

# New Jersey State Tax News

## Summer 1999

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**Last Chance to Renew  
State Tax News**

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### **NJ SAVER Rebate Program Kicks Off**



Taxpayer Service Representatives Marilyn Kelly and Joanne Monte discuss the new NJ SAVER rebate application while Technical Assistant Gale Parish-Davis (background) reviews the instructions for the new form.

The NJ SAVER and Homestead Rebate Act (P.L. 1999, c.63, signed into law April 15, 1999) provides direct property tax relief in the form of annual rebate checks for an estimated 1.9 million New Jersey resident homeowners.

**Eligibility Requirements** – New Jersey residents, regardless of age or income, who own, occupy and pay property taxes on a home in this State that was their principal residence on October 1 of any year are eligible to receive a rebate for that year. Residents of condominiums, co-ops and continuing care facilities may also qualify for the rebate.

*continued on page 2*

### **Important phone numbers**

Call Center..... 609-292-6400  
 Automated Tax Info... 800-323-4400  
 ..... 609-826-4400  
 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 Fules Tax  
     Refunds..... 609-292-7018  
 Public Utility Tax..... 609-633-2576

<http://www.state.nj.us/treasury/taxation>

*nj saver rebates – from page 1*

**Phase-in** – NJ SAVER rebates will be phased in over a five-year period. The rebate for tax year 1998 will average \$120 and will increase each year until reaching a maximum of about \$600 for tax year 2002 when the program will be fully phased in.

**Calculating the Rebate Amount** – The State will calculate the rebate on each applicant's home using a formula that effectively exempts the first \$45,000 of the home's equalized value from school tax. Rebate amounts will vary from municipality to municipality due to differences in school tax rates, however, all homeowners within a given municipality will be eligible to receive the same rebate amount. NJ SAVER rebate amounts for 1998 are available through the Division of Taxation.

**Filing the NJ SAVER Rebate Claim**

– Most homeowners can file their NJ SAVER claims by telephone by calling our automated NJ SAVER Rebate Claim System at 1-877-NJTAX72 (toll-free within NJ) or 609-826-4288 (anywhere). The system accommodates both Touch-tone and rotary phones. As of June 30, 1999, more than 1.6 million applications have been filed in this manner. Rebate claims can also be filed online from the Division's Web site.

**Homestead Rebate Recipients** – Homeowners are entitled to either

a homestead rebate or the NJ SAVER rebate, whichever provides the greater benefit. For most senior citizens the homestead rebate will be higher than the NJ SAVER rebate during the first years of the NJ SAVER phase-in period. As NJ SAVER rebates approach their maximum value (\$600 for tax year 2002) they will often provide the greater benefit.

**Property Tax Reimbursement** – Recipients of benefits under the Property Tax Reimbursement Program may also receive NJ SAVER rebates, if they qualify.

**Property Tax Deduction/Credit** – The NJ SAVER program does not affect the property tax deduction/credit claimed on Form NJ-1040.

**Tenants' Benefits** – While tenants are not eligible for NJ SAVER rebates, the NJ SAVER and Homestead Rebate Act extends eligibility for the homestead rebate to a category of tenants formerly ineligible for this rebate: those under age 65, not blind or disabled, with incomes between \$40,000 and \$100,000. Tenants in this category will be eligible for homestead rebates of up to \$30 for tax year 1998. The amount will increase each year, reaching \$100 for tax years 2002 and thereafter. Homestead rebates for tenants age 65 or older, blind or disabled remain unchanged. Every applicant for a homestead rebate must file Form HR-1040. □

# New Jersey State Tax News

is published quarterly by the:

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A subscription to the *State Tax News* is free. To be placed on the mailing list, or to notify us of an address change, write to us at the address above or send e-mail to: [taxation@oit.state.nj.us](mailto:taxation@oit.state.nj.us)

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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## Schedule of Issue Dates for Property Tax Relief Checks

<u>Program</u>	<u>Issue Date</u>	<u>Check Mailer Color</u>
Property Tax Reimbursement	7/15/99	Green
Homestead Rebate	7/31/99	Blue
NJ SAVER Rebate	9/15/99	Brown

## **CORPORATION TAX** ***Annual Report***

As part of the Governor's plan to simplify business filings, the Annual Report filing will become part of the corporation business tax return. This change is effective with the 1999 corporation business tax return.

The Annual Report, which was previously filed separately with the Secretary of State, will now be on the reverse side of the corporation business tax payment voucher, Form CAR-100. Additionally, a line item will be added to Forms CBT-100 and CBT-100S to allow the inclusion of the Annual Report fees with the corporation tax liability. Taxpayers will be able to write one check to cover both of these corporate obligations.

The Annual Report will carry the same due date or extended due date as the corporation business tax return. However, like the corporation business tax, any extension is for filing purposes only; there is no extension of time for payment. □

## **GROSS INCOME TAX** ***Estimated Tax Changes***

Public Law 1998, c.106, amended the gross income tax provisions on estimated tax, effective for tax years beginning on or after January 1, 1999. The amendments require a taxpayer to make estimated tax payments if the estimated tax liability for the year, in excess of withholdings and other credits, is more than \$400. Prior to this change, the threshold was \$100.

In addition, the amendments impose two new requirements. One is a requirement that estates and trusts pay estimated tax (other than estates or trusts meeting the two-year and other limitations in I.R.C. §6654(1)(2)). The other new requirement concerns a change to the "last year's tax" safe harbor for taxpayers with taxable gross income for the preceding tax year which exceeds \$150,000. "Safe harbor" refers to a minimum amount of estimated tax required to be paid to avoid underpayment penalties and interest.

Effective for tax year 1999, if a taxpayer's income after deductions for the preceding year exceeds \$150,000 (\$75,000 for married persons, filing separately), the "last year's tax" safe harbor exception to estimated tax penalties is stated as 110% of last year's tax, instead of 100%. See N.J.S.A. 54A:9-6(d)(3) as amended by P.L. 1998, c.106.

P.L. 1998, c.106, also made a technical amendment to the statutory provisions on calculating estimated tax penalties and interest. Prior to the amendment, for purposes of assessing penalties and interest, the estimated tax underpayment was based on the difference between what was actually paid and 80% of the tax shown on the current year's return. The recent amendment states that the amount of the underpayment is based on the difference between what was actually paid and either 100% of last year's tax or 80% of the current year's tax, whichever is smaller. See N.J.S.A. 54A:9-6(c), as amended by P.L. 1998, c.106.

The amendments to N.J.S.A. 54A:9-6(d) concerning the "last

year's tax" safe harbor of 110% for higher income taxpayers are not reflected in the amendments concerning the calculation of estimated tax penalties and interest.

The Division of Taxation will impose estimated tax penalties and interest only as expressly authorized under N.J.S.A. 54A:9-6(c), as amended by P.L. 1998, c.106. □

## **CORPORATION TAX** ***Deferred Gain on Installment Sales***

Under the Federal tax code, a corporation may elect to sell property and report the gain using the installment method. The gain on an installment sale is prorated and recognized over the years in which payments are received.

Liquidating corporations that distribute installment obligations to shareholders in exchange for their stock are required to recognize gain from the distribution. However, in a complete liquidation of a subsidiary under code sections 332-334, a gain or loss is not recognized by either the subsidiary or the parent corporation.

New Jersey follows the Federal rules for the deferred gain except upon distribution of the installment obligations at the time of liquidation and dissolution. Under N.J.A.C. 18:7-14.17(h) & (i), corporations must report the untaxed balance of deferred gain on an installment sale in Entire Net Income on the final return filed by the taxpayer.

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installment sales – from page 3

A subchapter S corporation is treated as a C corporation for New Jersey corporation business tax purposes unless a timely New Jersey S corporation election is filed. The deferred gain of a New Jersey S corporation is still required to be included in adjusted Entire Net Income but it is taxed at New Jersey S corporation rates.

Foreign corporations withdrawing their certificate of authority from New Jersey are required to include the balance of deferred gain in adjusted Entire Net Income in the year of withdrawal consistent with the provisions of the above regulation. □

## **GROSS INCOME TAX**

### ***New Business/***

#### ***Partnership Rules***

New rules addressing the treatment of net profits from business under N.J.S.A. 54A:5-1(b) and partners and partnerships under N.J.S.A. 54A:5-1(k) have been adopted by the Division of Taxation. The new regulations delete and replace the old rules under N.J.A.C. 18:35-1.1, Net Profits from Business, and 1.3, Partnerships and Partners. The new rules are intended to simplify income reporting. They address controversies surrounding the proper interpretation of these sections and resolve those controversies in a manner that will benefit most taxpayers. The new rules are consistent with the ruling of the New Jersey Supreme Court in *Smith v. Director, Division of Taxation*, 108 N.J. 19, 527 A. 2d 843 (1987), and the Appellate Division decision in *Sabino v. Director, Division of Taxation*, 296 N.J. Super. 269 (A.D. 1996),

reversing and remanding 14 N.J. Tax 501 (Tax Ct. 1995), on remand 17 N.J. Tax 29 (1997).

The Division, in these new regulations, has promoted three of the Legislature's original goals when it enacted the Gross Income Tax Act. First, symmetry: business income is taxed similarly, whether earned by a partner or by a sole proprietor. Second, conformity: characterization of the business entity earning the income for gross income tax purposes conforms to the characterization for Federal income tax purposes. Third, simplicity: business income or loss is no longer reported in different categories.

A partner, for example, will immediately notice the changes on the 1999 NJ-K-1. Items of partnership income or loss, such as taxable interest, dividends and net gain (loss) from disposition of property, which had been reported separately on NJ-K-1 for 1998 and prior years and then reported in designated categories on the NJ-1040, will now be netted with the partner's share of ordinary income and guaranteed payments to become the amount of income reported as Distributive Share of Partnership Income. Detailed examples furnished in the two new regulations illustrate the reporting changes for sole proprietors and partners.

The regulations also define deductible ordinary business costs or expenses. Business costs and expenses are deductible as long as they meet all four of the following:

1. Incurred primarily and directly in the pursuit of business income; and

2. Occurred as common and accepted practice in that field of business; and
3. Required for and appropriate to the intended business purpose; and
4. Reasonable in amount in relation to the intended business purpose.

The new regulations were adopted on February 18, 1999 with an effective date of March 15, 1999.

The Division will apply these new rules for tax years beginning on or after January 1, 1999.

A complete printing of the new regulations appears in the March 15, 1999 edition of the *New Jersey Register*. □

### ***Interest Rates***

**Second Qtr. '99 — 10.75%**  
**Third Qtr. '99 — 10.75%**

The interest rate assessed on amounts due for the second and third quarters of 1999 is 10.75%.

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

<b>Effective Date</b>	<b>Interest Rate</b>
10/1/97	11.25%
1/1/98	11.50%
4/1/98	11.50%
7/1/98	11.50%
10/1/98	11.50%
1/1/99	10.75%
4/1/99	10.75%
7/1/99	10.75%

## **GROSS INCOME TAX**

### ***Koch Decision***

On January 14, 1999 the New Jersey Supreme Court in *Sidney & Dorothy Koch v. Director* reversed a long-standing judicial doctrine that when a New Jersey resident disposes or sells their partnership interest they must use their Federal adjusted basis in the partnership in determining gain or loss for New Jersey gross income tax purposes.

In its finding, the Supreme Court stated that the intent of the gross income tax statute was to tax "economic gain," not a return of capital. The Court further stated that a taxpayer must use their Federal method of accounting in determining gain or loss as directed by N.J.S.A. 54A:5-1c. As reflected in the facts in the *Koch* case, applying one's Federal method does not always result in the use of the Federal adjusted basis, but may require the use of a New Jersey adjusted basis to reflect the economic gain realized.

Although the Supreme Court's decision in *Koch* dealt solely with the sale of a partnership interest, the Division of Taxation is not taking such a narrow view. The Division is of the opinion that this decision may also be applied to the sale or liquidation of a sole proprietorship or to the sale of rental property, not held by a business entity, whose income or loss was reported as net gains or income from rents, royalties, patents and copyrights. N.J.S.A. 54A:5-1d. The Division does not believe this opinion extends to transactions by a partnership or sole proprietorship in the day-to-day operation of its business.

As the Division of Taxation develops new information and/or opin-

ions on this complex issue, additional updates will be released. □

## **GROSS INCOME TAX**

### ***Garden State Savings Bonds***

The Garden State Savings Act of 1991 is implemented under N.J.S.A. 18A:71-87, et seq., and provides a program to assist persons trying to save for a college education by offering State and Federal tax-free bonds for sale to the public, and to offer these bonds in low denominations to enable a large number of New Jersey families to participate.

Garden State Savings Bonds are available through participating brokerage firms and banks throughout New Jersey. They are issued as zero coupon capital appreciation bonds and unlike most tax-exempt bonds which pay interest every six months, Garden State Savings Bonds will pay interest only at maturity. All interest on Garden State Savings Bonds is compounded semi-annually at a fixed rate. Most of the bonds were available in maturities ranging from 8–20 years, redeemable in 1999 to 2011. The bonds were offered originally in \$5,000 or less denominations and the money received at maturity can be used for any purpose, not just for education.

Additionally, principal and interest paid at maturity on Garden State Savings Bonds (up to at least \$25,000) will not be considered when evaluating eligibility for college financial aid from the State of New Jersey. Furthermore, the Garden State Savings Act provides that if the original buyers of Garden State Savings Bonds use the maturity amount of the bond to

pay for a member of their immediate family to attend a public college or a participating private college in New Jersey, then they will receive a 6% bonus on the maturity amount. Two percent of the incentive amount is paid by the State, and four percent by the participating institution. This bonus is provided in tuition reduction, which is not considered income for New Jersey purposes.

Under the New Jersey gross income tax, the interest earned on Garden State Savings Bonds will not be included in gross income in accordance with N.J.S.A. 54A:6-14. The bond interest is also tax-exempt for Federal purposes.

Taxpayers may contact their broker or financial advisor for additional information regarding Garden State Savings Bonds. □

### ***List of Judgmed Taxpayers on Web***

For the first time, via our Web site, the New Jersey Division of Taxation is providing interested individuals with limited information about the largest uncollected tax liabilities owed to New Jersey. We have been unable to collect these debts through conventional tax collection methods. The detail provided on the Web site is public information previously available in less convenient formats to anyone who had the inclination to pursue such information.

There are two (2) listings available for review, one containing businesses and responsible persons for trust fund taxes and another for individual taxpayers and persons with joint liability, if any.

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*judgments list on web – from pg. 5*

We regret that these taxpayers have ignored our numerous attempts to bring them into compliance. They have put themselves in a position where they are included on these lists.

Each name appearing on these lists was contacted by certified mail, return receipt requested, and provided with one last chance to enter into a compliance agreement or have their name and other public information listed. The actual amount due may differ from the reflected Certificate of Debt amount, as a result of payments made and/or the accrual of interest.

Any taxpayer contained in these listings may contact the Division to make arrangements for payment by phoning 609-292-8839 or may contact the Division by e-mail. In the event that a taxpayer comes into compliance after being listed, we will happily advertise that fact just as prominently, if they request that we take that action. The Division of Taxation's home page may be accessed at:

<http://www.state.nj.us/treasury/taxation/>  
□

## **SALES AND USE TAX** ***Urban Enterprise Zone*** ***Recertification***

A vendor *may not* collect sales tax at the reduced UEZ rate unless the vendor has a currently effective UZ-2, Certificate of Authority. The UZ-2 is valid *only* for the duration of the qualified business certificate year.

Before the certificate year expires, the vendor must reapply for UEZ eligibility by contacting the local

zone coordinator. Upon designation as a qualified business by the local coordinator, the vendor then must reapply to the Division of Taxation on Form UZ-1. If the application is approved, an updated UZ-2, Certificate of Authority, will be issued to the vendor.

If a vendor fails to apply for recertification, upon expiration of the current UZ-2, the vendor must begin collecting sales tax at the 6% rate, starting with the first month following expiration of the UZ-2. The vendor must then file regular sales tax returns (Form ST-51 for monthly remittances, if appropriate, and the ST-50 quarterly return).

If a vendor fails to apply for recertification, continues to collect sales tax at the reduced rate, and continues to remit taxes collected with the UZ-50 return, *the tax due will be recalculated at the 6% rate, and the vendor will be billed for the difference along with applicable penalty and interest.*

When a vendor receives a notice of underpayment where the tax due has been recalculated at the 6% rate, this indicates that Division of Taxation records reflect that the vendor is no longer authorized to collect sales tax at the reduced UEZ rate.

If such a vendor had been a "qualified" UEZ business for the periods billed but had failed to apply, or was late in applying for recertification, there may still be some relief available. In order to prove nonliability for the full 6% sales tax, the vendor must provide the

Division of Taxation with either:

1. A copy of a current UZ-2 reflecting certification dates

that cover the billed tax periods, or

2. Written confirmation from the local UEZ coordinator that the vendor was in fact certified during the tax periods that were billed. □

## ***Exempt Use*** ***Certificates***

The Exempt Use Certificate (Form ST-4) is available for certain purchases in which the property is granted a specific exemption under New Jersey law. The following are the more common general uses which qualify for sales tax exemption:

- Advertising material intended to be delivered free of charge to recipients outside of New Jersey (N.J.S.A. 54:32B-8.39)
- Packaging materials and non-returnable wrapping supplies used incidental to the delivery of property (N.J.S.A. 54:32B-8.15)
- Commercial motor vehicles with a gross vehicle weight rating of over 26,000 lbs. or used exclusively in the carriage of interstate freight (N.J.S.A. 54:32B-8.43)
- Manufacturing equipment (N.J.S.A. 54:32B-8.13(a))
- Recycling equipment (N.J.S.A. 54:32B-8.36)
- Commercial printing equipment (N.J.S.A. 54:32B-8.29)
- Broadcasting equipment (N.J.S.A. 54:32B-8.13(e))
- Research and development equipment (N.J.S.A. 54:32B-8.14)

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*exempt use certificate – from page 6*

In order to properly complete the Exempt Use Certificate, a New Jersey registered vendor must fill in his New Jersey Certificate of Authority number in the box in the upper right corner of the ST-4.

If the purchaser is not a registered vendor in the State of New Jersey and is not required to be registered by virtue of activity in this State, the exemption may still be claimed as long as the property will be used in the exempt manner as specified in the law. Out-of-State purchasers should complete the box marked “Eligible Nonregistered Purchaser” in the upper left corner of the ST-4, which requires the entry of either the Federal Identification Number of the business, an I.C.C. permit number or the social security number.

The exemptions granted under the Sales and Use Tax Act are only applicable under certain circumstances. Please refer to the law itself or request Tax Topic Bulletin S&U-6, *Sales Tax Exemption Certificates*, for additional information. The publication is available on the Division’s Web site at:

<http://www.state.nj.us/treasury/taxation/>  
□

## **The Delinquency Process**

The Compliance Services Branch of the Division of Taxation has delinquency programs in place for 18 different taxes including the personal gross income tax. The Division periodically scans filing records to determine the number of delinquent taxpayers for any given tax. Delinquent taxpayers are mailed a delinquency notice.

Following are some important tips to help taxpayers and practitioners

respond to a delinquency notice and, in some cases, prevent the generation of unnecessary notices.

A delinquency notice is *not* a bill. It does not necessarily mean there is any outstanding tax liability due. A delinquency notice is sent to a taxpayer when the Division’s records reflect that a tax return for a specific period is missing. The actual tax liability is determined by the information submitted on the completed tax return.

Make sure the tax registration number or social security number on the notice is correct. If you have been filing under a different number or recently received a new Federal Employer Identification Number (FEIN), your response should include documentation from the Federal government confirming the correct number. You should also indicate which number you have been using to file tax returns, especially the return covered by the delinquency notice.

Check your records to determine if you have already filed the tax return covering the tax type and taxable period reflected in the notice. If your records indicate you already filed the return, submit a brief note along with a copy of the return. If payments were made covering the period of delinquency, enclose copies of both sides of your canceled checks.

### **Are you still in business?**

Business taxpayers that retire or otherwise go out of business sometimes fail to notify the Division of their business termination date. The Division continues to carry these taxpayers as active with the result that unnecessary delinquency notices are generated. Complete the form REG-C that accompanies the delinquency notice, indicating the termination

date of the business. Be sure to include this form with your response. If a copy of form REG-C does not accompany the delinquency notice, use one of the equivalent forms, Form NJ-C, located in your tax return coupon booklets, or Form REG-C-L, located in the New Jersey Complete Business Registration Package and in *Package NJX*. Forms can also be obtained by calling 1-800-323-4400, by fax via NJ TaxFax at 609-826-4500, or from the Division’s Web site at:

<http://www.state.nj.us/treasury/taxation/>

Remember, if you terminate your business during a taxable period, a tax return covering the entire period is usually required. For example, let’s assume your business is liable for sales and use tax. If you went out of business in November of 1998, you would be required to file a fourth quarter ST-50 sales and use tax return covering October, November and December 1998. A return should be filed even if you conducted no business or did not have a tax liability.

### **Having a bad year?**

Natural catastrophes, fires, poor economic conditions, a death or serious illness are factors which may cause a business to suspend operations for a prolonged period. If you plan to maintain your business you should continue to file any tax returns that are due during a suspension of activity.

For most taxes a “zeroed out”

return will prevent a delinquency notice from being generated. Please note, however, that zero returns are *not permissible* when filing Corporation Business Tax returns (Forms CBT-100 and CBT-100S).

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### **On the road again?**

Traveling vendors who conduct business at flea markets or craft shows in New Jersey are required to collect and remit New Jersey sales and use tax on the sale of taxable goods or services. Many of these events are held during the warmer months or on a seasonal basis. Businesses that follow the same seasonal schedule every year should file form REG-C to request to be placed on a seasonal reporting basis. If your show schedule is sporadic, your business should remain on a regular reporting basis and you should continue to file returns covering idle periods. Businesses based outside of New Jersey should also try to determine if their visits to New Jersey are on a regular schedule that would qualify them for seasonal reporting. If a schedule can not be determined, an out-of-State business is still required to file quarterly returns for *all* periods, even those in which no visits were made to New Jersey. If you plan to end your visits to New Jersey shows, you must file a final quarterly return (Form ST-50) covering the period in which the visit to your final show took place. (Please note that an ST-51 monthly remittance cannot be used as a final tax return). Form REG-C should also be filed in order to terminate your business record. The out-of-business date should coincide with the date of your final show and fall within the period covered by your final tax return. The above actions must be taken even if you attended only one show in New Jersey and plan on never returning.

### **Are you an EFT filer?**

Depending upon the type of tax, EFT filers are required to file certain returns. The tax returns are

necessary to reconcile the periodic payments remitted through your electronic funds transfer option. Check your EFT instruction booklet to determine which returns you are required to file. The receipt of a delinquency notice does *not* mean that your EFT payments were not credited to your account. If your records reflect that a tax return covering the delinquent period was filed timely, a copy of the return is usually sufficient to resolve the delinquency. Beginning in October 1998, EFT filers were afforded the option of filing quarterly sales and use tax returns via the Internet. This method of filing is quick and easy for any EFT filer having access to the Internet. Using the Internet to file ST-50 returns requires a Personal Identification Number (PIN). Please also note that the confidentiality of this sensitive information is, as always, a priority for the Division of Taxation; therefore the information is encrypted while being transmitted via EFT.

### **Are you in transition?**

Your tax eligibility may change as the result of new legislation, moving your business to a new location or filing an application. Finding yourself liable for a new tax that replaces a former tax usually means you will be required to file a final return to cover the transitional period between the old and new tax. Failing to file the transitional tax return will almost certainly guarantee the receipt of a delinquency notice. Taxes that are subject to transitional filing provisions include UEZ, Salem County Sales Tax, Cape May County Tourism Sales Tax and Combined Atlantic City Luxury Tax/State Sales Tax (alcoholic beverage vendors subject to ACLUX are required to continue to file both

ST-50/51 and ST-250 even *after* the transition). □

## **Regional Offices**

The New Jersey Division of Taxation maintains seven Taxpayer Service offices throughout the State. Each regional office is equipped and anxious to assist taxpayers and tax professionals:

1. Obtain New Jersey tax and registration forms
2. Obtain Taxation publications
3. Register a business
4. With questions about New Jersey taxes, including:
  - Personal income tax
  - Sales and use tax
  - Employer withholdings
  - Litter tax
  - Motor fuels tax
5. With questions about which income or property is subject to tax and which is not taxable
6. File business and personal tax returns
7. Notices of Adjustment
8. Make tax payments
9. Find out the status of refunds
10. Complete applications for the Homestead Rebate, Property Tax Reimbursement and NJ SAVER rebate.

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regional offices – from page 8

Regional offices are located in:

**Fair Lawn**

2208 Route 208 South  
Across from Nabisco  
201-791-0500

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**Somerville**

75 Veterans Memorial Drive East  
Suite 103  
908-704-3362

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**Trenton**

Taxation Building  
50 Barrack Street  
1st Floor Lobby  
609-292-6400

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**Camden**

One Port Center Suite 200  
2 Riverside Drive  
Across from the State Aquarium  
856-614-2600

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**Newark**

124 Halsey Street  
Second Floor  
973-648-6190

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**Sea Girt**

2100 Highway 35  
Old Mill Plaza  
732-449-0201

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**Northfield**

1915 New Road  
(Route 9)  
609-645-6673

Normal hours of operation are from 8:30 a.m. to 4:30 p.m., Monday through Friday except holidays.

For up-to-date information about office locations and hours, call 1-800-323-4400 (from Touch-tone phones within New Jersey) or 609-826-4400 from Touch-tone phones anywhere. □

## Web Site Provides Paths to Future

The Spring issue of *New Jersey State Tax News* introduced the Division's recently renovated Web site and explored the site's *Practitioner's Path* in considerable detail. This article examines the *Home Page*, the *Director's Welcome Page*, the *Business Information Path* and *Tax Forms Now*.



### Home Page

The Home Page, in addition to providing links to the four main paths, interactive online filing facilities and other important areas of the new site, contains *Hot News* articles and timely notices on current developments in New Jersey tax programs and procedures.

### Director's Welcome Page

This page provides a friendly way to get to know more about the Division of Taxation, its mission, organization and functions, and about the taxes administered by this vital arm of the State Treasury. The page also offers a biography of the Division's Director, a Division organizational chart and a list of useful phone numbers.



### Business Information Path

The Business Information Path allows visitors to quickly locate and access information of particular use to those who operate (or would like to start) a business in this State. Specifically, this path offers links to information about:

- The correct way to start and end a business in New Jersey
- Types of business entities



- How to register a business
- Sales and use tax
- Employer income tax and withholding responsibilities
- Billing notifications
- Filing returns electronically
- Online filing
- Online access to New Jersey forms, publications and Statutes
- Small Business Workshops
- Businesses that operate in both New Jersey and New York
- The Division's Tax Cheats Program (CATCH)

This path also provides visitors with the opportunity to browse a list of the largest judgemented taxpayers in New Jersey, access the full text archive of New Jersey court opinions, search for unclaimed property and link to other tax Web sites.

### Tax Forms Now

All the information needed to access New Jersey tax forms resides at this location. Visitors can view, print and download forms with just a click of their mouse or learn how to order forms by mail, fax or phone.

**NOTE:** Visitors may e-mail the Division from almost any location on the new site.

In the next issue of the *New Jersey State Tax News* we will guide you down the *Kid's Path*, describe the features of the *Taxation Topics* and *Publications* menu bars and let you know what to expect when you *Take the Taxation Tour*. □

## **Compliance Award Program**

On March 26, 1999, Director Robert K. Thompson, Deputy Director Harold Fox and Assistant Director David Gavin handed out 21 Awards recognizing Compliance Activity employees that made outstanding contributions to the Division of Taxation. Twenty employees were honored with Compliance Achievement Awards and one employee received the Compliance Exemplary Employee Award.

Compliance Achievement Awards were given to employees in recognition of specific contributions to the Division such as serving on special projects or committees, accomplishments, suggestions, dedication/loyalty, leadership, or general work ethics. The Achievement Award recipients were: Frances Zsolnay, Robert Kelliher, Gary Dallett, Carol Telford, Joe Marty, Mirabelle Schweck, Rocco Marotti, Thomas Stevens, Thomas Kilvington, Joseph Stack, Cheryl Akpu, Sarah Booker, Alyson Orbann, Cy Nelson, Robert Giannascoli, Richard Coleman, Peter Rapetti, Audrey Vervuurt, Barbara Odell-Naim, and Rebecca Chianese.

The Compliance Exemplary Employee Award was given to Sea Girt Technical Assistant Lillian Beebe to recognize her individual initiative, excellence, and most significant overall contribution to her work unit, and the Division of Taxation.

The annual Awards program is another avenue for senior Division management to recognize positive accomplishments of employees within the Compliance Activity. Nominations for either of these awards are submitted on a Com-

pliance Award Program Nomination Sheet to the Assistant Director, Compliance and an informal award ceremony is held on an annual basis. □

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

In 1998, the Senate confirmed 25 appointments made by Governor Whitman of members to county boards of taxation. Names of the individuals and the dates of confirmation follow:

<b>Atlantic County</b>	
Marvin E. Embry	5/18/98
Lucia McCabe	12/10/98
<b>Bergen County</b>	
Paul Pintel	1/12/98
<b>Cape May County</b>	
William R. Wilsey	6/29/98
<b>Cumberland County</b>	
Patrick Finley	11/09/98
<b>Essex County</b>	
Jack L. Wigler	12/17/98
<b>Gloucester County</b>	
Edith K. Patterson	10/22/98
<b>Mercer County</b>	
Richard J. Carabelli, Jr.	11/09/98
Joseph Constance	11/09/98
<b>Morris County</b>	
Bernard Tyson	1/12/98
Anthony J. Crecco	12/10/98
<b>Ocean County</b>	
Raymond A. Birchler	1/12/98
Richard E. Hall	2/26/98
Arnold B. Goldman	11/09/98
<b>Passaic County</b>	
Jay R. Schwartz	6/22/98
Matthew J. Trella, Esq.	6/22/98
Richard Mohr	6/22/98
<b>Salem County</b>	
Mary Lou Chollis	3/19/98
Joseph H. Davenport	10/22/98
<b>Somerset County</b>	
John M. Lore	1/12/98

Albert R. Palfy 2/26/98

**Sussex County**  
Bernard R. Mitchell 6/22/98

**Union County**  
Jeffrey A. Warsh 3/30/98  
Anthony Amalfe 3/30/98  
James M. Bennett 3/30/98

□

## **LOCAL PROPERTY TAX Tax Assessor Certificates**

The tax assessor examination is held in accordance with the Assessor Certification and Tenure Act, which requires that anyone taking office as a tax assessor after July 1, 1971 must hold a tax assessor certificate.

Eleven persons passed the September 26, 1998 exam and became certified tax assessors on December 22, 1998.

**Atlantic County:** Donald Everett Fegan, Brigantine City.

**Bergen County:** Douglas P. Yandolino, Lyndhurst Township.

**Burlington County:** Carl F. Cicali, Riverside Township.

**Cumberland County:** Michelle L. Behm, Lawrence Township.

**Essex County:** Michael Lepasky, Fairfield Township.

**Gloucester County:** Charles W. Abel, Jr., Monroe Township.

**Morris County:** M. Sue Aceto, Morris Township; Joseph S. Hiller, Florham Park Borough.

**Ocean County:** Eric L. Zanetti, Brick Township.

**Somerset County:** Daniel J. Hanrahan, Franklin Township.

**Union County:** Brian C. Loughrey, Westfield Town. □

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

### **July 1–**

- Disallowed property tax deduction recipients granted an extension required to pay deduction previously granted. If unpaid, become real property liens.
- MOD IV Master file sent to Property Administration via magnetic tape.
- Assessor to mail form to claim a continuance of valuation under the Farmland Assessment Act for the tax year 2000 together with a notice that the completed form must be filed with the assessor by August 1, 1999 to each taxpayer whose land was assessed for tax year 1999 under the Act.

### **2nd Tuesday in July–**

- State Equalization Table prepared.

### **August 1–**

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

### **August 5–**

- All SR-1A forms showing information to be used in compiling the 1999 Table of Equalized Valuations for State School Aid to be received by Property Administration.

### **August 15–**

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

### **August 25–**

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

### **September 1–**

- Petroleum refineries file tangible business personal property returns (Form PT-10.1) with assessor for tax year 2000, for machinery, apparatus, or equipment directly used to manufacture petroleum products filed.

### **September 13–**

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

### **September 15–**

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

## **LOCAL PROPERTY TAX** ***NJ SAVER***

Assistant Director Stephen M. Sylvester would like to extend a thank you to all of the assessors who assisted Property Administration staff in gathering the required information on cooperative housing corporations. Their assistance is greatly appreciated and helped make a tough task a little less daunting. □

## ***Criminal Enforcement***

Criminal Enforcement over the past several months included:

- On December 21, 1998, World Sales, Inc., a defunct computer sales company formerly located in Freehold, and its Corporate President, Meyer Shevrin, were indicted by a State Grand Jury. The five count indictment included charges of theft by failure to make required disposition of property received, misapplication of entrusted

property and property of the government, failure to file tax returns, failure to pay or turn over taxes and misconduct by a corporate official. The charges stemmed from the failure of the corporation and Mr. Shevrin to remit New Jersey sales tax that was collected from customers during the years 1988 through 1994.

- On December 21, 1998, Harold W. Coleman, a former official of Hamilton Township, Mercer County Board of Fire Commissioners, and former treasurer of Hamilton Township Fire District 4, plead guilty to stealing more than \$700,000 of the district's money and failure to pay in excess of \$55,000 in New Jersey gross income tax.

- On December 23, 1998, as a result of a cigarette tax investigation in Hudson County, three individuals were charged with numerous counts of possession of contraband cigarettes, no consumers license, transporting contraband cigarettes, no invoices and failure to file sales tax returns. 130.0 cartons of Virginia stamped and unstamped cigarettes were seized in this case. In March 1999, the

defendants plead guilty to the charges and have been fined.

- In December 1998, the Division of Taxation's Office of Criminal Investigation and the Cumberland County Narcotics Task Force executed search warrants which led to numerous arrests for selling and trafficking in contraband cigarettes. 40.7 cartons of contraband cigarettes

*continued on page 12*

*criminal enforcement – from pg. 11*

were seized in the investigation, some of which bore counterfeit NJ cigarette tax stamps. Each subject arrested faces numerous charges including theft, possession/receiving stolen property, promoting gambling, possession of an unlawful weapon (firearm) and converting food stamps to other property.

- On January 15, 1999, Anita Karbett, a Camden County resident, entered a guilty plea to three counts of an indictment charging her with conspiracy, theft by deception and failure to pay New Jersey gross income tax. The charges arose from Ms. Karbett's actions while serving as an office manager for a chiropractic office and involved numerous instances of insurance fraud. Sentencing in this matter is pending.
- On February 8, 1999, in Superior Court in Camden County, Samuel F. Daley, 40, of Audubon, entered a guilty plea to one count of failing to file State tax returns in connection with his business, Emergency Support Services, which sold and serviced ambulances and emergency vehicles in Audubon from 1993 to 1997. On March 19, 1999, Mr. Daley was sentenced to two years probation and ordered to pay restitution in the amount of \$6,125 in sales tax and \$1,139 in income tax withheld in connection with his defunct business. This case was investigated jointly by the Division of Taxation's Office of Criminal Investigation and the Camden County Prosecutor's Office, and was prosecuted by the Camden County Prosecutor's Office.
- Amin Jarhoud of Bronx, NY, plead guilty on February 16, 1999, in Carneys Point Twp. Municipal Court to one count of possession of contraband cigarettes. Mr. Jarhoud was transporting 633 cartons of contraband cigarettes from Virginia to New Jersey. The Court imposed fines and fees of \$3,654.
- On February 22, 1999, a Monmouth County Grand Jury indicted Stanley W. Hudson, 52, of Monmouth Beach, on four counts of failure to file State income tax returns for 1993 through 1996, and one count of failure to pay income tax in the amount of \$24,928.48 on \$635,985.15 in gross income. Each of these counts is punishable by a fine of up to \$7,500 and three to five years in prison. In the same indictment, Mr. Hudson, who was in the business of selling jewelry on consignment, was charged with theft of approximately \$102,800 in jewelry from a client, a second degree crime punishable by a fine of up to twice the amount stolen and five to ten years in prison. This case was investigated jointly by the Monmouth County Prosecutor's Office and by the Division of Taxation's Office of Criminal Investigation, and was presented to the Grand Jury by the Monmouth County Prosecutor's Office.
- On March 12, 1999, Manuel D. Grilo, a resident of Nutley, was sentenced to seven years in state prison after having plead guilty to misapplication of entrusted property relating to the collection of, and failure to remit, New Jersey sales tax. Mr. Grilo was the President of Autobanc of New Jersey, Inc., a used car dealership located on Route 22 in Branchburg Township, NJ. During the years 1995 and 1996, the auto dealership and Mr. Grilo collected in excess of \$110,000 in New Jersey sales tax from customers and failed to remit the moneys as required by law. Upon being sentenced, Mr. Grilo was taken into custody to begin serving the seven year term of incarceration.
- On March 12, 1999, the Division of Taxation's Office of Criminal Investigation, along with the Middlesex County Prosecutor's Office and Perth Amboy Police Department executed a search warrant in Perth Amboy, NJ. As a result of this action the following items were seized: 57,962 counterfeit NJ cigarette tax stamps valued at \$46,369.60, 3,722.7 cartons of contraband cigarettes, 943 New York State/City legitimate stamps, 8,250 cigars of various brands and paraphernalia involved in attaching the counterfeit indicia. Special Agents arrested three subjects. Numerous criminal violations of the Cigarette Tax Act have been filed.
- On March 19, 1999, in Camden County Superior Court, Steven H. Willans, 33, of Barrington, NJ, plead guilty to one count of failing to file personal income tax returns for 1994 through 1997, and failing to file sales tax returns for the years 1992 through 1995 with the intent to avoid payment of \$7,609 in connection with Entertainment Emporium, a retail computer store Mr. Willans operated in Haddon Heights, NJ. Mr. Willans also plead guilty to one count of embezzling \$77,000 from the Barrington Ambulance Association,

*continued on page 13*

*criminal enforcement – from page 12*

a volunteer organization of which he was the treasurer. Under the terms of his plea agreement, Mr. Willans will be ordered to make restitution to the Division of Taxation and will be sentenced to five years in prison. This case was investigated jointly by the Barrington Police Department, the Camden County Prosecutor's Office, and the Division of Taxation's Office of Criminal Investigation, and was prosecuted by the Camden County Prosecutor's Office. In a related matter, Mr. Willans' wife, Katrina Willans, 31, also of Barrington, was ac

- cepted into the Camden County Pre-Trial Intervention (PTI) Program on the condition that she file delinquent 1993 through 1997 New Jersey personal income tax returns within one year.
- Fifty-seven charges were filed in municipal court on nine cases for violating the cigarette tax law including possession of 4,211.5 cartons of contraband cigarettes, valued at \$126,345. □

## **Tax Briefs**

### **Corporation Business Tax Dissolution Without Assets —**

The Division responded to an inquiry as to the treatment of corporations that are dissolved without assets pursuant to N.J.S.A. 14A:12-4.1 and whether they are absolved of liability for any back taxes incurred prior to dissolution.

The taxpayer was informed that dissolution without assets may be made by a corporation that has ceased doing business and does not intend to recommence doing business provided that no assets were distributed during the past 24 months and that there are no assets left to be distributed.

This procedure does not require the filing of a tax clearance certificate with the Office of Commercial Recording (formerly in the Secretary of State's Office), but it also does not exempt the taxpayer from filing New Jersey corporation business tax returns and paying tax up to the date of dissolution.

The minimum tax is due even though the corporation is inactive. N.J.S.A 14A:12-4.1 will not permit corporations to evade any State tax liabilities that would otherwise be paid.

## **Sales & Use Tax**

**Resale Certificates** — For New Jersey sales tax purposes, liability for the tax accrues when the merchandise is delivered to the customer. Delivery includes being picked up by the customer or his agents or being delivered to a location specified by the customer. Therefore, unless a specific exemption applies, the vendor must collect and remit sales tax if the customer picks up the merchandise in New Jersey or if the vendor (or a common carrier) delivers the merchandise to the customer or his designated recipient in New Jersey.

If the customer is an individual or entity in the business of reselling the merchandise it buys from the New Jersey vendor, it will be entitled to a resale exemption, provided that it gives the vendor appropriate documentation to support the claimed exemption. (Note: A contractor who purchases materials for installation onto his customers' realty is deemed to be the retail purchaser of the materials and may *not* claim a resale exemption.) If the customer is a New Jersey vendor, who will pick up the merchandise in New Jersey or have it delivered to a New Jersey location, the customer should use a

*continued on page 14*

## **Enforcement Summary Statistics**

### **First Quarter 1999**

Following is a summary of enforcement actions for the quarter ending March 31, 1999.

• Certificates of Debt:		• Jeopardy Seizures	1
Total Number	2,103	• Seizures	30
Total Amount	\$47,490,806	• Auctions	3
• Jeopardy Assessments	203	• Referrals to the Attorney General's Office	308

For more detailed enforcement information, see our Home Page at: <http://www.state.nj.us/treasury/taxation/>

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properly completed Resale Certificate (Form ST-3) to support the exemption. If the customer picks up the merchandise in his own vehicle, the property is deemed to be “delivered in New Jersey,” even though it may be taken to a location outside the State.

If the customer is an out-of-State vendor who has no offices, warehouses, stores, employees, repair or service activities in this State, and who has not voluntarily chosen to register with the New Jersey Division of Taxation, the Resale Certificate for Non-New Jersey Vendors (Form ST-3NR) must be used if the customer is picking up the merchandise from the vendor in New Jersey. If the customer is a vendor who asks the seller to ship the merchandise directly to his (the purchaser's) customer in New Jersey, his purchase will be treated as one for “resale.” The customer should use an ST-3 if he is a New Jersey vendor. If he is a non-New Jersey vendor, he may use any of the following: (1) New Jersey Form ST-3NR, (2) his home state's resale certificate, or (3) the Multi-jurisdiction Uniform Sales and Use Tax Certificate published by the Multistate Tax Commission.

**Sale of Graphic Art** — Under c.99, P.L. 1999, the sale of adver-

tising services in New Jersey (except direct mail processing services) is exempt from sales tax on and after November 1, 1998. Graphic design is no longer taxable as an advertising service; however, if the object of the transaction is the transfer of tangible personal property to the customer, the transaction is for the sale of tangible property which is still subject to tax under N.J.S.A. 54:32B-3(a). For example, the transfer of a disk that contains graphic design for use by a printer in the production of printed material for sale is a situation where the object of the transaction is deemed to be tangible personal property rather than an advertising service.

There are several exemptions that may apply to the sale of tangible property depending on the circumstances. For instance, the sale of property to a purchaser for resale as such, the sale of property to a commercial printer (or the printer's customer) for use in printing property for sale, and the delivery of property by the vendor to the purchaser outside of New Jersey, are transactions that are entitled to exemption.

**Leasing; Excess Mileage Charge** — N.J.S.A. 54:32B-2(bb)(2) of the Sales and Use Tax Act imposes the lease tax on the “amount of the total of the lease payments attributable to the lease of such property.” The tax is due from the lessor at the time an extra payment, such as an excess mileage charge, is received from the lessee and must be remitted to the State by the lessor. The lessor may, at the lessor's option, ask the lessee for reimbursement of the tax expense. The charge to the lessee is usually based on the terms of the lease contract between the parties.

**Tour Operators** — The Division received an inquiry regarding the sales and use treatment of travel arrangements made by tour operators. The tour operator explained that it makes arrangements for hotel stays, restaurant meals, transportation, and admissions to attractions for various groups of affiliated persons (e.g., clubs). The tour operator is not paid by the hotels, restaurants, etc. to act as their agent.

The fact that a tour operator makes travel arrangements only for preformed groups and not for individuals does not affect the sales and use tax treatment of its purchases and sales. The travel service is deemed to be a nontaxable service. Therefore the amounts that the tour operator charges its clients for trips are not subject to sales tax, even if the New Jersey meals, New Jersey hotel charges and New Jersey admissions are separately stated on invoices to customers.

The tour operator company, as the professional service provider, is treated as the “retail purchaser” of the meals, hotel reservations and

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admission tickets that it obtains for its group clients. Therefore the company must pay tax on the hotel reservations, meals and admissions in New Jersey, and may not claim a resale exemption. In addition, the tour operator cannot use a customer's Exempt Organization Certificate in order to claim exemption from the tax that hotels, restaurants and entertainment facilities are required to charge the tour company on its retail purchases. □

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<http://www.state.nj.us/treasury/taxation/>  
or  
<http://www.state.nj.us/treasury/revenue/>

## In Our Courts

**Local Property Tax  
Non-profit Corporation Not  
Exempt from Property Tax as an  
Historic Site** – *Black United Fund  
of N.J., Inc., v. City of East  
Orange*, decided July 20, 1998,  
Tax Court of N.J.

Black United Fund of N.J., a non-profit 501(c)(3) Federal income tax exempt corporation, was not property tax exempt as an historic site under N.J.S.A. 54:4-3.52, as Green Acres per 54:4-3.64, or as a charitable organization according to 54:4-3.6 on or before the statutory October 1, 1995 pretax year assessment/exemption date for tax year 1996.

In reviewing the claim of historic site, the New Jersey Tax Court recalled the 1991 State Supreme Court's finding in *Town of Morristown v. Woman's Club of Morristown*, that, unlike other exemptions, historic exemption had no actual and exclusive use criteria but required only ownership by a nonprofit corporation and DEP certification as an historic site. Although organized under New Jersey law as a Title 15 nonprofit corporation in August 1980 and despite a Deed of Historic Preservation Restriction recorded on May 29, 1996 by the DEP, historic site designation was not actually issued by DEP until July 8, 1997. The Tax Court referred to *Ironbound Educational and Cultural Center, Inc. v. City of Newark*, in which the 1987 State Superior Court denied exemption to an historic site determined as such subsequent to its respective October 1 pretax year assessment date. The Tax Court also held that the listing in 1980 of the United Fund's mansion on the National Register of Historic Places and

receipt of State Historic Preservation Officer Certification were Federal designations and so did not fulfill the exemption requirements of N.J.S.A. 54:4-3.52.

Considering the Green Acres claim, again, as above, the prerequisite DEP certification of public, recreational, conservational use was not obtained until after October 1, 1995 and, therefore, was not applicable to tax year 1996. In rejecting the claim for Green Acres, the Court reminded us that DEP is not empowered to grant Green Acres exemption, rather its authority is to certify qualifying public purpose.

Finally, the Tax Court looked at the claim for charitable purpose exemption. It noted the eligibility conditions of 54:4-3.6, as previously summarized by the State Supreme Court, included being organized exclusively for exempt purpose; used actually and exclusively for exempt purpose; and operated and used in a nonprofit capacity. The Tax Court utilized *Planned Parenthood of Bergen County, Inc. v. Hackensack City*, 12 N.J. Tax 598, 610 n.6 (Tax Court 1992), aff'd, 14 N.J. Tax 171 (App. Div. 1993) where "organized" was ruled to pertain only to the "entity's organizational documents, its corporate charter" as the guide in deciding if the Black United Fund was structured exclusively for exempt purpose. In drawing its conclusion, the Court also reviewed *1711 Third Ave., Inc. v. City of Asbury Park*, 16 N.J. Tax 174, 182 (Tax Court 1996). It found that United Fund's certificate of incorporation and bylaws, both of which stated purposes were to create a fund to distribute grants to other Federal tax exempt

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organizations supporting the African American community, while commendable, were not organized exclusively for exempt purposes under 3.6. Though the Fund additionally indicated it operated exclusively for charitable, religious, educational purposes within the meaning of 501(c)(3) of the Internal Revenue Code. This Court reiterated earlier courts in that “Federal income tax exemption standards have no relation to state law governing property tax exemption.” That qualification alone is not sufficient to meet the standards of the New Jersey statute. See *Paper Mill Playhouse v. Millburn Twp.*, 95 N.J. 503, 529 n. 2, 472 A.2d 517 (1984) & *City of Trenton v. State*, 65 N.J. Super. 1, 11, 166 A.2d 777 (App. Div. 1960).

#### **Sales and Use Tax**

**Hotel’s Resale of Amenities** – *Adamar of New Jersey t/a Tropicworld Casino & Entertainment Resort v. Director, Division of Taxation*, 17 N.J. Tax 80, (Tax Ct., 1997) *affirmed*, Appellate Division No. A-2250-97T2 (February 5, 1999).

In consolidated cases, plaintiff hotels sought sales tax refunds, under the sale-for-resale exemption, on purchases of various hotel amenities it provided to its guests including writing pads, stationery, postcards, pens, matches, sewing kits, shoeshine cloths or pads, soap, shampoo, conditioner, shower caps, lotion, shower gel and mouthwash.

On appeal, the Appellate Division affirmed the Tax Court’s holding that the amenities were not sold to guests and therefore did not qualify for the resale exemption. The Tax Court found that (1) the

amenities are not sold “as such” because they are “inseparably connected” to the services provided by the hotel, (2) the amenities are not sold as “a component part of a product produced for sale” because the amenities are not incorporated into the room and the room is not a product produced for sale, and (3) the sales tax imposed on the rental of a hotel room is a tax on the rental of the room, not the resale of amenities. The reasoning underlying this decision is that the “true object” concerning a room rental is the use of the room, not the acquisition of amenities. □

### ***In Our Legislature***

#### **Corporation Business Tax/**

#### **Gross Income Tax**

**Neighborhood and Business Child Care Tax Incentive Program** — P.L. 1999, c.102 (signed into law on May 6, 1999) provides new tax credits to certain corporations based on their expenditures for child care facilities and also allows certain unincorporated businesses to fully deduct such expenditures for gross income tax purposes.

A corporation that is a member of a small/medium business child care consortium will be allowed a credit equal to 15% of its expenditures on child care center physical plant or facilities and a credit of 10% of its contributions, in cash or in kind, to a sponsor of a neighborhood-based child care center. The credit will apply to privilege periods ending on or after July 31, 1999 and before July 1, 2002.

An unincorporated business that is a member of a small/medium business child care consortium will be allowed to deduct, for gross income tax purposes, the amount of their expenditures on child care

center physical plant or facilities, as well as the amount of their contributions, in cash or in kind, to a sponsor of a neighborhood-based child care center. These deductions are extended to members of partnerships or associations in proportion to the partner’s share of the partnership expenditure or contribution. The deduction will apply to taxable years beginning on or after January 1, 1999 and before January 1, 2002.

#### **Gross Income Tax**

**State Tuition Program Accounts, Education IRAs** — P.L. 1999, c.116 (signed into law on May 21, 1999) allows earnings of qualified state tuition program accounts (e.g., NJBEST accounts) and educational individual retirement accounts to be deferred from New Jersey gross income until the earnings are distributed and excludes from income qualified distributions from qualified state tuition program accounts that are used for qualified higher education expenses.

This act applies to taxable years beginning on or after January 1, 1998.

**Checkoff for Korean Veterans’ Memorial Fund** — P.L. 1999, c.92 (signed into law on May 3, 1999) allows gross income tax filers to contribute to the Korean Veterans’ Memorial Fund by designating a portion of their refund or by making a donation with their gross income tax return. This act applies to tax years beginning on or after January 1, 2000.

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*in our legislature – from page 16*

### **Local Property Tax**

***Extension of Time for Filing Property Tax Reimbursement Applications*** — P.L. 1999, c.67 (signed into law on April 16, 1999) extends the deadline for filing property tax reimbursement applications to April 15, 1999. The extension applies only to tax year 1998.

***NJ SAVER and Homestead Rebate Act*** — P.L. 1999, c.63 (signed into law on April 15, 1999) establishes a new direct property tax relief program for New Jersey homeowners and expands the existing homestead property tax rebate for certain tenants.

The NJ SAVER component of the statute provides for an annual rebate to be issued to qualified New Jersey residents who own, occupy and pay property taxes on a home in this State which was their principal residence as of October 1 of the previous year. Residents of condominiums, co-ops and continuing care facilities may also be eligible for a NJ SAVER rebate.

The program will be phased in over five years, and will provide maximum rebates averaging about \$600 when fully implemented. Rebates will be phased in at the rate of 20% of the maximum for 1998, 40% for 1999, 60% for 2000, etc. Because the amount of the NJ SAVER rebate is derived by multiplying the first \$45,000 of the

qualified property's equalized value by the equalized school tax rate for the municipality in which the home is located, actual rebate amounts will differ for each municipality.

Homeowners who qualify for both the homestead rebate and the NJ SAVER rebate will receive whichever rebate provides the greater benefit.

Tenants are not eligible for NJ SAVER rebates. However, this legislation extends homestead rebate eligibility to tenants under 65 who are not blind or disabled provided that their income does not exceed \$100,000. Formerly such tenants qualified for a \$30 homestead rebate only if income was \$40,000 or less. Under the new law, homestead rebates for these tenants will be \$30 for tax year 1998, \$40 for tax year 1999, \$60 for tax year 2000, \$80 for tax year 2001 and \$100 for tax year 2002.

### **Miscellaneous**

***Nonofficial Examination of State Tax Records*** — P.L. 1999, c.42 (signed into law on March 12, 1999) provides that any person violating the confidentiality provisions of R.S. 54:50-8 of the State Tax Uniform Procedure Law by examining records or files for any reason other than one necessitated by the performance of official duties shall be guilty of a disorderly persons offense. Persons who divulge, disclose or use confidential

tax information will be guilty of a crime of the fourth degree.

Whenever records and files are used in the prosecution of a person for violating the provisions of R.S. 54:50-8, the defendant shall be given access to said records and files. The court shall review such records and files in camera and that portion of the court record containing the records and files shall be sealed by the court. Chapter 42 became effective upon enactment.

***Shore Protection Fund*** — P.L. 1999, c.71 (signed into law on April 28, 1999) increases the amount annually credited to the Shore Protection Fund to \$25 million. This act took effect immediately and applies only to fiscal years beginning after enactment.

***Aid for Challengers of the NYC Personal Income Tax*** — P.L. 1999, c.118 (signed into law on May 27, 1999) authorizes the New Jersey Attorney General to represent, or to file an action on behalf of, affected New Jersey citizens who wish to challenge the repeal of the New York City personal income tax for residents of New York State who reside in places other than New York City, but not for New Jersey residents who earn income in New York City. Appropriates \$95 million for expenses incurred in providing such assistance. □

# tax calendar

## july

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	31

### July 12

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

### July 15

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

### July 15 - continued

- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

### July 20

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers
- GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used
- GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel
- MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month
- SCC-5 Spill Compensation and Control Tax**—Monthly return
- ST-20 New Jersey/New York Combined State Sales and Use Tax**—Quarterly return
- continued*

### July 20 - continued

- 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 Whole-sale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

### July 26

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

### July 30

- NJ-927 & NJ-927-W Gross Income Tax**—Employer's quarterly return

## august

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	31				

### August 10

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

### August 16

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

### August 16 - continued

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

### August 20

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

fuels for sales and/or use in the previous month

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

*continued*

### August 20 - continued

- ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly return
- ST-51 Sales and Use Tax**—Monthly 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 Return
- TP-20 Tobacco Products Whole-sale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

August 25

september

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

September 10

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

September 15

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

- PPT-41** Petroleum Products Gross Receipts Tax—Monthly return  
*September 15 - continued*

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

September 20

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

September 20 - continued

- ST-21** New Jersey/New York Combined State Sales and Use Tax—Monthly return
- 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 Return
- TP-20** Tobacco Products Wholesale Sales and Use Tax—Monthly return
- UZ-50** Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

September 27

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

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## *from the director's desk*

### **Tax Season Assistance**

As the recap below shows, the Division of Taxation provided assistance to hundreds of thousands of New Jersey taxpayers during the tax season from January 1, 1999 through April 15, 1999.

❖ **Call Center**

Calls answered—296,000

❖ **NJ TaxFax**

Calls received—49,000

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

Calls received—166,700

❖ **HR (Homestead Rebate) InfoLine**

Calls received—118,000

❖ **TaxTalk (Automated information)**

Calls received—46,300

❖ **Automated Forms Request System**

Calls received—34,500

❖ **Taxation Home Page**

Visits to Division's World Wide Web site—2,552,500

❖ **Taxation Building Lobby**

Taxpayers assisted—8,600

❖ **Regional Offices**

Taxpayers assisted—43,500