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54:32B-3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:32B-3 (Direct mail advertising services-- certain-- sales tax exemptions)

LAWS OF: 1987 CHAPTER: 268

Bill No: S1114

Sponsor(s): Hirkala

Date Introduced: Pre-filed

Committee: Assembly: Appropriations

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 8, 1987

Senate: March 19, 1986

Date of Approval: September 11, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

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Reports: No

Hearings: No

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Chapter 268 Laws of 87  
AP. 9-11-87

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SENATE, No. 1114

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator HIRKALA

AN ACT exempting certain direct-mail advertising *\*processing\** services from the sales and use tax, and amending P. L. 1966, c. 30 and P. L. 1985, c. 24.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 3 of P. L. 1966, c. 30 (C. 54:32B-3) is amended to  
2 read as follows:

3 3. Imposition of sales tax. On and after July 1, 1966 and con-  
4 tinuing through February 28, 1970, there is hereby imposed and  
5 there shall be paid a tax of 3%; on and after March 1, 1970  
6 and continuing through January 2, 1983, there is hereby imposed  
7 and there shall be paid a tax of 5%; and on and after January 3,  
8 1983, there is imposed and there shall be paid a tax of 6%, upon:

9 (a) The receipts from every retail sale of tangible personal  
10 property, except as otherwise provided in this act.

11 (b) The receipts from every sale, except for resale, of the follow-  
12 ing services:

13 (1) Producing, fabricating, processing, printing or imprinting  
14 tangible personal property, performed for a person who directly  
15 or indirectly furnishes the tangible personal property, not pur-  
16 chased by him for resale, upon which such services are performed.

17 (2) Installing tangible personal property, or maintaining, ser-  
18 vicing, repairing tangible personal property not held for sale in  
19 the regular course of business, whether or not the services are  
20 performed directly or by means of coin-operated equipment or by

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics *thus* is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted March 9, 1987.**

21 any other means, and whether or not any tangible personal prop-  
22 erty is transferred in conjunction therewith, except (i) such ser-  
23 vices rendered by an individual who is engaged directly by a  
24 private homeowner or lessee in or about his residence and who is  
25 not in a regular trade or business offering his services to the public,  
26 (ii) such services rendered with respect to personal property  
27 exempt from taxation hereunder pursuant to section 13 of P. L.  
28 1980, c. 105 (C. 54:32B-8.1), (iii) services rendered with respect to  
29 trucks, tractors, trailers or semitrailers by a person who is not  
30 engaged, directly or indirectly through subsidiaries, parents, affli-  
31 ates or otherwise, in a regular trade or business offering such  
32 services to the public, (iv) any receipts from laundering, dry clean-  
33 ing, tailoring, weaving, pressing, shoe repairing and shoeshining  
34 and (v) services rendered in installing property which, when in-  
35 stalled, will constitute an addition or capital improvement to real  
36 property, property or land.

37 (3) Storing all tangible personal property not held for sale in  
38 the regular course of business and the rental of safe deposit boxes  
39 or similar space.

40 (4) Maintaining, servicing or repairing real property, other than  
41 a residential heating system unit serving not more than three  
42 families living independently of each other and doing their cooking  
43 on the premises, whether the services are performed in or outside  
44 of a building, as distinguished from adding to or improving such  
45 real property by a capital improvement, but excluding services  
46 rendered by an individual who is not in a regular trade or business  
47 offering his services to the public, and excluding interior cleaning  
48 and maintenance services, garbage removal and sewer services per-  
49 formed on a regular contractual basis for a term not less than 30  
50 days, other than window cleaning, and rodent and pest control.

51 (5) Advertising services, except advertising services for use  
52 directly and primarily for publication in newspapers and maga-  
53 zines\***[**, or except when performed in connection with the ad-  
54 dressing, inserting and mailing of direct-mail advertising materials  
55 for]**\*** and except for direct-mail advertising processing services  
55A in connection with distribution to\* out-of-State recipients.

56 Wages, salaries and other compensation paid by an employer  
57 to an employee for performing as an employee the services  
58 described in this subsection are not receipts subject to the taxes  
59 imposed under this subsection (b).

60 Services otherwise taxable under paragraph (1) or (2) of this  
61 subsection (b) are not subject to the taxes imposed under this

62 subsection, where the tangible personal property upon which the  
63 services were performed is delivered to the purchaser outside this  
64 State for use outside this State.

65 (c) Receipts from the sale of food and drink in or by restaurants,  
66 taverns, vending machines or other establishments in this State,  
67 or by caterers, including in the amount of such receipts any cover,  
68 minimum, entertainment or other charge made to patrons or  
69 customers:

70 (1) In all instances where the sale is for consumption on the  
71 premises where sold;

72 (2) In those instances where the vendor or any person whose  
73 services are arranged for by the vendor, after the delivery of the  
74 food or drink by or on behalf of the vendor for consumption off  
75 the premises of the vendor, serves or assists in serving, cooks, heats  
76 or provides other services with respect to the food or drink, except  
77 for meals especially prepared for and delivered to homebound  
78 elderly, age 60 or older, and to disabled persons, or meals pre-  
79 pared and served at a group-sitting at a location outside of the  
80 home to otherwise homebound elderly persons, age 60 or older,  
81 and otherwise homebound disabled persons, as all or part of any  
82 food service project funded in whole or in part by government or  
83 as part of a private, nonprofit food service project available to all  
84 such elderly or disabled persons residing within an area of service  
85 designated by the private nonprofit organization; and

86 (3) In those instances where the sale is for consumption off  
87 the premises of the vendor, and consists of a meal, or food prepared  
88 and ready to be eaten, of a kind obtainable in restaurants as the  
89 main course of a meal, including a sandwich, except where food  
90 other than sandwiches is sold in an unheated state and is of a type  
91 commonly sold in the same form and condition in food stores other  
92 than those which are principally engaged in selling prepared foods;

93 (4) Sales of food and beverages sold through coin-operated vend-  
94 ing machines, at the wholesale price of such sale, which shall be  
95 defined as 70% of the retail vending machine selling price, except  
96 sales of milk, which shall not be taxed. Nothing herein contained  
97 shall affect other sales through coin-operated vending machines  
98 taxable pursuant to subsection (a) above or the exemption thereto  
99 provided by section 21 of P. L. 1980, c. 105 (C. 54:32B-8.9).

100 The tax imposed by this subsection (c) shall not apply to food or  
101 drink which is sold to an airline for consumption while in flight.

102 (d) The rent for every occupancy of a room or rooms in a hotel  
103 in this State, except that the tax shall not be imposed upon (1) a

104 permanent resident, or (2) where the rent is not more than at the  
105 rate of \$2.00 per day.

106 (e) (1) Any admission charge, where such admission charge is  
107 in excess of \$0.75 to or for the use of any place of amusement in  
108 the State, including charges for admission to race tracks, baseball,  
109 football, basketball or exhibitions, dramatic or musical arts per-  
110 formances, motion picture theatres, except charges for admission  
111 to boxing, [sparring or] wrestling [matches or], *kick boxing or*  
112 *combative sports exhibitions, events, performances or contests*  
113 which charges are taxed under any other law of this State or under  
114 [R. S. 5:2-12] *section 20 of P. L. 1985, c. 83 (C. 5:2A-20)*, and,  
115 except charges to a patron for admission to, or use of, facilities  
116 for sporting activities in which such patron is to be a participant,  
117 such as bowling alleys and swimming pools. For any person hav-  
118 ing the permanent use or possession of a box or seat or lease or  
119 a license, other than a season ticket, for the use of a box or seat  
120 at a place of amusement, the tax shall be upon the amount for  
121 which a similar box or seat is sold for each performance or exhi-  
122 bition at which the box or seat is used or reserved by the holder,  
123 licensee or lessee, and shall be paid by the holder, licensee or lessee.  
124 (2) The amount paid as charge of a roof garden, cabaret or  
125 other similar place in this State, to the extent that a tax upon such  
126 charges has not been paid pursuant to subsection (c) hereof.

1 2. Section 1 of P. L. 1985, c. 24 (C. 54:32B-8.39) is amended  
2 to read as follows:

3 1. Receipts from sales of advertising or promotional materials  
4 which are prepared within or outside of the State of New Jersey  
5 for distribution by a New Jersey direct-mail advertising or pro-  
6 motional firm to out-of-State recipients *and receipts from sales of*  
7 *direct-mail advertising \*processing\* services \*~~performed on~~*  
8 *mail]\* \*in connection with distribution of advertising or promo-*  
9 *tional materials\* to out-of-State recipients are exempt from the*  
10 tax imposed under the Sales and Use Tax Act. The exemption  
11 provided by this section shall apply to receipts from charges for  
12 the printing or production of advertising and promotional ma-  
13 terials whether prepared in, or shipped into New Jersey after  
14 preparation and stored for subsequent shipment to out-of-State  
15 customers. *The direct-mail advertising \*processing\* services ex-*  
16 *emption provided by the section shall \*~~include~~\* \*apply to re-*  
17 *ceipts from charges for all processing services for distribution to*  
18 *out-of-State recipients, including\* but \*~~shall~~\* not \*~~be~~\* lim-*  
19 *ited to the following: preparing and maintaining mailing lists,*

20 \***[***preparing and applying mailing labels, folding and inserting*  
21 *materials into envelopes, sorting, bagging, and typing envelopes,*  
22 *and placing materials into the mail service]\* *addressing, sepa-*  
23 *rating, folding, inserting, sorting and packaging advertising or*  
24 *promotional materials and transporting to the point of shipment*  
25 *by the mail service or other carrier\*.**

1 3. **This act shall take effect immediately.**

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#### TAXATION — SALES

Exempts from the sales and use tax the receipts of direct-mail advertising services performed on mail to out-of-State recipients.

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## STATEMENT

This bill exempts from the sales and use tax the receipts from sales of direct-mail advertising services performed on mail to out-of-State recipients. P. L. 1985, c. 24 (C. 54:32B-8.39), effective January 25, 1985, exempted the sales of the printed materials used in direct-mail advertising to out-of-State recipients from the sales and use tax. However, the charges for direct-mail processing services, including labeling, inserting into envelopes and sorting, are taxable. This bill extends the exemption to the service charges of direct mail processors within the State for mailings to out-of-State recipients.

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ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

**SENATE, No. 1114**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 9, 1987

The Assembly Appropriations Committee favorably reports Senate Bill No. 1114 with amendments.

Senate Bill No. 1114, as amended, clarifies the exemption of direct-mail advertising services performed on mail to out-of-State recipients from the sales and use tax.

Currently, under P. L. 1985, c. 24, printed materials used in direct mail advertising to out-of-State recipients are exempt from the sales and use tax. However, the charges for direct-mail processing services, including labeling, inserting into envelopes and sorting were not specifically exempted when P. L. 1985, c. 24 was adopted. This bill would make clear that such activity is exempt and thereby allow direct mail processors in New Jersey to compete for interstate business with direct mail processors in New York and Pennsylvania, both of which exempt processing costs for mailings to out-of-State recipients from the sales and use tax.

The direct mail processing industry in New Jersey currently employs approximately 4,500 people in urban areas.

**FISCAL IMPACT:**

A Legislative Fiscal Estimate has been prepared on a similar bill. It is estimated the enactment of this bill would result in a reduction of sales tax revenues to the State of approximately \$1.3 million in FY 1987.

**COMMITTEE AMENDMENTS:**

The amendments, as recommended by the Subcommittee on Taxation, are technical and clarify the nature of services. The amendments also make this bill identical to Assembly Bill No. 2256 Aca.



SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO

**SENATE, No. 1114**

**STATE OF NEW JERSEY**

DATED: MARCH 6, 1986

The Senate Revenue, Finance and Appropriations Committee reported Senate Bill No. 1114 favorably.

Senate Bill No. 1114 exempts direct-mail advertising services performed on mail to out-of-State recipients from the sales and use tax.

Currently, under P. L. 1985, c. 24, printed materials used in direct mail advertising to out-of-State recipients are exempt from the sales and use tax. However, the charges for direct-mail processing services, including labeling, inserting into envelopes and sorting are taxable. This bill would allow direct mail processors in New Jersey to compete for inter-state business with direct mail processors in New York and Pennsylvania, both of which exempt processing costs for mailings to out-of-State recipients from the sales and use tax.

According to information available to the sponsor, the direct mail processing industry in New Jersey currently employs approximately 4,500 people, mostly in urban areas. Most of the direct mail processors are relatively small businesses and usually employ people with otherwise limited opportunities.

**FISCAL IMPACT:**

A fiscal note has not been prepared for this bill.