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# 2004 Annual Report

State of New Jersey  
Department of the Treasury  
Division of Taxation

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June, 2005

The Honorable Richard J. Codey  
Acting Governor

Members of the New Jersey Legislature

Dear Acting Governor Codey and Legislators:

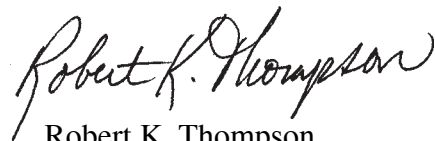
I am pleased to present the *2004 Annual Report of the Division of Taxation* for the fiscal year ended June 30, 2004.

The Division continues to expand its paperless filing systems and now mandates electronic filing in certain cases. Most sales and use tax filers, certain partnerships, as well as all taxpayers responsible for filing returns for the domestic security fee, the State hotel/motel occupancy fee and municipal occupancy tax, the motor vehicle tire fee, the cosmetic medical procedures gross receipts tax, and the 9-1-1 system and emergency response fee are required to file and pay electronically.

As a result of our focus on paperless filing, we have seen tremendous growth in the number of returns filed electronically – both business tax returns and individual income tax returns. We strongly believe that electronic filing and payment benefits both taxpayers and the Division, saving time and money. We are steadfast in our commitment to provide cost-effective filing methods. To this end, our goal for the coming years will be to continue expanding our paperless filing systems, making it easier for taxpayers to fulfill their reporting and payment obligations.

I trust that this report will provide a useful overview of both the Division's operations as well as our continued efforts to ensure the efficient administration of New Jersey's tax laws and regulations.

Respectfully submitted,



Robert K. Thompson  
Director

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## DIVISION OF TAXATION HIGHLIGHTS

- In September 2003, the Division of Taxation executed a Memorandum of Understanding (MOU) with the Internal Revenue Service (IRS) relating to the sharing of information collected by the IRS in its investigations of Abusive Tax Avoidance Transactions (ATAT). Pursuant to the MOU, the IRS will share information with the Division of Taxation when it is collected during the course of its audits and investigation, rather than waiting until they are completed. In past initiatives, the IRS shared information with the states at the conclusion of its investigative/audit activities. This change in process will permit the Division of Taxation to use resources more efficiently by avoiding duplication of investigations and audits of taxpayers that are being conducted by the IRS. A similar MOU was executed in March 2004 between the Division of Taxation and the Federation of State Tax Administrators to share information collected in the audits and investigations of abusive tax avoidance transactions among the 40 participating States.
- In January 2004, the Division of Taxation introduced a new telephone-based filing system for sales and use tax to complement the existing online filing system. At the same time, the Division began transitioning 250,000 sales and use taxpayers to mandatory electronic filing and payment methods from filing and paying through traditional paper methods. The transition is scheduled to be completed in July 2005.
- The Safekeeping Unit of the Unclaimed Property Branch of the Division of Taxation held its first auction in October 2003. The Safekeeping Unit is responsible for collecting tangible personal property that has been abandoned by its owners and reuniting owners with their property. The auction offered an assortment of jewelry, collectibles, and coins to buyers from across the region and netted \$104,000. The proceeds are held in the Unclaimed Property Trust Fund in the names of the owners until they can be located. Once a claim is filed, the owner receives a check for the sale price of the property, plus any interest that accrued from the date of the sale.
- The Unclaimed Property Branch collected \$177 million in cash and \$90 million from the liquidation of securities in fiscal year 2004. In addition, securities worth \$60 million were escheated to the State. \$53 million was returned to claimants in fiscal year 2004, up from \$41 million returned in the previous year. The increase is attributable to several things: as more property is turned over to the State, the number of claims has gone up; extensive outreach efforts and expanded newspaper advertisements have heightened public awareness; and traffic on the unclaimed property Web site has grown as more people use the Internet.
- For the first time, the number of taxpayers who chose to file their individual income tax returns using an electronic method rather than paper broke the one

million mark. By April 15, 2004, 1.1 million taxpayers had filed their New Jersey gross income tax returns electronically. This represented an increase of 21% over the previous tax season.

- Beginning with the fall 2003 issue, *State Tax News* was published solely in electronic format. In addition to the same mix of articles, tax briefs, and summaries of court decisions that were included in the paper format, the electronic version also includes links to sources on our Web site that are updated on an ongoing basis. This gives readers access to the most up-to-date information available whenever an issue of *State Tax News* is accessed.
- The Division of Taxation maintains two contracts with an outside debt collection agency for collection of both known (deficient) and unknown (delinquent) tax liabilities. The vendor is paid on an hourly basis and the revenues collected under these contracts far outweigh the costs to maintain them. In an effort to further defray the costs of outsourced collection efforts and to shift the burden for the payment of these services to the noncompliant taxpayers, in November 2003 the Division implemented a Referral Cost Recovery (RCR) Fee. In addition to the tax, penalties or interest assessed, a 10% RCR fee is added to any case the Division refers to the collection agency. For fiscal year 2004, taxpayers paid \$2.58 million in RCR fees.
- During the fall of 2002 the Division instituted a license suppression project for the approximately 24,000 cigarette and motor fuels tax licenses. When a licensee's business tax account shows either delinquent or deficient items, they are notified that their license will not be renewed until these items are resolved. Letters were sent to 2,785 licensees in January 2004 advising them of their outstanding liabilities. By the end of the fiscal year, the Division had received payment and/or information which resulted in the renewal of 1,568 of the licenses. Collections attributed to the project for fiscal year 2004 totaled \$2.6 million. To date the project has collected \$5.9 million.
- In November of 1999, the Division became a participant in the Federal Offset of Individual Liability (FOIL) Program which was set up by the Federal Management System (FMS). Through the FOIL Program the federal government offsets federal personal income tax refunds against tax deficiencies of participating states. Affected taxpayers are sent notification by certified mail advising them of the intended set-off and giving them 60-days to protest the action. The Division receives payments both directly from taxpayers sent in response to the notification, as well as from the FMS as a result of the offset. The Division collected revenues of \$5.9 million during Fiscal Year 2004 and more than \$34.5 million since becoming a participant.
- In fiscal year 2004, the Office of Criminal Investigation evaluated 520 complaints of tax evasion, which resulted in the initiation of 32 criminal cases. One-hundred twenty-eight (128) cases were forwarded for prosecution. At the end of the fiscal year, there were 183 ongoing criminal investigations.

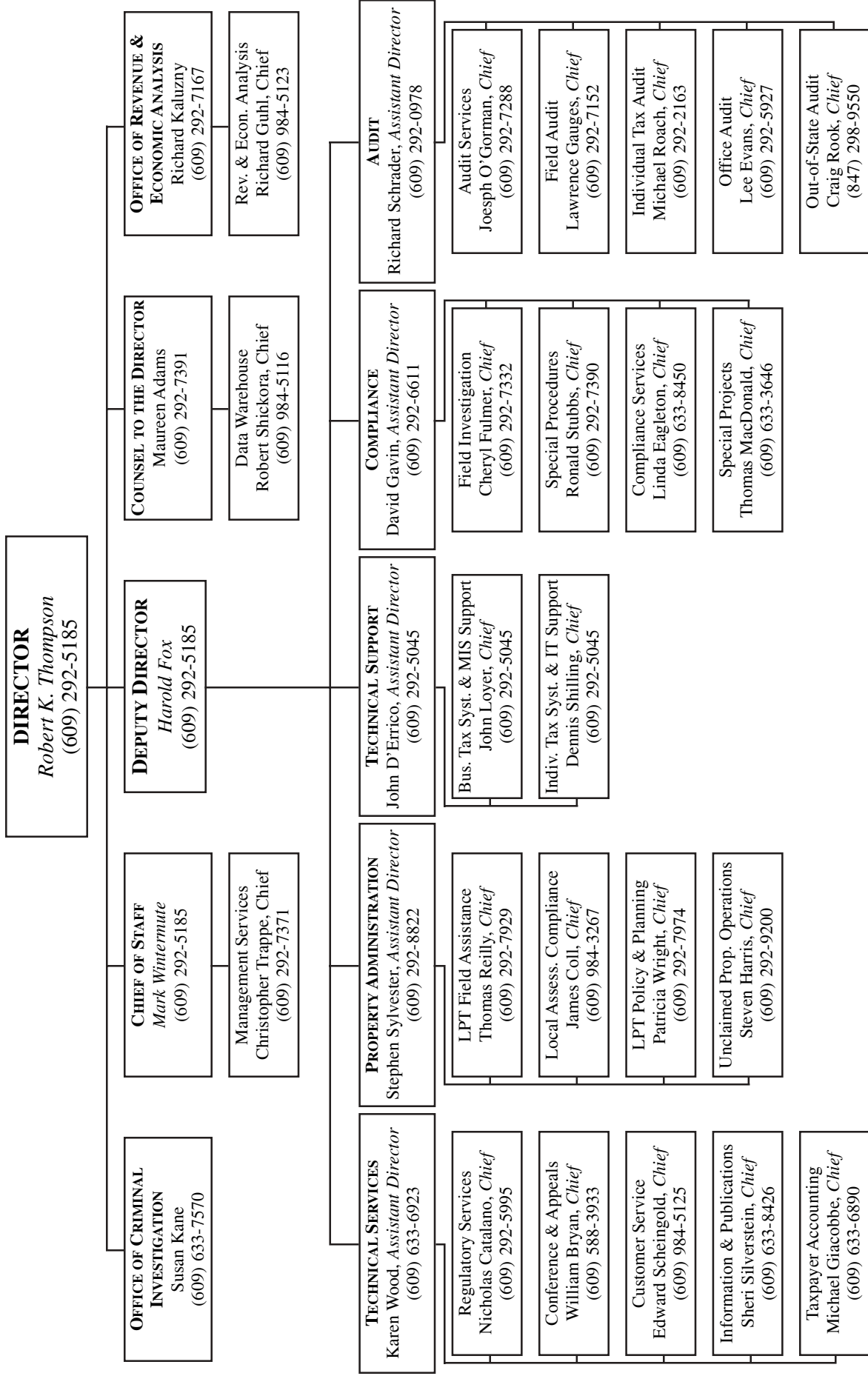
**New Jersey Division of Taxation**

# **ORGANIZATION AND ACTIVITIES**





# DIVISION OF TAXATION ORGANIZATION





## AUDIT

This Activity is responsible for ensuring tax compliance and the collection of outstanding tax liabilities through the examination of information provided on tax returns and by auditing records at the taxpayer's place of business. The Division's voluntary disclosure and nexus programs are also administered by Audit Activity. This Activity consists of five branches: In-State Field Audit, Out-of-State Field Audit, Audit Services, Office Audit, and Individual Tax Audit.

### In-State Field Audit

The In-State Field Audit Branch audits businesses to determine if they have complied with their obligations under New Jersey's tax statutes. The audit examination of the taxpayer's accounting records is comprehensive and covers all taxes administered by the Division. In addition, as part of several interstate exchange agreements, information may be obtained for other taxing jurisdictions during the performance of the audit.

In addition to regular audit activities, the In-State Field Audit Branch continues to pursue its cash audit initiative. This program is designed to strengthen compliance and collection efforts as well as level the playing field for compliant businesses. To help the Division identify the types of cash businesses that need assistance, a special team does pilot audits and helps develop procedures for other cash initiatives.

### Out-of-State Field Audit

The Out-of-State Field Audit Branch is responsible for performing field audits for all New Jersey taxes on all taxpayers whose accounting records are maintained outside of the State. Currently the Division has regional offices in Chicago (Illinois) and Anaheim (California), with Field telecommuters based in Atlanta, Stamford, Houston, Dallas, and Denver.

### Office Audit

The primary responsibility of the Office Audit Branch is the audit and refund of Corporation Business Tax. Other taxes audited include the Financial Business Tax, Insurance Premiums Tax, Ocean Marine Tax, Retaliatory Tax, Savings Institution Tax, various Sanitary Landfill Taxes, Spill Compensation and Control Tax, and the Corporation Income Tax.

The Branch is comprised of nine audit groups. Three groups are assigned general corporate desk audits, and

two groups issue tax clearance certificates. The Special Audit Group is responsible for administering the smaller taxes as well as reviewing Internal Revenue audit changes. The Nexus Audit Group has the responsibility to discover and examine out-of-State entities to determine whether they have unreported tax filing and paying obligations. The Corporate Billing Group is responsible for reviewing all deficiencies generated by Corporation Business Tax filings. The Corporate Refund Audit Group is responsible for auditing and approving all Corporation Business Tax refund claims.

### Individual Tax Audit

The Individual Tax Audit Branch is comprised of the Gross Income Tax Audit Section and the Transfer Inheritance and Estate Tax Section.

**Gross Income Tax Audit.** The Gross Income Tax Audit Section is responsible for auditing Gross Income Tax returns filed with the State of New Jersey. The audits are done using a variety of criteria developed within the Branch, utilizing information from the Internal Revenue Service, neighboring states, and other New Jersey agencies, where applicable. The section also pursues delinquent resident and nonresident taxpayers separately and in joint projects with other Division branches and the Internal Revenue Service.

**Transfer Inheritance and Estate Tax.** The Transfer Inheritance and Estate Tax Section is responsible for all phases of the administration of the two taxes, from offering taxpayer services, to auditing, to the issuance of waivers.

### Audit Services

The Audit Services Branch provides audit, technical, and clerical support for every aspect of the Audit Activity. In addition, the Branch administers the Alcoholic Beverage Tax, Cigarette Tax, Motor Fuels Tax, Petroleum Products Gross Receipts Tax, Public Utility Tax, Sales Tax (refunds), Spill Compensation and Control Tax, and the Wholesale Tobacco Products Tax.

The Audit Selection Group provides other Audit Activity Branches with lists of audit candidates. This group processes data from the Division's internal databases, as well as from outside sources such as the IRS, U.S. Customs, alcoholic beverage wholesalers, and various other third parties.

The Audit Billing Group provides billing capabilities for the entire Activity. This process includes making the necessary adjustments to the Division's systems to properly

reflect taxpayers' accounts, creating bills, corresponding with taxpayers, applying payments, and transferring files for administrative hearings or securing liabilities for future collection.

The Cooperative Interstate Tax Enforcement Group administers the agreement between New Jersey and New York as it relates to Sales and Use Taxes being charged by vendors doing interstate business. This unit is also responsible for the assessment of Use Tax on taxable purchases which are made out of State, and works with the U.S. Customs Service data in assessing Use Tax that is due on imported goods being brought into New Jersey by both businesses and individuals. It also administers the provisions of the Jenkins Act as it relates to cigarettes being purchased out of State.

The Motor Fuels Group administers the Motor Fuels Tax, Petroleum Products Gross Receipts Tax, and the Spill Compensation and Control Tax. The group is responsible for issuing licenses, determining proper bonding, and issuing refunds. The group conducts office audits, reconciliations of taxpayer accounts, and provides taxpayer services.

The Tobacco and Alcoholic Beverage Tax Group administers the Cigarette Tax, Wholesale Tobacco Products Tax, and the Alcoholic Beverage Tax. The group is responsible for maintaining pricing requirements along with the audit and investigation of any Tobacco Tax related activity.

The Public Utility Tax Unit reviews taxpayer reports, conducts office audits, and maintains taxpayer accounts as they relate to various Energy and Utility taxes.

The Word Processing Unit provides centralized word processing and other clerical support for groups such as Individual Tax Audit, Nexus, and other areas that require assistance with high-volume projects.

This branch was also responsible for the creation of the Local Area Network for Audit Activity relied on by both the Gross Income Tax Branch and the Nexus team.

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## TECHNICAL SERVICES

### Conference and Appeals

The Conference and Appeals Branch handles taxpayer complaints and protests, and conducts informal administrative hearings.

All incoming protests are evaluated by the Review Section for compliance with the statutory and regulatory provisions for Protests and Appeals. Within the Review Section, the Risk Management Group determines whether the State is at risk relative to the collection of the protested assessment. Taxpayers may be asked either to pay the outstanding assessment, furnish a surety bond, or furnish a letter of credit to stay collection. Absent adequate security, a Certificate of Debt and a "Finding of Responsible Person" will be filed.

The Conferences Section provides informal administrative hearings. After the hearing process, conferees issue the Division's Final Determinations on assessments, notices of individual responsibility for trust fund taxes, denials of refunds, as well as determinations on nonmonetary issues such as nexus, subjectivity, and the denial of organizations' claims for exempt status.

Final Determinations can be appealed to the Tax Court of New Jersey. The Appeals Section tracks and manages these cases, acting as the Division's liaison with the Deputy Attorney General assigned to defend the Division of Taxation.

### Customer Services Branch

Customer Services is responsible for encouraging voluntary compliance by providing taxpayers with the information and assistance they need to meet their New Jersey tax responsibilities. Additionally, the Branch provides assistance to New Jersey residents in applying for and obtaining property tax rebates they may be eligible to receive. The Customer Services Branch provides assistance through phone services, automated systems, walk-in help, and training and outreach as described below.

- **Customer Service Center** is a state-of-the-art telephone facility which can handle over 10,000 calls a day. Agents provide information and assistance on all taxes and programs administered by the Division of Taxation.
- **NJ Income Tax TeleFile** is a quick, easy, and convenient way for New Jersey residents to file their income tax returns from a Touch-tone telephone.
- **NJ WebFile** provides taxpayers the means to prepare their income tax returns on a personal computer using

the Division's secure Internet site. There is nothing to buy and no filing fees.

- **NJ SAVER TeleFile** allows homeowners to file their NJ SAVER rebate applications by phone 24 hours a day/7 days a week during the NJ SAVER filing season.
- **Business Paperless Telefiling System** provides an easy, convenient method for filing various taxes and fees using a Touch-tone phone.
- **Automated Tax Information System** offers taxpayers a wide variety of information and assistance from a Touch-tone phone including the Automated Refund Inquiry System, the Homestead Rebate InfoLine, NJ SAVER InfoLine, New Jersey TaxTalk, and the Forms Request System.
- **NJ TaxFax** makes State tax forms and other technical information available to fax machine users.
- **Trenton Regional Office**, located in the main lobby of the Taxation Building in Trenton, is a walk-in office for taxpayer assistance.
- **Training & Outreach** presents workshops for the public on a variety of topics, provides speakers on New Jersey tax-related matters, and administers the VITA (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly) programs.

## Information and Publications

The Information and Publications Branch produces informational publications and tax return instructions; responds to taxpayer correspondence; resolves problems relating to the various property tax relief benefit programs administered by the Division; mails forms, publications, and other Division material to the public; and provides general technical information via the Web site.

**Publications Unit** is responsible for most of the Division's informational publications, including the instructions for individual income tax returns and applications for the property tax relief programs administered by the Division; the quarterly newsletter for tax practitioners, the *New Jersey State Tax News*; the Annual Report of the Division of Taxation; and brochures and notices. This unit also provides technical tax material for the Division's Web site.

**E-Mail Unit** responds to most of the general taxpayer e-mail that comes to the Division directly or that is referred here for reply.

**Property Tax Relief Programs Unit** responds to correspondence and resolves problems related to the State's Homestead Rebate, NJ SAVER Rebate, and Property Tax Reimbursement Programs. The unit assists New Jersey legislators seeking to resolve constituents' problems, and

responds directly to taxpayer correspondence related to these property tax relief programs.

**Homestead Rebate Eligibility Review Unit** is responsible for reviewing the eligibility of selected homestead rebate applications. The unit makes eligibility determinations based on documentation submitted by selected applicants in response to outreach notices.

**Taxpayer Forms Services Unit** mails out forms and publications in response to taxpayers' requests and handles bulk mailing for special projects from various branches of the Division.

## Regulatory Services

The Regulatory Services Branch drafts rules, regulations, and notices for publication in the *New Jersey Register* and the *New Jersey State Tax News*. It acts as the Division's liaison with the Deputy Attorney General assigned to handle Division of Taxation technical and regulatory issues; and provides administrative and enforcement advice to Division management and staff on all tax laws under the jurisdiction of the Division. Further, it drafts proposed legislation; reviews legislation and prepares comments; provides technical assistance in the implementation of new tax laws; analyzes, researches, and responds to all taxpayers' inquiries and requests for technical advice or letter rulings; and issues Technical Bulletins.

The Branch is charged with the responsibility of coordinating the processing of all Division rules and notices. The Administrative Practice Officer within the Branch maintains contact with the Office of Administrative Law in order to oversee the promulgation of Division rules and their official publication in the *New Jersey Register*.

**Exempt Organization Unit** processes and makes determinations on applications for Sales and Use Tax Exempt Organization Certificates.

## Taxpayer Accounting

The Taxpayer Accounting Branch issues bills for underpayment of tax and penalties and interest, reviews bills and refund or credit requests for accuracy, adjusts accounts to correct errors, and responds to taxpayers' inquiries regarding the status of their accounts.

Taxpayer Accounting is comprised of the Correspondence and Review Sections for personal income tax, a Business Tax Section, and a Support Section. The Branch is also very heavily involved in the Property Tax Reimbursement, NJ SAVER Rebate, and Homestead Rebate Programs; and staffs a Tax Practitioner Hotline for tax practitioners who are unable to resolve client problems through normal channels.

## COMPLIANCE

### Special Procedures

The Special Procedures Branch is responsible for the collection of overdue tax liabilities. The specific functions of Special Procedures are as follows:

**Attorney General Referrals.** Whenever the Division has exhausted its collection remedies without success, the case may be referred to the Office of the Attorney General for additional collection actions. Such actions may include domesticating the Division of Taxation's lien in another state where assets of the debtor may have been located, and/or instituting wage garnishment proceedings.

**Bankruptcy.** The primary function of the Bankruptcy Section is to collect delinquent taxes from debtors who have filed for protection under Federal or State Insolvency Statutes by submitting Proofs of Claim to the appropriate courts of jurisdiction.

**Bulk Sales.** The Bulk Sales Section is responsible for examining the tax records of each business which disposes of its assets either by sale, transfer, or assignment, other than in the normal course of business. This area also issues Tax Clearance Certificates for Transfer of Retail Alcoholic Beverage Licenses.

**Closing Agreements.** This section processes applications for compromise/settlement of tax debts under provisions of the State Uniform Tax Procedure Law.

**Judgments.** The Judgment Section collects overdue liabilities from taxpayers who neglected or refused to pay taxes and/or file returns. The primary collection instrument is the Certificate of Debt, which is filed with the Clerk of the New Jersey Superior Court. A Certificate of Debt has the same force and effect as a Docketed Judgment adjudicated in any court of law in New Jersey.

### Compliance Services

The Compliance Services Branch provides services to the taxpaying public and the Division of Taxation; and works with other State agencies such as the Division of Motor Vehicles, the State Division of Alcoholic Beverage Control (ABC), and the Lottery Commission.

**ABC Clearance Section.** This section, working with the State ABC, is responsible for issuing Alcoholic Beverage Retail Liquor License Clearance Certificates to license holders prior to their annual license renewal.

**Delinquency Section.** This section is responsible for issuing delinquency notifications when taxpayers fail to file required tax returns when due and for securing delinquent returns and payments.

**Deferred Payment Section.** This section provides a method for taxpayers to repay deficient taxes under formal payment plans and monitors active payment plans to ensure compliance.

**Casual Sales Section.** This section works with the Division of Motor Vehicles to verify, assess, and collect the appropriate sales tax on purchases of motor vehicles, boats, and aircraft. Out-of-State purchases are also scrutinized.

**Contract Liaison Unit.** This area is the link to the private collection agencies contracted to collect delinquent and deficient taxes for the Division. They assure that the vendors comply with Division policies and procedures and act as facilitators between Division and the collection agencies' personnel.

This Branch is also responsible for the following programs: **Vendor Set-Off**, a program that intercepts monies due to State vendors for services rendered and applies the payments to deficient and delinquent taxes owed by the vendor; **SOIL**, Set-Off of Individual Liability, a program that withholds income tax refunds and property tax rebates from taxpayers who have tax debts; **FOIL**, Federal Offset of Individual Liabilities, a program that withholds Federal income tax refunds and applies them against State tax liabilities; **Lottery**, a project that verifies to the New Jersey Lottery Commission that prospective lottery agents are current in their taxes; and **CATCH**, Citizens Against Tax Cheats, that handles reports received about those suspected of not paying, reporting, or collecting taxes.

### Field Investigations

The Field Investigations Branch is responsible for collections, post-judgment civil enforcement, canvassing, and investigation work. Branch personnel work from six field offices around the State. Walk-in taxpayer services are available at five of these locations.

**Civil Tax Enforcement** involves personal contact with businesses and individuals to secure delinquent tax returns and tax underpayments. When necessary, the process involves recording Certificates of Debt (CODs), which are administrative judgments, with the New Jersey Superior Court followed by identifying and locating assets in order to levy, seize, and finally sell those assets at public auction.



Taxpayers are encouraged to set up payment plans to avoid the seizure and sale of business and personal assets. Questionable business or financial activity is referred to Audit or to the Office of Criminal Investigations.

**Municipal Court Program** permits the prosecution of some tax violations, such as chronic failure to file or pay sales tax or income tax, as disorderly persons offenses in Trenton Municipal Court. Restitution is required in addition to payment of court fines and costs. Probation may be ordered instead of jail time.

**Canvassing** of businesses operating from fixed and transient sites is a major tool to discover vendors who are not registered to do business or are otherwise not in tax compliance. Weekend canvassing and the use of jeopardy assessment authority at flea markets, special events, and art and craft shows have been important enforcement tools used against the underground cash economy.

**Taxpayer Services** is available to the public and to tax practitioners who call or walk into the field offices. Taxpayers can obtain business and income tax forms as well as copies of various tax information publications, receive assistance with tax form preparation and business registration, and get answers to tax questions. Payments for tax liabilities and completed tax forms are also accepted.

## Special Projects

The Special Projects Branch focuses on transient out-of-State vendors whose business activity in New Jersey creates nexus and triggers a tax obligation in this State. Branch investigators work with Division of Taxation auditors as well as various State and Federal agencies to identify potential noncompliance and to enforce our tax laws.

Investigators utilize the authority granted in N.J.S.A. 54:49-5 and 54:49-7 to make a jeopardy assessment and demand immediate payment. Failure to satisfy a jeopardy assessment may result in immediate seizure of available assets. Companies subject to the jeopardy assessment process have ninety (90) days from the date of the action to appeal the jeopardy assessment.

## PROPERTY ADMINISTRATION

Property Administration consists of two branches: Local Property and Unclaimed Property. The activities of the Local Property Branch concern real and certain personal property, and those of Unclaimed Property pertain to intangible personal property and safe deposit box contents.

### Unclaimed Property

The Unclaimed Property Branch is responsible for maintaining records of unclaimed property in the protective custody of the State. Unclaimed property consists of financial assets such as savings accounts, wage checks, life insurance policies, dividends, stocks, and bonds. Property is "unclaimed" when it cannot be paid or delivered to the apparent owner, and there is no communication between the holder and the apparent owner for a specified abandonment period. Any "Holder" of property belonging to another is required to turn that property over to the State Treasurer when it is presumed to be abandoned.

**Audit Section** conducts compliance audits of major corporate holders of unclaimed property. Corporate entities audited include insurance companies, banks, brokerage firms, mutual funds, retailers, utilities, etc. The State also contracts with two audit firms for out-of-State holders.

### Operations

**Holder Reporting Unit** receives reports from holders of unclaimed property that meets the abandonment criteria. The report section works with holders to assure the accuracy of reports and their correct entry into the electronic system. This unit assists holders in complying with unclaimed property laws.

**Administration Unit** oversees the fiscal activity for Unclaimed Property. Furthermore, the unit is responsible for financial reporting to the Office of Management and Budget for five trust funds, assuring compliance with various statutes. It also does the accounting for the securities portfolio and provides checks and balances of payments for all security- and cash-related claims.

**Claims Processing Unit** receives all claims for the return of unclaimed property, researches and validates the claims, and processes payments.

**Intestate Estates Unit** supervises and oversees the administration of intestate (no will, no apparent heir) estates through the court appointment of an administrator. If the

search for heirs is unsuccessful, the administrator turns over proceeds to the State, minus estate expenses and statutory fees.

*Owner Outreach Unit* reunites reported owners with their assets. This is achieved through legal advertisement, Internet listings, attendance at public venues, speaking at professional seminars, and the media. This proactive effort also serves to enforce compliance by creating more awareness of the Unclaimed Property Program.

*Safekeeping Unit* assures the timely and accurate inventory, processing, and marshalling of unclaimed tangibles found in safekeeping repositories. Owners' contents are returned to their rightful owners or auctioned.

## **Local Property**

### ***Policy and Planning***

*Correspondence/Exemptions/Legislative Analysis Unit* reviews and prepares comments on proposed legislation concerning property tax issues; develops procedures for uniform application of senior citizens' and veterans' deductions; handles issues on property tax exemption matters; oversees the administration of the Farmland Assessment Act of 1964; prepares written guidelines, materials, and regulations on various property tax programs and statutes for use by assessors; and responds to general taxpayer inquiries, correspondence, and legislative referrals regarding property tax matters.

*Revaluations/Reassessments/Continuing Education Unit* reviews and approves revaluation, reassessment and compliance programs and contracts; certifies the dollar amounts for State reimbursement to local taxing districts for property tax deductions; and administers assessors' continuing education and recertification programs.

*County Tax Board Compliance/Assessor Exam/Realty Transfer Fee Unit* responds to inquiries on realty transfer fees and monitors the dollar amount collected and refunded; provides assistance and checks compliance for the 21 county boards of taxation; coordinates and administers biannual Tax Assessors' Certification Exams; prepares written guidelines and materials on various property tax programs and statutes for use by county tax board members and administrators.

### ***Local Assessment Compliance***

*Railroad Property Unit* classifies, assesses, and taxes railroad properties; assesses and computes Railroad Franchise Tax; and determines railroad replacement revenues for municipalities in which railroad property is located.

*Tax Maps Unit* reviews and approves municipal tax maps for conformance to current specifications and as required for municipal revaluations.

*Local Assessor Compliance Unit* reviews certain information that pertains to municipal tax assessors. The unit also conducts periodic inspections of tax assessors' offices for compliance with statutory responsibilities, in particular, municipalities that are reimbursed by the State for granting qualified senior citizens' and veterans' property tax deductions.

### ***Field Assistance***

*Field Assistance and Appraisal Unit* provides direct assistance to 566 municipal tax assessors' offices and 21 county tax boards in solving problems. Field staff also investigate SR-1As for sales ratio purposes; gather and verify data for the Table of Equalized Valuations; in cooperation with the Deputy Attorney General assigned to Division of Taxation matters, defend the Table of Equalized Valuations at appeal; perform audits and investigations relating to local property matters; assist the Transfer Inheritance Tax Bureau with appraisals for inheritance tax purposes; and maintain the Real Property Appraisal Manual for New Jersey Assessors. (Special studies and investigations are conducted as required to meet unusual or unique circumstances.)

*Sales Ratio* oversees the Assessment-Sales Ratio Program and develops the annual Table of Equalized Valuations from the data analyzed. The Table is used in the calculation and distribution of State School Aid, to apportion county and regional school district taxes, and to measure debt limits of local government units. The Table of Equalized Valuations shows the average ratio of assessed to true value of real estate for each municipality in the State.

*Technical Support* provides assistance to county boards of taxation with electronic transmission of sales data, rules and regulations regarding changes in response to legislative changes affecting equalization, preparation of the county abstract of ratables, county equalization tables; and coordinates transmissions of data with data centers and county tax boards.

Property Administration personnel are members of the County Tax Board and Tax Assessors' Educational Committees and take a leadership role in training, education seminars, and courses which provide procedural information on all aspects of local property administration aimed at improving the performance of county boards and assessors.



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## TECHNICAL SUPPORT

This Activity provides the Division of Taxation with the technological assistance required to administer the New Jersey State tax laws. These services include the development and management of the Division's tax systems; the design and procurement of all tax forms and applications; the procurement, installation, and maintenance of computer hardware and software; the maintenance and updating of the Division's Web site; and the technical training of Division employees.

Additionally, Technical Support has responsibility for telecommunications, including the Wide Area Network (WAN), the fiber optic equipment, and micro-based systems that support applications throughout the Division. Technical Support personnel interact with representatives of other State and Federal agencies as well as outside vendors to provide these services in the most efficient manner possible. The activity is responsible for implementing new technological developments that are consistent with and that enhance the mission of the Division.

The Technical Support Activity is comprised of two branches: Business Tax Systems and MIS Support Branch, and Individual Tax Systems and IT Support Branch.

### Business Tax Systems and MIS Support

The responsibilities of this Branch are divided into the following major areas.

**Forms** is responsible for the design and specifications of New Jersey State tax forms, applications, and many related publications. The analysts work in conjunction with the Division of Revenue to ensure that all of the form requirements are met for the processing of the documents. The analysts coordinate with the Division of Purchase and Property and printing contractors to provide quality products consistent with these requirements. Other duties include attending bidders' conferences, performing site inspections of vendor production facilities, and supervising the production process to ensure quality control.

**TULIPS & TAXNET Help Desk.** This group possesses expertise in the various tax and data systems designed for use within the Division. It is their responsibility to assist Division personnel on a daily basis in resolving problems they encounter with these systems. They are also responsible for performing table and file maintenance for the various systems, and the management of automated case flow for various collection activities.

**Business Tax Systems and Corporation Tax** analysts are responsible for maintenance and enhancements of existing tax systems and the development of new systems. These groups coordinate their efforts with the Office of Information Technology (OIT) in order to ensure that the operational needs of the Division are met. They provide technical assistance to Division personnel and aid in problem resolution with respect to the various systems. These analysts also act as liaisons for the Division with other State, Federal, and local agencies as required.

### Individual Tax Systems and IT Support

The responsibilities of this Branch are divided into four major areas:

**Individual Tax Systems.** Analysts from this unit determine systemic needs and provide data processing support including the development, monitoring, and maintenance of the individual income tax system and the various property tax relief programs. They design all income tax forms and applications for the property tax relief programs.

**Web Development and Training.** This team develops and maintains the Division's Web and Intranet sites. They are also responsible for designing and conducting internal technical training for desktop software applications and other systems used Division-wide. PowerPoint and other media presentations are created by this unit for use by Division management.

**Network and Desktop Support.** This unit administers the Division's WAN and is responsible for ensuring the availability of all network devices and services, including the Division's e-mail system and remote access for all field office employees. In addition, they provide desktop hardware and software support for all in-house and field locations.

**Application Development.** This unit develops and maintains network-based computer applications and systems for Audit, Compliance, and other areas throughout the Division.

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## CHIEF OF STAFF

The Office of the Chief of Staff is responsible for representing the Division of Taxation throughout State government concerning administrative matters, as well as providing Division-wide support in the area of Management Services. The Office of the Chief of Staff works in conjunction with the Department of Treasury's Fiscal Office, Human Resources, and Department of Personnel to provide internal controls and facilitate requests regarding budgetary needs, and to coordinate personnel matters, including disciplinary and grievance actions concerning Division employees.

### Management Services

Management Services is responsible for providing support in the following areas:

**Facilities Management.** Responsible for coordinating building maintenance and management services for 12 office locations throughout New Jersey and for the Division's out-of-State locations. Facilities Management monitors all construction projects and coordinates physical moves for all Taxation locations. In addition, Facilities Management is responsible for security and providing employees with photo identification and building access cards.

**Property & Forms.** Responsible for the distribution of forms and supplies to the entire Division, as well as managing and maintaining the Division's surplus property, equipment, and forms inventories.

**Mail Services.** Responsible for the pickup, sorting, recording, and delivery of mail for the Division, including field offices.

**Records Management.** Responsible for the Division's records management and storage. Maintains a records placement and tracking system that enables Division personnel to retrieve documents and files quickly and efficiently.

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## OFFICE OF CRIMINAL INVESTIGATION

The Office of Criminal Investigation is responsible for the investigation of alleged criminal violations of the State tax code. In addition, the responsibility of internal security and internal control assessment falls within the jurisdiction of this area.

OCI works closely with prosecutors and investigators at all governmental levels. Liaison activities are encouraged, and joint investigations are conducted in cases dealing with economic and financial crimes that have tax compliance consequences. Currently, OCI is actively involved in cooperative efforts with the Federal Bureau of Investigation, the U.S. Attorney's Office, and states within the Northeast Corridor.

The Financial Investigations Unit and the Special Investigations Unit develop cases that indicate criminal violations and willful intent to evade the tax laws of the State of New Jersey. Based on the findings of the investigation, recommendations for criminal prosecution are made to the State Attorney General's Office or to county prosecutors' offices. Cases are generated from projects within these units, referrals from other functions within the Division, participation in joint investigations with prosecutors' offices and other law enforcement agencies, and concerned citizens.

**Financial Investigations Unit** is staffed by forensic auditors who detect and investigate criminal violations of sales and use tax, gross income tax, corporation business tax, and all other state tax laws. The unit works closely with the Division's Audit and Compliance activities to identify and combat areas of willful noncompliance. Particular emphasis is placed on prosecution of the theft of entrusted funds taxes i.e., the failure to pay over sales tax collected by retailers and gross income tax withheld by employers acting as trustees on behalf of the State. This unit also investigates the filing of fraudulent returns for the purpose of illegally obtaining refunds and payments from the State's Homestead Rebate, NJ SAVER Rebate, and Earned Income Tax Credit Programs.

**Special Investigations Unit** is comprised of the Cigarette Tax Enforcement Group and the Special Frauds Group.

The Cigarette Tax Enforcement Group's Special Agents have the statutory authority to investigate violations of

New Jersey cigarette tax laws. Investigative resources have been directed towards the sale of unstamped cigarettes, smuggling, and counterfeiting.

The Special Frauds Group investigates allegations of criminal tax fraud related to organized crime, official corruption, and violations of the State's motor fuels tax and petroleum products gross receipts tax laws, under which special licenses are required. The group works in cooperation with law enforcement agencies at all levels and participates in numerous joint investigations and case development projects.

***Internal Security Unit*** handles sensitive matters, including integrity investigations, background investigations of prospective employees, and assaults and threats made by persons attempting to impede the functions of the Division. The unit also provides training to enable new employees to recognize possible compromising situations.

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## OFFICE OF REVENUE AND ECONOMIC ANALYSIS

The Office of Revenue and Economic Analysis is responsible for providing revenue estimates of 13 major revenue sources which account for 90% of the State Budget. The Office also monitors New Jersey economic conditions, provides revenue analyses of proposed legislation, evaluates tax policy initiatives, and provides research support to the Treasurer's Office.

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## **COUNSEL TO THE DIRECTOR**

### **Disclosure**

The Disclosure office performs many administrative duties, including responding to internal and external requests for tax records, and recommending and implementing exchange agreements with other agencies. Some of the agencies Disclosure works with include the Internal Revenue Service, New Jersey State Police, Division of Criminal Justice, Division of Gaming Enforcement, and other states through their Departments of Revenue/Taxation. Through this activity the Division of Taxation, as well as other taxing agencies throughout the United States, have been able to locate and identify tax evaders who cross state lines.

The Disclosure office is the Division's central point for receipt of public requests for information made pursuant to the Open Public Records Act (OPRA). Disclosure reviews, researches, and prepares the Division's responses to all OPRA requests.

### **Office of Legislative Analysis**

The Office of Legislative Analysis (OLA) is responsible for reviewing all tax bills introduced in the legislature. It evaluates the potential administrative, fiscal, and policy implications of proposals which are scheduled or likely to be scheduled for legislative action; it proposes amendments to ensure that a bill can be effectively implemented; prepares bill comments and fiscal notes; and recommends positions to be taken by the State Treasurer.

In addition, OLA monitors legislative activity, keeps track of when bills affecting the Division are scheduled for committee or house action, and follows the progress of each bill as it proceeds through the legislature. OLA works closely with the Treasurer's Office and, when a bill is enacted into law, it often initiates and participates in the implementation process.

Counsel to the Director also serves as liaison to the Attorney General's Office.

**New Jersey Division of Taxation**

**TAXES AND PROGRAMS ADMINISTERED**



**Table 1—Major State Tax Collections (Net)  
Fiscal Years 2002–2004**

<b>Tax Source</b>	<b>2004<sup>1</sup></b>	<b>% of Total</b>	<b>2003</b>	<b>% of Total</b>	<b>2002</b>	<b>% of Total</b>	<b>% Change 2003–04</b>
<b>Collected by the Division:</b>							
Alcoholic Beverage (General Fund)	\$ 98,357,152	0.5%	\$ 94,075,191	0.5%	\$ 92,280,499	0.5%	4.6%
Casino Parking Fee <sup>2</sup>	15,952,127	0.1	15,545,375	0.1	15,638,832	0.1	2.6
Cigarette (including dedicated fund)	767,167,296	3.6	633,536,846	3.2	391,228,753	2.2	21.1
Corporation:							
Corporation Business	2,370,169,715	11.3	2,525,446,781	12.9	1,171,456,857	6.5	– 6.1
CBT Banks & Financials	141,432,025	0.7	128,451,019	0.7	41,649,356	0.2	10.1
Domestic Security Fee <sup>3</sup>	22,487,568	0.1	19,080,533	0.1	–	–	17.9
Environmental Taxes:							
Landfill Closure and Contingency	2,316,540	0.0	2,026,016	0.0	1,910,917	0.0	14.3
Litter Control	14,704,529	0.1	13,552,543	0.1	2,946,956	0.0	8.5
Public Community Water Systems	3,380,912	0.0	3,033,912	0.0	2,994,626	0.0	11.4
Solid Waste Services	5,584,396	0.0	5,368,534	0.0	4,081,230	0.0	4.0
Spill Compensation	18,289,389	0.1	15,093,332	0.1	14,782,033	0.1	21.2
Gross Income	7,400,732,606	35.1	6,735,282,357	34.4	6,836,992,402	38.2	9.9
Hotel/Motel Occupancy Fee/Tax <sup>4</sup>	85,198,185	0.4	–	–	–	–	N/A
Insurance Premiums	438,101,299	2.1	394,690,473	2.0	345,816,449	1.9	11.0
Miscellaneous Revenues	758,900	0.0	905,691	0.0	13,030,294	0.1	– 16.2
Motor Fuels	566,830,724	2.7	530,956,596	2.7	523,818,533	2.9	6.8
Petroleum Products	216,247,008	1.0	214,417,697	1.1	219,700,547	1.2	0.9
Public Utility Excise	9,320,698	0.0	9,549,773	0.0	9,876,021	0.1	– 2.4
Railroad Franchise	620,559	0.0	1,097,901	0.0	7,689	0.0	– 43.5
Railroad Property	3,659,744	0.0	3,134,560	0.0	3,303,490	0.0	16.8
Sales:							
Sales and Use	6,261,700,380	29.7	5,936,057,141	30.3	5,996,839,407	33.5	5.5
Atlantic City Lux & Promo (Loc. Use)	35,161,029	0.2	25,029,066	0.1	25,926,411	0.1	40.5
Tobacco Products Wholesale	10,345,355	0.0	9,292,175	0.0	15,627,272	0.1	11.3
Cape May County Tourism (Loc. Use)	5,734,824	0.0	3,105,589	0.0	3,503,632	0.0	84.7
Savings Institution <sup>5</sup>	(11,912,325)	– 0.1	9,485,029	0.0	10,556,862	0.1	N/A
Transfer Inheritance and Estate	516,007,975	2.4	445,310,855	2.3	510,367,419	2.8	15.9
<b>Taxes Collected by the Division</b>	<b>\$18,998,348,610</b>	<b>90.2%</b>	<b>\$17,773,524,985</b>	<b>90.8%</b>	<b>\$16,254,336,485</b>	<b>90.7%</b>	<b>6.9%</b>
<b>Collected Outside the Division:</b>							
State Athletic Control Board (tot. rev.)	\$ 584,833	0.0%	\$ 847,231	0.0%	\$ 389,352	0.0%	– 31.0%
Casino Revenue <sup>6</sup>	468,071,678	2.2	348,552,307	1.8	350,776,779	2.0	34.3
Casino Control	64,645,888	0.3	65,386,670	0.3	62,221,650	0.3	– 1.1
Lottery	794,971,914	3.8	765,401,159	3.9	754,549,833	4.2	3.9
Motor Vehicle Fees	433,360,177	2.1	445,691,783	2.3	404,162,549	2.3	– 2.8
Outdoor Advertising (total revenue) <sup>7</sup>	7,417,174	0.0	1,558,958	0.0	1,619,318	0.0	375.8
Realty Transfer	297,534,743	1.4	163,931,201	0.8	90,003,903	0.5	81.5
<b>Taxes Collected Outside the Division</b>	<b>\$ 2,066,586,407</b>	<b>9.8%</b>	<b>\$ 1,791,369,309</b>	<b>9.2%</b>	<b>\$ 1,663,723,385</b>	<b>9.3%</b>	<b>15.4%</b>
<b>Total Major State Tax Collections</b>	<b>\$21,064,935,016</b>	<b>100.0%</b>	<b>\$19,564,894,293</b>	<b>100.0%</b>	<b>\$17,918,059,870</b>	<b>100.0%</b>	<b>7.7%</b>

<sup>1</sup>The 2004 figures are subject to adjustment.

<sup>2</sup>50% of the Casino Parking Fee is deposited into the Casino Revenue Fund for Fiscal Years 2004 – 2006 (P.L. 2003, C. 116).

<sup>3</sup>Domestic Security Fee initiated on August 1, 2002.

<sup>4</sup>Hotel/Motel Occupancy Fee/Tax initiated on August 1, 2003.

<sup>5</sup>Repealed for privilege periods/taxable years beginning after 2001; negative entry reflects prior-year refunds paid in 2004.

<sup>6</sup>Figure includes new Atlantic City Casino Taxes and Fees, including 50% of the Casino Parking Fee, effective July 1, 2003.

<sup>7</sup>Figure includes revised fees effective July 1, 2003.

Note: Some entries for prior years may be revised from earlier versions.

**Totals may not add due to independent rounding.**

## Statutory Responsibilities

Responsibilities of the Division of Taxation arise under the following statutory provisions:

<b>Tax</b>	<b>N.J.S.A. Citation</b>	<b>Tax</b>	<b>N.J.S.A. Citation</b>
Air Toxics Surcharge .....	13:1D-59 <i>et seq.</i>	Litter Control Fee .....	13:1E-213 <i>et seq.</i>
Alcoholic Beverage Tax .....	54:41-1 <i>et seq.</i>	Local Property Tax .....	54:4-1 <i>et seq.</i>
Atlantic City Casino Taxes and Fees .....	5:12-148.1 to 5:12-148.3 5:12-148.8 5:12-173.2	Motor Fuels Tax .....	54:39-1 <i>et seq.</i>
Atlantic City Luxury Sales Tax .....	40:48-8-15 <i>et seq.</i> 54:32B-24.1 <i>et seq.</i>	NJ SAVER Rebate .....	54:4-8.58a and 54:4-8.58b
Atlantic City Tourism Promotional Fee .....	40:48-8.45 <i>et seq.</i>	Outdoor Advertising Fee .....	54:4-11.1 <i>et seq.</i>
Cape May County Tourism Sales Tax .....	40:54D-1 to 10	Petroleum Products Gross Receipts Tax .....	54:15B-1 <i>et seq.</i>
Cigarette Tax .....	54:40A-1 <i>et seq.</i> 56:7-18 <i>et seq.</i>	Property Tax Reimbursement ...	54:4-8.67 <i>et seq.</i>
Corporation Business (Net Income and Net Worth) Tax .....	54:10A-1 <i>et seq.</i>	Public Community Water System Tax .....	58:12A-1 <i>et seq.</i>
CBT Banking Corporation ....	54:10A-1 <i>et seq.</i>	Public Utility Taxes:	
CBT Financial Corporation ..	54:10A-1 <i>et seq.</i>	Public Utility Excise, Franchise and Gross Receipts Taxes .....	54:30A-49 <i>et seq.</i>
Corporation Income Tax .....	54:10E-1 <i>et seq.</i>	Railroad Franchise Tax .....	54:29A-1 <i>et seq.</i>
Domestic Security Fee .....	App.A:9-78	Railroad Property Tax .....	54:29A-1 <i>et seq.</i>
FAIR Rebate .....	54:4-8.57 <i>et seq.</i>	Realty Transfer Fee .....	46:15-5 <i>et seq.</i>
Gross Income Tax .....	54A:1-1 <i>et seq.</i>	Sales and Use Tax .....	54:32B-1 <i>et seq.</i>
Homestead Rebate .....	54:4-8.57 <i>et seq.</i>	Savings Institution Tax .....	54:10D-1 <i>et seq.</i>
Hotel/Motel Occupancy Fee and Municipal Occupancy Tax .....	54:32D-1 <i>et seq.</i>	Solid Waste Services Tax .....	13:1E-1 <i>et seq.</i>
Insurance Premiums Tax .....	54:16-1 <i>et seq.</i> 54:16A-1 <i>et seq.</i> 54:17-4 <i>et seq.</i> 54:18A-1 <i>et seq.</i>	Spill Compensation And Control Tax .....	58:10-23.11 <i>et seq.</i>
Landfill Closure and Contingency Tax .....	13:1E-100 <i>et seq.</i>	Tobacco Products Wholesale Sales and Use Tax .....	54:40B-1 to 14
		Transfer Inheritance and Estate Taxes:	
		Transfer Inheritance .....	54:33-1 <i>et seq.</i>
		Estate .....	54:38-1 <i>et seq.</i>
		Transitional Energy Facility Assessment .....	54:30A-100 <i>et seq.</i>
		Uniform Transitional Utility Assessment .....	54:30A-114 <i>et seq.</i>



## Air Toxics Surcharge

### Description

P.L. 2004, C. 51, imposes an Air Toxics Surcharge, effective retroactively to January 1, 2004, upon the owner or operator of each facility in New Jersey required to file a Release and Pollution Prevention Report (RPPR) with the New Jersey Department of Environmental Protection. The surcharge is based on the annual emissions of each Category 2, Category 3, and Category 4 toxic substance as reported in the RPPR. The Air Toxics Surcharge due in a calendar year shall be based upon the data reported in the RPPR for emissions that occurred two calendar years before the year for which the return is filed.

### Rate

The Air Toxics Surcharge is based on pounds of toxic substances released as stock or fugitive emissions as reported in the RPPR: \$0.10 per pound of Category 2 toxic substances, \$1.00 per pound of Category 3 toxic substances, and \$10.00 per pound of Category 4 toxic substances. The law caps the surcharge at \$500,000 annually.

### Disposition of Revenues

The Nuclear Power Plant Security Fund shall be credited with \$2,000,000 from the Air Toxics Surcharges collected, with such monies used to improve security at nuclear power plants in New Jersey.

## Alcoholic Beverage Tax

### Description

The Alcoholic Beverage Tax is applied to the first sale or delivery of alcohol to retailers in New Jersey and is based upon the number of gallons sold or otherwise disposed of in the State. The tax is collected from licensed manufacturers, wholesalers, State beverage distributors, breweries, wineries, and distilleries.

Sales to organizations of armed forces personnel are exempt; so are sales for medicinal, dental, industrial, and other nonbeverage uses.

### Rate

<i>Type of Beverage</i>	<i>Rate per Gallon</i>
Beer .....	\$0.12
Liquor .....	\$4.40
Still Wine, Vermouth, Sparkling Wine .....	\$0.70

P.L. 1997, C. 153, reduced the tax rate on hard apple ciders containing between 3.2% and 7% of alcohol by volume from \$0.70/gallon to \$0.12/gallon, effective November 1, 1997. Hard apple cider containing over 7% alcohol by volume is taxed at \$0.70 per gallon.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use, except that beginning on July 1, 1992, \$11 million of the tax revenue is deposited annually into the Alcohol Education, Rehabilitation and Enforcement Fund. A small percentage also goes to the New Jersey Wine Promotion Account.

## Atlantic City Casino Taxes and Fees

### Description

P.L. 2003, C. 116, imposes various taxes and fees on: the value of rooms, food, beverages, or entertainment given away for free or at a reduced price as a “complimentary”; multi-casino progressive slot machine revenue; the adjusted net income of casino licensees; casino hotel room occupancies; and casino hotel parking.

P.L. 2004, C.128, enacted August 30, 2004, provides for the gradual phase-out of the tax on the above casino “complimentaries” until the tax expires on June 30, 2009. It also transfers from the Division of Taxation to the Casino Control Commission the responsibility for administering the Casino Complimentaries Tax, the Casino Adjusted Net Income Tax, the Multi-Casino Slot Machine Tax, the Casino Parking Fee, and the \$3 Casino Hotel Occupancy Fee. The Division of Taxation will not be collecting these taxes and fees effective September 2004.

### Rate

Taxes and fees are assessed at the following rates:

- 4.25% on the value of rooms, food, beverages, or entertainment given away for free or at a reduced price as a “complimentary.”
- 8.0% on multi-casino progressive slot machine revenue.
- 7.5% on the adjusted net income of casino licensees.
- \$3.00 per day fee on each hotel room occupied by a guest in a casino hotel.
- \$3.00 per day minimum casino hotel parking charge.

### **Disposition of Revenues**

All revenues from the taxes and fees are deposited into the Casino Revenue Fund with the exception of the Casino Parking Fee, which is collected and held in a special fund by the State Treasurer. The funds are available to the Casino Reinvestment Development Authority to finance public improvements in the Atlantic City area.

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## **Atlantic City Luxury Sales Tax**

### **Description**

The Atlantic City Luxury Sales Tax applies to the receipts from specified retail sales within Atlantic City, including sales of alcoholic beverages for on-premises consumption; cover, minimum, or entertainment charges; room rental in hotels, inns, rooming, or boarding houses; hiring of rolling chairs, beach chairs, and cabanas; and tickets of admission within Atlantic City.

Casual sales, sales to New Jersey or its political subdivisions, sales exempt under Federal law, and sales by a church or nonprofit charitable organization are exempt.

### **Rate**

The rate of tax is 3% on sales of alcoholic beverages and 9% on other taxable sales. The State sales tax rate is reduced to the extent that the city rate exceeds 6%, and the maximum combined Atlantic City rate and New Jersey rate may not exceed 12%.

### **Disposition of Revenues**

Revenues are forwarded to the Sports and Exposition Authority for funding and operating Atlantic City Convention facilities.

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## **Atlantic City Tourism Promotion Fee**

### **Description**

Municipalities with convention center facilities supported by a local retail sales tax are authorized under P.L. 1991, C. 376, to collect fees for the promotion of tourism, conventions, resorts, and casino gaming. The fee is imposed upon and is payable by all hotels, motels, rooming houses, etc., in such municipalities. Atlantic City is the only New Jersey municipality that currently qualifies un-

der the law. For filing purposes, the tourism promotional fee is reported and paid by the taxpayer on the Combined Atlantic City Luxury Tax/State Sales Tax Return.

### **Rate**

The rate is \$2 per day for each occupied room in the case of hotels that provide casino gambling and \$1 per day for each occupied room in other hotels. The fee also applies to "no charge" occupancies.

### **Disposition of Revenues**

Fees are collected by the Director, certified to the State Treasurer, and distributed to the Atlantic City Convention Center Operating Authority.

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## **Cape May County Tourism Sales Tax**

### **Description**

The Tourism Improvement and Development District Act, P.L. 1992, C. 165, authorized municipalities in Cape May County to require certain businesses to collect an additional 2% retail sales tax on tourism-related retail sales and/or pay a tourism development fee. At present, businesses in Wildwood, North Wildwood, and Wildwood Crest are affected.

Tourism-related sales include the following items (if also taxable under the Sales and Use Tax Act): room rental in hotels, motels, or boarding houses; food and drink sold by restaurants, taverns, and other similar establishments, or by caterers (but not including vending machine sales); and admission charges to amusements (amusement rides, movie theaters, sporting, drama, or musical events) and cover charges in nightclubs and cabarets.

### **Rate**

The tax rate is 2% on tourism-related retail sales. The tax is in addition to the 6% State sales tax. Thus, sales subject to the Cape May Tourism and the State sales tax are taxable at 8%.

"The Phase 2 Tourism Funding Act" imposes a 1.85% tourism assessment on the rent for any occupancy of a room in a hotel, motel, or other transient accommodation. The assessment is effective for all room rentals on or after April 1, 2003.

## Disposition of Revenues

Revenues are collected by the State Treasurer and are placed in a special reserve fund to pay principal and interest on bonds and notes issued by the tourism authority for tourism promotion projects and activities. The 1.85% tourism assessment is administered by the Division of Taxation, and revenues collected are deposited in a tourism assessment fund.

## Cigarette Tax

### Description

The Cigarette Tax is collected primarily from licensed distributors who receive cigarettes directly from out-of-State manufacturers. Unless otherwise provided by law, every package of cigarettes must be stamped before being transferred from the original acquirer in New Jersey. This tax is not imposed on other tobacco products.

Sales to the United States Government or the Veterans Administration, and sales in interstate commerce are exempt.

### Rate

Effective July 1, 2004, the tax rate is \$2.40 per pack of 20 cigarettes. Formerly, the tax was \$2.05 per pack of 20 cigarettes.

A distributor is allowed a .002195% discount on the purchase of 1,000 or more stamps or meter impressions.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use. Pursuant to P.L. 1997, C. 264, initial collections of \$150 million are deposited in the Health Care Subsidy Fund.

## Corporation Business Tax

### Description

The Corporation Business Tax Act imposes a franchise tax on a domestic corporation for the privilege of existing as a corporation under New Jersey law, and on a foreign corporation for the privilege of having or exercising its

corporate charter in this State or doing business, employing or owning capital or property, maintaining an office, deriving receipts, or engaging in contracts in New Jersey.

The tax applies to all domestic corporations and all foreign corporations having a taxable status unless specifically exempt. The tax also applies to joint-stock companies or associations, business trusts, limited partnership associations, financial business corporations, and banking corporations, including national banks. Also, a corporation is defined as any other entity classified as a corporation for Federal income tax purposes and any state or Federally chartered building and loan association or savings and loan association.

Taxpayers must pay the greater of their liability under the net income tax or the alternative minimum assessment. The income-based tax is measured by that portion of the net income allocable to New Jersey. The tax applies to net income for the firm's accounting period (calendar year or fiscal year), or any part thereof during which the corporation has a taxable status within New Jersey. The alternative minimum assessment is based on apportioned gross receipts or gross profits.

Exempt from the tax are certain agricultural cooperative associations; Federal corporations which are exempt from state taxation; corporations created under the limited-dividend housing corporation law; nonprofit cemetery corporations; nonprofit corporations without capital stock; nonstock mutual housing corporations; railroad and canal corporations; sewerage and water corporations; insurance companies subject to premiums tax; and certain municipal electric corporations.

### Rate

The tax rate is 9% upon entire net income, or the portion of entire net income allocated to New Jersey. For tax years beginning in calendar year 2002 and thereafter, the minimum Corporation Business Tax is \$500 or \$2,000 for all members of a controlled or affiliated group of corporations if the aggregate annual payroll for all corporations is \$5 million or more. Rates for New Jersey S corporations were also changed in 2002. New Jersey S corporations with an entire net income of \$100,000 or less are still subject to the minimum tax, but if entire net income exceeds \$100,000, the rate for 2002 through 2006 is 1.33%.

For accounting years beginning on and after January 1, 2002, the 7.5% Corporation Business Tax rate for corporations with entire net income of \$100,000 or less is

reduced to 6.5% for corporations with entire net income of \$50,000 or less.

### Disposition of Revenues

Revenues collected from general business corporations are deposited in the State Treasury for general State use. Revenues collected from banking and financial corporations are distributed 25% to counties, 25% to municipalities, and 50% to the State.

Article 8, Section 2, paragraph 6 of the State Constitution was amended to dedicate 4% of Corporation Business Tax revenue to fund hazardous discharge cleanup, underground storage tank improvements, and surface water quality projects.

Chapter 40, P.L. 2002, Section 32 created within the General Fund a restricted reserve fund to be known as the "Corporation Business Tax Excess Revenue Fund."

### History

Corporation Business Taxes date back to 1884 when a franchise tax was imposed upon all domestic corporations. Between 1884 and 1946, the franchise tax was based upon the total amount of capital stock issued by the taxpayer and outstanding as of January 1 of each year (C. 159, P.L. 1884).

There was no franchise tax on foreign corporations prior to 1936, when provision was made for an annual tax (C. 264, P.L. 1936). This tax was replaced in 1937 (C. 25, P.L. 1937) with a new franchise tax providing for allocation of capital stock of foreign corporations.

Effective January 1, 1946 (C. 162, P.L. 1945), the tax became a net worth tax applicable to both domestic and foreign corporations and measured by net worth allocated to New Jersey. Allocation was measured by the greater of an assets factor or a three-part business factor (property, sales, and payroll).

Chapter 88, Laws of 1954, increased the tax on allocable net worth from  $\frac{8}{10}$  mills per \$1 to 2 mills per \$1.

Chapter 63, Laws of 1958, amended the Corporation Business Tax Act by adding a tax at 1 $\frac{3}{4}$ % based upon allocated net income to the tax based upon allocated net worth. The 1958 amendment also changed the tax year from a calendar year for all corporations to a privilege period coinciding with the accounting year for each taxpayer.

In 1975, the Corporation Business Tax was imposed on banking corporations and incorporated financial businesses.

In 1982, there was enacted into law a measure phasing out the Corporation Business Tax on net worth. The tax was phased out at 25% per year over a four-year period with taxpayers whose accounting or privilege periods began on or after April 1, 1983 (C. 55, P.L. 1982). The net worth tax has been eliminated for periods beginning after June 30, 1986.

Net Income Tax rates have changed as follows:

<i>Effective Date</i>	<i>Rate</i>
January 1, 1959 (C. 63, P.L. 1958)	1 $\frac{3}{4}$ %
January 1, 1967 (C. 134, P.L. 1966)	3 $\frac{1}{4}$ %
January 1, 1968 (C. 112, P.L. 1968)	4 $\frac{1}{4}$ %
January 1, 1972 (C. 25, P.L. 1972)	5 $\frac{1}{2}$ %
January 1, 1975 (C. 162, P.L. 1975)	7 $\frac{1}{2}$ %
January 1, 1980 (C. 280, P.L. 1980)	9

For taxable years ending after June 30, 1984, a carryover of net operating loss was allowed as a deduction from entire net income for seven years following the year of the loss (C. 143, P.L. 1985, approved April 22, 1985).

A surtax of 0.417% was invoked for privilege periods ending between July 1, 1990, and June 30, 1991; and 0.375% for privilege periods ending between July 1, 1989, and June 30, 1990, and July 1, 1991, through June 30, 1993. The 0.375% surtax on corporate net income was repealed effective January 1, 1994. The surtax had been scheduled to end July 1, 1994 (C. 3, P.L. 1994).

A new jobs investment tax credit, enacted in 1993 (C. 170), allows corporations to take a credit against Corporation Business Tax and property taxes for qualified investments in new or expanded business facilities resulting in new jobs in the State. The credit against Corporation Business Tax is for up to 50% of the portion of the tax that results from investment in new or expanded facilities. The credit was extended to midsize businesses by P.L. 2002, C. 40. P.L. 1993, Chapter 171, allows for a credit against Corporation Business Tax for investment in qualified equipment. The credit is 2% of the cost of qualified machinery purchased (the investment credit base). Taxpayers taking the 2% equipment credit may also take an employment credit of \$1,000 per new employee (up to a maximum of 3% of the investment credit base). A small business benefit was added by P.L. 2004, C. 65. Chapter 175 P.L. 1993 allows for a credit for increased research activities.

Two changes in 1993 brought New Jersey corporation tax law into closer alignment with Federal corporation tax law. Chapter 172 allows corporations to use the Federal modified accelerated cost recovery system for depreciation of property under the New Jersey Corporation Business Tax for property placed in service for accounting years beginning after July 7, 1993. Chapter 173 allows, for the first time, an S election to be made under New Jersey law. As noted above, a New Jersey S corporation pays a reduced tax rate on that portion of entire net income not subject to Federal corporate income tax. The shareholder is taxed on net pro rata share of S corporation income under the Gross Income Tax.

The allocation formula for multistate corporations was changed in 1995. Under prior law, multistate corporation income was allocated to New Jersey based on equally weighted New Jersey property, payroll, and sales compared to total property, payroll, and sales. The new formula counts sales twice, so that sales account for half the allocation formula (C. 245, P.L. 1995).

The legislature continued to provide additional tax benefits for corporation business taxpayers. These include a tax benefit certificate transfer program to assist certain emerging companies (C. 334, P.L. 1997), later modified by P.L. 1999, C. 140 and P.L. 2004 C. 65, and supplemented by a credit transfer program P.L. 2004, C. 65, the Small New Jersey Based High Technology Business Investment Tax Credit Act (C. 349, P.L. 1997), the carryforward of net operating losses under the Corporation Business Tax for certain taxpayers (C. 350, P.L. 1997), the extension of the carryforward of the research and development tax credit (C. 351, P.L. 1997), and the Neighborhood and Business Child Care Tax Incentive Program (C. 102, P.L. 1999).

Other credits against Corporate Business Tax liability have also been enacted for effluent equipment (P.L. 2001, C. 321), neighborhood revitalization (P.L. 2001, C. 415), HMO credit (P.L. 2000, C. 12), the economic recovery tax credit (P.L. 2002, C. 43), and the remediation tax credit (P.L. 2003, C. 296).

Electric and telephone companies were subjected to the Corporation Business Tax effective January 1, 1999.

Chapter 369, P.L. 1999, excludes certain hedge fund activity income of corporations of foreign nations from taxation under the Corporation Business Tax.

Chapter 12, P.L. 2000, provides that holders and former holders of a certificate of authority to operate a health maintenance organization are allowed a Corporation

Business Tax credit for certain payments they are required to make.

Chapter 23, P.L. 2001, provides for a three-year phase-out of the corporate taxation of the regular income of S corporations with annual income in excess of \$100,000, and for S corporations whose net income is under \$100,000 whose privilege periods end on or after July 1, 2001. Also, the bill provides for the adjusted minimum tax amount to be rounded to the next highest multiple of \$10.

Chapter 136, P.L. 2001, provides for the Corporation Business Tax payment obligations of certain partnerships and limited liability companies for privilege periods beginning on and after January 1, 2001.

Chapter 40, P.L. 2002, among other things, effects the most extensive changes in the Corporation Business Tax since 1945. This law provides for a partnership filing fee, an alternative minimum assessment, nonresident partner withholding, a "throwout rule" on corporations apportioning income outside New Jersey, and new rules for related party transactions. It also increases the minimum tax and broadens the definition of corporations that are subject to this tax.

Chapter 43, P.L. 2002, includes some provisions for incentives in the form of Corporation Business Tax credits to qualifying taxpayers engaged in a business in the qualified municipality during the municipality's "period of rehabilitation and economic recovery."

P.L. 2004, C. 47, limits the Corporation Business Tax application of net operating losses to 50% of taxable income for tax years 2004 and 2005.

P.L. 2004, C. 65, decouples Corporation Business Tax from changes in Federal bonus depreciation and certain expensing principles under IRC section 179.

### **Installment Payments of Estimated Tax**

Taxpayers are required to make installment payments of estimated tax. The requirement for making these payments is based on the amount of the total tax liability shown on the most recent return.

- (a) If the total tax liability is \$500 or more, the taxpayer must make installment payments. These payments are due on or before the 15th day of the 4th, 6th, 9th, and 12th month of the tax year.
- (b) If the total tax liability is less than \$500, installment payments may be made as shown in (a) above or, in lieu of making installment payments, the taxpayer may make a payment of 50% of the total tax liability.



The Business Tax Reform Act (C. 40, P.L. 2002) provides for two significant changes regarding corporate estimated tax. First, for the tax year beginning on or after January 1, 2002, all corporations must base their fourth quarter payment on 25% of the actual 2002 tax computed under the changes to avoid penalty. This one-time change supersedes the prior rules for estimated returns. The fourth quarter payment must be 25% of the year 2002 liability even if the corporation may have already satisfied all or substantially all of its year 2002 corporation tax liability through prior year's overpayments or quarterly estimated payments in the first three quarters. The corporation must nonetheless remit 25% of the year 2002 tax to avoid penalties.

Secondly, for large corporations with sales of over \$50 million, beginning with the year 2003, the second and third quarter payments, normally due on the 15th day of the 6th and 9th months, will be combined into a single 50% payment due on the 15th day of the 6th month. No payments will be due for such corporations on the 15th day of the 9th month, and normal 25% payments will be due in the 4th and 12th months.

### Partnerships

Chapter 40, P.L. 2002, establishes a \$150 per partner filing fee for partnerships, LLPs, and LLCs deriving income from New Jersey sources. In general, the \$150 per partner fee is based on the number of K-1s issued. For professional service corporations, the \$150 fee applies for each registered professional who owns or is employed by the enterprise and is calculated using a quarterly average. In addition to the filing fee for the initial year 2002, a 50% prepayment towards 2003 is also required with the 2002 New Jersey partnership return. The annual fee is capped at \$250,000.

New Jersey partnership payments made on behalf of out-of-State corporate and noncorporate partners are based on taxable income whether the income is distributed or undistributed and are designated as a tax at a rate of 9% for nonresident corporate partners and 6.37% for noncorporate partners. Qualified investment partnerships and partnerships listed on a U.S. national stock exchange are not subject to the tax. The calculation is based on the partnership's "entire net income" multiplied by the partnership's New Jersey apportionment percentages computed under the Corporation Business Tax, not under Gross Income Tax.

Chapter 40, P.L. 2002, subjects savings banks and savings and loan associations to the Corporation Business Tax and repeals the Savings Institution Tax and the Corporation Income Tax.

### Banking and Financial Corporations

Banking and financial corporations are subject to the Corporation Business Tax Act at the rate of 9% on net income or to the lesser rates stated above if their income meets those thresholds.

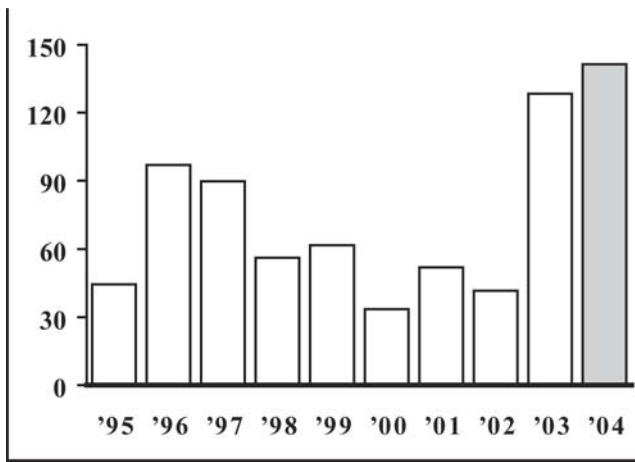
Chapter 170, P.L. 1975, provides that during each of privilege years 1976, 1977, and 1978, the amount paid by each banking corporation as taxes shall be the greater of (1) the amount which such banking corporation paid in calendar year 1975 as Bank Stock Tax, or (2) a sum equal to total of taxes paid by such banking corporation as Corporation Business Tax and Business Personal Property Tax.

Formerly, banks were subject to a tax of 1.5% on net worth under the Bank Stock Tax Act. Bank Stock Tax was formerly administered by the Division of Taxation and the 21 separate County Boards of Taxation. The corporate tax upon banks is now administered solely by the Division.

Financial business corporations were formerly subject to the Financial Business Tax. These included such corporations as small loan companies and mortgage finance companies which are now subject to Corporation Business Tax.

Chapter 171, P.L. 1975, provides that during each of the years 1976, 1977, and 1978, each financial business corporation shall pay as taxes, the greater of (1) a sum equal to the amount such financial business corporation paid under the Financial Business Tax Act in the calendar year 1975, or (2) a sum equal to the total of the taxes payable by such financial business corporation pursuant to the Corporation Business Tax Act. Chapter 40, P.L. 1978, extended the save harmless provision through 1979. It expired in 1980. As a result of changes in the Federal and State banking laws, interstate banking is now permitted (C. 17, P.L. 1996). An administrative rule adopted by the Division of Taxation (N.J.A.C. 18:7-1.14, effective June 16, 1997) sets forth certain conditions under which foreign banks and certain domestic banks will be taxed in New Jersey.

**Corporation Business Tax Collections  
(In Millions)  
Banking and Financial Corporations**



Fiscal Year	Collections
1995	44,499,198
1996	96,860,000
1997	89,716,792
1998	56,234,674
1999	61,716,112
2000	33,483,692
2001	51,971,516
2002	41,649,356
2003	128,451,019
<b>2004</b>	<b>141,432,025</b>

### Investment Companies

A taxpayer qualifying and electing to be taxed as an investment company is subject to an allocation percentage of 40% of the net income base. Investment companies are subject to a minimum tax of \$500.

*Regulated Investment Company* means any corporation which, for a period covered by its reports, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

The Corporation Business Tax on regulated investment companies was eliminated (P.L. 1983, C. 75), approved on February 24, 1983. Regulated investment companies in New Jersey were formerly taxed on both entire net worth and entire net income. These taxes were eliminated and a flat tax of \$500 per year is imposed.

Real estate investment trusts qualifying and electing to be taxed as such under Federal law are taxed at 4% of entire net income.

### Deferred Predissolution Payment

Chapter 367, P.L. 1973, approved in 1974, eliminated the requirement for a certificate to be obtained in the case of merger or consolidation involving a domestic or foreign corporation qualified to transact business in New Jersey. It also provided alternatives to actual payment of taxes, or payment on account of such taxes by providing in lieu thereof, for a written undertaking to be given by a domestic corporation, or a foreign corporation authorized to transact business in New Jersey, to pay all taxes when payable on behalf of a corporation which otherwise would have to pay all taxes prior to taking certain corporate actions.

### Allocation Factor

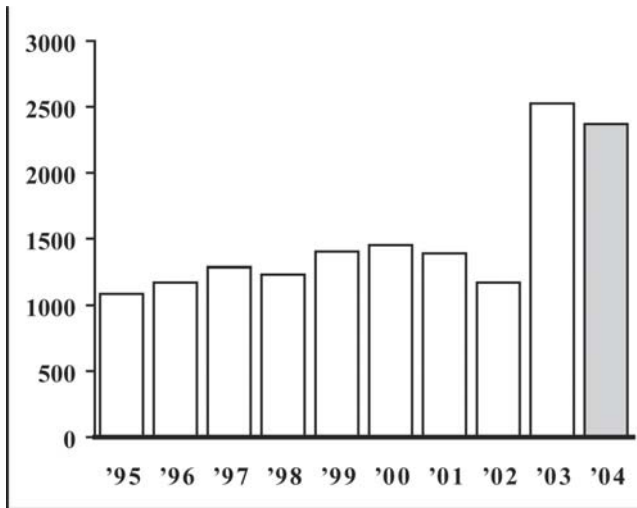
If a taxpayer has a regular place of business outside New Jersey, its tax liability is measured by net income allocated to New Jersey, according to a three-fraction formula based on an average of property, payroll, and sales, which is counted twice. The factor is computed by adding the percentage of the property and payroll fractions, and a fraction representing two times the sales receipts, and dividing the total by four.

The Business Tax Reform Act (P.L. 2002, C. 40) imposes a "throwout rule" on corporations apportioning income outside the State. The tax effect of the throwout rule on an affiliated or controlled group having \$20 million or more in net income is capped at \$5 million.

Chapter 40, P.L. 2002 also introduced an alternative minimum assessment (AMA) on apportioned gross receipts or gross profits of C corporations when the AMA exceeds the normal Corporation Business Tax. The assessment is based on either gross receipts or gross profits, with the taxpayer electing which formula to use. This formula must also be used for the next four tax periods. S corporations, professional corporations, investment companies, and unincorporated businesses are exempt from the AMA. The AMA also applies to non-New Jersey businesses deriving income from New Jersey sources with or without physical presence in the State that are not currently subject to the Corporation Business Tax.

The use of net operating losses is suspended for tax years 2002 and 2003. For 2004 and 2005 net operating losses are limited to 50% of taxable income.

**Corporation Business Tax Collections  
(In Millions)  
General Business Corporations**



Fiscal Year	Collections
1995	1,085,502,032
1996	1,171,509,159
1997	1,286,447,475
1998	1,231,629,172
1999	1,402,906,622
2000	1,452,135,808
2001	1,389,486,310
2002	1,171,456,857
2003	2,525,446,781
<b>2004</b>	<b>2,370,169,715</b>

**Corporation Income Tax**

**Description**

Corporation Income Tax applied to corporations deriving income from sources within the State which are not subject to the tax imposed under the Corporation Business Tax Act. However, the tax became practically obsolete due to Corporation Business Tax regulations as well as New Jersey’s adoption of the Multistate Tax Commission’s guidelines and the U.S. Supreme Court decision, *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992), as well as the New Jersey Tax Court decision in *Pomco Graphics v. Division of Taxation*, 13 N.J. Tax 578 (1993).

**Rate**

The Corporation Income Tax was repealed, applicable to privilege periods or taxable years beginning after 2001. Previously, the tax was imposed at the rate of 7¼% of entire net income as allocated to New Jersey.

**Disposition of Revenues**

Revenues are deposited in the State Treasury for general State use.

**Domestic Security Fee**

**Description**

A statutory assessment designated as the “Domestic Security Fee” is imposed under P.L. 2002, C. 34 on motor vehicle rental companies for each day or part thereof that a motor vehicle is rented under rental agreements of not more than 28 days. This fee applies with respect to rental agreements in New Jersey entered into on or after August 1, 2002.

**Rate**

The \$2.00 per day rental fee applies to the first 28 days of a rental agreement for a rental motor vehicle with the same renter; thus, the maximum rental fee in the aggregate is \$56.00 even if the actual rental extends beyond 28 days.

**Disposition of Revenues**

The fee is paid to the Division of Taxation for deposit in the New Jersey Domestic Security Account established in the General Fund.

**FAIR Rebate Program**

The 2004 Homestead Property Tax Rebate Act (P.L. 2004, C. 40) was given the acronym “FAIR” which stands for FAir and Immediate Relief. The Act folded the NJ SAVER Rebate Program into the existing Homestead Rebate Program, and combined certain aspects of each, eliminating the NJ SAVER rebate for tax years 2004 and thereafter. See *Homestead Rebate Program* on page 30 for more information.



## Gross Income Tax

### Description

This graduated tax is levied on gross income earned or received after June 30, 1976, by New Jersey resident and nonresident individuals, estates, and trusts.

### Rate

Rates for tax years beginning on or after January 1, 2004, range from 1.4% – 8.97%.

### Filing Threshold

For tax years beginning before January 1, 1994, filers with incomes of \$3,000 or less for the entire year (\$1,500 or less for married persons filing separately) pay no tax. For the 1994 to 1998 tax years, filers with incomes of \$7,500 or less for the entire year (\$3,750 or less for married persons filing separately) pay no tax. The income levels were raised for the 1999 tax year as part of a three-year phase-in of higher filing thresholds, and filers with incomes of \$10,000 or less for the entire year (\$5,000 or less for married persons filing separately) pay no tax. For tax year 2000, the filing threshold was \$10,000 or less for the entire year (single filers and estates and trusts), \$15,000 or less for the entire year (married couples filing jointly, heads of households, and surviving spouses), and \$7,500 or less for the entire year (married persons filing separately). For tax year 2001 and thereafter, the filing threshold is \$10,000 or less for the entire year (single filers, married persons filing separately, and estates and trusts), and \$20,000 or less for the entire year (married couples filing jointly, heads of households, and surviving spouses).

### Exemptions

- Taxpayer, \$1,000.
- Taxpayer's spouse or domestic partner who does not file separately, \$1,000.
- Taxpayer 65 years old or more, additional \$1,000; same for spouse age 65 or older who does not file separately.
- Blind or totally disabled taxpayer, additional \$1,000; same for blind or totally disabled spouse who does not file separately.
- Taxpayer's dependent, \$1,500.
- Taxpayer's dependent under age 22 and attending college full time, additional \$1,000.

### Deductions

- Payments of alimony or for separate maintenance are deductible by the payer if reported as income by the payee.
- Unreimbursed medical expenses in excess of 2% of gross income; qualified medical savings account contributions; and for the "self-employed," qualified health insurance costs.
- Property tax deduction (or credit).
- Qualified conservation contribution.

### Credits

- Payments of income or wage tax imposed by another state (or political subdivision) or by the District of Columbia, with respect to income subject to tax under this Act. This shall not exceed the proportion of tax otherwise due that the amount of the taxpayer's income bears to the taxpayer's entire New Jersey income.
- Amounts withheld by an employer and payments of estimated tax, including any payments made in connection with the sale or transfer of real property by a nonresident, estate, or trust.
- Amounts paid by an S corporation on behalf of a shareholder.
- Amounts paid by a partnership on behalf of a partner.
- New Jersey Earned Income Tax Credit.
- Excess unemployment and disability insurance contributions withheld.
- Property tax credit (or deduction).

### Withholding Requirement

All employers and others who withhold New Jersey income tax are required to file quarterly returns of tax withheld and to remit tax on a monthly, quarterly, or weekly basis.

Those with prior year withholdings of \$20,000 or more are required to remit the income tax withheld by means of Electronic Funds Transfer (EFT) on or before the Wednesday of the week following the week containing the payday(s) on which taxes were withheld.

Effective for wages paid on and after January 1, 2000, certain employers of household workers may report and remit Gross Income Tax withheld on an annual basis.

## Disposition of Revenues

Revenues are deposited in the "Property Tax Relief Fund" to be used for the purpose of reducing or offsetting property taxes.

## History

The Gross Income Tax was enacted July 8, 1976, retroactive to July 1, 1976 (C. 47, P.L. 1976).

For tax years beginning before January 1, 2000, pension income for those eligible for Social Security by reason of age (62 years or over) or disability was exempt as follows: first \$10,000 for a married couple filing jointly; \$5,000 for a married person filing separately; and \$7,500 for a single taxpayer (C. 40, P.L. 1977). Chapter 273, P.L. 1977, extended the exclusion allowed for pensions to other types of retirement income. The exclusion applies to taxpayers who are 62 years of age or older and whose earned income is not more than \$3,000. An additional exclusion was provided for taxpayers age 62 or older who are not covered by either Social Security or Railroad Retirement benefits.

Chapter 229, P.L. 1982, increased the rate from 2½% to 3½% on amounts in excess of \$50,000 effective January 1, 1983.

Property taxes paid on the taxpayer's homestead became deductible from residents' taxable income effective for taxes paid after 1984 (C. 304, P.L. 1985).

Chapter 219, P.L. 1989, exempted pension and annuity income of nonresidents from the Gross Income Tax.

The Gross Income Tax Act was amended in 1990 to include new graduated rates (from 2% to 7%) and two new filing statuses (head of household and surviving spouse). The legislation also increased the amount of the exemption for dependents from \$1,000 to \$1,500. In addition to these amendments, the legislation instituted a new Homestead Rebate Program and repealed the residential property tax deduction and credit and tenant credit. The legislation extended to heads of household and surviving spouses the exclusion of up to \$7,500 of pension and annuity income. These changes took effect in 1990. The new tax rates became effective January 1, 1991 (C. 61, P.L. 1990).

Chapter 108, P.L. 1993, permitted an exemption from an employee's gross income for employer-provided commuter transportation benefits.

State benefits received for a family member with a developmental disability were removed from the definition of income for State tax purposes in 1993 (C. 98, P.L. 1993).

Chapter 173, P.L. 1993, included subchapter S corporation income in the New Jersey Gross Income Tax base, effective with taxable years beginning after July 7, 1993.

Chapter 178, P.L. 1993, changed the method of computing the income of nonresidents for purposes of New Jersey Gross Income Tax. For tax years beginning in 1993 and thereafter, a nonresident with income from New Jersey must compute Gross Income Tax liability as though a resident, and then prorate the liability by the proportion of New Jersey source income to total income. Formerly, the calculation was based only on New Jersey source income.

A 5% reduction in the Gross Income Tax rates (to 1.9% – 6.650%) was enacted for tax year 1994 (C. 2, P.L. 1994).

The gross income filing threshold was increased to \$7,500 from \$3,000 for individuals, heads of households, surviving spouses, married persons filing jointly and estates and trusts (\$3,750 for married persons filing separately). (C. 8, P.L. 1994.)

The State reduced the Gross Income Tax rates for taxable years 1995 and thereafter. These rate reductions, combined with the 5% rate reductions for all brackets enacted as P.L. 1994, C. 2, resulted in cumulative decreases from the 1993 taxable year levels of 15%, 7.5% and 6% for certain income brackets (C. 69, P.L. 1994).

Gross Income Tax Rates were reduced again for taxable years 1996 and thereafter. In combination with the prior two rate reductions, the cumulative decrease from the 1993 taxable year was 30% for the lowest, 15% for the middle, and 9% for the highest income brackets. Tax rates range from 1.4% to 6.37% (C. 165, P.L. 1995).

A property tax deduction/credit is provided on State income tax returns for resident homeowners and tenants who pay property taxes, either directly or through rent, on their principal residence in New Jersey. Benefits were phased in over a three-year period, beginning with 1996 returns (C. 60, P.L. 1996). For tax years 1998 and there-

after, taxpayers may take the larger of either a \$50 tax credit or a deduction of up to \$10,000 for property taxes paid.

Chapter 237, P.L. 1997, exempts New Jersey Better Educational Savings Trust account earnings and qualified distributions.

Chapter 414, P.L. 1997, exempts contributions to medical savings accounts that are excludable under section 220 of the Federal Internal Revenue Code, effective for tax years beginning on or after January 1, 1998.

Chapter 3, P.L. 1998, amended the Gross Income Tax Act to adopt the new Federal exclusions of up to \$500,000 in gain from the sale of a principal residence.

Chapter 57, P.L. 1998, provides a Roth IRA exclusion from taxable income that follows the Federal treatment of Roth IRAs and certain rollovers to IRAs.

Chapter 409, P.L. 1998, exempts military pensions or military survivors' benefits paid to those 62 years of age or older, or disabled under the Federal Social Security Act, effective beginning with tax year 1998.

Chapter 106, P.L. 1998, raised from \$100 to \$400 the threshold at which quarterly estimated tax payments are required, effective for the 1999 tax year.

Effective for the 1999 through 2001 tax years, certain deductions may be available to qualified childcare consortium members (C. 102, P.L. 1999).

Chapter 116, P.L. 1999, exempts qualified distributions from qualified State tuition program accounts.

Chapter 260, P.L. 1999, increased the Gross Income Tax filing threshold to \$10,000 (\$5,000 for married persons filing separately) for the 1999 tax year. For married persons filing jointly, heads of household, and surviving spouses, the threshold increased to \$15,000 (\$7,500 for married persons filing separately) for tax year 2000, and increased to \$20,000 for tax year 2001 and later (\$10,000 for married persons filing separately).

Chapter 94, P.L. 1999, allows certain employers of domestic helpers to file the withholding tax return annually, instead of quarterly or more frequently, for wages paid on or after January 1, 2000.

Chapter 177, P.L. 1999, increases the pension exclusion and "other retirement income exclusion." For tax year 2000, the exclusions were \$12,500 for a married couple filing jointly, \$6,250 for a married person filing separately, and \$9,375 for a single filer, head of household, or surviving spouse. For tax year 2001, the exclusions were \$15,000, \$7,500 and \$11,250 respectively; for tax year 2002, the amounts are \$17,500, \$8,750, and \$13,125. For tax year 2003 and later, the exclusion amounts are \$20,000 for a married couple filing jointly, \$10,000 for a married person filing separately, and \$15,000 for a single filer, head of household, or surviving spouse.

Chapter 222, P.L. 1999, allows self-employed taxpayers, including more-than-2% shareholders of S corporations, to deduct the cost of health insurance for the taxpayer and the taxpayer's spouse and dependents (subject to certain limitations) effective for the 2000 and later tax years.

Beginning with the 2000 tax year, C. 372, P.L. 1999, provides a deduction for a qualified conservation contribution.

Chapter 80, P.L. 2001, establishes a New Jersey Earned Income Tax Credit, which is a percentage of a person's Federal Earned Income Credit. To be eligible for the New Jersey credit, a person must have at least one "qualifying child" for purposes of the Federal Earned Income Credit and must have no more than \$20,000 in New Jersey gross income.

Chapter 84, P.L. 2001, amended the military pension or survivor's benefit exclusion by eliminating the requirement that the taxpayer be at least 62 years old or disabled.

Under P.L. 2001, C. 93, qualified deposits into or withdrawals from an "individual development account" (established under the New Jersey Individual Development Account Program and 42 U.S.C. s. 604(h) for an "eligible individual"), including interest earned on such accounts, are exempt from Gross Income Tax.

Effective beginning with the 2002 tax year, C. 162, P.L. 2001, increases the exclusion for commuter transportation benefits to \$1,200 and authorizes an annual inflation adjustment.

P.L. 2002, C. 40, effective beginning with the 2002 tax year, requires partnerships to pay a \$150 filing fee per owner (up to \$250,000) and a tax prepayment made on behalf of nonresident partners.

P.L. 2002, C. 43, effective beginning with the 2003 tax year, creates a tax credit for qualifying first-time homebuyer-occupants who have purchased residential property in a qualifying municipality during the municipality's "period of economic recovery."

P.L. 2003, C. 9, creates an exclusion for the income of victims who have died as a result of the September 11th terrorist attacks. The exclusion applies for tax year 2000 and all later years up to and including the year of death.

P.L. 2003, C. 246, allows a \$1,000 personal exemption for a domestic partner who does not file separately.

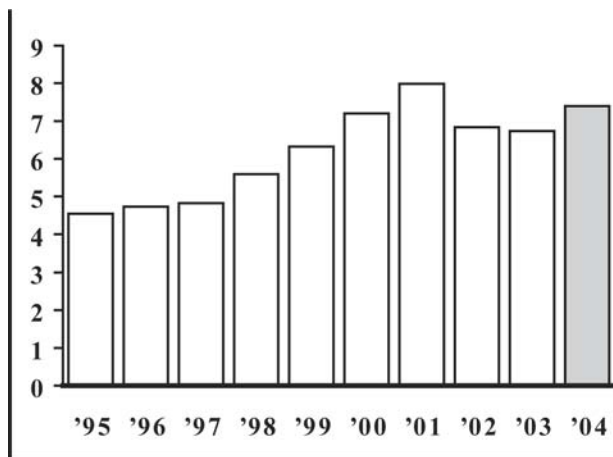
Effective beginning with the 2002 tax year, P.L. 2003 C. 256, exempts investment clubs from the \$150 per owner annual partnership filing fee and from the requirement that partnerships remit Gross Income Tax payments on behalf of their nonresident noncorporate partners. To meet the definition of "investment club," the partnership must have income below \$35,000 per individual (up to a total of \$250,000) and satisfy other limitations and criteria.

Chapter 40, P.L. 2004, imposes a tax rate of 8.97% on income over \$500,000, effective beginning with the 2004 tax year.

Chapter 55, P.L. 2004, requires that nonresidents, estates, and trusts pay estimated tax on gain from the sale or transfer of real property in New Jersey as a condition for recording the deed. The law is effective for sales or transfers occurring on and after August 1, 2004.

Effective beginning with the 2004 tax year, section 26 of P.L. 2004, C. 65, "decouples" the calculation of depreciation and section 179 expenses from recent Federal income tax provisions. Under these amendments, the expenses must be calculated by applying Federal code provisions as they were in effect on December 31, 2001 (or December 31, 2002, for section 179 expense).

### Gross Income Tax Collections (In Billions)



Fiscal Year	Collections
1995	4,540,081,765 <sup>1</sup>
1996	4,733,786,100 <sup>2</sup>
1997	4,825,410,635
1998	5,590,578,933
1999	6,323,893,129
2000	7,205,260,486
2001	7,989,222,227
2002	6,836,992,402
2003	6,735,282,357
<b>2004</b>	<b>7,400,732,606</b>

<sup>1</sup> Rates reduced to 1.7% – 6.58% effective January 1, 1995.

<sup>2</sup> Rates reduced to 1.4% – 6.37% effective January 1, 1996.

## Homestead Rebate Program

Chapter 61, P.L. 1990, created a new Homestead Property Tax Rebate Program to provide rebates for both homeowners and tenants. The new program replaced certain other direct property tax relief programs: (1) the original Homestead Rebate Program (C. 72, P.L. 1976) which provided rebates to homeowners; (2) the residential property tax deduction and credit provided to both homeowners and tenants on their income tax returns under C. 304, P.L. 1985; and (3) the tenant credit program (C. 47, P.L. 1976, as amended).

The application for the new homestead property tax rebate was combined with the resident income tax return beginning with the tax return for 1990, and benefits were linked to income level and amount of property taxes paid. Under this program rebates ranged from \$100 to \$500 for homeowners, and \$35 to \$500 for tenants, depending on the applicant's filing status, gross income, and the amount of property taxes paid, either directly or through rent. Those with incomes over \$100,000 were not eligible for a rebate.

Beginning in 1992, the State Budgets adopted by the Legislature limited the amount of the homestead rebate paid to some taxpayers. Under the budget restrictions, only taxpayers who were 65 years of age or older, or blind or disabled were eligible to receive rebates of \$100 to \$500 (homeowners) or \$35 to \$500 (tenants), provided that their gross income did not exceed \$100,000. For other taxpayers, rebates were limited to those with a gross income of \$40,000 or less, with a standard rebate amount of \$90 for homeowners and \$30 for tenants. Those with gross incomes over \$40,000 were no longer eligible for a rebate.

In November 1992 the New Jersey Tax Court ruled that anyone who resides in a dwelling which does not pay local property tax is not entitled to a homestead property tax rebate. This includes tenants living in subsidized housing or other dwellings owned by the 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 property taxes. Permanently and totally disabled veterans and their surviving spouses who do not pay property taxes are also ineligible for rebates.

On April 15, 1999, the NJ SAVER and Homestead Rebate Act (C. 63, P.L. 1999) created a new, direct property tax relief program to be phased in over five years beginning in 1999. Under the provisions of this act, homeowners who qualify for both the homestead rebate and the NJ SAVER rebate would receive either the homestead rebate or the NJ SAVER rebate, depending which program provides the greater benefit.

This same legislation increased the homestead rebate income threshold for tenants to \$100,000 and set the income threshold at \$40,000 for homeowners who are not 65 or older or blind or disabled. For 1998, tenants who

were under 65, not blind or disabled, and who had income between \$40,000 and \$100,000 were eligible to receive a \$30 homestead rebate provided they filed a Homestead Rebate Application by June 15, 1999. The legislation increased this amount to \$40 for the 1999 tax year, \$60 for the 2000 tax year, \$80 for the 2001 tax year, and \$100 for 2002 and thereafter.

Chapter 159, P.L. 2001, increased the maximum benefit under the Homestead Rebate Program for homeowners and tenants who are 65 or older or disabled from \$500 to \$750 beginning with homestead rebates paid in calendar year 2001. For homestead rebates paid in 2002 and thereafter, the maximum amount would be indexed annually to the cost of living.

This legislation also increased the maximum tenant homestead rebate paid in 2001 and thereafter to tenants who are not 65 or disabled to \$100, eliminating the three-year phase-in which, under the prior legislation (C. 63, P.L. 1999), was scheduled to end with rebates paid in 2003. It also increased the minimum rebate for tenants who are 65 or disabled to \$100.

Under State Budget provisions for fiscal year 2004 (P.L. 2003, C. 122, approved July 1, 2003), homestead rebates paid in 2003 were not adjusted by the cost-of-living increase.

The 2004 Homestead Property Tax Rebate Act (P.L. 2004, C. 40) combined the NJ SAVER and Homestead Rebate Programs into the FAIR Rebate Program. For 2003 the NJ SAVER and homestead rebates were calculated the same way, taking into account the applicant's filing status, gross income, and the amount of property taxes paid, either directly or through rent. Eligible applicants received either the homestead rebate or the NJ SAVER rebate. The rebates ranged from \$500 to \$1,200 for homeowners, and from \$150 to \$825 for tenants. Homeowners with incomes over \$200,000 or tenants with incomes over \$100,000 were not eligible for a 2003 rebate.

For tax year 2004 and thereafter, tenants apply for the FAIR rebate using Form TR-1040, which can be found in the income tax return booklet. A separate FAIR rebate application is mailed to homeowners. Only New Jersey residents who were either homeowners or tenants on October 1 and meet the other requirements are eligible for a FAIR rebate for that year.



## Hotel/Motel Occupancy Fee/ Municipal Occupancy Tax

### Description

P.L. 2003, C.114, imposes a State Occupancy Fee and authorizes the imposition of a Municipal Occupancy Tax on charges for the rental of a room in a hotel, motel, or similar facility in most New Jersey municipalities.

### Rate

The State Occupancy Fee rate is 7% for occupancies from August 1, 2003, through June 30, 2004, and 5% for occupancies on and after July 1, 2004, or at a lower rate in cities in which such occupancies are already subject to tax:

- Atlantic City—1%
- Newark and Jersey City—1%
- The Wildwoods—3.15%

In addition, between August 1, 2003, and June 30, 2004, municipalities other than Atlantic City, Newark, Jersey City, and the Wildwoods may adopt an ordinance to impose a Municipal Occupancy Tax of up to 1%. The Municipal Occupancy Tax rate may be increased from a rate of 1% up to a rate of 3%, at the municipality's option, pursuant to local ordinance effective July 1, 2004. The majority of the municipalities that have enacted a Municipal Occupancy Tax have authorized the tax rate to increase to 3% as of July 1, 2004.

### Disposition of Revenues

The monies collected from the State Occupancy Fee are deposited to the General Fund and are statutorily allocated, in varying percentages, to the New Jersey State Council on the Arts for cultural projects; the New Jersey Historical Commission; the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion; and the New Jersey Cultural Trust. Any amount over the dedication is allocated to the General Fund. Collections from the Municipal Occupancy Tax are distributed back to the municipality.

## Insurance Premiums Tax

### Description

The Insurance Premiums Tax applies to premiums collected on insurance risks by every insurance company transacting business in New Jersey. The tax base is gross contract premiums less specified deductions. Annuity considerations and reinsurance premiums are not taxed.

### Rate

With a few exceptions, the tax rate is 2% of the premiums collected on insurance risks in this State. Major exceptions include group accident and health insurance premiums (1%); ocean marine risks (5% of three-year average of underwriting profits); workers' compensation premiums (2.25%). If, for any insurance company, the ratio of New Jersey business to total business is greater than 12.5%, the tax is imposed on only 12.5% of that company's total premiums. Another .05% is imposed on group accident and health premiums and another .1% on all other insurance premiums, the revenues being dedicated to the Department of Insurance.

In 1991 the Life and Health Guaranty Association was formed, supported by assessments of up to 2% each year on defined life insurance, annuity, and health insurance accounts. Each member insurer may offset some portion of its assessment against its Insurance Premiums Tax liability.

### Disposition of Revenues

The tax is prepaid based on the previous year's premiums, with payments due March 1 and June 1. Revenues, with the exception of some domestic revenues, are deposited in the State Treasury for general State use.

Municipalities and counties continue to receive payments to replace the revenue from the repealed insurance franchise tax on domestic insurance corporations. The State Treasurer pays an annual amount to each county and municipality in which the principal office of a domestic insurance company is located. Payments are made so long as the principal office of a domestic insurance company remains at the location established on January 1, 1981.

## Landfill Closure and Contingency Tax

### Description

This tax is levied upon the owner or operator of every sanitary landfill facility located in New Jersey on all solid waste accepted for disposal on or after January 1, 1982. In addition, the owner or operator must make a monthly payment of \$1.00 per ton or \$0.30 per cubic yard for the host community benefit surcharge for all solid waste accepted for disposal.

**Rate**

The tax rate is \$0.50 per ton or \$0.15 per cubic yard on all solid waste accepted for disposal. The tax rate for solid waste in liquid form is \$0.002 per gallon.

**Disposition of Revenues**

All tax revenues are credited to the Sanitary Landfill Facility Contingency Fund, administered by the New Jersey Department of Environmental Protection, established to insure the proper closure and operation of sanitary landfill facilities in this State.

**Litter Control Fee****Description**

The Litter Control Fee is imposed on all gross receipts from sales of litter-generating products sold within or into New Jersey by each person engaged in business in the State as a manufacturer, wholesaler, distributor, or retailer of such products. Any retailer with less than \$500,000 in annual retail sales of litter-generating products is exempt from this fee. Restaurants are exempt if more than 50% of their food and beverage sales are for on-premises consumption.

Litter-generating products include beer, cigarettes, cleaning agents and toiletries, distilled spirits, food, glass containers, metal containers, groceries, tires, newsprint and magazine paper stock, nondrug drugstore sundry products, paper products, plastic and fiber containers, soft drinks, and wine.

**Rate**

Manufacturers, wholesalers, and distributors of litter-generating products pay a fee of  $\frac{3}{100}$  of 1% (.03%) on all gross receipts from wholesale sales of such products in New Jersey. Retailers are charged at the rate of  $\frac{2.25}{100}$  of 1% (.0225%) on all gross receipts from retail sales of litter-generating products. The fee is paid annually on March 15th of each year.

**Disposition of Revenues**

Revenues are deposited in the Clean Communities Program Fund and are used for litter pickup and removal and to provide recycling grants to New Jersey counties and municipalities.

**Local Property Tax****Description**

An *ad valorem* tax—The local property tax is measured by property values and is apportioned among taxpayers according to the assessed value of taxable property owned by each taxpayer. The tax applies to real estate and tangible personal property of telephone, telegraph, and messenger systems companies.

A *local tax*—The property tax is a local tax assessed and collected by municipalities for the support of municipal and county governments and local school districts. No part of it is used for support of State government.

*Amount of tax* (a residual tax)—The amount of local property tax is determined each year, in each municipality, to supply whatever revenue is required to meet budgeted expenditures not covered by monies available from all other sources. School districts and counties notify municipalities of their property tax requirements. Municipalities add their own requirements and levy taxes to raise the entire amount. As a residual local tax, the total property tax is determined by local budgets and not by property valuations or tax rates.

*Property assessment* (the tax base)—All taxable property is assessed (valued for taxation) by local assessors in each municipality. Assessments are expressed in terms of “taxable value,” except for qualified farm land, which is specially valued.

**Rate**

The local property tax rate is determined each year in each municipality by relating the total amount of tax levy to the total of all assessed valuations taxable. Expressed in \$1 per \$100 of taxable assessed value, the tax rate is a multiplier for use in determining the amount of tax levied upon each property. See Appendix A for the 2002 general and effective property tax rates in each municipality.

**Disposition of Revenues**

This tax is assessed and collected locally by the taxing districts for support of county and municipal governments and local school district purposes.

**History**

It may be said that the property tax originated in 1670 with a levy of one half penny per acre of land to support the central government. Through the middle of the 19th century property taxes were levied upon real estate and

upon certain personal property at arbitrary rates within certain limits called “certainties.” In 1851 the concepts of a general property tax and uniform assessments according to actual value were developed (Public Laws 1851, p. 273).

For almost a century following the 1851 legislation, a continuing effort was made to accomplish uniform taxation under a general property tax. In 1875 a constitutional amendment provided that “property shall be assessed for taxes under general laws and by uniform rules according to its value” (Article 4, Section 7, paragraph 12). Courts held that the 1875 amendment permitted classification of property for tax purposes and also exemption of certain classes from taxation, or the substitution of other kinds of tax “in lieu.” Thus began a long period of erosion of the “general property tax” concept. In 1884 a State Board of Assessors was created and given responsibility for assessment of railroad and canal property, thus setting the pattern for State assessment of certain classes of property.

Intangible personal property was eliminated from the “general property tax base” in 1945 (replaced with a corporation net worth tax). Such elimination shifted the emphasis for tax reform to tangible personal property.

The New Jersey State Constitution adopted in 1947 provided that “property shall be assessed for taxation under general law and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district” (Article 8, Section 1).

This Article was interpreted to preclude any classification of real estate but to leave the door open for classified taxes upon personal property. In 1963 the Constitution was amended to permit assessment of farm property according to its value for agricultural use only. Chapter 51, Laws of 1960 (effective for tax year 1965) provided for such classification and also provided other significant modifications.

Personal property provisions of Chapter 51, Laws of 1960, were replaced by Chapter 136, Laws of 1966. For taxes payable in 1968 and until 1993, personal property used in business (other than the businesses of local exchange telephone, telegraph, and messenger system companies and other public utilities) was subject to the Business Personal Property Tax instead of the local tax. Personal property is no longer subject to any property tax and inventories of all businesses are excluded from property taxation.

The 1966 law also provided for replacement of local personal property tax revenues from four tax sources: (1) Retail Gross Receipts Tax, (2) Corporation Business (Net Income) Tax, (3) Business Personal Property Tax and (4) Unincorporated Business Tax. This revenue replacement program was terminated (C. 3, P.L. 1977). Legislation was passed providing for an annual appropriation of not less than \$158.7 million.

The decision in *Switz v. Middletown Township, et al.*, 23 N.J. 580 (1957) required that all taxable property be assessed at “true value” (100% assessment). This was the beginning of a series of New Jersey court decisions which have been a major factor in development of uniform real estate tax assessment. R.S. 54:4-23 was amended to provide that when an assessor believes that all or part of a taxing district’s property is assessed lower or higher than is consistent with uniform taxable valuation or is not in substantial compliance with the law, and that the public’s interest will be promoted by a reassessment of such property, the assessor shall make a reassessment of the property not in compliance.

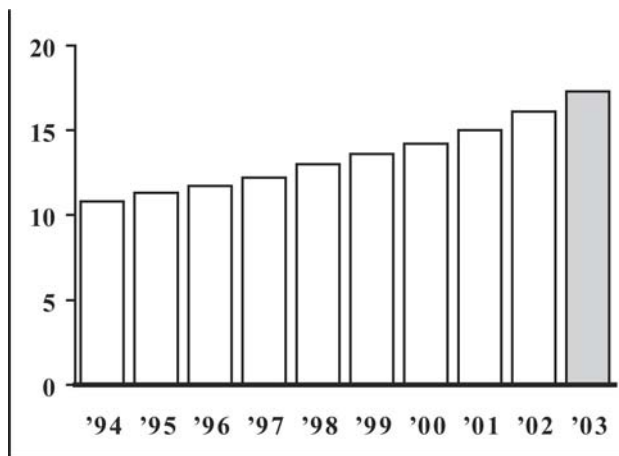
Prior to making this reassessment, the assessor shall first notify in writing: the mayor, the municipal governing body, the Division of Taxation, the county tax board, and the county tax administrator of the basis for the reassessment and shall submit a compliance plan to the county board of taxation and the Division of Taxation for approval. After reassessment of a portion of a taxing district, the assessor shall certify to the county board of taxation, through adequate sampling as determined by the board, that the reassessed portion of the taxing district is in compliance with those portions of the district which were not reassessed.

A long period of legislative history has developed numerous exemptions and special property tax treatments. These are found principally in R.S. 54:4-3.3 and in R.S. 54:4-3.6. Generally exempt are government-owned property; and property of religious, educational, charitable, and various types of nonprofit organizations. R.S. 54:4-3.6 was amended to permit a religious or charitable organization to lease property to another exempt entity for a different exempt use without the loss of its property tax exemption. An amendment to R.S. 54:4-3.10 provided that property owned by any exempt firefighter’s association, firefighter’s relief association, or volunteer fire company would retain its tax-exempt status although the organization owning the property used the property for an income-producing purpose on an auxiliary basis provided that the auxiliary activity does not exceed 120 days annually and the net proceeds from the auxiliary activity are



used to further the primary purpose of the organization or for other charitable purposes. Qualified senior citizens and disabled persons are permitted a tax deduction of \$250 annually as per N.J.S.A. 54:4-8.40 et seq. The veterans' deduction was increased from \$50 to \$100 for tax year 2000, \$150 for 2001, \$200 for 2002, and \$250 for 2003 and thereafter pursuant to N.J.S.A. 54:4-8.10 et seq. Wartime service periods were also expanded.

### Local Property Tax Gross Levy (In Billions)



Fiscal Year	Gross Tax Levy
1994	11,286,354,001
1995	11,746,914,124
1996	12,177,920,307
1997	12,579,899,717
1998	13,040,191,871
1999	13,558,860,459
2000	14,195,812,735
2001	14,992,785,135
2002	16,053,021,123
<b>2003</b>	<b>17,254,024,652</b>

## Motor Fuels Tax

### Description

A tax on motor fuels is applied to gasoline, diesel fuel, or liquefied petroleum gas and compressed natural gas used in motor vehicles on public highways.

### Rate

The general motor fuels tax rate is \$0.105 per gallon of gasoline. A tax of \$0.0525 per gallon is imposed on petroleum gas and liquefied or compressed natural gas sold or used to propel motor vehicles on public highways.

The diesel fuel tax rate is \$0.135 per gallon, of which \$0.03 per gallon is refundable for fuel used in passenger automobiles and motor vehicles of less than 5,000 pounds gross weight (C. 73, P.L. 1984, effective September 1, 1985).

No tax is due from motor fuels sales to the United States or New Jersey government; between licensed distributors; between licensed gasoline jobbers; and for export.

### Disposition of Revenues

Certain revenues are credited to a special account in the General Fund and are dedicated from the gasoline tax, the petroleum products tax, and the Sales and Use Tax to the Transportation Trust Fund for maintenance of the State's transportation system. See the New Jersey Constitution, Article 8, Section 2, paragraph 4.

## NJ SAVER Rebate Program

Chapter 63, P.L. 1999, approved on April 15, 1999, and known as the New Jersey School Assessment Valuation Exemption Relief and Homestead Property Tax Rebate Act (NJ SAVER and Homestead Rebate Act), created the NJ SAVER Rebate Program. New Jersey residents, regardless of age or income, who own, occupy, and pay property taxes on a home in New Jersey that was their principal residence on October 1 of any year are eligible to receive a rebate for that year.

The State calculates the rebate on each applicant's home by multiplying the equalized value of a home by the effective school tax rate for the municipality in which the home is located. The equalized value for the calculation cannot exceed \$45,000. Since school tax rates vary among municipalities, NJ SAVER rebate amounts will vary. The legislation provided for a five-year phase-in period beginning in 1999. The first rebate checks mailed in 1999 represented 20% of the maximum NJ SAVER rebate and homeowners received 40% of the maximum rebate in 2000.

Chapter 106, P.L. 2001, amended the original legislation to accelerate the phase-in period of the NJ SAVER

Rebate Program from five years to four years. The legislation increased the amount to be paid in 2001 from 60% to 83 $\frac{1}{3}$ % of the full amount and provided for the full benefit amount to be paid in 2002.

The State Budget adopted by the Legislature for fiscal year 2003 limited NJ SAVER rebates to homeowners earning \$200,000 or less and limited rebates to the amounts paid in 2001.

As part of the State Budget for fiscal year 2004, NJ SAVER rebates were not paid to any individual or married couple with gross income in excess of \$200,000. Additionally, the amount paid was limited to 50% of the prior year's NJ SAVER rebate check.

The 2004 Homestead Property Tax Rebate Act (P.L. 2004, C. 40) was given the acronym "FAIR" which stands for FAir and Immediate Relief. The Act folded the NJ SAVER Rebate Program into the existing Homestead Rebate Program, and combined certain aspects of each, eliminating the NJ SAVER rebate for tax years 2004 and thereafter. See *Homestead Rebate Program* on page 30 for more information.

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## Outdoor Advertising Fee

### Description

Pursuant to N.J.S.A. 54:4-11.1, an Outdoor Advertising Fee is imposed on the gross amounts collected by a retail seller for advertising space on an outdoor advertising sign (billboard). The fee is due from the retail seller and is based upon the amount that the seller receives from an end user, whether payment is received in money or otherwise, for the sale of space on an outdoor advertising sign. The retail seller is the licensee or permit holder authorized by the New Jersey Department of Transportation to engage in the business of outdoor advertising and selling the space to the end user. The end user is the person purchasing the space in order to place their advertisement on the sign. The Outdoor Advertising Fee is only imposed on amounts collected for the placement of advertising on the sign.

Although the fee is imposed on the retail seller, the law provides that the seller is not subject to the fee on amounts collected from a purchaser/end user that is ex-

empt from New Jersey Sales and Use Tax pursuant to N.J.S.A. 54:32B-9(a) or (b). There is also an exemption for "fees received by an advertising agency that is not a related party of the retail seller and that are not received from the retail seller."

### Rate

The Outdoor Advertising Fee is imposed at a rate of 6% on the gross amounts collected by a retail seller for billboard advertising space. Recently enacted legislation (P.L. 2004, C.42) amends certain sections of the law which will affect payment of the fee on amounts collected on and after July 1, 2004. In addition, the fee is reduced from 6% to 4% for the period July 1, 2006, through June 30, 2007.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use.

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## Petroleum Products Gross Receipts Tax

### Description

The Petroleum Products Gross Receipts Tax is imposed on all companies engaged in refining and/or distributing petroleum products for distribution in this State. It applies to the first sale, not for export, of petroleum products within New Jersey.

Home heating oil (including #2, #4, and #6 heating oils) and propane gas and kerosene used for residential heating are exempt from tax. Also exempt from tax are receipts from sales of petroleum products used by marine vessels engaged in interstate or foreign commerce; receipts from sales of aviation fuels used by airplanes in interstate or foreign commerce other than burnout portion; receipts from sales of asphalt and polymer grade propylene used in the manufacture of polypropylene; receipts from sales to nonprofit entities qualifying for exemption under the Sales and Use Tax Act; and receipts from sales to the United States or the State of New Jersey.

Effective January 1, 2001, P.L. 2000, C. 156, phased out, over a three-year period, the Petroleum Products Gross Receipts Tax for fuel used by any utility, co-generation facility, or wholesale generation facility to generate electricity sold at wholesale or through certain retail channels.

**Rate**

The petroleum products tax is imposed at the rate of 2¾% on gross receipts from the first sale of petroleum products in New Jersey. In the case of fuel oils, aviation fuels, and motor fuels this rate is converted to \$0.04 per gallon pursuant to C. 48, P.L. 2000, adopted on June 30, 2000.

**Disposition of Revenues**

Certain revenues are credited to a special account in the General Fund and dedicated to the Transportation Trust Fund under the New Jersey Constitution, Article 8, Section 2, paragraph 4.

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## Property Tax Reimbursement Program

Chapter 348, P.L. 1997, approved January 14, 1998, created the Property Tax Reimbursement (“Senior Freeze”) Program which effectively freezes property taxes for eligible New Jersey senior citizens and disabled persons by reimbursing them for property tax increases. The first year a resident satisfies all the eligibility requirements becomes their base year. Residents who remain eligible in succeeding years will be reimbursed for any increase in the amount of property taxes paid over the base year amount.

Residents are eligible if they (1) are age 65 or older or receiving Federal Social Security disability benefits; (2) owned and lived in a homestead (or mobile home which is on a leased site in a mobile home park) for at least the last three years; (3) lived in New Jersey and paid property taxes either directly or through rent for at least ten consecutive years; (4) paid the full amount of property taxes (or site fees if a mobile home owner) due on the home for both their base year and the year for which they are claiming the reimbursement; and (5) meet certain income eligibility limits for both the base year and the year for which they are claiming a reimbursement.

The income limits will increase in subsequent years by the amount of the maximum Social Security benefit cost-of-living increase for that year. Applicants must meet all requirements for both their base year and the year for which they are claiming a reimbursement. Once an appli-

cant’s base year is established, it remains the same as long as they remain eligible in succeeding years. If a homeowner (or mobile home owner) does not satisfy the requirements in one year, then their base year will become the next year that they satisfy all the requirements.

Under the provisions of the State Budget for fiscal year 2004 (P.L. 2003, Chapter 122, approved July 1, 2003), only applicants who received a reimbursement for tax year 2001 and who met all the eligibility requirements, including the income limits for 2002, were eligible to receive a reimbursement for 2002. The amount applicants received for tax year 2002 could not exceed the amount they received for 2001. For 2003, reimbursements were issued to all eligible applicants for the difference between their 2003 property taxes and their base year property taxes. For eligible applicants who filed applications for the first time for 2002 but did not receive checks, the 2003 reimbursement represented the difference between the amount of their 2003 property taxes paid and the amount of their 2001 (base year) taxes.

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## Public Community Water System Tax

**Description**

The Public Community Water System Tax is levied upon the owner or operator of every public community water system in New Jersey based upon water delivered to consumers, not including water purchased for resale, on or after April 1, 1984.

**Rate**

The tax rate is \$0.01 per 1,000 gallons of water delivered to a consumer.

**Disposition of Revenues**

Revenues are deposited in the Safe Drinking Water Fund administered by the New Jersey Department of Environmental Protection and used to ensure clean drinking water in New Jersey.

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## Public Utility Franchise Tax

### Description

Public Utility Franchise Tax applies to all sewerage and water companies having lines and mains along, in, on, or over any public thoroughfare.

The rate is either 2% or 5% of a proportion of the gross receipts of the taxpayer for the preceding calendar year. The proportion of gross receipts subject to tax is the ratio of the taxpayer's total length of lines or mains which are located along, in, on, or over any street, highway, road, or other public place to the whole length of lines or mains. Measurements of lengths of lines or mains exclude service connections.

### Administration

The Franchise Tax levied against the sewerage and water companies is payable to the State in three installments: 35% due May 15, 35% due August 15, and 30% due November 15.

### Rate

The rate is 2% for taxpayers with calendar year gross receipts of \$50,000 or less and 5% for taxpayers with calendar year gross receipts exceeding \$50,000.

### Disposition of Revenues

Revenues are deposited into an account that is used to fund the Energy Tax Receipts Property Tax Relief Fund, which is distributed to municipalities in accordance with P.L. 1997, C. 167.

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## Public Utility Gross Receipts Tax

### Description

Public Utility Gross Receipts Tax is in addition to the Franchise Tax and is in lieu of the local taxation of certain properties of sewerage and water companies in New Jersey.

### Administration

The Gross Receipts Tax levied against the sewerage and water companies is payable to the State in three installments: 35% due May 15, 35% due August 15, and 30% due November 15.

### Rate

7.5% is applied to the gross receipts for the preceding calendar year.

### Disposition of Revenues

Revenues are deposited into an account that is used to fund the Energy Tax Receipts Property Tax Relief Fund, which is distributed to municipalities in accordance with P.L. 1997, C. 167.

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## Public Utility Excise Tax

### Description

Public Utility Excise Tax is an additional tax on sewerage and water public utilities.

### Administration

The Public Utility Excise Tax levied against the sewerage and water companies is payable to the State in full on May 1.

### Rate (Calendar Year Basis)

- 0.625% —upon gross receipts subject to the franchise tax (0.25% for taxpayers with gross receipts not in excess of \$50,000 annually);
- 0.9375% —upon gross receipts of all sewerage and water public utilities.

### Disposition of Revenues

Revenues are deposited into an account that is used to fund the Energy Tax Receipts Property Tax Relief Fund, which is distributed to municipalities in accordance with P.L. 1997, C. 167.

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## Railroad Franchise Tax

### Description

The Railroad Franchise Tax is levied upon railroads (or systems of railroads) operating within New Jersey. The tax base is that portion of the road's (or system's) net railway operating income of the preceding year allocated to New Jersey. The allocating factor is the ratio of the number of miles of all track in this State to the total number of miles of all track over which the railroad or system operates.

**Rate**

Railroad Franchise Tax is assessed at the rate of 10% upon the net railway operating income of the preceding year allocated to New Jersey. The minimum is \$100 for taxpayers having total railway operating revenues in the preceding year of less than \$1 million and \$4,000 for taxpayers with operating revenues in excess of \$1 million in the preceding year.

**Disposition of Revenues**

Revenues are deposited in the State Treasury for general State use.

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## Railroad Property Tax

**Description**

Railroad Tax Law of 1948 as amended distinguishes three classes of property:

Class I: “Main stem” roadbed—that not exceeding 100 feet in width.

Class II: All other real estate *used for railroad purposes* including roadbed other than “main stem” (Class I), tracks, buildings, water tanks, riparian rights, docks, wharves, piers. Excluded is “tangible personal property”: rolling stock, cars, locomotives, ferryboats, all machinery, tools. Facilities used in passenger service are also excluded, being defined as Class III property.

Class III: Facilities used in passenger service: land, stations, terminals, roadbeds, tracks, appurtenances, ballast, and all structures used in connection with rendering passenger service, including signal systems, power systems, equipment storage, repair, and service facilities (N.J.S.A. 54:20A-2).

The Railroad Property Tax is a State tax on Class II property.

**Exemptions**

Main stem (Class I), tangible personal property, and facilities used in passenger service (Class III) are exempt from tax.

**Rate**

\$4.75 for each \$100 of true value of Class II railroad property.

**Disposition of Revenues**

Revenues are deposited in the State Treasury for general State use. However, under legislation adopted in 1966, the municipalities where railroad property is located are guaranteed the return of certain replacement revenues. No State aid has been paid since calendar year 1982, except for 1984–1994 payments to those municipalities in which Class II railroad property owned by New Jersey Transit Corporation is located (P.L. 1984, C. 58). Since 1995, payments have been paid on Class II railroad properties owned by New Jersey Transit Corporation through the Consolidated Municipal Tax Relief Aid Program administered by the Department of Community Affairs.

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## Realty Transfer Fee

**Description**

The Realty Transfer Fee is imposed upon the recording of deeds evidencing transfers of title to real property in the State of New Jersey. The Realty Transfer Fee is calculated based on the amount of consideration recited in the deed.

The Realty Transfer Fee does not apply to a deed: for a consideration of less than \$100; by or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof; solely in order to provide or release security for a debt or obligation; which confirms or corrects a deed previously recorded; on a sale for delinquent taxes or assessments; on partition; by a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors; eligible to be recorded as an “ancient deed” pursuant to R.S. 46:16-7; acknowledged or proved on or before July 3, 1968; between husband and wife, or parent and child; conveying a cemetery lot or plot; in specific performance of a final judgment; releasing a right of reversion; previously recorded in another county and full Realty Transfer Fee paid; by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent’s estate in accordance with the provisions of the decedent’s will or the intestate laws of this State; recorded within 90 days following the entry of a divorce decree which dissolves the marriage between grantor and grantee; issued by a cooperative corporation, as part of a conversion of all of the assets of the cooperative corporation into a condominium, to a shareholder upon the surrender by the shareholder of all of the shareholder’s stock in the cooperative corporation and the proprietary lease entitling the shareholder to exclusive occupancy of a portion of the property owned by the corporation.



**Rate**

Legislation (P.L. 2003, C. 113) effective July 14, 2003, provides for the imposition of transfer fees on the sale of real estate as follows:

**Standard Transactions and New Construction**

The Realty Transfer Fee rates for standard transactions and new construction, including a supplemental fee, are:

\$2.00 (includes \$.25 supplemental fee) / \$500 of consideration not in excess of \$150,000.

\$3.35 (includes \$.85 supplemental fee) / \$500 of consideration in excess of \$150,000 but not in excess of \$200,000.

\$3.90 (includes \$1.40 supplemental fee) / \$500 of consideration in excess of \$200,000.

**Senior Citizens or Blind or Disabled Persons;  
Low and Moderate Income Housing**

The law does not increase the Realty Transfer Fee rates on transfers by senior citizens, blind persons, disabled persons, and on the transfer of property that is low- and moderate-income housing. Those fees are calculated as follows:

\$0.50 / \$500 of consideration of \$150,000 or less.

\$1.25 / \$500 of consideration over \$150,000.

**Disposition of Revenues**

The Realty Transfer Fees per \$500 of consideration will be allocated according to the type of transaction as follows:

**Standard (no exemption)**

Consideration	County Treasurer	State Treasurer	Neighborhood P.N.R. Fund
\$150,000 or less	\$ 0.75 <sup>1</sup>	\$ 1.25	0
Over \$150,000 but not over \$200,000	0.75 <sup>1</sup>	1.85 <sup>2</sup>	\$ 0.75
Over \$200,000	0.75 <sup>1</sup>	2.40 <sup>3</sup>	0.75

**Senior Citizens or Blind or Disabled Persons;  
Low and Moderate Income Housing**

Consideration	County Treasurer	State Treasurer	Neighborhood P.N.R. Fund
\$150,000 or less	\$ 0.50	0	0
Over \$150,000	0.50	0	\$ 0.75

**New Construction**

Consideration	County Treasurer	State Treasurer	Neighborhood P.N.R. Fund
\$150,000 or less	\$ 0.75 <sup>1</sup>	\$ 1.00 <sup>4</sup>	\$ 0.25
Over \$150,000 but not over \$200,000	0.75 <sup>1</sup>	0.60 <sup>4</sup>	2.00
Over \$200,000	0.75 <sup>1</sup>	1.15 <sup>3</sup>	2.00

<sup>1</sup>Under the Public Health Priority Funding Act of 1977, \$0.25 per \$500 of consideration is deposited into a special fund.

<sup>2</sup>\$0.60 per \$500 of consideration is deposited into the Extraordinary Aid Account.

<sup>3</sup>\$1.15 per \$500 of consideration is deposited into the Extraordinary Aid Account.

<sup>4</sup>Entire amount is deposited into the Extraordinary Aid Account.

The proceeds of the Realty Transfer Fees collected by the county recording officer are accounted for and remitted to the county treasurer. In fiscal year 2004, a total of \$151,000,139 was paid to the State Treasurer in Realty Transfer Fees.

Amounts not in excess of \$25,000,000 paid during the State fiscal year to the State Treasurer from the payment of the State portion of the basic fee are credited to the Shore Protection Fund.

In fiscal year 2004, \$70,101,284 was paid to the State Treasurer and credited to the Neighborhood Preservation Nonlapsing Revolving Fund.

A “supplemental fee” is allocated between the county Public Health Priority Fund and the State Extraordinary Aid Account. In fiscal year 2004, the Extraordinary Aid Account received \$76,219,960.

**Changes for Fiscal Year 2005**

Legislation (P.L. 2004, C. 66) effective August 1, 2004, imposed a new fee on grantors (sellers) called the “general purpose fee” for transfers with an entire consideration in excess of \$350,000. This fee is \$.90/\$500 for consideration not in excess of \$550,000; \$1.40/\$500 for consideration in excess of \$550,000 but not in excess of \$850,000; \$1.90/\$500 for consideration in excess of \$850,000 but not in excess of \$1,000,000; and \$2.15/\$500 for consideration in excess of \$1,000,000. Chapter 66 also imposes a new fee on grantees (buyers) for property transfers zoned for residential use, whether improved or not, for consideration in excess of \$1,000,000, of 1% of the entire amount of such consideration recited in the deed.

Legislation (P.L. 2005, C. 19) effective February 1, 2005, revised Chapter 66 to impose the 1% fee on grantees by

property class transferred: Class 2 “residential”; 3A “farm property (regular)” if effectively transferred with other property to the same grantee; and cooperative units. In fiscal year 2005, the 1% fee, when applicable, is *not* imposed by zoning. The 1% fee does not apply to organizations determined by the Internal Revenue Service to be exempt from Federal income taxation that are the buyers in deeds for a consideration in excess of \$1,000,000.

## Sales and Use Tax

### Description

Sales and Use Tax applies to receipts from retail sale, rental, or use of tangible personal property; retail sale of producing, fabricating, processing, installing, maintaining, repairing, storing, and servicing tangible personal property; maintaining, servicing, or repairing real property; certain direct-mail services; sales of restaurant meals; rental of hotel and motel rooms; certain admission charges; and telecommunications services.

A compensating use tax is also imposed when taxable goods and services are purchased and New Jersey sales tax is either not collected or is collected at a rate less than New Jersey’s sales tax rate. The use tax is due when such goods, or the goods on which taxable services are performed, come into New Jersey. If sales tax was paid to another state, the use tax is only due if the tax was paid at a rate less than New Jersey’s rate.

All persons required to collect the tax must file a Business Registration Application (Form NJ-REG). Each registrant’s authority to collect the sales tax is certified by a Certificate of Authority issued by the Division, which must be prominently displayed at each place of business to which it applies.

Major exemptions include: sales of newspapers and magazines; casual sales except motor vehicles and registered boats; clothing, except furs; farm supplies and equipment; flags of New Jersey and the United States; unprepared food for off-premises consumption; food sold in school cafeterias; prescription and nonprescription drugs and other medical aids; motor fuels; periodicals and textbooks; professional and personal services; real estate sales; tangible personal property used in research and development; transportation of persons or property; production machinery and equipment.

### Rate

The rate of tax is 6% on taxable sales.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use.

### History

New Jersey’s first sales tax became effective on July 1, 1935. The tax rate was set at 2%. P.L. 1935, provided that sales taxation would cease as of June 13, 1938.

Sales and Use Tax next became effective July 1, 1966. Rate of tax was set at 3% (C. 30, P.L. 1966).

Additional exemptions from the tax were provided by C. 25, P.L. 1967. Chapter 7, P.L. 1970, increased the tax rate to 5%, effective March 1, 1970. This Act and C. 25, P.L. 1970, contained certain transitional provisions relating to this increased rate.

Effective July 1, 1972, sales of alcoholic beverages, except draught beer sold by the barrel, to any retail licensee were made subject to Sales and Use Tax (C. 27, P.L. 1972). The 1972 amendment repealed taxation of sales of packaged liquor by retailer to consumer. The tax applied at the wholesale-retail level. Its base was the minimum consumer retail price as filed with the Board of Alcoholic Beverage Control.

Sale, rental, or lease of commercial motor vehicles weighing more than 18,000 pounds became exempt from Sales and Use Tax effective January 1, 1978 (C. 217, P.L. 1977).

Production machinery and equipment became exempt from Sales and Use Tax effective January 1, 1978.

The Division took over administration of the Atlantic City Luxury Sales Tax (C. 60, P.L. 1980).

A new tax imposed on wholesale receipts of alcoholic beverage licensees at 6.5% of the wholesale price superseded the prior tax imposed under the Sales and Use Tax law at 5% of the minimum consumer resale price (C. 62, P.L. 1980).

Recycling equipment was exempted from Sales and Use Tax effective January 12, 1982 (C. 546, P.L. 1981).

The Sales and Use Tax rate increased to 6%, effective January 3, 1983 (C. 227, P.L. 1982).

Nonprescription drugs, household paper products, and soaps and detergents were exempted from Sales and Use Tax, effective July 1, 1983.

The Sales and Use Tax rate increased to 7%, effective July 1, 1990. Several major exempt items and services became taxable July 1, 1990, e.g., cigarettes; alcoholic beverages; household soap and paper products; janitorial services; telecommunications services; and sales, rentals, leasing, parts, and services for certain commercial motor vehicles (C. 40, P.L. 1990).

Chapter 115, P.L. 1990, approved November 19, 1990, reinstated, with modifications, the exemption for certain sales, rentals, leases, and repair and replacement parts for commercial motor vehicles, retroactive to July 1, 1990.

Household paper products became exempt again September 1, 1991 (C. 209, P.L. 1991).

The Sales and Use Tax rate decreased to 6%, effective July 1, 1992 (C. 11, P.L. 1992).

Local public pay-phone calls were exempted from the tax under a law passed January 15, 1993, and retroactive to July 1, 1990 (C. 10, P.L. 1993).

Effective July 1, 1994, retail sales of certain tangible personal property in Salem County were taxed at 3% (C. 373, P.L. 1993).

Sales and Use Tax was repealed on advertising space in a telecommunications user or provider directory or index distributed in New Jersey, effective April 1, 1996 (C. 184, P.L. 1995).

Certain radio and television broadcast production equipment was exempted from Sales and Use Tax effective April 1, 1996 (C. 317, P.L. 1995).

Sales and Use Tax was imposed on sales of energy (C. 162, P.L. 1997).

Effective January 8, 1998, the farm use exemption was amended to apply to tangible personal property (except automobiles, and except property incorporated into a building or structure) used “directly and primarily” in the production for sale of tangible personal property for sale on farms, ranches, nurseries, greenhouses, and orchards (C. 293, P.L. 1997).

Imprinting services performed on manufacturing equipment that is exempt under N.J.S.A. 54:32B-8.13 were exempted from Sales and Use Tax effective March 1, 1998 (C. 333, P.L. 1997).

Sales and Use Tax was repealed on sales of advertising services, other than direct-mail services performed in New Jersey, on and after November 1, 1998 (C. 99, P.L. 1998).

Chapter 221, P.L. 1999, provides for expanded Sales and Use Tax exemptions for film and video industries.

Chapter 246, P.L. 1999, exempts repairs to certain aircraft from Sales and Use Tax.

Chapter 248, P.L. 1999, clarifies the imposition of New Jersey Sales and Use Tax on the retail sale of prepaid telephone calling arrangements. The statute shifts the incidence of the tax from the point of use to the point at which the arrangement is sold to the consumer.

Sales and Use Tax exemption for the amount of sales through coin-operated vending machines was increased from \$0.10 to \$0.25 (C. 249, P.L. 1999).

“The Firearm Accident Prevention Act” (C. 253, P.L. 1999) exempts sales of firearm trigger locks from Sales and Use Tax.

“The Secure Firearm Storage Act” exempts sales of firearm vaults from Sales and Use Tax (C. 254, P.L. 1999).

Chapter 273, P.L. 1999, provides for general exemption from Sales and Use Tax of costs of purchase and repair of commuter ferryboats.

“Farm use” exemption was revised through C. 314, P.L. 1999.

Chapter 365, P.L. 1999, provides Sales and Use Tax exemptions for certain purchases by flood victims of Hurricane Floyd.

Chapter 416, P.L. 1999, grants exempt organization status under the New Jersey Sales and Use Tax Act to the National Guard, Marine Corps League, and war veterans’ posts or associations. This law also creates a Sales and Use Tax Review Commission.

Chapter 90, P.L. 2001, provides for a Sales and Use Tax exemption for the sale and repair of limousines.

The Uniform Sales and Use Tax Administration Act (C. 431, P.L. 2001) authorizes New Jersey to participate in discussions of the Streamlined Sales Tax Project in an effort to simplify and modernize Sales and Use Tax collection and administration.

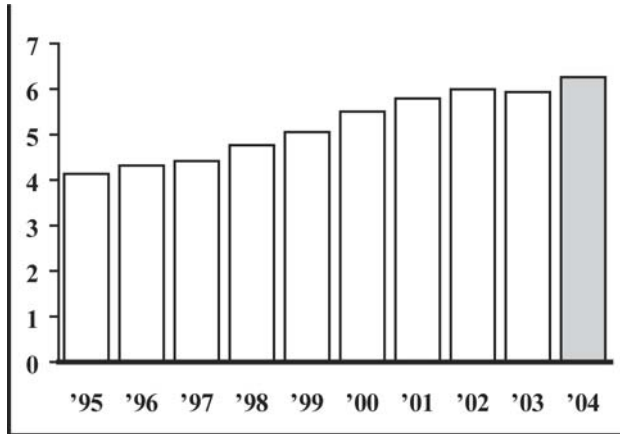
Chapter 45, P.L. 2002, brings the Sales and Use Tax Act into compliance with the Federal Mobile Telecommunications Sourcing Act.



Chapter 136, P.L. 2003, provides that the receipts from rentals of tangible personal property between “related persons” are exempt from Sales and Use Tax.

Chapter 266, P.L. 2003, provides a Sales and Use Tax exemption for the sale of zero emission motor vehicles.

**Sales and Use Tax Collections  
(In Billions)**



Fiscal Year	Collections
1995	4,133,278,016
1996	4,318,372,824
1997	4,415,427,600
1998	4,766,194,660
1999	5,054,437,769
2000	5,508,045,603
2001	5,758,670,303
2002	5,996,839,407
2003	5,936,057,141
<b>2004</b>	<b>6,261,700,380</b>

**Urban Enterprise Zones**

The New Jersey Urban Enterprise Zones Act (C. 303, P.L. 1983), approved August 15, 1983, provides tax advantages and other business tools to enhance development efforts in the State’s economically distressed urban centers. The statute was amended in 2002 to add Urban Enterprise Zone-impacted business districts. Urban Enterprise Zone-impacted business districts are areas that have been negatively impacted by the presence of two or more adjacent Urban Enterprise Zones. Under the program, qualified municipalities apply to the Urban Enterprise Zone Authority to have a portion of the municipality designated as an Urban Enterprise Zone or Urban Enterprise Zone-im-

acted business district. Businesses must apply to the local municipal zone coordinator to be certified as a “qualified business” before they can take advantage of these benefits.

Initially ten zones (the maximum number provided under the statute) were established in: Bridgeton, Camden, Elizabeth, Jersey City, Kearny, Millville/Vineland, Newark, Orange, Plainfield, and Trenton. Chapter 367, P.L. 1993, approved January 5, 1994, allowed for the designation of ten additional enterprise zones. This increased the number of zones from 10 to 20, adding Asbury Park/Long Branch, Carteret, Lakewood, Mount Holly, Passaic, Paterson, Perth Amboy, Phillipsburg, Pleasantville, and Union City. Seven new zones were added in 1996: East Orange, Guttenberg, Hillside, Irvington, North Bergen, Pemberton, and West New York. In 2002, three additional zones were designated: Bayonne City, Roselle Borough, and a joint zone consisting of North Wildwood City, Wildwood City, Wildwood Crest Borough, and West Wildwood Borough (P.L. 2001 C. 347). Gloucester City was added effective April 1, 2004 (P.L. 2003, C. 285).

In 2002, legislation was passed which requires the Urban Enterprise Zone Authority to extend a zone’s initial designation as an Urban Enterprise Zone if the particular enterprise zone meets certain requirements. The same legislation provides for the replacement of the final 5-year period of the 20-year Urban Enterprise Zone designation for the eligible zones with a new 16-year period.

The possible tax benefits conferred on qualified businesses within a designated Urban Enterprise Zone include:

- Corporation Business Tax credits for hiring new employees;
- Sales and Use Tax exemption for purchases of building materials, most tangible personal property, and most services for business use;
- Unemployment tax rebates;
- Authorization to impose State sales tax at 50% of the regular rate (3%).

The only benefit conferred on qualified businesses within a designated Urban Enterprise Zone-impacted business district is the authorization to impose State sales tax at 50% of the regular rate (3%).

**Sales Tax Benefits**

A vendor within an Urban Enterprise Zone or Urban Enterprise Zone-impacted business district wishing to collect sales tax at the reduced rate must first be certified as

a “qualified business,” and then apply to the Division of Taxation for authority to collect tax at the reduced rate. No business may collect sales tax at the reduced rate without the proper certification. The certification is valid for one year. Recertification is automatic unless the business changes or loses its qualified status.

A qualified business may collect sales tax at the reduced rate only on a face-to-face retail sale of tangible property to a buyer who comes to its business location within the zone or district and accepts delivery from the location. Thus, telephone, mail order, or catalog sales do not qualify for the reduced rate. Sales of certain items are not eligible for the reduced sales tax rate. Tax must be collected at the full regular rate on sales of: restaurant meals and prepared food, cigarettes, alcoholic beverages, energy, and the sale, rental, or lease of motor vehicles. The reduced rate does not apply to sales of any services by a qualified business.

A qualified business may purchase items of tangible personal property (office and business equipment, supplies, furnishings, fixtures, etc.), and taxable services (construction work, repair, and installation services, etc.) which are for the exclusive use of the business at its location in the zone without paying sales tax. Building materials used at the zone location are also exempt from tax, whether purchased by the qualified business or the contractor. The exemption from sales tax does not apply to purchases or repairs of motor vehicles, or purchases of telecommunications services and energy. Qualified businesses located within Urban Enterprise Zone-impacted business districts are not entitled to this benefit.

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## Savings Institution Tax

### Description

The Savings Institution Tax is applicable to every savings institution doing a financial business in New Jersey. The Act defines Savings Institution as any state or Federally chartered building and loan association, savings and loan association, or savings bank.

Excluded from tax are:

- (1) 100% of dividends of an owned and qualified subsidiary; and
- (2) 50% of other dividends included in taxable income for Federal tax purposes.

### Rate

The Savings Institution Tax was repealed applicable to privilege periods or taxable years beginning after 2001 (Chapter 40, P.L. 2002). Previously, the tax was imposed at the rate of 3% of net income.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use.

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## Solid Waste Services Tax

### Description

The Solid Waste Services Tax is levied upon the owner or operator of every sanitary landfill facility located in New Jersey on all solid waste accepted for disposal on or after May 1, 1985.

### Rate

The tax rate in 2004 is \$1.45 per ton or \$0.435 per cubic yard on all solid waste accepted for disposal. The tax rate for solid waste in liquid form is \$0.002 per gallon. On the first of January annually the tax rate increases on solids by \$0.05 per ton or \$0.015 per cubic yard.

### Disposition of Revenues

The revenue collected from the Solid Waste Services Tax is deposited in the Solid Waste Services Tax Fund administered by the New Jersey Department of Environmental Protection. Monies in the fund are allocated to the counties based on the amount of waste generated and used for implementing county solid waste management plans.

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## Spill Compensation and Control Tax

### Description

The Spill Compensation and Control Tax is imposed on owners or operators of one or more major facilities used to refine, store, produce, handle, transfer, process, or transport hazardous substances, including petroleum products, to insure compensation for cleanup costs and damages due to discharge of hazardous substances.

The tax is also imposed on owners of a hazardous substance which is transferred to a public storage terminal,

and to any transferor of a previously untaxed nonpetroleum hazardous substance from a major facility to one which is a nonmajor facility.

### Rate

1. Nonpetroleum hazardous substances—1.53% of fair market value;
2. Petroleum products—\$0.023 per barrel;
3. Precious metals—\$0.023 per barrel;
4. Elemental phosphorus—\$0.023 per barrel; and
5. Elemental antimony or antimony trioxide—\$0.023 per barrel, with annual approval.

The tax rate may be increased in the case of a major discharge or series of discharges of petroleum products to a rate not to exceed \$0.04 per barrel until the revenue produced by the increased rate equals 150% of the total dollar amount of all pending reasonable claims resulting from the discharge.

The tax for an individual taxpayer facility which paid the tax in 1986 is capped at a certain percentage of the taxpayer's 1986 liability.

### Disposition of Revenues

The proceeds constitute a fund (New Jersey Spill Compensation Fund) to insure compensation for cleanup costs and damage associated with the discharge of petroleum products and other hazardous substances.

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## Tobacco Products Wholesale Sales and Use Tax

### Description

The Tobacco Products Wholesale Sales and Use Tax is imposed on the receipts from every sale of tobacco products, other than cigarettes, by a distributor or a wholesaler to a retail dealer or consumer. Cigarettes are exempt from this tax.

Chapter 448, P.L. 2001, effective March 1, 2002, converts the Tobacco Products Wholesale Sales and Use Tax from one imposed on the price that a distributor receives from the sale of tobacco products to a vendor or consumer to one imposed upon the (lower) price that the distributor pays to buy the products from the manufacturer.

### Rate

The rate of the Tobacco Products Wholesale Sales and Use Tax and the base for calculating the tax changed. The rate is reduced to 30% and is imposed on the invoice price the distributor pays to buy the products from the manufacturer.

Distributors and wholesalers who also sell tobacco products at retail or otherwise use the tobacco products must pay a compensating use tax of 30% measured by the sales price of a similar tobacco product to a distributor.

### Disposition of Revenues

Revenues are deposited in the State Treasury for general State use. Pursuant to P.L. 1997, C. 264, initial collections of \$5 million are deposited in the Health Care Subsidy Fund.

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## Transfer Inheritance and Estate Taxes

### Description

The Transfer Inheritance Tax applies to the transfer of all real and tangible personal property located in New Jersey and intangible personal property wherever situated having an aggregate value of \$500 or more in estates of resident decedents. In estates of nonresident decedents, the tax applies to real property and tangible personal property located in the State of New Jersey.

The Estate Tax is imposed in addition to the Transfer Inheritance Tax on the estates of resident decedents where inheritance, estate, succession, or legacy taxes paid are less than the Federal credit allowable.

### Rate

The Transfer Inheritance Tax rates depend on the amount received and the relationship between the decedent and the beneficiary. No tax is imposed on immediate family (direct ancestors or descendants—Class A), spouses, or domestic partners. Class C beneficiaries (sibling of decedent, spouse or domestic partner, or widow/er of a child of decedent) are taxed at 11%–16%, with the first \$25,000 exempt. Class D beneficiaries (all others) are taxed at 15%–16%, with no tax on bequests of less than \$500. Charitable institutions are exempt from tax.

For decedents dying on or before December 31, 2001, the Estate Tax is based upon the credit for state inheritance, estate, succession, or legacy taxes allowable under the provisions of the Internal Revenue Code in effect on the

decedent's date of death. For decedents dying after December 31, 2001, the Estate Tax is based upon the credit for state inheritance, estate, succession, or legacy taxes allowable under the provisions of the Internal Revenue Code in effect on December 31, 2001.

During 2001 there was no tax due on Federal taxable estates of less than \$675,000. Under the provisions of the Federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the applicable Federal exclusion amounts were increased to:

2002 and 2003	\$1.0 Million
2004 and 2005	1.5 Million
2006, 2007, and 2008	2.0 Million
2009	3.5 Million
2010	Tax Repealed

The New Jersey Estate Tax exclusion was frozen at the 2001 level for decedents dying in 2002 and thereafter. The Estate Tax is an amount equal to the allowable Federal credit for inheritance, estate, succession, and legacy taxes less the total of such taxes paid to New Jersey, any other state, territory or possession of the United States, or the District of Columbia. For decedents dying after December 31, 2001, the reduction for taxes paid to other jurisdictions is limited to that portion of the credit which bears the same relationship to the total credit as the property subject to tax in the other jurisdiction bears to the property subject to tax in New Jersey.

**Exemptions From Transfer Inheritance Tax**

- All transfers having an aggregate value under \$500;
- Life insurance proceeds paid to a named beneficiary;
- Charitable transfers for the use of any educational institution, church, hospital, orphan asylum, public library, etc.;
- Transfers for public purposes made to New Jersey or any political subdivision thereof;
- Federal civil service retirement benefits payable to a beneficiary other than the estate;
- Annuities payable to survivors of military retirees; and
- Qualified employment annuities paid to a surviving spouse or domestic partner.

**Disposition of Revenues**

Revenues are deposited in the State Treasury for general State use.

**History**

New Jersey first imposed an inheritance tax in 1892 at a rate of 5% on property transferred from a decedent to a beneficiary.

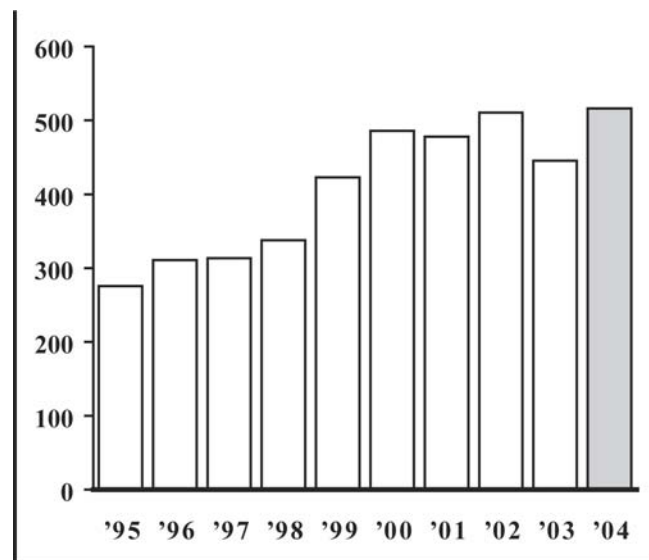
In 1909, legislation was enacted which formed the basis of the present Transfer Inheritance Tax (N.J.S.A. 54:33-1 et seq.).

In 1934, legislation was enacted which formed the basis of the Estate Tax (N.J.S.A. 54:38-1 et seq.). On June 30, 1992, the filing date for estate taxes for decedents dying after March 1, 1992, was shortened. The due date had been the later of 18 months after the date of death or 60 days after the Federal notification of Federal estate tax due. The new due date is 9 months after date of death (C. 39, P.L. 1992). Estate taxes are paid by the estate to the extent that inheritance taxes are below the Federal credit for State taxes.

On February 27, 1985, an amendment to the Transfer Inheritance Tax Act (C. 57, P.L. 1985) eliminated from taxation transfers from decedents to surviving spouses (retroactive to January 1, 1985) and to other Class A beneficiaries on a phased-out basis through July 1, 1988. On July 1, 1988, other Class A beneficiaries became totally exempt from the tax. Class C beneficiaries were granted a \$25,000 exemption effective on July 1, 1988. Effective September 10, 2004, transfers to a domestic partner became exempt (P.L. 2003, C. 246).

In July 2002, legislation (C. 31, P.L. 2002) was enacted changing the manner in which Estate Tax is computed for the estates of decedents dying after December 31, 2001. Under the changes made to the Federal estate tax law, New Jersey's Estate Tax would have been phased out over a three-year period.

**Transfer and Inheritance Estate Tax Collections (In Millions)**



<b>Fiscal Year</b>	<b>Collections</b>
1995	275,823,814
1996	310,655,978
1997	313,447,496
1998	337,679,941
1999	423,015,329
2000	485,948,339
2001	478,061,055
2002	510,367,419
2003	445,310,855
<b>2004</b>	<b>516,007,975</b>

## Transitional Energy Facility Assessment

### Description

The Transitional Energy Facility Assessment is a temporary, partial substitute for the Public Utility Energy Unit Tax previously assessed against public utilities engaged in the sale and/or transmission of energy (therms of natural gas or kilowatt-hours of electricity).

### Administration

The Transitional Energy Facility Assessment is assessed against the public utility energy companies, or their successors or assignees, and is due May 15.

### Rate

The rates of taxation for each class and category of natural gas and electricity are established by the New Jersey Board of Public Utilities.

### Disposition of Revenues

Revenues are deposited into an account that is used to fund the Energy Tax Receipts Property Tax Relief Fund, which is distributed to municipalities in accordance with C. 167, P.L. 1997.

## Uniform Transitional Utility Assessment

### Description

The Uniform Transitional Utility Assessment is assessed against public utilities engaged in the sale and/or transmission of energy (therms of natural gas or kilowatt-hours of electricity) which were subject to the Public Utility Energy Unit Tax prior to January 1, 1998, and against telecommunication providers previously subject to the Public Utility Franchise and Gross Receipts Tax assessed under C. 4, P.L. 1940.

### Administration

The Uniform Transitional Utility Assessment is assessed against the public utility energy companies and the public utility telecommunications companies, or their successors or assignees, and is due May 15. Any amount paid by a taxpayer shall be available only as a nonrefundable credit against the tax in which the estimation is made, and shall not be claimed until after August 1 of the year the assessment is paid.

### Rate

For energy taxpayers, the assessment shall be equal to 50% of the total of the taxpayer's estimate of Sales and Use Tax on energy (natural gas or electricity) and utility service (transportation or transmission of natural gas or electricity by means of mains, wires, lines, or pipes to users or customers) remittance for the calendar year and Corporation Business Tax liability for the calendar year.

For telecommunication taxpayers, the assessment shall be equal to 50% of the taxpayer's estimate of its Corporation Business Tax liability for the calendar year.

### Disposition of Revenues

Revenues are deposited into accounts that are used to fund the Energy Tax Receipts Property Tax Relief Fund, which is distributed to municipalities in accordance with C. 167, P.L. 1997.





**New Jersey Division of Taxation**

## **LEGISLATION AND COURT DECISIONS**



## LEGISLATION

### Administration

#### **P.L. 2004, C. 52 — Electronic Funds Transfer**

Enacted on June 29, 2004, and effective immediately, lowers the threshold for mandatory use of electronic transfer as the means of filing State taxes to those taxpayers whose prior year liability was \$10,000 or more.

#### **P.L. 2004, C. 56 — Bank Account Information**

Enacted on June 29, 2004, and effective immediately, requires financial institutions, in response to a request by the Director of the Division of Taxation, to transmit electronically a report regarding the accounts of tax debtors.

#### **P.L. 2004, C. 57 — Contractor Registration Changes**

Enacted on June 29, 2004, and effective immediately, but remaining inoperative until September 1, 2004, extends to local government agencies the requirement that public entities may enter into public contracts with providers of goods and services only if they have presented documentation showing that they are registered with this State for tax purposes. The act also requires that these providers of goods and services and their affiliates remit sales or use tax on tangible personal property delivered to a retail buyer in this State.

#### **P.L. 2004, C. 58 — License Suspension of Tax-Noncompliant Businesses**

Enacted on June 29, 2004, and effective immediately, provides a mechanism whereby the Division of Taxation will receive information regarding the identity of entities (including individuals) that are holders of licenses to engage in a particular profession, trade, or business in this State, and will then examine their tax records to identify any areas of noncompliance and will give them an opportunity to contest their indebtedness or delinquency or to come into compliance. The act authorizes the Director to demand the summary suspension of a professional, occupational, or business license of an entity that already has an unsatisfied judgment for tax indebtedness, or who fails to remedy any tax indebtedness after receiving the notice provided for under this act.

#### **P.L. 2004, C. 79 — Report for Study Commission on Discrimination**

Enacted on July 2, 2004, and applicable to studies already begun before that effective date, permits the Secretary of State to request from the Division of Taxation, and requires the Division to supply, a report containing basic

information, not including tax information, regarding public employees and contractors. This information will be used by the Governor's Study Commission on Discrimination in State Employment and Contracting, solely in assessing the nature and scope of any past or present discrimination.

### Cigarette Tax

#### **P.L. 2004, C. 67 — Rate Increase**

Enacted on June 30, 2004, and effective July 1, 2004, increases the cigarette tax to \$.12 per cigarette, increasing the tax on a pack by \$.35.

#### **P.L. 2004, C. 96 — Packaging Requirements**

Enacted on July 9, 2004, and effective October 1, 2004, amends the Cigarette Tax Act to prohibit the sale of cigarettes in packs of fewer than 20.

### Corporation Business Tax

#### **P.L. 2003, C. 166 — Business Employment Incentive Program**

(Signed into law on September 2, 2003) Expands the New Jersey Business Employment Incentive Program, which is designed to promote economic development, and provides for additional funding by authorizing the Economic Development Authority to issue bonds. This act took effect immediately.

#### **P.L. 2003, C. 194 — Economic Development Incentives**

(Signed into law on November 21, 2003) Expands the economic development incentives for rehabilitation and economic recovery in certain fiscally distressed municipalities.

Chapter 194 expands both the business incentive program and the jobs creation credit program to extend eligibility for the credits allowed under each beyond corporation business tax payers to include insurance companies subject to insurance premiums taxes under P.L. 1945, C.121 (C.54:18A-1) and foreign insurance companies subject to "retaliatory" taxes.

This law also increases the maximum percentage of the rebate base allowable against either corporation business tax or the premiums or retaliatory taxes under the business incentive program from 75% to 100% in cases as to which the New Jersey Economic Development Authority finds that a particular business relocation or expansion

will more effectively effectuate the purposes of the “Municipal Rehabilitation and Economic Recovery Act.”

The act took effect immediately, and applies to privilege periods and reporting periods beginning on or after June 30, 2002.

#### **P.L. 2003, C. 296 — Tax Credit for Environmental Remediation Costs**

(Signed into law on January 14, 2004) Provides a corporation business tax credit for 100% of the eligible costs of the remediation of certain contaminated sites in the State performed during privilege periods beginning on or after January 1, 2004, and before January 1, 2007. The amount of the credit cannot exceed 50% of the tax liability due and cannot reduce the tax liability to an amount below the statutory minimum tax. However, in most cases any unused tax credit not utilized because of these limitations may be carried over for the next five privilege periods.

In addition, the tax credit, when combined with the property tax exemption received under the Environmental Opportunity Zone Act, less any “in lieu of” tax payments made pursuant to that Act, or any other State, local, or Federal tax incentive or grant to remediate a site, cannot exceed 100% of the total cost of the remediation.

Only taxpayers that are not liable for the contamination of the site as “responsible parties” under the Spill Compensation and Control Act are eligible for the credit.

This act took effect immediately.

#### **P.L. 2004, C. 65 — Decoupling**

Enacted on June 30, 2004, and effective immediately, affects certain expense deductions and depreciation permitted on the New Jersey CBT-100. For property placed in service on and after January 1, 2004, the law decouples the Federal ceiling from the amount permitted to be deducted as an expense for New Jersey corporation business tax purposes under IRC section 179. Returns for periods ending after December 31, 2003, are affected if property has been placed in service on or after January 1, 2004, but during the privilege period. Since the amount of the deduction under prior law was \$25,000, that is the limit of the IRC section 179 deduction for New Jersey purposes. The act also makes clear that property placed in service after September 10, 2001, will not receive the bonus depreciation treatment.

#### **P.L. 2004, C. 47 — Net Operating Loss Changes**

Enacted on June 29, 2004, and effective immediately, provides that for privilege periods beginning during calendar year 2004 and calendar year 2005, a limited net operating loss (“NOL”) deduction is allowed for the

privilege period. The deduction permitted may reduce entire net income by up to 50%. To the extent that any NOL is disallowed by reason of this limiting provision, the date on which the disallowed deduction would otherwise expire is extended by a period equal to the period of disallowance.

## **Cosmetic Medical Procedures Gross Receipts Tax**

#### **P.L. 2004, C. 53 — Cosmetic Medical Procedures Gross Receipts Tax**

Enacted on June 29, 2004, and effective immediately, but which remains inoperative until September 1, 2004, imposes a new 6% gross receipts tax on the purchase of certain cosmetic medical procedures, which are medical procedures performed in order to improve a person’s appearance, but without significantly serving to prevent or treat illness or disease or to promote proper functioning of the body. “Cosmetic medical procedures” do not include reconstructive surgery or dentistry to correct or minimize abnormal structures caused by birth defects, developmental abnormalities, trauma, infection, tumors, or disease. The tax will be collected from the patient by the cosmetic medical service provider, who will be required to remit the tax quarterly.

## **Environmental Taxes**

#### **P.L. 2004, C. 50 — Spill Compensation and Control Tax Changes**

Enacted on June 29, 2004, provides for tax rate increases effective immediately and retroactive to transfers occurring on and after January 1, 2004. The new tax rate for petroleum products, hazardous substances containing precious metals, elemental phosphorous, and elemental antimony or antimony trioxide for fire retardants is \$0.023 per barrel transferred. The new tax rate for hazardous substances other than the above listed is 1.53% of the fair market value of the substance transferred.

#### **P.L. 2004, C. 51 — Air Toxics Surcharge**

Enacted on June 29, 2004, and effective immediately, imposes a new annual surcharge ranging from \$.10 to \$10 per pound of toxic substance, depending on the category of toxin, on toxic air emissions at certain kinds of facilities. A portion of the revenue from this fee will be used to improve security at nuclear power plants in the State.

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## Gross Income Tax

### **P.L. 2003, C. 246 — Domestic Partnership Act**

(Signed into law on January 12, 2004) Sets forth the requirements that must be met to establish a domestic partnership.

The act provides that for gross income tax purposes, the meaning of “dependent” will include a qualified domestic partner, which will allow the taxpayer to claim an additional \$1,000 personal exemption for a qualified domestic partner who does not file a separate tax return.

The act takes effect on the 180th day after enactment. The provisions of sections 47 through 56, which pertain to health service providers, will apply to policies or contracts issued or renewed on or after the effective date.

### **P.L. 2004, C. 40 — Increased Tax on High-Income Taxpayers**

Enacted on June 28, 2004, and effective immediately, increases the gross income tax rate for the highest-income taxpayers. It establishes an additional tier in the graduated gross income tax table for taxpayers with taxable income above \$500,000, providing that the portion of income exceeding \$500,000 shall be taxed at a rate of 8.97%.

### **P.L. 2004, C. 55 — Estimated Tax on Income From Sale of Real Property by Nonresidents**

Enacted on June 29, 2004, and effective August 1, 2004, supplements the Gross Income Tax Act by requiring nonresidents who derive income from the sale of real property in this State to pay estimated gross income tax. The legislation provides that a county recording officer, at the time the deed is filed, must be presented with evidence of filing or payment of estimated tax with respect to the gain realized from the sale.

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## Inheritance/Estate Tax

### **P.L. 2003, C. 246 — Domestic Partnership Act**

(Signed into law on January 12, 2004) Sets forth the requirements that must be met to establish a domestic partnership.

This act provides that for transfer and inheritance tax purposes, property held jointly by qualified domestic partners that is transferred to a domestic partner will be treated as property held jointly by a spouse.

Chapter 246 also states that no tax is imposed on transfers of property to a qualified domestic partner for transfer inheritance tax purposes. In addition, the value of any

pension, annuity, retirement allowance, or return of contribution payable to a domestic partner is exempt from tax.

The act takes effect on the 180th day after enactment. The provisions of sections 47 through 56, which pertain to health service providers, will apply to policies or contracts issued or renewed on or after the effective date.

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## Local Property Tax

### **P.L. 2003, C. 125 — Long-Term Tax Exemption**

(Signed into law on July 9, 2003) Makes various changes in the law governing long-term real property tax exemptions. The law took effect immediately and governs tax appeals filed for tax year 2003 and thereafter.

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## Miscellaneous

### **P.L. 2003, C. 197 — Veterans’ Benefits**

(Signed into law on December 16, 2003) Extends eligibility for certain veterans’ benefits to veterans who served at least 14 days in the theater of operation of Operations “Enduring Freedom” and “Iraqi Freedom.” Section 5 of the law provides that an eligible person is entitled to the annual \$250 property tax deduction or a property tax exemption if the eligible person has a total and permanent service-incurred disability.

Chapter 197 also makes technical changes and updates to descriptions of what constitutes service during Operation “Restore Hope” in Somalia, and Operations “Joint Endeavor” and “Joint Guard” in the Republic of Bosnia and Herzegovina.

Chapter 197 took effect immediately, but section 6 (the implementation section) remained inoperative until January 1, 2004.

### **P.L. 2003, C. 256 — Investment Clubs**

(Signed into law on January 14, 2004) Exempts investment clubs from the \$150 per owner annual partnership filing fee and from the requirement that a partnership make payments of New Jersey gross income tax on behalf of its nonresident noncorporate partners.

The act provides that a qualified “investment club” is an entity that is classified as a partnership for Federal income tax purposes in which all of the owners are individuals; and all of the assets are securities, cash, or cash equivalents; and the market value of the total assets does

not exceed an amount equal to the lesser of \$250,000 or \$35,000 per owner of the entity, as measured on the last day of its taxable year. Also, the partnership is not required to register itself or its membership interests with the Federal Securities and Exchange Commission.

Chapter 256 also provides for an annual inflationary adjustment for the cap on the total assets of the entity and average assets of the owners.

The act took effect immediately, and applies to taxable years and privilege periods beginning on and after January 1, 2002.

**P.L. 2003, C. 266 — Low Emission Vehicle Program** (Signed into law on January 14, 2004) Requires that the Department of Environmental Protection implement the California Low Emission Vehicle program in New Jersey beginning on January 1, 2009. A provision in this act provides that receipts from sales of zero emission vehicles sold on and after May 1, 2004, are exempt from the tax imposed under the Sales and Use Tax Act.

Chapter 266 defines “zero emission vehicle” and also provides that the Commissioner of Environmental Protection shall certify to the State Treasurer the make and model of those motor vehicles that are zero emission vehicles eligible for the exemption.

The act took effect immediately.

**P.L. 2004, C. 17 — Medical Malpractice Liability Insurance Premium Assistance Fund** (Signed into law on June 7, 2004) The “New Jersey Medical Care Access and Responsibility and Patients First Act” provides comprehensive reforms affecting the tort liability system, health care system, and medical malpractice liability insurance carriers to ensure that health care services continue to be available and accessible to residents of New Jersey.

The act establishes the Medical Malpractice Liability Insurance Premium Assistance Fund, which will be comprised of the following revenues: an annual \$75 charge imposed on all physicians, podiatrists, chiropractors, dentists, optometrists, and attorneys licensed to practice in this State, along with an annual \$3 per employee charge for all employers subject to the New Jersey unemployment compensation law.

Revenues generated from this fund will be used for a variety of health care purposes, including, among other things providing relief towards the payment of medical malpractice liability insurance premiums for certain

health care providers in this State and providing payments to hospitals as charity care subsidies.

The Division of Taxation is responsible for collecting the annual \$75 fee payable by each person licensed to practice law in this State. The fund and annual charges provided for in the act will expire after three years.

**P.L. 2004, C. 49 — HMO Assessment**  
Enacted on June 29, 2004, and effective immediately, establishes an interim assessment on health maintenance organizations and mandates a comparative study of the equity of various taxes imposed on all health care insurance companies.

**P.L. 2004, C. 128 — Phase-Out of Casino Complimentaries Tax**  
Enacted on August 30, 2004, and effective immediately, provides for the gradual phase-out of the tax on casino “complimentaries” until the tax expires on June 30, 2009. It also transfers from the Division of Taxation to the Casino Control Commission the responsibility for administering the casino complimentaries tax, the casino adjusted net income tax, the multi-casino slot machine tax, the casino parking fee, and the \$3 casino hotel occupancy fee.

**P.L. 2004, C. 129 — Casino Reinvestment Development Act Changes**  
Enacted on August 25, 2004, and effective immediately, extends the investment alternative tax obligation of casino licensees from 35 to 50 years, authorizes the Casino Reinvestment Development Authority to approve five additional “entertainment retail districts,” and allows for grants to the Authority for 20 years from sales tax revenue generated in entertainment districts.

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## Mobile Telecommunications Fee

**P.L. 2004, C. 48 — Mobile Telecommunications Fee**  
Enacted on June 29, 2004, and effective immediately, applicable to billing periods ending on or after July 1, 2004, for most services, and to billing periods ending on or after August 1, 2004, for certain services, imposes a \$.90 fee on periodic billing to mobile telecommunications and telephone exchange customers. The fee shall be used to fund the “911” system and certain other emergency response systems.



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## Motor Vehicle Tire Fee

### **P.L. 2004, C. 46 — Motor Vehicle Tire Fee**

Enacted on June 29, 2004, and effective August 1, 2004, imposes a fee of \$1.50 on the sale of new motor vehicle tires, including tires sold as a component part of a new motor vehicle either sold or leased in New Jersey.

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## Outdoor Advertising Fee

### **P.L. 2004, C. 42 — Fee Changes**

Enacted on June 29, 2004, and effective immediately, provides for gradual reduction in the rate of the fee imposed on outdoor advertising signs and provides that entities that are treated as exempt organizations for sales and use tax purposes shall be exempt from the outdoor advertising fee as well. It also subjects outdoor advertising signs to real property tax.

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## Property Tax Relief Programs

### **P.L. 2004, C. 40 — Homeowner and Tenant Benefits Increased**

Enacted on June 28, 2004, and effective immediately, as part of the new FAIR (Fair and Immediate Relief) program, provides increased property tax relief benefits to New Jersey homeowners and tenants.

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## Realty Transfer Fee

### **P.L. 2004, C. 66 — General Purpose Fee Added**

Enacted on June 30, 2004, and effective immediately, applicable to realty transfers taking place on or after August 1, 2004, imposes an additional “general purpose fee” at a graduated rate on grantors of realty where the value of the deed is more than \$350,000, and makes other changes in fees and clarifications in the provisions governing realty transfer fees.

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## Sales and Use Tax

### **P.L. 2003, C. 136 — Rentals Between Closely Related Entities Exempt**

(Signed into law on August 1, 2003) Provides that receipts from the rental of tangible personal property on

which sales tax was paid or use tax obligations have been satisfied between related persons not engaged in the regular trade or business of renting that property to other persons are exempt from sales and use tax. For this purpose, “related persons” means persons that are 80% or more owned by each other, or by the same third party. This law took effect immediately but will remain inoperative until November 1, 2003.

### **P.L. 2003, C. 165 — Concession Stand Sales in Veterans’ Homes Exempt**

(Signed into law on August 31, 2003) Exempts from sales and use tax retail sales made at concession stands (cafeterias) that are located in State-owned and operated residential veterans’ homes. This act took effect immediately, and applies to sales made on or after December 1, 2003.

### **P.L. 2003, C. 224 — Cleanup of Hazardous Substances**

(Signed into law on January 14, 2004) Amends certain provisions of the Spill Compensation and Control Act and the Brownfield and Contaminated Site Remediation Act concerning site remediation.

The amendments provide that if the redevelopment of the property is performed in phases, payments to reimburse the developer may commence prior to the completion of the redevelopment at the entire site.

This act also provides a method of computing the sales and use tax on the purchase of materials used for remediation, the construction of new structures, or the construction of new residences at the site. When an exact accounting is not available, the Director of the Division of Taxation will presume the tax equals 1% of the developer’s contract price for the remediation and improvement. An amount not to exceed 3% may be approved by the Director when clear and convincing evidence that the tax on materials is greater than 1% is presented.

This act took effect immediately.

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## Transitional Energy Facility Assessment

### **P.L. 2004, C. 43 — Phase-Out Schedule**

Enacted on June 29, 2004, and effective immediately, extends the end date of the phase-out period for this assessment to 2010 and modifies the annual rates.

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## Urban Enterprise Zones

### **P.L. 2003, C. 285 — New Zone Designated**

(Signed into law on January 14, 2004) Designates Gloucester City in Camden County the 31st qualifying Urban Enterprise Zone based on the required population criteria. Qualified businesses in the designated Urban Enterprise Zone are permitted to collect sales tax at a reduced rate of 3% rather than at the current 6% rate. The reduced sales tax rate is applicable for a period of at least 20 years, and potentially as long as 35 years, during which the revenues collected at that reduced rate are divided between the municipality and the State under a formula that is adjusted according to a statutory schedule.

Chapter 285 takes effect on April 1, 2004.

## COURT DECISIONS

### Administration

#### Timeliness of Protest

*Harry and Susan Dashoff v. Director, Division of Taxation*, decided July 30, 2003; Tax Court No. 004747-1998. The Appellate Division remanded this case to the Tax Court for an evidentiary hearing. Previously, the Tax Court held that plaintiff failed to timely file the complaint. At issue on remand is whether the mailing of a Notice of Assessment that was never received by plaintiff triggered the statutory period to file a protest with the Division or an appeal with the Tax Court.

The Division mailed plaintiff a Notice of Assessment (“Notice”) by certified mail, return receipt requested. The Notice’s envelope indicated that unsuccessful attempts to deliver the Notice were made and that therefore the unclaimed mailing was being returned to the Division. Subsequently, the Division mailed a Certificate of Debt (“Certificate”) via certified mail to plaintiff. Plaintiff received the Certificate and thereafter filed a protest with the Division. The Division determined that the protest was untimely, as it was not received within the statutory period to file a protest from the date of the Notice.

This Court found that plaintiff chose not to claim the Notice and that the evidence was conclusive that the Notice was never received by plaintiff. The general rule is that the mailing of a properly addressed notice is presumptive evidence of receipt pursuant to N.J.S.A. 54:50-6a. However, this statute creates only a rebuttable presumption of receipt, not effective receipt. Regardless, the Court ruled that the presumption of receipt does not apply to certified mail. Therefore, the Court found “that the attempted service of the Notice by certified mail failed regardless of whether the Notice was simply unclaimed or purposely refused by Dashoff.” The Court opined that had the Notice been sent by regular or ordinary mail simultaneously or subsequently that service would have been effectuated.

#### Time Period to File Complaint

*James Liapakis v. Director, Division of Taxation*, decided September 15, 2003; Appellate Division No. A-5341-00T5. The Division’s gross income tax determination letter was sent by certified mail on August 18, 2000, and received by plaintiff (Liapakis) on August 21, 2000. Liapakis filed his complaint on November 17, 2000, which was 91 days after the determination letter was mailed and 88 days after Liapakis received it. The Tax Court ruled that the complaint was untimely as it was filed beyond the 90-day

time period to file a complaint because the mailing date commenced the calculation of the 90-day period. Liapakis appealed arguing that the date the letter was received should start the running of the 90 days.

In determining whether the mailed or received date commenced the running of the 90 days, the Appellate Division’s analysis commenced with N.J.S.A. 54A:9-10(a), which requires that a taxpayer appeal the Director’s decision within 90 days in conformity with the State Tax Uniform Procedure Law. Thereafter, there is an apparent inconsistency among the statutes. On one hand, the State Tax Uniform Procedure Law N.J.S.A. 54A:51-18 states that all matters regarding the complaint and practice in the Tax Court are prescribed by the rules of court unless otherwise specifically provided by law. Rule 8:4-2(a) states that the time period is calculated from the date of service, and Rule 1:5-4(b) provides that service is complete upon the date of acceptance of certified mail. On the other hand, State Tax Uniform Procedure Law N.J.S.A. 54:49-18a states that the time to appeal commences from the final determination date, which date is defined by N.J.S.A. 54A:9-10(e) as the mailing date.

The Court ruled in favor of Liapakis noting that ambiguities in the tax law are construed in the taxpayer’s favor and relied upon its previous ruling in *Township of Holmdel v. Director, Division of Taxation*, 12 N.J. Tax 112 (1991), as well as *Winberry v. Salisbury*, 5 N.J. 240, cert. denied, 340 U.S. 877 (1950), a New Jersey Supreme Court case involving a separation of powers issue. In *Holmdel*, this Court previously held that N.J.S.A. 54:51A-18 itself “constitutes express legislative recognition of the judiciary’s responsibility to prescribe the procedure for the calculation of the limitation period.” Consequently, the Court reversed the Tax Court and held that Liapakis’s complaint was timely because the date that the certified mail was received and signed for begins the calculation of the 90-day period.

The Director, Division of Taxation filed a petition of certification to the New Jersey Supreme Court.

#### Time Period to File Complaint

*James Liapakis v. Director, Division of Taxation*, denied March 9, 2004; Supreme Court of New Jersey No. C-421 September Term 2003, 55,336. The New Jersey Supreme Court denied the Division of Taxation’s petition for certification. Previously, the Appellate Division ruled that the 90-day period to file an appeal with the Tax Court commences on the date the taxpayer receives the Division of Taxation’s notice rather than on the mailed date.

## Cigarette Tax

### Cigarette Purchases via Internet or Telephone

*Gary Mosher v. Director, Division of Taxation*, decided November 22, 2002; Tax Court No. 001180-2002. After viewing vendor's advertisements that claimed cigarettes were sold "tax free," plaintiff (Mosher) purchased 52 cartons of cigarettes over the Internet and/or telephone from Smokers Advantage of Louisville, Kentucky, for his friends and his personal use. Smokers Advantage is an out-of-State, unlicensed distributor of unstamped cigarettes. Smokers Advantage did not remit sales or cigarette taxes to New Jersey, but did inform the New Jersey Division of Taxation (Division) of Mosher's purchases pursuant to the Federal Jenkins Act. In September 2000 the Division notified and assessed Mosher sales and use tax as well as cigarette tax on purchases that occurred between August 1999 and March 2000.

The Tax Court held that Mosher's purchases were subject to sales and use tax, as well as the cigarette tax ruling that the vendor's advertisements stating that the cigarettes were "tax free" did not excuse him from being chargeable with knowledge that the tax could be collected by New Jersey because New Jersey charges tax on cigarettes. Relying on case law, the Court found that the Jenkins Act, Sales and Use Tax Act, and the Cigarette Tax Act were held to be constitutional. The Court also ruled that the Jenkins Act disclosure did not violate Mosher's right of privacy because even if the right asserted was a fundamental right, the State's compelling and substantial need for this information would outweigh Mosher's privacy interest. Finally, the Court found that the assessment was subject to 5% amnesty penalty, pursuant to a law enacted in 2002, of which Mosher was previously notified.

### Cigarette Purchases via Internet or Telephone

*Gary Mosher v. Director, Division of Taxation*, decided February 17, 2004; Appellate Division No. A-2515-02T3. The Appellate Division affirmed the Tax Court for substantially the reasons stated by the Tax Court. Furthermore, the Court found that plaintiff's arguments were without sufficient merit to warrant a written decision.

Mosher filed a petition of certification with the New Jersey Supreme Court.

## Corporation Business Tax

### Net Operating Loss Carryover

*Macy's East, Inc. v. Director, Division of Taxation*, decided March 26, 2003; Tax Court Nos. 000018-98, 003989-1998, 00415-2000, 002019-2001 and 002754-2002. Macy's East was incorporated on December 13, 1994, as an Ohio corporation. Macy's Northeast, a Delaware corporation, and Macy's South were merged into Macy's East on December 19, 1994, after conclusion of bankruptcy proceedings. Jordan Marsh, a Delaware corporation, and Abraham and Strauss, an Ohio corporation, were merged into Macy's East in 1995. Abraham and Strauss Real Estate, a Delaware corporation, was merged into Macy's East in 1998. Each entity, except Macy's South, that was merged into Macy's East had a New Jersey net operating loss carryover before the merger. However, the Division disallowed Macy's East from deducting the net operating loss carryovers of the other entities that merged into it.

The Court reviewed the legislative and regulatory background concerning net operating loss carryovers. As enacted in 1985, N.J.S.A. 54:10A-4(k)(6) permitted net operating loss carryovers. In 1986, the Division's regulation N.J.A.C. 18:7-5.13(b) permitted only the actual corporation that sustained the loss and the net operating losses of the surviving corporation of a statutory merger to be utilized in the carryover. Furthermore, the regulation disallowed a taxpayer that changed its state of incorporation or which was part of a statutory consolidation to carry over net operating losses. In 2002, N.J.S.A. 54:10A-4.5 was added and essentially contained the same limitations on carryovers as the regulation with respect to mergers, consolidations, and changing the state of incorporation with respect to years 1984 and forward.

First, the Court dealt with plaintiff's argument that *Richard's Auto City, Inc. v. Director, Division of Taxation*, 140 N.J. 523 (1995) is limited to the facts of that case where the surviving corporation did not conduct the same business as the pre-merger entities and there was an attempt to deduct leasing losses from the operations of an automobile dealership. Here, plaintiff differentiated itself as being engaged in the identical business to that of the entities merged into it. The Court ruled that plaintiff's argument was misplaced because the New Jersey Supreme Court dealt with the validity of the regulation, and there was no indication in the opinion that its determination was based on the facts before it, or that the regulation was valid only as applied to these facts. The Court also noted that Macy's East was an Ohio corporation whereas some

of the corporations were incorporated in Delaware, which fact also violates the regulation's requirement that a taxpayer not change its state of incorporation.

Secondly, the Court spoke to the validity of N.J.A.C. 18:7-5.13(b) as to whether or not the regulation is invalid because it is inconsistent with N.J.S.A. 54:10A-4(k)(6). The Court found that it was bound by the New Jersey Supreme Court's determination in *Richard's Auto City*, where it stated that *Richard's Auto City* had not carried its burden of proving that the regulation was invalid. Regardless, the Court stated that even under its own independent analysis it would conclude that the regulation is valid.

Third, the Court addressed the issue of whether, under the Supremacy Clause of the United States Constitution, the U.S. bankruptcy code is controlling authority over the New Jersey tax statute and regulations. The Court adopted a prior Tax Court decision in *A.H. Robbins Co. v. Director, Division of Taxation* (2002 Westlaw 31932043) and a statement from *Collier on Bankruptcy* to decide that the bankruptcy code is not controlling.

Finally, the Court considered whether N.J.S.A. 54:10A-4.5, enacted in 2002, is unconstitutional. The Court ruled that N.J.S.A. 54:10A-4.5 merely codified the law as it previously existed and that there was a rational basis for the statute.

Macy's East appealed this decision to the Appellate Division.

### **Nexus and Physical Presence**

*Lanco, Inc. v. Director, Division of Taxation*, decided October 23, 2003; Tax Court No. 005329-97. Plaintiff ("Lanco") is a Delaware corporation that owns trademarks, trade names, and service marks, but has no real or tangible property, offices, or employees in New Jersey. Lanco licenses these intangibles to Lane Bryant, Inc., an affiliated corporation, that has retail operations in New Jersey as well as in other states. Lanco and Lane Bryant, Inc. have a direct, long-term contractual relationship. For the use of these intangibles, Lane Bryant, Inc. remits royalty payments to Lanco; therefore, Lanco derives income from a New Jersey source. Although Lane Bryant, Inc. received a deduction for the royalty payments on its corporation business tax return, Lanco did not pay income or franchise tax on the royalty income to Delaware. The Division of Taxation determined that Lanco was required to file New Jersey corporation business tax returns due to the activity under the license agreement.

In general, states must comport with the Due Process and Commerce Clauses of the United States Constitution in

their taxation of entities engaged in interstate commerce. The Court opined that the major issue for the instant case was whether the Commerce Clause's physical presence requirement for sales and use taxation, following *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), to establish nexus with the taxing state also applied to the imposition of a state income or franchise tax. After reviewing and analyzing the leading cases in the nexus arena, the Court ruled that the Commerce Clause requires physical presence in the taxing jurisdiction for the constitutional exercise of State taxing power. Therefore, in order for the taxpayer to have nexus and be subject to taxation, physical presence must be established, as it is a necessary element of Commerce Clause nexus for taxation. The Court reasoned that the differences between the income tax and use tax are not significant enough to justify a different rule regarding physical presence, and that pre-*Quill* cases suggest that physical presence is required.

The Court recognized that the South Carolina Court case of *Geoffrey Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993) found Commerce Clause nexus without physical presence and that other cases existed. However, after dissecting *Geoffrey*, it dismissed the holding as relying on dictum and not being supported by the authorities it cited. The Court noted that because the United State Supreme Court denied *certiorari* it did not address the merits of the holding, and that the ruling is only binding precedent in South Carolina. Moreover, the Court found that despite considerable activity in the nexus area, other courts were not following *Geoffrey*. In other cases where courts stated that physical presence was not required for nexus, this Court dismissed them as it found that the taxpayer did have physical presence in the taxing jurisdiction anyway.

The Court recognized that Lanco had no real or tangible property, offices, or employees in New Jersey, or anything else that would constitute physical presence. Therefore, the Court held Lanco was not subject to New Jersey corporation business tax in "that the state may not assert nexus, absent physical presence, against a corporation that receives income from the use of trademarks or other intangibles employed in a New Jersey business conducted by an affiliated corporation."

The Division of Taxation appealed this decision to the Appellate Division.

### **Pre-Merger Net Operating Loss**

*A.H. Robins, Inc. v. Director, Division of Taxation*, decided January 12, 2004; A-3468-01. This case involves A.H. Robins' ("Robins") claim for a \$22 million refund of corporation business taxes. Robins, which incurred



significant financial obligations as a result of substantial tort litigation, filed a Chapter 11 reorganization petition in the Richmond, Virginia Bankruptcy Court. The reorganization plan granted Robins, the surviving entity in the bankruptcy, the rights and property of the company that initially filed for bankruptcy. One of those assets was a multi-million dollar net operating loss (NOL) for New Jersey corporation business tax purposes. New Jersey net operating loss tax law, codified in the Business Tax Reform Act as N.J.S.A. 54:10A-4.5, allows NOLs to be used only by the corporation that incurs the loss. The Director denied the refund claim because the corporation which survived under the reorganization plan is a different corporation than the entity that incurred the loss and was later dissolved. Robins sought relief in both the Virginia Bankruptcy Court and the New Jersey Tax Court. A Federal Court judge in Virginia found the New Jersey Division of Taxation to be immune from Robins' suit under the United States Constitution Eleventh Amendment. Robins did not appeal the Federal Court's decision.

Then the matter returned to the New Jersey Tax Court. The Appellate Division affirmed the Tax Court's opinion finding that N.J.S.A. 54:10A-4.5 is constitutional. The taxpayer had argued that the retroactivity provision of this statute is unconstitutional because it violates the due process clauses of the United States and New Jersey Constitutions, the New Jersey Constitution's prohibition against special legislation, and the separation of powers doctrine. The Appellate Division also affirmed the Tax Court's decision upholding the Director's denial of taxpayer's refund claim for corporation business tax based on the New Jersey Supreme Court's decision in *Richards Auto City, Inc. v. Director, Division of Taxation*.

### Interest-Free Loans

*Metro Touch, Inc. v. Director, Division of Taxation*, decided Letter Opinion March 26, 2004, and Formal Opinion May 11, 2004; Tax Court No. 004359-2002. In 1996, Ida Shapiro owned 100% of the corporate stock of plaintiff Metro Touch, Inc. Shapiro also owned 75% of the corporate stock of Perfect Host, Inc. as well as a 75% ownership interest in its successor, Perfect Host, LLC. In 1997, Shapiro's ownership interest in Perfect Host, LLC decreased to 49.3097%.

Since January 1, 1996, Metro Touch's balance sheet reflected non-interest-bearing loans to Perfect Host, Inc. or Perfect Host, LLC. The Division therefore imputed interest income to Metro Touch pursuant to N.J.S.A. 54:10A-10 of the Corporation Business Tax Act (CBTA).

N.J.S.A. 54:10A-10a permits the Division to make adjustments to and redetermine a corporation's income where the income is improperly or inaccurately reflected. Additionally, N.J.S.A. 54:10A-10b allows the Division to include in a corporation's income the "fair profits" from a transaction where it is determined that the transaction was entered into at less than a fair price for the direct or indirect benefit of a shareholder. Under the regulations, N.J.A.C. 18:7-5.10(a)(5) provides that interest should be charged on loans between related parties.

Relying on guidance from Federal court decisions, the Court found that marketplace loans would not be made on an interest-free basis and as a result the loans in question were at less than a fair price and resulted in plaintiff's income being improperly or inaccurately reflected. Furthermore, the Court determined that the Division's imputation of interest income was not dependent on the two entities being controlled by the same person or persons because the statutory standard is whether the arrangement benefits a shareholder directly or indirectly. Therefore, the Court upheld the Division's assessment finding it neither arbitrary nor unreasonable and a proper exercise of his discretion under the statute and regulation. The Court also noted that N.J.A.C. 18:7-5.10(b) "represents a reasonable exercise by the Director of the discretion granted to him by the Legislature."

Metro Touch, Inc. did not appeal the Tax Court's decision.

### Real Estate Investment Trust

*UNB Investment Company, Inc. v. Director, Division of Taxation*, decided May 12, 2004; Tax Court No. 004760-2003. Bridgewater Mortgage Company, Inc. (BMC) is a wholly owned subsidiary of plaintiff (UNB), a New Jersey corporation. BMC qualifies as a real estate investment trust (REIT) under both Federal income tax law and the New Jersey Corporation Business Tax Act (CBTA).

In 1997, BMC paid an \$11.7 million dividend to UNB, which BMC deducted on its corporation business tax (CBT) return when it computed taxable income. UNB reported the dividend as dividend income on its CBT return and then excluded the dividend pursuant to N.J.S.A. 54:10A-4(k)(5), which provided for a 100% dividends-received deduction from 80% or more owned subsidiaries.

The Division acknowledged that BMC's deduction from taxable income for dividends paid was proper as it was in accordance with the *Corporate Property Investors* decision, where the Court held that for New Jersey CBT purposes a REIT is permitted the same dividends-paid deduction as is permitted under Federal income tax law.



However, the Division denied UNB's N.J.S.A. 54:10A-4(k)(5) dividends-received deduction as a logical consequence of the *Corporate Property Investors* decision. The Division recognized that Internal Revenue Code §243(a) generally permitted corporations to deduct dividends received; however, Internal Revenue Code §857(c) denied this deduction where dividends were received from REITs.

In analyzing the legislative history and case law, the Court concluded that the Division's interpretation of the CBTA was reasonable and made with sufficient statutory authority; however, the Court voided the assessment because of the Division's failure to promulgate a regulation addressing this issue pursuant to the Administrative Procedure Act (APA). The Court reasoned that the denial of the deduction was consistent with the legislative intent to attract REITs into New Jersey, did not result in the double taxation of dividends, and was consistent with the entire statutory scheme. Regardless, the Court found that the statute was ambiguous, that the Division's determination was not obviously inferable from the statute, and that the Division's determination was in the nature of interpretation of law or general policy. Therefore, the Court concluded that the Division's determination constituted a rule that must be formally promulgated pursuant to the APA. The Court also rejected the argument that a regulation was not needed because under N.J.S.A. 54:10A-10 the Director is granted the authority to make adjustments to income amounts to correct distortions of income, or where income was improperly or inaccurately reflected. The Court concluded that dividends had been properly reported and deducted on UNB's CBT return, and that owning a REIT cannot be regarded as conducting business to distort income.

The Director did not appeal the Tax Court's decision.

### Subjectivity

*Home Impressions, Inc. v. Director, Division of Taxation*, decided June 7, 2004; Tax Court No. 000099-2003. Plaintiff (Home Impressions) is a North Carolina corporation that did not own, rent, or maintain property in New Jersey. Independent sales contractors solicited orders in New Jersey from potential customers of Home Impressions' tangible products and then forwarded orders for approval to Home Impressions' principal place of business in North Carolina. Products were later shipped to the customers from Home Impressions' Virginia distribution center.

The Division determined that Home Impressions was required to file corporation business tax (CBT) returns because it was subject to the minimum flat tax. Home Im-

pressions claimed that it did not have to file income tax returns because it was protected by Pub. L. 86-272.

The Court's analysis commenced with first determining whether the instant tax violated either the Commerce Clause or Due Process Clause of the Federal Constitution. In *Quill*, the United States Supreme Court ruled that the solicitation of orders satisfied the minimum contacts requirement of the Due Process Clause. Therefore, the Court opined that solicitation by Home Impressions' independent contractors was sufficient. Addressing Commerce Clause concerns, the Court found that the standard was whether taxpayer's activities created a substantial nexus with the taxing state. Substantial nexus, in turn, requires physical presence. The Court found that the physical presence of the independent contractors in New Jersey constituted the substantial nexus required by the Commerce Clause. As stated in the United States Supreme Court decision in *Scripto*, the fact that independent contractors are not traditional employees is not a distinction of any constitutional significance.

As there was no constitutional impediment, the Court turned to the issue of whether the minimum flat tax conflicted with Pub. L. 86-272. In pertinent part, Pub. L. 86-272 provides that a state may not impose a net income tax on income derived within the state where the only business activity in the state is the solicitation of orders for tangible personalty, where the orders are sent outside the state for approval, and where the products are shipped into the state from a point outside the state. Home Impressions claimed that despite its label as a franchise tax, the CBT minimum flat tax is in reality based on income.

The Court ruled that Pub. L. 86-272 did not protect foreign corporations from the CBT minimum flat tax because this tax is not based on net income. The Court relied on New Jersey case law that the imposition of a reporting requirement on foreign corporations did not conflict with Pub. L. 86-272 and that Pub. L. 86-272 did not apply to the net worth portion of the CBT. It should be noted that prior to the CBT minimum flat tax, the amount of CBT liability was measured by both net worth and net income. The Court reasoned that the Director was using the activity of Home Impressions in New Jersey as a reporting requirement and not as a means of calculating the amount of minimum flat tax due.

## Gross Income Tax

### Severance Payments

*Donald M. Koczynski v. Director, Division of Taxation*, decided January 7, 2003; Tax Court No. 008748-1996. Two days after his 60th birthday, plaintiff's employer notified him by letter that his employment would be terminated in two weeks. The letter outlined severance benefits that were available to him that included \$31,282.02 paid under the severance payment plan in equal monthly installments in accordance with the employer's regular payroll, payment for unused vacation and personal time, and to provide medical and dental benefits for the duration of the severance or until employment was secured in exchange for plaintiff's signed general release form within 21 days. In part, the general release form stated that plaintiff specifically releases his claims and demands against the employer under numerous areas including the Age Discrimination in Employment Act of 1967, as well as any actions that existed as of the date of the release under any tort laws.

Plaintiff consulted an attorney and signed a retainer agreement for purposes of negotiating a settlement agreement of his unspecified claims against his employer. Thereafter, the plaintiff and employer agreed to increase the \$31,282.02 to a \$41,500 severance, and the agreement included all the other provisions stated above. Plaintiff executed the general release form. Employer paid plaintiff \$19,466 in 1993 and \$21,833 in 1994 while withholding taxes for Federal and State income taxes.

Plaintiff filed 1993 and 1994 returns with the Division of Taxation (Division) where he included the severance payments as taxable income from wages, salaries, and other employee compensation. Afterwards, plaintiff filed refund claims asserting that the severance payments were actually received in exchange for plaintiff's not bringing an age discrimination lawsuit against the employer through an agreement with plaintiff's attorney. Thereafter, plaintiff filed a complaint contending that his severance payments were not taxable as damages under N.J.S.A. 54A:6-6(b).

The Tax Court determined that severance and severance-like payments are includable in gross income under N.J.S.A. 54A:5-1(a) as salaries, wages, tips, fees, commissions, bonuses, or other remuneration received for services rendered unless they are excludable under N.J.S.A. 54A:6-6(b). Moreover, the Court ruled that severance payments are includable in gross income, recognizing that the services were previously rendered and that there was not concurrent consideration. The Court reached its result

by relying upon guidance from Federal case law regarding taxability of severance payments as it was applied to the Internal Revenue Code.

Under N.J.S.A. 54A:6-6(b), damages received due to personal injury or sickness are excludable from gross income regardless of whether they are received by suit or agreement. As there was no prior New Jersey case law and as the statute is similar to Internal Revenue Code §104(a)(2), the Court looked to Federal cases for guidance. The Court found that the Federal Courts relied on the payer's intent in determining whether the payment was for personal injury or sickness in cases where there was either no express language or evidence as to a specific amount to compensate the person. One Federal Court noted that the withholding of taxes significantly suggests that the employer intended severance payment. Another Federal Court found that the payment was not for personal injury or sickness as it was based on a formula relating to the employer and employee relationship. In *Commissioner v. Schleier*, 515 U.S. 323 (1995), the United States Supreme Court stated that neither the person's reaching age 60 nor being discharged because they are 60 years old could be described as a personal injury or sickness. Furthermore, the Supreme Court ruled that neither back wages nor punitive damages for age discrimination constituted compensation for personal injury or sickness.

Plaintiff presented no evidence or testimony that he received the payments for personal injury or sickness. In fact, the employer withheld income taxes, both State and Federal. Therefore, the Court held that the payments were not excludable under N.J.S.A. 54A:6-6(b) as damages received due to personal injury or sickness.

### Basis in Partnership Interest

*Eugene and Janet Schenkman v. Director, Division of Taxation*, decided November 3, 2003; Tax Court No. 000223-1998. Plaintiff (Schenkman) was a general partner in Hoes Lane Associates between 1983 and 1991. In 1992, Schenkman, along with other partners of Hoes Lane, contributed his partnership interest in Hoes Lane to S/K Birdsall, another partnership, which then became a general partner in Hoes Lane.

Hoes Lane reported a net loss for each year that it was in existence. Schenkman was able to utilize only a portion of his allocated Hoes Lane losses to offset other partnership income for gross income tax (GIT) purposes.

In 1992, Hoes Lane petitioned for bankruptcy. Hoes Lane transferred its real property to the mortgagor in exchange for discharge of the mortgage. The parties agree that Schenkman's amount realized from the disposition of

property is gain income for GIT purposes. However, the parties disagreed as to whether Schenkman could offset his gain with his GIT basis in Hoes Lane that he subsequently transferred to S/K Birdsall upon contribution.

Schenkman claimed that his GIT basis in Hoes Lane transferred to S/K Birdsall upon contribution. The Division argued that S/K Birdsall, being an entity, is not entitled to and cannot be transferred the New Jersey adjustments to Federal basis (i.e., the *Koch* effect). Thus, Schenkman's New Jersey adjusted basis in Hoes Lane (i.e., his basis in Hoes Lane unadjusted by allocated Hoes Lane losses that were not deducted for GIT purposes) before the transfer to S/K Birdsall is also his New Jersey adjusted basis in S/K Birdsall by virtue of his contribution to S/K Birdsall. Also, the Division claimed that Schenkman could obtain the *Koch* adjustment only when he disposed of his interest in S/K Birdsall.

The Court decided that Federal tax partnership rules were applicable, because under N.J.S.A. 54A:5-1 (c), gains and losses from the disposition of property are determined under the Federal income tax method of accounting. Internal Revenue Code (IRC) section 722 states that a contributing partner's basis in its partnership interest will increase by the amount of the partner's adjusted basis in the contributed property. IRC section 723 states that the partnership's basis in contributed property is equal to the contributing partner's basis. Upon disposition of the contributed property, any built-in gain or loss recognized is allocated to the contributing partner pursuant to IRC section 704(c)(1)(A) and *Treas. Regs.* section 1.704-3.

After reviewing the aforementioned IRC sections, *Walsh v. Director*, 10 N.J. Tax 447 (1989) and *Koch v. Director, Division of Taxation*, 157 N.J. 1 (1999), the Court found that Schenkman's GIT basis in his partnership interest in Hoes Lane transferred to and was Schenkman's basis in S/K Birdsall. The Court also stated that Schenkman's allocated loss on the disposition of Hoes Lane property occurs with the transaction, and not when Schenkman disposes of his partnership interest in S/K Birdsall.

#### **Gain on Sale of Rental Real Estate Not Held by a Business Entity**

*John J. and Mary T. Moroney and Thomas J. Jr. and Susan Denitzio v. Director, Division of Taxation*, decided January 8, 2004; Tax Court Nos. 005582-1998 and 005564-2002. The Moroneys acquired rental real estate for \$327,399 and sold the property eight years later for \$245,000. The property was not held by a business entity. In each year of ownership, the annual operating expenses, exclusive of depreciation, exceeded the annual income. In

determining their gain or loss, the Moroneys calculated an \$82,399 capital loss by subtracting the original purchase price from the sales price. Pursuant to an audit, the Division determined that the \$104,330 of depreciation reduced the real estate's basis. Therefore, the Division calculated an N.J.S.A. 54A:5-1(c) gain on this sale under the theory that the property's basis decreased to the extent that annual depreciation offset annual gross income before considering any other deductions. The Denitzios' legal issue is identical and therefore the cases were heard together, but were not consolidated.

The Tax Court commenced its analysis by reviewing *Koch* where the New Jersey Supreme Court held that tax could not be imposed unless there is recovery of a past tax benefit or an accession to wealth and, therefore, that a partner's basis in his partnership interest could not be reduced by nondeductible partnership losses. The *Koch* decision prevented the Division from taxing what the New Jersey Supreme Court described as a return of capital because the taxpayer did not receive a tax benefit for nondeductible losses. After *Koch*, the Division stated in the *State Tax News* that the *Koch* decision would also apply to the sale of rental real estate that is not held by a business entity. In a later *State Tax News* article, the Division explained that unutilized depreciation expense would adjust basis in that it would increase basis when calculating gain (loss) from the sale of rental real estate that is not held by a business entity. The Division defined unutilized depreciation as the amount that allowed or allowable depreciation exceeds gross income (gross receipts) before considering any other expenses or deductions. This calculation resulted in limiting basis reductions to depreciation that resulted in tax benefits to the taxpayer.

In calculating N.J.S.A. 54A:5-1(c) gain from the disposition of property, the Court ruled that basis could only be reduced by depreciation to the extent that depreciation could offset income remaining after first deducting operating expenses (actual out-of-pocket expenses as opposed to accounting expenses such as depreciation) against gross income. The Court determined that although N.J.S.A. 54A:5-1(c) authorized the Division to assign priority and assignment to deductions for S corporations, that otherwise there was no statutory language applicable to the sale of property. Also, the Court found that the Division's assignment of a first priority deduction to depreciation produced a result that was both contrary to *Koch* and inconsistent with the Internal Revenue Code.

#### **Sale, Exchange or Other Disposition of Property**

*Diana King v. Director, Division of Taxation*, decided April 16, 2004; Tax Court No. 005337-2002. In April

1991 plaintiff, Ms. Diana King (King), entered into a loan agreement with Amiro Fiorintino Associates, Inc. (AFA). The loan was evidenced by a revolving credit note. The principal shareholder of AFA was the guarantor of the loan. The loan was also secured pursuant to a security agreement granting King a security interest and lien in certain AFA collateral. When King recorded her security interest pursuant to the Uniform Commercial Code (UCC), King's loan was subordinated to a bank loan. In 1992 and 1995 the loan agreement was amended. Essentially, Ventura Entertainment Group (VEG) was an additional guarantor of AFA's obligation and the loan was secured pursuant to a security agreement that granted King a security interest in 100,000 shares of VEG.

In 1996 AFA filed Chapter 11 bankruptcy. King filed a proof of claim as a secured creditor in the amount of \$568,857.35 consisting of the \$450,000 principal, \$106,090.65 interest, and \$12,766.70 arrears. As a junior secured creditor, King consented to the sale of AFA's assets conditioned upon her receipt of \$120,000 and that she be released from claims against the debtor. King's consent was evidenced on a bankruptcy document titled "Response of Diana King to the Debtor's Application for an Order Approving a Purchase Agreement and Authorizing a Sale of Assets." Thereafter, King terminated her UCC filings and the bankruptcy proceeding was later dismissed.

On her 1996 Form NJ-1040, King reported a \$330,000 loss (\$450,000 less \$120,000) and \$32,973 of attorney fees as a \$362,973 nonbusiness bad debt deduction. Thereafter, she filed an amended return reclassifying the \$362,973 as a long-term capital loss, claiming that it was an investment loss on the disposition of a security. On both her NJ-1040 return and amended return, King offset this loss against other gains included under N.J.S.A. 54A:5-1c disposition of property category. However, the Division disallowed the deduction, claiming that it was a nondeductible, nonbusiness bad debt.

N.J.S.A. 54A:5-1c includes net gains, net losses, and net income derived from the sale, exchange, or other disposition of property. At issue is whether King engaged in a sale, exchange, or disposition of property. The Court found that King settled her claim for a reduced amount by giving up her right to sue on the note and that she did not sell or transfer the note evidencing the debt or any other security. Also, the Court noted that King presented no evidence that she exchanged the note. Citing *Vinnick and Walsh*, the Court upheld the Division's assessment.

## Insurance Premiums Tax

### Retaliatory Tax

*American Fire and Casualty Company & West American Insurance Company v. Director, Division of Taxation*, decided December 2, 2003; Tax Court No. 004714-2001. Plaintiffs are foreign casualty insurance corporations that seek refunds of retaliatory tax assessed against each of them pursuant to N.J.S.A. 17:32-15 after they each calculated their tax liability under N.J.S.A. 54:18A-6.

Under N.J.S.A. 54:18A-6, a non-life insurance company may calculate insurance tax on 12.5% of its total premiums where its New Jersey taxable premiums are greater than 12.5% of the company's and all its affiliates' total premiums. However, pursuant to N.J.S.A. 17:32-15, retaliatory insurance tax is imposed against a foreign insurer when the foreign insurer's insurance tax and other obligations in New Jersey are less than what a foreign insurer's insurance tax and other obligations would have been in its home state if it were a New Jersey insurance company doing business there.

In the instant case, the Division permitted each taxpayer to file under the 12.5% statute, but then the Division assessed retaliatory tax on the amount of tax that each would have had to hypothetically pay to their home state on its New Jersey premiums, if it were a New Jersey insurance company doing business there, to the extent that amount exceeded the tax that they were obligated to pay to New Jersey. Plaintiffs claim that the retaliatory tax provision is unconstitutional in that it denies plaintiff equal protection because the statute functions as a preference for domestic insurers. Alternatively, plaintiffs claim that when the two statutes are read *in pari materia*, the Division's methodology provides an interpretation that is inconsistent with the purpose and policy considerations of both statutes.

The Court read the statutes *in pari materia* because they related to the same subject matter. The Court found that the purpose of N.J.S.A. 54:18A-6 was to encourage foreign and domestic insurance companies to expand their operations in New Jersey, and that the purpose of retaliatory tax statutes was to influence foreign states to reduce insurance company taxation in order to promote interstate insurance business by maintaining low taxes and other obligations on domestic insurers.

In addressing whether there was an irreconcilable conflict between the statutes, the Court found that neither the statutes, amendments, nor legislative history provided any guidance as to one statute's relationship with the other.



Therefore, the Court ruled that there was an inference that the legislative intent was that neither statute should affect the interpretation of the other. The Court reasoned that the Legislature's failure to address any possible conflict was indicative that the statutes function independently and in the manner as applied by the Division.

The Court found that the United States Supreme Court previously upheld the constitutionality of retaliatory tax under the Equal Protection Clause of the United States Constitution using the rational basis test. In applying the rational basis test to the instant case, the Court ruled that the Division's methodology of calculating retaliatory tax served the legitimate purpose of influencing other states regarding taxes imposed on New Jersey insurers, and that the Legislature could have reasonably believed that the method of calculating the tax could achieve that purpose. Therefore, the Court also upheld the Division's methodology on constitutional grounds.

### **Retaliatory Tax**

*Pruco Life Insurance Company v. Director, Division of Taxation*, decided March 23, 2004; Tax Court No. 004058-2003. Plaintiff (Pruco) is an Arizona corporation and a wholly owned subsidiary of the Prudential Insurance Company of America, a New Jersey insurance company. Pruco's principal office is located in Newark, New Jersey.

In 1998 and 1999, Pruco filed returns but did not report any retaliatory tax obligation to New Jersey, arguing that the N.J.S.A. 54:18A-6 cap applied to both the New Jersey tax obligation and Arizona tax obligation in the calculation of determining retaliatory tax due to New Jersey. The cap statute functions to limit New Jersey tax liability where New Jersey premiums exceed 12.5% of total worldwide premiums. If this threshold is met, then the tax is applied to 12.5% of the worldwide premiums. Although the Division acknowledged that the 12.5% cap applied, the Division assessed retaliatory tax because Pruco is a foreign corporation. In determining the amount of retaliatory tax liability, the Division calculated the tax that would be due under the tax laws of Arizona and subtracted the amount of New Jersey tax due using the 12.5% cap.

Relying on its recent decision in *American Fire and Casualty Company & West American Insurance Company* (See *New Jersey State Tax News*, Summer 2004), the Court rejected Pruco's first two arguments. First, the Court found that calculating the retaliatory tax involved a mathematical calculation comparing the actual tax obligation due in New Jersey under New Jersey law with the actual tax obligation that would be due in Arizona pursuant to Arizona law. Therefore, Pruco's arguments relating to

statutory interpretation as well as the policies and purposes of the cap and retaliatory tax statutes were rejected. Secondly, the Court rejected Pruco's constitutional challenge that the Division's interpretation converted the retaliatory tax into a revenue measure rather than a regulatory measure and was an equal protection violation. As in *American Fire and Casualty Company*, the Court found that the application of the two statutes served a legitimate State interest and that the Legislature could have determined that the statutes as applied reasonably furthered or fulfilled that State interest.

Plaintiff also challenged the assessment, asserting that the Division was not in compliance with the Administrative Procedure Act (APA) because the Division's policy for applying the cap and retaliatory tax statutes was not embodied in any official promulgation and therefore reflected rulemaking. After weighing and analyzing the six *Metromedia* factors along with the *Airwork Service Division* decision, the Court determined that the Division's interpretation and application of the N.J.S.A. 17B:23-5 retaliatory tax statute together with the N.J.S.A. 54:18A-6 cap statute did not constitute rulemaking activities under *Metromedia* and therefore did not violate the APA.

Pruco Life Insurance Company has appealed the Tax Court's decision.

## **Local Property Tax**

### **Denial of Tax Exemption**

*Essex Properties Urban Renewal Associates, Inc. v. City of Newark*, decided September 4, 2002; Tax Court of New Jersey. Plaintiff (Essex Properties Urban Renewal Associates, Inc.) requested property tax exemption pursuant to N.J.S.A. 54:4-3.6. Essex Properties is incorporated as a nonprofit organization in New Jersey and owns the subject property which it administers as a 24-unit apartment facility for developmentally and/or physically disabled persons. A property tax assessment of \$278,700 was imposed on the subject property for tax year 2000.

In 1999 plaintiff applied for property tax exemption with the assessor of Newark. Upon the assessor's denial of the exemption request, taxpayer appealed to the Essex County Board of Taxation. The county board of taxation affirmed the assessment without prejudice. Essex Properties appealed to Tax Court.

To qualify for exemption under N.J.S.A. 54:4-3.6, a taxpayer must satisfy the following conditions: (1) must be organized exclusively for a tax-exempt purpose;

(2) property must be actually and exclusively used for the tax-exempt purpose; and (3) use and operation of the property must not be conducted for profit. Both parties stipulated to conditions (1) (organization for an exempt purpose) and (3) (nonprofit operation). The sole issue before the Court is whether Essex Properties' activity qualifies as an actual and exclusive use for an exempt charitable purpose within the meaning of the statute.

The burden of proving tax-exempt status is upon the party claiming exemption. In this case, plaintiff fails to prove that its activity qualifies as an actual and exclusive use for a charitable purpose within the exempt purposes set forth under N.J.S.A. 54:4-3.6. Depending upon the specific facts and circumstances of each case, the courts have granted property tax exemption to certain charitable organizations. Plaintiff relies on *Salt and Light Co., Inc. v. Mount Holly Twp.*, 15 NJ Tax 274 (Tax 1995), aff'd, 16 NJ Tax 40 (App. Div. 1996), cert. denied, 148 NJ 458, 690 A.2d 606 (1997) in support of its claim for tax exemption. *Salt and Light* provided temporary housing and counseling services to homeless persons. They operated 24 residences in Mount Holly Township, which were purchased and renovated using funds from HUD, Federal home loan grants, government grants and funds, including charitable contributions. Two-thirds of its residents received public assistance, which included some form of government welfare, distributed directly to *Salt and Light*. To the extent they were able, the remaining residents paid up to 30 percent of their income as rent. *Salt and Light* showed that its average daily cost to support the homeless was less than it would cost the government to do so. Rental payments were below market and no individual was evicted solely because of an inability to pay. Under these facts, the Tax Court held that although *Salt and Light* received government subsidies, it qualified for tax exemption in its use of its facilities to provide temporary shelter and services to the homeless.

Essex Properties argues that, like *Salt and Light*, they are entitled to tax exemption because they are a nonprofit corporation which provides housing and counseling to low-income, developmentally and/or physically disabled persons, and thereby relieves the government from doing so. However, unlike *Salt and Light*, Essex Properties failed to show evidence that (1) their rents were below market; (2) individuals not eligible for aid would be admitted into the facility; (3) plaintiff evicts or does not evict tenants who are unable to pay rent left uncovered by HUD; and (4) plaintiff would admit or retain a disabled person who could pay no rent at all.

Essex Properties also argues that, in addition to housing, they provide on-site counseling and support similar to *Salt and Light*. While *Salt and Light* provided case managers who offered regular sessions, Healthcare Foundation and HUD paid for Essex Properties' social worker at no cost to plaintiff. This Court found that plaintiff's counseling service is not so unique as to warrant tax exemption. The Court also found that plaintiff's counseling and support service is incidental to plaintiff's main function of renting apartments.

As per *Presbyterian Homes*, 55 NJ at 286, 261 A.2d 143 "nonprofit status cannot be equated with charitableness." It is only one factor to consider when determining if property is being used for charitable purposes. Accordingly, plaintiff's IRS nonprofit charitable organization 501(c)(3) designation is not, in and of itself, enough to qualify plaintiff for property tax exemption under N.J.S.A. 54:4-3.6.

The Court stated in *Salt and Light* that "A truly charitable use is not necessarily vitiated by the receipt of government support on behalf of beneficiaries...so long as the charitable entity to some extent relieves a burden on government." Plaintiff fails to demonstrate that its operation of the subject property relieves the government of any burden. In *Southern Jersey Family Medical Centers, Inc. v. City of Pleasantville*, 351 NJ Super. 262, 798 A.2d 120 (App. Div. 2002), plaintiff's policy was to "treat anyone," and charged patients without insurance according to a sliding fee scale based on each patient's income. No person was denied service solely because of inability to pay. Southern Jersey received funds for services rendered (Medicaid payments) and funds received from Federal grants. The Court found that the facility earned the former by providing medical services to indigent patients and "receipt of these funds...does not impact upon its...exclusive operation for charitable purposes."

Contrary to *Southern Jersey*, *supra*, plaintiff received funds from HUD to construct the subject property and continues to receive Federally subsidized rent income. These amounts are rents paid by HUD for plaintiff's tenants, all of whom qualified for assistance. These payments are not earned for services rendered, such as healthcare or medical services, but simply rental payments. There is no evidence that plaintiff's rental rates are below market, that plaintiff serves disabled persons who are not supported by government subsidies, or if plaintiff subsidizes tenants who are unable to pay, thus relieving the government of this burden. If a tenant was evicted for financial reasons, that person would become a public charge, and the State would be obligated to provide care.



This Court finds that plaintiff's case is analogous to *1711 Third Avenue, Inc. v. Asbury Park*, 16 NJ Tax 174 (Tax 1996). *Third Avenue*, a nonprofit corporation, owned property which housed tenants suffering from mental illness. The property was funded in large part by HUD's Section 811 supportive housing program. The tenants were unemployed and derived their income from social security payments. The tenants made rental payments equal to 30 percent of their income. Management provided counseling and other services to the tenants. The Court held that *Third Avenue* failed to offer the proper proofs to bring itself clearly within the exempting statute of N.J.S.A. 54:4-3.6.

The Court held that the following can be used as evidence in determining a plaintiff's exemption claim: (1) financial statements of plaintiff and its managing company, (2) detailed explanation of plaintiff's and management company's use of revenues, including amounts paid for salaries, (3) proof that plaintiff charges below market rents, (4) explanation of financial arrangements between plaintiff and management company, (5) breakdown of plaintiff's and management company's sources of revenues, (6) whether plaintiff competes with for-profit entities providing housing, and (7) whether plaintiff evicts tenants who are unable to pay rent. *St. Luke's Village, Inc. v. Peapack & Gladstone Borough*, 11 NJ Tax 76 (Tax 1990) held that providing affordable housing to low-income persons was not a charitable purpose where there was security for rental payments and residents were required to leave if unable to pay for operating expenses. Plaintiff was unable to demonstrate that the subject property is used for charitable purposes within the meaning of N.J.S.A. 54:4-3.6. Plaintiff failed to meet its burden of proof and bring itself clearly within the meaning of the exempting statute. Without such proof in the record, the Court can only conclude that plaintiff is subject to property tax.

### Exemption Status

*Regent Care Center, Inc. v. Hackensack City*, 19 N.J. Tax 455 (2001); aff'd Appellate Division, No. A-540-01T2 (July 22, 2003). The issue before the Superior Court, Appellate Division, on appeal from the Tax Court of New Jersey, was whether plaintiff Regent Care Center, Inc.'s increased assessment was an illegal spot assessment for tax year 1998. They also claimed that "assessment maintenance" was unconstitutional. A further claim was that if assessment maintenance was a valid practice, it should not be permitted because there were no uniform regulatory standards in place.

After a trial, the Tax Court, in a published opinion, *Regent Care Center, Inc. v. Hackensack City*, 19 N.J. Tax

455 (2001), upheld the increased assessment, concluding it was not a constitutionally prohibited spot assessment.

On appeal, Regent Care contends the trial court erred, asserting that because the increased assessment was not based on a change in the zoning, change in legal status, or physical change to the property, and it was one of only a small group of properties for which assessments were changed, it is a prohibited spot assessment. Regent Care further urges the practice of "assessment maintenance" be declared an unconstitutional device creating spot assessments. Finally, Regent Care argues that even if assessment maintenance is a constitutionally permissible practice, it was conducted in this case without the benefit of uniform guidelines from either the Division of Taxation or the Bergen County Board of Taxation, and therefore the resulting increase in the assessment of its property cannot be sustained.

Hackensack's last prior revaluation was in 1988, followed by a districtwide reassessment in 1993, approved by the Bergen County Board of Taxation, in which all 11,209 line items were reviewed. As of October 1, 1996, for tax year 1997, as part of an assessment maintenance plan, the assessor changed the assessment, leaving the land at \$546,000, but increasing the improvement to \$7,544,300, for a total of \$8,090,300, which remained in place through the time of the trial in 2001. The assessor reviewed the 11,209 property record cards for the entire city, all available sales ratio data, all available "Chapter 91" income and expense information, and applicable zoning changes. In doing so, the assessor determined that about 150 commercial properties were grossly underassessed.

In order to determine the value of the nursing home, the assessor used comparable sale prices allocated on a per bed basis. He was aware of recent nursing home sales in surrounding communities in the range of \$40,000 to \$60,000 per bed. Regent Care's original assessment was \$24,000 per bed. Regent Care did not present any evidence as to value, did not challenge the assessor's per bed valuation method, and did not contend its property was overassessed or assessed outside the corridor permitted by Chapter 123, P.L. 1973.

The Court reviewed the *Van Decker Welcome Stranger* principles and concluded that the assessor did not use the "sale of the subject" factor, but relied upon appropriate data (sales of nursing homes in neighboring municipalities) to determine the increased assessment. The Court noted, however, that spot assessing was not limited to the *Welcome Stranger* scenario. The Court found that the reassessment of Regent Care's nursing home did not constitute arbitrary intentional discrimination. The reassessment

was implemented as part of a comprehensive review of all properties in the district. All commercial and industrial properties were evaluated. Those that were not underassessed were not changed. But all were evaluated and considered. Those selected for increases were not selected arbitrarily, but based upon objective, non-sales-related evidence, and in relation to other similarly situated properties within the class.

The Appellate Court then addressed Regent Care's declaration that the practice of "assessment maintenance" was an unconstitutional device creating spot assessments. "Assessment maintenance" refers to the practice by which an assessor changes some assessments in a year when a districtwide revaluation or reassessment is not performed. The Court declined to declare that all "assessment maintenance" is impermissible stating that such a declaration was not warranted, would be contrary to established precedent, and must be decided on a case-by-case basis.

The Appellate Court also rejected Regent Care's contention that the absence of formal uniform guidelines pertaining to assessment maintenance renders the practice illegal. The Court noted that guidelines do exist. The *Handbook for New Jersey Assessors*, New Jersey Division of Taxation (1989), was cited with approval in *Van Decker* as a source of proper assessment maintenance. In particular, the Court cited sections of Chapter 9, which is devoted to assessment maintenance. Further, assessors are trained, tested, and certified professionals. Whether assessors fulfilled their obligations under N.J.S.A. 54:4-23 in a fair and nondiscriminatory manner should be judged by their actions on a case-by-case basis.

The dominant principle of the State Constitution's uniformity clause is to mandate equality of treatment and burden. Taxpayers must be treated in a manner comparable to other taxpayers. Although performing a districtwide revaluation or reassessment every year would be the best way of meeting that mandate, it is simply not feasible. And yet, assessors cannot be expected to do nothing in years between districtwide revaluations or reassessments. The Court noted that although "assessors are prohibited from arbitrarily singling out property for increased assessment,' they nevertheless 'have a statutory obligation to monitor all available indicia of property value and to correct inequities in tax years other than years of districtwide revaluations. N.J.S.A. 54:4-23.'" It was held that the assessor properly discharged his statutory obligation to assess all property annually at full and fair value. The increased assessment was upheld.

### Omitted Added and Added Assessments

*Freehold Borough v. Nestle USA*, decided November 10, 2003; Tax Court, Nos. 004915-2001, 004916-2001. The issue before the New Jersey Tax Court was whether the omitted added assessment of \$1 for tax year 2000 and the added assessment of \$1 for tax year 2001 made by the Freehold Borough assessor against a food processing/manufacturing facility owned by Nestle USA should be voided.

Nestle moved for summary judgment voiding the \$1 assessments and dismissing the complaints on grounds that any increases in value attributable to improvements to the subject property should have been included in the regular assessment for the 2000 and 2001 tax years. Nestle alleges that the assessor's use of the omitted added and added assessment procedures was an attempt to manipulate and extend the time for municipal appeals seeking increased assessments on the subject property.

The assessor claims he became aware of projects undertaken by Nestle in late 1999 when he received copies of building permits for various projects at the site taken out by Nestle during 1997, 1998, and 1999. The assessor determined that some permits indicated the subject property's value might change as a consequence of the projects and an inspection would be required. Due to the assessor's lack of expertise in valuing the manufacturing property, he requested an appraiser be hired in 2000. But because of the cost involved, the Borough did not retain an appraiser until 2001. The appraiser was unable to quantify the amount of increase, but confirmed that there was a significant value increase over the current value of the subject property. Prior to the deadline for filing added assessments with the county tax board, the assessor knew that an added assessment in an unknown amount was called for as a result of the construction described in the building permits. He made an omitted added assessment and an added assessment for tax years 2000 and 2001, for \$1 each respectively. Freehold appealed the assessments to the Monmouth County Board of Taxation, which affirmed them, and then appealed the Board's judgments to this Court.

Nestle contended that the assessor's method of reflecting additional value was invalid. It argued that the admittedly fictitious \$1 omitted added and added assessments were improper attempts to increase erroneous valuations of the subject property as reflected in the regular assessments for tax years 2000 and 2001. It asserted that the omitted added and added assessment for 2000 and 2001 were imposed solely to extend the time for the Borough to contest the value of the improvements constructed prior to September 2001, which it should have appealed as regular assessments

for those tax years as permitted by N.J.S.A. 54:3-21. Nestle asked that the assessment be voided.

The purpose of the added assessment law is to permit taxation of real property which becomes assessable during the year following the statutory October 1 assessment date. The assessor is authorized to make an added assessment “when any parcel of real property contains any building or other structure which has been erected, added to or improved after October 1 and completed between January 1 and October 1 following.” The added assessment is imposed for the tax year in which the improvement is completed, and is prorated for the months remaining in the calendar year following completion of the project. The omitted assessment statute may be used where the assessor has failed to make an added assessment on an improvement through error. Omitted assessments may be imposed in the year in which the property should have been assessed or in the next succeeding year.

The Court found that both the omitted added assessment for tax year 2000 and the added assessment for 2001 were fictitious as to amount and that the years to which the assessor attributed the completion of the improvement were arbitrary. The assessor admitted he had not inspected the subject property until sometime in 2001. He knew by 1999 that building permits had been taken out by Nestle during 1997, 1998, and 1999, and candidly admitted that there might have been value added to the property by October 1, 1999. He further testified that he was unable to specify which projects resulted in the 2000 omitted added assessment and which projects resulted in the 2001 added assessment.

The courts of New Jersey have prohibited the use of omitted and added assessments to reflect a change in opinion as to the value of property on the regular assessment date. Omitted assessment procedures cannot be used to correct an assessor’s valuation error. Also there was no “discovery” of undisclosed improvements here, but rather a refusal to determine the date on which known improvements were completed and their value. An assessor’s original assessment is entitled to a presumption of correctness. In this case, the \$1 assessments were so wide of the mark of true value and deficient in assessment methodology that no presumption of correctness could attach to them.

The Court found the assessor failed to perform his statutory duties. The assessments were made contrary to the statutory scheme for added assessments, which mandates that, after examination and inquiry by the assessor, such assessments are to be made for the tax year in which the improvements are completed or in the next succeeding

year. In addition, the municipality could have timely appealed the regular assessments for 2000 and 2001 when the assessor, by requesting an appraiser, made the Borough aware that the values were inadequate. The assessments appealed from were made only with the knowledge that the improvements had been made sometime before the inspection of the subject property in 2001. The Court, therefore, concluded that the omitted added assessment for tax year 2000 and the added assessment for tax year 2001 must be voided.

### Exemption Status

*Congregation Ahavath Torah v. City of Englewood*, decided January 23, 2004; Tax Court No. 004020-1999. Plaintiff Congregation Ahavath Torah appeals a judgment of the Bergen County Board of Taxation applicable to tax year 1999 which denied a property tax exemption for the home of the church’s cantor. Plaintiff Congregation Ahavath Torah claims the building occupied by the cantor is entitled to exemption pursuant to N.J.S.A. 54:4-3.6 because the “Parsonage Exemption” allows an exemption of up to two buildings “actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State.”

Plaintiff is a religious corporation of the State of New Jersey which owns two residential properties in Englewood. One of the properties is a parsonage for the synagogue’s rabbi and is exempt without dispute. At issue is whether 157 Van Nostrand Avenue (Block 2911, Lot 20), which is used as a residence for the synagogue’s cantor, has exempt status.

The full-time, permanent cantor lives in the subject property. He performs a variety of services for the congregation including: directing liturgical prayer, conducting various prayer services, assisting in the daily services, participating in weddings and funerals, and reading or chanting from the sacred texts on holidays. Members of this congregation are not allowed to perform duties of a cantor without the cantor’s consent. The parties agree that the rabbi’s residence is exempt under the statute. However, they disagree about whether the cantor’s role is such that a residence set aside by the synagogue for the use of the cantor qualifies for exemption.

Decisions interpreting the Parsonage Exemption undertake a factual inquiry to determine whether the individual in question serves a congregation in a way that is consistent with the concept of an officiating clergy. The cases look to the character and extent of activities within the religious organization. *Friends of Ahi Ezer Congregation, Inc. v. Long Branch City*, 16 N.J. Tax 591 (Tax 1997),

*Shrine of Our Lady of Fatima v. Mantua*, 12 N.J. Tax 392 (Tax 1992). The decision examined many factors to determine if an individual is an officiant within the meaning of the Parsonage Exemption, and it is clear that it is not status or title, but services performed that determine if the exemption will apply. The Appellate Division, in *St. Matthew's Lutheran Church for the Deaf v. Division of Tax Appeals*, 18 N.J. Super 552 (App. Div. 1952), explained that the Parsonage Exemption requires that an "officiating clergyman" when associated with "parsonage" must be a pastor installed over a parish, church, or congregation. When he is an "officiating clergyman of any religious corporation" he must be serving the needs of a reasonably localized and established congregation.

New Jersey's Parsonage Exemption recognizes that more than one individual with a congregation may be considered officiating clergy under the statute, as evidenced by the 1962 amendment to N.J.S.A. 54:4-3.6, which increased the number of exempt buildings from one to two. The allowance contemplates that two persons may each have officiating clergy duties, either simultaneously or at different times. Federal Courts have recognized that Judaism assigns ministerial functions to both rabbis and cantors. Also, the courts have qualified cantors under the Federal exemptions applicable to members of the clergy.

In this case, the criteria established in *St. Matthew's* and subsequent New Jersey cases supports the interpretation of the exemption statute that permits both rabbis and cantors to qualify as officiating clergy. The Court entered a judgment in favor of the plaintiff allowing the Parsonage Exemption for the residence occupied by the cantor.

### Farmland Assessment

*Alexandria Township v. Philip and Joan Orban and Thomas Pajak, et al.*, decided May 4, 2004. The issue before the Tax Court on cross-motions for summary judgment is whether the failure to establish and file a woodland management plan pursuant to N.J.S.A. 54:4-23.3(a) before January 1, two years before the year for which farmland assessment is sought, will result in the denial of farmland assessment.

N.J.S.A. 54:4-23.6 provides that, in order to qualify for farmland assessment, the land must be actively devoted to agricultural or horticultural use for "at least two successive years immediately preceding the tax year for which the valuation...is requested." For example, where an application for farmland assessment is made for the year 2003, the land must be actively devoted to agricultural or horticultural use during the entire period of the calendar years 2001 and 2002. N.J.A.C. 18:15-6.2(a)(6) defines

"Devoted to agricultural or horticultural use" as "land in which trees and forest products are produced for sale and such land is in compliance with the written approved woodland management plan."

Philip and Joan Orban purchased a parcel of property in Alexandria Township. In May of 2000, the Orbans commenced work on a woodland management plan so that the property could qualify for farmland assessment. John Perry, a registered forester, was hired by Mr. Orban on December 19, 2000, to review the woodland management activities which Mr. Orban had performed since May of 2000. Mr. Perry confirmed that Mr. Orban had been complying with the woodland plan and was involved in the active management of the woodland plan.

Mr. Perry then prepared a written woodland management plan, which was filed by Mr. Orban with the Department of Environmental Protection and the assessor of Alexandria Township on May 26, 2001. During 2001, hardwood trees were sold producing an income in excess of \$6,000. In 2002, additional trees were cut and sold in accordance with the woodland plan, producing an income in excess of \$6,000. Timely applications for farmland assessment under the woodland management plan were filed on or before August 1, 2001, and August 1, 2002.

The assessor denied farmland assessment for the year 2003 based upon the fact that the formal woodland management plan was not filed until May of 2001. It is the position of the tax assessor that he cannot grant an application for farmland assessment unless the formal plan is filed two full calendar years before the tax year for which farmland assessment is sought.

The township contends that since the woodland management plan was not in effect for two consecutive full years prior to the year for which farmland assessment is sought, the subject property is not entitled to farmland assessment. Property owners, to the contrary, contend that "actively devoted to agricultural or horticultural use" does not require that a woodland management plan be written and filed with a municipality on or before January 1 two years preceding the year in which farmland assessment for the woodlot is sought. Owners contend that so long as their activities conformed to a woodland management plan filed after their activities commenced, they meet the standards of the statute.

On January 13, 2003, a portion of the parcel was sold to Thomas and Susan Pajak. On March 28, 2003, the Orbans and the Pajaks filed tax appeals with the Hunterdon County Board of Taxation appealing the denial of farmland assessment for the year 2003. On June 13, 2003, the



County Board granted the farmland assessment on the properties. On July 28, 2003, Alexandria Township filed appeals with the Tax Court seeking to reverse the County Board's determinations granting farmland assessment for the properties. On February 11, 2004, the township filed this motion for summary judgment, and on March 3, 2004, the property owners filed a cross-motion for summary judgment.

In this case, taxpayers seek farmland assessment for tax year 2003, thus N.J.S.A. 54:4-23.6 requires the land to have been actively devoted to agricultural or horticultural use for the two preceding years, 2002 and 2001. N.J.A.C. 18:15-3.1. The Court cited the cases of *Mt. Hope Mining Co. v. Rockaway Twp.*, 8 N.J. Tax 570, 575 (Tax 1986), *Clearview Estates, Inc. v. Mt. Lakes Borough*, 188 N.J. Super. 99 (App. Div. 1982), and *Green Pond Corp. v. Rockaway Twp.*, 2 N.J. Tax 273 (Tax 1981) and statutes to indicate that the use must be during the entire two full calendar years preceding the year for which farmland assessment is sought.

Amended regulations were adopted effective October 6, 1997, so that they would comply with N.J.S.A. 54:4-23.3 as amended by P.L. 1986, c.201 and P.L. 1995, c.276. Prior to 1986, the statute did not require a written woodland management plan. The 1986 amendments to the statute were intended to provide a reasonable means of eliminating the widespread practice of indiscriminate cutting of woodlands to meet the earned income requirements of farmland assessment.

Land on which trees and forest products are produced for sale is "actively devoted to agricultural or horticultural use" when it is in compliance with a written approved woodland management plan. N.J.A.C. 18:15-6.2. A woodland management plan was written by Forester John Perry and filed by the defendants on May 26, 2001. Taxpayers maintain that even though the woodland management plan was not written and filed until May 26, 2001, the activities were taking place on the land from January 1, 2001, in accordance with good forestry management and the implementation of the woodland plan that was later filed and approved. However, N.J.A.C. 18:15-6.2 requires the plan to be a "written approved management plan." Since the plan in this case was not written or filed until May 26, 2001, the land does not meet the definition of actively devoted to agricultural or horticultural use for the full year 2001. Since it was not actively devoted to horticultural use for all of 2001, it cannot qualify for farmland assessment in 2003.

The Court held that in order to be in compliance with a plan, a plan must be drawn up, submitted, and approved

prior to the activities undertaken in accordance with that plan. Accordingly, a woodland management plan must be filed by January 1 two years prior to the year for which farmland assessment as a woodlot is sought.

*F.M.C. Stores v. Morris Plains*, 100 N.J. 418 (1985) stands for two propositions that: (1) filing deadlines are to be strictly construed, and (2) in dealing with taxpayers, the government must turn square corners. Having an ambiguous date on which a woodland management plan can be filed complies with neither of these principles, and although the result in this case may hurt the taxpayer, it is essential in construing beneficial tax provisions that clear lines be drawn so that both taxpayer and municipality can be on adequate notice and make adequate plans for the tax base and so that taxes due can be anticipated.

The township's motions for summary judgment are granted and taxpayer's cross-motions are denied as moot.

## Sales and Use Tax

### Derivative Exemption

*Sodexo Operations, LLC v. Director, Division of Taxation*, decided August 13, 2003; Tax Court No. 001793-2001. Sodexo contracted to provide management services for the food and cleaning service departments of various hospitals and other institutions that qualified as tax-exempt organizations for sales and use tax purposes. As part of the management services, Sodexo purchased supplies for use in the cleaning department; various paper goods such as plates, cups, napkins, straws, and utensils for the food service department; and furniture and materials to renovate the cafeteria and coffee shops. Sodexo claims that these purchases are not subject to sales and use tax because it acted as an agent for the tax-exempt organizations, and therefore is entitled to a derivative exemption. Alternatively, Sodexo argues that all the purchases are exempt as a purchase for resale to the tax-exempt organizations, and that the furniture and material purchases are exempt because Sodexo should be considered a contractor.

In addressing the issue of derivative exemption, the Court reviewed the New Jersey Sales and Use Tax Act and case law. The Court found that there was no express statutory authorization to permit Sodexo to use the exempt organizations' sales and use tax exemption, nor did New Jersey case law exist regarding this issue. After discussing both state and Federal case law, the Court determined that United States Supreme Court decisions dealing with the extension of sovereign immunity to government contractors

were applicable to resolving Sodexho's claim of derivative exemption. The Court decided that in order for Sodexho to be entitled to the exempt organizations' tax exemption, Sodexho must meet the Supreme Court standard as stated in *United States v. New Mexico* that Sodexho and the exempt organization "cannot realistically be viewed as separate entities, at least insofar as the activity being taxed is concerned." The Court determined that although an agency relationship existed between Sodexho and the exempt organizations, the evidence indicated that Sodexho retained substantial elements of discretion and control while performing its management services, and that it operated an independent business in pursuit of its own profit-making purposes and objectives. Consequently, the Court held that Sodexho could not use the exempt organizations' tax exemption, as it could be viewed as a separate entity. The Court noted that even though the ultimate burden of the tax would fall upon the tax-exempt organizations, that that fact does not affect its decision.

Turning to the alternative argument that Sodexho's purchases are exempt as the purchases were for purposes of resale to the exempt organizations, the Court stated that N.J.S.A. 54:32B-2(e)(1) excludes from tax a sale for resale of tangible personalty "either as such or as converted into or as a component part of a product produced for sale by the purchaser." In addressing the issue of whether tangible personalty or services were sold to the exempt organizations "as such," the Court found that it needed to determine what was the true or real object sought by the buyer, and whether the tangible personalty was a critical element of the transaction. The Court opined that the true object of the agreements between the parties was for Sodexho's expertise in providing management services, and that the purchase of tangible personalty was merely incidental to providing these management services, such as training the tax-exempt organizations' employees and determining appropriate inventory levels, as well as convenience for the tax-exempt organizations. The Court concluded that the purchases could not be exempt as converted into or as a component part of a product produced by Sodexho for sale to the tax-exempt organizations because Sodexho did not produce a product. The Court stated that the fact that Sodexho was reimbursed by the tax-exempt organizations for the cost of most of the items was not determinative to the issue of whether there was a resale. Finally, the Court found that language contained in the agreements between the parties contradicted that there was a sale to the tax-exempt organizations where the agreement stated that the inventory shall remain the property of Sodexho, Sodexho would absorb the cost, and after a time period the tax-exempt organizations would not have to pay for the materials.

Finally, the Court addressed Sodexho's claim that the furniture and material purchases are exempt because it should be considered a contractor. The Court ruled that Sodexho was not a contractor as it did not produce evidence that qualified itself for the statutory definition of contractor. Furthermore, the Court determined that the true object of these purchases was for Sodexho to earn its management fees, and for the tax-exempt organizations not to terminate the agreements.

### Floor Covering Materials

*Sanford Rever v. Director, Division of Taxation*, decided August 14, 2003; Tax Court No. 005566-2002. Plaintiff entered into a contract for the construction of a new house with a contractor. The contractor referred plaintiff to a dealer to select floor covering if plaintiff desired to upgrade items contained in the contract. Plaintiff purchased flooring material and carpeting from this dealer. The invoice detailed three types of materials, the number of units purchased, the item price, and the extended price. In determining the total invoice price, the dealer calculated sales tax on the materials and then deducted a builder's credit. Dealer refused to accept plaintiff's Form ST-8, Certificate of Capital Improvement, as a basis for sales tax exemption. Therefore, plaintiff paid dealer sales tax. The floor covering was installed by an installer, not the dealer, who plaintiff alleged was a subcontractor. Plaintiff timely filed a sales tax refund claim, which was denied by the Division.

Here, the Tax Court found that the agreement between the plaintiff and the contractor required plaintiff to purchase the upgraded flooring materials himself, with an allowance towards their cost to be paid by the contractor. *This allowance reflected the cost that was presumably included in the original selling price of the house.* Therefore, the contractor did not purchase the upgraded materials and did not pay sales tax on plaintiff's purchase of upgraded flooring.

Plaintiff contested the refund denial claiming that the dealer should have paid sales tax when the dealer purchased the inventory it resold to plaintiff because the contractor, which plaintiff identified as the dealer, not the customer is obligated to pay the sales tax. The Tax Court determined that this transaction was the retail sale of floor covering materials from the dealer to the plaintiff and that this transaction is subject to sales tax. Although it was undisputed that the installed floor material constituted a capital improvement, the Court found that a tax exemption existed only for the installation involved in the capital improvement and not for the materials installed.



Plaintiff also argued that he contracted with the dealer for the purchase as well as the installation of flooring materials. The Court ruled that the capital improvement installation services are exempt from sales tax where the charges are stated separately on the invoice. Here the Court found that there was no evidence that installation services were contained in the invoice and noted that it was not disputed that there was no separate charge for installation.

Plaintiff filed a motion for amendment pursuant to R. 1:7-4(b) that was denied by the Court on September 26, 2003, as the Court addressed the same issues in its previous decision.

#### **Chemical and Catalyst Exemption**

*Atlantic City Linen Supply Inc. v. Director, Division of Taxation*, decided November 6, 2003; Appellate Division No. A-5146-01T1. Plaintiff (A.C. Linen) is a commercial laundry that uses a variety of chemicals, cleaning agents, and detergents in various stages of the laundering process. A.C. Linen claims that these chemicals and detergents used in its laundering process are exempt from sales tax as materials used in the manufacturing and refining process pursuant to N.J.S.A. 54:32B-8.20. The Tax Court ruled that plaintiff did not qualify for this exemption because the laundry process did not result in a tangible finished product different from the material input into the process. A.C. Linen appealed that determination.

The Appellate Division affirmed the Tax Court for substantially the reasons expressed in its opinion. The Court emphasized that A.C. Linen did not create a different end product, but performed a service on the product, and that this provider of laundry services is entitled to tax exemptions that are not applicable to refining and manufacturing operations.

Atlantic City Linen filed a petition of certification to the New Jersey Supreme Court.

#### **Chemical and Catalyst Exemption**

*Atlantic City Linen Supply, Inc. v. Director, Division of Taxation*, decided February 10, 2004; Supreme Court of New Jersey No. C-646, September Term 2003, 55,533. The New Jersey Supreme Court denied Atlantic City Linen's petition for certification. Previously, the Appellate Division upheld the Tax Court's ruling that chemicals and detergents used in Atlantic City Linen's laundering process were not exempt from sales tax as materials used in the manufacturing and refining process pursuant to N.J.S.A. 54:32B-8.20. The Appellate Division emphasized that A.C. Linen did not create a different end product, but instead performed a service.

#### **Cigarette Purchases via Internet or Telephone**

*Gary Mosher v. Director, Division of Taxation*, decided November 22, 2002; Tax Court No. 001180-2002; decided February 17, 2004; Appellate Division No. A-2515-02T3.

See Cigarette Tax, page 58, for both case summaries.

#### **Refunds**

*Jennifer Nicoletta and Tzvi Kulger v. Elrac, Inc., D/B/A Enterprise Rent-A-Car*, decided February 17, 2004; Appellate Division No. A-1214-02T2. Plaintiffs rented cars as individual consumers from the defendant. At the time of rental, plaintiffs obtained optional driver protection options on which they paid sales tax and claim that defendant knew that these transactions were not subject to sales tax. Thereafter, plaintiffs filed a complaint seeking recovery of damages for consumer fraud, unjust enrichment, negligent misrepresentation, and a refund of sales tax paid for themselves and a class of all taxpayers, as well as punitive damages and equitable relief. Initially, the Court granted a class certification and found that defendant improperly charged sales tax. Pursuant to a motion for reconsideration, the Court reversed vacating the prior certification and ruling that filing a refund application to the Division of Taxation was a superior remedy to a class action.

The Appellate Division dismissed the complaint holding that the complaint did not state a cause of action under the Consumer Fraud Act. In order to have a cause of action under the Consumer Fraud Act, there is a requirement that plaintiff prove an "ascertainable loss." The Court determined that plaintiffs' claim was for a refund of sales tax that is specifically governed by Sales and Use Tax Act N.J.S.A. 54:32B-20. Therefore, the Court found it improbable that a similar cause of action would exist under the Consumer Fraud Act, and that the governing tax statutes indicate an "unmistakable legislative intent that the Sales and Use Tax Act statute is the exclusive framework for refunds of the tax." Finally, the Court noted that unjust enrichment does not occur when a vendor collects and timely remits sales tax to the Division of Taxation.



## New Jersey Division of Taxation

### APPENDICES

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## 2003 General and Effective Property Tax Rates By Municipality

County	General Tax Rate	Effective Tax Rate	County	General Tax Rate	Effective Tax Rate
<b>Atlantic</b>			Englewood Cliffs Bor.	0.940	0.940
Absecon City	3.498	3.140	Fair Lawn Borough	3.370	2.380
Atlantic City	3.369	2.700	Fairview Borough	3.140	2.630
Brigantine City	2.850	1.970	Fort Lee Borough	2.650	2.110
Buena Borough	3.249	2.810	Franklin Lakes Borough	2.040	1.460
Buena Vista Township	2.942	2.390	Garfield City	2.950	2.360
Corbin City	2.366	2.520	Glen Rock Borough	2.210	2.450
Egg Harbor City	4.727	3.690	Hackensack City	4.300	2.950
Egg Harbor Township	2.961	2.510	Harrington Park Borough	3.010	2.290
Estell Manor City	2.083	2.130	Hasbrouck Heights Bor.	3.100	2.430
Folsom Borough	2.199	1.990	Haworth Borough	3.330	2.330
Galloway Township	2.977	2.710	Hillsdale Borough	3.020	2.040
Hamilton Township	3.075	2.630	Ho Ho Kus Borough	2.230	1.640
Hammonton Town	3.000	2.790	Leonia Borough	2.990	2.370
Linwood City	2.768	3.110	Little Ferry Borough	3.470	2.650
Longport Borough	1.071	1.020	Lodi Borough	4.110	2.840
Margate City	2.334	1.830	Lyndhurst Township	2.990	2.320
Mullica Township	3.107	2.660	Mahwah Township	1.410	1.330
Northfield City	3.319	2.870	Maywood Borough	3.260	2.380
Pleasantville City	3.751	3.430	Midland Park Borough	2.270	2.240
Port Republic City	2.525	2.170	Montvale Borough	2.490	1.780
Somers Point City	3.139	2.620	Moonachie Borough	2.460	1.680
Ventnor City	2.357	2.730	New Milford Borough	3.160	2.430
Weymouth Township	2.180	1.840	North Arlington Borough	3.370	2.680
<b>Bergen</b>			Northvale Borough	2.950	2.310
Allendale Borough	1.910	2.050	Norwood Borough	2.600	2.020
Alpine Borough	1.130	0.800	Oakland Borough	3.110	2.160
Bergenfield Borough	4.410	2.960	Old Tappan Borough	1.730	1.770
Bogota Borough	3.090	2.790	Oradell Borough	3.240	2.150
Carlstadt Borough	2.370	1.590	Palisades Park Borough	2.860	1.960
Cliffside Park Borough	2.890	1.930	Paramus Borough	2.440	1.570
Closter Borough	2.550	2.130	Park Ridge Borough	2.470	1.820
Cresskill Borough	3.180	2.010	Ramsey Borough	1.810	2.130
Demarest Borough	1.720	2.190	Ridgefield Borough	1.900	1.300
Dumont Borough	3.530	2.600	Ridgefield Park Village	3.080	2.910
Elmwood Park Borough	2.900	2.170	Ridgewood Village	2.340	2.120
East Rutherford Borough	2.240	1.780	River Edge Borough	3.360	2.480
Edgewater Borough	2.520	1.610	River Vale Township	2.920	2.050
Emerson Borough	3.120	2.430	Rochelle Park Township	2.060	2.020
Englewood City	3.460	2.310	Rockleigh Borough	1.420	0.900
			Rutherford Borough	3.410	2.530

County	General Tax Rate	Effective Tax Rate	County	General Tax Rate	Effective Tax Rate
<b>Bergen</b> (continued)			Southampton Township	2.568	2.610
Saddle Brook Township	2.610	2.040	Springfield Township	3.474	2.640
Saddle River Borough	0.720	0.820	Tabernacle Township	3.255	2.640
South Hackensack Twp.	2.330	2.200	Washington Township	2.312	1.900
Teaneck Township	3.990	2.890	Westampton Township	2.650	2.410
Tenafly Borough	1.910	2.220	Willingboro Township	3.947	3.500
Teterboro Borough	1.360	1.320	Woodland Township	2.435	2.360
Upper Saddle River Bor.	1.610	1.600	Wrightstown Borough	2.329	2.350
Waldwick Borough	3.440	2.310			
Wallington Borough	2.720	2.210	<b>Camden</b>		
Washington Township	2.760	1.880	Audubon Borough	4.248	3.550
Westwood Borough	3.120	2.120	Audubon Park Borough	4.920	4.820
Woodcliff Lake Borough	1.480	1.730	Barrington Borough	4.288	3.730
Wood-Ridge Borough	2.080	2.030	Bellmawr Borough	4.268	3.730
Wyckoff Township	2.310	1.660	Berlin Borough	3.629	3.210
			Berlin Township	3.650	3.540
<b>Burlington</b>			Brooklawn Borough	3.579	3.430
Bass River Township	3.187	2.870	Camden City	4.578	3.660
Beverly City	4.025	3.670	Cherry Hill Township	3.810	3.190
Bordentown City	3.898	3.300	Chesilhurst Borough	3.200	3.010
Bordentown Township	3.349	2.710	Clementon Borough	3.910	3.720
Burlington City	3.040	2.980	Collingswood Borough	3.949	3.790
Burlington Township	2.836	2.390	Gibbsboro Borough	2.807	3.290
Chesterfield Township	3.086	2.550	Gloucester City	3.350	3.240
Cinnaminson Township	3.499	2.760	Gloucester Township	3.840	3.410
Delanco Township	3.468	2.910	Haddon Township	3.841	3.420
Delran Township	3.332	2.910	Haddonfield Borough	4.000	3.120
Eastampton Township	3.541	3.010	Haddon Heights Borough	4.231	3.620
Edgewater Park Township	3.087	2.630	Hi-Nella Borough	5.565	4.970
Evesham Township	3.439	2.810	Laurel Springs Borough	3.920	3.560
Fieldsboro Borough	3.448	2.860	Lawnside Borough	3.360	3.360
Florence Township	3.061	2.660	Lindenwold Borough	4.530	4.420
Hainesport Township	2.759	2.350	Magnolia Borough	4.360	4.240
Lumberton Township	2.820	2.370	Merchantville Borough	4.170	4.050
Mansfield Township	2.913	2.340	Mount Ephraim Borough	3.851	3.740
Maple Shade Township	3.150	2.820	Oaklyn Borough	3.802	3.660
Medford Township	3.528	2.940	Pennsauken Township	3.380	3.220
Medford Lakes Borough	4.240	3.360	Pine Hill Borough	4.780	4.240
Moorestown Township	3.590	2.400	Pine Valley Borough	1.660	1.660
Mount Holly Township	3.404	2.900	Runnemede Borough	3.995	3.790
Mount Laurel Township	3.132	2.770	Somerdale Borough	4.460	4.180
New Hanover Township	2.029	2.320	Stratford Borough	4.137	3.870
North Hanover Township	2.452	2.170	Tavistock Borough	3.939	3.870
Palmyra Borough	3.390	3.000	Voorhees Township	4.860	3.350
Pemberton Borough	3.743	3.180	Waterford Township	4.035	3.710
Pemberton Township	2.923	2.770	Winslow Township	3.810	3.310
Riverside Township	2.969	2.630	Woodlynne Borough	5.460	5.010
Riverton Borough	4.114	3.290			
Shamong Township	3.152	2.610			



<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>	<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>
<b>Cape May</b>			North Caldwell Borough	6.760	2.150
Avalon Borough	0.860	0.620	Nutley Township	13.750	2.900
Cape May City	1.840	1.100	Orange City	32.800	3.960
Cape May Point Borough	0.690	0.660	Roseland Borough	9.350	2.010
Dennis Township	2.080	1.620	S. Orange Village Twp.	5.280	3.320
Lower Township	2.610	1.990	Verona Township	7.630	2.520
Middle Township	2.720	2.210	West Caldwell Township	3.250	2.420
North Wildwood City	2.620	1.880	West Orange Township	8.800	3.200
Ocean City	0.970	1.140	<b>Gloucester</b>		
Sea Isle City	1.690	0.840	Clayton Borough	3.929	3.510
Stone Harbor Borough	0.780	0.640	Deptford Township	3.000	2.940
Upper Township	2.160	1.760	East Greenwich Township	3.149	2.640
West Cape May Borough	1.850	1.400	Elk Township	3.348	2.880
West Wildwood Borough	2.870	1.950	Franklin Township	3.143	2.850
Wildwood City	3.380	2.750	Glassboro Borough	3.891	3.650
Wildwood Crest Borough	1.220	1.540	Greenwich Township	2.865	2.520
Woodbine Borough	2.260	1.770	Harrison Township	3.380	2.780
<b>Cumberland</b>			Logan Township	2.583	2.740
Bridgeton City	3.303	2.847	Mantua Township	3.589	3.070
Commercial Township	2.895	2.429	Monroe Township	3.657	3.110
Deerfield Township	3.922	2.961	National Park Borough	4.051	3.590
Downe Township	3.164	2.696	Newfield Borough	3.982	3.170
Fairfield Township	2.227	2.156	Paulsboro Borough	3.216	3.050
Greenwich Township	4.359	3.225	Pitman Borough	3.813	3.320
Hopewell Township	2.737	2.803	S. Harrison Township	3.083	2.620
Lawrence Township	2.876	2.534	Swedesboro Borough	3.883	3.310
Maurice River Township	2.976	2.458	Washington Township	3.626	3.000
Millville City	4.106	2.855	Wenonah Borough	3.647	3.210
Shiloh Borough	3.701	3.390	West Deptford Township	3.113	2.830
Stow Creek Township	2.251	2.323	Westville Borough	3.465	3.200
Upper Deerfield Twp.	2.696	2.624	Woodbury City	4.784	4.310
Vineland City	3.090	2.499	Woodbury Heights Bor.	3.204	3.390
<b>Essex</b>			Woolwich Township	3.594	2.790
Belleville Township	14.090	3.380	<b>Hudson</b>		
Bloomfield Township	4.230	3.160	Bayonne City	4.591	3.320
Caldwell Borough Twp.	15.270	2.430	East Newark Borough	6.571	2.567
Cedar Grove Township	9.990	2.080	Guttenberg Town	4.272	2.631
East Orange City	27.120	5.330	Harrison Town	4.143	2.576
Essex Fells Township	14.040	1.810	Hoboken City	3.242	1.688
Fairfield Township	2.320	1.840	Jersey City	4.606	2.715
Glen Ridge Bor. Twp.	12.760	3.270	Kearny Town	6.608	3.046
Irvington Township	23.020	4.380	North Bergen Township	3.832	2.928
Livingston Township	11.980	2.360	Secaucus Town	2.682	2.333
Maplewood Township	3.420	3.180	Union City	4.437	3.592
Millburn Township	1.860	1.850	Weehawken Township	2.975	2.230
Montclair Township	4.670	3.020	West New York Town	4.474	3.136
Newark City	2.160	2.730			

County	General Tax Rate	Effective Tax Rate	County	General Tax Rate	Effective Tax Rate
<b>Hunterdon</b>			East Brunswick Township	6.220	2.572
Alexandria Township	2.970	2.010	Edison Township	3.110	2.403
Bethlehem Township	2.440	2.410	Helmetta Borough	6.570	2.961
Bloomsbury Borough	3.160	2.380	Highland Park Borough	4.950	3.076
Califon Borough	3.730	2.700	Jamesburg Borough	4.030	3.287
Clinton Town	2.570	2.410	Metuchen Borough	3.400	2.380
Clinton Township	2.130	1.970	Middlesex Borough	5.400	2.850
Delaware Township	1.900	1.990	Milltown Borough	3.260	2.502
East Amwell Township	2.870	2.000	Monroe Township	2.730	1.941
Flemington Borough	2.710	2.550	New Brunswick City	3.750	2.788
Franklin Township	3.060	2.030	North Brunswick Twp.	3.330	2.697
Frenchtown Borough	3.540	2.340	Old Bridge Township	3.430	2.587
Glen Gardner Borough	2.410	2.330	Perth Amboy City	3.070	2.432
Hampton Borough	4.030	3.250	Piscataway Township	4.340	2.487
High Bridge Borough	3.550	2.660	Plainsboro Township	2.810	2.442
Holland Township	1.740	1.730	Sayreville Borough	3.180	2.340
Kingwood Township	2.680	1.840	South Amboy City	5.340	2.334
Lambertville City	2.080	1.800	South Brunswick Twp.	2.960	2.364
Lebanon Borough	3.020	2.030	South Plainfield Bor.	3.690	2.217
Lebanon Township	2.240	1.960	South River Borough	4.450	2.031
Milford Borough	2.200	2.050	Spotswood Borough	6.810	2.762
Raritan Township	2.990	2.000	Woodbridge Township	5.850	2.572
Readington Township	1.960	1.940			
Stockton Borough	2.990	1.970	<b>Monmouth</b>		
Tewksbury Township	1.960	1.820	Aberdeen Township	4.274	2.876
Union Township	2.070	1.880	Allenhurst Borough	1.208	1.175
West Amwell Township	1.780	1.750	Allentown Borough	3.594	2.951
			Asbury Park City	3.943	3.121
<b>Mercer</b>			Atlantic Highlands Bor.	3.777	2.448
East Windsor Township	3.900	2.960	Avon-by-the-Sea Bor.	2.140	1.349
Ewing Township	3.730	2.970	Belmar Borough	1.361	1.902
Hamilton Township	2.940	2.590	Bradley Beach Borough	2.351	2.193
Hightstown Borough	4.770	3.520	Brielle Borough	2.661	1.827
Hopewell Borough	3.330	2.460	Colts Neck Township	2.823	1.765
Hopewell Township	2.960	2.190	Deal Borough	0.758	0.832
Lawrence Township	2.990	2.490	Eatontown Borough	2.983	2.566
Pennington Borough	3.720	2.530	Englishtown Borough	3.363	2.460
Princeton Borough	3.060	2.070	Fair Haven Borough	1.768	2.149
Princeton Township	2.790	1.980	Farmingdale Borough	3.461	2.398
Trenton City	3.980	3.790	Freehold Borough	3.380	2.555
Washington Township	3.630	2.670	Freehold Township	2.872	2.136
West Windsor Township	4.110	2.820	Hazlet Township	3.688	2.596
			Highlands Borough	5.180	3.192
<b>Middlesex</b>			Holmdel Township	2.961	1.917
Carteret Borough	3.970	2.993	Howell Township	3.388	2.522
Cranbury Township	3.530	2.011	Interlaken Borough	1.096	1.439
Dunellen Borough	7.540	2.790			

County	General Tax Rate	Effective Tax Rate	County	General Tax Rate	Effective Tax Rate
<b>Monmouth</b> (continued)			Lincoln Park Borough	3.240	2.430
Keansburg Borough	4.333	3.161	Long Hill Township	1.980	2.010
Keyport Borough	3.624	2.751	Madison Borough	1.920	1.650
Little Silver Borough	1.846	2.177	Mendham Borough	2.750	1.690
Loch Arbour Village	1.366	1.360	Mendham Township	2.700	1.760
Long Branch City	2.159	2.560	Mine Hill Township	3.380	2.470
Manalapan Township	3.456	2.259	Montville Township	2.360	1.870
Manasquan Borough	2.936	1.700	Morris Township	1.870	1.740
Marlboro Township	3.531	2.251	Morris Plains Borough	2.500	1.930
Matawan Borough	4.199	3.026	Morristown Town	3.230	2.310
Middletown Township	3.205	2.200	Mountain Lakes Borough	3.080	2.030
Millstone Township	2.008	2.014	Mount Arlington Borough	3.210	2.050
Monmouth Beach Bor.	3.067	1.718	Mount Olive Township	3.050	2.670
Neptune Township	3.485	2.350	Netcong Borough	3.190	2.760
Neptune City Borough	3.819	2.753	Parsippany-Troy Hills Twp.	1.720	2.120
Ocean Township	3.398	2.239	Pequannock Township	3.060	2.140
Oceanport Borough	3.005	2.039	Randolph Township	2.470	2.150
Red Bank Borough	2.974	2.388	Riverdale Borough	2.310	1.810
Roosevelt Borough	4.629	3.537	Rockaway Borough	2.960	2.490
Rumson Borough	3.047	1.651	Rockaway Township	2.500	2.500
Sea Bright Borough	3.024	1.836	Roxbury Township	2.780	2.330
Sea Girt Borough	1.870	1.024	Victory Gardens Borough	3.100	2.040
Shrewsbury Borough	1.981	2.275	Washington Township	2.890	2.220
Shrewsbury Township	4.204	3.059	Wharton Borough	3.250	2.350
South Belmar Borough	3.660	2.511			
Spring Lake Borough	1.535	0.861	<b>Ocean</b>		
Spring Lake Heights Bor.	1.615	1.571	Barneget Township	3.564	2.700
Tinton Falls Borough	3.211	2.367	Barneget Light Borough	1.929	1.068
Union Beach Borough	2.374	2.856	Bay Head Borough	0.871	0.864
Upper Freehold Township	2.820	2.218	Beach Haven Borough	2.283	1.237
Wall Township	2.044	2.017	Beachwood Borough	2.849	2.250
West Long Branch Bor.	2.657	2.131	Berkeley Township	2.516	1.945
			Brick Township	2.901	2.061
<b>Morris</b>			Dover Township	2.714	1.887
Boonton Town	2.880	2.150	Eagleswood Township	3.025	2.547
Boonton Township	2.460	1.840	Harvey Cedars Borough	2.141	1.118
Butler Borough	2.130	2.280	Island Heights Borough	3.430	2.295
Chatham Borough	3.100	1.620	Jackson Township	3.215	2.278
Chatham Township	2.440	1.570	Lacey Township	2.716	2.040
Chester Borough	2.110	2.280	Lakehurst Borough	3.749	3.121
Chester Township	2.760	1.870	Lakewood Township	3.152	2.261
Denville Township	1.970	1.960	Lavallette Borough	1.719	1.042
Dover Town	3.250	2.500	Little Egg Harbor Twp.	3.246	2.702
East Hanover Township	1.460	1.460	Long Beach Township	1.794	1.059
Florham Park Borough	1.960	1.310	Manchester Township	2.569	2.118
Hanover Township	1.960	1.440	Mantoloking Borough	0.726	0.693
Harding Township	0.840	0.930	Ocean Township	3.263	2.526
Jefferson Township	3.090	2.320			
Kinnelon Borough	2.190	2.090			

<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>	<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>
<b>Ocean (continued)</b>			<b>Somerset</b>		
Ocean Gate Borough	3.242	2.498	Bedminster Township	1.200	1.250
Pine Beach Borough	2.633	2.022	Bernards Township	1.700	1.740
Plumsted Township	2.795	2.104	Bernardsville Borough	1.410	1.520
Point Pleasant Borough	2.916	2.057	Bound Brook Borough	3.500	2.850
Pt. Pleasant Beach Bor.	2.602	1.538	Branchburg Township	2.120	2.110
Seaside Heights Borough	3.090	2.320	Bridgewater Township	1.910	1.740
Seaside Park Borough	1.463	1.690	Far Hills Borough	1.050	1.100
Ship Bottom Borough	1.930	1.197	Franklin Township	2.190	2.420
South Toms River Bor.	3.261	2.503	Green Brook Township	2.960	2.090
Stafford Township	2.439	2.134	Hillsborough Township	2.470	2.310
Surf City Borough	1.942	1.107	Manville Borough	3.140	2.450
Tuckerton Borough	3.529	2.885	Millstone Borough	2.090	2.340
<b>Passaic</b>			Montgomery Township	2.300	2.360
Bloomington Borough	4.220	2.930	North Plainfield Borough	3.920	3.180
Clifton City	3.260	2.660	Peapack & Gladstone Bor.	1.560	1.500
Haledon Borough	3.780	3.130	Raritan Borough	2.880	2.060
Hawthorne Borough	3.570	2.610	Rocky Hill Borough	2.330	1.620
Little Falls Township	3.670	2.160	Somerville Borough	3.870	3.320
North Haledon Borough	5.050	2.310	South Bound Brook Bor.	4.120	3.300
Passaic City	4.370	3.400	Warren Township	1.700	1.730
Paterson City	22.970	3.510	Watchung Borough	1.540	1.690
Pompton Lakes Borough	4.180	3.020	<b>Sussex</b>		
Prospect Park Borough	3.570	2.920	Andover Borough	2.870	2.420
Ringwood Borough	3.970	2.810	Andover Township	2.480	2.770
Totowa Borough	2.710	2.230	Branchville Borough	2.200	1.800
Wanaque Borough	4.540	2.960	Byram Township	3.920	2.870
Wayne Township	3.100	2.220	Frankford Township	3.070	2.580
West Milford Township	4.470	2.970	Franklin Borough	4.080	3.110
West Paterson Borough	3.150	2.380	Fredon Township	3.010	2.380
<b>Salem</b>			Green Township	3.360	2.610
Alloway Township	2.638	2.530	Hamburg Borough	2.860	2.910
Carneys Point Township	3.402	2.800	Hampton Township	3.070	2.660
Elmer Borough	3.909	3.200	Hardyston Township	3.200	2.530
Elsinboro Township	3.476	3.020	Hopatcong Borough	3.370	2.870
Lower Alloways Crk. Twp.	1.496	1.000	Lafayette Township	3.010	2.260
Mannington Township	2.977	2.130	Montague Township	2.870	2.440
Oldmans Township	3.342	2.740	Newton Town	3.700	3.080
Penns Grove Borough	4.507	3.460	Ogdensburg Borough	3.770	3.190
Pennsville Township	3.181	2.830	Sandyston Township	2.800	2.510
Pilesgrove Township	2.909	2.580	Sparta Township	2.520	2.530
Pittsgrove Township	4.090	2.840	Stanhope Borough	4.570	3.250
Quinton Township	2.838	2.740	Stillwater Township	3.550	2.710
Salem City	4.335	3.500	Sussex Borough	3.480	2.860
Upper Pittsgrove Twp.	3.239	2.360	Vernon Township	3.480	2.780
Woodstown Borough	3.492	3.110	Walpack Township	1.740	1.570
			Wantage Township	3.430	2.660

<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>	<b>County</b>	<b>General Tax Rate</b>	<b>Effective Tax Rate</b>
<b>Union</b>			<b>Warren</b>		
Berkeley Heights Twp.	2.441	1.790	Allamuchy Township	1.700	2.000
Clark Township	5.691	2.370	Alpha Borough	3.660	3.170
Cranford Township	3.531	2.120	Belvidere Town	3.560	3.030
Elizabeth City	14.217	2.800	Blairstown Township	2.440	2.010
Fanwood Borough	8.520	2.550	Franklin Township	3.040	2.550
Garwood Borough	5.868	2.570	Frelinghuysen Township	2.850	2.370
Hillside Township	4.664	3.380	Greenwich Township	2.100	2.120
Kenilworth Borough	2.658	2.060	Hackettstown Town	3.310	3.030
Linden City	3.360	2.620	Hardwick Township	2.350	2.260
Mountainside Borough	4.073	1.650	Harmony Township	1.700	1.860
New Providence Borough	2.889	2.070	Hope Township	2.800	2.320
Plainfield City	4.454	3.110	Independence Township	3.130	2.350
Rahway City	3.736	3.030	Knowlton Township	2.490	2.440
Roselle Borough	5.174	4.300	Liberty Township	2.250	2.700
Roselle Park Borough	7.955	3.160	Lopatcong Township	2.780	2.390
Scotch Plains Township	6.666	2.480	Mansfield Township	2.220	2.740
Springfield Township	4.329	2.410	Oxford Township	3.010	2.460
Summit City	2.615	1.560	Phillipsburg Town	2.990	2.720
Union Township	11.395	2.560	Pohatcong Township	2.600	2.910
Westfield Town	5.256	2.040	Washington Borough	3.050	3.160
Winfield Township	134.274	12.430	Washington Township	2.620	2.820
			White Township	2.330	1.720

# Abstract of Ratables and Exemptions 2003

	Col. 1	Col. 2	Col. 3	Col. 4
	TAXABLE VALUE			
COUNTY	(a) Land	(b) Improvements (Includes Partial Exemptions & Abatements)	Total Taxable Value of Land and Improvements (Col. 1(a) + (b))	Total Taxable Value—Partial Exemptions and Abatements (Assessed Value)
				Net Total Taxable Value of Land and Improvements (Col. 2 - 3)
Atlantic	\$ 7,526,056,800	\$ 13,739,350,668	\$ 21,265,407,468	\$ 21,233,351,868
Bergen	41,020,038,104	45,617,031,312	86,637,069,416	86,629,733,716
Burlington	6,878,750,017	16,527,285,067	23,406,035,084	23,358,046,884
Camden	5,451,282,214	14,693,498,176	20,144,780,390	20,101,901,140
Cape May	12,248,665,950	8,232,324,200	20,480,990,150	20,471,472,950
Cumberland	977,453,945	3,271,156,375	4,248,610,320	4,200,332,920
Essex	13,154,548,750	20,079,857,741	33,234,406,491	32,964,314,091
Gloucester	3,590,233,851	9,502,130,605	13,092,364,456	13,051,987,193
Hudson	7,285,831,746	13,167,371,112	20,453,202,858	19,870,473,483
Hunterdon	5,715,319,501	9,269,413,248	14,984,732,749	14,984,492,449
Mercer	7,283,783,426	14,618,450,819	21,902,234,245	21,883,818,285
Middlesex	13,908,945,725	26,363,567,475	40,272,513,200	40,143,944,000
Monmouth	21,158,957,043	29,828,618,464	50,987,575,507	50,967,183,657
Morris	23,828,085,991	31,921,802,745	55,749,888,736	55,747,852,736
Ocean	16,408,105,159	21,165,407,450	37,573,512,609	37,570,959,009
Passaic	8,945,008,589	11,969,428,536	20,914,437,125	20,909,027,425
Salem	678,025,323	2,171,889,862	2,849,915,185	2,849,786,585
Somerset	13,779,937,481	25,693,430,721	39,473,368,202	39,467,761,402
Sussex	3,630,023,600	6,377,292,403	10,007,316,003	10,007,316,003
Union	9,572,386,250	14,179,480,550	23,751,866,800	23,737,964,400
Warren	2,334,697,600	5,430,505,047	7,765,202,647	7,756,986,002
<b>TOTALS</b>	\$225,376,137,065	\$343,819,292,576	\$569,195,429,641	\$1,286,723,443
				\$567,908,706,198



## Abstract of Ratables and Exemptions 2003 (continued)

	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10
	Taxable Value of Machinery, Implements and Equipment of Telephone, Telegraph and Messenger System Companies	Net Valuation Taxable (Col. 4 + 5)	General Tax Rate to Apply per \$100 Valuation	County Equalization Table—Average Ratio of Assessed to True Value of Real Property (R.S. 54:3-17 to R.S. 54:3-19)	TRUE VALUE (a) U.E.Z. Abatement Expired (b) Class II Railroad Property (C.139, L. 1966)	EQUALIZATION (a) Amounts Deducted Under (R.S. 54:3-17 to R.S. 54:3-19)
<b>COUNTY</b>						
Atlantic	\$ 81,730,056	\$ 21,315,081,924				\$ 262,848,909
Bergen	200,367,839	86,830,101,555				1,787,642,013
Burlington	110,629,206	23,468,676,090				17,100,033
Camden	124,488,366	20,226,389,476				26,276,856
Cape May	35,445,362	20,506,918,312				1,396,016,510
Cumberland	34,266,595	4,234,599,515				7,745,159
Essex	165,784,892	33,130,098,983				2,233,921,665
Gloucester	219,108,528	13,271,095,721				41,314,458
Hudson	83,134,590	19,953,608,073				
Hunterdon	53,256,456	15,037,748,905				32,528,626
Mercer	100,294,704	21,984,112,989			\$1,387,777	
Middlesex	175,715,553	40,319,659,553				
Monmouth	185,511,696	51,152,695,353				1,346,019,355
Morris	165,638,143	55,913,490,879				1,895,283,975
Ocean	114,463,724	37,685,422,733				91,267,272
Passaic	63,111,600	20,972,139,025				
Salem	18,625,923	2,868,412,508				
Somerset	102,240,753	39,570,002,155				1,196,564,401
Sussex	46,359,651	10,053,675,654				73,887,634
Union	66,146,841	23,804,111,241				
Warren	38,266,329	7,795,252,331				377,581,990
<b>TOTALS</b>	\$2,184,586,777	\$570,093,292,975			\$1,387,777	\$10,785,998,856

# Abstract of Ratables and Exemptions 2003 (continued)

COUNTY	Col. 10	Col. 11	I		II				
	EQUALIZATION (b)	Net Valuation on Which County Taxes Are Apportioned (Col. 6 – 9(a) + 9(b) – 10(a) + 10(b))	Total County Taxes Apportioned (Including Total Net Adjustments)	County Equalization Table Appeals (R.S. 54:51A-4)	County Equalization Table Appeals (R.S. 54:4-49; R.S. 54:4-53)	Deduct Overpayment	Add Underpayment	Deduct Overpayment	Add Underpayment
Atlantic	\$ 4,020,892,385	\$ 25,073,125,400	\$ 101,683,478.10			\$ 1,836,104.87	\$ 752.65		
Bergen	23,044,649,831	108,087,109,373	225,582,500.50			800,974.50			
Burlington	4,525,947,786	27,977,523,843	121,763,162.99			148,162.99			
Camden	3,243,998,022	23,444,110,642	208,969,696.00			387,963.00			
Cape May	4,579,102,652	23,690,004,454	69,458,233.05			86,246.05			
Cumberland	911,588,900	5,138,443,346	47,120,116.70			155,116.70			
Essex	22,269,850,235	53,166,027,553	306,455,270.08			2,138,499.53		126,523.45	
Gloucester	1,785,018,500	15,014,799,763	90,554,564.39			96,997.75		142,433.36	
Hudson	10,645,216,584	30,598,824,657	201,382,939.08			557,612.08			
Hunterdon	2,543,243,539	17,548,463,818	65,133,943.74			105,677.74			
Mercer	6,082,705,345	28,065,430,557	159,604,885.31			227,895.43		21,113.12	
Middlesex	20,575,462,173	60,895,121,726	215,927,221.99			265,746.13		168,524.14	
Monmouth	17,510,376,658	67,317,052,656	250,581,608.12			330,608.12			
Morris	10,741,048,164	64,759,255,068	161,259,078.00			788,166.05		23,038.74	
Ocean	14,634,626,754	52,228,782,215	214,636,109.31			569,336.31			
Passaic	10,637,455,668	31,609,594,693	180,323,125.78			1,164,229.74			
Salem	629,690,627	3,498,103,135	34,718,830.61			21,206.09		156.42	
Somerset	2,047,903,923	40,421,341,677	141,771,325.44			176,386.78		10,061.34	
Sussex	1,755,733,200	11,735,521,220	54,629,439.00			104,435.00			
Union	22,590,262,798	46,394,374,039	191,897,485.04			590,410.84		25,692.80	
Warren	713,882,533	8,131,552,874	45,635,529.08			135,529.08			
<b>TOTALS</b>	\$ 185,488,656,367	\$ 744,794,562,709	\$ 3,089,088,542.31			\$ 10,687,304.78		\$ 518,296.02	

## Abstract of Ratables and Exemptions 2003 (continued)

COUNTY	Col. 12—APPORTIONMENT OF TAXES						
	Section A County Taxes			Section B			
	III Net County Taxes Apportioned	IV Municipal Budget State Aid (R.S. 52:27D-118.40)	V Net County Taxes Apportioned Less Municipal Budget State Aid (Col. AIII-IV- Addendum 1(a))	(a) County Library Taxes	(b) County Health Taxes	(c) County Open Space Taxes	
Atlantic	\$ 99,848,125.88		\$ 99,848,125.88	\$ 5,161,000.00	\$ 3,995,980.00	\$5,014,625.09	
Bergen	224,781,526.00		224,781,526.00			5,404,355.44	
Burlington	121,615,000.00		121,615,000.00	6,840,000.00		11,191,009.00	
Camden	208,581,733.00		208,581,733.00	6,978,594.00		2,344,411.06	
Cape May	69,371,987.00		69,371,987.00	5,049,636.76		2,369,000.45	
Cumberland	46,965,000.00		46,965,000.00		1,236,556.00	513,844.33	
Essex	304,443,294.00		304,443,294.00			5,316,636.00	
Gloucester	90,600,000.00		90,600,000.00	2,397,641.00		3,002,959.95	
Hudson	200,825,327.00		200,825,327.00				
Hunterdon	65,028,266.00		65,028,266.00	4,533,321.00		5,278,000.00	
Mercer	159,398,103.00		159,398,103.00	8,290,101.00		5,606,658.00	
Middlesex	215,830,000.00		215,830,000.00			18,270,453.24	
Monmouth	250,251,000.00		250,251,000.00	9,362,332.00	1,380,041.00	16,000,000.00	
Morris	160,493,950.69	\$100,000.00	160,393,950.69			27,888,485.91	
Ocean	214,066,773.00		214,066,773.00	22,123,000.00	7,750,000.00	6,252,000.00	
Passaic	179,158,896.04		179,158,896.04			3,129,426.00	
Salem	34,697,780.94		34,697,780.94				
Somerset	141,605,000.00		141,605,000.00	8,677,634.00		12,113,459.72	
Sussex	54,525,004.00	20,866.00	54,504,138.00	3,817,444.00	1,112,530.00	2,204,694.00	
Union	191,332,767.00		191,332,767.00			6,959,156.11	
Warren	45,500,000.00		45,500,000.00	3,247,226.00		4,878,931.00	
<b>TOTALS</b>	\$3,078,919,533.55	\$120,866.00	\$3,078,798,667.55	\$86,477,929.76	\$15,475,107.00	\$143,738,105.30	

# Abstract of Ratables and Exemptions 2003 (continued)

COUNTY		I			II	
		DISTRICT SCHOOL PURPOSES			LOCAL MUNICIPAL PURPOSES	
		(a) District School Budget (Adjusted by Addendum 1(b))	(b) Regional Consolidated and Joint School Budgets	(c) Local School Budget	(a) Local Municipal Budget (Adjusted by Addendum 1(c))	(b) Local Municipal Open Space
Atlantic	\$ 242,576,049.16	\$ 37,873,714.97	\$ 5,117,773.25	\$ 237,711,251.81	\$ 372,189.00	
Bergen	1,172,975,198.41	161,178,688.90	1,000,078.00	653,167,071.72	2,047,744.14	
Burlington	374,287,600.00	113,995,305.96	7,612,920.00	121,191,837.83	6,044,594.34	
Camden	388,147,924.00	42,075,968.00		152,572,984.23	881,624.39	
Cape May	100,129,068.00	13,499,495.00		100,448,078.87		
Cumberland	47,194,968.50	6,059,851.84		32,975,525.34		
Essex	563,044,353.52	119,048,981.76	12,113,046.00	474,894,706.19	1,007,727.67	
Gloucester	223,096,621.78	34,952,127.99		97,422,243.58	1,049,023.81	
Hudson	288,227,556.50		12,406,503.00	318,151,080.54		
Hunterdon	154,286,928.69	82,771,597.19		34,628,954.75	4,211,678.78	
Mercer	204,060,254.00	200,895,153.64	1,857,792.00	148,212,708.44	4,300,046.99	
Middlesex	865,185,906.95	42,450,468.00	24,768,425.50	331,038,386.76	5,293,631.31	
Monmouth	637,121,394.05	232,429,836.17		287,827,618.02	5,024,556.03	
Morris	609,577,830.23	183,448,428.45		279,145,200.24	9,692,526.81	
Ocean	335,492,710.35	165,895,746.83	5,305,732.00	215,565,689.70	2,635,551.21	
Passaic	375,233,934.40	33,107,583.00	12,640.00	260,506,299.16	445,875.00	
Salem	36,035,293.50	14,310,471.01		8,795,429.15	15,000.00	
Somerset	383,220,459.29	119,908,838.76		133,355,424.98	13,143,935.38	
Sussex	141,583,435.50	54,583,652.04		56,915,285.13	1,219,351.76	
Union	498,885,252.50	52,857,217.98	2,449,329.25	356,259,038.60	193,044.00	
Warren	86,016,583.00	32,158,747.00		27,053,233.45	1,593,258.23	
<b>TOTALS</b>	<b>\$7,726,379,322.33</b>	<b>\$1,743,501,874.49</b>	<b>\$72,644,239.00</b>	<b>\$4,327,838,048.49</b>	<b>\$59,171,358.85</b>	

## Abstract of Ratables and Exemptions 2003 (continued)

COUNTY	REAL PROPERTY EXEMPT FROM TAXATION			
	(a) Public School Property	(b) Other School Property	(c) Public Property	(d) Church and Charitable Property
	<b>Section D</b>			
	<b>Total Tax Levy</b>			
	<b>on Which</b>			
	<b>Tax Rate is</b>			
	<b>Computed</b>			
	(Cols. AV + B(a), (b), (c) + CI(a), (b), (c) + CII(a), (b))			
Atlantic	\$ 637,670,709.16	\$ 33,158,500	\$ 1,608,175,120	\$ 217,847,070
Bergen	2,220,554,662.61	650,986,375	5,198,564,620	1,083,753,930
Burlington	762,778,267.13	75,069,350	1,911,305,180	411,376,720
Camden	801,583,238.68	199,931,900	1,468,794,943	641,980,028
Cape May	290,867,266.08	28,124,000	713,169,650	227,828,600
Cumberland	134,945,746.01	23,668,500	731,736,500	128,054,500
Essex	1,479,868,745.14 <sup>1</sup>	825,055,300	4,903,833,699	1,110,389,400
Gloucester	452,520,618.11	196,032,020	451,115,008	280,023,650
Hudson	819,610,467.04	376,934,400	2,626,789,880	674,915,540
Hunterdon	350,738,746.41	16,236,600	723,785,202	164,002,475
Mercer	732,620,817.07	1,645,736,250	2,474,178,491	519,958,900
Middlesex	1,502,837,271.76	846,979,800	1,363,722,150	847,611,050
Monmouth	1,439,396,777.27	207,493,000	1,997,861,107	656,482,799
Morris	1,270,146,422.33	279,599,700	2,929,527,879	745,092,600
Ocean	975,087,203.09	60,374,300	2,144,633,249	403,982,480
Passaic	851,594,653.60 <sup>2</sup>	233,489,200	1,347,242,675	626,148,000
Salem	93,853,974.60	17,966,800	155,931,022	71,534,850
Somerset	812,024,752.13	94,264,320	1,012,936,222	354,495,200
Sussex	315,940,530.43	25,679,400	509,700,139	127,190,090
Union	1,108,935,805.44	216,622,400	1,818,949,800	621,207,400
Warren	200,447,978.68	50,271,542	273,462,106	126,436,275
<b>TOTALS</b>	<b>\$17,254,024,652.77</b>	<b>\$6,103,673,657</b>	<b>\$36,365,414,642</b>	<b>\$10,040,311,557</b>

<sup>1</sup>Includes special garbage district levy \$824,402.00

<sup>2</sup>Includes special garbage district levy \$1,951,320.00

# Abstract of Ratables and Exemptions 2003 (continued)

COUNTY	REAL PROPERTY EXEMPT FROM TAXATION		AMOUNT OF MISCELLANEOUS REVENUE FOR THE SUPPORT OF THE LOCAL MUNICIPAL BUDGET		
	(e) Cemeteries and Graveyards	(f) Other Exemptions Not Included in Foregoing Classifications	(g) Total Amount of Real Property Exempt From Taxation (a + b + c + d + e + f)	(a) Surplus Revenue Appropriated	(b) Miscellaneous Revenues Anticipated
Atlantic	\$ 16,950,800	\$ 848,090,894	\$ 3,368,014,994	\$ 28,669,560.03	\$ 84,866,277.40
Bergen	376,716,300	2,972,002,837	12,209,333,912	93,162,644.33	237,140,384.60
Burlington	14,014,550	592,905,117	3,664,536,377	51,873,454.00	111,862,563.88
Camden	31,745,800	553,697,275	3,730,493,265	31,853,676.46	208,307,184.20
Cape May	2,407,300	317,794,500	1,428,542,050	25,125,085.88	63,961,285.64
Cumberland	6,256,800	194,569,100	1,269,158,400	10,923,836.06	47,119,926.05
Essex	175,261,400	1,361,802,450	9,492,177,349	57,196,125.88	636,213,757.12
Gloucester	9,269,800	163,970,100	1,514,947,078	21,467,880.95	72,024,257.04
Hudson	164,780,300	3,569,566,207	8,046,719,127	13,535,000.00	473,211,963.47
Hunterdon	13,823,400	100,475,900	1,226,557,997	21,295,230.46	34,481,625.44
Mercer	26,450,700	713,625,560	5,909,387,601	27,439,058.28	216,914,168.43
Middlesex	105,274,800	1,379,287,000	6,393,505,700	57,582,751.53	291,563,702.37
Monmouth	71,094,500	1,362,308,750	5,369,362,855	89,245,788.28	185,601,609.63
Morris	46,818,950	699,236,500	5,566,947,729	66,436,630.61	142,386,649.08
Ocean	17,656,100	340,903,486	3,566,791,154	70,474,381.86	137,334,657.87
Passaic	78,375,000	365,212,581	3,177,858,156	36,279,301.00	163,247,935.00
Salem	1,459,100	69,498,136	407,242,058	7,639,018.01	36,280,478.33
Somerset	28,411,867	565,575,154	2,526,819,663	44,138,980.69	83,576,999.63
Sussex	3,996,000	133,484,900	1,052,070,729	24,064,748.12	31,045,334.39
Union	169,894,400	411,274,200	3,895,788,500	41,382,937.81	213,452,015.06
Warren	7,120,916	168,888,558	805,331,770	14,642,515.00	26,192,502.07
<b>TOTALS</b>	<b>\$1,367,778,783</b>	<b>\$16,884,169,205</b>	<b>\$84,621,586,464</b>	<b>\$834,428,605.24</b>	<b>\$3,496,785,276.70</b>

Col. 13

Col. 14



## Abstract of Ratables and Exemptions 2003 (continued)

COUNTY	Col. 14		Col. 15		Col. 16
	AMOUNT OF MISCELLANEOUS REVENUE FOR THE SUPPORT OF THE LOCAL MUNICIPAL BUDGET		DEDUCTIONS ALLOWED		Total Ratables Determined Pursuant to R.S. 54:1-35 After Equalization Under R.S. 54:1-33 and R.S. 54:1-34
	(c) Receipts from Delinquent Tax and Liens	(d) Total of Miscellaneous Revenues (a + b + c)	(a) Full Estimated Amount of Senior Citizen, Totally Disabled and Surviving Spouse Deductions Allowed	(b) Veterans Deductions	
Atlantic	\$ 5,868,693.04	\$ 119,404,530.47	\$ 862,750	\$ 2,385,000	\$ 24,875,461,803
Bergen	23,452,004.00	353,755,032.93	2,707,300	8,685,450	107,309,336,331
Burlington	13,436,296.00	177,172,313.88	1,332,000	5,304,750	27,822,157,126
Camden	15,595,069.61	255,755,930.27	2,372,000	4,972,950	23,193,000,087
Cape May	4,977,554.25	94,063,925.77	478,000	1,547,350	23,636,405,646
Cumberland	4,492,343.51	62,536,105.62	925,000	1,303,250	4,998,025,659
Essex	50,124,247.30	743,534,130.30	1,196,250	3,533,500	52,233,884,862
Gloucester	10,925,838.62	104,417,976.61	1,198,875	3,053,975	14,902,410,579
Hudson	7,829,185.00	494,576,148.47	1,067,250	1,920,450	29,914,201,221
Hunterdon	5,241,051.28	61,017,907.18	221,950	1,109,050	15,404,647,142
Mercer	16,114,345.00	260,467,571.71	1,259,000	3,080,500	27,829,410,625
Middlesex	9,731,442.47	358,877,896.37	2,387,250	7,148,200	60,379,590,778
Monmouth	28,871,306.56	303,718,704.47	1,285,750	5,733,500	67,062,802,940
Morris	14,167,002.00	222,990,281.69	858,750	4,310,750	64,309,986,016
Ocean	16,207,887.91	224,016,927.64	3,654,267	9,771,500	52,144,596,682
Passaic	10,367,800.98	209,895,036.98	1,342,875	3,407,000	31,289,257,695
Salem	3,717,200.00	47,636,696.34	338,250	858,250	3,393,550,822
Somerset	7,139,289.00	134,855,269.32	617,325	2,407,950	40,215,830,957
Sussex	7,034,882.09	62,144,964.60	372,375	1,445,700	11,678,715,809
Union	17,880,082.35	272,715,035.22	1,671,625	4,458,250	43,336,456,527
Warren	5,364,067.59	46,199,084.66	387,250	1,124,950	8,072,431,013
<b>TOTALS</b>	\$278,537,588.56	\$4,609,751,470.50	\$26,536,092	\$77,562,275	\$734,002,160,320

# Abstract of Ratables and Exemptions 2003 (continued)

<b>Addendum 1</b>		<b>Addendum 2</b>					
STATE AID ADJUSTMENT FOR BUSINESS PERSONAL PROPERTY TAX		REGIONAL EFFICIENCY AID PROGRAM (R.E.A.P.) DISTRIBUTION SUMMARY					
(a) County Adjustment	(b) School Adjustment	(c) Municipal Adjustment	(a) Eligible Property Assessments	(b) Municipal R.E.A.P. Aid	(c) School R.E.A.P. Aid	(d) County R.E.A.P. Aid	(e) Total R.E.A.P. Aid
Atlantic							
Bergen	\$ 284,871		\$2,143,629,300				\$1,546,652
Burlington	228,913		194,278,750				180,558
Camden	633,669		11,881,900				17,225
Cape May	12,017						
Cumberland							
Essex	46,322						
Gloucester	2,014,030		100,329,000				121,499
Hudson	139,819		2,664,380,465				7,961,203
Hunterdon							
Mercer							
Middlesex	82,534						
Monmouth	1,770,539						
Morris	638,101	\$100,000					
Ocean	18,028						
Passaic	65,778						
Salem	97,490		47,730,200				64,864
Somerset	216,257						
Sussex	234						
Union							
Warren							
<b>TOTALS</b>	<b>\$6,248,602</b>	<b>\$100,000</b>	<b>\$5,162,229,615</b>				<b>\$9,892,001</b>

## 2003 Assessed Value of Partial Exemptions and Abatements (Summary Addendum to Abstract of Ratables)

COUNTY	Pollution Control	Fire Suppression	Fallout Shelter	Water/ Sewage Facility		UEZ Abatement	Home Improvement	Multi-Family Dwelling	Class 4 Abatement
Atlantic	-	-	-	-	-	-	-	-	-
Bergen	-	-	\$ 240,000	-	-	-	-	-	-
Burlington	\$ 2,629,100	\$2,496,900	1,000	\$ 600,000	\$ 885,000	-	-	-	-
Camden	79,000	-	-	-	-	-	\$ 4,000	-	-
Cape May	-	-	1,000	-	-	-	-	-	-
Cumberland	3,863,500	-	-	-	-	-	-	-	-
Essex	458,000	469,400	-	-	268,022,200	-	-	-	-
Gloucester	11,819,500	-	-	13,300	-	-	-	-	-
Hudson	347,600	-	-	2,500,000	-	-	193,600	\$7,836,100	\$1,256,200
Hunterdon	-	-	-	-	-	-	-	-	-
Mercer	-	-	1,454,300	62,800	14,602,100	-	-	-	-
Middlesex	3,864,000	1,495,600	-	-	-	-	-	-	-
Monmouth	1,820,200	-	-	2,601,200	-	-	-	-	-
Morris	198,400	-	1,041,700	151,300	-	-	-	-	-
Ocean	48,600	447,500	5,800	-	-	-	-	-	-
Passaic	-	499,600	-	-	-	-	-	-	-
Salem	-	-	-	-	-	-	-	-	-
Somerset	-	-	-	-	-	-	-	-	-
Sussex	-	-	-	-	-	-	-	-	-
Union	127,000	-	-	-	13,775,400	-	-	-	-
Warren	1,209,800	-	15,200	-	3,388,185	-	-	-	-
<b>TOTALS</b>	\$26,464,700	\$5,409,000	\$2,759,000	\$5,928,600	\$300,672,885	\$197,600	\$7,836,100	\$1,256,200	

## 2003 Assessed Value of Partial Exemptions and Abatements (continued)

(Summary Addendum to Abstract of Ratables)

COUNTY	Dwelling Abatement	Dwelling Exemption	New Dwelling/ Conversion Abatement	New Dwelling/ Conversion Exemption	Multiple Dwelling/ Abatement	Multiple Dwelling/ Exemption	Commercial/ Industrial Exemption	Total Assessed Value (Col. 3 of Abstract)
Atlantic	-	\$ 2,504,000	-	-	-	-	\$ 29,551,600	\$ 32,055,600
Bergen	\$ 383,100	6,434,200	-	-	-	-	278,400	7,335,700
Burlington	2,216,800	3,843,500	-	-	-	-	35,315,900	47,988,200
Camden	1,449,500	13,253,850	-	-	\$ 9,287,700	-	18,805,200	42,879,250
Cape May	-	1,499,600	-	\$ 7,238,700	225,000	-	552,900	9,517,200
Cumberland	-	7,869,700	-	-	-	-	36,544,200	48,277,400
Essex	112,100	562,300	-	-	-	-	468,400	270,092,400
Gloucester	-	4,828,000	-	-	-	-	23,716,463	40,377,263
Hudson	4,236,900	134,754,450	\$ 13,875,025	-	3,816,400	\$ 38,598,300	375,314,800	582,729,375
Hunterdon	240,300	-	-	-	-	-	-	240,300
Mercer	28,460	2,201,900	10,500	-	-	-	55,900	18,415,960
Middlesex	16,658,700	18,712,900	-	-	-	1,250,000	86,588,000	128,569,200
Monmouth	3,781,000	9,161,600	-	1,524,750	-	-	1,503,600	20,391,850
Morris	-	644,600	-	-	-	-	-	2,036,000
Ocean	-	627,600	-	-	-	-	1,424,100	2,553,600
Passaic	-	-	-	837,000	-	-	4,073,100	5,409,700
Salem	-	103,600	-	-	-	-	25,000	128,600
Somerset	-	5,372,700	-	-	-	-	234,100	5,606,800
Sussex	-	-	-	-	-	-	-	-
Union	-	-	-	-	-	-	-	13,902,400
Warren	-	-	-	-	-	-	3,603,460	8,216,645
<b>TOTALS</b>	\$ 29,106,860	\$ 212,374,500	\$ 13,885,525	\$ 9,599,950	\$ 13,329,100	\$ 39,848,300	\$ 618,055,123	\$ 1,286,723,443

# Summary of 2003 County Tax Board Appeals Reported Pursuant to C. 499 P.L. 1979 (N.J.S.A. 54:3-5.1)

COUNTY	Total Number of Tax Appeals	NUMBER OF DISPOSITIONS										Property Tax Deduction Denied
		Assessment Revised	Assessment Affirmed	Stipulated	Freeze Act	Dismissed With Prejudice	Dismissed Without Prejudice	Withdrawn	Property Tax Deduction Granted			
Atlantic	761	283	70	234	0	59	65	43	1	0	0	
Bergen	1,877	249	218	877	0	68	378	75	0	0	0	
Burlington	210	38	5	56	0	8	7	26	6	2	2	
Camden	420	4	18	115	1	54	3	40	163	2	2	
Cape May	529	90	107	255	0	41	5	25	3	3	3	
Cumberland	119	8	6	52	0	2	2	13	33	0	0	
Essex	6,446	428	785	526	5	1,828	2,333	391	26	8	8	
Gloucester	200	62	23	59	0	13	14	12	13	0	0	
Hudson	1,164	88	18	277	0	38	576	160	0	0	0	
Hunterdon	385	75	37	198	0	29	7	32	0	0	0	
Mercer	250	87	10	80	0	20	10	37	0	0	0	
Middlesex	329	55	11	73	0	28	100	47	0	0	0	
Monmouth	1,288	186	212	298	0	69	127	351	3	1	1	
Morris	861	74	82	508	0	78	45	71	1	0	0	
Ocean	446	34	46	116	0	58	44	46	77	6	6	
Passaic	907	47	65	74	0	64	489	38	1	1	1	
Salem	48	8	3	22	0	7	0	7	0	0	0	
Somerset	742	217	58	268	1	23	100	65	0	0	0	
Sussex	332	3	26	67	0	12	45	35	0	0	0	
Union	599	7	43	98	0	34	363	46	0	8	8	
Warren	256	42	33	115	1	36	6	19	0	0	0	
<b>TOTALS</b>	<b>18,189</b>	<b>2,085</b>	<b>1,876</b>	<b>4,368</b>	<b>8</b>	<b>2,569</b>	<b>4,719</b>	<b>1,579</b>	<b>327</b>	<b>31</b>	<b>31</b>	

## Summary of 2003 County Tax Board Appeals Reported Pursuant to C. 499 P.L. 1979 (N.J.S.A. 54:3-5.1) – continued

COUNTY	Col. 2		Col. 3						
	NUMBER OF DISPOSITIONS		NUMBER OF APPEALS IN EACH CLASS OF PROPERTY						
	Farmland Assessment Granted	Farmland Assessment Denied	Classification	R.E.A.P. Credit	Other	Vacant Land	Class 2 Residential	Class 3A Farm Regular	Class 3B Farm Qualified
Atlantic	0	0	1	0	5	176	495	1	0
Bergen	0	0	0	0	12	179	1,299	3	5
Burlington	0	1	1	0	60	32	129	9	2
Camden	0	0	3	0	17	30	286	3	2
Cape May	0	0	0	0	0	45	445	0	0
Cumberland	1	0	2	0	0	17	71	5	4
Essex	0	0	0	0	136	269	4,006	0	0
Gloucester	3	0	1	0	0	47	112	6	3
Hudson	0	0	7	0	0	129	412	0	0
Hunterdon	0	0	7	0	0	27	310	24	0
Mercer	0	0	0	0	6	24	174	3	1
Middlesex	0	0	0	0	15	73	87	4	14
Monmouth	5	0	35	0	1	423	666	9	0
Morris	2	0	0	0	0	300	425	1	1
Ocean	0	3	11	0	5	90	288	2	3
Passaic	0	0	0	0	128	104	289	1	0
Salem	0	0	1	0	0	12	27	1	0
Somerset	1	1	0	0	8	73	583	15	3
Sussex	0	0	1	0	143	139	141	8	6
Union	0	0	0	0	0	51	179	0	0
Warren	0	0	4	0	0	34	160	26	3
<b>TOTALS</b>	12	5	74	0	536	2,274	10,584	121	47



## Summary of 2003 County Tax Board Appeals Reported Pursuant to C. 499 P.L. 1979 (N.J.S.A. 54:3-5.1) – continued

		Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	
NUMBER OF APPEALS IN EACH CLASS OF PROPERTY							
COUNTY	Class 4			Original Amount of Assessments	Total Assessment Reductions Granted	Total Assessment Increases Granted	Net Total Assessments (Col. 4 – 5 + 6)
	Commercial	Industrial	Apartment				
Atlantic	86			\$ 390,485,314	\$ 66,189,360	\$ 1,085,600	\$ 325,381,554
Bergen	384			1,345,379,604	76,844,732	43,262,310	1,311,797,182
Burlington	30			76,548,800	10,610,804	356,900	66,294,896
Camden	97			93,927,140	11,045,705	0	82,881,435
Cape May	0			256,915,600	20,192,600	450,200	237,173,200
Cumberland	15			28,419,200	4,394,297	66,100	24,091,003
Essex	2,177			2,086,906,700	27,767,205	17,000	2,059,156,495
Gloucester	32			82,934,640	5,579,000	22,175,830	99,531,470
Hudson	622			415,725,783	25,172,000	0	390,553,783
Hunterdon	24			155,201,300	11,332,143	238,400	144,107,557
Mercer	46			102,822,343	9,686,443	10,219,200	103,355,100
Middlesex	151			181,316,900	14,158,600	5,204,000	172,362,300
Monmouth	188			559,718,101	30,584,950	778,600	529,911,751
Morris	133			468,224,351	29,372,628	2,337,988	441,189,711
Ocean	55			143,675,784	16,683,439	1,527,982	128,520,327
Passaic	506			138,485,620	7,786,160	9,000	130,708,460
Salem	8			10,136,100	2,407,400	0	7,728,700
Somerset	65			642,884,829	31,945,140	6,150,700	617,090,389
Sussex	37			74,570,722	7,218,400	1,877,378	69,229,700
Union	368			146,016,200	3,581,400	0	142,434,800
Warren	32			68,339,339	7,400,800	497,500	61,436,039
<b>TOTALS</b>	<b>5,056</b>			<b>\$7,468,634,370</b>	<b>\$419,953,206</b>	<b>\$96,254,688</b>	<b>\$7,144,935,852</b>

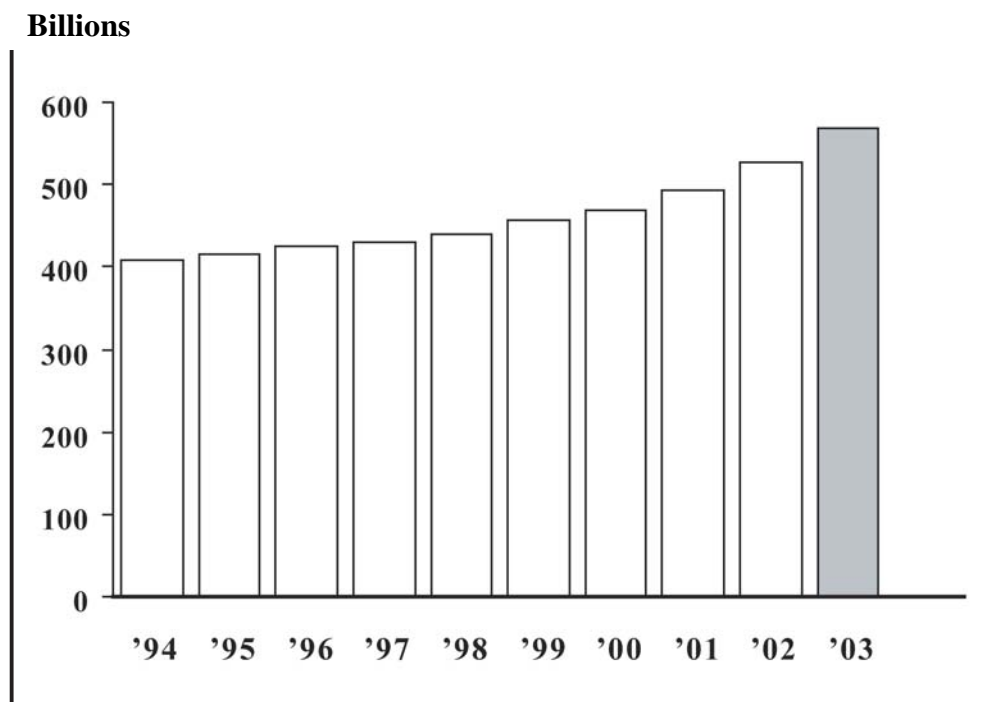
## Summary of 2003 County Tax Board Appeals Reported Pursuant to C. 499 P.L. 1979 (N.J.S.A. 54:3-5.1) – continued

Col. 8

### NUMBER OF APPEALS IN EACH FILING FEE CATEGORY

COUNTY	NUMBER OF APPEALS IN EACH FILING FEE CATEGORY						Total	
	\$5	\$25	\$100	\$150	Classification \$25	Other \$25		No Fee
Atlantic	253	288	94	31	14	0	81	761
Bergen	118	582	388	165	6	0	618	1,877
Burlington	48	33	8	13	9	0	99	210
Camden	132	68	17	16	6	0	181	420
Cape May	82	248	96	49	2	0	52	529
Cumberland	53	13	1	7	6	0	39	119
Essex	2,578	3,174	469	165	7	0	75	6,468
Gloucester	87	36	3	6	11	0	57	200
Hudson	448	410	116	31	0	0	159	1,164
Hunterdon	24	242	83	6	2	0	0	357
Mercer	132	33	12	5	3	0	65	250
Middlesex	89	90	42	17	0	0	91	329
Monmouth	494	404	197	106	5	6	76	1,288
Morris	289	366	111	45	3	1	46	861
Ocean	87	117	21	14	35	0	172	446
Passaic	577	192	45	7	3	0	83	907
Salem	17	9	2	1	3	0	16	48
Somerset	95	207	99	50	5	0	286	742
Sussex	112	72	14	10	0	0	124	332
Union	266	239	56	11	0	0	27	599
Warren	77	152	14	4	0	0	0	247
<b>TOTALS</b>	6,058	6,975	1,888	759	120	7	2,347	18,154

## Total Taxable Value Land and Improvements in New Jersey 1994 – 2003



### 2003 County Values

Atlantic	\$ 21,265,407,468	Middlesex	\$ 40,272,513,200
Bergen	86,637,069,416	Monmouth	50,987,575,507
Burlington	23,406,035,084	Morris	55,749,888,736
Camden	20,144,780,390	Ocean	37,573,512,609
Cape May	20,480,990,150	Passaic	20,914,437,125
Cumberland	4,248,610,320	Salem	2,849,915,185
Essex	33,234,406,491	Somerset	39,473,368,202
Gloucester	13,092,364,456	Sussex	10,007,316,003
Hudson	20,453,202,858	Union	23,751,866,800
Hunterdon	14,984,732,749	Warren	7,765,202,647
Mercer	21,902,234,245	<b>Total</b>	<b>\$569,195,429,641</b>

## Taxes Administered by the Public Utility Tax Section for 2004 (Calendar Year Due)

### Public Utility Taxes (Excise, Franchise, and Gross Receipts Taxes), Transitional Energy Facility Assessment (TEFA), and Uniform Transitional Utility Assessment (UTUA)

Assessed by the State and Available for Appropriation and Distribution to Municipalities  
Distribution Subject to Budgetary and Statutory Limitations and Restrictions

#### PUBLIC UTILITY TAXES

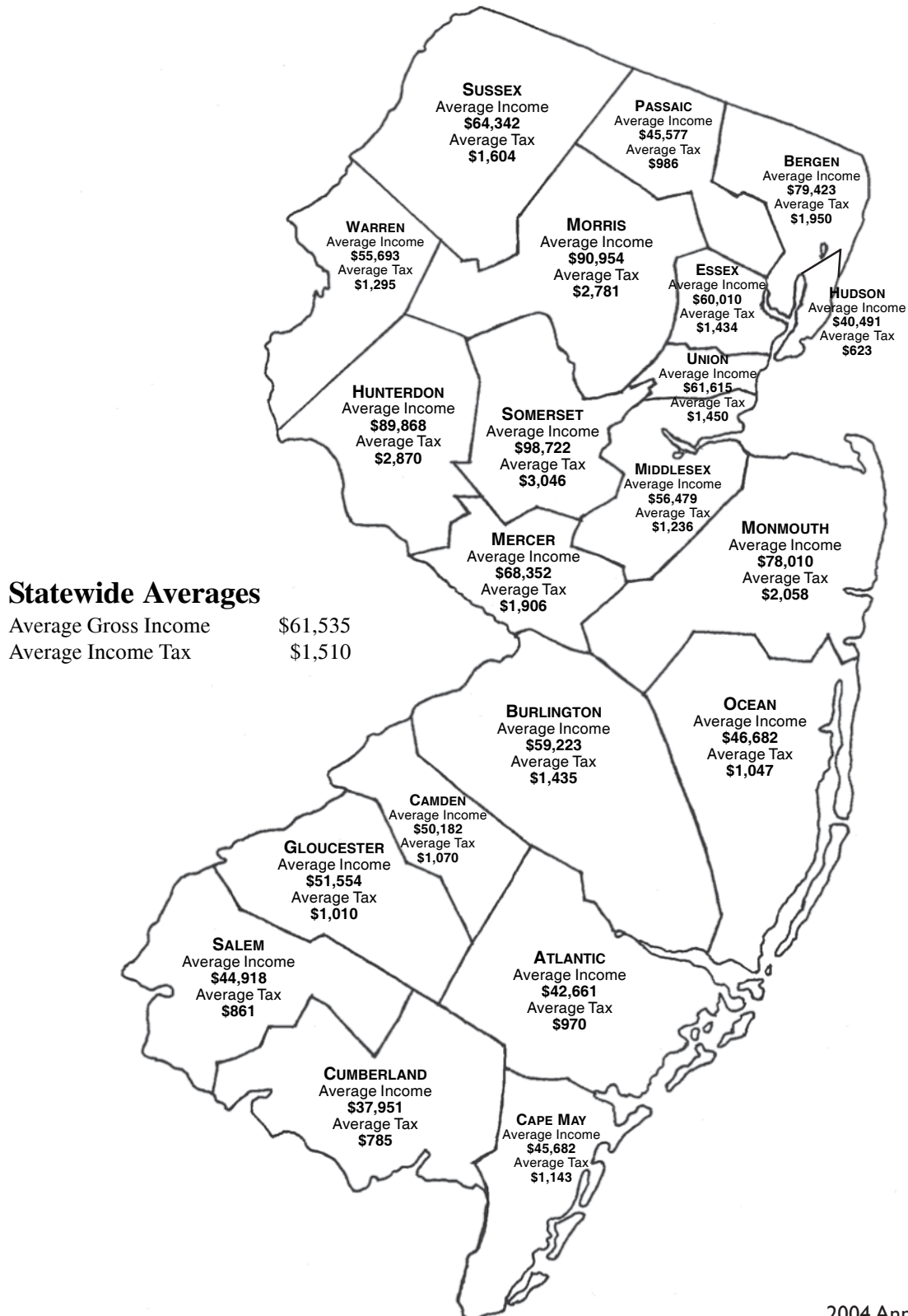
Classification	No. of Companies	Excise Taxes	Franchise Taxes	Gross Receipts Taxes	TEFA	UTUA (CBT)	UTUA (S&U-EN)
Sewer Companies .....	19	\$ 420,439	\$ 1,150,891	\$ 2,202,575	NA	NA	NA
Water Companies .....	47	8,941,646	27,123,134	43,232,919	NA	NA	NA
Energy Companies .....	16	NA	NA	NA	\$249,521,558	\$61,055,875	\$322,999,676
Telephone Companies .....	3	NA	NA	NA	NA	15,654,440	NA
Totals .....	85	\$9,362,085	\$28,274,025	\$45,435,494	\$249,521,558	\$76,710,315	\$322,999,676

**Total Net Tax Assessed .....** **\$732,303,153**

## Individual Income Tax Returns County Profile 2002

County	No. of Returns	NJ Taxable Income	Net Charged Tax
Atlantic	108,928	\$ 4,114,374,000	\$ 105,637,000
Bergen	378,936	27,567,279,000	738,971,000
Burlington	176,169	9,407,203,000	252,863,000
Camden	196,166	8,809,857,000	209,969,000
Cape May	39,648	1,608,407,000	45,319,000
Cumberland	52,676	1,774,594,000	41,330,000
Essex	299,712	16,315,514,000	429,700,000
Gloucester	104,041	4,805,060,000	105,126,000
Hudson	245,912	9,045,047,000	153,294,000
Hunterdon	50,067	4,095,142,000	143,701,000
Mercer	137,217	8,556,801,000	261,565,000
Middlesex	310,076	15,748,523,000	383,156,000
Monmouth	249,640	17,760,553,000	513,685,000
Morris	201,360	16,836,627,000	559,926,000
Ocean	216,502	8,856,646,000	226,735,000
Passaic	199,912	8,027,110,000	197,112,000
Salem	24,645	988,772,000	21,224,000
Somerset	128,099	11,716,988,000	390,214,000
Sussex	57,463	3,301,878,000	92,155,000
Union	216,117	12,026,332,000	313,458,000
Warren	41,672	2,063,239,000	53,965,000
County Unknown	215,630	10,081,223,000	273,914,000
<b>Totals</b>	<b>3,650,588</b>	<b>\$203,507,168,000</b>	<b>\$5,513,019,000</b>

## Average Total Income and Average Income Tax By County — Tax Year 2002





## Sales and Use Tax Collections by Business Type Return Years 2001–2003 (Dollar Amounts in Thousands)

Business Type	Number of Vendors			Total Collections			% Change	
	2001	2002	2003	2001	2002	2003	2001–2002	2002–2003
<b>Exempt Organizations</b>	776	765	755	\$ 3,508	\$ 3,442	\$ 3,499	-1.9%	1.7%
<b>Manufacturing</b>	14,165	14,637	15,503	277,560	243,388	230,847	-12.3	-5.2
<b>Service</b>	82,181	80,344	79,058	1,504,266	1,464,025	1,502,825	-2.7	2.7
<b>Wholesale</b>	11,820	11,433	11,176	249,379	231,567	230,336	-7.1	-0.5
<b>Construction</b>	18,749	18,167	17,793	118,690	111,272	113,803	-6.2	2.3
<b>Retail</b>	92,686	89,994	87,079	3,174,400	3,242,094	3,338,427	2.1	3.0
<b>Government</b>	34	31	31	2,562	2,413	1,198	-5.8	-50.3
<b>Not Classified</b>	8,048	8,552	9,295	101,576	100,517	103,998	-1.0	3.5
<b>Totals</b>	<b>228,459</b>	<b>223,923</b>	<b>220,690</b>	<b>\$5,431,942</b>	<b>\$5,398,719</b>	<b>\$5,524,933</b>	<b>-0.3%</b>	<b>-0.4%</b>

## 2004 Major Taxes Comparison with Nearby States

	CT	DE	MD	MA	NJ	NY State	NY City	OH	PA
<b>CORPORATION NET INCOME</b>	7.5%	8.7%	7%	9.5%	6.5%, 7.5%, 9%	7.5%	8.85%	5.1%, 8.5%	9.99%
<b>PERSONAL INCOME</b>	*3%– 5.0%	*2.2%– 5.95%	*2%– 4.75%	5.3%	*1.4%– 8.97%	*4%– 7.7%	*2.907%– 4.45%	*0.743%– 7.5%	3.07%
*Graduated Rates									
<b>MOTOR FUELS<sup>1</sup></b>									
• <b>Excise Tax/Gal.</b>									
<b>Gasoline</b>	\$0.25	\$0.23	\$0.235	\$0.21	<b>\$0.105<sup>2</sup></b>	\$0.08	0	\$0.26	\$0.12
<b>Diesel</b>	\$0.26	\$0.22	\$0.2425	\$0.21	<b>\$0.135</b>	\$0.08	0	\$0.26	\$0.12
• <b>Sales Tax</b>	0	0.5%	0	0	<b>0</b>	4.25%	4.125%	0	0
<sup>1</sup> Various other taxes are applied to motor fuels in the states of Delaware, New Jersey, New York, Ohio, and Pennsylvania.									
<sup>2</sup> Liquefied petroleum gas and compressed natural gas used in motor vehicles on public highways is taxed at ½ the general motor fuels tax rate (\$0.0525 per gallon).									
<b>ALCOHOL</b>									
• <b>Excise Tax/Gal.</b>									
<b>Beer</b>	\$0.19	\$0.16	\$0.09	\$0.11	<b>\$0.12</b>	\$0.11	\$0.23 <sup>2</sup>	\$0.18	\$0.08
<b>Wine</b>	\$0.60– \$1.50	\$0.97	\$0.40	\$0.55– \$0.70	<b>\$0.70</b>	\$0.1893	\$0.1893	\$0.30– \$1.48	See Foot- note 4
<b>Liquor</b>	\$2.05, \$4.50	\$3.64, \$5.46	\$1.50	\$4.05	<b>\$4.40</b>	\$2.54, \$6.44	\$3.54, \$7.44 <sup>2</sup>	See Foot- notes 3 and 4	See Foot- note 4
• <b>Sales Tax</b>	6%	None	5%	5% <sup>1</sup>	<b>6%</b>	4.25%	8.625% <sup>2</sup>	6%	6%
<sup>1</sup> Purchases for off-premises consumption are not taxable.									
<sup>2</sup> New York City rate includes New York State rate.									
<sup>3</sup> Ohio Department of Liquor Control must pay the State Treasury \$3.38 for each gallon sold.									
<sup>4</sup> In these states, the government directly controls all sales. Revenue is generated from various taxes, fees, and net profits.									
<b>TOBACCO</b>									
• <b>Excise Tax</b>									
<b>Cigarettes (20/pack)</b>	\$1.51	\$0.55	\$1.00	\$1.51	<b>\$2.05</b>	\$1.50	\$1.50	\$0.55	\$1.00
<b>Other Tobacco (% of Wholesale Price)</b>	20%	15%	15%	90%	<b>30%</b>	37%	37%	17%	0
• <b>Sales Tax</b>	6%	None	5%	5%	<b>6%</b>	4.25%	4.125%	6%	6%

## 2004 Major Taxes Comparison with Nearby States (continued)

SALES AND USE	CT	DE	MD	MA	NJ	NY State	NY City	OH	PA
YEAR OF ADOPTION	1947	–	1947	1966	1966	1965	1965	1934	1953
CURRENT RATE	6%	None	5%	5%	6%	4.25% <sup>1</sup>	8.625% <sup>2</sup>	6% <sup>3</sup>	6% <sup>4</sup>

<sup>1</sup> State rate is 4.25%; counties and municipalities may impose additional tax up to 4.125% plus an additional metropolitan area surcharge of .25%.

<sup>2</sup> New York City rate includes New York State rate.

<sup>3</sup> State rate is 5%; each county may impose an additional 1.5%.

<sup>4</sup> State rate is 6%; City of Philadelphia imposes an additional 1% for a total of 7%.

### SALES AND USE TAX EXEMPTIONS

(T—Taxable; E—Exempt)

	CT	DE*	MD	MA	NJ	NY	NYC	OH	PA
<b>Beer On–Premises</b>	T	E	T	T	T	T	T	T	T
<b>Beer Off–Premises</b>	T	E	T	E <sup>1</sup>	T	T	T	T	T
<b>Cigarettes</b>	T	E	T	T	T	T	T	T	T
<b>Clothing</b>	E <sup>2</sup>	E	T	E <sup>3</sup>	E	T	T	T	E
<b>Food Off–Premises</b>	E <sup>4</sup>	E	E <sup>4</sup>	E <sup>4</sup>	E <sup>4</sup>	E <sup>4</sup>	E <sup>4</sup>	E <sup>4</sup>	E <sup>4</sup>
<b>Liquor On–Premises</b>	T	E	T	T	T	T	T	T	T
<b>Liquor Off–Premises</b>	T	E	T	E <sup>1</sup>	T	T	T	T	T
<b>Manufacturing Equipment</b>	E	E	E	E	E	E	E	E	E
<b>Motor Fuels</b>	E	E	E	E <sup>5</sup>	E	T	T	E	E

\*Delaware does not impose sales and use taxes. Gross receipts taxes of varying amounts (less than 1%) imposed on different types of sales.

<sup>1</sup> If purchased as “take-out” item from a package store.

<sup>2</sup> Single article under \$50; however, single article \$50 or over is taxable.

<sup>3</sup> Single article \$175 and under; however, single article over \$175 is taxed on the amount in excess of \$175.

<sup>4</sup> If purchase is in same form and condition as found in supermarket; however, prepared food ready to be eaten and snack food are subject to tax.

<sup>5</sup> If fuel is subject to excise tax. If not for “on-road use,” it is not subject to excise tax and, therefore, subject to sales tax. Example: Contractor has a bulldozer for “off-road use” which runs on diesel fuel. The fuel is not subject to excise tax; therefore, it is now subject to sales tax, unless used in performance of a government contract.

## Major State Tax Rates (On July 1, 2004)

State	Personal Income (%)	Corporation Net Income (Excluding Surtax) (%)	Sales (%)	Motor Fuels (Per Gallon) (\$)	Cigarettes (20-Pack) (\$)
<b>Alabama</b>	*2%-5%	6.5%	4%	\$0.16	\$0.425
<b>Alaska</b>	None	*1-9.4	None	0.08	1.00
<b>Arizona</b>	*2.87-5.04	6.968	5.6	0.18	1.18
<b>Arkansas</b>	*1-7	*1-6.5	6	0.215	0.315
<b>California</b>	*1-9.3	8.84	6.25	0.18	0.87
<b>Colorado</b>	4.63	4.63	2.9	0.22	0.84
<b>Connecticut</b>	*3-5 <sup>1</sup>	7.5	6	0.25	1.51
<b>Delaware</b>	*2.2-5.95	8.7	None	0.23	0.55
<b>Dist. of Columbia</b>	*5-9.3	9.975	5.75	0.225	1.00
<b>Florida</b>	None	5.5	6	0.04	0.339
<b>Georgia</b>	*1-6	6	4	0.075	0.37
<b>Hawaii</b>	*1.4-8.25	*4.4-6.4	4	0.16	1.40
<b>Idaho</b>	*1.6-7.8	7.6	6	0.25	0.57
<b>Illinois</b>	3	4.8	6.25	0.19	0.98
<b>Indiana</b>	3.4	8.5	6	0.18	0.55
<b>Iowa</b>	*0.36-8.98	*6-12	5	0.20	0.36
<b>Kansas</b>	*3.5-6.45	4	5.3	0.24	0.79
<b>Kentucky</b>	*2-6	*4-8.25	6	0.174	0.03
<b>Louisiana</b>	*2-6	*4-8	4	0.20	0.36
<b>Maine</b>	*2-8.5	*3.5-8.93	5	0.22	1.00
<b>Maryland</b>	*2-4.75	7	5	0.235	1.00
<b>Massachusetts</b>	5.3	9.5	5	0.21	1.51
<b>Michigan</b>	3.9	1.9	6	0.19	2.00
<b>Minnesota</b>	*5.35-7.85	9.8	6.5	0.20	0.48
<b>Mississippi</b>	*3-5	*3-5	7	0.18	0.18

## Major State Tax Rates (continued)

(On July 1, 2004)

State	Personal Income (%)	Corporation Net Income (Excluding Surtax) (%)	Sales (%)	Motor Fuels (Per Gallon) (\$)	Cigarettes (20-Pack) (\$)
Missouri	*1.5%–6%	6.25%	4.0%	\$0.17	\$0.17
Montana	*1–6.9	6.75	None	0.27	1.70
Nebraska	*2.56–6.84	*5.58–7.81	5.5	0.254	0.64
Nevada	None	None	6.5	0.24	0.80
New Hampshire	5 <sup>2</sup>	8.5	None	0.18	0.52
<b>New Jersey</b>	<b>*1.4–8.97</b>	<b>6.5, 7.5, 9</b>	<b>6</b>	<b>0.105</b>	<b>2.40</b>
New Mexico	*1.7–6	*4.8–7.6	5	0.17	0.91
New York	*4–7.7	7.5	4.25	0.08	1.50
North Carolina	*6–8.25	6.9	4.5	0.266	0.05
North Dakota	*2.1–5.54	*2.6–7	5	0.21	0.44
Ohio	*0.743–7.5	5.1,8.5	6	0.26	0.55
Oklahoma	*0.5–6.65	6	4.5	0.16	.23
Oregon	*5–9	6.6	None	0.24	1.18
Pennsylvania	3.07	9.99	6	0.12	1.35
Rhode Island	25 <sup>3</sup>	9	7	0.30	2.46
South Carolina	*2.5–7	5	5	0.16	0.07
South Dakota	None	None	4	0.22	0.53
Tennessee	6 <sup>2</sup>	6.5	7	0.20	0.20
Texas	None	4.5	6.25	0.20	0.41
Utah	*2.3–7	5	4.75	0.245	0.695
Vermont	*3.6–9.5	*7–9.75	6	0.19	1.19
Virginia	*2–5.75	6	4	0.175	0.20
Washington	None	None	6.5	0.23	1.425
West Virginia	*3–6.5	9	6	0.205	0.55
Wisconsin	*4.6–6.75	7.9	5	0.291	0.77
Wyoming	None	None	4	0.14	0.60
<b>US AVERAGE</b>	<b>2.14%–6.34%</b>	<b>4.06%–7.30%</b>	<b>5.33%</b>	<b>\$0.195</b>	<b>\$0.80</b>

\*Graduated Rates

<sup>1</sup>Applied to percent of adjusted gross income ranging from 25% to 100%.

<sup>2</sup>Imposed on interest and dividend income only.

<sup>3</sup>Of Federal income tax liability.

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The mission of the Division of Taxation is  
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uniformly, equitably, and efficiently  
to maximize  
State revenues  
to support  
public services;  
and, to ensure  
that voluntary compliance  
within the taxing statutes is achieved  
without being an impediment to economic growth.

