



# JOINT CIRCULAR

## STATE OF NEW JERSEY

### DEPARTMENT OF THE TREASURY

NO.: 16-10-OMB/DOL	ORIGINATING AGENCIES: OFFICE OF MANAGEMENT AND BUDGET DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT	PAGE 1 OF 3
EFFECTIVE DATE: 12-01-15	EXPIRATION DATE: INDEFINITE	SUPERSEDES: N/A
SUBJECT: STATE VENDOR SET-OFF FOR COLLECTION OF EMPLOYER'S DEBT TO UNEMPLOYMENT INSURANCE FUND, DISABILITY FUND, AND/OR FAMILY TEMPORARY DISABILITY ACCOUNT		
ATTENTION: DIRECTORS OF ADMINISTRATION AND CHIEF FISCAL OFFICERS		
FOR INFORMATION CONTACT: RONALD MARINO UNEMPLOYMENT INSURANCE AND DISABILITY		PHONE: (609) 984-3508

#### I. INTRODUCTION

N.J.S.A. 43:21-14.4 provides that contributions by an employer that are due and owing to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account are to be considered State tax debt of the employer. In accordance with the New Jersey P.L.1995, c.159, §1, effective January 1, 1996 and codified at N.J.S.A. 54:49-19, "Whenever any taxpayer under contract to provide goods or services to the State of New Jersey or its agencies or instrumentalities, and including the legislative and judicial branches of State government, or under contract for construction projects of the State of New Jersey or its agencies or instrumentalities, and including the legislative and judicial branches of State government, is entitled to payment for the goods or services or on that construction project and at the same time, the taxpayer is indebted for any State tax, the Director of the Division of Taxation shall seek to set-off so much of that payment as shall be necessary to satisfy the indebtedness."

Furthermore, in accordance with P.L. 1995,c.159, § 2, codified at N.J.S.A. 54:49-20, "Notwithstanding any provision of law to the contrary, whenever any partnership or S Corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services or construction projects at the same time a partner or shareholder of that entity is indebted for any State tax, the director shall seek to set off that partner's or shareholder's share of the payment due the partnership or S Corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the partner or shareholder subject to set-off under this act."

Employers' debts to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account therefore are collectible via the set-off of vendor payments as completed for the tax debt owed to the Division of Taxation. The Department of the Treasury has established procedures and methods to effect a vendor payment set-off which are included in the Standard Terms and Conditions contained in all State contracts.

## II. REQUIREMENTS

- A. Pursuant to N.J.S.A. 43:21-7, the Department of Labor and Workforce Development shall provide each employer on a quarterly basis a statement of the amount due by the employer to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account and that the employer may be subject to collection action pursuant to N.J.S.A. 54:49-19. The employer will have 30 days after the end of each quarter to remit the amount due to the Department of Labor and Workforce Development, or to make any appropriate payment arrangement. If an amount is due by the employer and no remittance or a partial remittance is received by the Division of Taxation within the Department of the Treasury within 30 days after the end of the billing date, the Department of Labor and Workforce Development may proceed with collection action pursuant to N.J.S.A. 54:49-19.
- B. Notice of the provisions of N.J.S.A. 54:49-19 et seq. must be included in all contracts or agreements executed or entered into by all State agencies, authorities and instrumentalities. The Department of the Treasury, Division of Purchase and Property, will continue to insert the notice of the provisions of N.J.S.A. 54:49-19 in all contracts or agreements issued by the Division of Purchase and Property. Per N.J.S.A. 43:21-14.4, the debt owed to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account are also considered tax debt and are therefore addressed by this same notice.
- C. Department administrators must ensure that all employees involved directly or indirectly with the procurement process, including directors of administration, fiscal officers, program administrators, etc., are cognizant of the established procurement procedures prior to entering into any transaction with a vendor that results in the commitment of funds. A contract entered into by the State, its agencies or instrumentalities with a provider of goods or services, or a contractor or subcontractor of a construction project after January 1, 1996, shall contain a notice of the provisions of N.J.S.A. 54:49-19. Per N.J.S.A. 43:21-14.4, the debt owed to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account are also considered tax debt and are therefore addressed by this same notice.

## III. CONTENT OF NOTICE TO STATE VENDORS

The following language must be included in all vendor contracts:

### **NOTICE TO ALL STATE VENDORS: SET-OFF FOR STATE TAX**

Please be advised that pursuant to P.L. 1995 c.159, effective January 1, 1996, and codified at N.J.S.A. 54:49-19 and N.J.S.A. 54:49-20, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S Corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods and services or construction projects, at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax which pursuant to N.J.S.A. 43:21-14.4 also includes any indebtedness greater than or equal to \$300 that is due to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account, the Director of the Division of Taxation or the Director of the Office of Management and Budget shall seek to set off that taxpayer's, partner's or shareholder's share of the payment of that indebtedness. The amount set-off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off.

A set-off reduces the contract payment due to a vendor by the amount of that vendor's State tax indebtedness or, in the case of a vendor-partnership or vendor-S Corporation, by the amount of State tax indebtedness of any member-partner or shareholder of the partnership or S Corporation, respectively. N.J.A.C. 18:2-8.3.

Upon the occurrence of a State tax debt under the authority of the Division of Taxation, the Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and shall provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-18. No requests for conference, protest or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State to the taxpayer, pursuant to L. 1987, c. 184 (N.J.S.A. 52:32-35) shall be stayed.

No requests for conference, protest or subsequent appeal to the Office of Administrative Law for any debt due to the Unemployment Compensation Fund, the State Disability Benefits Fund, and the Family Temporary Disability Leave Account, shall stay the collection of the indebtedness.



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David Ridolfino, Acting Director  
Office of Management and Budget



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Harold J. Wirths, Commissioner  
Department of Labor and Workforce Development