

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:

Taxpayer who accepted ICC exemption certificates in good faith not liable for collection of sales tax. *J.R. Corelli Associates, Inc. v. Director, Div. of Taxation*, 11 N.J.Tax 584 (1991), reversed 14 N.J.Tax 160.

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).

18:24-10.4 Acceptance in good faith

(a) An exemption certificate to be accepted in good faith must contain no statement or entry which the seller or lessor knows, or has reason to know, is false or misleading.

(b) A seller or lessor is presumed to be familiar with the law and rules regarding the business in which he deals.

(c) In general, a seller or lessor who accepts an exemption certificate 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.

Amended by R.1974 d.244, effective August 30, 1974.
See: 6 N.J.R. 326(a), 6 N.J.R. 414(e).

Case Notes

Receipt of tax exemption certificate from buyer; liability for sales tax. *J.R. Corelli Associates, Inc. v. Director, Div. of Taxation*, 14 N.J.Tax 160 (A.D.1993).

Seller not absolved of liability for sales tax by good faith. *J.R. Corelli Associates, Inc. v. Director, Div. of Taxation*, 14 N.J.Tax 160 (A.D.1993).

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).

18:24-10.5 Disclosure of proper exemption basis

(a) In order for a certificate to disclose a proper basis for exemption it must meet the following requirements:

1. The certificate must be an officially promulgated certificate form or a substantial and proper reproduction thereof.
2. The certificate must be dated and executed in accordance with the instructions published for use therewith and must be complete and regular in every respect.
3. The certificate must state a proper basis for the exemption.
4. The vendor must have no reason to believe that the property to be purchased is of a type not ordinarily used

in the purchaser's business for the purposes described in the certificate.

5. Where a seller or lessor has accepted a blanket certificate, each transaction between the parties is considered a separate claim for exemption thereunder, and the seller or lessor must therefore exercise good faith in each such transaction in order to avoid liability for the tax.

Amended by R.1974 d.244, effective August 30, 1974.
See: 6 N.J.R. 326(a), 6 N.J.R. 414(e).

Case Notes

Receipt of tax exemption certificate from buyer; liability for sales tax. *J.R. Corelli Associates, Inc. v. Director, Div. of Taxation*, 14 N.J.Tax 160 (A.D.1993).

Seller not absolved of liability for sales tax by good faith. *J.R. Corelli Associates, Inc. v. Director, Div. of Taxation*, 14 N.J.Tax 160 (A.D.1993).

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).

18:24-10.6 Retention of certificates; inspection; use of certificates by out-of-State vendors

(a) All certificates whether single purchase or blanket, accepted in good faith by a vendor as a basis for exemption from any tax imposed by the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) shall be retained by said vendor for a period of not less than four years from the date of the last use of such certificate as a basis for exemption.

(b) The certificate must be in the physical possession of the seller or lessor, and available for appropriate inspection, on or before the 60th day following the date of the transaction to which the certificate relates.

(c) Where a certificate is not made available for inspection on or before that time, the seller or lessor must prove to the satisfaction of the Director, by means of evidence other than certification of the purchases, that the sale or lease in question is, in fact, exempt. Whenever the sale for resale exemption is claimed by an unregistered vendor, the properly completed and executed resale certificate of another state, accepted in good faith by the seller, is deemed evidence of exemption; unless:

1. The person to whom the sale was made and who issued the certificate was required to be registered in New Jersey under N.J.S.A. 54:32B-2(i) at the time of sale; or
2. The person to whom the sale was made took delivery of the property at the sale location in New Jersey.

(d) In the absence of such proof the transaction will be deemed taxable and assessed as such.

Amended by R.1995 d.267, effective June 5, 1995.
See: 27 N.J.R. 474(a), 27 N.J.R. 2250(b).

In (c) added the provision governing unregistered vendors; and added (c)1 and (c)2.

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), increased the required retention period from three to four years.

Case Notes

Drop-shipment sale was two transactions; obligation on seller to collect sales tax from customers; statutory exemption for sales for resale. *Steelcase, Inc. v. Director, Div. of Taxation*, 13 N.J.Tax 182 (1993).

18:24-10.7 (Reserved)

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

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

Section was "Penalty for fraudulent issuance or acceptance of resale or exemption certificate".

SUBCHAPTER 11. OBLIGATION TO COLLECT AND PAY SALES TAX OR COMPENSATING USE TAX

Law Review

Use tax collection on Internet purchases: Should the mail order industry serve as a model? Steven J. Forte, 15 J. Marshall J. Computer & Info. L. 203 (1997).

Subchapter Historical Note

Subchapter 11, Obligation to Collect Sales Tax, was amended to "Obligation to Collect and Pay Sales Tax or Compensating Use Tax" by R.1996 d.217, effective May 6, 1996. See: 28 N.J.R. 807(a), 28 N.J.R. 2403(a).

18:24-11.1 Vendor to collect tax

(a) Every vendor of taxable goods and services required to collect any tax imposed by the Sales and Use Tax Act (N.J.S.A. 54:32B-1 et seq.) is obligated under the law to collect such tax commencing July 1, 1966, irrespective of whether or not he has received a sales tax certificate of authority issued by the Division of Taxation under Section 15 of the Act.

(b) Failure to receive a sales tax certificate of authority shall not relieve a vendor of taxable goods and services from the obligation to properly collect, remit and account for the said tax and to maintain complete records of all transactions in the manner provided by law.

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), substituted a reference to the Division of Taxation for a reference to the Sales Tax Bureau.

18:24-11.2 Filing of monthly remittance and quarterly returns

(a) All vendors required to collect and remit sales and use tax are required to file a quarterly return (form ST-50) with the Division of Taxation on or before April 20, 1975, and quarterly thereafter on or before the 20th day of the month following the quarter covered by the return. In calculating the amount of tax to be remitted to the Division of Taxation for the quarterly period, the vendor shall be entitled to a credit in the amount of tax remitted as monthly remittances for the months of the quarter covered by the quarterly return.

(b) Effective July 1, 1996, with respect to sales and use tax liabilities incurred on and after July 1, 1996, every vendor with liability exceeding \$500.00 for the first or second month of a quarterly filing period shall, on or before the 20th day of the month following each such month, file with the Director a monthly remittance statement (form ST-51) and pay over an amount equal to its liability for the month. Any payment due for the calendar months of March, June, September or December shall be paid with the quarterly return filed for the quarter in which such month falls.

New Rule, R.1975 d.4, effective January 13, 1975.

See: 6 N.J.R. 494(b), 7 N.J.R. 77(a).

Amended by R.1996 d.416, effective September 3, 1996.

See: 28 N.J.R. 3057(a), 28 N.J.R. 4111(a).

Rewrote (b).

18:24-11.3 Filing of use tax returns by registered individuals and entities not operating as vendors

(a) Every individual, corporation, or unincorporated entity which is engaged in the conduct of any trade, business, profession or occupation within this State, but which does not make sales subject to tax under the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., or purchase tangible personal property for lease, shall pay compensating use tax, as required by N.J.S.A. 54:32B-6, and file use tax returns according to the following procedures:

1. If the taxpayer's average annual compensating use tax liability for the previous three calendar years was greater than \$2,000, taxpayer shall be required to complete and file a Sales and Use Tax Quarterly Return (form ST-50) every quarter and pay any use tax due by the 20th of the month following the end of the quarter in which the liability was incurred. Taxpayers filing Sales and Use Tax Quarterly Returns pursuant to this section, whose use tax liability exceeds \$500.00 for the first or second month of a quarter, shall also be subject to monthly filing and payment requirements in accordance with N.J.A.C. 18:24-11.2(b).