

CHAPTER 25

LUXURY TAX

Authority

N.J.S.A. 54:32B-1 et seq., specifically 54:32B-24.

Source and Effective Date

R.1991 d.62, effective February 19, 1991.
See: 22 N.J.R. 3323(a), 23 N.J.R. 419(b).

Executive Order No. 66(1978) Expiration Date

Chapter 25, Luxury Tax, expires on February 19, 1996.

Chapter Historical Note

Chapter 25, Luxury Tax, became effective October 9, 1980, as R.1980 d.437. See: 12 N.J.R. 678(c). Pursuant to Executive Order No. 66(1978), Subchapter 1 expired October 9, 1985. New rules became effective January 6, 1986 as R.1985 d.653. Pursuant to Executive Order No. 66(1978), Chapter 25 expired on January 6, 1991 and was readopted as new as R.1991 d.62. See: Source and Effective Date.

See section annotations for additional rulemaking.

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SUBCHAPTER 1. GENERAL PROVISIONS

Authority

N.J.S.A. 54:32B-1 et seq., specifically 54:32B-24.

Source and Effective Date

R.1985 d.653, effective January 6, 1986.
See: 17 N.J.R. 2241(a), 18 N.J.R. 94(c).

Historical Note

All provisions of this subchapter became effective October 9, 1980 as R.1980 d.437. See: 12 N.J.R. 678(c). This subchapter expired October 9, 1985 pursuant to Executive Order 66(1978). A new rule became effective January 6, 1986 as R.1985 d.653. See: 17 N.J.R. 2241(a), 18 N.J.R. 94(c). See chapter and section levels for further amendments.

18:25-1.1 Scope of chapter

This chapter is intended to clarify the application of the luxury tax to certain sales at retail or the hiring of property or services at retail, the receipts from which are subject to tax in Atlantic City.

18:25-1.2 Definitions

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

“Director” means the Director of the Division of Taxation, Department of Treasury, State of New Jersey.

“Luxury tax” means the Retail Sales Tax in Fourth Class Cities, N.J.S.A. 40:48-8.15, et seq. (P.L. 1947, c.71).

“Purchaser” means any person purchasing or hiring property or services from another person, the receipts from which are taxable.

“Retail sale” or “sale at retail” means and includes:

1. Any sale in the ordinary course of business for consumption of whiskey, beer or other alcoholic beverages by the drink in restaurants, cafes, bars, hotels and other similar establishments;
2. Any cover charge, minimum charge, entertainment, or other similar charge made to any patron of any restaurant, cafe, bar, hotel or other similar establishment;
3. The hiring, with or without service, of any room in a hotel, inn, rooming or boarding house;
4. The hiring of any rolling chair, beach chair or cabana; and
5. The granting or sale of any ticket, license or permit for admission to any theatre, moving picture exhibition or show, pier, exhibition, or place of amusement, except charges for admission to boxing, wrestling, kick boxing or combative sports events, matches, or exhibitions, which charges are taxed pursuant to section 20 of P.L. 1985, c.83 (N.J.S.A. 5:2A-20).

“Sales tax” means the taxes imposed by the New Jersey Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq.

“Vendor” means any person selling or hiring property or services to another person upon the receipts from which a tax is imposed.

Amended by R.1991 d.62, effective February 19, 1991.
See: 22 N.J.R. 3323(a), 23 N.J.R. 419(b).

Definitions of purchaser, retail sale and vendor added.

18:25-1.3 Luxury tax forms and instructions enumerated

(a) ST-250, Combined Atlantic City luxury tax; State sales tax monthly return.

(b) ST-250T, Taxpayer's file copy of ST-250.

(c) ST-250A, Instructions for filing ST-250.

18:25-1.4 Imposition of luxury tax

A luxury tax is imposed by Atlantic City upon retail sales, or sales at retail within the territorial limits of the City of Atlantic City.

New Rule, R.1991 d.62, effective February 19, 1991.
See: 22 N.J.R. 3323(a), 23 N.J.R. 419(b).

18:25-1.5 Tax rates

(a) Luxury tax is imposed at a rate of nine percent except for sales of alcoholic beverages which are taxed at a rate of three percent.

(b) The combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 13 percent (luxury tax at nine percent and sales tax at four percent).

(c) Sales subject only to New Jersey sales and use tax are taxable at a rate of seven percent.

(d) Sales of alcoholic beverages by the drink in Atlantic City are taxable at the combined rate of 10 percent (luxury tax at three percent and sales tax at seven percent). Sales of package goods are subject only to New Jersey sales and use tax at the rate of seven percent.

New Rule, R.1991 d.62, effective February 19, 1991.
See: 22 N.J.R. 3323(a), 23 N.J.R. 419(b).

SUBCHAPTER 2. ROOM AND APARTMENT RENTALS**18:25-2.1 Scope of subchapter**

This subchapter is intended to clarify the application of the luxury tax to the rental of apartments or the hiring of rooms, with or without service, within the territorial limits of Atlantic City.

18:25-2.2 Luxury tax on room and apartment rentals

(a) The rental of a room or rooms, with or without service, in hotels, motels, rooming houses, inns, boarding houses or private homes, is subject to luxury tax.

(b) The rental of apartments is subject to luxury tax. For the purposes of this subchapter, an apartment is defined to be a complete housekeeping unit of real property, either constructed or modified for such use, which has as part of its permanent physical design, kitchen and bath facilities located within such unit.

18:25-2.3 Tax rates for room and apartment rentals

Luxury tax shall be imposed on the rental of a room or rooms and apartments at a rate of nine percent.

Amended by R.1991 d.62, effective February 19, 1991.
See: 22 N.J.R. 3323(a), 23 N.J.R. 419(b).
Tax increased from three to nine percent.

18:25-2.4 Exemption from luxury tax on room and apartment rentals

(a) The following room and apartment rentals are exempt from luxury tax.

1. The rental of a room or rooms by a person who resides therein as a permanent resident of Atlantic City. A permanent resident is any person who:

- i. Will occupy a room or rooms under lease for a term of one year or more; or
- ii. Can show a permanency of residence through other objective factors; such as, voter registration, postal records, drivers license, work records, etc.

2. The rental of a room or rooms or an apartment by any person where the rent is paid directly by an agency of State, county or municipal government or by any agency of the United States of America. Where the rent is not paid directly by the governmental agency, it is subject to the luxury tax.

i. For example: A State government employee is in Atlantic City on government business. He pays for the occupancy of a room in a motel, the expense to be reimbursed by an agency of State government. The rental is subject to luxury tax.

3. The room rents received by a church or bona fide charitable association not conducted for profit. This exemption is limited to rentals which are directly related to the purpose for which the church or association was organized.

4. The isolated rental of a room, apartment or single family dwelling by a person not engaged in a course of repeated and successive transactions of like character.

5. That portion of a room rental attributable to the provision of food service to the occupant or boarder; for example, American Plan.

6. The rental of apartments for a period of eight weeks or more.

(b) Every rental of a room or rooms and apartments is subject to luxury tax unless exempt from tax as provided in (a) above. There is no exemption from luxury tax by reason of an exemption from sales tax in this State.

1. For example: An organization holding a valid New Jersey exempt organization permit (Form ST-5A) arranges for the occupancy of rooms in a hotel for members

attending a convention. The rental charge is invoiced to and directly paid by the organization. The room rentals are subject to luxury tax inasmuch as said tax does not provide an exemption for such organizations. However, the room rentals are not subject to the State sales tax provided the vendor is given an exempt organization certificate (Form ST-5) by the organization (See N.J.A.C. 18:24-9.12.).