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N.J. REPEALS SALES TAX ON CERTAIN MEMBERSHIP FEES
AND PARKING CHARGES

Initiation Fees, Membership Fees or Dues (N.J.S.A. 54:32B-3(h))

As of October 1, 2006, New Jersey sales tax is imposed on charges for initiation fees, membership fees or dues for access to facilities of a health and fitness, athletic, sporting or shopping club or organization. The sales tax was imposed on these charges regardless of whether the club or organization selling the membership was a state or local government entity, a qualified exempt organization (ST-5 Certificate holder), or a non-profit.

Effective July 1, 2007, the law was amended to exclude such charges when made by the following:

1. The State of New Jersey or any of its agencies, instrumentalities, public corporations or political subdivisions; for example, municipal and county pools, golf courses, tennis clubs and similar facilities; or
2. Religious, charitable, scientific, literary or educational organizations, which applied to the Division of Taxation and were granted sales tax exemption. Such organizations qualify for exemption under Internal Revenue Code Section 501(c)(3) and have been issued an Exempt Organization Certificate (ST-5); for example, YMCAs and YWCAs.

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Note: The newly enacted exclusion for memberships sold by an organization, described in #2 above is not based on the status of the seller as a “non-profit” organization. Rather, it is limited to organizations that are qualified under IRC Section 501(c)(3) and which have been issued an ST-5 Certificate.

All other charges for initiation fees, membership fees or dues for access to facilities of a health and fitness, athletic, sporting or shopping club or organization remain subject to sales tax.

Municipal Parking, Storing or Garaging a Motor Vehicle (N.J.S.A. 54:32B-3(i))

As of October 1, 2006, New Jersey sales tax is imposed on charges for parking, storing or garaging a motor vehicle, excluding residential parking, employee parking, and municipal metered parking.

Effective July 1, 2007, the law was amended to **exclude all** municipal parking, not just metered parking. Thus, in addition to metered parking, the following types of municipal parking is no longer subject to tax:

1. Any system where payment is made at a device in a central location(s) in an open air lot.
2. Parking spaces or stalls in a structure of any kind, whether controlled by meters on a post, by an attended or an unattended kiosk pay system, by parking attendants, or by lift gates.

Other than residential and employee parking, all other charges for parking, storing or garaging a motor vehicle remain subject to tax.

Atlantic City Casino Parking Charges

Pursuant to N.J.S.A. 5:12-173.3, parking at Atlantic City Casino hotels is subject to a minimum fee of \$3. As of October 1, 2006, this \$3 fee, in addition to any other amount the casino hotel charged for parking, was subject to sales tax.

Effective July 1, 2007, the law was amended to **exclude** the \$3 minimum fee from the receipt subject to tax. However, any amount collected over and above the \$3 fee remains subject to sales tax. There is also an exclusion for parking charges or fees imposed pursuant to an agreement between the Casino Reinvestment Development Authority (CRDA) and a casino operator which was in effect as of June 28, 2007.

Availability of a Refund of Sales Tax

The provisions of the recently enacted law are not retroactive; thus, the above described memberships and parking charges are subject to 7% sales tax for the period October 1, 2006 to June 30, 2007.

However, these charges are no longer taxable on and after July 1, 2007. Therefore, if **prior to July 1, 2007**, a customer paid for a membership or parking charges **as described above**, which covers periods on and after July 1, 2007, the customer may apply for a sales tax refund. The refund is based on a pro rata allocation between the amount paid for periods prior to July 1, 2007 and the amount paid for periods after July 1, 2007.

In order to submit a Claim for Refund (Form A-3730), the claim form must be accompanied by documentation of the amount of sales tax that was paid for periods on and after July 1, 2007, such as evidenced by a contract, bill, invoice, or similar statement issued by the facility. The claim form must include proof of payment of the tax, such as a copy (not original) of a cancelled check, credit card payment receipt, credit card bill statement, electronic funds transfer (bank statement), or a cash payment receipt.

Questions concerning the information in this Notice can be directed to nj.streamlined@treas.state.nj.us.

General sales and use tax questions should be directed to nj.taxation@treas.state.nj.us or 609-292-6400.

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