

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).

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

18:25-1.3 (Reserved)

18:25-1.5 Tax rates

(a) (No change.)

(b) From July 15, 2006 through December 31, 2016, 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 and use tax at four percent). From January 1, 2017 through December 31, 2017, the combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 12.875 percent (luxury tax at nine percent and sales and use tax at 3.875 percent). Beginning January 1, 2018, the combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 12.625 percent (luxury tax at nine percent and sales and use tax at 3.625 percent).

(c) Sales subject only to New Jersey sales and use tax are taxable at the applicable rate as set forth in the Sales and Use Tax Act.

(d) From July 15, 2006 through December 31, 2016, 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 and use tax at seven percent). From January 1, 2017 through December 31, 2017, the combined rate is 9.875 percent (luxury tax at three percent and sales and use tax at 6.875 percent). Beginning January 1, 2018, the combined rate is 9.625 percent (luxury tax at three percent and sales and use tax at 6.625 percent). Sales of package goods are subject only to New Jersey sales and use tax at the applicable rate as set forth in the Sales and Use Tax Act.

SUBCHAPTER 2. ROOM AND APARTMENT RENTALS

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

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

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 in it as a permanent resident of Atlantic City. A permanent resident is any person who:

i.-ii. (No change.)

2. The rental of a room or rooms or an apartment by any person where the rent is paid directly by an agency of New Jersey 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. The employee pays for the occupancy of a room in a motel and the expense will be reimbursed by an agency of State government. The rental is subject to luxury tax.

3. The room rents received by an exempt organization. This exemption is limited to rentals that are directly related to the purpose for which the exempt organization was organized. (See N.J.A.C. 18:24-9.1)

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

5. That portion of a room rental attributable to the provision of food service to the occupant or boarder.

6. (No change.)

(b) Every rental of a room or rooms or apartment 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.

For example, an organization that has applied for and received a New Jersey Exempt Organization Certificate (Form ST-5) 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 because the law does not provide an exemption for such organizations. However, the room rentals are not subject to sales tax provided the vendor is given a copy of the organization’s Form ST-5 and payment is made from the organization’s funds. (See N.J.A.C. 18:24-9.12)

(a)

DIVISION OF TAXATION

Spill Compensation and Control Tax

Readoption with Amendments: N.J.A.C. 18:37

Proposed: June 18, 2018, at 50 N.J.R. 1428(a).

Adopted: October 24, 2018, by John J. Ficara, Acting Director, Division of Taxation.

Filed: October 24, 2018, as R.2018 d.200, **without change**.

Authority: N.J.S.A. 58:10-23.11t.

Effective Dates: October 24, 2018, Readoption;

November 19, 2018, Amendments.

Expiration Date: October 24, 2025.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards. The rules readopted with amendments concern a State statute imposing a spill compensation and control tax and are independent and separate from Federal standards or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 18:37.

Full text of the adopted amendments follows:

SUBCHAPTER 1. IMPOSITION OF TAX

18:37-1.1 Tax imposed on transfer of hazardous substances

(a) The spill compensation and control tax is imposed on the transfer of hazardous substances within the jurisdiction (lands and waters) of New Jersey.

(b) (No change.)

(c) The transferee is an owner or operator of a major facility, except as provided in (e) below, which receives a transfer of a hazardous substance. For the purpose of this chapter, a major facility, as defined in the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., as amended by P.L. 1986, c. 143, is a facility that has a combined above-ground or buried storage capacity of:

1.-2. (No change.)

(d) A transferor is liable for the tax only when a hazardous substance other than petroleum, which has not been previously taxed, is transferred from a major in-State facility to a facility that is not a major facility, including vessels.

(e) When a hazardous substance is transferred to a major facility that qualifies as a public storage terminal, the owner of the hazardous substance or its authorized agent is a transferee.

1. A “public storage terminal” means a public or privately owned major facility that is engaged in the business of providing storage space to the general public and is substantially devoted to the storage of substances owned by others. “Substantially devoted” means at least 95 percent of the hazardous substances stored at each facility at any one time must be owned by interests other than the terminal itself or its individual owners. For purposes of the above calculation there is no need for the facility to include, as hazardous substances owned by such facility, the following:

i. Boiler fuel to be consumed by the facility in the creation of heat, hot water, and steam for use on the premises; or

ii. (No change.)

2. The owner of a hazardous substance is any person who holds title to that substance upon delivery at the public storage terminal.

(f) For purposes of (a) above, in the case of the transfer of hazardous substances other than petroleum or petroleum products that are or contain any precious metals to be recycled, refined, or rerefined, precious metals shall mean gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, and copper.

SUBCHAPTER 2. TAX RATES

18:37-2.1 Tax rates on the transfer of petroleum or petroleum products

(a) The tax on transfers of petroleum or petroleum products shall be at the rate of \$0.023 per barrel, except as provided in (b) below.

(b) In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in claims against the Spill Compensation Fund that exceeded the existing balance of the fund, a tax rate of \$0.04 per barrel on transfers of petroleum or petroleum products shall be levied until the revenue produced by such increased rate equals

150 percent of the total dollar amount of all pending reasonable claims resulting from the discharge of petroleum or petroleum products. The tax rate may be less than \$0.04 per barrel transferred if, as provided by the Spill Compensation and Control Law, the revenue produced by such lower rate shall be sufficient to pay outstanding claims against the fund within one year of such levy.

18:37-2.2 Tax rates on the transfer of hazardous substances other than petroleum or petroleum products

(a) The tax on transfers of hazardous substances other than petroleum or petroleum products shall be at the rate of 1.53 percent of the fair market value of the product, provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products that are or contain elemental phosphorus or that are qualified elemental antimony or antimony trioxide sold for use in the manufacture or for the purpose of fire retardants or that are or contain any precious metals to be recycled, refined, or rerefined in this State, or that are transferred into this State subsequent to being recycled, refined, or rerefined, the tax shall be \$0.023 per barrel of the hazardous substance.

(b) (No change.)
