

Regulatory Flexibility Analysis

The proposed new rule would impose no reporting or recordkeeping requirements on small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As to compliance requirements, as indicated in the Summary and Social and Economic Impact statements above, it is the Act, not the new rule, which imposes an electronic billing requirement in workers' compensation, without making any distinction between large and small employers, on health care providers, billing representatives, companies that have purchased the right to pursue medical bills, employers, insurance carriers, or third-party administrators, some of which may be small businesses. The Act also instructs the Department, without making any distinction between large and small employers, to adopt "guidelines," for the electronic exchange of medical bills in workers' compensation. Since the Act makes no distinction between large and small employers relative to the e-billing requirement, the Department does not have the discretion to make any such distinction within the new rules. However, it is the Department's hope that by adopting the ANSI ASC X12 837 National Standard, which is understood to be the standard already in use by those engaged in the electronic exchange of medical bills throughout the country, including New Jersey, that this will minimize the impact of both the new rule and the Act on small and large businesses alike.

Housing Affordability Impact Analysis

The proposed new rule would not evoke a change in the affordability of housing or the average costs associated with housing. The basis for this finding is that the proposed new rule pertains to the electronic exchange of medical bills in workers' compensation and has nothing to do with housing.

Smart Growth Development Impact Analysis

The proposed new rule would not evoke a change in the housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed new rule pertains to the electronic exchange of medical bills in workers' compensation and has nothing to do with housing production.

Full text of the proposed new rule follows:

12:235-1.9 Electronic medical bills for workers' compensation claims

(a) All workers' compensation healthcare providers, their billing representative, or any company that has purchased the right to pursue their bill, with the exception of those set forth at N.J.S.A. 34:15-146, shall submit complete electronic medical bills for payment using the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard.

(b) Employers, workers' compensation insurance carriers of employers, or workers' compensation third-party administrators shall accept electronic medical bills submitted for the payment of medical services under (a) above.

(c) Medical information submitted on electronic medical bills for payment of medical services shall be confidential, pursuant to the "Workers' Compensation Medical Information Confidentiality Act," sections 5 through 9 of P.L. 2001, c. 326 (N.J.S.A. 34:15-128.1 et seq.).

(d) Employers, workers' compensation insurance carriers of employers, or workers' compensation third-party administrators shall acknowledge receipt of a complete electronic medical bill to the party that sent the complete electronic medical bill under (a) above.

(e) Payment for a complete electronic medical bill deemed by the employer, workers' compensation insurance carrier, or the workers' compensation third-party administrator to be compensable shall be paid within 60 days or less.

(f) Employers, workers' compensation insurance carriers for the employer, and their third-party administrators may exchange electronic data and establish payment deadlines through PPO or IPA contracts or agreements with health care providers or their billing representatives in a non-prescribed format or timeline, independent of the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 837 National Standard.

TREASURY—TAXATION**(a)****DIVISION OF TAXATION****Motor Vehicles****Proposed Amendments: N.J.A.C. 18:24-7.4, 7.5, 7.8, 7.13, 7.14, 7.19, and 7.21**

Authorized By: John J. Ficara, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24 and 54:50-1.

Calendar Reference: See Summary below for exception to calendar requirement.

Proposal Number: PRN 2017-252.

Submit written comments by December 15, 2017, to:

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The agency proposal follows:

Summary

N.J.A.C. 18:24-7, Motor Vehicles, is proposed for amendment by the Division of Taxation (Division). N.J.A.C. 18:24-7.4 is proposed for amendment to clarify that a motor vehicle dealer is required to separately state New Jersey sales tax on any sales slip, invoice, receipt, or other statement of the price that is provided to the customer in connection with the sale. N.J.A.C. 18:24-7.5 is also proposed for amendment to clarify that dealer charges for documentary service fees, which include services such as clerical services, messenger services, computer time, paperwork preparation charges, which are for the preparation and processing of title and registration documents, financing documents, etc., are included in the sales price when calculating sales tax due on the motor vehicle. N.J.A.C. 18:24-7.5(a) is proposed for amendment to clarify that the examples that follow are not an exhaustive list. N.J.A.C. 18:24-7.8(b) and (b)6 and 7.14(a) are proposed for amendment to be gender neutral. N.J.A.C. 18:24-7.13(d), 7.14(b)3, and the examples in 7.19(b)3i and ii are proposed for amendment to remove the reference to the prior sales and use tax rate. N.J.A.C. 18:24-7.19(a)1i is proposed for amendment to add a comma after the word "camper." N.J.A.C. 18:24-7.21(d) is proposed for deletion to remove the reference to taxable limousine services to reflect P.L. 2017, c. 27, which recently repealed the imposition of tax on limousine transportation services.

As the Division has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments will have a positive social impact because they reflect the Division's current guidance on the application of the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq. Clearer and more uniform rules should result in increased voluntary compliance.

Economic Impact

The proposed amendments would be revenue neutral since the Division is clarifying statutory impositions set forth in the Sales and Use Tax Act. The proposed amendments will protect the current sales tax base and will result in an increased ability to collect sales tax that is due to the State, since taxpayer compliance will be facilitated by clarification of statutory impositions.

Federal Standards Statement

A Federal standards analysis is not required because the authority for the proposed amendments is based on N.J.S.A. 54:32B-24 of the New Jersey Sale and Use Tax Act. The proposed amendments are, therefore, independent from any Federal standards or requirements.

Jobs Impact

The proposed amendments are not expected to result in the creation or loss of jobs in New Jersey.

Agriculture Industry Impact

The proposed amendments will not have an impact on the agriculture industry beyond the general impact imposed on all taxpayers in the State.

Regulatory Flexibility Statement

The proposed amendments set forth reporting, recordkeeping, and other compliance requirements for all businesses, including those employing fewer than 100 full-time employees, which are defined as small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The proposed amendments will have a positive effect in clarifying that documentary service fees imposed by a dealership are considered part of the sales price of the motor vehicle. The proposed amendments will also have a positive effect in clarifying the requirement that tax must be separately stated on documents issued to purchasers.

The Sales and Use Tax Act applies to all sellers of motor vehicles. Thus, all businesses have the same duties whether or not they are a small business. Any exemption for small businesses would not be in compliance with the statute. Therefore, as required by law, the provisions of rules regarding reporting and recordkeeping, as well as compliance, must be uniformly imposed without regard to business size.

Housing Affordability Impact Analysis

The proposed amendments will not result in a change in the average costs associated with housing. The proposed amendments will have no impact on any aspect of housing because the proposed amendments concern the State tax administration of motor vehicles.

Smart Growth Development Impact Analysis

The proposed amendments will not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the proposed amendments do not involve housing production, either within Planning Area 1 or 2, or within designated centers, or anywhere in the State of New Jersey. The proposed amendments concern State tax administration of motor vehicles.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 7. MOTOR VEHICLES

18:24-7.4 Computation of tax on purchase price; trade-in

(a)-(c) (No change.)

(d) Dealers are required to separately state New Jersey sales tax on any sales slip, invoice, receipt, or other statement of the price that is provided to the customer in connection with the sale.

18:24-7.5 Charges in tax computation

(a) [Where charges are made for the following] **Charges for** items in conjunction with the sale of a motor vehicle[, they] must be included in the amount upon which the tax is computed regardless of whether they are separately stated upon the customer's invoice[:]. **Examples include, but are not limited to:**

1.-3. (No change.)

4. Charges for preparation of or additional work upon a motor vehicle; [and]

5. Charges for additional accessories or equipment placed in or attached to the motor vehicle by the dealer[:]; **and**

6. Documentary service fees, which include services such as clerical services, messenger services, computer time, paperwork preparation charges, which are for the preparation and processing of title and registration documents, financing documents, etc. However, separately stated charges for the actual costs of title and registration fees imposed by the New Jersey Motor Vehicle Commission are not subject to tax.

18:24-7.8 Sales of motor vehicles specifically exempted

(a) (No change.)

(b) Any sale of a motor vehicle to a nonresident of this State is not subject to tax, provided such nonresident, at the time of delivery, has no permanent place of abode in this State, is not engaged in carrying on in this State any employment, trade, business, or profession in which the motor vehicle will be used in this State, and furnishes to the seller, prior to delivery, proof supporting his **or her** claim from exemption. For the purposes of this section:

1.-5. (No change.)

6. Any person serving in the Armed Forces of the United States whose home of record is the State of New Jersey is a resident of this State whether his **or her** place of abode is located on or off a military reservation situated in New Jersey or another state of the United States or a foreign nation.

(c)-(d) (No change.)

18:24-7.13 Taxability of motor vehicles used by manufacturers before sale; computation

(a)-(c) (No change.)

(d) In computing the tax, the basis for tax as computed in (c) above shall be divided by 12 and the result multiplied by [.07] **the current tax rate** to effectuate the [seven percent] **use tax** imposed pursuant to N.J.S.A. 54:32B-6.

18:24-7.14 Taxability of motor vehicles withdrawn from inventory of motor vehicle dealer; computation

(a) Vehicles actually sold to a [salesman] **salesperson**, partner, or other official of the dealer's company are subject to sales tax on the purchase price, or, if there is a trade-in, on the purchase price less the trade-in allowance.

(b) Retail dealers of motor vehicles who withdraw such vehicles from inventory or stock prior to the sale thereof, shall be required to pay a compensating use tax on such uses unless the vehicle is assigned to and used by a full-time motor vehicle salesperson employed by the dealership.

1.-2. (No change.)

3. In computing the tax, the basis for tax as computed in (b)2 above shall be divided by 12 and the result multiplied by [.07] **the current tax rate** to effectuate the [seven percent] **use tax** imposed under N.J.S.A. 54:32B-6.

(c)-(d) (No change.)

18:24-7.19 Taxation of manufactured and mobile homes

(a) This section is intended to clarify the taxation of manufactured or mobile homes under N.J.S.A. 54:4-1.2 et seq. This section does not apply to the sale of modular buildings because they are not on a permanent chassis.

1. For the purposes of this section, the following term shall have the following meaning:

i. "Trailer or housetrailer" means a recreational vehicle, travel trailer, camper, or other transportable, temporary dwelling unit, with or without its own motor power, designed and constructed for travel and recreational purposes to be installed on a nonpermanent foundation if installation is required.

(b) The first sale of a new manufactured or mobile home is subject to sales tax based upon the manufacturer's invoice price pursuant to N.J.S.A. 54:4-1.7.

1.-2. (No change.)

3. The sale of a new manufactured or mobile home by the manufacturer to a dealer is a sale for resale, and in the subsequent resale the tax applies to the manufacturer's invoice price as follows:

i. Where the dealer sells a new manufactured or mobile home to a contractor, subcontractor, homeowner, or other ultimate consumer, the sales tax must be collected from the purchaser by the dealer and remitted to the Division of Taxation.

Example: Dealer X sells a manufactured home to Y for \$30,000. The manufacturer's invoice price, including a charge for certain home furnishings, was \$19,500. The cost of freight to Dealer X's place of business was \$500.00. The sales price is \$20,000, and the sales tax is stated to and collected from the purchaser at the [rate of seven percent (\$1,400)] **applicable rate**.

ii. Where the dealer sells a new manufactured or mobile home to a homeowner or other ultimate consumer and agrees to install the home for the purchaser, the dealer is acting as a contractor and the tax is due directly from the dealer. Sales tax is not collected from the purchaser.

Example: Dealer X sells a new manufactured home to Y and agrees to install the unit in a mobile home park. The manufacturer’s invoice price, including a charge for certain home furnishings, is \$19,500. The cost of freight to Dealer X’s place of business is \$500.00. Dealer X is liable for the tax on \$20,000 [(\$ 1,365)]. No tax on the manufactured home is stated to or collected from the purchaser.

- iii. (No change.)
- (c)-(h) (No change.)

18:24-7.21 Exemption for limousines

- (a) (No change.)

(b) Receipts from the sale of a limousine[,] to a person licensed under N.J.S.A. 48:16-17 to operate a limousine service are exempt from sales and use tax.

(c) (No change.)

[(d) A person qualified to claim sales tax exemption under this section and providing transportation services in this State is presumed to be providing transportation services that may be subject to sales tax pursuant to N.J.S.A. 54:32B-3(b)(13). (See N.J.A.C. 18:24-27.3)]

[(e)] (d) (No change in text.)
