

Tax Alert: New Jersey Residents Face Sales/Use Tax Increase

New Jersey residents may have noticed by now that the state is taking a bigger chunk of change out of their pocketbook:

- The sales tax has increased to 7% (as of July 15, 2006).
- As of October 1, 2006, sales and use taxes are now imposed on a large number of services that were formerly exempt. The laundry list of services that are now being taxed range from basic home maintenance items, such as certain dry cleaning services, to larger items such as landscaping.
- The new tax law clarified that an out-of-state business will have Sales Tax nexus in New Jersey through independent agents soliciting in the state.

Should you have any questions about how these changes may affect you or your business, do not hesitate to consult your Anchin relationship partner.

Following is a list of services that will now face the sales/use tax:

Digital Property: Digital Property is electronically delivered music, ringtones, movies, books, audio and video works and similar products, where the customer is granted a right or license to use, retain or make a copy of such item.

Digital property does not include video programming services, including video on demand television services, and broadcasting services, including content to provide such services.

It remains to be seen how the Division of Taxation will ensure iPod compliance.

Freight and Delivery Charges for Taxable Goods and Services:

Delivery charges, whether or not separately stated, will now be taxable. However, delivery charges related to nontaxable items such as clothing will be exempt.

Delivery charges are charges by the seller for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. If a shipment includes both exempt and taxable property, the seller should allocate the delivery charge by using: (1) a percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment; or (2) a percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment. Thus, only the portion of the delivery

charge that relates to the taxable property or services will be subject to tax.

Information Services: The law defines "Information Services" as the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information not incorporated into reports furnished to other people.

Installation of Floor Coverings:

Floor covering installation services will no longer be treated as a "capital improvement" and will be taxable. Exemptions for the installation of floor covering, which included carpeting, linoleum, tile and padding, were eliminated. Labor now becomes taxable. If a contractor does not separate the charge for materials from the charge for labor, the entire amount will be taxable.

Investigation and Security Services:

- Investigation and detective services, including detective agencies and private investigators, and fingerprint, polygraph; missing person tracing and skip tracing services;
- Security guard and patrol

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services, including bodyguard and personal protection, guard dog, guard, patrol, and security services;

- Armored car services; and
- Security systems services, including security, burglar, and fire alarm installation (including wiring within walls), repair or monitoring services.

Landscaping Services: The following will now be subject to tax and will no longer be treated as part of an exempt capital improvement:

- Seeding;
- Sodding;
- Grass plugging of new lawns;
- Planting trees, shrubs, hedges, plants, etc.; and
- Clearing and filling land associated with these services. This also includes tree/stump removal.

Other services performed by a landscaper such as the installation of a new fence, low-voltage lighting, underground sprinkler system, hardscaping (i.e., installation of deck, paver patio, walkway, driveway, swimming pool deck, retaining walls, etc.), and similar structures, remain exempt capital improvements. Accordingly, the related installation labor cost will still be exempt from sales tax. The contractor will be deemed to be the "end-user" of these materials and will be charged sales tax by his/her vendors.

Repair and maintenance services (e.g., mowing, seeding, and fertilizing) performed by landscapers will still be taxable.

For nonexempt services, customers will be subject to sales tax on materials.

Laundering: The exemption from sales tax for laundering, dry cleaning, tailoring, weaving, and pressing will be limited only to clothing. These services will now be taxable when performed on draperies, carpets, blankets, comforters, slipcovers, tablecloths, napkins, dust cloths, mats, mops, industrial wiper cloths, fender covers, bed linens, hospital linens, table linens, linen supply towels and other cloths.

Limousine Services: Transportation services originating in New Jersey and provided by a limousine operator, except for funerals.

Magazines and Periodicals: Magazines and periodicals, whether or not accessed by electronic means, are subject to tax. However, newspapers, magazines and periodicals sold by subscription, and membership periodicals are still exempt. A membership periodical is any periodical distributed by a nonprofit organization to its members as a benefit of membership in the organization.

Massage Services: Massage, bodywork or somatic services, except when provided pursuant to a doctor's prescription.

Membership Fees: Initiation fees, membership fees or dues for access to or use of the property or facilities of a health and fitness, athletic, sporting or shopping club or organization in New Jersey,

except for membership in a club or organization whose members are predominantly age 18 or under.

Parking: Receipts from parking, storing or garaging a motor vehicle will be subject to tax. However, charges for the following types of parking will not be subject to sales taxes: residential parking; employee parking, when provided by an employer or at a facility owned or operated by the employer; municipal metered parking; and parking receipts subject to tax imposed by any other law or ordinance (e.g., municipal parking taxes).

Storage Space: Furnishing of space for storage of tangible personal property, such as a "self-storage" or "miniwarehouse" unit, will be subject to sales tax. Charges for space used to store property held for sale - i.e., business inventory -- will not be subject to sales tax. Space for storage does not include the lease or rental of an entire building, such as a warehouse or airplane hanger.

Tanning Services: Tanning services, including the application of a temporary tan provided by any means.

Tattooing: Tattooing, including all permanent body art and permanent cosmetic make-up applications.

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