

**(z) The detention facility must comply with all DOE-monitoring activities, including pursuant to N.J.S.A. 18A:7B-5, and provide the Commission with advance notice of any DOE-monitoring visits and the results of any DOE-monitoring activities within 48 hours of DOE notification.**

13:93-11.6 Discipline

(a) Each facility shall maintain a written behavior management program which is designed to foster a positive, non-punitive environment. The written program shall include [behavioral-rules] **behavioral rules** and disciplinary regulations and sanctions to be employed. Reasonable limits for behavior necessary to maintain order should be governed by a system of rules and regulations that is consistent and easily understood.

(b)-(c) (No change.)

(d) Under no circumstances shall a juvenile be deprived of his or her basic rights as a means of [a] discipline. Basic rights for each juvenile include:

- 1. A place to sleep (for example, a bed, a pillow, blankets, and sheets);
- 2.-9. (No change.)
- 10. Medical care; **and**
- 11. (No change.)

**TREASURY—TAXATION**

**(a)**

**DIVISION OF TAXATION**

**Gross Income Tax**

**Proposed Amendments: N.J.A.C. 18:35-1.3, 4.1, and 11.3**

**Proposed New Rule: N.J.A.C. 18:35-5.3**

Authorized By: Marita R. Sciarrotta, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54A:4-10, 54A:9-8.2, 54A:9-17(a), and 54:50-1.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2024-054.

Submit written comments by July 5, 2024, to:

Mary Richmond-Michael  
 Administrative Practice Officer  
 Division of Taxation  
 3 John Fitch Way  
 PO Box 240-8th Floor  
 Trenton, NJ 08695-0240  
 Email: [Tax.RuleMakingComments@treas.nj.gov](mailto:Tax.RuleMakingComments@treas.nj.gov)

The agency proposal follows:

**Summary**

The proposed amendments and new rule will increase ease of use and consistency throughout the chapter. The purpose of the proposed amendments and the proposed new rule is to codify the Division of Taxation’s (Division) procedures currently in use and to clarify how the income tax statutes are applied to taxpayers.

N.J.A.C. 18:35-1.3 is proposed for amendment to provide for the necessary documentation to perform accurate and efficient auditing of tax returns filed by partnerships, and to update the names of revised partnership forms, and provide for new partnership forms.

N.J.A.C. 18:35-4.1(a)9 and 12i are proposed for amendment to update the formatting of calculations and columns, charts that had numbers in incorrect columns, and to change the name of the Philadelphia Business Privilege Tax (BPT) to the Business Income & Receipts Tax (BIRT) following the City of Philadelphia’s renaming of the tax. N.J.A.C. 18:35-4.1(a)12i Example 6 is proposed for amendment to provide a line for “Wages Less 401(k) Contributions.”

Proposed new N.J.A.C. 18:35-5.3 addresses the allocation of New Jersey source income when a nonresident earns income from a stock

option that was earned based on services performed in New Jersey starting on the date of grant and ending on the date of exercise.

N.J.A.C. 18:35-11.3 is proposed for amendment to update the names of the revised partnership forms and provide for new partnership forms.

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The proposed amendments and new rule affect individuals, estates, and trusts and these rules will continue to provide taxpayers with guidance in complying with the New Jersey Gross Income Tax Act and will also continue the orderly administration and collection of the tax. The proposed amendments and new rule will provide taxpayers with an interpretation of specific provisions of the New Jersey Gross Income Tax Act, accurately reflect the Division’s current procedures, and provide guidance and clarification to taxpayers and their advisers.

**Economic Impact**

The proposed amendments and new rule will continue to provide for the accurate filing of tax returns and the proper payment of tax due on gross income. Any economic impact will be minimal because it is not expected that the Division will require a staff increase or other resources to carry out its responsibilities.

**Jobs Impact**

The proposed amendments and new rule are not expected to have an impact on the creation or loss of jobs in the State and will only affect the administration of the gross income tax. No substantive changes for employers or employees have been proposed.

**Federal Standards Statement**

A Federal standards analysis is not required because the rulemaking authority is granted by the operative provisions of the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and is not subject to any Federal requirements or standards.

**Agriculture Industry Impact**

The proposed amendments and new rule are not anticipated to have any impact upon the agricultural industry because this rulemaking deals with the New Jersey gross income tax.

**Regulatory Flexibility Statement**

The proposed amendments and new rule explain reporting and recordkeeping requirements with regard to the New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq. Some of the taxpayers may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Division anticipates that the proposed amendments and new rule will not increase small businesses’ capital costs or their need for certain professional services. There are no exemptions from, or differentiation in, the requirements for large or small businesses, since to do so would not have been in compliance with the applicable statutes.

The proposed amendments and new rule do not impose additional reporting, recordkeeping, or compliance requirements beyond those already in place. Taxpayers will not require the services of professional advisors to comply with the rules, however taxpayers may want to consult with professional advisors to determine if the proposed amendments and new rule apply to their situation.

**Housing Affordability Impact**

The proposed amendments and new rule will not result in a change in the average cost associated with housing and would have no impact on any aspect of housing because the rulemaking deals with the New Jersey gross income tax.

**Smart Growth Development Impact**

The proposed amendments and new rule will not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan. This is because this rulemaking has nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere else in the State of New Jersey. This rulemaking deals with the New Jersey gross income tax.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Division has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GROSS INCOME—CATEGORIES AND CALCULATION

18:35-1.3 Partnerships and partners

(a)-(e) (No change.)

(f) Partnership filing requirements are as follows:

1. Partnerships having a New Jersey resident partner or having any income or loss derived from New Jersey sources shall file the following with the Division:

i. Form NJ-1065[.]; including the **statement of income and expenses, balance sheet per books, any and all referenced supporting schedules, and partner directory;**

ii. **Form NJ-CBT-1065 if the partnership is subject to the tax on nonresident partners;**

Recodify existing ii.-iii. as **iii.-iv.** (No change in text.)

[iv.] v. Pages 1 through [4] **5** of Federal Form 1065 and any Federal extension request forms filed;

[v.] vi. Schedule NJ-NR-A, if required [under] **pursuant to** (d)4 above; and

[vi.] vii. **Any partnership that requests an extension of time to file must file Form [PART-100] PART-200-T** if the partnership is subject to the per partner filing fee; tax on nonresident partners; or has filed a PART-200-T] **or Form CBT-206 to apply for an extension of time to file an NJ-CBT-1065 that has tax due.**

2. Information filings shall be made on or before the date of expiration of the permitted filing period for the partnership’s Federal Form 1065, including any extensions of such period allowed for Federal income tax purposes.

i. (No change.)

ii. For any partnership that utilizes the services of a paid tax preparer to prepare its partnership returns, the paid tax preparer shall file the partnership return electronically and payments of the partnership liabilities and fees along with the submission of payment-related returns, such as [the Partnership Return Voucher (Form Part-100) and] the Partnership [Tentative Return and] Application for Extension of Time to File **Form NJ-1065** (Form Part 200-T) **or Partnership Application for Extension of Time to File Form NJ-CBT-1065 (Form CBT-206)**, shall be made electronically either by the partners or by a paid tax practitioner as instructed by the partners of the partnership.

iii. For partnerships that file the return electronically pursuant to this section and N.J.A.C. 18:7-17.10, payments of partnership liabilities and fees along with the submission of payment-related returns, such as [the Partnership Return Voucher (Form Part-100) and] the Partnership [Tentative Return and] Application for Extension of Time to File **Form NJ-1065** (Form Part 200-T) shall be made electronically.

3. (No change.)

(g)-(h) (No change.)

SUBCHAPTER 4. CREDITS AGAINST TAX

18:35-4.1 Computation of credit for taxes paid to other jurisdictions

(a) The following provisions shall govern the computation of the tax credit by reason of any income or wage tax paid to another state or political subdivision of such state [under] **pursuant to** the New Jersey Gross Income Tax Act (Act.)

1.-8. (No change.)

9. The New Jersey tax on gross income does not tax partnerships directly. See N.J.S.A. 54A:2-2. Income taxes measured by profits or income, and paid by a partnership to another jurisdiction are deemed taxes paid by the individual partner and, as such, are eligible for the resident credit. For example, the New York City Unincorporated Business Tax, the

Philadelphia Business [Privilege] **Income and Receipts Tax** and Net Profits Tax are taxes paid by the partnership, which are eligible for the resident credit. The Texas Margin Tax is not an income tax and, therefore, a credit is not allowed.

i.-ii. (No change.)

10.-11. (No change.)

12. The credit for tax paid to other jurisdictions must be determined in accordance with the following examples:

i. Example 1—Determining the denominator of the credit calculation fraction.

INCOME SUBJECT TO TAX BY NEW JERSEY

	Taxpayer A Without <u>Pension</u>	Taxpayer B With Pension Less <u>Exclusion(s)</u>
Wages	\$70,000	
Interest	\$250	\$4,000
Dividends	\$400	\$2,500
Gains		\$1,525
Pension/Annuity/IRA	[0]	\$30,000
Pension Exclusion	[0]	(\$15,000)
Taxable Pension		\$15,000
S Corporation Income	\$21,000	[0]
Income Subject to Tax Before Exemptions and Deductions	\$91,650	\$23,025

ii.-v. (No change.)

vi. Example 6—Determining the credit for wage income earned in another jurisdiction if wages were reduced by allowable deductions for New Jersey tax purposes. Determining the actual tax paid to the other jurisdiction on wages taxed by both New Jersey and the other jurisdiction.

INCOME SUBJECT TO TAX

	<u>New Jersey</u>	<u>Philadelphia</u>	<u>Both</u>
Wages	\$500,000	\$500,000	
Less 401(k)	(\$30,000) [\$470,000]		\$470,000
Contributions			
<b>Wages Less 401(k) Contributions</b>	<b>\$470,000</b>		
Interest	\$100,000		
Dividends	\$200,000		
Income Subject to Tax Before Exemptions and Deductions	\$770,000	\$500,000	\$470,000
Less Exemptions Medical Deduction	(\$1,000) (\$5,000)		
New Jersey Taxable Income	\$764,000		
Tax	\$51,488	\$18,858	
Numerator of Credit Calculation			\$470,000

Calculation of tax paid to other jurisdiction on wages taxed by both New Jersey and other jurisdiction.

Wages taxed by both jurisdictions	\$470,000 = 94% of wages are allowable in numerator
Wages taxed by Philadelphia	\$500,000
Tax paid to Philadelphia	\$18,858
Adjustment %	x 94%

**PROPOSALS**

**TREASURY—TAXATION**

Actual tax paid on wages allowable in numerator \$17,727

**Calculation of Maximum Credit Allowable**

[ $\$470,000 \times \$51,488 = 31,428$   
maximum credit allowable  
\$770,000]  
 $\$470,000 / \$764,000 \times \$51,488 =$   
\$31,675

Actual tax paid on wages allowable in numerator \$17,727

Credit allowed is \$17,727, the lower of the maximum credit allowable or the actual tax paid to the other jurisdiction on income taxed by both New Jersey and the other jurisdiction.

vii. Example 7—Determining the credit when there is partnership income earned in two different jurisdictions outside New Jersey and a separate New Jersey partnership which has a loss.

**INCOME SUBJECT TO TAX**

	<u>New Jersey</u>	<u>State 1</u>	<u>State 2</u>
Wages	\$100,000		
Interest	\$200		
Partnership Income			
[Partnership ABC 10,000		\$10,000	
Partnership XYZ 5,000			\$5,000
Partnership KLM 7,000			
Partnership GSS (12,000)	\$10,000]		
<b>Partnership ABC</b>		<b>\$10,000</b>	
<b>Partnership XYZ</b>			<b>\$5,000</b>
<b>Partnership KLM</b>	<b>7,000</b>		
<b>Partnership GSS</b>	<b>(\$10,000)</b>		
Income Subject to Tax Before Exemptions and Deductions	\$110,200	\$10,000	\$5,000
Less Exemptions	(\$1,000)		
New Jersey Taxable Income	\$109,200		
Tax	\$4,830	\$650	\$150
Effective Tax Rate		6.50%	3.00%
Numerator of Credit Calculation		\$10,000	\$0

viii. Example 8—Determining the credit for income taxed by New York State and New York City Unincorporated Business Tax (UBT).

**INCOME SUBJECT TO TAX**

	<u>New Jersey</u>	<u>New York</u>	<u>UBT</u>
Wages	\$25,000		
Interest	\$15,000		
Dividends	\$10,000		
Capital Gains	\$25,000		
Net Profits from Business	\$100,000	\$75,000	\$100,000
Income Subject to Tax Before Exemptions and Deductions	\$175,000	\$75,000	\$100,000
Less Exemptions	(\$2,000)		
New Jersey Taxable Income	\$173,000		
Tax	\$6,978	\$6,600	\$4,000
Numerator of the Credit Calculation		\$75,000	\$25,000

(1) Example 8a—Determining the credit for income taxed by New York State and New York City Unincorporated Business Tax (UBT) when there is income taxed by New York City, which is not taxed by New Jersey.

	<u>New Jersey</u>	<u>New York</u>	<u>UBT</u>
Wages	\$50,000	\$25,000	
Interest	\$10,000		
Dividends	\$20,000		
Capital Gains	\$15,000		
Partnership Income	\$200,000*	\$100,000**	\$110,000***
Keogh deduction		(\$10,000)	
Income subject to tax	[\$285,000]	\$115,000	\$110,000
Before Exemptions and Deductions	<b>\$295,000</b>		
Exemptions	[\$(\$2,000)]		
	<b>(\$12,000)</b>		
New Jersey Taxable income	\$283,000		
Tax	\$16,980	\$7,475	\$4,400
Numerator of the Credit Calculation		\$115,000	\$10,000****

- \* Partnership [Income] **income** per Federal K-1 Ordinary Income \$200,000
- \*\* 50% of partnership income allocated to New York State \$100,000
- \*\*\* UBT partnership [Income] **income** 50% of Ordinary Income \$100,000  
UBT adjustments not required for Federal or New Jersey purposes \$10,000  
Total UBT \$110,000
- \*\*\*\* UBT Credit Numerator  
Total [Partnership Income] **partnership income** \$110,000  
Amount used in determining New York State credit (\$90,000)  
Income not taxed by New Jersey (\$10,000)  
Allowable Numerator \$10,000

ix. Example 9—Determining the credit when S corporation income is reported on the other jurisdiction’s return in separate categories.

**INCOME SUBJECT TO TAX**

	<u>New Jersey</u>	<u>Other Jurisdiction</u>	<u>Both</u>
Wages	\$100,000		
Interest	\$0		
Personal Interest	\$200		
S Corporation Interest		\$2,500	\$2,500
[S Corporation Income			
Ordinary 35,000		\$35,000	\$35,000]
Interest 2,500	\$37,500		
<b>S Corporation Income</b>	<b>\$35,000</b>	<b>\$35,000</b>	<b>\$35,000</b>
<b>Ordinary Interest</b>	<b>\$2,500</b>		
Income Subject to Tax Before Exemptions and Deductions	\$137,700	\$37,500	\$37,500
Less Exemptions	(\$1,000)		
New Jersey Taxable Income	\$136,700		
Tax	\$6,582	\$2,625	
Numerator of the Credit Calculation			\$37,500

x. Example 10—Schedule C adjustments to income which are also taxable to New Jersey are included in the numerator of the credit calculation fraction.

**INCOME SUBJECT TO TAX**

	<u>New Jersey</u>	<u>Other Jurisdiction</u>	<u>Both</u>
Wages	\$100,000	\$100,000	\$100,000
Interest	\$200		

	<u>New Jersey</u>	<u>Other Jurisdiction</u>	<u>Both</u>
[Net Profits from Business	35,000	\$25,000	\$25,000
Taxes Based on Income	1,000	\$36,000	\$1,000
<b>Net Profits from Business Taxes Based on Income</b>	<b>\$35,000</b>	<b>\$25,000</b>	<b>\$25,000</b>
Income Subject to Tax Before Exemptions and Deductions	\$136,200	\$126,000	\$126,000
Less Exemptions	(\$1,000)		

	<u>New Jersey</u>	<u>Other Jurisdiction</u>	<u>Both</u>
New Jersey Taxable Income	\$135,200		
Tax	\$6,486	\$8,820	
Numerator of the Credit Calculation			\$126,000

xi. Example 11—Determining the credit for Philadelphia partnerships subject to the Philadelphia Business [Privilege Tax (BPT)] **Income & Receipts Tax (BIRT)**, Philadelphia Net Profits Tax (NPT), and the Pennsylvania Income Tax.

INCOME SUBJECT TO TAX

	<u>New Jersey</u>	<u>PA Income</u>	<u>Phila [BPT] BIRT</u>	<u>Phila NPT</u>
Wages	\$100,000			
Interest	\$200			
Partnership ABC	\$500,000	\$225,000	\$275,000	\$275,000
Income Subject to Tax Before Exemptions and Deductions	\$600,200	\$225,000	\$275,000	\$275,000
Less Exemptions	(\$1,000)			
New Jersey Taxable Income	\$599,200			
Tax Liability	\$36,043	\$6,300	\$17,875	\$10,909
Less [BPT] <b>BIRT</b> Credit (17,875 x 60%)				(\$10,725)
Tax	\$36,043	\$6,300	\$17,875	\$184
Effective Tax Rate		2.80%	6.50%	0.067%
Actual [tax paid to other jurisdiction] Tax Paid to Other Jurisdiction				
PA State Tax	\$6,300			
[Phila BPT] <b>Philadelphia BIRT</b>	\$17,875			
[Phila NPT] <b>Philadelphia NPT</b>	\$184			
<b>Total Tax</b>	\$24,359			
Numerator of Credit Calculation				\$275,000

xii. Example 12—Determining the credit when there is a loss useable in the other jurisdiction and there is business income allocated to New Jersey and another jurisdiction and New Jersey allows expenses/adjustments the other jurisdiction does not. Determining the actual tax paid to the other jurisdiction on business income taxed by both New Jersey and the other jurisdiction.

	<u>New Jersey</u>	<u>New York</u>	<u>Both</u>
Wages	\$140,000	\$80,000	\$80,000
Interest	\$80,000		
Dividends	\$20,000		
Capital gains	\$10,000	(\$3,000)*	(\$3,000)
Partnership Income	\$340,000*	\$200,000	\$170,000**
Other Deductions		\$25,000***	(\$10,000)****
Less Exemptions	(\$2,000)		
Medical deduction	(\$8,000)		
Taxable Income	\$580,000	\$255,000	
Tax	\$34,983	\$15,300	
Numerator of Credit Calculation	<b>\$237,000</b>		[\$237,000]
Credit Allowed	\$14,052		

\*\* New York allocated share of partnership income \$340,000 X 50% = \$170,000  
 \*\*\* New York other deductions  
 401(k) \$15,000  
 Keogh \$10,000  
 \*\*\*\* Other deductions used in determining the numerator New York Keogh adjustment of \$10,000[.]  
 The New York 401(k) deduction of \$15,000 was used in arriving at the New York partnership adjusted income of \$170,000  
 Maximum Credit Allowable:  
 (\$240,000 X \$34,983) / \$580,000 = \$14,476  
 Tax paid to New York on \$255,000 of income \$15,300  
 Tax paid to New York on \$240,000 of income same as taxed by New Jersey \$14,400, calculated as follows:  
 (\$240,000 X \$15,300) / \$255,000 = \$14,400  
 Credit allowed is the lower of the allocation formula or the tax paid to the other jurisdiction on the same income taxed by New Jersey, \$14,000[.]

\* Partnership [Income] **income** per Federal K-1 \$400,000

Additional expenses/deductions allowed:

401(k) deduction	\$30,000
Excess meals & entertainment	\$10,000
Club dues	\$10,000
Miscellaneous partner expenses	\$10,000
New Jersey partnership income	\$340,000 - 50% allocated to New Jersey

SUBCHAPTER 5. NEW JERSEY SOURCE INCOME OF NONRESIDENTS

18:35-5.3 Stock option, stock appreciation rights, and restricted stock allocation

(a) A nonresident who has New Jersey source income from compensation received from stock options, stock appreciation rights, or restricted stock if, at any time during the allocation period, the nonresident individual worked in New Jersey or performed services in New Jersey for the employer (grantor) granting such options, rights, or stock.

1. “Allocation period” is defined as taxpayer’s workday allocation factors between the date on which the options were granted and the date on which the options were exercised.

(b) A nonresident individual’s New Jersey source income from compensation received from stock options, stock appreciation rights, or restricted stock is received at the same time the income is realized for Federal income tax purposes. Stock options, stock appreciation rights, and restricted stock are reportable to New Jersey in the same taxable year and in the same manner that the income is included in the individual’s Federal adjusted gross income.

(d) Example 1:

The taxpayer lives in New York and works in New Jersey. The taxpayer worked for Company A for one year (2020) during which stock options were exercised for a gain totaling \$50,000. During 2020, the taxpayer worked a total of 270 days. The taxpayer worked 80 days from his home in New York.

$$\begin{matrix} \text{Stock Options exercised} & \times & \frac{\text{Days worked in NJ 190}}{\text{Total Days worked 270}} & = & \text{Taxable to NJ } \$35,185.19 \\ (\$50,000) & & & & \end{matrix}$$

Example 2:

The taxpayer lives in New York and works in New Jersey. The taxpayer worked for Company A for six years (2013-2019) and worked a total of 1,679 days. During 2013, the taxpayer worked 190 days in New Jersey. On January 1, 2014, the taxpayer is transferred to the employer’s business location in New York. Stock options were exercised on March 1, 2020, for a gain totaling \$100,000.

$$\begin{matrix} \text{Stock Options exercised} & \times & \frac{\text{Days worked in NJ 190}}{\text{Total Days worked 1,679}} & = & \text{Taxable to NJ } \$11,316.26 \\ (\$100,000) & & & & \end{matrix}$$

(e) For purposes of this section, the following terms shall have the following meanings:

1. “Disposition” means disposition, as defined at 26 CFR 1.424-1(c);
2. “Stock and voting stock” means stock and voting stock, as defined at 26 CFR 1.421-1(d);
3. “Option price” means option price, as defined at 26 CFR 1.421-1(e); and
4. “Incentive stock option” means incentive stock option, as defined at 26 CFR 1.422-2.

SUBCHAPTER 11. FILING FEE PAYMENTS BY PARTNERSHIPS

18:35-11.3 Annual return; payment of tax or fee due; extensions of time to file tentative return; estimated payment

(a) (No change.)

(b) Any partnership [having a liability for a filing fee payment pursuant to N.J.S.A. 54A:8-6 or] having tax due pursuant to N.J.S.A. 54:10A-15.11 must file Form [PART-100, Partnership Return Voucher] **NJ-CBT-1065 New Jersey Partnership Return Corporation Business Tax**, and Form NJ-1065. [The applicable payment must accompany Form PART-100. Form PART-100 must be postmarked on or before the original due date for the return.]

(c) A partnership may obtain an extension of time to file the New Jersey Partnership Return (Form NJ-1065) or **New Jersey Partnership Return Corporation Business Tax (Form NJ-CBT-1065)** for a period of five months beyond the original due date, providing that the requirements [of] at (c)1 below are satisfied. Extensions beyond five months from the original due date of the return will be granted only in cases where the Director determines that exceptional circumstances exist. This subsection provides the authority for an extension of time to file and is not to be considered an extension of time to pay the filing fee and/or tax due. A partnership’s liability is due, in full, by the original due date of the return. The partnership is subject to interest and late filing penalty as described [in] at (c)5 below if the full amount is not paid by the original due date of the return.

1. A five-month extension of time to file a New Jersey Partnership Return will be granted only if, by the original due date of the return, the partnership has paid in, either through tiered partnership payments, installment payments, estimated payments, [or] a payment made with the Partnership [Tentative Return and] Application for Extension of Time to

(c) The New Jersey gross income tax due from a nonresident taxpayer is based on an allocation factor to determine the amount of income attributable to New Jersey sources. The formula for calculating the portion that is allocated to New Jersey is determined by multiplying the gain realized from the sale of the stock option, stock appreciation rights, or restricted stock by a fraction. The numerator of this fraction is the total number of days employed in New Jersey and the denominator is the total number of days employed within and outside New Jersey for the period the stock options were earned.

File Form NJ-1065 (Form PART 200-T), or Partnership Application for Extension of Time to File Form NJ-CBT-1065 (Form CBT-206) at least 80 percent of the filing fee and/or tax due computed on the New Jersey Form [PART-100, Partnership Return Voucher] **PART 200-T or Form CBT-206** when filed and:

- i. The partnership obtains a valid five-month extension for Federal income tax purposes and attaches a copy of the application for automatic Federal extension (Federal Form 7004) to the final New Jersey Partnership Return(s) when filed; or
- ii. (No change.)

2. A partnership shall file Form PART-200-T, Partnership [Tentative Return and] Application for Extension of Time to File [New Jersey] **Form NJ-1065 and/or Form CBT-206 Partnership Application for Extension of Time to File Form NJ-CBT-1065**, only if the partnership is required to remit payment to the Division of Taxation by the original due date of the return in order to meet the 80 percent requirement [of] at (c)1 above.

3. Failure to satisfy either the 80 percent payment requirement [of] at (c)1 above by the original due date of the return, or to file the Partnership Return(s) by the extended due date, will result in the retroactive denial for the extension as of the original due date of the return. In those cases, the partnership will be subject to interest, late filing penalties, and late payment penalties from the original due date of the return, as described [in] at (c)4 and 5 below.

4. A partnership that has not satisfied the 80 percent payment requirement [of] at (c)1 above, or fails to file the Partnership Return(s) by the extended due date, will be subject to the following late filing penalties, which shall be imposed on the first day following the original due date of the return and on the same calendar day of each succeeding month thereafter:

i.-iii. (No change.)

5. A partnership that makes a payment of fee and/or tax after the original due date of the return(s), with or without an extension of time to file, is subject to the following late payment penalty and interest payments:

i.-ii. (No change.)

(d) A partnership seeking an extension of time to file Form NJ-1065 or **Form NJ-CBT-1065** may file a copy of its application for a Federal extension with its New Jersey return. The box at the top of Form NJ-1065 labeled “Application for Federal Extension is attached” shall be checked. If a Federal extension has not been obtained, a request for a State

extension must be made by filing Federal Form 7004 with the Division of Revenue and Enterprise Services on or before the original due date of the State return. In addition, any partnership that has a filing fee and/or tax due must file Form PART-200-T, Partnership [Tentative Return and] Application for Extension of Time to File **Form NJ-1065 and/or Form CBT-206 Partnership Application for Extension of Time to File Form NJ-CBT-1065**. The applicable payment must accompany this Form.

Form PART-200-T **and Form CBT-206** must be postmarked on or before the original due date of the return. An extension of time to file Form NJ-1065 **or Form NJ-CBT-1065** does not extend the time to pay the filing fee and/or tax due. It also does not extend the time for filing the tax return or returns of the partners.

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