

TREASURY – TAXATION
DIVISION OF TAXATION

General Policies and Procedures
Corporation Business Tax Act; Petroleum Gross Receipts Tax
Claim for Refund of Payment of an Additional Tax Assessment

Adopted Amendments: N.J.A.C. 18:2-5.2, 5.5 and 5.8; 18:7-13.8, and 18:18A-7.3

Proposed: December 3, 2001 at 33 N.J.R. 4083(a)

Adopted: April 18, 2002 by Robert K. Thompson, Director, Division of Taxation

Filed: April 19, 2002 as R. 2002, d. 153 **without change**

Effective Date: May 20, 2002

Expiration Date: July 21, 2003

Adoption can be found in the May 20, 2002 New Jersey Register at 34 N.J.R. 1849(b)

SUMMARY OF PUBLIC COMMENT AND AGENCY RESPONSE:

COMMENT: Robert J. Stock, on behalf of Arthur Andersen LLP, commented that proposed new rule N.J.A.C. 18:2-5.5(c), which implements the new refund procedure provided by P.L. 1998, c. 106, should be applicable to all assessments issued after September 14, 1998, the approval date of P.L. 1998, c.106, rather than to all return periods beginning on or after January 1, 1999, as stated in the regulation. Mr. Stock stated that pursuant to section 18 of P.L. 1998, c.106, the act "shall take effect immediately and apply to return periods beginning on or after January 1, 1999." He argued that this language meant that only sections of the Act dealing specifically with tax returns should become effective for return periods beginning on or after January 1, 1999, and that sections 6, 8 and 13 of the Act dealing with assessments and refund claims did not relate to tax returns and therefore those sections should be effective on enactment.

RESPONSE: The Division believes that all of the provisions of P.L. 1998, c.106 relate to tax return issues. While certain provisions, such as section 14 (Income from sources within state for nonresident) may directly relate to completing or filing the tax return itself, other provisions such as section 8 (Appeal of assessment) deal with matters arising from the initial filing of the return. Sections 6, 8 and 13 dealing with powers of the director, assessments, refund claims, all relate to issues deriving ultimately from the tax return. The Division also responds that it has become standard practice to include an effective date with an operative date in order to give a department the authority to begin

to establish the machinery and procedures to implement the law in advance of the date on which the provision is to be operative. The language of section 18 making the statute effective “for return periods beginning on or after January 1 next following enactment” is, therefore, applicable to all the sections of P.L. 1998, c.106 except for section 14, which is explicitly made effective for taxable years ending after enactment.

Federal Standards Statement

The adopted amendments do not contain any requirement that exceeds those imposed by Federal law. The amendments represent a policy of the Division of Taxation that is not subject to any Federal regulatory requirements or standards.

Full text of the adoption follows: