

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and has determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 2. DEFINITIONS

17:20-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...
 “Second chance drawing” means a feature whereby winning and/or non-winning tickets provide an additional opportunity to win prizes other than those in the specific game presented on the ticket.
 ...

SUBCHAPTER 7. PAYMENT OF PRIZES

17:20-7.7 [Disclosure] Disclosure of winner’s information

[The Lottery may use the names, addresses, prize amounts and photographs of winners. The address used shall not contain the street or house number of the winner.]

(a) Pursuant to N.J.S.A. 5:9-7.b, holders of winning tickets or shares may remain anonymous indefinitely. The identity of a prize winner choosing to remain anonymous shall be confidential and proprietary for all purposes, including the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq.

(b) In accordance with (a) above, winner information will be restricted as follows:

1. Winners are anonymous, but may expressly consent to waive their anonymity to allow the following information to be published by the Division or its marketing and sales contractors and subcontractors:

- i. Name;
- ii. Town and state of residence;
- iii. Game name and drawing date;
- iv. Amount won; and
- v. Photographic and video-graphic likeness in any medium for purposes of publicity or promotion; and

2. In the event that a winner remains anonymous, the Division or its marketing and sales contractors and subcontractors may publish the following:

- i. Name of the county and state where winner resides;
- ii. Name of retailer who sold the winning ticket, including the retailer’s town and county;
- iii. Game name and drawing date; and
- iv. Amount won.

(c) Anonymity does not apply to those who win a second chance drawing, as defined at N.J.A.C. 17:20-2.1, or things such as a contest or giveaway where the player has not purchased a ticket. In such instances, house number, street name, Social Security numbers, taxpayer ID numbers, driver’s license numbers, passport numbers, and any other identifying information, other than individual’s name and town of residence, shall remain confidential for all purposes, including the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(d) For winners that waive anonymity, information including their house numbers, street name, Social Security numbers, taxpayer ID numbers, driver’s license numbers, passport numbers, and any other identifying information other than the information set forth at (b)1 above, shall not be disclosed for any purposes, including the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(e) For winners that do not waive anonymity, retailers and courier services may choose to advertise or publish winner information, but shall release the following information only:

- 1. Name of the county where winner resides;

- 2. Game name and drawing date; and
- 3. Amount won.

(f) A winner who procured their ticket through a lottery courier service may, in writing, expressly waive anonymity. Such waiver shall permit the courier and the Division of Lottery to publish winner information. Pursuant to such circumstances, a courier service and the Division shall release only the identifying information set forth at (b)1 above. Additionally, a courier service must continue to follow the provisions at N.J.A.C. 17:20-12.23. Waiver of anonymity cannot be required by a courier service as a condition of service.

TREASURY—TAXATION

(a)

DIVISION OF TAXATION

Streamlined Sales and Use Tax Rules and Procedures

Proposed Readoption with Amendments: N.J.A.C. 18:24B

Authorized By: John J. Ficara, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:32B-24 and 54:50-1.

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

Proposal Number: PRN 2023-115.

Submit written comments by February 2, 2024, to:

Allison Sheppard
 Administrative Practice Officer
 Division of Taxation
 PO Box 269
 3 John Fitch Way
 Trenton, NJ 08695-0269
 email: Tax.RuleMakingComments@treas.nj.gov

The agency proposal follows:

Summary

In accordance with the sunset provisions at N.J.S.A. 52:14B-5.1, the Division of Taxation (Division) has evaluated the rules at N.J.A.C. 18:24B, Streamlined Sales and Use Tax Rules and Procedures, and have determined that the rules are necessary, reasonable, and proper for the purpose for which the rules were originally promulgated. Pursuant to N.J.S.A. 52:14B-5.1.c, N.J.A.C. 18:24B was scheduled to expire on January 20, 2024, which date was extended 180 days to July 18, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(1). The Division proposes to readopt the rules with amendments that are necessary to conform the rules to the current Streamlined Sales and Use Tax Agreement (“SSUTA” or “Agreement”).

The Streamlined Sales and Use Tax Rules and Procedures are proposed to provide sellers and purchasers with guidance and assistance in the administration and implementation of the SSUTA. As a member state, New Jersey is required to be in compliance with the SSUTA through the incorporation of its provisions, including this chapter and procedures, into New Jersey law, rules, and policies. The amendments set forth additional provisions that are necessary for New Jersey to be in compliance with the SSUTA.

The rules proposed for readoption with amendments are summarized as follows:

N.J.A.C. 18:24B-1.1, Definitions, is proposed for amendment to revise the definitions of “certified service provider” or “CSP” and “Model 1 seller” in order to be consistent with the definitions of these terms in the Agreement.

At N.J.A.C. 18:24B-1.3, Administration of tax returns, paragraphs (e)1 and 2 are proposed for amendment to clarify that returns are due from Model 1, 2, and 3 sellers that are registered with New Jersey pursuant to the Agreement. N.J.A.C. 18:24B-1.3(e)3 is proposed for amendment to

clarify that Model 4 sellers, who elect to file an simplified electronic return (SER), shall give at least three months notice of the seller's intent to discontinue filing an SER. N.J.A.C. 18:24B-1.3(e)4 is proposed for amendment to clarify that sellers not registered pursuant to the SSUTA, and registered in New Jersey, who do not elect to file an SER shall file returns on a monthly or quarterly basis. N.J.A.C. 18:24B-1.3(e)5 is proposed for replacement because this language has been deleted in the Agreement and the new language regarding web services requirements as the standardized transmission process is proposed to be added. Proposed new N.J.A.C. 18:24B-1.3(e)6 sets forth that the Division must provide 30-days notice before establishing a liability for a seller registered pursuant to the Agreement, which has no legal requirement to register.

At N.J.A.C. 18:24B-1.4, Rules for remittance of tax, proposed new subsection (h) sets forth that the Division shall adopt a standardized transmission process that allows for the remittance in a single electronic transmission of a single (bulk) payment for taxes reported on multiple SERs by affiliated entities, CSPs, or preparers, as required by the Agreement.

N.J.A.C. 18:24B-1.5, Certification of service providers and automated systems, is proposed for readoption without change.

At N.J.A.C. 18:24B-1.6, Registration of sellers, subsection (a) is proposed for amendment to clarify that the online registration system applies to member states and other states electing to use the registration system, as provided in the Agreement. N.J.A.C. 18:24B-1.6(b) is proposed for amendment to clarify that a seller registering pursuant to the Agreement may register in one or more of the states utilizing the registration system, not just the member states, as provided in the Agreement. N.J.A.C. 18:24B-1.6(c) is proposed for amendment to set forth that by registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the states, in which the seller elected to register, not just the member states, as provided in the Agreement. N.J.A.C. 18:24B-1.6(d) is proposed for deletion, as this provision was removed from the Agreement. N.J.A.C. 18:24B-1.6(e) is proposed for amendment to clarify that the Division does not require the payment of any registration fees or other charges for a seller to register through the Streamline central registration system. N.J.A.C. 18:24B-1.6(k) is proposed for amendment to clarify that if New Jersey withdraws or is expelled from the Agreement, it will not use registration with the central registration system as the sole factor in determining whether the seller has nexus with New Jersey for any tax at any time. Proposed new N.J.A.C. 18:24B-1.6(l) sets forth that a certified service provider may require a seller registering pursuant to the Agreement, as a condition of receiving CSP services, to register in all of the full member states, as provided in the Agreement.

N.J.A.C. 18:24B-1.7, State review and approval of certified automated system software and certain liability relief, is proposed for readoption without change.

N.J.A.C. 18:24B-1.8, Confidentiality and privacy protections under Model 1, is proposed for amendment to add paragraph (d)5 to set forth that the Governing Board may certify a certified service provider if it provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure, as provided in the Agreement.

N.J.A.C. 18:24B-1.9, Relief from certain liability for purchasers, and 18:24B-1.10, Relief from certain liability for sellers and CSPs, are proposed for readoption without change.

As the Division 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

Effective October 1, 2005, through the enactment of P.L. 2005, c. 126, New Jersey joined a national coalition of states in conforming the New Jersey Sales and Use Tax Act to the provisions of the SSUTA. The SSUTA was developed over the course of several years through the joint effort of the many states participating in the Streamlined Sales and Use Tax Project. The underlying purpose of the SSUTA is to simplify and modernize the administration of the sales and use tax laws of the member states in order to enhance tax administration and improve compliance. New Jersey chose to participate in the SSUTA to help New Jersey businesses that operate in multiple states. The SSUTA simplifies the sales

and use tax burdens for such businesses. New Jersey has been involved as a participating state since 2001, when the State Treasurer was authorized, pursuant to N.J.S.A. 54:32B-44 et seq., to enter into multistate discussions concerning the SSUTA to provide a streamlined sales tax system. Effective August 3, 2009, the Division enacted Chapter 24B, Streamlined Sales and Use Tax Rules and Procedures to comply with the administrative requirements of the SSUTA.

The two aspects of the SSUTA's streamlined sales tax system are: 1) a uniform sales and use tax administration system to reduce the burden of tax compliance for all sellers and all types of commerce; and 2) a sales tax law simplification and uniformity system. These streamlined requirements apply to all sellers.

N.J.A.C. 18:24B has not been amended since February 21, 2017, and the SSUTA has been amended since that date. The rules proposed for readoption with amendments are necessary to conform the New Jersey rules to the current provisions of the SSUTA.

Economic Impact

New Jersey chose to participate in the SSUTA to assist New Jersey businesses that operate in multiple states by simplifying sales and use tax administrative procedures. The SSUTA is intended to reduce the sales and use tax burdens for such businesses. The incorporation of the SSUTA requirements in the rules provides a uniform sales and use tax administration system to reduce the burden of tax compliance for all sellers and all types of commerce, and a uniform sales tax system.

The rules proposed for readoption with amendments are intended to assist sellers, purchasers, and their tax advisors by clarifying detailed tax administration policies. The rules proposed for readoption with amendments will thus facilitate public compliance by providing guidance on administrative issues pursuant to the SSUTA. The rules proposed for readoption with amendments implementing these changes have a beneficial impact on taxpayers because the proposal simplifies the procedures for compliance.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking authority is based on N.J.S.A. 54:32B-24. There are no Federal regulatory requirements or standards that affect this rulemaking. The rules are derived from New Jersey's membership in the SSUTA, which is a compact between a number of states that does not involve the Federal government.

Jobs Impact

The Division does not anticipate that jobs will be generated or lost as a result of the rules proposed for readoption with amendments.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments set forth reporting, recordkeeping, and other compliance requirements for all businesses, including those employing fewer than 100 full-time employees, which are defined as small businesses pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As required by law, the rules regarding reporting and recordkeeping, as well as compliance, must be uniformly imposed without regard to business size. These rules are designed to reduce the need for professional services. However, for complex business cases, the taxpayer may wish to employ professional services on a discretionary basis.

The rules proposed for readoption with amendments are designed to ease the burden on small businesses by providing detailed guidance in plain language. However, the discretion of the Division in implementing the SSUTA rules is limited, since the rules must conform to the SSUTA. The Division must apply the rules uniformly to taxpayers, regardless of size.

The Division reviews rules mindful of the need to minimize the impact of the rules on small businesses to the extent permissible by law. The Division is required to administer the State's tax laws uniformly, equitably, and efficiently to maximize the State revenues to support public services, and to ensure voluntary compliance with tax statutes without

creating an impediment to economic growth. The Division has reviewed the application of the Regulatory Flexibility Act to these rules proposed for readoption with amendments. The tax rules must be applied uniformly and equitably, therefore, the Division cannot develop and apply special rules for small businesses that differ from the rules applied to all taxpayers.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will not evoke a change in the average costs associated with housing or impact the affordability of housing in New Jersey. The rules proposed for readoption with amendments have no impact on any aspect of housing because they deal with sales and use taxation.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments would not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption with amendments have nothing to do with housing production, either within Planning Areas 1 or 2, or within designated centers, or anywhere else in the State of New Jersey. The rules proposed for readoption with amendments only deal with sales and use taxation.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division has evaluated this rulemaking and determined that the rules proposed for readoption with amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State, because the rules proposed for readoption with amendments only deal with sales and use taxation. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:24B.

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

SUBCHAPTER 1. STREAMLINED SALES AND USE TAX RULES AND PROCEDURES

18:24B-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
 “Certified service provider” or “CSP” means an agent certified [under] **pursuant to** the Agreement to perform [all] the seller’s sales and use tax functions **as outlined in the contract between the Streamlined Sales Tax Governing Board and the Certified Service Provider**, other than the seller’s obligation to remit tax on its own purchases.
 ...

“Library of Definitions” means the Section of the Agreement that contains common definitions that a member state to the Agreement is required to utilize. The common definitions are set forth [in] **at** Appendix C of the SSUTA.

“Model 1 seller” means a seller registered [under] **pursuant to** the Agreement that has selected a CSP as its agent to perform [all] the seller’s sales and use tax functions **as outlined in the contract between the Streamlined Sales Tax Governing Board and the Certified Service Provider**, other than the seller’s obligation to remit tax on its own purchases.

“Model 2 seller” means a seller registered [under] **pursuant to** the Agreement that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

“Model 3 seller” means a seller registered [under] **pursuant to** the Agreement that has sales in at least five member states, has total annual sales revenue of at least \$500 million, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a seller includes an affiliated group of sellers using the same proprietary system.

“Model 4 seller” means a seller that is registered [under] **pursuant to** the Agreement and is not a Model 1 seller, a Model 2 seller, or a Model 3 seller.

...
 “Registered under the Agreement” means registration by a seller [with the member states under] **pursuant to** the central registration system provided in Article IV of the Agreement.
 ...

18:24B-1.3 Administration of tax returns

(a)-(d) (No change.)

(e) Returns shall be required as follows:

1. CSPs shall file an SER and the audit reports provided for by the Governing Board on behalf of Model 1 sellers and, in addition, shall be required to file part 1 of the SER each month **if the Model 1 seller is registered with New Jersey pursuant to the Agreement.**

2. Model 2 and Model 3 sellers must file [an SER unless they have indicated that they anticipate making no sales in New Jersey] **part 1 of the SER every month if such sellers are registered with New Jersey pursuant to the Agreement.** [Such sellers shall file part 1 of the SER every month in which they anticipate making sales in New Jersey.]

3. Model 4 sellers may file an SER. If choosing to file an SER, such sellers shall file part 1 of the SER every month. Model 4 sellers that elect not to file an SER shall file returns [pursuant to schedules afforded to] **on a monthly or quarterly basis in the same manner as** sellers that are registered in New Jersey and did not register [under] **pursuant to the SSUTA. Such sellers, who elect to file an SER, shall give at least three months notice of the seller’s intent to discontinue filing an SER.**

4. Sellers not registered under the SSUTA, and registered in New Jersey, may file an SER. If choosing to file an SER, such sellers shall file part 1 of the SER every month. **Sellers not registered pursuant to the SSUTA, and registered in New Jersey, that elect not to file an SER shall file returns on a monthly or quarterly basis in the same manner as sellers that are registered in New Jersey and did not register pursuant to the SSUTA.** [A non-registered seller, which elects] **Such sellers who elect to file an SER, shall give at least three months notice of the seller’s intent to discontinue filing an SER.**

[5. The Division will not require the filing of a return from a seller registered under the Agreement, which has indicated at the time of registration that it anticipates making no sales sourced to New Jersey under the Agreement. A seller loses such treatment upon making any taxable sales in New Jersey and shall file a return in the month following such sale.]

5. **The Division has adopted web services as the standardized transmission process that allows for receipt of uniform tax returns and other formatted information as approved by the Governing Board. This process provides for the filing of separate returns for multiple legal entities in a single transmission and does not include any requirement for manual entry or input by the seller of any of the aforementioned information. This process allows a CSP, a tax preparer, or any other person authorized to do so, to file returns for more than one seller in a single electronic transmission. However, sellers filing returns for multiple legal entities may only do so for affiliated legal entities.**

6. **The Division will provide notice to a seller, registered pursuant to the Agreement, which has no legal requirement to register in New Jersey, for a failure to file a required return and a minimum of 30 days to file thereafter prior to establishing a liability amount for taxes based solely on the seller’s failure to timely file a return. However, the Division may establish a liability amount for taxes based solely on the seller’s failure to timely file a return if such seller has a history of non-filing or late filing.**

18:24B-1.4 Rules for remittance of tax

(a)-(g) (No change.)

(h) The Division has adopted a standardized transmission process approved by the Governing Board that allows for the remittance in a single electronic transmission of a single (bulk) payment for taxes reported on multiple SERs by affiliated entities, CSPs, or preparers.

18:24B-1.6 Registration of sellers

(a) The Division, in conjunction with the Governing Board, shall provide an online registration system that allows sellers to register in all the member states **and other states electing to utilize the registration system.**

(b) A seller registering [under] **pursuant to** the Agreement [shall be registered in each] **may register in one or more** of the [member] states **utilizing the central registration system provided in the Agreement.**

(c) By registering, the seller agrees to collect and remit sales and use taxes for all taxable sales into the [member] states[, including member states joining after the seller’s registration] **in which the seller elected to register.** Withdrawal or revocation of a member state shall not relieve a seller of its responsibility to remit taxes previously or subsequently collected on behalf of that state.

(d) [A Model 2 seller, Model 3 seller, or Model 4 seller may elect to be registered in one or more states as a seller that anticipates making no sales into such state(s) if it has not had sales into such state(s) for the preceding 12 months. Such election does not relieve the seller of its agreement pursuant to Section 401(B) of the Agreement (Seller Participation) to collect taxes on all sales into such states or its liability for remitting to the proper states any taxes collected.] **(Reserved)**

(e) The Division does not require the payment of any registration fees or other charges for a seller to register [under this section] **through the central registration system.**

(f)-(j) (No change.)

(k) If New Jersey withdraws or is expelled from the Agreement, it will not use registration with the central registration system as [a] **the sole** factor in determining whether the seller has nexus with New Jersey for any tax at any time.

(l) A certified service provider may require a seller registering pursuant to the Agreement, as a condition of receiving CSP services, to register in all of the full member states.

18:24B-1.8 Confidentiality and privacy protections [under] **pursuant to Model 1**

(a)-(c) (No change.)

(d) The Governing Board may certify a CSP only if that CSP certifies that:

1.-2. (No change.)

3. It provides consumers clear and conspicuous notice of its information practices, including what information it collects, how it collects the information, how it uses the information, how long, if at all, it retains the information, and whether it discloses the information to member states. Such notice shall be satisfied by a written privacy policy statement accessible by the public on the official website of the CSP; [and]

4. Its collection, use, and retention of personally identifiable information will be limited to that required by the Division to ensure the validity of exemptions from taxation that are claimed by reason of a consumer’s status or the intended use of the goods or services purchased, and for documentation of the correct assignment of taxing jurisdictions[.]; **and**

5. It provides adequate technical, physical, and administrative safeguards so as to protect personally identifiable information from unauthorized access and disclosure.

(e)-(j) (No change.)
