

**CHAPTER 2**

**GENERAL POLICIES AND PROCEDURES**

**Authority**

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

**Source and Effective Date**

R.2008 d.223, effective July 2, 2008.  
See: 40 N.J.R. 2101(a), 40 N.J.R. 4604(a).

**Chapter Expiration Date**

Chapter 2, General Policies and Procedures, expires on July 2, 2013.

**Chapter Historical Note**

Chapter 2, General Policies and Procedures, was adopted as R.1974 d.182, effective July 3, 1974. See: 6 N.J.R. 250(c), 6 N.J.R. 328(a).

Subchapter 2, Penalties and Interest, was adopted as R.1975 d.284, effective September 25, 1975. See: 7 N.J.R. 439(d), 7 N.J.R. 490(b).

Pursuant to Executive Order No. 66(1978), Chapter 2, General Policies and Procedures, expired on September 6, 1993, and was subsequently adopted as new rules by R.1993 d.542, effective November 1, 1993. See: 25 N.J.R. 3107(a), 25 N.J.R. 4927(b).

Subchapter 3, Requirements for Payment of Taxes by Electronic Funds Transfer, was adopted as R.1994 d.63, effective February 7, 1994. See: 25 N.J.R. 1078(a), 26 N.J.R. 824(a).

Subchapter 4, Postmark Rule, was adopted as R.1995 d.609, effective December 4, 1995. See: 27 N.J.R. 3589(a), 27 N.J.R. 4906(b).

Subchapter 5, Refunds, was adopted as R.1996 d.54, effective February 5, 1996. See: 27 N.J.R. 4163(a), 28 N.J.R. 892(a).

Subchapter 6, Confidentiality and Disclosure, was adopted as R.1995 d.610, effective December 4, 1995. See: 27 N.J.R. 3591(a), 27 N.J.R. 4907(a).

Subchapter 7, Recordkeeping and Retention Requirements, was adopted as R.1997 d.256, effective June 16, 1997. See: 28 N.J.R. 5156(a), 29 N.J.R. 2706(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, General Policies and Procedures, was readopted as R.1998 d.420, effective July 21, 1998. See: 30 N.J.R. 1919(b), 30 N.J.R. 3066(a).

Subchapter 8, Set-off of State Vendor Tax Debt, was adopted as R.1998 d.439, effective September 8, 1998. See: 30 N.J.R. 1920(a), 30 N.J.R. 3258(a).

Subchapter 9, Sale of Tax Indebtedness, was adopted as R.1999 d.147, effective May 3, 1999. See: 31 N.J.R. 593(a), 31 N.J.R. 1205(b).

Chapter 2, General Policies and Procedures, was readopted as R.2003 d.347, effective July 28, 2003. See: 35 N.J.R. 2164(a), 35 N.J.R. 3847(a).

Chapter 2, General Policies and Procedures, was readopted as R.2008 d.223, effective July 2, 2008. See: Source and Effective Date. See, also, section annotations.

Subchapter 10, Tax Clearance for Business Assistance and Incentives, was adopted as new rules by R.2009 d.284, effective September 21, 2009. See: 41 N.J.R. 2450(a), 41 N.J.R. 3461(b).

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**SUBCHAPTER 1. FORMS**

**18:2-1.1 Reproduction of forms**

(a) Subject to conditions and requirements in (b) and (c) below, the Director will accept, for filing purposes, reproductions of printed return forms and privately designed and printed and/or computer-generated and computer-prepared forms, in lieu of the official forms printed and furnished by the Director.

(b) In order to be acceptable for filing purposes, privately designed and printed and/or computer-generated and computer-prepared forms shall be submitted to the Division of Taxation for approval prior to use. The proposed form shall be forwarded for consideration by letter to the Director, Division of Taxation. The Director may, within his or her discretion, approve a form that does not interfere with either Division of Revenue or Division of Taxation procedures in any way. If a reproduction does not meet with the Director's approval, an explanation of the areas in which the form was found to be deficient will be enclosed with the letter rejecting the reproduction. Approval of a reproduction of a tax form shall be valid for one tax year, unless neither the official tax form nor the reproduction has changed since the year of approval in any respect other than date changes and minor editorial changes, in which case approval shall be valid until the tax form or reproduction is changed in any other way. The submission of an unapproved reproduction shall not satisfy statutory return filing requirements.

(c) In order to be acceptable for filing purposes, reproductions of printed return forms must meet the following conditions and requirements:

1. Reproductions must be facsimiles of the complete official forms, for the proper tax period, produced by photo-offset, photoengraving, photocopying, computer, or other similar reproduction processes.

2. Reproductions must be on paper of substantially the same weight and texture, of a quality at least as good as that used in the official form and of any color.

3. Reproductions must be of the same size as that of the official form, both as to the overall dimensions of the paper and the image reproduced thereon.

4. Format of pages shall adhere to the following:

i. It is preferable that both sides of the paper be used in making reproductions. However, reproduction on one side will be acceptable;

ii. All reproductions must result in the same page arrangement as that of the official form and the spacing of the printed matter on each page and the fold must be the same as on the official form;

iii. Separate pages must be fastened together in numerical order;

iv. Each separate page must be clearly identified by listing at the top of the page the taxpayer's name, the Federal identification number and the appropriate New Jersey serial number.

5. The quality of the reproduction of the printed matter must be substantially the same as that of the official form, and the filled-in information must be entirely legible.

6. The taxpayer's full and correct name and address and the identifying number as it appears on the form furnished by the Director must be typed or legibly printed on the reproduction.

7. Reproduction of forms may be made after insertion of the tax computations and the other required information. However, all signatures on forms to be filed must be original signatures, affixed subsequent to the reproduction process.

8. The Director does not approve or disapprove the specific equipment or process used in reproducing official forms, but requires only that the reproduced forms satisfy the stated conditions. It should be noted, however, that photostats do not meet all of the above conditions.

9. The Director does not approve or disapprove the specific writing medium or style of writing to be used, but requires that the filled-in information on the reproduced form be of good quality black-on-white, with handwriting of satisfactory legibility.

R.1974 d.182, effective July 3, 1974.

See: 6 N.J.R. 250(c), 6 N.J.R. 328(a).

Amended by R.1999 d.267, effective August 16, 1999.

See: 31 N.J.R. 1444(a), 31 N.J.R. 2369(a).

Rewrote (a); inserted a new (b); recodified former (b) as (c), deleted "flat," following "reproductions of" in the introductory paragraph, and inserted "computer," following "photocopying" in 1.

New Jersey Sales Tax Amended Return (Form ST-607-A) should be completed for the appropriate tax period(s).

2. Individual refunds: If the taxpayer overpaid sales tax when making a retail purchase, the taxpayer may request a refund directly from the vendor from whom the purchase was made. However, if the vendor has already submitted the tax to the State, the taxpayer must complete a Claim for Refund (Form A-3730) and include supporting documents to substantiate the claim.

3. Refund claims of Sales and Use Tax shall include documentation of all transactions to substantiate the tangible personal property or service that is the subject of the refund claim and the amount requested. Documentation required is as follows:

i. The refund claim (A-3730, shall be filed with documents, such as invoices, receipts, proof of payment of tax, and exemption certificates. These documents must be provided in a format suitable to determine the correctness of the grounds for the refund and the amount of the refund or credit. Acceptable formats include photocopies or in lieu of paper copies, imaged documents. Imaged documents, which can be read with universal readable software such as Adobe PDF and presented on CD may be submitted if first:

(1) The taxpayer submits a proposed plan for the submission to the Sales Tax Refund Section and received a written approval; and

(2) In claims of 25 or more transactions, the images of the documents are presented in an organized manner, which permits examination of the documents together with an electronic spreadsheet listing the transaction (see (d)4 below) and the taxpayer retains the original invoices for Division examination;

ii. All sales/purchase documentation must clearly identify the seller, purchaser, invoice number, invoice date, description of the transaction, amount of the invoice excluding the tax, and the amount of sales tax billed for the transaction. For those transactions exempt from sales tax by the tendering of an exemption certificate, the documentation relevant to all transactions with the issuer of the exemption certificate must clearly identify the purchaser. Cash receipts, register tapes or other receipts that do not identify the purchaser are not acceptable;

iii. Proof of payment for sales/use tax remitted.

(1) Proof of sales tax remitted to vendors is required and the Division will accept copies of canceled checks. A request for use of an alternative proof of payment must be requested in writing to the Sales and Use Tax Refund Section and written approval received by the claimant prior to submission of such alternative proof of tax payment in support of the refund claim. Any approved alternate proof of pay-

ment must provide a trail between the documents presented by use of notation, highlighting or other identification of the particular matching transactions.

(2) Proof of use tax accrual and remittance is required and the Division will accept copies of detailed journal entries or detailed listings previously prepared by the taxpayer in determining the use tax liability as reported on the ST-50 Quarterly Return, an ST-18 Use Tax Return, an ST-18B Annual Business Use Tax Return, or on the Gross Income Tax Individual Return NJ-1040. Payment of use tax will be confirmed from Division records;

iv. When the basis of a claim for refund is the receipt of an exemption certificate from the customer after the seller has remitted the tax on their ST-50 return, then copies of the following documents are required:

(1) The exemption certificate;

(2) The initial invoice showing the amount of tax billed; and

(3) Credit memoranda or proof of repayment of the tax to the customer; and

v. Amended quarterly returns are required for any period where the claim for refund results in the change of any of the figures previously reported. The amended return(s) should be filed online at the time of submitting a refund claim.

4. Refund claims of Sales and Use Tax with 25 or more separate transactions or credit memoranda shall be filed with a computer spreadsheet (A-3730-SU-1). A computer spreadsheet is a computer program that arranges numerical and textual data into a table of rows and columns. The computer spreadsheet shall display information for each transaction that is included as the subject of the refund claim.

i. The spreadsheet shall include, but is not limited to:

(1) The names of vendor and customer;

(2) The location of the transaction (for example, delivered to Pennsylvania, shipped by carrier or customer pickup);

(3) The invoice number;

(4) The invoice date;

(5) The item sold/purchased;

(6) The amount of the sale/purchase subject to refund;

(7) The amount of sales tax or use tax claimed for refund; and

(8) A statement of the grounds for the claimed refund.

ii. The computer spreadsheet should be edit-locked and, for the purposes of this section, the Division will accept computer spreadsheets created with Excel or any other .xls file compatible computer spreadsheet application. The computer spreadsheet shall be submitted with the refund claim on a compact disc or similar medium in common use. Receipt of a computer spreadsheet without simultaneous or prior filing of the form A-3730 does not constitute the filing of a claim for purposes of statute of limitations.

(e) A taxpayer requesting a refund of a payment of an additional assessment of Corporation Business Tax, Corporation Income Tax, Savings Institution Tax, Transfer Inheritance Tax, Estate Tax, Petroleum Gross Receipts Tax, Tobacco Products Wholesale Tax, Sales and Use Tax or Gross Income Tax pursuant to N.J.S.A. 54:49-14.b is required to use Form A-1730.

(f) If there is no other established refund claim procedure or amended return for other State taxes paid in error, a Claim for Refund (Form A-3730) should be completed and submitted with a detailed explanation with supporting documentation.

(g) The refund claim shall set forth the taxpayer's name, address, identifying number, signature, and a full narrative description of the claim. The narrative description shall set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the Division of the exact basis thereof. Citations to relevant statutes, regulations, and case law are not required but maybe included if known. The statement of the grounds and facts shall be verified by a written declaration that it is made under the penalties of perjury. If a refund claim does not contain sufficient information, the Division will return the claim with guidance to the taxpayer. For purposes of the statute of limitations for filing claims for refunds under N.J.S.A. 54:49-14 and 54A:9-8, or the statute of limitations for the computation of interest payments on late refunds that are not paid within six months from the last date prescribed, or permitted by extension of time for filing the return, or within six months after the return is filed, whichever is later, pursuant to N.J.S.A. 54:49-15.1, the refund claim will not be deemed complete until the required information is submitted. A claim which does not comply with the applicable requirements of this section shall not be considered for any purpose as a claim for refund or credit. (See also N.J.A.C. 18:2-5.9, Interest on overpayments.)

Amended by R.1999 d.295, effective September 7, 1999.  
See: 31 N.J.R. 1583(a), 31 N.J.R. 2626(a).

Added (f).  
Amended by R.2002 d.153, effective May 20, 2002.  
See: 33 N.J.R. 4083(a), 34 N.J.R. 1849(b).

Added a new (e); recodified former (e) as (f) and inserted "other" preceding "established refund"; recodified former (f) as (g).  
Amended by R.2007 d.386, effective December 17, 2007.  
See: 39 N.J.R. 3728(a), 39 N.J.R. 5368(a).

In the introductory paragraph of (d), inserted "(other than urban enterprise zone refunds)"; added (d)3 and (d)4; and in (g), substituted "for filing" for "on", "or the statute of limitations for the computation

of" for "and" following "54A:9-8", "that are not paid within six months from the last date prescribed, or permitted by extension of time for filing the return, or within six months after the return is filed, whichever is later, pursuant to" for "under" following "late refunds", and "the applicable requirements of this section" for "this subsection".

#### Case Notes

Where supermarket customers asserted violations of the New Jersey Consumer Fraud Act (CFA), N.J.S.A. 56:8-1 through 56:8-20, with regard to supermarkets overcharging the customers for sales tax by calculating the sales tax based on the regular price of the items purchased rather than on the reduced or discounted sales price actually charged for the items, the exclusive remedy available to the customers for a refund of any overpaid sales tax once the tax had been paid over to the Director was N.J.S.A. 54:32B-20(a), and therefore the customers' claims, including those under the CFA, were dismissed. *Kawa v. Wakefern Food Corp. Shoprite Supermarkets, Inc.*, 24 N.J. Tax 39, 2008 N.J. Tax LEXIS 8 (Tax Ct. 2008).

Director of the Division of Taxation had exclusive jurisdiction as to the assessment, collection, and refund of any tax under the Sales and Use Tax Act, N.J.S.A. 54:32B-1 through 54:32B-29, and N.J.S.A. 54:32B-18 makes clear that vendors have the obligation to pay over any overpaid tax monies to the Director with their returns; the Director is then authorized to determine the amount of tax due and, upon proper application, refund any tax erroneously, illegally, or unconstitutionally collected, pursuant to N.J.S.A. 54:32B-20(a). *Kawa v. Wakefern Food Corp. Shoprite Supermarkets, Inc.*, 24 N.J. Tax 39, 2008 N.J. Tax LEXIS 8 (Tax Ct. 2008).

No evidence exists that, with the enactment of N.J. Laws 2005, c. 126, the New Jersey Legislature intended to create or permit a common law cause of action or an action under the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 through 56:8-20, where tax has already been paid over to the Director of the Division of Taxation. N.J.S.A. 54:32B-20(c) is intended only to add a provision requiring written notice to a seller in connection with the only refund claim that can be made against a seller under existing law, that is, where a refund is claimed prior to the seller's report to and remittance of the tax to the Director. *Kawa v. Wakefern Food Corp. Shoprite Supermarkets, Inc.*, 24 N.J. Tax 39, 2008 N.J. Tax LEXIS 8 (Tax Ct. 2008).

#### 18:2-5.9 Interest on overpayments

(a) For tax paid with respect to reports or returns due on and after January 1, 1994, interest shall be allowed and paid on overpayments of tax at a rate determined by the Director to be equal to the prime rate, determined for each month or fraction thereof, compounded annually at the end of each calendar year, from the date that such interest commences to accrue to the date of the refund. "The date of the refund" shall be deemed the date set forth on the check or the documents authorizing electronic funds transfer (EFT). If interest must be paid, it will be calculated to accrue from the later of the date of the filing of a refund claim, the date the tax is paid, or the due date of the return. No interest shall be allowed or paid on an overpayment of less than one dollar; or on an overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return; or within six months after the return is filed, whichever is later. Interest will not be paid on overpayments where the taxpayer has requested that the overpayment be applied to the following year's tax liability.

(b) No interest will be paid on a refund of an overpayment issued pursuant to N.J.S.A. 54:49-16 unless and until six