

New Jersey State Tax News

Vol. 31, No. 2 & 3 – Summer/Fall 2002

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Amnesty Program A Huge Success

The Division of Taxation received \$276.9 million in net revenue from the 2002 Tax Amnesty Program that began April 15 and ended on June 10, 2002.

Governor James E. McGreevey implemented the Amnesty program to help offset the projected \$2.9 billion budget deficit for the 2002 fiscal year, which ended June 30. The success of the amnesty program helped to address continuing fiscal difficulties experienced by the State, precipitated by significant shortfalls in projected tax revenue collections late in the fiscal year .

Amnesty Administrator, Stephen Sylvester, reported that 101,534 payments were made during the 57-day Amnesty period. He said 32% of the amount collected was from sales and use tax, 38% from corporate tax liabilities, 22% from gross income tax, and the remainder from the 27 other taxes administered by the Division.

During the Amnesty period, the Amnesty hotline received approximately 155,000 phone calls and the Amnesty Web site recorded 78,620 hits.

Under Amnesty the State waived penalties and interest charges on tax liabilities incurred between January 1, 1996, and December 31, 2001 — individuals and businesses were allowed to pay

only what they owed in back taxes. Those who failed to settle their delinquent State taxes during Amnesty now face the reinstatement of the original penalties and interest, plus new penalties, charges, and fees which could increase a base tax bill by 45% or more.

“The Amnesty also reduced our backlog of delinquent and deficient taxpayers and allows our audit and investigative teams to concentrate their efforts on the truly hard-core tax evaders,” added Taxation Director Robert K. Thompson. □

New Laws Generate Revenue

Several important measures were recently enacted by the New Jersey Legislature and signed into law. Salient provisions of the new legislation are summarized below.

Business Tax Reform Act — P.L. 2002, c.40 (signed into law on July 2, 2002) reforms New Jersey's system of taxation of corporations and other business entities. See *Why CBT Changes Were Needed* on page 5 and *Business Tax Reform Summary* on page 3.

Cigarette Tax — P.L. 2002, c.33 (signed into law on July 1, 2002) increases the cigarette tax from \$0.04 to \$0.075 per cigarette (from \$.80 to \$1.50 per pack); and di-

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rects that certain amounts from cigarette tax revenues be used to support health care programs and antismoking initiatives. The rate increases are effective July 1, 2002.

Estate Tax — P.L. 2002, c.31 (signed into law on July 1, 2002) preserves the New Jersey estate tax notwithstanding the phase-out of the Federal credit upon which the tax is based. See *Estate Tax Changes* on page 9.

Fees and Penalties — P.L. 2002, c.34 (signed into law on July 1, 2002) establishes, increases, and modifies fees and penalties imposed by and on behalf of the State and collected by the State Treasurer.

Commercial Recording Fees. The legislation increases certain commercial recording filing fees for corporations and other business entities. Some of the increased filing fees are:

- Certificate of Incorporation – \$125
- Certificate of Merger or Consolidation – \$75
- Certificate of Limited Partnership – \$125
- Limited Liability Company Certificate of Formation – \$125
- Certificate of Authority to Conduct Business in this State – \$125
- Amendment to Certificate of Incorporation – \$75
- Annual Report – \$50
- Certificate of Cancellation of Shares – \$75
- Termination of Alternate Name – \$75

- Certificate of Dissolution – \$75
- Application for Withdrawal – \$75
- Change of Address of Registered Office or Change of Registered Agent, or both – \$25
- Reinstatement of Charter – \$75

Domestic Security Fee. Motor vehicle rental companies are required to pay a \$2 fee for each day (or part of a day) that a motor vehicle (passenger automobile, truck, semitrailer) is rented in New Jersey under a rental agreement of not more than 28 days. The fee applies to rental agreements entered into on or after August 1, 2002. The fee must be separately stated in the rental agreement and is not subject to New Jersey sales and use tax.

The fees due are to be reported quarterly on Form DSF-100 and paid by the last day of the month next following the close of the calendar quarter. Form DSF-100 is to be filed online or by telephone, and payments are to be made by e-check, credit card, or electronic funds transfer. Paper returns may be used until the electronic filing options become available.

For more information on the Domestic Security Fee, visit the Division of Taxation Web site at: www.state.nj.us/treasury/taxation/domestic.shtml

Penalty for Stopped or Returned Checks. The legislation gives the Director of the Division of Taxation the authority to charge a \$50 fee for any check that is returned due to insufficient funds or stop payment order when the check was issued for payment of any State tax or related penalty.

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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.

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In addition, the legislation addresses fees and penalties administered by other divisions of the State (e.g., Law Division of the Superior Court, Chancery Division of the Superior Court, Department of Agriculture).

Miscellaneous

Camden Revitalization — P.L. 2002, c.43 establishes the “Municipal Rehabilitation and Economic Recovery Act” which attempts to rehabilitate a qualified municipality, namely the City of Camden, and restore its economic vitality, which is necessary for long-term recovery. It provides a pilot program for a limited period of time during which considerable sums of State money will be invested in the qualified municipality with appropriate State supervision by a chief operating officer who is accountable to both city elected officials and the State. The legislation contains a number of tax-related benefits for residents of a qualified municipality and businesses located there.

Unclaimed Property — P.L. 2002, c.35 (signed into law on July 1, 2002) makes several modifications to the Unclaimed Property Act bringing New Jersey’s law into line with those of most other states and with unclaimed property practice nationally. See *Unclaimed Property Act Modified* on page 8. □

Editor’s Note

The Summer and Fall editions of the *New Jersey State Tax News* have been combined in an effort to keep our readers informed of late-breaking developments in tax legislation for the new fiscal year.

Business Tax Reform Summary

The Business Tax Reform Act (P.L. 2002, c.40) is intended to reform New Jersey’s system of taxation of corporations and other business entities through revision of the corporation business tax and other changes of law. Changes to the present corporation business tax (CBT) include: technical changes aimed at large corporations, the addition of an alternative minimum assessment, tracking changes affecting flow-through entities, and the addition of several new tax advantages to small businesses.

Technical Changes

These provisions address various ways in which corporations reduce or avoid tax on income by restoring equity between the corporations that can use these methods and those that cannot, or do not. The Act also makes a number of changes to the tax base in order to make taxation of corporations more equitable.

Disallowance of the deduction of intangible expenses paid to a related party — The Act limits the ability of a taxpayer to deduct royalties and other intangible expenses and costs and related interest when paid to affiliates. The Act continues to allow such deductions in areas that are established as “non-tax avoidance” situations. The Director of the Division of Taxation has the discretion to allow the deduction on a case-by-case basis; however, as the disallowance of the deduction is the general rule, this has the effect of requiring the taxpayer to secure prior approval for the deduction

before departing from the general rule.

Disallowance of the deduction of interest paid to a related third party — The Act restricts deductibility of inter-affiliate interest expenses, but continues to allow such deductions in areas that are established as “non-tax avoidance” situations. Exceptions to the general rule are allowed to prevent duplicate taxation, to avoid unreasonable disallowance of the deduction, to protect income tax treaties between the United States and related entities in a foreign nation, and to allow for situations where debt is “pushed down” from a corporate parent to a subsidiary but involves a regular, market-rate loan from an outside lender.

Establishing a limited throwout rule — This rule applies to corporations with sales earned in other jurisdictions that are not taxed there. The Act requires corporations to “throw out” from the denominator of the sales fraction receipts from sales into such destination states. In order to prevent this change from creating an exceptionally large tax burden on an affiliated group of companies, the additional liability for a group is limited to \$5 million, and may be spread proportionately among the affiliates.

Extending the reach of the CBT to constitutional limits — The Act extends the reach of the New Jersey CBT to a corporation that derives any income from New Jersey sources. This change extends the reach of the CBT to the full extent permitted under the United States Constitution and Federal statutes.

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Nonoperational income fully taxed — The Act requires that, if the principal place from which the trade or business of the taxpayer is directed or managed is in this State, 100 percent of “nonoperational income” be assigned here, to the extent permitted under the Constitution and the statutes of the United States.

Disallowance of the deduction for income taxes paid to foreign nations — The Act disallows a deduction for taxes paid to foreign nations.

Clarification of the research and development expense deduction — The Act disallows the deduction of certain research and development expenses that are used to claim the New Jersey research and development credit but are not used to claim a Federal research and development credit.

Tax on investment company income increased — The Act raises the proportion of an investment company’s net income subject to tax from 25% to 40%.

Savings institutions tax eliminated — The Act repeals the Savings Institution Tax Act and subjects savings banks, building and loan associations, and savings and loan associations to the corporation business tax.

Disallowance of the deduction for dividends received from another corporation — The Act disallows the deduction for dividends received from a corporation in which the taxpayer has less than a 50% ownership interest.

Codification of the net operating loss rule — The Act codifies the

New Jersey regulations governing the use of net operating losses with the goal of foreclosing further challenges to them.

Alternative Minimum Assessment (AMA)

The Act creates an alternative minimum assessment (i.e., a tax on either gross profits or gross receipts, at the election of the taxpayer) to measure a company’s economic activity in New Jersey in situations where the traditional “taxable income” formula is not a fair measure.

S corporations, professional corporations, investment companies, pass-through entities, and corporations operating as cooperatives under Federal requirements will be exempt from the AMA. Corporations subject to the CBT will be required to compute the AMA and pay the greater of the CBT or the AMA.

Pass-Through Entities

Pass-through entity return processing fee — For pass-through entities that have income from New Jersey sources and more than two members, the Act establishes an annual \$150 per owner filing fee, capped at \$250,000 per entity per year. The Act establishes a similar filing fee of \$150 per licensed professional for professional corporations with more than two licensed professionals, also capped at \$250,000 per corporation per year.

Pass-through entity payment on behalf of owners — Pass-through entities, other than those listed on a United States national stock exchange, must make a payment on the share of the income of each nonresident owner (corporation,

partnership, individual, trust, or estate) at a 9% rate for corporate owners and a 6.37% rate for individual owners. The payment is credited to separate accounts for each owner, and may be credited against their respective tax liabilities.

Revenue Measures

Two-year net operating loss suspension — The Act suspends the application of net operating loss deductions for tax years 2002 and 2003. The usual seven-year carry-forward is extended for two years.

Subchapter S corporation phase-out freeze — The Act resets the tax rate on S corporations to the 2001 tax year levels through tax year 2005, and then resumes the phase-out thereafter.

Acceleration of fourth quarter payments for substantial taxpayers — The Act accelerates the fourth quarter estimated tax payment into the second quarter for taxpayers with gross receipts of \$50 million or more. The acceler-

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Interest 8%

The interest rate assessed on amounts due for the period January 1, 2002 – December 31, 2002 will be 8%.

The assessed interest rate history is listed below.

| Effective Date | Interest Rate |
|-----------------------|----------------------|
| 1/1/99 | 10.75% |
| 1/1/00 | 11.50% |
| 1/1/01 | 12.50% |
| 7/1/01 | 10.50% |
| 10/1/01 | 9.00% |
| 1/1/02 | 8.00% |

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ated schedule would remain in effect for these taxpayers for privilege periods beginning in 2002 and thereafter.

Decoupling from Federal “bonus” depreciation — The Act disallows, for corporate income tax purposes, the deduction of the 30% “bonus” depreciation that was allowed for certain property for Federal tax purposes under the Federal “Job Creation and Worker Assistance Act of 2002,” Pub L. 107-147.

Increased minimum tax — The Act increases the annual minimum tax from \$210 to \$500 for tax year 2002 and thereafter for the majority of corporations. However, members of an affiliated or controlled group with total payroll of \$5 million or more shall be subject to a minimum tax of \$2,000 per year.

Small Business Provisions
CBT tax rate reduction for small business — The Act reduces the tax rate from 7.5 percent to 6.5 percent for businesses with less than \$50,000 of net taxable income.

Enhanced new jobs investment tax credit — The Act doubles the value of the new jobs factor under the New Jobs Investment Tax Credit.

Administrative Provisions
Disclosure of inter-affiliate transactions — The Act allows the Director to require the disclosure of inter-affiliate transactions, costs, and expenses, including transactions with related businesses that are not themselves CBT taxpayers, including, but not limited to, management fees, rents,

and charges for other services. Disclosure is required only upon request of the Director and the taxpayer has 90 days to comply.

Net operating loss suspension hold-harmless — The Act forbids the imposition of any penalty for the underpayment of an estimated payment that is due to the two-year suspension of the application of net operating loss carryforwards.

Fourth Quarter 2002 25% estimated payment — For the fourth quarter estimated payment for the 2002 tax year, and only that payment, the Act suspends the usual forgiveness provisions that apply to estimated tax payments and requires the fourth quarter payment to be 25% of the total liability for 2002, calculated under the provisions of the Act.

Air Carriers

Air carrier AMA credit — The Act allows an air carrier that contributes more than 25% of the total amortization for capital improvement projects at Newark International Airport paid through rates and charges to take a credit of 50% of its amortization payment for the privilege period against its calculation of AMA, so long as the credit does not reduce the AMA to less than the CBT statutory minimum.

Study Commission

The Act creates a nine-member, bipartisan Corporation Business Tax Study Commission to study reforms adopted under the Act and examine other aspects of New Jersey corporation business tax.

Excess Revenue Fund

The Act creates a restricted reserve fund known as the Corpora-

tion Business Tax Excess Revenue Fund, into which amounts in excess of the annual target for corporation business tax revenues will be deposited. Balances in the fund will be available for appropriation in Fiscal Year 2004 and Fiscal Year 2005 to assist in covering shortfalls in corporation business tax collections from the target amount for the fiscal year. □

Why CBT Changes Were Needed

In a News release issued July 2, 2002, State Treasurer John E. McCormac listed reasons for the changes enacted in the Business Tax Reform Act (P.L. 2002, c.40).

- Of approximately 200,000 active corporations in New Jersey, 77 percent pay only the minimum corporate tax of \$200. This is not because these companies are unprofitable, it is because corporations use loopholes to drive down their profits on paper, regardless of whether they are reporting record profits to their shareholders.
- Thirty of New Jersey’s 50 largest employers paid only \$200 in corporate taxes last year. A closer examination of ten of these corporations revealed that although \$13.3 billion in profits had been reported to shareholders, after using loopholes and accounting gimmicks not one of the companies had profits to report on its New Jersey tax return, and none of the companies paid more than the \$200 minimum corporate tax. That \$200 is less tax than the amount

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paid by a single parent who earns \$25,000 a year and has one child.

- In 1999, \$1.2 billion of the \$1.6 billion raised in corporate taxes was paid by less than one percent of the businesses. Only 31 companies paid more than \$5 million in corporate taxes that year. These companies contributed one-third of the total corporate tax receipts, while the 77 percent of corporations that paid the minimum \$200 tax contributed just two percent of total tax payments.
- Corporation business tax (CBT) collections in New Jersey and elsewhere don't reflect corporate profit-taking. Over a recent five-year period of significant economic prosperity (1995-2000), the amount of corporate income reported to the Federal government grew by twice the rate reported to state governments over the same period of time. State corporate tax collections grew by three percent and Federal corporate tax collections grew by six percent, while Federal and state tax levels remained essentially stable.
- Corporate taxes are eroding in New Jersey and nationally. The Congressional Budget Office and the Joint Committee on Taxation report that corporate taxes will plummet to only 1.3 percent of gross domestic product this year, the lowest since fiscal year 1983 when corporate taxes bottomed out at 1.1 percent of GDP on the heels of the huge corporate tax reductions enacted in 1981.

- In 1982, New Jersey CBT collections accounted for more than 15 percent of all revenue collected, exceeded only by the gross income tax and the sales tax. The percentage share of total revenue derived from the CBT has declined steadily in the last decade, from 10 percent in fiscal year 1990 to 6.6 percent in fiscal year 2001. It is estimated that receipts from the CBT will provide only about 5 percent of total State revenue in fiscal year 2002. Conversely, since 1982, revenue from the gross income tax has increased by 500 percent and sales tax has increased by 370 percent.
- The continuing shift in this balance means that there is increased reliance in state budgeting on working families (through the income tax) and on consumers (through the sales tax). □

Streamlined Sales Tax Project Update

As reported in the Fall 2000 issue of the *New Jersey State Tax News*, the State of New Jersey has been actively involved with the Streamlined Sales Tax Project. The goal of the Project is to design, test, and implement a new sales and use tax system for the 21st century. The Project is a joint effort by state governments, with input from local governments and the private sector, to simplify and modernize current sales and use tax systems.

There are 45 states with sales taxes, 40 of which are currently involved in the Project. Thirty-four states (including New Jersey) plus the District of Columbia are voting

participants in the Project. In order for a state to be a voting participant, its legislature must have enacted enabling legislation or its governor must have issued an executive order or a similar authorization. The remaining six states are nonvoting participants because they do not have the formal commitment of their state executive or legislative branches.

On December 22, 2000, state representatives to the Project voted to approve a Uniform Sales and Use Tax Administration Act and Streamlined Sales and Use Tax Agreement. The approval of the Act and Agreement establishes the basis for states to enact legislation to provide the benefits of simplification to vendors in their state.

New Jersey joined the 26 states and the District of Columbia (the "Implementing States") that have enacted at least the Uniform Sales and Use Tax Administration Act when P.L. 2001, c.411, was signed January 8, 2002. Thirty-three states plus the District of Columbia had introduced the Act or both the Act and the Streamlined Sales and Use Tax Agreement as of April 1, 2002.

The Project's short-term goal is to have all the significant proposals regarding simplification, uniformity, etc. in legislative form in time to be acted on by all the state legislatures within the next year. The long-term goal is to have 20-25 states with the uniform provisions in place by the time the current extension of the Internet Tax Freedom Act expires in late 2003. It is hoped that Congress would view this as proof of significant simplification and take the necessary steps to require most remote ven-

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dors selling into states that have adopted the simplified system to collect the sales tax on sales in those states.

The Streamlined Sales Tax System the participants are working to develop focuses on improving sales and use tax administration systems for both "Main Street" and remote sellers for all types of commerce. The key features of the system include:

- 1. Uniform definitions within tax bases.** Legislatures still choose what is taxable and exempt but will use the common definitions for key items in the tax base.
- 2. Simplified exemption administration.** Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for incorrect exemptions claimed.
- 3. Rate simplification.** States will be responsible for the administration of all state and local taxes and the distribution of local taxes to the local governments. State and local governments will use common tax bases and accept responsibility for notice of rate and boundary changes.
- 4. Uniform sourcing rules.** The states will have uniform sourcing rules for all property and services.
- 5. Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have a limited scope audit,

depending on the technology model used.

Participation in the system by both vendors and states is voluntary. Also, registration by vendors in the Streamlined Sales Tax System does not infer nexus for business activity or income tax purposes.

The system will provide sellers the opportunity to use one of three technology models. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of simplification. A seller may select one of the following technology models for remitting sales tax:

- Model 1 – Certified Service Provider performs all of the seller's sales tax functions, other than the seller's obligation to remit tax due on its own purchases.
- Model 2 – Certified Automated System calculates the amount of tax due on a transaction and seller retains responsibility for remitting tax.
- Model 3 – Certification of proprietary sales tax software systems used by certain large sellers.

The Project will continue to incorporate additional elements into the system, which may include additional uniform definitions, a uniform tax return, and revisions to the technology models based upon information gained through the testing of tax collection software. Up-to-date information about the Project can be found at:

www.streamlinedsalestax.org



Two Versions of 2002 CBT Returns

The Division of Taxation will issue two versions of the 2002 corporation business tax returns, Forms CBT-100 and CBT-100S. Separate versions are needed because of changes contained in the Business Tax Reform Act, P.L. 2002, c.40 (approved July 2, 2002) which affect taxpayers with accounting periods beginning on or after January 1, 2002.

One version of the CBT-100 and CBT-100S returns is to be used by taxpayers with accounting periods beginning *before* January 1, 2002. This version is already available in printed form (call the automated Forms Request System at 1-800-323-4400 or 609-826-4400) and on our Web site:

www.state.nj.us/treasury/taxation/

The second version of Forms CBT-100 and CBT-100S (for tax periods beginning *on or after* January 1, 2002) has required extensive changes due to the complexity of the Business Tax Reform legislation. We expect this version of the 2002 returns to be available in early 2003.

When filing New Jersey corporation business tax (CBT) returns, it is important to use the form for the correct year. The return year of the CBT-100 or CBT-100S a corporation files is determined by the close of its fiscal or calendar accounting period. The 2002 New Jersey corporation business tax returns should only be used for tax periods ending July 31, 2002, through June 30, 2003. The accounting year for New Jersey

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purposes is the same period the taxpayer uses for Federal purposes, and the ending month for Federal and New Jersey purposes must be the same. However, the return year a corporation uses for New Jersey and Federal purposes may differ. (For example, a return for a taxable year ending August 31, 2002, may be filed on a 2001 Federal Form 1120, while a 2002 Form CBT-100 or CBT-100S must be used for that period.)

In addition to choosing the CBT return for the correct year, when filing for tax year 2002 be sure to choose the appropriate version of Form CBT-100 or CBT-100S. A corporation whose taxable year began *before* January 1, 2002, will use one version of the forms, while a corporation whose year began *on or after* January 1, 2002, will use a different version, one which reflects the changes enacted in P.L. 2002, c.40. All CBT returns are due on the 15th day of the fourth month following the end of the accounting period. For example, if a corporation's accounting period ends October 31, 2002, the return due date is February 18, 2003. (When a filing due date falls on a Saturday, Sunday, or State holiday, the return is due the next business day.)

For information on the correct corporation business tax return form to use and return filing dates, contact the Division's Customer Service Center at 609-292-6400.

□

Unclaimed Property Act Modified

P.L. 2002, c.35, which modifies the Uniform Unclaimed Property Act, was signed into law by the Governor on July 1, 2002.

This statute reduces the dormancy period for most types of property from ten years or five years to three years. The shorter abandonment periods will result in more property being reunited with the rightful owners, greater protection for the owners of the property, and increased benefit to all the residents of the State of New Jersey through increased revenues resulting from the program. These changes will ease the record retention burden for most companies. Also, records requested during audits will more frequently fall within the record retention requirements for tax records.

The Act clarifies and expands the types of property covered under the Statute. Several types of property already being reported and remitted to the State will now be more clearly covered under the Unclaimed Property Act such as shares of stock in dividend reinvestment plans, mutual fund shares, credit balances, customer overpayments, security deposits, and refunds. In addition, the scope of the Act extends to the following types of property:

- Property distributable to policyholders by an insurance company pursuant to its demutualization.
- Non-dividend-paying securities based on the return of a second mailing to the owner.
- Underlying registered debt of a business association resulting

from periodic interest payments that have not been negotiated even if this occurs before maturity.

- Undistributed proceeds of a class action.
- Nontraditional individual retirement accounts (i.e. Roth and Education IRAs).

The law clarifies the definition of "holder" as the "original obligor indebted to another on an obligation." This follows the definition espoused in a case recently decided by the New Jersey Supreme Court.

The Act clarifies the burden of proof issue where the obligation on a negotiable instrument is disputed. A record of the issuance of a check, draft, or similar instrument is prima facie evidence of an obligation. The administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Payment, satisfaction, discharge, and want of consideration are affirmative defenses that are to be established by the holder.

The Act also specifically prohibits the charging of "escheat fees" by financial organizations or business associations against property being transferred to the State. Any other charges are limited to what would not be considered "unconscionable."

The Act also clarifies the issue concerning State records of escheated property. Only the name and address of the apparent owner is considered public information.

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Other information, such as account balances and numbers, is to be considered confidential and not subject to public release. This allows for the continuation of the confidentiality of personal financial information by the administrator as successor "trustee." □

Estate Tax Changes

On July 1, 2002, Governor McGreevey signed into law legislation amending certain provisions of the New Jersey estate tax imposed under N.J.S.A. 54:38-1 et seq. The amendment applies to the estates of resident decedents dying on or after January 1, 2002.

Prior to enactment of the amendment, the New Jersey estate tax was based upon the credit allowable in the Federal estate tax proceeding for inheritance and other legacy taxes imposed by any state, territory, or the District of Columbia. Under changes made to the Federal estate tax law in 2001, New Jersey's estate tax would have been phased out over a three-year period beginning in 2002. The amendment signed by the Governor preserves the tax as it existed prior to 2002.

The amended statute provides for a New Jersey estate tax payable by the estate of resident decedents who die after December 31, 2001. At the election of the person or corporation liable for the payment of the tax, the tax is either:

1. The maximum credit for state death taxes that would have been allowable had the decedent died on December 31, 2001, or
2. An amount determined pursuant to a simplified tax system as may be prescribed by the

Director of the Division of Taxation.

The tax liability is reduced by estate, inheritance, succession, or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

The revised statute provides that the tax shall remain a lien on all property of a decedent until paid and that no property owned by a decedent on his date of death may be transferred without the written consent of the Director.

The Division is in the process of developing the necessary rules, regulations, policies, procedures, and forms. Information pertaining to the estate tax may be obtained by contacting the Inheritance and Estate Tax Section at 609-292-5033/5035 during normal business hours or by mail at NJ Division of Taxation, Inheritance and Estate Tax, PO Box 249, Trenton, NJ 08695-0249. Additional information, forms, and returns will be posted to the Division's Web site as they become available. □

Depreciation Allowance

The new Federal Special Depreciation Allowance that was created under the Federal Job Creation and Worker Assistance Act provides an additional first-year depreciation deduction equal to 30% of the adjusted basis of "qualified property" placed into service after September 10, 2001, and before September 11, 2004. Taxpayers may "elect out" and not claim the Special Depreciation Allowance.

The Gross Income Tax Act at 54A:8-3(c) states in part that "a taxpayer's accounting method un-

der this act shall be the same as his accounting method for Federal income tax purposes." A taxpayer's method of accounting for Federal income tax purposes not only determines when income is recognized and reported but also the method used to compute taxable income.

Property that qualifies for the Federal Special Depreciation Allowance for Federal tax purposes also qualifies for New Jersey gross income tax purposes. However, taxpayers must make the same election for New Jersey gross income tax purposes as for Federal tax purposes. Taxpayers who take the Special Depreciation Allowance for Federal tax purposes must also take it for New Jersey gross income tax purposes. If they "elect out" of the Special Depreciation Allowance for Federal tax purposes, they cannot take it for New Jersey gross income tax purposes.

For purposes of the corporation business tax, N.J.S.A. 54:10A-4(k) provides that "the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report...to the United States Treasury Department for the purpose of computing its federal income tax...." This provision requires that taxpayers that are subject to the corporation business tax must also make the same election for corporation business tax purposes as for Federal tax purposes.

The Business Tax Reform Act, P.L. 2002, c.40 (signed into law on July 2, 2002) makes numerous amendments to the New Jersey

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depreciation - from page 9

corporation business tax. In particular, the new law disallows the use of Federal bonus depreciation for privilege periods starting on or after January 1, 2002. As a result, a taxpayer is required to uncouple the Federal and State depreciation claimed as a deduction in arriving at entire net income for such privilege periods. If a taxpayer claims the 30% bonus depreciation Federally in an earlier privilege period when the property is placed in service, the taxpayer shall continue to do so and remains "coupled" to the Federal method.

Information regarding the uncoupling required of bonus depreciation claimed on the Federal Form 1120 will be provided in the corporation business tax return instruction booklets, Forms CBT-100-P and CBT-100S-P. □

Tax Amnesty in Connecticut

From September 1 through November 30, 2002, Connecticut Tax Commissioner Gene Gavin and the Connecticut Department of Revenue Services (DRS) will conduct a Tax Amnesty Program, an extremely beneficial opportunity for businesses and individuals — residents and nonresidents — to pay back taxes and reduced interest owed to the State of Connecticut. During the three-month Amnesty program, taxpayers with state tax delinquencies for any period ending on or before March 31, 2002, will be able to pay their tax debt without fear of penalty or criminal prosecution. Taxpayers may also be eligible for a 25 percent reduction in the interest they owe.

"Even in these tough economic times, individuals and businesses are still responsible for paying their fair share of taxes to the State of Connecticut," Commissioner Gavin said. "We don't want to penalize or prosecute people, who — for whatever reason — have not met their state tax obligations. We hope that delinquent taxpayers will take advantage of this amnesty to pay their debt to the state before we take action."

The 2002 Connecticut Tax Amnesty Program applies to virtually all state taxes administered by DRS, including income tax, corporation business tax, and sales and use taxes. It is available to anyone who owes back taxes, whether they intentionally or unintentionally failed to pay their taxes. For those who were unaware of their tax liabilities, Amnesty will provide information to correct past delinquencies and avoid future filing problems. For those who intentionally avoided taxes, Amnesty offers a last chance to come forward and clean the slate.

"If everyone paid the taxes they owe, the state would be in a better position to fund the programs that improve the quality of life in Connecticut, and prevent in these difficult times, the need to possibly increase taxes on everyone," Commissioner Gavin said.

Once Amnesty is complete, DRS will undertake a very aggressive

enforcement of the tax laws to collect the money owed to Connecticut. Commissioner Gavin will mobilize his experienced and extensive team of auditors who are now armed with the latest computer technologies and techniques to locate tax delinquents and determine how much they owe.

"I urge anyone who owes Connecticut taxes for taxable periods ending on or before March 31, 2002, to apply for the Connecticut Tax Amnesty Program between September 1 and November 30, 2002," Commissioner Gavin said. "Our Amnesty slogan sums up the seriousness of our commitment to collecting back taxes owed to the state: **Either Way, You Will Pay!** After Amnesty, you will definitely pay more!"

For further information on 2002 Connecticut Tax Amnesty, call 860-297-5962 or visit the DRS web site at:
www.ct.gov/taxamnesty □

Massachusetts Amnesty

As this issue went to press, the Commonwealth of Massachusetts had just announced plans to conduct a 60-day tax amnesty beginning October 1, 2002, and ending December 2, 2002. Under the amnesty program, individuals and businesses would be able to pay

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June Marks 30th Year In Print

The *New Jersey State Tax News* is celebrating its 30th anniversary. The first copy of the newsletter appeared in June 1972, and the newsletter has been providing tax-related information to the public ever since. Thank you to everyone who has made the *New Jersey State Tax News* what it is today.

ma amnesty - from page 10

their back taxes without penalties, but would still be required to pay interest. For more information, visit the Massachusetts Department of Revenue Web site at: www.dor.state.ma.us/ □

Tax Amnesty in Missouri, Kentucky

The state of Missouri instituted a three-month Tax Amnesty Program which began August 1, 2002. The program offers qualified taxpayers the opportunity to pay delinquent taxes without having to pay interest or penalties. Amnesty is limited to taxes administered by the Missouri Department of Revenue that were due on or before December 31, 2001. Full payment of amounts due must be received on or before October 31, 2002. To find out more about eligibility requirements and to obtain an amnesty application, visit the Missouri Department of Revenue's Web site at: www.dor.state.mo.us/tax/ or call 573-751-7200

Kentucky's Tax Amnesty Program also began August 1, 2002, but ends on September 30, 2002. The two-month amnesty includes all state taxes directly administered by the Kentucky Revenue Cabinet. Property taxes levied against real estate, motor vehicles, and motor boats and payable to local officials are not included. The program applies to back taxes incurred on or after December 1, 1987, and prior to December 1, 2001. Amnesty not only waives all penalties and fees but all interest charges as well. Virtually all taxpayers are eligible to participate in the program.

More information is available on Kentucky's amnesty Web site at: www.amnesty.ky.gov

or by calling 1-877-665-9829 □

GROSS INCOME TAX Credit for S Corp Shareholders

The Division has recently received several inquiries regarding whether shareholders in an S corporation can claim a credit on their New Jersey gross income tax return for the taxes paid to another state or city by the S corporation.

An article published in the Spring 2000 issue of the *State Tax News* entitled "New York City UBT/Philadelphia BPT" stated that a credit for taxes paid under the New York City Unincorporated Business Tax law would be allowed and that a credit would also be extended to unincorporated businesses subject to the net income portion of the Philadelphia Business Privilege Tax. The article does not extend a credit to incorporated businesses that are subject to these taxes.

The Gross Income Tax Act at 54A:4-1. Resident credit for tax of another state, provides that:

"A resident taxpayer shall be allowed a credit against the tax otherwise due under this act for the amount of any income or wage tax imposed for the taxable year by another state of the United States or political subdivision of such state, or by the District of Columbia, with respect to income which is also subject to tax under this act, except as provided by subsections (c) and (d) of this section."

Subsection (c) limits the credit a taxpayer/shareholder can claim by

disallowing a credit against any S corporation income allocated to this State, while subsection (d) disallows a credit for the amount of any tax paid or accrued for the taxable year that is paid by a person other than the taxpayer, whether or not the taxpayer may be liable. The term person as used in subsection (d) encompasses the S corporation as the entity subject to and paying the tax.

Based on the foregoing, the Division has determined that N.J.S.A. 54A:4-1(c) and (d) preclude shareholders of an S corporation from claiming a credit for taxes paid to other jurisdictions, such as the net profits tax paid to the City of Philadelphia, on their personal gross income tax return for taxes paid to other states and/or their municipalities by the S corporation. □

GROSS INCOME TAX Treatment of 457 Plan Distributions

Currently, distributions of deferred payments from a 457 plan are treated as wages in the same way as for Federal income tax purposes. As opposed to the Federal treatment that defers tax on contributions to these plans, New Jersey taxes amounts in excess of contributions when received for income tax purposes that are reported in the "State wages" figure on Form W-2. Since New Jersey has previously taxed the wage compensation, the only amount received by the taxpayer subject to tax as a distribution is the earnings and gain.

However, under the Economic Growth and Tax Relief Recon-

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ciliation Act of 2001 (EGTRRA) the Federal reporting document for 457 plan distributions has recently changed from an IRS Form W-2 to an IRS Form 1099-R in 2002. Whereas Form W-2 is for reporting wage income, Form 1099-R is used for distributions from pensions, annuities, and retirement plans. The modification to the 457 plan for reporting distributions would now reclassify the income from the 457 plan as pensions and annuities in the same manner as that of an IRA, 401(k), 414(h), and 403(b) plan for Federal purposes.

Under the Gross Income Tax Act, New Jersey has a separate category of income for compensation and wages under N.J.S.A. 54A:5-1(a) as distinguished from pension payments under N.J.S.A. 54A:5-1(j). Compensation and wages are usually determined to be taxable under the Gross Income Tax Act using the Federal definition as verified on the W-2.

For that reason, taxpayers should report only the amounts provided on their W-2 as wages and compensation, and the income from the 457 plan as pensions and annuities on their New Jersey income tax return. □

INHERITANCE/ESTATE TAX ***Filing Extension***

The Division of Taxation has instituted a new, formalized procedure for requesting an extension of time to file a New Jersey inheritance tax return and/or a New Jersey estate tax return. A form has been developed and the regulations have been amended to reflect the new procedure. N.J.A.C. 18:26-3.7 and 9.1.

In the past, taxpayers or their legal representatives would submit a letter to the Division requesting an extension of time to file a return. Although the procedure worked fairly well, there were no guidelines in place setting forth the information required by the Division or the extension periods which would be considered. The newly implemented procedure overcomes these deficiencies. It facilitates both the request for and the approval of extension requests.

Requests for an extension of time to file an inheritance tax return and/or an estate tax return are made by submitting Form IT-EXT (Application for Extension of Time to File a Return). A single form may be used to request an extension of time to file both the inheritance and the estate tax returns. The completed form, along with any required attachments, should be mailed to:

STATE OF NEW JERSEY
DIVISION OF TAXATION
INDIVIDUAL TAX AUDIT BRANCH
INHERITANCE AND ESTATE TAX
PO BOX 249
TRENTON NJ 08695-0249

Inheritance tax returns are required to be filed within eight months following the death of a decedent. An extension of time to file the tax return may be requested for a period up to four months beyond the original due date. If it is not possible to file the tax return within the four-month extension period, the estate representative may request an additional two-month extension, for a total of six months. Extensions beyond six months are granted only in cases where exceptional circumstances exist.

Estate tax returns are required to be filed within nine months

following the death of a decedent. An extension of time to file the tax return may be requested for a period up to that allowed by the Internal Revenue Service for the filing of the Federal estate tax return. A copy of the request made to the Internal Revenue Service must be attached to the Form IT-EXT application. Additionally, if the Federal extension is not automatic, a copy of the Federal approval must be attached. Any extension granted for the filing of the New Jersey estate tax return expires upon the filing of the Federal estate tax return.

The newly implemented procedure applies only to the time within which an inheritance and/or estate tax return may be filed. An extension of time to file in no way extends the time to pay. Both the inheritance tax and the estate tax are due on a decedent's date of death. The inheritance tax must be paid within the eight-month period and the estate tax within the nine-month period following the date of death. Interest accrues at 10% per annum on any inheritance tax not paid within the eight-month period and on any estate tax not paid within the nine-month period. □

SALES AND USE TAX

Charges for Storing Advertising Material

In general, sales tax is due on the purchase of tangible personal property such as advertising and promotional material. However, the law provides an exemption for the purchase of advertising and promotional material that is ultimately delivered to recipients outside of New Jersey. The exemption is available even if the advertiser

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takes delivery of the material and stores it in New Jersey prior to shipment out of State.

The direct-mail processing services that relate to such material are also exempt from sales tax. Processing services include addressing, separating, folding, inserting, sorting, and packaging the advertising and promotional material. However, processing services do not include separate charges for the storage of the material prior to either processing or delivery. The Division takes the position that since storage of goods, other than inventory, is a service that is specifically taxed under the law, storage charges are not included in the exemption for direct-mail processing services performed on material that will be delivered out of State. Therefore, a New Jersey company must pay sales tax on charges for storing advertising or promotional material, regardless of where the material will be subsequently delivered. □

No Property Taxes Due — No Rebate

In 1992, the New Jersey Tax Court held that in order to be eligible for the homestead rebate, the applicant's property must be subject to local property taxes, and that property taxes must be paid, either directly, or indirectly through rent. See *RULAC v. Director*, 12 NJ Tax 642 (1992). As part of that decision, the Tax Court noted that "...payments in lieu of taxes are made to 'compensate municipalities for the impact upon local government costs of local services to State property...' N.J.S.A. 54:4-2.2b." The Court concluded that

payments in lieu of taxes are different from local property taxes, and therefore, the payment of the former was not enough to satisfy the eligibility requirements for the homestead rebate.

The NJ SAVER and Homestead Rebate Act defines a homestead, in part, as "a dwelling house and the land on which that dwelling house is located which constitutes the place of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence." N.J.S.A. 54:4-8.58. The Act also codified the Tax Court's decision in *RULAC*, by defining property tax as "payments to a municipality based upon an assessment made by the municipality upon real property on an ad valorem basis on land, improvements or both, *but shall not include payments made in lieu of taxes.*" (Emphasis added).

Each year the Division of Taxation receives numerous inquiries from homeowners and tenants who believe that they pay property taxes, but whose NJ SAVER and homestead rebates have been denied because the amounts paid are not considered property taxes as defined by the Act.

Ineligible Homeowners

Some condominium and townhouse owners make Payment-in-Lieu-of-Tax (P.I.L.O.T) payments to their local municipalities rather than property tax payments. Under abatement agreements entered into by their municipalities and which affect their properties, the homeowners pay land taxes and service charges but no taxes are assessed on the buildings for a specified period. Consequently, P.I.L.O.T. payments are not considered prop-

erty taxes for NJ SAVER or homestead rebate purposes.

Homeowners making P.I.L.O.T. payments may receive tax bills for the land tax portion of the payment and a second bill clearly marked "PILOT Service Charge" or simply "P.I.L.O.T." In addition, their notices of property tax assessment indicate an assessment was made for the land but no assessment was made for the building.

In addition, homeowners who are completely exempt from paying property taxes on their principal residence are not eligible for the NJ SAVER or homestead rebates. This can include certain disabled veterans and their unmarried, surviving spouses who may claim a 100% exemption from local property taxes under certain conditions. However, if any portion of the dwelling is rented to a tenant and property taxes are paid by the disabled veteran owner on the rented portion, the tenant may be eligible for a homestead rebate, but the property owner is not eligible.

Ineligible Tenants

Tenants living in dwellings which are not subject to local property taxes are not eligible for the homestead rebate. This includes tenants living in tax-exempt housing or other dwellings owned by State, County, Municipal, or Federal government; students living in on-campus apartments at State colleges and universities; and tenants living in dwellings owned by religious, charitable, or other nonprofit organizations (including on-campus apartments at private nonprofit colleges and universities) if the property is exempt from local

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property taxes. These tenants are not eligible even if payments in lieu of taxes are made by the buildings' owners.

Tenants living in privately owned apartment complexes where the owners make payments in lieu of taxes are also not eligible for the rebate.

Some tenants live in buildings that are subject to property taxes but part of their rent is subsidized. Those tenants *are* eligible for rebates if they meet the other qualifications. For rebate purposes, their rent is the actual amount paid out-of-pocket.

Questions regarding abatement agreements, in lieu of property tax payments, or exemptions from property taxes should be directed to the local tax collector or, for tenants, to their landlord.

For more information on qualifying for a homestead rebate, request Tax Topic Bulletin HR-2, *Homestead Rebate Guidelines*. Publications are available on the Division of Taxation's Web site at www.state.nj.us/treasury/taxation/ or by calling the Forms Request System at 1-800-323-4400 (Touch-tone phones within New Jersey, New York, Pennsylvania, Maryland, and Delaware) or 609-826-4400 (anywhere). □

Practitioner Institutes

New Jersey commercial tax preparers are invited to the Practitioner Institutes sponsored by the New Jersey Division of Taxation, the Internal Revenue Service, the New Jersey Association of Public Accountants (NJAPA), and coop-

erating colleges. The one-day institutes, which begin November 8 and end December 18 are geared toward the intermediate and advanced tax preparer.

The topics presented by the New Jersey Division of Taxation are:

- 2002 New Jersey Gross Income Tax Update
- Sales and Use Tax Update
- Doing Business with New Jersey (including online registration, filing, and payment of taxes for individuals and businesses)
- 2002 Business Tax Update (including general information on new corporation tax rates)

The topics presented by Internal Revenue Service are:

- 2002 Tax Law Changes
- Key Messages for Practitioners (E-File/EFTPS, Exam & Collection Re-engineering)
- Retirement Plans (including IRAs, SIMPLE Plans, etc.)
- Sale of Personal Residence/ Capital Gains
- Taxpayer Advocate's Office Update

Most sessions begin at 8:30 a.m., conclude at 3:30 p.m., and include lunch. The session at Montclair University begins at 9:00 a.m. and concludes at 4:00 p.m. Registration desks will open 30 minutes before the beginning of the session, and coffee will be served. Six (6) CPE credits will be issued in taxation to those who complete the session.

The preregistration fee for commercial tax preparers is \$90 (\$15 for full-time students, ID re-

quired). Those who register at the door will be required to pay a \$100 fee. In order to qualify for the lower remittances, payment must be received no later than one week before the scheduled seminar. There will be no refunds, however, you can reschedule for another location. The locations, dates, and registration form appear on the next page. □

Small Business Workshops

The format of the Small Business Workshops for the fall 2002 season has been modified. These seminars will now be half-day sessions conducted by Division of Taxation personnel and will cover only topics related to State taxes.

The workshops will concentrate on business registration, the tax consequences of differing forms of business, sales and use tax, employer responsibilities, and estimating State personal income taxes for the self-employed. Several shorter "update" seminars have also been scheduled to keep more experienced business owners and their representatives current on changing tax laws and procedures.

The majority of sponsoring agencies for the seminars continue to be the Small Business Development Centers. Strategically located throughout New Jersey, most often within State and county colleges, these centers play host to a plethora of free and low-cost group seminars. They also provide one-on-one support to small businesses, helping them meet the many challenges they face.

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2002 Practitioner Institutes Schedule

| DATE | CITY | LOCATION | COORDINATOR |
|---------|--------------|---|---------------------------------------|
| Nov. 8 | Mays Landing | ATLANTIC COUNTY COLLEGE Room M-129 | David Matagiese (609) 522-6012 |
| Nov. 14 | Montclair | MONTCLAIR UNIVERSITY Student Center | Chris DiCicco (201) 445-1027 |
| Nov. 18 | Piscataway | RUTGERS UNIVERSITY Busch Campus – Student Center | Stuart Simon (732) 679-6363 |
| Nov. 20 | Sewell | GLOUCESTER COUNTY COLLEGE Instructional Building – Room 430 | Nancy Ritchie (609) 387-2127 |
| Nov. 23 | Randolph | COUNTY COLLEGE OF MORRIS Auditorium – Student Center | Frank Cerny (973) 777-1124 |
| Dec. 12 | Union | KEAN UNIVERSITY University Center – Room 228 | Alice Weinstein (973) 379-3275 |
| Dec. 13 | Lakewood | GEORGIAN COURT COLLEGE The Casino (Gym) | Joseph Mastromonaco (732) 240-7355 |
| Dec. 18 | Trenton | COLLEGE OF NEW JERSEY Student Center – Room 202 West | John Duffy (609) 586-1990 |

2002 Practitioner Institutes Registration

6 CPE Credits

Fee \$90 – Preregistration

Detach and Mail to:

(Make check payable to NJAPA)

New Jersey Association of Public Accountants
Attn: Niles Breslau
101 N. Washington Place, Suite 1B
Margate, NJ 08402 TEL: (609) 823-9103

| | |
|-------------------------|---|
| Name of Attendee | Firm or Company Name |
| Business Phone | Student (Check one) <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Firm or Company Address | |
| <hr/> | |
| City | State |
| Zip Code | |
| E-mail Address: _____ | |
| College Location | Amount Remitted |

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The Division remains confident that these seminars will continue to increase taxpayer education and enhance compliance.

For further information on upcoming seminars, or if your organization wants a speaker on a New Jersey tax related issue, please call the Division at 609-984-4101 or visit our Web site at:

www.state.nj.us/treasury/taxation/

LOCAL PROPERTY TAX***PAMS Update***

The Division of Taxation is currently working on the RFP (Request for Proposal) for the new Property Assessment and Management System (PAMS). The new system will replace the State's current MOD IV batch system and individual vendor municipal applications with a fully integrated Web transaction system, which will perform the same tasks, but provide additional functionality and incorporate new technologies.

An RFI (Request for Information) was issued in September of 2000, to acquire a comprehensive system for local property assessment and tax administration. Subsequently, the Division worked with the Assessors' Association, County Boards of Taxation, Department of Community Affairs, and the New Jersey State League of Municipalities to formulate the requirements of the new system. There were 17 committees, which were comprised of representatives from the groups listed above. There were three types of committees:

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Small Business Workshop Schedule Fall 2002

Participants must register for these sessions with the contact person indicated. Inquire about parking and directions when registering. The times may not be the same for each session/location.

| Date | Location | Contact for Registration |
|---------------------|---|--|
| October 1 | Warren/Washington Warren CCC | Jan Rega sbdc@warren.edu 908-689-9620 |
| October 4 | Camden Rutgers, Camden | Harry Charles rsbdc@camden.rutgers.edu 856-225-6221 |
| October 11 | Cape May Cape May County Administration Bldg. | Leslie L. Gimeno lgimeno@co.cape-may.nj.us 609-465-6875 |
| October 17 | Morris/Randolph Morris CCC | Jan Rega sbdc@warren.edu 908-689-9620 |
| November 1 | Union/Union Kean University | Mira Kostak mkostak@kean.edu 908-527-2946 |
| November 7 | Sussex/Newton Sussex CCC | Jan Rega sbdc@warren.edu 908-689-9620 |
| November 12 | Somerset/No. Branch Raritan Valley CC | Sue Johnson aoneil@raritanval.edu 908-526-1200 ext. 8516 |
| November 13 | Somerset/No. Branch Raritan Valley CC | Sue Johnson aoneil@raritanval.edu 908-526-1200 ext. 8516 |
| November 22 | Monmouth/Lincroft Brookdale CC | Jacquelin Hoehn jhoehn@brookdale.cc.nj.us 732-842-8685 |
| December 5 | Camden Rutgers, Camden | Harry Charles rsbdc@camden.rutgers.edu 856-225-6221 |
| February 4, 2003 | Gloucester Mullica Hill | Nancy Polhamus npolhamus@gcls.org 856-223-6025 |

Package NJX for 2002

See the order blank on page 39 to order your copy of *Package NJX*. The publication is available in print and on CD ROM. The CD ROM version, *NJX PLUS*, contains many useful tax information publications in addition to reproducible tax forms. Three-ring binders capable of holding several volumes of the printed version can be purchased separately.

NJ TaxTalk Service Updated

The Division of Taxation recently updated the TaxTalk portion of its Automated Tax Information System (ATIS) by assigning each TaxTalk topic a unique 3-digit identification code. The Division hopes that this enhancement will make TaxTalk easier and more convenient than ever to use. TaxTalk is the portion of ATIS that provides prerecorded information to callers on a variety of New Jersey tax topics and affords them the opportunity to request written information on certain topics.

TaxTalk is available 24 hours a day, 7 days a week. Select the 3-digit topic number you want to hear. Then call our Automated Tax Information System from a Touch-tone phone at 1-800-323-4400 within New Jersey, New York, Pennsylvania, Delaware and Maryland or 1-609-826-4400 anywhere. We recommend that you have paper and pencil available to take notes.

TaxTalk — Topic Codes

| Topic No. | Subject | Topic No. | Subject |
|--|---|---|---|
| NJ INCOME TAX INFORMATION FOR INDIVIDUALS | | | |
| Helpful Information on Filing Your New Jersey Income Tax return | | 224 | General Information on the Property Tax Deduction or Credit |
| 100 | Who Must File | 226 | Property Tax Deduction and Credit Frequently Asked Questions |
| 102 | How and When to File an Extension | Pension and IRA Information | |
| 104 | How and When to Amend | 154 | Pension Income |
| 106 | Penalties and Interest on Filing | 156 | Pension Exclusion |
| 108 | Who is Required to Make Estimated Tax Payments | 158 | IRA Distributions |
| 110 | Penalties and Interest on Underpayment of Estimated Tax Payments | 160 | Establishing your Roth IRA |
| 112 | Pennsylvania Residents Working in New Jersey/New Jersey Residents Working in Pennsylvania | 162 | Qualified Distributions from a Roth IRA |
| 114 | Nonresidents | 164 | Nonqualified Distributions from a Roth IRA |
| 116 | Mailing Your Return With No Balance Due | NJ PROPERTY TAX RELIEF PROGRAMS | |
| 118 | Mailing Your Return With Tax Due | New Jersey SAVER | |
| 120 | How To Pay | 200 | General Information on New Jersey SAVER Rebate |
| Completing Your New Jersey Income Tax Return | | 202 | New Jersey SAVER Frequently Asked Questions |
| 122 | Filing Status | 204 | 2001 New Jersey SAVER Paper Application |
| 124 | Part-Year Residents | Homestead Rebate | |
| 126 | Military Personnel | 206 | General Information on the Homestead Rebate |
| 128 | Deceased Taxpayers | 208 | Eligibility Requirements |
| 130 | Personal Exemptions | 210 | Determining the Homestead Rebate Amount |
| 132 | Dependent Exemptions | 212 | Amending the Homestead Rebate Application |
| 134 | New Jersey Earned Income Tax Credit | 214 | Available Homestead Rebate Publications |
| 136 | Deductions | Property Tax Reimbursement Program | |
| 138 | Reporting Wages | 216 | General Information on the Property Tax Reimbursement Program |
| 140 | Nontaxable Income | 218 | Eligibility Requirements |
| 142 | Reporting Capital Gain Income | 220 | How to Claim a Property Tax Reimbursement |
| 144 | Reporting a Gain from the Sale of a Principal Residence | 222 | Property Tax Reimbursement Frequently Asked Questions |
| 146 | Reporting Business Income | Property Tax Deduction or Credit | |
| 148 | Withholdings and Payments | 224 | General Information on the Property Tax Deduction or Credit |
| 150 | Claiming Credit for Income or Wage Tax Paid to Other Jurisdictions | 226 | Property Tax Deduction and Credit Frequently Asked Questions |
| 152 | Claiming Excess Unemployment and Disability | | |

| Topic No. | Subject | Topic No. | Subject |
|----------------------------------|--|-----------|---|
| PAPERLESS FILING PROGRAMS | | | |
| | New Jersey WebFile | 504 | Tax Rates and Accounting Periods |
| 300 | NJ WebFile | 506 | S Corporation Status |
| | New Jersey TeleFile Program | | Partnerships |
| 302 | NJ TeleFile Program | 508 | Partnership Information |
| | New Jersey PC File | | SALES & USE TAX INFORMATION FOR INDIVIDUALS |
| 304 | NJ PC File | | General Information on Sales and Use Tax for Individuals |
| | (ELF) Electronic Filing | 600 | General Information on Sales and Use Tax for Individuals |
| 306 | (ELF) Electronic Filing | | Out-of-State Purchases |
| | NJ TAX INFORMATION FOR BUSINESSES | 602 | Out-of-State Purchases |
| | Business Registration | | Mail Orders and Internet Purchases |
| 400 | Registering a Business in New Jersey | 604 | Mail Orders and Internet Purchases |
| 402 | Small Business Workshop | | Home Improvements |
| 404 | Electing S Corporation Status | 606 | Home Improvements |
| 406 | New York and New Jersey Sales Tax Agreement | | Taxability of Leases and Rentals |
| 408 | Alcoholic Beverage Retail Licenses | 608 | Taxability of Leases and Rentals |
| 410 | Ending Your New Jersey Business | | OTHER NJ TAX INFORMATION |
| | Income Tax Withholding Information for Businesses | | New Jersey Division of Taxation Regional Offices |
| 412 | Remitting Tax Withheld | 700 | Asbury Park Office |
| 414 | Reconciling Tax Withheld | 702 | Camden Office |
| 416 | Forms W-4 and NJ-W-4 | 704 | Fair Lawn Office |
| 418 | Who is an Employer | 706 | Newark Office |
| 420 | Withholding New Jersey Income Taxes | 708 | Northfield Office |
| 422 | Filing Informal Employer Returns of Income Tax Withheld | 710 | Somerville Office |
| | Sales and Use Tax Information for Businesses | 712 | Trenton Office |
| 424 | General Information for Sales and Use Tax for Businesses | | Other Ways to Contact the Division |
| 426 | Use Tax | 714 | Other Ways to Contact the Division |
| 428 | Annual Use Tax | | Order Forms through New Jersey TaxFax |
| 430 | Filing Sales and Use Tax Returns | 716 | Order Forms through New Jersey TaxFax |
| 432 | Filing Informal Sales and Use Tax Returns | | Taxpayers' Bill of Rights |
| 434 | Penalties and Interest | 718 | Taxpayers' Bill of Rights |
| 436 | Contractors | | CATCH Program |
| 438 | Mail Order and Internet Business | 720 | CATCH Program |
| 440 | Taxability of Medicines and Medical Items | | Inheritance and Estate Tax |
| 442 | Urban Enterprise Zone | 722 | Inheritance and Estate Tax |
| | Lease and Rental Information for Businesses | | Information for Senior Citizens |
| 444 | Lease Transactions in New Jersey | 724 | information for Senior Citizens |
| 446 | Rental Transactions in New Jersey | | |
| 448 | Domestic Security Fee | | |
| | CORPORATIONS & PARTNERSHIPS | | |
| | Corporations | | |
| 500 | Starting a Corporation | | |
| 502 | Filing Responsibilities | | |

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Application Development – Parcel Management, Farmland, Appeals, Sales, Interfaces, Web Access.

Application Standards – CAMA, GIS, Deed Recording, Building Permits.

Policy Issues – Contracts, Costs/Funding, Communications, Public Information, Implementation, Training.

The recommendations of these committees became the basis for the requirements that will be specified in the RFP. The RFP for the PAMS is scheduled for release prior to the end of fiscal year 2002. □

LOCAL PROPERTY TAX

Informal Appeal Form SR-6

Just as the SR-1A Form communicates assessment-sales data for possible inclusion in the sales ratio program, the SR-6 Form is designed as a communication tool to aid the assessor in requesting changes to the sales data which appear on various grantor listings. It also serves to provide a means for the Local Property Branch to respond to those requests. Because changes requested can range from simple corrections of minor errors to changes in a sale's usability, it is considered an informal appeal.

For a sale to be correctly identified, the information regarding it must be entered in the top portion of the SR-6 Form in the appropriate spaces, *as it appears on the grantor listing*, along with the changes requested. All existing data elements must be shown on the form as well as the changes

requested. Thorough and concise explanations of the requested changes and the reasons for the changes are mandatory. Accurate completion of Form SR-6 is vital.

In cases where a sale's usability is to be changed to nonusable, merely citing a nonusable code number is not sufficient basis for a change. Assessors can ensure that sales they believe to be nonusable under category 7 are correctly verified by setting forth proper and thorough data on the SR-6. This data includes the nature of the improvement, the approximate cost, the time in which the improvement was made, and the source of the information. When requesting nonusable category 6, "sales of property conveying only a portion of the assessed unit, usually referred to as apportionments," a copy of the deed and subdivision approval should accompany the SR-6 request.

When a sale is not deemed to be a transaction between a willing buyer and a willing seller and is not specified in the enumerated categories on the list as set forth in nonusable category 26 (commonly referred to as the "catchall" category), the assessor should indicate with a detailed explanation the reason for the exclusion of the sale. One such instance would be the sale of real property whose assessed value is considered to be under "The Freeze Act." Accompanying the SR-6 request should be a copy of the appropriate county tax board or tax court judgment.

Supporting information for each of the nonusable categories must conform to that cited in Exhibit X-9 in the *Handbook for New Jersey*

Assessors. Supporting documentation, including (but not limited to) the names and phone numbers of individuals able to independently verify the relevant facts of the sale, will enhance the likelihood of expeditious processing of the SR-6. Either an assessor or his representative must sign each submitted SR-6.

It should also be noted that an SR-6 submitted with little or no substantiating information will be automatically rejected. An accurate Table of Equalized Valuations requires correct data at every step of the process. Assessors are requested to submit Form SR-6 when a sale first appears on a listing rather than waiting for the end of the sampling period. By following these few simple steps, the assessor can achieve maximum benefit from the SR-6 informal appeal process and avoid the great expenditure of time and effort and the legal costs of a more formal appeal. □

LOCAL PROPERTY TAX ***Tax Assessor Certificates***

The Tax Assessor Examination is held in accordance with the Assessor Certification and Tenure Act, requiring anyone taking office as a tax assessor after July 1, 1971, to hold a tax assessor certificate.

Six persons passed the Tax Assessor Certification examination held on March 23, 2002, and received Tax Assessor Certificates dated July 1, 2002. They are as follows:

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Camden County: Jacqueline Ann Mullin, Audubon Borough; Melissa Marie Wittkamp, Waterford Township.

Mercer County: Christina E. Jordan, East Windsor Township.

Ocean County: Jeff J. Horn, Seaside Park Borough.

Union County: Peter Bruno Lijoi, Summit City.

Bucks County, PA: Carol Ann Hartigan, Lower Makefield Township.

The next examination is scheduled for March 29, 2003. The deadline to file applications for this exam is February 27, 2003. Call or write to Property Administration, PO Box 251, Trenton, NJ 08695-0251. Filing fee is \$10.00. Please contact Mary Ann Miller at 609-292-7813 if you have any questions regarding this exam. □

LOCAL PROPERTY TAX Tax Assessors' Calendar

September 1–

- Extension to file Form FA-1 where assessor has determined failure to file by August 1 was due to illness of the owner, death of the owner or an immediate member of the owner's family.
- Tangible business personal property returns (Form PT-10) of local exchange telephone, telegraph, and messenger systems companies, with respect to tax year 2003 and thereafter, to be filed with the assessor for the taxing district in which the said property is located.

- Petroleum refineries file tangible business personal property returns (Form PT-10.1) with assessor for tax year 2003, for machinery, apparatus, or equipment directly used to manufacture petroleum products.

September 13–

- Table of Aggregates transmitted within three days to Taxation and Local Government Services Directors, State Auditor, Municipal Clerk, and Clerk of Board of Freeholders by County Boards of Taxation.

September 15–

- Assessor to file statement of taxable value of State-owned real property with Taxation Director.

October 1 –

- All real property in taxing district valued for tax purposes (pretax year).
- Veteran's property tax deduction eligibility established, pretax year (\$250 for tax year 2003).
- \$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 –

- Deadline for taxing districts' appeals of Table of Equalized Valuations to N.J. Tax Court if Table is timely promulgated.

December 1 –

- Appeals from added assessments filed with County Tax Board, or 30 days from the date collector of the taxing district completes bulk mailing of tax bills for added assessments, whichever is later.
- Appeals from omitted assessments filed with County Tax Board, or 30 days from the date collector of the taxing district completes bulk mailing of tax bills for the omitted assessments, whichever is later.

December 31 –

- Legal advertisement of availability of Tax List for public inspection.
- Applications for veterans' deductions and property tax deductions for 2003 must be filed with assessor, during the pretax year, thereafter with collector during the tax year. □

Criminal Enforcement

Criminal Enforcement over the past several months included:

- On January 31, 2002, a State Grand Jury handed down an indictment of Buddy Motors, Inc. and Donna L. Burke as President of the corporation on charges arising from the operation of a now-defunct used car business in Burlington, New Jersey. The six-count indictment charges the defendants with failing to file sales tax returns and the failure to turn over sales tax collected. Two of the counts, theft by failure to make required disposition of property received and misapplication of entrusted property, are 2nd degree offenses based on the collection of \$227,242.86 in sales tax and the failure to remit the monies to the Division of Taxation. Donna L. Burke, of Toms River, faces a presumptive seven-year period of incarceration if convicted of a 2nd degree offense.
- On February 4, 2002, Christopher Grungo, Burlington, New Jersey, was remanded to the custody of the New Jersey Department of Corrections. Mr. Grungo previously pled guilty to a 2nd degree count of racketeering based on count 3 of the indictment, misapplication of entrusted property - \$798,184.88 (Federal Motor Fuels Excise Tax) and count 4, misapplication of entrusted property - \$158,842.76 (New Jersey Petroleum Products Gross Receipts Tax). Mr. Grungo was also ordered to make restitution to the State of New Jersey and the Federal Government. Mr. Grungo, owner and President of the defunct Noble Oil Co., Vincentown, New Jersey, arranged for the purchase of tax-free #2 home heating oil from two Pennsylvania companies. A third company transported the oil directly to gas stations and truck stops throughout the State of New Jersey as #2 diesel fuel oil. Mr. Grungo utilized the "Daisy Chain" tax evasion scheme to evade almost \$1,000,000 in State and Federal motor fuels taxes on approximately 3.9 million gallons of diesel fuel in approximately six months. This prosecution was the result of a joint investigation by the Division of Criminal Justice-Environmental Crimes Unit and the Office of Criminal Investigation.
- On February 20, 2002, Asif Hafeez was found guilty in Canadian Provincial Court for violation of their Export/Import Act relative to the exportation of pseudoephedrine from Canada to the U.S.A. After his conviction, Mr. Hafeez was then arrested by Immigration Canada and is still in custody in Thunder Bay, Ontario, Canada. Mr. Hafeez is awaiting extradition to New Jersey based on cigarette tax related indictments.
- On March 5, 2002, U.S. Customs seized 100 cartons of unstamped Winston cigarettes (U.S. manufacture) at Newark International Airport. The cigarettes were inbound from Panama and consigned to a Pennsylvania resident. U.S. Customs contacted the subject who declined to take possession. The Office of Criminal Investigation took possession of the contraband, and the Pennsylvania Department of Revenue liaison was notified for their investigation.
- On March 13, 2002, the Monmouth County Grand Jury indicted Larry Barasch, owner of Great Feeling Spas, Inc. of Marlboro, New Jersey, for tax evasion. Mr. Barasch was charged with two 2nd degree crimes for failure to turn over taxes collected and theft by failure to make required disposition. It is alleged that over \$600,000 was stolen from customers by accepting deposits and not fulfilling orders and that \$255,401 in sales tax was collected over the period of January 1998 through December 2001 and not turned over to the Division of Taxation.
- On March 15, 2002, Mr. Pushpinder Singh Cheema, Sayreville, New Jersey, entered guilty pleas on behalf of his corporation, Saddle River Dot Com, Inc., for failure to obtain a New Jersey gasoline license and failure to obtain a New Jersey retail dealer's cigarette license and was fined. On March 26, 2002, Mr. Cheema entered guilty pleas on behalf of another of his corporations, Speedway, Inc., for failure to obtain a New Jersey gasoline license, failure to obtain a New Jersey retail dealer's cigarette license, and failure to withhold New Jersey gross income tax from the wages of employees. This corporation, too, was fined.
- On March 18, 2002, Antonio J. Couso of Wayne, New Jersey,

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was arrested by the Office of Criminal Investigation, with the assistance of the Maywood Police Department, while in the process of delivering thirty-two (32) cartons of cigarettes bearing counterfeit New Jersey revenue stamps to a gas station in Maywood, Bergen County. Mr. Couso was charged with a 3rd degree possession of counterfeit stamped cigarettes, 4th degree sale of untaxed cigarettes, disorderly persons charge of transporting untaxed cigarettes, and related 3rd degree and disorderly persons offenses. The counterfeit stamped cigarettes, Mr. Couso's 1997 Plymouth minivan, and \$6,765.27 in U.S. currency were seized. To date, 384.2 cartons of counterfeit stamped cigarettes have been seized from retailers identified as customers of Mr. Couso. The continuing investigation was initiated based on information developed by the Maywood Police Department.

- On March 18, 2002, a Federal Grand Jury in the Eastern District of Virginia indicted Abdelnase A. Saramah of North Bergen, New Jersey, on one (1) count of conspiracy and one (1) count of trafficking in contraband cigarettes. As a result of a joint investigation with the New Jersey State Police, the Office of Criminal Investigation arrested Mr. Saramah in Secaucus, New Jersey, in possession of 304 cartons of Virginia and New York stamped cigarettes. Interview of the subject at the time of the arrest disclosed a long-term activity in cigarette trafficking. This investigation was referred to the U.S. Attor-

ney's Office for the Eastern District of Virginia under the Federal Contraband Cigarette Trafficking Act. This Federal indictment is the result of Taxation's participation in a Joint Federal and State Task Force to combat the smuggling of cigarettes from lower taxed southern states to higher taxed northern states.

- On March 19, 2002, Keith Edwards, trading as Omacee's of Passaic, New Jersey, was found guilty of possession of untaxed goods, no invoices, and no consumer license after his arrest by the Office of Criminal Investigation for receiving a shipment of unstamped/untaxed cigarettes from a New York-based Indian reservation cigarette supplier. The Court imposed a total of \$3,465 in fines, fees, and costs.
- On March 27, 2002, An Zhong Jiang of Camden, New Jersey, was found in possession of 289.5 cartons of Virginia stamped cigarettes. The Office of Criminal Investigation has charged Mr. Jiang with possession of untaxed goods, no invoices, no consumer license, and transportation of contraband cigarettes.
- On April 3, 2002, in Trenton, New Jersey, the State Grand Jury returned a six-count indictment against Marcus and Jennifer Solomon, charging one (1) count of filing a fraudulent 1999 New Jersey gross income tax return in which payroll expenses were knowingly overstated for their medical transportation business. In addition, the indictment charged health care claims fraud, Medicaid

fraud, misconduct by a corporate official, and theft by deception of unemployment benefits. On June 25, 2002, the Solomons pled guilty to charges that they defrauded the Medicaid Program, the State Division of Taxation, and the New Jersey Department of Labor out of over \$60,000 in Medicaid monies as part of a scheme designed to overcharge the Medicaid Program by submitting fraudulent claims for transporting Medicaid patients. The scheme included inflating the amount of mileage charges and billing Medicaid for services not rendered. This case was a joint investigation between the Office of Criminal Investigation and the New Jersey Office of Insurance Fraud Prosecutor.

- On April 5, 2002, in Superior Court, Union County, Elizabeth, New Jersey, Naum Raichel of Brooklyn, New York, was sentenced to two years probation and ordered to make restitution of \$85,085.49 pursuant to his guilty plea of December 7, 2001, to a charge of failing to turn over motor fuels tax which he had collected between January 1997 and September 1998 in the operation of Gas R Us, Inc., a retail truckstop he owned in Elizabeth. This case is part of a joint investigation by OCI and the New Jersey State Police Organized Crime Unit, and was prosecuted by the State Attorney General's Office.
- On April 15, 2002, an officer of a wholesale motor fuels distributor entered a plea of guilty to failing to turn over petroleum products gross receipts tax

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- (PGRT) collected, part of a total tax liability of \$168,402.44. This is another case that is part of a joint investigation between OCI and the New Jersey State Police Organized Crime Unit. Substantial assistance was also received from the Audit Services Branch, Excise Tax Group. This case was prosecuted by the State Attorney General's Office.
- On April 26, 2002, Carol P. Nesbitt of Pennsauken, New Jersey, pled guilty to one (1) count of failure to file tax returns and failure to pay or turn over taxes. In addition, she pled guilty to counts involving theft by deception, forgery, and contempt. The guilty plea arose from a joint investigation with the Camden County Prosecutor's Office wherein it was determined that Ms. Nesbitt committed Medicare fraud, failed to file tax returns for a small business she owned, and failed to turn over sales tax collected from customers of the business. On June 14, 2002, Ms. Nesbitt was sentenced in Camden County to a total of 15 years incarceration. She will serve the sentences concurrently and be incarcerated for a period of four (4) years.
 - On April 29, 2002, Paula D. Jones of Bridgeton, New Jersey, pled guilty to one (1) count of theft by deception and one (1) count of falsifying records. The guilty plea arose from a joint investigation with the Cumberland County Prosecutor's Office wherein it was determined that Ms. Jones had filed fifty-six (56) fraudulent New Jersey homestead rebate applications and had received \$15,318.40 in fraudulent rebates. On June 21, 2002, Ms. Jones was sentenced in Cumberland County to a five-year term of probation and restitution in the amount \$15,318.40.
 - On May 16, 2002, the indictment by a State Grand Jury of Elvin Castillo, Elizabeth, New Jersey, was unsealed. Tax charges in the indictment are: one (1) count of filing a fraudulent 1997 New Jersey gross income tax return; three (3) counts of failure to file New Jersey gross income tax returns for the years 1998, 1999, and 2000; and four (4) counts of failure to pay over income taxes for the years 1997, 1998, 1999, and 2000. The investigation had determined that Mr. Castillo received funds totaling \$488,892 through an insurance fraud scam over the years identified above. It was determined that these funds were never reported for New Jersey personal income tax purposes. Mr. Castillo was also indicted on various theft charges. This case was a joint investigation between the Office of Criminal Investigation and the State Division of Criminal Justice.
 - On May 16, 2002, Shравan Baile, the president of Best Liquors of Lakewood Inc., and Best Liquors of Lakehurst, Inc., together with the corporate entities, were indicted by a State Grand Jury on charges relating to the operation of two liquor stores. Mr. Baile and the corporations were indicted on a total of eight (8) counts involving theft by failure to make required disposition of property (two counts), misapplication of entrusted property (two counts) and failure to turn over sales tax (four counts). The charges arose from the failure of Mr. Baile and the corporations to turn over sales tax collected from the customers of the two liquor stores during the years 1997, 1998, and 1999. This case was referred to the Office of Criminal Investigation from the Division's Audit Activity liquor audit project regarding cash businesses. This case was presented to the Grand Jury by the State Division of Criminal Justice.
 - On May 20, 2002, Robert Berry, the owner of Transworld Transmission of New Providence, New Jersey, pled guilty to accusations of one (1) count of failure to file sales tax returns for the period of July 1997 through March 2000, and one (1) count of failure to pay over sales taxes that were collected but not remitted over the same period. Sentencing is scheduled for the fall of 2002.
 - On June 7, 2002, Thanh C. "Tom" Voung was arrested and charged with numerous violations of the Cigarette Tax Act. Mr. Voung was in possession of 486 cartons of contraband cigarettes. Of the 486 total cartons, 100 unstamped cartons had been shipped by UPS from a California address. The remaining 386 cartons were Virginia stamped. The Office of Criminal Investigation has coordinated facets of this case with the California Board of Equalization Enforcement.

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- On June 17, 2002, members of the Office of Criminal Investigation visited various locations relative to ongoing investigations concerning counterfeit stamped cigarettes. As a result of those inspections, five (5) different seizures were made. One, a cigarette wholesaler, was found in possession of 39.2 cartons of counterfeit stamped cigarettes. A total of 151.2 cartons of counterfeit stamped cigarettes were seized.
- One hundred twenty-one (121) complaints alleging tax evasion were evaluated from April through June 2002 in the Office of Criminal Investigation.
- During the same time period, one hundred and one (101) charges were filed in court on twenty-six (26) cases for viola-

tions of the Cigarette Tax Act. A total of forty-five (45) contraband investigations were conducted of which (28) were counterfeiting investigations. Further, a total of twenty-five (25) arrests were made and one (1) vehicle was seized. □

Tax Briefs

Corporation Business Tax

Certification of Inactivity with Form CBT-100 — The following advice was given in response to an inquiry concerning which corporations are eligible to file Schedule I, Certification of Inactivity, with Form CBT-100 corporation business tax return.

If a corporation is active for any part of the period covered by the return, all schedules and questions must be answered, unless permis-

sion to omit or substitute is indicated on the return form. Inactive corporations that during the period covered by the return did not conduct any business and did not have any income, receipts, or expenses, and did not own any assets, need only complete and submit the first page of the return, along with Schedule I, Certification of Inactivity. This certification applies to all business activities of the corporation, not just the corporation's activities in New Jersey. Therefore, a corporation authorized to do business in this State which has not operated in New Jersey during the taxable year is still required to file a New Jersey corporation business tax return if it had business activities in other states during the year in question.

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Enforcement Summary Statistics

First Quarter 2002

Following is a summary of enforcement actions for the quarter ending March 31, 2002.

| | | | |
|-------------------------|-----------------|--|-----|
| • Certificates of Debt: | | • Jeopardy Seizures | 1 |
| Total Number | 2,306 | • Seizures | 34 |
| Total Amount | \$38,449,407.25 | • Auctions | 1 |
| • Jeopardy Assessments | 217 | • Referrals to the Attorney General's Office | 666 |

Second Quarter 2002

Following is a summary of enforcement actions for the quarter ending June 30, 2002.

| | | | |
|-------------------------|-------------|--|-----|
| • Certificates of Debt: | | • Jeopardy Seizures | 3 |
| Total Number | 173 | • Seizures | 5 |
| Total Amount | \$1,900,053 | • Auctions | 5 |
| • Jeopardy Assessments | 242 | • Referrals to the Attorney General's Office | 384 |

For more detailed enforcement information, visit our Web site at: www.state.nj.us/treasury/taxation/

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LLC Electing Disregarded Entity Status — New Jersey filing requirements for a limited liability company (LLC) electing “disregarded entity status” depend on Federal tax treatment. The organization is treated the same for State purposes as it is for Federal purposes. N.J.S.A. 42:2B-69(b). If the single member of the LLC is considered a corporation for Federal purposes, the member corporation will be subject to New Jersey corporation business tax. Corporations are required to file a Form CBT-100 return. If the member is not recognized as a corporation for Federal purposes, income from the LLC will be reported as gross income on Form NJ-1040.

Taxability of BEIP Grants — A corporate taxpayer inquired as to the taxability of grants made under the Business Employment Incentive Program Act, N.J.S.A. 34:1B-124 et seq. The grant is calculated pursuant to N.J.S.A. 34:1B-129. The Division responded as follows:

First, if a grant is made to a C corporation, the grant is deemed a contribution to capital under provisions of the IRC 118 and IRC 362(c) which taken together are tantamount to a tax deferral. Under IRC 362(c) a corporation must reduce to zero the basis of property acquired as a contribution to capital. If a grant is in money, then property acquired with such money during the 12-month period beginning on the day the contribution is received shall be reduced by the amount of such contribution. The governmental grant is intended to produce indirect benefits to the general population.

Second, if the grant is received by a conduit-type entity like a partnership or Subchapter S corporation, the grant is to be “apportioned among the persons to whom the income or profit of the partnership, Subchapter S corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.” See definition of “business” in N.J.S.A. 34:1B-125. Under the Gross Income Tax Act, prizes and awards are taxable. N.J.S.A. 54A:5-1.1 except as provided in N.J.S.A. 54A:6-8 (scholarship and fellowship grants) and N.J.S.A. 54A:6-11 (winnings from the NJ lottery).

Gross Income Tax “Catch-up” Contributions to Retirement Plans — The Division responded to a question as to whether the New Jersey Gross Income Tax Act will include “catch-up” provisions enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). The Federal legislation contains provisions to increase the limits on amounts that employees can contribute to 401(k), 403(b), SEP, SIMPLE, and 457 plans.

In regard to 401(k) “catch-up” contributions, any “catch-up” contributions are exempt from New Jersey income tax in the same amount as for Federal purposes. N.J.S.A. 54A: 6-21.

However, in regard to 403(b), SEP, SIMPLE, and 457 plans, the “catch-up” contributions are taxable because the New Jersey Gross Income Tax Act taxes contributions to these plans. The Economic Growth and Tax Relief Reconciliation Act of 2001, thus, will

have no effect on these taxable contributions and these contributions will remain taxable.

Foreign Sponsored 529 Plans — The Division responded to a question regarding whether withdrawals from a New Hampshire sponsored 529 plan will be subject to New Jersey tax. For New Jersey gross income tax purposes, a qualified state tuition program is defined as one established under section 529 of the Internal Revenue Code. Presently, N.J.S.A. 54A:6-25 allows the earnings accumulating in a qualified state tuition program account to be deferred from New Jersey gross income. Upon distribution, any amounts that are used for higher education expenses (as defined under section 529 of the Internal Revenue Code) are then excluded from the taxpayer’s income. Therefore, if the other state’s plan is a qualified state tuition program as established under section 529 of the Internal Revenue Code, the earnings and any earnings withdrawn that are used for higher education expenses can be excluded from the taxpayer’s income.

IRA Yearly Maximum Contribution — The New Jersey Gross Income Tax Act does not contain any provisions similar to those in the Internal Revenue Code which permit an individual to deduct contributions to an IRA. Contributions to an IRA are subject to New Jersey income tax in the year they are made. When a withdrawal is made from an IRA account, the amount contributed is not taxable since the contributions were taxed at the time they were made.

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Under the New Jersey Gross Income Tax Act, the only individual retirement plan to which contributions may be excluded from gross income is the 401(k) plan. N.J.S.A. 54A:6-21. Therefore, contributions to an IRA remain taxable and the new Federal law that raises the contribution limit to \$3,000 does not apply.

Military Withholding, Forms DD-2058-1 and 2058-2 — Service personnel who meet the conditions for nonresident status in New Jersey must file Form DD-2058-1, State Income Tax Exemption Test Certificate, with their payroll or finance officer to stop New Jersey income tax from being withheld from military pay. Form DD-2058-1 is a U.S. Government form that is used as a basis for not withholding New Jersey income tax from military pay. This certificate should not be filed with the New Jersey Division of Taxation.

Form DD-2058-2 may be used by Native American servicemen and women claiming exemption from state income tax withholding on their service pay. The form requires an identification of the tribe to which the individual belongs and the name of the reservation or location in Indian Country claimed as the primary residence of the individual.

Litter Control Tax

Subjectivity of Photocopy Businesses — A taxpayer in the business of selling paper photocopies at retail to various businesses, primarily law firms, inquired about their subjectivity to the litter control tax for the years prior to 2001. The litter control tax terminated on December 31, 2000.

The Division replied that the Clean Communities and Recycling Act levied a litter control tax on all manufacturers, wholesalers, distributors, and retailers engaged in business in New Jersey. The tax is imposed on the gross receipts from sales of litter-generating products within the State. N.J.S.A. 13:1E-99.1a. Litter-generating products are defined in the Act at N.J.S.A. 13:1E-94e to include the following fifteen categories of products: (1) beer and other malt beverages, (2) cigarettes and tobacco products, (3) cleaning agents and toiletries, (4) distilled spirits, (5) food for human or pet consumption, (6) glass containers sold as such, (7) groceries, (8) metal containers sold as such, (9) motor vehicle tires, (10) newsprint and magazine paper stock, (11) nondrug drugstore sundry products, (12) paper products and household paper, (13) plastic or fiber containers made of synthetic material and sold as such, (14) soft drinks and carbonated waters, and (15) wine.

The “paper products” category is very broad and includes all items of tangible personal property made or substantially derived from paper. This category of litter-generating products would include all types of paper office supplies, stationery, business forms and photocopy paper. N.J.A.C. 18:38-3.1(b)12.

For years prior to 2001, all retail sellers of photocopy paper in New Jersey would be subject to the litter control tax if they meet any of the three conditions stated in N.J.A.C. 18:38-3.1(a). The first condition is that the litter-generating product is “produced, distributed or purchased in disposable containers, packages or wrap-

ping...” It is the Division’s position that the taxpayer is distributing (selling) litter-generating products (paper photocopies) in disposable containers or packages.

Division of Taxation auditors verified by inspection that the taxpayer distributes the paper photocopies in cardboard boxes with lids, smaller cardboard boxes with folding flaps taped shut, and occasionally in boxes provided by the customer. No returnable, reusable containers are used. This constitutes a distribution of paper products “in disposable containers, packages or wrappings” thereby meeting the first condition of a sale of litter-generating products.

Based on the above, the taxpayer was subject to the New Jersey litter control tax for years prior to 2001.

Sales and Use Tax

Cable Television Programming Tapes or Discs — N.J.S.A. 54:32B-8.18 exempts sales of tangible “visual or sound transcriptions” produced for use in “theaters and radio and television broadcasting stations or networks,” but not for advertising purposes. Although technically, cable transmission is not a “broadcast,” the Division construes this provision so as to exempt the sale of films, tapes, and CDs for use in cable television programming for subscriber viewing as well. To support the claimed exemption, the customer who is purchasing the tapes for use in cable television programming must execute a properly completed Form ST-4 (Exempt Use Certificate), citing N.J.S.A. 54:32B-8.18 as the statutory basis for the exemption.

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Nexus — Whether a person is required to collect sales and use tax in New Jersey depends on whether there is nexus with the State. “Nexus” is defined as some definite link, some minimum connection, between the state and the corporation it seeks to tax. Physical presence, beyond some de minimis level, triggers an obligation to collect sales and use tax. A business may also “volunteer” to collect tax if it has no contact with New Jersey or the existence of nexus is in doubt.

If a person has a place of business in New Jersey, has employees working in this State, or owns any business property here, such as a warehouse or showroom, there is a physical presence in New Jersey and the business must register and collect New Jersey sales tax on all taxable transactions. The term “employee” includes all salespersons, consultants, customer representatives, service or repair technicians, instructors, and delivery persons as well as independent representatives or solicitors.

The proper procedure to register with the State of New Jersey is to file a Business Registration application (Form NJ-REG) with the State. The application and filing instructions are available from the Division of Revenue’s Web site at: www.state.nj.us/njbgs/

Recalibration Services for Manufacturing Equipment — A recalibration service is a service for maintaining or servicing tangible personal property and is therefore taxable. N.J.S.A. 54:32B-3(b)(2). The New Jersey Sales and Use Tax Act provides an exemption for sales of machinery, apparatus, or

equipment for use directly and primarily in the production of tangible personal property by manufacturing, processing, assembling, or refining. N.J.S.A. 54:32B-8.13(a). However, this exemption does not apply to services to such production equipment. The recalibration service is subject to New Jersey sales or use tax even if the equipment being calibrated was exempt at the time of purchase pursuant to the manufacturing exemption. □

In Our Courts

Administration

Calculation of 90-Day Time Period to File Complaint – *Heico Corporation v. Director, Division of Taxation*, decided April 24, 2002; Tax Court No. 002638-2001.

The Division’s final determination regarding sales and use tax and corporate business tax assessments was dated and sent by certified mail on April 2, 2001, to the plaintiff and plaintiff’s representative. Return receipts indicate that the final determinations were received on April 9 and April 4, 2001, respectively. The final determination stated that taxpayer had 90 days from the date of the letter to appeal the Division’s decision to the Tax Court.

Certified mail receipts indicate that plaintiff mailed items to the Tax Court on June 30, 2001. Plaintiff’s complaint was stamped received by the Tax Court on July 3, 2001 at 2:39 p.m.

The Court found that the 90th day from the April 2, 2001, date of the final determination was July 1, 2001. However, July 1, 2001, was a Sunday. Therefore, the filing date was extended to July 2, 2001.

As filing occurs upon the Tax Court’s receipt of the complaint, the complaint was considered filed on July 3, 2001, one day late.

In its historical review of the legislation, *rules of court*, and case law concerning the calculation of the 90-day period to appeal final determinations, the Court acknowledged that in previous cases the *rules of court* were applied to determine whether the complaint was filed timely. More specifically, R. 8:42-2(a) and R. 1:5-4(b) essentially started calculating the 90-day period from receipt of registered or certified mail. Pursuant to these rules, this complaint would be considered timely filed. Furthermore, R. 1:3-3 granted plaintiff three extra days to file a complaint, which would extend the filing date to July 5, 2001, and therefore, plaintiff’s complaint would also be considered to be timely filed under this rule.

The Court found that R. 1:3-3 was revised. Previously this rule applied to service by mail, whether ordinary or certified. Effective September 1, 1996, this rule only applies where service is effectuated by ordinary mail. Consequently, this rule was found to be inapplicable here regardless of whether the *rules of court* apply because the April 2, 2001, final determination was delivered by certified mail.

Due to revisions to the *rules of court* and the statutes, the Court held that the *rules of court* no longer apply to the calculation of the 90-day period to appeal from the Division’s final determination. The Court opined that the specific

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repeal of N.J.S.A. 2A-3A-4.1 with its reference to the 90-day appeal period and reference to the *rules of court* and its replacement by N.J.S.A. 2B:13-1 to -15, which has no reference to the *rules of court*, was evidence that the *rules of court* no longer apply to the calculation of the 90-day period to appeal the Division's determinations. Furthermore, the amendment of N.J.S.A. 54:49-18(a) to state that the appeal period commences from the date of the Division's final determination letter without any reference to the *rules of court* was also found to be indicia that the *rules of court* do not apply to the calculation of the 90-day appeal period. The Court noted that when a complaint may be filed is a matter of jurisdiction as opposed to a matter of practice and procedure. Finding that the date of the final determination is the date the notice was mailed to the taxpayer, the Court ruled that the 90-day period commences on the date of the mailing and that the Division has the burden of establishing that date.

Motion For Reconsideration – *Heico Corporation v. Director, Division of Taxation*, decided April 24, 2002; Tax Court No. 002638-2001.

On the motion date, plaintiff was not represented by legal counsel due to its failure to secure one after three notices. Plaintiff did not file any papers in opposition to the Division's motion. The motion was treated as uncontested and the Court dismissed the complaint as untimely filed.

Returning with legal counsel, plaintiff filed a motion for recon-

sideration. The Court granted the motion in the interest of justice because it did not consider plaintiff's legal arguments when rendering its determination.

Responsible Person – *Shellscape Decorating, LLC v. Director, Division of Taxation*, decided September 7, 2001; Tax Court No. 004109-2000.

The Division issued responsible person notices for sales tax liabilities to the husband and wife who each controlled 50% of the company. These liabilities were initially estimated due to the company's failure to file tax returns. Plaintiff claims that the returns were not filed through no fault of their own because they hired a management company to run the business and prepare and file the sales tax returns.

The Court found that the testimony indicated that the wife was knowledgeable in the area of accounting and related matters; had previously worked as an accountant; was the designated tax partner; and that she ran the shop, making most of the day-to-day operating decisions. The husband was found to be a sophisticated, knowledgeable businessman and a passive investor who was actively employed at another business. Both husband and wife signed or cosigned loans for the company. Although both had the authority to sign checks, the husband never exercised his authority.

The Court ruled that for sales tax purposes the wife was a responsible person of the business but that the husband was not. Although the husband had the authority to act, the Court ruled that authority alone

was insufficient to classify him as a responsible person. The Court emphasized that there must be a duty to act.

Plaintiff also argued for abatements of interest and penalty claiming that the wife was a resident of a state that did not have a sales tax system and that a management company was engaged to prepare and file the sales tax returns. The Court ruled that interest would not be abated because it is a statutory definition of the time value of money to compensate for late payment. Penalties were not abated because penalties serve the purpose of acting as a deterrent to those who do not file their tax returns. Furthermore, the contractual relationship formed with the management company does not absolve the company and the responsible persons from their sales tax obligations.

Responsible Person – *David Lee v. Director, Division of Taxation*, decided January 11, 2002; Tax Court No. 001156-2001.

Plaintiff was the sole officer of the corporation Exterior Power Sweeping (EPS). EPS ceased business operations in September 1989. In 1991, the Division assessed sales and use tax against the corporation for the period October 1, 1983, to June 30, 1989. Sales and use tax returns were not timely filed with the Division for that period nor were they filed thereafter. EPS protested the assessment and the Division issued a Final Determination in 1993. EPS filed a complaint with Tax Court that vacated the assessment in 1997. The Division appealed

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and the Appellate Division reinstated the assessment on April 30, 1999. On May 21, 1999, the Division issued a Notice of Finding of Responsible Person Status to Mr. Lee for the sales and use tax liabilities of EPS.

Plaintiff did not really dispute that he is a responsible person of EPS; however, plaintiff claimed that the responsible person notice was inequitable and barred by either laches or estoppel, or both. The Court would not set aside the assessment on the basis of laches or estoppel. The Court found that plaintiff is chargeable with knowledge of the statutes and his admitted actual knowledge renders less forceful his equitable arguments. Plaintiff did not demonstrate detrimental reliance on any action or inaction of the Division and failed to demonstrate that the Division deferred sending the responsible person notice to plaintiff so that interest would accrue. Furthermore, there is a general reluctance of the courts to grant estoppel against a public official entity.

Plaintiff also claimed that the May 21, 1999, responsible person notice was untimely due to the three-year statute of limitation period. Although no returns were ever filed, plaintiff alleges that the providing of information to the Division during the audit was a de facto filing of those returns. The Court rejected the theory of de facto filing. However, the Court stated that even if it accepted de facto filing, the statute did not limit the time period to collect taxes from the responsible person that were determined to be due

within three years of the alleged de facto filing date.

Plaintiff filed a motion for reconsideration that was denied on February 22, 2002. Thereafter, plaintiff appealed the Tax Court's decision to the Appellate Division.

Time Period to File Complaint – *James Liapakis v. Director, Division of Taxation*, decided April 27, 2001; Tax Court No. 004298-2000.

The Division's final determination upholding the Division's gross income tax assessment was dated August 18, 2000, and mailed by certified mail on the same date. Therefore, the statutory 90-day period to file the complaint would end on November 16, 2000. Plaintiff's appeal with the Tax Court was filed on November 17, 2000. Plaintiff stated that Rule 1:3-3 of the Rules of Court, which grants

three additional days to file the complaint, was inapplicable because the final determination was not sent by ordinary mail. However, plaintiff argued that the complaint is timely because the starting date for the running of the 90-day period is the date of service, August 21, 2000, per Rules 1:5-4 and 8:4-2.

The Court ruled that the Rules of Court could not be incorporated to determine or extend the statutory time period to file the complaint as the Rules relied upon applied when the parties were already in court. Therefore, the Court dismissed the complaint as untimely. The Court reasoned that the 1992 changes in the Uniform Procedure Law were the basis to distinguish the pre-1992 cases of *Harris*, *Pennoyer*, and *Holmdel* from the current case, that was filed after 1992.

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Plaintiff appealed the Tax Court's decision. However, the appeal was dismissed because plaintiff failed to file a timely brief. (See *James Liapakis v. Director, Division of Taxation*, decided March 18, 2002; Appellate Division No. 005341-00TS.)

Time Period to File Complaint – *Richard and Charlotte Bingham v. Director, Division of Taxation*, decided October 12, 2001; Tax Court No. 002303-2001.

Plaintiff received the Division's Final Determination concerning the Division's gross income tax assessment. On June 19, 2000, plaintiff mailed a complaint to the Tax Court. The Tax Court received the complaint on June 21, 2000. Both parties agreed that the complaint must be filed by June 20; however, plaintiff argued that the date of mailing should be considered the date the complaint was filed.

Plaintiff's complaint was dismissed as untimely because the Legislature imposed a 90-day limit for filing the complaint with the Tax Court. The Court stated that the filing date of the complaint is the date the complaint is received by the Tax Court. The Court also relied on *Liapakis*.

Time Period to File Complaint – *Martin Meyers v. Director, Division of Taxation*, decided October 29, 2001; Tax Court No. 002022-2001.

The Division's January 26, 2001, Final Determination finding that plaintiff was a responsible person for gross income tax purposes was sent by certified mail on the same date. Plaintiff's appeal was filed on April 30, 2001. Both parties

agreed that the statutory 90-day period to file the complaint ended on April 26, 2001. However, plaintiff claims the complaint is timely because he is entitled to three additional days to file the complaint pursuant to Rules of Court 8:4-2 and 1:3-3, which would include April 30 as April 29 fell on a Sunday.

In holding that the complaint was filed timely under Rules of Court 1:3-3, the Court respectfully disagreed with the *Liapakis* decision. The Court reasoned that the 1992 change in the Uniform Procedure Law would not affect the pre-1992 cases of *Harris*, *Pennoyer*, and *Holmdel* because N.J.S.A. 54:51A-18 is the same and refers to the use of the Rules of Court.

Time Period to File Complaint – *Portuguese Spanish Palace Corp., Maria Freitas, Anthony Freitas, Fernando Brito, and Elizabeth Brito v. Director, Division of Taxation*, decided April 17, 2002; Tax Court No. 002060-2001.

The Division issued Portuguese Spanish Palace Corp. (PSP) a Notice of Assessment Related to Final Audit Determination (Notice of Assessment) on June 19, 2000. On November 28, 2000, the Division issued PSP a Notice and Demand for Payment (Demand) and issued the individual plaintiffs a Notice of Finding of Responsible Person Status. Plaintiffs' accountant sent a letter dated February 12, 2001, requesting a hearing with respect to audits of the taxpayer with no reference to the individual plaintiffs. By letter dated February 22, 2001, the Division denied the request for a hearing and stated that the taxpayer had 90 days to appeal this determination to Tax

Court. Ninety-two days later, on May 25, 2001, PSP and the individual plaintiffs filed a complaint in Tax Court.

As to PSP, the Court dismissed the complaint holding that the February 12, 2001, request for a hearing was beyond the statutory 90-day period to protest the June 19, 2000, Notice of Assessment. Furthermore, the Demand notice neither granted new appeal rights nor extended PSP's time period to file a protest or request for hearing from the Notice of Assessment.

As to the individual plaintiffs, the Court found that plaintiffs' February 12, 2001, request for a hearing did not incorporate or even refer to the individual plaintiffs as the letter stated it was requesting a hearing concerning the audits of the taxpayer. Consequently, the Court dismissed the complaint as untimely as it was beyond the 90-day time period to file a complaint of the Notice of Finding of Responsible Person Status.

Time Period to File Complaint – *Raymond Zola v. Director, Division of Taxation*, decided February 8, 2002; Tax Court No. 002233-2001.

The Division issued and mailed a final determination on March 2, 2001. Plaintiff received the final determination on March 7, 2001. About 9:30 p.m. on May 31, 2001, plaintiff e-mailed the Division a request for information. On June 1, 2001, plaintiff sent a letter to the Tax Court Clerk essentially requesting forms and information. The Tax Court Clerk recognized the filing date as June 18, 2001.

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The Tax Court dismissed plaintiff's complaint as untimely, ruling that the 90-day statutory period began on March 2, 2001, and ended on May 31, 2001. Plaintiff claimed that Court Rule 1:5-4(b) stated that delivery is upon acceptance for certified mail and therefore the June 1, 2001, filing was within time. The Court opined that the court rules no longer apply due to the repeal of N.J.S.A. 2A:3A-4.1, which tied the 90-day jurisdiction period to appeal to the court rules. (See *Heico Corporation v. Director, Division of Taxation*, above).

Corporation Business Tax

Nonprofit Corporations – *Sussex Rural Electric Cooperative v. Director, Division of Taxation*, decided March 27, 2002; Tax Court No. 001790-2000.

Plaintiff claims it is a not-for-profit corporation and therefore is exempt from corporation business tax (CBT) even though it was organized as a for-profit, Title 14A corporation. Under its certificate of incorporation, there was language indicating that it was a not-for-profit corporation. The Court held that the corporation was not eligible for exemption from CBT under N.J.S.A. 54:10A-3(e) because it was organized as a for-profit, Title 14A corporation. The Court stated that tax consequences flow from the form in which the taxpayer elects to do business.

Pre-Merger Net Operating Losses – *A.H. Robins Company, Inc. v. Director, Division of Taxation*, decided February 21, 2002; Tax Court No. 005682-95.

A.H. Robbins (Old Robins) was incorporated in Virginia and filed

New Jersey corporation business tax (CBT) returns. After facing liability claims on its Dalkon Shield product, it filed for Chapter 11 bankruptcy. In December 1989, American Home Products Corporation (AHP) acquired Old Robins by structuring a merger of Old Robins into "New Robins" pursuant to the approved plan of reorganization. AHP paid approximately \$2 million to New Robins and became the sole shareholder. The business address of New Robins remained the same as that of Old Robins; however, New Robins was incorporated in Delaware. In the subsequent years following the merger, New Robins sought to deduct pre-merger net operating losses (NOL) incurred by Old Robins.

The Tax Court held that New Robins could not utilize the NOL incurred by Old Robins prior to the merger. The Court dismissed all of plaintiff's arguments. First, the Court ruled that there was nothing in the Bankruptcy Code that preempted the CBT statutes regarding post-reorganizational income tax liabilities of a nondebtor entity noting that New Robins was not the debtor entitled to Bankruptcy Code protections. Secondly, the Court found that N.J.A.C. 18:7-5.13 makes clear that an NOL may not be carried over by a taxpayer that changes its state of incorporation. The Court relied on *Richards Auto City* where the New Jersey Supreme Court rejected the theory that continuing the same business is a persuasive factor justifying the recognition of the tax status of the merged corporation. Although Federal tax law permits the survivor of a merger to utilize the NOL, the CBT Act deals with

single corporations and not two or more successive corporations.

A.H. Robins has appealed the Tax Court's decision to the Appellate Division.

Regular Place of Business – *River Systems, Inc. v. Director, Division of Taxation*, decided December 21, 2001; Tax Court No. 5627-1999; *Rubachem International, LTD. v. Director, Division of Taxation*, decided December 21, 2001; Tax Court, No. 5628-1999; and *Rubachem, Inc. v. Director, Division of Taxation*, decided December 21, 2001; Tax Court No. 5629-1999.

The three plaintiffs are organized as New Jersey C corporations and share an office in New Jersey where all their administrative activities are performed. They are all separate companies and therefore each files a separate corporation business tax (CBT) return. River Systems and Rubachem, Inc. market and sell computer-related products and light bulbs while Rubachem International markets and sells industrial and commercial cleaning products and light bulbs.

General Litesearch, Inc. (Litesearch), a related but separate company, employees solicit sales on behalf of the three plaintiffs from a leased New York office building. When Litesearch solicits a sale, the Litesearch employee enters the information into a computer. The relevant plaintiff receives the information in New Jersey and arranges for the shipping of the item. Some products are shipped from the New Jersey

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location; however, most products are primarily drop-shipped by unrelated, third-party manufacturers. No products are shipped from the New York location. Customer payments are remitted directly to the relevant plaintiff at the New Jersey office. The revenues as well as losses, if payment is not remitted, from the sale of products made by Litesearch employees are the income or accounts receivable of the plaintiff whose products are sold.

Although Litesearch pays the payroll expenses of the employees at the New York location, Litesearch is reimbursed by the plaintiff for each employee who sells its product. Litesearch also has employees on its payroll that work out of plaintiffs' New Jersey location. Litesearch's supervision and management personnel oversee all employees at the New York location and their payroll costs are charged to the individual plaintiffs based upon sales volume. There is no written contract describing the payroll reimbursement arrangement.

The New York office building that Litesearch operates from is owned by Lemar Investment Company (Lemar), also a related but separate company. The plaintiffs pay a fixed amount for rent and one plaintiff pays for the other building costs, such as utilities, to Lemar. Both amounts are allocated to plaintiffs at the end of the year based upon each plaintiff's sales volume. Each plaintiff is charged for telephone usage per the specific calls made on behalf of each plaintiff. However, there is no written contract describing this arrangement nor is there a lease providing for rent.

Plaintiffs claim that they are entitled to allocate their income between New Jersey and New York. New York accepted plaintiffs' amended returns allocating income between New York and New Jersey.

The Court held that plaintiffs were not entitled to allocate income to New York in the computation of the CBT under N.J.S.A. 54:10A-6 because they did not maintain a regular place of business outside of New Jersey. In order for an office to qualify as a "regular place of business," the taxpayer must own or rent the facility in its own name, maintain it and be directly responsible for the expenses incurred, and occupy and use the premises by employing at least one regular employee who is in attendance during normal working hours. Although plaintiffs paid rent at the New York location, there was no written lease that provided for the rent payments and therefore it was not certain whether the payments were made on behalf of Litesearch or plaintiffs. The Court determined that none of the Litesearch employees at the New York location were regular employees of any of the plaintiffs. A regular employee is defined as one who is under the control and direction of the employer. The fact that plaintiffs reimbursed Litesearch for the actual cost of each telemarketer who made sales on its behalf did not qualify the telemarketer as an employee of the plaintiff. Moreover, there was no written contract concerning this reimbursement arrangement. Citing *Shelter Development Corp.*, the Court ruled the activities of a related corporation cannot be attributed to the New Jersey corporation at issue.

The Court also held that plaintiffs were not entitled to allocate income under N.J.S.A. 54:10A-6 through N.J.S.A. 54:10A-8 because the allocation factor properly reflects income attributable to New Jersey. Section Eight grants the Division discretion to make adjustments to properly reflect net income attributable to New Jersey where the allocation factor does not. The Court found that plaintiffs had no employees and no property anywhere other than New Jersey.

Plaintiffs have appealed the Tax Court's decision to the Appellate Division.

Insurance Premiums Tax

Retaliatory Tax – *Aetna v. Director, Division of Taxation*, decided March 18, 2002; Tax Court No. 002371-2001.

Pursuant to N.J.S.A. 17B:23-5, New Jersey imposes a retaliatory tax on foreign life and health insurance companies. In general, paragraph a of this statute provides that the retaliatory tax is calculated by comparing the taxes and other financial obligations imposed in New Jersey on a foreign insurance company doing business in New Jersey with the taxes and other financial obligations that would be imposed on the foreign insurance company in its home state. Therefore, if the taxes and other financial obligations imposed by New Jersey are lower than the taxes and other financial obligations that would be imposed by the foreign insurance company's home state, then New Jersey would collect the difference as retaliatory tax. However, paragraph b of this statute provides that the special purpose obligations or assessments

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imposed by the foreign insurance company's home state shall not be considered in the calculation.

In calculating the amount of the retaliatory tax, the issue was whether the statute requires that the New Jersey side of the equation include both taxes and special purpose assessments or obligations whereas the insurance company's home state's side of the equation only include taxes, or whether the purpose of the retaliatory tax requires that both sides be symmetrical.

The Court held that the statute was clear on its face and that by its express language only the insurance company's home state's side of the equation would not include special purpose assessments or obligations imposed by the home state. In support of its decision, the Court relied on the legislative history of another insurance-based retaliatory tax statute N.J.S.A. 17:32-15, that there was no agency regulation, ruling, publication, or public notice indicating the agency's position, and a Florida case with a similar statute. Furthermore, the Court reasoned that the Legislature could have rationally and reasonably determined this result because it might encourage other states to perform a similar computation as to New Jersey life and health insurance companies engaged in business in their state and thus reduce the New Jersey company's retaliatory tax liability in those states.

No appeal was filed by the State.

Local Property Tax

NJ SAVER Rebate: Eligible Resident – *Joel Cooper v. Director, Division of Taxation*, decided

November 14, 2001; Tax Court No. 004436-2001.

The Division denied plaintiff's application for the NJ SAVER rebate for the tax year 2000 because plaintiff's home is titled in the name of a corporation. Plaintiff is the 100% shareholder, resides in the home at issue with his six-year-old son, and neither owns nor pays rent on any other real estate. Plaintiff testified that the house was titled in corporate name so that a lien could not be placed on the house due to judgments against him for outstanding liabilities.

The Court found that although N.J.S.A. 54:4-8.58b.e allowed an NJ SAVER rebate for eligible residents where the properties were titled in the name of a partnership, guardian, trustee, committee, conservator, or other fiduciary for any individual, the statutes neither specifically included nor excluded properties titled in the corporate name.

Finding that the purpose of the NJ SAVER rebate is to provide relief to residents from local property taxes on their principal residence, the Court held that plaintiff was entitled to the rebate reasoning that the spirit and intent of the NJ SAVER program justified the rebate in this case. However, the Court made clear that its holding

should not be construed to mean that every individual who holds property through a corporation is entitled to the NJ SAVER rebate.

The Division appealed this decision.

Sales & Use Tax

Scope of the Agreement –

Boardwalk Regency Corp. and Adamar of New Jersey v. Director, Division of Taxation, decided November 9, 2001; Tax Court Nos. 006294-96 and 007935-96.

Pursuant to a closing agreement entered into between plaintiff and the Director, Division of Taxation: "No sales or use tax will be imposed in the provision of complimentary meals or complimentary liquor effective January 1, 1986. For purposes of this amended agreement, 'complimentary meals' shall mean any transaction where the patron is not required to pay any cash consideration or any portion of a price (including any possible sales tax) of food or (non-alcoholic) beverage."

This case is on remand from the Appellate Division where it questioned whether the agreement and specifically the term "provision of complimentary meals" excludes the imposition of sales and use tax on

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either both plaintiffs' purchase of nonalcoholic beverages and subsequent complimentary transfer to its patrons or only the complimentary transfer to its patrons.

The Court referred to another Appellate Division decision involving this same closing agreement that concerned the taxability of alcoholic rather than non-alcoholic complimentary drinks. (See *GNOC Corp. v. Director, Division of Taxation*, 328 N.J. Super. 467 (App. Div. 2000)). There the definition of the word "provision" was not at issue to the holding because alcohol was subject only to a wholesale tax at that time and the issue concerned whether the imposition of the retail tax on alcohol superseded the agreement. However, the Court found that the Appellate Division resolved the issue of the meaning of the word "provision" by stating that the term "provision" of complimentary alcoholic beverages precludes a tax on the purchase of the alcoholic beverages that are complimentary provided to its patrons. Furthermore, the Court found that the Appellate Division specifically disagreed with the Tax Court's reasoning that to preclude both the tax on purchase and complimentary transfer would result in a transaction unfavorable to the State and therefore an improper closing agreement because the Director has broad discretion to enter into such agreements. Therefore, the Court held that plaintiff was not subject to sales or use tax on either its purchase or complimentary transfer of nonalcoholic beverages.

The Division filed an interlocutory appeal that was accepted by the Appellate Division. □

In Our Legislature

Cape May Tourism Sales Tax Tourism Development District Levies — P.L. 2002, c.72 (signed into law on August 14, 2002) authorizes new, and broadens existing, tourism development district levies; revises the uses to which current tourism levies may be put; and allows the Greater Wildwood Tourism Improvement and Development Authority (Authority) to engage in broader tourism marketing efforts.

Under the Act, municipalities in the tourism development district are authorized to impose, in addition to the existing retail receipts tax, a 1.85% tourism assessment on hotel room rentals (including motels, boarding houses, and other transient accommodations). The tourism assessment will be administered by the Division of Taxation and will be collected concurrently with the existing tax on predominantly tourism-related retail receipts.

Proceeds from the assessment will be deposited into a separate fund within the State Department of the Treasury for use by the Authority to pay for certain services provided by a municipality in which a tourism project is located, fund tourism development activities related to the operation and maintenance of public beaches, and support tourism advertisement and promotion.

Additionally, the law removes the current \$1,000-per-business limit on tourism development fees and extends these fees to renters of lodgings that are not currently subject to the State sales and use tax; removes bars and restaurants from the category of businesses

allowed to offset their tourism development fees by the amount of any tax collected on predominantly tourism-related retail receipts; and exempts businesses that pay the tourism development fee or the tourism assessment from any future State or county room tax, tourism tax, beach fee, or similar tax on tourism-related business.

Finally, the law allows businesses outside of the tourism district to enter into marketing partnerships with the tourism authority. If the businesses agree to make the same payments to the tourism authority that are made by businesses in the tourism district, they can participate in the same marketing services and programs that the Authority provides to businesses in the district.

This law took effect immediately.

Cigarette Tax

Rate Increases — P.L. 2002, c.33 (signed into law on July 1, 2002) increases the cigarette tax from \$0.04 to \$0.075 per cigarette (from \$.80 to \$1.50 per pack of 20) effective July 1, 2002.

Corporation Business Tax

Business Tax Reform Act — P.L. 2002, c.40 (signed into law on July 2, 2002) reforms the Corporation Business Tax Act and other relevant sections of law to ensure that corporations and other business entities bear a fair share of the tax burden. The legislation closes numerous loopholes that had allowed profitable companies to reduce their taxable New Jersey income by shifting income to affiliated corporations outside the State and developing expenses to reduce income within the State.

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Chapter 40 creates an Alternative Minimum Assessment (AMA) (i.e., tax on either gross profits or gross receipts, at the taxpayer's election) designed to ensure that companies are taxed on the true level of economic activity in New Jersey in situations where the traditional "taxable income" measure is not an accurate gauge of such activity.

The statute also provides several new tax advantages to small businesses, eliminates the savings institution and corporation income taxes, and incorporates the features of these taxes into the corporation business tax. It also facilitates tracking of the income of entities such as partnerships, which do not pay taxes but, instead, distribute income to their members, the eventual taxpayers.

Other provisions of Chapter 40 decrease tax benefits for investment companies; suspend the use of certain net operating losses for two years; disallow the deduction of interest payments made to related parties; and accelerate fourth quarter estimated payments for large taxpayers. More complex changes regarding calculations have been introduced to decrease the impact of the reform act on groups of related corporations. These include a cap on the amount of receipts "thrown back" to New Jersey and a cap on the total Alternative Minimum Assessment.

This act took effect immediately and applies to privilege periods and taxable years beginning on or after January 1, 2002, provided however, that section 26 shall apply to privilege periods ending after June 30, 1984.

Estate Tax

Tax Computation Changed — P.L. 2002, c.31 (signed into law on July 1, 2002) provides that the New Jersey estate tax is to be computed either according to the terms of the Federal estate tax in effect on December 31, 2001, or, at the election of the person responsible for filing the estate tax return, by using a simplified system to be developed by the Director of the Division of Taxation. This preserves the New Jersey estate tax as the Federal credit on which it is based is phased out. The law makes the property of New Jersey estates subject to State tax liens. It also repeals sections of the existing law which provided for (1) the voiding of New Jersey's estate tax in the event of the repeal of the Federal estate tax or the Federal credit for state legacy taxes and (2) the revision of New Jersey's estate tax in response to any substantial revision of the Federal credit. Chapter 31 took effect immediately and applies to the estate of any resident decedent dying after December 31, 2001.

Local Property Tax

County Tax Board Membership — P.L. 2002, c.51 (signed into law on August 3, 2002) requires that counties having a population of more than 510,000 shall have county tax boards with five members, no more than three of whom shall belong to the same political party. "Population" means the State population according to the most recent Federal decennial census.

The statute allows the Union County Board of Taxation to increase its membership from three members to five members. Increasing the membership of the tax

board to five members is intended to result in increased efficiency in the handling of tax appeals. Chapter 51 took effect immediately.

Miscellaneous

Camden Revitalization — P.L. 2002, c.43 establishes the "Municipal Rehabilitation and Economic Recovery Act" which attempts to rehabilitate a qualified municipality, namely the City of Camden, and restore its economic vitality, which is necessary for long-term recovery. It provides a pilot program for a limited period of time during which considerable sums of State money will be invested in the qualified municipality with appropriate State supervision by a chief operating officer who is accountable to both city elected officials and the State. The legislation contains a number of tax-related benefits for residents of a qualified municipality and businesses located there.

Casinos — P.L. 2002, c.65, (signed into law on August 14, 2002) makes several changes to the Casino Control Act and the Casino Reinvestment Act. The law took effect immediately.

Fees and Penalties — P.L. 2002, c.34 (signed into law on July 1, 2002) establishes, increases, and modifies fees and penalties imposed by and on behalf of the State. The legislation, among other things, increases certain commercial recording filing fees for corporations and other business entities to be paid to the State Treasurer; institutes a \$50 fee to be charged by the Division of Taxation for each check issued for payment of any State tax or penalty that is re-

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turned due to insufficient funds or stop payment order; and imposes a new \$2 per day fee to be called the "Domestic Security Fee" for each motor vehicle (passenger automobile, truck, or semitrailer) that is rented from a location in this State. The law took effect July 1, 2002.

Unclaimed Property — P.L. 2002, c.35 (signed into law on July 1, 2002) reduces the amount of time ("dormancy period") private financial organizations and business associations may hold property before transferring it to the State as unclaimed or abandoned property. It also clarifies and expands the types of properties that are to be transferred to the State after the dormancy period has expired. This act took effect immediately.

Sales and Use Tax

Mobile Telecommunications Services — P.L. 2002, c.45 (signed

into law on July 30, 2002) amends relevant sections of the New Jersey Sales and Use Tax Act to comply with the provisions of the Federal "Mobile Telecommunications Sourcing Act," that requires a uniform method of sourcing mobile telecommunications services for sales tax purposes.

The sourcing method prescribed by the Federal legislation assumes that all wireless calls are made at the telecommunication service subscriber's residential or business street address, whichever is the "place of primary use," and permits all calls charged to such place of primary use (whether or not actually placed at, or made to, that location) to be taxed only by the taxing jurisdiction in which said place of primary use is located.

The Federal law forbids the State taxation of mobile telecommunications by any other system or

method after August 1, 2002. The New Jersey legislation applies to customer bills issued after August 1, 2002.

Urban Enterprise Zones

Population Requirements for New Joint Zone — P.L. 2002, c.68 (signed into law on August 14, 2002) modifies the population parameters governing eligibility for the establishment of a joint urban enterprise zone which was authorized in a county of the sixth class (Cape May County) pursuant to P.L. 2001, c.347. Amendment of the population requirements was necessary to clarify that North Wildwood qualifies for inclusion in the zone.

Chapter 68 took effect immediately and will be applicable to zones designated on or after January 6, 2002. □

2002 tax calendar

| | | | | | | | |
|-----------|-----|------|------|------|------|------|------|
| | SUN | MON. | TUE. | WED. | THU. | FRI. | SAT. |
| september | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
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| | 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| | 29 | 30 | | | | | |

CDIS-1,2 Cigarette Tax—Distributor's informational and sales report

NJ-500 Gross Income Tax—Employer's monthly remittance

CR-1 & CNR-1 Cigarette Tax—Wholesaler's monthly report of non-New Jersey stamped cigarettes

September 20

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors and manufacturers

September 16

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

MSS-1 Cigarette Tax—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey

September 10

CWIP-1,2 Cigarette Tax—Wholesaler's informational report

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

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

September 20 - continued

- GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel sold or used
- GA-1X Motor Fuels Tax**—Importer's monthly report of gallons of fuel imported
- MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels sold or used
- MFT-14 Motor Fuels Tax**—Monthly export report
- MFT-60 Motor Fuels Tax**—Monthly storage facility operator report
- SCC-5 Spill Compensation and Control Tax**—Monthly return
- SCC-6 Spill Compensation and Control Tax**—Public storage terminal information return
- ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly remittance
- ST-51 Sales and Use Tax**—Monthly remittance
- 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 remittance
- TP-20 Tobacco Products Wholesale Sales and Use Tax**—Monthly return
- UZ-50 Combined State Sales and Use Tax/Urban Enterprise Zone Sales Tax**—Monthly return

September 25

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

September 30

- GCC-1 Motor Fuels Tax**—Carrier's monthly report

| | SUN | MON | TUE | WED | THU | FRI | SAT |
|----------------|-----|-----|-----|-----|-----|-----|-----|
| <i>october</i> | | | 1 | 2 | 3 | 4 | 5 |
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| | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| | 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| | 27 | 28 | 29 | 30 | 31 | | |

October 10

- CWIP-1,2 Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2 Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1 Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

October 15

- CBT-100 Corporation Business Tax**—Annual return for accounting period ending June 30
- CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th, or 12th month of current tax year

October 21

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers
- MSS-1 Cigarette Tax**—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey

- 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 sold or used

- GA-1X Motor Fuels Tax**—Importer's monthly report of gallons of fuel imported
- MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels sold or used
- MFT-14 Motor Fuels Tax**—Monthly export report
- MFT-60 Motor Fuels Tax**—Monthly storage facility operator report
- SCC-5 Spill Compensation and Control Tax**—Monthly return
- SCC-6 Spill Compensation and Control Tax**—Public storage terminal information return
- ST-20 New Jersey/New York Combined State Sales and Use Tax**—Quarterly return
- 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 and Use Tax/Urban Enterprise Zone Sales Tax**—Monthly return

October 25

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

October 30

- NJ-927 & NJ-927-W Gross Income Tax**—Employer's quarterly report
- GCC-1 Motor Fuels Tax**—Carrier's monthly report

november

| SUN. | MON. | TUE. | WED. | THU. | FRI. | SAT. |
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| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

November 12

- CWIP-1,2 Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2 Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1 Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

November 15

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

November 20

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers
- MSS-1 Cigarette Tax**—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey

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 sold or used

GA-1X

Motor Fuels Tax—Importer's monthly report of gallons of fuel imported

MFT-10

Motor Fuels Tax—Monthly report by seller-user of special fuels sold or used

MFT-14

Motor Fuels Tax—Monthly export report

MFT-60

Motor Fuels Tax—Monthly storage facility operator report

SCC-5

Spill Compensation and Control Tax—Monthly return

SCC-6

Spill Compensation and Control Tax—Public storage terminal information return

ST-21

New Jersey/New York Combined State Sales and Use Tax—Monthly remittance

ST-51

Sales and Use Tax—Monthly remittance

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 remittance

TP-20

Tobacco Products Wholesale Sales and Use Tax—Monthly return

UZ-50

Combined State Sales and Use 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. |
|------|------|------|------|------|------|------|
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| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | | | | |

December 2

- GCC-1 Motor Fuels Tax**—Carrier's monthly report

December 10

- CWIP-1,2 Cigarette Tax**—Wholesaler's informational report
- CDIS-1,2 Cigarette Tax**—Distributor's informational and sales report
- CR-1 & CNR-1 Cigarette Tax**—Wholesaler's monthly report of non-New Jersey stamped cigarettes

December 16

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

December 20

- CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors and manufacturers

December 20 - continued

- | | | |
|---|--|--|
| <p>MSS-1 Cigarette Tax—Monthly report by manufacturers of special shipments of taxable cigarettes into New Jersey</p> <p>GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used</p> <p>GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel sold or used</p> <p>GA-1X Motor Fuels Tax—Importer's monthly report of gallons of fuel imported</p> <p>MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels sold or used</p> <p>MFT-14 Motor Fuels Tax—Monthly export report</p> | <p>MFT-60 Motor Fuels Tax—Monthly storage facility operator report</p> <p>SCC-5 Spill Compensation and Control Tax—Monthly return</p> <p>SCC-6 Spill Compensation and Control Tax—Public storage terminal information return</p> <p>ST-21 New Jersey/New York Combined State Sales and Use Tax—Monthly remittance</p> <p>ST-51 Sales and Use Tax—Monthly remittance</p> <p>ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return</p> <p>ST-350 Cape May County Tourism Sales Tax—Monthly return</p> | <p>ST-451 Sales and Use Tax—Salem County—Monthly remittance</p> <p>TP-20 Tobacco Products Wholesale Sales and Use Tax—Monthly return</p> <p>UZ-50 Combined State Sales and Use Tax/Urban Enterprise Zone Sales Tax—Monthly return</p> |
|---|--|--|

December 26

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

December 30

- GCC-1** **Motor Fuels Tax**—Carrier's monthly report

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from the director's desk

Property Tax Relief Goes to Residents

In an eight-week period between mid-July and mid-September, over \$1.1 billion in direct property tax relief was paid to New Jersey homeowners and tenants. The benefits were paid through the Property Tax Reimbursement, Homestead Rebate, and NJ SAVER Rebate Programs.

Property tax reimbursement checks averaging \$208 were sent to almost 84,000 senior and disabled homeowners on July 15 to reimburse them for increases in their 2001 property taxes.

Next, on August 19, homestead rebates for the 2001 tax year were mailed to over 1.5 million eligible applicants. The rebates for homeowners ranged from \$90 to \$775, and those for tenants from \$100 to \$775.

Finally, in early September NJ SAVER rebates were distributed to 1.2 million eligible homeowners. NJ SAVER rebate amounts vary by municipality, and the rebates for 2001 averaged \$500. As part of the State Budget for fiscal year 2003, the Legislature mandated that no NJ SAVER rebate be paid to any individual or married couple with gross income in excess of \$200,000 for the 2001 tax year.

Residents can check on the status of their property tax relief checks by calling:

Property Tax Reimbursement Hotline: 1-800-882-6597

Automated Homestead Rebate InfoLine: 1-800-323-4400 or 609-826-4400

NJ SAVER Rebate Hotline: 609-826-4282

TTY Equipment users can get information or assistance at: 1-800-286-6613 or 609-984-7300

