

New Jersey State Tax news

Volume 32, Number 4
Winter 2003

A Quarterly Newsletter

ISSN 1073-6808



inside

<i>what's new for tax year 2003</i>	1
<i>life insurance disbursements</i>	3
<i>interest rate 7.00%</i>	3
<i>license suppression project</i>	4
<i>billing and enforcement</i>	4
<i>bonus depreciation</i>	4
<i>lanco v. director</i>	5
<i>PAMS update</i>	5
<i>sales and use tax ez file</i>	6
<i>unclaimed property auction</i>	7
<i>tax assessors' calendar</i>	7
<i>criminal enforcement</i>	8
<i>enforcement summary stats</i>	9
<i>tax briefs</i>	11
<i>in our courts</i>	16
<i>in our legislature</i>	20
<i>tax calendar</i>	22
<i>from the director's desk</i>	23

What's New for Tax Year 2003

There have been some important changes affecting the preparation of New Jersey income tax returns and sales and use tax returns for tax year 2003:

Income Tax

- **Date of Birth Replaces PIN** — The Division of Taxation no longer assigns Personal Identification Numbers (PINs) for individuals who are filing their tax returns or making payments electronically. Instead, taxpayers will use their date of birth when using NJ TeleFile or NJ WebFile or when paying their income taxes by electronic check (e-check). Taxpayers may also be asked to enter their last name. Taxpayers who use NJ ELF will still need a Federal PIN but not a New Jersey PIN.
- **Forms on Web Can Be Printed and Filed** — Forms NJ-1040, NJ-1040 EZ, and HR-1040 are no longer required to be submitted on original forms (i.e., those printed with red, "dropout" ink). These income tax returns can now be printed from the Division's Web site at www.state.nj.us/treasury/taxation/prntgit.htm and used for filing.

Forms obtained by calling NJ TaxFax (609-826-4500) from your fax machine's phone may also be used for filing.

- **Nonresident Servicepersons Filing Form NJ-1040NR** — Recent Federal legislation (Servicemembers Civil Relief Act, P.L. No. 108-189, signed into law on December 19, 2003) prohibits a state from considering military income when determining the tax rate to be imposed against other income earned in that state by a nonresident serviceperson or spouse. As a result, when completing a New Jersey nonresident return, Form NJ-1040NR, nonresident servicepersons should not report their military pay on the wages line in *either* Column A (Amount of gross income everywhere) or Column B (Amount from New Jersey sources) on Form NJ-1040NR.

continued on page 2



important phone numbers

Customer Service Ctr .. 609-292-6400
Automated Tax Info 1-800-323-4400
..... 609-826-4400
NJ SAVER Hotline 609-826-4282
Property Tax Reimbursement
Hotline 1-800-882-6597
Speaker Programs 609-984-4101
NJ TaxFax 609-826-4500
Alcoholic Bev. Tax 609-984-4121
Corp. Liens, Mergers, Withdrawals
& Dissolutions 609-292-5323
Director's Office 609-292-5185
Inheritance Tax 609-292-5033
Local Property Tax 609-292-7221
Motor Fuels Tax
Refunds 609-292-7018
Public Utility Tax 609-633-2576



what's new for 2003 - from pg. 1

- **Retirement Income Exclusions: Phase-In Complete** — The maximum amount of pension and/or other retirement income that may be excluded from New Jersey gross income was increased over a four-year period, which began in 2000. Exclusion amounts for 2003 and thereafter, which vary by filing status, are: \$20,000 (married, filing joint return), \$10,000 (married, filing separate return), and \$15,000 (single, head of household, or qualifying widow(er)).
- **New Jersey Earned Income Tax Credit: Phase-In Complete** — The credit was phased in over a four-year period, which began in 2000. For tax year 2003 and thereafter, the New Jersey credit will be equal to 20% of the applicant's Federal earned income credit.
- **NJ TeleFile Exemptions** — Taxpayers can now use NJ TeleFile to claim the exemption for "other" dependents. Previously, TeleFile filers were limited to the exemptions for qualified dependent children and qualified dependent children attending colleges.
- **Documentation MAY be Required** — Some filers will be required to submit copies of W-2s before their refunds will be issued. Such taxpayers will receive instructions during their TeleFile call or WebFile session.
- **Designated Contribution** — In addition to the charitable funds listed on the return, taxpayers may designate a contribution to one of six other funds. The new fund added for 2003 is the New Jersey Prostate Cancer Research Fund (06).

- **Credit for Taxes Paid to Other Jurisdictions** — The Philadelphia nonresident wage tax rate for 2003 is .039127 from January 1 to June 30, 2003, and .038801 from July 1 to December 31, 2003.

Sales and Use Tax

- **Sales and Use Tax EZ File** — Some 20,000 businesses filed their 4th quarter New Jersey sales and use tax returns (Form ST-50) electronically in January 2004. Over 17,000 returns were received through the Division of Taxation's online filing program and another 3,000 returns were TeleFiled.

Businesses who are required to make their sales and use tax payments through electronic funds transfer (EFT) were notified by the Division late last year that their sales and use tax quarterly and monthly returns should be filed using either EZ File Online or EZ TeleFile beginning with the 4th quarter of 2003 return due January 20th. *Eventually, electronic filing will replace paper returns for all sales and use tax filers.*

Notices will be sent to all taxpayers before they are required to file electronically. Although only EFT taxpayers are now required to file electronically, *any* New Jersey sales and use tax filer can choose to file electronically at any time.

To EZ File Online: Visit the Division's Web site, choose [File Online](#), and follow the directions.

To EZ File by Phone: Complete the [EZ File Worksheet](#) and call 1-877-829-2866 (toll-free anywhere) to file. □

New Jersey State Tax news

is published quarterly by the:

**New Jersey Division of Taxation
Technical Services
Information & Publications Branch
PO Box 281
Trenton, NJ 08695-0281**

The *State Tax News* is published on the Division of Taxation's Web site at:

www.state.nj.us/treasury/taxation/publnews.htm

Subscribe to *NJ Tax E-News* on the our Web site to be notified when new issues become available.

This publication is designed to keep taxpayers, tax practitioners, and the general public informed of developments, problems, questions, and matters of general interest concerning New Jersey tax law, policy, and procedure. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for New Jersey tax laws and/or regulations.

Division of Taxation Director:
Robert K. Thompson

News Coordinators for This Issue:

<i>Audit</i>	Peggy Cook
<i>Compliance</i>	Marita Sciarrotta
<i>Criminal Investigation</i>	Rosemary Tuthill
<i>Property Admin.</i>	Richard Stier
<i>Technical Services</i>	Geoff Marsh
<i>Legislation</i>	Ronald DeMarco

Contributors: Carol E. Bell, Beth A. Berniker, Maryann Cortina, Steve Harris, Susan J. Kane, Elizabeth J. Lipari, Frank Malloy, John M. Metzger, Thomas Reilly, Patricia Svarnas, Fred Wagner.

Staff: J. Donald Byrnes, Lauren D. Higgins, Maria E. Likakis, Terry A. McWilliams, Joanne M. Monte, Sara E. Murphey.

Editor: Sheri B. Silverstein



ESTATE TAX

Life Insurance Disbursements

The New Jersey Transfer Inheritance Tax and Estate Tax regulations were readopted with changes on March 17, 2003. The changes were a result of the July 1, 2002, revisions to the New Jersey Estate Tax which apply to estates of decedents dying on or after January 1, 2002.

N.J.A.C. 18:26-11.30 and 11.31 were modified to provide that all corporations, associations, societies, and other organizations which sell life insurance or annuities in New Jersey must:

1. Give notice to the Director of all sums payable by them as the result of the death of a resident decedent by filing Form O-71 as soon as practicable after the death of a decedent, but in any event, not later than 10 days after any full or partial payment has been made; and
2. Retain 50% of all sums payable pending receipt of a tax waiver from the Director.

Form O-71 must be submitted in all cases where:

1. Payment is made as a result of the death of a resident decedent under the terms of a life insurance policy, endowment policy, or an annuity contract owned by the decedent; or
2. Payment is made as a result of the death of a resident decedent under the terms of a supplementary optional settlement or similar contract issued to effectuate the distribution of benefits originally payable to the decedent under the terms of a life insurance policy,

endowment policy, or an annuity contract; or

3. A partnership, firm, or corporation is entitled to receive payment in its own right.

Both the Inheritance Tax and the Estate Tax are due and payable on a decedent's date of death. Amounts reported on Form O-71 must reflect date of death values. Accumulated dividends, post-mortem dividends, terminal dividends, and premium refunds are required to be reported on Form O-71.

Form O-71 is not required for any payment or payments made outright to a decedent's surviving spouse. If any payment or payments have or will be made to a beneficiary or beneficiaries other than the decedent's surviving spouse, Form O-71 must be submitted.

Provided that a fully completed copy of Form O-71 has been (or will be) mailed to the Director, and that each beneficiary listed on the form has been (or will be) advised that information regarding death claim payments is being supplied to the State pursuant to requirements of the New Jersey Division of Taxation, and that it is the position of the Division of Taxation that a beneficiary or beneficiaries may be personally liable for any and all inheritance and/or estate taxes until paid, all sums payable (100%) under the terms of the policy or contract may be disbursed without obtaining a tax waiver from the Director. No retention is required.

N.J.A.C. 18:26-11.31 requires that Form O-71 be mailed to the Division as soon as practicable after a decedent's death, but in any event, not later than 10 days after the date of any payment. However, completed forms may be mailed to the

Division on a monthly basis. A completed form which is made part of a monthly mailing will be deemed to have been mailed in a timely manner, provided that the monthly mailing is within one month of the date on which the form would otherwise be required to be mailed.

For decedents with a date of death after December 31, 2001, Forms O-71 required to be mailed on or before November 1, 2003, will be deemed to have been mailed in a timely manner provided that they are mailed no later than July 1, 2004. If payment was made to a beneficiary or beneficiaries prior to November 1, 2003, the beneficiary or beneficiaries need not be notified.

Form O-71 and its instructions are available on the Division's Web site at: www.state.nj.us/treasury/taxation/prntinh.htm

Form O-71, its instructions, and additional information pertaining to the use of the form may be obtained

continued on page 4

Interest 7.00%

The interest rate assessed on amounts due for the period January 1, 2004 – December 31, 2004, will be 7.00%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/00	11.50%
1/1/01	12.50%
7/1/01	10.50%
10/1/01	9.00%
1/1/02	8.00%
1/1/03	7.25%
1/1/04	7.00%



life insurance - from page 3

by contacting the Inheritance and Estate Tax Section of the Individual Tax Audit Branch by mail at the Division of Taxation, Inheritance and Estate Tax, PO Box 249, Trenton, New Jersey 08695-0249, or by phone at 609-292-5033. □

License Suppression Project

During the fall of 2002, as the Division prepared for the next cigarette and motor fuels tax license renewal period, the Audit Services Branch performed a data match which revealed a substantial number of license holders that had existing delinquent or deficient items.

Through a coordinated effort with the Division's Audit Services, Technical Support, and Compliance Branches, as well as the Division of Revenue and the Office of Information and Technology, criteria were drafted to identify those registrants that would require notification. This letter informed them that unless their delinquent and/or deficient items were addressed, their license to sell cigarettes or motor fuels would not be renewed.

There were 4,689 letters mailed in January 2003 notifying license hold-

ers that their license would not be renewed as of April 1, 2003, unless listed delinquent/deficient items were addressed. It should be noted, however, that notices were not sent to taxpayers with conference, deferred payment, bankruptcy, and audit cases that were active at the time of mailing.

After issuance, the telephone response received by Audit Services was heavy, and in many cases, taxpayers were requested to provide additional information. Matters that required an in-depth analysis were forwarded to the Compliance Branch.

A summary of the project as of January 2, 2004, is as follows:

Collections	
Attributed to Project	\$2,951,272
Remaining	
Suppressed Taxpayers	1,463
Unsuppressed	
(license issued)	<u>3,226</u>
Total	4,689

Based upon the above results, approximately 5,000 notices were issued in December 2003 to begin the 2004 License Suppression Project. As part of this project, field visits will be made to those taxpayers that failed to respond for the 2003 licensing period. □

CORPORATION BUSINESS TAX Bonus Depreciation

A question has been raised about the application of N.J.S.A. 54:10A-4(k)(12)(A). This portion of section 3 of New Jersey's Business Tax Reform Act was intended to decouple from the 30% bonus depreciation. As the legislative history states: "the bill disallows the deduction of the 30% 'bonus' depreciation that was allowed for certain property for federal tax purposes under the federal 'Job Creation and Worker Assistance Act of 2002,' Pub L. 107-147. The bill returns the New Jersey depreciation rules to New Jersey law as it stood before the enactment of the federal law, and gives the Director of the Division of Taxation authority to formulate rules and regulations to carry out the decoupling from federal law, including the necessary basis adjustments" [page 8, Statement to A2501, dated June 27, 2002].

The statutory section reads in pertinent part, with emphasis added, "Notwithstanding the provisions of subsection (k) of section 168...and subsection (b) of section 1400L... for property acquired after September 10, 2001 and before September 11, 2004 the depreciation deduction otherwise allowed pursuant to section 167...shall be determined pursuant to the requirements and limitations of section 168...and section 280F...as if that subsection (k) and that section 1400L were not in effect."

On May 28, 2003, the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub L. 108-27 was approved. Section 201 of that law added a new subsection (4) to IRC

Correction

The [fall 2003](#) issue of the *State Tax News* has been updated to reflect a revision to the article entitled "Billing and Enforcement Changes on the Way." The article now states that one of the conditions for not imposing the \$100 late filing penalty is that the taxpayer pays the bill "within 30 days of the date on the notice." The time period was originally stated as "within 45 days."



bonus depreciation - from page 4

168(k), and changed the dates in IRC 168(k)(2) by deleting September 11, 2004, and inserting January 1, 2005. The heading in IRC 1400L was amended to delete existing language and insert "BONUS DEPRECIATION PROPERTY UNDER SECTION 168(k)."

It is the Division of Taxation's position that the New Jersey statute, P.L. 2002, c.40, section 3, froze the Internal Revenue Code of 1986 *as if section 168(k) and 1400L were not in effect (for property acquired after September 10, 2001, and before September 11, 2004)*, and that, therefore, the Federal changes to IRC 168(k) that occurred in 2003 are not recognized at the present time for New Jersey purposes because New Jersey law requires that IRC 168(k) is ignored for privilege periods on and after January 1, 2002.

Since the 50% depreciation was created Federally in 2003 by amending IRC 168(k), for the reasons set forth in the prior paragraph, this change is ignored for New Jersey purposes, at least until September 12, 2004, at which time New Jersey law will again diverge from Federal law. (The Federal provision was extended to January 1, 2005). Accordingly, New Jersey has decoupled from the 50% bonus depreciation through the language of P.L. 2002, c.40, at least until September 12, 2004.

It should be noted that IRC section 179 depreciation was changed by section 202 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, and it is not decoupled from New Jersey depreciation. □

CORPORATION BUSINESS TAX **Refund Claims and** **Lanco v. Director**

On October 23, 2003, the New Jersey Tax Court ruled in favor of the taxpayer in *Lanco, Inc. v. Director, Division of Taxation*. Specifically, the Court held that because the taxpayer did not have a physical presence in the State, New Jersey could not impose its corporation business tax on the taxpayer, a foreign trademark holding company, under the United States Constitution's Commerce Clause. That ruling is not yet final since the Division of Taxation intends to appeal the decision to the New Jersey Superior Court, Appellate Division. After the Tax Court issues a judgment, the Division has 45 days to file an appeal.

Prior to the judicial ruling becoming final, taxpayers contending that they have claims similar to *Lanco* may file tax refund claims to record these claims with the Division. After reviewing the refund requests, the Division will deny *Lanco* type refund claims because the *Lanco* decision is not final and could be reversed on appeal.

Taxpayers may appeal the denial of their refund claim by filing a timely protest and request for hearing with the Division of Taxation's Conference and Appeals Branch. A hearing will be scheduled to determine whether the *Lanco* decision is the only issue in dispute. If it is found that other non-*Lanco* issues exist, a final determination letter addressing these issues will be issued.

If Conference and Appeals determines that the *only* issue in dispute is a *Lanco* issue, for administrative

convenience and to limit the size of the Tax Court's docket, a final determination letter will be issued *when the highest appellate court issues a final decision in the Lanco case*. If taxpayers desire final determination letters before a final judicial resolution of the *Lanco* decision, they should specifically advise the Conference and Appeals Branch. □

LOCAL PROPERTY TAX **PAMS Update**

The Division of Taxation recently opened bid proposals to purchase a Statewide Property Assessment Management System (PAMS). The system will integrate, streamline, and standardize the business functions performed by all levels of state and local government to administer the local property tax code and share information.

PAMS is intended to be a centralized, Web-based (thin client) solution that replaces MOD IV and its peripheral systems, currently provided by various data centers across the State.

The new system will facilitate Statewide standardization by creating a centralized relational database of all real property in New Jersey and associated applications, including parcel management, computer assisted mass appraisal (CAMA), sales information and analysis, tax appeals, and tax collection. Assessors and collectors who presently use a private CAMA or collections system will be afforded the opportunity to retain their vendors at their cost, or to fully participate in PAMS with minimal expenditures.



IT'S HERE!

New Jersey Sales & Use Tax EZ File

WHO can use it?

Anyone who files New Jersey sales and use tax returns and makes New Jersey sales and use tax payments.

WHAT is it?

New Jersey S&U EZ File is a totally paperless filing and payment system for New Jersey sales and use tax returns. Filing and payment will be easier than ever with EZ File. There is no preregistration needed, and it's FREE!

WHERE can I file?

File from the comfort of your home or business using your phone or computer. No paper forms to submit. Nothing to mail. File and pay anytime, day or night.

WHEN will it start?

Beginning in early 2004, the Division of Taxation began moving sales and use tax filers away from filing paper returns (ST-50/51s) to filing electronically. You can choose to file either through our Internet filing service or through our telephone filing service.

WHY file electronically?

Because it's easier, safer, and more secure than paper, and there's less chance of making mistakes. And, you'll receive immediate confirmation that your return has been received.

HOW do I file?

It's as EZ as 1-2-3.

1. Log on to our Web site at www.state.nj.us/treasury/taxation/ or call our toll-free number (1-877-829-2866).
2. Enter the required information.
3. Decide whether you will pay by e-check, electronic funds transfer, or credit card.

Then, just record your confirmation number and you're done!!

For more information on S&U EZ File visit our Web site at:

www.state.nj.us/treasury/taxation/



PAMS update - from page 5

The Property Assessment Management System will benefit taxpayers by: improving access to data, enhancing property tax equity by providing the ability to maintain assessments at market value each year, and possibly permitting one filing for property tax relief programs. The benefits for local government include: lower costs and increased revenue enhancements that can help stabilize taxes, valuation equity equaling tax equity, and better planning that can improve quality of life. The State of New Jersey will also benefit from a centralized database. PAMS will allow for instantaneous access to up-to-date parcel information used for such applications as 911/emergency planning, voter registration, citizen services, school planning, GIS (geographic information system), and environmental analysis.

The Division of Taxation anticipates that this project will take several years to fully implement. In the short term, the design calls for initial implementation in three counties (Camden, Salem, and Hunterdon). Once the system is accepted in these three counties, the remaining 18 counties will be transitioned according to a future schedule.

The PAMS project is currently in the bid evaluation process. Once the contract is awarded, the designing of the system will begin. To aid in a smooth transition, the Division of Taxation has created a conversion team that will guide the assessors in the pilot counties. The team is consulting with the assessors to determine where additional fields may be needed in PAMS. Team members are also assisting the assessors in

preparing their MOD IV file for a seamless conversion. □

UNCLAIMED PROPERTY ***First Auction Held***

Unclaimed Property's Safekeeping Unit had its very first auction at the Atlantic City Antique Show on October 18 and 19, 2003. The event exhibited a magnificent assortment of some of the finest pieces of jewelry, collectibles, and coins, which were available to buyers from around the region.

This auction represented the first of many auctions scheduled to take place in the near future for Unclaimed Property. The Safekeeping Unit is planning to utilize all available auction methods, including the very popular Internet Web site eBay, while continuing to host live auctions in varying sizes and venues. These auctions will exhibit the many valuable items currently in the possession of Unclaimed Property, which include, but are not limited to, all types of jewelry, uncirculated coins/currency, precious gems, stamps, and other fine collectibles.

The main function of Unclaimed Property's Safekeeping Unit is to collect commercially valuable, tangible personal property that has been abandoned by its owners. This type of property comes predominantly from safe deposit boxes in banking institutions. In performing its fiduciary duties for the State, the Unit first attempts to contact the rightful owners of the contents of the boxes in an attempt to reunite owners with their property. If no contact can be made, the Unit then collects, inventories, appraises, and now auctions the valuable items. The generated

revenue will then be safeguarded in the Unclaimed Property Trust Fund in the names of the rightful owners until they can be located. When the rightful owners file claims with Unclaimed Property, they will receive a check for the sale price of the property, plus interest that has accrued from the time the office auctioned the property.

Unclaimed Property expects to receive a positive response from both antique enthusiasts and the general public and hopes to generate a substantial amount of revenue from the sales. □

LOCAL PROPERTY TAX ***Tax Assessors'*** ***Calendar***

January 1 –

- Hearings of added and omitted assessment appeals completed by County Tax Board.
- Hearings of assessors' omitted assessment appeals completed by County Tax Board.
- One copy of Farmland Assessment applications, FA-1s, sent to County Tax Administrator by assessor.

January 10 (before) –

- Taxpayer to give assessor notice of depreciation to structure occurring after Oct. 1 and before Jan. 1.

January 10 –

- Copies of Initial Statement and Further Statement filed with County Tax Board.
- Assessment List and duplicates filed with County Tax Board.



assessors' calendar - from pg. 7

- Duplicate copy of municipal tax map filed with County Tax Board.
- Two copies of Form SR-3A filed with County Tax Board.
- Estimated total amount of approved veteran and property tax deductions filed with County Tax Board.
- Assessor to provide Forms CNC-1 and CNC-2, assessed value of new construction/improvements, local municipal purpose rate, and allowable municipal budget cap increase, to County Tax Administrator.
- Assessor to file "U.E.Z. Exemption Report" with County Tax Board.

January 25 –

- Assessor's schedule of hours and appointment availability given to County Tax Administrator and posted in the municipal building.

February 1 (prior) –

- Notices of current assessment and preceding year's taxes mailed to each taxpayer by assessor.

February 1 –

- After February 1, the assessor or county board of taxation shall notify each taxpayer by mail within 30 days of any change to the assessment. A taxpayer shall have 45 days to file an appeal upon issuance of a notification of a change in assessment.
- MOD IV Master file sent to Property Administration via appropriate medium.

- Assessors' office hours furnished to Director, Division of Taxation by County Tax Administrator.
- Collector to forward Annual Post-Tax Year Statement (Form PD-5) to recipients of prior year's property tax deduction.

February 10 –

- Certification, by assessor, filed with the County Tax Board or, if completed by County Tax Board, filed with the County Administrator, "within 10 days" of the date the bulk mailing of notifications of assessment completed.

February 15 (on or before) –

- County Tax Administrator to forward FA-1 forms to Property Administration in district order.

March 1 –

- Post-Tax Year Statement, PD-5, filed with tax collector by all recipients of property tax deduction.
- County Tax Administrator to submit equalization table to County Tax Board; each assessor; Division of Taxation; Director, Local Government Services, and post a copy at the courthouse.

March 10 (before) –

- Equalization table hearings completed by County Tax Board.

March 10 –

- Confirmed equalization table sent by County Tax Board to each taxing district in the county, to the Director of the Division of Taxation, to the Tax Court, and two copies to the Director of the Division of Local Government Services. □

Criminal Enforcement

- On June 24, 2003, a New Jersey State Grand Jury returned a five-count indictment charging Yefim Belotzerkovsky, a.k.a. Fred Bell, of Brooklyn, New York, and Raymond Petroleum, Inc. with theft by failure to make required disposition of property received (second degree), failure to turn over New Jersey taxes (second degree), misconduct by a corporate official (second degree), misapplication of entrusted property (second degree), and filing false and fraudulent New Jersey motor fuels tax returns (third degree). The State Grand Jury indictment identifies Belotzerkovsky as the owner and operator of Raymond Petroleum located in Newark, New Jersey. Raymond Petroleum is a retail service station selling gasoline, diesel fuel, and kerosene to motorists and truckers in the Newark area. The indictment alleges that between July 1, 1997, and July 20, 1998, Belotzerkovsky underreported 646,539 gallons of diesel fuel sold at retail, thereby evading the payment of more than \$87,282 in New Jersey motor fuels excise taxes to the Division of Taxation. This was a joint investigation between the New Jersey Division of Taxation, Office of Criminal Investigation (OCI) and the New Jersey State Police-Organized Crime Unit, with cooperation from the Division of Criminal Justice in obtaining search warrants. The State Attorney General's Office presented this matter to the Grand Jury.



criminal enforcement - from page 8

- On July 10, 2003, a State Grand Jury indicted Edward V. Mongon of Union City, New Jersey, Mikhael Centeno of Jersey City, New Jersey, and Edward Troisi of Hoboken, New Jersey, on charges of failing to file and failure to pay New Jersey gross income tax for the period 1999 through 2002 in connection with their illegal income from the theft of property worth over \$5,000,000 by an organized cargo theft ring of which the three subjects were principals. A joint investigation by the New Jersey Division of Criminal Justice and various other agencies, including OCI, resulted in the indictment, which comprised 38 counts including racketeering, conspiracy, leading an organized crime enterprise, fencing, burglary, eluding, aggravated assault, theft, weapons possession, and money laundering against 24 defendants.
- On July 28, 2003, in Superior Court – Hudson County, John Drzymkowski of Berkeley Heights, New Jersey, entered a plea of guilty to one count of failing to file returns, and Drymco, Inc. a corporation of which Mr. Drzymkowski was owner/chief

administrative officer, entered a plea of guilty to one count of misapplication of entrusted funds. The charges involved \$301,000 in petroleum products gross receipts tax which Drymco, Inc. collected from its customers in connection with the sale of diesel fuel to truck stops from September 1999 to December 2000. The assets of Drymco, Inc., which had been located in Kearny, New Jersey, were sold in 2002. The defendants have made partial restitution of \$50,000, and at the time of his guilty plea, Mr. Drzymkowski signed a consent judgment for the outstanding tax, penalty, and interest in the amount of \$331,039.36. This matter was investigated by OCI and prosecuted by the State Attorney General’s Office.

- On August 1, 2003, Donna L. Burke of Toms River, New Jersey, was sentenced to 90 days in jail based on her guilty plea to one count of misapplication of entrusted property (second degree) involving her failure to remit sales tax collected from customers. In addition, Ms. Burke was placed on five years’ probation and ordered to make restitution to the Division of Taxation in the amount of \$227,242.86.

Ms. Burke, as president of Buddy Motors, Inc., a defunct used car dealership that was located in Burlington, New Jersey, collected and failed to remit \$227,242.86 in sales tax. The investigation revealed that Ms. Burke acquired the business in 1976 and failed to file and report approximately \$3.8 million in taxable sales involving 592 used car sales over a 2½-year period. In addition to the court-ordered restitution, Ms. Burke is personally liable for additional penalties and interest that accrue pursuant to civil statutes.

- On August 1, 2003, Richard Lugero, formerly of Millstone Township, New Jersey, was sentenced to five years in prison based on his guilty plea to failure to pay gross income tax with intent to evade, theft by deception, and theft by failing to make the required disposition (all third-degree crimes). The involved tax return years are 1993 and 1994. It was alleged that Mr. Lugero derived his income by acquiring goods and services by defrauding various creditors and businesses. Lugero was sentenced to five years in prison on each count to

continued on page 10

Enforcement Summary Statistics Third Quarter 2003

Following is a summary of enforcement actions for the quarter ending September 30, 2003.

<ul style="list-style-type: none"> • Certificates of Debt: <li style="padding-left: 20px;">Total Number 3,168 <li style="padding-left: 20px;">Total Amount \$39,006,964 • Jeopardy Assessments 400 	<ul style="list-style-type: none"> • Jeopardy Seizures 4 • Seizures 44 • Auctions 1 • Referrals to the Attorney General’s Office 521
---	--

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

www.state.nj.us/treasury/taxation/

criminal enforcement - from pg. 9

run concurrently and was immediately incarcerated; the judge entered a Civil Judgment for the taxes, penalties, and interest due to the Division of Taxation in the amount of \$113,584. This case is the result of a joint investigation between the Office of Criminal Investigation and the Monmouth County Prosecutor's Office.

- On August 15, 2003, Shravan Baile of Staten Island, New York, was sentenced based on his guilty plea to failure to turn over taxes collected involving his failure to remit sales tax collected from customers. Mr. Baile, as the president of Best Liquors of Lakewood, Inc. and Best Liquors of Lakehurst, Inc., collected and failed to remit \$54,194 in sales tax at the two liquor stores he owns. Mr. Baile was fined \$10,000, placed on probation for five years, and ordered to make restitution of the sales tax collected and not remitted. Just prior to sentencing, full restitution of the tax was made. This case was referred to OCI from Audit Activity, where a review determined that these two businesses may have been intentionally under-reporting the amount of sales tax collected.
- On September 5, 2003, in Superior Court – Mercer County, Mark L. Stahl of Point Pleasant Beach, New Jersey, was sentenced to five years' probation, 300 hours of community service, and fined \$5,000 pursuant to his guilty plea of December 23, 2002, to two counts of misapplication of entrusted property, to wit, \$110,833.24 in motor fuels tax collected and not remitted. The

sentencing judge indicated he did not impose a jail term because of the defendant's claim of ill health. The defendant has made restitution of the full tax amount. The case was investigated by OCI and prosecuted by the State Attorney General's Office.

- On September 12, 2003, in Superior Court – Middlesex County, New Brunswick, New Jersey, John B. Forrest of Colts Neck, New Jersey, entered guilty pleas on behalf of himself and his corporation, Tri-State Ticket Exchange, Ltd., Old Bridge, New Jersey, to charges of theft by deception of approximately \$647,000 from customers who ordered sports and entertainment events tickets that were never delivered, misapplication of \$122,626.37 in sales taxes of New Jersey and eight other states which Forrest collected from his customers but failed to turn over to tax agencies, credit card fraud, failure to file New Jersey sales and use tax returns for the period January 2001 through December 2002, and failure to turn over \$33,280.00 in New Jersey sales and use tax collected in that period. Forrest has agreed to make restitution of all of the above amounts and never again to engage in business as a ticket seller or broker in New Jersey. Forrest was scheduled to be sen-

tenced in January 2004. This was a joint investigation between OCI and the Division of Criminal Justice, who prosecuted the matter.

- On September 16, 2003, in Superior Court – Bergen County, Hackensack, New Jersey, Daniel Provenzano of Upper Saddle River, New Jersey, was sentenced to ten years in State prison and ordered to make restitution to the State of \$47,306.58 tax, and penalty and interest of \$64,181.75, totaling \$111,488.33, pursuant to his guilty plea on November 6, 2002, to charges of operating a now-defunct printing business in Fort Lee, New Jersey, as a racketeering enterprise; using violence and criminal means to extort payments from customers and suppliers of the business; and failure to file a gross income tax return for 1996 with intent to evade \$47,306.58 tax on income of \$827,000.00. This case was a joint investigation by OCI and the New Jersey Division of Criminal Justice-Organized Crime and Racketeering Bureau, and was prosecuted by the State Attorney General's Office.
- One hundred eleven (111) complaints alleging tax evasion were evaluated from July through September 2003 in the Office of Criminal Investigation.

continued on page 11

**New Jersey tax forms at your fingertips!
From your fax machine's phone, dial**

609-826-4500

NJ TaxFax

**NJ Tax Forms & Publications
24 Hours – 7 Days a Week**



criminal enforcement - from page 10

- During the same period, seventy-four (74) charges were filed in court on fifty-five (55) cases for violation of the Cigarette Tax Act. Of the fifty-five (55) cases, five (5) involved counterfeit tax stamp investigations and eighteen (18) arrests were made. □

Tax Briefs

Corporation Business Tax Alternative Minimum Assessment (AMA) Calculation — Parent (“P”) is a company incorporated in the state of Delaware with its principal place of business in New Jersey. P is principally engaged in the business of manufacturing and making sales of consumer products to both wholesale and retail customers throughout the United States and on a global basis. P wholly owns Subsidiary (“S”), a company incorporated in the state of Delaware with its principal place of business in New Jersey. S’s sole business activity is the financing arrangement with P described below.

P designs, manufactures, markets, and sells consumer products to retail and wholesale customers. Retail sales of P’s products are made to consumers through local and national retailers. Such retailers purchase P’s products from P. Commercial users of P’s products make purchases directly from P. Customers who purchase P’s products are given a grace period within which payment must be made to P. Such payments due from its customers are entered into P’s accounts as customer trade receivables (“Receivables”), and normally remain on P’s books until paid.

In order to resolve liquidity issues, P has entered into a financing arrangement with S. Under this arrangement, P makes sales of its Receivables to S. As stated above, Receivables arise in the normal course of P’s business and represent payments due from customers who purchase P’s products. In return for the Receivables, S compensates P with cash and one or more notes payable.

S, in turn, has entered into a financing arrangement with a third-party lender bank (“Bank”). Under this arrangement, S transfers to the Bank a beneficial interest (“Beneficial Interest”) in a fixed percentage of the total Receivables (the “Receivables Pool”), e.g., 80% of the Receivables Pool. In return, the Bank gives S a sum of money equal to the value of the Beneficial Interest in the Receivables Pool received. For example, if S held \$100 in Receivables, S may transfer Beneficial Interest in \$80 of the Receivables Pool to Bank, and Bank would remit \$80 to S.

The Beneficial Interest transferred gives Bank only the right to receive payments on the Receivables. The Beneficial Interest in the Receivables transferred does not specify individual receivables from which payments are due. Rather, it only conveys the right to receive payment on an unspecified portion of the Receivables Pool held by S, e.g., 80% of the Receivables Pool. As such, S retains the risk and burden in the case of any default on the Receivables. Also, by taking less than 100% of the value of the Receivables Pool held by S, Bank is not at risk for any individual customer defaulting on payments. S has the responsibility for replacing any individual Receivable in the Receiv-

ables Pool that has been paid in full, or has become worthless.

It is noted that transactions such as the sale of Receivables from P to S and the transfer of the Beneficial Interest in the Receivables from S to Bank are standard business practice in the consumer products industry, as well as numerous other industries, used in order to resolve liquidity issues.

P and S file a consolidated Federal income tax return, and each files separate corporation business tax returns in New Jersey.

For Federal income tax purposes, P reports net gains and losses on the sale of Receivables to S. Receipts from the sale of the Receivables to S are not included as receipts on the Federal return.

Also, for Federal income tax purposes, S reports net gains and losses on the transfer of the Beneficial Interest in the Receivables Pool to the Bank. Receipts from the transfer of the Beneficial Interest in the Receivables to Bank are not included as receipts for Federal income tax purposes.

The specific questions raised under these facts are (1) whether for P’s calculation of gross receipts for AMA purposes, P will include only net gains on the sale of the receivables by P to S; and (2) whether for AMA purposes in S’s calculation of gross receipts, S will include receipts from the transfer of the Beneficial Interest from S to the Bank.

First, for AMA purposes, only net gains are included in calculating gross receipts from the sale of capital assets. Capital assets are property not held by the taxpayer for sale

continued on page 12

tax briefs - from page 11

to customers in the regular course of business. See *AT&T v. Director*, 194 N.J. Super. 168 (App. Div. 1984), certification denied 97 N.J. 627 (1984). In addition, since P includes in its gross receipts receipts from the sale of products to customers, to include the receipts from this transaction on a gross basis would effectively double count the receipts. Accordingly, it is the opinion of the Division that gross receipts from the sale of Receivables from P to S would not be included in the receipts calculation, but net gains, if any, would be included. (It should be noted that a factoring transaction between certain affiliates is subject to special treatment as a related party transaction under N.J.S.A. 54:10A-4.4).

Second, with regard to the payment to S by the Bank in exchange for the transfer of the Beneficial Interest in the Receivables Pool from S to the Bank, such receipts would be considered other business receipts. For Federal income tax purposes, S includes only gains or losses derived from the transfer of the Beneficial Interest in calculating its taxable income, not the gross receipts. For New Jersey purposes, the methodology used by S on its Federal tax return would be respected with regard to inclusion of only net gain with regard to payments from Bank to S for New Jersey gross receipts purposes. Accordingly, it is the opinion of the Division that for purposes of the AMA, S should not include amounts received from Bank for transfers of the Beneficial Interest in the Receivables Pool. But any gains derived from the transfer should be included in the measure of S's New Jersey gross receipts.

Making an Alternative Minimum Assessment (AMA) Election —

The Division recently reviewed the application of two statutory provisions regarding tax calculation and payment responsibilities to a particular fact pattern. Under N.J.S.A. 54:10A-5a.c., a taxpayer is required to pay the greater of the amount computed under the AMA or the CBT (corporation business tax). Under N.J.S.A. 54:10A-5, an election to pay the AMA using either the gross receipts or gross profits method is effective for the next four privilege periods.

These sections are to be applied to the below situation as follows:

For its privilege period, taxpayer calculates an AMA gross profits tax of \$600, a CBT of \$700, and an AMA gross receipts tax of \$1,000. Taxpayer pays the CBT of \$700.

By paying the CBT, taxpayer made an election to follow the gross profits method for the next four years. The choice of comparing the tax under gross profits to CBT (rather than the tax under gross receipts) actually determined the amount of tax that taxpayer was required to remit to New Jersey for the taxable year under the CBT.

Massachusetts Interest Income and New Jersey Throwout —

The Division recently responded to a question regarding the operation of the New Jersey throwout rule in the context of a Massachusetts taxpayer.

Corporation X is a manufacturing corporation for Massachusetts tax purposes. It includes its product sales, royalties, and interest income in Massachusetts net income subject to tax on its Massachusetts return. Corporation X files a New Jersey corporation business tax return

according to New Jersey's statutes and rules. Corporation X properly treats the sale of product, the generation of the royalty income, and the earning of the interest income as operational income for New Jersey purposes. As a result, royalties and interest income are properly treated as apportionable income for New Jersey purposes.

The issue is whether or not, given the following facts as summarized here, Corporation X's interest income should be thrown out of its New Jersey receipts fraction denominator.

1. The interest is included in New Jersey allowable "entire net income";
2. The interest income is sourced to Massachusetts for purposes of the New Jersey receipts fraction numerator;
3. Corporation X is subject to, and files a Massachusetts corporation income tax return;
4. The interest income is included in Corporation X's Massachusetts apportionable net income; and
5. Massachusetts excludes all interest income from the denominator and the numerator of the Massachusetts receipts fraction.

This summary is based upon the following analysis:

The interest income appears above line 28 of the CBT-100 filed in New Jersey and is included in New Jersey "entire net income." As such, it is a receipt for purposes of determining New Jersey's receipts fraction. Applying N.J.A.C. 18:7-12(e), the

continued on page 13



tax briefs - from page 12

interest income is sourced for New Jersey purposes to Massachusetts, the location of the commercial domicile of Corporation X.

Under applicable Massachusetts law, the interest income is included in the determination of net income that is subject to tax. However, taxable net income for a Massachusetts manufacturing corporation is apportioned based on its sales fraction. Under Massachusetts General Law c. 63, Sec 38(f), when determining its sales fraction, interest income is not included in either the numerator or denominator of the taxpayer's sales fraction.

The management of the assets which generate the interest income occurs exclusively at Corporation X's commercial domicile in Massachusetts. All of the management and decision

making activities regarding the investment assets occur at the commercial domicile and corporate headquarters of Corporation X in Massachusetts.

It may also be noted that the applicable rule, N.J.A.C. 18:7-8.7(d), reads in pertinent part as follows: "The receipts sourced to a state, a possession or territory of the United States or the District of Columbia or to any foreign country in which the taxpayer is not subject to a tax on or measured by profits or income or business presence or business activity shall be excluded from the denominator of the sales fraction." In the situation under consideration, the taxpayer is subject to tax in Massachusetts, and the interest income is a measure of the taxes in Massachusetts.

Accordingly, under the facts presented, where the interest income is

clearly subject to tax by both Massachusetts and New Jersey, and Corporation X files a tax return in both these jurisdictions, the interest income should not be thrown out of the denominator of the New Jersey receipts fraction.

Gross Income Tax

Common Pay Agent — The Division of Taxation responded to an inquiry asking if a Qualified Subchapter S Subsidiary (QSSS) may withhold New Jersey income tax under the same employer identification number as its parent company. The QSSS stated it withholds under one employer identification number for Federal income tax purposes.

The New Jersey Division of Taxation recognizes common pay agents for income tax withholding, reporting, and registration purposes. Even

continued on page 14

How to Get Your NJ Income Tax Refund **FASTER!**

<div style="text-align: center;">  <p>NJTeleFile</p> <p>Call 1-888-235-FILE (3453)</p> <p>Fill out the NJTeleFile worksheet in your tax packet. Then, use a Touch-tone phone to call our toll-free number to file your return.</p> </div>	<div style="text-align: center;">  <p>NJWebFile</p> <p>Use your computer to file your return.</p> <p>Visit www.njfastfile.com to prepare your return on our secure Internet site. There's nothing to buy and there are no filing fees.</p> </div>	<div style="text-align: center;">  <p>NJELF</p> <p>Use tax software or ask your tax preparer.</p> <p>See a tax preparer to have your income tax return filed electronically. You can also do it yourself through an online tax preparation Web site or off-the-shelf tax software.</p> </div>
<p>www.njfastfile.com</p>		<div style="text-align: center;">    <p style="font-size: 24px; font-weight: bold; color: #0056b3;">NJFastFile</p> <p style="font-size: 12px; color: #0056b3;">3 ways to a faster refund.</p> </div>

tax briefs - from page 13

though there is no statute or regulation regarding common pay agents, the NJ-WT, *New Jersey Gross Income Tax Instruction Booklet for Employers, Payors of Pension and Annuity Income and Payors of Gambling Winnings*, provides guidance in such situations. The NJ-WT is available on the Division's Web site at: www.state.nj.us/treasury/taxation/prntempl.htm

As stated in the NJ-WT booklet, "employers with multiple divisions or locations having the same Federal Employer Identification Number must file combined withholding returns for all locations under one number."

Therefore, the QSSS may use the same employer identification number as its parent and report New Jersey income tax withholding in the same way as used for Federal income tax purposes.

However, the New Jersey Department of Labor may not recognize common pay agents for employment tax purposes. For more information, contact the New Jersey Department of Labor at 609-633-6400.

Employee Business Expenses — The Division received an inquiry asking if employee business expenses are excludable from gross income.

N.J.A.C. 18:35-1.2(b) provides that, for New Jersey gross income tax purposes, if an individual is an employee, all earnings in connection with employment are deemed to be and shall be reported by the taxpayer as wages, salaries, commissions, bonuses, and other remuneration received for services rendered, pursuant to N.J.S.A. 54A:5-1(a).

N.J.S.A. 54A:5-1(a) provides that all wages or other remuneration received for services rendered are taxable.

However, the Division provides a limited exception for certain employee business expense reimbursements reported on Form W-2. Taxpayers may only exclude these amounts from the New Jersey gross income tax return provided that:

1. The reimbursed expenses are job-related;
2. The taxpayer is required to and accounts for these expenses to the employer; and
3. The employer reimburses the taxpayer in the exact amount of the allowable expenses.

Taxpayers *must* enclose the following with their NJ-1040: a statement explaining that they are excluding a portion of the wages reported on the W-2 and the reasons for excluding this amount; and a photocopy of Federal Form 2106. Any reimbursement amount that exceeds the qualified excluded expenses of the employee is treated as taxable gross income for New Jersey purposes.

Outdoor Advertising Fee

Responsible Party — The outdoor advertising fee authorized by P.L. 2003, c.124 is imposed on the retail seller of billboard advertising space. For purposes of this legislation, the retail seller is the licensee, which is the entity authorized to sell advertising space on billboards pursuant to N.J.S.A. 27:5-5 et seq.

The licensee is responsible for remitting the outdoor advertising fee on the gross amounts collected from selling the advertising space on billboards. "Gross amounts" do not include fees received by an adver-

tising agency or broker that is not related to the retail seller (licensee).

In the situation where an advertising agency or broker is involved, the advertising agency or broker will be considered an agent of the customer, and thus, not responsible for the outdoor advertising fee, unless the advertising agency or broker is itself a licensee and is directly selling billboard advertising space.

Although this fee is imposed on the retail seller, there is nothing in the law that prohibits the retail seller from passing on this cost to the customer. If the outdoor advertising fee is separately stated on the invoice or bill provided to the customer, it should be labeled accordingly, "outdoor advertising fee," and not as a tax. The retail seller may not in any way mislead the customer or misrepresent that the outdoor advertising fee is anything more than a reimbursement of the fee imposed on the retail seller and not a tax on the customer.

Type of Sign Subject to Fee — A license is required to sell or rent billboard advertising pursuant to N.J.S.A. 27:5-5 et seq. Therefore, if a license is required by the Department of Transportation to sell advertising space on a particular outdoor sign, then the gross receipts from the sale of that advertising space are subject to the 6% outdoor advertising fee. However, if a license is not required, then the gross receipts for the sale of space on that sign are not subject to the outdoor advertising fee.

Realty Transfer Fee

Conveyance From Dissolved Corporation to Shareholder — The Division replied to an inquiry concerning whether the realty transfer

continued on page 15



tax briefs - from page 14

fee applies to a deed conveyance between a dissolved corporation and its single shareholder. Any deed that is to be recorded with the appropriate county governmental recording office is subject to the realty transfer fee (N.J.S.A. 46:15-1 et seq.). Exemptions from the fee are set forth in N.J.S.A. 46:15-10. The mere fact that the corporation is dissolved and the sole shareholder now desires to take legal title to real property owned by the corporation is not, in and of itself, reason for exemption from the fee if the shareholder desires to record the deed. The list of exemptions should be consulted to determine if any of them apply to a particular deed conveyance when the deed is to be recorded.

Sales and Use Tax

Exempt Organization Application Process — To apply for exempt status with New Jersey, a nonprofit organization must file an Application for ST-5 Exempt Organization Certificate (Form REG-1E). Form REG-1E is a combination tax registration form and application for exempt organization permit. This must be accompanied by the organization’s:

- Articles of Organization (Articles of Incorporation, charter, trust agreement, or constitution) and by-laws; and
- Internal Revenue Service Determination Letter stating that the organization is exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code (not required from volunteer fire companies; and emergency, first aid, veterans’, and parent-teacher organizations).

The application may be acquired by calling 609-292-5994, or by printing it directly from the Division of Taxation’s Web site at: www.state.nj.us/treasury/taxation/pdf/other_forms/sales/reg1e.pdf

The completed application should be sent to:

NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
PO BOX 269
TRENTON, NEW JERSEY 08695-0269

Once approved, an organization will receive only one Exempt Organization Certificate (Form ST-5). The organization’s name, address, and exempt organization number, along with the effective date and the signature of the Director of the New Jersey Division of Taxation, will appear on this certificate.

When the representative of an approved exempt organization purchases merchandise and/or services to be used exclusively by the organization, sales tax is not due, provided a copy of the organization’s New Jersey Exempt Organization Certificate (Form ST-5) and payment made directly from the organization’s account are furnished to the seller. Only organizations which have been granted exempt status by the New Jersey Division of Taxation may use the New Jersey

Exempt Organization Certificate to make purchases without paying New Jersey sales tax. Some examples of organizations which may have exempt status are: churches, hospitals, veterans’ organizations, and fire companies. Senior citizens’ clubs, political organizations, and fraternal organizations, such as the Knights of Columbus, the Elks, the Rotary and Kiwanis Clubs, are not eligible for exempt status, and they may not issue New Jersey Exempt Organization Certificates. N.J.S.A. 54:32B-9. For more information on this topic, please see the Division’s publication RSB-100, *Starting a Nonprofit Organization in New Jersey – Questions and Answers*, available at: www.state.nj.us/treasury/taxation/pdf/pubs/exemptfaq.pdf

Genealogical Research — Genealogical research provided to a customer is similar to the sale of a “customized report,” which is treated as the sale of a personal service. Personal services are exempt from sales tax as long as any property that is transferred is inconsequential and not separately charged for. N.J.S.A. 54:32B-2(e)(4)(A). Thus, charges for providing a service resulting in a research product that is specific to the customer are not subject to sales tax.

continued on page 16

Got a phone?

File your New Jersey resident income tax return by telephone with

NJ TeleFile

1-888-235-FILE (3453)



tax briefs - from page 15

However, the sale of research which is not customized for a particular purchaser, but rather is provided to a number of customers without substantial and material custom research modification, is the sale of tangible property which is subject to sales tax. N.J.S.A. 54:32B-3(a). Sales of such reports that are delivered to clients in New Jersey in either hard copy, CD-ROM, or other tangible means are subject to sales tax. If the information is transmitted solely in electronic form, the transaction is one for intangible property, which is not taxable.

Therefore, a bound, written, and custom research report of genealogical research provided to a specific customer who requested the research (or the same thing transferred on CD-ROM or on video) is exempt from tax as an inconsequential element of a personal service. N.J.S.A. 54:32B-2(e)(4)(A).

Layaway Sales and Service Charges — Layaway payments are considered deposits on a future sale. Sales tax is not due on a deposit until actual delivery of the taxable merchandise occurs to which the deposit applies. If a sale is cancelled, there is no taxable transaction, and the deposit is not subject to sales tax.

The statute is clear that any elements of cost to the seller (with the exception of transportation costs, dealt with under N.J.S.A. 54:32B-8.11), are includable in the taxable receipt. N.J.S.A. 54:32B-2(d). Layaway service charges are fees for the expense of the seller related to the temporary storage of goods. Therefore, such charges are subject to sales tax as part of the taxable receipts. □

In Our Courts

Administration

Time Period to File Complaint — *James Liapakis v. Director, Division of Taxation*, decided September 15, 2003; Appellate Division No. A-5341-00T5.

The Division's gross income tax determination letter was sent by certified mail on August 18, 2000, and received by plaintiff (Liapakis) on August 21, 2000. Liapakis filed his complaint on November 17, 2000, which was 91 days after the determination letter was mailed and 88 days after Liapakis received it. The Tax Court ruled that the complaint was untimely as it was filed beyond the 90-day time period to file a complaint because the mailing date commenced the calculation of the 90-day period. Liapakis appealed arguing that the date the letter was received should start the running of the 90 days.

In determining whether the mailed or received date commenced the running of the 90 days, the Appellate Division's analysis commenced with N.J.S.A. 54A:9-10(a), which requires that a taxpayer appeal the Director's decision within 90 days in conformity with the State Tax Uniform Procedure Law. Thereafter, there is an apparent inconsistency among the statutes. On one hand, the State Tax Uniform Procedure Law N.J.S.A. 54A:51-18 states that all matters regarding the complaint and practice in the Tax Court are prescribed by the rules of court unless otherwise specifically provided by law. Rule 8:4-2(a) states that the time period is calculated from the date of service, and Rule 1:5-4(b) provides that service is complete upon the date of acceptance of cer-

tified mail. On the other hand, State Tax Uniform Procedure Law N.J.S.A. 54:49-18a states that the time to appeal commences from the final determination date, which date is defined by N.J.S.A. 54A:9-10(e) as the mailing date.

The Court ruled in favor of Liapakis noting that ambiguities in the tax law are construed in the taxpayer's favor and relied upon its previous ruling in *Township of Holmdel v. Director, Division of Taxation*, 12 N.J. Tax 112 (1991), as well as *Winberry v. Salisbury*, 5 N.J. 240, cert. denied, 340 U.S. 877 (1950), a New Jersey Supreme Court case involving a separation of powers issue. In *Holmdel*, this Court previously held that N.J.S.A. 54:51A-18 itself "constitutes express legislative recognition of the judiciary's responsibility to prescribe the procedure for the calculation of the limitation period." Consequently, the Court reversed the Tax Court and held that Liapakis's complaint was timely because the date that the certified mail was received and signed for begins the calculation of the 90-day period.

The Director, Division of Taxation filed a petition of certification to the New Jersey Supreme Court.

Corporation Business Tax

Nexus and Physical Presence — *Lanco, Inc. v. Director, Division of Taxation*, decided October 23, 2003; Tax Court No. 005329-97.

Plaintiff ("Lanco") is a Delaware corporation that owns trademarks, trade names, and service marks, but has no real or tangible property, offices, or employees in New Jersey. Lanco licenses these intangibles to Lane Bryant, Inc., an affiliated

continued on page 17

in our courts - from page 16

corporation, that has retail operations in New Jersey as well as in other states. Lanco and Lane Bryant, Inc. have a direct, long-term contractual relationship. For the use of these intangibles, Lane Bryant, Inc. remits royalty payments to Lanco; therefore, Lanco derives income from a New Jersey source. Although Lane Bryant, Inc. received a deduction for the royalty payments on its corporation business tax return, Lanco did not pay income or franchise tax on the royalty income to Delaware. The Division of Taxation determined that Lanco was required to file New Jersey corporation business tax returns due to the activity under the license agreement.

In general, states must comport with the Due Process and Commerce Clauses of the United States Constitution in their taxation of entities engaged in interstate commerce. The Court opined that the major issue for the instant case was whether the Commerce Clause's physical presence requirement for sales and use taxation, following *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), to establish nexus with the taxing state also applied to the imposition of a state income or franchise tax. After reviewing and analyzing the leading cases in the nexus arena, the Court ruled that the Commerce Clause requires physical presence in the taxing jurisdiction for the constitutional exercise of State taxing power. Therefore, in order for the taxpayer to have nexus and be subject to taxation, physical presence must be established, as it is a necessary element of Commerce Clause nexus for taxation. The Court reasoned that the differences between the income tax and use tax are not significant enough to justify a dif-

ferent rule regarding physical presence, and that pre-*Quill* cases suggest that physical presence is required.

The Court recognized that the South Carolina Court case of *Geoffrey Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993) found Commerce Clause nexus without physical presence and that other cases existed. However, after dissecting *Geoffrey*, it dismissed the holding as relying on dictum and not being supported by the authorities it cited. The Court noted that because the United State Supreme Court denied *certiorari* it did not address the merits of the holding, and that the ruling is only binding precedent in South Carolina. Moreover, the Court found that despite considerable activity in the nexus area, other courts were not following *Geoffrey*. In other cases where courts stated that physical presence was not required for nexus, this Court dismissed them as it found that the taxpayer did have physical presence in the taxing jurisdiction anyway.

The Court recognized that Lanco had no real or tangible property, offices, or employees in New Jersey, or anything else that would constitute physical presence. Therefore, the Court held Lanco was not subject to New Jersey corporation business tax in "that the state may not assert nexus, absent physical presence, against a corporation that receives income from the use of trademarks or other intangibles employed in a New Jersey business conducted by an affiliated corporation."

The Division of Taxation intends to appeal this decision to the New Jersey Superior Court, Appellate

Division. (See separate article on refund procedures on page 5.)

Net Operating Loss Carryover – *Macy's East, Inc. v. Director, Division of Taxation*, decided March 26, 2003; Tax Court Nos. 000018-98, 003989-1998, 00415-2000, 002019-2001 and 002754-2002.

Macy's East was incorporated on December 13, 1994, as an Ohio corporation. Macy's Northeast, a Delaware corporation, and Macy's South were merged into Macy's East on December 19, 1994, after conclusion of bankruptcy proceedings. Jordan Marsh, a Delaware corporation, and Abraham and Strauss, an Ohio corporation, were merged into Macy's East in 1995. Abraham and Strauss Real Estate, a Delaware corporation, was merged into Macy's East in 1998. Each entity, except Macy's South, that was merged into Macy's East had a New Jersey net operating loss carryover before the merger. However, the Division disallowed Macy's East from deducting the net operating loss carryovers of the other entities that merged into it.

The Court reviewed the legislative and regulatory background concerning net operating loss carryovers. As enacted in 1985, N.J.S.A. 54:10A-4(k)(6) permitted net operating loss carryovers. In 1986, the Division's regulation N.J.A.C. 18:7-5.13(b) permitted only the actual corporation that sustained the loss and the net operating losses of the surviving corporation of a statutory merger to be utilized in the carryover. Furthermore, the regulation disallowed a taxpayer that changed its state of incorporation or which was part of

continued on page 18

in our courts - from page 17

a statutory consolidation to carry over net operating losses. In 2002, N.J.S.A. 54:10A-4.5 was added and essentially contained the same limitations on carryovers as the regulation with respect to mergers, consolidations, and changing the state of incorporation with respect to years 1984 and forward.

First, the Court dealt with plaintiff's argument that *Richard's Auto City, Inc. v. Director, Division of Taxation*, 140 N.J. 523 (1995) is limited to the facts of that case where the surviving corporation did not conduct the same business as the pre-merger entities and there was an attempt to deduct leasing losses from the operations of an automobile dealership. Here, plaintiff differentiated itself as being engaged in the identical business to that of the entities merged into it. The Court ruled that plaintiff's argument was misplaced because the New Jersey Supreme Court dealt with the validity of the regulation, and there was no indication in the opinion that its determination was based on the facts before it, or that the regulation was valid only as applied to these facts. The Court also noted that Macy's East was an Ohio corporation whereas some of the corporations were incorporated in Delaware, which fact also violates the regulation's requirement that a taxpayer not change its state of incorporation.

Secondly, the Court spoke to the validity of N.J.A.C. 18:7-5.13(b) as to whether or not the regulation is invalid because it is inconsistent with N.J.S.A. 54:10A-4(k)(6). The Court found that it was bound by the New Jersey Supreme Court's determination in *Richard's Auto City*, where it stated that *Richards Auto*

City had not carried its burden of proving that the regulation was invalid. Regardless, the Court stated that even under its own independent analysis it would conclude that the regulation is valid.

Third, the Court addressed the issue of whether, under the Supremacy Clause of the United States Constitution, the U.S. bankruptcy code is controlling authority over the New Jersey tax statute and regulations. The Court adopted a prior Tax Court decision in *A.H. Robbins Co. v. Director, Division of Taxation* (2002 Westlaw 31932043) and a statement from *Collier on Bankruptcy* to decide that the bankruptcy code is not controlling.

Finally, the Court considered whether N.J.S.A. 54:10A-4.5, enacted in 2002, is unconstitutional. The Court ruled that N.J.S.A. 54:10A-4.5 merely codified the law as it previously existed and that there was a rational basis for the statute.

Macy's East appealed this decision to the Appellate Division.

Pre-Merger Net Operating Loss – A.H. Robins, Inc. v. Director, Division of Taxation, decided January 12, 2004; A-3468-01.

This case involves A.H. Robins' ("Robins") claim for a \$22 million refund of corporation business taxes. Robins, which incurred significant financial obligations as a result of

continued on page 19

Pay NJ Taxes Electronically

Electronic Check (E-Check)

www.state.nj.us/treasury/taxation

Make a payment directly from your bank account

- Personal and Fiduciary Income Tax and Estimated Payments
- Sales and Use Tax
- Gross Income Tax Withholding and UI/DI Contributions
- Domestic Security Fee

Credit Card*

1-800-2PAYTAX

www.officialpayments.com



- Personal and Fiduciary Income Tax and Estimated Payments
- Sales and Use Tax
- Gross Income Tax Withholding and UI/DI Contributions
- Domestic Security Fee
- Deficiency payments

* Fee of 2.5% of tax payment applies.

in our courts - from page 18

substantial tort litigation, filed a Chapter 11 reorganization petition in the Richmond, Virginia Bankruptcy Court. The reorganization plan granted Robins, the surviving entity in the bankruptcy, the rights and property of the company that initially filed for bankruptcy. One of those assets was a multi-million dollar net operating loss (NOL) for New Jersey corporation business tax purposes. New Jersey net operating loss tax law, codified in the Business Tax Reform Act as N.J.S.A. 54:10A-4.5, allows NOLs to be used only by the corporation that incurs the loss. The Director denied the refund claim because the corporation which survived under the reorganization plan is a different corporation than the entity that incurred the loss and was later dissolved. Robins sought relief in both the Virginia Bankruptcy Court and the New Jersey Tax Court. A Federal Court judge in Virginia found the New Jersey Division of Taxation to be immune from Robins' suit under the United States Constitution Eleventh Amendment. Robins did not appeal the Federal Court's decision.

Then the matter returned to the New Jersey Tax Court. The Appellate Division affirmed the Tax Court's opinion finding that N.J.S.A. 54:10A-4.5 is constitutional. The taxpayer had argued that the retroactivity provision of this statute is unconstitutional because it violates the due process clauses of the United States and New Jersey Constitutions, the New Jersey Constitution's prohibition against special legislation, and the separation of powers doctrine. The Appellate Division also affirmed the Tax Court's decision upholding the Director's denial

of taxpayer's refund claim for corporation business tax based on the New Jersey Supreme Court's decision in *Richards Auto City, Inc. v. Director, Division of Taxation*.

Local Property Tax

Exemption Status – *Regent Care Center, Inc. v. Hackensack City*, 19 N.J. Tax 455 (2001); aff'd Appellate Division, No. A-540-01T2 (July 22, 2003).

The issue before the Superior Court, Appellate Division, on appeal from the Tax Court of New Jersey, was whether plaintiff Regent Care Center, Inc.'s increased assessment was an illegal spot assessment for tax year 1998. They also claimed that "assessment maintenance" was unconstitutional. A further claim was that if assessment maintenance was a valid practice, it should not be permitted because there were no uniform regulatory standards in place.

After a trial, the Tax Court, in a published opinion, *Regent Care Center, Inc. v. Hackensack City*, 19 N.J. Tax 455 (2001), upheld the increased assessment, concluding it was not a constitutionally prohibited spot assessment.

On appeal, Regent Care contends the trial court erred, asserting that because the increased assessment was not based on a change in the zoning, change in legal status, or physical change to the property, and it was one of only a small group of properties for which assessments were changed, it is a prohibited spot assessment. Regent Care further urges the practice of "assessment maintenance" be declared an unconstitutional device creating spot assessments. Finally, Regent Care argues that even if assessment main-

tenance is a constitutionally permissible practice, it was conducted in this case without the benefit of uniform guidelines from either the Division of Taxation or the Bergen County Board of Taxation, and therefore the resulting increase in the assessment of its property cannot be sustained.

Hackensack's last prior revaluation was in 1988, followed by a district-wide reassessment in 1993, approved by the Bergen County Board of Taxation, in which all 11,209 line items were reviewed. As of October 1, 1996, for tax year 1997, as part of an assessment maintenance plan, the assessor changed the assessment, leaving the land at \$546,000, but increasing the improvement to \$7,544,300, for a total of \$8,090,300, which remained in place through the time of the trial in 2001. The assessor reviewed the 11,209 property record cards for the entire city, all available sales ratio data, all available "Chapter 91" income and expense information, and applicable zoning changes. In doing so, the assessor determined that about 150 commercial properties were grossly underassessed.

In order to determine the value of the nursing home, the assessor used comparable sale prices allocated on a per bed basis. He was aware of recent nursing home sales in surrounding communities in the range of \$40,000 to \$60,000 per bed. Regent Care's original assessment was \$24,000 per bed. Regent Care did not present any evidence as to value, did not challenge the assessor's per bed valuation method, and did not contend its property was overassessed or assessed outside the corridor permitted by Chapter 123, P.L. 1973.

continued on page 20

in our courts - from page 19

The Court reviewed the *Van Decker* Welcome Stranger principles and concluded that the assessor did not use the “sale of the subject” factor, but relied upon appropriate data (sales of nursing homes in neighboring municipalities) to determine the increased assessment. The Court noted, however, that spot assessing was not limited to the Welcome Stranger scenario. The Court found that the reassessment of Regent Care’s nursing home did not constitute arbitrary intentional discrimination. The reassessment was implemented as part of a comprehensive review of all properties in the district. All commercial and industrial properties were evaluated. Those that were not underassessed were not changed. But all were evaluated and considered. Those selected for increases were not selected arbitrarily, but based upon objective, non-sales-related evidence, and in relation to other similarly situated properties within the class.

The Appellate Court then addressed Regent Care’s declaration that the practice of “assessment maintenance” was an unconstitutional device creating spot assessments. “Assessment maintenance” refers to the practice by which an assessor changes some assessments in a year when a districtwide revaluation or reassessment is not performed. The Court declined to declare that all “assessment maintenance” is impermissible stating that such a declaration was not warranted, would be contrary to established precedent, and must be decided on a case-by-case basis.

The Appellate Court also rejected Regent Care’s contention that the absence of formal uniform guidelines pertaining to assessment maintenance renders the practice illegal. The Court noted that guidelines do exist. The *Handbook for New Jersey Assessors*, New Jersey Division of Taxation (1989), was cited with approval in *Van Decker* as a source of proper assessment maintenance. In particular, the Court cited sections of Chapter 9, which is devoted to assessment maintenance. Further, assessors are trained, tested, and certified professionals. Whether assessors fulfilled their obligations under N.J.S.A. 54:4-23 in a fair and non-discriminatory manner should be judged by their actions on a case-by-case basis.

The dominant principle of the State Constitution’s uniformity clause is to mandate equality of treatment and burden. Taxpayers must be treated in a manner comparable to other taxpayers. Although performing a districtwide revaluation or reassessment every year would be the best way of meeting that mandate, it is simply not feasible. And yet, assessors cannot be expected to do nothing in years between districtwide revaluations or reassessments. The Court noted that although “‘assessors are prohibited from arbitrarily singling out property for increased assessment,’ they nevertheless ‘have a statutory obligation to monitor all available indicia of property value and to correct inequities in tax years other than years of district-wide revaluations. N.J.S.A. 54:4-23.’” It was held that the assessor properly discharged his statutory obligation to assess all property annually at full and fair value. The increased assessment was upheld. □

In Our Legislature
Corporation Business Tax
Business Employment Incentive Program — P.L. 2003, c.166 (signed into law on September 2, 2003) expands the New Jersey Business Employment Incentive Program, which is designed to promote economic development, and provides for additional funding by authorizing the Economic Development Authority to issue bonds. This act took effect immediately.

Economic Development Incentives — P.L. 2003, c.194 (signed into law on November 21, 2003) expands the economic development incentives for rehabilitation and economic recovery in certain fiscally distressed municipalities.

Chapter 194 expands both the business incentive program and the jobs creation credit program to extend eligibility for the credits allowed under each beyond corporation business tax payers to include insurance companies subject to insurance premiums taxes under P.L. 1945, c.121 (C.54:18A-1) and foreign insurance companies subject to “retaliatory” taxes.

This law also increases the maximum percentage of the rebate base allowable against either corporation business tax or the premiums or retaliatory taxes under the business incentive program from 75% to 100% in cases as to which the New Jersey Economic Development Authority finds that a particular business relocation or expansion will more effectively effectuate the purposes of the “Municipal Rehabilitation and Economic Recovery Act.”

continued on page 21

in our legislature - from page 20

The act took effect immediately, and applies to privilege periods and reporting periods beginning on or after June 30, 2002.

Tax Credit for Environmental Remediation Costs — P.L. 2003, c.296 (signed into law on January 14, 2004) provides a corporation business tax credit for 100% of the eligible costs of the remediation of certain contaminated sites in the State performed during privilege periods beginning on or after January 1, 2004, and before January 1, 2007. The amount of the credit cannot exceed 50% of the tax liability due and cannot reduce the tax liability to an amount below the statutory minimum tax. However, in most cases any unused tax credit not utilized because of these limitations may be carried over for the next five privilege periods.

In addition, the tax credit, when combined with the property tax exemption received under the Environmental Opportunity Zone Act, less any “in lieu of” tax payments made pursuant to that Act, or any other State, local, or Federal tax incentive or grant to remediate a site, cannot exceed 100% of the total cost of the remediation.

Only taxpayers that are not liable for the contamination of the site as “responsible parties” under the Spill Compensation and Control Act are eligible for the credit.

This act took effect immediately.

Miscellaneous

Investment Clubs — P.L. 2003, c.256 (signed into law on January 14, 2004) exempts investment clubs from the \$150 per owner

annual partnership filing fee and from the requirement that a partnership make payments of New Jersey gross income tax on behalf of its nonresident noncorporate partners.

The act provides that a qualified “investment club” is an entity that is classified as a partnership for Federal income tax purposes in which all of the owners are individuals; and all of the assets are securities, cash, or cash equivalents; and the market value of the total assets does not exceed an amount equal to the lesser of \$250,000 or \$35,000 per owner of the entity, as measured on the last day of its taxable year. Also, the partnership is not required to register itself or its membership interests with the Federal Securities and Exchange Commission.

Chapter 256 also provides for an annual inflationary adjustment for the cap on the total assets of the entity and average assets of the owners.

The act took effect immediately, and applies to taxable years and privilege periods beginning on and after January 1, 2002.

Low Emission Vehicle Program — P.L. 2003, c.266 (signed into law on January 14, 2004) requires that the Department of Environmental Protection implement the California Low Emission Vehicle program in New Jersey beginning on January 1, 2009. A provision in this act provides that receipts from sales of zero emission vehicles sold on and after May 1, 2004, are exempt from the tax imposed under the Sales and Use Tax Act.

Chapter 266 defines “zero emission vehicle” and also provides that the Commissioner of Environmental

Protection shall certify to the State Treasurer the make and model of those motor vehicles that are zero emission vehicles eligible for the exemption.

The act took effect immediately.

Veterans’ Benefits — P.L. 2003, c.197 (signed into law on December 16, 2003) extends eligibility for certain veterans’ benefits to veterans who served at least 14 days in the theater of operation of Operations “Enduring Freedom” and “Iraqi Freedom.” Section 5 of the law provides that an eligible person is entitled to the annual \$250 property tax deduction or a property tax exemption if the eligible person has a total and permanent service-incurred disability.

Chapter 197 also makes technical changes and updates to descriptions of what constitutes service during Operation “Restore Hope” in Somalia, and Operations “Joint Endeavor” and “Joint Guard” in the Republic of Bosnia and Herzegovina.

Chapter 197 took effect immediately, but section 6 (the implementation section) remained inoperative until January 1, 2004.

Multiple Taxes

Domestic Partnership Act — P.L. 2003, c.246 (signed into law on January 12, 2004) sets forth the requirements that must be met to establish a domestic partnership.

This act provides that for transfer and inheritance tax purposes, property held jointly by qualified domestic partners that is transferred to a domestic partner will be treated as property held jointly by a spouse.

continued on page 22

in our legislature - from page 21

Chapter 246 also states that no tax is imposed on transfers of property to a qualified domestic partner for transfer inheritance tax purposes. In addition, the value of any pension, annuity, retirement allowance, or return of contribution payable to a domestic partner is exempt from tax.

The act provides that for gross income tax purposes, the meaning of “dependent” will include a qualified domestic partner, which will allow the taxpayer to claim an additional \$1,000 personal exemption for a qualified domestic partner who does not file a separate tax return.

The act takes effect on the 180th day after enactment. The provisions of sections 47 through 56, which pertain to health service providers, will apply to policies or contracts issued or renewed on or after the effective date.

Sales and Use Tax

Cleanup of Hazardous Substances — P.L. 2003, c.224 (signed into law on January 14, 2004) amends certain provisions of the Spill Compensation and Control Act and the Brownfield and Contaminated Site Remediation Act concerning site remediation.

The amendments provide that if the redevelopment of the property is

performed in phases, payments to reimburse the developer may commence prior to the completion of the redevelopment at the entire site.

This act also provides a method of computing the sales and use tax on the purchase of materials used for remediation, the construction of new structures, or the construction of new residences at the site. When an exact accounting is not available, the Director of the Division of Taxation will presume the tax equals 1% of the developer’s contract price for the remediation and improvement. An amount not to exceed 3% may be approved by the Director when clear and convincing evidence that the tax on materials is greater than 1% is presented.

This act took effect immediately.

Urban Enterprise Zones

New Zone Designated — P.L. 2003, c.285 (signed into law on January 14, 2004) designates Gloucester City in Camden County the 31st qualifying Urban Enterprise Zone based on the required population criteria. Qualified businesses in the designated Urban Enterprise Zone are permitted to collect sales tax at a reduced rate of 3% rather than at the current 6% rate. The reduced sales tax rate is applicable for a period of at least 20 years, and potentially as long as 35 years, dur-

ing which the revenues collected at that reduced rate are divided between the municipality and the State under a formula that is adjusted according to a statutory schedule.

Chapter 285 takes effect on April 1, 2004. □

Tax Calendar

The following three calendars provide listings of filing and payment dates (January 1, 2004 – December 31, 2004) for businesses and individuals:

- [Chronological List of Filing Deadlines](#) — This calendar is for use by both businesses and individuals. If you are responsible for a return that is not listed in this calendar, please refer to the instructions that accompanied the return, or contact the Customer Service Center at 609-292-6400 for the appropriate filing deadline.
- [Alphabetical Summary of Due Dates by Tax Type](#)
- [Payment Dates for Weekly Payers](#) — An employer or other withholder of New Jersey gross income tax is designated a “weekly payer” if the amount of tax they withheld during the previous tax year was \$20,000 or more.

from the director's desk

Haven't filed your 2003 New Jersey income tax return yet? What are you waiting for? Go paperless! Use one of the three NJ FastFile options — NJ WebFile, NJ TeleFile, or NJ ELF — and experience the simplicity of electronic filing. Not only is it secure, it's the fastest and most accurate way to file your return because once you enter your information, all the necessary calculations are done for you. In fact, last year nearly one million New Jersey taxpayers chose one of these alternative methods instead of filing a paper return.

This year we have made electronic filing even easier by eliminating the New Jersey Personal Identification Numbers (PINs). Taxpayers who use NJ ELF will still need a Federal PIN.

With NJ FastFile you also spend less time waiting for your refund because electronic returns can be processed more quickly. You can even save yourself a trip to the bank by having your refund or homestead rebate (or both) deposited directly into your bank account. Do you owe us money? You can file your return now and wait until the due date to pay.

For more information about the eligibility requirements for any of the NJ FastFile options, visit www.njfastfile.com or call 1-800-323-4400. Whether you are looking for an easier way to file your return or just want to get your refund faster, make the switch from paper to NJ FastFile. It's the way to go.

