

determine whether or not there exists probable cause to find that the alleged conduct that served as a basis for the preliminary suspension occurred, and whether or not that conduct constitutes sufficient basis to find an emergent situation justifying the continuation of a preliminary suspension.

(c) Along with the notice of immediate suspension, the Commission will issue a notice of proposed final suspension, revocation, or other agency action.

(d) The TNC will be afforded an opportunity to request a hearing concerning the proposed final agency action pursuant to N.J.A.C. 13:21-26.4.

13:21-26.7 Display of identifying marker

(a) A TNC shall issue an identifying marker to every TNC driver, which shall be displayed by the TNC driver in accordance with N.J.S.A. 39:5H-23.b, on the driver's personal vehicle when the driver logs on to the TNC's digital network as a driver or provides a prearranged ride.

(b) The identifying marker shall be sufficient to allow a passenger, government official, or member of the public to identify the TNC with which the vehicle is affiliated, and shall be of such size, shape, and color or color-contrast as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness.

(c) The TNC's identifying marker may be removable, but no person shall operate their personal vehicle as a TNC driver without displaying the TNC identifying marker in accordance with this section.

(d) No person shall operate a vehicle bearing a TNC's identifying marker issued in accordance with this section without the authorization of the TNC issuing the identifying marker.

**TREASURY—GENERAL**

**(a)**

**DIVISION OF PENSIONS AND BENEFITS  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
Notice of Administrative Change  
Public Employees' Retirement System  
Withdrawal and Return; Contributory Insurance  
N.J.A.C. 17:2-3.8**

**Take notice** that the Board of Trustees of the Public Employees' Retirement System (Board) has discovered an error in the text of N.J.A.C. 17:2-3.8. Effective January 16, 2018, the Board proposed and adopted the readoption of N.J.A.C. 17:2 with amendments and a repeal and new rule (see 49 N.J.R. 2189(a); 50 N.J.R. 646(a)). As part of the amendments, the Board proposed to delete a New Jersey Administrative Code cross-reference at N.J.A.C. 17:2-3.8(b) and replace it with a statutory cross-reference to N.J.S.A. 43:15C-8 and add a new sentence after the new cross-reference.

The Board specifically summarized the change in its notice of proposal as "provid[ing] the correct statutory citation for conversion of group life insurance ... [t]he current citation references a rule that incorrectly addresses group life insurance conversions [N.J.A.C. 17:2-3.13(b)] and is proposed to be [deleted]." (See 49 N.J.R. 2192.) During the public comment period, the Board received a comment specifically addressing the above change. The Board responded with a discussion about how the enactment of P.L. 1995, c. 221 amended N.J.S.A. 43:15A-93. All references in the response to the comment are to N.J.S.A. 43:15A-93, not N.J.S.A. 43:15C-8. N.J.S.A. 43:15C-1 et seq., of which N.J.S.A. 43:15C-8 is a part, pertains to the Defined Contribution Retirement Program, not the Public Employees' Retirement System (PERS). The proper statutory authority for PERS, as noted by both the commenter and the Board in the notice of adoption comment and response is N.J.S.A. 43:15A-1 et seq., of which N.J.S.A. 43:15A-93 is a part. The Board has requested, and the Office of Administrative Law has agreed to, such correction be made administratively. This notice of administrative change is published pursuant to N.J.A.C. 1:30-2.7.

**Full text** of the changed rule follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:2-3.8 Withdrawal and return; contributory insurance

(a) (No change.)

(b) If a member is covered by group life insurance during employment, the coverage shall cease 31 days subsequent to the member's termination date from employment, regardless of the cause of termination. A member may convert the life insurance at the member's expense as set forth in N.J.S.A. 43:[15C-8]**15A-93**. The converted individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period.

**TREASURY—TAXATION**

**(b)**

**DIVISION OF TAXATION**

**Luxury Tax**

**Readoption with Amendments: N.J.A.C. 18:25**

**Adopted Repeal: N.J.A.C. 18:25-1.3**

Proposed: June 18, 2018, at 50 N.J.R. 1426(a).

Adopted: October 24, 2018, by John J. Ficara, Acting Director, Division of Taxation.

Filed: October 24, 2018, as R.2018 d.199, **without change**.

Authority: N.J.S.A. 54:32B-24 and 54:32B-24.1.

Effective Dates: October 24, 2018, Readoption;  
November 19, 2018, Amendments and Repeal.

Expiration Date: October 24, 2025.

**Summary** of Public Comment and Agency Response:  
**No comments were received.**

**Federal Standards Statement**

A Federal standards analysis is not required because the authority for the rules readopted with amendments and a repeal is based on N.J.S.A. 54:32B-24. The rules readopted with amendments and a repeal are, therefore, independent from any Federal standards or requirements.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 18:25.

**Full text** of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

18:25-1.2 Definitions

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

"Apartment" means a complete housekeeping unit of real property, either constructed or modified for such use, which has as part of its permanent physical design, kitchen and bath facilities located within such unit.

...

"Luxury tax" means the Retail Sales Tax in Fourth Class Cities, N.J.S.A. 40:48-8.15 et seq. (P.L. 1947, c. 71).

...

"Retail sale" or "sale at retail" means and includes:

1. Any sale in the ordinary course of business for consumption of whiskey, beer, or other alcoholic beverages by the drink in restaurants, cafes, bars, hotels, and other similar establishments;

2. Any cover charge, minimum charge, entertainment, or other similar charge made to any patron of any restaurant, cafe, bar, hotel, or other similar establishment;

3. (No change.)

4. The hiring of any rolling chair, beach chair, or cabana; and

5. The granting or sale of any ticket, license, or permit for admission to any theatre, moving picture exhibition or show, pier, exhibition, or place of amusement, except charges for admission to boxing, wrestling, kick boxing or combative sports events, matches, or exhibitions, which charges are taxed pursuant to section 20 of P.L. 1985, c. 83 (N.J.S.A. 5:2A-20).

“Vendor” or “seller” means any person selling or hiring property or services to another person upon the receipts from which a tax is imposed.

18:25-1.3 (Reserved)

18:25-1.5 Tax rates

(a) (No change.)

(b) From July 15, 2006 through December 31, 2016, the combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 13 percent (luxury tax at nine percent and sales and use tax at four percent). From January 1, 2017 through December 31, 2017, the combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 12.875 percent (luxury tax at nine percent and sales and use tax at 3.875 percent). Beginning January 1, 2018, the combined rate for sales subject to both the Atlantic City luxury tax and New Jersey sales and use tax is 12.625 percent (luxury tax at nine percent and sales and use tax at 3.625 percent).

(c) Sales subject only to New Jersey sales and use tax are taxable at the applicable rate as set forth in the Sales and Use Tax Act.

(d) From July 15, 2006 through December 31, 2016, sales of alcoholic beverages by the drink in Atlantic City are taxable at the combined rate of 10 percent (luxury tax at three percent and sales and use tax at seven percent). From January 1, 2017 through December 31, 2017, the combined rate is 9.875 percent (luxury tax at three percent and sales and use tax at 6.875 percent). Beginning January 1, 2018, the combined rate is 9.625 percent (luxury tax at three percent and sales and use tax at 6.625 percent). Sales of package goods are subject only to New Jersey sales and use tax at the applicable rate as set forth in the Sales and Use Tax Act.

SUBCHAPTER 2. ROOM AND APARTMENT RENTALS

18:25-2.2 Luxury tax on room and apartment rentals

The rental of a room or rooms, with or without service, in hotels, motels, rooming houses, inns, boarding houses, apartments, or private homes is subject to luxury tax.

18:25-2.4 Exemption from luxury tax on room and apartment rentals

(a) The following room and apartment rentals are exempt from luxury tax.

1. The rental of a room or rooms by a person who resides in it as a permanent resident of Atlantic City. A permanent resident is any person who:

i.-ii. (No change.)

2. The rental of a room or rooms or an apartment by any person where the rent is paid directly by an agency of New Jersey State, county, or municipal government, or by any agency of the United States of America. Where the rent is not paid directly by the governmental agency, it is subject to the luxury tax.

i. For example: A State government employee is in Atlantic City on government business. The employee pays for the occupancy of a room in a motel and the expense will be reimbursed by an agency of State government. The rental is subject to luxury tax.

3. The room rents received by an exempt organization. This exemption is limited to rentals that are directly related to the purpose for which the exempt organization was organized. (See N.J.A.C. 18:24-9.1)

4. The isolated rental of a room, apartment, or single family dwelling by a person not engaged in a course of repeated and successive similar transactions.

5. That portion of a room rental attributable to the provision of food service to the occupant or boarder.

6. (No change.)

(b) Every rental of a room or rooms or apartment is subject to luxury tax unless exempt from tax as provided in (a) above. There is no exemption from luxury tax by reason of an exemption from sales tax in this State.

For example, an organization that has applied for and received a New Jersey Exempt Organization Certificate (Form ST-5) arranges for the occupancy of rooms in a hotel for members attending a convention. The rental charge is invoiced to and directly paid by the organization. The room rentals are subject to luxury tax because the law does not provide an exemption for such organizations. However, the room rentals are not subject to sales tax provided the vendor is given a copy of the organization’s Form ST-5 and payment is made from the organization’s funds. (See N.J.A.C. 18:24-9.12)

(a)

DIVISION OF TAXATION

Spill Compensation and Control Tax

Readoption with Amendments: N.J.A.C. 18:37

Proposed: June 18, 2018, at 50 N.J.R. 1428(a).

Adopted: October 24, 2018, by John J. Ficara, Acting Director, Division of Taxation.

Filed: October 24, 2018, as R.2018 d.200, **without change**.

Authority: N.J.S.A. 58:10-23.11t.

Effective Dates: October 24, 2018, Readoption;

November 19, 2018, Amendments.

Expiration Date: October 24, 2025.

Summary of Public Comment and Agency Response:

**No comments were received.**

**Federal Standards Statement**

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards. The rules readopted with amendments concern a State statute imposing a spill compensation and control tax and are independent and separate from Federal standards or requirements.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 18:37.

**Full text** of the adopted amendments follows:

SUBCHAPTER 1. IMPOSITION OF TAX

18:37-1.1 Tax imposed on transfer of hazardous substances

(a) The spill compensation and control tax is imposed on the transfer of hazardous substances within the jurisdiction (lands and waters) of New Jersey.

(b) (No change.)

(c) The transferee is an owner or operator of a major facility, except as provided in (e) below, which receives a transfer of a hazardous substance. For the purpose of this chapter, a major facility, as defined in the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., as amended by P.L. 1986, c. 143, is a facility that has a combined above-ground or buried storage capacity of:

1.-2. (No change.)

(d) A transferor is liable for the tax only when a hazardous substance other than petroleum, which has not been previously taxed, is transferred from a major in-State facility to a facility that is not a major facility, including vessels.

(e) When a hazardous substance is transferred to a major facility that qualifies as a public storage terminal, the owner of the hazardous substance or its authorized agent is a transferee.

1. A “public storage terminal” means a public or privately owned major facility that is engaged in the business of providing storage space to the general public and is substantially devoted to the storage of substances owned by others. “Substantially devoted” means at least 95 percent of the hazardous substances stored at each facility at any one time must be owned by interests other than the terminal itself or its individual owners. For purposes of the above calculation there is no need for the facility to include, as hazardous substances owned by such facility, the following: