
BILL NUMBER: A-3896

DATE OF INTRODUCTION: 12/04/2014

SPONSOR: Assemblyman Kean
Assemblyman Rible

DATE OF CONSIDERATION: 05/27/2015

CO-SPONSORS:

IDENTICAL BILL:

COMMITTEE: Assembly Commerce and Economic Development

DESCRIPTION

This measure would change the State assistance to urban enterprise zones over seven years by increasing reduced sales tax in enterprise zones and dedicating increase to zone municipalities.

ANALYSIS

This bill increases financial assistance to urban enterprise zones (UEZs) over a seven-year period, by dedicating (from the beginning of Fiscal Year 2016 to the end of Fiscal Year 2022) one half of one penny for every dollar of sales tax revenues, as increased annually, for sales of goods and services in UEZs, to the accounts held in the Urban Enterprise Zone Assistance Fund (UEZ Assistance Fund) in the name of the respective municipalities.

The bill ends all UEZ Assistance fund appropriations to UEZs at the end of the seven-year period and thereafter dedicates all sales tax collection revenues in UEZs to the General Fund. In doing so, the bill deletes the schedule of financial assistance to UEZs and municipalities having UEZs as provided in current law but continues the 20-year original designation period as well as the one-time 16-year extension period for qualified UEZs. The bill increases the sales tax in UEZs from 3.5 percent to seven percent over the seven-year period to provide funding to UEZs through the UEZ Assistance Fund.

The bill requires UEZs to contribute an increasing percentage (from at least 10 percent in Fiscal Year 2016 to at least 40 percent in Fiscal Year 2020) and thereafter, of UEZ funds to be spent on eligible capital projects and public improvements in UEZs and grant and loan programs for qualified UEZ businesses.

Further, under the same designation period as for UEZs, the bill increases the amount of the reduced sales tax collected by qualified businesses located in UEZ-impacted business districts.

Diverting funds back to municipalities which host UEZs, even with the caveat that they

dedicate a significant amount of funds to capital projects, without any reliable indications that the Urban Enterprise Zone program actually benefits at-risk populations or has enough built-in safeguards to protect against misuse or fraud is unwise.

RECOMMENDATION

The Commission opposes enactment of this bill.

Commission **For** Proposal: 0

Commission Members **Against** Proposal: 8

Commission Members **Abstaining** Proposal: 0

BILL NUMBER: A-3920

DATE OF INTRODUCTION: 12/04/2014

SPONSOR: Assemblyman Mazzeo
Assemblyman Andrzejczak
Assemblyman Schaer

DATE OF CONSIDERATION: 05/25/2015

CO-SPONSORS:

IDENTICAL BILL: S-2837

COMMITTEE: Assembly Commerce and Economic Development

Description

This bill would be referred to as "Atlantic City Urban Enterprise Zone and Property Tax Relief Act"; creates urban enterprise zone in Atlantic City for 10 years.

Analysis

This proposal authorizes the creation of an urban enterprise zone in the city of Atlantic City for a term of 10 years. The additional zone authorized is required to be designated within 90 days of the date of the submittal of an application and zone development plan by the municipality. A business operating as a casino is not eligible to participate in this UEZ program but a business operating on casino property not owned by a casino business may be eligible if it meets the criteria as described in this bill. During the first five years, all sales and use tax revenues collected must be appropriated for use by the city government of Atlantic City; during the remaining five years, 30 percent of the sales and use tax revenues collected are to be appropriated for use by Atlantic City and the remaining 70 percent will be directed to the State's General Fund..

Since the inception of the Urban Enterprise Zones Act, competitors located outside of the zones have complained of and have perceived unfair tax advantages for sellers located within the zones. There have been many complaints submitted to the Urban Enterprise Zone Authority and to the Division of Taxation by sellers located outside of the zones, charging that Urban Enterprise Zone sellers purchase items tax-free and then transport the property to other locations for use outside of the zone. Allowing more sellers this tax exemption would exacerbate the already tenuous foundation upon which the Act is based. The intention of this measure is to resolve the current negative economic conditions in Atlantic City. These conditions include the recent closings of several casinos and resorts and increase in property taxes. Expanding the UEZ program to Atlantic City is not the resolution to the negative economic conditions in Atlantic City.

Public Comment

None

Recommendation

The Commission opposes enactment of the bill.

Commission For Proposal: 0

Commission Members Against Proposal: 8

Commission Members Abstaining Proposal: 0

BILL NUMBER: S-2784

DATE OF INTRODUCTION: 03/09/2015

SPONSOR: Senator Van Drew
Senator Whelan
Senator Andrzejczak
Senator Johnson

DATE OF CONSIDERATION: 05/27/2015

CO-SPONSORS:

IDENTICAL BILL: A-3856

COMMITTEE: Senate Economic Growth Committee

DESCRIPTION

The bill provides maximum sales and use tax imposition amount for sales and uses of boats and vessels; establishes grace period for imposition of use tax on certain boats and vessels used by resident purchasers.

ANALYSIS

This bill proposes to provide a maximum limit on the amount of sales and use tax that can be imposed and collected on the sale or use of a boat or other vessel, and establishes a limited grace period for the imposition of use tax on certain boats and vessels that are purchased by New Jersey residents out-of-State, for use out-of-State and are subsequently used on a temporary basis within this State.

The \$20,000 maximum limitation on the imposition of tax would only be applicable to taxpayers purchasing non-commercial boats and vessels, including motorboats, sailboats, and other yachts and cruisers. These taxpayers are not eligible for the exemption currently allowed for sales and uses of commercial ships and vessels. This bill would establish a limited grace period for the imposition of tax on the use of certain boats and vessels by resident purchasers by providing that the use within this State of a boat or other vessel for temporary periods, not totaling more than 30 calendar days in a calendar year, will not be subject to the State's compensating use tax.

The purpose of this bill is to provide support to the marine industry in this State by encouraging sales of new boats and vessels, and to allow New Jersey residents an annual 30 day window to bring the boat into New Jersey without incurring a use tax obligation. However, this bill provides disparate treatment to similarly situated taxpayers. It will also create a decrease in sales and use tax revenues that the State cannot afford to lose.

ADDITIONAL INFORMATION:

Public Comment

None

Recommendation

The Commission opposes enactment of the bill.

Commission For Proposal: 8

Commission Members Against Proposal:

Commission Members Abstaining Proposal: 0

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L.1999, c. 416

BILL NUMBER: S-2685

DATE OF INTRODUCTION: 12/22/2014

SPONSOR: Senator Cardinale

DATE OF CONSIDERATION: 05/27/2015

CO-SPONSORS:

IDENTICAL BILL:

COMMITTEE: Assembly Transportation and Public Works Committee

DESCRIPTION

This bill excludes sale of and services associated with mausoleums, memorials, and vaults from sales and use tax.

ANALYSIS

The intent of this measure is to exempt compressed natural gas from the sales tax. This fuel become subject to the tax effective with the passage of the "Motor Fuel Tax Act," P.L. 2010, c. 22, signed into law by Governor Christie on June 29, 2010.

The sponsors of this measure recognize the value of the change in the point of taxation represented by the new motor fuels law, however that change is not the reason for the different treatment of compressed natural, rendering it subject to sales taxation.

The following paragraphs may help to clarify matters:

Compressed natural gas (CNG) was taxed as a motor fuel under previous law since that law defined motor fuel generally as something that could power a motor vehicle. N.J.S.A. 54:39-2

The new law specifically defines the types of fuels that are subject to tax (see the imposition section at N.J.S.A. 54:49-103). Compressed natural gas was not specifically included in the list of fuels on which the motor fuels tax may be imposed.

Consequently CNG is no longer a motor fuel therefore it does not meet the sales tax exemption at N.J.S.A. 54:32B-8.8 which states, in part, that: “receipts from sales of motor fuel, racing gasoline, liquefied petroleum gas, and aviation fuel as those fuels are defined by section 2 of P.L. 2010, c. 22 (C. 54:39-102); and sales of fuel to an airline for use in its airplanes or to a railroad for use in its locomotives are exempt from the tax imposed under the Sales and Use Tax Act.”

Compressed natural gas is specifically not exempted under N.J.S.A. 54:32B-8.7 “receipts from the following are exempt from the tax imposed under the Sales and Use Tax Act: sales of gas other than natural gas, water, steam, or fuel delivered to consumers through mains, lines, pipe, or in containers or bulk. “

Therefore this fuel is subject to the sales tax. It also should be noted that many companies that employ vehicles that run on CNG are owned by government entities that are exempt from sales tax (e.g. NJ Transit).

The passage of this measure would not increase this agency’s administrative burden.

Additional Information:

This measure’s adoption would not violate the terms of the Streamlined Sales and Use Tax Agreement.

Public Comment

No

RECOMMENDATION

The Commission opposes enactment of the bill.

Commission For Proposal: 0

Commission Members Against Proposal: 7

Commission Members Abstaining Proposal: 1

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L.1999, c. 416

BILL NUMBER: S-2595

DATE OF INTRODUCTION: 12/08/2014

SPONSOR: Senator Bucco

DATE OF CONSIDERATION: 05/27/2015

CO-SPONSORS:

IDENTICAL BILL:

COMMITTEE: Senate Economic Growth Committee

DESCRIPTION

This bill would provide sales and use exemption for sales of certain services performed to manufacturing equipment.

ANAYLSIS

N.J.S.A. 54:32B-8.13a exempts “sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining...”

Currently, repair and replacement parts with a useful life of less than a year are taxable and it is this agency’s considered opinion that based on the wording of this proposal, those items (including filters, bits, blades, presses, and the like) would remain taxable. The statement included with the bill seems to indicate that all repairs and maintenance would be exempt if it were to become law.

Maintenance often refers to the routine replacement of parts with a useful life of one year or less and machine cleaning, calibration or similar activities to ensure that the machine continues to perform its’ function optimally. If this bill becomes law, tax would only be charged on parts (if they have a useful life of one year or less); labor charges would be exempt. If maintenance billings did not separately state charges for parts and labor, the entire bill would be taxable. This is the way all billings which include taxable and nontaxable charges are treated for sales and use tax purposes.

Installation is also a process which is referred to in this measure; often installations result in capital improvements which can be generally defined as additions or modifications which become permanently affixed to real property, improve the value of real property and if removal is attempted, may cause material damage to real property. Capital improvements are already exempt. This proposal which would provide sales and use tax rebate on supplies and materials purchased for the construction or reconstruction of certain horse racetrack grandstands appears to be special legislation targeted to a narrowly-defined group of taxpayers which may result in a perceived disparity in the treatment of other similarly situated taxpayers. The Division of Taxation would be tasked with a refund program which would represent an imposition on the administering agency.

Public Comment

Jean Public provided a public statement that opposed enactment for this bill .

RECOMMENDATION

The Commission recommends enactment of the bill.

Commission For Proposal: 0

Commission Members Against Proposal: 7

Commission Members Abstaining Proposal: 0

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L.1999, c. 416

BILL NUMBER: A-4296

DATE OF INTRODUCTION: 03/16/2015

SPONSOR: Senator Rice

DATE OF CONSIDERATION: 05/27/2015

CO-SPONSORS:

IDENTICAL BILL:

COMMITTEE: Senate Economic Growth Committee

DESCRIPTION

This bill would exempt sales of certain products from sales and use tax, and provides credits against corporation business and gross income taxes for certain small businesses that use New Jersey goods or agricultural produce.

ANALYSIS

The purpose of this bill is to support small businesses that currently have a headquarters office located in New Jersey, and provide an incentive for other companies to move to their headquarters to this State, by reducing (through a refund mechanism) the sales tax imposed on good sold by those companies and provide business tax incentives for purchases of those goods by other businesses.

This bill prohibits otherwise-qualified purchases made in Urban Enterprise Zones or in Salem County from being eligible for this reduced sales tax rate. This may be confusing to consumers making purchases in either UEZs or in Salem County.

This agency has experience with sales tax refund programs and these programs are difficult to administer, often requiring multiple contacts with the claimant to secure adequate documentation of the purchase and the price paid for that purchase. The burden of proof would be on the taxpayer to show that the product was manufactured or distributed by a company with a headquarters in this state, which is burdensome.

The 1998 imposition of sales tax on natural gas and electricity and related utility service was enacted with the intention that the tax base was to replicate the tax base that existed for the repealed Gross Receipts and Franchise Tax. Specific sales tax exemption provisions, such as the manufacturing exemption, were amended in order to clarify that the exemption did not apply to purchases of energy and utility service. Thus, manufacturers have been subject to sales tax on purchases of the energy and utility service used to operate production equipment.

PUBLIC COMMENT

None

RECOMMENDATION

The Commission opposes enactment of the bill.

Commission For Proposal: 1

Commission Members Against Proposal: 6

Commission Members Abstaining Proposal: 0