



# New Jersey State Tax Audit

## Your Rights and Responsibilities

The New Jersey Division of Taxation's purpose in conducting an audit is to verify that the correct tax was paid. Because certain taxes are self-assessed, an audit program is essential in providing uniformity. During the audit, you may be required to provide the auditor with certain records necessary to verify return information. Depending on the type of return being audited, this may entail a review of income, receipts, expenses, credits, and other business records.

## Professional Audit Standards

The examination must be conducted in agreement with professional auditing standards by an auditor who is familiar with generally accepted accounting and [auditing procedures](#).

To avoid any conflicts of interest, the auditor cannot have any personal:

- Relationship with the taxpayer;
- Relationships with the taxpayer's family;
- Relationships with the taxpayer's employees (in the case of a business audit);
- Or financial interest in a business being audited.

## The Auditor's Obligation

The auditor's responsibility is to determine whether the amount of tax has been properly reported and to help the taxpayer voluntarily comply with our tax laws.

The auditor should be aware that it is the Division's goal to administer the laws fairly and uniformly with minimal interference of taxpayers and their business affairs. The auditor also must inform you of your rights and privileges in connection with such determinations.

If at any time during the course of an audit you feel these standards or any of your rights are being violated, contact the auditor's supervisor.

## Statute of Limitations

New Jersey Tax Law generally places a four-year statute of limitations on tax audits, beyond which the Division may not audit without your written consent. The exception is the Gross Income Tax., which has a different statute of limitations.

The statute of limitations does not apply for any period during which a taxpayer:

- Failed to file a return; or
- Failed to report Federal changes; or

- Filed a false or fraudulent return to evade tax.

Because variations do exist, the specific provisions of each tax law should be consulted.

### **Privacy/Confidentiality**

You have the right to know:

- Why we request certain information;
- How such information will be used; and
- The consequences of failing to submit the information.

Tax Law prohibits the disclosure of information obtained from a tax return or during the course of an audit to any unauthorized person. Tax Law does permit the Division to share tax information with the Internal Revenue Service and other tax agencies pursuant to defined standards of confidentiality and reciprocity.

New Jersey is committed to protecting the privacy of your tax information. Because traditional email is not secure, the Division of Taxation will not address specific tax account concerns via email. However, general questions and comments by email are welcome. No confidential information, such as Social Security or Federal Tax Identification numbers, liability or payment amounts, dates of birth, or bank account numbers should be included in your email.

### **Representation**

You may obtain representation at any time during the audit and have the right to suspend a meeting or interview at any time to obtain such representation.

Representatives must have the proper written authorization ([Appointment of Taxpayer Representative](#)) to act on your behalf in your absence.

### **Consent Form**

The consent form is an agreement between a taxpayer and the Division that extends the Statute of Limitations to complete the audit as well as the time to file a refund claim. Generally, the use of a consent form is for the convenience of the taxpayer. It allows both parties a greater degree of flexibility should you require additional time beyond the normal (30-day) requirement to secure necessary information. In the absence of a consent form, it may be difficult to grant requests for an extension of time beyond 30 days. The Division's goal is to complete all audits as expeditiously and equitably as possible.

### **Audit Techniques**

There are several different techniques used for conducting audits. The method an auditor chooses will depend on a number of variables, such as the type of tax, the accuracy and availability of records, and the size and complexity of a business. For more

details about the audit process and techniques, please refer to [The New Jersey Manual of Audit Procedures](#).

### **Audit Duration**

The duration of the audit will depend on the complexity of the returns being audited and the completeness and accuracy of the records.

### **Audit Findings**

If there are changes, the auditor will notify you and your representative to explain the findings and provide copies of audit work papers and schedules. The audit findings, as well as the audit methods and procedures, will be explained in simple, nontechnical terms. Findings may include recommended changes in recordkeeping practices to correct accounting errors found during the audit, an explanation of the proper interpretation of Tax Law in areas in which errors were made, a notice of additional taxes due, or a notification that a refund is due. All notices of assessment related to audits will be sent by registered or certified mail.

A reasonable period of time will be given to review the audit findings and, if necessary, submit additional information. The auditor will then analyze any additional information or documentation submitted and, if appropriate, revise the work papers. If the audit results in a refund, the auditor will provide any assistance that may be required.

A confirmation letter will be sent for any audit resulting in no change.

### **If You Agree**

If you agree with the audit findings, you [submit payment](#) of the amount due. If you owe money but cannot pay in full, arrangements may be made for a [deferred payment plan](#). You should be aware that interest (and possibly penalties) would continue to accrue on the unpaid balance.

### **If You Disagree**

Often, disagreements with the audit findings can be resolved with the Auditor and/or a Supervisor at your request. The Auditor, along with the Supervisor, will review all additional information submitted and determine if any adjustments are necessary. If you are still in disagreement after a final decision is made by the Division, you may informally appeal the Audit Assessment or Notice of Deficiency through the Division's [Conference and Appeals Branch](#). You must submit a written appeal to the Conference and Appeals Branch within 90 days of the date the notice was issued even if you have previously written to the Division and objected to the initial audit findings. Protests for Inheritance and Estate Tax should be filed directly with the Chief of the [Inheritance and Estate Tax Branch](#) and not with the Conference and Appeals Branch.

## **An Alternative**

As an alternative to protesting or appealing an audit assessment made for tax periods beginning on or after January 1, 1999, a taxpayer who does not timely protest or appeal the assessment may [pay the assessment](#) and then file for a refund of the payment. However, the taxpayer must:

- Pay the entire assessment within one year after the time for filing the protest expires; **and**
- File the refund claim on [Form A-1730](#) with all supporting documentation within 450 days after the time for filing the protest expires.

Certain exceptions may apply. Please review the instructions on Form A-1730 for more details.

## **Penalties and Interest**

It is to your advantage to avoid penalties and interest by filing your tax returns and paying the correct amount of taxes on time. The three most common reasons for tax penalties are:

- Late filing;
- Late payment of taxes;
- Underpayment of estimated tax;

Penalties for late filing and delinquent taxes are generally based on the amount of overdue tax. However, there are various penalties for late filing, whether you owe any taxes or not. Both interest and penalties will continue to be added to the amount due until payment is received, whether you agree or disagree.

## **Claims for Refund**

Generally, you have four years to claim a refund for any original tax reported and paid, unless the law provides a shorter time limit for a particular tax, such as Gross Income Tax and Inheritance and Estate Tax. Refunds may be claimed on amended returns or by completing a ["Claim for Refund" \(Form A-3730\)](#) with supporting documentation.

As a general rule, the interest will be paid at the prime rate on most refundable overpayments which are held by the State for more than six months from the date of filing or payment. Specific rules should be consulted.

The type of claim being made determines which refund claim form or return to use. For information and copies of the appropriate form, you may call 1-800-323-4400 (Touch-tone phones in NJ, NY, PA, DE, and MD) or 609-826-4400 (anywhere).

## **Your Right to Protest**

Disagreement with an action taken by the Division of Taxation may be protested by filing a *Request for an informal hearing*.

### **Hearing**

You can request a formal hearing if you feel that you have been unfairly treated by a finding or assessment of the Director. You must file a protest in writing and request it within 90 days of the date of the notice of assessment or finding (in the form and manner described in N.J.A.C. 18:1-1.8).

An informal conference is an inexpensive way to resolve protests without a formal hearing. It may be conducted with or without representation on behalf of the taxpayer or other party involved.

After the conference, a determination is made. This determination will be binding unless you file a petition for an Appeal within 90 days. Further disagreements require appeals to a higher court.

### **Appeal**

You may appeal unfavorable decisions to the Tax Court, in accordance with pertinent provisions of the State Tax Uniform Procedure Law, within 90 days after any final decision, order, finding, assessment, or action of the Director.

For further questions concerning the Appeals process, address your requests to:

**State of New Jersey  
Division of Taxation  
Conference and Appeals Branch  
PO Box 198  
Trenton, NJ 08695-0198**

### ***Need Additional Help?***

#### **Phone**

Customer Service Center: 609-292-6400

- Tax Practitioners' Hotline:
  - Personal Income Tax — 609-633-6657
  - Business Taxes — 609-633-6905

#### **Online**

Division of Taxation Web Site: <http://www.state.nj.us/treasury/taxation>

E-mail: [nj.taxation@treas.nj.gov](mailto:nj.taxation@treas.nj.gov)