

# New Jersey State Tax news

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## “Senior Freeze” Checks in the Mail

The State Budget for Fiscal Year 2017 provides funding for the Property Tax Reimbursement (Senior Freeze) Program.

In mid-July, the Division of Taxation began mailing checks for the 2015 reimbursement to qualified senior and disabled homeowners who filed applications by the original filing deadline of June 1, 2016. We will issue checks as quickly as possible to homeowners who file their applications between the original June 1 deadline and the extended deadline of Oct. 17, 2016.

Only applicants whose 2015 income was not more than \$70,000 are eligible, provided they met all other requirements. Residents whose income was more than \$70,000 but was \$87,007 or less will not receive checks for 2015. We will notify them that they are not eligible. Those residents can establish a “base year” for future reimbursements by filing an

application by the deadline. This also ensures that we will mail them applications for 2016.

Additional information on the [Senior Freeze Program](#) is available on our website. □

### LOCAL PROPERTY TAX

## Taxation Orders Three Revaluations

Revaluations may be needed when properties in a municipality are not being assessed at the same rate of true market value and/or are being assessed substantially below or above true market value. Because revaluations impact the local community, the decision to revalue is usually made by local authorities, particularly the County Tax Boards.

However, on April 4, 2016, the New Jersey Division of Taxation issued Revaluation Orders to three municipalities: Jersey City, Dunellen and Elizabeth. This exceptional action was necessary to compel county

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## 2014 Homestead Benefit Applications

The Division of Taxation will begin to mail 2014 homestead benefit applications in mid-September. Additional information is available on our [website](#).

County	Delivery Expected to Begin
Atlantic, Bergen, Cumberland, Warren	Sept. 15
Cape May, Mercer, Ocean	Sept. 19
Monmouth, Somerset, Union	Sept. 22
Hunterdon, Middlesex, Passaic, Sussex	Sept. 24
Camden, Hudson, Morris	Sept. 27
Burlington, Essex, Gloucester, Salem	Sept. 29



three revaluations - from page 1

and local officials to comply with the Uniformity Clause of the State Constitution.

These Orders followed a four-month investigation that culminated in public hearings the Division of Taxation held to elicit public sentiment regarding property valuation in certain taxing districts.

Jersey City has not had a revaluation in 28 years, Dunellen Borough in 34 years and Elizabeth City in 40 years.

The Division also initiated investigations of five other towns based on objective criteria. As a result, the Hudson County Board of Taxation ordered East Newark Borough and Harrison Town, and the Union County Board of Taxation ordered Winfield Township and Westfield Town to revalue. The Middlesex County Board of Taxation declined to order South River Borough to perform a revaluation. Middlesex County has the only tax board in the State that has not ordered an involuntary revaluation in more than 20 years. The Division is undertaking the investigation because of lax oversight by Middlesex County.

A public hearing on property taxes will be held in South River on Aug. 17, 2016. The hearing was originally scheduled for July 26. □

## Business Assistance Tax Clearance

Businesses can now apply for a Business Assistance & Incentive Clearance certificate through the State of New Jersey's Premier Business Services portal. The online clearance eliminates the paper application

(Form Gtb-10) and waives the processing fee.

Businesses that meet the clearance requirements can immediately print the clearance certificate through the portal. Businesses not eligible to receive the clearance certificate are directed to the Division of Taxation's Business Assistance Tax Clearance Unit for assistance, where staff will work directly with the business to meet all clearance requirements.

The Business Assistance & Incentive Clearances are valid for the following programs:

- Board of Public Utilities (Clean Energy Program)
- Department of Community Affairs
- Department of Health
- Department of Labor and Workforce Development (Labor Training Programs)
- Economic Development Authority
- New Jersey Casino Reinvestment Development Authority
- New Jersey Commerce, Economic Growth & Tourism Commission
- New Jersey Commission on Science & Technology
- New Jersey Department of Children and Families
- New Jersey Department of Human Services
- New Jersey Department of the Treasury (Angel Investor Tax Credit, Grow NJ Tax Credit)
- New Jersey Housing and Mortgage Finance Agency
- New Jersey Secretary of State

Visit our [website](#) for details. □

## 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, and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of the information contained in this publication. 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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## Referral Cost Recovery Fee Increase

The Division of Taxation’s Compliance and Enforcement Activity (C&E) has partnered with Pioneer Credit Recovery (PCR), a private debt collection company, to improve efficiency and reduce the cost of our collection efforts. While PCR has been our vendor for 10 years, recent procedural changes have increased the number and types of cases assigned to the vendor.

PCR is assigned the majority of deficient (money owed) and delinquent (return due) accounts that have not responded timely to the Division’s initial outreach. PCR conducts collection efforts under the supervision of C&E staff.

All cases referred to PCR are subject to a Referral Cost Recovery Fee (RF). Effective July 1, 2016, PCR’s reimbursement rate is contracted at 10.7%. This means the RF assessed on debt referred to PCR will increase

from 10% to 10.7%. The RF is not compensation paid to PCR. This fee is assessed to cover the expense incurred by the Division when taxes are not filed and paid in a timely manner or not resolved upon the issuance of an initial bill.

Assessing this fee mitigates the expense associated with PCR’s debt collection services. Debts that PCR is unable to collect are subject to the filing of a certificate of debt, and become the responsibility of C&E’s staff to resolve.

This joint effort in combating non-compliance has proven to be very successful. Over the past two fiscal years, combined collections were greater than \$1.2 billion. C&E staff members were also able to conduct higher level collection and enforcement initiatives. □

## BEIP Grant to Tax Credit Conversion

The Business Employment Incentive Program (BEIP), created in 1996, was designed to promote job growth in New Jersey. The program, which is jointly administered by the New Jersey Economic Development Authority (EDA) and the New Jersey Division of Taxation, awards grants to qualified businesses based on the number of new jobs they have created in the State.

The New Jersey Economic Opportunity Act of 2013 (P.L. 2013, c.161) streamlined New Jersey’s five existing economic development incentive programs, including BEIP, into two: the Grow New Jersey Assistance (Grow NJ) Program and the Economic Redevelopment and Growth (ERG) Program. Grow NJ is now the State’s main job creation

and retention incentive program. The EDA no longer accepts applications for BEIP assistance, and the Legislature has not appropriated funding for the program since 2013.

Legislation approved Jan. 11, 2016, (P.L. 2015, c.194), allows certain businesses that were previously approved for a BEIP grant to direct the EDA to convert the grant to a refundable tax credit. The conversion is voluntary, but the decision to do so is irrevocable. Businesses had until July 11, 2016, to make the election.

The credits issued can be applied to a tax liability under the Corporation Business Tax or Insurance Premiums Tax. Businesses that are not subject to these taxes must sell or assign the tax credit to a business with such a liability. For more information, see the [EDA’s Business Incentive Program Tax Credit Conversion FAQs](#).

The Grant Credit Review Unit within Taxation’s Office of Legislative Analysis and Disclosure will audit, process and distribute the BEIP tax credits. □

### GROSS INCOME TAX

## COJ Limited to Foreign-Sourced Income

If a taxpayer paid a tax on income to another jurisdiction and that income is also subject to New Jersey tax in the same year, the taxpayer may be eligible for a credit for taxes paid to the other jurisdiction (COJ) dependent upon its New Jersey allocation factor.

Partnership income allocated to New Jersey is defined as the portion of the

## Interest 6.25%

The interest rate assessed on amounts due for the period Jan. 1, 2016 – Dec. 1, 2016, will be 6.25%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/10	6.25%
1/1/11	6.25%
1/1/12	6.25%
1/1/13	6.25%
1/1/14	6.25%
1/1/15	6.25%
1/1/16	6.25%

*COJ on income - from page 3*

partnership income that is allocated to New Jersey by the allocation factor of the partnership. Partnership income not allocated to New Jersey is equal to total partnership income less partnership income allocated to New Jersey by the allocation factor.

On Nov. 14, 2013, the Tax Court of New Jersey addressed the limitations of the credit allowed for partnership income in an unpublished decision, *David E. and Janice Berliner v. Director, Division of Taxation*, Tax Court of New Jersey, Docket No. 000057-2008, 2013.

N.J.S.A. 54A:4-1(a) states, “A resident taxpayer shall be allowed a credit against the tax otherwise due under this act for the amount of any income tax or wage tax imposed for the taxable year by another state of the United States or political subdivision of such state, or by the District of Columbia, with respect to income which is also subject to tax under this act, except as provided by subsections (c) and (d) of this section.”

Judge DeAlmeida opined in *Jenkins v. Director, Division of Taxation*, 4 NJ Tax 127, 133 (Tax 1982), “the objective of N.J.S.A. 54A:4-1 is to avoid double taxation of the same income by providing a credit against New Jersey gross income tax for tax paid to another jurisdiction on the same income.” Judge DeAlmeida went on to state, “We conclude that the intent of the act is to avoid double

taxation of foreign income by relinquishing all or part of the New Jersey tax on the foreign income, but not to relinquish New Jersey tax on income earned in New Jersey.”

Judge DeAlmeida stated further that, “When enacting N.J.S.A. 54A:4-1, the Legislature did not intend to relinquish income tax on New Jersey source income.

“The resident credit is a reflection of legislative grace. Where a New Jersey resident earns income in other States and municipalities and pays income tax on that income to those jurisdictions, New Jersey will yield its right to fully collect its income tax. However, where another State or jurisdiction extends the reach of its taxing authority to income earned in New Jersey by a New Jersey resident, the credit is not available. This is a perfectly reasonable legislative determination.”

As a result, credit is not allowed for any tax imposed by another jurisdiction on partnership income that is properly allocated to New Jersey. □

#### INHERITANCE/ESTATE TAX

### ***Intangible Assets and Out-of-State Property Credit***

Both real property and tangible personal property located outside the State of New Jersey are eligible for an out-of-State tax credit when

computing the New Jersey Estate Tax. Such items must be included in the gross estate, and a proportional credit may be granted against any Estate Tax that is calculated.

Intangible property is not eligible for this credit. The Division considers intangible property owned by a resident decedent to be located in New Jersey no matter where such accounts may originate, the financial institution’s offices are located or a corporation is incorporated. Common examples of intangible property include bank accounts, trusts, stocks, securities, LLCs and shares in a co-op. Because intangible property is considered to be located in the state in which the decedent was domiciled, the out-of-State property credit cannot be applied against such assets.

There are exceptions. For example, trusts are considered intangible property. However, non-New Jersey real estate held by a trust retains its identity as real property. Accordingly, it qualifies for an out-of-State property credit in New Jersey. On the other hand, an out-of-State property credit cannot be taken on non-New Jersey properties owned by corporations, partnerships and LLCs. Assets owned by these entities do not retain their individual identity as real or tangible property and are considered a part of the entity and are intangible property. This would include assets such as farmland, apartments,

*continued on page 5*

## ***Current Amnesty Programs***

The following jurisdiction 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 jurisdiction’s website.

Alabama

6/30/16 – 8/30/16

<http://alabamataxamnesty.com>



*intangible assets - from page 4*

condominiums or business property held by a co-op. □

**INHERITANCE/ESTATE TAX**

**Qualified Domestic Trust (QDOT)**

A qualified domestic trust (QDOT) enables a non-U.S. citizen married to a U.S. citizen to be eligible for a marital deduction for estate tax purposes. There are four primary requirements for a QDOT imposed under IRC §2056A.

1. At least one trustee must be a U.S. citizen or a domestic corporation.
2. No principal distribution may be made from the QDOT unless the U.S. trustee has the right to withhold the tax payable pursuant to IRC §2056A.
3. The trust instrument provides that the trust will meet the requirements of any future regulations to ensure the collection of tax by the government.
4. The executor of the decedent's estate elects to treat the trust as a QDOT.

If the QDOT is not properly drafted or at any point fails to meet the QDOT requirements, a New Jersey Estate Tax will be imposed. Certain taxable events as defined by IRC §2056A will also trigger a New Jersey Estate Tax. This includes a nonhardship principal distribution from the QDOT.

If an estate elects a QDOT, the trustees of the QDOT must submit to the State of New Jersey a written affidavit certifying that they are responsible for reviewing the transactions of the trust annually and

are guaranteeing timely payment of Estate Taxes due.

In general, the New Jersey Estate Tax due from a taxable QDOT distribution or event is equal to the additional Estate Tax due as if the size of the taxable estate of the first spouse to die were increased by the amount of the QDOT property subject to tax in accordance with the provisions of the Internal Revenue Code in effect on Dec. 31, 2001.

If a taxable distribution or event occurs pursuant to IRC §2056A, Federal Form 706-QDT must be filed with the State of New Jersey. Additionally, a written statement must be filed indicating the name, address and taxpayer identification number of both the U.S. Trustee and the QDOT. Treatment is the same for both a Federal QDOT and a New Jersey only QDOT.

In general, filing and payment is due no later than April 15th of the year following any calendar year in which a taxable distribution has occurred. If the surviving spouse died during the year or the trust ceased to qualify as a QDOT, filing and payment is due within nine months from date of death or the failure to qualify. □

**LOCAL PROPERTY TAX**

**Tax Assessors' Calendar**

July 1–

- If County Board of Taxation cannot hear and determine appeals within the time prescribed in R.S. 54:3-26, the Board may apply to the Director, Division of Taxation, for an extension at any time.
- MOD IV Master file sent to Property Administration via appropriate medium.
- Assessor to mail Application for Farmland Assessment (Form FA-1) for tax year 2017 together with a notice that the completed form must be filed with assessor by Aug. 1, 2016, to claim continuance of Farmland Assessment.
- Disallowed property tax deduction recipients granted a filing extension required to pay back tax deductions previously granted. If unpaid, become real property liens.

**2nd Tuesday in July–**

- State Equalization Table prepared.

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**Enforcement Summary Statistics  
Second Quarter 2016**

Following is a summary of enforcement actions for the quarter ending June 30, 2016.

	Number	Amount
• Bank Levies	641	\$ 2,727,436
• Certificates of Debt	3,003	45,759,980
• Seizures	120	1,820,330
• Auctions	8	181,195
• Warrants of Satisfaction	3,537	



assessors' calendar - from page 5

**July 15–**

- Property tax reimbursement (Senior Freeze) payments mailed to eligible claimants who filed by June 1.

**Aug. 1–**

- Owners of farmland must file Application for Farmland Assessment (Form FA-1) with the assessor to have land assessed under Farmland Assessment Act for tax year 2017.

**Aug. 5–**

- All SR-1A forms showing sales transactions to be used in compiling 2016 Table of Equalized Valuations for State School Aid to be received by Property Administration.

**Aug. 15–**

- County Board of Taxation Presidents to file annual appeal information and statistics report (Form TAS) with Director, Division of Taxation.

**Aug. 25–**

- State Equalization Table completed by Director, Division of Taxation.

**Sept. 1–**

- Extension to file Application for Farmland Assessment (Form FA-1) where assessor determines

failure to file by Aug. 1 was due to owner's illness or death or the death of an immediate family member.

- Local exchange telephone, telegraph and messenger system companies file tangible business personal property returns (Form PT-10) for tax year 2017 with the assessor for taxing district in which property is located.
- Petroleum refineries file tangible business personal property returns (Form PT-10.1) with assessor for tax year 2017 for machinery, apparatus or equipment directly used to manufacture petroleum products from crude oil.

**Sept. 10–**

- County Board of Taxation to revise Table of Aggregates to include the tax rate for local taxing purposes for municipalities having adopted the State fiscal year.

**Sept. 13–**

- County Tax Board transmits Table of Aggregates to County Treasurer who then files, prints and transmits to Taxation and Local Government Services Directors, State Auditor, Municipal Clerks and Clerk of Board of Freeholders.

The complete [2016 Work Calendar](#) is available on the Division's website.

**Monmouth County Assessment Demonstration Program**

P.L. 2013, c.15, established a Real Property Assessment Demonstration Program to make the assessment of real property more precise by using technology driven procedures and protecting funding of municipal budgets from the impact of losses due to appeal refunds. Monmouth County

was the first county to adopt this program, which began Oct. 1, 2013.

The summer dates on the Monmouth County Assessors' calendar coincide with the dates of the regular Assessors' Calendar with one exception: the July provision for the extension of the time to hear and determine an appeal(s) does not apply to the Monmouth County Assessment Demonstration Program.

The complete [2016 Monmouth County Work Calendar](#) is available on the Division's website. □

**Criminal Enforcement**

Criminal enforcement over the past several months included:

- On Oct. 6, 2014, Samer Jamal was arrested in Montvale, New Jersey, for possession of 456 cartons of contraband cigarettes. On Oct. 26, 2015, in Montvale Municipal Court, Jamal was entered into a Pretrial Intervention (PTI) Program. As a condition of PTI, Jamal was required to plead guilty to possession of goods without paying tax. He was also required to pay restitution to the State of New Jersey in the amount of \$12,333.60.
- On Jan. 15, 2016, Lisa Marie Matto of Barnegat, New Jersey, was sentenced on one count of conspiracy and one count of receiving stolen property (in excess of \$75,000); both second-degree offenses. The charges were based on Matto's participation in a scheme during 2008 in which she and an accomplice submitted numerous fraudulent New Jersey income tax returns along

*continued on page 7*

**Public Auction Information**

Announcements of upcoming public auctions of seized property are published on the Division of Taxation's website under [Auction Information](#). Select the name of the business from the list for details about that auction.



*criminal enforcement - from page 6*

with fraudulent W-2s, resulting in thousands of dollars of illegally obtained refunds. Under a plea arrangement, Matto was sentenced as a third-degree offender to five years' probation and ordered to pay restitution in the amount of \$47,692.81. The restitution was paid at the time of sentencing.

- On Jan. 16, 2016, Office of Criminal Investigation (OCI) special agents responded to a motor vehicle stop by the Riverdale Police Department (Morris County). The agents arrested two individuals for various contraband cigarette charges. The 723 cartons of cigarettes found in the individuals' possession were examined forensically and determined to be legitimate product that was most likely purchased in a jurisdiction that does not have Cigarette Tax stamps.
- On Jan. 22, 2016, Mark Begley of Cherry Hill, New Jersey, was sentenced to four years in State prison for deceiving ten people and two banks out of about \$183,000 in connection with a mortgage and loan scheme. Begley was sentenced by Superior Court Judge Terrence R. Cook. Under a plea agreement reached in October, He pled guilty to charges of second-degree theft by deception and third-degree failure to pay taxes. Begley, a purported loan specialist, was arrested in July and accused of taking and keeping for his personal use \$146,000 from Burlington County residents who were seeking mortgage and loan assistance. He was charged by OCI special agents with multiple counts of theft by deception, misapplication

of entrusted property, filing a fraudulent or false income tax return, failure to file a tax return and failure to pay/remit taxes. Begley claimed that his services included assistance with reverse mortgage procurement, mortgage refinancing and assorted loan modifications. He prepared documents for clients to sign to convince them he was working with lenders and mortgage companies on their behalf, but instead, he kept the money. Begley filed a false or fraudulent personal income return in 2011, failed to file a personal income return in 2012 and failed to pay personal income taxes in 2011 and 2012. Judge Cook also sentenced him to four years in prison for the charge of failure to pay taxes, a term that is to be served concurrently with the theft by deception offense. The State did not object to Begley's attempting to be accepted into the State's intensive supervision program. This program gives certain nonviolent offenders who are sentenced to prison an opportunity to work their way back into the community under intensive supervision. Judge Cook ordered that Begley not be permitted to serve in the mortgage industry or as a financial consultant during any term of supervision or parole.

- On Saturday, Feb. 6, 2016, OCI special agents received reliable information that a target of their multistate cigarette smuggling investigation, Laila Alayat, had purchased an airline ticket for Jordan with the intent of avoiding prosecution. Both Alayat and Eyad Salahedin of Elmwood Park, New Jersey, had been warned by the U.S. Attorney's Office not to leave the country

pending trial. Based on the information, the special agents requested and received a federal warrant for the arrest of both subjects. With the cooperation of U.S. Department of Homeland Security, both subjects were arrested on Thursday, Feb. 11, 2016, as Alayat attempted to board a Jordan-bound flight at John F. Kennedy International Airport in Queens, New York. Salahedin attempted to leave the airport after dropping off Alayat. His vehicle was stopped, and he was arrested without incident. Both were processed in Jamaica, New York. They were taken to the hospital, at their request, where they were treated for preexisting medical conditions. After seeing a doctor, both were determined fit for confinement. They were transported to the U.S. Marshals Service without incident. Alayat pled guilty and is scheduled to be sentenced on Sept. 15, 2016. Salahedin's trial is set for Aug. 29, 2016.

- On Tuesday, Feb. 16, 2016, Todd Costello, of Jackson, New Jersey, was indicted in Monmouth County Superior Court for filing false New Jersey tax returns and failure to pay taxes due to the State of New Jersey for tax years 2010 to 2014. OCI's investigation determined that he owes restitution in the amount of \$29,746, including penalty and interest.
- Based on an active warrant for criminal charges from OCI's Technical Enforcement Unit, on Feb. 10, 2016, the Princeton Police Department arrested Salvatore Mazzella at his place of business (Massimo's, Princeton, LLC). The active arrest warrant



criminal enforcement - from pg. 7

was a result of Mazzella's failure to appear for a scheduled court appearance in the Trenton Municipal Court. Mazzella was released after he posted bail of \$10,000. As of this publication, the matter has not been rescheduled. □

## Tax Briefs

### Cigarette Tax

#### *Electronic Cigarettes, Liquid Nicotine and Nicotine Vapor Products*

— A taxpayer inquired if electronic cigarettes, liquid nicotine and nicotine vapor products are subject to Cigarette Tax, Tobacco Products Wholesale Sales and Use Tax and Sales and Use Tax.

Electronic cigarettes are battery-powered devices that provide inhaled doses of nicotine by delivering a vaporized solution using cartridges or other chemical delivery systems. Nicotine vapor products are any noncombustible products containing nicotine or other substances that employ a heating element, power source, electronic circuit or other

electronic, chemical or mechanical means to produce vapor from nicotine. Vapor products include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form intended for use with or in an electronic cigarette, electronic cigarillo, electronic pipe or similar product or device.

“Cigarette” is defined in the Cigarette Tax Act at N.J.S.A. 54:40A-2(a) as “any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A ‘single cigarette’ is a cigarette sold or offered for sale individually.”

“Tobacco product” is defined in the Tobacco Products Wholesale Sales and Use Tax Act at N.J.S.A. 54:40B-2 as “any product containing any tobacco for personal consumption including, but not limited to,

cigars, little cigars, cigarillos, chewing tobacco, pipe tobacco, smoking tobacco and their substitutes, and dry and moist snuff, but does not include cigarette as defined in section 102 of the ‘Cigarette Tax Act,’ P.L.1948, c.65 (C.54:40A-1 et seq.)”

Because they do not contain any tobacco and are not made of or rolled in tobacco, electronic cigarettes, liquid nicotine and vapor products are not subject to either the Cigarette Tax or the Tobacco Products Wholesale Sales and Use Tax. These items are, however, subject to the 7% sales tax as tangible personal property because there is no statutory exemption for them in the Sales and Use Tax Act. N.J.S.A. 54:32B-1, et seq.

### Gross Income Tax

#### *Reporting the Estimated Tax Paid From the Sale of Real Property on Form NJ-1041*

— A taxpayer inquired where on Form NJ-1041, Gross Income Tax Fiduciary Return, a trust can claim the estimated tax payment it made with Form GIT/REP-1, Nonresident Seller's Tax Declaration, in connection with the sale of real property in New Jersey. The taxpayer also asked whether the Division could credit the estimated payment made with Form GIT/REP-1 to the beneficiary of the trust.

The Division responded that an estimated tax payment made with Form GIT/REP-1 is treated like any other estimated payment and should be reported as “income tax previously paid.” For the 2015 Form NJ-1041, income tax previously paid is reported on Line 31 and includes the total of estimated payments made for 2015, including any payments made in connection with the sale

## Pay NJ Taxes Electronically

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

### Electronic Check (E-Check)

John Smith  
Jane Smith  
123 Main Street  
Trenton, NJ 08611

1234  
15-09900000

PAY TO THE ORDER OF \$

Anyplace Bank  
Trenton, NJ 08611

Routing number: 20202088  
Account number: 1234

For: 250250029

Do not include the check number.

DOLLARS

Make a payment directly from your bank account online or by phone (609-292-6400).

### Credit Card Pay online or by phone (1-888-673-7694).





*tax briefs - from page 8*

or transfer of real property in New Jersey. A copy of the GIT/REP-1 should be included with the return.

Any payment made by the trust must be claimed by the trust on Form NJ-1041. Estimated payments made in connection with a sale or transfer of real property in New Jersey cannot be credited to a beneficiary.

**Sales and Use Tax**

***Electronic Cigarettes, Liquid Nicotine and Nicotine Vapor Products*** — See Cigarette Tax.

***Rental of RV Campsites and the Atlantic City Luxury Tax*** — A taxpayer inquired if the New Jersey Sales and Use Tax and the Atlantic City Luxury Sales Tax apply to charges for the rental of an RV campsite located in Atlantic City. The campsite offers amenities such as electric hookups and bathroom/shower facilities. The campsite charges both nightly rates and long-term or seasonal rates.

The Division replied that the New Jersey Sales and Use Tax Act imposes Sales Tax on the rent for every occupancy of a room or rooms in a hotel in this State. N.J.S.A. 54:32B-3(d). Hotel is defined in N.J.S.A. 54:32B-2 as “a building or portion of it which is regularly used and kept open as such for the lodging of guests.” The Atlantic City luxury tax is only imposed on hotel rooms as defined in N.J.S.A. 54:32B-2.

N.J.A.C. 18:24-3.5 provides examples of facilities that are not considered to be hotels and are not subject to the tax imposed on rent received for hotel occupancy. Included in the list of examples are “campsites available for trailers, recreational vehicles, or tent camping.”

Because an RV campsite is not a hotel, it is not subject to the New Jersey sales tax or Atlantic City luxury tax.

***Taxability of Charges by a Sailboat Rental Club*** — A sailboat rental club inquired if it must collect sales tax on charges for initiation fees and rental fees, and if tax is due, whether it should charge the full tax rate (7%) or apply the partial Sales Tax exemption for boats (3.5% effective Feb. 1, 2016).

A sailboat rental club charges members an initiation fee to join the club. Members then have the right to pay a separate charge to rent a sailboat for a specified period. The amount of the rental charge depends on which sailboat the member rents, the length of the rental and whether the sailboat is rented during the week or on the weekend. The club does not operate a marina.

The Division responded that the Sales and Use Tax Act imposes tax on “charges in the nature of initiation fees, membership fees or dues for access to or use of the *property or facilities* of a health and fitness, athletic, sporting or shopping club or organization in this State, except for (1) membership in a club or organization whose members are predominantly age 18 or under.” N.J.S.A. 54:32B-3(h) (emphasis added). Because the club does not maintain property or facilities (i.e., a marina) as the statute requires, the initiation fee the club charges simply gives the member the right to rent a sailboat. Therefore, the charge for the initiation fee is not subject to tax.

The charge for the rental of a boat is taxable. N.J.S.A. 54:32B-3(a); N.J.S.A. 54:32B-2(f). However, the Sales and Use Tax Act was recently amended to provide a partial Sales

and Use Tax exemption (3.5%) on the sale, lease or rental of new and used boats or other vessels (including sailboats) and to cap the amount of Sales and Use Tax due on a transaction at \$20,000. Because the rental fee the club is charging is for qualifying sailboats, the rental charge is eligible for the partial Sales Tax exemption and, if applicable, the \$20,000 sales tax cap.

**Tobacco Products Tax**

***Electronic Cigarettes, Liquid Nicotine and Nicotine Vapor Products*** — See Cigarette Tax. □

***In Our Courts***

**Administration**

**Filing Date of Complaint** – *Smart Publications, LLC and Anthony Lombardo v. Director, Division of Taxation*; decided April 6, 2016; Appellate Division, Docket No. A-3516-13T4, affirming Tax Court, Docket No. 012506-2013, revised April 29, 2014.

The Division issued a final determination to taxpayer, Smart Publications, LLC (Plaintiff), on May 6, 2013. The final determination, which was sent by certified mail, advised Plaintiff that a complaint should be filed with the Tax Court of New Jersey if Plaintiff did not agree with the notice. The notice clearly stated that the Tax Court must receive the complaint within 90 days from the date of the notice. Plaintiff’s counsel mailed the complaint by certified mail to the Tax Court on Aug. 6, 2013. The Tax Court received the complaint on Aug. 9, 2013, 95 days after the date of the final determination (May 6, 2013). The Division moved to dismiss the complaint as untimely, and the Tax Court granted

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the motion. Plaintiff filed a motion for reconsideration, which the Court denied.

Plaintiff filed an appeal with the Appellate Division arguing that the complaint was mailed on Aug. 6, 2013, and therefore timely filed on Aug. 6, 2013, under the “timely mailed, timely filed rule.” In support of this argument, Plaintiff relied on N.J.S.A. 54:49-3.1, which states that the date mailed is the date of receipt for tax returns, protests and other documents that are “delivered by United States mail to the director, bureau, office, officer or person with which or with whom the document is required to be filed.” The Appellate Division ruled that this statute pertained to appealing an action to the Division, not an action to the Tax Court.

The Appellate Division found that case law has established that the filing of a complaint is completed when the Court receives the complaint rather than when it was actually mailed. The Appellate Division found that both N.J.S.A. 54:51A-14(a) and Tax Court procedure Rule 8:4-1(b) require that “complaints shall be filed within 90 days after the date of the action to be reviewed.” In this case, the complaint was filed when the Tax Court received the complaint on Aug. 9, 2013, which was not within the 90-day window and therefore untimely.

The Appellate Division rejected Plaintiff’s other arguments without discussion. In particular, Plaintiff Anthony Lombardo (the sole member of Smart Publications, LLC) claimed that his mother was not authorized to accept certified mail at his home and that the date he reviewed the letter should be the

date of receipt. The Court concluded that these positions lacked sufficient merit to warrant discussion.

### **Local Property Tax**

**Disabled Veteran’s Exemption – *Krystal and David Fisher vs. City of Millville***, decided March 21, 2016; Tax Court, Nos. 014080-2014 and 007736-2015.

The issue is whether a disabled veteran qualifies for property tax exemption on her principal residence. More specifically, the issue is whether Krystal Fisher provided “direct support” in the “theatre of operation.”

Krystal Fisher enlisted for active duty in the United States Army on June 4, 2002. The military was engaged in Operation Enduring Freedom during her enlistment. She trained for active deployment to Afghanistan as part of the Combat Aviation Brigade.

Ms. Fisher was injured during training, which eventually resulted in her being 100% permanently disabled. Despite her injury, she completed her training and was transferred to her active duty station at Fort Stewart, Georgia, serving from March 12, 2003, through Dec. 28, 2003. Her duties while a part of the Rear Detachment included: shipping weapons, food, clothing and processed supplies; keeping inventory of weapons; assembling protective shield units for military vehicles for the overseas portion of her unit; and military police training for deployment to Afghanistan.

Ms. Fisher applied to the City of Millville for a disabled war veteran’s property tax exemption pursuant to N.J.S.A. 54:4-3.30. The Millville tax assessor denied the exemption because Ms. Fisher did not serve the

required minimum of 14 days in the actual combat zone.

Ms. Fisher appealed to the Cumberland County Board of Taxation, which denied the appeal. She then made a timely appeal with the Tax Court.

Ms. Fisher argued that Operation Enduring Freedom is not confined to a specific geographic area but is worldwide. The plaintiff pointed to the provision of the legislative enactment that generally requires participation in the “theatre of operation” rather than a specific geographic area. However, the statutory provision in question does not merely require support but, more specifically, requires direct support. In *Wellington v. Township of Hillsborough*, 27 NJ Tax 37, the Court found that Mr. Wellington was indeed entitled to benefits because he sustained injury testing hazardous chemical agents collected from the battlefield while serving at a laboratory in the United States. The injuries sustained in the testing were in direct support of the military operation.

In clarifying the legislative intent of the statute, the Tax Court noted the tightening and narrowing of the eligibility requirements for later missions in terms of specific service in geographic regions, length of service and service in direct support of the military operation.

The Court declined to address the nature and extent of the theatre of operation because it held the overriding issue was whether “direct support” was provided by the veteran.

The Court concluded that Ms. Fisher completed her training at Fort Leonard Wood, Missouri, and was then

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transferred to her active duty assignment at Fort Stewart, Georgia, as part of the Rear Detachment for the portion of her unit deployed in Afghanistan.

The Court opined that while the Rear Detachment does indeed provide support to a deployed unit, Ms. Fisher was never directly exposed to the dangers or potential dangers of the battlefield. The activities of the Rear Detachment generally do not rise to the level of “direct support” that the Legislature envisioned necessary to satisfy the requisites of exemption from taxation. The direct support requirement can be satisfied by the service member’s exposure to danger, not whether the member handled materials that are ultimately shipped to a dangerous locale. While exposure to danger is not the sole consideration for direct support, the Legislature did not intend the “direct support,” requirement to be merely dependent upon the final destination of material that a service member handles.

The property tax exemption on the principal residence of the disabled veteran was denied. □

## Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2015 (Jan. 1, 2015 – Dec. 31, 2015) and tax year 2016 (Jan. 1, 2016 – Dec. 31, 2016) 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 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.

[2015](#)      [2016](#)

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

[2015](#)      [2016](#)

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

[2015](#)      [2016](#) □



## *important phone numbers*

Customer Service Ctr....609-292-6400  
 Automated Tax Info ...1-800-323-4400  
 ..... 609-826-4400  
 Homestead Benefit Hotline  
 for Homeowners.....1-888-238-1233  
 Property Tax Reimbursement  
 Hotline.....1-800-882-6597  
 Earned Income Tax Credit  
 Information..... 609-292-6400  
 Business Paperless Telefiling  
 System .....609-341-4800  
 Alcoholic Bev. Tax ..... 609-633-7068  
 Corp. Liens, Mergers, Withdrawals  
 & Dissolutions..... 609-292-5323  
 Director’s Office ..... 609-292-6400  
 Inheritance Tax..... 609-292-5033  
 Local Property Tax..... 609-292-7974  
 Motor Fuels Tax  
 Refunds ..... 609-633-8870  
 Public Utility Tax..... 609-633-2634