

## CHAPTER 2

## GENERAL POLICIES AND PROCEDURES

## Authority

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

## Source and Effective Date

R.1993 d.542, effective November 1, 1993.  
See: 25 N.J.R. 3107(a), 25 N.J.R. 4927(b).

## Executive Order No. 66(1978) Expiration Date

Chapter 2, General Policies and Procedures, expires on November 1, 1998.

## Chapter Historical Note

Chapter 2, General Policies and Procedures, became effective with Subchapter 1, Forms, 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). Subchapter 2 was amended by R.1976 d.94, effective March 26, 1976, and R.1988 d.407, effective September 6, 1988. See: 8 N.J.R. 154(a), 8 N.J.R. 261(c), 19 N.J.R. 2255(b), 20 N.J.R. 2310(c).

Pursuant to Executive Order No. 66(1978), Chapter 2 expired on September 6, 1993, and subsequently was adopted as new rules by R.1993 d.542. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. FORMS

## 18:2-1.1 Reproduction of forms

(a) Subject to conditions and requirements hereinafter described, the Director will accept, for filing purposes, reproductions of flat, printed return forms in lieu of the official forms printed and furnished by the Director. Card or tab-type return forms may not be reproduced.

(b) In order to be acceptable for filing purposes, reproductions of flat, 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 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).

## SUBCHAPTER 2. PENALTIES AND INTEREST

### 18:2-2.1 Application

The provisions on penalty and interest in this subchapter are applicable to penalty and interest impositions made on and after October 1, 1975, pursuant to P.L. 1975, c.177, approved August 4, 1975, and on all taxes subject to the State Tax Uniform Procedure Law, as amended by P.L. 1987, c.76 and P.L. 1992, c.175, approved December 10, 1992.

Amended by R.1997 d.98, effective March 17, 1997.  
See: 28 N.J.R. 3716(a), 29 N.J.R. 913(b).  
Inserted reference to P.L. 1992, c.175.

### 18:2-2.2 Tax laws affected

The provisions of the State Tax Uniform Procedure Law and this subchapter shall apply to any tax which is payable to or collectible by the Director of the Division of Taxation, unless the law imposing such tax specifically provides that the State Tax Uniform Procedure Law and this subchapter shall not apply, or unless the specific provisions of the law imposing such tax provide for penalty and interest which is different from the provisions of the State Tax Uniform Procedure Law and this subchapter.

### 18:2-2.3 Failure to file return on time

(a) On or before December 8, 1987, any taxpayer failing to file a return within the time prescribed by the act imposing a particular tax shall be liable for the following:

1. A late filing penalty of \$2.00 for each day that the return is delinquent; plus
2. A penalty of five percent per month or fraction thereof of the total tax liability not to exceed 25 percent of such tax liability.

(b) On and after December 9, 1987, any taxpayer failing to file a return within the time prescribed by the act imposing a particular tax shall be liable for the following:

1. A late filing penalty of \$100.00 per month or any part of a month that the return is delinquent; plus
2. A penalty of five percent per month or any part of a month of the total tax liability not to exceed 25 percent of such tax liability.

(c) Both penalties set forth in (a) and (b) above 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. The following are examples of penalty computations.

1. A corporate taxpayer filed its 1987 corporation business tax return with a due date of April 15, 1988 on June 1, 1988. The return is 47 days late. The taxpayer had a total tax liability for 1987 of \$10,000.00. In addition to the unpaid tax the taxpayer owes the following amounts:

Delinquency penalty: \$100.00 per month for two months	\$ 200.00
Late filing penalty: five percent per month of the tax liability	
5% × 2 months = 10 percent of \$10,000.00	\$ 1,000.00
Tax liability	<u>\$10,000.00</u>
	Total <u>\$11,200.00*</u>

\* In addition, the taxpayer will be liable for interest (see N.J.A.C. 18:2-2.4) and may be liable for other penalties (see, for example, N.J.A.C. 18:2-2.4 and N.J.S.A. 54A:9-6).

**18:2-5.9 Interest on overpayments**

(a) For tax paid with respect to reports or returns due on and after January 1, 1994, interest shall be allowed and paid on overpayments of tax at a rate determined by the Director to be equal to the prime rate, determined for each month or fraction thereof, compounded annually at the end of each calendar year, from the date that such interest commences to accrue to the date of the refund. "The date of the refund" shall be deemed the date set forth on the check or the documents authorizing electronic funds transfer (EFT). If interest must be paid, it will be calculated to accrue from the later of the date of the filing of a refund claim, the date the tax is paid, or the due date of the return. No interest shall be allowed or paid on an overpayment of less than one dollar; or on an overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return; or within six months after the return is filed, whichever is later. Interest will not be paid on overpayments where the taxpayer has requested that the overpayment be applied to the following year's tax liability.

(b) No interest will be paid on a refund of an overpayment issued pursuant to N.J.S.A. 54:49-16 unless and until six months after the taxpayer files a claim for refund. See N.J.A.C. 18:35-1.27.

**Example 1: Corporation Business Tax Return (calendar year taxpayer)**

Due Date:	April 15
Postmarked:	March 2
Return with overpayment received by the Division of Taxation:	March 12

A refund of overpaid taxes would accrue interest if not refunded by October 15 (six months after the due date of the return, April 15).

**Example 2: Corporation Business Tax Return (calendar year taxpayer)**

Due Date:	April 15
Return and overpayment (unknown to taxpayer at time return was filed) received by Division of Taxation:	April 15
Claim for refund received by Division of Taxation:	May 1

Interest would accrue on an overpayment not refunded by November 1 (six months after the claim for refund date of May 1).

**Example 3:** Same as above, except no claim filed. The Division of Taxation discovers the overpayment within two years of payment. No interest is due on the refund of the overpaid tax.

**18:2-5.10 Separate claims required**

For claims accruing on or after July 1, 1993, each taxpayer shall file a separate refund claim. A refund claim on behalf of a class is not permitted.

**SUBCHAPTER 6. CONFIDENTIALITY AND DISCLOSURE**

**Authority**

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

**Source and Effective Date**

R.1995 d.610, effective December 4, 1995.  
See: 27 N.J.R. 3591(a), 27 N.J.R. 4907(a).

**18:2-6.1 Records confidential**

(a) Division of Taxation records and files are confidential and privileged.

(b) Division officers and employees, former Division officers and employees, any Division employee engaged in the custody or administration of Division records, and any person who may have secured information from Division records, may not divulge, disclose or use for their own personal advantage any information obtained from Division records, from the examination or inspection of the property of any person, or any copy of a federal return or federal return information required to be attached to or included in any New Jersey return.

(c) The Division of Taxation is not required to produce any records or files for inspection of any person or use in any action or proceeding except when the records or files are shown to be directly involved in an action or proceeding under the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. or other State tax law, or where the determination of an action or proceeding will affect the validity or amount of State claims for taxes, or any lawful proceeding for the investigation and prosecution of violations of the criminal provisions of the State Tax Uniform Procedure Law or other State tax law.

(d) Violation of these provisions is a crime of the fourth degree.

(e) Requests for information from Division records, including requests for information pursuant to N.J.S.A. 54:50-9, should be directed to the Division of Taxation Office of Chief of Staff.