

New Jersey State Tax news

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Deductibility of Keoghs: Reck v. Director

On December 19, 2002, the Supreme Court of New Jersey rendered its opinion in the matter of *Reck v. Director, Division of Taxation*. It upheld the Division's long-standing position that payments made by partnerships to Keogh plans are not deductible in determining a partner's distributive share of partnership income for gross income tax purposes.

The Supreme Court stated that the judgment was affirmed substantially for the reasons set forth in the Appellate Division's opinion reported at 345 N.J. Super. 443 (2001) which overturned the Tax Court's opinion in *Reck v. Director, Division of Taxation*, 18 N.J. Tax 598 (Tax 2000).

The Appellate Division in its opinion stated that only payments made by a partnership that qualify under section 401(k) of the Internal Revenue Code are deductible in determining a partner's distributive share of partnership income. Keogh plans are not within the meaning of N.J.S.A. 54A:6-21, contributions to certain employee trusts, which provides that "Gross income shall not include amounts contributed by an employer on behalf of and at the election of an employee to a trust which is part of a qualified cash or deferred arrangement which meets the requirements of section 401(k) of the 1954 Internal Revenue Code, as amended."

To view the Supreme Court opinion, visit <http://lawlibrary.rutgers.edu/courts/supreme/a-93-01.opn.html>. To view the Appellate Division opinion visit <http://lawlibrary.rutgers.edu/courts/appellate/a5379-99.opn.html> □

Litter Control Fee

The Clean Communities and Recycling Grant Act was recently signed into law in New Jersey as P.L. 2002, c.128. This Act imposes a litter control fee on manufacturers, wholesalers, distributors, and retailers on their sales of litter-generating products within or into New Jersey. The litter control fee is essentially identical to the litter control tax which was imposed in New Jersey from

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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

litter control fee - from page 1

1986 through 2000 under N.J.S.A. 13:1E-99.1. The litter control tax terminated on December 31, 2000. There was no tax or fee on the gross receipts from sales of litter-generating products for the 2001 calendar year. The litter control fee is similar to the expired litter control tax and is imposed annually on the previous calendar year's gross receipts from sales of litter-generating products. It is due and payable on March 15th of each year. The fee rates and litter-generating product categories remain the same. Revenues from the litter control fee furnish support to the Clean Communities Program for litter pickup and removal, and provide recycling grants to New Jersey counties and municipalities.

Unlike the prior litter control tax, the new litter control fee exempts:

1. All retailers with less than \$500,000 in annual retail sales of litter-generating products (the prior tax had a \$250,000 retail sales exclusion);
2. Restaurants if more than 50% of their food and beverage sales are for on-premises consumption (but continues to include restaurants with 50% or more of sales of food and beverages for off-premises consumption); and
3. Paper product sales of roll stock produced by paper product manufacturers and wood pulp.

The new litter control fee applies retroactively to the year beginning January 1, 2002. Thus, the 2002 return will include the gross receipts from all sales of litter-generating products back to that date. The return and fee payment were due on or before March 15, 2003. Litter

control fee returns and instructions were sent to all businesses that were eligible for the litter control tax.

Inquiries regarding the litter control fee should be directed to the Regulatory Services Branch at 609-292-5994, by e-mail at taxation@tax.state.nj.us, or in writing at New Jersey Division of Taxation, Regulatory Services Branch, PO Box 269, Trenton, NJ 08695-0269. □

Estate Tax Filing Requirements

The Division has received numerous inquiries regarding waiver and filing requirements under the estate tax legislation passed in July 2002 (P.L. 2002, c.31).

The revised statute applies to estates of resident decedents dying on or after January 1, 2002, and provides that the tax shall remain a lien on all property of the decedent until paid. No property owned by the decedent on his date of death may be transferred without the written consent of the Director.

Excluded from the waiver requirement are items such as bank accounts in institutions not conducting business in New Jersey, stocks of foreign or alien corporations, real property not located in New Jersey, non-New Jersey bonds, cars and personal effects, wages, and mortgages. The new estate tax lien and waiver requirements are similar to the existing lien and waiver requirements under the New Jersey inheritance tax statutes.

If an estate is not subject to New Jersey estate tax and meets the lien and waiver requirements under New

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taxation@tax.state.nj.us

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

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

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

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Robert K. Thompson

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estate tax filing - from page 2

Jersey inheritance tax, the estate may use Form L-8 (Self-Executing Waiver) and/or Form L-9 (Request for Real Property Tax Waiver) to release the decedent's assets.

A New Jersey estate tax return must be filed where the decedent's taxable estate plus adjusted taxable gifts for Federal estate tax purposes under the provisions of the Internal Revenue Code in effect on December 31, 2001, exceeds \$675,000 (Line 5 of the 2001 Federal estate tax return).

Further information is available on the Division's Web site at www.state.nj.us/treasury/taxation/estate.shtml and www.state.nj.us/treasury/taxation/estatetax.shtml □

SPILL TAX

New Hazardous Substances List

The following notice was sent to all spill compensation and control tax registrants:

The New Jersey Department of Environmental Protection recently adopted a new List of Hazardous Substances under the Spill Compensation and Control Act which must be used for spill compensation and control tax purposes.

The new List of Hazardous Substances is in two versions — sorted alphabetically by substance name and also sorted by CAS number. The List of Hazardous Substances also includes all petroleum and petroleum products as per N.J.A.C. 7:1E-

1.7. Any flammable substance or inert gas on the List of Hazardous Substances which is designated by an asterisk immediately after the substance is not considered a hazardous substance subject to tax. This List of Hazardous Substances must be used for all taxable transfers and for all major facility determinations immediately. All prior Lists of Hazardous Substances should be discarded.

Hazardous substance clarifications should be directed to:

BUREAU OF DISCHARGE PREVENTION
DEPT OF ENVIRONMENTAL PROTECTION
4 STATION PLAZA 3RD FLOOR
22 SOUTH CLINTON AVE
TRENTON, NJ 08625
Phone: 609-633-0610

Spill tax inquiries or requests for copies of the new List of Hazardous Substances may be directed to:

NEW JERSEY DIVISION OF TAXATION
REGULATORY SERVICES BRANCH
PO Box 269
TRENTON, NJ 08695-0269
Phone: 609-292-5994

The List of Hazardous Substances is also available on the Division of Taxation's Web site at:

www.state.nj.us/treasury/taxation/faqs.shtml □

Sidney Glaser, Director

Sidney Glaser, former Director of the Division of Taxation, died on February 8, 2003, at the age of 91. Mr. Glaser, who headed the Division at the time the State income tax was enacted, began his career with the Division of Taxation in 1946 as a legal analyst. He was named Acting Director in 1969 and served as Director from 1971 until he retired in 1983.



Current Taxation Director Robert K. Thompson remembered Sidney Glaser as "the yardstick by which each of us that occupies the Director's chair measures our careers."

His extensive knowledge of taxation issues was key to his success. "He was a walking encyclopedia of State taxes," said former State Treasurer James DiEleuterio.

Mr. Glaser was also known for his honesty. "I remember a time in the early '70s when he and Martha had just come home from vacationing (I think China)," recalled Director Thompson. "First day back to work he asked for an ST-18. Hardly any of us knew what an ST-18 was, but half the building was looking for a copy of this form. We finally got one to our Director who simply wanted to report and pay the use tax on items they purchased outside the country and brought back to New Jersey. Probably the first ST-18 we ever processed."

Mr. Glaser earned his bachelor's degree at City College of New York, and a law degree from New York University Law School in 1936. □

**LOCAL PROPERTY TAX
Tax Assessor
Certificates**

The Tax Assessor Examination is held in accordance with the Assessor Certification and Tenure Act, requiring anyone taking office as a tax assessor after July 1, 1971, to hold a tax assessor certificate.

Seventeen persons passed the September 28, 2002, C.T.A. exam. They are:

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assessor certificates - from pg. 3

Bergen County: Claire Psota, Franklin Lakes Borough.

Cape May County: Michael P. Brady, Middle Township.

Essex County: John W. Kelly, Belleville Township.

Hunterdon County: Anne L. Bircsak, Bethlehem Township.

Mercer County: Vincent J. Pratico, Trenton City; Deborah M. Rishko, Hamilton Township.

Middlesex County: Margaret J. Ackerman, South Plainfield Borough.

Monmouth County: Scott R. Imbriaco, Neptune Township; Robyn A. Palughi, Wall Township.

Morris County: Jeanne M. Brown, Kinnelon Borough.

Passaic County: Thomas A. Poalillo, Wayne Township.

Somerset County: Kristen N. Peel, Franklin Township.

Sussex County: Kathleen Kieb, Frankford Township; Lynne A. Schweighardt, Vernon Township.

Union County: Jason H. Cohen, Springfield Township.

Warren County: Melissa D. Pritchett, Phillipsburg Town.

Commonwealth of Pennsylvania: Melissa Ann Rockwell, Dingmans Ferry, Pike County.

The next examination is scheduled for September 20, 2003. The deadline to file applications for this exam is August 21, 2003. Call or write to Property Administration, PO Box 251, Trenton, NJ 08695-0251. The filing fee is \$10. If you have any questions regarding this exam, please contact Mary Ann Miller at 609-292-7813. □

LOCAL PROPERTY TAX **Tax Assessors' Calendar**

April 1-

- Deadline for appeals of assessed valuations to County Tax Boards by taxpayers and taxing districts and for appeals of assessed valuations over \$750,000 to Tax Court. Deadline extended to 45 days from date the taxing district completes bulk mailing of notifications of assessment, whichever is later.
- If appeal or complaint is filed April 1 or during the 19 days next preceding April 1, taxpayer or taxing district has 20 days from date of service of appeal petition or complaint to file cross petition with County Tax Board or counterclaim with Tax Court, as appropriate.
- Property Tax Deduction Disallowance Notice, Form PD4, for nonfiling Post-Tax Year Statement or income over \$10,000 sent by collector.

- County budgets certified to County Tax Boards.
- County Boards of Taxation to establish the percentage level of taxable value of real property.

April 10-

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

April 15-

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

May 1-

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

May 20-

- Table of Aggregates completed by County Tax Board from assessors' Tax Duplicates and Taxation Director's certification of 2nd class railroad property.
- General tax rates certified by County Tax Boards.

May 23-

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

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Interest 7.25%

The interest rate assessed on amounts due for the period January 1, 2003 – December 31, 2003 will be 7.25%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/99	10.75%
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%



assessors' calendar - from page 4

June 1-

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

June 3-

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

June 5-

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

2nd Monday in June-

- Assessors' report, description, and valuation of railroad property not used for railroad purposes to Director, Division of Taxation.

June 15-

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

Criminal Enforcement

Criminal Enforcement over the past several months included:

- On September 27, 2002, Brenda Grungo was sentenced to four years in State prison for violation of a term of five years' probation which was imposed on May 17, 2000, pursuant to her guilty plea regarding a scheme to evade the payment of \$158,000 in petroleum products gross receipts tax in the case known as "Operation Boilermaker," a joint investigation between the Office of Criminal Investigation (OCI) and the Division of Criminal Justice.
- On October 11, 2002, an officer of a wholesale motor fuel distributor was sentenced to three years' probation pursuant to a guilty plea on April 15, 2002, to

one (1) count of failure to turn over \$168,402.44 petroleum products gross receipts tax collected. This was a joint investigation between OCI and the New Jersey State Police-Organized Crime Unit, with substantial assistance from the Audit Services Branch-Excise Tax Group, and was prosecuted by the State Attorney General's Office.

- On November 4, 2002, Stephen George Lang of Pennsville pled guilty to two (2) felony counts, including one (1) count of attempting to evade State of Delaware personal income taxes and one (1) count of filing false statements with the Delaware Division of Revenue. He was sentenced to two years' probation and ordered to make full restitution. Mr. Lang, a New Jersey resident who formerly worked at Dupont in Wilmington, Delaware, had a long history of protesting against the constitutional authority of New Jersey and Delaware tax laws. This investigation involved the States of New Jersey and Delaware working together to develop a prosecution strategy to reduce duplication of effort while accomplishing a mutually beneficial result.

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**Enforcement Summary Statistics
Fourth Quarter 2002**

Following is a summary of enforcement actions for the quarter ending December 31, 2002.

• Certificates of Debt:		• Jeopardy Seizures	5
Total Number	2,607	• Seizures	47
Total Amount	\$32,681,648.26	• Auctions	5
• Jeopardy Assessments	380	• Referrals to the Attorney General's Office	507

For more detailed enforcement information, visit our Web site at:
www.state.nj.us/treasury/taxation/

criminal enforcement - from pg. 5

- On November 6, 2002, in Superior Court, Bergen County, Daniel Provenzano of Upper Saddle River, New Jersey, plead guilty to one (1) count of racketeering and one (1) count of failing to file a gross income tax return for tax year 1996, with intent to evade \$47,306.58 tax on income of \$827,000. Mr. Provenzano was charged with operating a now-defunct printing business as a racketeering enterprise in Fort Lee, New Jersey, using violence and criminal means to extort payments from the customers and suppliers of the business. 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.
- On November 20, 2002, confirmation was received that in Superior Court, Morris County, Truyen T. Vo of East Hanover, New Jersey, had been sentenced to two years' probation, concurrent, on each of four (4) counts of failing to pay over taxes, to which Mr. Vo had previously entered a guilty plea. Mr. Vo was also ordered to pay to the Division of Taxation restitution of tax in the amount of \$26,048.00, to wit, gross income tax due on unreported, illegal income derived from promoting gambling in 1995 through 1998. This case was a joint investigation by OCI and the New Jersey State Police-Organized Crime Unit, and was prosecuted by the State Attorney General's Office.
- On November 22, 2002, Dr. Samuel Evenstein of Edison en-

tered a guilty plea to a three-count accusation of failure to pay New Jersey gross income tax. The accusations arose from the failure of Dr. Evenstein to report \$845,595 of taxable income for the years 1997, 1998, and 1999, and his failure to pay \$50,645 in New Jersey gross income tax on said income. Dr. Evenstein will make full restitution of the tax, penalties, and interest at his sentencing scheduled for early 2003. This case was a joint investigation with the Division of Criminal Justice, Insurance Fraud Unit.

- On November 22, 2002, Ppassim M. Elder of Staten Island, New York, was arrested by OCI for possession of 460 cartons of unstamped cigarettes. The ciga-

rettes were purchased from Native American cigarette suppliers located on reservation lands in upstate New York. Further, the subject was found to be on probation in New York State. The Rahway Municipal Judge set bail at \$100,000 cash/bond.

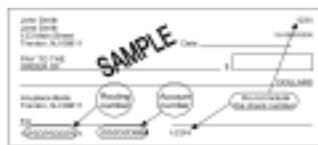
- On December 11, 2002, OCI arrested a male subject from New York City for transporting 2,520 cartons of contraband cigarettes valued at \$130,000. This subject was found to be a member of an organized trafficking group. Charges have been filed for violation of the Cigarette Tax Act.
- On December 23, 2002, in Superior Court, Mercer County, Mark

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- **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.



criminal enforcement - from page 6

L. Stahl of Point Pleasant, New Jersey, plead guilty to two (2) counts of misapplication of entrusted property, to wit, \$110,833.24 in State motor fuels tax which had been collected and not remitted on the sale of diesel fuel at truck stops which Mr. Stahl had operated in Knowlton Township and Englewood, New Jersey. The case was investigated by OCI and prosecuted by the State Attorney General's Office.

- One hundred nineteen (119) complaints alleging tax evasion were evaluated from October through December 2002 in the Office of Criminal Investigation.
- During the same time period, sixty-three (63) charges were filed in court on twenty (20) cases for violation of the Cigarette Tax Act. All twenty (20) court cases involved contraband cigarettes. Further, twenty-two (22) arrests were made and one (1) vehicle was seized. □

Tax Briefs

Corporation Business Tax

New Jersey Economic Development Authority Grants — The Division responded to a question regarding the taxability of Business Employment Incentive Program (BEIP) grants made under N.J.S.A. 34:1B-124 et seq. The grant is calculated pursuant to N.J.S.A. 34:1B-129.

First, if a BEIP grant is made to a C corporation, the grant is deemed a contribution to capital under provisions of IRC 118 and 362(c) which taken together are tantamount to a tax deferral. Under IRC 362(c) a cor-

poration must reduce the basis of property acquired as a contribution to capital to zero. If a BEIP grant is paid in cash, the basis of the property acquired with such money during the 12-month period beginning on the day the cash is received shall be reduced by the amount of such grant. The governmental grant is intended to produce indirect benefits to the general population.

Second, if the grant is received by a conduit-type entity like a partnership or subchapter S corporation, the grant is to be "apportioned among the persons to whom the income or profit of the partnership, subchapter S corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed." The BEIP grant is considered to be a "prize and award" and, as such, is taxable under the Gross Income Tax Act. N.J.S.A. 54A:5-11.

Domestic Security Fee

Leases — The new Domestic Security Fee legislation provides for the imposition of a \$2-per-day fee on motor vehicle rental companies. The fee is applicable to motor vehicles rented without a driver under rental agreements for a period up to and including 28 days. The rental fee is due from the rental company whether the renter or any third party pays for the rental or reimburses the rental company for the fee.

For purposes of this legislation, "lease agreement" means any agreement for a stated term of more than 28 days (usually six months or longer) that requires the party leasing from a rental company to pay for State motor vehicle registration, maintain the vehicle for ordinary wear and tear at his own expense, and purchase liability and casualty

insurance for the vehicle.

If a company is simply leasing motor vehicles and the lease agreements entered into contain a stated term of more than 28 days, the company would not be responsible for the domestic security fee.

Property Tax Relief Programs

NJ SAVER Rebate for Trust Beneficiary —

The NJ SAVER rebate is designed to afford tax relief to owners of real property who occupy that property as their principal residence and pay real estate taxes on that property. In order to be eligible for the rebate for tax year 2002, the applicant must have owned and occupied the home as his/her principal residence as of 12:01 a.m., October 1, 2002, and have paid property taxes on the property for that year.

In the case of a trust that owns a home, however, a beneficiary of the trust having the right to and residing in the home on October 1, 2002, as of 12:01 a.m., is eligible for the rebate. To apply for the rebate, the trustee or beneficiary must file a paper application and attach a legal document (such as the deceased's will, deed, and/or trust agreement) that established the beneficiary's right to occupy the home. In no case does a trust itself qualify for the rebate.

Sales and Use Tax

Videotaped Depositions —

Videographers who produce videotapes for legal uses must charge sales tax on the videotapes produced. The Division takes the position that since the main object of the transaction is the videotape, then the transaction must be taxable as the sale of tangible personal property under N.J.S.A. 54:32B-3.

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tax briefs - from page 7

For sales tax purposes, a law firm is not treated as the reseller of certain goods and services, although the law firm does often charge its clients for goods and services that would be taxable if purchased at retail. A law firm is not required to collect sales tax on items that the law firm charges its clients for in conjunction with the professional legal services. The law firm is treated as the retail purchaser of such services as copying or faxing, and must pay sales tax on those services rather than collect tax from their clients. This same analysis is used in purchasing a videotaped deposition or "Day in the Life" videotape.

A videotape production company may use a Resale Certificate (Form ST-3) when purchasing blank tapes, but must collect sales tax on the sale of the videotape regardless of how billed. Separately stated charges for a video playback service at hearings, depositions, trials, etc. are not subject to sales tax.

Executive Search Firm and Related Services — The following was in reply to a question regarding the sales tax treatment of executive search firm services under the New Jersey Sales and Use Tax Act. It was stated that executive search firms perform three categories of services. Executive search fees are charged to place a candidate in a new employment position. Additionally, testing and assessment fees are charged for the testing of candidates to see if they are suitable for a particular position, or to determine an individual's strengths and weaknesses. Moreover, these types of firms charge fees for other consulting services.

Under the New Jersey Sales and Use Tax Act, services are exempt from sales tax unless they are specifically enumerated and taxed by the Act itself. Executive search fees, testing and assessment fees, and other consulting fees are not specifically enumerated under the provisions of the New Jersey Sales and Use Tax Act. Therefore, executive search fees, testing and assessment fees, and other consulting fees are exempt from sales tax.

Beds and Pillows for Medical Purposes — Although frequently used for therapeutic or rehabilitative purposes, beds and pillows specifically designed to provide back and neck support are also commonly used to enhance the comfort of people who do not have any illness or injury. Therefore, such items do not qualify for exemption as durable medical equipment under N.J.S.A. 54:32B-8.1.

However, in some cases, such equipment might qualify for exemption if specifically designed for a medical purpose and not generally useful to a person who does not have an illness, injury, or disability. Even if the beds and pillows are customarily and primarily used to serve a medical purpose, the exemption does not apply when such items are sold to medical service providers who use them to provide services for their patients. For example, if a doctor, physical therapist, nursing home, or hospital purchases the specifically designed beds and pillows and they are used by the patients within medical facilities and not transferred to the patient for home use, there is no exemption. On the other hand, if the items are sold to the patients for home use, the exemption applies.

Storage of Biological Components

— The Division received an inquiry concerning the service of stem cell preservation which includes a charge for storing the cells for an indefinite period. The New Jersey Sales and Use Tax Act imposes tax on the storage of tangible personal property. N.J.S.A. 54:32B-3(b)(3).

Due to the nature of the property, the Division has determined that human stem cells, as well as other human body parts, are not considered to be "tangible personal property" for purposes of the New Jersey Sales and Use Tax Act. Thus, the storage of stem cells and similar human biological components is not subject to tax.

Tennis Clothing — The New Jersey Sales and Use Tax Act provides an exemption for clothing and footwear for human use, except fur garments.

The relevant regulation clarifies that clothing and footwear worn in connection with sporting activities that are *not* adaptable to regular daily use are subject to tax. N.J.A.C. 18:24-6.4. For example, fishing waders, golf shoes, protective masks, skin diving suits, and ski boots would not be appropriate everyday attire and are therefore subject to tax. See *Ski Haus, Inc. v. Taxation Division Director*, 5 N.J. Tax 26 (1982). However, articles of clothing which may be worn for general use are entitled to the clothing exemption. Since a tennis outfit would be adaptable to general use, it is exempt from sales tax as clothing.

Noncarbonated Beverage Fruit Drinks — Prepared food and beverages sold for immediate consumption by drive-through restaurants,

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food service and hot dog carts, and other mobile service facilities are subject to New Jersey sales tax. Mobile vending operators engaged in the sale of food and drink for consumption either on or off the premises are required to collect sales tax. N.J.A.C. 18:24-12.3(b). Therefore, prepared noncarbonated fruit drinks, such as "smoothies," sold for immediate consumption by a mobile concession are subject to New Jersey sales tax.

Trash Removal/Shredding Service

— The Division received an inquiry from a trash removal and shredding service. The trash removal/shredding service is performed on a regular contractual basis for a term of 30 days or more. The operation consists of picking up, physically removing contained waste from the premises, shredding, and disposing of waste.

Trash removal services "performed on a regular contractual basis for a term not less than 30 days" are not subject to sales tax. N.J.S.A. 54:32B-3(b)(4). Removal "includes only the operation of picking up and physically removing contained waste from the premises, and does not include activities related to maintaining or servicing property or any processing of the waste product." N.J.A.C. 18:24-13.2(b). Shredding is considered the processing of tangible personal property and is not considered

part of the trash removal service. A shredding service is subject to sales tax pursuant to N.J.S.A. 54:32B-3(b)(1).

In this case, the charges for the trash removal service are not subject to sales tax as long as separately stated on the invoice. However, if the charges for trash removal and shredding are not separately identified, then sales tax must be charged on the entire bill. □

In Our Courts

Administration

Time Period to Protest, Request a Revision, or File Refund Claim – *Dennis Boggi Enterprises, Inc. v. Director, Division of Taxation*, decided January 3, 2003; Tax Court No. 003859-2002.

After conducting an audit, the Division issued its notice of assessment related to final audit determination on January 22, 2001, for the sales and use tax period beginning January 1993 and ending December 1999. Although plaintiff claimed that its accountant filed a protest on January 31, 2001, the Division had no record of this protest being received and plaintiff's accountant's mailing records indicated that the notice was mailed on February 6, 2001. The Division acknowledged that it received a protest letter dated May 17, 2001, that stated that the

accountant intended to protest the assessment and inquired as to why a hearing date was not yet set. On September 3, 2001, plaintiff executed an installment payment agreement that was later terminated because plaintiff did not comply with it. On November 26, 2001, plaintiff filed a claim for revision of the audit assessment that was denied on April 29, 2002, because the paperwork did not represent a claim for refund. Plaintiff appealed that denial claiming that there are three methods to protest an assessment: (1) appeal it; (2) pay the tax and file a refund claim; and (3) request a revision of the assessment.

Pursuant to the statutes, a taxpayer is permitted to either apply to the Division for a hearing or appeal to Tax Court within 90 days after the date of the determination notice to challenge the assessment. The Court found that although plaintiff's accountant's mailing records indicated that the protest was mailed on February 6, 2001, there was no reliable, corroborated evidence of this fact. On the other hand, the Division submitted an affidavit that no protest was received within the statutory period. Therefore, the Court ruled that the May 17, 2001, letter was the initial protest and that this date was beyond the statutory time to request a hearing.

Plaintiff's claim that it is entitled to a refund or revision is governed by N.J.S.A. 54:32B-20(b), which states that a person is not entitled to a revision, refund, or credit where either the person had the opportunity for a hearing or had a hearing unless the person meets the requirements of N.J.S.A. 54:49-14 as follows: (1) the assessment was neither protested nor appealed; (2) the assessment was

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paid in full within one year of the expiration of the period to protest; (3) the refund claim is filed within 450 days of the expiration of the period to protest; and (4) the amount of the refund claim does not exceed the assessment paid. The Court found that because plaintiff never paid the tax assessment it would not be entitled to file for a refund claim. The Court ruled that a claim for revision is effectively either a claim for refund or an untimely protest of the audit assessment and that plaintiff is not entitled to an additional opportunity to appeal where plaintiff has not paid the tax and previously had an opportunity to appeal the audit assessment. It was also noted by the Court that N.J.S.A. 54:49-14 applies only to returns filed on or after January 1, 1999.

Calculation of 90-Day Time Period to File Complaint – *Somnuk Suecharon t/a Sammy's Bagel & Deli v. Director, Division of Taxation*, decided November 4, 2002; Tax Court No. 002857-2001.

On February 15, 2002, the Division issued by certified mail its Final Determination to plaintiff which stated that plaintiff had 90 days from the date of the Final Determination to appeal to the Tax Court in accordance with N.J.S.A. 54:51A-13 et seq. Plaintiff alleges that the Division informed its accountant, pursuant to the accountant's telephone call, that plaintiff must file on or before May 17, 2002. Plaintiff forwarded its complaint on May 16, 2002, and it was filed with the Tax Court on its May 17, 2002, received date, 91 days after the date of the Final Determination. The Division moved to dismiss the complaint as being untimely filed.

The Court found that there was no merit in plaintiff's argument that the Division was estopped from disputing the timeliness of the appeal because a representative of the Division allegedly advised plaintiff's accountant that the filing deadline was May 17, 2002. Furthermore, the Court stated that plaintiff is charged with knowledge of the law.

The Court ruled that the calculation of the 90-day period is pursuant to the *rules of court*. One of the *rules of court* permits three days to be added to the period to file the complaint when service of the notice is made by ordinary mail. Finding that there were good reasons to apply the same rule to notices sent by certified mail in order to secure a just determination, the Court held that the complaint was timely filed. The Tax Court acknowledged that its determination in this case is inconsistent with another Tax Court case, *Heico*, where the Court determined that the *rules of court* did not apply to this issue. (See *New Jersey State Tax News*, Volume 31, Numbers 2/3, Summer/Fall 2002, page 27.)

The Director, Division of Taxation, has filed an interlocutory appeal with the Superior Court, Appellate Division.

Corporation Business Tax Receipts Earned in New Jersey – *Mayer & Schweitzer v. Director, Division of Taxation*, decided September 18, 2002; Tax Court No. 001800-2000.

Plaintiff is a New Jersey corporation that purchased securities with its capital for its own inventory that is held in a trust account with a trust company in New York. Plaintiff is engaged in the business of selling those securities for profit and did not

charge commission on the sales. The plaintiff operated offices in New Jersey, Florida, Illinois, and Colorado. The New Jersey offices housed traders, sales, administration, operations, systems, and compliance personnel. The Florida and Illinois offices contained traders, sales, and service personnel, and the Colorado office operated with sales and service personnel. The traders were not limited in geographic scope and therefore dealt with customers in the 22 states where plaintiff was registered or licensed and other states where license or registration was not required. However, the majority of the securities were purchased and sold from the New Jersey office. Most customer orders were electronically executed and processed through the New Jersey office where the data processing system was located. After a sale was consummated, the trust company electronically transferred the stock from plaintiff's account into the customers' accounts throughout the United States, but physical transfer of the securities was rare. Title passed to the purchaser in the state in which the purchaser was located. Plaintiff's customers were mainly other broker dealers and institutional customers who needed the securities to perform transactions for their own customers.

The New Jersey Corporation Business Tax (CBT) allowed multi-state businesses to apportion income among states in which they conduct business in determining the amount of tax owed to New Jersey. On its 1992-1995 CBT returns, plaintiff calculated its New Jersey receipts, for purposes of the numerator of the N.J.S.A. 54:10A-6(B) receipts fraction, by including the trading profits from trades performed by its New

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2002 TAX LAWS

CH.	DATE	SYNOPSIS	TAX*	BILL
6	3/18/02	Establishes a 60-day tax amnesty period for outstanding tax liabilities due between January 1, 1996, and December 31, 2001.	ALL	SCS for S-16, S-404
31	7/1/02	Changes the computation of the estate tax for resident decedents who died after December 31, 2001, and also makes the property of New Jersey estates subject to State tax liens.	TIT/ET	ACS for A-2302
33	7/1/02	Increases the cigarette tax rate to \$0.075 per cigarette or \$1.50 per pack.	CIG	A-2504(1R)
34	7/1/02	Establishes, increases, and modifies fees and penalties that are imposed by and on behalf of the State.	MIS	ACS for A-2506(1R)
35	7/1/02	Reduces the amount of time that private financial organizations and businesses may hold property before transferring it to the State as unclaimed or abandoned property.	MIS	A-2507(1R)
40	7/2/02	Changes the system of taxation for corporations and other business entities.	CBT GIT	A-2501(1R)
43	7/22/02	Establishes the "Municipal Rehabilitation and Economic Recovery Act," which attempts to rehabilitate and restore the economic vitality of Camden.	MIS	SCS for S-428(1R)
45	7/30/02	Amends the Sales and Use Tax Act to comply with the Federal "Mobile Telecommunications Sourcing Act."	S&U	A-2513
51	8/3/02	Requires counties with a population of more than 510,000 to have county tax boards of five members, no more than three of whom belong to the same political party.	LPT	S-1103(2R)
65	8/14/02	Makes changes to the Casino Control Act and the Casino Reinvestment Act.	MIS	S-1656(1R)
68	8/14/02	Modifies the population criteria for designation as a joint urban enterprise zone.	MIS	A-2187
72	8/14/02	Authorizes new tourism development district levies, including a 1.85% assessment on hotel room rentals; revises permitted uses for current tourism levies; and allows broader tourism marketing efforts.	CMC	ACS for A-2312

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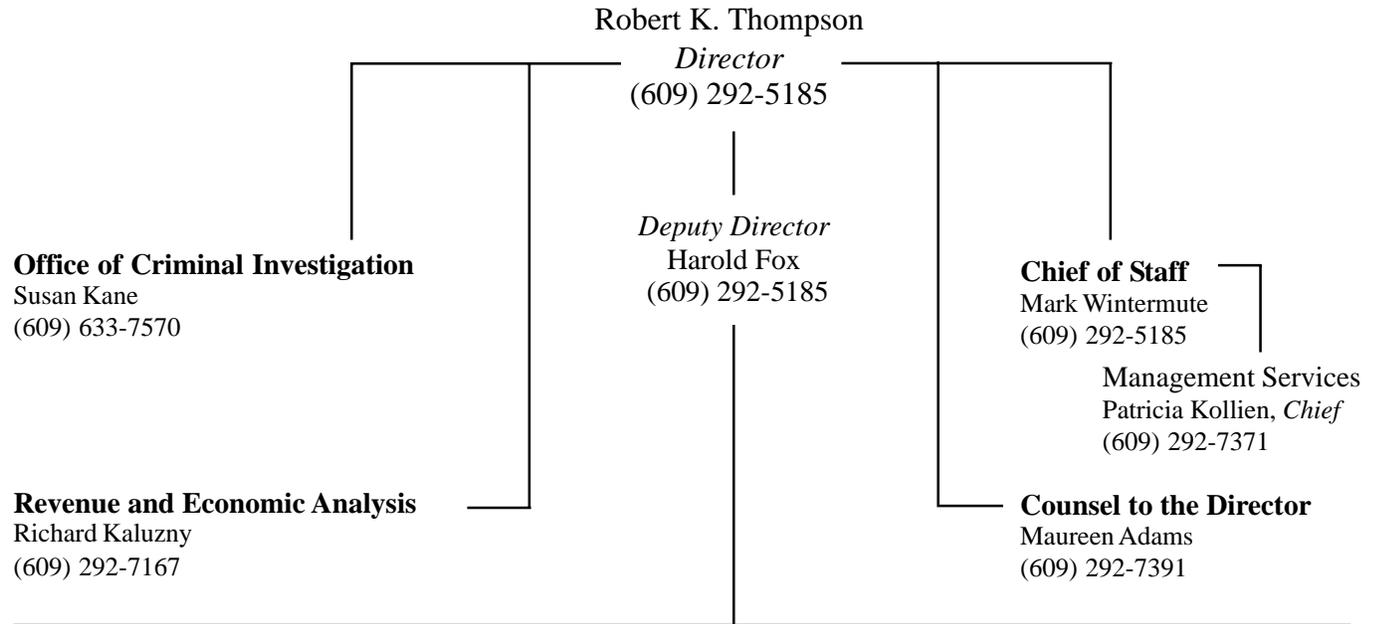
108	12/4/02	Amends the "Municipal Rehabilitation and Economic Recovery Act" (P.L. 2002, c.43).	MIS	S-1878
128	12/20/02	Revises the Clean Communities Program and imposes a litter control fee on sales of litter-generating products.	LIT	ACS for A-2069 & A-2110

*Legend for 2002 Tax Laws

ABT = Alcoholic Beverage Tax	LPT = Local Property Tax
ACC = Atlantic City Casino Control Commission	MFT = Motor Fuels Tax
ALL = All Taxes Administered by the Division	MIS = Miscellaneous
CBT = Corporation Business Tax	PUT = Public Utility Taxes
CIG = Cigarette Tax	SCC = Spill Compensation & Control Tax
CMC = Cape May County Tourism Sales Tax	S&U = Sales and Use Tax
FBT = Financial Business Tax	TPT = Tobacco Products Tax
GIT = Gross Income Tax	TIT/ET = Transfer Inheritance & Estate Tax
IPT = Insurance Premiums Tax	PPT = Petroleum Products Gross Receipts Tax
LIT = Litter Control Fee	



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Jersey employees. Plaintiff filed amended returns that included only sales to customers located within New Jersey in the New Jersey receipts calculation and therefore resulted in refunds due plaintiff. The Division denied the refunds by not accepting the basis for amending the returns.

In deciding whether the receipts were attributable to New Jersey, the Court looked to N.J.A.C. 18:7-8.12, which essentially stated that intangible income is included in New Jersey receipts where the taxable situs of the intangible asset is in New Jersey. The taxable situs of an intangible is defined as the commercial domicile of the owner unless the intangible has been integrated with business carried on in another state. The Court noted that the Legislature had not defined the term "integrated with" so that its parameters needed to be determined on a case-by-case basis.

The Court held that plaintiff's sales are allocated to the state of the customer's location. The Court determined that plaintiff was carrying out its business throughout the United States and that its business involved the exploitation of out-of-State markets. Therefore, the security sales were ruled to be "integrated with" business carried on in other states. The Court reasoned that its decision is consistent with the statute and regulation, principles of fairly apportioning income to states in which the corporation does business, as well as prescribed by the current N.J.S.A. 54:10A-6(B) as it was amended in 2002.

Timeliness of Refund Claim – *Lenox, Incorporated v. Director, Division of Taxation*, decided

April 20, 2001; Tax Court Nos. 007049-98 and 007050-98.

Plaintiff filed timely Federal income tax returns and New Jersey Corporation Business Tax (CBT) returns for fiscal years ending (FYE) April 30, 1985, 1986, and 1987.

On January 17, 1989, plaintiff filed amended Federal returns (Form 1120X) with the Internal Revenue Service (IRS) to claim abandonment losses for FYE April 30, 1985 and 1986. On March 1, 1989, plaintiff forwarded copies of these 1120X forms to the Division. The Division completed their audit on July 21, 1989, and allowed the full amount of abandonment losses. The IRS completed its audit of the FYE April 30, 1984, and 1985 returns in July 1990 and issued a revenue agent's report (RAR) on July 27, 1990. The IRS recommended the full amount of the claimed FYE April 30, 1985, abandonment loss and further stated that plaintiff was also entitled to an additional loss due to adjustments from the reallocation of basis. Plaintiff consented to the RAR. By letter dated October 26, 1990, the IRS advised plaintiff that it accepted the FYE April 30, 1984, and 1985 returns with the July 27, 1990, RAR adjustments. Plaintiff claimed that it received this letter on October 31, 1990.

On July 30, 1990, plaintiff filed a second 1120X form for FYE April 30, 1986, and initial forms for FYE April 30, 1987, and 1988 with the IRS. These amended returns incorporated the adjustments from the July 27, 1990, RAR because they flowed through to these following years. The IRS revenue agent accepted these adjustments with some changes and the IRS accepted this report on November 19, 1992.

On January 23, 1991, plaintiff sent the Division certified mail that contained the CBT Form IRA-100, which reports IRS changes to Federal taxable income, for FYE April 30, 1984 and 1985, worksheets reflecting the calculation of "corrected taxable income" for FYE April 30, 1986 and 1987, and amended CBT returns for FYE April 30, 1988 and 1989. The Division received the certified mail on January 25, 1991.

In 1992, the Division refunded to plaintiff amounts attributable to FYE April 30, 1985, 1986, and 1987. In 1996, the Division issued plaintiff a Notice of Erroneous Refund requesting that the refund be returned due to the untimely filing of the refund claims and reports of changes made by the IRS.

In determining whether CBT refund claims were timely filed for periods prior to July 1, 1993, the applicable statute and regulations differentiated between refund claims and refund claims pursuant to IRS changes. In general, N.J.S.A. 54:49-14 restricted refund claims to a two-year statute of limitation period commencing from the date of payment of the original or additional assessed tax. An exception to the general rule involved a refund due to IRS changes. In this situation, N.J.A.C. 18:7-13.8(d) stated that the refund claim's two-year limitation period commenced on the date the IRA-100 was timely filed with the Division. In order for the IRA-100 to be timely filed, N.J.S.A. 54:10A-13 required that the IRA-100 be received by the Division within ninety days after the IRS final determination of change or correction.

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The Court determined that plaintiff's claimed abandonment losses for FYE April 30, 1985 and 1986, were not IRS changes to the extent the losses were allowed in connection with an audit by the Division. As plaintiff forwarded copies of the 1120X forms to the Division on March 1, 1989, these refund claims were held to be subject to and barred by the N.J.S.A. 54:49-14 two-year statute of limitation period to file a refund claim.

The Court decided that the revenue agent's finding of the additional loss for FYE April 30, 1985, due to reallocation of basis was an IRS change. Turning to the claimed losses for the FYE April 30, 1986 and 1987, the Court found that these losses were the flow-through effects of the July 27, 1990, RAR relating to the FYE April 30, 1985, amended return. Therefore, the Court determined that the FYE April 30, 1986 and 1987, losses were IRS changes because the July 27, 1990, RAR did not directly change the tax liability for those years.

Both plaintiff and defendant agreed that the IRS final determination, for purposes of N.J.S.A. 54:10A-13, referred to the IRS October 26, 1990, letter. However, the parties disagreed as to when the 90-day period commenced for purposes of filing the IRA-100. The Court ruled that the date of the IRS final determination letter commenced the 90-day period reasoning that if date of taxpayer receipt controlled then evidence of receipt would be solely based upon the plaintiff's testimony. The Court noted that the IRS was not required to send the final determination by certified or registered mail. Finding that the IRS final determi-

nation was dated October 26, 1990, the Court calculated the 90th day as January 24, 1991. Although plaintiff mailed the IRA-100 on January 23, 1991, the Division did not receive the IRA-100 until January 25, 1991. Consequently, the Court held that the IRA-100 was filed one day late and therefore plaintiff was not able to file a refund claim pursuant to N.J.A.C. 18:7-13.8(d). In refusing to exercise equitable powers, the Court noted, among other things, that plaintiff could have delivered the IRA-100 by hand or overnight service and thereby timely filed the form. As to upholding the regulation's condition that the timely filing of the IRA-100 was required to extend the statute of limitation period, the Court noted that this issue had previously been decided in *Sharps, Pixley, Inc.* and that the regulation had not since been changed by the Legislature.

Gross Income Tax

Keogh Plan Contributions – *John and Barbara Reck v. Director, Division of Taxation*, decided December 19, 2002; Supreme Court of New Jersey No. A-93 September Term 2001.

Plaintiff husband is a partner in an accounting firm. Contributions on each partner's behalf were made by the partnership to a qualified Internal Revenue Code (IRC) 401(a) Keogh plan. In calculating his distributive share of partnership income for the 1992 and 1993 tax years, plaintiff deducted those contributions. The Division of Taxation denied those deductions on the basis that only 401(k) Keogh Plan contributions were deductible per statute.

In a 5–2 decision, the majority of the New Jersey Supreme Court upheld the Appellate Division's ruling that

the partnership's pension plan contributions are deductible only under a 401(k) plan substantially for the reasons expressed in the Appellate Division's opinion. The Appellate Division found that although N.J.S.A. 54A:6-21 stated that gross income does not include employer contributions on behalf of its employees to a 401(k) plan, it does not address 401(a) plans. Hence, the Appellate Division reasoned that 401(a) contributions are not deductible even though the contributions are not expressly prohibited as deductions by statute.

The minority of the New Jersey Supreme Court dissent would have upheld the Tax Court's reasoning that the partnership's contributions on behalf of partners to the Keogh Plan are deductible in calculating the partner's distributive share of partnership income because the contributions constitute ordinary and necessary deductible business expenses pursuant to N.J.S.A. 54A:5-1b, which defines net profits from business.

Partnership's Discharge of Indebtedness Income – *Michael and Patricia Scully and James Scully v. Director, Division of Taxation*, decided January 13, 2003; Appellate Division Nos. A-1816-01T3 and A-2360-01T3.

The Appellate Division affirmed the Tax Court's holding for plaintiff for substantially the reasons in the Tax Court opinion that was summarized in the *New Jersey State Tax News*, Volume 31, Number 1, Spring 2002, page 15, and is reprinted below for the reader's convenience.

Plaintiffs Michael Scully and James Scully each own a

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48.5% limited partnership interest and a 1% general partnership interest in Port-O-Call Associates, a New Jersey limited partnership (the "Partnership"). Additionally, each owns 50% of the corporate stock of a Pennsylvania corporation that owns a 1% general partnership interest in the Partnership.

The Partnership purchased a hotel with a \$7 million mortgage. Subsequently, the mortgagee became insolvent and the mortgage was assigned to a corporation that acted as the receiver. Thereafter, the receiver sold the mortgage loan to Optimum Mortgage Investment Company for approximately \$2 million less than the note's principal balance. Optimum's mortgage purchase was financed by the plaintiffs pursuant to an agreement that paid Optimum a fee and obligated Optimum to assign the mortgage to plaintiffs. Thereafter, plaintiffs assigned the mortgage to the Partnership.

The Partnership's Federal income tax return reported the current principal balance of the note as a capital contribution and the \$2 million difference between the previous and current principal balance of the mortgage as debt-forgiveness income. The Partnership's Pennsylvania information return reported the same capital contribution but reported the \$2 million difference as "Net profits from business... apportioned to Pennsylvania."

The Director determined that the Partnership realized discharge of indebtedness income in the amount of approximately \$2 million, the difference between the prior mortgage principal balance and the amount of the mortgage principal when the plaintiffs contributed the loan to the Partnership which thereby discharged the mortgage debt. The Director contended that this amount is attributable to plaintiffs as discharge of indebtedness income that occurred "within a business entity" under N.J.S.A. 54A:5-1(k) and (b).

The issue before the Court was whether partners are subject to gross income tax on discharge of indebtedness income realized by the Partnership. Relying on *Smith v. Director* the Court determined that a partnership's discharge of indebtedness income must arise in the ordinary course of partnership business operations to be includable in the partner's gross income. Otherwise the discharge of indebtedness income would retain its character, and as such, discharge of indebtedness, is not a category of income subject to gross income tax.

Holding for plaintiffs, the Court decided that the transaction generating the income was the discharge of the loan not the plaintiffs' contribution of the mortgage loan to the Partnership. The Court found that neither the discharge of the loan nor the financing of the hotel was part of the Partnership's ordinary business for purposes of N.J.S.A. 54A:5-1(b). The Court noted that there were very

few, if any, circumstances where discharge of indebtedness income would be includable in a partner's distributive share of partnership income under N.J.S.A. 54A:5-1(k) because it is unlikely that a partnership would receive discharge of indebtedness from third parties as a regular part of its business operations.

Partnership's Discharge of Indebtedness Income – *Richard and Sharon Miller v. Director, Division of Taxation*, decided January 14, 2003; Appellate Division No. A-2287-01T3.

The Appellate Division affirmed the Tax Court's holding for plaintiff for substantially the reasons in the Tax Court opinion that was summarized in the *New Jersey State Tax News*, Volume 31, Number 1, Spring 2002, page 15, and is reprinted below for the reader's convenience.

Plaintiff Richard Miller is a partner of a New Jersey general partnership (the "Partnership"). The Partnership's only asset is one piece of real estate encumbered by a mortgage that is owned as real estate investment. This real estate is leased to a law firm some of whose partners are partners in the Partnership. When the real estate's value dropped significantly below the principal balance of the mortgage loan, the mortgagee reduced the principal balance upon the Partnership's request for a reduction.

The Partnership reported the reduction in the principal balance as other income on its Federal income tax return but

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did not report it on the Partnership's New Jersey tax return. Plaintiff's Federal Schedule K-1 reported his proportionate share of the mortgage reduction as other income but did not report it on either plaintiff's Schedule NJK-1 or New Jersey gross income tax return. The Director determined that the mortgage reduction resulted in forgiveness of indebtedness income to the Partnership and thereby was includable in the partner's distributive share of partnership income.

The Court applied its legal analysis in *Scully*, above, to the facts of this case. The Court noted that there were three differences between the cases most notably that in the instant case there was no question that the Partnership received discharge of indebtedness income and that here the real estate is owned as an investment as opposed to as a hotel and restaurant. As in *Scully*, the Court stated that discharge of indebtedness income "is taxable to a partner only if attributable to a partnership's ordinary business operations."

The Court ruled that the plaintiff was not subject to the gross income tax on the Partnership's discharge of indebtedness income because the income relating to the mortgage loan is not includable in the Partnership's net profits from business. The transaction involving the mortgage loan is

in the nature of a capital transaction, not an ordinary business operation. Moreover, the Court added that even if the loan transaction constituted part of the partnership's ordinary business operations, the income-generating event is the reduction in principal balance, which is not part of the partnership's ordinary business operations.

Property Tax Relief Programs
NJ SAVER Rebate: Eligible Resident – *Joel Cooper v. Director, Division of Taxation*, decided December 6, 2002; Appellate Division No. A-2074-01T2.

Plaintiff is the sole shareholder of a corporation that has the sole purpose of holding title to plaintiff's primary residence. Plaintiff resides in this residence and filed for an NJ SAVER rebate. Although the Division denied his NJ SAVER rebate because title to the property was held by a corporation, the Tax Court reversed and ruled that in this case the sole shareholder of a corporation should be treated the same way as a partner of a partnership, who is entitled to a rebate to the extent of his partnership interest. See *New Jersey State Tax News*, Volume 31, Numbers 2/3, Summer/Fall 2002, page 33.

The Appellate Division reversed, holding that plaintiff was not entitled to the rebate because the corporation held title to the property. The Appellate Division reasoned (1) that the statute was clear and unambiguous on its face as it included ownership through partnerships but not through corporations on the list of eligible legal entities, (2) that there was nothing in the legislative history indicat-

ing that the Legislature intended to treat partnerships and corporations alike, and (3) because there is a legal distinction between a corporation and its shareholders. □

In Our Legislature

Miscellaneous

Use of Fiduciary Funds — P.L. 2003, c.33 (signed into law on March 24, 2003) permits fiduciaries to employ and compensate accountants from fiduciary funds for services rendered to the estate or trust without reducing the commissions due to the fiduciary, provided such accountings are not the usual services provided by the fiduciary.

The law also allows out-of-State banks with trust offices in New Jersey to receive equal treatment under State law as New Jersey banks with respect to the simultaneous fiduciary administration of trusts and administrative work done for operators of mutual funds.

This act took effect immediately, except for the subsection pertaining to employing and compensating accountants from fiduciary funds, which takes effect on June 22, 2003.

Property Tax Relief Programs ***Property Tax Reimbursement*** —

P.L. 2003, c.30 (signed into law on March 14, 2003) changes the annual deadline for filing an application to June 1. The law provides that property tax reimbursement checks are to be mailed to eligible applicants on or before July 15, except that payments for applications filed during the period May 1 through June 1 will be mailed on or before September 1 annually. This act took effect immediately. □

2003 tax calendar

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

April 10

- CWIP-1,2 Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2 Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1 Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

April 15

- CBT-100/ Corporation Business Tax**—Annual return for accounting period ending December 31
- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th, or 12th month of current tax year
- HR-1040 Homestead Rebate**—Application
- NJ-1040/ Resident return for calendar year filers**
- NJ-1040EZ Resident return for calendar year filers**
- NJ-1040NR Nonresident return for calendar year filers**
- NJ-1041 Fiduciary return for calendar year filers**
- NJ-1065 Partnership return for calendar year filers**
- NJ-1040ES Declaration of Estimated Tax, Voucher 1 for calendar year filers**

April 21

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers
- MSS-1 Cigarette Tax**—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey
- GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
- GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel sold or used
- GA-1X Motor Fuels Tax**—Importer's monthly report of gallons of fuel imported
- MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels sold or used
- MFT-14 Motor Fuels Tax**—Monthly export report
- MFT-60 Motor Fuels Tax**—Monthly storage facility operator report
- SCC-5 Spill Compensation and Control Tax**—Monthly return
- SCC-6 Spill Compensation and Control Tax**—Public storage terminal information return
- ST-20 New Jersey/New York Combined State Sales and Use Tax**—Quarterly return
- ST-50 Sales and Use Tax**—Quarterly return
- ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return
- ST-350 Cape May County Tourism Sales Tax**—Monthly return
- ST-450 Sales and Use Tax—Salem County**—Quarterly return
- TP-20 Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales and Use Tax/Urban Enterprise Zone Sales Tax**—Monthly return

April 25

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

April 30

- NJ-927 & NJ-927-W Gross Income Tax**—Employer's quarterly report
- GCC-1 Motor Fuels Tax**—Carrier's monthly report
- DSF-100 Domestic Security Fee**—Quarterly return

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

May 1

- ST-18B Sales and Use Tax**—Annual use tax return for qualified businesses

May 12

- CWIP-1,2 Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2 Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1 Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

May 15

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending January 31
- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th, or 12th month of current tax year
- NJ-500 Gross Income Tax**—Employer's monthly remittance



May 20

- CR-1 & CNR-1** **Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers
- MSS-1** **Cigarette Tax**—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey
- GA-1D** **Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
- GA-1J** **Motor Fuels Tax**—Jobber's monthly report of gallons of fuel sold or used
- GA-1X** **Motor Fuels Tax**—Importer's monthly report of gallons of fuel imported
- MFT-10** **Motor Fuels Tax**—Monthly report by seller-user of special fuels sold or used
- MFT-14** **Motor Fuels Tax**—Monthly export report
- MFT-60** **Motor Fuels Tax**—Monthly storage facility operator report
- SCC-5** **Spill Compensation and Control Tax**—Monthly return
- SCC-6** **Spill Compensation and Control Tax**—Public storage terminal information return
- ST-21** **New Jersey/New York Combined State Sales and Use Tax**—Monthly remittance
- ST-51** **Sales and Use Tax**—Monthly remittance
- ST-250** **Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return
- ST-350** **Cape May County Tourism Sales Tax**—Monthly return
- ST-451** **Sales and Use Tax—Salem County**—Monthly remittance
- TP-20** **Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50** **Combined State Sales and Use Tax/Urban Enterprise Zone Sales Tax**—Monthly return

May 27

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

May 30

- GCC-1** **Motor Fuels Tax**—Carrier's monthly report

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

June 2

- PTR-1,2** **Property Tax Reimbursement**—Application

June 10

- CWIP-1,2** **Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2** **Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1** **Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

June 16

- CBT-100** **Corporation Business Tax**—Annual return for accounting period ending February 28
- CBT-150** **Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th, or 12th month of current tax year
- NJ-500** **Gross Income Tax**—Employer's monthly remittance

June 20

- CR-1 & CNR-1** **Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers
- MSS-1** **Cigarette Tax**—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey

- GA-1D** **Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
 - GA-1J** **Motor Fuels Tax**—Jobber's monthly report of gallons of fuel sold or used
 - GA-1X** **Motor Fuels Tax**—Importer's monthly report of gallons of fuel imported
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 - UZ-50** **Combined State Sales and Use Tax/Urban Enterprise Zone Sales Tax**—Monthly return
- June 25*
- PPT-41** **Petroleum Products Gross Receipts Tax**—Monthly return
- June 30*
- GCC-1** **Motor Fuels Tax**—Carrier's monthly report

from the director's desk

New Jersey taxpayers participating in the Internal Revenue Service's (IRS) Offshore Voluntary Compliance Initiative for those using illegal tax shelters will avoid State prosecution if they amend their New Jersey income tax returns and remit to the State by October 15, 2003, all taxes, penalties, and interest due.

The IRS has implemented several programs designed to investigate illegal tax shelter arrangements and those who promote them. The Offshore Voluntary Compliance Initiative targets individuals who deposit income into offshore bank accounts and later use credit cards issued by the banks accepting such deposits in order to reclaim the untaxed funds. Recently, the IRS obtained a large volume of offshore credit card records and has begun identifying individuals making use of these illegal tax shelters. The IRS is offering anyone engaged in such activity the opportunity to avoid Federal civil fraud penalties and criminal prosecution by voluntarily correcting their tax returns and disclosing information related to their offshore financial accounts prior to April 15, 2003. Participants in this program must also pay any taxes, penalties, or interest owed.

In conjunction with the efforts of the Internal Revenue Service, New Jersey will grant special consideration to individuals who participate in the Offshore Voluntary Compliance Initiative. This presents an opportunity for taxpayers to avoid criminal prosecution as well as penalties for fraud, and to establish a clean slate with the State.

Those interested in taking advantage of the Offshore Voluntary Compliance Initiative and correcting unreported income tax liabilities to New Jersey should contact the Division of Taxation at 609-292-2163 or by mail at Division of Taxation, Individual Tax Audit Branch, P.O. Box 288, Trenton, NJ 08695-0288.



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