

Sales and Use Taxes: New Jersey

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A Q&A guide to sales and use tax law in New Jersey. This Q&A addresses key areas of sales and use tax law such as tax scope, multi-state transactions and collecting taxes, and filing returns. Answers to questions can be compared across a number of jurisdictions (see Sales and Use Taxes: State Q&A Tool).

Tax Scope

1. Does the state levy sales and use taxes?

State Sales and Use Tax

New Jersey imposes a state sales tax of 6.625% on the retail sale in New Jersey of:

- Tangible personal property.
- Digital property.
- Certain services (including telecommunications services).
- The parking, garaging, or storage of motor vehicles, subject to specific exemptions.
- Rent for occupancy of a hotel room or a transient accommodation.
- Certain admission charges.
- Certain initiation fees, membership fees, or dues.
- Prepared food in restaurants, taverns, and other establishments.

(N.J.S.A. 54:32B-3.)

In addition, New Jersey imposes a state use tax of 6.625% on the exercise of any right or power over tangible personal property, specified digital products or services in New Jersey (including the receipt, storage, withdrawal from storage, use, consumption, or retention of property) when sales tax is not collected or is collected at a rate less than 6.625% (N.J.S.A. 54:32B-6).

A reduced sales tax of 3.3125% applies to certain sales of tangible personal property made within designated Urban Enterprise Zones (UEZ) and UEZ-impacted business

districts by sellers that are qualified businesses. The reduced sales tax rate does not apply to:

- Motor vehicles.
- Alcoholic beverages.
- Cigarettes.
- Manufacturing machinery, equipment, or apparatus.
- Energy.
- Medical and recreational cannabis.

(N.J.S.A. 52:27H-80; N.J.A.C. 18:24-31.4.)

A UEZ is an economically depressed area classified by the [Urban Enterprise Zone Authority \(UEZA\)](#) (N.J.S.A. 52:27H-63 and 52:27H-66). A UEZ-impacted business district is an economically distressed business district designated by the UEZA as having experienced negative effects from at least two adjacent UEZs in which the reduced sales tax rate applies (N.J.S.A. 52:27H-66.2).

To qualify for the reduced sales tax rate:

- The seller must be a qualified business having a valid UZ-2 certificate. To be a qualified business, a business must:
 - apply to the [New Jersey Division of Taxation](#);
 - be actively engaged in business in a UEZ or UEZ-impacted business district when the zone is designated, or meet certain employment criteria if it becomes engaged in business in the zone after designation; and
 - show that it will create new employment in the UEZ or UEZ-impacted business district and not create unemployment in other areas (with certain exceptions).

(N.J.S.A. 52:27H-62 and 52:27H-86.)

- The purchase must be made in person at the place of business of the qualified business regularly operated for making retail sales and located in a UEZ or UEZ-impacted business district. The place of business may not be utilized primarily for the purpose of online, catalog, or mail order sales. (N.J.A.C. 18:24-31.4(d).)
- The purchaser must accept delivery at the place of business of the qualified business in the UEZ or UEZ-impacted business district, or the qualified business must deliver the goods to the purchaser from its business location in a UEZ or UEZ-impacted business district. Only receipts from sales which originate and are completed by the purchaser in person at the place of business of the qualified business within a UEZ or UEZ-impacted business district qualify for the reduced sales tax rate. Receipts from mail order, telephone, and similar sales transactions are subject to sales tax at the regular rate where delivery is made to a location within the state. (N.J.A.C. 18:24-31.4(e).)

The same reduced sales tax rate applies to certain sales of tangible property in Salem County. Rules similar to those applicable to the reduced sales tax in a UEZ apply. (N.J.S.A. 54:32B-8.45.)

Special Local Sales and Use Taxes

Local jurisdictions generally do not impose a sales and use tax. However, certain special taxes apply.

Atlantic City Luxury Tax

The Atlantic City luxury tax is imposed at a general rate of 9% on certain retail sales in Atlantic City (N.J.S.A. 40:48-8.15 and 40:48-8.17).

Sales of beverages by the drink are subject to a 3% Atlantic City luxury tax and a 6.625% sales and use tax. If a sale is subject to the 9% Atlantic City luxury tax, the New Jersey sales and use tax rate applicable to the sale is reduced to 3.625% except for sales of alcoholic beverages by the drink described above ([New Jersey Division of Taxation Publication ANJ-17](#)).

Retail sales include:

- Sales of alcoholic beverages by the drink consumed on premises.
- Rentals of rooms, apartments, or other facilities, except for rentals or conference rooms, banquet rooms, and other places of assembly, for less than one year in:
 - hotels;
 - motels;

- transient accommodations;
 - inns;
 - rooming or boarding houses; or
 - other similar establishments.
- Cover charges, minimum charges, entertainment, or similar charges in:
 - restaurants;
 - cafés;
 - cabarets;
 - hotels; or
 - other similar establishments.
 - Admission charges to any theater, moving picture exhibition or show, pier exhibition, or place of amusement (except for sporting events where other state taxes are collected).
 - Charges for rolling chairs, sightseeing rides, team rides, horoscope machines, and fortune tellers.
 - Charges for amusement rides and rentals of beach chairs, cabanas, and bicycles.

(N.J.S.A. 40:48-8.16; [New Jersey Division of Taxation Publication ANJ-17](#).)

Cape May County Tourism Taxes

The cities of Wildwood and North Wildwood, and the borough of Wildwood Crest, levy a 2% tax on tourism related sales and levy a 1.85% tourism assessment tax (N.J.S.A. 40:54D-4 and 40:54D-8).

Tourism related sales include (if otherwise subject to New Jersey sales and use taxes):

- Hotel and motel room or transient accommodation rentals.
- Sales of food and drink by restaurants, taverns, or other establishments.
- Admission charges to any place of amusement.

(N.J.S.A. 40:54D-3.)

The tourism assessment tax is imposed on hotel and motel room or transient accommodation rentals (if otherwise subject to the New Jersey sales and use tax) (N.J.S.A. 40:54D-3).

These tourism taxes are in addition to the general New Jersey sales and use taxes.

State and Local Occupancy Tax

The State of New Jersey and numerous municipalities impose occupancy taxes at various rates on hotel and motel room or transient accommodation rentals (if otherwise subject to New Jersey sales and use taxes) (N.J.S.A. 40:48E-1, 40:48F-1, and 54:32D-1). These taxes are in addition to the general New Jersey sales and use taxes.

2. What is the taxable base or measure of tax?

Sales Tax

Sales tax in New Jersey is measured by the price paid for the item sold, leased, or rented or service provided. The price paid generally includes the total amount of consideration paid, including cash, credit, property, and services, not including discounts. (N.J.S.A. 54:32B-2(oo).) For leases or rentals of tangible personal property or specified digital products, the sales tax is measured by either the:

- Lessor's original purchase price of the leased property.
- Total periodic payments due on the lease or rental.

If tax is paid based on the original purchase price, a further lease or rental of the same property is not subject to sales and use taxes. (N.J.S.A. 54:32B-7(d).)

For leases or rentals of more than six months, the full amount of the sales tax is collected when the property is delivered to the lessee in New Jersey. When the lease or rental is for six months or less, the sales tax is collected at the time of each periodic payment. (N.J.S.A. 54:32B-7(d); N.J.A.C. 18:24-32.4(b).)

Use Tax

Use tax is generally measured by the amount paid for property or services subject to the use tax (N.J.S.A. 54:32B-6).

Special Rules

There are special rules for computing the measure of tax in certain cases including special rules that apply to:

- Tangible personal property or specified digital products:
 - used by manufacturers, processors, and assemblers;
 - purchased by New Jersey residents outside of New Jersey for use outside of New Jersey which later becomes subject to New Jersey use tax; or

- leased outside New Jersey for use outside of New Jersey which later becomes subject to New Jersey use tax.

- Lease or rental of tangible personal property or specified digital products in New Jersey.
- The purchase of energy.

(N.J.S.A. 54:32B-7.)

3. What kinds of transactions are taxable?

Sales Tax

The New Jersey sales and use taxes are imposed on every retail sale of tangible personal property or specified digital products. A retail sale includes any sale, lease, or rental of tangible personal property or specified digital products other than for resale, sublease, or sub-rent (N.J.S.A. 54:32B-2(e)).

In addition to sales of traditional types of tangible personal property, the sales and use taxes are imposed on sales of:

- Electricity.
- Water.
- Gas.
- Steam.
- Prewritten computer software including prewritten computer software delivered electronically.

(N.J.S.A. 54:32B-2(g).)

Specified digital products are electronically transferred digital audio and visual works (including providing digital codes allowing a purchaser to obtain these products), including:

- Music.
- Ringtones.
- Movies.
- Books.
- Other similar products.

(N.J.S.A. 54:32B-2(zz) to (eee).)

Digital products do not include:

- Video programming services (including video on demand television services).
- Broadcasting services.

(N.J.S.A. 54:32B-8.61.)

Taxable Services

The sales and use taxes are also imposed on every sale, except for resale, of the following services:

- Producing, fabricating, processing, printing, or imprinting tangible personal property or a specified digital product, when furnished by the consumer for whom the service is performed (N.J.S.A. 54:32B-3(b)(1)).
- Installing tangible personal property or a specified digital product, or maintaining, servicing, or repairing tangible personal property or a specified digital product not held for sale in the regular course of business, subject to specific exceptions (N.J.S.A. 54:32B-3(b)(2)).
- Storage of tangible personal property not held for sale in the regular course of business (including the rental of safe deposit boxes) and providing space for storage of tangible personal property (N.J.S.A. 54:32B-3(b)(3)).
- Maintaining, servicing, or repairing real property (other than a residential heating system unit serving three or less families living independently of each other and doing their cooking on the premises), excluding:
 - services resulting in a capital improvement to real property;
 - services rendered by an individual who is not in a regular trade or business of offering his services to the public; and
 - garbage removal and sewer services performed on a regular contractual basis for at least 30 days.(N.J.S.A. 54:32B-3(b)(4).)
- Mail processing services for printed advertising material, except in connection with distribution of printed advertising material to out-of-state recipients (N.J.S.A. 54:32B-3(b)(5)).
- Utility service provided to persons in New Jersey (N.J.S.A. 54:32B-3(b)(7)).
- Tanning, massage, bodywork, somatic, and tattooing services (N.J.S.A. 54:32B-3(b)(8) to (b)(10)).
- Investigation and security services (N.J.S.A. 54:32B-3(b)(11)).
- Information services (N.J.S.A. 54:32B-3(b)(12)).
- Telephone answering services (N.J.S.A. 54:32B-3(b)(14)).
- Radio subscription services (N.J.S.A. 54:32B-3(b)(15)).
- Landscaping even if it results in a capital improvement to land, including:

- seeding;
- sodding or grass plugging of new lawns;
- planting trees, shrubs, hedges, and plants; and
- clearing and filling land.

(N.J.S.A. 54:32B-2(ww) and 54:32B-3(b)(2).)

Wages, salaries, and other compensation paid by an employer to an employee for performing any of the taxable services listed above are **not** receipts subject to tax (N.J.S.A. 54:32B-3(b)).

Section 54:32B-3 of the New Jersey Statutes Annotated provides a complete list of transactions and charges that qualify as sales subject to the sales tax.

Use Tax

Unless tangible personal property or services have already been or will be subject to the New Jersey sales tax, a use tax is imposed for the use (including storage and installation) within New Jersey of:

- Any tangible personal property or specified digital product:
 - purchased at retail, including energy (except for electricity consumed by the generating facility that produced it);
 - manufactured, processed, or assembled by the user, if items of the same kind of tangible personal property or specified digital products are offered for sale by the user in the regular course of business (or if the items are used or incorporated into a structure, building, or real property); or
 - not acquired for resale, on which any taxable services described in Section 54:32B-3(b)(1) or (2) of the New Jersey Statutes Annotated have been performed.
- Intrastate, interstate, or international telecommunications services.
- Utility service provided to persons in New Jersey for use in New Jersey, provided that the utility service used by the facility that provides the service is not subject to tax.
- Mail processing services.
- Any investigation and security services, information services, telephone answering services, and radio subscription services.
- Access to or use of the property or facilities of a health and fitness, athletic, sporting, or shopping club or organization in New Jersey.

(N.J.S.A. 54:32B-6.)

4. What are the most common exclusions from the tax base, tax-exempt transactions or tax deductible items?

There are many common exemptions from New Jersey's sales and use taxes for:

- Specified transactions.
- Sales to or by certain exempt entities.
- Sales of certain items and services.
- Specified uses of property.

Additionally, a seller may be allowed a deduction or exclusion from its sales tax liability for bad debts and returned or repossessed property. A purchaser required to pay use tax for the use of tangible property or services in New Jersey may be able to claim a credit for sales tax paid to another state.

Transactional Exemptions

There are many transactions that are exempt from the state sales and use tax. If a sale of property or services is exempt from sales tax imposed by Section 54:32B-3(a) or (b) of the New Jersey Statutes Annotated, the further use of the property or services is not subject to tax (N.J.S.A. 54:32B-11(3)).

Sales for Resale

Sales of tangible personal property and services where the purchaser intends to resell the item or service in the same form as received are not subject to the sales tax. The seller in a sale for resale must obtain a resale certificate (New Jersey Division of Taxation [Form ST-3](#) or [ST-3NR](#)) from the purchaser in connection with the sale for the exemption to apply. A sale for resale also includes transactions where property is purchased for lease (N.J.S.A. 54:32B-2(e)).

Casual Sales

A casual sale is an isolated or occasional sale of tangible personal property or specified digital products by a person who is not in the regular business of making retail sales of that property, where the seller acquired the property for its own use (N.J.S.A. 54:32B-2(u)).

The casual sale exemption does not apply to the sale of motor vehicles (N.J.A.C. 18:24-7.11). The casual sale exemption is often applicable to exempt sales of business assets. However, to the extent that inventory is included in the sale of a business, the seller should secure a Resale

Certificate (New Jersey Division of Taxation [Form ST-3](#) or [ST-3NR](#)) from the purchaser.

Certain Sale-Leaseback Transactions

A sale-leaseback is exempt from sales tax if the owner of tangible personal property sells the property to a person that leases it back to the owner within 180 days from the date that the owner originally placed the property in service (N.J.S.A. 54:32B-8.57).

Certain Transfers Between Corporations, Partnerships, and Their Owners

The following are exempt:

- Transfer of tangible personal property to a corporation under a merger or consolidation solely in consideration for the issuance of its stock.
- Distribution of property by a:
 - corporation to its shareholders as a liquidating dividend; or
 - partnership to its partners in complete or partial liquidation.
- Transfer of property to a corporation on its organization in consideration for the issuance of its stock.
- Contribution of property to a partnership in consideration for a partnership interest in the partnership.

(N.J.S.A. 54:32B-2(e)(4)(B) to (F).)

Exemptions for Exempt Sellers or Purchasers

Many sales and use tax exemptions are based on the identity of the seller or purchaser.

Governmental Entities

Any sale (except for vehicles sold by), provision of a service or amusement charge by or to any of the following governments or international organizations, or any use or occupancy by any of the following are exempt:

- The State of New Jersey or any of its agencies, instrumentalities, public authorities or corporations, or political subdivisions.
- The US and any of its agencies and instrumentalities.
- The United Nations or any international organization of which the US is a member.

(N.J.S.A. 54:32B-9(a).)

However, in the case of sales or the provision of services by these entities, the exemption only applies if the services provided or property sold is not of a kind ordinarily sold by private persons (N.J.S.A. 54:32B-9(a)).

Sales to contractors or repairmen of materials, supplies, and services for the exclusive use in building or improving, repairing, or altering real property of the listed governmental entities in Section 54:32B-9(a) of the New Jersey Statutes Annotated are exempt (N.J.S.A. 54:32B-8.22).

A Contractor's Exempt Purchase Certificate (New Jersey Division of Taxation [Form ST-13](#)) must be provided to sellers in connection with this exemption.

Tax-Exempt Organizations

Any sale or amusement charge by or to, or any use or occupancy by any IRC Section 501(c)(3) tax-exempt organization and certain other enumerated organizations are exempt from sales and use tax if the sale, charge, use, or occupancy is directly related to the organization's tax-exempt purpose (N.J.S.A. 54:32B-9(b)). The exemption does not apply in certain cases (N.J.S.A. 54:32B-9).

A seller must obtain an Exempt Organization Certificate (New Jersey Division of Taxation [Form ST-5](#)) in connection with any sale or provision of services to a tax-exempt organization. Sales to contractors or repairmen of materials supplied and services for the exclusive use in building or improving, repairing, or altering real property of certain charitable and other organizations listed in Section 54:32B-9(b) of the New Jersey Statutes Annotated are exempt (N.J.S.A. 54:32B-8.22). A Contractor's Exempt Purchase Certificate (New Jersey Division of Taxation [Form ST-13](#)) must be provided to sellers in connection with this exception.

Qualified Businesses

Qualified businesses (see Question 1: State Sales and Use Tax) in an Urban Enterprise Zone (UEZ) (but not in a UEZ-impacted business district) receive the following sales tax exemptions:

- Sales, rentals, and leases to a qualified business of tangible personal property (other than motor vehicles and energy) and services (other than telecommunication services and utility services) that are used or consumed exclusively by the business within a UEZ are exempt from sales or use tax if the exemption is made available by the Urban Enterprise Zone Authority when the UEZ is designated and a UEZ Exempt Purchase Certificate (New Jersey Division of Taxation [Form UZ-5](#)) is issued to the seller (N.J.S.A. 52:27H-79; N.J.A.C. 18:24-31.3). The

exemption is capped at an annual amount of \$100,000 in taxable purchases; however, this limitation does not apply to:

- supermarkets and grocery stores located in food desert communities; or
- certain supermarkets and grocery stores that are located outside food deserts but obtain a certificate of eligibility for exemption.

(N.J.S.A. 52:27H-79(a).)

- Up to \$100,000 in aggregate, annual sales of materials, supplies, or services to contractors or repairmen for exclusive use in erecting structures, or building on, or improving, altering, or repairing real property of a qualified business within a UEZ are exempt from sales and use tax. To qualify for the exemption, sellers must obtain a Contractor's Exempt Purchase Certificate, Urban Enterprise Zone (New Jersey Division of Taxation [Form UZ-4](#)), from the purchaser (N.J.S.A. 54:32B-8.22(b); N.J.A.C. 18:24-31.6).

Certain qualified businesses located in a UEZ and engaged in manufacturing may be eligible for a sales tax exemption for the purchase of energy and utility services (N.J.S.A. 52:27H-87.1(a)). If eligible, the qualified business must provide an Urban Enterprise Zone - Energy Exemption Certificate (New Jersey Division of Taxation [Form UZ-6](#)) to the seller.

Most Common Exempt Items

There are many specific items and services that are exempt from tax (N.J.S.A. 54:32B-8.1 to 54:32B-8.62). In some cases, the exemption applies only if the applicable property or service is used for a designated use. In these cases the seller must obtain an Exempt Use Certificate (New Jersey Division of Taxation [Form ST-4](#)) from the purchaser.

The following are some common items and services excluded from the sales and use tax:

- Clothing and footwear, subject to certain exceptions (N.J.S.A. 54:32B-8.4).
- Food, food ingredients, and dietary supplements sold for human consumption off the premises where sold, subject to certain exceptions (N.J.S.A. 54:32B-8.2).
- Services rendered resulting in a capital improvement to real property (N.J.S.A. 54:32B-3(b)(2), (b)(4)). A person providing services resulting in a capital improvement must obtain a Certificate of Capital Improvement (New Jersey Division of Taxation [Form ST-8](#)) from the purchaser.

It is not uncommon for a sale to involve receipts and charges that are exempt as well as receipts and charges that are taxable. In these cases, the seller must separately state on any invoice or receipt the taxable and exempt charges and show the sales tax relating to taxable charges.

Exemptions for Specified Uses

The following uses of property are not subject to use tax:

- Property purchased by the user while a nonresident of New Jersey, subject to certain exceptions.
- The use of property or services which are exempt from the New Jersey sales tax.
- The use of property which is converted into or becomes a component part of a product produced for sale or for market sampling by the purchaser.
- The use of property or services to the extent sales or use tax was appropriately paid to another state or jurisdiction within any other state, but only where the other state or jurisdiction allows a corresponding tax exemption regarding the sale or use of tangible personal property or services if sales or use tax is paid to New Jersey.

(N.J.S.A. 54:32B-11.)

For a complete list of use tax exemptions, see Section 54:32B-11 of the New Jersey Statutes Annotated.

Bad Debts, Returned or Repossessed Property, and Tax Credits

A seller can reduce its sales and use tax liability by claiming:

- **Deduction for bad debt.** A seller is allowed a deduction (not including interest) from taxable sales for bad debts (N.J.S.A. 54:32B-12.1(a), (b)). For purposes of claiming the deduction, bad debt has the same meaning as provided in IRC Section 166, subject to certain adjustments (N.J.S.A. 54:32B-12.1(c)).
- **Exclusion for returned or repossessed property.** For returned and repossessed property, the New Jersey Division of Taxation is authorized to provide for the exclusion from taxable receipts, amusement charges, or rents of amounts representing sales if the contract of sale has been canceled, the property returned, or the seller determines the receipt, charge, or rent is uncollectible. If tax has already been paid, the seller may claim a refund or credit of the tax paid. (N.J.S.A. 54:32B-12(c).)

- **Credit for taxes paid to other states.** New Jersey allows a credit for sales and use taxes properly paid to another state or jurisdiction within a state (see Question 6).

Multi-State Transactions

5. What types of business activities create “nexus” for sales and use tax liability in the state?

New Jersey broadly construes the types of activities that result in nexus for New Jersey sales and use tax liability. Generally, businesses that sell taxable items or services must collect and remit New Jersey sales tax when either:

- The buyer takes possession of the item in New Jersey.
- The item sold is delivered to a New Jersey location.
- The service sold is performed in New Jersey.

([New Jersey Division of Taxation Tax Topic Bulletin S&U-4](#); [New Jersey Division of Taxation Publication ANJ-10](#).)

However, New Jersey sales tax is not due on tangible personal property serviced or repaired in New Jersey and delivered to the buyer outside of New Jersey ([New Jersey Division of Taxation Publication ANJ-10](#)).

When a New Jersey buyer purchases an item that is subject to the New Jersey sales tax, and the seller does not collect the sales tax, then the buyer owes use tax on that purchase ([New Jersey Division of Taxation Publication ANJ-10](#)).

The US Supreme Court’s decision in *South Dakota v. Wayfair* eliminated the physical presence nexus standard in favor of an economic nexus standard (138 S. Ct. 2080 (2018)). New Jersey law also applies this economic nexus standard ([New Jersey Division of Taxation Tax Topic Bulletin S&U-4](#)). Effective November 1, 2018, remote sellers who make retail sales of tangible personal property, specified digital products, or taxable services for delivery into New Jersey have economic nexus with New Jersey if either:

- The remote seller engaged in at least 200 of these transactions in a given year.
- Gross revenue from these transactions exceeds \$100,000 in a given year.

(N.J.S.A. 54:32B-3.5.)

For more information, see [Practice Note, Sales and Use Tax for Remote Sellers](#) and [State Q&A, Sales and Use Tax for Remote Sellers: New Jersey](#).

New Jersey is a member of the Streamlined Sales and Use Tax Agreement ([Streamlined Sales Tax Governing Board, Inc: New Jersey](#)). New Jersey must:

- Provide detailed information about its rules governing remote sellers under Disclosure Practice 8.
- Update the information annually.

([Streamlined Sales and Use Tax Agreement \(amended through November 7, 2023\)](#); [Streamlined Sales Tax Governing Board, Taxability Matrix: Tax Administration Practices, New Jersey \(version 2023.0\)](#).)

Requirements for Marketplace Sellers and Marketplace Facilitators

Effective November 1, 2018, New Jersey imposes sales tax registration, collection, and remittance requirements on marketplace facilitators. A marketplace facilitator must collect New Jersey sales tax on sales of any of the following when made by a marketplace seller through any physical or electronic marketplace owned, operated, or controlled by the marketplace facilitator:

- Tangible personal property.
- Specified digital products.
- Services delivered into New Jersey.

([New Jersey Division of Taxation Publication TB-83](#).)

A marketplace seller is a seller that makes retail sales through any physical or electronic marketplace owned, operated, or controlled by a marketplace facilitator. A marketplace seller is not required to collect and remit New Jersey sales tax on a sale when the marketplace facilitator is required to collect and remit New Jersey sales tax on the sale. However, a marketplace facilitator and marketplace seller may enter into an agreement with each other regarding who is responsible for collecting and remitting the sales tax.

([New Jersey Division of Taxation Publication TB-83](#).)

A marketplace facilitator facilitates retail if it directly or indirectly does both:

- One or more of the following:
 - lists, makes available, or advertises tangible personal property, specified digital products, or services for sale by a marketplace seller in a forum owned, operated or controlled by the marketplace facilitator;
 - facilitates the sales of a marketplace seller's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail

sale of tangible personal property, specified digital products, or taxable services between a marketplace seller and a purchaser in a forum including a shop, store, booth, catalog, website, or similar forum;

- owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace sellers to purchasers for the purpose of making retail sales of tangible personal property, specified digital products, or taxable services;
 - provides a marketplace for making retail sales of tangible personal property, specified digital products, or taxable services or otherwise facilitates retail sales of tangible personal property, specified digital products, or taxable services regardless of ownership or control of the tangible personal property, specified digital products, or taxable services that are the subject of the retail sale;
 - provides software development or research and development activities related to any activity described in this paragraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace facilitator;
 - provides or offers fulfillment or storage services for a marketplace seller;
 - sets prices for a marketplace seller's sale of tangible personal property specified digital products, or taxable services;
 - provides or offers customer service to a marketplace seller or a marketplace seller's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, specified digital products, or taxable services sold by a marketplace seller; or
 - brands or otherwise identifies sales as those of the marketplace facilitator.
- One or more of the following:
 - collects the sales price of a retail sale of tangible personal property, specified digital products, or taxable services;
 - provides payment processing services for a retail sale of tangible personal property, specified digital products, or taxable services;
 - charges, collects, or otherwise receives selling fees, listing fees, referral fees, closing fees, fees for inserting or making available tangible personal property, specified digital products, or taxable

services on a marketplace, or other consideration from the facilitation of a retail sale of tangible personal property, specified digital products, or taxable services, regardless of ownership or control of the tangible personal property, specified digital products, or taxable services that are the subject of the retail sale;

- through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, specified digital products, or taxable services from a purchaser and transmits that payment to the marketplace seller, whether or not receiving compensation or other consideration in exchange for the service; or
- provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, specified digital products, or taxable services.

(N.J.S.A. 54:32B-3.6; [New Jersey Division of Taxation Publication TB-83](#); [Streamlined Sales Tax Governing Board, Taxability Matrix: Tax Administration Practices, New Jersey \(version 2023.0\)](#).)

6. Are there special rules for sales and use taxes on multi-state transactions?

All businesses with physical presence in New Jersey and remote sellers with sufficient nexus with New Jersey that sell taxable items or services must collect and remit New Jersey sales tax when either:

- The buyer takes possession of the item in New Jersey.
- The item sold is delivered to a New Jersey location.
- The services sold are performed in New Jersey.

([New Jersey Division of Taxation Tax Topic Bulletin S&U-4](#); [New Jersey Division of Taxation Publication ANJ-10](#).)

If sales tax is paid to another state (including sales tax paid to a city, county, or other jurisdiction within the other state) at a total rate less than 6.625% on a purchase that would have been taxable if the item was purchased in New Jersey, then the purchaser owes New Jersey use tax on the difference between the other state's sales tax rate and the New Jersey sales tax rate ([New Jersey Division of Taxation Tax Topic Bulletin S&U-4](#)).

For more information regarding out-of-state sellers, see Question 5 and [State Q&A, Sales and Use Tax for Remote Sellers: New Jersey](#).

Collecting Taxes and Filing Returns

7. Who has a duty to collect and pay sales and use taxes?

New Jersey generally imposes its sales and use taxes on the purchaser or consumer. However, the seller or provider of services (including an out-of-state seller with sufficient nexus with New Jersey) must collect and remit the sales tax. Failure to do so results in personal liability for the sales tax (N.J.S.A. 54:32B-14(a)). In certain cases, owners, officers, or employees of a seller may also be personally liable for the sales tax (N.J.S.A. 54:32B-2(w)). If the purchaser or consumer fails to pay the sales tax to the seller, the purchaser or consumer must pay use tax on the purchase within 20 days of when the sales tax was due (N.J.S.A. 54:32B-14(b)).

In certain circumstances, an agent of the seller (for example, a salesman or representative) may be jointly liable with the seller for the collection and payment of sales and use tax (N.J.S.A. 54:32B-2(i)(2)).

A purchaser or consumer must pay use tax for the use of property or services in New Jersey unless the property or services has been subject to the New Jersey sales tax (N.J.S.A. 54:32B-6). For information on the credit to use tax for taxes paid to other states or jurisdictions, see Question 6.

Any seller or provider of services required to collect New Jersey sales and use taxes must register with the [New Jersey Division of Taxation](#):

- At least 15 days before starting business.
- On a [form](#) prescribed by the New Jersey Division of Taxation.

(N.J.S.A. 54:32B-15.)

Marketplace facilitators collecting New Jersey sales tax in New Jersey must be registered as remote sellers with the [New Jersey Division of Revenue and Enterprise Services](#) and registering as a remote seller. Once registered, the marketplace facilitator must establish a sub-account to report and remit the tax collected for marketplace sellers. ([New Jersey Division of Taxation Publication TB-83](#).)

8. Do out-of-state sellers have a duty to collect sales and use taxes?

Out-of-state sellers have an obligation to collect New Jersey sales and use taxes if sufficient nexus with New

Jersey exists. For a discussion of the activities and contacts that create nexus with New Jersey, see Question 5. For more information on sales and use tax for remote sellers, see [State Q&A, Sales and Use Tax for Remote Sellers: New Jersey](#).

9. What is the last day payment of sales and use tax can be made without incurring a penalty and to whom is payment made?

All payments of New Jersey sales and use taxes must be made to the New Jersey Division of Taxation no later than the due date for the filing of the applicable sales and use tax return, otherwise interest and penalties apply (N.J.S.A. 54:32B-18 and 54:32B-26). Different filing obligations and due dates apply depending on the amount of the sales and use tax liability.

The New Jersey Division of Taxation now requires all sellers to file sales and use tax returns electronically (either online or by phone) and submit payment electronically by electronic check, electronic funds transfer, or credit card. Taxpayers with a previous year tax liability of \$10,000 or more in any tax must make payment for all taxes by electronic funds transfer.

The following filing obligations and due dates apply.

Quarterly Returns

The following persons must file a quarterly sales and use tax return (New Jersey Division of Taxation [Form ST-50](#)) and pay all sales and use tax due on or before the 20th day of the month following the calendar quarter covered by the return:

- All sellers required to collect and remit New Jersey sales and use taxes (N.J.A.C. 18:24-11.2(a)).
- Every individual, corporation, or unincorporated entity engaged in the conduct of a trade, business, profession, or occupation within New Jersey but not making sales subject to sales tax (or purchasing tangible personal property for lease) if the person's average annual use tax liability for the previous three calendar years was greater than \$2,000 (N.J.A.C. 18:24-11.3(a)).

Monthly Returns

Businesses that collect more than \$30,000 in New Jersey sales and use tax during the preceding calendar year, in addition to filing a quarterly return, must:

- File a monthly sales and use tax return (New Jersey Division of Taxation [Form ST-51](#)) for each of the first and second months of each calendar quarter.

- Pay monthly all New Jersey sales and use taxes due, if the amount of the tax due for the month exceeds \$500.

The monthly return must be filed, and all tax due paid, by the 20th day of the month following the month for which the return is filed. The tax for the third month in each calendar quarter is paid with the filing of the taxpayer's quarterly Form ST-50. (N.J.A.C. 18:24-11.2(c), (e).)

Annual Returns

Every individual, corporation, or unincorporated entity engaged in the conduct of any trade, business, profession, or occupation within New Jersey, but not making sales subject to sales tax (or purchasing tangible personal property for lease), must:

- File the annual business use tax return (New Jersey Division of Taxation [Form ST-18B](#)).
- Pay use tax due by May 1 of the year following the calendar year in which liability is incurred.

Annual filing is only available if the taxpayer's annual average use tax liability for the previous three calendar years did not exceed \$2,000. No return is required for any year in which no use tax liability is incurred. (N.J.A.C. 18:24-11.3(a).)

10. What are the penalties for failure to comply with the sales and use tax statute(s)?

New Jersey imposes several late filing and payment penalties, and in some cases charges taxpayers for the cost of collecting an overdue or unpaid sales or use tax. Penalties for failure to timely pay sales or use tax or file a tax return can be abated in whole or in part if the taxpayer shows reasonable cause for the failure. Reasonable cause is determined on an evaluation of the facts and the taxpayer's previous compliance record. Examples of grounds for reasonable cause are set out in regulations (N.J.A.C. 18:2-2.7).

In certain cases, criminal penalties can also be imposed (N.J.A.C. 18:2-2.8).

A late filing penalty applies to the failure to timely file a sales and use tax return. The penalty is \$100 for each month (or portion of it) that the return is delinquent, plus 5% of any underpayment of tax per month (or portion of it) that the return is delinquent (subject to a maximum penalty of 25%) (N.J.S.A. 54:49-4(a); N.J.A.C. 18:2-2.3).

However, if the taxpayer does not file the sales and use tax return within 30 days of the date that a notice of

delinquency is sent, the penalty is 5% per month (or any portion of it) of the total tax liability (instead of the underpayment of tax), subject to a maximum penalty of 25% of the tax liability (N.J.S.A. 54:49-4(a); N.J.A.C. 18:2-2.3).

A late payment penalty also applies to the failure to timely pay sales and use tax. The penalty is 5% of the amount of the underpayment (N.J.S.A. 54:49-4(a); N.J.A.C. 18:2-2.4). Interest is also imposed at the rate of 3% above the prime interest rate, compounded annually, from the date the tax is due until the date of payment (N.J.S.A. 54:49-3; N.J.A.C. 18:2-2.4).

If a taxpayer required to use electronic filing or make electronic payment fails to do so, the taxpayer is liable for a \$50 penalty for each failure to electronically file or pay (N.J.S.A. 54:49-4(b)).

If any part of an assessment is due to civil fraud, a penalty in the amount of 50% of the assessment can be applied in lieu of other penalties (N.J.S.A. 54:49-9.1).

If an amount of tax due is referred to a private company for collection, a referral cost recovery fee generally in the amount of 10% of the amount referred for collection can be imposed (N.J.A.C. 18:2-2.5(d)). Also, if the New Jersey Division of Taxation issues a certificate of debt for unpaid tax, it can impose costs of collection on the taxpayer. The amount imposed can be the actual costs of collection incurred or a percentage of the tax. If the cost of collection is based on a percentage of tax, the percentage can range from 5% to 20% (N.J.S.A. 54:49-12.1; N.J.A.C. 18:2-2.5).

11. Is the purchaser, transferee, or assignee of the assets of a business liable for the seller's unpaid sales tax?

A purchaser, transferee, or assignee (purchaser) of the assets of a business in a sale, transfer, or assignment subject to the New Jersey bulk sales law is jointly and severally liable with the seller for all of the seller's New Jersey taxes (including interest, penalties, and additions) unless the purchaser complies with the provisions of the bulk sales law. This liability includes all taxes paid to or administered by the New Jersey Division of Taxation and is not limited to sales and use tax. The joint and several tax liability resulting from a failure to comply with the bulk sales law is not limited to the purchase price or other consideration paid for the assets that are the subject of the sale.

The New Jersey bulk sales law applies to any sale, transfer, or assignment (sale) in bulk of any part or all of a person's

business assets, other than in the ordinary course of business (N.J.S.A. 54:50-38). The New Jersey Division of Taxation's interpretation of what constitutes "business assets" is very broad and includes any asset used in any endeavor from which revenue or consideration is realized for generating a profit or loss. This includes both tangible and intangible assets (and can include an equity interest) ([New Jersey Division of Taxation Technical Bulletin TB-60R](#); [New Jersey Division of Taxation, Frequently Asked Questions About New Jersey's Bulk Sale Notification Requirement and the Division of Taxation's Form C-9600, Questions 5 and 48](#)). Short sales and deed in lieu of foreclosure transfers are also subject to the bulk sales law ([Frequently Asked Questions, Questions 35 and 37](#)).

The sale of all of a seller's business assets is not required for the bulk sales law to apply. The New Jersey Division of Taxation's position is that partial sales are covered by the bulk sales law ([New Jersey Division of Taxation Technical Bulletin TB-60R](#)). However, the New Jersey Division of Taxation has not clarified when a sale of business assets would be too insignificant to be subject to the bulk sales law.

If a sale is subject to the bulk sales law:

- The purchaser must notify the New Jersey Division of Taxation of the proposed sale and, among other things, the price, terms and conditions of the sale, by filing New Jersey Division of Taxation Form C-9600 along with an executed contract for the sale or other applicable transfer agreement ([New Jersey Division of Taxation, Frequently Asked Questions About New Jersey's Bulk Sale Notification Requirement and the Division of Taxation's Form C-9600, Question 7](#)). The notice must be delivered by:

- registered mail;
- certified mail;
- overnight mail;
- Federal Express; or
- UPS.

([New Jersey Division of Taxation, Frequently Asked Questions About New Jersey's Bulk Sale Notification Requirement and the Division of Taxation's Form C-9600, Question 11](#).)

- The New Jersey Division of Taxation must receive the notice at least ten business days before the purchaser takes possession of or pays for the assets ([New Jersey Division of Taxation, Frequently Asked Questions About New Jersey's Bulk Sale Notification Requirement and the Division of Taxation's Form C-9600, Questions 3 and 12](#)).

- If the New Jersey Division of Taxation provides timely notice to the purchaser that there is a possible claim for New Jersey taxes, the purchaser cannot transfer to the seller, transferor, or assignor an amount of the purchase price or other consideration equal to the amount set out in the notice, and may have to place this amount in escrow. The New Jersey Division of Taxation generally notifies the purchaser by mail of any possible claim for New Jersey taxes within ten business days of receipt of the purchaser's notice ([New Jersey Division of Taxation, Frequently Asked Questions About New Jersey's Bulk Sale Notification Requirement and the Division of Taxation's Form C-9600, Questions 16 and 22](#)).

If the New Jersey Division of Taxation receives a complete and timely bulk sale notice from the purchaser and fails to provide timely notice to the purchaser that a possible claim for New Jersey taxes exists, the purchaser is deemed to have complied with the bulk sales law and has no liability imposed under the bulk sales law (N.J.S.A. 54:50-38(b)). However, if the purchaser has not received the New Jersey Division of Taxation's notice within ten business days of the Division of Taxation's receipt of the bulk sales notice, the purchaser should not close the sale without first:

- Contacting the New Jersey Division of Taxation to determine if it has mailed the notice.
- If notice has been mailed, obtaining a copy of the notice.

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