

New Jersey State Tax news

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Homestead Benefit Payments for 2013 Coming in May

Most New Jersey homeowners who were eligible and filed for a 2013 homestead benefit will receive their benefit as a credit on their May 2016 property tax bills. However, homeowners will receive their benefit in the form of a check (or direct deposit) in early May if their home was a unit in a co-op or a continuing care retirement community, or they indicated when filing that they no longer owned the home that was their principal residence on Oct. 1, 2013.

To be eligible for a 2013 homestead benefit, applicants had to be New Jersey residents who owned and occupied a home in New Jersey that was their principal residence on Oct. 1, 2013, paid property taxes on that home and had 2013 New Jersey gross income of \$75,000 or less (\$150,000 or less for homeowners 65 or older or blind or disabled).

Benefit amounts vary based on the applicant's income, filing status, property taxes and whether the applicant was 65 or older or blind or disabled.

The 2013 benefit is based on the 2006 property taxes for the applicant's Oct. 1, 2013, principal residence. If no property taxes were assessed on the home for 2006, the Division of Taxation determines the amount of property taxes that would have been due.

Homeowners can check the status of their homestead benefit [online](#). Additional information about the [Homestead Benefit Program](#), including information on how the benefit is calculated, is also available on our website. □

SALES AND USE TAX

Reporting Tax on Boat/Vessel Sales

Recent legislation (P.L. 2015, c.170) amended the Sales and Use Tax Act to: (1) provide a 50 percent Sales and Use Tax exemption on the sale of new and used boats or other vessels and (2) cap the amount of sales tax or use tax due on an individual sale at \$20,000.

These changes affect how businesses that sell, rent or lease new and used boats or other vessels that are "eligible" for the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap complete and file their Sales and Use Tax returns. See [page 9](#) for more information. The *Frequently Asked Questions on Boats and Other Vessels* in that section include the definition of an "eligible boat or other vessel" as well as examples of "noneligible" watercraft.

For filing periods beginning on and after Feb. 1, 2016, businesses that make eligible sales of boats or other vessels must file all Sales and Use Tax returns and remittance

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boat/vessel sales - from page 1

statements (if applicable) online and make payments electronically.

These businesses will complete new, online returns (ST-50B, ST-350B, ST-450B or UZ-50B) and must provide information about the number of eligible boats or other vessels sold, rented or leased during the filing period and the total gross receipts for those transactions. This information is needed to ensure that the amount of tax due on these transactions is properly calculated.

Businesses that sell, rent or lease eligible boats or other vessels must use the new "B" returns for any filing period (month or quarter) in which they made "eligible" sales. These businesses will also report on the "B" return any sales that are subject to sales tax at the regular rate.

Businesses that *do not* sell, rent or lease "eligible" boats or other vessels will continue to file the quarterly/monthly returns they have in the past (ST-50, ST-350, ST-450 or UZ-50).

"Noneligible" sales, rentals or leases involve items to which the partial sales tax exemption (3.5%

sales tax rate) and the \$20,000 sales tax cap *do not apply*. Examples include: canoes, kayaks, paddleboards, paddleboats (other than mechanically powered), rowboats, rafts, surfboards and inflatable rafts with oars. Sales, rentals and leases of these "noneligible" items are subject to the full sales tax rate of 7%, unless another exemption provision applies. For example, sales, leases or rentals of canoes or kayaks made by qualified sellers in Salem County or in an Urban Enterprise Zone are subject to tax at the reduced rate of 3.5% that applies to certain sales of tangible property in those locations.

The Sales and Use Tax return a business must file depends on where it is located and whether or not it sells, rents or leases "eligible" boats or other vessels. See the "Which Form to File" chart below.

Online Filing for Cape May County Businesses

For filing periods beginning on and after Feb. 1, 2016, taxpayers required to file Cape May County Tourism Sales Tax and Tourism Assessment monthly returns that make eligible sales of boats or other vessels (i.e., they sell, rent or

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

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Businesses That Sell, Rent or Lease Boats or Other Vessels Which Sales and Use Tax Return to File				
Business sells, rents, or leases...	Statewide (Except Salem County)	Salem County	Cape May County (certain municipalities)	UEZ/UEZ-Impacted Business District (qualified businesses)
Eligible boats or other vessels only	ST-50B	ST-450B	ST-350B	UZ-50B
Both eligible and noneligible boats or other vessels	ST-50B	ST-450B	ST-350B	UZ-50B
Noneligible boats or other vessels only	ST-50	ST-450	ST-350	UZ-50



boat/vessel sales - from page 2

lease boats or other vessels that are eligible for the partial sales tax exemption and the sales tax cap) must file the ST-350B return **online** and make payments electronically. *These Cape May County businesses can no longer use a paper Form ST-350.*

The Division of Taxation is phasing out the paper Form ST-350 monthly returns at the end of 2016. For filing periods beginning on and after Jan. 1, 2017, **all** taxpayers that file Cape May County Tourism Sales Tax and Tourism Assessment monthly returns will be required to file online and make payments electronically. However, businesses that file Form ST-350 can begin to file online and make payments electronically immediately if they wish. □

Pioneer Credit Recovery

Pioneer Credit Recovery, Inc. (PCR) is a company contracted by the

Interest 6.25%

The interest rate assessed on amounts due for the period Jan. 1, 2016 – Dec. 1, 2016, will be 6.25%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/10	6.25%
1/1/11	6.25%
1/1/12	6.25%
1/1/13	6.25%
1/1/14	6.25%
1/1/15	6.25%
1/1/16	6.25%

Division of Taxation through the public bidding process to assist in the collection of deficient (underpaid) and delinquent (unfiled) State taxes, as permitted under P.L. 1992, c.172. PCR is the Division’s authorized collection agency and is overseen by the Division’s Compliance Branch.

PCR and its employees who work on this contract are bound by the same confidentiality rules in the State Tax Uniform Procedure Law (N.J.S.A. 54:50-8 and N.J.S.A. 54:50-9), the Internal Revenue Code (U.S.C. §§6103, 7213) and the State ethics guidelines and procedures required of all other Division employees. Violators of these laws are subject to prosecution.

If you are contacted by PCR, respond directly to that caseworker to expedite your case.

The Collection Process

After you file a tax return, if you do not pay the balance in full, the Division sends a billing notice for the amount due. This amount includes any penalties and interest. If you fail to make payment within 30 days of the billing notice, your account/tax liability will be forwarded to PCR for debt collection.

If you fail to file a tax return, your account is considered to be delinquent, and your tax liability will be arbitrarily assessed. If you fall into this category, it is imperative that you file all missing returns. This will ensure that the Division’s records reflect your true liability.

After your account is forwarded to PCR, the collection process proceeds as follows:

- PCR reviews the debt and assigns the account to a caseworker.

- The caseworker mails an initial contact letter along with an updated Schedule of Liabilities detailing the current balance due.
- PCR will attempt to contact the taxpayer (or their authorized representative) in an effort to resolve the matter.
- If the debt remains unresolved after 30 days, PCR will issue a “Notice of Demand for Payment” via certified mail. This official notification allows taxpayers either 30 days (for deficient items) or 90 days (for delinquent items) to resolve the issue. It is important that taxpayers with delinquent returns are aware that penalties and fees assessed on delinquencies are higher than if a return had been filed timely.
- If the debt is still outstanding, a Certificate of Debt (COD) is entered with the Clerk of the New Jersey Superior Court. A COD has the same force and effect as a Docketed Judgment adjudicated in any court of law. If a COD is issued for the outstanding liability, a cost of collection fee is added to the docketed judgment and becomes part of the outstanding liability.
- Once the COD is in place, the case is returned to the Division for further collection action.
- All cases with CODs are assessed a cost of collection fee, which is in addition to a referral cost recovery fee.

Referral Cost Recovery Fee

Beginning in October 2003, the Division began imposing a referral cost recovery fee as authorized by

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N.J.S.A. 54:49-12.3 and N.J.A.C. 18:2-2.5(d).

In cases in which any State tax remains unpaid and your account is referred to PCR for collection, a referral cost recovery fee of 10% of the amount referred will be assessed and added to the tax liability. This fee is in addition to any interest or penalties imposed. If your returns have not been filed (account is delinquent), and your tax liability has been arbitrarily assessed, the referral cost recovery fee will be 10% of the assessed amount.

The referral cost recovery fee is not compensation paid to PCR. This fee is assessed to cover the expense incurred by the Division when taxes are not filed and paid in a timely manner or not resolved upon the issuance of an initial bill. Generally, each payment sent to Pioneer will have 10% of that payment applied to the referral cost recovery fee items until all referral cost recovery fee items are satisfied.

Cost of Collection

If any State tax is not paid within the time prescribed by law, and the Director of the Division of Taxation issues a Certificate of Debt pursuant to R.S.54:49-12, a fee for the cost of collection of the tax may be imposed. The fees imposed pursuant to the statute are in addition to any interest or penalties, or both, otherwise allowed by law. □

LOCAL PROPERTY TAX

Tax Deferment for Deployed Military Personnel

P.L. 2015, c.277, approved Jan. 19, 2016, provides a deferment from property taxes that are due while a military servicemember is deployed for active service in time of war.

The deferment begins on the tax due date and ends 90 days after the end of deployment. No interest is charged when the amount due is paid on or before the first day following the 90-day grace period. However, interest will accrue from the original due date on any amount that is unpaid after the first day following the grace period.

The deferment is limited to property owned solely by the deployed military servicemember or owned with a spouse/civil union partner. Property owned by a corporation or with others (parents, siblings or children) does not qualify for the deferment. The law permits a person acting on behalf of the servicemember to file the application for deferment with the tax collector of the municipality where the property is located.

The Director of the Division of Taxation will prescribe the application form and make it available on the Division’s website. To qualify, the deployed servicemember must submit the application, military orders and a DD Form 214. The municipal tax

collector will review the application and determine eligibility.

In order to avoid an unfunded mandate, the law requires that the State annually pay each municipality the total amount deferred plus 2% administrative costs in the same manner as is currently done for the veterans’ property tax deduction. The municipal tax collector is required to reimburse the State upon receipt of the deferred payment from each qualified military servicemember, along with any interest collected for payments made after the deferment period. □

LOCAL PROPERTY TAX

Nonresidential Development Fee

The following information has been promulgated by the Department of Community Affairs, Local Planning Services:

“The Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 through 8.8, was established by P.L. 2008, c. 46. The first moratorium on the fee, which ended on July 1, 2010, was instituted by P.L. 2009, c. 90. The moratorium was extended by P.L. 2011, c. 122 for projects receiving site approval prior to July 1, 2013 and a construction permit as of January 1, 2015.” (That moratorium extension has not been renewed by

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Current Amnesty Programs

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

Massachusetts 4/1/16 – 5/31/16 <http://www.mass.gov/dor/>



development fee - from page 4

the New Jersey Legislature and is currently expired.)

“Thus, as of July 1, 2013 all municipalities are required to impose a Non-Residential Development Fee of 2.5 percent of the equalized assessed value on projects receiving site approval after that date pursuant to the Statewide Non-residential Development Fee Act, N.J.S.A. 40:55D-8.6.

“The NRDF Certification/Exemption Form (Form N-RDF rev. 1/2016) has been updated to include an exemption for developments that received both appropriate site plan approval prior to July 1, 2013 and a construction permit prior to January 1, 2015. All previous exemptions or exclusions under the Non-Residential Development Fee Act remain.” (Form N-RDF is available on the Division’s [website](#).)

If a developer is claiming an exemption from the Nonresidential Development Fee, then the assessor determines if the exemption is justified. If not exempt, the assessor must prepare an estimated assessment based on a review of the documentation submitted by the developer with the construction permit application. Once notified that the property is ready for a final assessment, the assessor enters the assessed value of the completed construction on the form and calculates the Nonresidential Development Fee due on the project.

If the municipality is participating in the Fair Housing Act, payment is remitted to the town. If the municipality is not a Fair Housing Act participant, payment is made to the State Treasurer. □

LOCAL PROPERTY TAX

Tax Assessors' Calendar

April 1–

- Deadline for filing appeals of assessed valuations in nonrevalued and nonreassessed municipalities to County Tax Boards by taxpayers and taxing districts and for appeals of assessed valuations over \$1,000,000 to State Tax Court.
- Percentage level of taxable value of real property established by the County Tax Boards.
- If appeal petition or complaint is filed April 1 or during the 19 days preceding April 1, the 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 State Tax Court.
- Total tax amount to be raised for county purposes sent by County Board of Chosen Freeholders to County Tax Board, apportioned among the taxing districts.

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–

- County Board of Taxation files Form SR-3A with Property Administration.

May 1–

- Residential properties identified by assessors and certified to County Tax Board.
- Deadline for filing assessment appeals to the County Tax Board or where assessed values exceed \$1,000,000 to the State

Tax Court in taxing districts that have implemented a municipality-wide revaluation or reassessment.

May 10–

- Form TL-45 filed with Property Administration by County Tax Administrator.

May 20–

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

May 23–

- Table of Aggregates signed by County Tax Boards and transmitted to County Treasurer who files, prints and transmits a certified copy to the Director, Division of Taxation; State Auditor; Director, Division of Local Government Services in the Department of Community Affairs; the clerk of the Board of Freeholders; and the clerk of each municipality in the county.

June 1–

- County Tax Administrator to furnish to Director, Division of Taxation, a list of current members, the appointment and expiration dates of their terms of office and the status of the required courses.
- Assessors’ Property Tax Deduction Disallowance Notices, Form PD4, sent.

June 3–

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

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assessors' calendar - from page 5

June 15 (on or before)–

- County Board of Taxation certifies to Director, Division of Taxation, the number and total dollar amount of property tax and veterans' deductions allowed and disallowed for the current tax year on Forms PD-65.15 and VE-WVE-2.

NOTE: Complaints (appeals) from County Tax Board judgments must be filed with the Tax Court within 45 days of service.

The complete [2016 Work Calendar](#) is available on the Division's website.

Monmouth County Demonstration Program

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

Public Auction Information

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

April 1–

- Tax appeals are heard February, March and April.

May 5–

- Assessor to file assessment lists and duplicates with County Tax Board.

May 10 (after)–

- County Tax Board may permit tax collector to have custody of tax duplicate.

May 15 (before)–

- County Tax Board to complete equalization table hearings.

May 15–

- Total tax amount to be raised for county purposes sent by County Board of Freeholders to County Tax Board, apportioned among the taxing districts.
- County Tax Board to notify Director, Division of Local Government Services, when copy of budget resolution (in CY municipality) showing amount to be raised is not received.
- County Tax Administrator to submit copy of equalization table to County Tax Board; each assessor; Division of Taxation; Director, Local Government Services (two copies); and post a copy at the courthouse.

May 25–

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

May 31–

- General tax rates certified by County Tax Board.

- County Tax Board to file final SR-3A forms with Property Administration.

June 15–

- County Tax Board President to file annual appeal statistics report (Form TAS) with Director, Division of Taxation.

The complete [2016 Monmouth County Work Calendar](#) is available on the Division's website. □

Criminal Enforcement

Criminal enforcement over the past several months included:

- On Sept. 11, 2015, Henry R. De La Rosa, t/a Busanka Restaurant LLC, was indicted in Middlesex County Court for failure to file New Jersey sales tax returns (Form ST-50) for the first quarter of 2010 through the fourth quarter of 2014 and failure to remit sales taxes to the State of New Jersey for the first quarter of 2010 through the fourth quarter of 2014. An Office of Criminal Investigation (OCI) auditor determined that De La Rosa owes restitution in the amount of \$74,719, including penalty and interest.
- On Oct. 8, 2015, OCI arrested Osama Rawashdeh, owner of the Grab and Go in Paterson, New Jersey. Seized were 58.5 cartons of New Jersey counterfeit-stamped cigarettes. New Jersey State Fire Marshals assisted with the inspection using their tobacco K-9, Scout.
- On Nov. 13, 2015, Vivian Farney of Middletown, New Jersey, was sentenced to probation on four



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counts of filing a fraudulent tax return. A joint investigation between OCI and the Monmouth County Prosecutor's Office revealed that she made numerous cash deposits into her bank account (funds allegedly embezzled from her employer) that she did not claim on her tax returns during the years 2007 through 2010. Farney was ordered to pay \$8,000 in restitution to the New Jersey Division of Taxation. Ms. Farney's common-law husband, William Seward, pled guilty to failure to file a tax return for the years 2007 through 2010. He was also put on probation on the condition that he file the delinquent returns within 90 days of sentencing.

- On Nov. 17, 2015, OCI special agents performed a compliance inspection with the Englewood Police Department at Crown Fish and Chicken, LLC in Englewood, New Jersey. The inspection resulted in the seizure of 5.1 cartons of Virginia-stamped cigarettes, 5,148 untaxed tobacco products and 190 loosies. During the search, agents also found multiple bags of marijuana, brass knuckles and possible bags of

synthetic marijuana, to which the agents alerted the members of the municipal police department. The two employees of the store were placed under arrest. One of the employees present at the time of inspection lived in the apartment located directly behind the business. He was asked if he would sign a "consent to search" his apartment, to which he agreed. A search was conducted by the special agents that resulted in the seizure of 99.7 cartons of Virginia-stamped cigarettes, 11,245 untaxed tobacco products and 7 pieces of paperwork/invoices. The owner of the store, Manfooz Khan, has been charged with all of the contraband cigarette and tobacco counts.

- On Dec. 3, 2015, an Ocean County Grand Jury handed up indictments on two separate cases referred to the Prosecutor's Office and jointly investigated with the New Jersey State Comptroller's Office, Medicaid Fraud Division and OCI. Peter Cerruto and his wife, Lisa Cerruto, of Barnegat, New Jersey, were indicted on charges of theft by deception, Medicaid fraud, tampering with government records, filing fraudulent tax returns and failure

to pay tax. It is alleged that the Cerrutos provided false information on their applications for New Jersey Family Care, a Medicaid program, and received benefits totaling approximately \$69,000 between February 2010 and July 2013. The tax counts cover the tax years of 2010 through 2013. The general nature of the allegations is that income was understated in both the Medicaid and tax matters. All counts of the indictment were in the third degree, and the defendants face up to five years in State prison.

- On Dec. 3, 2015, an Ocean County Grand Jury handed up a second indictment on Yosaf Laskin and his wife, Gila Neger, of Lakewood. Mr. Laskin was indicted for theft by deception, Medicaid fraud and tampering with government records. It is alleged that he provided false information on his applications for New Jersey Family Care and received benefits of approximately \$148,000 between November 2010 and July 2013. Ms. Neger was indicted for theft by deception and tampering with government records. It is alleged that she filed a false application for food stamps under the Supplemental Nutritional Assistance Program (SNAP) and received approximately \$8,000 in benefits. Both Laskin and Neger were also indicted for filing fraudulent tax returns for tax years 2010 and 2011. The general nature of the allegations is that income was understated in the Medicaid, SNAP and tax matters. Mr. Laskin faces up to 10 years in State prison on the second-degree charge of theft by

Enforcement Summary Statistics

First Quarter 2016

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

	Number	Amount
• Bank Levies	643	\$ 1,975,891
• Certificates of Debt	3,686	51,151,283
• Seizures	117	1,562,453
• Auctions	14	185,952
• Warrants of Satisfaction	4,313	

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deception. The remaining counts are all third-degree charges, and the defendants face up to five years in prison.

- On Dec. 7, 2015, in Mercer County Superior Court, former New York Giants football star Plaxico Burress agreed to serve 5 years of probation and 364 days in jail for failing to pay \$46,000 in taxes on his \$1 million income in 2013. In exchange for the guilty plea, prosecutors dropped an additional charge of issuing a bad check or electronic funds transfer, a third-degree felony. Burress must repay his back taxes, with penalty and interest, by the time the probation period ends or face jail time. Burress filed his 2013 income tax return with the New Jersey Division of Taxation, but the electronic payment failed. Burress was alerted to the nonpayment by the Division of Revenue and Enterprise Services, but he did not respond. A criminal complaint came in February 2015 after additional efforts by OCI to

reach Burress were unsuccessful. Under a 2014 bill signed by Governor Christie, New Jersey allows criminal penalties to be imposed on people who send insufficient e-payments just as if those payments were bounced checks. Burress was sentenced on Feb. 5, 2016. This case was a joint investigation between OCI's Technical Enforcement Unit and the Mercer County Prosecutor's Office. □

Tax Briefs

Controlling Interest Transfer Tax

No De Minimis Exception – A tax practitioner inquired as to whether there is a de minimis exception to the Controlling Interest Transfer Tax (CITT) when one owner purchases a five percent interest in an entity owning Class 4A commercial property from the other owner, which results in the purchaser having a controlling interest. In this case, taxpayers A and B each own a 50 percent share in entity C. Taxpayer A buys an additional five percent of entity C from

taxpayer B for \$1,200,000. Taxpayer A now owns a controlling interest (55 percent) in entity C.

The Division responded that when there is a sale or transfer of an ownership/membership interest in an entity that owns Class 4A commercial property, and the purchaser/transferee gains a controlling interest as a result of the sale or transfer, the CITT is due if the consideration for the purchase of the interest is in excess of \$1,000,000 in accordance with N.J.S.A. 54:15C-1.

Because the purchase by taxpayer A resulted in his owning a controlling interest in entity C, he now owes the CITT even though the interest purchased was not itself a controlling interest. As long as consideration for the purchase exceeds \$1 million, there is no de minimis exception for a purchase/transfer that results in the purchaser/transferee owning a controlling interest.

Partnerships

Claiming a Federal Tax Credit on Form NJ-1065 – A taxpayer inquired as to whether the research and development credit authorized under I.R.C. §41 and taken on federal Form 6765 is allowed as a deduction for partnerships on the NJ-1065 return.

As required in the instructions for the NJ-1065, for New Jersey purposes, the partnership's income reported on Line 1 of Form NJ-1065 is the amount of ordinary income or loss derived from the partnership's trade or business activities. This will be the amount reported on Line 1, Schedule K, federal Form 1065.

There is no provision in the New Jersey Gross Income Tax Act that allows the use of federal tax credits

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Pay NJ Taxes Electronically
www.state.nj.us/treasury/taxation/payelect.shtml

Electronic Check (E-Check)

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

Credit Card Pay online or by phone (1-888-673-7694).

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or an adjustment of income for New Jersey Gross Income Tax purposes when a partnership takes a federal credit.

Therefore, the research and development credit under I.R.C. §41 is not available as a deduction at the partnership or individual level, and partnerships are required to report ordinary income on Form NJ-1065 in the same manner as reported for federal purposes.

Sales and Use Tax

Partial Exemption (3.5% Tax Rate) and \$20,000 Tax Cap for Sales and Uses of Boats and Vessels; Grace Period for Use Tax Imposition – Amendment to the Sales and Use Tax Act, enacted Dec. 9, 2015.

P.L. 2015, c.170 amends the Sales and Use Tax Act to provide a 50 percent sales and use tax exemption on the sale of new and used boats or other vessels (including motorboats, sailboats, yachts and cruisers) and caps the amount of Sales and Use Tax so that the most the State can collect on a particular sale is \$20,000. As a result, the Sales and Use Tax rate goes from 7 percent to 3.5 percent. There is no further reduction of the Sales and Use Tax rate on sales in an urban enterprise zone or in Salem County. The exemption and cap apply to purchases occurring on and after Feb. 1, 2016. Because rental/lease transactions are treated as retail sales under the Sales and Use Tax Act, these changes also apply to rentals and leases of boats or other vessels.

In addition to the exemption and cap, for uses on or after Jan. 1, 2016, the law allows a grace period for certain boats or other vessels purchased out of State by a New Jersey resident to

be used in New Jersey for up to 30 days in a calendar year without triggering use tax so long as:

1. The boat or other vessel is legally operated by the resident purchaser and meets all current requirements pursuant to applicable federal law or pursuant to a federally approved numbering system for boats and vessels adopted by another state; and
2. The resident purchaser is not engaged in or carrying on in this State any employment, trade, business or profession in which the boat or vessel will be used in this State.

Frequently Asked Questions: Boats and Other Vessels – Partial Sales Tax Exemption (3.5% Sales Tax rate); \$20,000 Sales Tax Cap

Q1. *What is the definition of “boat or other vessel”?*

A. Based on legislative intent, a “boat or other vessel” is a means of conveyance for travel on water and propelled otherwise than by muscular power, such as a motorboat, sailboat, yacht and cruiser.

Q2. *Does the new law apply to leases and rentals of boats or other vessels?*

A. Yes. The statutory definition of “sale” includes leases and rentals, so the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap (maximum amount of Sales and Use Tax the State can collect on an eligible sale) also apply to leases and rentals of boats or other vessels.

Q3. *Does the new law apply only to noncommercial boats or other vessels?*

A. No. The new law does not distinguish between commercial and

noncommercial boats or other vessels, so the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply to both commercial and noncommercial boats or other vessels. (**NOTE:** Several types of commercial boats and vessels are currently exempt from sales tax in full.)

Q4. *Do the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply to sales, leases and rentals of personal watercraft?*

A. Yes. The partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply to sales, leases and rentals of personal watercraft.

“Personal watercraft” means a power vessel defined as a Class “A” vessel by the United States Coast Guard, and that:

- a. Is designed to be operated from a sitting, standing or kneeling position;
- b. Is equipped with an internal combustion engine that powers a water jet pump; and
- c. Cannot be operated in a manner so as to disengage the pump so as to prevent the vessel from making headway (N.J.S.A. 12:7-62).

Q5. *Do the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply to sales, leases and rentals of canoes and kayaks?*

A. No. Based on the definition in question 1, the Division has determined that canoes and kayaks are not entitled to the partial sales tax

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exemption (3.5% sales tax rate) or the \$20,000 sales tax cap. Thus, sales, rentals and leases of canoes and kayaks are subject to the full sales tax rate of 7% unless another exemption provision applies (e.g., sales of tangible property made by qualified sellers in Salem County or in an urban enterprise zone).

Q6. *Do the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply to used and brokered boats or other vessels?*

A. Yes. The new law does not distinguish between new and used boats or other vessels, so brokered sales (in which a dealer acts as a go-between for the seller and the purchaser) and casual sales (sales between individuals with no broker) are eligible for the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap.

Q7. *Does the partial sales tax exemption (3.5% sales tax rate) apply to services, parts and labor?*

A. No. The new law only applies to sales, rentals and leases of boats or other vessels. Therefore, charges for all services (repairs, maintenance, etc.), parts and supplies are subject to the full sales tax rate of 7% unless another exemption provision applies (e.g., sales of tangible property made by qualified sellers in Salem County or in an urban enterprise zone).

Q8. *What are examples of items that are not entitled to the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap?*

A. The partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap do not apply to sales, rentals and leases of canoes, kayaks,

paddleboards, paddleboats (other than mechanically powered), rowboats, rafts, surfboards and inflatable rafts with oars. Thus, sales, rentals and leases of these items are subject to the full sales tax rate of 7% unless another exemption provision applies (e.g., sales of tangible property made by qualified sellers in Salem County or in an urban enterprise zone).

Q9. *Do the partial sales tax exemption (3.5% sales tax rate) and \$20,000 sales tax cap apply to new boats or other vessels sold as packages with trailers, motors and accessories?*

A. Trailers are separate and distinct from the boat or other vessel and are not eligible for the partial sales tax exemption (3.5% sales tax rate) or the \$20,000 sales tax cap; therefore, the price for the trailer must be separately stated on the invoice for the boat or other vessel or the entire sales price will be subject to the full sales tax rate of 7%.

If the accessories and motors are included in the sales price of the boat or other vessel and are affixed thereto at the time of purchase, the partial sales tax exemption (3.5% sales tax rate) and the \$20,000 sales tax cap apply.

Q10. *What is the tax treatment of sales of boats and other vessels that occurred prior to the Feb. 1, 2016, effective date of the new law?*

A. The statutory definition of “sale” is any transfer of title or possession for consideration. If the boat or other vessel is sold and physical delivery or transfer of title took place before Feb. 1, 2016, the sales tax rate is 7%. If the boat or other vessel is sold but physical delivery or transfer of title takes place on or after Feb. 1, 2016, the sales tax rate is 3.5%. This

applies whether or not payment has been made in whole or in part prior to delivery.

Q11. *What is the tax treatment if the sale of the boat or other vessel occurs in Salem County or an urban enterprise zone?*

A. Qualified sales of boats and other vessels in Salem County or in an urban enterprise zone are already entitled to a partial sales tax exemption (3.5% sales tax rate). The new law does not allow a further reduction of this already reduced rate. However, sales of boats and other vessels in Salem County or in an urban enterprise zone are entitled to the \$20,000 sales tax cap.

Q12. *Can a purchaser obtain a refund of sales tax if the purchaser was incorrectly charged more than the 3.5% sales tax rate or an amount that exceeded the \$20,000 sales tax cap on an eligible purchase of a boat or other vessel?*

A. Yes. If a purchaser was charged more than the 3.5% sales tax rate or an amount that exceeded the \$20,000 sales tax cap on an eligible purchase of a boat or other vessel, the purchaser may apply for a refund of tax paid to either the seller or the State of New Jersey. The Division of Taxation will refund the tax so long as the tax was “erroneously, illegally or unconstitutionally collected or paid.” To request a refund from the Division, the purchaser must file a Claim for Refund ([Form A-3730](#)) within four years from the date of payment of the sales tax. The purchaser must enclose all supporting documentation of the sales tax paid in order to substantiate the claim. □

In Our Courts

Gross Income Tax

S Corporation Distributions – *Morris & Charlotte Cohen v. Director, Division of Taxation*, decided June 9, 2015; Appellate Division, Docket No. A-5827-12T4.

Morris Cohen (Plaintiff) is a New Jersey resident who was a 25% shareholder in Conway Stores (Conway), a New York S corporation. During tax year 2003, Plaintiff received a distribution of \$554,292 from Conway but did not report this distribution on his NJ-1040. Plaintiff believed that because he had been unable to use S corporation losses to reduce his taxable income in prior years, the losses could not be used to reduce his New Jersey accumulated adjustments account (NJ AAA) below zero, and the distribution was not taxable. The Division issued a notice of deficiency to Plaintiff that reclassified the distribution as a taxable dividend under N.J.S.A. 54A:5-14.

Plaintiff argued that based on the principles in *Koch v. Director, Division of Taxation*, 157 N.J. 1 (1999), losses that are passed through to a shareholder but that cannot be used to offset income cannot reduce NJ AAA because they provide no tax benefit. The Tax Court declined to address the argument because the taxpayer did not comply with the rules for properly calculating the NJ AAA. The Court denied Plaintiff's motion for summary judgment and upheld the Division's position that the distribution is to be taxed as a dividend.

Plaintiff appealed the Tax Court's decision. The Appellate Court found that the statute expressly requires the application of federal principles to

calculate AAA and found no basis in the statute or case law to support Plaintiff's argument that NJ AAA should not be reduced by S corporation losses. Plaintiff filed a motion for reconsideration, which the Appellate Court denied.

New Jersey Residents Not Entitled to Credit for Taxes Paid to Other Jurisdiction – *Ravinder Palwai v. Director, Division of Taxation*, decided Nov. 18, 2015; Tax Court, Docket No. 017418-2010.

Ravinder Palwai and his wife (Plaintiffs) closed on the purchase of their home in New Jersey in 2005 and moved into the State in 2006. They filed a joint 2006 NJ-1040 and did not claim a credit for taxes paid to another jurisdiction. Plaintiffs also filed a 2006 Form IT-203 (New York Nonresident and Part-Year Resident Income Tax Return) reporting a zero tax liability after deducting allowable New York state refundable credits.

After reviewing Plaintiffs' return, the Division of Taxation adjusted their New Jersey gross income as follows: (1) increased wage income for New York wages that were not reported to New Jersey; (2) added back a deduction for an IRC Section 125 cafeteria plan; and (3) denied the credit for taxes paid to New York because Plaintiffs reported \$0 tax was due to New York after deducting the credit for taxes paid to other jurisdictions.

Plaintiffs filed a timely administrative protest but failed to participate in the process, so the Division's determination was upheld. Plaintiffs filed a timely complaint with the Tax Court. After numerous adjournments, the Division filed a summary judgment motion to dismiss the

complaint. The Tax Court granted the motion finding that: (1) Plaintiffs were New Jersey residents and were subject to tax on all earnings regardless of where earned, so the New York wages were reportable to New Jersey; (2) Plaintiffs failed to provide any documentation to prove that the contributions to the IRC Section 125 cafeteria plan qualified to be excluded from gross income; and (3) a resident is allowed a credit for taxes paid to another jurisdiction only if the income is actually taxed in New Jersey and the other jurisdiction. Their New York return showed \$0 tax due; therefore, Plaintiffs are not entitled to a credit for taxes paid because the income earned in New York was not actually taxed. □

In Our Legislature

Gross Income Tax

Achieving a Better Life Experience (ABLE) Program for Persons With Certain Disabilities — P.L. 2015, c.185, signed into law on Jan. 11, 2016, and effective on the first day of the tenth month after enactment, allows persons with certain disabilities to establish ABLE accounts, which may be used for certain qualifying disability expenses. Earnings on qualified distributions from qualified ABLE accounts will be exempt from State income taxation. In addition, ABLE accounts will not be considered when determining income eligibility for State assistance programs.

Checkoff for New Jersey Yellow Ribbon Fund — P.L. 2015, c.278, signed into law on Jan. 11, 2016, effective immediately, and applicable to tax years beginning on or after Jan. 1, 2017, allows taxpayers to



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donate to the New Jersey Yellow Ribbon Fund by specifying that a certain amount of their income tax overpayments should go to that fund or by enclosing a contribution with their Gross Income Tax returns.

Local Property Tax

Tax Deferment for Deployed Military Personnel — P.L. 2015, c.277, signed into law on Jan. 19, 2016, and effective immediately, allows New Jersey residents enlisted in any branch of the United States Armed Forces to defer the amount of any property tax bill for taxes assessed on property they own alone or with a spouse that becomes due during the period of their deployment for active duty in time of war. The deferment begins on the due date for the property tax payment and ends 90 days after the end of the resident’s deployment. No interest will be charged if the property taxes owed are paid in full before the expiration of this 90-day grace period. Any portion of the property taxes not paid before the grace period expires will be subject to interest from the original due date until paid in full. The Act requires the State to annually pay each municipality the total amount of property taxes deferred. Tax collectors must reimburse the State when they receive payment of the deferred taxes.

Multiple Taxes

Business Employment Incentive Program — P.L. 2015, c.194, signed into law on Jan. 11, 2016, and effective immediately, allows certain businesses that have previously been approved for a grant under the Business Employment Incentive Program to direct the New Jersey Economic Development Authority to convert the grant to a tax credit. The Act

establishes a priority schedule for the issuance of tax credits that favors older, outstanding grant obligations over grants that will become payable in future years. The tax credits issued can be applied to reduce a business’s tax liability under the Corporation Business Tax or Insurance Premiums Tax prior to all other credits and payments. If the tax credit issued exceeds the amount of the tax liability otherwise due from a business that pays tax under the Corporation Business Tax, the amount of the excess may be treated as an overpayment of tax and refunded to the business.

Economic Incentive Programs — P.L. 2015, c.217, signed into law on Jan. 11, 2016, and effective immediately, modifies and clarifies provisions of the GROW NJ Assistance Program, the Economic Redevelopment and Growth Grant Program (ERG) and a tax credit program for redevelopers that provide public infrastructure to government entities. □

Tax Calendar

The following three calendars provide listings of filing and payment dates for tax year 2015 (Jan. 1, 2015 – Dec. 31, 2015) and tax year 2016 (Jan. 1, 2016 – Dec. 31, 2016) for businesses and individuals:

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

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

[2015](#) [2016](#)

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

[2015](#) [2016](#) □



*important
phone
numbers*

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

[2015](#) [2016](#)

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2015 TAX LAWS

CH.	DATE	SYNOPSIS	TAX*	BILL
19	2/5/15	Creates the New Jersey Meadowlands Tax Relief Act, which imposes a Meadowlands Regional Hotel Use Assessment of 3% of the rent charged for the occupancy of every room in hotels located in the Meadowlands District. Also consolidates the New Jersey Meadowlands Commission and the New Jersey Sports and Exposition Authority, reestablishes the Hackensack Meadowlands Transportation Planning District and revises the funding method for the intermunicipal tax sharing program in the New Jersey Meadowlands.	MHUA	A-3969(3R)
26	3/23/15	Establishes the Fund for the Support of New Jersey Nonprofit Veterans Organizations and provides for voluntary contributions by taxpayers on Gross Income Tax returns.	GIT	A-2313(1R)
69	7/6/15	Amends the New Jersey Economic Stimulus Act of 2009 (P.L. 2009, c.90) to allow municipal redevelopers to receive Economic Redevelopment and Growth Grant Program tax credits for certain mixed-use parking projects.	MULT	S-2458 (3R)
73	7/6/15	Increases the benefit under the New Jersey Earned Income Tax Credit Program from 20 percent of the federal credit amount to 30 percent beginning in tax year 2015.	GIT	A-4602(1R)
88	8/10/15	Requires State agencies to periodically review permits they issue and make necessary changes to expedite and facilitate permitting.	MISC	S-1813(2R)
113	10/1/15	Allows retail dealers, during a state of energy emergency, to sell higher grade motor fuel at the same price as the lowest grade motor fuel if their supply of the lowest grade motor fuel is exhausted.	MFT	A-1733
170	12/9/15	Provides a 50 percent Sales and Use Tax exemption on sales of boats and other vessels; caps the amount of tax on a particular sale or use at \$20,000; and establishes grace period for use tax imposition on certain boats and vessels used by resident purchasers.	S&U	A-3213(2R)
185	1/11/16	Allows persons with certain disabilities to establish Achieving a Better Life Experience (ABLE) accounts, which may be used for certain qualifying disability expenses. Earnings on qualified distributions from qualified ABLE accounts will be exempt from State income taxation. In addition, ABLE accounts will not be considered when determining income eligibility for State assistance programs.	GIT	S-2770

2015 TAX LAWS

CH.	DATE	SYNOPSIS	TAX*	BILL
194	1/11/16	Allows certain businesses that are eligible to receive a grant under Business Employment Incentive Program to instead receive a tax credit. The tax credit can be applied towards the business's Corporation Business Tax or Insurance Premiums Tax liability.	MULT	S-3232 (1R)
217	1/11/16	Modifies and clarifies provisions of the GROW NJ Assistance Program, the Economic Redevelopment and Growth Grant Program (ERG) and a tax credit program for redevelopers that provide public infrastructure to government entities.	MULT	A-4518 (1R)
277	1/19/16	Allows New Jersey residents on active duty in any branch of the United States Armed Forces to qualify for deferment of any property tax amount that comes due during their deployment in time of war.	LPT	A-2935
278	1/19/16	Establishes the New Jersey Yellow Ribbon Fund and provides for voluntary contributions by taxpayers on Gross Income Tax returns to support active duty members of United States Armed Forces, Reserve components thereof and National Guard from New Jersey.	GIT	A-2943(1R)

*Legend for 2015 Tax Laws

ABT = Alcoholic Beverage Tax	LPT = Local Property Tax
ADS = Admissions Surcharge	MFT = Motor Fuel Tax
ALL = All Taxes Administered by the Division	MISC = Miscellaneous
CAS = Casino Taxes and Fees	MHUA = Meadowlands Regional Hotel Use Assessment
CBT = Corporation Business Tax	MULT = Multiple Taxes
CIG = Cigarette Tax	PPT = Petroleum Products Gross Receipts Tax
CMC = Cape May County Tourism Sales Tax	PTRP = Property Tax Relief Programs
CMPT = Cosmetic Medical Procedures Gross Receipts Tax	PUT = Public Utility Taxes
DSF = Domestic Security Fee	RTF = Realty Transfer Fee
ENV = Environmental Taxes	S&U = Sales and Use Tax
ERF = 9-1-1 System & Emergency Response Fee	SCC = Spill Compensation & Control Tax
FBT = Financial Business Tax	TEFA = Transitional Energy & Facility Assessment
GIT = Gross Income Tax	TIR = Motor Vehicle Tire Fee
HMO = Hotel Motel Occupancies	TIT/ET = Transfer Inheritance & Estate Tax
IPT = Insurance Premium Tax	TPT = Tobacco Products Tax
LIT = Litter Control Fee	