

18:1-1.5 Tax Clearance Section

(a) Requests for Tax Clearance Certificates may be initiated by completing and submitting an Application for Tax Clearance, Form A-5088-TC. A \$25.00 payment is required with such application. An Estimated Summary Tax Return for the current tax year, Form A-5052-TC, bearing the signature of a corporate officer, as well as the appropriate deposit payment, may accompany this form. Delinquent tax returns, tax payment, penalty and interest due are also required. Instructions with the original application form detail the tax information necessary for completion of the application.

(b) After a determination is made that all information has been submitted and all taxes have been paid, a Certificate of Tax Clearance is issued. This certificate may be timely filed with the Secretary of State's Office together with payment of the applicable fee. Typically, the certificates are used in connection with dissolutions, withdrawals, reauthorizations, and mergers (when the survivor is a foreign non-authorized corporation). See also N.J.S.A. 54:50-15, N.J.A.C. 18:7-14.17, 18, 19 and 20.

(c) Additional information, applications and inquiries may be made by writing to the Division of Taxation, Tax Clearance Section, 420 East State Street, CN 277, Trenton, NJ 08646-0277.

New Rule, R.1990 d.228, effective June 4, 1990.
See: 22 N.J.R. 159(a), 22 N.J.R. 1740(c).

18:1-1.6 Status Section

(a) Requests for either Tax Lien Search or Release of Lien of Franchise Taxes may be initiated by completing an Application for Tax Lien Search, Form CS-152R (\$25.00 fee) or an Application for Release of Lien (\$5.00 fee) and remitting the appropriate fee. Information required to complete such applications includes the name of the corporation, the corporate serial number, the Federal identification number, the State and date of incorporation, dates title was held (for conveyance of real property) and the reason for making such application. Typically, applications are made in connection with a conveyance of real property out of a corporate entity, to obtain funding, to release escrow funds or release existing liens on void or inactive corporations. When the intended use pertains to conveyance of real property, information as to the location of the property, such as block, lot, township, and metes and bounds description, must be included. See also N.J.S.A. 54:10A-29 and N.J.A.C. 18:7-13.13 for tax lien search, and N.J.S.A. 54:10A-30 and N.J.A.C. 18:7-13.12 for release of lien of franchise tax.

(b) Additional information, applications and inquiries may be made to the Status Section, Division of Taxation, 420 East State Street, CN 277, Trenton, NJ 08646-0277.

New Rule, R.1990 d.228, effective June 4, 1990.
See: 22 N.J.R. 159(a), 22 N.J.R. 1740(c).

18:1-1.7 Reinstatement Section

(a) Requests for reinstatement of voided corporate charters may be initiated by completing and submitting an Application for Reinstatement of Corporate Charter, Form C-9021. No fee is required with such application. Information required includes the name of the corporation, trade name (if applicable), business address, corporate serial number, federal identification number, state and date of incorporation, date of voidance, nature of business and whether or not the corporation holds title to real property. All applications submitted should bear the signature of an authorized representative of the corporation.

(b) Such certificates must be approved by the Attorney General's Office and certified by the Secretary of State, and payment must be made of the applicable fee. This is accomplished after the Division of Taxation has determined all back taxes have been paid in full and a notarized petition of reinstatement has been signed by a corporate officer. See also N.J.S.A. 54:11-5, 54:49-13.1, and N.J.A.C. 18:7-14.8 and 18:7-14.9.

(c) Additional information, applications and inquiries may be made to the Reinstatement Section, Division of Taxation, 420 East State Street, CN 277, Trenton, NJ 08646-0277.

New Rule, R.1990 d.228, effective June 4, 1990.
See: 22 N.J.R. 159(a), 22 N.J.R. 1740(c).

18:1-1.8 Conference and Appeals Branch

(a) A Conference and Appeals Branch within the Division of Taxation exists in accordance with N.J.S.A. 54:49-18 to conduct administrative hearings and reviews of findings or assessments of the Director, except administrative hearings and reviews of findings of transfer inheritance and estate taxes which are conducted by the Transfer Inheritance Tax Branch. See N.J.S.A. 18:26-12.5-12.10. A protest, and a request for hearing, if any, by a taxpayer to the Conference and Appeals Branch must be made within the time mandated by the appropriate taxing statute, if any. Unless the appropriate taxing statute provides for a different period within which a protest must be filed, a protest, and a request for hearing, if any, must be made pursuant to N.J.S.A. 54:49-18 within 90 days of the giving of the notice or the action of the Director sought to be reviewed. In the case of a petition for a redetermination under the Gross Income Tax Act, the taxpayer may file a petition within 90 days after the mailing of the notice (or 150 days if the notice is addressed to a person outside of the United States) pursuant to N.J.S.A. 54A:9-9(b). The administrative hearing or protest review results in a Final Determination which confirms, modifies or vacates the finding or assessment under review. The Final Determination is then subject to judicial review in the New Jersey Tax Court within 90 days of the date of issuance pursuant to N.J.S.A. 54:51A-14 and 54A:9-10. The 90 day period for appeals to the Tax Court cannot be relaxed.

(b) Upon the timely filing of a protest and a request for hearing pursuant to (a) above, the hearing process shall be commenced with the submission of a written protest statement as defined by this rule and a request for a hearing, if a hearing is desired. A written protest shall be signed by the taxpayer, by the taxpayer's duly authorized officer or duly authorized representative, under oath, and shall contain the following documents, information and payments:

1. The taxpayer's name, address, telephone number and social security or tax identification number;
2. The name, address and telephone number of taxpayer's representative, if any, for the purpose of the protest. In such case, a written power of attorney (Form M-5008) shall be filed with the notice of protest;
3. The type of tax and period(s) under protest;
4. A copy of the notice at issue;
5. The specific amount of tax, penalty, and/or interest under protest and specific amount of tax, penalty, and/or interest uncontested;
6. A statement of grounds upon which the protest is based;
7. The specific facts supporting each ground asserted, and a summary of evidence or documentation to be presented in support of taxpayer's position. (If this requirement cannot be met within the 90 day period, the Division will, upon written request, extend the time for complying with this submission for an additional 90 days.); and
8. The taxpayer shall remit the entire uncontested amount of the tax, penalty, and interest, if any, that is due.

(c) A submission which, in particular, does not set forth the information in (b)5, (b)6 and (b)7 above will not be considered a valid protest and will not result in a hearing or review. If a taxpayer does not submit a payment under (b)8 above, a hearing will nevertheless be held. The Division may, however, in accordance with applicable law, proceed to collect outstanding amounts which are due.

(d) Hearings are scheduled whenever possible by telephone on a mutually acceptable date for both the taxpayer representative and the conferee, who represents the Division. Cancellations are discouraged except in cases that make attendance unavoidable. In the event that a cancellation must be granted, the hearing will be rescheduled on the Conference and Appeals Branch's soonest available date. A Final Determination based on facts documented in the file may be issued if the taxpayer fails to appear at a scheduled conference.

(e) Transfer inheritance tax hearings are held pursuant to N.J.A.C. 18:26-12.5 to 12.10 and may be scheduled by contacting the Transfer Inheritance Tax Branch, 50 Barrack Street, Trenton, NJ 08646. Railroad tax hearings are held pursuant to N.J.A.C. 18:23-11.2 and 11.3 and may be scheduled by contacting Property Administration, 50 Barrack Street, Trenton, NJ 08646.

(f) Protests, petitions for redetermination, and requests for administrative hearings should be submitted to the Conference and Appeals Branch, Division of Taxation, 50 Barrack Street, CN 269, Trenton, NJ 08646-0269.

New Rule, R.1991 d.23, effective January 22, 1991.
See: 22 N.J.R. 1995(a), 23 N.J.R. 219(a).
Amended by R.1994 d.503, effective October 3, 1994.
See: 26 N.J.R. 2752(a), 26 N.J.R. 4087(a).

Case Notes

Time period for filing suit in Tax Court for refund of business taxes; not run from date of letter denying administrative refund claim, rather from date that letter was mailed. *Harris Corp. v. Director, Div. of Taxation*, 15 N.J.Tax 119 (1995).

18:1-1.9 Training for special agents

(a) The Office of Criminal Investigation shall require the successful completion of certain educational and training programs for those persons appointed by the Director as special agents. The requirements shall be designed to insure the health, safety and welfare of the citizens of New Jersey by maintaining high standards of proficiency in law enforcement. The requirements shall include:

1. The completion of the "Basic Training Course for State Investigators" of the State of New Jersey, Department of Law and Public Safety, Division of Criminal Justice, as established by the New Jersey Police Training Commission, pursuant to N.J.S.A. 52:17B-66 et seq.;
2. Completion of the twice annual firearms qualification program as established by the State of New Jersey, Department of Law and Public Safety, Office of the Attorney General and administered by the Division of Taxation certified supervising firearms instructor/range master; and
3. Completion of criminal tax fraud investigation training, as is required for special agents of the U.S. Treasury, Internal Revenue Service, Criminal Investigation Division, as offered at the Federal Law Enforcement Training Center, Glynco, Georgia.

(b) The Director will grant exemptions from the training requirements to any person who has successfully completed a training course of another law enforcement agency, provided that the requirements are equivalent to the training requirements established pursuant to (a)1 and 3 above.

New Rule, R.1995 d.131, effective March 6, 1995.
See: 27 N.J.R. 56(a), 27 N.J.R. 935(a).