

ASSEMBLY, No. 5710

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 17, 2021

Sponsored by:

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

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District 37 (Bergen)

SYNOPSIS

Provides temporary deduction for food and beverage establishments from certain sales and use tax remittances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/17/2021)

1 AN ACT providing a temporary deduction for food and beverage
2 establishments from remittances under the “Sales and Use Tax
3 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).
4

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

8 1. a. A seller operating a restaurant establishment, mobile food
9 services establishment, or alcoholic beverages establishment may
10 deduct from the remittance required under section 18 of the “Sales
11 and Use Tax Act,” P.L.1966, c.30 (C.54:32B-18), the amount of
12 taxes collected from not more than \$70,000 in taxable sales
13 received per eligible business location during each month of the
14 relief period. The deduction allowed pursuant to this section shall
15 not exceed the amount of taxes collected at the business location
16 during the month for which the deduction is claimed.

17 b. (1) If a seller operates an alcoholic beverages establishment
18 or a restaurant establishment, the seller may claim the deduction for
19 no more than five business locations, except that no deduction shall
20 be allowed for:

21 (a) nonphysical sites that are established for the purposes of
22 reporting taxable sales; or

23 (b) a temporary business location or special event.

24 (2) If a seller operates a mobile food services establishment, the
25 seller may claim the deduction for no more than five motorized
26 vehicles or nonmotorized carts.

27 (3) If a seller operates both a restaurant establishment and a
28 mobile food services establishment, the seller may claim the
29 deduction for no more than five business locations and may also
30 claim the deduction for no more than five motorized vehicles or
31 nonmotorized carts.

32 c. A seller may claim the deduction on the monthly or quarterly
33 return filed to the Director of the Division of Taxation in the
34 Department of the Treasury pursuant to section 17 of P.L.1966, c.30
35 (C.54:32B-17). The seller shall retain the collections of any taxes
36 for which the deduction is claimed.

37 d. As used in this section:

38 “Alcoholic beverages establishment” means a business primarily
39 that is engaged in preparing and serving alcoholic beverages for
40 immediate, on-premises consumption, and that may also prepare
41 and serve meals or other food items for on-premises consumption.
42 The term includes, but is not limited to, breweries, distilleries,
43 wineries, and brew pubs.

44 “Mobile food services establishment” means a business primarily
45 engaged in preparing and serving meals, snacks, or nonalcoholic
46 beverages for immediate consumption from motorized vehicles or
47 nonmotorized carts. The term does not include businesses that
48 deliver food prepared by third parties, or businesses that prepare

1 and deliver meal kits, heat-at-home meals, or other unprepared food
2 to consumers for home consumption.

3 “Relief period” means the four-month period beginning on the
4 first day of the second month next following the effective date of
5 P.L. , c. (pending before the Legislature as this bill) and ending
6 on the last day of the fifth month next following the effective date
7 of P.L. , c. (pending before the Legislature as this bill).

8 “Restaurant establishment” means a business primarily engaged
9 in preparing and serving meals and other food items that are
10 primarily intended for on-premises consumption. The term does not
11 include fast-food restaurants that dispense food intended to be
12 ordered, prepared, and served quickly, with minimal or no table
13 service.

14

15 2. Notwithstanding any provision of the “Administrative
16 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
17 contrary, the Director of the Division of Taxation in the Department
18 of the Treasury shall adopt, immediately upon filing with the Office
19 of Administrative Law, and no later than the 30th day after the
20 effective date of this act, such rules and regulations as the director
21 deems necessary to implement the provisions of P.L. , c.
22 (pending before the Legislature as this bill).

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24 3. This act shall take effect immediately and expire on the 21st
25 day of the eighth month next following the date of enactment.

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STATEMENT

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30 This bill provides a temporary deduction for food and beverage
31 establishments from remittances under the “Sales and Use Tax
32 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.). Through this deduction,
33 these establishments would retain a portion of the sales taxes that
34 are collected at certain business locations.

35 Under the bill, a qualifying food or beverage establishment may
36 deduct from the remittance required under the “Sales and Use Tax
37 Act,” P.L.1966, c.30 (C.54:32B-1 et seq.), the amount of taxes
38 collected from not more than \$70,000 in taxable sales received per
39 eligible business location during each month of a four-month relief
40 period. However, the deduction may not exceed the amount of
41 taxes collected at the business location during the month for which
42 the deduction is claimed. After claiming the deduction, a qualifying
43 food or beverage establishment would retain the collection of any
44 taxes for which the deduction is claimed.

45 The following food and beverage establishments would qualify
46 for the deduction: (1) alcoholic beverage establishments, including

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1 breweries, wineries, distilleries, and brew pubs; (2) restaurant and
2 food establishments, not including fast-food restaurants, and (3)
3 mobile food service establishments, including food trucks and food
4 stands.

5 The bill allows a qualifying food or beverage establishment to
6 claim the deduction for not more than five business locations.
7 However, if a seller operates both a restaurant establishment and a
8 mobile food services establishment, the deduction could be claimed
9 for not more than five business locations and not more than five
10 motorized vehicles or nonmotorized carts.

11 Under the bill, the four-month relief period would begin on the
12 first day of the second month following the date of enactment and
13 conclude on the last day of the fifth month following the date of
14 enactment.