

# New Jersey State Tax News

## Fall 1997

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### State Treasurer Named



On July 1, 1997, Governor Christine Todd Whitman appointed James A. DiEleuterio to succeed Brian W. Clymer as State Treasurer. This is only the second time in 40 years that a career State employee has been chosen for this position. Mr. DiEleuterio served as Deputy State Treasurer since 1996. But, most of his State career was spent with the Division of Taxation.

His first assignment with the Division was in the Special Procedures Branch. Mr. DiEleuterio later served the Division as Cash Receipts Account System (CRAS) Manager, Budget & Fiscal Manager, Chief of Management Services and Long Range Planning Manager. Mr. DiEleuterio's most recent assignments with the Divi-

sion were as Chief of Staff and Assistant Director of Processing and Administration. In regard to how his taxation background affects his new role, Treasurer DiEleuterio said, "My tax background has been and will continue to be very helpful in not only seeing the issues but in making decisions. This background allows me to understand the tax issues and their impact on the State budget." Shortly after his swearing in as Treasurer, Mr. DiEleuterio shared some insights on his plans for the future.

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### *important phone numbers*

Tax Hotline.....	609-588-2200
Automated Tax Info.....	800-323-4400
.....	609-588-2525
Speaker Programs.....	609-984-4101
NJ TaxFax.....	609-588-4500
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 Fuels Tax Refunds.....	609-292-7018
Public Utility Tax.....	609-633-2576

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

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"I fully support Governor Whitman's goal of a smaller, smarter State government. I plan to continue to reduce operating costs, improve service to the public and raise revenue," said DiEleuterio.

Treasurer DiEleuterio is firmly committed to the use of new technology in State government. "The application of technology is not only appropriate but necessary," said DiEleuterio. "Technology helps free people from the necessity of doing repetitious work and allows them to do more creative work. Substantial strides have already been made, but we still have a target-rich environment for the use of technology, not only to process returns but also to communicate better and faster within the Treasury Department and with New Jersey's taxpayers and practitioners."

"Communication is so important to what we do," said DiEleuterio. "The average citizen just doesn't have exposure to government policies and procedures. It is our obligation to tell citizens how to comply with our laws," said DiEleuterio, "and to provide multiple ways to comply. Publications like the *New Jersey State Tax News* are important educational tools."

Treasurer DiEleuterio believes that government must work closely with the tax practitioner community. "About 50% of the returns we process are prepared by paid preparers," said DiEleuterio. "That is why a continuing dialogue with the practitioner community is extremely important to effective and efficient tax administration. I will continue to rely upon the New Jersey practitioner community to point out issues and areas of con-

cern to their clients," concludes DiEleuterio, "just as I rely on Treasury employees to bring their best ideas forward. We're all in this together. We're all taxpayers and we bring different perspectives to tax issues. I look forward to a challenging and productive tenure as State Treasurer." □

## **Federal Pensioners Can Now Have NJ Tax Withheld**

The 55,000 Federal retirees living in New Jersey can now opt to have State income taxes withheld from their pension checks, Taxation Division Director Richard D. Gardiner announced. Until now, retired Federal employees in New Jersey had to file estimated tax payments on a quarterly basis.

"This is going to make things much easier for the retirees and eliminate paperwork for both the individuals and the Division of Taxation," said Gardiner.

The option, which became available July 1, is a new feature of Annuitant Express, a service offered by the Federal Office of Personnel Management (OPM), the agency which oversees Federal pensions.

It was made possible for New Jersey residents through a memorandum of understanding signed by the New Jersey Division of Taxation, the Division of Revenue, and OPM.

Federal retirees received a letter from OPM explaining how they can authorize the State income tax withholding by calling a toll-free

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## ***New Jersey State Tax News***

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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. 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.

**Division of Taxation Director:**  
Richard D. Gardiner

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*federal pensioners - from page 2*

number using a Touch-tone telephone and a series of special codes.

Using the same system, the retirees will also be able to change the amount of withholding at any time, change withholding from one state to another, or cancel withholding.

Gardiner noted that in some states, Federal retirees have been able to authorize state income tax withholding under a complex, manual system established by OPM several years ago.

“But the old system required retirees to fill out a number of different forms and deal with both Federal and state agencies. It also required the state taxation authorities to undertake complicated transmission and verification actions in order to receive the income taxes withheld from the checks in a timely manner,” Gardiner said.

“It was cumbersome for individuals and wasn’t cost-effective from the Division’s standpoint, so New Jersey — and about half of the other states with income taxes — decided not to participate until the Federal government could bring its technology up to speed.

“We have been asking the Federal government to improve its process for pension withholdings for some time. Now that they have done so, we’re very pleased to be able to offer this convenience to the Federal retirees living in New Jersey,” Gardiner said. □

## **Public Utility Tax Repealed**

Effective January 1, 1998, a recently enacted law (P.L. 1997,

c.162) eliminates the current gross receipts and franchise tax on electric, gas and telecommunications utilities. These utilities will now be subject to the State’s corporation business tax. A transitional energy facility assessment will be applied on electric and gas utilities, which will be phased out over a five year period. The new law requires the Division of Taxation to promulgate rules and regulations necessary to administer this Act and allows the Board of Public Utilities to adopt such rules as it deems necessary to implement the provisions of this law. The State Treasurer and the Board of Public Utilities will jointly develop a statement to be included on energy user’s billings that a portion of the charges in the billing are dedicated to property tax relief.

A companion law, P.L. 1997, c.167, establishes the “Energy Tax Receipts Property Tax Relief Fund” and replaces the method of funding aid to local municipalities guaranteed from the State’s taxation of energy and telecommunications. To replace the funds lost by the repeal of the gross receipts and franchise tax, the guaranteed funds will now be generated by the State’s corporate taxation of electric, gas and telecommunications utilities. □

## **New Exempt Org. Registration Form**

Qualifying nonprofit organizations applying for the ST-5 certificate of exemption from sales tax now have a simpler application to complete — Form REG-1E. The new form, intended only for qualifying organizations, is a combination tax registration form and application for exempt organization permit. Prior to use of the new one-page

form, applicants needed to complete both a two-page registration form (REG-1) and a short permit application form (ST-5B). Please note that non-exempt organizations (e.g., social clubs and veteran’s organizations) and businesses should continue using the REG-1 Application for Registration form for their tax registration requirements.

Organizations that qualify for the New Jersey sales and use tax exemption permit — volunteer fire companies, first aid squads, PTAs and organizations having a 501(c)(3) determination from the IRS — may request the REG-1E Application for Exempt Organization Permit by calling the Exempt Organization Unit of the Division of Taxation at 609-292-5994. □

### **Interest 11.25% for Third Quarter**

The interest rate assessed on amounts due for the third quarter of 1997 is 11.25%.

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

<b>Effective Date</b>	<b>Interest Rate</b>
10/1/95	11.50%
1/1/96	11.75%
4/1/96	11.75%
7/1/96	11.75%
10/1/96	11.75%
1/1/97	11.25%
4/1/97	11.25%
7/1/97	11.25%

## **GROSS INCOME TAX** **Withholding Tax** **Forms Changed**

The coupon booklets sent to employers and other withholders in July 1997 contained new versions of Forms NJ-941, NJ-941-W and NJ-W-3. An amended quarterly return has also been developed.

Employers and other withholders will no longer use Form NJ-W-3, Reconciliation of Tax Withheld, to request a refund or credit of an overpayment of gross income tax withheld. A request for a refund or credit must now be made on the Quarterly Return of Gross Income Tax Withheld (Form NJ-941 or Form NJ-941-W).

To correct errors in tax remitted for the current quarter, a withholder may adjust the amount remitted for the next period *within that quarter*. When necessary, a refund or credit for the quarter must be requested on the quarterly return (Form NJ-941 or Form NJ-941-W).

To correct an overpayment or underpayment on a previously filed NJ-941 or NJ-941-W, a taxpayer must file an Amended Quarterly Return of Gross Income Tax Withheld (Form NJ-941-X or NJ-941-W-X) for that quarter. Penalty and interest charges are due for underpayments in prior periods.

Employers and other withholders must continue to submit Form NJ-W-3 annually to report the number of employees, the total amount of gross wages, pension/annuity income and gambling

winnings, and the total amount of income tax withheld. When completing Form NJ-W-3, taxpayers must compare the amounts to be entered on Form NJ-W-3 with the figures reported on their quarterly returns for the year and also with the amounts reported on the W-2 forms or other forms to be attached to the NJ-W-3. An amended quarterly return (Form NJ-941-X or NJ-941-W-X) must be filed for each quarter that is found to be incorrect.

For further information on the changes to the withholding forms, or to obtain a copy of the Amended Quarterly Return of Gross Income Tax Withheld (Form NJ-941-X or Form NJ-941-W-X), call the Division's Tax Hotline at 609-588-2200. □

## **State Changes** **Address System**

Effective July 1, 1997, the State of New Jersey eliminated the old Caller Number (CN) system for State of New Jersey addresses, and began using Post Office Box (PO Box) numbers. The new method of addressing all State mail is to simply replace "CN" with "PO Box." The same three-digit number previously used will become the PO Box number, rather than the CN. For example, CN 001 becomes PO Box 001.

This conversion is expected to improve the delivery of mail to State offices. The U.S. Postal Service will continue to handle mail addressed to both CN and PO Box numbers until all State agencies exhaust existing stationery supplies. □

## **Small Business** **Workshops**

New Jersey entrepreneurs can receive free assistance from the Division of Taxation. The Division sponsors workshops explaining tax obligations geared for new businesses. The workshops will cover the following topics:

- Registering with the State of New Jersey
- Meeting Employer Responsibilities
- Reporting Business Income
- Filing Sales and Use Tax Returns

Division personnel will explain the proper procedure for collecting and remitting tax. Division personnel will also discuss the various types of business ownership and the tax consequences of each one. The session concludes with a discussion of the Sales and Use Tax describing what is taxable and what is exempt from the tax.

Participants receive appropriate forms and brochures for their own use. Additionally, each attendee receives a Small Business Workshop resource manual that reviews each topic and provides easy to follow examples.

Workshops are held throughout the State in conjunction with the Internal Revenue Service. The sessions run from 9:00 a.m. to 4:00 p.m., with the Division of Taxation presentation in the afternoon. Listed below is the fall workshop schedule. To find out more about Small Business Workshops, or to sign up for the fall sessions, call the Internal Revenue Service at 1-800-829-1040, or phone the

*small business workshops - from pg. 4*

Division's Taxpayer Hotline at 609-588-2200.

**Fall 1997 Schedule**

September 18	Edison
October 30	Manalapan
October 31	Camden
November 7	Newark

□

**CORPORATION TAX  
New Schedule**

A new schedule, Partnership Investment Analysis (Schedule P-1) will be added to the Corporation Business Tax Returns, forms CBT-100 and CBT-100S, for tax year 1997.

All corporate taxpayers who are partners in a partnership or another type of entity which is treated for Federal tax purposes as a partnership must provide the following information for each partnership: name of partnership, Federal identification number, the corporation's percentage of ownership, whether the corporation is a general or limited partner, the tax accounting method used in reporting the partnership activity on the Corporation Business Tax Return filed, and whether or not the partnership has nexus in New Jersey.

In addition, a copy of Schedule NJK-1 from Form NJ-1065 should be attached to the Corporation Business Tax Return filed if the partnership has nexus with New Jersey. If the partnership does not have nexus, then a copy of Federal Form K-1 should be attached. □

**SALES AND USE TAX  
IRP Registered Vehicles**

The exemption from sales and use tax for trucks at N.J.S.A. 54:32B-8.43 applies only to qualified commercial motor vehicles which are duly registered in New Jersey. Accordingly, the exemption does not apply to any vehicle registered under the International Registration Plan (IRP) in a home jurisdiction other than New Jersey.

The International Registration Plan simplifies and standardizes the registration process for interstate carriers by providing apportioned registration fees for commercial motor vehicles which travel in two or more IRP jurisdictions. Qualified carriers must register with their base (home) jurisdiction (state) for travel in all jurisdictions. The home jurisdiction collects the required fees which it then distributes to the other IRP jurisdictions as appropriate. States which do not belong to the IRP forfeit the authority to register commercial motor vehicles used in interstate commerce. New Jersey joined the IRP in April 1996.

An IRP registered vehicle is considered duly registered only in the carrier's base jurisdiction—the state which issued the vehicle's license plates and registration document/credential (i.e., cab card). The registration certificate bears the name of the base jurisdiction as well as that of any other IRP jurisdiction in which the carrier is authorized to operate (in which the appropriate apportioned registration fee was paid).

Therefore, although a carrier based in another IRP jurisdiction must have "NJ" listed on its cab card in order to enjoy the privilege of using our roadways (or, alternatively, must possess a valid New Jersey trip permit), such a vehicle is not duly registered in this State for the purposes of the sales tax exemption cited above. □

**Homestead Rebate Checks Issued**

Homestead rebates were mailed to approximately 1.2 million New Jersey residents on July 31. The rebate checks issued total approximately \$288 million.

Qualified homeowners and tenants who are age 65 or older or blind or disabled with gross incomes of \$70,000 and under are eligible for rebates of up to \$500. Residents in this category with between \$70,000 and \$100,000 in gross income will receive up to \$100 if they are homeowners and up to \$35 if they are tenants. Residents with gross incomes of more than \$100,000 are **not** eligible for rebates.

Nondisabled taxpayers who are under age 65 with gross incomes up to \$40,000 are eligible for rebates of \$90 if they are homeowners and \$30 if they are tenants.

1996 marked the first year of a three year phase-in of the property tax deduction/credit program, which allows New Jersey residents either to deduct a portion of their property taxes or rent or to claim a

*homestead rebate - from page 5*

property tax credit on their New Jersey income tax return. Certain homestead rebate recipients will receive a property tax credit of \$25 (\$12.50 for married persons filing separately with the same principal residence) in their rebate check. The rebate recipients who will receive their property tax credits with homestead rebates are those homeowners and tenants who were not required to file 1996 New Jersey income tax returns because their gross incomes were \$7,500 or less (\$3,750 for married persons filing separately) and they were 65 years of age or over, blind or disabled during 1996.

An eligible homeowner or tenant who is required to file a New Jersey income tax return because gross income was more than \$7,500 (\$3,750 for married persons filing separately) claims the property tax deduction or credit on Form NJ-1040. A taxpayer with gross income of \$7,500 or less (\$3,750 for married persons filing separately) who is under age 65 and not blind or disabled is not eligible for the property tax credit.

New Jersey taxpayers who are eligible to receive homestead rebates, and have not received them, can call the State's automated Homestead Rebate InfoLine from a Touch-tone telephone at 1-800-323-4400 (within New Jersey only) or 609-588-2525 (anywhere) to check on the status of their rebate applications. Callers must provide information from their rebate applications when using the InfoLine. □

## **ABC Clearance Update**

Effective September 1, 1995, P.L. 1995, c.161, provided for an annual review of tax records for all New Jersey retail liquor licensees, and for those licensees in good standing, the issuance of an ABC Clearance Certificate. The ABC Clearance Certificate is required documentation for the annual renewal of retail liquor licenses. On June 30, 1997 the Division of Taxation completed Phase II of its three phase plan for implementation of the tax review requirements of this law. Included in Phase II was the tax review of 7,325 liquor licensees in 14 counties. Prior to the June 30th expiration, a total of 6,806 ABC Clearance Certificates were issued representing 92.9% of the licensees reviewed. The ABC Clearance Section is responsible for the issuance of the clearance certificates; for the fiscal year ending June 30, 1997 they collected \$2.4 million dollars. This amount does not include collections made by other Division activities related to the enforcement of this law. Next year's Phase III review will include all 21 New Jersey counties and approximately 10,500 licensees. This will end the implementation process and mark the beginning of the annual review of all New Jersey retail liquor licensees. □

## **1997 Package NJX**

In August 1997, order forms for the 1997 *Package NJX* were sent to all who subscribed to the 1996 edition of this publication. *Package NJX* is a compendium of those

reproducible New Jersey tax forms most widely used by tax preparers and other tax professionals. The 1997 edition of *Package NJX* is available in two formats:

1. Printed format—this traditional version, priced at \$7.00 per copy, consists of loose-leaf pages, hole punched to fit a standard 3-ring binder; and
2. CD-ROM format—this version, new for 1997, is available for \$10.00 per copy.

Attractive *Package NJX* 3-ring binders, designed to accommodate more than one volume of the printed version, may be ordered separately at \$7.00 apiece. (Binders do *not* include the *Package NJX* loose leaf content pages.) Prices include shipping and handling. If you haven't yet ordered the 1997 *Package NJX* and/or *NJX* binder, and wish to do so, complete the order blank on the last page of this issue, and send it with your payment to:

STATE OF NEW JERSEY  
PACKAGE NJX  
PO BOX 286  
TRENTON NJ 08646-0286  
□

## **CONFERENCE & APPEALS**

### ***Protests and Requests for Conferences***

N.J.A.C. 18:1-1.8 defines the items that must be included in a protest and request for a conference as the following:

1. The taxpayer's name, address, telephone number and social security or tax identification number.
2. The name, address and telephone number of the taxpayer's

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*protests & conferences - from page 6*

representative, if any, for the purpose of the protest. In such case, a written power of attorney, (Form M-5008) shall be filed with the notice of protest.

3. The type of tax and period(s) under protest.
4. A copy of the notice at issue.
5. The specific amount of tax, penalty, and/or interest under protest and specific amount of tax, penalty, and/or interest uncontested.
6. A statement of grounds upon which the protest is based.
7. The specific facts supporting each ground asserted and a summary of evidence or documentation to be presented in support of taxpayer's position.
8. The taxpayer shall remit the entire uncontested amount of the tax, penalty, and interest if any, that is due. Failure to submit such payment will not invalidate the protest, but the Division in accordance with the applicable law may proceed to collect outstanding amounts which are due.

A protest submitted without items 5, 6, or 7 will not be considered a valid protest and will not result in a conference. A written protest shall be signed by the taxpayer, the taxpayer's duly authorized officer or duly authorized representative.

A protest and request for a conference must be made pursuant to N.J.S.A. 54:49-18 within **90** days

of the giving of the notice or the action of the Director sought to be reviewed. It should be noted that in those cases in which the taxpayer or the authorized representative desires to protest two related notices, such as an assessment for a business and a related personal Gross Income Tax assessment, a separate protest must be submitted for *each* notice following the above itemized steps. Each protest *must* refer to the appropriate tax identification number, the proper tax and amounts, include a separate power of attorney and be accompanied by the specific notice being protested. Those notices not properly protested (protested at a later date after the **90** day period has elapsed) will be deemed invalid or out of time. □

### **GROSS INCOME TAX** **Netting Income** **and Losses**

Newly established residents of New Jersey and nonresidents having to report income earned in New Jersey need to be aware of a provision in the New Jersey Gross Income Tax Act at 54A:5-2, *Losses*, when filing their Gross Income Tax returns. The passage states that "a net loss in one category of gross income may not be applied against gross income in another category of gross income."

Individuals who have filed their Federal returns or other states' returns using losses to reduce income/gains by netting line items to obtain a total income amount will not be able to use those losses when filing New Jersey personal income tax returns. Please further

note that no carryback or carryover of losses is permitted under the New Jersey law.

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### **CONFERENCE CORNER** **Debt Forgiveness**

The forgiveness of debt continues to be a recurring issue for the Conference and Appeals Branch. The source of the forgiveness of debt income determines whether it would be a taxable transaction for New Jersey. For example, if the mortgage on a taxpayer's residence is foreclosed, there is no forgiveness of debt income to report to New Jersey. The forgiveness of debt in this situation is personal in nature. However, if the taxpayer owns rental real estate which is foreclosed, the forgiveness of debt income is from a business source and therefore is taxable. See related article in Summer 1997 *State Tax News*.

### **Relying on Written Information**

The Taxpayer's Bill of Rights provides that if a taxpayer relies on written advice from the Division of Taxation regarding an issue and the advice is determined to be incorrect, the tax is still due. Penalties and interest may be waived in such a situation, provided that the erroneous advice was not the result of the taxpayer's failure to provide adequate or accurate information to the Division. □

*income & losses - from page 7*

Since its inception in 1976, the Gross Income Tax Act has included the prohibition against netting income and losses from different categories, shown on the return as separate line items, when determining total income. □

## **Taxpayer Accounting Branch**

In its most simple terms, the Mission of the Taxpayer Accounting Branch is to review bills and refunds and answer taxpayer correspondence, so that taxpayers can pay what they owe, receive what is due to them, and have any errors in their accounts corrected.

Most bills and refunds are automatically computer-generated, but many are also flagged for manual review based on certain predetermined criteria, set up to try to catch erroneous bills and refunds before they are sent out to taxpayers. These flagged bills and refunds are what the Taxpayer Accounting Branch reviews and attempts to fix, if it is determined they are likely to be erroneous.

Since it is impossible to review every single bill and refund, many which are erroneous do get sent out, because they did not meet the criteria for review. Others that are reviewed may also be erroneous because the information available to the reviewer indicates that they are probably correct. This is where the correspondence comes in from taxpayers indicating that there is a problem with the bill or refund that they received. When the information necessary to correct the account is received from the taxpayer, Taxpayer Accounting staff fix the account and notify the tax-

payer that the problem has been corrected.

In Fiscal Year 1997, which just closed, Taxpayer Accounting personnel:

- Responded to almost 118,000 pieces of correspondence;
- Answered nearly 31,000 phone calls;
- Reviewed nearly 122,000 bills and almost 55,000 refunds;
- Collected more than \$6.3 million; and
- Made slightly under 200,000 adjustments or corrections to accounts. □

## **Economic Reality Training Class**

The Division of Taxation, with the cooperation and assistance of the Internal Revenue Service, has held its first class on "Economic Reality." Initially dubbed Economic Reality, the IRS now refers to it as "Financial Status Auditing."

Financial Status Auditing is an indirect audit technique that involves a process of gathering information reflective of the taxpayer's financial status. The focal point is whether reported income is sufficient to support the individual's financial lifestyle or standard of living. This methodology will be a useful audit tool in those situations where the taxpayer's business activities appear to lack economic reality and/or where accounting records are not adequate for the more traditional approach.

All employees expected to benefit from this training will be given the opportunity to attend over the next fiscal year. With increased em-

phasis on cash businesses, economic reality awareness should complement current enforcement efforts. □

## **LOCAL PROPERTY TAX Income Limits for Tax Deduction**

In determining the income limitation allowable in granting a \$250 local property tax deduction, note that the maximum Social Security amount excludable to be used in the computation has been established at \$15,950. This maximum is to govern the amount of pension, disability or retirement income to be excluded pursuant to Chapter 129, P.L. 1976 and was compiled from information received from the U.S. Department of Health and Human Services, Social Security Administration.

Further information on this subject, along with examples showing the correct computation for determining the income limitation was mailed to all assessors, collectors, and county tax board commissioners and administrators in early July. □

## **LOCAL PROPERTY TAX Tax Rates on Home Page**

1996 General Tax Rates are now on our web page. They may be downloaded by county. Our address is:

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

**LOCAL PROPERTY TAX  
Tax Assessors'  
Calendar**

**October 1-**

- All real property in taxing district valued for tax purposes (pretax year).
- \$50 veterans' tax deduction eligibility established (pretax year).
- \$250 real property tax deduction for qualified senior citizens, disabled persons, surviving spouses eligibility established (pretax year).
- Agricultural land values for farmland assessment published by State Farmland Evaluation Advisory Committee.
- Table of Equalized Valuations for State School Aid promulgated by Director, Division of Taxation.
- Added Assessment List and duplicate filed with County Tax Board.
- Omitted Assessment List and duplicate filed with County Tax Board.

**November 1-**

- Initial Statements, Forms I.S., and Further Statements, Forms F.S., for property tax exemption filed with tax assessor.
- Notices of Disallowance of farmland assessment issued by tax assessor.

**November 15-**

- Notices of revisions to State-owned property listing given by Director, Division of Taxation, to County Tax Boards and taxing districts.

- Deadline for taxing districts' appeals of Table of Equalized Valuations to NJ Tax Court.

**December 1-**

- Appeals from added assessments filed with County Tax Board.
- Appeals from omitted assessments filed with County Tax Board.

**December 31-**

- Legal advertisement of availability of Tax List for public inspection. □

**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.

Fifteen persons passed the examination for the tax assessor certificate held on March 22, 1997 and became certified tax assessors on May 20, 1997.

**Burlington County:** Karen E. McMahon, Eastampton Township.

**Camden County:** Theresa L. Chalako, Winslow Township; James A. Mancini, Voorhees Township.

**Essex County:** Alfonse Mattia, Cedar Grove Township.

**Gloucester County:** Jason W. Hesley, Monroe Township.

**Hudson County:** Edward R. Giunta, North Bergen Township.

**Ocean County:** James B. Purdie, Brick Township.

**Monmouth County:** Vincent A. Rado, Wall Township.

**Morris County:** Glenn R. Holmes, Madison Borough; Robert J. Staley, Dover Town.

**Salem County:** Mary Lou Chollis, Pennsville Township.

**Sussex County:** Walter Sullivan, Green Township.

**Union County:** Charles E. Heck, Cranford Township; Neil E. Rubenstein, Berkeley Heights Township; Ira B. Skolnick, Westfield Town. □

**Levy Actions**

When it becomes evident that an individual or business is non-compliant (unable or unwilling to pay taxes), field investigators may proceed to levy against the assets of the taxpayer. This is one of the last resorts a field investigator uses to obtain funds from an uncooperative taxpayer.

In order for levy action to take place, there must be a Certificate of Debt (COD) filed against the business and/or individual taxpayer. The COD acts as an administrative judgment. A notification that a COD is in place goes out to the concerned parties stating that the Division may execute on the COD without further notice to the taxpayer. The investigator usually gives the taxpayer at least ten days to make contact with the Division before any levy attempt takes place.

*continued on page 10*

*levy actions - from page 9*

The Division may levy on the following:

- Bank accounts
- Brokerage house accounts
- Mutual fund accounts
- Rental income
- Accounts and notes receivable
- Mortgage income
- Insurance proceeds
- Auction proceeds
- Safe deposit box contents
- Business property, inventory, cash in register, motor vehicles
- Any other asset that has been discovered

The Division may not levy on the following:

- Social Security benefits
- Workers compensation
- Disability insurance
- Railroad retirement
- ERISA
- IRAs and other pension plans
- Unemployment insurance

Before the levy is done, the investigator must secure a Warrant of Execution and register it at the county clerk's office. Once registered, it becomes a public document. The Warrant states the name of the debtor (defendant), the type of tax(es) owed with the amount, and the Docket Number of the COD. The Warrant of Execution will also contain Cost of Collection, generally ten percent of the COD amount. Cost of Collection is the amount of expense incurred by the State with respect to the issuance of a COD for, and the collection of, any State tax not paid within the time prescribed by law. These expenses include but are not limited to:

- Cost of postage
- Cost of telephone
- Cost of photocopying
- State payroll hours used, including associated overhead
- Cost of filing and prosecuting suit
- Other expenses deemed by the Director as reasonably related and necessary for the collection of any unpaid tax. □

## **Judgment Inquiries**

The Division of Taxation is contacted daily by taxpayers and/or their authorized representatives regarding the Satisfactions of Judgment filed in the Superior Court of New Jersey, at Trenton. While the Division has filed thousands of Certificates of Debt with the court over the years, many of the judgment inquiries received request information on judgments not filed by the Division.

Whether this is just an oversight by the requester; an erroneous assumption that all State Judgments are filed by Taxation; or due to incomplete information on Judgment Search Abstracts; this necessitates that Taxation personnel contact the Superior Court, either by phone or in person, concerning judgments not identifiable as being one of ours. This process may take a matter of a day or a week just to learn that the inquiry concerns a judgment filed by another State agency. This, along with the ensuing rounds of "phone tag" to convey this information back to the requester, often results in unnecessary delays with regard to an impending financial transaction. Therefore, the requester should be sure of the "Plaintiff" or filing agency before contacting the Division of Taxation. **If unsure of**

**the "Plaintiff" contact the New Jersey Superior Court directly at 609-292-4804.**

**For Taxation filed judgments, send requests to:**

NJ Division of Taxation  
Judgment Section  
PO Box 245  
Trenton NJ 08646-0245

Phone: 609-292-7331  
Fax: 609-292-9614

**Contact other State agencies at:**

Division of Unemployment  
& Disability: 609-292-2292

Division of Motor Vehicles  
(Surcharges): 609-777-2674

Dept. of Community  
Affairs: 609-292-6055

Secretary of State (Annual  
Reports): 609-530-6423  
□

## **Criminal Enforcement**

Criminal Enforcement over the past several months included:

- On April 4, 1997, James Bobowicz of Caldwell was sentenced to five years probation, 120 hours of community service, assessed a \$25 per month probation fee and ordered to file an amended 1992 New Jersey Income Tax Return. Bobowicz previously plead guilty to failing to file New Jersey Personal Gross Income Tax Returns (four counts - 1989-1992), failure to pay \$1,086 of New Jersey Gross Income Taxes (one count), filing a false and fraudulent tax return (one count - 1993) and theft by deception (one count - 1993) for claiming a fraudulent income tax refund.

*continued on page 11*

*criminal enforcement - from page 10*

This case was the result of a joint investigation between the Office of Criminal Investigation and the Sussex County Prosecutor's Office.

- On April 23, 1997, Ramon L. Morell, a Union City licensed Public Accountant, plead guilty to four counts of knowingly and recklessly preparing returns containing false information. Union City Municipal Court Judge Joseph N. Falbo imposed maximum fines and costs of \$4,620. The defendant, Morell, was the preparer in a scheme to obtain 15 Homestead Rebate checks and an additional 15 duplicate Homestead Rebate checks. None of the checks were cashed. In the investigation of the attempted fraud, the duplicate checks were recovered and the cashing of the original checks was thwarted. The scheme, if it had succeeded, would have netted \$15,000 in illegally obtained Homestead Rebates.
- On April 25, 1997, Michael Immordino, formerly of Ewing Township, NJ, now living in Hawaii, was sentenced. Immordino, who plead guilty last fall to a variety of charges stemming from his role as developer in failed real estate deals, was sentenced by Superior Court Judge Rosemarie Williams in Mercer County Superior Court to five years probation, 500 hours of community service and was ordered to pay \$971,000 in restitution to 19 investors who lost more than \$1.6 million in business deals with him. Immordino previously plead guilty to misconduct by a corporate official, six counts of misapplication of entrusted property and 10 tax related counts, including failure to file a 1991 NJ Gross Income Tax Return, four counts of filing false and fraudulent income tax returns from 1987 to 1990 and five counts of failing to pay a total of \$95,872.02 in income taxes owed for the period of 1987 to 1991. The additional income taxes owed to the State of New Jersey were not made part of the restitution order; however, the liabilities have been established and the matter will be referred for civil processes. This was a joint investigation between the Mercer County Prosecutor's Office and the Office of Criminal Investigation.
- On May 1, 1997, Edmund Damiano, the former president of the now defunct Auto 2000, Chrysler, Plymouth, Dodge dealership in Newton, NJ, was sentenced in the Superior Court of Sussex County by Judge Gerald Hanifran. Damiano was found guilty in February 1997, of 44 separate charges of fraud, including failure to file personal income tax returns and failure to remit sales taxes in the amount of \$90,776.30. The judge sentenced Damiano to 11 years and 9 months in prison, incorporating all 44 charges in the sentence and ordered him to pay restitution to the Division of Taxation in the amount of \$196,603.90, which includes taxes, penalty and interest. This was a joint investigation between the Sussex County Prosecutor's Office and the Office of Criminal Investigation.
- On May 1, 1997, Marcellus Cutler of Lakewood, NJ, was indicted by a Grand Jury in Ocean County on one count of failure to file a 1995 NJ-1040 and one count of failure to pay \$1,979 in NJ personal income tax for 1995. These counts were part of a 13 count indictment charging Cutler and three co-defendants with possession of narcotics with the intent to distribute, conspiracy and money laundering. The indictment alleges that Cutler failed to file an income tax return reporting the income he had derived illegally from narcotics trafficking.
- Warren Kaye, a former official of General Machine & Instrument Co., Inc., entered a guilty plea to two counts of a nine count indictment that related to the bankrupt company's failure to remit monies withheld from employees for both New Jersey Gross Income Tax and Unemployment/Disability. Specifically, Mr. Kaye's plea involved one count of theft by failure to make the required disposition of funds and one count of failure to turn over taxes. As part of the plea agreement, Mr. Kaye will make restitution of \$60,000. Another corporate official named in the original indictment, Richard Pessolano, is awaiting trial.
- Frederic A. Dinonno, who was previously indicted by a State Grand Jury on October 17, 1995, was sentenced in Monmouth County Superior Court. The case involved commercial bribery and theft. Dinonno solicited and received monetary bribes from vendors of his employer (Ebasco Corporation) in exchange for business from Ebasco. The bribes received by

*continued on page 12*

*criminal enforcement - from pg 11*

Dinonno were in excess of \$200,000 over an eight year period. Under a plea agreement Dinonno plead guilty to misconduct by a corporate official and to filing and preparing a false tax return, two counts of the original twelve count indictment. The judge imposed an eight year prison term on the misconduct offense and a five year term for filing a false tax return. The terms were ordered to run concurrently. The case was a result of a joint investigation between the Division of Taxation and the Division of Criminal Justice.

- Thirty-seven guilty pleas were entered in municipal courts throughout the State during this reporting period by individuals and businesses for noncompliance with the cigarette tax law. Of these 37 guilty pleas, 15 resulted from the two day saturation enforcement operation conducted in the city of Elizabeth during February 1997. In total, the aforementioned cases resulted in the imposition of fines and penalties of \$20,555 and the awarding of approximately 5,900 cartons of cigarettes, valued at \$118,000, to the State. In addition to the cigarettes being forfeited to the State, a 1992 Ford Crown Victoria, valued at \$10,000, was forfeited and \$6,240 in monies seized was turned over to the Burlington County Prosecutor's Office for forfeiture proceedings and eventual distribution to involved agencies.
- A total of 34 charges were filed in municipal court for 13 cases. Twenty-seven of the charges were for violations of the cig-

rette tax law, which includes transporting, possessing, and selling untaxed cigarettes. Two charges were for selling motor fuels without a license, and five charges were for other licensing violations. Three cases resulted in the seizure of 57 cartons of cigarettes, valued at \$1,140. □

## **Enforcement Summary**

### **Civil Collection Actions**

#### **Quarter Ending - June 30, 1997**

Following is a summary of enforcement actions for the quarter ending June 30, 1997.

#### **Certificates of Debt**

During the quarter ended June 30, 1997, the Division filed 2,109 Certificates of Debt in New Jersey Superior Court. These CODs, which have the same force and effect as docketed judgments, totaled \$32.6 million.

#### **Levies**

\$9,844 was collected by levying against payments made under State contracts to satisfy debts owed by State vendors.

#### **Jeopardy Assessments**

When a vendor is found to have failed to register his or her business or failed to collect and remit sales taxes or file tax returns, the Division of Taxation has the authority to make an immediate, on-site assessment of tax due (referred to as a "jeopardy assessment") and may seize all available assets to satisfy the on-site tax assessment.

The Division makes jeopardy assessments when there is a danger that a non-compliant vendor will discontinue operations, remove his

or her business property and flee the State. This remedy is often necessary in cases involving transient vendors, out-of-State businesses operating in New Jersey, or vendors operating from non-fixed locations, such as roadside sales, flea markets or trade shows.

If the liability is not resolved, the seized property can be sold at public auction and the proceeds used to satisfy the tax debt.

For the quarter ending June 30, 1997, \$279,756 was collected from jeopardy assessments, and the assets of three businesses were seized.

#### **Seizures**

When a liability, for which the Division of Taxation has secured judgments, cannot or will not be satisfied by a taxpayer and all other means of collection of the debt have been exhausted, seizure of the business and personal assets will take place. Field Investigators will close a business, seizing any tangible assets including licenses, inventory, machinery, furniture, vehicles, etc., until arrangements are made for payment of the debt

For the quarter ending June 30, 1997, property of 61 businesses was seized. Some businesses were able to reopen, others remain closed. A listing of these seizures appears on pages 16-20.

#### **Auctions**

If the liability of a business seized by the Division is not satisfied or resolved, the business will remain closed. To satisfy the debt, the Division can sell the business assets at a public auction.

During the quarter ending June 30, 1997, nine auctions were held by

*continued on page 13*

*enforcement summary - from page 12*

the Division. A listing follows on page 20.

In the event an auction does not net enough monies to resolve the debt, the Division will execute against the personal assets of any of the business's responsible officers. Responsible officers are held personally liable for the trust fund portion of the debt which includes, but is not limited to, sales tax, withholding tax and motor fuels tax.

**Referrals to Attorney General**

In cases where the Division has exhausted its administrative remedies without success, referrals are made to the Office of the Attorney General. During the quarter ending June 30, 1997, 261 such cases were referred to the Attorney General's office for additional collection.

Together, the Division's Referral Group and the Attorney General's Collection Unit have collected \$735,349 in revenue during the second quarter of 1997 and \$3,360,179 throughout fiscal year 1997 from cases like these.

**Liquor License Program**

Under a recently enacted State law, applicants for renewal or transfer of a liquor license must receive a certificate of tax clearance from the Division. This program was in effect in seven New Jersey

counties in 1996 and added seven additional counties in 1997. The program will be in effect in all 21 New Jersey counties in 1998.

In addition, the Division is conducting special investigations and audits of liquor license holders. In the past year, the Division has collected more than \$77 million from holders of the various types of licenses subject to audit. Richard D. Gardiner, Division of Taxation Director said he expects to collect a total of \$150 million during the three-year program.

During the quarter ending June 30, 1997, 290 notifications of liquor license transfer were received by the Division's Bulk Sales section. Nineteen (19) audits relating to this project and previously requested were completed; assessments from these audits totaled \$920,431. □

**Tax Briefs**

**Alcoholic Beverage Tax**

**Bond Requirements** — The Division of Taxation has adopted a new schedule of minimum bond amounts for payers of the alcoholic beverage tax. The new schedule replaces the 1984 schedule.

In determining these bond amounts, the Division has taken into account the amount at levels which should protect the State without being burdensome to the

taxpayers.

**Minimum Amounts of Bonds**

Rectifier & Blender.....	\$25,000
Plenary Wholesale .....	50,000
Limited Wholesale.....	20,000
Wine Wholesale.....	10,000
Limited Distillery:	
0 – 5,000 Gallons.....	10,000
5,000 – over.....	15,000
Restricted Brewery .....	5,000
Breweries .....	7,000
Plenary Wineries.....	7,000
Farm Winery.....	3,000
State Beverage Distributors ..	2,000
Transportation.....	None
Warehouse Receipts.....	None
Special Permit "TL".....	None
Public Warehouse:	
Storage for Retailers.....	None
Storage for Wholesalers ....	None
Special Permit "SM".....	None
Plenary Retail Transit:	
Railroad.....	5,000
Boats.....	None
Airlines.....	2,000
Brokers.....	None

**Gross Income Tax**

**Savings Incentive Match Plan for Employees** — A request for information about New Jersey's treatment of the newly enacted "savings incentive match plan for employees," or SIMPLE plan, established under Internal Revenue Code Section 408(p), was received by the Division of Taxation. SIMPLE Plans provide a simplified federally tax-favored retirement plan for small employers.

Under New Jersey law, pension plan contributions may be excluded from gross income that are "amounts contributed by an em-

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ployer on behalf of and at the election of an employee to a trust which is part of a qualified cash or deferred arrangement which meets the requirements of Section 401(k).” N.J.S.A. 54A:6-21. The statute defers State income tax on amounts contributed to retirement plans authorized by IRC Section 401(k). It does not defer income tax on plans that have similar features or requirements to 401(k) plans, but are not themselves 401(k) plans.

The inquirer was informed that the SIMPLE plan is not a 401(k) plan, and does not have to meet the requirements for qualified plans. Therefore, employee contributions to SIMPLE plans would not be excluded from gross income under N.J.S.A. 54A:6-21. There is no other relevant legislative authority for a tax deferral.

***Amtrak Reauthorization and Improvement Act of 1990*** — Compensation paid by an interstate motor carrier to an employee who performs *regularly assigned duties in two or more states* can only be taxed by the employee’s state of residence. For the purposes of this rule, employee means:

- An operator of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);
- A mechanic;
- A freight handler; and
- Any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of

the United States, any state, or any political subdivision of a state who is acting within the course of such employment.

The Act also applies to employees of interstate railroads who perform regularly assigned duties in more than one state.

### **Sales and Use Tax**

#### ***Applicability of Trade-in Credit in Sales and Lease Transactions*** —

Since the lessor is considered an ultimate consumer under the lease law, when a customer is entering into a *lease* transaction, the value of any vehicle that is traded in, whether leased or owned by the customer, cannot be used to reduce the amount upon which the lessor is required to pay the lessor’s use tax.

If a customer is entering into a *sale* transaction, and is trading in a leased vehicle, whether the sales tax receipt can be reduced depends upon the chain of title of the trade-in. If the customer exercises the lease’s purchase option, and pays New Jersey sales tax on the buyout price, then the customer is entitled to a trade-in credit pursuant to the statute.

#### ***Use of ST-3NR by Contractor*** —

The Division responded to an inquiry concerning the applicability of the Form ST-3NR where the purchaser is an out-of-State contractor picking up paving materials in New Jersey for jobs in New York State.

The ST-3NR is available to non-registered vendors making in-person purchases for resale; it is intended to give an out-of-State vendor who enters this State the same benefits as an in-State vendor with regard to purchasing property for resale. Thus, whether the

ST-3NR can be issued depends upon the laws of the State of New Jersey.

In New Jersey, a contractor is treated as the end user of materials purchased for incorporation into real property. N.J.S.A. 54:32B-2(e)(2). A New Jersey contractor would *not* be able to issue a Resale Certificate for the purchase of construction materials in New Jersey, regardless of whether the materials were to be used on an out-of-State job. See N.J.A.C. 18:24-5.3.

***American Indian Sales*** — In the Winter 1996 issue of *New Jersey State Tax News* (Volume 25, No. 4, p. 20) the Division published a tax brief regarding the taxability of sales to American Indians. The tax brief included a reference to the Rankokus Reservation in Burlington County. The Division has since learned that this Powhatan Renape Nation community is not on tribal land. Instead, it is located in State-owned park land. Therefore, the sales tax exemption for purchases by enrolled members of a tribe on tribal land does not apply to taxable sales on the “Rankokus Reservation.”

#### ***Sales Tax Collection on Indian Trust Lands*** —

The Division received correspondence regarding H.R. 1168, a Federal bill supplementing the Indian Reorganization Act, 25 U.S.C. §461 *et seq.* This bill would help protect New Jersey’s tax base in the event that lands in this State are transferred into trust, pursuant to section 5 of that Act (25 U.S.C. §465), for the purpose of providing land for Indians. The legislation would require that before any new lands are transferred into trust, the tribe that

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will have jurisdiction over the land must enter into a binding agreement with the state in which the land is located, providing that any retail establishment located on the land will pay, collect or remit the state sales and excise taxes applicable to the establishment's transactions.

The Division is aware that absent explicit Congressional authorization, a state may not enforce taxes whose legal incidence falls upon Indian tribes or on members of the tribes, on their own tribal lands. We also know that without Federal enabling legislation, a state may require Indian tribal businesses to collect and remit sales tax from non-Indian customers, provided that the burdens of collection and remittance are not more than minimally burdensome and do not violate the terms of a treaty.

*Oklahoma Tax Commission v Chickasaw Nation*, \_\_\_U.S.\_\_\_\_, 115 S.Ct. 2214, 2220-2221 (1995).

H.R. 1168, which was proposed by Representative Ernest Istook of Oklahoma, would require that before receiving new trust lands, a tribe would have to agree that retail businesses located on this trust land will collect sales and excise taxes payable by their non-Indian customers. This amendment would partially protect the State sales tax

base, enabling the State to require tribal businesses to collect and remit tax on their taxable sales to customers who are not members of the tribe for which the land is held in trust, without having to debate whether normal sales tax reporting and remittance schedules, applicable to all vendors, are too burdensome to impose on vendors who are members of an Indian tribe. Sales tax collected and remitted by the retailer would be much easier for the State to enforce than the compensatory use tax that nonmembers of the tribe would otherwise be required to pay on their purchases. The amendment would also minimize the competitive disadvantage suffered by non-tribal retailers, who would inevitably lose business if their non-Indian customers sought to evade the sales tax by purchasing only from tribal establishments, where no tax would be charged.

**Telephone Answering Service** — On July 1, 1990, telecommunication services became subject to New Jersey sales and use tax. Telecommunications is defined in the law as the act or privilege of

originating or *receiving messages* or information through the use of any kind of one-way or two-way communication, including but not limited to: voice, video.... N.J.S.A. 54:32B-2(cc). This definition was included in a Special Notice to

registered vendors which was sent in July 1990.

The Division has consistently held that telephone answering services are included within the definition of telecommunications and thus, are subject to tax under N.J.S.A. 54:32B-3(f). See P.L. 1990, c.40. Only telecommunication services rendered with respect to a service address in New Jersey are taxed. For example, sales tax is not imposed on receipts from telephone answering services for a telephone located in another state. □

## ***In Our Courts***

### **Cigarette Tax**

**Surety Obligations Continue Under Altered Payment Agreements** — *Selective Insurance Company of America v. Director, Division of Taxation*, Superior Court of New Jersey, Appellate Division, decided April 16, 1997.

Selective Insurance Company of America ("Selective"), plaintiff-appellant, was surety on a bond issued to the Division of Taxation, defendant-respondent. M&R Tobacco and Candy Company ("M&R"), defendant-respondent, a licensed cigarette distributor, was the principal on the bond. The bond secured M&R's financial obligations to New Jersey arising from credit purchases of cigarette tax stamps beginning in 1982.

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### ***Division of Taxation Seizures (April – June 1997)***

**Note:** Businesses listed may have satisfied their tax liability or otherwise come to agreement with the Division following the date of seizure and may now be reopened.

<b>County</b>	<b>Name/Address</b>	<b>Seizure Date</b>	<b>Business Type</b>	<b>Status</b>
Atlantic	LaBentley's at the Wonder Garden 1601 Arctic Ave. Atlantic City	4/24/97	Late night entertainment	Closed Liquor license seized
	The Absecon Liquor Store 113 New Jersey Ave. Absecon	5/16/97	Liquor store	Reopened
	Lesbirel's Liquor Locker 201 E. Collins Rd. Absecon	5/19/97	Liquor store/bar	Reopened
	China Royal Restaurant, Inc. t/a Peking Duck House 2801 Atlantic Ave. Atlantic City	6/8/97	Restaurant	Liquor license seized
Bergen	Mul Rea Bang Ah 624 Piermont Rd. Closter	4/15/97	Restaurant/bar	Liquor license seized
	DeGallo, Inc. t/a Club Kokomo 1200 Wall St. W. Lyndhurst	5/2/97	Bar	Liquor license seized
	Gianilda Tavez t/a Giany's 63 Passaic St. Garfield	5/6/97	Bar	Liquor license seized
	Elite Landscaping 21 Rosetree Terr. Ridgefield	5/7/97	Landscaping	Vehicle seized
	North Arlington Enterprises t/a Scandal's Restaurant 318 Bellville Tpk. North Arlington	5/7/97	Bar	Liquor license seized
	Lasting Image, Inc. 463 Chestnut Ridge Rd. Woodcliff Lakes	5/15/97	Photo studio	Closed
	Round the Clock t/a Wally's Backstage Cafe 87 S. Washington Ave. Bergenfield	5/21/97	Bar	Liquor license seized, later released
	Guy's Tavern Inc, t/a Orvil House 40 W. Prospect St. Waldwick	5/29/97	Tavern	Liquor license seized, later released
	Riverview Diner 5 Main St. Wallington	6/10/97	Restaurant	Liquor license seized

*continued on page 17*

*taxation seizures - from page 16*

<b>County</b>	<b>Name/Address</b>	<b>Seizure Date</b>	<b>Business Type</b>	<b>Status</b>
	Michelle, Inc. t/a Amore Pizza-Ristorante 255 Hackensack St. Wood-Ridge	6/19/97	Restaurant	Reopened
Burlington	Bradley's Performance Marine Rte. 73 & Old River Rd. Palmyra	4/17/97	Boat sales and repairs	Closed
	Serafine, Brian t/a B&B Landscaping 100 Hawkins Lane Tabernacle	5/22/97	N/A	Motor vehicle seized
Camden	Whiznarr t/a Old Grads 712 Whitehorse Pike Oaklyn	4/8/97	Bar	Liquor license seized
	Rea Pump & Tank 12 Danbury Dr. Erial (Gloucester Twp.)	6/20/97	Well drilling services	Vehicle seized
	Mena, Inc. t/a Berlin True Value Liquors 251 S. White Horse Pike Berlin	6/26/97	Liquor store	Liquor license seized
Cape May	Nehemiah Lodge #192 4200 Arctic Ave. Wildwood	5/1/97	Elks Club	Closed
	Lassiter, Lawrence 302 Mechanic St. Cape May Court House	6/19/97	N/A	Vehicle seized
Essex	Panteezz 955 Frelinghuysen Ave. Newark	4/3/97	Bar	Liquor license seized
	Hilltop Inn, Inc. t/a Intempo 1640 Broad St. Bloomfield	4/4/97	Restaurant/bar	Liquor license seized
	Corner's 489 Clinton Ave. Newark	4/22/97	Liquor store	Liquor license seized
	Elnan Corp. t/a Branford Bar 8 Branford Pl. Newark	5/1/97	Bar	Liquor license seized
	FGJB Enterprises 59 E. Runyon St. Newark	5/1/97	Go-go bar	Closed
	Pharmichele Corp. t/a Carolina Drug 200 Carolina Ave. Irvington	5/13/97	Liquor store/grocery store	Liquor license seized
Gloucester	McFarland, Robert 101 Lenape Trail Wenonah	4/8/97	N/A	Vehicle seized
	Michelina, Inc. t/a Domenico's Pizza 931 Red Bank Ave. West Depford	4/22/97	Pizzeria	Closed

*continued on page 18*

*taxation seizures - from page 17*

<b>County</b>	<b>Name/Address</b>	<b>Seizure Date</b>	<b>Business Type</b>	<b>Status</b>
	Utz, Michael 72 Wendee Way Turnersville	5/17/97	N/A	Vehicle seized
	Suplee, Richard S. t/a Iona Lake Inn 210 University Blvd. Glassboro	6/29/97	Restaurant	Vehicle seized
Hudson	El Oso Blanco 5000 Park Ave. Weehawken	4/10/97	Liquor store	Liquor license seized
	Nic & Mel Enterprises t/a Bowlero 5600 Kennedy Blvd. West New York	5/1/97	Bowling alley/bar	Liquor license seized
Mercer	Miller, Herzon d/b/a H M Auto Brokers 620 Calhoun St. Trenton	5/7/97	Car dealership	Motor vehicles seized
	Frank's Auto Sales & Services 435 New York Ave. Trenton	6/4/97	Auto dealership and repair shop	Closed Seven vehicles seized
	Clymer, Walter t/a Jeru Imports & Exports 64 Cresson Rd. Cherry Hill	6/8/97	Jewelry vendor	Vehicle seized (at Trenton Heritage Days Festival)
Middlesex	O Poeta Bar & Restaurant t/a El Trovatore 1776 Rte. 35 Sayreville	5/8/97	Bar/restaurant	Reopened
	Studebaker's Unlimited of Piscataway t/a Wurlitzer's 386 Hoes Ln. Piscataway	5/13/97	Restaurant/bar	Liquor license seized
	Edison Glass Co. 417 New Brunswick Ave. Perth Amboy	5/22/97	Glass company	Reopened
	2000 Park Avenue Corp. 2000 Park Ave. South Plainfield	6/6/97	Bar	Liquor license seized
	Dhabliwala, Dhaval t/a Whitesun Int'l, Inc. 288 State St. Perth Amboy	6/13/97	Delicatessen	Vehicle seized
	V & C Entertainment t/a Marilyn's Bad Girls 565 Roosevelt Ave. Carteret	6/24/97	Go-go bar	Liquor license seized
	Lacey & Sons Service, Inc. Victory Circle South Amboy	6/25/97	Truck repair company	Two vehicles seized

*continued on page 19*

*taxation seizures - from page 18*

<b>County</b>	<b>Name/Address</b>	<b>Seizure Date</b>	<b>Business Type</b>	<b>Status</b>
Monmouth	Anthony's Pizza & Luncheonette Rte. 35 & Cherry Tree Farm Rd. Middletown	4/4/97	Luncheonette	Closed
	Benlar Corp. t/a Sheehan's 25 Main St. Keansburg	6/10/97	Liquor store	Closed Liquor license seized
	Gatica, Maria H. Cafe Mi Pueblito/Coffee Delight II 6 Third Ave Long Branch	6/12/97	Coffee shop/cafe	Vehicle seized
	Gayatri, Inc. t/a Yogi's Liquor & Deli 228 W. Bergen Pl. Red Bank	6/20/97	Package store	Liquor license seized
	Shamrock Spirits, Inc. t/a Shore Liquors 1120 Ocean Ave. Sea Bright	6/24/97	Liquor store	Liquor license seized
	Dapper Duck, Inc. t/a Harborside Inn 42 First Ave. Atlantic Highlands	6/24/97	Restaurant/bar	Closed Liquor license seized
	Croat & Nap 50 A Gravel Hill-Spotswood Rd. Englishtown	6/26/97	Landscaper	Closed
	Lodato, Anthony T. Cabinet Carpentry Designers, Inc. 63 Shark River Rd. Neptune	6/30/97	Cabinet maker	Vehicle seized
	Paradise Enterprises 160 Ocean Ave. Long Branch	6/30/97	Bar	Liquor license seized
Ocean	AGC Enterprises, Inc. t/a Antonio's 1635 Bay Ave. Point Pleasant	4/14/97	Pizzeria	Two vehicles seized
	Coastal Copy System 195 Shenandoah Rd. Toms River	5/9/97	Copier business	Vehicles seized
Passaic	Sookie's Lounge 7 N. Straight St. Paterson	6/12/97	Bar	Liquor license seized
Sussex	Kelly's Steak House Corp. t/a Tobacco Road 441 Rte. 23 Wantage	4/10/97	Restaurant/bar	Liquor license seized
	183 Dogwood Corp. t/a Stanhope Wine Cellar 93 Rte. 183 Stanhope	6/17/97	Liquor Store	Liquor license seized

*continued on page 20*

County	Name/Address	Seizure Date	Business Type	Status
	Vosburg, Paul t/a Drew Mountain Auto Repair Rte. 517 & Drew Mountain Rd. Vernon	6/17/97	Auto repair shop	Reopened
Union	Demsey's Pub 23 E. Elizabeth Ave. Linden	4/21/97	Bar	Liquor license seized
	Chris-Don, Inc. t/a Rocco's Tavern 191 Terrill Rd. Fanwood	5/20/97	Bar	Reopened
	J & J Lounge, Inc. t/a JC's Lounge 210 Richmond St. Plainfield	5/29/97	Bar	Bankruptcy

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***Division of Taxation Auctions  
(April – June 1997)***

County	Name/Address	Auction Date	Business Type	Assets Auctioned
Atlantic	China Royal Restaurant, Inc. t/a Peking Duck House 2801 Atlantic Ave Atlantic City	6/26/97	Restaurant	Liquor license
Bergen	Riverview Diner 5 Main St. Wallington	6/24/97	Restaurant	Liquor license
Hudson	SIBA t/a Sidney's 415 N. 4th St. Harrison	5/28/97	Bar	Liquor license, bar supplies, liquor and beer
	Nic & Mel Enterprises, Inc. t/a Bowlero 5600 Kennedy Blvd. West New York	6/4/97	Bowling alley/bar	Liquor license
Monmouth	Anthony's Pizza & Luncheonette Rt. 35 & Cherry Tree Farm Rd. Middletown	4/25/97	Luncheonette	Business contents
	The Quay 280 Ocean Ave. Sea Bright	5/20/97	Bar/restaurant	Liquor license
	Sean's Place, Inc. t/a Main Street Tavern 220-222 Main St. Keansburg	5/20/97	Bar	Liquor license
Passaic	GEJ t/a Cozy Corner 136 Lake Ave. Clifton	5/13/97	Bar	Liquor license
	Sookie's Lounge 7 N. Straight St. Paterson	6/24/97	Bar	Liquor license

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In 1990, the Revenue Accounting Branch of the Division of Taxation discovered that M&R missed some of its tax stamp payments for that year. A unique weekly payment program was arranged that included interest and penalties. After several weeks, M&R began missing the weekly payments as well as payments on invoices for additional tax stamps. Finally, on March 22, 1991, after M&R missed payments on a revised payment program, the Division demanded payment of the total amount owed. M&R filed for bankruptcy the same day.

Selective sought to be discharged from their obligations as surety by bringing an action against the Division. Selective argued that their obligation was extinguished when the Division and M&R altered the terms of M&R's obligations. Selective further argued the alterations consisted of the payment extension beyond the thirty-day limit contained in N.J.S.A. 54:40A-13, the charging of interest on the initial default and the additional credit sales to M&R.

The Trial Court stated that the Director of the Division may revoke a distributor's credit privilege, for cause, at his discretion under N.J.A.C. 18:5-3.19. The Court therefore found that delinquent payments do not automatically suspend the distributor's privilege to make further credit purchases.

However, the Trial Court said that the Director lacked the authority to grant M&R an "extension of time to pay" for stamps purchased on credit. The Trial Court found that Selective was in fact discharged but only for the amount by which

it was harmed by the extension. Therefore Selective was responsible for M&R's indebtedness, the total purchase price of all the tax stamps, but not for the interest and penalties.

The Appellate Division affirmed the Trial Court's judgment but did not view the payment program as an "extension," but rather, as an attempt to collect an overdue tax. According to the Appellate Division, N.J.S.A. 54:53-10 authorizes the satisfaction of a compromised amount owed to the State through installment payments.

### **Gross Income Tax**

**Timely Refund Claims** – *Charles C. Carella v. The State of New Jersey, Department of Treasury, Superior Court of New Jersey, Chancery Division: Essex County, decided May 20, 1997.*

Plaintiff sought to recover \$2,259,820 in New Jersey gross income taxes voluntarily paid by Eddie Antar ("Crazy Eddie") to the State of New Jersey for the years 1984 through 1987. Plaintiff also sought to recover \$8,652.60 and \$62,378.98 for gross income taxes paid for 1984 and 1986, respectively. Antar filed several refund claims prior to plaintiff's action here.

The Court first pointed out that N.J.S.A. 54A:9-8(a) states that written refund claims need to be filed within three years of the filing of tax returns or two years after the actual payment of those taxes. The Court further offered that *Vivoca v. Director, Division of Taxation, 116 N.J. Super. 496 (App. Div. 1979)*, says the filing of a refund claim with respect to interest and penalties assessed by the Director must be filed within

ninety days of the assessment. In accordance with those authorities, the Court found that the only amount with respect to which Antar filed a timely refund claim, and thus the only amount the Court could consider in this action, was \$11,943.80.

Plaintiff further claimed that no nexus existed between Antar and New Jersey and therefore the assertion of New Jersey's power to tax Antar's income earned elsewhere was a violation of the Due Process Clause under the Fourteenth Amendment to the U.S. Constitution.

The Court disagreed, finding that New Jersey's retention of Antar's tax payments did not constitute a violation of his due process rights. The Court explained that New Jersey did not reach beyond its borders to assess or collect the tax, but rather, the jurisdiction to tax was conferred on New Jersey by Antar's *voluntary* payments to the State.

Plaintiff also argued that, as a violation of equal protection, New Jersey did not grant Antar, as a supposed nonresident, a credit against their gross income tax obligation for taxes paid to another jurisdiction which it grants to its residents.

Rejecting plaintiff's argument, the Court stated that New Jersey imposes a tax, without credit, on New Jersey source income on both its residents and nonresidents. The credit plaintiff was concerned with is for taxes paid to other jurisdictions by New Jersey residents which New Jersey has the authority to tax without offering a credit

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at all. Nonresidents are not offered a credit by New Jersey for taxes paid to other jurisdictions because the State has no jurisdiction to tax nonresidents on non-New Jersey source income in the first place.

Based on the Court's findings, all of plaintiff's claims were dismissed.

**Taxability of Distributions from Non-Qualified Investment Funds** – *Colonial Trust III v. Director, Division of Taxation*, decided February 21, 1997; Tax Court of New Jersey; Docket No. 009777-93.

This was a declaratory judgment action to determine whether N.J.S.A. 54A:6-14.1 violates 31 U.S.C.A. §3124(a) and the Supremacy and Borrowing Clauses of the United States Constitution. N.J.S.A. 54A:6-14.1 excludes from gross income certain mutual fund distributions attributable to interest or gain from exempt Federal obligations or exempt obligations of the State of New Jersey or its agencies and subdivisions. However, by the terms of this provision, the exemption applies only when the fund making the distributions is a "qualified investment fund." In order for the State to determine that it is a qualified investment fund, the fund would have to have at least 80% of its investments in exempt obligations. If a fund did not satisfy these criteria, it would not be a qualified fund, and under

the terms of the statute, its distributions would not be excludable from gross income.

At issue in this case was whether the State has the power to limit the immunity of Federal obligations from state taxation, or whether instead the scope of Federal obligation immunity is grounded in the Federal constitution and therefore not subject to limitation or definition by a state. The Tax Court determined that the State did not have the power to set conditions for the immunity of Federal obligation income. Consequently the State is barred from using the conditions set forth in N.J.S.A. 54A:6-14.1 in order to impose tax on Federal obligation income paid by non-qualified investment funds. The Court's holding was based on its interpretation of the Federal immunity statute, 31 U.S.C.A. §3124, and its analysis of the nature of mutual funds.

31 U.S.C.A. §3124(a) provides, in relevant part, that "[s]tocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax..." The Court noted that this statutory immunity is rooted in the Supremacy and Borrowing Clauses of the United States Constitution and a long line of Supreme Court case law construing these clauses. The Supremacy Clause, U.S. Const., Art. VI, cl.2, provides that the Constitution and Federal laws enacted pursuant to it are the "supreme law of the land." The Borrowing Clause, U.S.

Const. Art. I, §8, cl.2, provides that Congress has power to borrow money on the credit of the nation.

The Division argued that while Federal obligation income received by a mutual fund was nontaxable to the fund, in its capacity as a corporation, the character of the Federal obligation income did not flow through to the shareholders who then received income from the fund itself. The Tax Court rejected that argument, finding instead that mutual funds are structured and intended to be investment conduits and that their function as conduits must control the way their shareholders are taxed by the states. The Tax Court cited numerous court decisions of other states using the "conduit" analysis.

The Tax Court held that 31 U.S.C.A. §3124 requires that distributions paid by a mutual fund must be immune from New Jersey gross income tax to the extent that they are attributable to interest earned on Federal obligations. Therefore the imposition of tax on Federal obligation income distributed by "non-qualified" investment funds, pursuant to N.J.S.A. 54A:6-14.1 read in conjunction with N.J.S.A. 54A:5-1(e) or (f), is barred by Federal law. The Court explicitly limited its holding to mutual funds, specifying that it had no effect on the taxation of dividends paid by traditional C corporations not designed as investment conduits.

The Division is not appealing this decision. Taxpayers who might have refunds as a result of this decision should be mindful of the three-year statute of limitations.

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**Local Property Tax Exemption as Charitable Institution Denied** – 1711 Third Avenue, Inc., Plaintiff, v. City of Asbury Park, Defendant, decided October 16, 1996; Tax Court of New Jersey; Docket No. 008030-95.

Taxpayer sought local property tax exemption in the N.J. Tax Court under N.J.S.A. 54:4-3.6 as an “entity organized exclusively for the moral and mental improvement of men, women and children or as an institution that cares for, treats and studies the ‘...mentally retarded...’” after Asbury Park assessor’s \$98,000 value determination was affirmed by Monmouth County Tax Board.

The property in question was a residential dwelling funded, in part, by H.U.D. under section 811 of the Cranston Gonzalez National Affordable Housing Act. The H.U.D. program provided housing and various support services to low income adults with mental health problems. H.U.D. required that each residence be organized as a nonprofit corporation having ownership of the property, in this case Third Avenue, Inc. H.U.D. further required that all operational, counseling and other assisted living services such as shopping, cooking, etc. be provided by a nonprofit sponsoring organization, that being Collaborative Support Programs of New Jersey (CSP). CSP then contracted nonprofit corporation Butterfly Property Management to draft leases, collect rents, and handle repairs and utility bills for its sponsored properties, i.e., Third Avenue, for a management fee of 7% of the tenants’ rents. The two H.U.D. tenants paid 30% of their

Social Security income, \$110 and \$115 per month, as rent to Third Avenue Corp.

Tax Court did not dispute the property’s qualification under H.U.D.’s section 811 supportive housing program. The Court did, however, rule against the taxpayer for failing to substantiate conformance to the exemption prerequisites of N.J.S.A. 54:4-3.6.

To qualify for exemption under the “moral and mental improvement” clause of 3.6, Third Avenue Corp. would have to be organized exclusively for “moral and mental improvement” purposes. Citing *Planned Parenthood v. Hackensack*, the organizational test applied by this Court was whether the owning entity’s purpose on its certificate of incorporation or corporate charter coincided with the purpose on its claim for exemption. The Court emphasized the distinction between an entity’s organization and its operations and disagreed with an opinion in *Inter-care Health Systems, Inc. v. Cedar Grove* that an entity’s operations should be reviewed to determine if it’s organized for exempt purpose. In contrast to its claimed “moral and mental” purpose, Third Avenue’s incorporation certificate stated its organizational purposes were exclusively charitable and/or educational. Using *Schizophrenia Foundation of N.J. v. Montgomery Twp.* as a guide, the Court reasoned that while providing housing which met the physical, social and psychological needs of mental health services clients might be construed as moral and mental improvement purposes, the conclusion was not possible here

because providing housing was not a stated purpose of Third Avenue

Corp. The educational purpose failed too since there is no exemption in 3.6 for entities organized for general educational purposes; but is rather for buildings used as colleges, schools, academies or seminaries. The Court concluded that although Third Avenue was better organized for charitable purposes, it had “not offered the proper proofs nor made the necessary arguments to bring itself within the exemption for charitable institutions.”

The Court stated that Third Avenue also failed to analyze its certificate of incorporation in relation to N.J.S.A. 54:4-3.6 with respect to property owned and used in connection with “‘curriculum, work, care, treatment and study of ...mentally retarded...’” Third Avenue had no curriculum of its own and carried out no work, care or treatment. Third Avenue only held title to the real estate.

Tax Court also noted that despite oral testimony indicating the organization operated at a deficit, no financial data was provided to confirm its nonprofit status. That an entity may operate at a loss does not establish that it is “‘not conducted for profit.’” Third Avenue was remiss in not providing its and CSP’s financial records over several years time, including an explanation of their mutual financial arrangements, government funds received, use of revenues, salaries paid, rents charged and eviction policies for nonpayment. Again, taxpayer failed to bring itself within exemption statute as a nonprofit organization.

It is not the Court’s function to make appropriate arguments to bring the appellant within exemp-

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tion requirements. The burden of proving tax exempt status is upon the claimant.

### **Sales and Use Tax**

**Alarm System Services and Telecommunications** – *Aetna Burglar & Fire Alarm Company v. Director, Division of Taxation*, Tax Court of New Jersey, decided May 15, 1997.

Aetna Burglar & Fire Alarm Company appealed a sales tax deficiency assessment imposed on its receipts from its services including the installation, servicing and monitoring of fire and burglar alarm systems. Aetna did not collect or remit any sales tax during the assessed period, July 1, 1991 through June 30, 1994.

The issue presented before the Tax Court was whether Aetna's services were "telecommunications" within the meaning of N.J.S.A. 54:32B-2(cc) and, if so, are subject to sales tax pursuant to N.J.S.A. 54:32B-2 & 3.

Aetna's alarm systems are connected to customers' phone lines and transmit electronic messages to a central station for both regular "check-ups" and emergencies. The phones are also used by Aetna employees to check with the customer to see if the incoming signal was caused by a real emergency.

Aetna argues that the monitoring of burglar and fire alarm systems is not within the ambiguous statutory definition of "telecommunications," and is therefore not subject to the sales tax.

The Tax Court found that while N.J.S.A. 54:32B-2(cc) enumerates

five exclusions to its definition of telecommunications, the monitoring of burglar and fire alarm systems is not one of them. The Court further added that the phrase "including but not limited to," used in addressing these taxable services, supports a legislative intention to include services such as Aetna's in the definition of telecommunications.

Aetna further argued that since it charges a flat monthly monitoring fee, rather than a charge per call, the use of a telephone is incidental to the service provided and is therefore not subject to taxation.

The Court responded by stating that without the ability to notify the central station of an intruder, fire or any other emergency, Aetna's monitoring service would be useless. The Court concluded that the use of the telephone cannot be considered incidental because Aetna's service heavily relies on it.

Partial summary judgment was granted to the Director, while another trial will be scheduled to see if the amount of tax assessed by the Director was correct.

**Taxability of Sweeping Service** – *D.P.S. Acquisition Corp. v. Director, Division of Taxation*, 16 N.J. Tax 292 (1997).

Taxpayer, which was in the business of sweeping parking lots with a vehicle that was capable of sweeping up dirt and collecting it in a container which could then be emptied into customers' dumpsters, appealed from a determination that it was liable for sales tax on its sales of this service. At issue was whether the sweeping should be treated as a taxable service of "maintaining real property" or as a

service of "garbage removal" which is exempt if performed on a regular contractual basis for a term of at least 30 days. N.J.S.A. 54:32B-3(b)(4).

The Court determined that, although taxpayer might carry out the dirt collected in the vehicle's container and dump it elsewhere, the garbage removal aspect of its service was only incidental to its primary service of sweeping. It therefore held that the sweeping service was a maintenance service subject to sales tax and that the garbage removal exemption did not apply.

**Untimely Refund Claim** – *Toys R' Us, Inc. v. Director, Division of Taxation*, decided April 29, 1997 Superior Court of New Jersey, Appellate Division.

Toys R' Us, plaintiff-appellant, ships goods with labels already affixed to its retail outlets where additional price labels are affixed. In 1990, a field agent of the Division, defendant-respondent, conducted an audit of Toys R' Us' records for the period between April 1, 1985 and September 30, 1988. On April 15, 1991, Toys R' Us paid \$463,000 in additional taxes that the Division assessed on February 28, 1991 as a result of the audit.

Toys R' Us sought to recover \$99,000 of the additional taxes which was attributable to taxes imposed on the sale and use of labels during the audited period. The Court stated that the field agent relied on an opinion from the Director, appearing in a 1981 edition of the *New Jersey State Tax News*, interpreting N.J.S.A. 54:32B-8.15. The statute exempts

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wrapping supplies, including labels, from the sales and use tax. Based on that opinion, the field agent determined that Toys R' Us' price labels were still in fact taxable.

In the March/April 1991 edition of the newsletter, the Division stated that it had taken the position that price labels were now exempt. Toys R' Us filed a refund claim in July 1991, five months after the Division's assessment against them. Pursuant to N.J.S.A. 54:32B-19, the Division denied the refund because the claim was not filed within thirty days of the Division's determination (extended to 90 days in 1992). The Tax Court agreed with the Division.

Toys R' Us argued that the claim was timely because it was filed within the six-month period in which the Division could have assessed additional taxes. Toys R' Us also argued that the Tax Court judge erred because he considered the date when Toys R' Us learned of, and not when the Division adopted, the corrected exemption policy.

The Appellate Division agreed with the Tax Court finding that the claim was untimely. Although the Division could still have assessed additional taxes, the subsequent six-month period during which the taxpayer may file a claim only applies if the taxes were volunteered by the taxpayer rather than assessed by the Division, N.J.S.A. 54:32B-27(c).

The Appellate Division remanded the case to the Tax Court for further fact finding concerning the

effective date of the Division's policy change in 1991. □

## ***In Our Legislature***

### ***Alcoholic Beverage Tax***

***Tax Reduced on Certain Apple Cider*** — P.L. 1997, c.153 (signed into law on July 1, 1997) reduces from \$0.70 per gallon to \$0.12 per gallon the tax rate on apple ciders which have an alcohol content by volume of at least three and two tenths percent (3.2%) but not more than seven percent (7%). This statute is effective immediately but will remain inoperative until November 1, 1997.

### ***Miscellaneous***

***Corporations and Limited Liability Companies, Limited Liability Partnerships*** — P.L. 1997, c.139 (signed into law on June 27, 1997) amends and supplements various aspects of the law concerning certain domestic and foreign entities authorized to transact business in this State.

### ***Public Utility Taxes***

***Gross Receipts, Franchise tax Eliminated for Gas, Electric and Telecommunications Utilities*** — P.L. 1997, c.162 (signed into law on July 14, 1997) revises taxation of gas, electric and telecommunications public utilities and sales of electricity, natural gas and energy transportation service in order to preserve certain revenues under transitions to more competitive markets in energy and telecommunications.

Effective for 1998, the new law eliminates the gross receipts and franchise taxes as collected by electric, gas and telecommunications utilities. Instead, these utili-

ties will be subject to the State's corporation business tax. The State's existing sales and use tax will be applied to most retail sales of electricity and natural gas. A transitional energy facility assessment will be applied on electric and gas utilities. This assessment will be phased out over five years.

### ***Funds guaranteed to Municipalities***

— P.L. 1997, c.167 (signed into law on July 22, 1997) establishes the "Energy Tax Receipts Property Tax Relief Fund." It replaces the method of distributing certain funds guaranteed to municipalities from the State's taxation of energy and telecommunications. This new law increases the amount of municipal aid from the current guaranteed amount of \$685 million to \$740 million in 1998, \$745 million in 1999, \$750 million in 2000 and 2001, and \$755 million in 2002 and each fiscal year thereafter.

### ***Spill Compensation Tax***

***Cap Altered on Tax on Hazardous Substance Transfers*** — P.L. 1997, c.134 (signed into law on June 27, 1997) alters the formula by which owners and operators of major facilities for the storage of hazardous substances determine the maximum annual amount of spill compensation tax due on transfers of such substances. This statute is effective immediately. □

# tax calendar

## october

	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
7	26	27	28	29	30	31	

### October 10

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

### October 15

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

### October 15 - continued

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

### October 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*

### October 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 Wholesale Sales and Use Tax—Monthly return
- UZ-50** Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

### October 27

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

### October 31

- NJ-941 & NJ-941-W** Gross Income Tax—Employer's quarterly return

## november

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

### November 10

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

### November 17

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

### November 17 - 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 return

### November 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*

### November 20 - continued

- ST-21** New Jersey/New York Combined State Sales and Use Tax—Monthly return
- ST-51** Sales and Use Tax—Monthly return
- 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

### November 25

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

# december

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1		1	2	3	4	5	6
9	7	8	9	10	11	12	13
9	14	15	16	17	18	19	20
7	21	22	23	24	25	26	27
	28	29	30	31			

## December 10

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

## December 15

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

*continued*

## December 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 return

## December 22

- 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*

## December 22 - continued

- ST-21** New Jersey/New York Combined State Sales and Use Tax—Monthly return
- ST-51** Sales and Use Tax—Monthly return
- 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

## December 26

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

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## *from the director's desk*

### **Filing ST-50 Online**

The Division of Taxation has initiated a pilot project to accept Sales Tax Quarterly Returns (Form ST-50) via the Internet. Taxpayers who file for informational purposes may now use the Division's home page to securely file their Form ST-50.

Taxpayers who have Internet access and use a browser which supports Secure Sockets Layer (SSL) should connect to the following World Wide Web address: <https://www.state.nj.us/treasury/taxation/st50zero.htm>. (Please note, recent versions of Netscape Navigator and Internet Explorer support SSL.) A template appears that replicates the information contained on the ST-50, such as name, address, identification number and gross sales. The taxpayer, or his representative, simply completes the appropriate fields, and then at the end of the form clicks a button to submit the data. Before actual transmittal, the home page checks to detect any errors. If there is an error, a screen pops up notifying the taxpayer of the error and prompting him to return to the original screen to make a correction. If no error is detected, the taxpayer is then prompted to submit the information to the Division. The Division recommends that taxpayers print out a hard copy for their records *before* information is submitted.

Future plans will allow taxpayers who owe sales tax to file their ST-50 returns via the Internet and the actual payment via electronic funds transfer. Please visit our home page from time to time as we will announce this option as soon as it comes online.