

54:32B-3

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:32B-3

(Sales tax--exempt
certain interstate sales
from 1966-1977)

LAWS OF: 1985

CHAPTER: 208

Bill No: A3279

Sponsor(s): Herman, Pankok and Muziani

Date Introduced: February 25, 1985

Committee: Assembly: Revenue, Finance and Appropriations

Senate: -----

Amended during passage: Yes Substituted for S2619 (not attached since identical to A3279). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: May 13, 1985

Senate: January 17, 1985

Date of Approval: June 27, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

A1628 (1974), Assembly Committee statement and veto--attached

See legislative history of L. 1977 c. 54 for background on A1787.

6-27-85

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 3279

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1985

By Assemblymen HERMAN, PANKOK and MUZIANI

A SUPPLEMENT to the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30; C. 54:32B-1 et seq.).

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

1 1. Notwithstanding the provisions of any law, judicial order, or
2 rule or regulation to the contrary, no ***[taxpayer]*** **vendor** under
3 the "Sales and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et
4 seq.), shall be required to pay taxes on services otherwise taxable
5 under paragraph (1) or (2) of subsection (b) of section 3 of that
6 act (C. 54:32B-3), if the services were performed before April 6,
7 1977 and the tangible personal property upon which the services
8 were performed was delivered to the purchaser outside this State
9 for use outside this State.

1 2. This act shall take effect immediately.

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 amendment adopted May 13, 1985.

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INTRODUCED FEBRUARY 25, 1985

By Assemblymen HERMAN, PANKOK and MUZIANI

A SUPPLEMENT to the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30; C. 54:32B-1 et seq.).

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

1 1. Notwithstanding the provisions of any law, judicial order, or
2 rule or regulation to the contrary, no taxpayer under the "Sales
3 and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et seq.), shall
4 be required to pay taxes on services otherwise taxable under para-
5 graph (1) or (2) of subsection (b) of section 3 of that act (C.
6 54:32B-3), if the services were performed before April 6, 1977 and
7 the tangible personal property upon which the services were per-
8 formed was delivered to the purchaser outside this State for use
9 outside this State.

1 2. This act shall take effect immediately.

STATEMENT

This bill exempts from the sales tax services provided by New Jersey companies from July 1, 1966 to April 5, 1977 on tangible personal property delivered out of state. During part of this period, the Division of Taxation asserted that the tax was due on such transactions, contrary to the Legislature's original intent. (See Assembly Taxation Committee Statements to Assembly Bill No. 1628 of 1974 and Assembly Bill No. 1787 of 1977). This bill assures that the interpretation of the Sales and Use Tax Act will be consistent with the intent of the Legislature at the time the act was passed. Without this exemption, New Jersey businesses which performed services for out-of-state customers, and which were assessed a sales tax deficiency years after the completion of the transaction giving rise to the deficiency, incur a loss because they are unable to go back and collect from their customers after the fact. This bill will not disturb sales taxes actually collected or paid on transactions completed between July 1, 1966 and April 5, 1977.

FISCAL IMPACT:

A fiscal note is not available on this bill. It is believed that it will affect several companies at most, which have been contesting the imposition and payment of the tax during the period in question.

COMMITTEE AMENDMENTS:

At the suggestion of the Division of Taxation, the committee changed the word "taxpayer" to "vendor" to more accurately reflect the fact that the businesses affected are the agents for collection of the tax.

The committee favorably releases this bill, as amended.

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3279

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 1985

PROVISIONS:

As amended, Assembly Bill No. 3279 supplements the "Sales and Use Tax Act" (P. L. 1966, c. 30) to exempt from the sales tax services provided by New Jersey companies prior to April 6, 1977 on tangible personal property delivered out of State. The purpose is to emphasize the intent of the Legislature that such services are not to be held taxable and to provide relief for certain businesses adversely affected by administrative and judicial interpretation of this matter.

BACKGROUND:

The "Sales and Use Tax Act" became effective on July 1, 1966. Prior to that day, in a press release containing questions and answers about the act, the State Division of Taxation advised that "Charges for repairs where the articles upon which the work is performed are delivered, upon completion, pursuant to contract, to a purchase outside the State for use outside the State are exempt from the sales tax."

Businesses engaged in such services relied on this interpretation of the act and did not collect the sales tax. In 1973, without prior public notice, the Division of Taxation reversed its position and announced that such services were, in fact, taxable. Furthermore, the division imposed retroactive assessments in certain instances even though the businesses involved were unable to retroactively collect the tax from their customers.

The Legislature responded to this situation in 1974 by passing Assembly Bill No. 1628, expressly exempting the services in question from the sales tax. However, the Governor vetoed the bill for revenue reasons. On April 5, 1977, Assembly Bill No. 1787, granting the same explicit exemption, was enacted as P. L. 1977, c. 54. Since that time, these services have been exempt from the sales tax.

This bill would extend that exemption back to the effective date of the sales tax, and restore what was felt by many to be the original legislative intent in enacting that tax insofar as this issue is concerned.

ASSEMBLY TAXATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1628

STATE OF NEW JERSEY

ADOPTED FEBRUARY 4, 1975

The committee has acted favorably on Assembly Bill No. 1628 in that it believes the bill serves to remove an inequitable situation, and further, it is in keeping with the original interpretation of the Sales Tax Act which subsequently was changed.

The substance of the bill exempts a tax on tangible personal property which is serviced and delivered out of the State. For example, if a person in Delaware were to take a television set to a repair shop in Pennsville for service, under the present interpretation of the law the purchaser of that service would be subject to the sales tax.

As noted during the first 6 or 7 years of the life of the act there would have been no sales tax, but several years ago, the interpretation was changed and the tax imposed. In effect, this bill will return the situation to its original status.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 1628

STATEMENT

I am filing Assembly Bill No. 1628 in the State Library without my approval.

Under the provisions of Article V, Section I, Paragraph 14(b) of the Constitution, this bill does not become a law if it is not signed within the 45-day period, Sundays excepted, following the adjournment sine die of the Legislature. In these circumstances there is no provision for a veto, but I deem it to be in the public interest to state my reasons for deciding not to sign the bill.

The subject bill would expressly exempt from coverage under the Sales Tax Act personal property which is serviced and delivered outside of the State of New Jersey. In addition, the bill also exempts from coverage meals specifically prepared for and delivered to homebound elderly and/or disabled persons as part of any food service project funded in whole or in part by government or as part of a private non-profit funded project.

In regard to the provision dealing with meals for the elderly, my Division of Taxation informs me that in the past it has already exempted such transactions by regulation.

Insofar as the exemption for personal property serviced and then delivered out of the State is concerned, I strongly believe that such an amendment would represent a substantial and excellent step forward in reforming the present business tax structure that now plagues the economy of this State. However, I cannot overlook the fact that enactment of such an amendment may result in the loss of approximately \$5 million in tax revenue for the State. During this time of fiscal crisis, it would be irresponsible for me to allow such an amendment to become law without having the ability to recoup this loss through another revenue raising device.