



# New Jersey Taxpayers' Bill of Rights

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## Overview

The Taxpayers' Bill of Rights (P.L. 1992, c.175) ensures that: (1) all taxpayers are accorded the basic rights of fair and equitable treatment under the law; and (2) all taxpayers receive the information and assistance they need to understand and meet their State tax responsibilities. This bill also establishes taxpayers' rights and obligations regarding Division of Taxation procedures for refunds, collections, and appeals.

This publication gives you an overview of how the Taxpayers' Bill of Rights legislation affects you in your dealings with the Division. It also describes the provisions of P.L. 1998, c.106, which permits taxpayers to apply for a refund even if they have not protested or appealed a paid assessment.

## Services to Taxpayers

**Taxpayers' Right to Know** – As a taxpayer, you have the right to obtain information about:

- the tax implications of any situation or transaction
- your liability and how it was determined
- any notice you receive from the Division
- your responsibilities and rights

**Responsiveness** – The Division of Taxation will respond to your questions within a reasonable time period.

**Statements and Notices** – All notices you receive from the Division will clearly identify the purpose of the communication and tell you how you should respond to the statement or notice.

**Information Provided to Taxpayers** – The Division has prepared statements that explain in simple, non-technical terms taxpayers' rights and the procedures to follow when disagreeing with assessments or protesting actions of the Division. This information is available to all taxpayers dealing with the Division.

**Reliance on the Division's Written Advice** – Penalties and interest will be waived if you can show that you reasonably relied on erroneous written advice from the Division, provided the advice was not the result of your failure to provide adequate or accurate information.

## General Rights

**Interview Rights** – You may have an attorney and/or accountant with you at any conference. Either you or the Division may record the interview, if prior notice has been given. If the Division records the interview, a copy of the recording will be made available to you for a small fee.

**Registered or Certified Mail** – All notices of assessment related to final audits and all "Notice and Demand for Payment of Tax" letters will be sent by registered or certified mail.

**Payment Agreements** – The Director of the Division of Taxation has the authority to enter into payment agreements with taxpayers. Requests for payment agreements will be reviewed on a case by case basis. If a payment agreement is set up for you, it will include your unpaid tax, any penalties you owe, and interest. You should be aware that although a payment agreement extends the time to pay your liability, interest continues to accrue until the liability is paid in full.

**Legal Action Against the Division** – If a Division employee knowingly and recklessly disregards any tax law or fails to release a lien, a taxpayer may sue for damages.

**Award of Court Costs** – You may be awarded up to \$15,000 in court costs if the Tax Court determines that the Division initiated court proceedings without reasonable cause. Likewise, the Division can recover costs if you initiate proceedings without basis.

## Tax Returns and Refunds

The Taxpayers' Bill of Rights provides consistent treatment for assessments and refunds. The law also standardizes the time for claiming a refund for most taxes administered by the Division of Taxation and establishes a consistent treatment of postmark date for all State taxes.

**Standardized Time for Refunds and Assessments** – There is a 4-year statute of limitations (time allowed by law) for both refunds and assessments for tax returns with an original due date on and after July 1, 1993, except where a shorter time period is specified in the tax law (e.g., income tax). If you and the Division sign an agreement extending an assessment period, the time for filing a refund claim is also extended.

**Postmark Date** – All New Jersey returns postmarked on or before the due date of the return are considered to have been filed on time. Tax returns postmarked after the due date are considered to be late. When a return is postmarked after the due date, the filing date for that return is the date the return was received by the Division, not the postmark date of the return. Interest on unpaid liabilities is assessed from the due date of the return.

## Tax Assessment

In general, the Division has 4 years from the date you filed your return to assess additional taxes. There is no time limit if you did not file your tax return, or if you file a false or fraudulent return.

## Appeal Rights

If you disagree with a determination made by the Division, you may either:

1. File a proper, written protest and request an informal administrative conference with the Conference and Appeals Branch. Your request must be sent within 90 days of the determination date. Please see N.J.A.C. 18:2-4 for postmark rules. You may represent yourself at the conference or be represented by another individual of your choosing such as an accountant, lawyer, your personal representative, or someone else; or
2. File an appeal with the required fee to the Tax Court. Your appeal must be received by the Tax Court within 90 days of the date of the determination; or
3. For assessments regarding tax periods commencing on or after January 1, 1999, if you paid the entire assessment within one year after the time to protest or appeal has expired, you may thereafter file a refund claim on Form A-1730 within 450 days after the time to protest or appeal has expired.

If you initially choose options 1 or 3 above and disagree with the outcome, you may subsequently appeal to the Tax Court.

## Penalties, Interest, Collection Fees

**Paying a Bill Promptly is Cheaper** – A bill sent to advise you of an underpayment will show two “Amount Due” figures. The first “Amount Due” figure applies only if paid by the “Pay By” date shown on the bill and is comprised of tax, interest, late filing penalty (5% per month up to 25%), and amnesty penalty, if applicable. If a bill is not paid by the “Pay By” date indicated, the second “Amount Due” figure, which includes a late payment penalty of 5% in addition to the items in the first amount due, will apply. The 5% late payment penalty will be imposed on all audit assessments. A \$100 per month penalty may also be imposed for each month (or fraction thereof) the return is late.

**Interest Calculation** – The annual interest rate is 3% above the prime rate. Interest is imposed on every month or fraction of a month the tax is unpaid, compounded annually at the end of each year. For information on the Division’s current interest rate, request Technical Bulletin TB-21(R).

**Collection Fees** – If your tax bill is sent to our collection agency, a referral cost recovery fee of 10% of the tax due will be added to your liability. If a certificate of debt is issued for your outstanding liability, a fee for the cost of collection of the tax may also be imposed.

**Interest Paid on Refunds for All Taxes** – Interest at the prime rate, compounded annually, will be paid on refunds made by the Division 6 months after the filing date, the due date of the return, the date the refund claim was filed, or the date the tax was paid (whichever is later). This provision applies to all New Jersey taxes administered by the Division.

## For More Information

For more information on the Taxpayers’ Bill of Rights, call the Division’s Automated Tax Information System from a Touch-tone phone at 1-800-323-4400 (within NJ, NY, PA, DE, and MD) or 609-826-4400 (anywhere).

Many State tax forms and publications are available by fax and on our Web site. Call NJ TaxFax at 609-826-4500 from your fax machine’s phone or access the Division’s home page at:

[www.state.nj.us/treasury/taxation/](http://www.state.nj.us/treasury/taxation/)