

CHAPTER 2

GENERAL POLICIES AND PROCEDURES

Authority

N.J.S.A. 54:50-1.

Source and Effective Date

R.2008 d.223, effective July 2, 2008.
See: 40 N.J.R. 2101(a), 40 N.J.R. 4604(a).

Chapter Expiration Date

Chapter 2, General Policies and Procedures, expires on July 2, 2013.

Chapter Historical Note

Chapter 2, General Policies and Procedures, was adopted as R.1974 d.182, effective July 3, 1974. See: 6 N.J.R. 250(c), 6 N.J.R. 328(a).

Subchapter 2, Penalties and Interest, was adopted as R.1975 d.284, effective September 25, 1975. See: 7 N.J.R. 439(d), 7 N.J.R. 490(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, General Policies and Procedures, expired on September 6, 1993, and was subsequently adopted as new rules by R.1993 d.542, effective November 1, 1993. See: 25 N.J.R. 3107(a), 25 N.J.R. 4927(b).

Subchapter 3, Requirements for Payment of Taxes by Electronic Funds Transfer, was adopted as R.1994 d.63, effective February 7, 1994. See: 25 N.J.R. 1078(a), 26 N.J.R. 824(a).

Subchapter 4, Postmark Rule, was adopted as R.1995 d.609, effective December 4, 1995. See: 27 N.J.R. 3589(a), 27 N.J.R. 4906(b).

Subchapter 5, Refunds, was adopted as R.1996 d.54, effective February 5, 1996. See: 27 N.J.R. 4163(a), 28 N.J.R. 892(a).

Subchapter 6, Confidentiality and Disclosure, was adopted as R.1995 d.610, effective December 4, 1995. See: 27 N.J.R. 3591(a), 27 N.J.R. 4907(a).

Subchapter 7, Recordkeeping and Retention Requirements, was adopted as R.1997 d.256, effective June 16, 1997. See: 28 N.J.R. 5156(a), 29 N.J.R. 2706(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, General Policies and Procedures, was readopted as R.1998 d.420, effective July 21, 1998. See: 30 N.J.R. 1919(b), 30 N.J.R. 3066(a).

Subchapter 8, Set-off of State Vendor Tax Debt, was adopted as R.1998 d.439, effective September 8, 1998. See: 30 N.J.R. 1920(a), 30 N.J.R. 3258(a).

Subchapter 9, Sale of Tax Indebtedness, was adopted as R.1999 d.147, effective May 3, 1999. See: 31 N.J.R. 593(a), 31 N.J.R. 1205(b).

Chapter 2, General Policies and Procedures, was readopted as R.2003 d.347, effective July 28, 2003. See: 35 N.J.R. 2164(a), 35 N.J.R. 3847(a).

Chapter 2, General Policies and Procedures, was readopted as R.2008 d.223, effective July 2, 2008. See: Source and Effective Date. See, also, section annotations.

Subchapter 10, Tax Clearance for Business Assistance and Incentives, was adopted as new rules by R.2009 d.284, effective September 21, 2009. See: 41 N.J.R. 2450(a), 41 N.J.R. 3461(b).

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SUBCHAPTER 1. FORMS

18:2-1.1 Reproduction of forms

(a) Subject to conditions and requirements in (b) and (c) below, the Director will accept, for filing purposes, reproductions of printed return forms and privately designed and printed and/or computer-generated and computer-prepared forms, in lieu of the official forms printed and furnished by the Director.

(b) In order to be acceptable for filing purposes, privately designed and printed and/or computer-generated and computer-prepared forms shall be submitted to the Division of Taxation for approval prior to use. The proposed form shall be forwarded for consideration by letter to the Director, Division of Taxation. The Director may, within his or her discretion, approve a form that does not interfere with either Division of Revenue or Division of Taxation procedures in any way. If a reproduction does not meet with the Director's approval, an explanation of the areas in which the form was found to be deficient will be enclosed with the letter rejecting the reproduction. Approval of a reproduction of a tax form shall be valid for one tax year, unless neither the official tax form nor the reproduction has changed since the year of approval in any respect other than date changes and minor editorial changes, in which case approval shall be valid until the tax form or reproduction is changed in any other way. The submission of an unapproved reproduction shall not satisfy statutory return filing requirements.

(c) In order to be acceptable for filing purposes, reproductions of printed return forms must meet the following conditions and requirements:

1. Reproductions must be facsimiles of the complete official forms, for the proper tax period, produced by photo-offset, photoengraving, photocopying, computer, or other similar reproduction processes.

2. Reproductions must be on paper of substantially the same weight and texture, of a quality at least as good as that used in the official form and of any color.

3. Reproductions must be of the same size as that of the official form, both as to the overall dimensions of the paper and the image reproduced thereon.

4. Format of pages shall adhere to the following:

i. It is preferable that both sides of the paper be used in making reproductions. However, reproduction on one side will be acceptable;

ii. All reproductions must result in the same page arrangement as that of the official form and the spacing of the printed matter on each page and the fold must be the same as on the official form;

iii. Separate pages must be fastened together in numerical order;

iv. Each separate page must be clearly identified by listing at the top of the page the taxpayer's name, the Federal identification number and the appropriate New Jersey serial number.

5. The quality of the reproduction of the printed matter must be substantially the same as that of the official form, and the filled-in information must be entirely legible.

6. The taxpayer's full and correct name and address and the identifying number as it appears on the form furnished by the Director must be typed or legibly printed on the reproduction.

7. Reproduction of forms may be made after insertion of the tax computations and the other required information. However, all signatures on forms to be filed must be original signatures, affixed subsequent to the reproduction process.

8. The Director does not approve or disapprove the specific equipment or process used in reproducing official forms, but requires only that the reproduced forms satisfy the stated conditions. It should be noted, however, that photostats do not meet all of the above conditions.

9. The Director does not approve or disapprove the specific writing medium or style of writing to be used, but requires that the filled-in information on the reproduced form be of good quality black-on-white, with handwriting of satisfactory legibility.

R.1974 d.182, effective July 3, 1974.
See: 6 N.J.R. 250(c), 6 N.J.R. 328(a).
Amended by R.1999 d.267, effective August 16, 1999.
See: 31 N.J.R. 1444(a), 31 N.J.R. 2369(a).

Rewrote (a); inserted a new (b); recodified former (b) as (c), deleted "flat," following "reproductions of" in the introductory paragraph, and inserted "computer," following "photocopying" in 1.

2. The taxpayer may capture the information necessary to satisfy (b)1 above at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established.

Example: A taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (that is, they contain only codes for that information), the taxpayer shall also retain other records, such as its vendor master file and product code description lists and makes them available to the Director. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(c) Electronic data processing accounting systems requirements are as follows:

1. The requirements for an electronic data processing accounting system shall be similar to that of a manual accounting system, in that an adequately designed accounting system shall incorporate methods and records that will satisfy the requirements of this subchapter.

(d) Business process information requirements are as follows:

1. Upon the request of the Director, the taxpayer shall provide a description of the business process that created the retained electronic records. Such description shall include the relationship between the electronic records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

2. The taxpayer shall be capable of demonstrating:

i. The functions being performed as they relate to the flow of data through the system;

ii. The internal controls used to ensure accurate and reliable processing; and

iii. The internal controls used to prevent unauthorized addition, alteration, or deletion of retained records.

3. The following specific documentation is required for machine-sensible records retained pursuant to this subchapter:

i. Record formats or layouts;

ii. Field definitions (including the meaning of all codes used to represent information);

iii. File descriptions (for example, data set name); and

iv. Detailed charts of accounts and account descriptions.

18:2-7.5 Records maintenance requirements

The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records.

18:2-7.6 Access to machine-sensible records

(a) The manner in which the Director is provided access to machine-sensible records as required in N.J.A.C. 18:2-7.3(b) may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(b) Access pursuant to (a) above shall be provided in one or more of the following manners:

1. The taxpayer may arrange to provide the Director with the hardware, software and personnel resources to access the machine-sensible records;

2. The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records;

3. The taxpayer may convert the machine-sensible records to a standard record format specified by the Director, including copies of files, on a magnetic medium that is agreed to by the Director; and/or

4. The taxpayer and the Director may agree on other means of providing access to the machine-sensible records.

18:2-7.7 Taxpayer responsibility and discretionary authority

(a) In conjunction with meeting the requirements of N.J.A.C. 18:2-7.4, a taxpayer may create files solely for the use of the Director. For example, if a data base management system is used, it is consistent with this section for the taxpayer to create and retain a file that contains the transaction-level detail from the data base management system and that meets the requirements of N.J.A.C. 18:2-7.4. The taxpayer shall document the process that created the separate file to show the relationship between that file and the original records as required by N.J.A.C. 18:2-7.6(d).

(b) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this subchapter.

18:2-7.8 Alternative storage media

(a) For purposes of storage and retention, taxpayer may convert hard-copy documents received or produced in the normal course of business and required to be retained under this subchapter to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy

documents, provided the conditions of this section are met. Documents which may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sale invoices, purchase invoices, exemption certificates, and credit memoranda.

(b) Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements:

1. Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche or other storage-only imaging system shall be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

2. Procedures shall be established for the effective identification, processing, storage and preservation of the stored documents and for making them available for the period they are required to be retained under N.J.A.C. 18:2-7.10.

3. Upon request by the Director, a taxpayer shall provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system.

4. When displayed on such equipment or reproduced on paper, the documents shall exhibit a high degree of durability and legibility.

5. All data stored on microfilm, microfiche or other storage-only imaging systems shall be maintained and arranged in a manner that permits the location of any particular record.

18:2-7.9 Effect on hard-copy recordkeeping requirements

(a) Except as otherwise provided in this section, the provisions of this subchapter do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and regulations. Hard-copy records may be retained on a recordkeeping medium as provided in N.J.A.C. 18:2-7.8.

(b) If hard-copy records are not produced or received in the ordinary course of transacting business (for example, when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created.

(c) Hard-copy records generated at the time of a credit or debit card transaction shall be retained unless all the details necessary to determine correct tax liability relating to this transaction are subsequently received and retained by the taxpayer in accordance with this subchapter. Such details include those listed in N.J.A.C. 18:2-7.4(b)1.

(d) Nothing in this section shall prevent the Director from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination.

18:2-7.10 Records retention time period

See the statute and/or regulations of specific tax laws for applicable records retention requirements.

SUBCHAPTER 8. SET-OFF OF STATE VENDOR TAX DEBT

Authority

N.J.S.A. 54:50-1 and 54:49-19.

Source and Effective Date

R.1998 d.439, effective September 8, 1998.
See: 30 N.J.R. 1920(a), 30 N.J.R. 3258(a).

18:2-8.1 Definitions

As used in this subchapter, the following words shall have the following meanings:

“Set-off” shall mean a reduction in the contract payment due to a vendor by the amount of that vendor’s State tax indebtedness or, in the case of a vendor-partnership or vendor-S corporation, by the amount of State tax indebtedness of any member-partner or shareholder of the partnership or S corporation, respectively.

“State” shall mean the State of New Jersey, including the executive, legislative and judicial branches, or any agencies or instrumentalities of the State of New Jersey.

“State tax” shall mean any tax imposed by Titles 54 and 54A of New Jersey Statutes, on individuals or business entities, and collected by the Division of Taxation.

“Taxpayer” shall mean any vendor who is required to pay or remit a State tax, or, when the vendor is a partnership or S corporation, any partner or shareholder of the vendor-entity who is required to pay or remit a State tax.

“Vendor” shall mean any individual or entity under contract to provide goods or services to the State, or under contract for construction projects of the State.

18:2-8.2 Set-off of tax debts against contract payments due to vendors

(a) The Division of Taxation may seek to set off all or part of a contract payment due to a State vendor in order to satisfy a tax indebtedness owed to the State whenever: