

# New Jersey State Tax News

## Summer 1996

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### Employer Income Tax Filing Changes

Effective July 1, 1996, employers required to withhold and remit New Jersey income tax from their employees' pay will be filing one of two new quarterly reconciliation forms, Form NJ-941 or Form NJ-941-W. These new forms take the place of the quarterly NJ-500 which the employer was previously required to file. All employers are required to file Form NJ-941 (or Form NJ-941-W) for each calendar quarter, regardless of the level of tax actually due for a particular quarter. Form NJ-941/NJ-941-W is due on the fifteenth day of the month following the close of the calendar quarter. The one exception to this is the return filed for the quarter ending December 31, which is due January 31st. All employers are still required to file the year-end reconciliation, Form NJ-W-3.

As of July 1, 1996, employers will be required to remit tax on a monthly, quarterly or accelerated basis. Employers with a prior year liability of \$20,000 or more for employer income tax withholdings will be required to remit State income tax on an accelerated basis. (Note that this \$20,000 threshold is also the current threshold for the Electronic Funds Transfer (EFT) program. Vendors/employers with a prior year liability of at least \$20,000 in any tax are now required to make all State tax payments via EFT.) Accel-

erated payors must remit State income tax withheld on or before the Wednesday of the week following the week containing the pay day(s) on which the taxes were withheld. Accelerated State income tax payors will be required to file a quarterly reconciliation, Form NJ-941-W.

Employers not required to remit tax on an accelerated basis will be required to file Form NJ-500 returns and remit tax on a monthly basis for either of the first two months in a calendar quarter when tax due for the month(s) is \$500 or more. Tax due for the third month is remitted with the quarterly reconciliation, Form NJ-941. When

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### important phone numbers

Tax Hotline.....	609-588-2200
Recorded Tax Topics.....	800-323-4400
Speaker Programs.....	609-984-4101
NJ TaxFax.....	609-588-4500
Alcoholic Bev. Tax.....	609-984-4121
Corporate Mergers, Withdrawals & Dissolutions.....	609-292-5323
Corporate Tax Liens.....	609-292-5323
Director's Office.....	609-292-5185
Inheritance Tax.....	609-292-5033
.....	609-292-5035
.....	609-292-7147
Local Property Tax.....	609-292-7221
Motor Fuels Tax Refunds.....	609-292-7018
Public Utility Tax.....	609-633-2576
Tax. Registration.....	609-292-1730

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tax due for either of the first two months of the quarter is less than \$500, that tax may be held by the employer and remitted with Form NJ-941.

File as follows:

- **Quarterly:** Form NJ-941 for every quarter, due on the 15th of the month following the close of the quarter; January 31st, for the fourth quarter.
- **Monthly:** Form NJ-500 (if required) for either or both of the first two months in quarter when tax due for the month(s) is \$500 or more. (Form NJ-941 must be filed for the third month of that quarter and as a reconciliation of the entire quarter.)
- **Accelerated:** Tax remitted on an accelerated basis via electronic funds transfer; Form NJ-941-W filed as a quarterly reconciliation.

The semi-annual filing and payment for January 1, 1996 through June 30, 1996 remains due on July 15, 1996. Both semi-monthly and semi-annual filings will be eliminated for tax withholding periods from July 1, 1996 forward. □

## **SALES AND USE TAX** **Changes in Filing Requirements**

The Division of Taxation has adopted a new rule, N.J.A.C. 18:24-11.3, and amended an existing rule, N.J.A.C. 18:24-11.2, to change the procedures for the filing of sales and use tax returns and the payment of use tax effective July 1, 1996. The new regulations increase the filing threshold for the monthly sales and use tax return, and make it

possible for some nonvendor businesses to file use tax returns on an annual basis. The new monthly threshold will be reflected on the ST-50/51 booklets being mailed this month.

### **Monthly Filing Threshold**

The threshold for filing the Sales and Use Tax Monthly Return (Form ST-51) has been increased to \$500. Previously, taxpayers were required to file Form ST-51 when their tax liability for either of the first two months of the calendar quarter was more than \$100.

Businesses that are required to use Forms ST-50 and ST-51 to report their sales and use tax liability must continue to file a Sales and Use Tax Quarterly Return (Form ST-50) every quarter, even for quarters when no tax is due.

### **Annual Use Tax Return**

Under the new regulations, non-vendors whose annual use tax liability for the previous three calendar years averaged \$2,000 or less may now file the new Annual Business Use Tax Return (Form ST-18B) to report purchases which are subject to New Jersey Use Tax and pay any tax due. This annual return covers purchases made during the calendar year (Jan. 1 – Dec. 31), and must be filed on or before May 1 of the following year if any use tax is due.

“Nonvendors” are those businesses or other entities registered with the Division of Taxation that do not either (1) sell taxable goods or services or (2) lease taxable property to others.

Nonvendors eligible to file the Annual Business Use Tax Return (Form ST-18B) will no longer report and remit their occasional use tax liabilities on the Use Tax

Remittance (Form ST-18). Form ST-18 will be used only by individuals.

Nonvendor businesses that qualify to use Form ST-18B, but are currently filing regular sales and use tax returns (Forms ST-50/51), or are on a nonreporting basis for sales tax, must contact the Division to request a change in their el-

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**New Jersey Division of Taxation  
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*sales & use tax filing - from page 2*

eligibility status before they can file the Annual Business Use Tax Return (Form ST-18B). To request business use tax eligibility, businesses may call Taxpayer Registration at (609) 292-1730 or write to:

NEW JERSEY DIVISION OF TAXATION  
CN 252  
TRENTON NJ 08646-0252

Nonvendors who are now filing Forms ST-50/51, and whose average annual use tax liability for the previous three calendar years was greater than \$2,000, must continue to file Forms ST-50 and ST-51.

Nonvendor businesses are not required to file Form ST-18B for any calendar year in which they do not owe use tax. Taxpayers that had already reported and paid their use tax for 1995 with either Forms

ST-50/51 or ST-18 were not

required to file the Form ST-18B due May 1, 1996.

**Note:** Only nonvendor businesses may use the new Annual Business Use Tax Return (Form ST-18B). Businesses that are required to collect and remit sales tax, or that lease taxable property to others, must use Forms ST-50 and ST-51 to report and pay both their sales and use tax liabilities. □

### **Use Tax Filing by Businesses**

The New Jersey Division of Taxation has changed the procedures for the filing of sales and use tax returns and the payment of use tax by businesses. The changes are summarized as follows:

	<b>Prior to July 1, 1996</b>	<b>As of July 1, 1996</b>
<b>Vendors</b>	Those vendors on a reporting basis for sales and use tax filed Form ST-50 (quarterly return) every quarter even when no tax was due. Use tax due for the quarter was reported on Line 5, "Use Tax," of Form ST-50. If the sales and use tax liability exceeded \$100 (monthly threshold for the first and/or second month of the quarter), business also had to file a monthly return (Form ST-51) with payment for that month.	Same, except monthly threshold has been increased to \$500.
<b>Nonvendors</b>	If use tax was due on a regular basis or as a result of a recent self-audit, business had to submit Form ST-50 every quarter, even when no tax was owed. Use tax liability, if any, was reported on Line 5, Form ST-50.	Nonvendors whose average use tax liability for the previous three years was over \$2,000 must continue to file Forms ST-50 and ST-51. Monthly threshold has been increased to \$500.
	If use tax was due infrequently, the business was not placed on a reporting basis for sales and use tax. The business used Form ST-18 (same form used by individuals) to report and remit use tax within 20 days of incurring liability.	Nonvendors whose average use tax liability for the previous three years was \$2,000 or less file the new Annual Business Use Tax Return (Form ST-18B) by May 1 of the calendar year following a year when a use tax liability was incurred.

**SALES AND USE TAX**  
**Tax on Telephone**  
**"Yellow Pages"**  
**Ads Repealed**

P.L. 1995, c.184, approved July 25, 1995, amends the New Jersey Sales and Use Tax Act to eliminate the sales and use tax on receipts from the sale of advertising space in a telecommunications user or provider directory or index distributed in this State.

This change, which became effective April 1, 1996, applies to directories or indexes distributed on or after that date. However, sales of advertising space in directories or indexes distributed prior to April 1, 1996 remain subject to sales tax.

For example, if a client purchases "yellow pages" advertising on March 15, 1996 to appear in a directory or index to be distributed on April 1, 1996, the charge for advertising space would be exempt from sales tax. However, if a client

**Interest 11.75% for**  
**Second Quarter**

The interest rate assessed on amounts due for the second quarter of 1996 is 11.75%.

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

Effective Date	Interest Rate
7/1/94	9%
10/1/94	9%
1/1/95	11.5%
4/1/95	11.5%
7/1/95	11.5%
10/1/95	11.5%
1/1/96	11.75%
4/1/96	11.75%

purchases advertising space on March 15, 1996 for a directory to be distributed on March 31, 1996, the sale of the advertising space would be subject to sales tax. □

**Corporate Seminars**  
**Offered**

The Division participates in a series of one day corporate seminars targeted at either newly incorporated businesses or citizens planning to open corporations in New Jersey. The seminars are jointly sponsored by the New Jersey Departments of State, Commerce and Economic Development, Labor as well as Treasury/ Taxation.

Representing the concept of one stop shopping, citizens are presented a wealth of vital information on the incorporation process, tax registration, collecting and remitting sales tax, the Corporation Business Tax, and more. Representatives from each department are on hand to make formal presentations and to answer questions.

Entrepreneurs seeking to form corporations or other business enterprises are encouraged to attend these seminars which provide invaluable information and also present numerous opportunities to network with peers and State officials who serve as advocates for the business community.

The initial 1996 Corporate seminar was held on March 20, 1996 at Mercer County Community College. An enthusiastic overflow audience attended the seminar. The schedule for the remainder of 1996 includes:

June 19 – Bergen Cty. Community College in Paramus

Sept. 18 – Stockton State College near Atlantic City

Nov. 6 – Brookdale Community College in Lincroft

To find out about registration information call the Department of State at (609) 530-6494. □

**Filing NJ-1065**  
**Information on**  
**Diskette**

The New Jersey Division of Taxation accepts NJ-1065 Partnership Directory and NJK-1 information on diskette. The NJ-1065 Partnership Return, Schedule A and Schedule NJ-NR-A must be filed on the paper return. The diskette must be filed with the NJ-1065 Partnership Return.

The diskette filing of Partnership Directory and NJK-1 information is permitted for partnerships with a minimum of twenty-five partners. The diskette filing will reduce the burden on large partnerships of filing voluminous paper documents and enable the Division of Taxation to more efficiently process the information.

3½" or 5¼" MS-DOS compatible diskettes are required. The New Jersey Division of Taxation prefers 3½" diskettes, although 5¼" diskettes are being accepted at this time.

To be accepted, a diskette must meet the specifications established by the Division of Taxation. A copy of the specifications can be obtained by writing to the following address:

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NEW JERSEY DIVISION OF TAXATION  
DISKETTE SPECS  
CN 288  
TRENTON NJ 08646-0288 □

## **CORPORATION TAX Reporting Refunds of State Tax**

Inquiries have been received by the Division concerning the proper reporting method of state tax refunds for Corporation Business Tax purposes.

As a result of legislation enacted in July 1993, corporations with return periods beginning after July 3, 1993 are required to add back the amount of taxes paid to the United States, a possession or territory of the United States, a state, a political subdivision thereof or the District of Columbia measured by profits or income, business presence or activity which were deducted in arriving at Federal taxable income before net operating loss and special deductions. In the event a taxpayer deducted an amount greater than its final tax liability and has recently received a refund of the difference, this refund must be reported as other income rather than netting down the current year's expense. This is particularly important for refunds from states, other than New Jersey, for periods prior to July 1993, when no add back was required for New Jersey purposes.

By observing this reporting mechanism, taxpayers are able to accurately report tax refunds and prevent the possibility of overstating prior years' expense. □

## **SALES AND USE TAX**

### **Corporate Purchasing Cards**

A taxpayer wrote to the Division regarding the acceptability under N.J.S.A. 54:32B-16 of the Sales and Use Tax Act of "Corporate Purchasing Card Sales Tax Reporting," a reporting system to be sold in New Jersey by the American Express Travel Related Services Company, Inc.

Briefly stated, the corporate purchasing and tax reporting system is intended to eliminate purchase orders. In addition, vendors would not necessarily issue paper invoices to their corporate customers. Instead, corporate clients would receive a monthly consolidated statement from American Express of all corporate card purchases.

To address the need to provide sales and use tax documentation for paperless transactions, participating vendors will be asked to electronically transmit specific sale-related data to American Express. On a monthly basis, American Express will furnish their corporate clients with either a print-out or a tamper-proof computer disk containing all sales-related data received by American Express from their vendors, respectively. The data will contain a product description; the name, state and zip code of the corporate card user; and the card user's cost center. The sales tax reporting system will also list the total amount billed, the tax amount and the tax rate.

In most instances when goods are shipped by the vendor to the card user, the data can precisely identify the taxing state or other jurisdiction through the state, city

and zip code listing. In some cases, however, only the zip code may be entered.

N.J.S.A. 54:32B-16 requires vendors to keep sales and purchase records as the Division may require and make them available for inspection or examination upon demand.

Pursuant to N.J.A.C. 18:24-2.4, New Jersey registered vendors may maintain summary sales records which show, at a minimum, sales location, total receipts and taxable receipts. Summary records are not deemed adequate evidence of the accuracy of an exemption certificate. N.J.A.C. 18:24-2.5(b). In the case of out-of-State sales, the vendor is required to maintain records for each sale which show the nature of item sold, the transaction date, the name and address of the purchaser and the method of delivery to the out-of-State location. N.J.A.C. 18:24-2.6. With respect to purchase records, New Jersey busi-

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### **Electronic Filing**

- ◆ Are you filing Federal income tax returns electronically?
- ◆ Would you like to file New Jersey income tax returns electronically?

Beginning in 1996 (1995 tax returns), the New Jersey Division of Taxation will accept electronically filed income tax returns.

For additional information, call the Division's Hotline at (609) 588-2200 or write New Jersey Division of Taxation, ELF, CN 191, Trenton, NJ 08646-0191

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nesses must maintain records which disclose the name and addresses of vendors from whom purchases were made, the amounts, the dates of purchase and the nature of the items purchased. N.J.A.C. 18:24-2.8. The records of a vendor may be found insufficient or inadequate under N.J.A.C. 18:24-2.15, in which case, the Division may determine and assess the correct tax due using any information available. N.J.S.A. 54:32B-19.

The description of the Corporate Purchasing Card Sales Tax Reporting System indicates that it will satisfy the stated requirements of N.J.A.C. 18:24-2.4, as recited above if the vendor records and maintains or receives the same information on a transaction as that communicated to American Express. Further, the minimum stated requirements of N.J.A.C. 18:24-2.6, regarding business purchase records, are also satisfied. Accordingly, Division auditors will accept records produced under the Corporate Purchasing Card Sales Tax Reporting System for inspection and examination.

In those transactions where the tax situs of a sale can be determined and the tax due is separately stated on the customer listing, the system is an acceptable substitute for vendor invoices. If the information on the report is incomplete or the tax is not separately stated, the customer may continue to be liable for payment of any applicable sales or use tax.

In those transactions where the tax situs of the sale cannot be determined, the information contained in the system would be acceptable

proof of the date and amount of the transaction. Other supporting evidence would be required to establish the correct taxing jurisdiction and tax application.

In all transactions using the Corporate Purchasing Card Sales Tax Reporting System, as with traditional vendor generated invoices, if data about the transaction is incomplete or insufficient, or if tax collected by the vendor is not separately stated, then the vendor may be liable for payment of sales tax on the transaction. Similarly, the purchaser may be liable for payment of use tax in a use tax transaction. In addition, just as with non-Corporate Purchasing Card transactions, the vendor and the purchaser must retain documentation to substantiate an exemption from tax. □

### **INHERITANCE/ESTATE TAX** ***Changing Domicile***

As noted by the article entitled "Domicile" in the Spring 1996 issue of the *New Jersey State Tax News*, a decedent's domicile will determine the individual state death taxes to which his/her estate will be subject. Commonly encountered state death taxes include: inheritance tax, estate tax, estate tax with Federal credit, gift tax, or some combination of these.

The death tax consequence of domicile varies between states and can be significant. And, in one landmark case on domicile, both New Jersey and Pennsylvania imposed their death taxes on the same estate. See *In re Dorrance*, 115 N.J. Eq. 268, (Prerog. Ct. 1934), *aff'd.*, 13 N.J. Misc. 168 (Sup. Ct. 1935), *aff'd.*, 116 N.J.L. 362 (E. & A. 1936), *cert. den.* 298

U.S. 678 (1936), *reh. den.* 298 U.S. 692 (1936).

More than superficial attention must be given to death tax aspects of domicile. If not, a person may believe that he or she has established domicile for death tax purposes when, in fact, they have not. Consider the example of Inez Duff Bishop who endeavored cosmetically to preserve a New Jersey domicile by maintaining a home here, by voting in New Jersey, and in the filing of her tax returns. Despite her attempts, however, the Court determined that her efforts had failed. *Citizens Bank and Trust Company v. Glaser*, 70 N.J. 72 (1976).

The New Jersey courts have stated that domicile is very much a matter of the mind — of intention. Accordingly, the concurrent elements relied upon by our courts to evidence a change of domicile include "an actual and physical taking up of an abode in a particular State, accompanied by an intention to make one's home there permanently or at least indefinitely, and to abandon the old domicil." *Lyon v. Glaser*, 60 N.J. 259 at 264 (1972).

As to a person's motivation for changing his domicile, our courts have stated that "a person has the right to choose his own domicil and his motive in doing so is immaterial. The change may be to avoid taxation, so long as the necessary ingredients for the establishment of a new domicil are present." *Id.*

A common misconception is that some statutory minimum period of residency is required to establish

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domicile. Instead, our courts have noted that “a very short period of residency may be sufficient to show domicile, but mere residency, regardless of its length, is not sufficient.” *Id.* See also *Citizens Bank and Trust Company v. Glaser*, *supra* at 81.

Neither is the individual character or relative pretentiousness of the living quarters, in the case of multiple residences, determinative of domicile. Our courts have ruled in one case that a decedent, who owned a home in New Jersey, had changed her domicile to Florida despite the fact that her stay in Florida was short, in a nursing home, and she had no permanent home in Florida. The Court found that the character of the living quarters is immaterial once there is a residence such as a nursing home, a hotel or a boarding house and an intention to remain in a state permanently. *O'Hara v. Glaser*, 60 N.J. 239 (1972). See also *In re Dorrance*, *supra* at 275.

Nor, our courts have stated, are “declarations as to the place of domicile controlling where they conflict with the fact, or were prompted by a desire to avoid taxation.” *In re Michelsohn*, 136 N.J. Eq. 387 at 390 (1944). While recitals as to domicile in a will, trust, tax return or other formal document may be evidential, they are not conclusive. See *Matter of Unanue*, 255 N.J. Super. 362 (1991).

Intent is the acid-test element which determines whether a person who has changed residence has also changed domicile. A person “does not relinquish his domicile by having another residence based

on reasons of health, society, business or employment.” *Id.* at 375.

A basic tenet established by the New Jersey courts, however, is that “a home or residence in another state is commonly regarded as prima facie evidence of domicile and, the longer the period of the new residence the stronger the prima facie case becomes.... When a residence is taken up elsewhere, a presumption arises that the original residence has been abandoned.” *Lyon v. Glaser*, *supra* at 277-78.

On rare occasions, investigation by the Transfer Inheritance and Estate Tax Branch has established that a reasonable doubt existed regarding a decedent's domicile. In such cases the Director, Division of Taxation, has entered into a compromise with the other state pursuant to N.J.A.C. 18:26-4.1 fixing the amount of Transfer Inheritance Tax acceptable in satisfaction of this State's claim. Use of this procedure has been successful in avoiding the risks inherent in litigation. □

## **CONFERENCE & APPEALS** ***Protest Issues***

A significant number of protests are received by the Division's Conference and Appeals Branch every month which protest legal issues that have already been addressed and resolved by the Tax Court of New Jersey, and sustained on appeal. A hearing before the Conference and Appeals Branch can take one of three forms: in person, via telephone or “on the papers.” Final Determinations are routinely issued pursuant to a hearing on the papers for taxpayers whose protest relates to legal

issues already litigated and ruled on by the courts. In such instances, the determination made is based upon (1) the taxpayer's written protest (N.J.A.C. 18:1-1.8), (2) the Division of Taxation's records and (3) the existing court opinion(s).

Currently, the most common issues that are resolved in this manner are Gross Income Tax cases that involve credit for taxes paid to other jurisdictions, including credit for taxes claimed paid on S corporation distributions, and the applicability of the Federal Tax Benefit Rule.

Some of the published cases for the credit for taxes paid to other jurisdictions include:

*Chin v. Director*, 14 N.J. Tax 305 – Worldwide Income.

*Widder v. Director*, 14 N.J. Tax 349 – Return Instructions.

*Willett v. Director*, 10 N.J. Tax 102 – Numerator Calculation; Separate Calculations for Each Jurisdiction.

*Berlin v. Director*, 13 N.J. Tax 405 – Loss Reducing Numerator of the Credit Calculation.

*Ambrose v. Director*, 198 N.J. Super. 546 – Deductions from the Numerator.

*Neilson v. Director*, 4 N.J. Tax 438 – Deductions from the Numerator.

*Sorenson v. Director*, 2 N.J. Tax 470, 184 N.J. Super. 393 – Amount Actually Taxed by Both States.

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S corporation income and credit for taxes paid to other  
*protest issues - from page 7*

jurisdictions:

*Laurite v. Director*, 12 N.J. Tax 483 – Method to Use to Determine If There Can Be Any Credit.

Several decisions have been published regarding the inapplicability of the Federal Tax Benefit Rule to the New Jersey Gross Income Tax Act. In *Spinella v. Director* (13 N.J. Tax 305) and *Vasudev v. Director* (13 N.J. Tax 223), the Court discussed the applicability of this Federal principle. In an unpublished opinion, *Grabis v. Director* (Tax Court Docket No. 14-24-1005-88GI), the Court upheld the application of the statute (N.J.S.A. 54A:5-2) requiring each tax year to stand on its own, i.e. losses or deductions not used in the year incurred are lost and cannot be used in another year. □

## **Tax Amnesty Outreach Program**

As part of the Divisionwide Amnesty Outreach program, the Conference and Appeals Branch sent letters to all taxpayers who had conferences pending before the Division and would otherwise be eligible for the Tax Amnesty program or who had recently been issued Final Determinations. This initiative was taken to insure that those taxpayers who had protested an assessment were made aware of the Amnesty program. Under the statute, tax issues that were currently under the Judicial or Administrative appeal process were **not** automatically eligible for Amnesty. Taxpayers were informed of the Amnesty program and pro-

vided with a form they could use to either withdraw their protest and request Amnesty on the outstanding tax liability or indicate that they wished to continue their protest and not apply for Amnesty. Acceptance of Amnesty and full payment of the tax ended the appeal process for that specific issue or period under protest. In addition, as new protests were received by the Branch, the taxpayers were notified of the Tax Amnesty program at the time the protest was acknowledged. □

## **Publication Order Form (PUB-100)**

The Division of Taxation issues a variety of tax publications which are available free of charge. Use the *Publications Guide & Order Form* (PUB-100) to request copies of the publications. A copy of PUB-100 appears on page 11. □

## **LOCAL PROPERTY TAX "Effective"**

### **Property Tax Rates**

Although the general tax rate is used to calculate the annual taxes within a municipality, it cannot be used to measure the burden of real property taxes among municipalities. To accomplish this an effective tax rate must be applied to the same market value for properties in municipalities where a comparison of tax burdens is desired.

Effective tax rates are "equalized" so that they indicate the rates as they would be if property were assessed at true value, i.e., market value rather than taxable value. For example, the taxes on a property with a market value of \$150,000 in the Borough of Roosevelt would

be expected to be \$6,189 (\$150,000 x .04126), whereas in Cape May Point Borough the taxes on a property with the same market value would be expected to be \$1,347 (\$150,000 x .00898).

Below are two lists of municipalities ranked in the order of the twelve highest and twelve lowest effective tax rates in New Jersey.

<b>Municipality</b>	<b>Highest Effective Tax Rates</b>
Winfield Township	11.264
Audubon Park Borough	11.055
Pahaquarry Township	5.797
East Orange City	4.414
Irvington Town	4.395
Orange City	4.168
Roosevelt Borough	4.126
Roselle Borough	4.039
West New York Town	3.912
Union City City	3.892
Camden City	3.889
Passaic City	3.825

<b>Municipality</b>	<b>Lowest Effective Tax Rates</b>
Walpack Township	.444
Rockleigh Borough	.833
Mantoloking Borough	.862
Saddle River Borough	.865
Lower Alloways Creek Twp.	.887
Cape May Point Borough	.898
Harding Township	.931
Avalon Borough	.931
Alpine Borough	.954
Deal Borough	.960
Stone Harbor Borough	1.031
Barnegat Light Borough	1.044

## **LOCAL PROPERTY TAX**

### **Disabled Vet's Exemption Prorated**

N.J.S.A. 54:4-3.31 permits, in part, property tax exemptions of New Jersey resident honorably discharged permanently and totally disabled U.S. war veterans or their surviving spouses to be "...prorated by the assessor for the



remainder of any taxable year from the date the claimant shall have acquired title to the real property intended to be exempt by this act.”

The Handbook for New Jersey Assessors at section 305.1

(Chapter III, p.45) further clarifies the starting point for exemption, “Certain war veterans...are granted full tax exemption on their dwelling house and the lot or curtilage on which it is located, as of the date the property is acquired by such a veteran, or as of the date the veteran property owner is declared to be totally or 100% permanently disabled by the U.S. Veterans Administration.”

For example, where a qualified disabled claimant makes application on June 1st of the tax year with respect to his dwelling acquired on February 14th of the tax

year, and the assessment on the property is \$24,000, the pro-rated amount of the assessment to be taxed is \$2,893 or 44/365th’s. The remaining 321/365th’s of the assessment, or \$21,107 is exempt for the tax year.

The exemption ceases by reason of change in ownership or domiciliary residence in the dwelling as of the first day of the month following the date of the change. (Handbook, Chapter III, p.49) □

### ***New Jersey Property Valued at \$496 Billion***

Below is a comparison of 1994 and 1995 real property value by county. An increase in true value of more than \$1.5 billion occurred between 1994 and 1995.

<b>County</b>	<b>True Value 1995</b>	<b>True Value 1994</b>	<b>Decrease/ Increase</b>	<b>% of Change</b>
Atlantic	\$18,035,489,757	\$18,585,520,971	- \$550,031,214	- 2.96
Bergen	75,629,259,793	75,035,896,050	+ 593,363,743	+ .79
Burlington	19,522,993,696	18,988,256,754	+ 534,736,942	+ 2.82
Camden	19,580,933,982	19,509,521,344	+ 71,412,638	+ .37
Cape May	12,995,337,063	12,875,006,554	+ 120,330,509	+ .93
Cumberland	4,127,754,964	4,048,351,694	+ 79,403,270	+ 1.96
Essex	36,255,218,572	36,715,905,964	- 460,687,392	- 1.25
Gloucester	11,175,185,965	10,787,168,714	+ 388,017,251	+ 3.60
Hudson	20,140,500,625	20,596,818,505	- 456,317,880	- 2.22
Hunterdon	9,777,123,047	9,575,045,360	+ 202,077,687	+ 2.11
Mercer	18,673,849,963	18,342,934,734	+ 330,915,229	+ 1.80
Middlesex	43,024,638,437	42,702,449,726	+ 322,188,711	+ .75
Monmouth	39,868,756,563	39,160,727,525	+ 708,029,038	+ 1.81
Morris	40,763,131,112	39,645,499,677	+ 1,117,631,435	+ 2.82
Ocean	31,005,847,177	30,827,913,583	+ 177,933,594	+ .58
Passaic	22,995,600,205	22,985,276,080	+ 10,324,125	+ .04
Salem	2,837,162,833	2,794,707,394	+ 42,455,439	+ 1.52
Somerset	24,091,674,736	23,529,759,933	+ 561,914,803	+ 2.39
Sussex	8,264,344,590	8,176,229,578	+ 88,045,012	+ 1.08
Union	31,733,234,565	34,197,496,182	- 2,464,261,617	- 7.21
Warren	5,478,821,473	5,330,633,929	- 148,187,544	- 2.78
<b>Totals</b>	<b>\$495,976,859,118</b>	<b>\$494,411,190,251</b>	<b>+ \$1,565,668,867</b>	<b>+ .32</b>

**LOCAL PROPERTY TAX  
Tax Assessors'  
Calendar**

**July 1-**

- Disallowed property tax deduction recipients, granted an extension, required to pay deduction previously granted. If unpaid, become real property liens.
- MOD IV Master file sent to Property Administration via magnetic tape.
- Assessor to mail form to claim a continuance of valuation under the Farmland Assessment Act for the tax year 1997 together with a notice that the completed form must be filed with the assessor by August 1, 1996 to each taxpayer whose land was assessed for tax year 1996 under the Act.

**2nd Tuesday in July-**

- State Equalization Table prepared.

**August 1-**

- Owners of farmland must file an application (Form FA-1) with the assessor to have land assessed under Farmland Assessment Act.

**August 5-**

- All SR-1A forms showing information to be used in compiling the 1997 Table of Equalized Valuations for State School Aid to

be received by Property Administration.

**August 15-**

- County Board of Taxation Presidents to annually file a report to the Director, Division of Taxation.

**August 25-**

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

**September 1-**

- Extension to file Form FA-1 where assessor has determined failure to file by August 1 was due to illness of the owner, death of the owner or an immediate member of the owner's family.
- Tangible business personal property returns of local exchange telephone, telegraph and messenger systems companies, with respect to tax year 1997 and thereafter, are required to be filed with the assessor for the taxing district in which the said property is located.

**September 13-**

- Table of Aggregates transmitted within three days to Taxation and Local Government Services Directors, State Auditor, municipal clerk, and clerk of board of freeholders by County Boards of Taxation.

**September 15-**

- Assessor to file statement of taxable value of State-owned real property with Director, Division of Taxation. □

**LOCAL PROPERTY TAX  
County Tax Board  
Members  
Confirmed**

The Senate has confirmed 26 appointments made by Governor Whitman of members to county boards of taxation. Names of the individuals and the dates of confirmation follow:

**Burlington County**

Earl D. Emmons	3-30-95
Samuel P. Alloway, Jr.	3-30-95
John L. Aloï	3-30-95

**Camden County**

Benjamin G. Vukicevich	6-22-95
------------------------	---------

**Cape May County**

William R. Wilsey	12-7-95
-------------------	---------

**Cumberland County**

Steven S. Luciano	12-7-95
-------------------	---------

**Essex County**

Joan Codey Durkin	5-11-95
Robert A. Gaccione, Esq.	12-21-95

**Gloucester County**

Edith K. Patterson	12-18-95
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**Hunterdon County**

Robert M. Purcell, Jr., Esq.	12-7-95
------------------------------	---------

**Mercer County**

H. Rick Kline	1-10-95
---------------	---------

**Middlesex County**

Victor P. DiLeo	6-22-95
Joseph J. Nita	6-22-95
Bert L. Buckler	6-22-95
Irving Verosloff, Esq.	6-26-95
Arthur M. Haney	12-7-95

**Morris County**

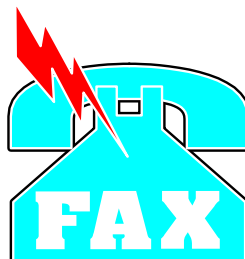
Anthony Crecco	5-25-95
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	GIT-2 IRA Withdrawals		S&U-2 Sales Tax and Home Improvements
	GIT-3 Credit for Taxes Pd. Other Jurisdictions		S&U-3 Contractors and NJ Sales Tax
	GIT-4 Filing Status		S&U-4 New Jersey Sales Tax Guide
	GIT-5 Exempt Obligations		S&U-5 Mail Order Businesses
	GIT-6 Part-year Residents		S&U-6 Sales Tax Exemption Certificates
	GIT-7 Military Personnel		S&U-7 Filing Sales and Use Tax Returns
	GIT-8 Estimating Income Taxes		
	GIT-9 Income from Partnerships and S Corps.	Quantity	<i>BROCHURES</i>
	GIT-10 Step-by-Step Guide to Form NJ-1040		EFT-100 NJ Electronic Funds Transfer Program
	GIT-11 New Jersey Resident Return Examples		M-5014 Exempt Organization Cert. Brochure
	HR-1 Checklist for Form HR-1040	Quantity	<i>OTHER</i>
	HR-2 Homestead Property Tax Rebate Guidelines		<i>Package NJX Order Form</i>
			<i>New Jersey State Tax News Mailing List</i>
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	MISC-2 Information for Senior Citizens		PUB-100 Publications Guide & Order Form
	MISC-3 Starting Business in New Jersey		
	MISC-4 Reporting Your Business Income		

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	ANJ-3 Auctioneers		ANJ-11 Arts & Crafts Businesses
	ANJ-4 Landscapers		ANJ-12 Veterinarians
	ANJ-5 Floor Covering Dealers		ANJ-13 Ending Your Business in New Jersey
	ANJ-6 Auto Repair Shops		
	ANJ-7 Use Tax in New Jersey		
	ANJ-8 Air Conditioning, Heating, Refrigeration		

*tax board - from page 10*

#### **Passiac County**

Patti Tahan 6-22-95  
Richard Mohr 6-22-95  
Louis J. Batelli 6-22-95

#### **Salem County**

Joseph H. Davenport 12-7-95

#### **Sussex County**

Bernard R. Mitchell 5-11-95

#### **Union County**

Frank M. Meeks, III 6-22-95  
Paul L. LaCorte 6-22-95  
Anthony Amalfe 6-22-95

#### **Warren County**

Michael G. Snyder 5-11-95

□

## **Criminal Enforcement**

Criminal Enforcement over the past several months included:

- A criminal investigation of Emerald Hotels discovered nearly \$1.25 million in unpaid New Jersey taxes for the period January 1988 through August 1995. As the criminal case developed, 10 corporations owning hotel and motel franchises throughout the State were identified as being part of the scheme to evade payment of State taxes. The findings concluded that over a million dollars of sales tax had not been paid. In addition, outstanding income tax and corporation business tax liabilities totaled more than \$235,000. These liabilities are all subject to late filing and payment penalty and interest charges mandated by law.

As part of a plea agreement, Moshe (Michael) Gohar and Larry J. Ansell, co-presidents of

the operating company, Emerald Hotels Management Company Inc., both pled guilty in the Monmouth County Superior Court on February 7, 1996 to one count of failure to make payment of taxes with the intent to evade. In addition, the corporation pled to a one-count violation of misapplication of entrusted funds, a second degree crime. The total amount of tax, penalty and interest presently owed is approximately \$3 million. A minimum payment of \$850,000 must be made on or before their date of sentencing with pre-arranged monthly payments to follow until the liability is satisfied.

- On March 5, 1996, Irving Benett, of Hackensack, New Jersey, was named in an eight-count indictment by a State Grand Jury charging misapplication of entrusted property, misconduct by a corporate official, unlawful sale of securities, and four counts of filing false personal income tax returns for the 1990 through 1993 tax periods.

Benett, the former director of Snak-Tech Inc., Snak-Tech Enterprises Corp., Snak-Tech Trading Corp., Snak-Tech Manufacture Corp., Snak-Tech Research Corp., and president of La Casita Mexican Foods Inc., solicited nearly \$1 million from approximately 100 investors under the pretense that the money would be used on behalf of these corporations to fund an initial public stock offering or to purchase manufacturing facilities. According to the indictment, Benett spent the money on personal expenses.

The case resulted from a joint investigation effort between the Division of Criminal Justice's Securities/Fraud Unit and Taxation's Office of Criminal Investigation.

- On March 7, 1996, three State Grand Jury indictments were unsealed charging 12 men alleged to have affiliations with the Genovese crime family with operating a sports betting and loan sharking ring in New Jersey since 1983. In addition to the eight counts for tax evasion, the initial 19-count indictment charged racketeering, conspiracy, criminal usury, promoting gambling, and possession of gambling records.

Charged with tax evasion were William Cappiello of Long Branch, Andre Domando of Belleville, Anthony Gulla of West Caldwell, and Allan Pilione of Clinton.

All four were charged with filing fraudulent 1994 State income tax returns and failing to pay tax on income received from illegal gambling activities.

The indictments were the result of a joint investigation by the New Jersey State Police, the Federal Bureau of Investigation, Union and Monmouth County Prosecutors' Offices, New York City Police, the Office of Criminal Investigation of the New Jersey Division of Taxation and the New Jersey Division of Criminal Justice.

- William Becker of Marlton was indicted on February 29, 1996 by a Camden County Grand Jury. The 71-count indictment charges Becker with 35 counts

*continued on page 13*

*criminal enforcement - from pg. 12*

of theft by deception, 34 counts of falsifying records, and one count each of failing to file and filing a fraudulent State income tax return.

- Jamil Satik Harham of Brooklyn, New York, was found guilty of transporting 475 cartons of untaxed cigarettes. The municipal judge imposed fines of \$1,465 and awarded the confiscated cigarettes to the State.
- Three businesses pled guilty to noncompliance with the cigarette tax laws in municipal courts throughout the State during March 1996. United Candy and Tobacco Co., Inc. and Porto Fino Distributors sold cigarettes to an unlicensed dealer. Rustic Mill Diner sold cigarettes without a license. In addition, charges were filed against ten other businesses for selling cigarettes without a license or failing to register for New Jersey sales tax.
- On February 1, 1996, Joseph Maisto of Trenton, New Jersey, a former New Jersey Department of Corrections official, was indicted by a State Grand Jury in a bribery scheme involving an \$8 million prison construction project. Mr. Maisto is charged with accepting \$20,000 from two construction company officials in 1992 while he oversaw a project at the Wagner Youth Correctional Facility in Chesterfield, New Jersey. The nine-count indictment included charges for official misconduct, bribery, accepting unlawful gifts, filing a fraudulent State income tax return, and failing to pay taxes on \$20,000 of unre-

ported income. This case resulted from a joint investigation effort between the Division's Office of Criminal Investigation and Division of Criminal Justice's Official Corruption Unit.

- On February 1, 1996 Helen Haniak, the sole proprietor of Nardone's, a go-go bar in Newark, New Jersey, pled not guilty to an accusation involving the non-filing of sales tax returns. The not guilty plea before Judge Falcone in Essex County was accepted conditionally on Ms. Haniak's entry into the pre-trial intervention program for first offenders. Prior to the plea, the business was sold and the Division of Taxation received partial restitution in the amount of \$55,000. Additional arrangements were made to satisfy the full restitution requirement of approximately \$80,000 of taxes and accruing penalties and interest.
- Sheryl Terbecki was indicted on February 14, 1996 on eight counts of failing to file and timely pay State income tax. This case, involving theft through a phony investment scheme targeting senior citizens, was investigated jointly with the Ocean County Prosecutor's office.
- Roger Turner, t/a Expert Maintenance, was indicted on six counts relating to State tax issues on January 22, 1996 by the Monmouth County Grand Jury. This Asbury Park janitorial contractor was part of the underground economy and failed to collect and remit nearly \$8,300 in sales tax and file returns for the period 1991-1995.

- Sussama Abraham, t/a Priya Grocery, Eduard Yelinskiy, and Melvut Gar each pled guilty to noncompliance with the cigarette tax laws in municipal courts throughout the State during the month. Included in the charges were the failure to register for sales tax, selling cigarettes without a license, and the possession of untaxed cigarettes. These three cases resulted in the imposition of fines and penalties totaling \$1,925 and the awarding of a seized 1987 Ford van to the Division.
- One cigarette tax case resulted in the arrest of Ruo Long Liu for transporting and possessing 533 cartons of untaxed cigarettes. Both the cigarettes and a Chevrolet van were seized. □

## **Enforcement Summary**

### **Civil Collection Actions Quarter Ending - March 31, 1996**

Following is a summary of enforcement actions for the quarter ending March 31, 1996.

#### **Certificates of Debt**

During the quarter ended March 31, 1996, the Division filed 3,423 Certificates of Debt in New Jersey Superior Court. These COD's, which have the same force and effect as docketed judgments, totaled \$28.6 million.

#### **Levies**

\$2.5 million was collected by Field Investigations as a result of executing against 787 noncompliant taxpayers. In addition, \$135,846 was collected by levying against payments made under State contracts to satisfy

*continued on page 14*

*enforcement - from page 13*

debts owed by State vendors.

### Seizures

When a liability, for which the Division of Taxation has secured judgments, cannot or will not be satisfied by a taxpayer and all other means of collection of the debt have been exhausted, seizure of the business and personal assets will take place. Field Investigators will close a business, seizing any tangible assets including licenses, inventory, machinery, furniture, vehicles, etc., until arrangements are made for payment of the debt.

For the quarter ending March 31, 1996, property of 13 businesses and two individual taxpayers was seized. Some businesses were able to reopen, others remain closed. A listing of these seizures appears on page 15.

### Auctions

If the liability of a business seized by the Division is not satisfied or resolved, the business will remain

closed. To satisfy the debt, the Division can sell the business assets at a public auction.

During the quarter ending March 31, 1996, four auctions were held by the Division. A listing follows on page 16.

In the event an auction does not net enough monies to resolve the debt, the Division will execute against the personal assets of any of the business's responsible officers. Responsible officers are held personally liable for the trust fund portion of the debt which includes, but is not limited to, sales tax, withholding tax and motor fuels tax. □

## Tax Briefs

### Corporation Business Tax

**Regular Place of Business** — A taxpayer inquired whether a New Jersey corporation which is in the business of renting heavy equipment to service customers in Pennsylvania and which has no office in Pennsylvania (or presumably any other state) is permitted to allocate income outside New Jersey.

Where a New Jersey corporation does not have a regular place of business outside the State it is not permitted to allocate. Under N.J.A.C. 18:7-8.3, however, it may be given a credit against tax for income duplicated on the tax return to another state. Further, relief may be requested under Section 8 of the Corporation Business Tax Act, if the credit relief is not sufficient or results in an inequity.

There is no authority to exclude the out-of-State sales receipts from New Jersey Corporation Business Tax gross income or from the

denominator of the receipts fraction on the CBT-100 return as filed.

### Gross Income Tax

#### **Employer Group-Term Life Insurance Payments**

— An employer's payments toward the cost of the first \$50,000 of group-term life insurance for an employee are excluded from New Jersey gross income only if they are also excluded for Federal income tax purposes. If the exclusion is disallowed for Federal income tax purposes because, for example, the plan is limited to "key employees," then the full amount of the benefit provided by the employer will be included in New Jersey gross income as well.

When the exclusion of the cost of the first \$50,000 of coverage is allowed, the employee's New Jersey gross income must include the cost of coverage above \$50,000 of group-term life insurance provided by the employer. This cost is determined the same way for New Jersey as for Federal purposes, i.e., according to the uniform premium cost table used by Internal Revenue Service.

The cost of this coverage above \$50,000 is part of the employee's compensation. Therefore a New Jersey employer should incorporate.

*continued on page 16*

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### ***Division of Taxation Seizures (January – March 1996)***

**Note:** Businesses listed may have satisfied their tax liability or otherwise come to agreement with the Division following the date of seizure and may now be reopened.

<b>County</b>	<b>Name/Address</b>	<b>Seizure Date</b>	<b>Business Type</b>	<b>Status</b>
Bergen	Hana Auto Corp. t/a Kim's Auto Center Carlstadt	01-16-96	Auto Repair Shop	Closed
Burlington	Myers, Philip D. Medford	01-17-96	N/A (Individual)	Motor Vehicle Seized
	Rosper, Inc. t/a Kentucky Fried Chicken Maple Shade	01-11-96	Fast Food Restaurant	Bankruptcy
	Jatalco, Inc. t/a Mitchells Tavern & Liquor Store Palmyra	02-01-96	Bar	Open; Liquor License Seized
Camden	Brown, Christian R. Mount Laurel	01-17-96	N/A (Individual)	Motor Vehicle Returned
	Larsid, Inc. t/a Cotton Club Camden	02-08-96	Bar	Liquor License Seized (Business Closed Previously)
	Pro Com Computer Center a/k/a Pro Computer Co. a/k/a Tai Tang South Jersey Expo Center	03-09-96	Computer Equipment Vendor Operating at Computer Shows	Closed
Gloucester	Allenham, Inc. t/a Kentucky Fried Chicken Williamstown	01-11-96	Fast Food Restaurant	Bankruptcy
	Stiehl Grove, Inc. t/a Paulsboro Hotel Paulsboro	02-01-96	Bar	Liquor License Seized (Business Closed Previously)
	Lehigh Valley Carting Corp. Sewell	02-07-96	Junk Dealer	Motor Vehicles Returned
Hudson	Chow Down Corporation t/a Ditto's Hoboken	01-04-96	Restaurant/Bar	Bankruptcy
	333 Washington Corp. t/a Cafe Trapani Hoboken	01-30-96	Bar/Restaurant	Reopened
Monmouth	Atlantic Art, Inc. t/a Create Your Frame Shrewsbury	01-17-96	Art Gallery; Frames	Open
Morris	Nako, Inc. t/a Le Papillon Morristown	02-08-96	Restaurant	Open; Liquor License Seized
Sussex	Fedash Enterprises, Inc. t/a Costa Azzurra Vernon	01-17-96	Pizzeria	Reopened

## **Division of Taxation Auctions (January – March 1996)**

<b>County</b>	<b>Name/Address</b>	<b>Auction Date</b>	<b>Business Type</b>
Burlington	Myers, Philip D. Medford	03-23-96	N/A (Individual); Motor Vehicle
Hudson	Garcez, Ubiratan t/a Junior's Exxon Cranford	02-01-96	Car Repair
Middlesex	Edison Stationers & Office Supply, Inc. Edison	01-10-96	Stationery Store
	Comet Electric, Inc. North Brunswick	03-23-96	Electrical Contractor

*tax briefs - from page 14*

### **Sales and Use Tax**

***Sale of Database*** — The Division responded to a company which manufactures databases for vendor catalogs, industry and international standards, military/Federal specifications and standards, electronic component data, logistics information and related documents. The data is indexed, cross referenced and provided in various electronic media forms, including CD-ROM, on-line, Internet, magnetic tape, and microfilm.

The sale of a database in tangible form (CD-ROM, magnetic tape, microfilm etc.) is subject to tax as the sale of tangible property. N.J.S.A. 54:32B-3(a). The sale of a database which is delivered electronically or via the Internet is not subject to sales tax because nothing tangible is transferred to the customer. N.J.S.A. 54:32B-2(g).

The majority of customers “subscribe” to the database rather than making an outright purchase. In this case, it appears that the customer is obtaining a license to use the database on a monthly basis. A license to use property is subject to tax in the same manner

as an actual sale of the property. N.J.S.A. 54:32B-2(f). Thus, if the database is transferred in the form of CD-ROM, magnetic tape, etc., the license to use is subject to sales tax. If it is transferred electronically, it is not subject to tax.

***Distribution of Promotional Materials*** — The Division responded to an inquiry concerning the use of a mailing house located in New Jersey to distribute catalogs and product samples both in-State and out-of-State.

The New Jersey Sales and Use Tax Act provides an exemption for advertising and promotional materials which are prepared within or outside of New Jersey for distribution by a New Jersey direct mail advertising or promotional firm to out-of-State recipients, and receipts from direct mail advertising processing services in connection with distribution of advertising and promotional materials to out-of-State recipients. N.J.S.A. 54:32B-8.39.

It was stated that the receipts from direct mail advertising material and advertising processing services are subject to tax in full only where the material is sent to

addresses in New Jersey. Thus, if a New Jersey direct mail house is used and all of the catalogs and promotional items are delivered to recipients outside of New Jersey, no New Jersey sales or use tax is due on either the materials or the direct mail services.

***Exempt Organization Motor Vehicle Raffles*** — The Division recently replied to an inquiry regarding the sales tax subjectivity of an automobile won in a raffle conducted by a New Jersey sales tax exempt organization.

There are two typical ways such car raffles are conducted:

1. Exempt Organization buys motor vehicle from dealer and takes title in their name — gives ST-5 to dealer — no tax — raffle winner pays no tax when he/she takes title from exempt organization — no consideration given for motor vehicle — fills out LS-240 at motor vehicle agency and checks off vehicle was a “gift” — no consideration — and enters on LS-240 “won in a

*continued on page 17*



*tax briefs - from page 16*

charity raffle.”

2. Exempt Organization buys motor vehicle from dealer and raffles it off but *doesn't take title* in exempt organization's name. Title transfers directly from motor vehicle dealer to raffle winner — consideration is given for motor vehicle by exempt organization — ST-5 cannot be given since transfer is not titled in exempt organization's name — motor vehicle transfer is a sale and winner must pay tax to dealer who uses Sales Tax Satisfied Stamp to record tax paid.

According to the inquirer's specific situation, the dealer transferred title to the exempt organization, which gave the dealer an ST-5 exempt organization certificate to document their exempt sale.

Example #1 above would apply to this situation, and therefore, if the dealer has an ST-5 from the exempt organization they would not collect any tax on the second transaction changing title from the exempt organization to the raffle winner. □

## **In Our Courts**

### **Local Property Tax**

**Dismissal for Failure to Prosecute** – *Pipquarryco, Inc. Plaintiff, v. Hamburg Borough, Defendant*, decided January 19, 1996; Tax Court of New Jersey; Docket No. 6306-95.

The issue before the N.J. Tax Court in this complaint was whether the plaintiff Pipquarryco's appeal was properly dismissed “with prejudice” by Sussex County

Board of Taxation for “failure to prosecute.” If the Tax Board's dismissal was upheld, a further appeal to the Tax Court based on the actual facts or merits of the case could not be heard as per N.J.S.A. 54:51A-1(c)(2).

“Failure to prosecute” indicates that the plaintiff did not appear or did not provide factual evidence on which relief might be granted, e.g., proof of value. “With prejudice” indicates a final disposition barring the right to further appeal on the same claim.

One day prior to its County Tax Board hearing Pipquarryco tele-faxed its appraisal report to the Board, Hamburg Borough's tax assessor and their municipal attorney. The next day Pipquarryco's attorney appeared at the Board hearing with their appraiser and requested a temporary adjournment. The defendant Borough then asked for dismissal “with prejudice” for violation of N.J.A.C. 18:12A-1.9(h) which required evidential appraisal reports one week in advance of a hearing. The County Board rejected the plaintiff's reason for the lateness of the report and granted the Borough's request to dismiss the appeal “with prejudice.”

In ruling against Sussex County Tax Board, the Tax Court cited both *Veeder v. Berkeley Twp.* and *S.A.I.J. Realty, Inc. v. Upper Deerfield Twp.* which held that dismissal for “failure to prosecute” is appropriate only where “the conduct of the offending party is deliberate” or “deliberate and contemptuous” respectively. That

the plaintiff's appraisal report was late was not “egregious” in the manner of *Hudson Motor Lodge v. Jersey City*, where an appraisal

was provided on the day of a twice rescheduled trial, nor was Pipquarryco's timely appearance before the Board with an appraiser to request adjournment contemptuous etc. The Court noted that although the Board had a 3 month statutory deadline for completing appeal hearings to consider, it had the options of permitting the requested postponement or of dismissing “without prejudice” to allow the Tax Court to hear the facts of the dispute. Finally, in citing *VSH Realty, Inc. v. Harding Twp.* and *Rutherford Realty Assoc. v. Borough of Rutherford*, the Court made clear that the County Tax Board's first responsibility is to hear in a “meaningful way” and determine all appeals filed with it and to safeguard the taxpayer's opportunity to be heard. Court calendars and time constraints may not take precedence over the administering of justice and the reasonable accommodation of a taxpayer's rights.

### **Sales and Use Tax**

**Bulk Sales** – *New Jersey Hotel Holdings, Inc. v. Director, Division of Taxation*, No. 007836-94 (Tax Ct., decided February 21, 1996).

Plaintiff acquired all of the assets of three hotel properties. It acquired the realty by way of deeds in lieu of foreclosure, and acquired the personalty by way of bills of sale. However, it did not give the Division the requisite notice prior to this bulk transfer. Because plaintiff failed to give the notice required under N.J.S.A. 54:32B-22(c), the Court held that it was liable for the sales and use tax liability of the transferor of the

*continued on page 18*

*in our courts - from page 17*

assets. ☐

## In Our Legislature

### Gross Income Tax

**Tax Return Signature Requirement** — P.L. 1996, c.10 (signed into law on March 28, 1996) changes the law concerning the written verification of gross income tax returns so that returns may be filed by telephone using a

touch-tone telephone keypad. The act permits the Director of the Division of Taxation to promulgate regulations that will allow the use of voice signatures and other technologies to satisfy the signature requirements of the gross income tax. This legislation is effective immediately and applies to returns filed on and after January 1, 1996.

### Miscellaneous

**Tax Amnesty Program; Credit Card Payment System for State**

**Taxes** — P.L. 1996, c.2 (signed into law on February 29, 1996) provides for a State tax amnesty period and appropriates funds to the Division to administer the program. The act also authorizes the use of credit cards, debit cards, or electronic funds transfer for payments of State taxes. This legislation is effective immediately. ☐

# tax calendar

## july

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
		1	2	3	4	5	6
1	7	8	9	10	11	12	13
9	14	15	16	17	18	19	20
9	21	22	23	24	25	26	27
6	28	29	30	31			

### July 10

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

### July 15

- CBT-100/ Corporation Business Tax—**
- CBT-100S** Annual return for accounting period ending March 31

*continued*

### July 15 - continued

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

### July 22

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

- SCC-5 Spill Compensation and Control Tax**—Monthly return

*continued*

### July 22 - continued

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

### July 25

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

# august

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1					1	2	3
9	4	5	6	7	8	9	10
9	11	12	13	14	15	16	17
6	18	19	20	21	22	23	24
	25	26	27	28	29	30	31

## August 12

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

## August 15

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

*continued*

### August 15 - continued

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

## August 20

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

*continued*

### August 20 - continued

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

## August 26

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

# september

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1	1	2	3	4	5	6	7
9	8	9	10	11	12	13	14
9	15	16	17	18	19	20	21
6	22	23	24	25	26	27	28
	29	30					

## September 10

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

## September 16

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending May 31

*continued*

### September 16 - continued

- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year
- NJ-500 Gross Income Tax**—Employer's monthly return
- NJ-1040ES Gross Income Tax**—Declaration of Estimated Tax, Voucher 3 for calendar year filers

## September 20

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

*continued*

### September 20 - continued

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

## September 25

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

## *from the director's desk*

### **Tax Season Assistance**

During the income tax season from January 1 through April 15, 1996, the Division provided assistance to many taxpayers in New Jersey. This year was marked by several service initiatives: the expansion of the electronic filing program; the introduction of TeleFile, a program which enables taxpayers to file income tax returns and homestead rebate applications by telephone; and on-line access to New Jersey tax information through the Division of Taxation's Home Page.

★ **Tax Hotline**

Calls answered—226,205

★ **NJ TaxFax**

Calls received—41,597

★ **Electronic Filing Program**

Returns filed—66,611

★ **TeleFile Pilot Program**

Returns filed—24,247

★ **Taxation Building Lobby**

Taxpayers assisted—11,814 (1,002 on April 15)

★ **Regional Offices**

Taxpayers assisted—28,919

★ **ARIS (Automated Refund Inquiry System)**

Calls received—239,792

★ **Tax Talk (Automated information and assistance)**

Calls received—171,399

★ **Taxation Home Page**

Visits to Division's World Wide Web site—7,762