

NEW JERSEY ADMINISTRATIVE CODE
TITLE 18. DEPARTMENT OF TREASURY--TAXATION
CHAPTER 2. GENERAL POLICIES AND PROCEDURES
SUBCHAPTER 4. POSTMARK RULE

Current through September 20, 2004; 36 N.J. Reg. No. 18

18:2-4.1 Purpose

This subchapter provides rules for the interpretation and administration of N.J.S.A. 54:49-3.1, which requires that a timely postmark shall be deemed a timely filing or remittance, and that the use of registered or certified mail shall be deemed prima facie evidence of delivery.

18:2-4.2 Definitions

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

"Document" means any return, report, declaration of estimated tax, claim, statement, notice, application, affidavit, petition, protest or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of the tax laws. However, such term does not include any document that is required under any provision of the tax laws or the regulations to be filed or delivered by any method other than mailing.

"Payment" means any payments required to be made within a prescribed period or on or before a prescribed date under the authority of any provision of the tax laws. However, the term does not include any remittance unless the amount thereof is actually received by the Division. For example, if a check is used as a form of payment, this section does not apply if such check is not received, or if received, is not honored upon presentment. Furthermore, such term does not include any payment that is required under any provision of the tax laws or regulations to be made by any method other than mailing.

18:2-4.3 Postmark date deemed date of filing or payment

For documents required to be filed with or payments to be made to the director generally, and except as otherwise provided, the date of the United States postmark as stamped on the envelope or other wrapper in which such document or payment is contained will be deemed to be the date of filing or payment. Where delivery is made by courier, delivery messenger or similar service, the date of receipt by the Division, as evidenced by an authentic Division of Taxation date stamp, will be deemed to be the date of filing or payment.

18:2-4.4 Mailing requirements

(a) Documents and/or payments shall not be considered to be timely filed or timely paid unless mailed in accordance with all of the following requirements:

1. The documents or payment must be contained in an envelope or other appropriate wrapper properly addressed to the address designated by the Division of Taxation.

2. The envelope or wrapper containing the document or payment must be deposited in the mail of the United States within the prescribed period on or before the prescribed date with sufficient postage prepaid. For this purpose, such document or payment is considered to be deposited in the mail of the United States when it is deposited with the domestic mail service of the United States Postal Service. The domestic mail service of the United States Postal Services includes mail transmitted within, among, and between the United States, its territories and possessions, and Army Air Force (APO) and Navy (FPO) post offices.

18:2-4.5 United States postmark

If the postmark on the envelope or wrapper containing the documents or payments is made by the United States Postal Service, to be timely such postmark must bear a date stamped by the United States Postal Service which is within the prescribed period or on or before the prescribed date for filing or paying (including any extensions of time granted for filing or paying). If the postmark stamped by the United States Postal Service on the envelope or wrapper does not bear a date which falls within such prescribed period or on or before such prescribed date for filing or paying, the document or payment will not be considered to be timely filed or paid, regardless of when the envelope or wrapper was deposited in the mail. Accordingly, the sender assumes the risk that the envelope or wrapper will not bear a postmark date stamped by the United States Postal Service within the prescribed period or on or before the prescribed date for filling or paying (including any extensions of time granted for filing or paying). See N.J.A.C. 18:2-4.9 with respect to the use of registered mail or certified mail to avoid this risk. Furthermore, if the postmark made by the United States Postal Service on the envelope or wrapper containing the document or payment is not legible, the provisions of N.J.A.C. 18:2-4.6 shall apply.

Example 1: 3rd Quarter Sales and Use Tax Return

Due Date:	October 20
Postmarked:	October 20
Received by Division of Taxation	October 24

The return would be considered timely filed.

Example 2: 3rd Quarter Sales and Use Tax Return

Due Date:	October 20
Postmarked:	October 21
Received by Division of Taxation	October 26

The return would be considered filed on October 26.

18:2-4.6 Metered mail

Documents and payments not postmarked by the United States Postal Service shall be deemed to be mailed and postmarked three days prior to the date upon which such documents and payments are received by the Division.

18:2-4.7 Multiple postmarks

If the envelope or wrapper containing the document or payment has a postmark made by the United States Postal Service in addition to a postmark made other than by the United States Postal Service (for example, metered mail), the postmark which was made by the United States Postal Service will be determinative of the filing date.

18:2-4.8 No postmark

If the envelope or wrapper containing the document or payment bears sufficient prepaid United States postage but is missing any postmark whatsoever, the document shall be deemed filed, or the payment shall be deemed paid, three days prior to its receipt by the Division of Taxation.

18:2-4.9 Registered or certified mail deemed prima facie evidence of delivery

If any document or payment is sent by United States registered or certified mail, such registration or certification shall be prima facie evidence that the document was delivered to the director, bureau, office, officer or person to which or to whom addressed. The timeliness of such document or payment delivered as evidenced by such registration or certification shall be determined under the provisions of N.J.A.C. 18:2-4.10.

18:2-4.10 Registration or certification date deemed postmark date

(a) If an envelope or wrapper containing a document or payments is sent by United States registered mail, the date of such registration is treated as the postmark date and the date of filing or paying.

(b) If an envelope or wrapper containing a document or payment is sent by United States certified mail and the sender's receipt for certified mail is postmarked by the postal employee to whom such envelope or wrapper is presented, the date of the postmark on such receipt for certified mail is treated as the postmark date and the date of filing or paying.

(c) If an envelope or wrapper containing a document or payment is sent by United States certified mail and the sender's receipt for certified mail is not postmarked by the postal employee to whom such envelope or wrapper is presented, the document shall be deemed filed or the payment shall be deemed paid, three days prior to its receipt by the Division.

18:2-4.11 Foreign postmark

If the envelope or wrapper containing the document or payment is mailed from a foreign country and received by the Division, the date of the official postmark stamped on the envelope or wrapper will be deemed to be the date of filing or payment. The envelope or wrapper must be properly addressed, have sufficient postage prepaid and bear a date stamped by such foreign country's official postal service which is within the prescribed period or on or before the prescribed date for filing or paying (including any valid extensions of time).

18:2-4.12 Weekend and holiday

For purposes of this subchapter, when the last day prescribed (including any extensions of time) for filing a document, making a payment, or performing any act falls on a Saturday, Sunday or a day which is a legal holiday in the State of New Jersey, the performance of such acts will be considered timely if performed on the next succeeding business day.

18:2-4.13 Express delivery

Where delivery of documents and payments is made by Federal Express, United Parcel Service, or similar service, such documents shall be deemed filed, or the payments shall be deemed paid, one day prior to the date upon which such documents and payments are received by the Division of Revenue. Such documents or payments shall be delivered to the Division of Revenue, 160 South Broad Street (Livingston Street entrance), Trenton, New Jersey 08646.

New Rule, R.1999 d.217, effective July 19, 1999.

See: 31 N.J.R. 1166(a), 31 N.J.R. 1941(a).