

(c) A sign shall be completely removed, including the disposal of debris, within 30 days of the receipt of the Department's final agency decision.

(d) If a sign is not removed and disposed of as ordered, the Commissioner may authorize entry upon the property to remove the sign without further notice. Entry onto the property and removal of the sign shall be without liability to the Commissioner and his or her agents. The cost of removal or \$500.00, whichever is greater, may be recovered against the owner of the sign either in a separate legal action or in addition to any penalties owed as determined by the Commissioner or court of competent jurisdiction

16:41C-[10.4]12.4 Penalties

(a) [In addition to all penalties set forth in this chapter, any] Any person who erects, uses, or maintains any sign or authorizes the use of his or her name in connection therewith, in violation of any of the provisions of the State Act and this chapter, is liable to a per diem penalty of not less than \$50.00, nor more than \$500.00 for each day the sign remains in violation. However, except for cases where the violation is egregious, the maximum penalties assessed shall not exceed the gross income of the sign or \$50.00 per day, whichever is greater.

(b) A penalty of not less than \$50.00 shall be assessed for all violations. Penalties and per diem accumulation thereof provided for in (a) above, shall begin on the date of service of the notice of violation upon the person so noticed, unless the accumulation of penalties has been stayed by the [Administrator] Department. Penalties will cease to accumulate upon written notification to the Department that the violation has been corrected and contingent upon the Department's determination that the correction is satisfactory. If written notification of the correction is not submitted to the Department, penalties will continue to accrue until such time as the Department inspects the site and determines that the correction is satisfactory.

(c)-(e) (No change.)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

Uniform Transitional Utility Assessment

Proposed New Rules: N.J.A.C. 18:9

Authorized By: Michael J. Bryan, Director, Division of Taxation.

Authority: N.J.S.A. 54:30A-122 and 54:50-1.

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

Proposal Number: PRN 2014-152.

Submit comments by November 14, 2014, to:

Mitchell Smith
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Division of Taxation
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Trenton, NJ 08695-0269
Email: tax_rulemakingcomments@treas.state.nj.us

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1b, N.J.A.C. 18:9 expired on August 8, 2013. The Division of Taxation (Division) has reviewed the expired rules proposed herein as new rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. In addition, the expired rules proposed herein as new rules, are supplemented to require Uniform Transitional Utility Assessment (UTUA) taxpayers to report their Sales and Use Tax - Energy liability for the first two months of each quarter and the remaining balance of their UTUA credit.

As the result of the enactment of the Uniform Transitional Utility Assessment Act, N.J.S.A. 54:30A-114 et seq., effective January 1, 1998, a uniform transitional utility assessment was imposed on certain

telephone companies, gas and electric light, heat, and power corporations, and their successors. This assessment was part of the statutory scheme that eliminated the gross receipts and franchise tax and instead subjected such companies to the corporation business tax and subjected their sales of natural gas, electricity, and utility service to the sales and use tax.

The proposed new rules state that business entities that were either subject to P.L. 1940, c. 4 as of April 1, 1997, or to P.L. 1940, c. 5, prior to January 1, 1998, are subject to the UTUA.

The proposed new rules make clear that the UTUA applies to the corporate or non-corporate legal successors or assignees, whether through any reorganization, sale, bankruptcy, consolidation, merger, or other transaction or occurrence of any kind without limitation. The proposed new rules make clear that the UTUA liability follows the assets through corporate reorganizations.

Proposed new N.J.A.C. 18:9-1.2 requires that, in addition to a quarterly return and remittance (if due), all UTUA taxpayers must additionally report to the Division their Sales and Use Tax - Energy liability and any remaining UTUA Sales and Use Tax - Energy credit for those two months in each quarter when the quarterly return is not filed. In addition, when the UTUA credit does not cover the liability, the taxpayer will remit any payment due. Accordingly, once the available credit is used, monthly payment of any outstanding liability will be required.

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

Social Impact

The proposed new rules will affect very few taxpayers. When the law was enacted, 12 companies were subject to the UTUA. That number has increased to 19 companies. Proposed new N.J.A.C. 18:9-1.2 will apply only to nine companies that are required to make a payment in accordance with N.J.S.A. 54:30A-116 and will have a UTUA Sales and Use Tax - Energy credit during the tax year. These companies are large utilities that can readily comply with the rule.

Economic Impact

Proposed new N.J.A.C. 18:9-1.2 requires a UTUA taxpayer to report to the Division its Sales and Use Tax - Energy liability and the remaining balance of its UTUA Sales and Use Tax - Energy credit. Having this information on a monthly basis instead of quarterly will allow the Department of the Treasury's Office of Revenue and Economic Analysis to more accurately forecast and account for revenue over the course of the year.

Federal Standards Statement

The proposed new rules do not contain any requirement that exceeds those imposed by Federal law. The rules represent a policy of the Division of Taxation that is not subject to any Federal requirements or standards.

Jobs Impact

The Division of Taxation does not anticipate that any jobs will be generated or lost as a result of the proposed new rules.

Agriculture Industry Impact

The proposed new rules do not deal specifically with the agriculture industry and do not impact that industry.

Regulatory Flexibility Statement

The Uniform Transitional Utility Assessment rules apply only to nine utility companies, none of which are considered to be a small business, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Accordingly, a regulatory flexibility analysis is not required.

Housing Affordability Impact Analysis

The proposed new rules would not result in a change in the average cost associated with housing. The proposed new rules would have no impact on any aspect of housing because the proposed new rules deal with the applicability of, and reports, filings, and remittance required as part of the Uniform Transitional Utility Assessment.

Smart Growth Development Impact Analysis

The proposed new rules would not impact smart growth and they would not evoke 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 proposed new rules deal with the applicability of, and reports, filings, and remittance required as part of the Uniform Transitional Utility Assessment.

Full text of the proposed new rules follows:

CHAPTER 9.
UNIFORM TRANSITIONAL UTILITY ASSESSMENT

SUBCHAPTER 1. UNIFORM TRANSITIONAL UTILITY ASSESSMENT

18:9-1.1 Applicability of Uniform Transitional Utility Assessment

(a) Telephone companies that were subject to the provisions of P.L. 1940, c. 4, as of April 1, 1997, and gas and electric light, heat, and power corporations that were subject to the provisions of P.L. 1940, c. 5, municipal or otherwise, prior to January 1, 1998, are subject to the Uniform Transitional Utility Assessment (UTUA) Act, N.J.S.A. 54:30A-114 et seq.

(b) Corporate or non-corporate legal successors or assigns to the entities in (a) above, whether through any reorganization, sale, bankruptcy, consolidation, merger, or other transaction or occurrence of any kind without limitation, also are subject to the UTUA. These successors and assigns are liable for the UTUA, whether or not a transfer of corporate stock or a sale of corporate assets is involved.

(c) In a situation involving the sale of corporate assets, the successor corporation is liable for the UTUA on the corporation business tax and sales and use tax related to such assets.

18:9-1.2 Filing of monthly reports, payments, and quarterly returns

(a) All gas and electric light, heat, and power corporations subject to the UTUA must, on or before the 20th day of the month following the first and second month of each quarterly filing period:

1. In a manner prescribed by the Director of the Division of Taxation, report its Sales and Use Tax - Energy liability for the month and the remaining balance of its available credit resulting from the payment made in accordance with N.J.S.A. 54:30A-116; and

2. Pay an amount equal to its Sales and Use Tax - Energy liability for the month, less any available credit resulting from the payment made in accordance with N.J.S.A. 54:30A-116.

(b) All gas and electric light, heat, and power corporations subject to the UTUA shall file a quarterly return (Form ST-50EN) with the Division of Taxation and remit any payment due on or before the 20th day of the month following the quarter covered by the return.

(a)

DIVISION OF TAXATION

**Sales and Use Tax
Urban Enterprise Zones Act**

Proposed Amendments: N.J.A.C. 18:24-31

Proposed New Rule: N.J.A.C. 18:24-31.3A

Proposed New Rule and Repeal: N.J.A.C. 18:24-31.5

Authorized By: Michael Bryan, Director, Division of Taxation.

Authority: N.J.S.A. 52:27H-81 and 54:32B-24.

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

Proposal Number: PRN 2014-156.

Submit comments by November 14, 2014, to:

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Email: tax.rulemakingcomments@treas.state.nj.us

The agency proposal follows:

Summary

The proposed amendments, repeal, and new rules are intended to clarify the sales and use tax law as it applies to the administration of benefits that are provided to certain qualified businesses under the New Jersey Urban Enterprise Zones (UEZ) Act, N.J.S.A. 52:27H-60 et seq. The proposed amendments, repeal, and new rules will help businesses participating in the UEZ Program, as well as consumers, to better understand the sales and use tax laws that apply to transactions occurring within the UEZs.

The heading of the subchapter is amended to more accurately reflect content of the subchapter, to indicate that the subchapter pertains to exemptions of the sales and use tax. The subchapter explains how the sales and use tax benefits provided to qualified businesses within the UEZ Program are administered by supplying relevant definitions, listing qualifications as they pertain to the application of the sales and use tax exemptions, and giving examples of proper usage. This subchapter does not merely duplicate the Department of Community Affairs' (DCA) UEZ rules as provided in N.J.A.C. 5:120, or those that pertain to UEZs promulgated by the New Jersey Economic Development Authority (NJEDA) within N.J.A.C. 19:31-13, but supplements them by focusing on the sales and use tax exemptions allowed by the UEZ Program.

N.J.A.C. 18:24-31.1 is amended to more accurately reflect the purpose and scope of the subchapter, as described above. The role of the New Jersey Urban Enterprise Zone Authority (the Authority) is defined as provided by N.J.S.A. 52:27H-63 and N.J.A.C. 5:120. The proposed amendments also explain that the Authority is the governing body that oversees the administration of the UEZ Program.

The following terms were added to the definitions section (N.J.A.C. 18:24-31.2) to conform with the definitions adopted by the Authority: "Administrator," "Authority," "certification," "recertification," and "zone business benefits."

The terms: "certified seller," "energy," "motor vehicles," "natural gas," "partial sales tax exemption," and "utility service," are also defined to clarify and emphasize the context in which they are used in the rules. The definition of "qualified business" is amended to indicate that the qualified business must meet the criteria and be certified by the Authority to meet the tax benefits under the Act and has no outstanding tax obligations.

Other general/technical amendments are proposed for purposes of clarity. The proposed amendments, repeal and new rules revise the subchapter to refer to the statutory exemption from sales and use tax for retail sales of energy (electricity and natural gas) and related utility service to a qualified manufacturer operating in a UEZ or a vertically integrated combination of qualified businesses manufacturing a single product within a single redevelopment area within a UEZ. Such purchases must be made for consumption in the UEZ, and the business must employ at least 250 people at least 50 percent of whom are directly employed in a manufacturing process. Details on general qualifications and references on where to locate an application have been proposed as new N.J.A.C. 18:24-31.3A.

N.J.A.C. 18:24-31.3(a) is amended to explain that the sales and use tax exemption for qualified businesses is applicable to purchases of stationery used at the place of business in the zone, but is not applicable to purchases of specified digital products. Specified digital products are a distinct class of products defined under N.J.S.A. 54:32B-2(zz), on which sales tax is specifically imposed under N.J.S.A. 54:32B-3(a).

N.J.A.C. 18:24-31.3(a) is also amended to delete the last clause of the subsection because it is unclear. New paragraph (a)3 is added to state the existing administrative practice that the qualified business must follow and is relocated from existing subsection (c) (which is proposed for deletion). Existing subsection (e) is proposed for deletion as it is relocated to new N.J.A.C. 18:24-31.3A.

N.J.A.C. 18:24-31.4 has been expanded to fully explain how a sales transaction with a UEZ-certified seller can qualify for the partial sales tax exemption. Specifically, language is deleted from subsection (a), as it is incorporated into the definition of "certified seller"; in subsection (c), "rentals and leases" is added to reinforce the concept that retail sales of tangible personal property includes the rental and leasing of such