State of New Jersey

GENERAL INFORMATION

GROSS INCOME TAX

(P.L. 1976, c. 47)

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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NJ-Q-1

September, 1976

This booklet contains a number of frequently asked questions and answers concerning the new Gross Income Tax Law (P.L. 1976 c. 47).

The answers to many questions include administrative and procedural determinations which should greatly assist taxpayers.

Many questions involve complex matters. It is hoped that these will be resolved at an early date and will appear in the form of Regulations published in the New Jersey Register.

Taxpayers should note that many questions are general and should they desire a more specific reply, they should communicate directly with the Division of Taxation.

Sidney Glaser
Director
Division of Taxation

CONTENTS

GENERAL

1. **Q.** What is the official name of the tax?
   A. The New Jersey Gross Income Tax Act (P.L. 1976, c. 47).
2. **Q.** When did this law become effective?
   A. The tax was signed into law on July 8, 1976. It became fully operable when three other companion laws were enacted. They are (1) the Homestead Exemption Law (A 1330); (2) the Revenue Sharing Law (A 1663); and, (3) the Landlord-Tenant Pass-Through Law (S 1546).
3. **Q.** When does the tax start?
   A. The tax applies to income earned or received on and after July 1, 1976.

WHO IS SUBJECT TO TAX

4. **Q.** Who is subject to tax?
   A. Individuals
   Estates or trusts (other than a charitable trust or a trust forming part of a pension or profit sharing plan)
   Individuals carrying on business as partners
   Nonresident individuals, estates and trusts.
5. **Q.** I am a member of a partnership. What are my responsibilities?
   A. All of your income is subject to tax including your distributive share of the net profits of the partnership. The partnership as such is not subject to the income tax law but must file a return and report all items of income, gain, loss and deductions 3½ months after the close of its taxable year.
6. **Q.** I am a New Jersey resident serving overseas in the Armed Forces of the United States. Is my pay subject to tax?
   A. Yes. All of a New Jersey resident's income is subject to tax irrespective of where it is earned. However, there can be no withholding of tax on military compensation paid to a person serving in the Armed Forces of the United States. Mustering-out payments are, however, exempt.
7. **Q.** I am a self-employed salesman residing in Delaware and doing business in several states, including New Jersey. Will I be subject to tax in New Jersey?
   A. Yes. To the extent of your net earnings attributable to your work in New Jersey.
8. **Q.** Are shareholders of Subchapter S Corporations subject to tax on the income derived from such corporations. If so, does the tax apply to undistributed as well as distributed income?
   A. Only distributed income is subject to tax. A shareholder of a Subchapter S Corporation is required to report the dividends which he

derives from that corporation. The New Jersey Gross Income Tax does not provide for any special treatment of Subchapter S shareholders. The income derived by such shareholders would constitute dividend income and such income is defined in the law to mean any distribution in cash or property made by a corporation, association, or business trust (1) out of accumulated earnings and profits or (2) out of earnings and profits of the year in which such dividend is paid.

9. **Q.** I am a New Jersey resident and employed as a seaman performing all my services out of New Jersey. Are my wages subject to tax?

A. Yes. Such wages are subject to tax and an annual return is required to be filed and tax paid. However, compensation paid to seamen engaged in foreign, coastwise, intercoastal, interstate or noncontiguous trade is not subject to withholding.

10. **Q.** Is a nonresident employee, paid by a New Jersey employer, whose place of employment is outside New Jersey subject to tax?

A. No. Tax is imposed on nonresidents only on New Jersey gross income for the rendition of personal services performed in New Jersey.

TAX RATES

11. **Q.** What are the tax rates?

A. 2 percent on taxable income up to $20,000 and 2½ percent on taxable income in excess of $20,000.

GROSS INCOME

12. **Q.** What is included in gross income?

A.
(1) Salaries, wages, tips, fees, commissions, bonuses and other remuneration received for services rendered whether in cash or in property.
(2) Net profits from business but without deduction of taxes based on income.
(3) Net gains or income from the disposition of property. The basis is the same as for Federal income tax purposes.
(4) Net gains or net income derived from or in the form of rents, royalties, patents and copyrights.
(5) Interest.
(6) Dividends.
(7) Gambling winnings.
(8) Net gains or income derived through estates or trusts.
(9) Income in respect of a decedent.
(10) Pensions and annuities to the extent that the proceeds exceed the contributions

made by the taxpayer.

(11) Distributive share of partnership income.

(12) Amounts received as prizes and awards.

(13) Rental value of a residence furnished by an employer or rental allowance paid by an employer to provide a home.

(14) Alimony and separate maintenance payment.

EXCLUSIONS FROM GROSS INCOME

13. Q. Can you tell me which items of income may be excluded?

A. (1) Federal Social Security benefits.

(2) Railroad Retirement benefits.

(3) Life insurance proceeds payable by reason of death.

(4) Employee's death benefits.

(5) Gifts and inheritances but not the income from property which is the subject of a gift or inheritance.

(6) Certain compensation for injuries or sickness.

(7) (a) Compensation paid for service in the U.S. Armed Forces by a person not domiciled in New Jersey;

(b) Mustering-out pay with respect to U.S. Armed Forces services.

(8) Scholarship and fellowship grants.

(9) Gains derived from the sale or exchange of principal residence where a new residence is purchased within 18 months (24 months in the case of a newly constructed residence) but only if the purchase of the new principal residence is equal to or greater than the adjusted sales price of the principal residence sold; or in lieu thereof, gains from sale or exchange of a principal residence by a person 65 years or over where adjusted sales price is $35,000 or less and the property has been used as a principal residence for at least 5 of the last 8 years. (See Questions #26 and 27.)

(10) New Jersey lottery winnings; certain government pensions or disability programs of persons not covered by Social Security or Railroad Retirement to the extent of the maximum amount of benefits allowable for exclusion as Federal Social Security benefits and Railroad Retirement benefits.

(11) Unemployment insurance benefits.

(12) Interest from New Jersey State and local obligations or those not otherwise

subject to tax under New Jersey laws.

(13) Interest income from Federal obligations which are exempt from State income taxes under the laws of the United States.

INCOME SUBJECT TO TAX

14. Q. When my first return is filed, what income must I report?

A. Report income received or accrued on and after July 1, 1976 to and including December 31, 1976, if you are on a calendar year basis. If on a fiscal year basis, report income received or accrued on and after July 1, 1976 to the close of your fiscal year. If the gross income is $3,000 or less ($1,500 or less in the case of a married person filing separately), no return need be filed and there is no tax liability. Such person should file a return nevertheless, in order to obtain a refund if any tax has been withheld.

INTEREST

15. Q. Is interest on United States "E" Bonds and "H" Bonds subject to tax?

A. No. Interest from obligations of the United States; the State of New Jersey and any of its political subdivisions is exempt.

16. Q. Is interest on New York City Bonds taxable?

A. Yes. Interest on obligations of other states and their political subdivisions is subject to tax.

DIVIDENDS

17. Q. Are dividends received by a New Jersey resident from a California corporation which does not do business in New Jersey subject to tax?

A. Yes. It is immaterial where the corporation is located or does business. All items of income, including dividends, of a New Jersey resident are subject to tax regardless of where they are derived.

RENTS

18. Q. Are rents received by me from rental property subject to tax?

A. Yes. However, as part of your business operation, you have the right to deduct ordinary and necessary business expenses in determining your net profits subject to tax.

WAGES

19. Q. I received a check on July 15, 1976 for retroactive pay for work I did in January, 1976. Is this subject to tax?

A. Yes.

DISABILITY BENEFITS

20. Q. Are disability benefits subject to tax?

A. No.

SOCIAL SECURITY BENEFITS

21. Q. How much tax will I pay if I am on Social Security and also receive a small pension?

A. Your Social Security payments are exempt from the tax. If your pension which is your only income is $3,000 or less per year you will not be subject to tax and no return will be required to be filed. (For pensions see answers to questions beginning with #47.)

CAPITAL GAINS

22. Q. I am employed by a professional firm and received a salary of $100,000 in 1976; I also received a bonus of $50,000 in February, 1976; I had a capital gain of $20,000 realized from the sale of stock in October, 1976. What is my taxable income for 1976?

A. The taxpayer would be subject to tax on a ½ of his salary of $100,000 received after June 30, 1976 and on the capital gain of $20,000 realized in October, 1976. The $50,000 bonus received in February, 1976 is not subject to tax.

23. Q. My mother who is a resident of Florida is receiving Social Security and is about to sell her home in New Jersey. Will she be taxed on the capital gain?

A. If the property was her principal residence during 5 of the 8 years preceding the date of the sale and if she was 65 years of age on or before the sale date, she will be permitted to exclude the entire gain if the adjusted sales price is not more than $35,000. (See questions and answers regarding sales and exchange of property.)

24. Q. Will a capital gain on the sale of real estate in New Jersey by a Maryland resident be subject to tax?

A. Yes. Nonresidents are subject to tax with respect to income derived from New Jersey sources.

25. Q. Do I have to report the gain of $5,000 where I sold my principal residence on October 18, 1976, and purchased a new principal residence on November 15, 1976? The adjusted sales price of the residence sold was $40,000, the purchase price of the new residence was $50,000 and the adjusted basis of the residence sold was $35,000.

A. No. When a taxpayer purchases another principal residence within 18 months before or 18 months after the date of the sale of the original residence (24 months in the case of a newly constructed residence), no gain is reportable if the purchase price of the new residence equals or exceeds the adjusted sales price of the residence sold. Since the purchase price in the example exceeds the adjusted sales price of the old residence, the $5,000 gain in the sale of the residence is not subject to tax. The gain must, however, be used to reduce the basis of the new residence.

26. Q. If there is a gain, must I report the gain if I purchased the property 5 years ago and sold it on August 1, 1976?

A. Yes. The gain is determined at the time of the sale.

27. Q. Is there a different rule in the case of the sale of a principal residence by a person 65 years of age or over?

A. Yes. You would have the option of electing the method described in Question #26, or taking a one-time complete exemption provided that you used the property as your principal residence for 5 of the last 8 years immediately preceding the date of the sale. However, if the adjusted sales price of the property sold exceeds $35,000, then the exemption applies to that portion of the gain as $35,000 bears to such adjusted sales price.

28. Q. Can you give me an example?

A. If property which cost $30,000 is sold for $50,000 (by a person 65 years of age or older) then $14,000 of the $20,000 gain would be exempt (Gain X $35,000 ÷ $50,000 = $14,000).

29. Q. I signed a contract for the sale of my home in June, 1976 and transferred title after July 1, 1976. Is the gain subject to tax?

A. Yes, but see questions relating to the sale of a principal residence and purchase of another.

30. Q. Does the law differentiate long-term capital gains from short-term capital gains?

A. No. All capital gains are treated as short-term capital gains and are therefore taxed at 100 percent.

31. Q. I have a capital gain of $200,000 in March, 1976 and I have a capital loss of $100,000 in December, 1976. May I offset the capital loss against my capital gain? How do I report the gain? Against what can I offset my capital loss?

A. The $200,000 capital gain realized in March, 1976 is subject to the capital gains and unearned income tax. The $100,000 capital loss realized in December, 1976 cannot be offset against the $200,000 gain. The capital loss can only be offset against any capital gain realized after July 1, 1976.

EXEMPTIONS

32. Q. Are there any personal exemptions to be taken from gross income?

A. Yes. Each personal exemption is $1,000 ($500 for the period July 1, 1976 to December 31, 1976). There is an exemption for the taxpayer and his spouse. There is an additional exemption if the taxpayer and/or spouse are 65 years of age or older; there is an additional exemption for the taxpayer or spouse who is blind or disabled. There is an exemption also for each qualified dependent. Taxpayer may also take an exemption for each dependent child attending on full time basis an elementary or secondary educational institution not deriving its primary support from public monies; and, an exemption for such dependent under the age of 22 years who is attending an accredited post secondary institution of higher education on a full time basis and for whom the taxpayer paid ½ or more of tuition costs and maintenance of his attendance. (This last exemption is provided for under separate legislation—A 2137.)

33. Q. What is the amount of each exemption to be deducted from gross income?

A. $1,000. However, inasmuch as the first returns to be filed will cover only 6 months, each exemption allowance will be $500. Exemption in other returns will also be prorated according to the number of months in the period covered by the return divided by 12.

34. Q. Who are dependents?

A. Generally, the Federal rule will be followed. In general the claimed dependent must have less than $750 of gross income; over half of the dependent's support must have been furnished by the taxpayer; and, the dependent must fall within any one of the following classes: child, or descendant of such child, or stepchild; brother or sister; brother or sister by the half blood; stepbrother or stepsister; parent or ancestor of such parent; stepfather or stepmother; son or daughter of taxpayer's brother or sister; brother or sister of taxpayer's father or mother; son-in-law or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law. If there is a relationship not listed above, you should write to the Division for a specific ruling.

35. Q. I will be 65 years of age on December 2, 1976. Will I be entitled to an additional personal exemption?

A. Yes. An additional personal exemption allowance for age is allowed if the taxpayer is 65 years of age or more on the last day of his taxable year. However, since the first return under this act will cover the period from July 1, 1976 to December 31, 1976, only ½ of the $1,000 exemption will be allowed.

36. Q. I understand that disabled taxpayers are entitled to an additional $1,000 exemption. What do you mean by disabled?

A. Under the law, disabled means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness. Medical proof must be submitted.

37. Q. As a veteran, will I receive an additional tax exemption?

A. No.

DEDUCTIONS

38. Q. What deductions can I take?

A. The only deductions allowed under the law are:

(1) Alimony and separate maintenance payments where such payments were included as income of a spouse or former spouse under a decree of divorce or separate maintenance, but not including payment for support of minor children.

(2) Medical expenses for taxpayer, spouse and dependents in excess of 2 percent of the taxpayer's gross income. Thus, if gross income is $15,000 and non-reimbursed medical expenses are $500, the medical expense deduction would be $200. ($500 − ($15,000 X .02) = $200)

39. Q. What medical expenses may I deduct?

A. Non-reimbursed payments for physicians, dental and other medical fees, hospital or nursing care, medicines and drugs, prosthetic devices, X-rays and other diagnostic services made by or directed by physician or dentist. Also, deductible medical expenses may include transportation expenses primarily for and essential to medical care, cost of medical care insurance including premiums paid for supplementary medical insurance for the aged.

40. Q. Can I deduct charitable contributions?

A. No. (See answer to #38.)

41. Q. Are real estate taxes deductible?

A. No. The only deductions which are allowed under the law are alimony and separate maintenance payments and medical expenses in excess of 2 percent of gross income.

42. Q. Do I have to prorate medical expenses paid during the period July 1, 1976 to December 31, 1976?

A. No. Medical expenses are limited to those paid during the 6 month period.

43. Q. Can I deduct the New Jersey sales tax?

A. No. (See answer to #38.)

44. Q. Will I be able to deduct the income tax that I pay to New Jersey on my Federal Income Tax Return.

A. Yes, provided that you itemize your deductions for Federal income tax purposes and you otherwise comply with Federal requirements.

COMPUTATION OF TAX

45. Q. On my first return, can I compute my income tax for the full 1976 calendar year and then base my tax on 50 percent of my income?

A. Yes, if you are a calendar year taxpayer you must report income, exemptions and deductions in the July 1, 1976—December 31, 1976 period. In such case exemptions and tax credits will be prorated. In the alternative, where the only income costs of wages, salary or other compensation, you may prorate if in doing so a distortion of income for the taxable period July 1, 1976—December 31, 1976 does not occur. In all cases the return will only reflect each personal exemption at $500, and the tenants credit at $32.50, and $17.50 additional in the case of a qualified senior citizen, disabled or surviving spouse renter.

46. Q. Can you give me an example?

A. Assume that gross income is $10,000 for the period July 1, 1976 to December 31, 1976, you have 4 exemptions and qualify for the tenant's credit. Your tax will be computed as follows:

Gross Income	$10,000
Less 4 exemptions (prorated for 6 months)	2,000
Taxable Income	$ 8,000
Tax @ 2%	$160.00
Tenant's credit (credit prorated for 6 months)	32.50
Tax liability	$127.50

PENSIONS

47. **Q.** Is my pension subject to tax?

A. Yes. In general, pensions and annuities are subject to tax to the extent that the amount received exceeds the employee's investment in the plan.

48. **Q.** An individual receives $7,000 in income from pensions during the taxable year. To what extent would such income be subject to tax?

A. Under the law, income derived from pensions is subject to tax to the extent that such income exceeds the employee's contributions to the pension plan. If the employee had not contributed to the pension plan, the entire $7,000 would be subject to tax. However, where the employee has contributed to the pension plan, only part of the income is subject to tax. (A special rule is applied where the contributions to the pension plan are recovered within three years. See following question.)

49. **Q.** Same circumstances as previous question except that the employee recovers his entire contributions to the pension plan within three years. If the employee contributed $12,000 to the pension plan, how would his taxable pension income be determined?

A. Assuming the individual receives $7,000 in pension income during the first year and the second year, none of his pension income would be subject to tax during the first year. However, $2,000 of his pension income would be subject to tax during the second year. Since the employee contributed $12,000 to the pension plan and since the contributions are being recovered within three years, non of his pension income is subject to tax until such time as the pension income exceeds his contributions to the plan. This occurs during the second year in the foregoing example.

50. **Q.** Assume that the individual will not recover his contributions to the pension plan within three years. How is the pension income determined?

A. In those cases where the retiree does not recover his contributions within three years, it is necessary to determine the retiree's anticipated proceeds from the pension over the remaining life of such person. The amount to be excluded may then be determined by computing the percentage which the retiree's contributions to the pension plan bear to his anticipated proceeds from the plan. For example, if the retired individual contributed $12,000 to the pension plan and if he expects to receive $50,000 from the pension over the course of his life, he will be permitted to exclude 24 percent of his pension income each year. ($12,000/$50,000 = 24%).

51. Q. Are all private pensions subject to tax?

A. In general, all pensions are subject to tax to the extent that they exceed the employee's contributions to the pension plan.

52. Q. An individual who retired in 1973 is currently receiving an annual pension of $6,000. His contributions to the pension plan were fully recovered prior to July 1, 1976. To what extent would the pension income be subject to tax?

A. The full amount of the pension income would be subject to tax inasmuch as the individual has already recovered his contributions to the pension plan. In addition, there is no special provision in the law which would permit an individual to exclude pensions which may be attributable to services performed prior to the inception date of the tax.

53. Q. I receive a pension from the New Jersey State Teachers Annuity Fund. Is this exempt?

A. The law providing for such pension specifically exempts it from all state and local taxes. A question to be resolved concerns the effect of the income tax which, generally, taxes pensions and annuities in the same manner as for Federal income tax purposes, on this exemption. A ruling is expected shortly. The same situation exists in the case of pensions of New Jersey State employees, county and municipal employees, judges' pensions, prison officers' pensions and others. The Division will regard such pensions as being exempt unless there is a ruling or court decision to the contrary.

54. Q. If a New Jersey resident receives a pension from a Federal retirement program is that pension subject to tax?

A. Pensions received from Federal retirement programs are generally taxable to the same extent as any other pension. The pension payments would be subject to tax to the extent that such payments exceed the employee's contributions to the pension plan.

There is, however, a provision in the law which exempts government pensions for persons who are not covered by the Federal Social Security Act or the Railroad Retirement Act. Such persons are permitted to exclude income from their government pensions to the extent that such income would be otherwise excludable if the individual was receiving Social Security or Railroad Retirement benefits.

55. Q. Suppose an individual is receiving a pension for services performed for a company in another state and that pension is subject to the income tax law of that state. Is the pension subject also to the New Jersey Gross Income Tax?

A. Yes. A New Jersey resident is subject to tax on all his income regardless of where it is derived. However, if the income is subject to income tax in another state, the individual may claim credit for the income taxes paid to the other state on the pension income.

56. Q. If an individual is receiving a pension for military services performed in the Armed Forces of the United States, is that pension subject to tax?

A. There are no special provisions in the law which would exempt pensions received by former members of the Armed Forces. However, if the individual receiving such pension does not qualify for Social Security or Railroad Retirement benefits, he may be permitted to exclude such military pension to the extent that he would be allowed to exclude income received from Social Security or Railroad Retirement if he would have otherwise qualified to receive benefits under one of those programs. However, disability benefits are not subject to tax.

57. Q. Are "Keogh Plan" contributions deductible?

A. No. However, if such contributions are deductible by a self-employed person or by a partnership as ordinary and necessary business expenses for Federal income tax purposes, they may be deducted for New Jersey tax purposes in determining the net profits of a business.

58. Q. Are contributions to individual retirement accounts (IRA) deductible?

A. No.

NONRESIDENTS

59. Q. Are nonresidents subject to tax?

A. Yes, but only to the extent that their income is derived from New Jersey sources.

60. Q. I thought the commuter taxes were repealed. What is the taxable status of a New York State or Pennsylvania resident who derives income from sources within New Jersey?

A. A provision was originally included in the income tax bill which would have repealed the commuter taxes. However, as a result of subsequent legislation (Chapter 65 and 66 of the Public Laws of 1976) the commuter taxes were restored and, as a result, a New York resident and a Pennsylvania resident must pay the greater of the tax determined under the Gross Income Tax or under the applicable commuter tax law. For withholding purposes, employers will continue to withhold from New York and Pennsylvania residents under the tax tables and rates issued under the Emergency Transportation Tax Act and the Transportation Benefits Tax Act, respectively.

TAX CREDITS

61. Q. As a New Jersey resident working in another state, will I be required to pay income tax to New Jersey on the income taxed by that other state?

A. No, but note the conditions. You should claim a resident tax credit when you file your New Jersey return. Generally, this credit will equal the tax otherwise due to New Jersey if all of your income is earned in the other state. However, if all of your income is not earned in that other state, the amount of your resident credit will be limited. In such case, the credit cannot exceed the percentage that your gross income subject to tax in the other state bears to your entire income multiplied by New Jersey tax liability.

62. Q. Can you give me an example?

A. Assume half of your income is earned in Pennsylvania and your New Jersey tax liability before the credit is $400. In such case, the amount of tax paid to Pennsylvania will be credited against your New Jersey liability up to $200 (1/2 of $400). If 3/4 of your income is earned in Pennsylvania, then the credit against the New Jersey tax will be allowed up to $300 (3/4 of $400).

63. Q. Will the resident credit be available if I as a New Jersey resident pay taxes to both Philadelphia and to the State of Pennsylvania?

A. Yes. The credit is allowed with respect to any income tax or wage tax imposed by another state or political subdivision of such state or by the District of Columbia.

64. Q. Does the law provide for any benefits to tenants?

A. Yes. Residential tenants are entitled to a credit against tax of $65. There is an additional credit of $35 for persons 65 years of age or older, disabled persons, and a surviving spouse of a person who was 65 years of age or over and who has remained unmarried since becoming a widow at age 55 or over. (This credit will be 1/2 of the full credit in the case of a calendar year taxpayer who reports for the period July 1, 1976 to December 31, 1976.) Note: The tenant residential credit is available to tenant shareholders of a cooperative.

65. Q. Where more than one tenant occupies a single dwelling unit, do they all qualify for the tenant's credit?

A. No. Not more than one full qualified tenant credit may be claimed.

WITHHOLDING

66. Q. Will salary and other compensation be subject to withholding?

A. Yes. All New Jersey employers will be required to withhold the New Jersey Income Tax on all wage payments made on and after September 1, 1976.

67. Q. Will this apply although the services were performed in June, 1976?

A. Yes, as long as your salary was paid after August 31, 1976, your employer will be required to withhold the tax at the time withholding starts.

68. Q. When and where will the employer be required to turn over the tax withheld?

A. Employers will turn over the moneys withheld to the State on or before the 15th day of the month following the month in which the tax was collected. The first of such payments will be due on or before October 15, 1976. Every employer required to deduct and withhold tax is liable for such tax. It is the employer's responsibility to make sure that the appropriate amount of taxes are withheld and remitted to the State.

69. Q. For purposes of withholding, will the number of exemptions that I have for Federal purposes be the same?

A. Yes.

70. Q. Will I receive a statement from my employer as to the amount of tax withheld?

A. Yes. On or before February 15, 1977, and on or before February 15 of each year, the employer will furnish you with a statement of wages paid and taxes withheld for the prior calendar year.

71. Q. Where can I obtain employer withholding tables and instructions?

A. Tables and instructions were mailed to employers. Employers not receiving them should communicate directly with the Division of Taxation or any of its regional offices.

72. Q. I am a New Jersey State employee. Will the tax be withheld from my salary?

A. Yes. Withholding will apply to all persons who receive wages, salaries, commissions and other compensation subject to the Gross Income Tax.

73. Q. For withholding purposes, may I claim the same number of exemptions as I do for Federal income tax purposes?

A. Yes. Your employer will rely on the Federal Form W-4 which he has on file.

74. Q. I work for a nonprofit association. Is my income subject to tax? Must my employer withhold the tax on my salary?

A. Yes, in both cases. Compensation received from an employer, whether or not a nonprofit association or corporation, or a governmental agency, is subject to tax. Your compensation is subject to withholding.

75. Q. Will a tax on my wages from employment in New Jersey be withheld if I am a resident of New York?

A. Yes. Tax will be withheld irrespective of the state of your residence. As a result of recent legislation your employer will continue to withhold Emergency Transporation Taxes during 1976. (See Question #60.)

76. Q. As a New Jersey resident working in another state, my tax is withheld by such state. Will my wages earned in such state be subject to withholding by New Jersey?

A. If the employer does not maintain an office or transact business in New Jersey, there can be no requirement that the employer withhold. However, your income earned in such state is, nevertheless, subject to the New Jersey tax. (Note the right to claim a resident credit.) If the employer does maintain an office or transact business in New Jersey, he will be required to withhold the difference and remit the same to New Jersey where the amount of the New Jersey withholding exceeds the amount withheld by such other state. (For example, there is no withholding of tax in Connecticut and therefore the New Jersey employer who employs New Jersey residents in Connecticut must withhold and remit New Jersey Gross Income Tax with respect to the earnings of a New Jersey resident derived in Connecticut.) However, no tax will be withheld with respect to wages paid to a New Jersey resident who is employed in New York by a New Jersey employer. If the New Jersey employee performs his services both within and without New York, the New Jersey employer must withhold in full with respect to the compensation paid to the employee for services performed outside New York, provided such services are not subject to the income tax withholdings of another state.

ADMINISTRATION

77. Q. When will taxpayers file their initial returns?

A. For those taxpayers whose accounting period for Federal income tax purposes is a calendar year, tax returns will be due on April 15, 1977; others will file within 3½ months following the close of their fiscal year. Fiscal year taxpayers whose fiscal years end prior to December 31, 1976 will not be required to file until April 15, 1977.

78. Q. May husband and wife file separate returns?

A. (1) If their income tax liability is determined separately for Federal income tax purposes, they must file separately for New Jersey purposes.

(2) If they filed a joint return for Federal income tax purposes, they must file jointly for New Jersey purposes.

(3) If either husband or wife is a resident and the other a nonresident, they must file separate returns. However, they may elect to file jointly in which case their joint taxable income must be determined as though both were residents.

79. Q. Are estates and trusts required to file returns or are only the receipts by individuals of estate or trust disbursements gong to be subject to the tax?

A. An estate or trust must file a fiduciary return and pay the required tax. Beneficiaries are also subject to tax with respect to income derived from an estate or trust. Income which is taxes to the trust will not be taxed to the beneficiary in the year paid or credited to him.

80. Q. My husband works in New York but we are residents of New Jersey. Are we required to file a New Jersey Income Tax Return?

A. Yes. A resident is subject to tax on all his income irrespective of where it is derived. However, a resident tax credit may be claimed with respect to income taxes paid to New York State. For limitation of resident tax credit, see answer to #61.

81. Q. Where can I obtain tax forms?

A. They will be available at the main Division office in Trenton, as well as at all regional offices.

82. Q. Will declarations of estimated tax be required?

A. Yes. The first declarations will be required to be filed on or before January 15, 1977 and should include all income received between July 1, 1976 and December 31, 1976. These should be filed by both residents and nonresidents with respect to income which has not been subject to withholding where the tax liability will exceed $100. Thereafter declarations will be required to be filed on or before April 15, June 15, September 15 and January 15.

83. Q. May a taxpayer pay an estimated tax in 1976? If so, what form shall I use?

A. Until forms are available, you should make out a check payable to "State of New Jersey — Gross Income Tax" and accompany it with a letter which should show the amount of the estimated tax, your name, address and Social Security number.

84. Q. If I have a loss in one category of income, can I apply it against income in another category?

A. No. Losses in one category may only be applied against other sources of gross income in the same category. For example, a capital loss in the tax year may only offset capital gains in the tax year. Such capital loss may not be used to offset taxable interest.

85. Q. What are the penalties for failure to pay the tax or to file a return?

A. For failure to pay the tax on time, interest will be assessed at the rate of 9 percent per annum plus a penalty of 5 percent of the unpaid tax or 50 percent in the case of fraud. For failure to file on time, there is a penalty of $2.00 per day plus a penalty of 5 percent of the total tax liability up to 25 percent. There are additional penalties and procedures to effect collection of the tax which are available to the Division.

REPEALED TAXES

86. Q. Must I pay the Capital Gains and Other Unearned Income Tax?

A. Yes, but only with respect to unearned income earned, received or accrued prior to July 1, 1976. You must report your unearned income for the period January 1, 1976 to June 30, 1976 if your modified Federal adjusted gross income is $15,000 or more during the period if you are married and filing jointly, and $7,500 if you are single taxpayer. (Note: The income threshold is prorated at 50 percent because the unearned income tax return will cover only a 6 month period in the case of a taxpayer reporting on the basis of a calendar year.) Such returns will be due on or before April 15, 1977.

87. Q. I understand that the Unincorporated Business Tax and the Gross Receipts Tax on Retail

Stores have been repealed. I have been reporting on a calendar year, how will this affect me?

A. The effective date of the repeal of both these laws is January 1, 1977. Thus, you should file a return on or before April 15, 1977, in which you will report your gross receipts received during the calendar year 1976. If you report your unincorporated business tax on a fiscal year basis, you will file your return 3½ months after the close of your fiscal year, but you will report gross receipts earned or received prior to January 1, 1977.

HOMESTEAD REBATE

88. Q. Can the Homestead Rebate for property owners be taken as a tax credit against my income tax?

A. No. Provision for the rebate is made under a different law (A 1330). Under the Homestead Rebate Law, the rebate will be paid semi-annually on April 1 and October 1, beginning on April 1, 1977. Present plans call for checks to be mailed to those who qualify. Forms to apply for the rebate will be available in Assessor Offices and in the Division Branch Offices the end of September. The rebate is available only for the property owner's principal residence. It is not available to a nonresident. Completed application forms must be filed with the assessor on or before November 1, 1976.

89. Q. How will the Homestead Rebate be determined?

A. In general, if your property is worth more than \$15,000, you will receive \$150 plus an additional amount which will depend on the effective tax rate in your municipality. If such rate is \$4 per \$100 of true value, you will receive an additional \$50 (12½% multiplied by the effective tax rate—multiplied by \$10,000). If you qualify as a senior citizen, disabled person or a surviving spouse, you may be entitled to an additional \$50 over the amounts stated above.

90. Q. Suppose that my property is worth less than \$15,000, how much of a rebate will I get?

A. The amount will be somewhat less—depending on the effective tax rate in your municipality and the value of your property, but in no instance greater than 50 percent of the property tax otherwise due for the pre-tax year.

91. Q. Where will forms be obtained?

A. At the office of the tax assessor, municipal building, division regional offices (see rear cover page) and other appropriate public places.

92. Q. Will I, as a senior citizen receiving the $160 senior citizen property tax deduction, continue to receive the deduction in addition to the Homestead Exemption, if I qualify?

A. Yes.

93. Q. Can you list the different laws which constitute the tax package?

A. (1) New Jersey Gross Income Tax Law, P.L. 1976, C.47, approved July 8, 1976.

(2) Income Tax-additional $1,000 exemption for dependents attending post secondary school, P.L. 1976, C.84, approved September 2, 1976.

(3) Revenue Sharing, P.L. 1976, C.73, approved August 30, 1976.

(4) Homestead Rebate Law, P.L. 1976, C.72, approved August 30, 1976.

(5) Landlord-Tenant Pass-Through Act, P.L. 1976, C.63, approved August 17, 1976.

(6) Deletes Repeal of Emergency Transportation Tax and Transportation Benefits Tax Act, P.L. 1976, C.65 approved August 17, 1976.

(7) Persons subject to Emergency Transportation Tax or Transportation Benefits Tax liable for greater of either of such tax or The New Jersey Gross Income Tax, P.L. 1976, C.66, approved August 17, 1976.

(8) Repeals Unincorporated Business Tax, effective January 1, 1977, P.L. 1976, C.80, approved September 1, 1976.

(9) Repeals Tax on Gross Receipts of Retail Stores, P.L. 1976, C.81, approved September 1, 1976.

(10) Replaces revenue lost from repeal of Unincorporated Business Tax or Tax on Retail Store sales, P.L. 1976, C.82, approved September 1, 1976.

(11) Expiration of Income Tax June 30, 1978, P.L. 1976, C.86, approved September 8, 1976.

NOTES

NOTES

FORMS MAY BE OBTAINED FROM:—

Trenton Division of Taxation West State and Willow Streets Trenton, New Jersey 08625	609-292-7580
Cherry Hill 11 Ormond Avenue Cherry Hill, New Jersey 08034	609-795-5970
Neptune 3311 Route 33 Brookside Professional Building Neptune, New Jersey 07753	201-922-8181
Newark 1100 Raymond Boulevard Newark, New Jersey 07102	201-648-3690
Paramus 193 Route 17 South Paramus, New Jersey 07652	201-265-8610
Somerville 205 W. Main Street Box 315 Somerville, N.J. 08876	201-526-7665
Vineland 80 South Main Road Vineland, New Jersey 08360	609-691-9020