

Housing Affordability Impact Analysis

It is not anticipated that the proposed amendments will have any impact on housing costs because the scope of the proposed amendments, inasmuch as they apply only to procedures for adjusting regular route autobus fares, is minimal, and there is an extreme unlikelihood that the amendments would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

It is anticipated that the proposed amendments will have only an insignificant impact, if any, on any new construction. Moreover, because the proposed amendments apply only to the procedures for adjustment of autobus fares, the amendments do not apply to housing units at all. Thus, the scope of the proposed amendments is minimal, and there is an extreme unlikelihood that they will evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

16:53D-1.1 General provisions

(a) Any regular route autobus carrier operating within the State, which carrier seeks to revise its rates, fares, or charges in effect as of the time of the promulgation of this rule, shall not be required to conform with N.J.A.C. 16:51-3.12, Tariff filings, that do not propose increases in charges to customers, or 3.13, Tariff petitions, that propose increases in charges to customers, provided the increase or decrease in the rate, fare, or charge, or the aggregate of increases and decreases in any single rate, fare, or charge is not more than the maximum percentage increase (10 percent for [2013] **2014**) or decrease (10 percent for [2013] **2014**), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2013] **2014** percentage maximum for increases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Increase</u>	<u>Increase Upgraded To Nearest \$.05</u>
\$2.00 or less	10.0%	\$.20
\$2.05-\$ 2.50	10.0%	\$.25
\$2.55 upward	10.0%	\$.30+

2. For illustrative purposes, the following chart sets forth the [2013] **2014** percentage maximum for decreases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Decrease</u>	<u>Decrease Upgraded To Nearest \$.05</u>
\$.50 or less	10%	\$.05
\$.55-\$ 1.00	10%	\$.10
\$1.05 upward	10%	\$.15+

3. (No change.)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

SALES AND USE TAX REVIEW COMMISSION

Sales and Use Tax Review Commission Rules

Proposed New Rules: N.J.A.C. 18:24A

Authorized By: Sales and Use Tax Review Commission, El-Rhonda Williams Alston, Executive Secretary.

Authority: N.J.S.A. 54:32B-42.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-052.

Submit comments by July 4, 2014, to:

El-Rhonda Williams Alston
Executive Secretary
Sales and Use Tax Review Commission
c/o Division of Taxation
P.O. Box 269
Trenton, NJ 08695-0269

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.b, N.J.A.C. 18:24A expired on October 18, 2013. The Division reviewed these rules and determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. In addition, the expired rules proposed herein as new rules have been updated, supplemented, and amended to take into account the process by which the Sales and Use Tax Review Commission (Commission) members review identical language from a prior session's legislation in a new bill before the Commission. P.L. 1999, c. 416, § 2 (N.J.S.A. 54:32B-37) created the Commission to review any bill, joint resolution, or concurrent resolution introduced in either House of the New Jersey Legislature that expands or reduces the New Jersey sales and use tax base. This review includes, but is not limited to, an analysis of a bill's or resolution's fiscal impact, any comments or recommendations concerning the legislation, and any alternatives to the legislation the Commission may suggest.

The other changes to the expired rules proposed herein as new rules include amending N.J.A.C. 18:24A-2.2 to clarify that meetings of the Commission are subject to the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21; adding new N.J.A.C. 18:24A-1.1A, Definitions, to set forth the meaning of "Commission" and "Act," which are used throughout the chapter; amending N.J.A.C. 18:24A-3.2 to clarify the time restrictions and other restrictions the Chair of the Commission may impose; and to amend N.J.A.C. 18:24A-3.4 to correct an error stating that the Division is reviewing a bill, the entity reviewing the bill would be the Commission.

The expired rules proposed herein as new rules outline the organization and operational procedures of the Commission. Subchapter 1, General Provisions, states the purpose of the Commission, and notes that the Commission is in, but not of, the Department of the Treasury. Subchapter 2 identifies the membership of the Commission and outlines procedures for Commission meetings. Subchapter 3 outlines procedures for the Commission to receive comments from the general public.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The duties of the Commission include rendering a fiscal impact determination and providing a brief policy analysis concerning proposed legislation that affects the sales and use tax base. Within 90 days after the introduction of such legislation, the Commission is required to provide its recommendations to the New Jersey Legislature.

Over time, public finance experts have identified a variety of characteristics that are desirable when enacting tax laws. Among those standards are equity and simplicity. The Commission will review legislation to see whether the tax burden is fairly distributed among the potential universe of taxpayers so that each taxpayer bears a fair share of that burden. In particular, the Commission will examine legislation to determine if it causes inequity by creating unjustified exemptions from the sales and use tax base when promoting public policy initiatives designed to provide investment incentives or promoting social change.

Simplicity in sales and use tax legislation is necessary to permit both retailers and customers to ascertain their tax collection and remittance responsibilities by simply reviewing the provisions of the proposed legislation itself, without the need of extensive interpretative rules. Simplicity is crucial to the effective implementation of sales and use tax

legislation because tens of thousands of retailers are responsible for collecting tax, and are personally liable for uncollected tax. Due to that potential personal liability, it is imperative that the legislation give retailers the confidence that they are collecting the proper amount of tax. Also, in instances where a customer is responsible for remitting use tax to the State, the customer must be able to determine the correct amount of tax owing.

Economic Impact

The legislation creating the Commission provides procedures for the Commission to review proposed legislation expanding or reducing sales and use tax revenues, N.J.S.A. 54:32B-1 et seq. The Commission is required by N.J.S.A. 54:32B-38.b and 54:32B-39 to provide comments and recommendations to the presiding officer of the House in which the bill was introduced. The Commission will review sales and use tax legislation against a standard of economic neutrality, identified by public finance specialists as a desirable feature of a tax system. The standard of economic neutrality requires that sales and use tax legislation have a limited effect on economic and financial decisions in order to minimize its impact on an otherwise efficient marketplace. In addition, the legislation should refrain from encouraging or subsidizing one segment of the State's economy at the expense of another. The Commission also reviews sales and use tax legislation under the standard of cost efficiency. The standard of cost efficiency requires that the costs of administration borne by the State and the costs of compliance borne by retailers be as low as is compatible with the other standards. The Commission's review of sales and use tax legislation is sought to prevent the creation of too many unjustified exemptions, thereby protecting sales and use tax revenues and fostering fair distribution of the sales tax burden.

Federal Standards Statement

The expired rules proposed herein as new rules with amendments are derived from the requirements of N.J.S.A. 54:32B-37 through 43, and the Open Public Meetings Act, N.J.S.A. 10:4-6 through 21. No Federal requirements or standards are applicable to, or exceeded by, the rules.

Jobs Impact

The expired rules proposed herein as new rules with amendments do not result in the generation or loss of jobs in the State. The expired rules proposed herein as new rules with amendments are relevant only to the internal operations of the Commission.

Agriculture Industry Impact

The expired rules proposed herein as new rules with amendments do not have an impact on the agriculture industry.

Regulatory Flexibility Statement

The expired rules proposed herein as new rules with amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as those terms are defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as the expired rules proposed herein as new rules with amendments only pertain to the internal operations of the Commission. However, the focus of the Commission's activities is to review and comment on proposed sales and use tax legislation. As such, certain small business retailers that are required to collect sales tax, may be impacted by legislation regarding sales tax collection procedures, for example, legislation creating new exemptions. Small businesses should review the Commission's proposed procedures for notice and comment by the general public to remain informed of the Commission's review of sales and use tax legislation.

Housing Affordability Impact Analysis

The expired rules proposed herein as new rules with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the internal operation and meeting parameters of the Commission.

Smart Growth Development Impact Analysis

The expired rules proposed herein as new rules with amendments would not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. This is because the expired rules proposed

herein as new rules with amendments have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey. The proposed rules pertain to the internal operation and meeting parameters of the Commission.

Full text of the expired rules proposed herein as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 18:24A.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

18:24A-1.1 Purpose and objectives

The Sales and Use Tax Review Commission (the ["Commission"]), was established by P.L. 1999, [c.416] **c. 416**, codified at N.J.S.A. 54:32B-37 [to] **through** 54:32B-43 [(the "Act")], for the purpose of reviewing bills introduced in the Legislature, which would expand or reduce the base of the Sales and Use Tax **Act**, N.J.S.A. 54:32B-1 et seq. The Commission may analyze a bill's fiscal impact, make comments upon or recommendations concerning a bill, and suggest alternatives to the Legislature. By law, the Commission is in, but not part of, the Department of the Treasury.

18:24A-1.1A Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

"Act" shall mean P.L. 1999, c. 416, N.J.S.A. 54:32B-37 through 54:32B-43.

"Commission" shall mean the Sales and Use Tax Review Commission.

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

18:24A-2.2 Meetings of the Commission

(a) [The] **Consistent with the requirements of the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21**, the Chair of the Commission may establish a schedule of regular meetings for the calendar year, setting forth the date, time, and location of each meeting, no later than January 10 of such year, and shall make any such schedule available for inspection by the public. The schedule of regular meetings may be revised provided that the notice of such revision is given.

(b) Meetings may be called at any time by the Chair or by any three members of the Commission as the business of the Commission may require, **in accordance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21**.

(c) Emergency meetings may be called by the Chair at [anytime] **any time, in accordance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21**.

(d) (No change.)

(e) Notice of any such meeting can be obtained from the following locations:

Recodify existing i.-iii. as **1.-3.** (No change in text.)

18:24A-2.3 Quorum; votes; **summary approval of prior recommendations**

(a) (No change.)

(b) Members need not be physically present to attend and constitute a **member of the quorum** at a meeting, but may attend by way of telephone conference or other technology, whereby each member may be heard by others in attendance and whereby each member may hear the proceedings at the meeting.

(c) **The Commission may summarily approve prior recommendations of identical, but differently-numbered, bills that were previously considered by the body, except:**

1. When there is public comment on the bill;

2. Additional information impacting the bill is brought before the Commission by other Commission members or the New Jersey Division of Taxation; or

3. When a Commission member requests discussion of the bill.

(d) If a bill addressing the same or similar subject matter is not identical to a bill previously reviewed, the Commission must consider such bill and make its recommendation in accordance with the Act and this chapter.

SUBCHAPTER 3. INFORMATION AND FILINGS

18:24A-3.2 Oral comments

The Commission may hear oral comments on any bill being reviewed by the Commission only upon a written request made in advance of any meeting and in the sole discretion of the Chair of the Commission. At the beginning of a meeting, the Chair may place time restrictions **on all**

persons approved to present oral comments on any bill to the Commission, and such other restrictions as deemed necessary for the orderly conduct of business [on] with respect to the presentation of any oral comment.

18:24A-3.4 Inquiries and communications to the Commission

Inquiries or written comments with respect to any bill being reviewed by the [Division] **Commission**, and written requests for oral comments may be submitted to Executive Secretary, Sales and Use Tax Review Commission, c/o The Division of Taxation, 50 Barrack Street, PO Box 269, Trenton, New Jersey 08695-0269 or e-mail at nj.sutrc@treas.state.nj.us.
