

New Jersey State Tax news

Volume 45, Number 4
Winter 2016/2017

A Quarterly Newsletter

ISSN 1073-6808



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What's New for Tax Year 2016

There have been some important changes affecting the preparation of New Jersey Income Tax returns and applications for New Jersey's property tax relief programs for 2016. In addition, there are several important legislative changes coming for tax year 2017.

Income Tax

- **Filing Deadline** — The filing deadline is April 18, 2017, for calendar year taxpayers, the same day the federal Form 1040 is due. The due date is April 18 instead of April 15 because of the Emancipation Day holiday in the District of Columbia.
- **Driver's License Number** — The Division of Taxation is asking taxpayers to provide a Driver's License or State Non-Driver Identification card number on the tax return. Providing this information is voluntary. The Division may use it to validate the taxpayer's identity in an effort to combat identity theft and fraudulent filing.
- **Earned Income Tax Credit** — The New Jersey Earned Income Tax Credit (NJEITC) amount increases to 35% of the applicant's federal benefit for tax year 2016 and after.
- **Achieving a Better Life Experience Program (ABLE) Accounts** — Earnings on qualified

distributions from ABLE accounts are exempt from tax. However, earnings on nonqualified distributions are taxable and must be included as income.

- **Credit for Excess UI/WF/SWF; DI; FLI Withheld** — For 2016, the maximum employee unemployment insurance/workforce development partnership fund/supplemental workforce fund contribution was \$138.56, the maximum employee disability insurance contribution was \$65.20, and the maximum employee family leave insurance contribution was \$26.08. Those who had two or more employers may have contributed more than the maximum amount(s). They must complete Form NJ-2450 to claim credit on the New Jersey tax return for the excess withheld.
- **Credit for Taxes Paid to Other Jurisdictions** — The Philadelphia nonresident wage tax rate for 2016 was 3.4828% (.034828) from Jan. 1 to June 30, 2016, and 3.4741% (.034741) from July 1 to Dec. 31, 2016.
- **Alternative Business Calculation Adjustment** — Taxpayers who have losses in certain business-related categories of income may be able to use those losses to calculate an adjustment to taxable income. In addition, they can carry forward unused losses in those categories for 20 years to calculate future

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adjustments. For tax year 2016 and after, the percentage used to calculate the Alternative Business Calculation Adjustment on Schedule NJ-BUS-2 is 50%, up from 40% in 2015. The percentage was phased in over a five-year period that began in 2012.

- **Designated Contributions** — The Fund for the Support of New Jersey Nonprofit Veterans Organizations has been added to the list of organizations to which taxpayers can contribute on the New Jersey tax return. To donate to the new fund, taxpayers must specify code number “22” at the “Other Designated Contribution” line.

Property Tax Relief Programs

- **2016 Property Tax Reimbursement (Senior Freeze)** — The Senior Freeze (Property Tax Reimbursement) Program reimburses eligible senior citizens or disabled persons for Property Tax increases. Eligible residents must file a 2016 Property Tax Reimbursement Application (Form PTR-1 or PTR-2) by June 1, 2017. The 2016 applications are expected to be mailed in mid to late February.

With very few exceptions, all income received during the year, including income that is not required to be reported on Form NJ-1040, must be taken into account to determine eligibility for the Property Tax Reimbursement. For residents applying for reimbursements for tax year

2016, total annual income must be:

2015: \$87,007 or less, and

2016: \$87,007 or less

The limits apply regardless of marital/civil union status. However, if an applicant’s status is married/CU couple, combined income of both spouses/CU partners must be reported.

NOTE: Eligibility requirements, including income limits, and benefits available under this program are subject to change. Information for 2016 will be posted on the Division’s [website](#) as it becomes available.

- **Homestead Benefit Program** — Information about filing for benefits under the Homestead Benefit Program is not yet available. Please continue to check our [website](#) as information will be posted as it becomes available.

Changes Coming for Tax Year 2017 and After

- **Retirement Income Exclusions** — Qualified taxpayers will be able to exclude more pension and other income on the New Jersey return. The increased exclusion amounts will be phased in over a four-year period. See chart on page 3.
- **Personal Exemption for Veterans** — Veterans who were honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States will be eligible for an additional \$3,000 exemption.

New Jersey State Tax news

published quarterly by:

**New Jersey Division of Taxation
Taxpayer Services
Technical Information Unit
P.O. Box 281
Trenton, N.J. 08695-0281**

The *State Tax News* is published on the Division of Taxation’s website.

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This publication is designed to keep taxpayers, tax practitioners and the general public informed of developments, problems, questions and matters of general interest concerning New Jersey tax law, policy and procedure, and is accurate as of the date issued. Subsequent changes in tax law or its interpretation may affect the accuracy of the information contained in this publication. The articles in this newsletter are not designed to address complex issues in detail, and they are not a substitute for New Jersey tax laws and/or regulations.

**Division of Taxation
Acting Director:** John J. Ficara

News Coordinators for This Issue:

<i>Audit</i>	Patricia Riley Courtney Pelikan
<i>Compliance</i>	Tom MacDonald Richard Coleman Marlene Brodowicz
<i>Criminal Investigation</i>	Charles Giblin
<i>Conference and Appeals</i>	Patrick Ryan
<i>Legislation</i>	El-Rhonda Williams Alston
<i>Property Admin.</i>	Gloria von Schmidt
<i>Regulatory Services</i>	Maryanna Paolinie

Contributors: Pamela Allen, Nelson Avery, Michael Birnie, Diane Breyer, Janine Burgess, Kerry Czymek, Stephen DeLuca, Louis Dipaolo, Russ Glenn, John Kutl, Donald Krulewicz, Marijane Lamattina, Will Makar, Maryanna Paolinie, Nicolette Scruggs and Krista Tracey.

Staff: Lauren D. Higgins, Terry A. McWilliams and Sara E. Murphey.

Editor: Colleen McAllister

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Changes to Other Taxes

There have also been some important changes affecting the Petroleum Products Gross Receipts Tax, Sales Tax and the Estate Tax. P.L. 2016, c.57, which was signed into law on Oct. 14, 2016, provides tax relief for New Jersey residents and funding for the Transportation Trust Fund.

- **Petroleum Products Gross Receipts Tax** — Effective Nov. 1, 2016, the tax rate increased, a number of new exemptions were added and certain reporting requirements were changed. More information on the [Petroleum Products Gross Receipts Tax](#) changes is available online.
- **Sales and Use Tax** — The New Jersey Sales and Use Tax rate will be reduced in two phases between 2017 and 2018. The tax rate decreased from 7% to 6.875% for Jan. 1 to Dec. 31, 2017. The rate will decrease to 6.625% on Jan. 1, 2018. Additional information on the [Sales and Use Tax](#) changes is available online.
- **Inheritance and Estate Tax** — The New Jersey Estate Tax will be phased out over a two-year period.

The exemption will increase from \$675,000 to \$2 million for the estates of resident decedents dying on or after Jan. 1, 2017, but before Jan. 1, 2018. The tax will be eliminated for the estates of resident decedents dying on or after Jan. 1, 2018. Additional information on the [Estate Tax](#) changes is available online. □

INHERITANCE/ESTATE TAX

Making Portability and QTIP Elections

On Sept. 27, 2016, the Internal Revenue Service (IRS) released Revenue Procedure 2016-49, which provides guidance on making portability and Qualified Terminable Interest Property (QTIP) elections. Taxpayers have asked the Division if New Jersey follows the federal procedures for Estate Tax purposes.

“Portability” of the estate tax exemption allows a spouse to inherit the unused estate tax exemption of their deceased spouse. The QTIP election creates a type of trust that enables the grantor to provide for a surviving spouse and to maintain control of how the trust distributes assets once the surviving spouse dies.

Previously, under Revenue Procedure 2001-38, the IRS would disregard unnecessary QTIP elections for federal estate tax purposes. For example, if a decedent’s estate was under the applicable exclusion amount, the IRS would disregard a QTIP election made solely to preserve the deceased spouse’s unused exclusion amount under the portability rules.

Revenue Procedure 2016-49 modifies and supersedes Revenue Procedure 2001-38. The new procedure respects QTIP elections of estates that properly made a portability election, regardless of the Estate Tax value before the QTIP election. It allows estates that make a portability election to also make a valid QTIP election even if the election is not necessary to reduce the estate tax liability. The procedure confirms that the estate can elect portability when assets pass to a surviving spouse through a QTIP trust.

If a taxpayer makes an election for federal estate tax purposes, he or she must also make that election for New Jersey purposes. Therefore, New Jersey follows federal treatment regarding portability and

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Retirement Income Exclusions for Tax Year 2017 and After

Filing Status

Tax Year	Filing Status		
	Married/CU Couple, Filing Joint Return	Married, CU Partner, Filing Separate Return	Single, or Head of Household, or Qualifying Widow(er)/ Surviving CU Partner
2017	\$ 40,000	\$ 20,000	\$ 30,000
2018	60,000	30,000	45,000
2019	80,000	40,000	60,000
2020 and after	100,000	50,000	75,000



portability and QTIP - from pg. 3

QTIP elections pursuant to Revenue Procedure 2016-49.

If a federal estate tax return is not filed and/or not required to be filed, the estate tax representative may make a QTIP election in accordance with the provisions of the Internal Revenue Code for New Jersey Estate Tax purposes.

For New Jersey and federal tax purposes, Revenue Procedure 2016-49 was effective immediately. □

Small Business Workshops

The Division of Taxation provides free workshops designed to assist small business owners in meeting their New Jersey tax obligations. The workshops are half-day seminars presented at locations throughout the State. The Internal Revenue Service does not participate in these seminars.

Interest 6.50%

The interest rate assessed on amounts due for the period Jan. 1, 2017 – Dec. 31, 2017, will be 6.50%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/11	6.25%
1/1/12	6.25%
1/1/13	6.25%
1/1/14	6.25%
1/1/15	6.25%
1/1/16	6.25%
1/1/17	6.50%

The workshops include the following topics:

- Identifying types of business ownership and the tax consequences of each type.
- Registering a business with the Division of Taxation, Division of Revenue and Enterprise Services and Department of Labor and Workforce Development.
- Determining what is taxable and what is exempt for New Jersey Sales Tax purposes.
- Procedures for collecting and remitting various New Jersey taxes.
- Filing Sales and Use Tax returns.
- Meeting employer responsibilities.
- Reporting business income.

To attend a workshop, review the schedule and register with the contact person listed for each event. The contact person can also provide the time of the workshop, parking information and directions to the location. The Division does not manage the registration process.

The current [workshop schedule](#) is available online. The Division updates the schedule as new workshops are added. □

LOCAL PROPERTY TAX

Tax Assessors' Calendar

Jan. 1–

- Taxing district to file duplicate of tax map approved in the prior year with county clerk or county register of deeds.
- County Tax Board to complete hearings of added and omitted assessment appeals.

- County Tax Administrator to provide copies of Form EA-4 to assessors of municipalities having adopted tax agreement ordinances pursuant to P.L. 1991, c.441.
- Assessor to file one copy of each Farmland Assessment application (Form FA-1) with County Tax Board for tax administrator's review.

Jan. 10 –

- Taxpayer to give assessor notice of depreciation to structure occurring after Oct. 1 and before Jan. 1 for valuation by assessor as of Jan. 1.
- Assessor to file assessment list and duplicates with County Tax Board.
- Assessor to file estimated total amount of approved veteran and Property Tax deductions with County Tax Board.
- Assessor to file copies of Initial and Further Statements with County Tax Board.
- Assessor to file duplicate copy of municipal tax map 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" and "Five-Year Limited Exemption Report" with County Tax Board.
- Assessor to file two copies of Form SR-3A with County Tax Board.



assessors' calendar - from page 4

Jan. 25-

- Assessor to provide schedule of office hours and appointment availability to County Tax Administrator and post in the municipal building.

Feb. 1-

- Assessor to notify taxpayer by mail of current assessment and prior year's taxes.
- MOD IV Master file sent to Property Administration via appropriate medium.
- Assessor to complete Form EA-4 (part A) for properties subject to tax agreements under P.L. 1991, c.441 and forward to County Tax Administrator.
- County Tax Administrator to furnish assessors' office hours to Director, Division of Taxation.

Feb. 1 (after)-

- Assessor or County Tax Board to notify each taxpayer by mail within 30 days of any change to the assessment. Taxpayer has 45 days to file an appeal upon issuance of notice of a change in assessment.

Feb. 10-

- Assessor to file certification of bulk mailing of Notification of Assessment with the County Tax

Board within 10 days of completion of mailing. If County Tax Board completes bulk mailing, the County Tax Administrator prepares the certification within 10 days of the date the bulk mailing was completed.

Feb. 15-

- County Tax Administrator to review FA-1 forms for farmland assessment and forward to Property Administration in district order.

March 1-

- County Tax Administrator to submit copy of equalization table to County Tax Board; each assessor; Division of Taxation; Director, Local Government Services in the Department of Community Affairs (two copies); and post a copy at the courthouse.

March 10 (before)-

- County Tax Board to complete equalization table hearings.

March 10-

- Following confirmation of equalization table, County Tax Board to submit copy to each taxing district in the county; Director, Division of Taxation; Tax Court; and Director, Local Government Services in the Department of Community Affairs (two copies).

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

Monmouth County Assessment Demonstration Program

P.L. 2013, c.15, established a Real Property Assessment Demonstration Program to make the assessment of real property more precise by using technology driven procedures and protecting funding of municipal budgets from the impact of losses due to appeal refunds. Monmouth County was the first county to adopt this program, which began Oct. 1, 2013. The following dates on the assessors' calendar have been revised for municipalities in Monmouth County:

Jan. 10-

- Assessor to file two copies of preliminary Form SR-3A with County Tax Board.

Jan. 15-

- Deadline for taxpayers and taxing districts to file appeals of assessed valuations to County Tax Boards, or 45 days from the date the bulk mailing of notifications of assessment is completed, whichever is later. **Note:** Deadline for appeals of assessed valuations over \$1,000,000 to State Tax Court remains April 1 or 45 days from completion of bulk mailing notifications, whichever is later.

Feb. 1-

- Tax appeals are heard February, March and April.

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Current Amnesty Programs

The following jurisdiction is conducting a tax amnesty program. During the designated amnesty period, taxpayers have a chance to pay back taxes with reduced (or eliminated) penalty and/or interest. For more information, including eligibility requirements, or to obtain an application, visit the jurisdiction's website.

Pennsylvania 4/21/17 – 6/19/17 www.revenue.pa.gov/taxamnesty



assessors' calendar - from pg. 5

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

Criminal Enforcement

- On July 9, 2016, the Office of Criminal Investigation (OCI) seized 266 cartons of Virginia-stamped cigarettes from Elmore T. Spencer, Jr. of Pompton Lakes, New Jersey. OCI special agents charged Spencer with: possession of 100 cartons or more of out-of-State stamped cigarettes; failure to maintain records of cigarette purchases; engaging in conduct requiring licensure without registration or licensure; transportation of contraband cigarettes; possession of unstamped, out-of-State stamped and/or counterfeit tax-stamped cigarettes; failure to maintain records; and failure to obtain a New Jersey cigarette retail dealer's license. OCI had received intelligence that Spencer was a Virginia-to-New Jersey trafficker. He is awaiting trial in Superior Court.
- On July 13, 2016, OCI special agents, supported by the Essex

County Prosecutor's Office and U.S. Homeland Security Investigations (HSI), executed an arrest warrant on Miguel O. Martinezbrito for money laundering, falsifying or tampering with records, misconduct by a corporate official, false swearing on a return, failure to collect or withhold tax, failure to maintain books and records, filing a false return and failure to file a return. Search warrants were executed on Martinezbrito's residence, his business's box truck and his business's storage unit. The search resulted in the seizure of \$10,357 in cash subject to forfeiture, 24,734 cigars and various business records. The warrants were executed as part of an ongoing tax evasion investigation related to the sale of tobacco products by Martinezbrito, who had been previously arrested by OCI special agents.

- On July 13, 2016, OCI staff assisted Middlesex County police in executing search warrants involving Hector's Towing, a business in New Brunswick, and the residence of Hector Perez, the business owner, in East Brunswick. Hector's Towing and Hector Perez are accused of filing

false tax returns and failing to file tax returns for the tax years 2011 to the present. During the search, various business records were recovered, which will help further OCI's investigation, as well as narcotics that were allegedly offered for sale at the business. As a result of the search, the business owner was arrested and processed on both OCI charges and municipal police department counts relative to the possession and sale of narcotics.

- On July 22, 2016, Steven W. Turner of New Hope, Pennsylvania, was sentenced on one count of failure to pay New Jersey State taxes (in excess of \$75,000), a third-degree offense. The charges were the result of his failure to pay New Jersey Personal Income Taxes for 2008. Turner was convicted at a jury trial. Mercer County Superior Court Judge Pedro Jiménez sentenced Turner to 364 days in county jail and three years' probation and ordered him to make full restitution of \$344,806.39 within two years. If Turner fails to make full restitution, he will be required to serve the 364-day sentence. OCI investigated and charged Turner, and Mercer County Assistant Prosecutor James Scott prosecuted for the State.
- On July 29, 2016, Thomas Fagan was convicted of multiple counts of tax evasion. Fagan was the president and CEO of the companies Energex Systems and Arbios Systems. He was found guilty of failure to file Gross Income Tax returns for tax years 2007, 2008 and 2009. Fagan failed to report income of \$402,857.80 in 2007,

Enforcement Summary Statistics Fourth Quarter 2016

Following is a summary of enforcement actions for the quarter ending Dec. 31, 2016.

	Number	Amount
• Bank Levies	728	\$ 2,702,172
• Certificates of Debt	2,800	97,799,596
• Seizures	73	857,126
• Auctions	6	156,551
• Warrants of Satisfaction	3,184	



criminal enforcement - from page 6

\$601,440 in 2008 and \$275,514 in 2009. Fagan, the only authorized officer for Energex Systems, was found guilty of failure to file the New Jersey Corporation Business Tax returns of Energex Systems for the tax years 2008, 2009, 2010 and 2011. Additionally, as the only authorized officer for Arbios Systems, Fagan was found guilty of failure to file the New Jersey Corporation Business Tax returns of Arbios Systems for the tax years 2009, 2010 and 2011. The jury was unable to reach a unanimous verdict on counts of misapplication of entrusted property, theft, money laundering and misconduct by a corporate official, which are all second-degree crimes. Sentencing for Fagan is pending. The Division of Criminal Justice is considering a retrial for the counts on which the jury could not reach a unanimous verdict. This case was handled exclusively by OCI special agents.

- On Aug. 4, 2016, Walter Reyes-Gutierrez was arrested without incident at his apartment in Elizabeth, New Jersey. He was secured, taken into custody and transported to the Middlesex County Correctional Facility for processing. He was charged with six indictable offenses including

first-degree money laundering and conspiracy. Bail was set at \$500,000, no 10%. OCI began this investigation into the trafficking of contraband cigarettes and counterfeit cigarette tax stamps two years ago. Several undercover purchases of New Jersey counterfeit tax stamps were made, resulting in 256,320 counterfeit tax stamps purchased from Gutierrez and a tax loss diversion in the amount of \$692,064. The case is pending in Union County Superior Court.

- On Aug. 23, 2016, OCI special agents inspected YES Supermarket in Newark, New Jersey. The inspection resulted in the seizure of 11,626 containers of untaxed alcohol, 86 cartons of contraband cigarettes and 17 loose cigarettes. The owner of the business, Delia N. Sarango, will be charged with: possession of 10 or more counterfeit tax-stamped cigarettes, tax upon alcoholic beverages involved in illegal acts, failure to maintain books and records and purchasing cigarettes from an unlicensed vendor. This case dismantled a speakeasy (after-hours club) in Newark located in a set of buildings with a maze of connections unknown to local law enforcement. OCI continues to see an increase in untaxed alcohol in urban areas connected with untaxed cigarette/tobacco seizures.
- On Sept. 19, 2016, Dr. Michael H. Rieber, former Deputy Mayor of Livingston, New Jersey, pled guilty to one count of failing to pay New Jersey Income Tax for the years 2009, 2010 and 2011. Dr. Rieber utilized fraudulent partnerships and claimed overinflated expenses, which resulted in

large losses that he used to offset legitimate partnership income. Dr. Rieber paid \$250,000 restitution to New Jersey's Department of the Treasury and was admitted into the Pretrial Intervention Program.

- On Sept. 20, 2016, OCI received a request for assistance from the Newark Police Department's Major Crimes Unit. Newark Police detectives responded to an emergency call about a carjacking and assault that involved shots fired and aggravated assault. While securing the scene in the driveway and garage in Newark, New Jersey, detectives observed an unusual volume of cigarettes and notified OCI. Special agents responded and obtained search warrants for the premises and two vehicles located there from the Essex County Superior Court. Upon execution of the warrant, OCI seized: 525 cartons of cigarettes with counterfeit New Jersey tax stamps, out-of-State stamped and unstamped cigarettes; 75,736 counterfeit New Jersey tax stamps, 8,445 counterfeit New York tax stamps; \$18,722 cash, subject to forfeiture; as well as two vehicles. The homeowner, Merysol Mendez-Reyes, was charged in Essex County Superior Court with seven indictable counts regarding the possession of untaxed cigarettes, counterfeit tax stamps and distribution of same. □

Public Auction Information

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

Tax Briefs

Property Tax Relief Programs
Corporate Inversion, No Income Received — A taxpayer asked if the Division would require him to report

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a corporate inversion transaction on his Property Tax Reimbursement (PTR) Application.

The taxpayer is a shareholder of a company that went through a corporate inversion. A corporate inversion is a transaction in which domestic corporations move their tax residence overseas to countries with lower taxes. In this case, the corporation acquired a smaller company based in Ireland, a foreign country with a lower tax rate. The company then located the residence of the combined corporation to Ireland for tax purposes. The taxpayer did not actually receive any income from the transaction because the value of the stock sold in the transaction did not exceed its basis.

Generally, New Jersey treats a corporate inversion transaction as a taxable sale of shares that must be reported on the PTR application. However, in this case, the taxpayer received no reportable income. The Division cited the holding in *Hawe vs. Director, Division of Taxation*,

26 NJ Tax 349 (2012), which stated “The Legislature expressly conditioned eligibility for a homestead property tax reimbursement on an applicant’s ‘annual income’ and not on the assets a homeowner has available in a particular tax year for the payment of local property taxes.” Based on the above, the taxpayer was advised that he was not required to report the corporate inversion transaction on his PTR application.

Railroad Disability Retirement

— A disabled taxpayer who is not yet 65 asked the Division if he was eligible to receive a Property Tax Reimbursement (PTR) because he was receiving railroad disability retirement benefits.

The Division responded that under N.J.S.A. 54:4-8.67 an applicant must be 65 or more years of age or be a “disabled person.” For purposes of the Homestead Property Tax Reimbursement Act a disabled person is defined as an individual receiving monetary payments under the federal Social Security Act established under Title 42 of the U.S. Code. Although railroad disability retirement

benefits mirror the disability benefits paid under the Social Security Act, the former are established under Title 45 of the U.S. Code. Based on this, an individual receiving railroad disability retirement benefits cannot be considered a disabled person for PTR purposes. As a result, the taxpayer is not eligible to receive a Property Tax Reimbursement. □

In Our Courts Administration

Timely Filing Requirement – *Graziano, Thomas and Bonnie v. Director, Division of Taxation*, decided Sept. 30, 2016, Tax Court Docket No. 001914-2014.

On Feb. 22, 2012, the Division issued a request for information to Thomas and Bonnie Graziano (Plaintiffs) regarding their 2008 Gross Income Tax return. The Plaintiffs failed to respond, and the Division issued an arbitrary notice of deficiency (notice) by certified mail on April 5, 2012, to the Plaintiffs’ last known address. The Division received the certified mail return receipt, which was signed by “Bonnie” on April 12, 2012.

On Nov. 7, 2013, Plaintiffs received a collection letter from Pioneer Credit Recovery on behalf of the Division. On that same date, Plaintiff Thomas sent a letter to the Division’s Conference and Appeals Branch alleging that he never received the notice of deficiency. He later claimed that he had forwarded it to the accountant who had filed the return at issue to resolve the notice. After learning that the accountant did not timely challenge the notice, Thomas hired a new accountant who

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

Electronic Check (E-Check)

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

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protested the notice and requested a hearing on Nov. 22, 2013.

On Dec. 13, 2013, the Conference and Appeals Branch issued a final determination denying the Plaintiff's protest as untimely and explaining his appeal rights. On March 13, 2014, Plaintiffs filed a complaint in Tax Court claiming that the Division incorrectly calculated the deficiency, and that plaintiffs should not be penalized because their accountant did not file a timely protest.

The Tax Court found that both the protest letter and the complaint were untimely. Consequently, the Court held that it did not have subject matter jurisdiction to hear the merits of the case and that the assessment is final.

Local Property Tax

Property Tax Exemption – *Galloway Township v. Lucienne Duncan*, decided Nov. 14, 2016; Tax Court.

Lucienne Reed Duncan served on active duty from Aug. 21, 2006, to Sept. 30, 2010, as a neurologist in the United States Air Force. She was stationed at Andrews Air Force Base in Maryland and provided medical diagnostic support in the special medical care unit. During her active duty tour, she treated military personnel injured in combat, including exposure to and suffering injury from explosive blasts, gunfire and artillery fire. Duncan treated service members who suffered shrapnel wounds, dismembered extremities, traumatic brain injuries, eye injuries, paralysis and spinal and head injuries. She described her corp's mission as that of a support force providing air medical evacuation for all branches.

Dr. Duncan explained that medical treatment has changed since the days of the Korean and Vietnam conflicts. During that time, surgical units were deployed close to the battlefield. Now, injured personnel are evacuated to more comprehensive medical facilities. Andrews Air Force Base is used as such for injured soldiers before they are transported to the Walter Reed/Bethesda Medical Center System. Duncan testified that 80–85% of the injured soldiers would see their first doctor at Andrews, and that the percentage of medical doctors on evacuation flights was less than 5%.

After her service in the military, Dr. Duncan went into private practice with AtlantiCare Medical Facility in Galloway Township. Due to her experiences during active duty in the Armed Forces, she was unable to continue her career as a neurologist. In April of 2013, she was declared to have a service-connected 100% permanent disability by the United States Veterans Administration (VA). The parameters for the VA to establish a service-connected disability are defined by federal statute.

Dr. Duncan served in the United States during Operation Enduring Freedom. For this statutory wartime service period, Dr. Duncan's service must not only be in the "theater of operation" but must also be in "direct support" of the operation.

The issue of "theater of operation" was considered first by the Tax Court. The Court found that Dr. Duncan's service at Andrews Air Force Base was in a "theater of operation" of Operation Enduring Freedom. The Court referenced *Wellington v. Township of Hillsborough*, 27 N.J. Tax 37 (2012). As in *Wellington*, where the service

member suffered injuries from chemical agents collected in the battlefield while serving in the United States, so too was Dr. Duncan exposed to the dangers of war through her experience and direct contact with death and trauma from the battlefield.

Concerning the issue of "direct support," the Court explained:

The fact that she was in a permanent facility in the United States, instead of some medical tent in a war zone in Iraq, does not minimize the "direct support" she provided in treating severely wounded soldiers of battle. Moreover, the distance of her stationed facility did not diminish the severity of torn limbs and other injuries she treated such that her service was not an experience of war.

The Court concluded that Dr. Duncan qualifies for the disabled veterans' Property Tax exemption.

Sales and Use Tax

Sales Tax Collected is Sales Tax Stated on the Invoice – *Dick Greenfield Dodge, Inc. v. Director, Division of Taxation*, decided April 28, 2016, Tax Court Docket No. 010644-2012.

Dick Greenfield Dodge (Plaintiff) is a car dealership that also operates a service department that repairs and services cars. During the course of a Sales Tax audit, the auditor found that the amount of Sales Tax the Plaintiff showed on its service invoices was higher than the amount of Sales Tax posted in the Plaintiff's internal sales ledger. Because the amount indicated as collected was more than the Plaintiff remitted, the

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auditor issued an assessment for the unpaid Sales Tax.

According to Plaintiff, before performing work on a customer's vehicle, Plaintiff would provide an invoice that stated the estimated charges for labor and parts and the amount of Sales Tax due for those charges. After the work was completed, Plaintiff would provide the customer with a final invoice that stated the total charges for labor and parts, the amount of Sales Tax on the total charges and, in some cases, a discount. The separately stated Sales Tax was not reduced to reflect any discount. The final invoice included some coding that Plaintiff purports is the allocation of the discount between parts/services and Sales Tax. Plaintiff posted a corresponding journal entry in its ledger for each invoice that allocated the discount between parts, service and Sales Tax. Plaintiff remitted the amount in the Sales Tax account to the Division.

Plaintiff asserts that the Sales Tax amount stated on the invoice was not actually collected and, therefore, Plaintiff did not have to remit it. N.J.S.A. 54:32B-12(a) requires that on the receipt given to the customer the Sales Tax be stated, charged and shown separately. N.J.S.A. 54:32B-18 requires that all Sales Tax collected by the seller must flow through to the Division, even if the amount collected constitutes an overpayment. The Tax Court held that Plaintiff must remit the amount of Sales Tax stated on the customer's invoice as the amount being collected. Although Plaintiff argued that the invoice included a Sales Tax discount, the invoice

did not specifically show that. The coding that Plaintiff purports as the allocation of the discount to the tax was not decipherable by anyone except the Plaintiff. The Court found that a seller who is collecting tax on behalf of the State is required to turn square corners when dealing with the taxpaying public.

The Court determined that the requirement that a seller turn over to the Division all tax amounts that it informed customers would be collected satisfies a number of policy considerations:

1. The taxpaying public must have confidence in the tax system. Allowing the use of written documents that don't accurately reflect the tax paid undermines that confidence;
2. Accepting a seller's claim that the printed invoices don't reflect reality could lead to "mischief" by the seller;
3. Including the Sales Tax discount with another discount misleadingly inflates the discount the seller is giving the customer and can skew the market;
4. Allowing proof of anything other than what the invoice shows as having been collected for taxes would "introduce an administrative and adjudicatory quagmire" to determine the actual amount of tax that is due; and
5. The amount of separately stated Sales Tax can be used for other tax purposes, such as federal tax deductions. If the amount stated on an invoice is inflated, then the corresponding deductions may be overstated as well. □

In Our Legislature

Local Property Tax

Atlantic City Alliance Abolishment — P.L. 2016, c.5, provides that beginning with calendar year 2017, and for the succeeding nine calendar years, casino gaming properties located in Atlantic City are exempt from local property taxation on real property and existing improvements, including accessory hotels, conference centers, parking garages and other appurtenant facilities, and are now responsible for making P.I.L.O.T. (Payments-in-Lieu-of-Tax) payments.

Deferred Mortgage Loan and Property Tax Payments — P.L. 2016, c.63, allows certain National Guard and United States Reserve members to temporarily defer mortgage loan payments and Property Tax payments while in service on federal active duty. The mortgage loan deferment remains in effect for 60 days after release from federal active duty. The deferment for Property Tax payments remains in effect for 90 days after release from federal active duty.

Stadium and Arena Property Tax Exemption — P.L. 2016, c.65, clarifies and reaffirms that stadiums and arenas owned by government entities are entirely exempt from property taxation. The bill reaffirms that when government entities enter into private-public arrangements and lease property to for-profit entities to achieve stadium and arena uses that such property, including any leasehold interest in such property, remains entirely tax-exempt.

Multiple Taxes

Economic Redevelopment and Growth Grant (ERGG) Clarification — P.L. 2016, c.51, authorizes

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the Economic Development Authority (EDA) to award an additional \$90 million in tax credits under the Economic Redevelopment and Growth Grant (ERGG) Program and clarifies section 6 of P.L. 2009, c.90, by reconciling three recent enactments of the Legislature, each of which amended that section of the law. Section 6 of P.L. 2009, c.90, imposes limits on the overall amount of tax credits the EDA may approve under the ERGG Program and allocates funding to specific geographic regions and categories of projects. Prior to the recent amendments to this statute, this provision of the law limited the overall amount of tax credits that the EDA may approve under the ERGG Program to \$600 million.

Revised New Jersey Transportation Trust Fund Authority Act — P.L. 2016, c.56, revises the New Jersey Transportation Trust Fund Authority Act of 1984. It establishes the State Transportation Infrastructure Bank within the New Jersey Environmental Infrastructure Trust and renames the Trust. The amendments also provide that all revenues generated from the Motor Fuels Tax and the Petroleum Products Gross Receipts Tax are now deposited into the Transportation Trust Fund.

Adjustments to Specified State Taxes — P.L. 2016, c.57, amends and supplements specified State taxes. It decreases the Sales and Use Tax rates, phases out the Estate Tax, increases the Gross Income Tax pension and retirement income exclusions, increases the New Jersey Earned Income Tax Credit (NJEITC), establishes a new veteran's personal exemption and creates

a cents-per-gallon rate on Petroleum Products Gross Receipts Tax.

Sales and Use Tax

Effective Jan. 1, 2017, this law amends section 3 of P.L. 1966, c.30 (C.54:32B-3) to decrease the Sales and Use Tax rate from 7 percent to 6.875 percent. On Jan. 1, 2018, the law further reduces the rate to 6.625 percent.

Estate Tax

The law phases out the New Jersey Estate Tax over two years by increasing the tax exclusion threshold of \$675,000 to \$2 million for resident decedents dying on or after Jan. 1, 2017. No Estate Tax will be imposed on the transfer of an estate of a resident decedent who dies on or after Jan. 1, 2018.

Gross Income Tax

Pension and Retirement Income Exclusion. The law increases the New Jersey Gross Income Tax pension and retirement income exclusions over four years for certain retired New Jersey taxpayers. See [chart](#) on page 3 for exclusion amounts. The exclusion is only allowed if the taxpayer's gross income for the tax year is not more than \$100,000.

Earned Income Tax Credit. The law increased the New Jersey Earned Income Tax Credit (NJEITC) to 35 percent of the federal benefit amount beginning in tax year 2016. The NJEITC, which piggybacks on the federal EIC program, previously provided a refundable Earned Income Tax Credit equal to 30 percent of the federal benefit amount.

Veteran's Personal Exemption. This law provides a personal exemption of \$3,000 for any veteran who is honorably discharged or released under honorable circumstances from

active duty in the Armed Forces of the United States, a reserve component thereof or the National Guard of New Jersey in a federal active duty status.

Petroleum Products Gross Receipts Tax

The law provides for increases in the Petroleum Products Gross Receipts Tax. Previously, the Petroleum Products Tax was imposed at the rate of 2.75 percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels and heating fuels (home heating fuels are exempt), this rate is converted to \$0.04 per gallon.

The new law increases the base rate on petroleum products, other than highway fuel and aviation fuel, from 2.75 percent to 7 percent of gross receipts and increases the base rate on highway fuel from 2.75 percent to 12.85 percent of gross receipts. The new tax rates for highway fuel, other than diesel fuel, went into effect Nov. 1, 2016. The rate increase on diesel fuel will occur in two steps: (1) 70 percent of the rate increase took effect on Jan. 1, 2017, and (2) the full rate increase will take effect on July 1, 2017.

The 12.85 percent tax on gasoline (which excludes aviation gasoline), gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.85 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene) is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. The diesel and kerosene rate increased on Jan. 1, 2017, to 70 percent of the 12.85



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percent rate. On and after July 1, 2017, diesel and kerosene will be taxed at the full 12.85 percent rate. These cents-per-gallon rates can be adjusted quarterly but cannot fall below the rates determined on July 1, 2016.

Each fiscal year from 2018 through 2026, the State Treasurer may determine an adjusted tax rate to be imposed beginning each Oct. 1 so that taxes collected from the Motor Fuels Tax on highway fuel and Petroleum Products Tax on highway fuel do not exceed the highway fuel cap amount for any fiscal year.

The 7 percent tax on fuel oil (excluding fuel oil used for home heating use) is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. The rate can be adjusted quarterly but cannot fall below the rate determined on July 1, 2016. Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017, the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Review Council

The bill establishes a three-member review council composed of the State Treasurer, the Legislative Budget and Finance Officer and a third public member selected by both. The review council will report to the Governor and the Legislature by Jan. 15, 2020, on the council’s consensus estimate of the increase or decrease in State revenues caused by each section of this law during the three prior fiscal years compared to the estimates at the time of enactment.

The review council will monitor the actions of the Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation of this law is impeded, the council may certify this interference to the Director of the Division of Taxation, triggering the cessation of imposition of one of the components of the Petroleum Products Gross Receipts Tax and ending collection of that part of the tax.

Motor Fuel Bad Debt — P.L. 2016, c.66, provides certain fuel dealers and distributors refunds of Petroleum Products Gross Receipts Tax and credits against Motor Fuel Tax for certain bad debts from sales of fuel. □

Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2016 (Jan. 1, 2016 – Dec. 31, 2016) and tax year 2017 (Jan. 1, 2017 – Dec. 31, 2017) for businesses and individuals:

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

[2016](#) [2017](#)

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

[2016](#) [2017](#)

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

[2016](#) [2017](#) □



*important
phone
numbers*

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