

TITLE 18

TREASURY—TAXATION

CHAPTER 1

ORGANIZATION OF THE DIVISION OF TAXATION

Authority

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

Source and Effective Date

R.2014 d.098, effective June 2, 2014. See: 46 N.J.R. 28(a), 46 N.J.R. 1364(b).

Chapter Expiration Date

Chapter 1, Organization of the Division of Taxation, expires on June 2, 2021.

Chapter Historical Note

Chapter 1, Organization of the Division of Taxation, was adopted as R.1989 d.437, effective July 21, 1989. See: 21 N.J.R. 2526(b).

Subchapter 2, Petitions for Rules, was adopted as R.1990 d.287, effective June 4, 1990. See: 22 N.J.R. 160(a), 22 N.J.R. 1742(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Organization of the Division of Taxation, expired on July 21, 1994.

Chapter 1, Organization of the Division of Taxation, was adopted as new rules by R.1994 d.503, effective October 3, 1994. See: 26 N.J.R. 2752(a), 26 N.J.R. 4087(a). Pursuant to Executive Order No. 66(1978), Chapter 1 expired on October 3, 1999.

Chapter 1, Organization of the Division of Taxation, was adopted as new rules by R.2000 d.279, effective July 3, 2000. See: 32 N.J.R. 745(a), 32 N.J.R. 2463(a). Chapter 1, Organization of the Division of Taxation, expired on July 3, 2005.

Chapter 1, Organization of the Division of Taxation, was adopted as new rules by R.2006 d.279, effective August 7, 2006. See: 38 N.J.R. 1556(b), 38 N.J.R. 3182(a). Chapter 1, Organization of the Division of Taxation, expired on February 3, 2014.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 1, Organization of the Division of Taxation, was scheduled to expire on August 7, 2013. See: 43 N.J.R. 1203(a).

Chapter 1, Organization of the Division of Taxation, was adopted as new rules by R.2014 d.098, effective June 2, 2014. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ORGANIZATION OF THE DIVISION OF TAXATION

- 18:1-1.1 Organization of the Division of Taxation
18:1-1.2 Public information and submissions or request

SUBCHAPTER 2. PETITIONS FOR RULES; RULEMAKING NOTICE

- 18:1-2.1 Scope
18:1-2.2 Form of petition
18:1-2.3 Procedures of the Division
18:1-2.4 Sufficient public interest; notice to be given
18:1-2.5 Sufficient public interest; public hearings

SUBCHAPTER 1. ORGANIZATION OF THE DIVISION OF TAXATION

18.1-1.1 Organization of the Division of Taxation

(a) The Division consists of a Director of the Division of Taxation and such offices and other organizational units as are allowed by law and as are necessary to carry out the Division's statutory mandates.

(b) Any Deputy Director or Assistant Director, designated by the Director by a certificate filed with the Secretary of State, shall serve as Acting Director during the Director's absence, disability, or as otherwise provided for in N.J.S.A. 54:1-11.

(c) The Director may create subunits headed by a Deputy Director as the Director determines to be useful and efficient for the operation of the Division.

(d) Beneath the level of Deputy Director, subunits as required are headed by Assistant Directors, and further subunits beneath the assistant directors are headed by Branch Chiefs.

(e) A detailed description of the organizational structure of the Division of Taxation is contained in the Annual Report of the Division of Taxation which is submitted annually to the Legislature and the Governor pursuant to N.J.S.A. 54:1-13. The organization chart is also posted on the Division of Taxation website, www.state.nj.us/treasury/taxation.

Amended by R.2014 d.098, effective June 2, 2014. See: 46 N.J.R. 28(a), 46 N.J.R. 1364(b). Rewrote (b), (c), and (d).

18:1-1.2 Public information and submissions or request

(a) General information regarding taxpayers' rights and responsibilities under the tax laws of New Jersey, as well as tax forms, publications, and other general tax information is available on the Division's website. The public may also obtain general information regarding their rights and responsibilities under the tax laws of the State of New Jersey by writing to the New Jersey Division of Taxation Technical Information Branch, P.O. Box 281, Trenton, NJ 08695-0281. The public may submit requests for technical advice or letter rulings regarding the application of State tax laws by writing to the New Jersey Division of Taxation, Regulatory Services Branch, 50 Barrack Street, P.O. Box 269, Trenton, NJ 08695-0269.

(b) Before or at an interview with a taxpayer relating to the determination or collection of tax, the Division will provide the taxpayer with an explanation of the audit or collection

process, whichever is appropriate, and of the taxpayer's rights.

(c) Taxpayers may download forms and publications from the Division of Taxation's website, www.state.nj.us/treasury/taxation. To request New Jersey tax forms or publications, a taxpayer may call the Automated Tax Information System at 609-826-4400 or 800-323-4400 (touch-tone only). Forms may be obtained by fax through NJTaxFax at 609-826-4500.

Amended by R.2014 d.098, effective June 2, 2014.
See: 46 N.J.R. 28(a), 46 N.J.R. 1364(b).
Rewrote the section.

SUBCHAPTER 2. PETITIONS FOR RULES; RULEMAKING NOTICE

18:1-2.1 Scope

N.J.A.C. 18:1-2.1 through 2.3 shall apply to all petitions made by interested persons for the adoption, amendment, or repeal of any existing rule by the Division of Taxation pursuant to N.J.S.A. 52:14B-4f. N.J.A.C. 18:1-2.4 and 2.5 concern Division notice of proposed rulemaking and sufficient public interest in such notice to require a 30-day comment period extension or public hearing.

18:1-2.2 Form of petition

(a) A petition for the adoption, amendment or repeal of an existing rule shall be in writing, shall be legible and comprehensible, shall be signed by the petitioner, and shall be captioned "Petition for Rulemaking Action."

(b) Any such petition shall state clearly and concisely:

1. The full name and address of the petitioner and of those on whose behalf the petitioner may be acting in a particular instance;
2. The reasons for the request;
3. A description of the substance or nature of the rulemaking which is requested and a draft text of the proposed rule or rules;
4. A complete disclosure of petitioner's interest in the request, including without limitation, any relevant organizational affiliation or economic interest and the financial effect upon petitioner if the request were brought into effect; and
5. The statutory authority under which the Division may take the requested action.

(c) Petitions shall be sent to the following address: Chief, Regulatory Services Branch, Division of Taxation, 50 Barrack Street, PO Box 269, Trenton, NJ 08695-0269.

(d) Any document submitted to the Division of Taxation which is not in substantial compliance with (a) and (b) above

shall not be deemed to be a petition for a rule requiring further action pursuant to N.J.S.A. 52:14B-4(f).

18:1-2.3 Procedures of the Division

(a) Within 15 days of receipt of a petition in compliance with N.J.A.C. 18:1-2.2, the Division will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register (Register) in accordance with N.J.A.C. 1:30-4.1(c). The notice will include the following:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(b) Within 60 days of receiving the petition, the Division will mail to the petitioner, and file with the Office of Administrative Law for publication in the Register, a notice of action on the petition which will include the following:

1. The name of the petitioner;
2. The Register citation for the notice of petition, if that notice appeared in a previous Register;
3. Certification by the Director that the petition was duly considered pursuant to law;
4. The nature or substance of the Division's action upon the petition; and
5. A brief statement of reasons for the Division's action.

(c) Within 60 days following receipt of any such petition, the Division shall either:

1. Deny the petition, giving a written statement of its reasons;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of granting the petition; or
3. Refer the matter for further deliberations which shall be concluded within 90 days of referring the matter for further deliberations. Upon conclusion of such further deliberations, the Division shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate a rulemaking proceeding within 90 days. The results of these further deliberations will be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the Register.

18:1-2.4 Sufficient public interest; notice to be given

(a) The Division, by notice at least 30 days prior to the adoption, amendment, or repeal of any rule, shall afford all interested persons reasonable opportunity to submit data,

views, or arguments, orally or in writing, pursuant to N.J.S.A. 52:14B-4.

1. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

2. The notice shall be:

i. Mailed to all persons who have made timely requests of the agency for advance notice of its rulemaking proceedings and in addition to other public notice by law shall be published in the New Jersey Register;

ii. Distributed to the news media maintaining a press office to cover the State House Complex; and

iii. Made available at the Division of Taxation's website at <http://www.state.nj.us/treasury/taxation/>.

3. The Division, prior to the adoption, amendment, or repeal of any rule as required by N.J.S.A. 52:14B-4a(1), shall publicize notice of the intended action in newspapers of general circulation.

(b) If, within 30 days of the publication of the proposed rule, sufficient public interest is demonstrated in an extension of the time for submissions, the Division shall provide an additional 30-day period for the receipt of submissions by interested parties. No proposed rule shall be adopted until after the end of this 30-day extension.

(c) For purposes of this section, sufficient public interest for granting an extension of the public comment period exists when 100 or more individuals have:

1. Communicated the need for the extension of the public comment period in writing, legible and intelligible, to the Division of Taxation;

2. At least 50 of the individuals shall have specified in their written communications, an objection to at least one provision of the proposed rule; and

3. All written communications have been directed to the individual who has been designated, on behalf of the Division of Taxation, to receive comments in the notice of a rule proposal.

18:1-2.5 Sufficient public interest; public hearings

(a) The Division shall conduct a public hearing on the proposed rule at the request of a committee of the Legislature, or a governmental agency or subdivision, or if sufficient public interest is shown, provided such request is made to the Division within 30 days following publication of the proposed rule in the New Jersey Register pursuant to N.J.S.A. 52:14B-4 and N.J.A.C. 1:30-5.5.

(b) For purposes of this section, sufficient public interest to require a public hearing exists when 100 or more individuals have:

1. Communicated in writing, legible and intelligible, the need for a public hearing on the rule proposal; and

2. At least 50 of the individuals shall each have specified in their written communications, an objection to at least one provision of the proposed rule, and the objection neither relates to proposed rule provisions that are required by law, nor to matters not reflected in the provisions.