

CHAPTER 213

SALES TAX

§1811. Sales tax

1. Tax imposed; rates. A tax is imposed on the value of all tangible personal property, products transferred electronically and taxable services sold at retail in this State. Value is measured by the sale price.

A. For sales occurring on or after October 1, 2013 and before January 1, 2016, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;
- (3) Eight percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; and
- (4) Ten percent on the value of rental for a period of less than one year of:
 - (a) An automobile;
 - (b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or
 - (c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty. [PL 2019, c. 607, Pt. B, §2 (AMD).]

B. For sales occurring on or after January 1, 2016 and before May 2, 2018, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp; and
- (4) Ten percent on the value of rental for a period of less than one year of:
 - (a) An automobile;
 - (b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or
 - (c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty. [PL 2019, c. 607, Pt. B, §3 (AMD).]

C. For sales occurring on or after May 2, 2018 and before October 1, 2019, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43;

(3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

(5) Ten percent on the value of adult use marijuana and adult use marijuana products beginning on the first day of the calendar month in which adult use marijuana and adult use marijuana products may be sold in the State by a marijuana establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1. [PL 2019, c. 607, Pt. B, §4 (AMD).]

D. For sales occurring on or after October 1, 2019, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

(1) Eight percent on the value of prepared food;

(2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery, small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph F;

(3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;

(4) Ten percent on the value of rental for a period of less than one year of:

(a) An automobile;

(b) A pickup truck or van with a gross vehicle weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles; or

(c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and

(5) Ten percent on the value of adult use marijuana, adult use marijuana products and, if sold by a person to an individual who is not a qualifying patient, marijuana and marijuana products beginning on the first day of the calendar month in which adult use marijuana and adult use marijuana products may be sold in the State by a marijuana establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1. [PL 2019, c. 607, Pt. B, §5 (AMD).]

[PL 2019, c. 607, Pt. B, §§2-5 (AMD).]

2. Public utility sales; tax added to rates. The tax imposed upon the sale and distribution of gas, water or electricity by any public utility, the rates for which sale and distribution are established by the Public Utilities Commission, must be added to the rates so established.

[PL 2019, c. 401, Pt. B, §16 (NEW).]

SECTION HISTORY

PL 1965, c. 362, §6 (AMD). PL 1967, c. 71 (AMD). P&SL 1967, c. 191, §D1 (AMD). PL 1967, c. 544, §92 (AMD). PL 1967, c. 544, §112 (RP). PL 1969, c. 295, §2 (AMD). PL 1973, c. 766, §2 (AMD). PL 1977, c. 198, §6 (AMD). PL 1983, c. 859, §§M7,M13 (AMD). PL 1985, c. 783, §5 (AMD). PL 1987, c. 497, §40 (AMD). PL 1989, c. 533, §§10,14 (AMD). PL 1989, c. 588, §B2 (AMD). PL 1989, c. 871, §16 (AMD). PL 1991, c. 528, §§XX1,2 (AMD). PL 1991, c. 528, §§XX7,8,RRR (AFF). PL 1991, c. 591, §§XX1,2 (AMD). PL 1991, c. 591, §§XX7,8 (AFF). PL

1993, c. 410, §§LLL1,KKKK1 (AMD). PL 1993, c. 410, §LLL5 (AFF). PL 1993, c. 471, §3 (AMD). PL 1993, c. 701, §§6,7 (AMD). PL 1993, c. 701, §10 (AFF). PL 1995, c. 5, §F1 (AMD). PL 1995, c. 5, §F2 (AFF). PL 1995, c. 281, §§18,19 (AMD). PL 1995, c. 281, §42 (AFF). PL 1999, c. 401, §§X1-3 (AMD). PL 1999, c. 401, §X5 (AFF). PL 1999, c. 414, §23 (AMD). PL 1999, c. 488, §11 (AMD). PL 2001, c. 439, §TTTT2 (AMD). PL 2001, c. 439, §TTTT3 (AFF). PL 2003, c. 510, §C12 (AMD). PL 2003, c. 510, §C13 (AFF). PL 2003, c. 673, §V23 (AMD). PL 2003, c. 673, §V29 (AFF). PL 2007, c. 410, §5 (AMD). PL 2007, c. 410, §6 (AFF). PL 2007, c. 438, §48 (AMD). PL 2007, c. 444, §1 (AMD). PL 2007, c. 627, §51 (AMD). PL 2007, c. 627, §96 (AFF). PL 2011, c. 209, §4 (AMD). PL 2011, c. 209, §5 (AFF). PL 2013, c. 368, Pt. M, §2 (AMD). PL 2013, c. 368, Pt. N, §2 (AMD). PL 2013, c. 588, Pt. E, §11 (AMD). PL 2015, c. 267, Pt. OOOO, §5 (AMD). PL 2015, c. 267, Pt. OOOO, §7 (AFF). PL 2015, c. 300, Pt. A, §25 (AMD). PL 2017, c. 409, Pt. D, §2 (AMD). PL 2019, c. 231, Pt. A, §10 (AMD). PL 2019, c. 401, Pt. B, §16 (RPR). PL 2019, c. 607, Pt. B, §§2-5 (AMD).

§1811-A. Credit for worthless accounts

The tax paid on sales represented by accounts charged off as worthless may be credited against the tax due on a subsequent return filed within 3 years of the charge-off, but, if any such accounts are thereafter collected by the retailer, a tax must be paid upon the amounts so collected. [PL 2007, c. 438, §49 (AMD).]

SECTION HISTORY

PL 1965, c. 196, §1 (NEW). PL 1981, c. 706, §22 (AMD). PL 2007, c. 438, §49 (AMD).

§1811-B. Credit for tax paid on purchases for resale

A retailer registered under section 1754-B or 1756 may claim a credit for sales tax imposed by this Part if the retailer has paid the sales tax on tangible personal property purchased for resale at retail sale. The credit may be claimed only on the return that corresponds to the period in which the tax was paid. The credit may not be claimed if the item has been withdrawn from inventory by the retailer for the retailer's own use prior to its sale. If the retailer purchases an item for resale at retail sale and pays tax to its vendor and if the retailer's sales and use tax liability for the tax period in question is less than the credit being claimed, the retailer is entitled either to carry the credit forward or to receive a refund of the tax paid. [PL 2019, c. 401, Pt. B, §17 (AMD).]

SECTION HISTORY

PL 2003, c. 673, §AAA3 (NEW). PL 2005, c. 332, §14 (AMD). PL 2005, c. 332, §30 (AFF). PL 2019, c. 401, Pt. B, §17 (AMD).

§1812. Adding tax to sale price

1. Computation.

[PL 2017, c. 211, Pt. B, §3 (RP); PL 2017, c. 211, Pt. B, §9 (AFF).]

1-A. Computation. Every retailer shall add the sales tax imposed by section 1811 to the sale price on all sales of tangible personal property and taxable services that are subject to tax under this Part. The tax when so added is a debt of the purchaser to the retailer until it is paid and is recoverable at law by the retailer from the purchaser in the same manner as the sale price. When the sale price involves a fraction of a dollar, the tax computation must be carried to the 3rd decimal place, then rounded down to the next whole cent whenever the 3rd decimal place is one, 2, 3 or 4 and rounded up to the next whole cent whenever the 3rd decimal place is 5, 6, 7, 8 or 9.

[PL 2017, c. 211, Pt. B, §4 (NEW); PL 2017, c. 211, Pt. B, §9 (AFF).]

2. Several items. When several purchases are made together and at the same time, the tax may be computed on each item individually or on the total amount of the several items, as the retailer may elect, except that purchases taxed at different rates must be separately totaled.

[PL 2017, c. 211, Pt. B, §5 (AMD); PL 2017, c. 211, Pt. B, §9 (AFF).]

3. Breakage.

[PL 2017, c. 211, Pt. B, §6 (RP); PL 2017, c. 211, Pt. B, §9 (AFF).]

SECTION HISTORY

P&SL 1967, c. 191, §D2 (AMD). PL 1967, c. 544, §93 (AMD). PL 1967, c. 544, §112 (RP). PL 1969, c. 295, §3 (AMD). PL 1985, c. 783, §6 (RPR). PL 1987, c. 402, §A181 (RPR). PL 1989, c. 588, §§B3,B4 (AMD). PL 1989, c. 871, §17 (AMD). PL 1991, c. 528, §§XX3-5 (AMD). PL 1991, c. 528, §§XX7,8,RRR (AFF). PL 1991, c. 591, §§XX3-5 (AMD). PL 1991, c. 591, §§XX7,8 (AFF). PL 1991, c. 846, §24 (AMD). PL 1993, c. 410, §LLL2 (AMD). PL 1993, c. 410, §LLL5 (AFF). PL 1995, c. 281, §20 (AMD). PL 1999, c. 401, §X4 (AMD). PL 1999, c. 414, §§24,25 (AMD). PL 1999, c. 790, §A48 (AMD). PL 2013, c. 368, Pt. M, §3 (AMD). PL 2015, c. 267, Pt. OOOO, §6 (AMD). PL 2015, c. 267, Pt. OOOO, §7 (AFF). PL 2015, c. 300, Pt. A, §26 (AMD). PL 2017, c. 211, Pt. B, §§3-6 (AMD). PL 2017, c. 211, Pt. B, §9 (AFF).

§1813. Illegal collection of sales tax prohibited

Any retailer who knowingly charges or collects as the sales tax due on the sale price of any property or service an amount in excess of that provided by section 1812 commits a Class E crime. [PL 1991, c. 546, §24 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §276 (AMD). PL 1991, c. 546, §24 (AMD).

§1814. Excessive and erroneous collections

1. Tax liability. Whenever the tax collected by a retailer for any period exceeds that provided by law, whether the excess is attributable to the collection of tax on exempt or nontaxable transactions or erroneous computation, the total amount collected, excluding only that portion of the excess that has been returned or credited to the person or persons from whom it was collected, constitutes a tax liability of the retailer that must be reported and paid at the time and in the manner provided by sections 1951-A and 1952.

[PL 2003, c. 390, §11 (AMD).]

2. Tax liability subject to assessment, collection and enforcement. The tax liability specified in subsection 1 is subject to assessment, collection and enforcement by the assessor in the manner provided in chapters 7 and 211 to 225.

[PL 2017, c. 170, Pt. C, §7 (AMD).]

3. Refund. Any such amount which has been paid by or collected from a retailer shall be refunded by the State Tax Assessor to the retailer in accordance with section 2011 only upon submission of proof to the satisfaction of the State Tax Assessor that the amount has been returned or credited to the person or persons from whom it was originally collected. In such cases, interest shall be paid by the State Tax Assessor only upon proof that interest was included in the repayment by the retailer to that person or persons.

[PL 1987, c. 772, §23 (AMD).]

SECTION HISTORY

PL 1977, c. 316, §1 (NEW). PL 1979, c. 378, §9 (AMD). PL 1987, c. 772, §23 (AMD). PL 2003, c. 390, §11 (AMD). PL 2017, c. 170, Pt. C, §7 (AMD).

§1815. Tax from sales occurring on Passamaquoddy reservation

1. Passamaquoddy Sales Tax Fund. The Passamaquoddy Sales Tax Fund, referred to in this section as the "fund," is established as a dedicated account to be administered by the Treasurer of State

for the purpose of returning sales tax revenue to the Passamaquoddy Tribe pursuant to subsections 2 and 3.

[PL 1999, c. 477, §1 (NEW).]

2. Monthly transfer. By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this Part in the previous month on sales occurring on the Passamaquoddy reservation at either Pleasant Point or Indian Township reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer that amount to the Passamaquoddy Sales Tax Fund.

[PL 1999, c. 477, §1 (NEW).]

3. Monthly payment. By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy Sales Tax Fund equal to the amounts transferred into the fund.

[PL 1999, c. 477, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 477, §1 (NEW).

§1816. Special rules for mobile telecommunications services

(REPEALED)

SECTION HISTORY

PL 2001, c. 584, §9 (NEW). PL 2001, c. 584, §10 (AFF). PL 2003, c. 673, §V24 (RP). PL 2003, c. 673, §V29 (AFF).

§1817. Taxes on retail marijuana and retail marijuana products

(CONFLICT)

1. Definitions.

[PL 2017, c. 409, Pt. D, §3 (RP).]

2. Sales tax on retail marijuana and retail marijuana products.

[PL 2017, c. 409, Pt. D, §3 (RP).]

3. Returns; payment of tax; penalty.

[PL 2017, c. 409, Pt. D, §3 (RP).]

4. Failure to make payments.

[PL 2017, c. 409, Pt. D, §3 (RP).]

5. (CONFLICT: Text as repealed by PL 2017, c. 409, Pt. D, §3) Exemption.

[PL 2017, c. 409, Pt. D, §3 (RP).]

5. (CONFLICT: Text as amended by PL 2017, c. 452, §30) Exemption. The tax on marijuana imposed pursuant to this section may not be levied on marijuana sold by a registered dispensary or registered caregiver to a qualifying patient or caregiver pursuant to Title 22, chapter 558-C.

[PL 2017, c. 452, §30 (AMD).]

6. Records.

[PL 2017, c. 409, Pt. D, §3 (RP).]

7. Application of tax revenues.

[PL 2017, c. 409, Pt. D, §3 (RP).]

8. Effective date.

[PL 2017, c. 409, Pt. D, §3 (RP).]

SECTION HISTORY

IB 2015, c. 5, §3 (NEW). PL 2017, c. 1, §21 (AMD). PL 2017, c. 409, Pt. D, §3 (RP). PL 2017, c. 452, §30 (AMD).

§1818. Tax on adult use marijuana and adult use marijuana products

All sales tax revenue collected pursuant to section 1811 on the sale of adult use marijuana and adult use marijuana products must be deposited into the General Fund, except that, on or before the last day of each month, the State Controller shall transfer 12% of the sales tax revenue received by the assessor during the preceding month pursuant to section 1811 to the Adult Use Marijuana Public Health and Safety Fund established under Title 28-B, section 1101. [PL 2017, c. 409, Pt. D, §4 (NEW).]

SECTION HISTORY

PL 2017, c. 409, Pt. D, §4 (NEW).

§1819. Sourcing

1. "Receive" and "receipt" defined. For the purposes of this section, "receive" and "receipt" mean:

- A. Taking possession of tangible personal property; [PL 2019, c. 401, Pt. B, §18 (NEW).]
- B. Making first use of services; or [PL 2019, c. 401, Pt. B, §18 (NEW).]
- C. Taking possession or making first use of products transferred electronically, whichever comes first. [PL 2019, c. 401, Pt. B, §18 (NEW).]

"Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser. [PL 2019, c. 401, Pt. B, §18 (NEW).]

2. Sourcing for sales of tangible personal property and taxable services. The retail sale of tangible personal property or a taxable service is sourced in this State pursuant to this subsection.

- A. When the tangible personal property or taxable service is received by the purchaser at a business location of the seller, the sale is sourced to that business location. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- B. When the tangible personal property or taxable service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee occurs, including the location indicated by instructions for delivery to the purchaser or donee known to the seller. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- C. For a sale when paragraphs A and B do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- D. For a sale when paragraphs A to C do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith. [PL 2019, c. 401, Pt. B, §18 (NEW).]
- E. When paragraphs A to D do not apply, including the circumstance in which the seller is without sufficient information to apply paragraphs A to D, the location is determined by the address from which tangible personal property was shipped, from which the tangible personal property or taxable service transferred electronically was first available for transmission by the seller or from which the service was provided, disregarding for these purposes any location that merely provided the

digital transfer of the tangible personal property or taxable service sold. [PL 2019, c. 401, Pt. B, §18 (NEW).]

[PL 2019, c. 401, Pt. B, §18 (NEW).]

SECTION HISTORY

PL 2019, c. 401, Pt. B, §18 (NEW).

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