

New Jersey State Tax News

Winter 1998

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Property Tax Reimbursement



Division representatives Nick Cocco (left) and John Kelly (right) discuss the new Property Tax Reimbursement Program with the VITA volunteers in Thorofare. See article on page 2.

Director Thompson Confirmed

On December 10, 1998, the Senate confirmed Robert K. Thompson as Director of the Division of Taxation. Bob has worked for the Division of Taxation for over 28 years. His experience includes two years in the Field Audit Branch, 12 years in the Conference and Appeals Branch, and six years on former Director John Baldwin's staff. In February 1990, he was named the Assistant Director of Audit Activity and in 1994, Deputy Director with the responsibility for Audit and Technical Services. He served as Acting Director of the New

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important phone numbers

Tax Hotline.....	609-292-6400
Automated Tax Info.....	800-323-4400
.....	609-826-4400
Speaker Programs.....	609-984-4101
NJ TaxFax.....	609-826-4500
Alcoholic Bev. Tax.....	609-984-4121
Corp. Liens, Mergers, Withdrawals & Dissolutions.....	609-292-5323
Director's Office.....	609-292-5185
Inheritance Tax.....	609-292-5033
Local Property Tax.....	609-292-7221
Motor Fuels Tax Refunds...	609-292-7018
Public Utility Tax.....	609-633-2576

<http://www.state.nj.us/treasury/taxation/>

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Jersey Division of Taxation from February to June of 1994 and, effective November 6, 1997, once again assumed that position. On September 17, 1998, Bob was nominated by Governor Whitman to serve as Director of the Division of Taxation.

On hearing of his confirmation, Bob said "I have looked forward to this for some time now. This is a great organization with talented managers and a dedicated workforce. I have seen them respond beyond expectation to one challenge after another. I am confident that with all we have to do we will springboard into the new millennium ready to face the formidable challenges that lie ahead."

Bob was part of the team which negotiated the NY/NJ Cooperative Interstate Tax Administration Agreement; he was the Division liaison to the State and Local Expenditure and Revenue Policy Commission; Amnesty Administrator for New Jersey's First Tax Amnesty Program; and served on the Multistate Tax Commission's national Nexus Working Group.

Bob has an accounting degree from Rider College and a Masters in Government Administration from the University of Pennsylvania. □

NJ PC File

Beginning in mid-February 1999, taxpayers will be able to go to the Division's Web site to download NJ PC File which will allow them to use their Windows 95/98 based PCs to prepare and file their New Jersey gross income tax returns. Once the returns are completed, taxpayers will transmit the information to the Division by modem. In most cases, taxpayers should

receive their refunds within 2 weeks of filing.

The Division anticipates that the majority of resident taxpayers will be able to use NJ PC File to file their 1998 returns. Among those taxpayers who will not be able to use NJ PC File are those who have business income (i.e., net profits from business, distributive share of partnership income or net pro rata share of S corporation income) and those who are claiming a credit for taxes paid to other jurisdictions. It is estimated that as many as 3 million taxpayers will be able to use NJ PC File.

For more information regarding who can use NJ PC File and when the program will be available for downloading, visit our Web site at: <http://www.state.nj.us/treasury/taxation/>



Property Tax Reimbursement

The Division of Taxation will be mailing the 1998 Property Tax Reimbursement application, Form PTR-1, to targeted individuals in early 1999. The application has a filing due date of March 15, 1999 and the first reimbursement checks are scheduled to be mailed to qualified applicants on July 15, 1999.

A reimbursement will be paid annually to every eligible applicant, thereby freezing their property taxes at the 1997 level. The reimbursement will be the difference between the amount of property taxes that were due and paid by the applicant in 1997 (or the year in which the applicant becomes eligible) and the amount of property taxes due and paid in subsequent years.

Seniors and citizens with disabilities must complete a new Property

New Jersey State Tax News

is published quarterly by the:

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Technical Services
Taxpayer Services Branch
PO Box 281
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This publication is designed to keep taxpayers, tax practitioners and the general public informed of developments, problems, questions and matters of general interest concerning New Jersey tax law, policy and procedure. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for New Jersey tax laws and/or regulations.

Division of Taxation Director:
Robert K. Thompson

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Tax Reimbursement application each year for which they are filing a claim. They must also meet the eligibility requirements each year for both their base year and the year for which they are filing the application.

To ensure that their 1998 applications are processed without delays, applicants are reminded to:

1. **Complete the entire application**, providing information for both 1997 and 1998.
2. **Enclose copies** of their 1997 and 1998 property tax bills (mobile home owners enclose copies of the contract(s) or agreement(s) for both 1997 and 1998 from the mobile home park showing the amount of their site fees).
3. **Enclose proof of the amount of property taxes paid for both 1997 and 1998.** Homeowners may submit either copies of cancelled checks or receipts showing the amount of property taxes paid, or copies of Form 1098 which is provided annually by their bank or mortgage company. Mobile home owners may submit either copies of cancelled checks or receipts showing the amount of site fees paid.

Applicants who cannot locate property tax bills, or proof of the amount of taxes or site fees paid, may use one of the verification forms (Forms PTR-1A or PTR-1B) provided in the Property Tax Reimbursement booklet. These forms must be certified and completed by either the local tax collector or the owner/manager of the mobile home park and submitted with the Form PTR-1 application.

4. File Form PTR-1 on or before March 15, 1999.

Applicants who are receiving homestead rebates and/or property tax credits or deductions are also eligible for the Property Tax Reimbursement if they meet the eligibility requirements.

The Division cautions applicants that they must file a separate Homestead Property Tax Rebate Application (Form HR-1040) to receive a homestead rebate.

Volunteers in the VITA (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly) Programs are available to help prepare Property Tax Reimbursement applications at some locations throughout New Jersey.

The Division has staffed a Property Tax Reimbursement Hotline to answer questions related to the program. Representatives are available at 1-800-882-6597 from 8:30 a.m. to 4:30 p.m., Monday through Friday (except holidays).

New Call Center Opens

On December 7, 1998, the Division's Tax Hotline was relocated from Hamilton Township to the Taxation Building in Trenton.

The Hotline and its associated automated information systems will now be known as the Division of Taxation Call Center. Some of the Call Center's phone numbers have changed as a result of the move, while others remain the same. New numbers are marked with an asterisk (*) below.

Tax Hotline*609-292-6400

Automated Tax Information System (Touch-tone Phones Only)
 Within NJ 1-800-323-4400
 Anywhere*609-826-4400

NJ TaxFax*609-826-4500

NJ TeleFile
 Within NJ 1-888-235-FILE
 Anywhere*609-826-4448

Property Tax Reimbursement

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Ride the new wave...

<http://www.state.nj.us/treasury/taxation/>

new call center - from page 3

Hotline..... 1-800-882-6597

Calls placed to the old numbers will automatically be routed to the corresponding new number.

Look for more information about the Call Center in the spring issue of the *New Jersey State Tax News*.

□

SALES AND USE TAX ***Most Advertising Services Exempt***

On and after November 1, 1998, sales tax is no longer imposed on most advertising services.

Governor Whitman recently signed into law amendments to the Sales and Use Tax Act which repeal the tax on receipts from sales of advertising services performed in New Jersey. Receipts from the sale of direct mail processing services for advertising material sent to addresses in New Jersey remain subject to sales tax. P.L. 1998, c. 99 also makes it plain that the distribution of advertising material in New Jersey is a taxable use and imposes a compensating use tax on direct mail processing services performed outside New Jersey for in-State customers in every case where advertising material is delivered to addresses in New Jersey as a result of such services.

The sales and use tax exemptions previously provided in the law for sales of advertising or promotional material delivered to addresses outside New Jersey and for sales of direct mail processing services rendered in respect of such material delivered to addresses outside New Jersey are unaffected and still apply to all qualified transactions.

See N.J.S.A. 54:32B-3(b)(5) and N.J.S.A. 54:32B-8.39. Questions on the impact of the repeal legislation on advertising sale transactions may be addressed to:

NJ DIVISION OF TAXATION
TAX SERVICES BRANCH
PO BOX 269
TRENTON NJ 08646-0269 □

New Legislation Affects Taxes

Public Law 1998, chapter 106, was signed into law on September 14, 1998. This law amended the Gross Income Tax Act to clarify the exclusion of income from sources within New Jersey for nonresidents under N.J.S.A. 54A:5-8. Under the amendment, nonresident partners of commodities and hedge fund partnerships will not be deemed to have income from New Jersey sources solely by reason of their membership in such partnerships.

The law also made several changes to procedures and penalty provisions. An underpayment of Corporation Business Tax was redefined to be the excess of the lesser of the amount of the installment payment which would be required to be paid if all installment payments were equal to 90% of the tax shown on the return for the fiscal or calendar accounting year, or if no return was filed, 90% of the tax for that year, or 100% of the tax shown on the tax return of the taxpayer for the preceding taxable year. The penalty for failure to pay Corporation Business Tax during an extension shall not exceed 25% of the underpayment, under the new law.

The law permits taxpayers to file a claim for refund of an assessment paid without filing a protest or

appeal from an additional assessment of tax. This provision overturns the case of *Peoples Express Co., Inc. v. Director, Div. of Taxation*, 10 N.J. Tax 417 (1989). However, the taxpayer must pay the assessment in full within one year after the expiration of the period allowed for filing a protest of the assessment, the claim for refund must be filed within 450 days of the expiration of the period allowed for filing the protest, and the amount of the refund claimed must not exceed the amount of the assessment paid. The refund claim must be filed. Refund claims are now required to be filed under oath, stating the grounds for the claim and must be limited to the issues raised by the deficiency assessment. If a protest has been filed, a refund claim is not permitted until the protest has been resolved.

N.J.S.A. 54:49-4 in the Uniform Procedure Law was amended to require that if no return has been filed within 30 days of the date on which the first notice of delinquency in filing the return was sent to the taxpayer, the penalty shall accrue at 5% per month or fraction thereof of the total tax liability not to exceed 25% of such tax liability.

Finally, the law raised the threshold for the declaration of estimated gross income tax from \$100 to \$400, and modifies the calculation for the amount of underpayment of estimated tax on which the penalty for failure to file estimated tax is based.

The provision on income of nonresidents is effective for taxable years ending after enactment, and all other provisions in the law become effective for return periods

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beginning on or after January 1, 1999. □

NJ TeleFile Continued Success

The NJ TeleFile program, now in its fourth year, continues to be very successful. Last year, over 181,000 taxpayers used NJ TeleFile to file their 1997 resident income tax returns and homestead property tax rebate applications.

NJ TeleFile is part of the Division of Taxation's ongoing commitment to streamline the tax filing process. This year taxpayers who claim an additional exemption for dependent children attending accredited postsecondary institutions will be able to use NJ TeleFile.

The 1998 TeleFile season begins on Friday, January 15, 1999 and continues through midnight, Thursday, April 15, 1999. NJ TeleFile will accept returns 24 hours a day throughout the filing season. Taxpayers can access NJ TeleFile by calling 1-888-235-FILE (3453) from Touch-tone phones within New Jersey or 609-826-4448 from Touch-tone phones anywhere.

Calls to 609-588-FILE (3453), the telephone number listed in the NJ TeleFile instruction booklet, will be forwarded.

A reminder to tax practitioners – you can TeleFile for your clients provided you have a signed Power of Attorney form on record. TeleFile is fast, easy and convenient. Help us save even more tax dollars this year and TeleFile your eligible clients' returns. Refunds are mailed in just two weeks!

Liquor Audit Update



Assistant Director Richard Schrader, Field Audit Activity (top left), and Assistant Director David Gavin, Compliance Activity (top right), review the most recent results of the liquor audit project with Larry Gauges, Chief, Cash Audit Branch (bottom left), and Cheryl Fulmer, Chief, Field Investigation Branch (bottom right). As of November 1998, the Division of Taxation has collected \$149,439,307.

NJ TeleFile – TeleFile, Then Tell A Friend! □

SALES AND USE TAX Filing ST-50s Online

Some vendors are now able to file their quarterly sales tax returns (Forms ST-50) online. The Division of Taxation recently sent notices to those vendors who are registered for the Electronic Funds Transfer (EFT) program informing them of their ability to file Form ST-50 via the Internet. The notice contains a Personal Identification Number (PIN) which the EFT taxpayer must use when filing the online Form ST-50 located at the Division of Taxation's Web site:

<http://www.state.nj.us/treasury/taxation/>

Once the Taxpayer Identification Number and PIN are entered, the business will have access to the ST-50 template. The sales and use tax information is then entered in the appropriate fields. Once all of the necessary information has been entered, the taxpayer can transmit the information to the Division. Over 255 EFT Taxpayers have filed for the third quarter using the online Form ST-50.

Taxpayers must use a Web browser which supports Secure Sockets Layer (SSL). Netscape Navigator version 3.0 and Internet Explorer version 3.0, as well as more recent versions of these programs, support SSL. The form and the information are encrypted while being transmitted. This protects the confidentiality of taxpayer information which is sent

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to the Division.

Taxpayers must be registered with the Division of Taxation and authorized to make payments through the EFT method in order to utilize this site. Those taxpayers who would like to apply for EFT authorization can contact the Electronic Funds Transfer section by phone at 609-984-9830 or fax at 609-292-1777. The EFT section can also be contacted by writing to:

DIVISION OF REVENUE
EFT UNIT
PO BOX 191
TRENTON NJ 08646-0191 ☐

Interest Rates

Fourth Qtr. '98 — 11.50%

First Qtr. '99 — 10.75%

The interest rate assessed on amounts due for the fourth quarter of 1998 is 11.50%, and the interest rate for the first quarter of 1999 is 10.75%.

The assessed interest rate history for the last eight quarters is listed below.

Effective Date	Interest Rate
4/1/97	11.25%
7/1/97	11.25%
10/1/97	11.25%
1/1/98	11.50%
4/1/98	11.50%
7/1/98	11.50%
10/1/98	11.50%
1/1/99	10.75%

GROSS INCOME TAX Withholding Income Tax of Other States

Under rule N.J.A.C. 12:55-2.5 (adopted July 13, 1998 by the New Jersey Department of Labor) New Jersey employers of nonresident individuals whose earnings are subject to the income or wage tax of a "foreign" jurisdiction may now withhold the foreign jurisdiction's tax from the salary or wages paid to the employee. (A foreign jurisdiction means a sister state or a political subdivision thereof.) The new rule became effective on August 3, 1998; it expires on November 6, 2001.

Regulation 12:55-2.5 requires New Jersey employers to (a) obtain the express written authorization of each employee from whose wages or salary the income or wage tax of a foreign jurisdiction will be withheld before withholding such tax and (b) to hold the amounts withheld in a trust fund for payment to the foreign jurisdiction on behalf of the individual taxpayer.

This regulation does not relieve employers from their New Jersey wage reporting, record keeping and gross income tax withholding obligations as required under existing law and regulations. ☐

Division Web Page to Undergo Facelift

On February 29, 1996 the New Jersey Division of Taxation launched its home page on the World Wide Web. The Division's initial presence on the Internet contained information explaining New Jersey taxes, certain forms and some publications.

The information contained on the Division's Web site has expanded since its inception to include all our forms and publications, as well as current Division news, information on public auctions, and the recently introduced Unclaimed Property Search.

To further expand the information available to the public via the Internet, a Web Site Steering Committee was formed within the Division. In addition to providing more information, the committee recommended a redesign of the page to make it as user friendly as possible.

How will the new page be different? There will be three "paths" available to visitors: a practitioner path for professionals, a path for non-professionals, and a children's section. In addition, the page will have a whole new look accented with updated graphics and information.

Watch for the new page to arrive early in 1999! ☐

TECHNICAL SERVICES E-Mail Update

In June 1996, the Division began receiving and replying to correspondence from taxpayers by e-mail. We continue to receive an ever increasing amount of correspondence by this medium. The Taxpayer Services Branch replied to 2,900 e-mail inquiries in the 1998 fiscal year (July 1, 1997 – June 30, 1998). Projecting the average monthly increase in e-mail traffic forward, the number should reach 6,000 by the end of the 1999 fiscal year.

Currently, the Division is not using nencryption technology for its e-

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e-mail update - from page 6

mail correspondence, but work is under way to develop a secure connection via a Web browser. As our technology develops we will be incorporating features that will provide some internal efficiencies that should improve e-mail response times even more. One immediate change we have made is to establish a NEW e-mail address! nj.taxation@treas.state.nj.us

Writers should send all e-mail correspondence to the Division's new address effective immediately. E-mail sent to the old address (NJTaxation@aol.com) will be forwarded to our new address for the next few months. The old address will be terminated for Division e-mail after this transition period.

E-mail the Division at:
nj.taxation@treas.state.nj.us □

Volunteers Provide Assistance

In a continuing commitment to seniors and low-income taxpayers, the Division of Taxation will once again participate in the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs.

These programs provide for the training of hundreds of volunteer tax preparers who fill out tax forms

at no charge for literally tens of thousands of individuals throughout the State.

The Internal Revenue Service coordinates the VITA program and the American Association of Retired Persons (AARP) coordinates the TCE program. The Division works closely with principals in both programs to familiarize them with the New Jersey Gross Income Tax/Homestead Rebate and the new Property Tax Reimbursement.

Hundreds of sites open each February, staffed by friendly, caring volunteers who serve our senior and needy populations. Many of those served would be unable to afford professional tax preparation and do not feel comfortable preparing their own taxes. For those individuals, the VITA/TCE volunteer is providing a critical and welcome service.

The Division is proud of its long history of partnering with these worthwhile programs and will continue to support the efforts of those willing to help senior and low-income New Jersey taxpayers. □

ELF Program Expands

Beginning in January 1999, New Jersey will expand its Electronic Filing (ELF) program to allow most full-year resident individual taxpayers to file their own State income tax returns. To participate in electronic filing, taxpayers will need the use of a personal computer and a tax preparation software package. Taxpayers who file their State returns electronically must also file their Federal returns electronically. Electronic filers must also complete an Individual Income Tax Declaration for Electronic Filing (Form NJ-8453) when their return is accepted. As in prior years, taxpayers may opt to have their returns filed electronically by tax professionals.

Transmitters and Electronic Return Originators (EROs) who wish to participate in the New Jersey ELF program must register with the Division of Revenue each year. Failure to register with New Jersey will cause returns submitted by the transmitter or ERO to be rejected. Since this program includes both the Federal and State returns, those practitioners participating for the

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NJ TeleFile The fastest way to file!

File your NJ taxes by Touch-tone telephone. If you meet the following conditions, you may qualify to TeleFile your 1999 income tax return/homestead rebate application. To TeleFile, call 1-888-235-FILE (from within New Jersey only) or 609-826-4448 (from anywhere).

Full year New Jersey resident during 1998

Not 65 years of age or older as of December 31, 1998

Same filing status as on your 1997 NJ return

Not blind or disabled as of December 31, 1998

Total New Jersey income of \$150,000 or less

Only income from wages, interest (\$1,000 or less) and/or dividends (\$1,000 or less)

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first time should also contact the electronic filing coordinator at the IRS Newark District Office at 201-645-6690. Keep in mind, registering with the IRS does not automatically allow transmitters and EROs to participate in New Jersey's program.

To learn more about New Jersey's Electronic Filing program, visit the Division of Revenue's Web site at:

<http://www.state.nj.us/treasury/revenue/>

or write to:

NJ DIVISION OF REVENUE
ELF PROGRAM
PO BOX 191
TRENTON NJ 08646-0191

GROSS INCOME TAX **NJ-1040 Filing Tips**

Where's my refund? Why did you send me this bill? Where's my Homestead Rebate? These are the most frequently asked questions by anxious taxpayers who call or write to the Division of Taxation.

The following are some important tips for taxpayers and practitioners for filing 1998 New Jersey Gross Income Tax returns. If followed, these tips should prevent erroneous bills and delays in receiving refunds and homestead rebates, which all cause otherwise unnecessary calls and letters to the Division.

- Be sure to use a **1998** return. Do not use a prior year return since there are certain changes that are specific to the 1998 return year.
- Read the instruction booklet before completing the return.
- Be sure to use the **State Wages** figure from W-2s and not the

Federal wages. In many cases they will be different.

- When calculating your **Property Tax Deduction**, if you are a tenant be sure to use only 18% of your rent paid. If you are a property owner, you can claim the actual property tax paid or \$10,000, whichever is less. The **Property Tax Credit** will be \$50.
- Check your math.
- Make sure all of the required lines are completed on the return.
- If you use the Tax Tables to compute your tax due, be sure to use the correct column based upon your filing status.
- If your taxable income is \$100,000 or more and you use the Tax Rate Schedule to compute the tax due, remember to complete Step 3 on either Table A or Table B in the schedule.
- Be sure to use the correct label on the return if there are multiple filers in the same household.
- Be sure to complete page 3 of the return if you are requesting a refund or credit forward.
- Check to see that your return is signed and dated.
- Be sure that W-2s are legible.
- Review all of your payment records prior to preparing your return, so that you may properly take credit for all estimated payments, payments made with requests for extension, and credits forwarded from the prior year.
- When taking credit for taxes paid to other jurisdictions, be sure to include a copy of the tax

return that you filed with the other state or taxing jurisdiction.

- When reporting business income, be sure to include a copy of the Federal **Schedule C, C-EZ, or F**.
- Be sure to include **Schedule NJK-1, Form NJ-1065** (or a copy of Federal Schedule K-1, Form 1065) when reporting partnership income.
- When reporting S corporation income, be sure to include **Schedule NJ-K-1, Form CBT-100S** (or a copy of Federal Schedule K-1, Form 1120S).
- Be sure to enclose **Schedule NJ-2450** when claiming excess UI/HC/WD and disability contributions.
- When preparing your payment voucher, be sure to write your social security number on your check. On joint returns, be sure to write the primary social security number of the return on the check.
- Remember to complete the Homestead Rebate Application if you are anticipating a rebate.
- Since New Jersey estimated payments are due on the same dates as Federal estimated payments, be sure to mail your New Jersey payment and NJ-1040-ES to New Jersey, and your Federal payment and 1040-ES to the IRS.

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GROSS INCOME TAX
NJ Information on
Form W-2

Employers must furnish a Wage and Tax Statement (Form W-2) to each employee showing the amount of wages paid, the amount of state income tax withheld, the name of the state where the tax was remitted and certain other information. New Jersey does not have a separate form for reporting these wage and tax figures. They are reported on the Federal Form W-2 in the boxes provided for state tax information. Report information on the W-2 for employees working in New Jersey as follows:

◆ **Box 14** — Report amounts withheld as employee contributions to New Jersey Unemployment Insurance/Health Care Subsidy Fund/Workforce Development Partnership Fund (UI/HC/WD) and Disability Insurance (DI). These amounts

must be reported separately. Employers with approved private disability plans must also include their assigned private plan number in this box. New Jersey employers no longer have a separate identification number issued by the Department of Labor, except for those employers with private disability plans.

◆ **Box 16** — In most cases, New Jersey income tax is withheld from the salaries of employees working in this State. When taxes have been withheld and remitted to New Jersey, indicate "NJ" in the area of Box 16 designated as "State." List your New Jersey Taxpayer Identification Number in the area of Box 16 designated as "Employer's state ID no." This number is based on your Federal Employer Identification Number (FEIN) and is located on your New Jersey Employer's

Quarterly Report (Form NJ-927 or NJ-927-W), above your pre-printed name and address. If you are unsure of your New Jersey registration number, call the Division of Taxation Hotline at 609-292-6400 or the Division of Employer Accounts Hotline at 609-633-6400.

◆ **Box 17** — Report all salaries, wages, tips, fees, commissions, bonuses, and other remuneration subject to New Jersey Gross Income Tax.

◆ **Box 18** — Report the amount of New Jersey income tax withheld.

For more information on completing Form W-2, request a New Jersey Gross Income Tax Instructions for Employers booklet (Form NJ-WT), or Tax Topic Bulletin MISC-1, *Employer Responsibilities*.



Sample W-2 (This form is for illustration only and is not reproducible.)

a Control number		22222		Void <input type="checkbox"/>		For Official Use Only OMB No. 1545-0008				
b Employer identification number				1 Wages, tips, other compensation			2 Federal income tax withheld			
c Employer's name, address, and ZIP code				3 Social security wages			4 Social security tax withheld			
				5 Medicare wages and tips			6 Medicare tax withheld			
				7 Social security tips			8 Allocated tips			
d Employee's social security number				9 Advance EIC payment			10 Dependent care benefits			
e Employee's name (first, middle initial, last)				11 Nonqualified plans			12 Benefits included in box 1			
f Employee's address and ZIP code				13 See instrs. for box 13			14 Other UI/HC/WD 96.50 DI 82.03 DI PP. #(Private Plan No.)			
				15 Statutory employee compensation <input type="checkbox"/>		Deceased <input type="checkbox"/>	Pension plan <input type="checkbox"/>	Legal rep. <input type="checkbox"/>	Deferred <input type="checkbox"/>	
16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax				

nj-1040 filing tips - from pg. 8

By following the above guidelines, you are helping to ensure that your return will be processed timely and accurately, your payments, withholdings and credits properly applied, your refund and/or rebate received timely and the chances of your receiving an unexpected bill, significantly reduced. ☐

GROSS INCOME TAX **Enclosures With** **Returns, Clarified**

In an article in the fall 1998 issue of the *New Jersey State Tax News*, a list was furnished of items to be enclosed with an NJ-1040 return. A tax practitioner inquired about

Coming
Soon...

Pay Your Taxes By

Credit Card

For more information:

<http://www.state.nj.us/treasury/taxation/>

or

<http://www.state.nj.us/treasury/revenue/>

the necessity of furnishing all copies of 1099s with the New Jersey tax return.

Any 1099 with New Jersey gross income tax withholdings reported must be furnished with the return to ensure proper credit of those withholdings.

Other 1099s should be retained with the taxpayer's copy of their return and furnished to the Division if and when questions arise about the information reported on the return.

It should be noted, however, that when backup material is furnished with the return, especially when Federal and State income amounts differ, a review of information supplied with the return is often enough to explain the variance without requiring an audit of the return.

In the prior article the forms issued for gambling winnings were incorrectly reported as 1099-Gs. They are W-2Gs. ☐

Survey Says...!

The Division of Taxation offered tax practitioners the opportunity to let us honestly know how we're doing. A Survey of Tax Professionals appeared in the summer 1998 issue of the *New Jersey State Tax News* (see page 13 of that issue). Our questionnaire contained 25 questions regarding the various information services provided by this Division. Although we did not receive an overwhelming number

of replies, we do wish to sincerely thank the tax professionals who were so kind to take time out of their busy schedules to share their opinions. If any tax professional was unable to respond to the survey and wants to do so now, it's not too late. Your comments and suggestions are extremely important to us.

Are you as curious about the replies as we were? *Survey says...*

- Of those who responded to the survey, 83% rated our overall service to be that of average or better and 56% found our services to be above average to excellent. Thank you for your vote of confidence!
- 48% of those surveyed called our Tax Hotline more than 5 times during the past year to speak with Division representatives. An additional 27.5% called at least once. 42% found the services provided by the Tax Hotline to be above average to excellent.
- 45% have used our Tax Practitioners' Hotline to resolve taxpayer notices. 59% found that services rendered on this hotline are above average to excellent. Many commented on the fact that they were able to resolve client notices quickly and efficiently.
- Many practitioners utilized our automated systems. 57% of the respondents ordered tax forms and publications through our Forms Request Service. Of

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survey says - from page 10

those who did so, 92% considered it average or better (53% rated it above average or excellent).

- 49% of those surveyed utilized our Automated Refund Inquiry System (ARIS) and 45% responded that they had utilized our automated Homestead Rebate InfoLine. □

GROSS INCOME TAX **Accounting** **Methods**

A taxpayer recently inquired when they should recognize and report for Gross Income Tax purposes the value of stock received as part of compensation for services rendered. The taxpayer's interest in the stock was subject to substantial risk of forfeiture under the terms of his employment agreement and therefore qualifies as "restricted property" under Internal Revenue Code section 83. For Federal income tax purposes the taxpayer elected to defer recognition of the income until his interest in the stock was no longer at risk.

The Gross Income Tax Act at 54A:8-3(c), Accounting Methods, states in part that, "A taxpayer's accounting method under this act shall be the same as his accounting method for Federal income tax purposes."

A taxpayer's *method of accounting for Federal income tax purposes* determines not only the method to be used to compute income but also determines when income is to

be recognized for Gross Income Tax purposes, unless otherwise provided for in the Act or under Regulations. Thus, in most instances, a taxpayer will recognize and report income for Gross Income Tax purposes in the same period as he does for Federal income tax purposes.

The taxpayer in question would report the income from receipt of the restricted stock to New Jersey in the same year as it is reported for Federal income tax purposes. Since an election was made Federally to defer recognition of the income, the taxpayer would also defer recognition for New Jersey tax purposes.

Another example of when New Jersey income should be recognized and reported in the same year as Federal income is proceeds from sales reported under the installment method. See *Dubois v. Director*, 4 N.J. Tax 11 (1985), affd. 6 N.J. Tax 249, affd. 95 N.J. Tax 234, 470 A.2d 446, and *Guzzardi v. Director* 15 N.J. Tax 395 (1995), affd. 16 N.J. Tax 374 (App. Div. 1996). Still other examples would be the treatment of undistributed capital gains from Regulated Investment Companies and Real Estate Investment Trusts and Passive Foreign Investment Company income.

Taxpayers and tax practitioners requiring additional information on when and how income should be reported for Gross Income Tax purposes should contact the Division's Taxpayer Services Branch or the Gross Income Tax Audit Branch. □

CORPORATION TAX **Regular Place** **of Business**

In order for a domestic or foreign corporation to allocate (apportion) business activity away from New Jersey taxation, it must maintain "a regular place of business" outside New Jersey. This does not apply to corporations entitled and electing to file as an investment company, regulated investment company or real estate investment trust. These entities enjoy a reduced rate of taxation.

A regular place of business is defined as any bona fide office (other than a statutory office), factory, warehouse, or other space of the taxpayer which is regularly maintained, occupied and used by the taxpayer in carrying on its business and in which one or more regular employees are in attendance.

In order to satisfy the maintenance requirement, the taxpayer must be directly responsible for the expenses incurred for the regular place of business. The location must either be owned or rented in its own name and not through a related person or entity.

A regular employee is one who is in attendance during normal business hours, performing duties on behalf of the taxpayer that are of a significant nature. The employee must be under the direction and control of the taxpayer.

In situations where a corporation does not meet the requirements to allocate activity away from New Jersey, but nevertheless has nexus and is paying corporate taxes to another taxing jurisdiction(s), there is relief from double taxation by

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way of a credit for taxes paid pursuant to N.J.A.C. 18:7-8.3. □

Division Targets Non-Filers

Through a cooperative effort with the Federal Internal Revenue Service, the Compliance Services Branch has accelerated the New Jersey Personal Gross Income Tax Delinquency Program. Over 14,000 taxpayers were sent delinquency notices covering taxable years 1993, 1994 and 1995. Working from a PC-based program developed specifically for the project, investigators provided the selected taxpayers with three basic options to resolve the delinquencies:

1. Provide documentation verifying timely filing and payment;
2. Provide an adequate explanation of exemption from filing; or
3. File the delinquent return(s).

The program enabled the Division of Taxation to resolve 8,400 delinquent items and produced \$273,000 in Gross Income Tax collections. The responses received also provided an opportunity to identify and correct main-frame data input problems associated with the three years selected for

the program.

Further enforcement actions, including arbitrary assessments, judgments filed in Superior Court and seizure of assets, are slated for those individuals who did not respond.

Continuation of the program will include the 1996 taxable year. Tentative identification of potential 1996 delinquents began in October 1998 and the notices may have already been mailed by the time this issue of *New Jersey State Tax News* goes to press.

Anyone receiving a delinquency notice should carefully review their 1996 tax records and verify that the social security number on the delinquency notice matches the social security number on their 1996 NJ-1040. Taxpayers whose records indicate the return was already filed should respond by providing copies of all pages of the return, W-2 withholding statements and any other documents which were required to be filed with the original return. Taxpayers claiming credit on Schedule A for taxes paid to another jurisdiction must provide a copy of the tax return filed with the other state.

Taxpayers whose records reflect that a refund was claimed should search their financial records to verify that the refund was actually

received. The State of New Jersey issues a 1099-G to refund recipients as part of Federal tax requirements. Form 1099-Gs are issued to reflect income which may be taxable for Federal purposes and are usually issued in the year subsequent to the year the tax return was filed. For instance, a 1996 refund for a timely filed 1996 return would be issued in 1997 and the 1099-G would reflect the refund as 1997 income. The 1099-G would be issued in early 1998 prior to the Federal filing deadline for the 1997 tax return.

Taxpayers who receive a 1996 delinquency notice should verify that the social security number on the 1099-G issued for the 1996 New Jersey refund matches their correct social security number. If possible a copy of the 1099-G should be included with any delinquency response if the taxpayer claims a refund was received for the delinquent year.

Individuals who have not filed the 1996 return may request a blank return by calling the Division's automated Forms Request System from a Touch-tone phone at 1-800-323-4400 (in NJ only) or 609-826-4400 (from anywhere) or call the Tax Hotline at 609-292-6400. □

Transient Vendors Investigated

The New Jersey Division of Taxation has established a Special Compliance Unit to investigate noncompliant transient vendors who set up temporary sales locations, many out of trucks or vans. Some of these vendors are out-of-State vendors. These transient

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businesses may try to lure customers from compliant New Jersey businesses by promising "tax free" purchases. Some examples of merchandise include furniture, oriental rugs, toys and artwork/paintings. Other businesses that may promise "tax free" services are lawn maintenance, construction companies and janitorial/maid services.

In many instances time is of the essence in finding these transient vendors. The Special Compliance Unit is asking for assistance from the public in locating these tax-evading businesses. Anyone wishing to report one of these non-compliant vendors/businesses can call 1-888-705-5554 toll free and leave a message with:

- Name of the vendor
- Type of business in operation
- Business location
- Time the vendor was seen
- Caller's name and telephone number (optional)

All calls will remain confidential.

The Unit can also be contacted by writing to:

NJ DIVISION OF TAXATION
SPECIAL COMPLIANCE UNIT
PO BOX 245
TRENTON NJ 08646-0245

In gaining greater compliance, the Division of Taxation hopes to level the playing field for all businesses in New Jersey so that tax evaders do not have an unfair advantage over law-abiding vendors. □

Electronic Notices in Bankruptcy Cases

The Director of the Division of Taxation has entered into a Trading Partner Agreement for the Electronic Noticing Program with the U.S. Bankruptcy Court for the District of New Jersey. The effective date of the agreement was July 14, 1998. This agreement allows the Court to notify the Division of Taxation "electronically" of the commencement of proceedings under Chapter 7 (Asset & No Asset), Chapter 11, Chapter 12 and Chapter 13.

This electronic noticing program will allow the Division of Taxation to receive and process this information in a more efficient manner while reducing the mountains of paper normally being received containing the required information. The Division recently began receiving its first electronic files. For a short duration the Division will be receiving dual notifications, both electronic and hard copy, to ensure that all electronic notices are being correctly provided to the Division. Future enhancements may allow the Division to download this information to the State's registration files and the possibility of filing its Proofs of Claims electronically also exists.

As part of the Trading Partner Agreement, the Division of Taxation had to include **all** known addresses to which such notices were being sent. The success of this venture relies on those within the Bankruptcy "Arena" to list the Division of Taxation's address properly when listed as a creditor by the debtor.

The proper address is as follows:

NJ DIVISION OF TAXATION
BANKRUPTCY SECTION
PO BOX 245
TRENTON NJ 08646-0245

This address should be used when listing the Division of Taxation as a creditor at the commencement of insolvency proceedings for any tax which is administered by the Division. This address should be utilized regardless of the current location of the Division of Taxation's file at the commencement of the case. It is not pertinent to include in the mailing address the Tax Type, Section Name or Person's Name with whom you and/or the debtor may have been dealing with prior to, or at the time of commencement.

NOTE: This address is to be used for initial notification of commencement of proceeding. This does not relate to Process Service in Bankruptcy Cases which was addressed in the 1998 summer issue of the *New Jersey State Tax News*. □

INHERITANCE/ESTATE TAX Enforcement Increases Revenue

The Fiscal Year 1998 New Jersey Estate Tax revenue, in the amount of \$97,867,457, reflects a 28 percent share of total revenue in the amount of \$355,050,719. Transfer Inheritance Tax has the larger share in the amount \$257,183,258.

Legislation granting broad exemptions from the Inheritance Tax and separate legislation accelerating the due date for reporting and paying New Jersey Estate Tax together with renewed and determined enforcement policies of the

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enforcement revenue - from pg. 13

Division are given credit for the significant Estate Tax revenue.

The New Jersey Estate Tax is triggered whenever there is a Federal estate tax liability. The Estate Tax is applicable only to estates of resident decedents. The tax is designed to fully absorb any portion of the State Death Tax credit allowable under Federal estate tax laws. The New Jersey Estate Tax is the difference, if any, between the inheritance and other death taxes paid to this State and elsewhere from the allowable credit. Emphasis is on the word "allowable" as opposed to "allowed" or "taken."

The New Jersey Estate Tax obligation is not discretionary on the part of the taxpayer. It may not be satisfied by payment of the appropriate amount to the Federal Government in lieu of claiming the credit allowable for Federal estate tax purposes.

Amended Estate Tax statutes provide that for estates of decedents dying on or after March 1, 1992, which are subject to the New Jersey Estate Tax, an estate tax return (Form IT-Estate) must be filed together with payment of the tax within 9 months after the decedent's death.

Interest accrues at the rate of 10 percent per annum on any estate tax not paid within the nine month period. Upon receipt of a copy of a Federal extension to file the Federal Form 706, interest may be reduced to 6 percent per annum until expiration of the extension period.

Statute requires that a copy of the Federal Estate Tax Form 706 be filed with the Transfer Inheritance and Estate Tax Branch within 30 days after filing of the original

with the Federal Government. A copy of any communication from the Federal Government making any final changes, or confirming, increasing, or diminishing the tax shown to be due must also be filed with the Branch within 30 days of receipt. □

LOCAL PROPERTY TAX ***Disabled Vets*** ***Reimbursed***

New Jersey's Constitution and statutes at N.J.S.A. 54:4-3.30 provide that certain totally and permanently disabled war veterans or their surviving spouses be exempt from property taxes on their principal residences and the lots on which those residences are situated.

To qualify for property tax exemption, the veteran must be honorably discharged from active wartime service in the U.S. Armed Forces and be VA certified as having service-connected total or 100% permanent disability. The veteran must fully own and permanently reside in the dwelling for which exemption is claimed and be a legal or domiciliary resident of New Jersey. Application, Form D.V.S.S.E., must be filed with the municipal assessor of the taxing district where the dwelling is located. As the surviving spouse of a disabled veteran who met all of the above eligibility requirements, the widow or widower must not have remarried, must also be a New Jersey resident and owner-occupant of the claimed dwelling.

Generally, the State does not reimburse the municipality for the tax revenues lost by the granting of these exemptions. However,

\$5,037,244.87 in a one-time State funded retroactive property tax reimbursement (D.V.R.R. program) was issued in August 1998 to 397 totally and permanently disabled war veterans or their surviving spouses who paid taxes when their properties should have been exempt. Over 500 D.V.R.R. applications for reimbursement were received and processed by Local Property's Policy and Planning Section. The filing period for State reimbursement ran from January 1, 1998 through March 31, 1998. The reasons for the retroactive claims varied. Some veterans were unaware that the tax exemption was available to them. Other vets received the required VA certification of their service-connected 100% permanent and total disability retroactively, years after property tax payments had been made.

Procedures outlined in N.J.S.A. 54:4-3.30 for determining exemption entitlement and discretionary granting of retroactive refunds by the municipal governing body pursuant to N.J.S.A. 54:4-3.32 have not been changed by the one-time State reimbursement. □

LOCAL PROPERTY TAX ***Tax Deductions*** ***Certified***

The 1998 State Revenue Sharing Act Distribution for senior and disabled citizens, surviving spouses and veterans was delivered to the State Treasurer on September 15, 1998.

Under the provisions of R.S. 54A:10-1, et seq., as amended, the

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tax deductions certified - from pg. 14

Director of the Division of Taxation certified to the State Treasurer in this report the amount of revenue sharing funds due each municipality on November 1, 1998.

The total amount of property tax deductions for senior and disabled citizens and surviving spouses for 1998 was \$33,650,613. That amount represents a decrease of 5.4% from 1997.

The total number of property tax deductions for senior and disabled citizens and surviving spouses for 1998 was 129,959. When compared to tax year 1997 the number of deductions decreased 4.5%.

The amount of veterans' deductions for 1998 was \$17,538,791. That amount represents a decrease of 2.7% from 1997.

The total number of veterans' deductions for 1998 was 343,975. When compared to tax year 1997 the number of deductions decreased 2.6%.

The total amount of property tax deductions and veterans' deductions include the additional 2% each municipality is reimbursed for administrative costs as a result of c.30, P.L. 1997. □

**LOCAL PROPERTY TAX
*F.E.A.C. Adopts
Values for 1999***

The Farmland Evaluation Advisory Committee (F.E.A.C.) met on August 26, 1998 at the Philip Alampi Laboratory in West Trenton to adopt productivity assessment values and imputed grazing values for land receiving farmland assessment for 1999. The thirty-fifth Report of the Committee

(showing the value ranges adopted) is mailed to municipal tax assessors and county boards of taxation by October 1 of each pre-tax year. Land qualifying for farmland assessment must be assessed in accordance with its agricultural or horticultural use rather than its true or market value.

The farmland productivity values adopted by the Committee for the 1999 tax year increased in 14 of the 20 counties where qualified farmland is located. Increases in cropland having a B soil group rating averaged from \$20 to \$60 per acre when compared to 1998 values. Overall net farm income of land in agricultural and horticultural use in New Jersey is estimated to have increased approximately 5.7% over the prior year. □

**LOCAL PROPERTY TAX
*Farmland Acreage***

A report summarizing data from farmland assessment applications (FA-1) has recently been completed. The study shows that total acreage devoted to agricultural or horticultural use in 1998 was 1,178,121 acres for the entire State.

The data for tax year 1998 reflects a continued decline in the amount of qualified farmland since enactment of Chapter 48, Laws of 1964 (the "Farmland Assessment Act"). Since 1983, the year in which the highest acreage, 1,271,882 acres, qualified for farmland assessment, the amount of qualified acreage has declined 7.4% or a total of 93,761 acres.

24.5% of New Jersey's land mass is approved under the Farmland

Assessment Act. Hudson County remains the only county without farmland. Essex and Union each report less than 500 acres devoted to agricultural or horticultural use. Conversely, Salem with 57.1% has the greatest proportion of its land qualified under the Act. Other counties with large percentages of qualified farmland are: Hunterdon 51.2%; Warren 51.0%; Gloucester 38.5%; Sussex 33.8%; and Mercer 30.9%.

Copies of the 1998 report have been distributed to the County Tax Board Administrators. Anyone seeking specific information on qualified farmland acreage or wishing to obtain a copy of the report may do so by calling 609-292-7974. □

**LOCAL PROPERTY TAX
Tax Assessors'
Calendar**

January 1-

- Duplicate of tax map approved previous year filed with the County Clerk or County Register of Deeds by taxing district.
- Hearings of added assessment appeals completed by County Tax Board.
- Hearings of assessors' omitted assessment appeals completed by County Tax Board.
- One copy of Farmland Assessment applications, FA-1s, sent to County Tax Administrator by assessor.

January 10-

- Taxpayer to give assessor notice of depreciation to structure occurring after Oct. 1 and before

assessors' calendar - from pg. 15

Jan. 1.

- Copy of Initial Statement and Further Statement filed with County Tax Board.
- Assessment Lists and duplicates filed with County Tax Board.
- Duplicate copy of municipal tax map filed with County Tax Board.
- Two copies of Form SR-3A filed with County Tax Board.
- Estimated total amount of approved veteran and property tax deductions filed with County Tax Board.

February 1-

- Notices of current assessment and preceding year's taxes mailed to taxpayer by assessor.
- Appeal time, where assessor fails to notify taxpayer of current assessment and preceding year's taxes, or change in assessment, extended by County Tax Board.
- MOD IV Master file sent to Property Administration via magnetic tape.
- Assessors' office hours furnished to Director, Division of Taxation by County Tax Administrator.

February 15-

- County Tax Administrator to forward FA-1 forms to Property Administration in district order.

March 1-

- Post-Tax Year Statement, PD5, filed with tax collector by all recipients of property tax deduction.
- County Tax Administrator to submit equalization table to County Tax Board, each asses-

sor, Division of Taxation, and post a copy at the courthouse.

March 10 (before)-

- Equalization table hearings completed by County Tax Board.

March 10-

- Confirmed equalization table sent by County Tax Board to each taxing district in the county, to Director, Taxation, and to Tax Court. □

Criminal Enforcement

Criminal Enforcement over the past several months included:

- On June 19, 1998, Mr. Harold W. Coleman, a former official of Hamilton Township, Mercer County, Board of Fire Commissioners, was indicted by a State Grand Jury for allegedly embezzling in excess of \$700,000 while acting as Treasurer of the organization. The indictment included charges of theft, official misconduct, misapplication of entrusted property, filing false and fraudulent New Jersey gross income tax returns, failure to file a New Jersey gross income tax return and three counts of failure to pay New Jersey gross income taxes. The subject was arraigned in Mercer County Superior Court. Bail was set at \$100,000 and the subject was then incarcerated. Mr. Coleman, if convicted, could face 10 years in jail and a fine of \$330,000.
- On June 19, 1998, a Federal jury in Camden convicted four of the six defendants in the latest trial relating to the "Red Daisy" motor fuels tax investi-

gation. Those convicted at this trial included Daniel Enright, the former president of Petro Plus Petroleum, who agreed, on June 23, 1998, to forfeit more than \$2 million in cash to the Federal government which had been located in a Swiss bank account and subsequently frozen. This action clears the way for the participating agencies to receive an equitable share of these funds. Enright was convicted on conspiracy, 10 counts of money laundering, 11 counts of wire fraud and 14 counts of tax evasion. Also convicted of charges of tax evasion and money laundering were Richard Pedroni, the former president of Pedroni Fuel Company in Vineland, Mary Ingram, the former president of American Minority Petroleum located in Woodbridge and Demetrius Karamanos, a former officer of Kings Motor Oils Co. Inc. located in Edison. This undercover investigation was worked jointly by the FBI, IRS-CID, Pennsylvania Department of Revenue and Division of Taxation's Office of Criminal Investigation.

- On June 24, 1998, Himanshu K. Desai, an Ocean County Corrections Officer, of South Toms River, was indicted by a State Grand Jury for filing fraudulent sales tax returns from 1990 through 1997 in connection with a convenience store he owns in South Toms River. The amount of tax underreported is estimated to be more than \$60,000. If convicted on all counts, Desai faces up to five years in prison and fines of up to \$7,500. This case was investigated by the Office of Criminal Investigation with present-

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criminal enforcement - from pg. 16

- ment to the grand jury by the Division of Criminal Justice.
- On July 22, 1998, Fausto Diaz of Perth Amboy entered a guilty plea to an accusation of one count of money laundering and one count of filing a fraudulent New Jersey gross income tax return. Mr. Diaz faces up to 10 years in prison. This case is the first prosecution from the enhanced money laundering statutes enacted last year and was investigated jointly by the Division of Taxation's Office of Criminal Investigation and the Division of Criminal Justice.
- On August 7, 1998, Anagnostis Inc., t/a Holiday Spirit Shop, and Peter B. Anagnostis were indicted by a State Grand Jury. The indictment was five counts: theft by failure to make required disposition, misapplication of entrusted property, failure to file returns, failure to turn over taxes, and purposeful failure to turn over taxes. The total amount of sales tax collected but not remitted was \$262,537 for the period September 30, 1990 to June 30, 1994.
- On August 26, 1998, a Camden County Grand Jury indicted Steven H. Willans, of Barrington Borough, on charges of failing to file personal State income tax returns for the years 1994, 1996 and 1997, collecting and failing to remit \$7,609.07 in sales tax, failing to file returns regarding same and misapplication of said entrusted property from 1992 through 1995. Willans was also indicted on charges of embezzling more than \$75,000 from the Barrington Ambulance Association, the local first aid squad of which he was treasurer.
- In other related indictments, Katrina Willans, Steven Willans' wife, was indicted on charges of failing to file State income tax returns for the years 1993 through 1997, and Samuel F. Daley of Audobon Borough was indicted on charges of failing to remit \$6,125.88 in sales tax he had collected, failing to file and remit \$1,139.55 State gross income tax he had withheld from employees' wages, and misapplication of entrusted funds,

from 1995 through 1997. These cases were jointly investigated by the Division of Taxation's Office of Criminal Investigation, the Barrington Police Department and the Camden County Prosecutor's Office.

- Forty-five charges were filed in municipal court on nine cases for violating the cigarette tax law including possession of 1,008.9 cartons of contraband cigarettes, valued at \$25,222.50. Two cases involved the arrest of three individuals from out-of-State, who were transporting unstamped cigarettes. □

Tax Briefs

Corporation Business Tax Short Period Returns S Corporations — If a corporation that has elected New Jersey S corporation status loses its Federal S corporation status during the taxable year, and it therefore ceases to be a New Jersey S corporation but its corpo-

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Enforcement Summary Statistics

Third Quarter 1998

Following is a summary of enforcement actions for the quarter ending September 30, 1998.

• Certificates of Debt:	• Jeopardy Seizures	5	
Total Number	2,453	• Seizures	27
Total Amount	\$56,379,820	• Auctions	16
• Jeopardy Assessments	4	• Referrals to the Attorney General's Office	346

For more detailed enforcement information, see our Home Page at: <http://www.state.nj.us/treasury/taxation/>

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rate existence continues, the corporation files a New Jersey S Corporation return (CBT-100S) for the short period ending on the day before the disqualifying event and a C corporation short period return (CBT-100) for the remainder of the year.

The due date for the return for the short period is the 15th day of the fourth month after the close of the period. An automatic six-month extension of time to file the CBT-100S is available by making a tentative return and paying the tentative tax on Form CBT-200T on or before the due date of the return.

Single Member LLCs — If a foreign corporation is the member of a single member LLC that is doing business in New Jersey, the corporate member is subject to the Corporation Business Tax, N.J.S.A. 54:10A-1 et seq., in New Jersey, assuming that the LLC is disregarded as an entity for Federal purposes. N.J.S.A. 42:2B-69.

If the LLC itself is treated as a corporation for Federal tax purposes, and is not disregarded, the LLC would be required to file a CBT-100 and pay tax in its own right. N.J.S.A. 54:10A-4(c).

P.L. 1998, chapter 79, approved August 14, 1998, provides for single member LLCs to be organized in New Jersey. The amendment applies to all existing limited liability companies whether or not formed before August 14, 1998.

Gross Income Tax

Dependent Care Accounts — The Division received an inquiry concerning whether a dependent care account to which an employee

contributes is taxable by New Jersey.

Employees are subject to State gross income tax on all income actually or constructively received. The New Jersey Gross Income Tax Act imposes the tax upon salaries, wages, tips, fees, commissions, bonuses and other remuneration received for services rendered. N.J.S.A. 54A:5-1a. There is no provision in the New Jersey law similar to the Internal Revenue Code excluding from employee income amounts paid into a dependent care account.

Payment to Widow of Fireman

Killed in Action — A taxpayer inquired whether a pension benefit paid to the widow of a fireman killed in action is exempt from gross income tax. The pension benefit is paid under N.J.S.A. 43:16A-10, which provides an accidental death benefit “upon the death of a member in active service as a result of an accident met in the actual performance of duty....” For a widow or widower, the benefit is a pension of 70% of the compensation paid in the last year of service. Unlike typical pensions, the benefit is not based on the deceased’s age and length of service.

Under section 6-6.a. of the Gross Income Tax Act, amounts received under workmen’s compensation acts as compensation for personal injuries or sickness are exempt from gross income tax. The New Jersey exemption is based on a similarly-worded Federal tax exemption found in section 104(a)(1) of the Internal Revenue Code.

Based on the wording in N.J.S.A. 54A:6-6.a. and IRS regulations and rulings, the Division of Taxation has determined that the pension

benefit paid under N.J.S.A. 43:16A-10(1) and (2) to a widow or widower of a police or fire member killed in action is exempt from the gross income tax. Taxpayers claiming the exemption must attach to their return a letter from the Division of Pensions stating that the taxpayer is eligible for the section 43:16A-10 benefits and documentation of the annual amount of the benefit.

Sales & Use Tax

Boats Subject to Registration and Sales to Nonresidents — The Form ST-10V (Vessel Dealer Sales and Use Tax Exemption Report) is used by vendors to document sales subject to the sales tax exemption allowed under N.J.S.A. 54:32B-10. This provision exempts sales of motor vehicles, aircraft and boats to nonresidents of New Jersey if the nonresident purchaser also meets four additional criteria for exemption: (1) has no permanent place of abode in New Jersey, (2) is not engaged in any employment, trade, business or profession in the State in which the motor vehicle, aircraft or vessel is used within New Jersey, (3) will not base the aircraft or boat in New Jersey within the 12 months following purchase, except on a transient basis, and (4) provides the vendor with necessary documentation to support the exemption. N.J.S.A. 54:32B-10(a) (2), (3), (5) and (4), respectively.

Although the provision does not explicitly limit the exemption to particular kinds of boats, in light of the additional criteria for the nonresident exemption, the Division believes that the boat exemption is limited to those boats that are subject to regulation by the

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Division of Motor Vehicle Services under the New Jersey Boat Act. The governing statute, N.J.S.A. 54:32B-10, in subsection (5), says that in order for the boat to be exempt, the purchaser "will not house, moor, base or otherwise place the...boat or other vessel in this State for use on other than a transient basis or for repairs at any time within 12 months from the date of purchase." This criterion for exemption parallels one of the conditions for exemption from the requirement of registration with the Division of Motor Vehicles under the New Jersey Boat Act. N.J.S.A. 12:7-34.38(b). Therefore, it is reasonable to conclude that the boats subject to exemption under N.J.S.A. 54:32B-10 are the types of boats subject to regulation by Motor Vehicle Services. (This is why the form requires information regarding state of registration of any trade-in vessel, the serial number of the boat sold, and the purchaser's driver's license.) Boats subject to registration with Motor Vehicle Services would include power vessels and sailboats larger than 12 feet long, but would not include such things as canoes, kayaks, nonmotorized rowboats or nonmotorized dinghies. See N.J.S.A. 12:7-34.38.

A business that sells only canoes, kayaks and rowboats is not deemed to be a "vessel dealer" for sales tax purposes. Unlike purchasers of motor vehicles, power vessels, and large sail boats, who may be exempt from sales tax if they satisfy the criteria for nonresidency in N.J.S.A. 54:32B-10, nonresident purchasers of canoes who take possession of the canoes in New Jersey are not exempt from paying sales tax. The explanation of the

nonresident exemption in N.J.A.C. 18:24-7.8(b), which applies to motor vehicle sales, can also be used as a guide in determining whether a purchaser of a boat qualifies for the nonresident exemption.

Limited Dividend Housing Corporation — A Limited Dividend Housing corporation wrote the Division requesting information on the proper sales and use tax refund procedures for such corporations. Limited Dividend Housing corporations and associations, organized under the Limited Dividend and Nonprofit Housing Corporations and Associations Law, are providers of low and moderate income rental housing projects in blighted areas that were developed prior to 1992.

They were advised that prior to any refund claim their application for Limited Dividend Housing sales tax exemption status must be reviewed and approved by the Division.

Limited Dividend Housing corporations (or associations) are exempt from sales tax under N.J.S.A. 55:16-19 for the purposes described in N.J.S.A. 55:16-4, i.e., "to acquire, construct, alter, maintain and operate a housing project." The tax exemption is for the purchase of materials, supplies and services for constructing the project and also for maintaining and operating the housing project after it has been constructed. The exemption is approved to the housing corporation or association only for use on the specific housing project stated in the application. The exemption extends to all purchases used to operate the housing project, including not only structural materials and supplies, but also operat-

ing expense supplies, office supplies, and business supplies for that project. The exemption does not include tenant purchases, restaurant meal purchases by owners/management or tenants, hotel occupancies or any other purchase not directly related to the housing project. Contractors doing work for a Limited Dividend Housing corporation cannot buy materials or supplies from their supplier tax free with an ST-13 but the Limited Dividend Housing corporation can buy the materials and supplies directly with payment out of their account tax free with the use of an ST-4 together with their sales and use tax exemption letter provided by the Division.

The Limited Dividend and Nonprofit Housing Corporations and Associations Law was repealed effective April 17, 1992. The repealer contained a provision to allow Limited Dividend Housing corporations and associations (renamed "urban renewal entities") with projects in existence prior to April 17, 1992 to continue with all previously granted sales tax exemptions. N.J.S.A. 40A:20-1, et seq.

Once their exemption status has been approved, the Limited Dividend Housing corporation may file a Claim for Refund form for any sales and use taxes paid, for the purposes described in N.J.S.A. 55:16-4, for a four year period prior to the date of their claim.

The claim for refund must be supported by invoices and canceled checks showing the Limited Dividend Housing corporation as the purchaser and payer of record. Purchases must be shown for use on the housing project stated on

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the application.

Sales or Installation of Certain Home Appliances — Under the Sales and Use Tax Act, a contractor is any person who improves or repairs the real property of another person. Built-in appliances are treated as capital improvements to real property and therefore any person who installs such an item for a customer is a contractor with respect to that transaction.

The Sales and Use Tax Act places responsibility with the contractor for sales and use tax on purchases of materials and supplies necessary for the installation. The contractor's customer is liable for tax only with respect to the installation labor charge, unless the installation results in a capital improvement to real property. Again, note that built-in appliances, including replacements, are usually treated as capital items.

Given the statutory framework, the following guidelines can be used by appliance retailers to ascertain the correct sales and use tax application:

- In any case where the retailer sells a built-in appliance to a customer, regardless of whether the customer is a homeowner, contractor, builder or developer, sales tax must be collected on the sales price if the property is either picked up or delivered to a location in New Jersey. (This assumes no exemption is available under law.)
- In any case where the retailer sells a built-in appliance to a customer *and agrees to install the item under a separate installation agreement*, sales tax must be collected on the sales

price of the appliance if the property will be installed in a location in New Jersey. The charge for installation is not subject to sales tax because the installation is deemed to result in a capital improvement. The customer should issue a Certificate of Capital Improvement (ST-8) to the retailer/contractor.

- In any case where the retailer agrees to sell a built-in appliance installed (single agreement), the retailer is acting as a contractor under the Sales and Use Tax Act. Thus, the retailer/contractor is liable for the remittance of use tax based on the cost of the built-in appliance, since the appliance was presumably purchased without the payment of sales tax. The sale agreement, now considered an agreement for the service of installing property which is incorporated into real property, is not subject to the collection of sales tax from the customer. The customer in this circumstance should issue a Certificate of Capital Improvement (Form ST-8) to the retailer/contractor. Note that the retailer/contractor's use tax expense may be incorporated into the price charged in the receipt.

Universal Service Assessment — Effective January 1, 1998, the Federal Communications Commission imposed an assessment on telecommunications carriers in order to fund the government's Universal Service Program, which subsidizes telecommunication services to low income and rural communities as well as schools, libraries and health care facilities. The telecommunications company may pass this cost on to its customers as part of the monthly bill for service.

The Sales and Use Tax rule provides that excise taxes which are imposed on vendors, such as the Universal Service Assessment, are included in the receipt on which sales tax is computed. Since telecommunications services, including cellular, are subject to New Jersey sales tax, the Universal Service Assessment is also subject to sales tax.

Uniform Procedure

Interest on Refunds — Taxpayers are entitled to interest on certain refunds pursuant to State Tax Uniform Procedure Law section N.J.S.A. 54:49-15.1 and Gross Income Tax Law section N.J.S.A. 54A:9-7(f). The interest will be equal to the prime rate, determined for each month or fractional month compounded annually at the end of each year, from the date the interest begins to accrue to the date of refund. The interest will begin to accrue from the later of the date of the filing of a completed claim for refund under N.J.A.C. 18:2-5.8, the date of the payment of tax, or the due date of the return.

However, the State Tax Uniform Procedure Law provides that "no interest shall be allowed or paid on an overpayment of less than \$1.00, nor upon any overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return or within six months after the return is filed whichever is later." N.J.S.A. 54:49-15.1. The same provision appears in the Gross Income Tax Law. N.J.S.A. 54A:9-7(f). Thus, the Division will not pay interest on refunds that are paid within six months of the later of the date the return is filed or the due date or extended due date of

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the returns.

N.J.S.A. 54:49-15.1, which authorized interest on refunds, was contained in Public Law 1992, c.175, the "Taxpayers' Bill of Rights," enacted December 10, 1992. N.J.S.A. 54:A:9-7(f) was enacted in 1976. These provisions balance the goal of providing timely refunds with the need to allow time for the Division and taxpayers to discover overpayments, and for the Division to receive and process completed refund claims from taxpayers. □

In Our Courts

Insurance Retaliatory Tax Treatment of Surtax as a Special Purpose Assessment — *Liberty Mutual Insurance Co., Liberty Mutual Fire Insurance Co. v. Director Division of Taxation*, decided July 21, 1998; Tax Court Nos. 006043-96 and 000258-97.

These cases involve the issue of whether the FAIR Act Private Passenger Automobile Surtax collected in 1990, 1991 and 1992 is a special purpose assessment excludible from the taxpayers' New Jersey retaliatory tax base under N.J.S.A. 17:32-15. By opinion and judgment dated July 21, 1998, the Tax Court granted the plaintiffs' summary judgment motion and denied the State's cross motion on this issue (the State prevailed on the estoppel issue raised by the plaintiffs).

Local Property Tax Former Parish Properties Eligible for Partial Exemption — *Roman Catholic Archdiocese of Newark v. City of East Orange*, decided May 27, 1998; Tax Court of New Jersey.

A decades old real estate tax exemption of two church parishes under N.J.S.A. 54:4-3.6, as properties actually and exclusively used for religious purposes or worship, was challenged when, due to declining attendance and deteriorating facilities, the parishes were dissolved and ownership reverted to the Archdiocese. During the disputed years 1994-1996 the properties were used for storing church records and artifacts, deanery meetings, a gymnasium for Catholic youth teams, a rectory for a retired clergyman, daily and weekly Mass, and classrooms rented to the city's Board of Education. Usually no more than two persons, the pastor and church security guard, attended Mass, and the meetings and sporting events were occasional. The municipality revoked the exemption contending the quantum of religious use to be insufficient. The Archdiocese countered that court examination would violate the church's U.S. and State Constitutional protections of religious freedom.

The N.J. Tax Court addressed the following religious use issues in deciding exemption status:

1. May a court inquire into the nature of religious use of otherwise qualified property;
2. Must a religious use be of a certain amount or level to attain exemption;

3. Is storage of church property and religious artifacts a religious use;
4. Is the required exclusivity of religious use invalidated by leasing a portion of the property to the Board of Education.

In its review of U.S. and N.J. law, the State Tax Court found that Constitutional protections are not absolute; inquiries into the purposes and activities of religious organizations have been approved by the Federal Courts and mandated by N.J.S.A. 54:4-3.6's actual and exclusive use condition for property tax exemption.

However, New York, Colorado and Utah Supreme Courts have examined minimum religious use criteria and rejected them, while the Michigan Court of Appeals in 1968 adopted and then in 1977 reversed a quantum of use test. The lone exception was the Vermont Supreme Court which by split decision upheld a quantum use test for an educational organization. Vermont has not applied the test to a religious entity. N.J. courts have ruled that a tax exempt religious organization's complete nonuse of a property will not sustain exemption, even where future exempt use is anticipated. Although our courts have indirectly dealt with use issues in relation to parsonages, they have not suggested a quantum, regularity or consistency of religious activity as prerequisite for exemption of religious purpose entities. N.J.S.A. 54:4-3.6 only requires actual and exclusive use and does not impose a de minimis test on entitlement to religious purpose or worship exemptions. Once occupied and utilized for appropriate exempt use, even if

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minimal, exemption is not denied.

Concerning storage, both New York and Alaska have exempted religious entities where part of the property was used for storage. Warehousing has been affirmed as an exempt use with respect to historic sites by our State Supreme Court. But until this Tax Court's review of storage as a qualifying religious use it had only been alluded to in prior case law by way of property description. As determined by this Court, if documents and artifacts warehoused at church facilities are of a religious nature or relate to church operations, use is consistent with exemption.

Finally, regarding the Archdiocese's rented classrooms — by itself, property owned and used by the Board of Education for classrooms is exempt from taxation. N.J.S.A. 54:4-3.6 also permits partial exemption for educational, hospital, and moral and improvement purpose properties where a portion of the property is used by a taxable entity for taxable purposes. Further, the courts have decided that the leasing of an exempt educational property by an exempt educational organization to another exempt educational organization for an educational use does not defeat exemption. Nevertheless, under 54:4-3.6 properties of religious and charitable organizations, if not exclusively used for those purposes, lose their entire exemption. This position reflects the two different exemption provisions of the statute. In the 1977 case *Boys' Club of Clifton v. Jefferson Twp.*, the N.J. Supreme Court declared that "occupancy [of a property owned by a charitable or religious organization] by an

organization other than a charitable or religious one, such as an educational institution, would destroy the tax exempt status." Thus, if a religious organization leases property to an otherwise exempt organization which is not religious or charitable it loses exempt standing. For religious and charitable entities the exclusive use test has not been modified and the stricter requirement still applies. Accordingly, the former parish properties were exempt from taxation as actually and exclusively used for religious purposes except for that parcel and for that period it was leased to the Board of Education.

Miscellaneous
Division's Duty to Provide Notice of Changes to Tax Statutes — *Schirmer-National Co. v. Director, Division of Taxation*, decided August 17, 1998; Tax Court No. A00348-96.

The Tax Court followed its decision in *Aetna Burglar & Fire Alarm Co. v. Director, Div. of Taxation*, 16 N.J. Tax 584 (1997), that alarm monitoring services carried through telephone telecommunications are subject to sales tax. Plaintiff also argued that these services should not be subject to tax until the time the Division provided proper notice of the tax law changes. The court ruled that taxpayers are "put on notice of legislative enactments on the date the legislation becomes effective." Consequently, the Division of Taxation was not obligated to provide taxpayers with notice of changes in the tax law.

Timely Protests — *Frank Scallo v. Director, Division of Taxation*, decided July 10, 1998, clarified August 26, 1998; Tax Court No. 000387-1998.

Plaintiff was a shareholder and employee of Shore Auto Service, Inc. In 1992, the Division assessed sales and use tax against the corporation for the period October 1986 to December 1989. The corporation did not challenge the assessment. On June 28, 1996, the Division sent plaintiff a Notice of Finding of Responsible Person Status which granted the right to an administrative hearing if the plaintiff applied for a hearing within 90 days of the notice. On January 16, 1997, the Division filed a certificate of debt against the plaintiff and a Warrant of Execution was issued on February 1, 1997. On April 23, 1997, plaintiff requested an administrative hearing challenging his status as a responsible person for the period October 1986 to December 1989. Plaintiff's request was denied due to its untimeliness on November 14, 1997. Thereafter, plaintiff filed a timely complaint with the Tax Court on February 10, 1998 claiming that the request for an administrative hearing was timely and that the 1996 assessment was void *ab initio*.

The Tax Court held that plaintiff's request for an administrative hearing was untimely because the April 23, 1997 request for a hearing was more than 90 days after the Division's June 28, 1996 mailing of the Notice of Responsible Person Status and that the filing of the certificate of debt does

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not extend plaintiff's time to request an administrative hearing pertaining to the underlying tax liability. The court added that the certificate of debt may not be challenged under Rule 4:50-1 because this rule deals with the correction of liability determinations which are the result of litigation, not Division methods involving the collection of tax liabilities. Finally, the court ruled that the 1996 assessment was not void *ab initio* even if made beyond the four (4) year statute of limitations because plaintiff's failure to file a timely request for an administrative hearing barred him from raising this defense.

Sales and Use Tax

Guard Dog Security Services – *Aportela Command Dogs Inc. v. Director, Division of Taxation*, decided April 24, 1998; Tax Court No. 0003489-1997.

Plaintiff is engaged in the business of providing guard dog security services per written monthly rental agreements to various clients for the protection of their property. Typically, dogs were brought to the customer site at the end of the business day on a daily basis by their handlers and were removed before the commencement of business on the next day. On weekends and holidays, the dogs were left and the handlers visited them for purposes of feeding and cleaning up. In other situations, the dogs were kenneled on the clients' property and were released at the end of and caged at the beginning of the business day.

In a motion for summary judgment, the court held that monthly receipts attributable to these guard dogs services were not subject to sales tax because the real object of the agreement was the security of the customers' premises. In reaching its decision, the court reasoned that the purchase price of the dogs was minor when compared to the contract receipts and that the corporation incurred greater expenses in preparing the dogs for guard duty via their training, maintenance, and the handlers who dealt with the dogs.

Sales or Repairs, Alterations or Conversion of Ships – *Maher Terminals Inc., v. Director, Division of Taxation*, decided September 3, 1998; Tax Court No. 0003495-1997.

Plaintiff operated a stevedoring/port terminal business for commercial ships, barges, and other vessels at its marine terminal facility in Port Elizabeth, NJ. Plaintiff's computer equipment is located at a building which is 14 miles away from the marine terminal facilities. The computer equipment is connected by fiber optic cable to computer terminals at the marine terminal facilities and is used to process data such as the containers' number, weight, contents, destination, name of the shipping vessel and date of sailing and anticipated arrival, special handling requirements, compliance with export requirements, etc. These computers plan where outgoing containers will be placed on the ships, track the storage location of the containers, and instruct plaintiff's employees as to where the containers will be stored

and the order in which they will be loaded.

Additionally, computer terminals are located on straddle carriers, equipment which straddles a cargo container, so that it can be lifted and moved efficiently, in order to maximize their efficiency and to coordinate container movement (pick up and drop off) after considering priority of the move.

At issue is whether plaintiff's computer equipment qualifies for the N.J.S.A. 54:32B-8.12 sales tax exemption. This exemption applies, *inter alia*, to "...machinery, apparatus and equipment for use at a marine terminal facility in loading, unloading and handling cargo carried by those commercial ships, barges and other vessels, and storage and other services rendered with respect to such loading, unloading and handling cargo at a marine terminal facility..."

The court ruled that the computer equipment did not qualify for the exemption because it was not directly used in the loading, unloading, and handling of cargo. The court found that the computer's use, information processing, was too remote from the actual movement of the cargo, i.e., activities of the straddle carriers, forklifts, cranes, and other movement equipment. The court reasoned that it was not the Legislature's intention to exempt such computer equipment. □

In Our Legislature

Constitutional Amendment

Open Space, Farmland, and Historic Preservation

— An amendment to Article VIII, Section II, of the State Constitution was approved by the electorate on November 3, 1998. Commencing July 1, 1999, the amendment dedicates \$98 million in each fiscal year for the next 10 years (1999 to 2009) from the State sales and use tax revenues for the acquisition and development of lands for recreation and conservation purposes, for the preservation of farmland for agricultural or horticultural use and production, and for historic preservation, and to satisfy payments relating to bonds and other obligations issued for those purposes.

The amendment also dedicates up to \$98 million each fiscal year, for up to 20 years thereafter (2009 to 2029), of sales and use tax revenues to satisfy any payments relating to bonds and other obligations issued for those same purposes.

Gross Income Tax

Holocaust Restitution — P.L. 1998, c.113 (signed into law on October 20, 1998) excludes from income amounts received by victims of the Nazi Holocaust as reparations or restitution for the loss of liberty or damage to health. Such compensation, whether recovered in the form of tangible or intangible property or as cash value in replacement of such property, payment of insurance policies purchased by Nazi Holocaust victims, and any accrued interest on such amounts, shall not be counted as income for New Jersey gross income tax purposes or for the purpose of determining eligibility

for the Pharmaceutical Assistance to the Aged Program (PAAD). This act took effect immediately and applies to all property received after enactment.

Single Member Limited Liability Companies

— P.L. 1998, c.79 (signed into law on August 14, 1998) amends various sections of the New Jersey Limited Liability Company Act to provide for single member limited liability companies and to treat such companies as sole proprietorships for State income tax purposes unless the company is classified otherwise for Federal income tax purposes. The act became effective immediately and applies to all existing limited liability companies regardless of their formation date.

Miscellaneous

Exemptions for Municipal Electric Utilities

— P.L. 1998, c.114 (signed into law on October 28, 1998) exempts certain sales by municipal electric utilities from sales tax and from the corporation business tax. The act, targeted specifically to apply to the Butler Borough Municipal Corporation, took effect immediately and is retroactive to January 1, 1998.

ICF-MR Assessment

— P.L. 1998, c.40 (signed into law on June 30, 1998) provides for an annual assessment of 5.8% of the gross revenue of every intermediate care facility for the mentally retarded (ICF-MR) in the State. The assessment must be paid to the Director of the New Jersey Division of Revenue on a quarterly basis. Proceeds will be used by the Division of Developmental Disabilities in the Department of Human Services to reduce the number of disabled persons awaiting placement in a community resi-

dence or program. The act took effect July 1, 1998.

Special Improvement Districts

— P.L. 1998, c.115 (signed into law on October 28, 1998) authorizes municipalities to establish “special improvement districts” for the purpose of revitalizing the State’s downtown areas; provides \$5 million to establish a downtown business improvement loan fund for worthwhile municipal revitalization projects; and provides technical assistance for such projects from the Department of Community Affairs. This act took effect December 27, 1998.

Multiple Taxes

P.L. 1998, c.106 (signed into law on September 14, 1998) implements various recommendations of the Tax Advisory Group established by the State Treasurer in 1994 to study State tax issues.

1. Deficiency Assessments

Allows taxpayers who have paid an assessed deficiency within one year after the expiration of the period allowed for filing a protest, but who have not protested or appealed that assessment, to file a claim for refund. Applies to return periods which begin on or after January 1, 1999.

2. Hedge Funds

Provides that income or losses which a nonresident taxpayer receives from a business entity located in New Jersey are not deemed to be derived from New Jersey sources if the business entity’s only activity is the purchase, holding or sale of intangible personal property, such as commodities or securities and such intangible property is not

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held for sale to customers. Applies to taxable years ending after enactment.

3. Penalty Rules

For return periods which begin on or after January 1, 1999:

- Amends the State Tax Uniform Procedure Law so that the penalty for failure to file a tax return is based on the amount of the underpayment of tax rather than on the entire tax liability; and
- Caps the corporation business tax underpayment penalty at 25% of the underpayment in conformity with the State Tax Uniform Procedure Law.

4. Gross Income Tax Estimated Payments

For return periods beginning on or after January 1, 1999:

- Raises from \$100 to \$400 the tax threshold above which quarterly estimated tax payments are required; and
- Requires certain estates and trusts to make estimated tax payments; and
- Modifies the method by which the penalty for underpayment of estimated tax is determined.

5. Corporation Business Tax Estimated Payments

For return periods beginning on or after January 1, 1999, modifies the method by which the penalty for underpayment of estimated tax is calculated.

Sales and Use Tax

Direct Mail Advertising Services

— P.L. 1998, c.99 (signed into law on September 4, 1998) amends the New Jersey Sales and Use Tax Act to more accurately describe the kinds of direct-mail advertising

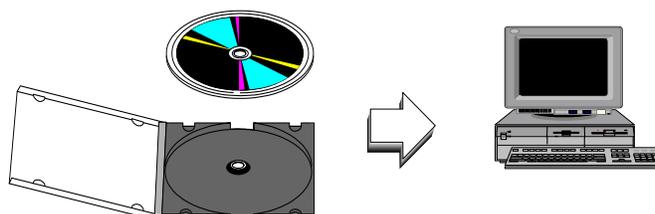
services that are subject to sales and use tax. The amendment replaces the general and indistinct term “advertising services” with the more precise phrase “direct-mail advertising processing services in connection with distribution of advertising or promotional material” to recipients in New Jersey. This act took effect on November 1, 1998.

Charity Shops — P.L. 1998, c.118

(signed into law on November 9, 1998) allows certain charitable and public safety organizations to make tax exempt sales of donated property at shops where substantially all of the work is done by volunteers and where substantially all of the merchandise being sold has been received by the exempt organization as gifts or contributions. This act takes effect on February 1, 1999. □

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Package NJX on compact disk features important additions for 1998.* The order form on page 27 contains details on how to order *njx plus*.

* Additions include most of the Division of Taxation’s information publications including the Division’s *Annual Report*, its quarterly newsletter, the *New Jersey State Tax News*, and certain NJ tax statutes.

tax calendar

january

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January 11

- CWIP-1 Cigarette Tax**—Informational report by wholesalers
- CWIP-2 Cigarette Tax**—Informational report by wholesalers

January 15

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending September 30
- continued*

January 15 - continued

- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

January 20

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers
 - GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
 - GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel
 - MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month
 - SCC-5 Spill Compensation and Control Tax**—Monthly return
 - ST-20 New Jersey/New York Combined State Sales and Use Tax**—Quarterly return
- continued*

January 20 - continued

- ST-50 Sales and Use Tax**—Quarterly return
- ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return
- ST-350 Cape May County Tourism Sales Tax**—Monthly return
- ST-450 Sales and Use Tax—Salem County**—Quarterly Return
- TP-20 Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

January 25

- PPT-40 Petroleum Products Gross Receipts Tax**—Quarterly return

January 30

- NJ-927 & NJ-927-W Gross Income Tax**—Employer's quarterly report

february

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February 10

- CWIP-1 Cigarette Tax**—Informational report by wholesalers
- CWIP-2 Cigarette Tax**—Informational report by wholesalers

February 16

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending October 31
- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year
- NJ-500 Gross Income Tax**—Employer's monthly remittance

February 22

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers
 - GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
 - GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel
 - MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month
- continued*

February 22 - continued

- SCC-5 Spill Compensation and Control Tax**—Monthly return
- ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly return
- ST-51 Sales and Use Tax**—Monthly remittance
- ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return
- ST-350 Cape May County Tourism Sales Tax**—Monthly return
- ST-451 Sales and Use Tax—Salem County**—Monthly Return
- TP-20 Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

February 25

- PPT-41 Petroleum Products Gross Receipts Tax**—Monthly return

march

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	28	29	30	31			

March 10

- CWIP-1 Cigarette Tax**—Informational report by wholesalers
- CWIP-2 Cigarette Tax**—Informational report by wholesalers

March 15

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending November 30
continued

March 15 - continued

- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year
- NJ-500 Gross Income Tax**—Employer's monthly remittance

March 22

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers
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- SCC-5 Spill Compensation and Control Tax**—Monthly return
continued

March 22 - continued

- ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly return
- ST-51 Sales and Use Tax**—Monthly remittance
- ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return
- ST-350 Cape May County Tourism Sales Tax**—Monthly return
- ST-451 Sales and Use Tax—Salem County**—Monthly Return
- TP-20 Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

March 25

- PPT-41 Petroleum Products Gross Receipts Tax**—Monthly return

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Special Message to Tax Practitioners

This year brings many important changes, both administrative and legislative. Be sure to look for the “New for '98” symbols throughout the 1998 return instruction booklets. Here is a summary of those changes:

New for Tax Preparers

- Taxpayers may authorize a Division of Taxation representative to discuss their return with their paid tax preparer by filling in the “preparer authorization” oval above the preparer’s signature line.
- Extra supplies of both the envelope for mailing Forms NJ-1040 and HR-1040, and the small window envelope for mailing Form NJ-1040-V may be ordered from the Division of Taxation.
- New, large-size (9" x 12") envelope designed to permit return(s) to be mailed flat (not folded) is also available.

To request envelopes or vouchers, call the Automated Tax Information System at 1-800-323-4400 (Touch-tone phones within New Jersey), or write to Taxpayer Forms Services, PO Box 269, Trenton NJ 08646-0269. Supplies are limited, so order early.

Legislative Changes

- Final phase-in of the property tax deduction/credit.
- Alignment with Federal treatment of Roth IRAs.
- Exemption of United States military pension or survivor’s benefit payments received from the Defense Finance and Accounting Service by taxpayers 62 years of age or older or disabled under the Federal Social Security Act.
- Deduction of medical savings account contributions.
- Alignment with Federal treatment of sale of principal residence.
- Increase in estimated tax payment threshold from \$100 to \$400 for 1999.
- Exemption of NJBEST Account earnings.
- Exclusion from New Jersey gross income of reparations and restitution paid to Nazi Holocaust victims.