CHAPTER 11

UNINCORPORATED BUSINESS TAX

Authority

Unless otherwise expressly noted, all provisions of this Chapter 11 were adopted by the Director, Division of Taxation, Emergency Transportation Tax Bureau, pursuant to authority delegated at N.J.S.A. 54:11B-1 et seq. The Unincorporated Business Tax Act.

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SUBCHAPTER 1. DEFINITIONS

18:11-1.1 Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Allocated gross receipts" means gross receipts allocated to this State as provided in N.J.A.C. 18:11-2.9; if no allocation is made of gross receipts capable of being so allocated, "allocated gross receipts" means total gross receipts as defined herein.

"Director" means the Director, Division of Taxation, in the Department of the Treasury, State of New Jersey.

"Gross receipts" means and includes all receipts of whatever kind and in whatever form, derived by an unincorporated business, without any deduction therefrom on account of any item of cost, expense or loss except that gross receipts does not include the sales price of property returned by customers to the extent that the sales price thereof is refunded either in cash or by credit. (See Sections 2.1 through 2.7 of this Chapter.) With respect to gross receipts received or accrued on and after January 1, 1975, and applicable to taxpayers reporting on the basis of the calendar year 1975 and fiscal years ending on and after December 31, 1974, and not later than June 30, 1976, retail dealers of motor fuels shall be entitled to a deduction of 100 per cent of the amount of Federal and New Jersey motor fuel taxes which were paid on motor fuel purchased by said dealers and which were included in the cost to the retail dealers on the purchase of said motor fuel. (See N.J.A.C. 18:11-2.1(c).)

"Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxpayer files a return for Federal income tax purposes. "Taxable year" means, in case of a return made for a fractional part of a year, the period for which such return is made.

1. "Calendar year" means an accounting period of 12 months which ends on the last day of December;

2. "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

"Taxpayer" means any person (individual or unincorporated entity) subject to the Unincorporated Business Tax.

"Total gross receipts" means gross receipts derived from all sources without regard to allocation to this State as provided in Subchapter 4 of this Chapter.

"Unincorporated business" means and includes any trade, business, profession or occupation conducted or practiced for profit in whole or in part within this State by an individual or other unincorporated entity not subject to the Corporation Business Tax Act (P.L. 1945, c.162) or the Financial Business Tax Law (P.L. 1946, c.174), except as provided in N.J.A.C. 18:11-2.11 through 18:11-2.22.

As amended, R.1976 d.173, eff. June 3, 1976.
See: 8 N.J.R. 259(c), 8 N.J.R. 356(c).

Statutory References

As to definitions, see N.J.S.A. 54:11B-2 and N.J.S.A. 54:11B-25.

SUBCHAPTER 2. GENERAL PROVISIONS

18:11-2.1 Gross receipts

(a) The term "gross receipts" is designed to include each and every business receipt derived by an unincorporated business, regardless of the kind of receipt or the form it may take.

(b) No deductions except as provided in subsection (c) of this Section are permitted in arriving at the calculation of gross receipts, since the tax is a gross tax and, therefore, the cost of items may not be deducted nor may any other item, such as, expenses or losses incurred.

Example: X, a cash basis calendar year taxpayer, is the owner of a retail grocery store operating as a sole proprietorship. The total of all the sales made for the year 1969 is $125,000. The cost of the goods sold was $110,000, operating expenses for the year $2,000 in rent, $500.00 for utilities and a loss of $200.00. There were no other amounts received by him except $150.00 in interest from savings in X's personal savings account. The amount of gross receipts to be reported by X for 1969, and upon which the tax is to be paid is $125,000. X may not deduct any of the other expenses nor the loss incurred in the business. X need not include the $150.00 of interest since this was not a business receipt on an account in the business name, but a personal nonbusiness item.

(c) Retail dealers of motor fuels shall be entitled to a deduction from gross receipts of 100 per cent of the amount of Federal and New Jersey motor fuel taxes which were paid on motor fuel purchased by said dealers and which were included in the cost to the retail dealers on the purchase of said motor fuel. The deduction shall be applicable with respect to gross receipts received or accrued on and after January 1, 1975, and shall be applicable to taxpayers reporting on the basis of the calendar year 1975 and fiscal years ending on and after December 31, 1974, and not later than June 30, 1976.

As amended, R.1976 d.173, eff. June 3, 1976.
See: 8 N.J.R. 259(c), 8 N.J.R. 356(c).