

# New Jersey State Tax news

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## Civil Unions

P.L. 2006, Chapter 103, the Civil Union Act, was signed into law on December 21, 2006, and took effect on February 19, 2007. The legislation was passed in response to the New Jersey Supreme Court's decision in *Lewis v. Harris*, 188 N.J. 415 (2006), which unanimously held that "committed same-sex couples must be afforded on equal terms the same rights and benefits enjoyed by married opposite-sex couples." The Act establishes "civil unions" for couples of the same sex. As stated in section 4, the Act gives civil union partners "all of the same benefits, protections and responsibilities under the law, whether they derive from statute, administrative or court rule, public policy, common law or any other source of civil law, as are granted to spouses in a marriage." Section 5n of the Act provides that "legal benefits, protections and responsibilities of spouses shall apply in like manner to civil union couples" to "laws relating to taxes imposed by the State or a municipality including but not limited to homestead rebate tax allowances, tax deductions based on marital status or exemptions from realty transfer tax based on marital status."

The Civil Union Act impacts New Jersey State tax law and administration in the following areas:

## Local Property Tax

**Realty Transfer Fee.** The exemption for the recording of deed transactions between spouses and between ex-spouses now applies equally to transactions between civil union partners and between ex-civil union partners.

**Property Tax Reimbursement (Senior Freeze).** Civil union couples will be treated in the same manner as married couples for determining eligibility and income amounts. This change applies to reimbursement applications filed for 2007 and thereafter.

**Homestead Rebate.** The same rules will apply to civil union partners that apply to married persons with a filing status "married, filing joint return" or "married, filing separate return." This change applies to rebate applications filed for 2007 and thereafter.

**Exemption for Disabled Veterans.** The same eligibility guidelines now apply to civil union couples and surviving civil union partners that apply to married couples and surviving spouses.

**Deductions for Veterans and Senior Citizens.** The same eligibility guidelines will apply to civil union couples and surviving civil union partners that apply to married couples and surviving spouses. All eligibility requirements must have been met by October 1 of the pretax year.

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### **Inheritance/Estate Taxes**

**Transfer Inheritance Tax** will not be assessed against property passing to a decedent's surviving spouse, surviving civil union partner, parents, grandparents, children, stepchildren, or grandchildren. In such a situation, it will not be necessary to file an inheritance tax return with the Division of Taxation and waiver forms may be completed to secure the release of bank accounts, stocks, bonds, and brokerage accounts and real property, if any, in the name of the decedent. The Civil Union Act does not affect the treatment of domestic partners for purposes of the transfer inheritance tax unless domestic partners enter into a civil union, thus ending their domestic partner status.

**New Jersey Estate Tax** is based upon the Federal estate tax credit for state death taxes. In general, each return must have the same filing status. The Federal estate tax does not have a provision providing a deduction for property passing to a civil union partner. However, a surviving civil union partner may receive a "marital" deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code for New Jersey estate tax purposes by completing a "dummy" 2006 Federal Form 706 as though the Internal Revenue Code treated a surviving civil union partner and a surviving spouse in the same manner. This will permit the filing of a New Jersey estate tax return by a surviving civil union partner using the Federal calculations. Alternatively, a simplified tax system method may be used, but only in cases where a Federal estate tax return has not, will not, and is not

required to be filed with the Internal Revenue Service.

### **Gross Income Tax**

New Jersey follows the Federal income tax rules regarding prerequisites for eligibility for "joint" filing status. For Federal purposes, persons must be considered married on the last day of the tax year to use the filing status "Married, Filing Jointly" or "Married, Filing Separately." Under the Civil Union Act, the same rules that apply to married persons with respect to filing status will apply to civil union partners in New Jersey, effective February 19, 2007. Accordingly, partners to a civil union will be able to use either joint or separate filing status on New Jersey income tax returns for tax years 2007 and thereafter, even if they were married or entered into a civil union in another jurisdiction (state or foreign country) prior to that date. It should be noted that the Attorney General of the State of New Jersey has rendered an opinion that out-of-State same-sex marriages entered into prior to tax year 2007 may only be treated as civil unions in New Jersey effective February 19, 2007.

A civil union partner may now choose the filing status "Married/Civil Union Couple Joint" or "Married/Civil Union Couple Separate" when completing Form NJ-W4, Employee's Withholding Allowance Certificate, which the employer uses to determine the amount of New Jersey gross income tax to withhold from employment income. The Federal Form W-4 does not include these filing status choices for civil union partners.

Civil union partners who make joint declarations of estimated tax for 2007 (Form NJ-1040ES) must list

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## **New Jersey State Tax news**

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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.

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Maureen Adams

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their names and social security numbers on the declarations in the same order they will appear on their 2007 joint income tax return that will be filed in 2008.

All forms and publications, as well as the information on the Division of Taxation's Web site, will continue to be updated in a timely manner to implement the provisions of the Civil Union Act that relate to the taxes and programs administered by the Division.

For further information on civil unions and New Jersey taxes visit the Division's Web site at: [www.state.nj.us/treasury/taxation/civilunionact.shtml](http://www.state.nj.us/treasury/taxation/civilunionact.shtml) □

## **GROSS INCOME TAX** ***Withholding on*** ***Payments to*** ***Contractors***

Under P.L. 2006, c.85, beginning January 1, 2007, any person (other than a governmental entity, a homeowner, or a tenant) who maintains an office or transacts business in New Jersey is required to withhold New Jersey gross income tax at the rate of 7% from payments made to unregistered, unincorporated contractors (e.g., builders, plumbers, landscapers, painters, carpenters, electricians) for services performed in this State. Any payor who is not already registered with the State as an employer will file the new [Form NJ-550](#) to report and remit the gross income tax withheld.

For more information on the new withholding requirement for contractor services visit the Division's Web site at: [www.state.nj.us/treasury/taxation/noticegit.shtml](http://www.state.nj.us/treasury/taxation/noticegit.shtml) □

## ***Safe Deposit Box Release***

R.S. 54:35-19 provides that the contents of a safe deposit box standing in the name of a decedent either individually, jointly, or otherwise may not be released without at least a 10-day notice to the Director, Division of Taxation, of the intended delivery and the retention of sufficient assets to pay any tax and interest that may be assessed on the assets delivered. The statute provides that the Director may examine the assets of a decedent contained in a safe deposit box.

In 1992 the Division determined that it would no longer inventory safe deposit boxes held by a decedent at the time of his or her death. On September 30, 1992, the Director issued a blanket waiver for the period to January 1, 1997, authorizing the immediate release of the contents of a safe deposit box. On October 11, 1996, the period was extended by the Director to January 1, 2002, and on January 4, 2002, the period was extended to January 1, 2007.

On January 12, 2007, the Director reissued the blanket waiver authorizing the immediate release of the contents of a safe deposit box for the period from January 1, 2007, to January 1, 2012. See below. □

To: All Banks, Trust Companies, Savings Institutions, Safe Deposit Companies, Savings and Loan Associations, or Other Institutions:

The Director, Division of Taxation, Department of the Treasury of the State of New Jersey, hereby waives the requirements of Revised Statutes 54:35-19 with respect to the issuance of the ten days notice and retention of assets for the opening of safe deposit boxes standing in the name of decedents either individually, jointly, or otherwise, or to which they had access and consents to release of the contents thereof.

This waiver is effective January 1, 2007 and shall expire January 1, 2012 unless cancelled by prior notice.

The institution releasing the contents of safe deposit boxes should keep the original of this letter for its own records.

Maureen Adams  
Acting Director, Division of Taxation



## Field Investigations

As of March 5, 2007, Special Projects Branch employees and functions were merged into the Field Investigations Branch. For administrative purposes the new Field Investigations Branch is divided into northern and southern jurisdictions.

The specific responsibility of the Special Projects Branch, which is obtaining compliance from out-of-State businesses, will now be handled by the Field Investigations Branch. Investigators will continue to work in cooperation with the New Jersey State Police, inspectors from the Division of Motor Vehicles, and local law enforcement agencies at weigh stations and vehicle and emission sites to check out-of-State commercial vehicles. Investigators will also continue to check locations such as construction sites and warehouses in order to uncover nonregistered or noncompliant out-of-State vendors. In-State vendors will also be checked for tax compliance. When necessary to protect the State's interest, investigators will continue to utilize the authority granted in N.J.S.A. 54:49-5 and N.J.S.A. 54:49-7 to make a jeopardy assessment and demand immediate payment. Failure to satisfy the jeopardy assessment may result in immediate seizure of available assets. Companies subject to the jeopardy assessment process have ninety (90) days from the date of the action to appeal the jeopardy assessment (appeal rights).

The Field Investigations Branch will be expanding its focus from performing its traditional tax collection and enforcement work for the

Division to also include the out-of-State vendors doing business in New Jersey. Field Investigations will now be involved in all aspects of tax compliance from the initial contact with a new business to the seizure and sale of assets from an uncooperative taxpayer. Field Investigations will continue working closely with all sections of the Division to enhance voluntary tax compliance by taking the tax enforcement actions appropriate to the situation. □

## LOCAL PROPERTY TAX PAMS Demonstration

New Jersey's new Property Assessment Management System (PAMS) will be implemented this year in three counties: Camden, Hunterdon, and Salem. In addition to assessors, collectors, and tax administrators, county and municipal officials had the opportunity to see a demonstration of the PAMS computer-assisted mass appraisal (CAMA) module, which is an optional feature of the new system.

PAMS team members visited each of the three counties during the last week of February and the first week of March and provided an update on the project. Attendees had the opportunity to ask questions about PAMS CAMA, progress on the collections module, and the project in general.

Municipalities are being encouraged to take steps to prepare for PAMS, including reviewing contracts that involve assessment or collections software, looking at Internet connections, and considering budget effects.

For more information on the PAMS project, visit the Division's Web site at: [www.state.nj.us/treasury/taxation/pamsvol/pams.shtml](http://www.state.nj.us/treasury/taxation/pamsvol/pams.shtml) □

## LOCAL PROPERTY TAX Tax Assessors' Calendar

April 1-

- Deadline for appeals of assessed valuations to County Tax Boards by taxpayers and taxing districts and for appeals of assessed valuations over \$750,000 to Tax Court. April 1 deadline extended to 45 days from date the taxing district completes bulk mailing of notifications of assessment, whichever is later.
- Property Tax Deduction Disallowance Notice, Form PD4, for nonfiling or late filing of Post-Tax Year Statement or income over \$10,000 sent by collector.

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## Interest 11.25%

The interest rate assessed on amounts due for the period January 1, 2007 – December 31, 2007, will be 11.25%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/02	8.00%
1/1/03	7.25%
1/1/04	7.00%
1/1/05	8.00%
10/1/05	9.50%
1/1/06	10.00%
10/1/06	11.25%
1/1/07	11.25%



*assessors' calendar - from page 4*

- County Boards of Taxation to establish the percentage level of taxable value of real property.
- If appeal or complaint is filed April 1 or during the 19 days next preceding April 1, taxpayer or taxing district has 20 days from date of service of appeal petition or complaint to file cross petition with County Tax Board or counterclaim with Tax Court.

**April 10–**

- Copy of County Tax Board resolution of real property taxable value percentage level mailed to assessors, municipal clerks, and Director, Division of Taxation.

**April 15–**

- Form SR-3A filed with Property Administration by County Tax Board.

**May 1–**

- Assessor shall identify and certify to County Tax Board residential properties.
- County Tax Boards receive certification of REAP aid due to each local unit for that tax year.
- Extended deadline for filing (with the collector) Annual Post-Tax Year Statement, Form PD5, where property tax deduction recipient's illness or medical problem prevented the required March 1 filing.

**May 20–**

- Table of Aggregates completed by County Tax Board from assessors' Tax Duplicates and Taxation Director's certification of 2nd class railroad property.
- For REAP recipients, the tax credit rate is calculated by divid-

ing the total REAP aid by total taxable value of qualified residential property.

- General tax rates certified by County Tax Boards.

**May 23–**

- Members of the County Board of Taxation shall sign the Table of Aggregates and transmit it to the County Treasurer who shall file, print in its entirety, and transmit certified copy to the Director of the Division of Taxation, the State Auditor, the Director of the Division of Local Government Services in the Department of Community Affairs, the clerk of the board of freeholders, and the clerk of each municipality in the county.

**June 1–**

- Assessors' Property Tax Deduction Disallowance Notices, Form PD4, sent.
- Collectors' Property Tax Deduction Disallowance Notices, Form PD4, for nonfiling Post-Tax Year Statement or income over \$10,000 for taxpayers granted medical extension sent.
- Repayment of disallowed property tax deduction previously granted required. Nonpayments become liens.

**June 3–**

- Corrected Tax Duplicates sent by County Tax Board to tax collectors for billing purposes.

**June 5–**

- Certification of Property Tax Deductions, Form PD65.10, and Certification of Veterans' Deductions, Form VE-WVE-1, completed and forwarded by collector to County Tax Board.

**2nd Monday in June–**

- If Director, Division of Taxation, requires, assessors shall report to the Director the description and valuation of railroad property not used for railroad purposes.

**June 15–**

- County Tax Board to certify to Director, Division of Taxation, total number and dollar amount summary of senior citizen, disabled, surviving spouse, and veterans' property tax deductions allowed and disallowed by each district. □

## **Criminal Enforcement**

Criminal Enforcement over the past several months included:

- On October 25, 2006, in Oldmans Township, Miguel A. Hernandez, 53, and Juana Berrios, 50, both of Jersey City, were arrested and charged by the New Jersey State Police with transporting 55 cartons of assorted brand Delaware stamped cigarettes. Hernandez was also charged with narcotics violations. The State Police also seized \$2,839 in cash and impounded their vehicle. In a written statement given by Hernandez to the State Police, he admitted that the two drove to Delaware to pick up the cigarettes at a gas station and paid \$1,640 for 55 cartons. Taxation records show that Hernandez and Berrios own Juana Deli located at 477 Ocean Ave., Jersey City. The Office of Criminal Investigation (OCI) immediately inspected this location, resulting in the seizure



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of an additional six cartons of untaxed cigarettes. An investigation concerning other tax issues is continuing and it is anticipated that OCI will be initiating additional criminal charges and tax enforcement.

- On November 30, 2006, in Roselle, OCI agents arrested Terry Tolbert, 25, of Bayonne, New Jersey, and Ryan Mills, 24, of Lake Orion, Michigan, on charges of possession of cigarettes bearing counterfeit tax stamps, sale of untaxed cigarettes, failure to maintain records with intent to evade the payment of tax, and transportation of untaxed cigarettes. Seized were 33 cartons of cigarettes bearing counterfeit tax stamps, a 2003 Dodge Neon, three cell phones, and numerous records indicating the suspects had been operating for some time under the fictitious

names C & M Tobacco, Tobacco Express, Tobacco Outlet, and other names not registered with or licensed by any governmental authority. Both suspects were held on \$75,000 bail in the Union County Jail. This investigation is continuing.

- On December 13, 2006, Gregory Slaton, 44, of Cherry Hill, pled guilty to theft and tax evasion. Mr. Slaton, the former treasurer of Little Rock Baptist Church, admitted stealing church funds for his own use and not paying New Jersey gross income tax on the illegal income for 2001 through 2004. He was scheduled to be sentenced on February 2, 2007. This matter was a joint investigation by the Division of Taxation and the Office of the Camden County Prosecutor.
- On December 19, 2006, three individuals were arrested when investigators from the Division of

Criminal Justice and the New Jersey Division of Taxation, assisted by officers from the Lyndhurst Police Department, executed a search warrant at an apartment in Lyndhurst, New Jersey. Arrested were Rosa Victoria Rivera (a.k.a. Vicky Rocsana Rivera-Peralta), 39, and Rivera's son Wilson Armondo Pinos Rivera (a.k.a. Wilson Pinos), 21, both residing in the Lyndhurst apartment, and Rivera's boyfriend, John Arturo Perez Silva (a.k.a. John Perez), 38, of Belleville, New Jersey. Nearly \$200,000 in cash, a computer, and several motor vehicles were seized along with blank social security cards, tax forms, and W-2 forms. Several bank accounts of the defendants containing a smaller amount of money were seized, and a second search warrant was executed at a self-storage site leased by the defendants in Belleville where additional records were confiscated. In this ongoing investigation OCI identified 540 fraudulent tax returns for which refund checks were issued between February 6, 2004, and July 11, 2006. The returns contained similar taxpayer information, such as similar names, common addresses, and common employers. About 400 of the returns were filed electronically and the remainder filed on paper. Of the 540 refund checks, 276 checks totaling \$826,974 were deposited in bank accounts. The Division of Taxation was able to stop payment on the remaining 264 checks totaling \$1,005,030. The defendants were each charged with second-degree theft

### **Sales Tax Information**

P.L. 2005, c.126, effective October 1, 2005, conformed the New Jersey Sales and Use Tax Act to the Streamlined Sales and Use Tax Agreement. More information is available at:

[Streamlined Sales and Use Tax](#)

P.L. 2006, c.44, increased the New Jersey sales and use tax rate from 6% to 7%, effective July 15, 2006. The rate change affects all retail sales of taxable merchandise or services. For more information on the rate increase visit:

[Information for all Sales and Use Tax Vendors](#)

Additional provisions of P.L. 2006, c.44, effective October 1, 2006, extended the sales and use tax to new services, limited some existing exclusions and exemptions, and encompassed product categories that have come into being with new technologies. More information is available at:

[Information Regarding Sales and Use Tax Changes Effective October 1, 2006](#)



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by deception and are being held at the Mercer County Jail in lieu of \$1 million bail. The arrests were the result of a joint investigation by the Division of Taxation and the Division of Criminal Justice.

- On January 9, 2007, in Jersey City, New Jersey, OCI conducted its twenty-seventh seizure of untaxed cigarettes at the New Jersey International Bulk Mail Center. These untaxed cigarettes arrived at the facility from numerous overseas countries via Newark Liberty International Airport. OCI was initially alerted to this situation in November 2004 by government authorities and has since worked in conjunction. To date, OCI has seized approximately 57,762 cartons of untaxed cigarettes at this facility with a forfeiture value of approximately \$3,572,556.24.
- On January 18, 2007, a Paterson man pled guilty to stealing \$210,035 by fraudulently obtaining and cashing hundreds of New Jersey tax refund checks and homestead rebate checks. Mack Barden, 58, pled guilty to a charge of second-degree theft by deception. That charge was contained in a State Grand Jury indictment obtained by the Division of Criminal Justice in July 2006. As part of the plea agreement, Barden agreed to pay full restitution to the New Jersey Division of Taxation. Second-degree crimes carry a maximum sentence of 10 years in State prison. An investigation by the Office of Criminal Investigation

revealed that Barden, a truck driver who earned additional income by preparing tax returns, submitted hundreds of fraudulent New Jersey gross income tax returns and homestead rebate applications between 1997 and 2005 using false names and social security numbers. Barden submitted altered W-2 forms with the tax returns, including forms from his tax preparation clients. In pleading guilty, Barden admitted that he obtained and cashed 418 State tax refund checks totaling \$197,837 and 120 homestead rebate checks totaling \$12,198. Barden cashed the checks against his personal bank accounts and through independent check cashing agencies.

- On February 5, 2007, six Jersey City residents, including five members of one family, were indicted on charges they conspired to steal \$573,383 from the State by filing fraudulent applications for 745 homestead rebate checks. All six of the defendants were indicted by a State Grand Jury on charges of first-degree conspiracy, first-degree money laundering, and second-degree theft by deception. First-degree charges carry a maximum sentence of 20 years in State prison and a criminal fine of \$200,000, while second-degree charges carry a maximum sentence of 10 years in prison and a fine of \$150,000. The defendants are Paul Sarris, 50; Achilles "Butz" Amante, 55; his sister, Matilda Amante Ramos, 56; and his three sons Aristides Amante, 27, Amorito "Angelo" A. Amante, 33, and Aloysius M. Amante, 31. The indictment was sealed until February 8, 2007, which allowed

for the execution of arrest warrants. State investigators from the Division of Criminal Justice arrested Matilda Amante Ramos, Aristides Amante, and Angelo Amante on February 6, 2007, and Aloysius M. Amante on February 7, 2007. The defendants were transported to Mercer County Jail, where they are being held in lieu of bail. Paul Sarris and Butz Amante remain at large. Matilda Amante Ramos ran a travel agency, while all of the other defendants operated their own financial service companies offering tax preparation services. Between August 2001 and September 2003, the six defendants allegedly filed 745 false homestead rebate applications with the State of New Jersey, including multiple applications for each of 15 residential and commercial addresses they rented in Jersey City. The defendants allegedly filed the applications using names and social security numbers obtained from tax preparation clients without permission of the clients. The defendants allegedly laundered the \$573,383 in stolen funds by depositing the rebate checks in various commercial bank accounts maintained for their businesses.

- In the area of refund fraud, the Office of Criminal Investigation prevented the issuance of fraudulent refund claims totaling \$1,428,391.99 for the period July 2006 through mid-February 2007. In addition, OCI issued assessments based on refunds found to be fraudulently obtained.

□



## Tax Briefs

### Corporation Business Tax

**AMA: Allocable Receipts** — There is no provision within the New Jersey tax laws that allows sales made to governmental entities to be excluded when calculating gross receipts allocable to New Jersey. The sale of goods shipped to a New Jersey customer where possession is transferred in New Jersey results in a receipt allocable to New Jersey, regardless of the purchaser’s identity.

**NOL Suspension** — For privilege periods beginning in 2002 and 2003, net operating loss (NOL) deductions were disallowed. For privilege periods beginning in 2004 and 2005, the NOL deduction was limited to not more than 50% of taxable income. Any NOL deduction that was disallowed and would have expired in privilege periods beginning in 2002 and 2003 was extended for two years. Any NOL deduction that was disallowed by the 50% limitation and would have expired in privilege periods beginning in 2004 and 2005 was extended for one privilege period for each privilege period it was disallowed. The full NOL was allowed for privilege periods beginning in 2006.

### Gross Income Tax

**Principal Residence: Military** — The New Jersey Gross Income Tax Act, N.J.S.A. 54A:6-9.1b, provides for the exclusion from New Jersey gross income of all or part of the gain derived from the sale or exchange of a principal residence up to a maximum of \$250,000 for an individual or \$500,000 for a couple filing jointly. To qualify for the exclusion, during the five-year period ending on the date of sale of the property, it must have been used by the taxpayer as a principal residence for periods totaling two years.

The New Jersey Gross Income Tax Act adopted the Federal IRC Section 121 that was in existence in 1998. New Jersey does not have a provision similar to the Federal Military Family Tax Relief Act which gives members of the U.S. uniformed services and foreign service some tax relief by extending certain deadlines, increasing the allowable exclusion for certain types of income, and providing tax deductions for certain expenses. Therefore, New Jersey does not conform to the Federal income tax exclusion for the sale or exchange of a principal residence that suspends the five-year test period for up to 10 years of

extended duty overseas or at a domestic location for qualified military and foreign service personnel.

### Sales and Use Tax

**Barter Transactions** — The Division of Taxation continues to receive inquiries regarding the sales and use tax treatment of barter transactions.

A transaction in which one party provides its goods or services in exchange for the goods or services that it wants to receive clearly constitutes a “purchase” and a “sale” within the meaning of the Sales and Use Tax Act. These terms are defined in the act as:

Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor. N.J.S.A. 54:32B-2(f).

“Sale” or “purchase,” as defined in this provision, explicitly includes “barter,” and the goods or services

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## Enforcement Summary Statistics Fourth Quarter 2006

Following is a summary of enforcement actions for the quarter ending December 31, 2006.

• Certificates of Debt:		• Jeopardy Seizures	0
Total Number	2,217	• Seizures	80
Total Amount	\$80,873,374	• Auctions	3
• Jeopardy Assessments	328	• Referrals to the Attorney General’s Office	411

For more detailed enforcement information, visit our Web site at:

[www.state.nj.us/treasury/taxation/jdgdisc1.shtml](http://www.state.nj.us/treasury/taxation/jdgdisc1.shtml)



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given in exchange for the goods or services received constitute the requisite “consideration.” The two parties to a barter transaction function as both “buyer” and “seller”; the goods and services exchanged serve, in turn, as both the items sold and the consideration paid.

When the “seller” of taxable goods or services sold in a barter transaction is a New Jersey vendor (i.e., a vendor who has sales tax nexus with New Jersey, or a vendor without nexus who has voluntarily chosen to register as a vendor in this State), then the seller should collect and remit sales tax calculated on the normal retail value of the item sold, assuming that the purchaser cannot claim a valid statutory exemption (e.g., resale, exempt organization, production equipment, farm production use). The normal retail value is the price, in dollars, at which merchandise or services of the same kind are offered for sale by him to retail customers paying by traditional means (money).

For example, a lighting store and a plumber may enter into a barter transaction in which the store provides the plumber with a lighting fixture in exchange for the plumber’s repair services. The plumber, who normally charges \$50 per hour for this work, provides an hour and a half of labor in exchange for the lighting fixture, which has a retail price of \$75. Both the plumber and the lighting store will owe \$5.25 tax on their respective purchases. The plumber must report the \$75 sale of services in his gross receipts on the Sales and Use Tax Quarterly Return, ST-50, and remit \$5.25 tax

payable by the lighting store on the sale; the lighting store must report the sale of the \$75 fixture in its gross receipts on the ST-50 and remit the \$5.25 tax payable by its customer (the plumber).

The same lighting store may decide to barter with a barber. In exchange for a lamp sold for a retail price of \$30, the three co-owners of the lighting store are given haircuts, which the barber normally gives for \$10 each. The barber should be charged \$2.10 tax for the lamp. However, the lighting store will not be liable for sales or use tax on the services received from the barber, because the haircuts are a nontaxable service.

If the seller is an out-of-State vendor, not registered in New Jersey, who delivers taxable merchandise to a New Jersey customer in a barter transaction, then the New Jersey customer will be liable for compensating use tax. The New Jersey customer will owe the tax on the value of the consideration that it paid. This consideration will consist of the goods or services that it gave to the seller, in lieu of money. For example, an accountant in New Jersey may want a Pennsylvania carpenter to make him a bookcase for his office. The accountant prepares the carpenter’s income tax return, while the carpenter delivers a bookcase to the accountant as payment for the accounting services. The accountant would normally charge \$400 for the tax return. He is deemed to have paid \$400 for the bookcase and will therefore owe \$28 use tax on this piece of furniture, payable with the Annual Business Use Tax Return, ST-18B, after the close of the year.

### ***Dog Park Membership*** —

Fees for membership in a dog park, a fenced-in area where people can let their dogs run and play safely, are not subject to sales tax. They are not deemed to be fees for use of the facilities of a “health and fitness, athletic, sporting club” within the meaning of N.J.S.A. 54:32B-3(h) because the Division of Taxation interprets this language to apply to fitness, health, and athletic clubs primarily for use by humans.

***Parking*** — A taxpayer inquired if a parking garage that is operated for an office building that is not open to the general public is exempt from the sales tax on parking. The issue is whether the employee parking exemption applies when the employee pays to park in the office building’s garage or whether the exemption applies only if the employer is paying for the parking and does not pass the cost on to the employees.

On and after October 1, 2006, sales tax is imposed on the receipts from parking, storing, or garaging a motor vehicle, excluding charges for the following types of parking: residential parking; employee parking, when provided by an employer or at a facility owned or operated by the employer; municipal metered parking; and such receipts subject to tax pursuant to any other law or ordinance. See N.J.S.A. 54:32B-3(i).

If the employer located in the office building only permits his own employees to park in the parking garage, then that parking would not be subject to the new sales tax on parking whether purchased by the employer or by the employee. The employer is permitted to pass the



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parking cost on to the employees by charging them for it and the parking will still be exempt from sales tax as employee parking.

**Sourcing Rental Payments** — The New Jersey Sales and Use Tax Act provides that if the lease of a motor vehicle requires periodic payments, each periodic payment is sourced to the primary property location. The “primary property location” is the address given by the lessee and maintained in the lessor’s ordinary business records, provided that the address is used in good faith. If the lease does not require periodic payments, the payment is sourced the same as a retail sale, i.e., to the location where the property is delivered. N.J.S.A. 54:32B-3.1.

**Streamlined Sales and Use Tax: Central Registration System** — A key aspect of the Streamlined Sales and Use Tax Agreement (SSUTA) is the development of a central online registration system which can be used as an alternative to the traditional system currently available through the Division of Revenue’s Web site. Registering through this central system is voluntary, unless the seller seeks to take advantage of the amnesty program (see below). Central registration constitutes registration with every member state, including those that adopt the Agreement after the seller registers. By

registering through this system, sellers agree to collect and remit tax on all sales sourced to any member state. Thus, even though a registrant may not have sales in other member states, by using the central system, the sellers are registering in every other member state, all of which are listed on the registration form.

Sellers that register through the central system have the option of choosing among three methods of calculating, reporting, and remitting the tax. These methods involve the selection of a certified service provider (CSP), a certified automated system (CAS), or using the seller’s own proprietary system. Sellers may also report and remit based on traditional means, but there are benefits to utilizing one of the other systems that will not be available for traditional systems. Amnesty is available for uncollected or unpaid sales and use tax due from a seller in their capacity as a seller. However, in order to obtain amnesty now the seller must utilize CSP or CAS and meet other criteria. Amnesty in New Jersey ends on May 31, 2007.

Additional information concerning the central registration system, the identification and certification of CSPs and CASs, and other administrative simplifications will be provided as it becomes available from the SSUTA’s Governing Board. The central registration system can be

accessed on the Division’s Web site at: [www.state.nj.us/treasury/taxation/streamregpro.shtml](http://www.state.nj.us/treasury/taxation/streamregpro.shtml)

**Taxability of Massage, Bodywork, and Somatic Services** — P.L. 2006, c.44, enacted July 8, 2006, made numerous changes in the Sales and Use Tax Act, expanding the tax base to include many previously nontaxable categories of transactions effective October 1, 2006. Among the changes was section 3, codified as N.J.S.A. 54:32B-3(b)(9), which imposes sales tax on “massage, bodywork or somatic services.”

**Massage, Bodywork, and Somatic Services Defined**

“Massage, bodywork, and somatic services” means systems of activity of structured touch which include holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying massage, bodywork or somatic principles. Such application may, for example, include the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, and external application of herbal or topical preparations.

The sales tax applies to massage, bodywork, and somatic services that are rendered in New Jersey. There is no New Jersey use tax on those services received outside the State.

For purposes of the Sales and Use Tax Act, massage, bodywork, and somatic services are not deemed to include services rendered by persons licensed in the following medical and medical-related fields, when they are performing services they are authorized to perform within the

**Current Amnesty Programs**

Texas is conducting a tax amnesty program. During the designated amnesty period, taxpayers have a chance to pay back taxes with reduced (or eliminated) penalty and/or interest. For more information, including eligibility requirements, or to obtain an application, visit the Web site listed below.

TX June 15 – Aug. 15 <http://freshstart.texas.gov/>

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scope of their licenses: medical doctors (M.D.), doctors of osteopathy (O.D.), dentists, chiropractors, physical therapists, registered nurses (R.N.), podiatrists (D.P.M.), or certified midwives (CM); acupuncture; or cosmetic and beauty services such as manicures and pedicures, cosmetic facials and cosmetic wraps, depilatory services, hair styling, and other services that are designed primarily to enhance appearance or cleanliness.

The taxability of the services does not depend upon the type of facility where the services are performed. Massage, bodywork, and somatic services are taxable regardless of whether they are performed in a massage-only facility, a clinic, a spa, an athletic facility or other location, unless they are performed by a massage, bodywork, or somatic practitioner pursuant to a doctor's prescription as detailed below. In addition, the services are taxable regardless of whether they are performed by a professionally trained massage therapist, a student intern, or an untrained massage practitioner.

#### **Doctor's Prescription**

For purposes of this Sales and Use Tax Act provision, a "doctor's prescription" for massage, bodywork, or somatic services will mean direction by a licensed medical doctor, osteopath, chiropractor, podiatrist, psychologist with a doctorate in psychology, or dentist for initiation of massage, bodywork, or somatic services for a patient for whom the medical doctor, osteopath, chiropractor, podiatrist, psychologist, or dentist is providing treatment or consultation services within the scope of his or her license. This direction

must be in writing, and must contain the following: name of patient; name and signature of referring medical doctor, osteopath, chiropractor, podiatrist, psychologist, or dentist; purpose of the referral and description of conditions or needs to be addressed by the massage, bodywork, or somatic therapy. Massage, bodywork, or somatic services provided without a doctor's prescription are taxable.

#### **Contracted Services and Employee Services**

The tax on massage, bodywork, and somatic services is imposed on the customer. Masseurs and other service providers who are employed to perform these taxable services do not collect sales tax from their employers on their salaries. Masseurs and other service providers who work for a professional office, athletic facility, spa, clinic, or other facility as independent contractors should not collect sales tax from the facility on the fees they charge to the facility. They should instead enter into a resale agreement with the facility, specifying that the facility, rather than the individual practitioner, will be responsible for collecting sales tax from clients on any taxable receipts for massage, bodywork, and somatic services. This agreement will take the place of a resale certificate, and should be retained by both the facility and the masseur or other service provider for at least four years. The individual or business billing the client for the services collects the tax.

#### **Gift Certificates**

Gift certificates, whether for a dollar amount specified on the certificate or for a specific service, are not taxable at the time when the certificate is sold. Sales tax will be due

when massage, bodywork, or somatic services are provided to the gift certificate holder, unless a doctor's prescription for the services has been provided to the practitioner.

#### **Massages for Animals**

The change in the law is deemed to apply only to services provided to humans. The policies regarding sales and use tax treatment of massages for nonhuman animals remain the same and are as follows. Massages performed by veterinarians and their staffs are exempt from sales tax. Massages performed by a service provider other than a veterinarian, but prescribed by a veterinarian, are also exempt. Rub downs, calming touch techniques, and other massage-like activities performed as part of animal grooming are treated as part of grooming, which is a taxable service. □

## ***In Our Courts***

### **Gross Income Tax**

**Alimony in the Credit for Taxes Paid to Other Jurisdictions Calculation** – *DiLorenzo v. Director, Division of Taxation*, decided February 2, 2007; Docket No. 000157-2006.

This case involved a taxpayer who is a New Jersey resident, works in New York, and pays alimony. The taxpayer felt that he should not have to include the alimony deduction, allowed on the New York nonresident return, in the numerator of the credit calculation of the credit for taxes paid to other jurisdictions since he was not able to reduce the "entire New Jersey income" (denominator of the credit calculation) by the alimony paid.

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Judge Pizzuto stated that the leading factor in his ruling was the Court decision, *Ambrose v. Director, Division of Taxation*, 198 N.J. Super. 546, 487 A.2d 1274. Judge Pizzuto stated, "A decision of another tax court judge is not binding. (However) a decision of the Appellate Division is binding on the Tax Court. *Ambrose* is binding on this Court."

In response to the taxpayer stating fairness as an issue, Judge Pizzuto cited Judge Lasser in *Nielsen v. Director, Division of Taxation*, 4 N.J. Tax 438, (1982). Judge Lasser stated, "Taxpayers argue that they would pay less New Jersey tax if no alimony were paid. If no alimony were paid, the numerator would be increased by \$10,000 but the denominator would remain the same, increasing the fraction, increasing the New Jersey credit and reducing the New Jersey tax. However, if there were no alimony deduction in New York, the New York tax would also be higher, thus justifying the greater New Jersey credit. When taxpayers pay less tax in New York because of an alimony deduction, their New Jersey credit should be decreased."

Judge Pizzuto granted summary judgment in favor of the Division.

### **Local Property Tax**

**Farmland Assessment** – *All Monmouth Landscaping & Design, Inc. v. Manalapan Township*, decided October 20, 2006; Tax Court No. 007199-2005.

The subject matter of this case was whether the plaintiff was eligible for farmland assessment under the Farmland Assessment Act for tax

year 2005 if he failed to file his application by the statutory filing deadline of August 1, 2004.

The plaintiff's property was purchased under the conditions of the Garden State Preservation Trust Act, which by deed restriction required the property be used for farm use, and which the plaintiff believed meant no application for farmland assessment was needed. The plaintiff's contention was that because the deed restricted the land to no other use but farmland, the assessor should have assessed the property as farmland on that basis and should have been aware of the restrictive covenant. The defendant's position was that since the application was not filed by August 1, 2004, the property was not qualified, no matter how eligible it might otherwise have been.

The defendant said that the plaintiff had always filed timely applications and the subject property had been assessed as farmland under the provisions of the Farmland Assessment Act for tax years 2003 and 2004. Plaintiff stated that the property owner filled out the application sometime in July and gave it to his secretary to submit to the defendant by the August 1, 2004, deadline. However, the secretary failed to file the application by the due date. On August 12, 2004, the defendant's assessor notified the plaintiff that the application had been denied due to untimely filing.

The plaintiff filed an appeal with the Monmouth County Board of Taxation. The County Board confirmed the assessments and the plaintiff then hired counsel, who filed an appeal with the New Jersey Tax Court.

The plaintiff pointed out that the idea of the Farmland Assessment Act was to preserve farmland and open space and argued that the strict covenant in the deed served the same purpose as the Act. The defendant did not argue that the use of the subject property was inconsistent with the purposes of the Act, but believed that the plaintiff must adhere to the requirements of the Farmland Assessment Act: he should have made a timely application.

N.J.S.A. 54:23.6 permits the assessor to extend the deadline for the application until September 1st, but only where the owner is ill or has died. New Jersey courts have consistently stood by the provisions of the Act and held that a failure to file a timely application for farmland assessment would preclude preferential valuation, assessment, and taxation for the tax year no application was filed.

In *Interstate 78 Office Park, Ltd. v. Tewksbury Twp.*, 11 N.J. Tax 172, 181 (Tax 1996), the Court explained why an application is required:

This legislative requirement for the filing of the farmland assessment application is to notice the assessor as to the exact agricultural or horticultural use the owner is claiming and the facts relied upon in support thereof so the assessor may check it out and make an informed determination whether the application sets forth a claim recognized by the act and whether the facts found by him support the claim.... When the assessor makes his physical



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inspection, naturally and logically, he is guided by the application as to what facts he should investigate.

So, even though the plaintiff's deed restricted the use of property, the Act still required the assessor to determine whether the property was eligible for farmland assessment. Since the plaintiff did not file his application in a timely manner, the New Jersey Tax Court found the land not to be entitled to a farmland assessment for tax year 2005.

Also, the plaintiff wanted the Court to examine how the assessor valued the property. The plaintiff thought that the assessor should have taken the restrictive covenant into account when valuing the property. The plaintiff incorrectly equated the true value of the property as restricted with the value under the Farmland Assessment Act. In valuing land under qualifying agricultural or horticultural use, the assessor must consider evidence of soil capability derived from Rutgers, the State University; the National Co-op Soil Survey; and the State Farmland Evaluation Advisory Committee.

When farmland is not eligible for farmland assessment, the assessor must determine "the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bonafide sale by the private contract on October 1 next preceding the date on which the assessor shall complete his assessments." N.J.S.A. 54:4-23. This means that the assessor must value the property the same way it would be valued in the marketplace even if it is farmland with a restrictive code.

The plaintiff was entitled to a trial to determine whether the market value of the property was different than the assessments. However, he was not eligible for a reduced assessment for the tax year 2005 under the Farmland Assessment Act.

**Sales and Use Tax Responsible Person and Timeliness of Complaint – *Rosner v. Director, Division of Taxation*, decided November 6, 2006; Docket No. 007501-2005.**

This case involves a responsible person case and the underpayment of sales tax.

After conducting an in-person conference, the administrative conferee had sent a final determination letter by certified mail to the address of record (which was the taxpayer's correct address). However, the post office returned the certified mail as "undeliverable as addressed." The administrative conferee then sent the final determination by regular mail

to the same address in July 2005.

The taxpayer claimed he did not receive the final determination letter until September 29, 2005. To prove this point, the taxpayer submitted a copy of an envelope sent from the Conference and Appeals Branch containing PO Box 198 in the left-hand corner and a stamped date of September 29, 2005, in the right-hand corner.

The Division countered that the administrative conferee had sent out a "Settlement Agreement Packet" which the taxpayer had requested via telephone. It was this mailing that the taxpayer received sometime after September 29, 2005.

Judge Hayser in his opinion stated, "We have a situation where the Division claims to have mailed certain documents and the taxpayer claims to have received certain documents at different times. We could have

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## Pay NJ Taxes Electronically

### Electronic Check (E-Check)

[www.state.nj.us/treasury/taxation](http://www.state.nj.us/treasury/taxation)

**Sample Form Fields:**  
 John Smith, 123 Main Street, Trenton, NJ 08611  
 Date: 10-06-2000  
 Amount: \$1234.00  
 Anystate Bank, Trenton, NJ 08611  
 Routing Number: 000000000, Account Number: 123456789  
 Do not include the check number.

**Make a payment directly from your bank account**

### Credit Card\*

**1-800-2PAYTAX**      [www.officialpayments.com](http://www.officialpayments.com)

\* Fee of 2.49% of tax payment applies.

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another hearing as to the credibility of the conferee and the taxpayer. However, I do not think that will be necessary.”

Then Judge Hayser stated that just as the Division was required to turn “square corners,” the taxpayer also had a responsibility to file a “timely, diligent appeal.” Quoting from *Prospect Hill Apartments vs. Borough of Flemington*, 411 A.2d 737, 1 N.J. Tax 224, 172 N.J. Super. 245 (1979), Judge Hayser said that the taxpayer waited 80 days from the date the taxpayer said he received the final determination by regular mail and 150 days from when the original final determination was mailed by certified mail to appeal to Tax Court. Judge Hayser said the “tolling of a statute is not open-ended.” “Not only does the Division have a responsibility with timeliness issues, but the taxpayer also has a duty when they appeal to be diligent.”

Judge Hayser opined, “The plaintiff knowing that the appeal time was going to run out, waited until the final days to mail his appeal. Due diligence would have required an earlier filing. He (the taxpayer) did so at his own peril.”

From *Prospect Hill Apartments, supra*, Judge Conley said, “Plaintiff is correct that the Tax Court as a judicial body has greater powers than were possessed by county boards of taxation or the Division of Tax Appeals. The Supreme Court has held that jurisdictional statutes of limitation may be tolled by courts in appropriate circumstances if the legislative purpose underlying the statutory scheme will thereby be

effectuated.” *White v. Violent Crimes Comp. Bd.*, 76 N.J. 368, 379, 388 A.2d 206, 211 (1978). In an apparent effort to invoke the application of this principle, plaintiff argues that the post office at which its complaint was mailed on August 14, 1979, promised delivery the next day, which would have resulted in a timely filing. This argument has no merit. Plaintiff waited until the day before the statutory filing deadline to mail the complaint. The mailing was in Elizabeth and the envelope was addressed to Trenton. Due diligence would have required either an earlier mailing of the complaint or a direct filing of the complaint by August 15. *Leake v. Bullock*, 104 N.J. Super. 309, 250 A.2d 27 (App. Div. 1969). There are no circumstances in the present case to warrant any consideration of a tolling of the filing deadline established by N.J.S.A. 54:3-21. The Court need not consider in this case whether such a tolling could effectuate the legislative purpose underlying the statutory scheme of tax appeals in other circumstances.

Judge Hayser granted the Division its motion to dismiss for untimely appeal to Tax Court.

**Jurisdiction** – *Scott Frybarger, t/a Titan Power Equipment, Inc. v. New Jersey Department of Treasury*, decided December 27, 2006; Civil Action No. 05-4648 (KSH).

Mr. Frybarger, a resident from Florida, sent a tractor-trailer full of construction equipment to New Jersey to be sold. Mr. Frybarger hired four gentlemen from Ohio to drive around New Jersey construction sites and to sell the merchandise.

The four gentlemen from Ohio were responsible for picking the equipment up from a New Jersey site and driving the equipment to prospective customers located in New Jersey. Once the construction site foreman saw equipment that he was interested in, the Ohio driver would make a phone call to Mr. Frybarger who would finalize the deal. The Ohio gentlemen are not considered a common carrier, nor should they be considered independent contractors since Mr. Frybarger closed all the deals on the cell phone.

Mr. Frybarger filed in United States District Court, District of New Jersey, claiming that the State of New Jersey deprived him of rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution when property was searched and seized for failure to pay sales tax. Mr. Frybarger also claims 1983 action (civil rights were violated) as well as emotional distress.

Judge Katherine S. Hayden of the Federal District Court has issued an order denying plaintiff’s motion for entry of default and granting the Division’s motion to dismiss the case citing that Mr. Frybarger had two alternative methods of challenging tax assessments made against him. Mr. Frybarger should have either filed a written protest for a hearing or appealed to the Tax Court of New Jersey. Accompanying the order is a seven-page unpublished opinion.

Mr. Frybarger had 30 days to file an appeal with the U.S. Third Circuit Court of Appeals. □

## In Our Legislature

### Cigarette Tax

#### *Cigarette Tax Technical Changes*

— P.L. 2006, c.98, enacted December 11, 2006, effective immediately, made technical changes in the fiscal year timing of various deposits of dedicated cigarette tax revenue.

#### *Medical Research Facilities Funded Through Certain Cigarette Tax Bonds*

— P.L. 2006, c.102, enacted December 20, 2006, effective immediately, authorizes the financing of certain State capital construction projects for facilities for stem cell, biomedical, and cancer research through cigarette tax securitization bonds.

### Gross Income Tax

#### *Electronic Filing of Tax Returns*

— P.L. 2006, c.36, enacted July 8, 2006, effective immediately, requires tax practitioners to use electronic methods of filing gross income tax returns and of paying the tax for the returns prepared if the practitioner prepared or filed at least 100 gross income tax returns the prior taxable year. The Act authorizes the Director of the Division of Taxation to prescribe methods of filing returns and paying taxes, but specifies that it does not authorize the Director to require electronic filing or tax remittance by either individuals preparing their own gross income tax returns or practitioners who prepare the returns *pro bono*. The Act also allows the Director to extend the electronic filing requirement, beginning in taxable year 2007, by regulation, to practitioners who filed 50 or more gross income tax returns the prior year, and it allows the Director to develop a procedure whereby a taxpayer might elect not to have the

practitioner file the taxpayer's return electronically. In addition, the Act imposes penalties on taxpayers and tax practitioners who fail to use electronic methods when required to do so by law.

#### *Withholding Income Tax From Payments to Unregistered Contractors*

— P.L. 2006, c.85, enacted August 21, 2006, and applicable to payments made on or after January 1, 2007, makes changes in the requirements regarding withholding gross income tax. It requires all persons and businesses (other than governmental entities or homeowners or residential tenants) maintaining an office or transacting business in New Jersey and making payments for services rendered to an unregistered, unincorporated contractor to deduct and withhold 7% gross income tax from the amount paid.

*Civil Union* — P.L. 2006, c.103, enacted December 21, 2006, and effective February 19, 2007, establishes the legal relationship of "civil union" under the State's marriage laws. A civil union is "the legally recognized union of two eligible individuals of the same sex established pursuant to this act." Parties to a civil union will have the same legal benefits, protections, and responsibilities as parties to a marriage, including those based on tax laws, such as those governing local property tax, homestead rebates, realty

transfer fees, gross income tax, and transfer inheritance taxes.

### Inheritance Tax

*Civil Union* — P.L. 2006, c.103. See Gross Income Tax.

### Local Property Tax

#### *Local Tax Collection by Certain Cities*

— P.L. 2006, c.97, enacted September 13, 2006, effective immediately, authorizes cities of the first class to collect both local property tax and the hotel use or occupancy tax from hotels in their jurisdiction.

*Civil Union* — P.L. 2006, c.103. See Gross Income Tax.

### Miscellaneous

#### *Reciprocal Debt Collection Agreement With Federal Government*

— P.L. 2006, c.32, enacted July 8, 2006, becomes operative when the State Treasurer enters into a reciprocal debt collection and offset of indebtedness agreement with the Federal government, which is authorized by this Act. The reciprocal agreement would allow the State to offset nontax debts owed to the Federal government against State tax refunds and against payments otherwise due to vendors and contractors providing goods and services to State public entities. Similarly the agreement would allow debt owed to the State of New

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Jersey to be offset against Federal payments otherwise due to vendors and contractors and to taxpayers. The law amends one of the confidentiality provisions of Title 54 in order to allow the Division of Taxation to release relevant taxpayer information to the United States Treasury for the purposes of implementing a reciprocal debt collection and offset of indebtedness agreement.

***Nuclear Electric Generating Facility Fees*** — P.L. 2006, c.35, enacted July 8, 2006, effective immediately, requires the State Treasurer to make an annual assessment against operators of nuclear generating facilities.

***Titling Fee on Certain Luxury and Fuel-Inefficient Cars*** — P.L. 2006, c.39, enacted July 8, 2006, and applicable to new passenger automobiles required to have a certificate of ownership issued and filed on or after July 15, 2006, imposes a one-time 0.4% fee on ownership of new passenger automobiles with a sales

price or lease price of at least \$45,000 or a fuel efficiency rating of less than 19 miles per gallon.

***Annual Assessment on HMOs*** — P.L. 2006, c.43, enacted July 8, 2006, and applicable to assessments for fiscal year 2007 and following, increases the annual assessment on the net written premiums of health maintenance organizations authorized to operate in New Jersey.

***Sports and Entertainment Districts*** — P.L. 2007, c.30, enacted January 26, 2007, effective immediately, authorizes eligible municipalities to create “sports and entertainment districts” in order to promote the development of projects in the districts. “Eligible municipalities” are municipalities falling within a certain range of population size and density and in which part of an urban enterprise zone is located. The Act authorizes municipalities establishing these districts to impose one or more of several new local taxes and to dedicate the revenue from some or all of those taxes to financing

projects in the sports and entertainment districts. The new taxes allowed include, for example, 2% local taxes that may be imposed on certain categories of transactions that are also subject to State sales and use tax. These taxes would be in addition to any other State or local tax or fee imposed on the same transaction.

***New Jersey Tax and Fiscal Policy Study Commission*** — P.L. 2007, c.43, enacted February 21, 2007, effective immediately, establishes a nine-member commission “in but not of the Department of Treasury,” charged with responsibility for continuously studying State and local tax issues and reporting annually to the Governor and the Legislature.

### **Transitional Energy Facility Assessment**

***Modification of TEFA Phase-Out*** — P.L. 2006, c.40, enacted July 8, 2006, effective immediately, makes changes in the phase-out schedule for the transitional energy facility unit rate surcharges. □

## **Practitioners' E-File Mandate**

The New Jersey Division of Taxation requires any tax practitioner who prepared or filed 100 or more 2005 New Jersey resident income tax returns (Form NJ-1040) to file all their clients' 2006 New Jersey resident income tax returns electronically. More information is available at:

[E-File Mandate](#)

[Frequently Asked Questions](#)

[Opt Out Request Form, NJ-1040-O](#)

[Requirements for Using Opt Out Form](#)

If you have questions concerning the E-File Mandate, call the Division of Taxation at 609-943-5000 or [e-mail us](mailto:nj.taxation@treas.state.nj.us) at [nj.taxation@treas.state.nj.us](mailto:nj.taxation@treas.state.nj.us)



## Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2006 (January 1, 2006 – December 31, 2006) and tax year 2007 (January 1, 2007 – December 31, 2007) for businesses and individuals:

- **Chronological List of Filing Deadlines** — This calendar is for use by both businesses and individuals. If you are responsible for a return that is not listed in this calendar, please refer to the instructions that accompanied the return, or contact the Customer Service Center at 609-292-6400 for the appropriate filing deadline.

[2006](#)      [2007](#)

- **Alphabetical Summary of Due Dates by Tax Type**

[2006](#)      [2007](#)

- **Payment Dates for Weekly Payers** — An employer or other withholder of New Jersey gross income tax is designated a “weekly payer” if the amount of tax they withheld during the previous tax year was \$10,000 or more.

[2006](#)      [2007](#) □



### *important phone numbers*

Customer Service Ctr .. 609-292-6400  
Automated Tax Info 1-800-323-4400  
..... 609-826-4400  
Homestead (FAIR) Rebate  
Hotline ..... 1-888-238-1233  
Property Tax Reimbursement  
Hotline ..... 1-800-882-6597  
Earned Income Tax Credit  
Information ..... 609-292-6400  
NJ TaxFax ..... 609-826-4500  
Business Paperless Telefiling  
System ..... 1-877-829-2866  
Speaker Programs ..... 609-984-4101  
Alcoholic Bev. Tax ..... 609-984-4123  
Corp. Liens, Mergers, Withdrawals  
& Dissolutions ..... 609-292-5323  
Director’s Office ..... 609-292-5185  
InheritanceTax ..... 609-292-5033  
Local Property Tax .... 609-292-7221  
Motor Fuels Tax  
Refunds ..... 609-292-7018  
Public Utility Tax ..... 609-633-2576

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## 2006 TAX LAWS

CH.	DATE	SYNOPSIS	TAX*	BILL
32	7/8/06	Authorizes the State Treasurer to enter into a reciprocal debt collection agreement with the Federal government and allows the Division of Taxation to share certain taxpayer information with the U.S. Department of Treasury for the purpose of implementing such an agreement.	MIS	S-1989
33	7/8/06	Imposes a 1% fee or tax on certain purchases of certain commercial property over \$1,000,000.	RTF	ACS(1R) for A-4701
34	7/8/06	Changes the way certain qualified urban enterprise zone businesses claim the sales tax exemption on purchases of certain goods and services.	S&U	ACS for A-4702
35	7/8/06	Requires the State Treasurer to make an annual assessment against operators of nuclear generating facilities.	MIS	A-4703(1R)
36	7/8/06	Requires tax preparers to use electronic methods of filing gross income tax returns and paying tax due if the preparer filed at least 100 gross income tax returns the prior taxable year, and imposes penalties for failure to do so.	GIT	A-4704 (1R)
37	7/8/06	Raises the cigarette tax \$0.175 per pack of 20 and changes the tobacco products wholesale sales tax on moist snuff to a weight-based tax.	CIG TPT	A-4705(1R)
38	7/8/06	Imposes a 4% surcharge on corporation business tax liability and raises the minimum tax.	CBT	ACS for A-4706
39	7/8/06	Imposes a one-time 4% fee on new luxury and fuel-inefficient passenger automobiles.	MIS	A-4707(1R)
40	7/8/06	Changes the phase-out schedule for the transitional energy facility unit rate surcharges.	PUT	A-4709
41	7/8/06	Imposes a 6% gross receipts tax on the retail sale of fur clothing in New Jersey.	FUR	A-4714(1R)
42	7/8/06	Increases the rental motor vehicle surcharge from \$2 per day to \$5 per day.	DSF	A-4715(1R)
43	7/8/06	Increases the annual assessment on the net written premiums of health maintenance organizations authorized to operate in New Jersey.	MIS	A-4716(1R)
44	7/8/06	Increases the sales and use tax rate from 6% to 7%, and expands the sales and use tax base by imposing tax on various transactions not previously taxed.	S&U	A-4901
85	8/21/06	Requires certain persons transacting business in New Jersey and making payments to unregistered, unincorporated contractors to withhold gross income tax from those payments.	GIT	S-468(2R)

## 2006 TAX LAWS *(continued)*

CH.	DATE	SYNOPSIS	TAX*	BILL
97	9/13/06	Authorizes cities of the first class to collect both local property tax and the hotel use or occupancy tax from hotels in their jurisdiction.	LPT	A-3191(2R)
98	12/11/06	Makes technical changes in the fiscal-year timing of various deposits of dedicated cigarette tax revenue.	CIG	S-2197
102	12/20/06	Authorizes the financing of certain State capital construction projects for facilities for stem cell, biomedical, and cancer research through cigarette tax securitization bonds.	CIG	SS(2R) for S-1471
103	12/21/06	Establishes civil unions under the State's marriage laws and gives the parties to a civil union the same legal benefits, protections, and responsibilities as parties to a marriage.	GIT LPT TIT/ET	A-3787(2R)

### \*Legend for 2006 Tax Laws

ABT = Alcoholic Beverage Tax	IPT = Insurance Premium Tax
ALL = All Taxes Administered by the Division	LIT = Litter Control Fee
CAS = Casino Taxes and Fees	LPT = Local Property Tax
CBT = Corporation Business Tax	MFT = Motor Fuels Tax
CIG = Cigarette Tax	MIS = Miscellaneous
CMC = Cape May County Tourism Sales Tax	PPT = Petroleum Products Gross Receipts Tax
CMPT = Cosmetic Medical Procedures Gross Receipts Tax	PTRP = Property Tax Relief Programs
DSF = Domestic Security Fee	PUT = Public Utility Taxes
ENV = Environmental Taxes	RTF = Realty Transfer Fee
ERF = 9-1-1 System & Emergency Response Fee	S&U = Sales and Use Tax
FBT = Financial Business Tax	SCC = Spill Compensation & Control Tax
FUR = Fur Clothing Retail Gross Receipts Tax and Use Tax	TIR = Motor Vehicle Tire Fee
GIT = Gross Income Tax	TIT/ET = Transfer Inheritance & Estate Tax
HMO = Hotel Motel Occupancies	TPT = Tobacco Products Tax