

Case Notes

Circumstances exist where changes in a taxpayer's taxable income for Federal tax purposes require the taxpayer to file an amended State corporation business tax return; taxpayer's refund claims filed beyond two-year limit; additional assessments unrelated to years for which refunds claimed did not extend claim time limit. *Bristol-Myers Co. v. Taxation Div. Director*, 3 N.J.Tax 451 (Tax Ct.1981), affirmed 9 N.J. Tax 88, certiorari denied 107 N.J. 121, 526 A.2d 189.

18:7-11.5 Change of accounting period

(a) A taxpayer will not be permitted to change its accounting period for purposes of the Act unless it has first obtained the permission of the Commissioner of Internal Revenue for Federal Income tax purposes where permission is required under the Internal Revenue Code. A copy of such permission must be filed with the Division of Taxation.

(b) The taxpayer will also be required to file a short period return and remit the amount of its tax liability for the period from the close of its last accounting period for which a return was filed to the beginning of its newly authorized accounting period.

Amended by R.1979 d.45, effective February 6, 1979.
See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Statutory References

See N.J.S.A. 54:10A-4 as to definition of "fiscal year" and "privilege period"; and 54:10A-17 as to right of Director to determine a taxpayer's net worth, net income if the period covered by its report is other than the period covered by the Federal income tax report.

Case Notes

Taxpayer that separated from consolidated group was not required to file two short-term returns. *Drake Bakeries, Inc. v. Taxation Div. Director*, 12 N.J.Tax 172 (1991).

Filing of consolidated returns for parent corporation and subsidiary prohibited; in determining net worth of investments in subsidiaries, Director was not required to accept corporation's claim as to precise method of accounting used in corporation's books; Director authorized to use equity method of accounting where corporation's books used both cost and equity methods; use of equity method not required to be promulgated as a rule. *Bristol-Myers Co. v. Taxation Div. Director*, 8 N.J.Tax 133 (Tax Ct.1986), affirmed 9 N.J.Tax 88, certification denied 107 N.J. 121, 526 A.2d 189.

18:7-11.6 Forms of returns

(a) Returns are required to be made on forms prescribed by the Director.

1. In the case of all taxpayers, annual returns are required to be filed on Form CBT-100 or CBT-100S. As used in these rules, references to CBT-100 may be interpreted to include CBT-100S, as the context may require.

2. In the case of all taxpayers entitled and electing to allocate entire net income, the supplemental sheet, to be used in conjunction with Form CBT-100 and containing the allocation schedules, must be completed and annexed to Form CBT-100.

(b) The Director may require any taxpayer to file any other reports and submit any further information he may require in the administration of the provisions of the Act.

(c) Every return shall have annexed to it a certification by the president, vice-president, comptroller, secretary, treasurer, assistant treasurer, accounting officer or any other officer of the taxpayer duly authorized so to act to the effect that the statements contained in the return are true.

1. The fact that an individual's name is signed on a certification of the return shall be prima facie evidence that such individual is authorized to sign and certify the return on behalf of the corporation;

2. In the case of a corporation in liquidation or in the hands of a receiver or trustee, certification shall be made by the person responsible for the conduct of the affairs of the corporation;

3. Annual return forms are supplied by the Division of Taxation but failure to receive a form does not relieve any taxpayer from the obligation to file a return under the provisions of the Act.

Amended by R.1979 d.45, effective February 6, 1979.
See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).
Amended by R.1994 d.186, effective April 18, 1994.
See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Statutory References

See N.J.S.A. 54:10A-18 as to the required forms for returns and any additional statements.

18:7-11.7 Time for filing returns

(a) The appropriate annual Corporation Business Tax return together with payment of the tax, including the required prepayment, must be filed with the Division of Taxation on or before the 15th day of the fourth month after the close of each fiscal or calendar accounting period.

(b) A return is timely filed and deemed delivered on the date of the United States postmark stamped on the envelope. See N.J.S.A. 54:49-3.1.

(c) A return is timely filed when it is mailed to the Division of Taxation on the next business day, if the due date falls on a Saturday, Sunday or State holiday.

Amended by R.1979 d.45, effective February 6, 1979.
See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).
Amended by R.1985 d.561, effective November 4, 1985.
See: 17 N.J.R. 1537(b), 17 N.J.R. 2677(b).

(b) and (c) added.
Amended by R.1989 d.196, effective April 17, 1989.
See: 21 N.J.R. 14(a), 21 N.J.R. 1019(b).
N.J.A.C. 18:7-11.7 cite corrected.
Amended by R.1994 d.186, effective April 18, 1994.
See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Cross References

See Corporation tax prepayments; amounts due, N.J.A.C. 18:7-3.7.

Statutory References

See N.J.S.A. 54:10A-15 as to due dates for filing returns under the Act.

18:7-11.8 Time to report change or correction in Federal net income

(a) The report of change or correction in Federal taxable income as the result of an Internal Revenue Service audit must be reported to the Division of Taxation within 90 days of issuance of the report.

(b) Any taxpayer which files an amended return with the United States Treasury Department must file an amended New Jersey Corporation Business Tax return within 90 days thereafter.

(c) After the filing of a report of change or correction on an IRA-100, or CBT-100-X, the Director may, within the time prescribed by law, audit the return and compute and assess the tax based upon the issue or issues set forth in the revenue agent report, but neither the Director nor the taxpayer may change the allocation of entire net income within and without New Jersey as theretofore computed.

(d) If the Division of Taxation assesses and bills a deficiency to a taxpayer resulting from a Federal change and if the taxpayer pays the deficiency in full within the 90 day period from the issuance of the report, then no separate return need be filed by the taxpayer reflecting the Federal change.

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Amended by R.1989 d.196, effective April 17, 1989.

See: 21 N.J.R. 14(a), 21 N.J.R. 1019(b).

N.J.A.C. 18:7-11.8 cite corrected.

Amended by R.1989 d.508, effective October 2, 1989.

See: 21 N.J.R. 1503(b), 21 N.J.R. 3177(a).

Deletion of text at (a) and addition of text regarding reporting changes resulting from IRS audit. Clarification of text at (c).

Amended by R.1990 d.102, effective February 5, 1990.

See: 21 N.J.R. 3079(a), 22 N.J.R. 363(b).

Added subsection (d), upon adoption.

Amended by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Cross References

For definition of "final determination", see N.J.A.C. 18:7-11.2 (Returns where Federal net income is changed) of this chapter.

Statutory References

See N.J.S.A. 54:10A-13 as to requirement that taxpayer report any amended return for his Federally taxable income to New Jersey, Division of Taxation within 90 days.

Case Notes

Interest on deficiency. *Texaco, Inc. v. Director, Div. of Taxation, Dept. of Treasury*, 13 N.J.Tax 572 (1994).

Limitations period for seeking refund of New Jersey corporate tax was not extended by furnishing amended tax return to IRS. *H.B. Acquisitions, Inc. v. Director, Div. of Taxation*, 12 N.J.Tax 60 (1991).

Second corporate return was "final return" commencing limitations period for refund. *H.B. Acquisitions, Inc. v. Director, Div. of Taxation*, 12 N.J.Tax 60 (1991).

Limitations period for seeking refund of corporate taxes was not extended due to equitable considerations. 26 U.S.C.A. § 338; *N.J.S.A. H.B. Acquisitions, Inc. v. Director, Div. of Taxation*, 12 N.J.Tax 60 (1991).

18:7-11.9 Time for filing returns for unauthorized foreign corporations doing business in New Jersey

(a) A foreign corporation which does business, employs or owns capital or property or maintains an office in New Jersey without authorization or after its withdrawal from the State, is subject to tax for each calendar or fiscal accounting period or part thereof during which it has engaged in any such activity. The corporation is subject to the same requirements with respect to filing returns and paying taxes as a duly authorized corporation.

(b) In this connection see N.J.S.A. 14A:13-11 under which every foreign corporation transacting any business, directly or indirectly, in New Jersey without having first obtained a Certificate of Authority to do business shall for each offense forfeit to the State the sum of \$200.00 to be recovered with costs in an action prosecuted by the Attorney General in the name of the State.

Statutory References

See N.J.S.A. 14A:13-11 as to every foreign corporation which shall transact any business in New Jersey, directly or indirectly, without first having obtained a Certificate of Authority to do business forfeiting to the State for each offense the sum of \$200.00 to be recovered with costs in an action prosecuted by the Attorney General in the name of the State. See N.J.S.A. 54:10A-4 as to definitions of "fiscal year" and "privilege period". See N.J.S.A. 54:10A-15 as to due dates for filing returns under the Act.

18:7-11.10 Failure to file return or make payment when due

See N.J.A.C. 18:7-14.1 (Penalties) of this chapter.

18:7-11.11 Returns required to be filed by corporation ceasing to be subject to tax

(a) A domestic corporation which ceases to possess its franchise is required to file a return covering each year or period for which no return was previously filed.

(b) A foreign corporation which surrenders its authority to do business or otherwise ceases to have a taxable status in New Jersey is required to file a return covering each year or period for which no return was filed.

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Statutory References

See N.J.S.A. 54:10A-2, 15, 17 as to requirements for filing short period returns.