

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:

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 25 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 \$0.25 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.

Amended by R.2000 d.83, effective March 6, 2000.

See: 31 N.J.R. 4244(a), 32 N.J.R. 815(a).

In “Tangible personal property”, substituted a reference to \$0.25 for a reference to \$0.10.

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 the sale of milk;
 - ii. Receipts from sales of tangible personal property through coin-operated vending machines at \$0.25 or

less, per item. (These receipts do not include any portion of the receipts from the sale of any item in excess of \$0.25); and

iii. Receipts from any other exempt sales; and

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.

Amended by R.2000 d.83, effective March 6, 2000.

See: 31 N.J.R. 4244(a), 32 N.J.R. 815(a).

In (a)3ii, substituted references to \$0.25 for references to \$0.10 throughout.

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.)

(d) In determining whether property is directly used, consideration must be given to the following factors:

1. The physical proximity of the property in question to the production process in which it is used;
2. The proximity of the time and use of the property in question to the time of use of other property used before and after it in the production process; and
3. The active causal relationship between the use of the property in question and the production of a farm product.

(e) The fact that particular property may be considered essential to the conduct of the business of farming because its use is required either by law or practical necessity does not, of itself, mean that the property is "used directly" in farming operations.

(f) The purchase or use by a farmer of property in the following categories, when used directly and primarily in farming, is exempt from tax. Where a single unit of such property is put to use by a farmer in two different activities, one of which is a "direct use" and the other of which is not, the property is not exempt from tax.

1. Machinery, equipment and supplies which are used in actual farm production or to transport, convey, handle or store the product as a part of such production are considered to be directly used in farming operations. Repair parts which are installed and become an integral part of such property are also exempt from tax.

2. Property used to test and inspect the product during the actual farm production is considered to be directly used in the farming operation.

3. Property used to wash, sterilize or inspect returnable containers prior to their being filled is exempt when used in packaging the product if the container will be delivered to the ultimate consumer.

4. Wrapping supplies (including internal packing materials) used in packaging which passes to the ultimate consumer are exempt.

5. Property used to handle and preserve farm products upon the farm premises, and to prevent or deter the destruction, injury or spoilage of farm products, or productive animals or plants, is exempt from tax. Examples of such property include:

- i. Chemicals used for pest control and equipment used to dispense it;
- ii. Property used to groom productive animals so as to preserve their health (including property such as dehorners, debeakers and hoof trimmers) and harnesses used to control productive animals on the farm premises;

- iii. Refrigerating devices (including ice) used upon the farm premises to cool raw milk or to preserve perishable vegetables or other farm products;

- iv. Chemicals and disinfectants used to clean and sterilize milking equipment, milk cans and bulk milk tanks, so as to prevent animal infection or the contamination or spoilage of milk;

- v. Medicines, cleaning solutions, compounds and supplies used to clean and groom productive animals so as to preserve their health.

6. Property which is or becomes a constituent or a part of a farm product is "used directly in farming operations". Property consumed by productive animals such as feed and food additives, and property used for plant growth such as seed, fertilizer and chemical additives, is also "used directly in farming".

7. Property which is used to cause other property to become a constituent or part of a farm product, or to be consumed by productive animals or to foster plant growth is exempt from tax. Examples of such property include:

- i. Seeders, planters, plows, harrows, cultivators, sprayers and similar equipment used to till the soil, to plant seed, and to care for and cause the growth of productive plants;

- ii. Portable equipment used to feed and water productive animals and to administer medication to them, such as portable tubs, buckets, cans, feed scoops, feed carts, portable watering devices, portable incubators and brooders, and artificial breeding equipment;

- iii. Fuel used for heating and power, except energy and utility service as defined in N.J.S.A. 54:32B-2;

8. Property which is used to extract or separate a farm product from productive animals, the soil or plants is exempt from tax. Such property includes harvesters, combines, binders, forage blowers, milking equipment including strainers and strainer discs, egg collecting equipment, pickers and manure or feed handling equipment such as shovels, scoops, forks, barn brooms and carts.

(g) Property in the following categories is not used directly in a farming operation; and the purchase or use of such property is subject to tax:

1. The term "farming" does not include the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance or improvement of real estate. The purchase or use of tangible personal property by a farmer for such purpose is subject to tax, even though the structure may house or otherwise contain equipment or other facilities used directly in farming.

2. Remodeling, repairing, or maintaining buildings (including houses, garages, barns, stables, greenhouses, mushroom houses and storehouses), fences and stanchions permanently affixed to real estate, dams, roads,

spillways, and other improvements to real estate, is not a "farming operation", and property used in such work is taxable. Activities such as land reclamation, land clearing, landscaping, and similar activities which are intended to improve or preserve real estate, are not "farming operations".

3. Maintenance, service, and repair work is not a farming operation. Maintenance facilities, including tools, equipment and supplies predominantly used in performing such work (examples: chain hoists, tire spreaders, welding equipment, drills, sanders, wrenches, paint brushes and sprayers, oilers, absorbent compounds, dusting compounds, air blowers, wipers, and paint or other protective or decorative coatings) are subject to tax. However, replacement parts which are used to replace worn parts upon exempt machinery and equipment (examples: motors, belts, screws, bolts, cutting edges, air filters or gears) are not subject to tax. Equipment and supplies, including soaps and cleaning compounds, brushes, brooms, mops, and similar items, used in general cleaning and maintenance of farm property are subject to tax.

4. Property used in managerial, sales or other nonoperational activities is not directly used in farming and therefore subject to tax. This category includes, but is not limited to, property used in any of the following activities:

i. Office furniture, supplies and equipment, textbooks and other educational materials, books and records, and all other property used in farming record-keeping and other administrative and managerial work are subject to tax. Such property includes, but is not limited to, supplies used to record the quality and quantity of work in production, of goods in storage, the flow of work, the results of inspection, or to instruct workers in routing work or other production activities.

ii. Property used in advertising farm products for sale, or in marketing, transporting such products to a market or to customers, or selling such products, is not within the scope of the farming exemption.

iii. Property used in the exhibition of farm products or of farming operations is subject to tax. Such property includes blankets, halters, prods, leads, harnesses, dressings, ribbons, clippers and similar show grooming and display equipment.

iv. Property used to prevent or fight fires, and equipment and supplies used for such programs as safety, accident prevention or first aid is subject to tax, even though such equipment or property is required by law.

v. Property used for the personal comfort or convenience of the farmer, his family, his employees, or persons associated with him is subject to tax. Examples of such property include: Beds, mattresses, blankets, tableware, stoves, refrigerators, and other equipment used in conjunction with the operation of a migrant labor camp, or facilities for farm employees.

vi. Property used in managerial, sales or other non-production activities, is subject to tax even though it is used during farming operations. Illustrations of such property include safety, heating and ventilation equipment, planking or grating for crosswalks or platforms, and maintenance equipment or facilities.

vii. Property used in making butter, sausage, canned goods, jellies, flour, juices, cheeses, ice cream, and other items which are not deemed to be "farm products" is not exempt from tax under the farming exemption.

(h) The following businesses are not deemed to be farms, and purchases made in the furtherance of such businesses are not accorded the farmer's exemption:

1. The breeding or raising of dogs, cats and other pets; game animals, birds or fish; or other animals which are intended for use in sporting or recreational activities such as, but not limited to, hunting and fishing.

2. The operation of stockyards or slaughter houses.

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.1977 d.484, effective December 29, 1977.

See: 9 N.J.R. 594(a), 10 N.J.R. 81(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 "primarily" for "exclusively" throughout; and in (f)7iii, added an exception for energy and utility service.

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).

18:24-19.5 Farmer's Exemption Certificate—ST-7

(a) A farmer may issue this certificate to his supplier to cover his purchases of tangible personal property which have been declared in this rule to be exempt, provided he enters all the required information on such certificate.

(b) Sales which are not supported by a properly executed exemption certificate shall be deemed taxable retail sales.

(c) A blanket Farmer's Exemption Certificate may be furnished to the vendor by the farmer to cover additional purchases of the same general type of tangible personal property.

(d) Each sales slip or purchase invoice based on such blanket certificate must show the farmer's name, address and social security or Federal identification number.

18:24-19.6 Taxable and exempt items

Schedules A and B show examples of items of tangible personal property taxable and exempt under N.J.S.A. 54:32B-8.16.

EXEMPT SALES—(SCHEDULE “A”)

- Animals for breeding purposes
- Animals, productive
- Apiary equipment *
- Artificial growing media*
- Artificial insemination equipment
- Augers *
- Balers
- Barn brooms
- Bedding for productive animals
- Bees, beehives, and other apiary equipment *
- Bins, grain, portable
- Blowers
- Boarding of productive animals
- Brooders, poultry, portable
- Brooms*
- Buckets *
- Bulbs, plant *
- Bulk milk coolers *
- Bulk milk tanks*
- Calf weaners and feeders
- Cattle currying and oiling machines
- Cattle feeders, portable (see list of taxable items)
- Capital improvements: charges for labor and services in the performance of a capital improvement
- Chain saws used in harvesting timber or preparing lumber for sale
- Chemicals and solutions for exclusive use on milking equipment, milk cans and bulk milk tanks to prevent spoilage
- Chemicals, medicines, serums and solutions used in the care of productive animals
- Chemicals used for drop disease, pest and weed control
- Chicken pickers, portable
- Chinchillas purchased for breeding purposes
- Clipping machines for use on productive animals
- Clothing, safety
- Containers
 - Nonreturnable
 - Milk, reusable
 - Used for delivery of any personal property
 - Wrapping supplies used for delivery of any personal property
- Coolers, bulk milk*
- Cooling tanks and refrigerators used to cool raw milk*
- Combines
- Conveyors (elevators), portable*
- Corn pickers
- Cow stanchions, portable
- Cow ties
- Crates, field
- Cultipackers
- Cultivators
- Debeakers for productive animals
- Defoliant*
- Dehorner for productive animals
- Disks
- Drags
- Driers
- Drugs and medicines for productive animals, including vaccines, hormones and food additives
- Dusters
- Egg candling equipment
- Egg collecting equipment

Egg graders
Egg oiling equipment
Egg washing equipment
Egg washers
Electrical generators*
Ensilage cutters
Farm tractors*
Farm wagons and accessories*
Feed bowls, water bowls for productive animals
Feed carts
Feeders, cattle, portable
Feed for boarded horses
Feed for breeding animals
Feed for productive animals
Feed grinders
Feed shovels
Fertilizer distributors
Fertilizers*
Field crates*
Fish hatchery stock
Flats and pots*
Foils*
Food additives for productive animals
Forage boxes
Forage harvesters
Fork lifts*
Front and rear end loaders*
Fruit graders
Fruit harvesters
Fruit trees*
Fruit washers
Fruit waxers
Fuels, except natural gas distributed through a pipeline system
Fungicides*
Garden tractors*
Gasoline
Generators, auxiliary*
Graders, Fruit, vegetable and egg
Grain augers*
Grain binders
Grain bins, portable
Grain conveyors*
Grain drills
Grain elevators, portable*
Grain planters
Grooming equipment
 cattle currying and oiling machines
 debeakers
 dehorners
 clipping machines
Grooming equipment used on productive animals
Growing media, artificial*
Hand tools, farm*
Hand trucks*
Harrow
Harvesters
Hay conditioners
Hay loaders
Hay mowers
Hay racks
Hay rakes
Hay tedders
Hay windrowers

Herbicides*	Milk tanks, bulk*
Hog feeders, portable	Mowers, hay
Hoof trimmers for productive animals	Mowers, rotary blade*
Hormones for productive animals	Mulches*
Horses purchased for breeding purposes	Nests, poultry, portable
Horses purchased for productive work	Nursery stock*
Horses purchased for rental purposes, including horse-back riding	Packing materials or other wrapping supplies used in the delivery of any personal property
Horses purchased for resale	Pails, milk
Horseshoes for plow horses or horses held for breeding or for sale	Pallets and pallet boxes*
Hose*	Paper towels for udder washing
Husking machines	Parts for exempt equipment
Hydro-coolers	Peat moss, mulches*
Ice	Picking and pruning equipment, mechanized
Incubators, portable	Pipe, portable, to water productive animals or crops
Insecticides, rodenticides, fungicides and herbicides*	Planters*
Irrigation pipe and fittings, portable	Plants*
Labor used in capital improvements	Plastics*
Land levelers for sod production	Plows
Litter for productive animals	Post hole diggers*
Livestock water foundations, portable	Potato washing and waxing machines
Lumber used to build or repair exempt items	Pots and flats*
Manure handling equipment	Poultry brooders, portable
Manure spreaders	Poultry feeders, portable
Medical services, veterinarian	Poultry house equipment*
Medicines and drugs for productive animals including vaccines, hormones and food additives	Poultry nests, portable
Milk cans, reusable	Productive animals
Milking equipment, including specialized cleaning brushes	Pruning and picking equipment, mechanized
Milk pails	Pruning tools for use in orchards or nurseries
Milk strainer disks	Pump for exclusive use in watering productive animals or in farm irrigation
Milk strainers	Refrigerators used to cool raw milk*

Rental charges for exempt items	Tanks, bulk milk*
Replacement parts for exempt equipment	Tarpaulins (tarps) *
Rodenticides*	Tires for exempt equipment
Rollers	Tools, hand, farm*
Root planters	Top soil *
Root vegetable harvesters	Towels for udder washing
Rotary blade mowers*	Tractors, farm*
Rotary hoes	Tractors, garden*
Safety clothing	Training of horses
Salt blocks for use by productive animals	Transportation charges
Salt hay purchased by nursery	Tubs*
Sawdust for bedding productive animals	Twine*
Seeders	Udder towels
Seedlings*	Vaccines for productive animals (charges for vaccinating poultry are taxable)
Seed planters	Vacuum coolers*
Seeds*	Vegetable graders
Semen	Vegetable washers
Serums for use on productive animals	Vegetable waxers
Shellers	Veterinarian medical services
Shovels for handling feed	Washers, fruit, vegetable and egg
Silo unloaders	Water bowls, feed bowls for productive animals
Soil amendments and conditioners*	Water foundations for livestock, portable
Soil substitutes*	Water pump for exclusive use in watering productive animals or in farm irrigation
Stallions purchased for stud purposes by horse farm	Water pumps, portable, for use in production (see taxable items)
Stanchions, portable	Waxers, vegetable, fruit, etc.
Stock, plant *	Weaners, calf
Stone pickers	Weeders
Storage (charges for the storage of farm produce held for sale)	Wood chips for bedding productive animals
Strainer disks, milk	Wrapping supplies or packing materials used in the delivery of any personal property
Stud fees (productive animals only)	
Sprayers*	

TAXABLE SALES (SCHEDULE "B")

Air compressors	Cow stalls
Air tanks	Dispensing cabinets for paper towels
Animals used by game farms, gun clubs or commercial zoological gardens	Dispensing or storing equipment for milk strainer disks
Automobile parts	Dogs (herd dogs, watch dogs)
Automobiles	Dusting and spraying services
Barn ventilators	Electricity
Bins permanently installed	Equipment for fire prevention
Blades, bulldozer	Equipment and supplies for home or personal use
Boarding of horses, except horses boarded for breeding	Extermination services
Boarding of nonproductive animals	Fans for ventilation
Brooders, poultry, permanently installed (see list of exempt items)	Feed for pets or other nonproductive animals
Brooms*	Feeders, cattle, permanently installed (see list of exempt items)
Brushes*	Feeders, poultry, permanently installed (see list of exempt items)
Building materials and supplies for the repair, maintenance or construction of real property, including, but not limited to:	Fertilizer for lawn and home garden
Paint and painting supplies	Field toilets
Fence materials	Fire prevention equipment
Lumber	Fountains, water, permanent
Nails	Garden hose*
Bricks	Gasoline tanks and pumps
Cement	Grain bins permanently installed (see list of exempt items)
Bulldozers	Grain elevators (structures)
Bulldozer blades	Greases and oils
Cabinets, dispensing, for paper towels	Greenhouses, unassembled
Cabinets for dispensing or storing milk strainer disks	Harness for nonproductive animals
Cattle feeders, permanently installed (see list of exempt items)	Harness used in transport of livestock or for nonproductive animals
Compressors, air	Heaters, portable
Construction tools	Herd dogs (except when used primarily for herding sheep and other productive animals)*
Containers, returnable, except reusable milk containers	Horses (for exceptions see list of exempt items)
Conveyors, permanently installed	Horse grooming and exercising

- Horses purchased as pets
- Horses, racing, unless purchased for breeding purposes or for resale
- Horse stalls
- Hose, garden*
- Incubators, permanently installed (see list of exempt items)
- Insecticides for home and home garden use (see list of exempt items)
- Irrigation pipe and fittings, permanently installed (see list of exempt items)
- Labor charges (except wages to employees) for repairing, maintaining and servicing either real or personal property
- Lamps
- Lanterns
- Lawnmowers
- Lubricating oils and greases
- Machinery used to clean, reclaim or drain land for cultivation
- Medicines and drugs for nonproductive animals
- Natural gas used for heat and power
- Nests, poultry, permanently installed (see list of exempt items)
- Nonproductive animals
- Office supplies and equipment oils and greases
- Packing room supplies, including but not limited to:
- gummed tape machines
 - crate openers
 - basket ladders
 - closers for wirebound crates
 - turntables
 - dispensers for wrapping materials
 - stapling machines, staplers
 - bag sealing machines
 - paints and painting supplies
- Parts, automobile and truck
- Parts for taxable equipment
- Personal property installed in or used in housing for farm workers
- Pet food
- Pets
- Pipe, irrigation, permanently installed (see list of exempt items)
- Plants for home use (see list of exempt items)
- Ponies, unless used as breeding stock
- Poultry brooders, permanently installed (see list of exempt items)
- Poultry feeders, permanently installed (see list of exempt items)
- Poultry nests, permanently installed (see list of exempt items)
- Pumps, gasoline
- Pumps for household or lawn use
- Pumps, water, for uses other than watering livestock or for irrigation
- Race horses, unless purchased for breeding purposes or for resale
- Refrigerators for home use
- Repair tools
- Returnable containers, except reusable milk containers
- Road maintenance equipment, including snowplow attachments
- Road scrapers
- Rodenticides for home use (see list of exempt items)
- Sanders
- Scales
- Seeds, plants, bulbs for home use (see list of exempt items)
- Shoeing of horses
- Shovels*
- Silos, purchased without installation
- Snow fence
- Snow plows and snow plow equipment

Sod or turf

Spraying and dusting services

Stalls

Stanchions, permanently installed

Supplies for home or personal use

Swimming pools, pool components and auxiliary equipment

Tanks, air

Tanks, gasoline

Tanks for washing dairy utensils and equipment

Toilets, field

Tools for repair or construction

Tractors, garden*

Trucks

Truck parts

Turf

Vaccination of poultry (charge for the service)

Ventilators, barn

Watch dogs

Water fountains, permanent

Water pumps for uses other than watering livestock or for irrigation

Welding equipment

* Exempt only when directly and exclusively used in production for sale on farms.

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

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

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

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

In the exempt sales schedule, added an exception to "Fuels"; in the taxable sales schedule, inserted "Electricity" and "Natural gas used for heat and power", and added an exception to "Herd dogs"; and in the footnote, substituted "primarily" for "exclusively".

SUBCHAPTER 20. COMMERCIAL ADVERTISING FILM NEGATIVES, ORIGINAL PRODUCTION VIDEO TAPE, AND SIMILAR MATERIALS

18:24-20.1 Scope of rule

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

use of commercial advertising film negatives, commercial original production video tape, and similar materials stored in New Jersey.

R.1972 d.27, effective February 9, 1972.

See: 4 N.J.R. 54(b), 4 N.J.R. 12(b).

18:24-20.2 Taxability

(a) Where, after the original commercial advertising motion picture negative is finally edited and completed outside of the State of New Jersey, and after one or more duplicate negatives and/or one or more fine grain master positives are made outside the State, the original negative, with or without said dupes or fine grain masters, is or may be brought into New Jersey for various purposes, including the storage thereof, the person bringing the same into the State is subject to the New Jersey compensating use tax on the use of each of such original negatives, duplicate negatives or fine grain master positives at the time each of them is brought into the State, regardless of the nature or extent of the subsequent use of each of said original negatives, dupe negatives or fine grain master positives.

(b) Under the circumstances described in subsection (a) above, whether original negative, duplicate negative, or fine grain master positive, the State compensating use tax shall be computed upon the raw stock cost of the film, plus the cost of laboratory development of each original negative, duplicate negative or fine grain master positive brought into the State. The raw stock cost of the film is the price paid for the quantity of the film brought into the State as if unexposed. The cost of laboratory development is the compensation paid to an outside laboratory. If the development process is performed in and by the user's own laboratory and/or affiliated laboratory, the cost of laboratory development may be determined from its own records or in lieu thereof, the cost shall be the compensation charge for similar development by another outside laboratory in the same area at the time of development. Where the duplicate negative or fine grain master positive is made by an outside laboratory which also furnishes the raw stock film, the cost with respect to such duplicate negative or fine grain master positive shall be the laboratory's total charge therefor.

(c) Where, after the commercial original production video tape is finally edited and completed outside of the State of New Jersey, and after one or more original protection duplicates and/or one or more air master tapes applicable to both high band and low band video tape recording, are made outside the State, the original production video tape with or without said original protection duplicates or air master tapes is or may be brought into New Jersey for various purposes including the storage thereof, the person bringing the same into the State is subject to the New Jersey compensating use tax on the use of such original production video tapes, original production duplicates or air master tapes at the time each of them is brought into the State regardless of the nature or extent of the subsequent use of each of said original production tapes, original protection duplicates or air master tapes.

(d) Under the circumstances described in subsection (c) of this Section, whether original production video tape, original protection duplicate or air master tape, the State compensating use tax shall be computed upon the raw stock cost of the tape plus the cost of machine time (processing of video tape) of each original production video tape, original protection duplicate or air master tape brought into the State. The raw stock cost of the tape is the price paid for the quantity of tape brought into the State without the cost of machine time. The cost of machine time is that paid to an outside laboratory. If the machine time is in and by the user's own laboratory and/or affiliated laboratory, the cost of the machine time may be determined from its own records or, in lieu thereof, the cost shall be the compensation for similar cost of machine time by another outside laboratory in the same area at the time rendered. Where the original protection duplicate or air master tape is made by an outside laboratory which also furnishes the raw stock tape, the cost with respect to such original protection duplicate or air master tape shall be the laboratory's total charge therefor.

R.1972 d.27, effective February 9, 1972.
See: 4 N.J.R. 54(b), 4 N.J.R. 12(b).

SUBCHAPTER 21. (RESERVED)

SUBCHAPTER 22. SALES MADE BY FLOOR COVERING DEALERS

18:24-22.1 Scope of subchapter

This subchapter is designed to clarify the tax obligations of persons who sell and/or install floor coverings including, but not limited to, carpeting, linoleum, tile and padding.

As amended, R.1980 d.102, effective March 5, 1980.
See: 12 N.J.R. 96(b), 12 N.J.R. 224(d).

18:24-22.2 Floor covering dealer transactions

(a) Wherever an installation service is rendered in conjunction with the sale of floor coverings, the agreement for such service is treated as a transaction separate and distinct from the sale of the floor covering. Sales of floor coverings are, therefore, subject to the New Jersey Sales and Use Tax regardless of any incidental agreement to install the floor covering. The vendor must collect the sales tax from his customer on the sales price of the floor covering whether or not the installation results in a capital improvement to the real estate, unless the customer furnishes the vendor with a properly executed exemption certificate, or unless the vendor delivers the floor covering to a point outside of New Jersey.

(b) Excluded from the term "floor covering" are the supplies which become part of the floor covering installation.

As amended, R.1978 d.320, effective September 13, 1978.
See: 10 N.J.R. 362(a), 10 N.J.R. 457(b).

18:24-22.3 Installation services

(a) Every person who installs floor covering is a contractor.

1. When a floor covering dealer performs an installation service, he is required to either pay sales tax at the time supplies for use in the installation service are purchased or remit use tax upon the cost of supplies withdrawn from his sales inventory for use in the installation service.

2. Any other person who installs floor covering is required to pay sales tax at the time supplies for use in the installation service are purchased.

3. Supplies include, but are not limited to, underlayment, nails, staples, plywood strips, adhesive tape and cement.

(b) The installation of floor covering results in a capital improvement only under certain conditions. An installation of a floor covering results in a capital improvement only where the floor covering is permanently affixed to a subfloor. A subfloor may be composed of any material, such as boards, plywood, underlayment or cement, which is not considered to be a material which customarily or normally serves as a finished floor. For sales tax purposes a subfloor is also a finished floor whose value is no greater than that of the conventional subfloor, because of deterioration through damage or age.

(c) Where the installation of a floor covering has resulted in a capital improvement to real property, the installer, whether he be the vendor of the floor covering or another person, may not collect the sales tax from the real property owner on his charges for labor and services in installing the floor covering, provided that:

1. The charges for the labor and services are charged for and stated separately from the charges for the floor covering.

(d) A floor covering installation made in New Jersey does not result in a capital improvement if the floor covering has not been permanently affixed to a subfloor;

1. For sales tax purposes, the person who makes such installation is required to be registered with the New Jersey Division of Taxation, to collect the sales tax from his customer on the installation charges (as well as on the charges for floor covering), and to remit the tax to the Division.