



**LEGISLATIVE FISCAL ESTIMATE:**

Yes [12-12-07](#)  
[1-10-08](#)

**VETO MESSAGE:**

No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

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**REPORTS:**

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No

**NEWSPAPER ARTICLES:**

No

LAW/IS 6/20/08

P.L. 2007, CHAPTER 328, *approved January 13, 2008*  
Assembly, No. 3938 (*Third Reprint*)

1 AN ACT <sup>3</sup>[allowing <sup>2</sup>a<sup>2</sup> point of sale sales tax exemption for <sup>2</sup>[UEZ  
2 business]<sup>2</sup> purchases by <sup>2</sup>[business only] businesses<sup>2</sup> located in  
3 an <sup>2</sup>[UEZ] urban enterprise zone<sup>2</sup>] broadening the small  
4 business exception under the UEZ sales tax rebate program.<sup>3</sup>  
5 <sup>2</sup>and<sup>2</sup> amending P.L.1983, c.303.

6  
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
8 *of New Jersey:*

9  
10 <sup>3</sup>[1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to  
11 read as follows:

12 20. a. Retail sales of personal property (except motor vehicles  
13 and energy) and sales of services (except telecommunications and  
14 utility services) to a qualified business for the exclusive use or  
15 consumption of such business within an enterprise zone are exempt  
16 from the taxes imposed under the "Sales and Use Tax Act,"  
17 P.L.1966, c.30 (C.54:32B-1 et seq.).

18 b. <sup>2</sup>[Notwithstanding the provisions of subsection a. of this  
19 section, the seller shall charge and collect from a purchaser that is  
20 not a small qualified business or a zone-located qualified business  
21 the tax at the rate then in effect, and the tax shall be refunded to the  
22 purchaser by the filing, within one year following the date of sale,  
23 of a claim with the New Jersey Division of Taxation for a refund of  
24 sales and use taxes paid for the goods and materials; provided,  
25 however, that if the Director of the Division of Taxation establishes  
26 a filing date later than the date of sale, the qualified business may  
27 file a claim for a refund within one year of that later date. Proof of  
28 claim for refund shall be made by the submission of auditable  
29 receipts and such other documentation as the [Director of the  
30 Division of Taxation] director may require.] (Deleted by  
31 amendment, P.L. , c. )(pending before the Legislature as this  
32 bill)<sup>2</sup>

33 c. <sup>2</sup>[As used in this section:

34 "Qualified business" includes a business that becomes qualified  
35 by the time the refund application is filed pursuant to subsection b.  
36 of this section; [and]

37 "Zone-located qualified business" means a qualified business  
38 that has been determined and certified by the director to have a  
39 business location or locations only within an enterprise zone; if a  
40 business is in an affiliated group, as defined by section 1504 of the  
41 federal Internal Revenue Code of 1986, 26 U.S.C. s.1504, or a

**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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 18, 2007.

<sup>2</sup>Senate SEG committee amendments adopted December 3, 2007.

<sup>3</sup>Senate SBA committee amendments adopted January 3, 2008.

1 controlled group, as defined by section 1563 of the federal Internal  
 2 Revenue Code of 1986, 26 U.S.C. s.1563, any other business in the  
 3 group that is in the same line of business as the zone-located  
 4 qualified business must also have only one business location, which  
 5 location is within an enterprise zone; and

6 “Small qualified business” means a qualified business that has  
 7 been determined and certified by the director to have had less than  
 8 ~~‘[\$1,000,000]~~ \$5,000,000<sup>1</sup> in annual gross receipts in that  
 9 business’s prior annual tax period. ~~](Deleted by amendment,~~  
 10 ~~P.L. , c. )(pending before the Legislature as this bill)~~<sup>2</sup>

11 d. ~~2~~<sup>2</sup>~~][The director shall submit to the Senate Legislative~~  
 12 ~~Oversight Committee and the Assembly Regulatory Oversight~~  
 13 ~~Committee any rules or regulations to effectuate amendments made~~  
 14 ~~to this section by P.L.2006, c.34 that are proposed for publication in~~  
 15 ~~the New Jersey Register. The director shall evaluate the~~  
 16 ~~effectiveness of the amendments made to this section by P.L.2006,~~  
 17 ~~c.34 and report any findings and recommendations regarding the~~  
 18 ~~amendments to the Senate Legislative Oversight Committee and the~~  
 19 ~~Assembly Regulatory Oversight Committee before the Governor~~  
 20 ~~presents a budget proposal for Fiscal Year 2008.](Deleted by~~  
 21 ~~amendment, P.L. , c. )(pending before the Legislature as this~~  
 22 ~~bill)~~<sup>2</sup>

23 ~~2~~<sup>2</sup>~~][e. 1~~<sup>1</sup>~~][Notwithstanding R.S.54:49-6, no assessment of an~~  
 24 ~~additional sales or use tax on a sale exempt from the sales and use~~  
 25 ~~tax pursuant to subsection a. of this section shall be made after the~~  
 26 ~~expiration of one year from the date of filing for a refund of sales~~  
 27 ~~and use taxes paid on that sale by a qualified business under~~  
 28 ~~subsection b. of this section.~~

29 ~~f.]~~<sup>1</sup> Pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1),  
 30 interest on the tax paid for which a refund is requested under this  
 31 section shall commence to accrue on the later of the date of the  
 32 filing by the taxpayer of a claim for refund or requested adjustment,  
 33 the date of the payment of the tax, or the due date of the report or  
 34 the return thereof, regardless of any later filing perfection date  
 35 established by the Director.

36 ~~1~~<sup>1</sup>~~][g.] f.~~<sup>1</sup> Notwithstanding subsection b. of this section, a  
 37 qualified business that is not a small qualified business or a zone-  
 38 located qualified business shall not be required to self-assess and  
 39 self-remit use tax for a purchase that is exempt under subsection a.  
 40 of this section. A business shall report such purchase pursuant to  
 41 section 17 of P.L.1966, c.30 (C.54:32B-17).]<sup>2</sup>

42 (cf: P.L.2006, c.34, s.1)]<sup>3</sup>

43  
 44 <sup>3</sup>1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to  
 45 read as follows:

46 20. a. Retail sales of personal property (except motor vehicles  
 47 and energy) and sales of services (except telecommunications and

1 utility services) to a qualified business for the exclusive use or  
2 consumption of such business within an enterprise zone are exempt  
3 from the taxes imposed under the "Sales and Use Tax Act,"  
4 P.L.1966, c.30 (C.54:32B-1 et seq.).

5 b. Notwithstanding the provisions of subsection a. of this  
6 section, the seller shall charge and collect from a purchaser that is  
7 not a small qualified business the tax at the rate then in effect, and  
8 the tax shall be refunded to the purchaser by the filing, within one  
9 year following the date of sale, of a claim with the New Jersey  
10 Division of Taxation for a refund of sales and use taxes paid for the  
11 goods and materials. Proof of claim for refund shall be made by the  
12 submission of auditable receipts and such other documentation as  
13 the Director of the Division of Taxation may require.

14 c. As used in this section:

15 "Qualified business" includes a business that becomes qualified  
16 by the time the refund application is filed pursuant to subsection b.  
17 of this section; and

18 "Small qualified business" means a qualified business that has  
19 been determined and certified by the director to have had less than  
20 ~~[\$1,000,000]~~ \$3,000,000 in annual gross receipts in that business  
21 prior annual tax period.

22 d. The director shall submit to the Senate Legislative Oversight  
23 Committee and the Assembly Regulatory Oversight Committee any  
24 rules or regulations to effectuate amendments made to this section  
25 by P.L.2006, c.34 that are proposed for publication in the New  
26 Jersey Register. The director shall evaluate the effectiveness of the  
27 amendments made to this section by P.L.2006, c.34 and report any  
28 findings and recommendations regarding the amendments to the  
29 Senate Legislative Oversight Committee and the Assembly  
30 Regulatory Oversight Committee before the Governor presents a  
31 budget proposal for Fiscal Year 2008.

32 (cf: P.L.2006, c.34, s.1)<sup>3</sup>

33

34 2. This act shall take effect immediately <sup>3</sup>[and shall apply to  
35 purchases made on or after <sup>2</sup>[the first day of the second month next  
36 following the date of enactment] January 1, 2008<sup>2</sup>]<sup>3</sup>.

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41 \_\_\_\_\_  
42 Broadens the exception for small businesses under the UEZ sales  
tax rebate program.

# ASSEMBLY, No. 3938

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 25, 2007

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman LOUIS M. MANZO**

**District 31 (Hudson)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Assemblyman DOUGLAS H. FISHER**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

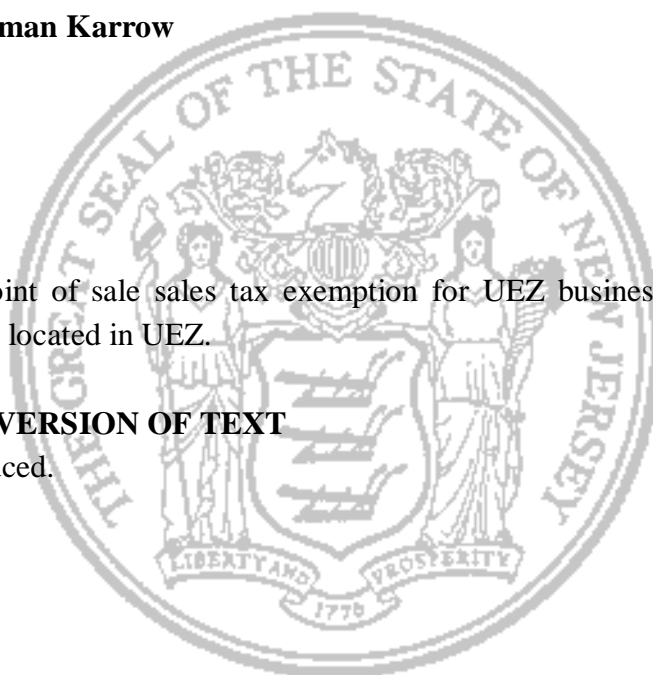
**Assemblywoman Handlin, Assemblymen Chivukula, Schaer,  
Assemblywoman Greenstein, Assemblyman Wisniewski and  
Assemblywoman Karrow**

**SYNOPSIS**

Allows point of sale sales tax exemption for UEZ business purchases by business only located in UEZ.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/11/2007)

1 AN ACT allowing point of sale sales tax exemption for UEZ  
2 business purchases by business only located in an UEZ,  
3 amending P.L.1983, c.303.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to  
9 read as follows:

10 20. a. Retail sales of personal property (except motor vehicles  
11 and energy) and sales of services (except telecommunications and  
12 utility services) to a qualified business for the exclusive use or  
13 consumption of such business within an enterprise zone are exempt  
14 from the taxes imposed under the "Sales and Use Tax Act,"  
15 P.L.1966, c.30 (C.54:32B-1 et seq.).

16 b. Notwithstanding the provisions of subsection a. of this  
17 section, the seller shall charge and collect from a purchaser that is  
18 not a small qualified business or a zone-located qualified business  
19 the tax at the rate then in effect, and the tax shall be refunded to the  
20 purchaser by the filing, within one year following the date of sale,  
21 of a claim with the New Jersey Division of Taxation for a refund of  
22 sales and use taxes paid for the goods and materials; provided,  
23 however, that if the Director of the Division of Taxation establishes  
24 a filing date later than the date of sale, the qualified business may  
25 file a claim for a refund within one year of that later date. Proof of  
26 claim for refund shall be made by the submission of auditable  
27 receipts and such other documentation as the **[**Director of the  
28 Division of Taxation**]** director may require.

29 c. As used in this section:

30 "Qualified business" includes a business that becomes qualified  
31 by the time the refund application is filed pursuant to subsection b.  
32 of this section; **[and]**

33 "Zone-located qualified business" means a qualified business  
34 that has been determined and certified by the director to have a  
35 business location or locations only within an enterprise zone; if a  
36 business is in an affiliated group, as defined by section 1504 of the  
37 federal Internal Revenue Code of 1986, 26 U.S.C. s.1504, or a  
38 controlled group, as defined by section 1563 of the federal Internal  
39 Revenue Code of 1986, 26 U.S.C. s.1563, any other business in the  
40 group that is in the same line of business as the zone-located  
41 qualified business must also have only one business location, which  
42 location is within an enterprise zone; and

43 "Small qualified business" means a qualified business that has  
44 been determined and certified by the director to have had less than

**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 underlined thus is new matter.

1 \$1,000,000 in annual gross receipts in that business's prior annual  
2 tax period.

3 d. The director shall submit to the Senate Legislative Oversight  
4 Committee and the Assembly Regulatory Oversight Committee any  
5 rules or regulations to effectuate amendments made to this section  
6 by P.L.2006, c.34 that are proposed for publication in the New  
7 Jersey Register. The director shall evaluate the effectiveness of the  
8 amendments made to this section by P.L.2006, c.34 and report any  
9 findings and recommendations regarding the amendments to the  
10 Senate Legislative Oversight Committee and the Assembly  
11 Regulatory Oversight Committee before the Governor presents a  
12 budget proposal for Fiscal Year 2008.

13 e. Notwithstanding R.S.54:49-6, no assessment of an additional  
14 sales or use tax on a sale exempt from the sales and use tax pursuant  
15 to subsection a. of this section shall be made after the expiration of  
16 one year from the date of filing for a refund of sales and use taxes  
17 paid on that sale by a qualified business under subsection b. of this  
18 section.

19 f. Pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1),  
20 interest on the tax paid for which a refund is requested under this  
21 section shall commence to accrue on the later of the date of the  
22 filing by the taxpayer of a claim for refund or requested adjustment,  
23 the date of the payment of the tax, or the due date of the report or  
24 the return thereof, regardless of any later filing perfection date  
25 established by the Director.

26 g. Notwithstanding subsection b. of this section, a qualified  
27 business that is not a small qualified business or a zone-located  
28 qualified business shall not be required to self-assess and self-remit  
29 use tax for a purchase that is exempt under subsection a. of this  
30 section. A business shall report such purchase pursuant to section  
31 17 of P.L.1966, c.30 (C.54:32B-17).

32 (cf: P.L.2006, c.34, s.1)

33

34 2. This act shall take effect immediately and shall apply to  
35 purchases made on or after the first day of the second month next  
36 following the date of enactment.

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38

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#### STATEMENT

40

41 This bill excepts businesses that only have locations within an  
42 urban enterprise zone from obtaining the sales tax exemption for  
43 business purchases through a rebate program.

44 Current law exempts purchases by qualified UEZ businesses for  
45 their own use in the UEZ from the sales tax, but requires the  
46 businesses to pay the sales tax and then apply for a rebate of the tax  
47 amount paid, rather than exempting the sales from tax at the point  
48 of sale. The rebate mechanism prevents abuse of the exemption by



1 businesses using goods purchased exempt from the sales tax at non-  
2 UEZ locations. Current law excepts small businesses from the  
3 rebate requirement, allowing them to obtain the exemption at the  
4 point of sale.

5 This bill broadens the exception to include businesses located  
6 only in an UEZ. Such businesses must be certified by the Division  
7 of Taxation as having a business location or locations only in an  
8 UEZ. The bill eases the administrative burden for UEZ-only  
9 businesses to utilize the sales tax exemption.

10 For UEZ businesses that use the refund method, the bill clarifies  
11 the one year filing period for a refund claim. If the Director of the  
12 Division of Taxation establishes a claim filing date later than the  
13 date of sale, then the taxpayer has one year to file the claim from  
14 that later date. This change ensures that businesses have a full year  
15 to file their claims.

16 The bill also reduces to one year the four year period that  
17 generally applies under the State Uniform Tax Procedure law in  
18 which the Division of Taxation may audit and assess additional  
19 taxes for any UEZ business's claims for exemptions from the sales  
20 and use tax. The audit and assessment period will then match the  
21 claim filing period so that businesses may predict audits and  
22 assessments related to payments and refunds more accurately.

23 The bill clarifies the period at which interest accrual on  
24 overpayments of the sales and use tax begins. Interest accrues from  
25 the later of either the date the tax was paid, the date the claim for  
26 refund was made or the due date of the report or the return thereof,  
27 even if a refund claim is not yet "perfected" under Division of  
28 Taxation procedures.

29 Finally, businesses that qualify for the exemption, but must  
30 obtain a refund, may forego paying the use tax for out-of-state  
31 purchases. Currently, qualified businesses, other than small  
32 businesses, must self-remit the use tax and obtain a refund, just as  
33 the business obtains a refund for the sales tax. Under this bill, all  
34 certified UEZ businesses, that are not small businesses or zone-  
35 located businesses, may obtain the use tax exemption at the point of  
36 sale. These businesses must still report the purchase on their  
37 periodic use tax returns. Small businesses and zone-located  
38 qualified businesses that obtain the sales tax rebate at the point of  
39 sale will also obtain the use tax exemption at the point of sale and  
40 will not need to report unpaid use taxes.

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3938

**STATE OF NEW JERSEY**

DATED: MARCH 5, 2007

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 3938.

Assembly Bill No. 3938 exempts businesses that only have locations within an urban enterprise zone from obtaining the sales tax exemption for business purchases through a rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. The rebate mechanism prevents abuse of the exemption by businesses using goods purchased exempt from the sales tax at non-UEZ locations. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale.

This bill broadens the exception to include businesses located only in a UEZ. Such businesses must be certified by the Division of Taxation as having a business location or locations only in a UEZ. The bill eases the administrative burden for UEZ-only businesses to utilize the sales tax exemption.

For UEZ businesses that use the refund method, the bill clarifies the one year filing period for a refund claim. If the Director of the Division of Taxation establishes a claim filing date later than the date of sale, then the taxpayer has one year to file the claim from that later date. This change ensures that businesses have a full year to file their claims.

The bill also reduces to one year the four year period that generally applies under the State Uniform Tax Procedure law in which the Division of Taxation may audit and assess additional taxes for any UEZ business's claims for exemptions from the sales and use tax. The audit and assessment period will then match the claim filing period so that businesses may predict audits and assessments related to payments and refunds more accurately.

The bill clarifies the period at which interest accrual on overpayments of the sales and use tax begins. Interest accrues from the later of either the date the tax was paid, the date the claim for

refund was made, or the due date of the report or the return thereof, even if a refund claim is not yet “perfected” under Division of Taxation procedures.

Finally, businesses that qualify for the exemption, but must obtain a refund, may forego paying the use tax for out-of-state purchases. Currently, qualified businesses, other than small businesses, must self-remit the use tax and obtain a refund, just as the business obtains a refund for the sales tax. Under this bill, all certified UEZ businesses, that are not small businesses or zone-located businesses, may obtain the use tax exemption at the point of sale. These businesses must still report the purchase on their periodic use tax returns. Small businesses and zone-located qualified businesses that obtain the sales tax rebate at the point of sale will also obtain the use tax exemption at the point of sale and will not need to report unpaid use taxes.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3938**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 18, 2007

The Assembly Budget Committee reports favorably Assembly Bill No. 3938, with committee amendments

This bill, as amended, exempts businesses that only have locations within an urban enterprise zone from obtaining the sales tax exemption for business purchases through a rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. The rebate mechanism prevents abuse of the exemption by businesses using goods purchased exempt from the sales tax at non-UEZ locations. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale.

This bill broadens the exemption to include businesses located only in a UEZ. Such businesses must be certified by the Division of Taxation as having a business location or locations only in a UEZ. The bill eases the administrative burden for UEZ-only businesses to utilize the sales tax exemption.

For UEZ businesses that use the refund method, the bill clarifies the one year filing period for a refund claim. If the Director of the Division of Taxation establishes a claim filing date later than the date of sale, then the taxpayer has one year to file the claim from that later date. This change ensures that businesses have a full year to file their claims.

The bill clarifies the period at which interest accrual on overpayments of the sales and use tax begins. Interest accrues from the later of either the date the tax was paid, the date the claim for refund was made, or the due date of the report or the return thereof, even if a refund claim is not yet “perfected” under Division of Taxation procedures.

The bill increases, from \$1,000,000 to \$5,000,000, the previous year’s gross receipts that a business may have to be defined as a “small qualified business” and exempt from the requirement to take its exemptions as rebates.

Finally, businesses that qualify for the exemption, but must obtain a refund, may forego paying the use tax for out-of-state purchases. Currently, qualified businesses, other than small businesses, must self-remit the use tax and obtain a refund, just as the business obtains a refund for the sales tax. Under this bill, all certified UEZ businesses, that are not small businesses or zone-located businesses, may obtain the use tax exemption at the point of sale. These businesses must still report the purchase on their periodic use tax returns. Small businesses and zone-located qualified businesses that obtain the sales tax rebate at the point of sale will also obtain the use tax exemption at the point of sale and will not need to report unpaid use taxes.

FISCAL IMPACT:

This bill is not expected to have an impact on State Revenues.

COMMITTEE AMENDMENTS:

The amendments delete a provision that would have reduced to one year the four year period that generally applies under the State Uniform Tax Procedure law in which the Division of Taxation may audit and assess additional taxes for any UEZ business's claims for exemptions from the sales and use tax, and change the definition of "small qualified business."

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 3938**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 3, 2007

The Senate Economic Growth Committee reports favorably Assembly Bill No. 3938 (1R) with committee amendments.

This bill, as amended, restores the point of sale sales tax exemption on purchases by businesses located within an urban enterprise zone (“UEZ”) that was eliminated by P.L.2006, c.34 and replaced with a sales tax rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale.

This bill broadens the exemption to include all businesses located in an UEZ. The bill eases the administrative burden for UEZ-only businesses to utilize the sales tax exemption.

Committee amendments delete provisions that would: 1) require qualified UEZ businesses to pay the sales tax and then apply for a rebate of the tax amount paid; 2) define the terms “qualified business,” “zone-located qualified business,” and “small qualified business;” 3) require the Director of the Division of Taxation to submit to the Senate Legislative Oversight Committee and the Assembly Regulatory Oversight Committee any rules or regulations concerning the tax rebate program that are proposed for publication in the New Jersey Register; 4) establish the period at which interest accrual on overpayments of the sales and use tax begins; and 5) allow UEZ businesses that are not small businesses or zone-located businesses to self-assess and self-remit use tax for a purchase exempt from the sales tax and report such purchases. The committee amendments change the bill’s effective date by having the bill’s provisions apply to purchases made on or after January 1, 2008.

As amended and reported by the committee, Assembly Bill, No. 3938 (1R) is identical to Senate Bill, No. 2491 which was also amended and reported by the committee on this date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

## ASSEMBLY, No. 3938

with committee amendments

# STATE OF NEW JERSEY

DATED: JANUARY 3, 2008

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3938 (2R) with committee amendments.

This bill, as amended, broadens the exception for small businesses under the Urban Enterprise Zone sales tax rebate program from businesses with annual gross receipts of less than \$1,000,000 to small businesses with annual gross receipts of \$3,000,000.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. The rebate mechanism prevents abuse of the exemption by businesses using goods purchased exempt from the sales tax at non-UEZ locations. However, current law excepts small businesses with gross receipts of less than \$1,000,000 from the rebate requirement, allowing them to obtain the exemption at the point of sale. This bill, as amended, would expand the number of small businesses eligible to obtain the exemption at the time of purchase by increasing the gross receipts threshold.

As amended, this bill is identical to the Senate Committee Substitute to Senate Bill No. 2491 (1R), as also reported by the committee.

### COMMITTEE AMENDMENTS:

The committee amendments:

- Expand the number of small businesses eligible to obtain the sales tax exemption (for business purchases) at the time of purchase by redefining a “small qualified business” to mean a business having \$3,000,000 in gross receipts rather than \$1,000,000;
- Maintain the current UEZ rebate program through which businesses, except small businesses as redefined above, are exempt from the sales tax for business purchases, but are required to pay the sales tax at the time of purchase and then apply for a rebate of the tax amount paid; and



- Maintain the reporting requirements imposed on the Director of the Division of Taxation with respect to providing the Legislature with any findings and recommendations regarding the UEZ sales tax rebate program enacted pursuant to P.L.2006, c.34.

FISCAL IMPACT:

The Office of Legislative Services does not have sufficient data to estimate the fiscal impact of this bill.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 3938**

## **STATE OF NEW JERSEY 212th LEGISLATURE**

DATED: DECEMBER 13, 2007

### **SUMMARY**

- Synopsis:** Restores point of sale sales tax exemption on purchases by businesses located in UEZ.
- Type of Impact:** Indeterminate impact on tax revenue administration or collections.
- Agencies Affected:** Department of the Treasury. Urban Enterprise Zones.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2008 and Annually Thereafter</u></b>
<b>State Revenue</b>	Indeterminate
<b>Local Revenue</b>	Indeterminate

- The Office of Legislative Services has no data that allow an estimate of potential revenue impact on State and local governments under this bill.

### **BILL DESCRIPTION**

Senate Bill No.2491 (1R) of 2007 restores the point of sale sales tax exemption on purchases by businesses located within an urban enterprise zone (“UEZ”) that was eliminated by P.L.2006, c.34 and replaced with a sales tax rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale. This bill broadens the exemption to include all businesses located in an UEZ.

**FISCAL ANALYSIS**

***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) has no data that allow an estimate of potential revenue impact on State and local governments under this bill. The OLS notes that the provisions repealed by this bill were intended (under P.L. 2006, c.34) to curb fraud and abuse of the sales tax exemptions in an Urban Enterprise Zone (UEZ) and to allow new businesses making initial purchases in a UEZ to also qualify for the sales tax exemption via the rebate mechanism. The OLS has no data that indicate whether or not this bill may increase tax evasion due to the repeal of the sales tax payment and rebate process. The OLS also has no data on the value of forgone new business sales tax rebates.

*Section: Revenue, Finance and Appropriations*

*Analyst: Martin Poethke  
Lead Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

**ASSEMBLY, No. 3938**

## **STATE OF NEW JERSEY 212th LEGISLATURE**

DATED: JANUARY 10, 2008

### **SUMMARY**

- Synopsis:** Broadens the exception for small businesses under the UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;  
Local Urban Enterprise Zone Authorities.

#### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year</u> 2008</b>	<b><u>Fiscal Year</u> 2009</b>	<b><u>Fiscal Year</u> 2010</b>
<b>State Administrative Cost Reduction</b>	At most \$1,200,000 per year		
<b>State Revenue Loss</b>	Indeterminate - See comments below		
<b>Local Revenue Loss</b>	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot quantify the bill's fiscal impact, as it lacks the data upon which to predicate a reliable estimate.
- The bill would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point of sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

### **BILL DESCRIPTION**

Assembly Bill No. 3938 (3R) of 2007 allows qualified UEZ businesses with annual gross receipts ranging from \$1 million to \$3 million to receive the sales tax exemption for certain

acquisitions at the time of sale. Current law requires all qualified UEZ businesses with annual gross receipts of \$1 million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot quantify the bill's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of not more than \$1.2 million per year.

The OLS notes that the bill would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point of sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds. While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point of sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the bill would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce, Economic Growth and Tourism Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 16 percent (or 1,277 firms) year-on-year in fiscal year 2007 from 8,037 to 6,760 firms. According to information related by the Division of Taxation, this drop may be explained by the new tax clearance procedure that took effect contemporaneously with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 UEZ businesses their recertification as a qualified UEZ business as of February 2, 2007.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**SENATE, No. 2491**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED JANUARY 25, 2007

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

**Senator Asselta**

**SYNOPSIS**

Allows point of sale sales tax exemption for UEZ business purchases by business only located in UEZ.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/13/2007)**

S2491 SWEENEY

2

1 AN ACT allowing point of sale sales tax exemption for UEZ  
2 business purchases by business only located in an UEZ,  
3 amending P.L.1983, c.303.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to  
9 read as follows:

10 20. a. Retail sales of personal property (except motor vehicles  
11 and energy) and sales of services (except telecommunications and  
12 utility services) to a qualified business for the exclusive use or  
13 consumption of such business within an enterprise zone are exempt  
14 from the taxes imposed under the "Sales and Use Tax Act,"  
15 P.L.1966, c.30 (C.54:32B-1 et seq.).

16 b. Notwithstanding the provisions of subsection a. of this  
17 section, the seller shall charge and collect from a purchaser that is  
18 not a small qualified business or a zone-located qualified business  
19 the tax at the rate then in effect, and the tax shall be refunded to the  
20 purchaser by the filing, within one year following the date of sale,  
21 of a claim with the New Jersey Division of Taxation for a refund of  
22 sales and use taxes paid for the goods and materials; provided,  
23 however, that if the Director of the Division of Taxation establishes  
24 a filing date later than the date of sale, the qualified business may  
25 file a claim for a refund within one year of that later date. Proof of  
26 claim for refund shall be made by the submission of auditable  
27 receipts and such other documentation as the **[**Director of the  
28 Division of Taxation**]** director may require.

29 c. As used in this section:

30 "Qualified business" includes a business that becomes qualified  
31 by the time the refund application is filed pursuant to subsection b.  
32 of this section; **[and]**

33 "Zone-located qualified business" means a qualified business  
34 that has been determined and certified by the director to have a  
35 business location or locations only within an enterprise zone; if a  
36 business is in an affiliated group, as defined by section 1504 of the  
37 federal Internal Revenue Code of 1986, 26 U.S.C. s.1504, or a  
38 controlled group, as defined by section 1563 of the federal Internal  
39 Revenue Code of 1986, 26 U.S.C. s.1563, any other business in the  
40 group that is in the same line of business as the zone-located  
41 qualified business must also have only one business location, which  
42 location is within an enterprise zone; and

43 "Small qualified business" means a qualified business that has  
44 been determined and certified by the director to have had less than

**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 underlined thus is new matter.



1 \$1,000,000 in annual gross receipts in that business's prior annual  
2 tax period.

3 d. The director shall submit to the Senate Legislative Oversight  
4 Committee and the Assembly Regulatory Oversight Committee any  
5 rules or regulations to effectuate amendments made to this section  
6 by P.L.2006, c.34 that are proposed for publication in the New  
7 Jersey Register. The director shall evaluate the effectiveness of the  
8 amendments made to this section by P.L.2006, c.34 and report any  
9 findings and recommendations regarding the amendments to the  
10 Senate Legislative Oversight Committee and the Assembly  
11 Regulatory Oversight Committee before the Governor presents a  
12 budget proposal for Fiscal Year 2008.

13 e. Notwithstanding R.S.54:49-6, no assessment of an additional  
14 sales or use tax on a sale exempt from the sales and use tax pursuant  
15 to subsection a. of this section shall be made after the expiration of  
16 one year from the date of filing for a refund of sales and use taxes  
17 paid on that sale by a qualified business under subsection b. of this  
18 section.

19 f. Pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1),  
20 interest on the tax paid for which a refund is requested under this  
21 section shall commence to accrue on the later of the date of the  
22 filing by the taxpayer of a claim for refund or requested adjustment,  
23 the date of the payment of the tax, or the due date of the report or  
24 the return thereof, regardless of any later filing perfection date  
25 established by the Director.

26 g. Notwithstanding subsection b. of this section, a qualified  
27 business that is not a small qualified business or a zone-located  
28 qualified business shall not be required to self-assess and self-remit  
29 use tax for a purchase that is exempt under subsection a. of this  
30 section. A business shall report such purchase pursuant to section  
31 17 of P.L.1966, c.30 (C.54:32B-17).

32 (cf: P.L.2006, c.34, s.1)

33

34 2. This act shall take effect immediately and shall apply to  
35 purchases made on or after the first day of the second month next  
36 following the date of enactment.

37

38

39

STATEMENT

40

41 This bill excepts businesses that only have locations within an  
42 urban enterprise zone from obtaining the sales tax exemption for  
43 business purchases through a rebate program.

44 Current law exempts purchases by qualified UEZ businesses for  
45 their own use in the UEZ from the sales tax, but requires the  
46 businesses to pay the sales tax and then apply for a rebate of the tax  
47 amount paid, rather than exempting the sales from tax at the point  
48 of sale. The rebate mechanism prevents abuse of the exemption by

1 businesses using goods purchased exempt from the sales tax at non-  
2 UEZ locations. Current law excepts small businesses from the  
3 rebate requirement, allowing them to obtain the exemption at the  
4 point of sale.

5 This bill broadens the exception to include businesses located  
6 only in an UEZ. Such businesses must be certified by the Division  
7 of Taxation as having a business location or locations only in an  
8 UEZ. The bill eases the administrative burden for UEZ-only  
9 businesses to utilize the sales tax exemption.

10 For UEZ businesses that use the refund method, the bill clarifies  
11 the one year filing period for a refund claim. If the Director of the  
12 Division of Taxation establishes a claim filing date later than the  
13 date of sale, then the taxpayer has one year to file the claim from  
14 that later date. This change ensures that businesses have a full year  
15 to file their claims.

16 The bill also reduces to one year the four year period that  
17 generally applies under the State Uniform Tax Procedure law in  
18 which the Division of Taxation may audit and assess additional  
19 taxes for any UEZ business's claims for exemptions from the sales  
20 and use tax. The audit and assessment period will then match the  
21 claim filing period so that businesses may predict audits and  
22 assessments related to payments and refunds more accurately.

23 The bill clarifies the period at which interest accrual on  
24 overpayments of the sales and use tax begins. Interest accrues from  
25 the later of either the date the tax was paid, the date the claim for  
26 refund was made or the due date of the report or the return thereof,  
27 even if a refund claim is not yet "perfected" under Division of  
28 Taxation procedures.

29 Finally, businesses that qualify for the exemption, but must  
30 obtain a refund, may forego paying the use tax for out-of-state  
31 purchases. Currently, qualified businesses, other than small  
32 businesses, must self-remit the use tax and obtain a refund, just as  
33 the business obtains a refund for the sales tax. Under this bill, all  
34 certified UEZ businesses, that are not small businesses or zone-  
35 located businesses, may obtain the use tax exemption at the point of  
36 sale. These businesses must still report the purchase on their  
37 periodic use tax returns. Small businesses and zone-located  
38 qualified businesses that obtain the sales tax rebate at the point of  
39 sale will also obtain the use tax exemption at the point of sale and  
40 will not need to report unpaid use taxes.

# SENATE ECONOMIC GROWTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 2491**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 3, 2007

The Senate Economic Growth Committee reports favorably Senate Bill No. 2491 with committee amendments.

This bill, as amended, restores the point of sale sales tax exemption on purchases by businesses located within an urban enterprise zone (“UEZ”) that was eliminated by P.L.2006, c.34 and replaced with a sales tax rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale.

This bill broadens the exemption to include all businesses located in an UEZ. The bill eases the administrative burden for UEZ-only businesses to utilize the sales tax exemption.

Committee amendments delete provisions that would: 1) require qualified UEZ businesses to pay the sales tax and then apply for a rebate of the tax amount paid; 2) have reduced to one year the four year period that generally applies under the State Uniform Tax Procedure law in which the Division of Taxation may audit and assess additional taxes for any UEZ business’s claims for exemptions from the sales and use tax; 3) define the terms “qualified business,” “zone-located qualified business,” and “small qualified business;” 4) require the Director of the Division of Taxation to submit to the Senate Legislative Oversight Committee and the Assembly Regulatory Oversight Committee any rules or regulations concerning the tax rebate program that are proposed for publication in the New Jersey Register; 5) establish the period at which interest accrual on overpayments of the sales and use tax begins; and 6) allow UEZ businesses that are not small businesses or zone-located businesses to self-assess and self-remit use tax for a purchase exempt from the sales tax and report such purchases. The committee amendments change the bill’s effective date by having the bill’s provisions apply to purchases made on or after January 1, 2008.

As amended and reported by the committee, Senate Bill, No. 2491 is identical to Assembly Bill, No. 3938 (1R) which was also amended and reported by the committee on this date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2491**

# **STATE OF NEW JERSEY**

DATED: JANUARY 3, 2008

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute to Senate Bill No. 2491.

The substitute bill broadens the exception for small businesses under the Urban Enterprise Zone sales tax rebate program from businesses with annual gross receipts of less than \$1,000,000 to small businesses with annual gross receipts of \$3,000,000.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. The rebate mechanism prevents abuse of the exemption by businesses using goods purchased exempt from the sales tax at non-UEZ locations. However, current law excepts small businesses with gross receipts of less than \$1,000,000 from the rebate requirement, allowing them to obtain the exemption at the point of sale. This substitute would expand the number of small businesses eligible to obtain the exemption at the time of purchase by increasing the gross receipts threshold.

This substitute is identical to Assembly Bill, No. 3938 (1R), as also considered and amended by the committee.

#### FISCAL IMPACT:

The Office of Legislative Services is unable to estimate the fiscal impact of this bill.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 2491 STATE OF NEW JERSEY 212th LEGISLATURE

DATED: DECEMBER 12, 2007

### SUMMARY

- Synopsis:** Restores point of sale sales tax exemption on purchases by businesses located in UEZ.
- Type of Impact:** Indeterminate impact on tax revenue administration or collections.
- Agencies Affected:** Department of the Treasury. Urban Enterprise Zones.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2008 and Annually Thereafter</u></b>
<b>State Revenue</b>	Indeterminate - See comments below
<b>Local Revenue</b>	Indeterminate - See comments below

- The Office of Legislative Services (OLS) has no data that allows an estimate of potential revenue impact on State and local governments under this bill.

### BILL DESCRIPTION

Senate Bill No. 2491 (1R) of 2007 restores the point of sale sales tax exemption on purchases by businesses located within an urban enterprise zone (“UEZ”) that was eliminated by P.L.2006, c.34 and replaced with a sales tax rebate program.

Current law exempts purchases by qualified UEZ businesses for their own use in the UEZ from the sales tax, but requires the businesses to pay the sales tax and then apply for a rebate of the tax amount paid, rather than exempting the sales from tax at the point of sale. Current law exempts small businesses from the rebate requirement, allowing them to obtain the exemption at the point of sale. This bill broadens the exemption to include all businesses located in an UEZ.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS has no data that allow an estimate of potential revenue impact on State and local governments under this bill. The OLS notes that the provisions repealed by this bill were intended (under P.L. 2006, c.34) to curb fraud and abuse of the sales tax exemptions in a UEZ and to allow new businesses making initial purchases in a UEZ to also qualify for the sales tax exemption via the rebate mechanism. The OLS has no data that indicate whether or not this bill may increase tax evasion due to the repeal of the sales tax payment and rebate process. The OLS also has no data on the value of forgone new business sales tax rebates.

*Section: Revenue, Finance and Appropriations*

*Analyst: Martin Poethke  
Lead Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, No. 2491**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JANUARY 10, 2008

**SUMMARY**

- Synopsis:** Broadens the exception for small businesses under the UEZ sales tax rebate program.
- Type of Impact:** Annually Recurring Reduction in Administrative Expenses to the State Enterprise Zone Assistance Fund and Annually Recurring Revenue Loss to the State General Fund, the State Enterprise Zone Assistance Fund, and local Urban Enterprise Zone Authorities.
- Agencies Affected:** Department of the Treasury;  
Local Urban Enterprise Zone Authorities.

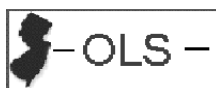
**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Fiscal Year</b></u> <u><b>2008</b></u>	<u><b>Fiscal Year</b></u> <u><b>2009</b></u>	<u><b>Fiscal Year</b></u> <u><b>2010</b></u>
<b>State Administrative Cost Reduction</b>	At most \$1,200,000 per year		
<b>State Revenue Loss</b>	Indeterminate - See comments below		
<b>Local Revenue Loss</b>	Indeterminate - See comments below		

- The Office of Legislative Services (OLS) cannot quantify the bill’s fiscal impact, as it lacks the data upon which to predicate a reliable estimate.
- The bill would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point of sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation’s oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds.

**BILL DESCRIPTION**

Senate Committee Substitute for Senate Bill No. 2491 of 2007 allows qualified UEZ businesses with annual gross receipts ranging from \$1 million to \$3 million to receive the sales





tax exemption for certain acquisitions at the time of sale. Current law requires all qualified UEZ businesses with annual gross receipts of \$1 million or more to pay sales tax at the time of their input purchase and then to apply for a refund of taxes paid to the Division of Taxation.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot quantify the bill's fiscal impact, as it lacks the data upon which to predicate a reliable estimate. As explained below, the agency anticipates indeterminate annual revenue losses to the State General Fund, the State Enterprise Zone Assistance Fund, and local UEZ authorities. In addition, the OLS forecasts a reduction in State administrative cost of no more than \$1.2 million per year.

The OLS notes that the bill would produce a revenue loss to the State and possibly to local UEZ authorities if qualified UEZ businesses were to successfully avail themselves of the point of sale sales tax exemption for input purchases for which they would not have received a refund under the current refund procedure because (a) they would not have sought legitimate refunds, (b) the Division of Taxation's oversight would have deterred them from applying for fraudulent refunds, or (c) the division would have denied their refund requests on technical or substantive grounds. While the OLS cannot credibly quantify this effect, it surmises, however, that any revenue loss to local UEZ authorities would be minimal, as the loss would result from qualified UEZ businesses claiming the point of sale exemption for input purchases made at another qualified UEZ merchant for which they would not have received a refund under current law. The loss would ensue as the State and the local UEZ authority in whose jurisdiction the transaction occurs share sales tax revenue collected by qualified UEZ vendors pursuant to a statutory formula.

The OLS estimates further that the bill would reduce the refund's administrative expenses charged to the off-budget Enterprise Zone Assistance Fund, which were \$1.2 million in fiscal year 2007. While the magnitude of the cost reduction remains unknown, its extent would depend on the reduction of refund claims that the Division of Taxation would have to process as fewer businesses would have to file for refunds.

The New Jersey Commerce, Economic Growth and Tourism Commission has indicated to the OLS that the estimated number of qualified firms in the 32 UEZs had declined by 16 percent (or 1,277 firms) year-on-year in fiscal year 2007 from 8,037 to 6,760 firms. According to information related by the Division of Taxation, this drop may be explained by the new tax clearance procedure that took effect contemporaneously with the new refund mechanism in fiscal year 2007. Only businesses that have met all outstanding State tax liabilities may now be certified to receive UEZ benefits. On account of tax liabilities exceeding a combined \$11 million, this new requirement cost over 1,500 UEZ businesses their recertification as a qualified UEZ business as of February 2, 2007.

SCS for S2491

3

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).