



STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE
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STATE TREASURER

To: The State House Press

From: Christopher Trappe
Department of the Treasury
Division of Revenue

Date: April 30, 2009

Subject: Statewide Inventory of Outstanding Non-Tax Debt
Proposed Adoption N.J.A.C. 17:48

P.L. 2001, c5 (N.J.S.A. 52:14B-4) requires an agency to give notice of its intended action to the news media maintaining a press office to cover the State House Complex prior to the proposal, amendments or repeal of any rule.

The New Jersey Department of the Treasury, Office of the State Treasurer is proposing rules for adoption (Proposed Rule No. PRN 2009-139) regarding the implementation of P.L. 2008, c. 24. This new law requires the Chief Administrative Officer of each State department or agency, or his or her designee, to submit a certified report of non-tax debt inventory within 45 days following the conclusion of each fiscal year. Within 90 days following the conclusion of each fiscal year, the Division of Revenue is required to submit to the Governor and the Legislature a cumulative report based on the information provided by each Department. The notice for adoption will be published in the May 4, 2009 edition of the New Jersey Register. Written comments on the proposed rule may be submitted by July 3, 2009 to:

Christopher Trappe
Division of Revenue
P.O. Box 628
Trenton, NJ 08646-0628
christopher.trappe@treas.state.nj.us

The New Jersey Department of the Treasury, Office of the State Treasurer has reviewed the proposed rule adoption and has determined it to be necessary, reasonable and proper for the purposes for which it was originally promulgated, pursuant to Executive Order No. 66 (1978).

A complete copy of the notice can be found in the *New Jersey Register* and the full text of the current rule proposal may be found in the New Jersey Administrative Code and on the Revenue website <http://www.state.nj.us/treasury/revenue> and on the Treasury website <http://www.state.nj.us/treasury> or by calling Christopher Trappe at 609-633-7181.

**TREASURY - GENERAL
DIVISION OF REVENUE**

Centralized Non-Tax Debt Collection

Proposed New Rules: N.J.A.C. 17:48

Authorized By: R. David Rousseau, State Treasurer

Authority: N.J.S.A. 52:18-40 and 41

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

Proposal Number: PRN 2009-139.

Submit comments by July 3, 2009 to:
Christopher Trappe
Chief of Staff, New Jersey Division of Revenue
PO Box 240
33 West State Street, 5th Floor
Trenton, NJ 08625-0240
FAX: (609)984-8460

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:18-40, the New Jersey Department of the Treasury, Division of Revenue (Division) is responsible for the State's centralized non-tax debt collection program. These proposed new rules encompass the policies and procedures required to administer this program. The rules specify the minimum steps executive branch agencies must take to collect amounts due from fees, fines, penalties, costs or other assessments. Agencies are required to transfer any uncollected non-tax debt that is due and payable to the Division no later than the 91st day following the recording of the debt. In addition, at the conclusion of each fiscal year, each agency is required to submit a certified non-tax debt inventory report to the Division.

A summary of the proposed new rules follows.

N.J.A.C. 17:48-1.1 covers definitions of key terms used in the proposed rules.

N.J.A.C. 17:48-1.2 specifies the minimum steps executive branch agencies must take to collect amounts due from fees, fines, penalties, costs or other assessments.

N.J.A.C. 17:48-1.3 sets forth the mandatory timeframe and procedures for transferring non-tax debt to the Division.

N.J.A.C. 17:48-1.4 outlines exceptions to the mandatory transfer rules.

N.J.A.C. 17:48-1.5 specifies the requirements for the certified annual non-tax debt inventory reports to be submitted by executive branch agencies.

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 rules will help have a positive social impact in that they will contribute to more equitable and cost-effective delivery of State government services. By requiring executive branch agencies to systematically attempt collection within a 90-day period, and then to immediately transfer uncollected non-tax debt cases to the Division for further collection efforts after this period, State government will ensure sustained due diligence in the pursuit of delinquent non-tax debt. In the aggregate, sustained pursuit and collection of delinquent non-tax debt helps ensure that citizens and businesses are paying their fair share for services rendered and/or for legitimate assessments made by State government agencies. This helps to ensure greater equity in the administration of governmental programs and increases fiscal resources available to these programs, thus defraying the cost of government operations.

In with the information presented above, it should be noted that the Division employs a comprehensive approach to non-tax debt collection. The Division simultaneously submits debtor files to the Set-off of Individual Liability (SOIL) Program and to contracted collection firms. The SOIL Program offsets debts via automated holds placed on Gross Income Tax refunds and Fair Saver Rebates. Collection activities by the collection firms may include actions such as skip tracing (locating debtors), dunning letters, telephone contacts, wage garnishment, legal referrals and judgments filings.

Economic Impact

The cumulative effect of improved non-tax debt collection will be to increase the amount of fiscal resources available to State government. This will help to defray the cost of government operations and indirectly contribute to easing tax burdens on individuals and businesses in this State. Thus, these rules will have a positive economic impact.

Federal Standards Statement

A Federal standards statement is not required because the rules proposed for adoption relate strictly to the State of New Jersey's non-tax debt collection program. The rules are therefore independent from any Federal systems or requirements.

Jobs Impact

The rules proposed for adoption will not result in the creation or loss of jobs.

Agricultural Industry Impact

The rules proposed for adoption will not have an impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for adoption are designed to ensure sustained due diligence in the pursuit of delinquent non-tax debt by executive branch agencies and the Division of Revenue. They only require action by governmental agencies and, hence, impose no administrative requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Smart Growth Impact

The rules proposed for adoption will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The Department does not anticipate that the proposed rules will cause any increase or decrease in the average cost of housing, as these proposed new rules concern the processes and procedures governing the State's centralized non-tax debt collection program.

Smart Growth Development Impact

The Department does not anticipate that the proposed rules will have any impact on the availability of affordable housing or the construction of new housing within Planning Areas 1 or 2 or within designated centers, under the State Development and Redevelopment Act, as these proposed new rules concern the processes and procedures governing the State's centralized non-tax debt collection program.

Full text of the proposed new rules follows.

CHAPTER 48 CENTRALIZED NON-DEBT TAX COLLECTION RULES

SUBCHAPTER 1. CENTRALIZED NON-DEBT TAX COLLECTION RULES

17:48-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Delinquent debt” means a fee, fine, cost, penalty or assessment that has been due and owing a State department or agency for 91 days or more. “Delinquent debt” does not include inter-agency debts and debts associated with loans, notes, grants, and contracts.

“Debtor” means any individual or business entity owing money to or having a delinquent account with any State department or agency which obligation has not been adjudicated or satisfied by court order, set aside by court order or discharged in bankruptcy.

“Debtor file” means the listing of all delinquent debts for which the State agency has exhausted its collections methods within the 90-day billing cycle. A minimum of \$25.00 for total debts per individual per State agency will be established. Accounts involving more than one debtor must be broken down individually and the debt allocated to each individual by a State agency. The list must be provided in an electronic format that is acceptable to the Division of Revenue.

“Division” means the New Jersey Division of Revenue, Department of the Treasury.

“State department or agency” means all executive branch departments or agencies, but does not include an independent authority or instrumentality that is independent of the operational and budgetary control of the department to which it is allocated.

17:48-1.2 Collection actions to be taken by agency

- (a) Agencies shall make every effort to collect amounts due associated with fines, fees, penalties and other assessments (non-tax debt). At a minimum, the following steps must be taken:
 - 1. Agencies shall develop and establish written procedures and guidelines to be followed by all staff assigned to the debt collection function; and
 - 2. Within 90 days of an amount becoming due and owing, agencies shall attempt to collect by taking, at a minimum, the following steps:
 - i. Issue and send an initial bill (invoice) by regular mail or electronic means if available;
 - ii. If the amount is not paid after 30 days, send a written reminder letter via regular and/or certified mail; and
 - iii. If the amount is not paid after 60 days, send a second reminder letter via regular and/or certified mail.

17:48-1.3 Mandatory transfer of non-tax debt to the Division

- (a) If an agency is unable to collect a debt within 90 days, the debtor file shall be transferred to the Division in an electronic format on the 91st day for further collection efforts. The Division will specify what constitutes an acceptable electronic format.
- (b) At a minimum, the debt files must include the data fields below pertaining to the debtor (either individual or business). The Division will specify the format for the data fields and the medium to be used to transfer the data.
 - 1. Debtor name (first, middle initial, last, designations if applicable) or company name and contact person;
 - 2. Home or company address;
 - 3. Home or company/contact telephone number;
 - 4. Social Security number or Federal identification number;
 - 5. Nature of debt;

6. Date of debt;
7. Original amount of debt;
8. Payment(s) amount(s);
9. Payment(s) date(s); and
10. Balance due.

17:48-1.4 Exceptions to the mandatory transfer rule

- (a) If a debt has reached the 90-day cutoff point, but has been submitted by the agency for litigation, the account shall not be submitted to the Division until such litigation has been concluded and the debt remains due and owing. If the debt remains unpaid for 90 days after an agreed upon court order for payment, the debt shall be referred to the Division in accordance with the rules set forth in N.J.A.C. 17:48-1.3.
- (b) If a State agency submits a debt for judgment sometime during the 90-day collection period, the agency will submit the debt no later than 20 days after the judgment has been obtained from the courts.

17:48-1.5 Annual certified non-tax debt inventory report and report to the Governor and Legislature

- (a) The chief administrative officer of each agency, or his or her designee, must submit a certified report of the agency's non-tax debt inventory within 45 days following the conclusion of each fiscal year, in a format provided by the Division. At a minimum, the report shall include the following information:
 1. The amount of total debt owed to the General Fund;
 2. The amount of debt owed to the General Fund submitted to the Division;
 3. The amount of total debt owed to non-state sources;
 4. The amount of debt owed to non-state sources submitted to the Division;
 5. The amount of total debt outstanding; and
 6. The amount of total debt outstanding not submitted to the Division.
- (b) Within 90 days following the conclusion of each fiscal year, the Division shall submit to the Governor and the Legislature a cumulative report reflecting the inventory information supplied by each agency. In the report, the Division shall also indicate which agencies, if any, have failed to comply with requirements of this chapter and N.J.S.A. 52:18-40.