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State and Local Taxes

in New Jersey



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Recent developments

Recent developments

Have there been any notable recent developments concerning state and local taxation in your state, including any regulatory changes or case law?

On July 1, 2018 Governor Murphy signed legislation making the following significant changes to the corporation business tax:

- the introduction of a temporary corporate “surtax” of 2.5% in 2018 and 2019, and 1.5% for 2020 and 2021, for corporate taxpayers with allocated net income exceeding \$1 million;
- mandatory unitary combined reporting;
- market-based sourcing of services;
- a reduced dividends-received deduction (from 100% to 95%) for subsidiaries in which the taxpayer has an 80% or more ownership interest;
- changes to the net operating loss carryforward rules that reflect the move from separate to combined reporting; and
- decoupling the corporation business tax from certain provisions of the Federal Tax Cuts and Jobs Act (A. 4202, 218th Leg., Reg. Sess. (N.J. 2018))

The changes to the corporation business tax have various effective dates, some of which are retroactive.

Changes to the gross income tax included:

- increasing the highest gross income tax rate to 10.75% for tax years beginning on or after January 1, 2018 for taxable income in excess of \$5 million;
- increasing the maximum property tax deduction for New Jersey residents from \$10,000 to \$15,000; and
- increasing the earned income tax credit and creating a child and dependent care tax credit for households below a certain income threshold (A. 3088, 218th Leg., Reg. Sess. (N.J. 2018)).

Other changes included a 90-day amnesty program to end no later than January 15, 2019 (A. 3438, 218th Leg., Reg. Sess. (N.J. 2018)), and the introduction of a sales tax and hotel occupancy fee on transient accommodations (A. 1753, 218th Leg., Reg. Sess. (N.J. 2018)).

SALT deduction cap workaround law passed

On May 4, 2018 Governor Murphy signed S. 1893, 218th Leg., Reg. Sess. (N.J. 2018) into law, which is intended to allow taxpayers relief from the \$10,000 cap on state and local tax (SALT) deductions. The new law allows municipalities and local governments to set up charitable funds for a specific purpose, such as funding schools, and give contributors credits toward their property tax bills. In theory, the charitable contributions would then remain fully deductible to the taxpayer. The Internal Revenue Service has since warned that it will propose federal regulations to address these types of SALT deduction workarounds by states, and it remains to be seen whether these charitable contributions will be respected for federal income tax purposes (I.R.S. Notice 2018-54, 2018-24 I.R.B. 750).

Bill introduced in response to Wayfair

In response to the U.S. Supreme Court’s decision in *South Dakota v. Wayfair Inc.*, 585 U.S. ___ (2018), the New Jersey legislature recently passed a bill that would require remote sellers to collect and remit sales tax if they have more than \$100,000 in sales into New Jersey or engage in 200 or more separate transactions into the state (A. 4261, 218th Leg., Reg. Sess. (N.J., passed by legislature July 1, 2018)).

General framework

Legislation

What primary and secondary legislation governs the collection and remittance of taxes in your state?

The collection and remittance of taxes is primarily governed by Title 54, “Taxation” and Title 54A, “New Jersey Gross Income Tax Act” of the New Jersey Statutes Annotated.

Government authorities

What government authorities (at both state and local level) are charged with the

collection and administration of taxes, and what are the extent of their powers?

The New Jersey Division of Taxation, which is a division of the Department of the Treasury, is charged with the collection and administration of taxes at the state level. It has authority to conduct audits and investigations (including criminal investigations), as well as to assess and collect taxes.

County and municipal officials collect and administer local property taxes. Although the Division of Taxation is not tasked with assessing and collecting property taxes, it has a property administration branch that assists municipal and county officials to administer local property taxes.

State/local balance

How would you describe the balance between taxes collected at state and local level?

Aside from property taxes, taxes are primarily collected at the state level rather than at the local level.

Tax year and filing deadlines

What is the prescribed tax year in your state and what filing deadlines apply?

A taxpayer must use the same calendar or fiscal tax year used for federal income tax purposes (N.J. Stat. Ann. §§ 54:10A-15(i), 54A:8-3(a)). The filing deadline is generally on or before the 15th day of the fourth month after the close of the taxpayer's tax year (N.J. Stat. Ann. § 54:10A-15(c), 54A:8-1(a)). Sales and use taxes are typically on a quarterly reporting cycle (N.J. Admin. Code § 18:24-11.2).

Government policy

How competitive is your state in terms of taxation in relation to other states? What is the government's general policy and approach to taxation?

As of November 14, 2017 the New Jersey Division of Taxation's mission statement is as follows: "The mission of the Division of Taxation is to administer the State's tax laws 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."

The Tax Foundation's 2018 State Business Tax Climate Index ranked New Jersey last (in 50th place).

Corporate income and franchise taxes

Taxable income

How is taxable income determined in your state? To what extent is the state income tax base aligned with the federal income tax base?

The starting point for computation of taxable income is federal taxable income before net operating losses and special deductions. This amount is then subject to several New Jersey-specific adjustments (N.J. Stat. Ann. § 54:10A-4(k)).

How is in-state income apportioned for multi-state businesses? Does your state regulate transfer pricing?

Apportionment

For tax years beginning on or after January 1, 2014, income is generally apportioned using a single sales factor (N.J. Stat. Ann. § 54:10A-6). The sales factor is equal to the taxpayer's receipts earned in New Jersey divided by the taxpayer's total receipts (N.J. Stat. Ann. § 54:10A-6(B)).

Transfer pricing

New Jersey does regulate transfer pricing. The New Jersey Division of Taxation's regulations define the term "fair and reasonable tax" as "the tax that would have been payable by a taxpayer reporting the same transaction(s) on a separate entity basis where the parties to the transaction(s) had independent economic interests." N.J. Admin. Code § 18:7-5.10(a)(3). Determining a "fair and reasonable tax" is similar to determining arm's-length pricing (i.e., transfer pricing) under the requirements of I.R.C. § 482. The arm's-length analysis provided in N.J. Admin. Code § 18:7-5.10 incorporates certain standards of I.R.C. § 482. See also N.J. Div. of Taxation, TAM 2012-1, "Intercompany Transfer Pricing and Advanced Pricing Agreements" (February 16, 2012).

Nexus

How is nexus determined for corporate income tax purposes?

New Jersey employs a subjectivity standard for nexus under which a corporation will have nexus if it:

- derives receipts from sources within New Jersey;
- engages in contacts within New Jersey;
- does business in New Jersey;
- employs or owns capital or property in New Jersey; or
- maintains an office in New Jersey (N.J. Stat. Ann. § 54:10A-2; N.J. Admin. Code § 18:7-1.8; N.J. Div. of Taxation, TB-79(R), "Nexus for Corporation Business Tax" (August 13, 2015); N.J. Div. of Taxation, TAM 2011-6, "Foreign Corporations Subject to Tax" (January 10, 2011)).

The determination of whether a corporation is doing business in New Jersey is determined by the facts in each case, with consideration being given to:

- the nature and extent of the activities of the corporation in New Jersey;
- the location of its offices and other places of business;
- the continuity, frequency, and regularity of the activities of the corporation in New Jersey;
- the employment in New Jersey of agents, officers, and employees; and
- the location of the actual seat of management or control of the corporation (N.J. Admin. Code § 18:7-1.9(b)).

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- the continuity, frequency, and regularity of the activities of the corporation in New Jersey;
- the employment in New Jersey of agents, officers, and employees; and
- the location of the actual seat of management or control of the corporation (N.J. Admin. Code § 18:7-1.9(b)).

Is affiliate nexus recognized in your state? If so, to what extent? Has there been any notable case law in this area?

Affiliate nexus is recognized, to the extent that the subjectivity standard for nexus is otherwise satisfied. In *Lanco Inc. v. Director, Division of Taxation*, 188 N.J. 380 (2006), the New Jersey Supreme Court upheld the imposition of corporation business tax on a foreign corporation that did not have a physical presence in New Jersey, but derived income in New Jersey through a licensing agreement with a company conducting retail operations in the state. In *AccuZIP Inc. v. Director, Division of Taxation*, 25 N.J. Tax 158 (2009), the New Jersey Tax Court distinguished *Lanco* and held that sales of prewritten computer software to end users who signed a software license agreement constituted the sale of tangible property, not the licensing of intangible property, and was subject to P.L. 86-272 protection.

Rates

What are the applicable corporate income tax rates?

Base rate

As of January 1, 2018 the base rate is:

- 9% on entire net income (ENI), or on the portion attributable to New Jersey, of more than \$100,000;
- 7.5% for taxpayers with ENI of \$100,000 or less but more than \$50,000; and
- 6.5% for taxpayers with ENI of \$50,000 or less (N.J. Stat. Ann. § 54:10A-5(c)(1)).

Temporary corporate surtax

For tax years beginning on or after January 1, 2018 and before January 1, 2022 there is also a corporate surtax, imposed as follows:

- 2.5% for taxpayers with allocated net income of over \$1 million for periods beginning on or after January 1, 2018 through December 31, 2019 (11.5% effective rate); and
- 1.5% for taxpayers with allocated net income of over \$1 million for periods beginning on or after January 1, 2020 through December 31, 2021 (10.5% effective rate).

Exemptions, deductions and credits

What exemptions, deductions, and credits are available?

Credits

Available credits include the following:

- Urban Enterprise Zone Tax Credit (Forms 300 and 301);
- Redevelopment Authority Project Tax Credit (Form 302);
- Recycling Equipment Tax Credit (Form 303);
- New Jobs Investment Tax Credit (Form 304);
- Manufacturing Equipment and Employment Investment Tax Credit (Form 305);
- Research and Development Tax Credit (Form 306);
- Small New Jersey-Based High-Technology Business Investment Tax Credit (Form 308);
- Health Maintenance Organization Assistance Fund Tax Credit (Form 310);
- Neighborhood Revitalization State Tax Credit (Form 311);
- Effluent Equipment Tax Credit (Form 312);
- Economic Recovery Tax Credit (Form 313);
- Alternative Minimum Assessment Tax Credit (Form 315);
- Business Retention and Relocation Tax Credit (Form 316);
- Sheltered Workshop Tax Credit (Form 317).
- Film and Digital Media Tax Credit;
- Urban Transit Hub Tax Credit (Form 319)
- Grow New Jersey Assistance Tax Credit (Form 320);
- Angel Investor Tax Credit (Form 321);
- Wind Energy Facility Tax Credit (Form 322);
- Residential Economic Redevelopment and Growth Tax Credit (Form 323);
- Business Employment Incentive Program Tax Credit (Form 324); and
- Public Infrastructure Tax Credit (Form 325)

Deductions

The starting point for computation of taxable income is federal taxable income before net operating losses and special deductions (N.J. Stat. Ann. § 54:10A-4(k)). After certain enumerated additions are made to this amount, as set forth in N.J. Admin. Code § 18:7-5.2(a)(1), certain amounts are then deducted, including:

- the taxpayer's New Jersey net operating loss carryover (N.J. Stat. Ann. § 54:10A-4(k)(6));
- 95% of dividends received from subsidiaries in which the taxpayer has an 80% or more ownership interest (N.J. Stat. Ann. § 54:10A-4(k)(5)(A));
- 50% of the dividends described in N.J. Admin. Code § 18:7-5.2(a)(2)(ii);
- depreciation on property as described in N.J. Admin. Code § 18:7-5.2(a)(2)(iii) and (iv);
- gain or loss on the physical disposal of recovery property as described in N.J. Admin. Code § 18:7-5.2(a)(2)(v);

- certain income included in federal taxable income solely as a result of a “safe harbor leasing” election made under I.R.C. § 168(f)(8), as described in N.J. Admin. Code § 18:7-5.2(a)(2)(vi);
- certain amounts by banking corporations that are operating an international banking facility as part of their business, as described in N.J. Admin. Code § 18:7-5.2(a)(2)(vii); and
- for tax periods beginning on or after January 1, 2014 and before January 1, 2019, the amount of discharge of indebtedness income included for federal income tax purposes, pursuant to I.R.C. § 108(i) (N.J. Admin. Code § 18:7-5.2(a)(2)(viii)).

See generally N.J. Stat. Ann. § 54:10A-4(k).

Exemptions

Exemptions are not separately provided for under the corporation business tax.

Filing requirements

What filing requirements and procedures apply? Are there special filing requirements for groups of company?

of company?

Filing requirements and procedures

C corporations must file returns on an annual basis. The filing deadline is on or before the 15th day of the fourth month after the close of the corporation's tax year (N.J. Stat. Ann. § 54:10A-15). Taxpayers must make estimated tax payments in four installments of 25% of the total estimated tax due for the tax year (N.J. Stat. Ann. § 54:10A-15(f)). For tax years beginning on or after January 1, 2016 all taxpayers and tax preparers must file corporation business tax returns and make payments electronically (N.J. Admin. Code § 18:7-11.19).

Mandatory combined reporting effective January 1, 2019

For tax years beginning before January 1, 2019 corporations are not generally permitted or required to file combined returns or consolidated returns in New Jersey, except under certain circumstances (N.J. Stat. Ann. § 54:10A-10(c)).

For tax years beginning on or after January 1, 2019, New Jersey corporations with 50% or more common ownership that are engaged in a unitary business must file on a combined basis. The combined group is generally determined on a “water's-edge” basis, but the managerial member of the combined group may instead elect to have the combined group be determined on a worldwide or affiliated group basis. Insurance companies, other than certain combinable captive insurance companies, need not be included in the combined return (A. 4202, 218th Leg., Reg. Sess. (N.J. 2018)).

Corporate franchise tax

Does your state impose a corporate franchise tax? If so, is it imposed in lieu of or in addition to corporate income tax?

No.

If your state imposes a corporate franchise tax, please stipulate:

(a) The applicable tax base.

N/A

(b) Tax rates.

N/A

(c) Any exemptions or deductions.

N/A

(d) Filing formalities.

N/A

Personal income taxes

Taxable income

How is taxable personal income determined in your state?

New Jersey does not use federal taxable income as a starting point for the New Jersey gross income tax. Instead, a taxpayer's New Jersey gross income consists of categories of income. The categories that generally comprise gross income include:

- salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered;
- net income from the operation of a business or profession;
- net gains from the disposition of property;
- income from rents, royalties, patents, and copyrights;
- interest income;
- dividend income;
- income from trusts and estates;
- prizes and awards;
- partnership and S corporation income;
- alimony payments; and
- income and gain from acts or omissions defined as crimes or offenses under New Jersey law (N.J. Stat. Ann. § 54A:5-1(a)-(p)).

New Jersey also specifically requires taxpayers to exclude certain items from gross income, including:

- Federal Social Security benefit payments;
- Railroad Retirement Act payments;
- employee death benefits paid by or on behalf of an employer;
- gifts and inheritances;
- compensation for injuries or sickness;
- scholarship and fellowship grants; and
- gain from the sale of a principal residence of up to \$250,000 (N.J. Stat. Ann. §§ 54A:6-1–54A:6-31).

Tax residence

Under what circumstances is an individual deemed resident in your state for personal income tax purposes?

A person is deemed a resident if:

- they are domiciled in New Jersey, unless they:
 - o maintain no permanent place of abode in New Jersey;
 - o maintain a permanent place of abode elsewhere; and
 - o spend no more than thirty days of the year in New Jersey; or
- they maintain a permanent place of abode in New Jersey and spend more than 183 days of the taxable year in New Jersey (N.J. Stat. Ann. § 54A:1-2(m)).

Rates

What are the applicable personal income tax rates?

See the tables below for the 2018 tax rates (N.J. Stat. Ann. § 54A:2-1(a)(6), (b)(6)).

Filing as an individual

Married couples filing jointly

Exemptions, deductions and credits

What exemptions, deductions, and credits are available?

Exemptions

Individuals are allowed a personal exemption against their gross income of \$1,000, as well as the following additional exemptions:

- \$1,000 for a spouse or domestic partner that does not file separately;
- \$1,500 for each dependent of the taxpayer for federal income tax purposes;
- \$1,000 if the taxpayer is 65 years of age or over;
- \$1,000 if the taxpayer is blind or disabled;
- \$1,000 if the taxpayer has a blind or disabled spouse;
- \$3,000 if the taxpayer is a veteran who was honorably discharged; and
- \$1,000 for each dependent that is attending a post-secondary institution of education full time and for whom the taxpayer pays one-half or more of the costs (N.J. Stat. Ann. §§ 54A:3-1–54A:3-1.1).

Deductions

New Jersey does not provide for a standard deduction. Deductions available to a taxpayer in New Jersey include those for:

- alimony payments that are included as income in the return of a current or former spouse;
- medical expenses that exceed 2% of a taxpayer's gross income;
- qualified contributions for a medical savings account;
- the health insurance costs of self-employed individuals;
- qualified conservation contributions;
- the qualified receipts of a taxpayer providing primary care in a Health Enterprise Zone; and
- property taxes (up to \$15,000) (N.J. Stat. Ann. §§ 54A:3-2–54A:3-9, 54A:3A-17).

Further, for taxpayers with losses in certain business-related categories of income, an adjustment to taxable income may be calculated as described in N.J. Stat. Ann. § 54A:3-9.

Credits

Available credits include:

- credits for income taxes paid to another state or country;
- credit for taxes withheld and paid by an S corporation;
- New Jersey Earned Income Tax Credit;
- Angel Investor Credit;
- Sheltered Workshop Tax Credit;
- Property Tax Credit (for qualifying taxpayers);
- Veteran Care Credit;
- Child and Dependent Care Credit; and
- Film Production and Digital Media Credit (N.J. Stat. Ann. §§ 54A:4-1–54A:4-16).

Filing requirements

What filing requirements and procedures apply?

Individuals must file Form NJ-1040 (or NJ-1040 NR for non-residents) annually (N.J. Stat. Ann. § 54A:8-1). For calendar year taxpayers, the filing deadline is on or before April 15 following the close of the calendar year; for fiscal year taxpayers, the filing deadline is on or before the 15th day of the fourth month after the close of the taxpayer's fiscal year (N.J. Stat. Ann. § 54A:8-1). Taxpayers must make estimated tax payments in four installments of 25% of the total estimated tax due for the tax year (N.J. Stat. Ann. §§ 54A:8-4, 54A:8-5). Taxpayers may file their returns and make payments electronically, but are not required to do so (N.J. Admin. Code § 18:35-6.4).

Employer obligations

What obligations are imposed on the employer in relation to the collection and

remittance of state personal income taxes (eg, withholding)?

Every employer maintaining an office or transacting business in New Jersey and making payments subject to New Jersey personal income tax must deduct and withhold from such wages for each payroll period an amount that is calculated "as far as practicable" to be substantially equivalent to the tax reasonably estimated to be due from the inclusion of those wages in the employee's New Jersey income (N.J. Stat. Ann. § 54A:7-1(a)). A New Jersey employer is responsible for withholding from both residents and non-resident employees (N.J. Stat. Ann. § 54A:7-1(a)).

Every employer required to withhold and deduct tax from an employee's wages must file a withholding return on or before the 15th day of each month and pay over to the director of the New Jersey Division of Taxation the tax required to be deducted and withheld (N.J. Stat. Ann. § 54A:7-4). Every employer required to withhold tax from the wages of an employee must furnish to such employee a written statement showing the amount of wages paid by the employer and the amounts withheld by the employer (N.J. Stat. Ann. § 54A:7-2(a)). The employer is liable for taxes required to be deducted and withheld from an employee's wages (N.J. Stat. Ann. § 54A:7-5).

Sales and use taxes

Taxable goods

What goods are subject to sales and use tax in your state (at both state and local level)?

State level

In general, the following goods are subject to sales tax (subject to exclusions and exceptions):

- sales of tangible personal property, which includes:
 - o electricity;
 - o water;
 - o gas;
 - o steam; and
 - o prewritten computer software, including prewritten software delivered electronically (N.J. Stat. Ann. §§ 54:32B-2(g), 54:32B-3(a));
- sales of specified digital products (N.J. Stat. Ann. § 54:32B-3(a));
- charges for hotel rooms or transient accommodations (N.J. Stat. Ann. § 54:32B-3(d)); and
- sales of prepared food in or by restaurants or similar establishments (N.J. Stat. Ann. § 54:32B-3(c)).

Local level

Although localities do not generally impose a sales tax in New Jersey, there are two exceptions.

Cape May County tourism sales tax

Authorized municipalities in Cape May County may require certain businesses to collect an additional 2% retail sales tax on certain tourism-related sales.

Atlantic City luxury sales tax

The tax is imposed on certain rentals, sales, and services within Atlantic City. The luxury sales tax rate is 9%, with the exception of alcoholic beverages sold by the drink, which are subject to a 3% rate. If the item is also subject to state sales tax, the maximum combined Atlantic City and New Jersey rates cannot exceed 12.625%.

More information on these local sales taxes can be found in Tax Topic Bulletin S&U-4.

State rate

What is the state sales tax rate?

As of January 1, 2018 the state sales tax rate is 6.625% (N.J. Stat. Ann. § 54:32B-3).

Local rates

What is the range of local sales tax rates levied in your state?

The Cape May County tourism sales tax is imposed at a rate of 2%. The Atlantic City luxury sales tax is imposed at a rate of 9%. More information on these local sales taxes can be found in Tax Topic Bulletin S&U-4.

Exemptions

What goods are exempt from sales and use tax?

New Jersey exempts many different types of goods from sales tax. The categories of goods that are exempt from sales tax include:

- goods that are purchased for resale (N.J. Stat. Ann. § 54:32B-2(e));
- certain medical supplies (N.J. Stat. Ann. § 54:32B-8.1);
- most food items, other than candy, soft drinks, and prepared food (N.J. Stat. Ann. § 54:32B-8.2);
- food sold in schools (N.J. Stat. Ann. § 54:32B-8.3);
- clothing and footwear (N.J. Stat. Ann. § 54:32B-8.4);
- newspapers, magazines, and periodicals (N.J. Stat. Ann. § 54:32B-8.5);
- casual sales (N.J. Stat. Ann. § 54:32B-8.6);
- sales of gas other than natural gas, water, steam, or fuel delivered to consumers through mains, lines, pipe, or in containers or bulk (N.J. Stat. Ann. § 54:32B-8.7);
- motor, airplane, and railroad fuels sold to qualified buyers (N.J. Stat. Ann. § 54:32B-8.8);
- receipts from sales of tangible personal property sold through coin-operated vending machines of \$0.25 or less (N.J. Stat. Ann. § 54:32B-8.9);
- sales of machinery and equipment used primarily in the production of tangible personal property or the production of certain utilities (N.J. Stat. Ann. § 54:32B-8.13);
- sales of tangible personal property and specified digital products purchased for use or consumption directly and exclusively in research and development (N.J. Stat. Ann. § 54:32B-8.14);
- wrapping supplies, where use is incidental to the delivery of tangible personal property (N.J. Stat. Ann. § 54:32B-8.15);
- tangible personal property used on farms (N.J. Stat. Ann. § 54:32B-8.16);
- school textbooks (N.J. Stat. Ann. § 54:32B-8.21);
- bibles or similar sacred scripture (N.J. Stat. Ann. § 54:32B-8.25); and
- flags of the United States of America or State of New Jersey (N.J. Stat. Ann. § 54:32B-8.26).

Services

Are any services taxed?

Yes. Several types of services are subject to sales tax, including:

- telecommunications services (N.J. Stat. Ann. § 54:32B-3(f));
- services specified in N.J. Stat. Ann. § 54:32B-3(b), including:
 - o the production, fabrication, processing, printing, or imprinting of tangible personal property or a specified digital product, performed for a person who directly or indirectly furnishes the tangible personal property;
 - o the installation, maintenance, servicing, or repair of tangible personal property or a specified digital product not held for sale in the regular course of business (excluding laundry, tailoring, and similar services);
 - o the storage of all tangible personal property not held for sale in the regular course of business, or the furnishing of space for such storage;
 - o the maintenance, servicing, or repair of real property;
 - o mail-processing services;
 - o utility services provided to persons in New Jersey;
 - o tanning services;
 - o massage services;
 - o tattooing services;
 - o investigation and security services;
 - o information services;
 - o transportation services provided by a limousine operator;
 - o telephone answering services; and
 - o radio subscription services.

- admission charges to places of amusement (N.J. Stat. Ann. § 54:32B-3(e));
- initiation fees, membership fees, and similar fees (N.J. Stat. Ann. § 54:32B-3(h)); and
- parking and garage storage fees (N.J. Stat. Ann. § 54:32B-3(i)).

A list of common services, with an indication of whether each service is taxable or exempt, can be found in Tax Topic Bulletin S&U-4.

Filing requirements

What filing requirements and procedures apply?

All businesses that sell taxable goods and services in New Jersey must register with the New Jersey Division of Revenue and Enterprise Services to collect sales tax. Businesses that are registered to collect sales tax must file a quarterly return using Form ST-50 and make quarterly or monthly payments depending on the amount of their prior and current receipts. Only taxpayers that collected more than \$30,000 in sales and use tax in New Jersey during the prior calendar year, and collected more than \$500 in the first and second month of the current calendar year, must make monthly payments. Monthly payments are made using Form ST-51. Taxpayers may file their quarterly sales tax returns online or by phone. The deadline for filing is on or before 11:59p.m. of the 20th day of the month after the end of the filing period. All payments must be made electronically.

For more information regarding filing requirements see N.J. Admin. Code § 18:24-11.2 and the New Jersey Division of Taxation's "How Do You File and Pay New Jersey Sales Tax?" (last updated June 5, 2018).

Property taxes

Taxable value

How is the value of property assessed for tax purposes in your state? Which types of property are subject to tax?

Real property

All real property in New Jersey, unless expressly exempted or excluded, is subject to tax. Real property means all land and improvements thereon and includes personal property affixed to the real property (N.J. Stat. Ann. § 54:4-1).

The taxable value of real property is equal to the true value of such property multiplied by a percentage of true value, as established at the county level by the County Boards of Taxation (N.J. Stat. Ann. § 54:4-2.25).

Personal property

Taxable personal property includes only:

- machinery, apparatus, or equipment used in refining petroleum; and
- tangible goods and chattels, exclusive of inventories, used in the business of local exchange telephone, telegraph, and messenger systems (N.J. Stat. Ann. § 54:4-1).

All other personal property is not subject to tax.

The taxable value of personal property is equal to its true value (N.J. Stat. Ann. § 54:4-2.44). The true value of personal property is presumed to equal its original cost less depreciation, although this cannot be less than 20% of the original cost as long as the property remains in or is held for use (N.J. Stat. Ann. § 54:4-2.45).

Intangible property

Intangible property is not subject to tax.

State rate

What is the state property tax rate?

Generally, property tax rates are set at the local, rather than state, level.

Local rates

What is the range of local property tax rates levied in your state?

Local tax rates vary year to year, depending on local government budget needs. In 2017 local effective tax rates (i.e., assuming all property was taxed at 100% of its true value) ranged from 0.5% to 19.2%. Local tax rates are available on the New Jersey Division of Taxation's website.

Exemptions and deductions

What exemptions and deductions are available?

Several types of property are exempt from New Jersey's property tax, including:

- property used for educational, religious, or charitable purposes (N.J. Stat. Ann. § 54:4-3.6);
- government property used for public purposes (N.J. Stat. Ann. § 54:4-3.3);
- certain hospitals (N.J. Stat. Ann. § 30:9-23.24);
- certified historic sites owned by non-profit corporations (N.J. Stat. Ann. § 54:4-3.52); and
- renewable energy systems (N.J. Stat. Ann. § 54:4-3.113b).

Filing requirements

What filing requirements and procedures apply?

Real property

There are no filing requirements. However, an owner of real property must, on written request from a local taxing district, provide a full and true account of their name, real property, and income derived therefrom, if applicable (N.J. Stat. Ann. § 54:4-34). Property taxes are collected by local tax collectors and are payable in four instalments throughout the year (N.J. Stat. Ann. §§ 54:4-64, 54:4-66).

Tangible personal property

On or before September 1 of each year, any person owning tangible personal property subject to property tax must file a return with the assessor of the taxing district in which such property is located (N.J. Stat. Ann. § 54:4-2.48).

Real estate transfer tax

How is the transfer of real estate taxed in your state (including tax base, rates, exemptions, and filing formalities)?

Tax base

A realty transfer fee is imposed upon the recording of deeds evidencing transfers of title to real property located in New Jersey. The fee must be paid upon the recording of deeds conveying title to real property in New Jersey. It is calculated based on the amount of consideration recited in the deed (N.J. Stat. Ann. § 46:15-5 and following).

Rates

The rate at which the transfer tax is imposed on a standard transaction, where the total consideration is not in excess of \$350,000, is as follows:

- \$2.00 per \$500 of the consideration not in excess of \$150,000;
- \$3.35 per \$500 of the consideration in excess of \$150,000 but not in excess of \$200,000;
- \$3.90 per \$500 of the consideration in excess of \$200,000 but not in excess of \$350,000.

The rate at which the transfer tax is imposed on a standard transaction where the total consideration is in excess of \$350,000 is as follows:

- \$2.90 per \$500 of the consideration not in excess of \$150,000;
- \$4.25 per \$500 of the consideration in excess of \$150,000 but not in excess of \$200,000;
- \$4.80 per \$500 of the consideration in excess of \$200,000 but not in excess of \$550,000;
- \$5.30 per \$500 of the consideration in excess of \$550,000 but not in excess of \$850,000;
- \$5.80 per \$500 of the consideration in excess of \$850,000 but not in excess of \$1 million;
- \$6.05 per \$500 of the consideration in excess of \$1 million.

See the New Jersey Division of Taxation's NJ Realty Transfer Fees (last updated June 5, 2018).

An additional 1% fee is imposed on buyers in transfers for consideration in excess of \$1,000,000 of:

- Class 4A "commercial" property;
- Class 2 "residential" property;
- Class 3A "farm" property (if it includes a building or structure intended or suited for residential use transferred to the same grantee with the farm property); and

- cooperative units (N.J. Stat. Ann. § 46:15-7.2).

Exemptions

A list of partial exemptions can be found in N.J. Stat. Ann. § 46:15-10.1. A list of total exemptions can be found in N.J. Stat. Ann. § 46:15-10.

Filing formalities

The filing procedures for a particular county may be obtained from the county clerk's office.

Controlling interest transfers

New Jersey also imposes a tax on the transfer of a controlling interest in an entity that owns commercial property. The transfer tax is only imposed on the sale or transfer, for a consideration in excess of \$1 million, of a controlling interest (i.e., more than 50%) in an entity which directly or indirectly possesses a controlling interest in certain commercial property (N.J. Stat. Ann. § 54:15C-1). Transactions that take place within six months of one another are presumed to constitute a single sale or transfer and are aggregated (N.J. Stat. Ann. § 54:15C-1(a)(2)).

Unclaimed and abandoned property

Reporting and remittance

Describe your state's regime for reporting and remitting unclaimed and abandoned property. How is the value of such property calculated? How assertive is your state in enforcing its rights to unclaimed property?

A holder of abandoned property that is subject to the custody of New Jersey must file a report with the state treasurer before November 1 of each year, reflecting any such property as of the preceding June 30; however, a life insurance company must file a report before May 1 of each year, reflecting any such property as of the preceding December 31 (N.J. Stat. Ann. §§ 46:30B-46, 46:30B-49). At the time of filing, the holder must pay or deliver to the state treasurer the full value of the abandoned property set forth in the report (N.J. Stat. Ann. § 46:30B-57). If an item of abandoned property has a value of \$50 or more and the identity of its owner is known, then the holder must mail a notice to the owner at their last known address between 60 and 120 days before such property is turned over to the state treasurer (N.J. Stat. Ann. §§ 46:30B-6, 46:30B-50). A business that is incorporated in New Jersey or that has a business presence in New Jersey must file a report even if it does not hold abandoned property in that given year (N.J. Stat. Ann. § 46:30B-90; State of N.J. Unclaimed Prop. Admin. "Holder Reporting Packet," p. 46, available as of June 19, 2018).

New Jersey is assertive in enforcing its unclaimed property law and routinely contracts with third parties to perform audits of potential holders.

Excise and other indirect taxes

Excise taxes

What excise taxes are levied in your state, including applicable goods, rates, and filing formalities?

Alcoholic beverage tax

New Jersey imposes a tax upon the first sale of alcoholic beverages made in the state or on the first delivery of alcoholic beverages made within or into the state. The tax is imposed at a rate of:

- \$0.12 per gallon of beer;
- \$5.50 per gallon of liquor; and
- \$0.875 per gallon of wine (N.J. Stat. Ann. §§ 54:43-1, 54:44-1).

Taxpayers must file reports covering bi-monthly periods no later than the 15th day of the month following the bi-monthly reporting period (N.J. Stat. Ann. § 54:45-1; N.J. Admin. Code § 18:3-7.1).

Fuel tax

New Jersey imposes a tax on fuel used or consumed in New Jersey. Gasoline is taxed at a rate of \$0.105 per gallon, and diesel fuel is taxed at a rate of \$0.135 per gallon (N.J. Stat. Ann. § 54:39-103). Although the tax is imposed on the consumer, it is pre-collected by the supplier (i.e., a person that sells fuel at a terminal rack) from a distributor (i.e., a person that purchases fuel at a terminal rack for resale). N.J. Stat. Ann. § 54:39-119; State of N.J. Dep't of the Treasury, Div. of Taxation, Special Notice – Motor Fuels Tax Act July 1, 2010 (available as of July 10, 2018). The supplier must file a report with the Division of Taxation on or before the 22nd day of each month, covering the previous month (N.J. Stat. Ann. § 54:39-105).

Petroleum products and highway fuels gross receipts taxes

New Jersey imposes a tax on each company engaged in the refining or distribution of petroleum products other than highway fuel and aviation fuel, and which distributes such products in New Jersey; this is imposed at a rate of 7% of gross receipts derived from the first sale of petroleum products within New Jersey. New Jersey also imposes a tax on each company engaged in the refining or distribution of highway fuels; this is imposed at a rate of 12.85% of gross receipts derived from the first sale of highway fuel within New Jersey (N.J. Stat. Ann. § 54:15B-3). Companies subject to these taxes must file a return with the Division of Taxation on or before the 25th day of each month, covering the previous month (N.J. Stat. Ann. § 54:15B-7).

Cigarette tax

New Jersey imposes tax on the sale, use, or possession for sale or use of all cigarettes in the state. The tax is imposed at a rate of \$0.135 for each cigarette (i.e., \$2.70 per pack of 20 cigarettes). N.J. Stat. Ann. § 54:40A-8. The tax is paid through the purchase of tax stamps by licensed distributors (i.e., persons that purchase unstamped cigarettes from manufacturers for resale in New Jersey). N.J. Stat. Ann. §§ 54:40A-11, 54:40A-2. All manufacturers and distributors licensed to sell cigarettes in New Jersey must file reports with the Division of Taxation on or before the 20th day of each month, covering the previous month (N.J. Stat. Ann. § 54:40A-7).

Tobacco products tax

New Jersey imposes a tax on the sale, use, or distribution of tobacco products in the state (N.J. Stat. Ann. § 54:40B-3). The term "tobacco product" means any product containing tobacco for personal consumption except cigarettes (N.J. Stat. Ann. § 54:40B-2). The tax is imposed at a rate of 30% of the wholesale price of such products (N.J. Stat. Ann. § 54:40B-3). The tax is paid by distributors or wholesalers of tobacco products on their sales to retailers and consumers of such products (N.J. Stat. Ann. § 54:40B-4). Distributors and wholesalers required to pay the tax must file a return with the Division of Taxation on or before the 20th day of each month, covering the previous month (N.J. Stat. Ann. § 54:40B-8).

Other indirect taxes

Are any other indirect taxes levied in your state?

New Jersey imposes taxes on certain sales, deliveries, or uses of poultry feed (N.J. Stat. Ann. § 54:47A-3), white potatoes (N.J. Stat. Ann. § 54:47B-3), asparagus (N.J. Stat. Ann. § 54:47C-3), apples (N.J. Stat. Ann. § 54:47D-3), and sweet potatoes (N.J. Stat. Ann. § 54:47E-3).

Other taxes

Other taxes

Do any other taxes apply to businesses in your state? If so, please include applicable tax bases, rates, exemptions/deductions, and filing formalities.

Insurance tax

New Jersey imposes a tax on all domestic and foreign insurers (N.J. Stat. Ann. § 54:18A-1). Generally, the tax is imposed at a rate of 2.1% of an insurer's taxable premiums (N.J. Stat. Ann. §§ 54:18A-2, 54:18A-3). Foreign insurers may be subject to a retaliatory tax and domestic insurers may be able to deduct a certain percentage of retaliatory taxes paid to other states (N.J. Stat. Ann. §§ 17:32-15, 54:18A-2). Fraternal beneficiary, sickness, and death benefit societies are exempt from the tax (N.J. Stat. Ann. § 54:18A-9). Insurers must file an annual tax return with the Division of Taxation on or before March 1 of each year (N.J. Stat. Ann. § 54:18A-1).

Utilities taxes

New Jersey imposes taxes on every sewerage and water corporation using or occupying the public streets, highways, roads, or other public places in New Jersey. Such corporations must pay:

- franchise tax, computed at a rate of 5% of such proportion of the gross receipts of such taxpayer for the preceding calendar year as the length of the lines or mains in New Jersey that are located along, in, or over any public street, highway, road, or other public place (excluding service connections) bears to the whole length of its lines or mains (excluding service connections). A 2% rate applies to taxpayers with receipts not exceeding \$50,000;
- gross receipts tax, at a rate of 7.5% on its gross receipts for the preceding calendar year from its business over, on, in, through, or from its lines or mains in New Jersey; and
- excise tax equal to:
 - o 0.625% of those gross receipts subject to the franchise tax. A rate of 0.25% applies to taxpayers with receipts not exceeding \$50,000; and
 - o 0.9375% of those gross receipts subject to the Gross Receipts Tax (N.J. Stat. Ann. § 54:30A-54; N.J. Div. of Taxation, Public Utility Taxes Overview (last updated December 4, 2015).

Sewerage and water corporations must file returns on or before February 1 and September 1 of each year (N.J. Admin. Code § 18:22-8.1).

Incentives

Incentive schemes

Does your state offer any tax incentive schemes to attract businesses and promote investment?

Yes. New Jersey offers several tax incentives to attract businesses to and promote investment in New Jersey. A full list of credits and incentives offered by the state may be found on the Division of Taxation's website.

Planning considerations

Compliance

What tax compliance procedures and best practices should businesses operating in your state be aware of?

Requesting letter rulings

Taxpayers should be aware that they can request a written determination from the Division of Taxation on the applicability of the law to a certain set of facts (i.e., a letter ruling). A letter ruling is limited to the facts set forth therein and is binding on the division only with respect to the taxpayer to whom it is issued (and only if the person or entity has fully and accurately described all relevant facts). A letter ruling cannot be used as legal precedent, but may be used as guidance by other taxpayers in similar situations.

Voluntary disclosure programs

Taxpayers should also be aware that New Jersey offers a voluntary disclosure program which allows taxpayers that have tax filing obligations or business activities that create nexus for New Jersey tax purposes to come forward and file the appropriate tax returns and registration forms and pay outstanding tax obligations. Benefits of participating in the voluntary disclosure program include:

- anonymity pending an agreement;
- possible waiver of some or all penalties; and
- availability of a limited look-back period (for businesses only).

To qualify for the program, a taxpayer must meet certain qualifications. The Division of Taxation website provides an overview of the program.

Strategic planning

What strategic planning considerations should businesses operating in your state bear in mind to optimize tax efficiency?

For tax years beginning on or after January 1, 2019, New Jersey has adopted mandatory unitary combined reporting. While the combined group is generally determined on a water's edge basis, the managerial member of the combined group may instead elect to have the group determined on a worldwide or affiliated group basis. Businesses subject to combined reporting in 2019 should determine which is most beneficial to them before filing a return because an election may only be made on an original, timely filed return. If such an election is made, it is binding for that period and the five immediately succeeding privilege periods. However, the election may be revoked for reasonable cause, on written request to the Division of Taxation.

For tax years beginning on or after January 1, 2019, New Jersey has adopted market-based sourcing. Receipts from services will be sourced to New Jersey if "the benefit of the service is received at a location in" New Jersey. Under the prior law, services were sourced based on where they were performed. Businesses subject to the corporation business tax that sell a significant amount of services should be aware that this switch to market-based sourcing has the potential to significantly increase or decrease the percentage of their income allocable to New Jersey.

Businesses should also be aware that on March 1, 2017 the Division of Taxation released the New Jersey Manual of Audit Procedures. This manual provides "a comprehensive overview of the procedures and guidelines... for completing... audits [and] is a general reference for current audit procedures and a guide for conducting tax audits." While the manual is not binding on the division or the taxpayer, it may nonetheless provide a useful reference for taxpayers of what to expect when undergoing an audit, as well as the steps the division is likely to undertake in its performance of an audit.