



Leases and Rentals

Bulletin S&U-12

Introduction

This publication explains how and when sales and use tax is imposed on lease and rental transactions in New Jersey. It provides information on the correct procedures for charging, collecting, and remitting sales tax on lease and rental transactions. It also explains who is responsible for paying sales and use tax and which transactions are exempt from tax.

This document is designed to provide guidance to taxpayers and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of this publication.

General Information

The rental or lease of most tangible personal property in New Jersey is subject to the State's 7% sales and use tax. Tangible personal property means physical property other than real property, such as land and buildings. Rental/lease transactions are treated as retail sales.

A **lessor** is any owner of leased or rented property. A **lessee** is someone who leases or rents property from a lessor, and may also be referred to as a renter if rental/lease is short term.

NOTE: A lessee who subleases the property he is leasing is also a lessor.

Registration

Every seller of taxable goods or services maintaining a place of business in New Jersey, employing workers in this State, owning any business property here, or otherwise conducting or [soliciting business](#) in this State must register with New Jersey for tax purposes at least 15 business days before starting business. "Seller" includes anyone who purchases tangible personal property for lease or rent, whether in this State or elsewhere. Having leased tangible personal property in New Jersey constitutes having a place of business in this State. Accordingly, out-of-State businesses that own leased property located in New Jersey must register and remit tax.

For more information on soliciting business in New Jersey, see [Notice – Sales and Use Tax Requirement for Out-of-State Sellers to Collect Sales Tax if Soliciting Business in New Jersey](#).

To register, sellers may file Form NJ-REG [online](#) through the Division of Revenue and Enterprise Services' NJ Business Gateway Services. A Public Records Filing may also be required depending on the type of business ownership. More information on Public Records Filing is available in the *New Jersey Complete Business Registration Package* ([NJ REG](#)) or by calling 609-292-9292.

Short-Term Rentals/Leases (Duration Six Months or Less)

The lessee/renter is considered to be the end user of the rented property and is responsible for paying sales tax on the amount of each rental payment. The lessor is required to collect the tax from the renter and remit it to the State.

Example

Ann rents a car for one week. The rental agency must collect 7% sales tax from Ann on the rental charge and remit it to the State by the date the agency's next sales and use tax return is due.

Long-Term Rentals/Leases (Duration More Than Six Months)

The sales and use tax rules for long-term rentals/leases are different from the rules for short-term rentals/leases. The law requires the accelerated collection of sales tax for agreements with a term of more than six months. The *lessee* is considered to be the end user of leased property and the one responsible for paying sales tax. The lessor is required to collect sales tax from the lessee and remit it to the State. The lessor must choose one of the following methods to calculate the sales tax due:

1. Original Purchase Price Method;
or
2. Total Lease Payments Method.

The lessor and lessee may negotiate the method to be used. Regardless of the method selected, the full amount of tax is due up front.

Option 1 — Original Purchase Price Method
Using this method, the lessor collects and remits tax only once on the property. The tax is calculated on:

- The amount the lessor paid for the property being leased, *less*
- Any separately stated charges for transportation to the lessor's place of business, *plus*
- The cost of any accessories or options installed, or any services performed, by the lessor (or others on the lessor's behalf) on or in connection with the property being leased.

When computing the purchase price, the lessor *cannot* deduct the value of any trade-in allowance received when the property was acquired.

Option 2 — Total Lease Payments Method
Using this method, the lessor must collect and remit tax *every time* the property is leased. The tax is calculated on:

- The total of the lease payments *less*
- The total interest expense or lease service charge of a financial institution which accepts assignment of the lease and/or
- The amount of the lessee's trade deficit to be paid off through the lease.

When computing the total lease payments, the lessor must add the amount of any cash buy-down payment or the value of a trade-in that reduces the cost of the lease to the lessee.

Example

A lessor pays \$16,500 for a new vehicle after an \$800 trade-in allowance on an older vehicle. The price included \$975 in transportation costs. The manufacturer’s suggested retail price (sticker price) of the new vehicle is \$19,100. The lessor enters into a 60-month lease with a lessee who requests that the lessor install \$1,800 worth of additional options in the vehicle. The lessee makes a \$2,500 cash buy-down payment and the lessor pays off the \$3,210 balance of the lessee’s existing lease. Total interest and nontaxable fees amount to \$4,740, which brings the monthly lease payments to \$339.

The lessor may choose either of the following methods to determine the amount of tax due:

Option 1 — Original Purchase Price Method

Lessor’s purchase price	\$16,500.00
Lessor’s trade-in allowance	+ 800.00
	<u>17,300.00</u>
Transportation charge	- 975.00
	<u>16,325.00</u>
Lessor-installed options	+ 1,800.00
Tax base	<u>18,125.00</u>
New Jersey tax @ 7%	× .07
Lessee’s tax due	<u>\$1,268.75</u>

Option 2 — Total Lease Payments Method

Lease payments	(\$339 × 60)	\$20,340.00
Interest and fees	(\$79 × 60)	- 4,740.00
		<u>15,600.00</u>
Cash buy down		+ 2,500.00
		<u>18,100.00</u>
Trade deficit		- 3,210.00
Tax base		<u>14,890.00</u>
New Jersey tax @ 7%		× .07
Lessee’s tax due		<u>\$1,042.30</u>

If tax is paid on the purchase price of leased property, it is not due on any subsequent lease of that particular item, no matter how many times the property is subsequently leased.

If tax is paid on the total of the lease payments, each time a lease ends and a new lease begins the lessor must choose whether to collect tax on the purchase price (not the fair market value at the time) or on the total of the new lease payments.

Remitting Sales and Use Tax

The lessor must remit the full amount of tax due to the State by the due date of the next quarterly sales and use tax return or monthly remittance. Tax Topic Bulletin [S&U-7](#), *Filing Sales and Use Tax Returns*, provides information on how and when to remit sales and use tax.

Assigned Leases

A lease assignment does not affect sales tax because it results in a new lessor, not a new lessee.

When the original lessor (assignor) assigns the rights to a lease to an assignee, the assignor is obligated to collect sales tax from the lessee unless the lessee was already charged sales tax. This is true whether the assignment is of all rights and title to the leased property or only of the rights to the remaining lease payments.

Assumption of Leases

As long as the terms and conditions of the lease remain intact, (e.g., same lease payment, same interest rate, same term) *and* the lessee is not required to sign a lease contract, the lease assumption is not treated as a new lease. However, if a lender requires that the new lessee enter into a lease agreement for the remainder of the term, a new lease is created and tax is due.

Purchasing Property Intended for Rent/Lease

Lessors do not pay sales tax when purchasing property they intend to rent or lease, provided they issue a fully completed New Jersey Resale Certificate ([Form ST-3](#)) or the Streamlined Sales and Use Tax Agreement Certificate of Exemption ([Form ST-SST](#)) to their registered supplier.

Open-Ended Rentals

If it is the lessor's normal business practice, and the intent of the parties, to enter into an open-ended agreement without a defined duration, the Division will treat the transaction as a short-term agreement. For instance, if a lessor leases property to many lessees over the life of the property, it may indicate that the lessor's normal business practice is to rent month-to-month rather than lease the property, even though a particular customer may use the property for several months before returning it. Likewise, property use agreements that have a stated term of less than six months but which can be extended by the renter, are treated as short-term rentals/leases. The renter must pay sales tax on the rental payments; no accelerated collection is required.

Conditional and Installment Sales

Certain property use agreements, even if in the form of a lease, may be treated as conditional or installment sales contracts. An agreement that requires the transfer of title after the purchaser/lessee makes all required payments and pays an option price that does not exceed the greater of \$100 or one percent of the total required payments is considered to be a sale rather than a lease. Thus, the purchaser/lessee is not required to pay sales tax until the transfer of possession or control of the property occurs. The seller must *collect* sales tax from the purchaser/lessee on the contract price and remit the full amount to the State by the due date of the seller's next quarterly sales and use tax return or monthly remittance.

Exempt Transactions

Generally, transactions that qualify for an exemption as a sale will qualify for an exemption as a rental or lease.

For every exempt transaction, the lessee must fully complete the appropriate exemption certificate and provide it to the lessor. When a valid exemption certificate is issued, no New Jersey sales or use tax is due.

If the leased property is subsequently leased for or converted to a nonexempt use or is leased to a nonexempt lessee, sales tax will be due.

Property Exempt Due to Its Use

Certain property is exempt from tax when rented/leased for a particular purpose. For example, certain machinery and equipment are exempt if used directly and primarily to produce tangible personal property. Buses for public transportation are exempt as are commercial trucks, truck tractors, tractors, semitrailers, and vehicles used in combination therewith that have a gross vehicle weight rating in excess of 26,000 pounds or are operated actively and exclusively in interstate commerce. When renting or leasing such property, the lessee must issue a fully completed Exempt Use Certificate ([Form ST-4](#)) or Streamlined Sales and Use Tax Agreement Certificate of Exemption ([Form ST-SST](#)) to the lessor.

See Tax Topic Bulletin [S&U-4](#), *New Jersey Sales Tax Guide*, for more information about which products and services are subject to tax. See Tax Topic Bulletin [S&U-6](#), *Sales Tax Exemption Administration*, for information about exemption certificates.

Exempt Organizations

Some organizations such as churches, hospitals, veterans' organizations, and fire companies are not required to pay sales tax when they rent or lease property for the exclusive use of the organization. The Division of Taxation issues an Exempt Organization Certificate (Form ST-5) only to those organizations that qualify for exempt status with the State of New Jersey. When a lessor rents or leases to such an organization, he must obtain a photocopy of the organization's ST-5 certificate as evidence of the exempt nature of the transaction.

Agencies of the Federal government and the United Nations, as well as the State of New Jersey and its political subdivisions, are also exempt from paying sales tax. However, these organizations do not use ST-5 certificates. Instead, they must provide the lessor with a copy of a valid purchase order or contract, signed by an authorized official. When the amount of the transaction is \$150 or less, the lessor may accept an Exempt Use Certificate ([Form ST-4](#)) from these organizations in place of a purchase order or contract.

Federal employees are exempt from sales tax on leases and rentals when payment is made by Federal check or voucher. Such transactions are also exempt when payment is made with a SmartPay 2 credit card with 0, 6, 7, 8, or 9 as the 6th digit since they are billed directly to and paid by the U.S. Government. Travel and integrated cards having a 1, 2, 3, or 4 as the 6th digit are *not* acceptable. Credit card transactions billed to and paid by a Federal employee who is later reimbursed by the Federal government are subject to sales tax.

Certain lease and rental transactions by foreign diplomatic and consular personnel residing in the United States are also exempt from sales tax. There are two types of sales tax exemption cards issued by the U.S. Department of State, Office of Foreign Missions, that are acceptable as proof of the exemption. Personal sales tax exemption cards are issued for the sole benefit of the individual identified on the card. Mission tax exemption cards are issued to embassies, consulates, and international organizations for official purchases only and for the sole benefit of the mission identified on the card.

For more information, see Tax Topic Bulletin [MISC-3](#), *Tax Treatment of Nonprofit Organizations and Government Entities*, and Technical Bulletin [TB-53](#), *Diplomat/Consular Sales Tax Exemptions*. Also visit the U.S. Department of State, Office of Foreign Missions' [website](#).

Urban Enterprise Zones

A qualified business located within a designated urban enterprise zone is exempt from paying sales tax on many items it rents or leases for its own use. When renting or leasing to one of these businesses, the lessor must obtain a fully completed Urban Enterprise Zone Exempt Purchase Certificate (Form UZ-5) from the lessee.

NOTE: The urban enterprise zone exemption is not valid for transactions that involve motor vehicles, telecommunications services, room rentals, or admissions. Thus, a qualified business *cannot* use the UZ-5 to obtain a tax exemption on the purchase or rental/lease of a motor vehicle.

Out-of-State Lessees

When a New Jersey lessor leases property to an out-of-State lessee who takes delivery of the property outside of New Jersey, no tax is due. The lessor is only responsible for collecting New Jersey sales tax if the lessee brings the property into New Jersey for use in this State.

Property Leased Out of State Brought Into New Jersey for Use in This State

If a lessee brings property that was leased outside of New Jersey into New Jersey for use in this State, the lessee must pay sales tax. However, he may take credit for taxes paid to the other state if he can document that they were paid. The credit for the taxes paid to the other state is available *only* if the other state taxes leases in the same manner as New Jersey, i.e., taxes the lessee.

If the lessee cannot take credit for the taxes paid to the other state, the lessee must pay the tax on either the original purchase price of the property or on the total of the remaining lease payments for the number of months the property is used in New Jersey.

For example, a lessee brings an automobile into New Jersey in mid-lease. The lessor elects to charge sales tax using the total lease payment method and determines the tax to be \$400 on a 48-month lease. If there are 12 months remaining on the lease, the lessee must pay New Jersey sales tax of \$100 ($12/48 \times \400). The lessor must collect tax from the lessee on each monthly payment and remit this amount to the State.

Property Leased in New Jersey Transferred Out of State

If a lessee transfers property that was leased in New Jersey out of State, and the lessee paid

New Jersey all the sales tax at the beginning of the lease, the lessee is eligible for a refund of tax for the period of time that the property is not located in the State.

For More Information

Online

- Division of Taxation website:
www.state.nj.us/treasury/taxation/
- Email general State tax questions:
nj.taxation@treas.nj.gov
Do not include confidential information such as social security or Federal tax identification numbers, liability or payment amounts, dates of birth, or bank account numbers in your email.
- Subscribe to *NJ Tax E-News*, the Division of Taxation's online information service, at:
www.state.nj.us/treasury/taxation/listservic.shtml

In Person

Visit a New Jersey Division of Taxation regional office. For the address of the regional office nearest you call the Automated Tax Information System at 1-800-323-4400 or visit www.state.nj.us/treasury/taxation/ot1.shtml.

By Phone

- Call the Division of Taxation's Customer Service Center at **609-292-6400**.
- Text Telephone Service (TTY/TDD) for Hard-of-Hearing Users: **1-800-286-6613** (toll-free within NJ, NY, PA, DE, and MD) or **609-984-7300**. These numbers are accessible *only* from TTY devices. Submit a text message on any New Jersey tax matter and receive a reply through NJ Relay Services (711).

In Writing

New Jersey Division of Taxation
Technical Information Branch
PO Box 281
Trenton, NJ 08695-0281

Forms and Publications

- Visit the Division of Taxation's website:
Forms — www.state.nj.us/treasury/taxation/forms.shtml
Publications — www.state.nj.us/treasury/taxation/pubs.shtml
- Call NJ TaxFax at **609-826-4500** from your fax machine's phone. (**Note:** Effective June 1, 2015, the NJ TaxFax service will be discontinued.)
- Call the Forms Request System at **1-800-323-4400** (within NJ, NY, PA, DE, and MD) or **609-826-4400** (Touch-tone phones only) to have printed forms or publications mailed to you. **Note:** Due to budgetary constraints, supplies are limited and only certain forms and publications can be ordered through this System.



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
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