

CHAPTER 2

GENERAL POLICIES AND PROCEDURES

Authority

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

Source and Effective Date

R.1998 d.420, effective July 21, 1998.
See: 30 N.J.R. 1919(b), 30 N.J.R. 3066(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, General Policies and Procedures, expires on July 21, 2003.

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).

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: Source and Effective Date.

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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).

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.