

LEGISLATIVE HISTORY CHECKLIST
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(Repeal yellow page tax)

NJSA: 54:32B-2

LAWS OF: 1995 CHAPTER: 184

BILL NO: A520

SPONSOR(S): Zecker

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: Policy & Rules; Appropriations

SENATE: Natural Resources; Budget

AMENDED DURING PASSAGE: Yes Assembly Committee substitute
 (2R) for A520, A672 & A1146
 enacted. Amendments denoted by
 superscript numbers.

DATE OF PASSAGE: ASSEMBLY: February 6, 1995

SENATE: June 26, 1995

DATE OF APPROVAL: July 26, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 12-12-94 & 1-19-95

SENATE: Yes 2-27-95 & 6-22-95

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

974.90 New Jersey. Legislature. Senate. Natural Resources Committee.
 T235 Public hearing on proposed repeal of tax on yellow pages, held
 1995 1-30-95, Red Bank, NJ, 1995.

KBG:pp

[SECOND REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 520, 672 and 1146

STATE OF NEW JERSEY

ADOPTED DECEMBER 12, 1994

Sponsored by Assemblymen ZECKER, DiGAETANO,
IMPREVEDUTO, COTTRELL, MATTISON, ROBERTS,
BAGGER, BATEMAN, DECROCE, GEIST, Assemblywomen
HECK, OGDEN, Assemblymen SOLOMON, BRYANT,
PASCRELL, T. SMITH, Asselta, Gregg, Assemblywoman
Weinberg and Assemblyman Zisa

1 **AN ACT** to eliminate the sales and use tax on advertising space
2 in telecommunications user or provider directories or indexes
3 distributed in this State, and amending P.L.1966, c.30.

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

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

9 2. Unless the context in which they occur requires otherwise,
10 the following terms when used in this act shall mean:

11 (a) Person. Person includes an individual, partnership, society,
12 association, joint stock company, corporation, public corporation
13 or public authority, estate, receiver, trustee, assignee, referee,
14 and any other person acting in a fiduciary or representative
15 capacity, whether appointed by a court or otherwise, and any
16 combination of the foregoing.

17 (b) Purchase at retail. A purchase by any person at a retail
18 sale.

19 (c) Purchaser. A person who purchases property or who
20 receives services.

21 (d) Receipt. The amount of the sales price of any property and
22 the charge for any service taxable under this act, valued in
23 money, whether received in money or otherwise, including any
24 amount for which credit is allowed by the vendor to the
25 purchaser, without any deduction for expenses or early payment
26 discounts, but excluding any credit for property of the same kind
27 that is not tangible personal property purchased for lease
28 accepted in part payment and intended for resale, excluding the
29 cost of transportation where such cost is separately stated in the
30 written contract, if any, and on the bill rendered to the
31 purchaser, and excluding the amount of the sales price for which
32 food stamps have been properly tendered in full or part payment
33 pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113
34 ²[7 U.S.C. § 011 et seq.]] (7 U.S.C. S2011 et seq.)².

35 (e) Retail sale. (1) A sale of tangible personal property to any
36 person for any purpose, other than (A) for resale either as such or
37 as converted into or as a component part of a product produced

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:

¹ Assembly AAP committee amendments adopted January 19, 1995.

² Senate SBA committee amendments adopted June 22, 1995.

1 for sale by the purchaser, or (B) for use by that person in
2 performing the services subject to tax under subsection (b) of
3 section 3 where the property so sold becomes a physical
4 component part of the property upon which the services are
5 performed or where the property so sold is later actually
6 transferred to the purchaser of the service in conjunction with
7 the performance of the service subject to tax.

8 (2) For the purposes of this act, the term retail sales includes:

9 Sales of tangible personal property to all contractors,
10 subcontractors or repairmen of materials and supplies for use by
11 them in erecting structures for others, or building on, or
12 otherwise improving, altering, or repairing real property of others.

13 (3) For the purposes of this act, the term retail sale includes
14 the purchase of tangible personal property for lease.

15 (4) The term retail sales does not include:

16 (A) Professional, insurance, or personal service transactions
17 which involve the transfer of tangible personal property as an
18 inconsequential element, for which no separate charges are made.

19 (B) The transfer of tangible personal property to a corporation,
20 solely in consideration for the issuance of its stock, pursuant to a
21 merger or consolidation effected under the laws of New Jersey or
22 any other jurisdiction.

23 (C) The distribution of property by a corporation to its
24 stockholders as a liquidating dividend.

25 (D) The distribution of property by a partnership to its
26 partners in whole or partial liquidation.

27 (E) The transfer of property to a corporation upon its
28 organization in consideration for the issuance of its stock.

29 (F) The contribution of property to a partnership in
30 consideration for a partnership interest therein.

31 (G) The sale of tangible personal property where the purpose
32 of the vendee is to hold the thing transferred as security for the
33 performance of an obligation of the vendor.

34 (f) Sale, selling or purchase. Any transfer of title or
35 possession or both, exchange or barter, rental, lease or license to
36 use or consume, conditional or otherwise, in any manner or by any
37 means whatsoever for a consideration, or any agreement
38 therefor, including the rendering of any service, taxable under
39 this act, for a consideration or any agreement therefor.

40 (g) Tangible personal property. Corporeal personal property of
41 any nature.

42 (h) Use. The exercise of any right or power over tangible
43 personal property by the purchaser thereof and includes, but is
44 not limited to, the receiving, storage or any keeping or retention
45 for any length of time, withdrawal from storage, any installation,
46 any affixation to real or personal property, or any consumption of
47 such property. Use also includes the exercise of any right or
48 power over intrastate or interstate telecommunications [and the
49 benefit of advertising space in a telecommunications user or
50 provider directory or index].

51 (i) Vendor. (1) The term "vendor" includes:

52 (A) A person making sales of tangible personal property or
53 services, the receipts from which are taxed by this act;

54 (B) A person maintaining a place of business in the State and

1 making sales, whether at such place of business or elsewhere, to
2 persons within the State of tangible personal property or services,
3 the use of which is taxed by this act;

4 (C) A person who solicits business either by employees,
5 independent contractors, agents or other representatives or by
6 distribution of catalogs or other advertising matter and by reason
7 thereof makes sales to persons within the State of tangible
8 personal property or services, the use of which is taxed by this
9 act;

10 (D) Any other person making sales to persons within the State
11 of tangible personal property or services, the use of which is
12 taxed by this act, who may be authorized by the director to
13 collect the tax imposed by this act; and

14 (E) The State of New Jersey, any of its agencies,
15 instrumentalities, public authorities, public corporations
16 (including a public corporation created pursuant to agreement or
17 compact with another state) or political subdivisions when such
18 entity sells services or property of a kind ordinarily sold by
19 private persons.

20 (F) A person who purchases tangible personal property for
21 lease, whether in this State or elsewhere. For the purposes of
22 Title 54 of the Revised Statutes, the presence of leased tangible
23 personal property in this State is deemed to be a place of business
24 in this State.

25 (2) In addition, when in the opinion of the director it is
26 necessary for the efficient administration of this act to treat any
27 salesman, representative, peddler or canvasser as the agent of
28 the vendor, distributor, supervisor or employer under whom he
29 operates or from whom he obtains tangible personal property sold
30 by him or for whom he solicits business, the director may, in his
31 discretion, treat such agent as the vendor jointly responsible with
32 his principal, distributor, supervisor or employer for the
33 collection and payment over of the tax.

34 (j) Hotel. A building or portion of it which is regularly used
35 and kept open as such for the lodging of guests. The term "hotel"
36 includes an apartment hotel, a motel, boarding house or club,
37 whether or not meals are served.

38 (k) Occupancy. The use or possession or the right to the use or
39 possession, of any room in a hotel.

40 (l) Occupant. A person who, for a consideration, uses,
41 possesses, or has the right to use or possess, any room in a hotel
42 under any lease, concession, permit, right of access, license to
43 use or other agreement, or otherwise.

44 (m) Permanent resident. Any occupant of any room or rooms
45 in a hotel for at least 90 consecutive days shall be considered a
46 permanent resident with regard to the period of such occupancy.

47 (n) Room. Any room or rooms of any kind in any part or
48 portion of a hotel, which is available for or let out for any
49 purpose other than a place of assembly.

50 (o) Admission charge. The amount paid for admission,
51 including any service charge and any charge for entertainment or
52 amusement or for the use of facilities therefor.

53 (p) Amusement charge. Any admission charge, dues or charge
54 of roof garden, cabaret or other similar place.

- 1 (q) Charge of a roof garden, cabaret or other similar place.
2 Any charge made for admission, refreshment, service, or
3 merchandise at a roof garden, cabaret or other similar place.
- 4 (r) Dramatic or musical arts admission charge. Any admission
5 charge paid for admission to a theatre, opera house, concert hall
6 or other hall or place of assembly for a live, dramatic,
7 choreographic or musical performance.
- 8 (s) Lessor. Any person who is the owner, licensee, or lessee of
9 any premises or tangible personal property which he leases,
10 subleases, or grants a license to use to other persons.
- 11 (t) Place of amusement. Any place where any facilities for
12 entertainment, amusement, or sports are provided.
- 13 (u) Casual sale. Casual sale means an isolated or occasional
14 sale of an item of tangible personal property by a person who is
15 not regularly engaged in the business of making sales at retail
16 where such property was obtained by the person making the sale,
17 through purchase or otherwise, for his own use in this State.
- 18 (v) Motor vehicle. Motor vehicle shall include all vehicles
19 propelled otherwise than by muscular power (excepting such
20 vehicles as run only upon rails or tracks), trailers, semitrailers,
21 housetrailer, or any other type of vehicle drawn by a
22 motor-driven vehicle, and motorcycles, designed for operation on
23 the public highways.
- 24 (w) "Persons required to collect tax" or "persons required to
25 collect any tax imposed by this act" shall include: every vendor
26 of tangible personal property or services; every recipient of
27 amusement charges; every operator of a hotel; every lessor; and
28 every vendor of telecommunications. Said terms shall also
29 include any officer or employee of a corporation or of a dissolved
30 corporation who as such officer or employee is under a duty to
31 act for such corporation in complying with any requirement of
32 this act and any member of a partnership. Provided, however, the
33 vendor of tangible personal property to all contractors,
34 subcontractors or repairmen, consisting of materials and supplies
35 for use by them in erecting structures for others, or building on,
36 or otherwise improving, altering or repairing real property of
37 others, shall not be deemed a person required to collect tax, and
38 the tax imposed by any section of this act shall be paid directly
39 to the director by such contractors, subcontractors or repairmen.
- 40 (x) "Customer" shall include: every purchaser of tangible
41 personal property or services; every patron paying or liable for
42 the payment of any amusement charge; and every occupant of a
43 room or rooms in a hotel.
- 44 (y) "Property and services the use of which is subject to tax"
45 shall include: (1) all property sold to a person within the State,
46 whether or not the sale is made within the State, the use of which
47 property is subject to tax under section 6 or will become subject
48 to tax when such property is received by or comes into the
49 possession or control of such person within the State; (2) all
50 services rendered to a person within the State, whether or not
51 such services are performed within the State, upon tangible
52 personal property the use of which is subject to tax under section
53 6 or will become subject to tax when such property is received by
54 or comes into possession or control of such person within the

1 State; (3) intrastate or interstate telecommunications charged to
2 a service address in this State; and (4) [advertising space in a
3 telecommunications user or provider directory or index
4 distributed in this State] (Deleted by amendment, P.L. ,
5 c.)(now pending before the Legislature as this bill).

6 (z) Director. Director means the Director of the Division of
7 Taxation of the State Department of the Treasury, or any officer,
8 employee or agency of the Division of Taxation in the
9 Department of the Treasury duly authorized by the director
10 (directly, or indirectly by one or more redelegations of authority)
11 to perform the functions mentioned or described in this act.

12 (aa) "Lease" means the possession or control of tangible
13 personal property by an agreement, not transferring sole title, as
14 may be evidenced by a contract, contracts, or by implication
15 from other circumstances including course of dealing or usage of
16 trade or course of performance, for a period of more than 28 days.

17 (bb) "The amount of the sales price" of tangible personal
18 property purchased for lease means, at the election of the lessor,
19 either (1) the amount of the lessor's purchase price or (2) the
20 amount of the total of the lease payments attributable to the
21 lease of such property. Tangible personal property purchased for
22 lease is subject to the provisions of subsection (a) of section 3 of
23 P.L.1966, c.30 (C.54:32B-3).

24 (cc) "Telecommunications" means the act or privilege of
25 originating or receiving messages or information through the use
26 of any kind of one-way or two-way communication; including but
27 not limited to voice, video, facsimile, teletypewriter, computer,
28 cellular mobile or portable telephone, specialized mobile or
29 portable pager or paging service, or any other type of
30 communication; using electronic or electromagnetic methods, and
31 all services and equipment provided in connection therewith or by
32 means thereof. "Telecommunications" shall not include:

33 (1) one-way radio or television broadcasting transmissions
34 available universally to the general public without a fee;

35 (2) purchases of telecommunications by a telecommunications
36 provider for use as a component part of telecommunications
37 provided to an ultimate retail consumer who (A) originates or
38 terminates the taxable end-to-end communications ²[of] or² (B)
39 pays charges exempt from taxation pursuant to paragraph (5) of
40 this subsection;

41 (3) services provided by a person, or by that person's wholly
42 owned subsidiary, not engaged in the business of rendering or
43 offering telecommunications services to the public, for private
44 and exclusive use within its organization, provided however, that
45 "telecommunications" shall include the sale of
46 telecommunications services attributable to the excess unused
47 telecommunications capacity of that person to another; and

48 (4) charges in the nature of subscription fees paid by
49 subscribers for cable television service; and

50 (5) charges subject to the local calling rate paid by inserting
51 coins into a coin operated telecommunications device available to
52 the public.

53 (dd) "Interstate telecommunication" means any
54 telecommunication that originates or terminates inside this

1 State, including international telecommunication.

2 (ee) "Intrastate telecommunication" means any
3 telecommunication that originates and terminates within this
4 State.

5 (cf: P.L.1993, c.10, s.1)

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

8 3. 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. If the lessor
11 of tangible personal property purchased for lease elects to pay
12 tax on the amount of the sales price as provided in paragraph (2)
13 of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any
14 and each subsequent lease or rental is a retail sale, and a
15 subsequent sale of such property is a retail sale.

16 (b) The receipts from every sale, except for resale, of the
17 following services:

18 (1) Producing, fabricating, processing, printing or imprinting
19 tangible personal property, performed for a person who directly
20 or indirectly furnishes the tangible personal property, not
21 purchased by him for resale, upon which such services are
22 performed.

23 (2) Installing tangible personal property, or maintaining,
24 servicing, repairing tangible personal property not held for sale in
25 the regular course of business, whether or not the services are
26 performed directly or by means of coin-operated equipment or by
27 any other means, and whether or not any tangible personal
28 property is transferred in conjunction therewith, except (i) such
29 services rendered by an individual who is engaged directly by a
30 private homeowner or lessee in or about his residence and who is
31 not in a regular trade or business offering his services to the
32 public, (ii) such services rendered with respect to personal
33 property exempt from taxation hereunder pursuant to section 13
34 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
35 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
36 tailoring, weaving, pressing, shoe repairing and shoeshining and
37 (v) services rendered in installing property which, when installed,
38 will constitute an addition or capital improvement to real
39 property, property or land.

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

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

53 (5) Advertising services, except advertising services for use
54 directly and primarily for publication in newspapers and

1 magazines and except for direct-mail advertising processing
2 services in connection with distribution to out-of-State
3 recipients.

4 (6) [Advertising space in a telecommunications user or
5 provider directory or index distributed in this State.] [Deleted by
6 amendment, P.L. . c.](now pending before the Legislature as
7 this bill)

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

12 Services otherwise taxable under paragraph (1) or (2) of this
13 subsection (b) are not subject to the taxes imposed under this
14 subsection, where the tangible personal property upon which the
15 services were performed is delivered to the purchaser outside this
16 State for use outside this State.

17 (c) Receipts from the sale of food and drink in or by
18 restaurants, taverns, vending machines or other establishments in
19 this State, or by caterers, including in the amount of such
20 receipts any cover, minimum, entertainment or other charge
21 made to patrons or customers:

22 (1) In all instances where the sale is for consumption on the
23 premises where sold:

24 (2) In those instances where the vendor or any person whose
25 services are arranged for by the vendor, after the delivery of the
26 food or drink by or on behalf of the vendor for consumption off
27 the premises of the vendor, serves or assists in serving, cooks,
28 heats or provides other services with respect to the food or drink,
29 except for meals especially prepared for and delivered to
30 homebound elderly, age 60 or older, and to disabled persons, or
31 meals prepared and served at a group-sitting at a location outside
32 of the home to otherwise homebound elderly persons, age 60 or
33 older, and otherwise homebound disabled persons, as all or part of
34 any food service project funded in whole or in part by government
35 or as part of a private, nonprofit food service project available to
36 all such elderly or disabled persons residing within an area of
37 service designated by the private nonprofit organization; and

38 (3) In those instances where the sale is for consumption off the
39 premises of the vendor, and consists of a meal, or food prepared
40 and ready to be eaten, of a kind obtainable in restaurants as the
41 main course of a meal, including a sandwich, except where food
42 other than sandwiches is sold in an unheated state and is of a type
43 commonly sold in the same form and condition in food stores
44 other than those which are principally engaged in selling prepared
45 foods;

46 (4) Sales of food and beverages sold through coin-operated
47 vending machines, at the wholesale price of such sale, which shall
48 be defined as 70% of the retail vending machine selling price,
49 except sales of milk, which shall not be taxed. Nothing herein
50 contained shall affect other sales through coin-operated vending
51 machines taxable pursuant to subsection (a) above or the
52 exemption thereto provided by section 21 of P.L.1980, c.105
53 (C.54:32B-8.9).

54 The tax imposed by this subsection (c) shall not apply to food or

1 drink which is sold to an airline for consumption while in flight.

2 (d) The rent for every occupancy of a room or rooms in a hotel
3 in this State, except that the tax shall not be imposed upon (1) a
4 permanent resident, or (2) where the rent is not more than at the
5 rate of \$2.00 per day.

6 (e) (1) Any admission charge, where such admission charge is
7 in excess of \$0.75 to or for the use of any place of amusement in
8 the State, including charges for admission to race tracks,
9 baseball, football, basketball or exhibitions, dramatic or musical
10 arts performances, motion picture theatres, except charges for
11 admission to boxing, wrestling, kick boxing or combative sports
12 exhibitions, events, performances or contests which charges are
13 taxed under any other law of this State or under section 20 of
14 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
15 admission to, or use of, facilities for sporting activities in which
16 such patron is to be a participant, such as bowling alleys and
17 swimming pools. For any person having the permanent use or
18 possession of a box or seat or lease or a license, other than a
19 season ticket, for the use of a box or seat at a place of
20 amusement, the tax shall be upon the amount for which a similar
21 box or seat is sold for each performance or exhibition at which
22 the box or seat is used or reserved by the holder, licensee or
23 lessee, and shall be paid by the holder, licensee or lessee.

24 (2) The amount paid as charge of a roof garden, cabaret or
25 other similar place in this State, to the extent that a tax upon
26 such charges has not been paid pursuant to subsection (c) hereof.

27 (f) The receipts from every sale, except for resale, of
28 intrastate or interstate telecommunications charged to an
29 address in this State, regardless of where the services are billed
30 or paid.

31 (cf: P.L.1992, c.11, s.1)

32 3. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read
33 as follows:

34 6. Imposition of compensating use tax. Unless property or
35 services have already been or will be subject to the sales tax
36 under this act, there is hereby imposed on and there shall be paid
37 by every person a use tax for the use within this State of 6%,
38 except as otherwise exempted under this act, (A) of any tangible
39 personal property purchased at retail, (B) of any tangible personal
40 property manufactured, processed or assembled by the user, if
41 items of the same kind of tangible personal property are offered
42 for sale by him in the regular course of business, or if items of
43 the same kind of tangible personal property are not offered for
44 sale by him in the regular course of business and are used as such
45 or incorporated into a structure, building or real property, (C) of
46 any tangible personal property, however acquired, where not
47 acquired for purposes of resale, upon which any taxable services
48 described in paragraphs (1) and (2) of subsection (b) of section 3
49 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of
50 interstate or intrastate telecommunications described in
51 subsection (f) of section 3 of P.L.1966, c.30, and (E) [of
52 advertising space in a telecommunications user or provider
53 directory or index] (Deleted by amendment, P.L. , c.)(now
54 pending before the Legislature as this bill). For purposes of

1 clause (A) of this section, the tax shall be at the applicable rate,
2 as set forth hereinabove, of the consideration given or contracted
3 to be given for such property or for the use of such property, but
4 excluding any credit for property of the same kind accepted in
5 part payment and intended for resale, plus the cost of
6 transportation, except where such cost is separately stated in the
7 written contract, if any, and on the bill rendered to the
8 purchaser. For the purposes of clause (B) of this section, the tax
9 shall be at the applicable rate, as set forth hereinabove, of the
10 price at which items of the same kind of tangible personal
11 property are offered for sale by the user, or if items of the same
12 kind of tangible personal property are not offered for sale by the
13 user in the regular course of business and are used as such or
14 incorporated into a structure, building or real property the tax
15 shall be at the applicable rate, as set forth hereinabove, of the
16 consideration given or contracted to be given for the tangible
17 personal property manufactured, processed or assembled by the
18 user into the tangible personal property the use of which is
19 subject to use tax pursuant to this section, and the mere storage,
20 keeping, retention or withdrawal from storage of tangible
21 personal property by the person who manufactured, processed or
22 assembled such property shall not be deemed a taxable use by
23 him. For purposes of clause (C) of this section, the tax shall be
24 at the applicable rate, as set forth hereinabove, of the
25 consideration given or contracted to be given for the service,
26 including the consideration for any tangible personal property
27 transferred in conjunction with the performance of the service,
28 plus the cost of transportation, except where such cost is
29 separately stated in the written contract, if any, and on the bill
30 rendered to the purchaser. For the purposes of clause (D) of this
31 section, the tax shall be at the applicable rate on the charge
32 made by the telecommunications service provider. [For the
33 purposes of clause (E) of this section, the tax shall be at the
34 applicable rate on the charge made by the advertising space
35 provider.]

36 (cf: P.L.1992, c.11, s.4)

37 4. This act shall take effect ²[July 1, 1995 ¹and shall apply to
38 receipts from charges for billing periods commencing on or after
39 July 1, 1995¹] April 1, 1996 and shall apply to directories or
40 indexes distributed on or after that date².

41

42

43

44

45 Eliminates sales and use tax on telephone "yellow pages"
46 advertising effective April 1, 1996.

ASSEMBLY, No. 520

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblyman ZECKER

1 AN ACT eliminating the sales and use tax on advertising space in
2 telecommunications user or provider directories or indexes
3 distributed in this State, amending P.L.1966, c.30.

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

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

9 2. Unless the context in which they occur requires otherwise,
10 the following terms when used in this act shall mean:

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12 association, joint stock company, corporation, public corporation
13 or public authority, estate, receiver, trustee, assignee, referee,
14 and any other person acting in a fiduciary or representative
15 capacity, whether appointed by a court or otherwise, and any
16 combination of the foregoing.

17 (b) Purchase at retail. A purchase by any person at a retail
18 sale.

19 (c) Purchaser. A person who purchases property or who
20 receives services.

21 (d) Receipt. The amount of the sales price of any property and
22 the charge for any service taxable under this act, valued in
23 money, whether received in money or otherwise, including any
24 amount for which credit is allowed by the vendor to the
25 purchaser, without any deduction for expenses or early payment
26 discounts, but excluding any credit for property of the same kind
27 that is not tangible personal property purchased for lease
28 accepted in part payment and intended for resale, excluding the
29 cost of transportation where such cost is separately stated in the
30 written contract, if any, and on the bill rendered to the
31 purchaser, and excluding the amount of the sales price for which
32 food stamps have been properly tendered in full or part payment
33 pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113
34 7 U.S.C. § 011 et seq.).

35 (e) Retail sale. (1) A sale of tangible personal property to any
36 person for any purpose, other than (A) for resale either as such or
37 as converted into or as a component part of a product produced
38 for sale by the purchaser, or (B) for use by that person in
39 performing the services subject to tax under subsection (b) of
40 section 3 where the property so sold becomes a physical
41 component part of the property upon which the services are
42 performed or where the property so sold is later actually

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 transferred to the purchaser of the service in conjunction with
2 the performance of the service subject to tax.
- 3 (2) For the purposes of this act, the term retail sales includes:
4 Sales of tangible personal property to all contractors,
5 subcontractors or repairmen of materials and supplies for use by
6 them in erecting structures for others, or building on, or
7 otherwise improving, altering, or repairing real property of others.
- 8 (3) For the purposes of this act, the term retail sale includes
9 the purchase of tangible personal property for lease.
- 10 (4) The term retail sales does not include:
- 11 (A) Professional, insurance, or personal service transactions
12 which involve the transfer of tangible personal property as an
13 inconsequential element, for which no separate charges are made.
- 14 (B) The transfer of tangible personal property to a corporation,
15 solely in consideration for the issuance of its stock, pursuant to a
16 merger or consolidation effected under the laws of New Jersey or
17 any other jurisdiction.
- 18 (C) The distribution of property by a corporation to its
19 stockholders as a liquidating dividend.
- 20 (D) The distribution of property by a partnership to its
21 partners in whole or partial liquidation.
- 22 (E) The transfer of property to a corporation upon its
23 organization in consideration for the issuance of its stock.
- 24 (F) The contribution of property to a partnership in
25 consideration for a partnership interest therein.
- 26 (G) The sale of tangible personal property where the purpose
27 of the vendee is to hold the thing transferred as security for the
28 performance of an obligation of the vendor.
- 29 (f) Sale, selling or purchase. Any transfer of title or
30 possession or both, exchange or barter, rental, lease or license to
31 use or consume, conditional or otherwise, in any manner or by any
32 means whatsoever for a consideration, or any agreement
33 therefor, including the rendering of any service, taxable under
34 this act, for a consideration or any agreement therefor.
- 35 (g) Tangible personal property. Corporeal personal property of
36 any nature.
- 37 (h) Use. The exercise of any right or power over tangible
38 personal property by the purchaser thereof and includes, but is
39 not limited to, the receiving, storage or any keeping or retention
40 for any length of time, withdrawal from storage, any installation,
41 any affixation to real or personal property, or any consumption of
42 such property. Use also includes the exercise of any right or
43 power over intrastate or interstate telecommunications [and the
44 benefit of advertising space in a telecommunications user or
45 provider directory or index].
- 46 (i) Vendor. (1) The term "vendor" includes:
- 47 (A) A person making sales of tangible personal property or
48 services, the receipts from which are taxed by this act;
- 49 (B) A person maintaining a place of business in the State and
50 making sales, whether at such place of business or elsewhere, to
51 persons within the State of tangible personal property or services,
52 the use of which is taxed by this act;
- 53 (C) A person who solicits business either by employees,
54 independent contractors, agents or other representatives or by

1 distribution of catalogs or other advertising matter and by reason
2 thereof makes sales to persons within the State of tangible
3 personal property or services, the use of which is taxed by this
4 act;

5 (D) Any other person making sales to persons within the State
6 of tangible personal property or services, the use of which is
7 taxed by this act, who may be authorized by the director to
8 collect the tax imposed by this act; and

9 (E) The State of New Jersey, any of its agencies,
10 instrumentalities, public authorities, public corporations
11 (including a public corporation created pursuant to agreement or
12 compact with another state) or political subdivisions when such
13 entity sells services or property of a kind ordinarily sold by
14 private persons.

15 (F) A person who purchases tangible personal property for
16 lease, whether in this State or elsewhere. For the purposes of
17 Title 54 of the Revised Statutes, the presence of leased tangible
18 personal property in this State is deemed to be a place of business
19 in this State.

20 (2) In addition, when in the opinion of the director it is
21 necessary for the efficient administration of this act to treat any
22 salesman, representative, peddler or canvasser as the agent of
23 the vendor, distributor, supervisor or employer under whom he
24 operates or from whom he obtains tangible personal property sold
25 by him or for whom he solicits business, the director may, in his
26 discretion, treat such agent as the vendor jointly responsible with
27 his principal, distributor, supervisor or employer for the
28 collection and payment over of the tax.

29 (j) Hotel. A building or portion of it which is regularly used
30 and kept open as such for the lodging of guests. The term "hotel"
31 includes an apartment hotel, a motel, boarding house or club,
32 whether or not meals are served.

33 (k) Occupancy. The use or possession or the right to the use or
34 possession, of any room in a hotel.

35 (l) Occupant. A person who, for a consideration, uses,
36 possesses, or has the right to use or possess, any room in a hotel
37 under any lease, concession, permit, right of access, license to
38 use or other agreement, or otherwise.

39 (m) Permanent resident. Any occupant of any room or rooms
40 in a hotel for at least 90 consecutive days shall be considered a
41 permanent resident with regard to the period of such occupancy.

42 (n) Room. Any room or rooms of any kind in any part or
43 portion of a hotel, which is available for or let out for any
44 purpose other than a place of assembly.

45 (o) Admission charge. The amount paid for admission,
46 including any service charge and any charge for entertainment or
47 amusement or for the use of facilities therefor.

48 (p) Amusement charge. Any admission charge, dues or charge
49 of roof garden, cabaret or other similar place.

50 (q) Charge of a roof garden, cabaret or other similar place.
51 Any charge made for admission, refreshment, service, or
52 merchandise at a roof garden, cabaret or other similar place.

53 (r) Dramatic or musical arts admission charge. Any admission
54 charge paid for admission to a theatre, opera house, concert hall

1 or other hall or place of assembly for a live, dramatic,
2 choreographic or musical performance.

3 (s) Lessor. Any person who is the owner, licensee, or lessee of
4 any premises or tangible personal property which he leases,
5 subleases, or grants a license to use to other persons.

6 (t) Place of amusement. Any place where any facilities for
7 entertainment, amusement, or sports are provided.

8 (u) Casual sale. Casual sale means an isolated or occasional
9 sale of an item of tangible personal property by a person who is
10 not regularly engaged in the business of making sales at retail
11 where such property was obtained by the person making the sale,
12 through purchase or otherwise, for his own use in this State.

13 (v) Motor vehicle. Motor vehicle shall include all vehicles
14 propelled otherwise than by muscular power (excepting such
15 vehicles as run only upon rails or tracks), trailers, semitrailers,
16 housetrailers, or any other type of vehicle drawn by a
17 motor-driven vehicle, and motorcycles, designed for operation on
18 the public highways.

19 (w) "Persons required to collect tax" or "persons required to
20 collect any tax imposed by this act" shall include: every vendor
21 of tangible personal property or services; every recipient of
22 amusement charges; every operator of a hotel; every lessor; and
23 every vendor of telecommunications. Said terms shall also
24 include any officer or employee of a corporation or of a dissolved
25 corporation who as such officer or employee is under a duty to
26 act for such corporation in complying with any requirement of
27 this act and any member of a partnership. Provided, however, the
28 vendor of tangible personal property to all contractors,
29 subcontractors or repairmen, consisting of materials and supplies
30 for use by them in erecting structures for others, or building on,
31 or otherwise improving, altering or repairing real property of
32 others, shall not be deemed a person required to collect tax, and
33 the tax imposed by any section of this act shall be paid directly
34 to the director by such contractors, subcontractors or repairmen.

35 (x) "Customer" shall include: every purchaser of tangible
36 personal property or services; every patron paying or liable for
37 the payment of any amusement charge; and every occupant of a
38 room or rooms in a hotel.

39 (y) "Property and services the use of which is subject to tax"
40 shall include: (1) all property sold to a person within the State,
41 whether or not the sale is made within the State, the use of which
42 property is subject to tax under section 6 or will become subject
43 to tax when such property is received by or comes into the
44 possession or control of such person within the State; (2) all
45 services rendered to a person within the State, whether or not
46 such services are performed within the State, upon tangible
47 personal property the use of which is subject to tax under section
48 6 or will become subject to tax when such property is received by
49 or comes into possession or control of such person within the
50 State; (3) intrastate or interstate telecommunications charged to
51 a service address in this State; and (4) [advertising space in a
52 telecommunications user or provider directory or index
53 distributed in this State] (Deleted by amendment, P.L. ,
54 c.)(now pending before the Legislature as this bill).

1 (z) Director. Director means the Director of the Division of
2 Taxation of the State Department of the Treasury, or any officer,
3 employee or agency of the Division of Taxation in the
4 Department of the Treasury duly authorized by the director
5 (directly, or indirectly by one or more redelegations of authority)
6 to perform the functions mentioned or described in this act.

7 (aa) "Lease" means the possession or control of tangible
8 personal property by an agreement, not transferring sole title, as
9 may be evidenced by a contract, contracts, or by implication
10 from other circumstances including course of dealing or usage of
11 trade or course of performance, for a period of more than 28 days.

12 (bb) "The amount of the sales price" of tangible personal
13 property purchased for lease means, at the election of the lessor,
14 either (1) the amount of the lessor's purchase price or (2) the
15 amount of the total of the lease payments attributable to the
16 lease of such property. Tangible personal property purchased for
17 lease is subject to the provisions of subsection (a) of section 3 of
18 P.L.1966, c.30 (C.54:32B-3).

19 (cc) "Telecommunications" means the act or privilege of
20 originating or receiving messages or information through the use
21 of any kind of one-way or two-way communication; including but
22 not limited to voice, video, facsimile, teletypewriter, computer,
23 cellular mobile or portable telephone, specialized mobile or
24 portable pager or paging service, or any other type of
25 communication; using electronic or electromagnetic methods, and
26 all services and equipment provided in connection therewith or by
27 means thereof. "Telecommunications" shall not include:

28 (1) one-way radio or television broadcasting transmissions
29 available universally to the general public without a fee;

30 (2) purchases of telecommunications by a telecommunications
31 provider for use as a component part of telecommunications
32 provided to an ultimate retail consumer who (A) originates or
33 terminates the taxable end-to-end communications of (B) pays
34 charges exempt from taxation pursuant to paragraph (5) of this
35 subsection;

36 (3) services provided by a person, or by that person's wholly
37 owned subsidiary, not engaged in the business of rendering or
38 offering telecommunications services to the public, for private
39 and exclusive use within its organization, provided however, that
40 "telecommunications" shall include the sale of
41 telecommunications services attributable to the excess unused
42 telecommunications capacity of that person to another; and

43 (4) charges in the nature of subscription fees paid by
44 subscribers for cable television service; and

45 (5) charges subject to the local calling rate paid by inserting
46 coins into a coin operated telecommunications device available to
47 the public.

48 (dd) "Interstate telecommunication" means any
49 telecommunication that originates or terminates inside this
50 State, including international telecommunication.

51 (ee) "Intrastate telecommunication" means any
52 telecommunication that originates and terminates within this
53 State.

54 (cf: P.L.1993, c.10, s.1)

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

3 3. There is imposed and there shall be paid a tax of 6% upon:

4 (a) The receipts from every retail sale of tangible personal
5 property, except as otherwise provided in this act. If the lessor
6 of tangible personal property purchased for lease elects to pay
7 tax on the amount of the sales price as provided in paragraph (2)
8 of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any
9 and each subsequent lease or rental is a retail sale, and a
10 subsequent sale of such property is a retail sale.

11 (b) The receipts from every sale, except for resale, of the
12 following 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
16 purchased by him for resale, upon which such services are
17 performed.

18 (2) Installing tangible personal property, or maintaining,
19 servicing, repairing tangible personal property not held for sale in
20 the regular course of business, whether or not the services are
21 performed directly or by means of coin-operated equipment or by
22 any other means, and whether or not any tangible personal
23 property is transferred in conjunction therewith, except (i) such
24 services rendered by an individual who is engaged directly by a
25 private homeowner or lessee in or about his residence and who is
26 not in a regular trade or business offering his services to the
27 public, (ii) such services rendered with respect to personal
28 property exempt from taxation hereunder pursuant to section 13
29 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment,
30 P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning,
31 tailoring, weaving, pressing, shoe repairing and shoeshining and
32 (v) services rendered in installing property which, when installed,
33 will constitute an addition or capital improvement to real
34 property, property or land.

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

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

48 (5) Advertising services, except advertising services for use
49 directly and primarily for publication in newspapers and
50 magazines and except for direct-mail advertising processing
51 services in connection with distribution to out-of-State
52 recipients.

53 (6) [Advertising space in a telecommunications user or
54 provider directory or index distributed in this State.] (Deleted by

1 amendment, P.L. . c. (now pending before the Legislature as
2 this bill)

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

7 Services otherwise taxable under paragraph (1) or (2) of this
8 subsection (b) are not subject to the taxes imposed under this
9 subsection, where the tangible personal property upon which the
10 services were performed is delivered to the purchaser outside this
11 State for use outside this State.

12 (c) Receipts from the sale of food and drink in or by
13 restaurants, taverns, vending machines or other establishments in
14 this State, or by caterers, including in the amount of such
15 receipts any cover, minimum, entertainment or other charge
16 made to patrons or customers:

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

19 (2) In those instances where the vendor or any person whose
20 services are arranged for by the vendor, after the delivery of the
21 food or drink by or on behalf of the vendor for consumption off
22 the premises of the vendor, serves or assists in serving, cooks,
23 heats or provides other services with respect to the food or drink,
24 except for meals especially prepared for and delivered to
25 homebound elderly, age 60 or older, and to disabled persons, or
26 meals prepared and served at a group-sitting at a location outside
27 of the home to otherwise homebound elderly persons, age 60 or
28 older, and otherwise homebound disabled persons, as all or part of
29 any food service project funded in whole or in part by government
30 or as part of a private, nonprofit food service project available to
31 all such elderly or disabled persons residing within an area of
32 service designated by the private nonprofit organization; and

33 (3) In those instances where the sale is for consumption off the
34 premises of the vendor, and consists of a meal, or food prepared
35 and ready to be eaten, of a kind obtainable in restaurants as the
36 main course of a meal, including a sandwich, except where food
37 other than sandwiches is sold in an unheated state and is of a type
38 commonly sold in the same form and condition in food stores
39 other than those which are principally engaged in selling prepared
40 foods;

41 (4) Sales of food and beverages sold through coin-operated
42 vending machines, at the wholesale price of such sale, which shall
43 be defined as 70% of the retail vending machine selling price,
44 except sales of milk, which shall not be taxed. Nothing herein
45 contained shall affect other sales through coin-operated vending
46 machines taxable pursuant to subsection (a) above or the
47 exemption thereto provided by section 21 of P.L.1980, c.105
48 (C.54:32B-8.9).

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

51 (d) The rent for every occupancy of a room or rooms in a hotel
52 in this State, except that the tax shall not be imposed upon (1) a
53 permanent resident, or (2) where the rent is not more than at the
54 rate of \$2.00 per day.

1 (e) (1) Any admission charge, where such admission charge is
2 in excess of \$0.75 to or for the use of any place of amusement in
3 the State, including charges for admission to race tracks,
4 baseball, football, basketball or exhibitions, dramatic or musical
5 arts performances, motion picture theatres, except charges for
6 admission to boxing, wrestling, kick boxing or combative sports
7 exhibitions, events, performances or contests which charges are
8 taxed under any other law of this State or under section 20 of
9 P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for
10 admission to, or use of, facilities for sporting activities in which
11 such patron is to be a participant, such as bowling alleys and
12 swimming pools. For any person having the permanent use or
13 possession of a box or seat or lease or a license, other than a
14 season ticket, for the use of a box or seat at a place of
15 amusement, the tax shall be upon the amount for which a similar
16 box or seat is sold for each performance or exhibition at which
17 the box or seat is used or reserved by the holder, licensee or
18 lessee, and shall be paid by the holder, licensee or lessee.

19 (2) The amount paid as charge of a roof garden, cabaret or
20 other similar place in this State, to the extent that a tax upon
21 such charges has not been paid pursuant to subsection (c) hereof.

22 (f) The receipts from every sale, except for resale, of
23 intrastate or interstate telecommunications charged to an
24 address in this State, regardless of where the services are billed
25 or paid.

26 (cf: P.L.1992, c.11, s.1)

27 3. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read
28 as follows:

29 6. Imposition of compensating use tax. Unless property or
30 services have already been or will be subject to the sales tax
31 under this act, there is hereby imposed on and there shall be paid
32 by every person a use tax for the use within this State of 6%,
33 except as otherwise exempted under this act, (A) of any tangible
34 personal property purchased at retail, (B) of any tangible personal
35 property manufactured, processed or assembled by the user, if
36 items of the same kind of tangible personal property are offered
37 for sale by him in the regular course of business, or if items of
38 the same kind of tangible personal property are not offered for
39 sale by him in the regular course of business and are used as such
40 or incorporated into a structure, building or real property, (C) of
41 any tangible personal property, however acquired, where not
42 acquired for purposes of resale, upon which any taxable services
43 described in paragraphs (1) and (2) of subsection (b) of section 3
44 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of
45 interstate or intrastate telecommunications described in
46 subsection (f) of section 3 of P.L.1966, c.30, and (E) [of
47 advertising space in a telecommunications user or provider
48 directory or index] (Deleted by amendment, P.L. , c.)(now
49 pending before the Legislature as this bill). For purposes of
50 clause (A) of this section, the tax shall be at the applicable rate,
51 as set forth hereinabove, of the consideration given or contracted
52 to be given for such property or for the use of such property, but
53 excluding any credit for property of the same kind accepted in
54 part payment and intended for resale, plus the cost of

1 transportation, except where such cost is separately stated in the
2 written contract, if any, and on the bill rendered to the
3 purchaser. For the purposes of clause (B) of this section, the tax
4 shall be at the applicable rate, as set forth hereinabove, of the
5 price at which items of the same kind of tangible personal
6 property are offered for sale by the user, or if items of the same
7 kind of tangible personal property are not offered for sale by the
8 user in the regular course of business and are used as such or
9 incorporated into a structure, building or real property the tax
10 shall be at the applicable rate, as set forth hereinabove, of the
11 consideration given or contracted to be given for the tangible
12 personal property manufactured, processed or assembled by the
13 user into the tangible personal property the use of which is
14 subject to use tax pursuant to this section, and the mere storage,
15 keeping, retention or withdrawal from storage of tangible
16 personal property by the person who manufactured, processed or
17 assembled such property shall not be deemed a taxable use by
18 him. For purposes of clause (C) of this section, the tax shall be
19 at the applicable rate, as set forth hereinabove, of the
20 consideration given or contracted to be given for the service,
21 including the consideration for any tangible personal property
22 transferred in conjunction with the performance of the service,
23 plus the cost of transportation, except where such cost is
24 separately stated in the written contract, if any, and on the bill
25 rendered to the purchaser. For the purposes of clause (D) of this
26 section, the tax shall be at the applicable rate on the charge
27 made by the telecommunications service provider. [For the
28 purposes of clause (E) of this section, the tax shall be at the
29 applicable rate on the charge made by the advertising space
30 provider.]

31 (cf: P.L.1992, c.11, s.4)

32 4. This act shall take effect July 1, 1994.

33

34

35

STATEMENT

36

37 This bill eliminates, effective July 1, 1994, the sales and use
38 tax on advertising space in telecommunications user or provider
39 directories or indexes distributed in this State. Sales and use tax
40 on "yellow pages" advertising space was enacted as part of
41 P.L.1990, c.40, which increased the tax rate from 6% to 7% on
42 July 1, 1990 and expanded the number of taxable goods and
43 services. The bill will eliminate this tax that falls mainly on
44 small businesses.

45

46

47

48

49 _____
49 Eliminates effective July 1, 1994 sales and use tax on advertising
50 space in telecommunications user or provider directories or
51 indexes distributed in this State.

ASSEMBLY POLICY AND RULES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 520, 672, and 1146

STATE OF NEW JERSEY

DATED: DECEMBER 12, 1994

The Assembly Policy and Rules Committee favorably reports a committee substitute for Assembly Bill Nos. 520, 672 and 1146.

The Assembly committee substitute eliminates, effective July 1, 1995, the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in New Jersey. These telecommunications user or provider directories or indexes are commonly known as "yellow pages."

It is the committee's understanding that the elimination of the sales and use tax on "yellow pages" advertising will have a positive and stimulating effect on New Jersey's approximately 205,000 small businesses. The "yellow pages" are the principal advertising medium for an overwhelming percentage of these small businesses.

The sales and use tax was imposed on "yellow pages" advertising with the enactment of P.L.1990, c.40.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 520, 672 and 1146

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 19, 1995

The Assembly Appropriations Committee reports favorably Assembly Bill No. 520/672/1146 ACS, with Assembly committee amendments.

Assembly Bill No. 520/672/1146 Acs, as amended, eliminates, effective July 1, 1995, the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in New Jersey. The most common telecommunications user directories are commonly known as "yellow pages."

The "yellow pages" is the principal advertising medium for an many small businesses.

The sales and use tax was imposed on "yellow pages" advertising with the enactment of P.L.1990, c.40.

FISCAL IMPACT:

The Office of Legislative Services has estimated the expected revenue loss for fiscal year 1996 to be in the range of \$24 million to \$25 million.

COMMITTEE AMENDMENTS:

The amendments clarify the effective date of the bill. The amendments provide that the elimination of tax will apply to receipts from charges for billing periods commencing on or after July 1, 1995.

SENATE NATURAL RESOURCES, TRADE
AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 520, 672 and 1146

STATE OF NEW JERSEY

DATED: FEBRUARY 27, 1995

The Senate Natural Resources, Trade and Economic Development Committee favorably reports Assembly Bill Nos. 520/672/1146 ACS(1R).

Assembly Bill Nos. 520/672/1146 ACS(1R) eliminates the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in New Jersey, effective July 1, 1995. These telecommunications user or provider directories are commonly known as "yellow pages." The sales and use tax on "yellow pages" advertising space was enacted as part of P.L.1990, c.40, which increased the tax rate and expanded the number of taxable goods and services. As reported by the committee, the substitute is identical to Senate Bill No. 1692, which was also favorably reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services has estimated the expected revenue loss from the repeal of the tax to be in the range of \$24 million to \$25 million per year.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 520, 672 and 1146

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1995

The Senate Budget and Appropriations Committee reports favorably Assembly Bill Nos. 520/672/1146 ACS (1R).

Assembly Bill Nos. 520/672/1146 ACS (1R) eliminates the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in New Jersey, effective July 1, 1995. These telecommunications user or provider directories are commonly known as "yellow pages." The sales and use tax on "yellow pages" advertising space was enacted as part of P.L.1990, c.40, which increased the tax rate and expanded the number of taxable goods and services.

As amended and reported, this bill is identical to Senate Bill No. 1692 (1R) as amended and reported by this committee on June 22, 1995.

COMMITTEE AMENDMENTS

The committee amended the bill to change the effective date to April 1, 1996. In addition, technical amendments were made to correct a citation and a typographical error.

FISCAL IMPACT

The Office of Legislative Services has estimated the expected revenue loss from the repeal of the tax to be in the range of \$24 million to \$25 million per year. The impact of this bill will begin in the second half of Fiscal Year 1997.



OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
Contact: BECKY TAYLOR
777-2600

TRENTON, N.J. 08625

Release: JULY 25, 1995

Gov. Christie Whitman today signed legislation aimed at making New Jersey business friendly by eliminating the sales and use tax on telephone "Yellow Pages" advertising.

The legislation A-520/672/1146, is one element of Gov. Whitman's effort to cut taxes to spur to economic growth. This legislation will benefit small businesses, which are the bulk of New Jersey's businesses and greatest source of job growth.

Recognizing that the telephone directory Yellow Pages are often the only advertising that a small business can afford to do, the legislation removes the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed in New Jersey. The most common of these are the Yellow Pages.

"The Yellow Pages very often are the only method of advertising for small businesses," said Gov. Whitman. "A 6 percent tax, in addition to the cost of the advertising, is often too much for many small businesses. It is important to provide tax relief to this important segment of our business community."

The bill, sponsored by Assemblymen Gerald Zecker (R-Essex/Passaic), Paul DiGaetano (R-Bergen/Essex/Passaic) and Anthony Impreveduto (D-Bergen/Hudson) takes effect April 1, 1996. Cost in the remainder of Fiscal Year 1996 will be \$9 million. Annual costs will be \$30 million to \$35 million.

The Senate version, S-1692, was sponsored by Sen. Joseph Kyrillos (R-Monmouth/Middlesex).