15.6 Effective date

This subchapter is effective on and after January 1, 1972.

As amended, R.1969 d.36, effective December 23, 1969.

See: 2 N.J.R. 7(b).

R.1971 d.194, effective November 1, 1971.

See: 3 N.J.R. 275(b), 3 N.J.R. 207(c).

As amended, R.1980 d.489, effective November 6, 1980.

See: 12 N.J.R. 619(a), 12 N.J.R. 729(b).

This section was "Expiration date"; "on and after January 1, 1972" added, "for the six month period ending December 31, 1971" deleted.

SUBCHAPTER 16. COIN-OPERATED VENDING MACHINES; SALES OF TANGIBLE PERSONAL PROPERTY; SALES OF FOOD AND DRINK

18:24-16.1 Tax of vending machine sales generally

In general, receipts from sales of taxable tangible personal property and receipts as defined in N.J.A.C. 18:24-16.6(c)

from sales of taxable food and drink are subject to the New Jersey Sales Tax even where such sales are in the amount of less than \$0.11, although an amount equal to the tax is not reimbursed to the vendor by the purchaser.

R.1970 d.70, effective July 1, 1970.

See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

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

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

18:24-16.2 Registration to operate vending machines

Vendors operating vending machines in the State of New Jersey must register with the New Jersey Division of Taxation to engage legally in the business of selling tangible personal property at retail, including also, food and drink of a kind the receipts from which are subject to the sales tax.

R.1970 d.70, effective July 1, 1970.

See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

18:24-16.3 Registration number

One Sales Tax Registration number is sufficient for all machines of one vendor.

R.1970 d.70, effective July 1, 1970.

See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

18:24-16.4 Statement on vending machines

There shall be affixed upon each vending machine, in a conspicuous place, a statement in substantially the following form:

"This vending machine is operated by _____

Name of Vendor

Place of Business of Vendor
New Jersey Sales Tax Registration Number _____"

New Rule, R.1970 d.70, effective July 1, 1970.

See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

18:24-16.5 Vendor's records; contents

(a) Adequate records must be kept by the vendor, showing the following:

1. The location or locations of each machine operated by him;
2. The serial number of each machine operated by him;
3. Purchases and inventories by physical units of merchandise bought for sale through all such machines;
4. The unit prices charged by the vendor;
5. The gross receipts derived from the operation of each machine at each location, or the gross receipts derived from the sale of like products at each location;
6. The receipts from exempt sales;

7. The cost of all tangible personal property, food and drink which the vendor purchased for resale; and

8. The cost of all supplies of which the vendor is deemed to be the ultimate consumer.

New Rule, R.1970 d.70, effective July 1, 1970.
See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

18:24-16.6 Tax on gross receipts

(a) Vendors operating vending machines which dispense tangible personal property, other than food and drink, must report and pay to the State the tax upon the gross receipts from all sales of such items made through such machines, subject to the exemptions set forth in the Sales and Use Tax Act such as items sold through vending machines for \$0.10 or less (exempt under N.J.S.A. 54:32B-8.9 and N.J.A.C. 18:24-17).

(b) Effective January 3, 1980 (P.L. 1979, c.274; N.J.S.A. 54:32B-3(c)(4)), vendors operating vending machines which dispense food and beverages must report and pay to the State the tax upon vending machine sales as defined in (c) below from all sales of such items made through such machines subject to the exemptions set forth in N.J.A.C. 18:24-16.7(b) and (c).

(c) For purposes of subsection (b) above, taxable vending machine sales means the wholesale price of food and beverage which is 70 percent of the retail vending machine selling price of such food and beverage.

(d) Taxpayers must report total receipts from all vending machine sales and deductions of all non-taxable items including 30 percent of sales of food and drink.

(e) Example:

Receipts from sales of taxable tangible personal property	\$1,000	
Receipts from sales of milk	1,000	
Receipts from sales of food and beverages (other than milk)	8,000	
Total receipts from all vending machine sales		\$10,000
Less deductions:		
Milk	\$1,000	
30 percent of receipts from food and beverage sales (30 percent × \$8,000)	2,400	
Total deductions		3,400
Receipts subject to tax		\$ 6,600
Tax due (at 6 percent)		\$ 396

New Rule, R.1970 d.70, effective July 1, 1970.
See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
Amended by R.1991 d.557, effective November 4, 1991.
See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
Deleted old and added new (e). Stylistic revisions.
Amended by R.1993 d.313, effective July 6, 1993.
See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

18:24-16.7 Tax exemptions

(a) Receipts from sales of food or drink exempted from the tax by subsection 8.2 of the Sales and Use Tax Act, are not allowable deductions from gross receipts derived from sales through vending machines.

(b) Receipts from the sale of food and drink sold through vending machines in a cafeteria of an elementary or secondary school or to students in an eating facility of an institution of higher education, fraternity, sorority and eating club operated in connection with an institution of higher education are exempt from tax only when located within such cafeteria or eating facility. Receipts from sales of food and drink through vending machines located in areas not designed by an institution of higher education as an eating facility, other than a cafeteria or eating facility, are subject to tax as provided in N.J.A.C. 18:24-16.6(c). For purposes of these rules vending machines located in areas including but not limited to student lounges, dormitories, gymnasiums, libraries, etc., are not deemed located in an eating facility.

(c) In all instances the receipts from the sales of milk through vending machines are exempt from tax.

New Rule, R.1970 d.70, effective July 1, 1970.
See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
Amended by R.1991 d.557, effective November 4, 1991.
See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
Stylistic revisions.

Case Notes

Former subsection (b) resulting in subjection of food vending machine sales of 10 cents or less being subject to sales and use tax held invalid as not justified by statute and an impermissible amendment thereof by regulation. Automatic Merchandising Council of New Jersey v. Glaser, 127 N.J.Super 413, 317 A.2d 734 (App.Div.1974).

18:24-16.8 Purchase of vending machine contents without tax payment; resale certificate

A vendor may purchase tangible personal property, food or drink for sale through coin-operated vending machines without payment of the sales tax provided he issued to his supplier a Resale Certificate, Form ST-3.

New Rule, R.1970 d.70, effective July 1, 1970.
See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).

18:24-16.9 Responsibility for tax payment; amount

(a) The owner or operator of vending machines is responsible for the remittance of the Sales Tax. He must pay the tax on the total receipts, subject to statutory exemptions, without any deduction whatsoever for any expense incident to the conduct of business, such as a commission to the proprietor of the premises in which the equipment is located.

(b) The tax to be remitted to the State of New Jersey by the vendor is the amount of the actual tax collected from all taxable sales, or six percent of the taxable sales, whichever amount is greater.

New Rule, R.1970 d.70, effective July 1, 1970.
 See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
 Amended by R.1991 d.557, effective November 4, 1991.
 See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
 In (b), tax increased from five to seven percent.
 Amended by R.1993 d.313, effective July 6, 1993.
 See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

SUBCHAPTER 17. SPECIFIC RULES FOR VENDORS WHO SELL TANGIBLE PERSONAL PROPERTY THROUGH VENDING MACHINES AT TEN CENTS OR LESS

18:24-17.1 Statutory basis

N.J.S.A. 54:32B-8.9 provides that the following receipts shall be exempt from the sales tax:

“Tangible personal property sold through coin-operated vending machines at \$0.10 or less, provided the retailer is primarily engaged in making such sales and maintains records satisfactory to the Director.”

Amended by R.1991 d.557, effective November 4, 1991.
 See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
 Added N.J.S.A. 54:32B-8.9.

18:24-17.2 Definition

The phrase “primarily engaged in making such sales”, as used in N.J.S.A. 54:32B-8.9, refers to vendors engaged in making sales through coin-operated vending machines, and for this subsection to be applicable the vendor must show that more than half of the total receipts from his business are derived from sales through coin-operated vending machines.

Amended by R.1970 d.70, effective July 1, 1970.
 See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
 Amended by R.1991 d.557, effective November 4, 1991.
 See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
 Stylistic revisions.

18:24-17.3 Reports qualifying exemption; contents

(a) In addition to the filing of Form ST-50 (Quarterly Return) and/or Form ST-51 (monthly remittance statement), a vendor who seeks to exempt a portion of his gross receipts pursuant to N.J.S.A. 54:32B-8.9 shall report quarterly to the Division of Taxation on Form ST-3229 the following information:

1. The total receipts of his business;
2. The total receipts from sales through coin-operated vending machines;
3. The total receipts from exempt sales, including:
 - i. Receipts from sales of milk;

ii. Receipts from sales of tangible personal property through coin-operated vending machines at \$0.10 or less, per item. (These receipts do not include any portion of the receipts from the sale of any item in excess of \$0.10);

iii. Receipts from any other exempt sales.

4. The total taxable receipts, calculated by subtracting the exempt sales from total receipts of the vending machine company.

Amended by R.1970 d.70, effective July 1, 1970.
 See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
 Amended by R.1991 d.557, effective November 4, 1991.
 See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
 In (a)3i, changed cigarettes to milk. Stylistic revisions.

18:24-17.4 Tax amount payable

The amount of New Jersey Sales Tax payable is the net taxable receipts multiplied by .06 to effectuate application of the six percent tax rate, or the actual tax collected, whichever is the greater.

Amended by R.1970 d.70, effective July 1, 1970.
 See: 2 N.J.R. 51(b), 2 N.J.R. 58(a).
 Amended by R.1991 d.557, effective November 4, 1991.
 See: 23 N.J.R. 396(a), 23 N.J.R. 3345(b).
 Multiplication factor increased from .05 to .07; tax increased from five to seven percent.
 Amended by R.1993 d.313, effective July 6, 1993.
 See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

SUBCHAPTER 18. TAXABILITY OF MOTOR FUELS

18:24-18.1 Motor fuel exempt from Act

(a) N.J.S.A. 54:32B-8.8 exempts sales of motor fuels as motor fuels are defined for the purposes of the New Jersey Motor Fuels Tax Law and sales of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives.

(b) In accordance with (a) above sales of fuels used to propel any aircraft or motor vessel are exempt from the New Jersey sales and use tax.

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

SUBCHAPTER 19. SALES OF TANGIBLE PERSONAL PROPERTY USED DIRECTLY AND EXCLUSIVELY IN THE PRODUCTION FOR SALE OF TANGIBLE PERSONAL PROPERTY ON FARMS

18:24-19.1 Scope of rules

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

sale, rental or leasing of tangible personal property used directly and primarily in the production for sale of tangible personal property on farms. (N.J.S.A. 54:32B-8.16.)

New Rule, R.1971 d.195, effective November 1, 1971.

See: 3 N.J.R. 276(a), 3 N.J.R. 208(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).

Substituted a reference to this subchapter for a reference to this section, and substituted "primarily" for "exclusively" following "directly and".

18:24-19.2 Definitions

For the purposes of this Rule:

"Dairy farming" means the business of breeding, feeding and raising of cattle and other milk-producing animals, and the production of feed for them by the owner of such animals, but does not include operations such as the making of butter, cheese or ice cream.

"Farmer" means a person who operates or manages a farm for gain or profit, either as owner or tenant.

"Farms" means an enterprise using land and improvements thereto for agricultural and horticultural production for the sale of tangible personal property. Farms include, but are not limited to, such enterprises producing: forages and sod crops; grains and feed crops; dairy products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products.

"Productive animals" means animals which are raised for their meat, for the edible products which they produce, for their fur, wool or skin, for breeding purposes or for farm work. Thus, the following are examples of productive animals: dairy cows, poultry, swine, sheep, food fish, rabbits and other game animals raised for meat or fur, chinchillas and minks; also, cows and bulls held for breeding purposes, stallions, brood mares and plow horses.

The animals in the following list are examples of nonproductive animals: pets, including fish, dogs (including work dogs), cats, horses, ponies, birds, rabbits; race horses, riding horses; animals for game farms and gun clubs.

New Rule, R.1971 d.195, effective November 1, 1971.

See: 3 N.J.R. 276(a), 3 N.J.R. 208(a).

Case Notes

Chemicals purchased to clean and sanitize milk processor's lines, fillers and tanks held not sales tax exempt as property used and consumed on a farm because taxpayer failed to establish that its operation was a dairy farm, and the chemicals were not used to handle and preserve farm products on a farm premises. *Tuscan Dairy Farms, Inc. v. Director, Div. of Taxation*, 4 N.J. Tax 92 (Tax Ct.1982).

18:24-19.3 Exemption

(a) The exemption provided by N.J.S.A. 54:32B-8.16 applies to the purchases of tangible personal property.

(b) There is no exemption for the purchase of taxable services.

New Rule, R.1971 d.195, effective November 1, 1971.

See: 3 N.J.R. 276(a), 3 N.J.R. 208(a).

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

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

18:24-19.4 Directly in production

(a) The use of the phrase "directly in production" in the statute makes the exemption status of property depend upon the particular use of such property and does not exempt the property solely on the basis that such property is used on a farm.

(b) Property which is used in some manner prior to the actual commencement of production or in some manner after production has terminated is not used "directly" in production within the meaning of the law.

1. Property used to collect, convey, or transport property, and storage facilities or devices used to store property, prior to its use in the actual farming operation are subject to tax.

2. Property used to transport or convey the farm product after the final farming operation (which includes but does not extend beyond the operation of packaging for the ultimate consumer) and storage facilities or devices used to store the product are not used directly in farming and are taxable. For example, equipment which loads packaged products into cases or cartons for ease of handling in delivery is subject to tax. Machinery, equipment, supplies and other property used to convey, transport, handle or store the packaged product are also taxable.

(c) Production machinery, equipment, implements and other articles have exempt status when used primarily in the growing, stimulation of growth and processing of tangible personal property on farms to a marketable state.

1. Machinery or equipment used in clearing, reclaiming and draining of land does not constitute a direct use inasmuch as the items and their use result only in making land suitable for subsequent cultivation and production of crops or other tangible personal property.

2. The purchase or use of tangible personal property by a person engaged in the business of farming is exempt from tax if such property is used by him directly and primarily in farming operations. However, purchases of automobiles, trucks, trailers and truck-trailer combinations as well as supplies and repair parts for such vehicles are subject to tax; provided, however, that certain trucks, trailers and truck-trailer combinations are exempt from tax in accordance with N.J.S.A. 54:32B-8.43. (See N.J.A.C. 18:24-7.18.)