

5:33-3

TAX COLLECTION ADMINISTRATION - TENANTS' PROPERTY TAX REBATE PROGRAM

**5:33-3.1 Authority**

- (a) This subchapter is promulgated under the authority of N.J.S.A. 54:4- 6.10, 54:4-8.81 and 40A:4-27.3(d).
- (b) This subchapter implements the Tenants Property Tax Rebate Program (N.J.S.A. 54:4-6.2 et seq.), originally adopted in 1976, revised in 1991, amended by P.L. 1998, c.15 adopted May 4, 1998, provisions of the Regional Efficiency Aid Program, P.L. 1999, c.61 (N.J.S.A. 54:4-8.76 et seq.) and P.L. 2001, c.140, (N.J.S.A. 40A:4-27.3).
- (c) Correspondence and inquiries regarding the program may be addressed to:

Tenants' Rebate Program  
Division of Local Government Services  
N.J. Department of Community Affairs  
PO Box 803  
Trenton, New Jersey 08625-0803

Amended by R.2003 d.35, effective January 21, 2003.

**5:33-3.2 Definitions**

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

"Act" means the Tenants' Property Tax Rebate Act, N.J.S.A. 54:4-6.2 et seq.

"Amount to be rebated" means the total of the property tax reduction plus any property tax credit applied to the property through the Regional Efficiency Aid Program or through a local miscellaneous revenue credit.

"Assessment reduction" means a decrease in the amount of assessed value of qualified real rental property resulting from:

1. An agreement between an owner of qualified property and a municipal taxing authority;
2. An abatement, exemption, or change in assessment imposed administratively by a municipal tax assessor or county board of taxation; or
3. A judgment entered by a county board of taxation, the tax court, or another court of competent jurisdiction.

"Base year" means calendar year 1998. If any of the following events occur, "base year" shall then mean:

1. Any calendar year after 1998 in which property taxes levied for qualified real rental property exceed the property taxes levied for 1998 for that property;
2. The first calendar year after 1998 during which qualified real rental property is first offered for rent or lease;
3. The first full calendar year after 1998 in which qualified real rental property is no longer subject to a tax exemption or tax abatement program;
4. A calendar year subsequent to 1998 for which the property tax calculation reflects an assessment reduction from the prior base year assessment; or
5. A calendar year subsequent to 1998 in which the property taxes paid in the base year and the property taxes paid in the current year do not reflect consistent budgetary and tax item components because sewer, solid waste or similar services provided through a taxing entity budget and reflected in the tax rate are changed to a separately billed user fee.

"Current year" means the calendar year in which a property tax reduction is realized and rebates are calculated.

"Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

"Local agency" or "local enforcement agency" means the municipal rent leveling board, where one exists, or the tax collector where one does not.

"Local miscellaneous revenue credit" means a property tax reduction provided through a property tax credit applied to a property tax bill pursuant to N.J.S.A. 40A:4-27.3.

"MOD IV" means the New Jersey Property Tax System administered by the State Division of Taxation. It is mandated for use by every municipal assessor, authorized for use by private data centers serving municipalities, and designed for use by tax collectors in preparing tax bills and Notices of Tax Reduction.

"Notice of Tax Reduction," "Tax Reduction Notice," or "Notice" means the document tax collectors send to owners whose taxes in the current year are lower than those in the base year, or who have received a Regional Efficiency Aid Program property tax credit, or where the municipality has provided a local miscellaneous revenue credit. It includes the base year and current tax and the property tax reduction amount as computed by the MOD IV system, any REAP property tax credit, any local miscellaneous revenue credit, a plain language summary of the law and rules, and an owner's rent rebate certificate.

"Owner" means a person who owns qualified property.

"Property tax reduction" means the difference, between property taxes paid or payable on any qualified property in the base year, and the lower taxes paid or payable in the current year, except that such calculation shall be exclusive of any property tax credit applied to the property through the Regional Efficiency Aid Program or through a local miscellaneous revenue credit.

"Qualified property" or "qualified real rental property" means any building or structure, or complex of buildings and structures, in which five or more housing units are rented or leased or offered for rent or lease for residential purposes, except:

1. Hotels, motels, and other guesthouses serving transient or seasonal guests;
2. Buildings or structures which are subject to an abatement agreement under which reduced or no property taxes are paid on the improvements pursuant to statute, notwithstanding that payments in lieu of taxes are paid in accordance with the agreement;
3. Buildings or structures located in municipalities in which a rent control ordinance that:
  - i. Does not provide for an automatic increase in the amount of rent permitted to be charged by a property owner upon an increase in the amount of property tax levied upon the property is in effect for the base year and the current year; or
  - ii. Provides for both an automatic increase and decrease in the amount of rent permitted to be charged by a property owner upon a change in the amount of the total property tax levied on a parcel, which total shall include the effect of any local miscellaneous revenue credit or REAP credit;
4. Dwelling units in a residential cooperative or mutual housing corporation;
5. Dwelling units in a condominium, other than those occupied by qualified tenants under the "Tenant Protection Act of 1992," P.L. 1991, c.509 (N.J.S.A. 2A:18-61.40 et seq.);
6. Dwelling units in a continuing care retirement community; and
7. Dwelling units within residential health care facilities, assisted living facilities, facilities with a Class C license pursuant to the Rooming and Boarding House Act of 1979, P.L. 1979, c.496 (N.J.S.A. 55:13B-1 et seq.), or similar facilities for which occupancy is conditioned on receipt of medical, nursing or personal care services for the residents and the cost thereof is included in the rent.

"Regional Efficiency Aid Program" or "REAP" means the Regional Efficiency Aid Program, N.J.S.A. 54:4-8.76 et seq.

"Rent rebate certificate" means an owner's written assurance to a local agency of rebates to be made to tenants. It includes certification that the owner has posted notice of the rebates prominently for inspection by tenants or has otherwise notified them, and that the owner has started making the rebates and will complete them.

"Tax bills" means the property tax bills mailed by the tax collector that include, at a minimum, the third installment of taxes for the calendar year; however, if the bill for the third installment is an estimated bill issued pursuant to N.J.S.A. 54:4-66.2 et seq., it shall mean the tax bill for the fourth installment.

"Tenant rebate" means a deduction from rent equal to an owner's tax reduction divided among tenants according to the rent they pay. It may be made as a credit against rent payable or as a refund of rent paid, at the option of the owner.

"Transient" means individuals whose residence at a rooming or boarding house is on a temporary basis for a period lasting no more than 90 days.

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### **5:33-3.3 Tax collector responsibilities**

(a) Every tax collector shall:

1. Ensure that records in the MOD IV system reflect all changes required by the adjudication of tax appeals;
2. Identify qualified properties for the MOD IV or related local system from prior records, owner rebate certificates returned, and other sources;
3. Within 30 days after mailing tax bills, send a Tax Reduction Notice to every owner who receives a property tax reduction or a REAP property tax credit, with a copy to the local agency. If there is no local agency, a copy shall be kept for one year or until the next rebate notices are issued, whichever is sooner; and
4. Provide a revised Tax Reduction Notice to any owner whose taxes have been reduced administratively or by appeal judgment since the original notices were mailed by:
  - i. Issuing the revised Notice within 30 working days after the collector being apprised of the action by the owner or the owner's agent, or by other means, and verifying the record date; and
  - ii. Sending a copy of the revised Notice to the local agency, or keep it if there is no local agency.

### **5:33-3.4 Notices of Tax Reduction**

(a) Tax Reduction Notices issued by tax collectors and MOD IV data centers throughout the State shall be substantially uniform. They shall contain the components listed in (b) and (c) below, and shall be in the form illustrated in Appendix A, incorporated herein by reference. The form may be modified locally, with approval of the Director. Any such modification shall continue to be substantially consistent with Appendix A. At the discretion of the municipality, other relevant information may be added to the form so as to further clarify or explain the main contents, or to address conditions that may be unique to the local area. However, the basic style and substance of the form shall be maintained, as set forth in (b) and (c) below.

(b) Tax Reduction Notices shall contain the following components:

1. The front or top section of the form shall contain the following information:

- i. A heading;
  - ii. A description of the qualified rental property which includes, at a minimum, the name of the municipality and county; the block, lot and qualification code numbers; the street address; and the owner's name and mailing address;
  - iii. The rebate calculation showing the base year date and tax; the current year date and tax; a calculation of the property tax reduction; any REAP property tax credit amount; any local miscellaneous revenue credit; and the total amount to be rebated;
  - iv. The return address of the tax collector or local agency; and
  - v. Instructions for completing the form, and any relevant explanatory information.
2. The back or bottom section of the form shall contain the following information:
- i. The owner's rent rebate certificate;
  - ii. The calculated amount and distribution of the monthly and annual tenant rebates by rent classes;
  - iii. An allocation of the amount credited to owner or commercial occupancy; and
  - iv. The owner or agent's signature, and the date that the rebate notice is posted.

(c) The explanatory information required on the front or top section of the Notice shall be a plain language summary of the law and rules, to guide owners as to their legal responsibilities. Reliance on the summary shall not relieve an owner of any responsibility set forth in the law or rules.

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### **5:33-3.5 Owner obligations**

- (a) Within 30 days after receipt of a Notice of Tax Reduction, every owner shall:
1. Post and maintain in a prominent place on the qualified property a notice listing each different rent category and the corresponding amount of monthly and annual rebate due the residential tenants in those categories, after allowance for commercial and owner occupancy. A photocopy of the Rent Rebate Certificate may be used for this purpose;
  2. Calculate the first rent rebate in accordance with the following schedule:
    - i. When notices are received on or before November 1, the first rebate shall be cumulative from January 1 to the month after receipt; and

- ii. When notices are received after November 1, the first rebate shall be for not less than one-seventh of the total rebate amount;
3. Distribute the first rent rebate as calculated pursuant to (a)2 above within 30 days from the time the Notice was received; and
4. Complete and return the Rent Rebate Certificate to the agency office at the address given on the front of the notice.

(b) After the first rebate, owners shall continue to issue rebates in equal monthly installments until completed in accordance with the following schedule: by December 31 for notices received on or before November 1, and by the following June 30 for notices received after November 1.

(c) Every owner shall make best efforts to notify former tenants of their rebate entitlement for the months they were renters.

1. A certified letter, return receipt requested, mailed to the tenant's last known address, shall be considered as being within the realm of an owner's best efforts.
2. Unclaimed rebates shall be held for one year, pending possible claim; thereafter, they shall revert to the owner with no further obligation.

(d) Any owner who receives a revised Tax Reduction Notice shall immediately adjust the remaining allocations in accordance therewith, provided that no owner shall be entitled to recover any part of a rebate already paid or credited.

### **5:33-3.6 Rebate calculation and distribution**

(a) The "Amount to Be Rebated" shown on the front of the Notice shall be apportioned among tenants according to the rent they pay and the number of months they were tenants during the calendar year for which the Notice was issued.

(b) The following calculation method shall be used or adapted locally, as long as the statutory requirements for rebate distribution are met. For large complexes, where the numbers get unwieldy, similar rents can be grouped into classes for computation, and the end result divided by the number of rental units in each class. It is generally practical to work with monthly rents, divide the gross rebate amount (R) by 12 (months), and complete the calculation from that basis. Appendix A shows a sample calculation.

1. List all rents or rent classes and total them:

$$a + b + \dots + n = z$$

where a through n represent each individual rent or class of rental, and z equals the sum total of rents

2. Divide each rent or rent class by the sum total (z):

$$(a/z = a\%) + (b/z = b\%) + \dots + (n/z = n\%) = 100\%$$

to determine the percentage of each rent (or class) of the total rent amount

3. Multiply the total rebate amount (R) by each percentage, and record it:

$R \text{ times } a\% = ra, R \text{ times } b\% = rb, \dots R \text{ times } n\% = rn$   
 where ra, rb, rn, etc., are the amounts due each tenant, rental unit, or rent class

4. The total of all calculations should equal the gross rebate amount. If rent classes were used, then divide the amount due each class by the number of tenants or rental units in each.
5. For qualified properties that have partial commercial occupancy or have a rental unit utilized by the owner or a resident manager:
  - i. Assign a rent to each commercial unit and add it to the residential rents total ((b)1 above);
  - ii. Divide the sum of the commercial rents by the sum total of rents ((b)2 above);
  - iii. Apply the percentage derived above to the total rebate amount ((b)3 above) for the share attributable to the commercial occupancy. It is not rebatable, but is deducted from the total rebate to determine the net amount due residential tenants.

(c) For Notices received on or before November 1, the first rebate of any year shall be made within 30 days and include payment or credit retroactive to January 1 to each tenant resident for any part of that time, and for former tenants whose rent was paid up. Thereafter, pro-rata rebate payments or credits shall be given monthly whenever rents are paid.

1. Rebates shall be completed by the end of the calendar year for all tenants whose rent payments are current.
2. When rent payments are delinquent or in dispute, rebates shall be suspended temporarily and held with the tenant's security deposit, pending resolution of the delinquency or dispute.

(d) For Notices received after November 1, the first rebate shall be made within 30 days and the last by the following June 30.

1. Rebates shall be made in equal monthly installments derived by dividing the rebate amount by the number of months to June 30.
2. When rent payments are delinquent or in dispute, rebates shall be suspended temporarily and held with the tenant's security deposit, pending resolution of the delinquency or dispute.
3. When tenants end their tenancy or give notice of intent to do so before their rebate is completed, landlords may make the final payment forthwith, or include it in the calculation of final rent and return of the tenant's security deposit.

- (e) When a lease is terminated by the death of a tenant, any prior payment or credit due shall be paid promptly to the surviving spouse or the executor or administrator of the decedent's estate.
- (f) Rebate payments and credits shall be rounded to the nearest dollar. No rebate shall be required if the total for a unit is less than \$6.00 per year. If credited rather than paid, rebates shall be treated as immediate rent reductions.
- (g) Rebates for unoccupied units shall revert to the owner, on a pro rata basis, for whatever periods the units are unoccupied.
- (h) In instances where property taxes of the owner of a qualified property are affected by a municipality's REAP credit or from a local miscellaneous revenue credit, a reduction equal to the amount of the credit(s) shall be passed along to tenants in the form of a rent decrease, and shall be allocated as follows:
  - 1. Either separately as a direct rent decrease, in and of itself; or
  - 2. As a net rent change that accrues from either a tax increase (if the local rent control ordinance allows tax increases to be passed along to tenants) or tax decrease, adjusted by the amount of the REAP credit or the local miscellaneous revenue credit.
- (i) Regardless of how an owner opts to apportion the rent charge under (h) above, the owner shall notify the tenant of the amount of the REAP or local miscellaneous revenue credit and the manner by which it was applied.

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### **5:33-3.7 Penalty provisions**

An owner who fails to provide a rebate to his tenants when it is due, or who knowingly and willfully fails to provide or post any notice, certification, or information required by the Tenant Rebate Act or these rules, shall be liable under the penalty and enforcement provisions prescribed in N.J.S.A. 54:4- 6.11 and 6.12.

### **5:33-3.8 Rebates for tenants who receive rent subsidies**

Tenants in a Federal Section 8 or similar subsidized rental program shall receive the full amount of any tenant's property tax rebate unless the sponsoring agency has directed the landlord to divide it between the tenant and the agency in proportion to the rent paid, and has furnished the procedures to be followed.



**5:33-3.9 Enforcement by local agency**

A municipal governing body by ordinance may grant a local rent control agency, serving as the local enforcement agency, authority to represent the municipality or tenants in legal action against an owner under N.J.S.A. 54:4-6.2 et seq. and this chapter.

**5:33-3.10 Consistency with municipal ordinances**

The provisions of the act and this subchapter shall supersede any conflicting municipal ordinance or provision thereof which provides for rent reductions or rebates when property taxes are reduced.