



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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January 28, 2008
NOTICE TO ALL SOLID WASTE FACILITIES

On January 13, 2008, P.L. 2007, c.311 was signed into law and immediately imposed a Recycling Tax on every ton of solid waste accepted for disposal or transfer at a solid waste facility. Every owner or operator of a solid waste facility in New Jersey, except those exempt by law, are subject to this Tax.

The Recycling Tax is further imposed on every ton of solid waste collected by a solid waste collector that transports solid waste for transshipment or direct transportation to an out-of-State disposal site.

The Recycling Tax is imposed at the rate of \$3.00 per ton. But for the listed exemptions below, all transactions are subject to the Recycling Tax regardless of whether they relate to a contract that is currently in existence.

**THE RECYCLING TAX IS IMPOSED ON ALL
TRANSACTIONS BEGINNING JANUARY 13, 2008.**

DEFINITIONS

“Solid waste facilities” means and includes the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by, or on behalf of any person, public authority or county pursuant to the provisions of P.L.1970, c.39 or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

The law provides that owners or operators of railroad transfer stations or other facilities designed exclusively to transport waste on railroads are NOT subject to the Recycling Tax.

“Solid waste collector” is defined as a person engaged in the collection of solid waste and is registered pursuant to sections 4 and 5 of P.L.1970, c.39 or any municipality wherein the municipal governing body has established and operates a municipal service system for solid waste collection pursuant to R.S.40:66-1.

“Resource recovery facility” means a solid waste facility constructed and operated for the incineration of solid waste for energy production and recovery of metals and other materials for reuse; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuses or for energy production.

“Materials recovery facility” means a transfer station or other authorized solid waste facility at which nonhazardous solid waste, which material is not source separated by the generator thereof prior to collection, is received for onsite processing and separation utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

FILING AND PAYMENT

The Recycling Tax is applicable to the acceptance of solid waste beginning on January 13, 2008. The Tax will be reported and remitted on a quarterly basis and the first return, covering the short period of January 13 through March 31 will be due in April 2008. Additional information concerning the form and manner of payment will be provided when it becomes available.

PASS-THROUGH OF TAX OBLIGATION

The law allows for the pass-through of the Tax obligation from subject taxpayers to their customers in amounts equivalent to the Tax obligation. The pass-through is available from solid waste facilities to solid waste collector customers at the time of the solid waste transfer. A pass-through is also available from solid waste collectors to solid waste generator customers.

Solid waste facilities can represent the pass-through of the obligation on their invoices or statement by either:

- including the amount of Recycling Tax due as a separate line item on every customer bill or statement;
- including the amount of the Recycling Tax due as a fee or surcharge on any amount collected under a contract awarded pursuant to the “Local Public Contracts Law”, P.L. 1971, c. 198 or any other provision of solid waste collection or solid waste disposal services; or
- imposing an automatic surcharge on any tariff established pursuant to law for the solid waste disposal or transfer operations of the solid waste facility.

Solid waste collectors are likewise authorized to calculate, charge and collect rates, fees or surcharges from all solid waste generators serviced by the solid waste collector sufficient to recover the Recycling Tax collected by the solid waste facility.

Solid waste collectors subject to the Recycling Tax for tonnage of solid waste collected for transshipment or direct transportation to an out-of-State disposal site directly are authorized to calculate, charge and collect rates, fees or surcharges from all solid waste generators serviced by the solid waste collector sufficient to recover their resulting Recycling Tax obligation.

EXEMPTIONS

The Recycling Tax shall NOT be imposed on the acceptance and disposal of:

- ash residue resulting from the incineration of solid waste at a **resource recovery facility**;
- solid waste originating from out-of-State sources under a contract with a **solid waste facility** awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the Recycling Tax imposed may be passed through as a fee or surcharge on the rate and charges set forth in the contract;
- solid waste originating from in-State sources under a contract with a **resource recovery facility** awarded prior to December 31, 2007 if a contract does not include a change-in-law or similar mechanism by which the Recycling Tax imposed may be passed through as a fee or surcharge on the rate and charges set forth in the contract;
- solid waste transported from an in-State transfer station from which the Recycling Tax has been levied on the owner or operator thereof to an in-State solid waste facility for final disposal;
- type 13C Construction and Demolition waste accepted at a **material recovery facility**, provided that the facility meets or exceeds recycling materials extraction rates as established by the Department of Environmental Protection;
- the transfer of residue resulting from the operations of a scrap processing facility as defined in section 2 of P.L.1987, c.102; and
- residue, provided that the residue is generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in the State as determined by the Director.

For additional tax information, contact the Regulatory Services Branch at (609) 292-5994 or for information from the Department of Environmental Protection, contact Frank Coolick, Administrator of the Solid and Hazardous Waste Management Program at (609) 633-1418.