

# PKF PERSPECTIVES

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## SUMMARY OF RECENT NEW JERSEY TAX LEGISLATION

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### Property Tax Relief Benefits Increased

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New legislation enacted as part of the **Fair and Immediate Relief Program (FAIR)** provides increased property tax relief benefits to New Jersey homeowners and tenants.

Depending on the amount of property taxes paid and gross income:

- homeowners age 65 or older, or disabled homeowners, are eligible for a minimum rebate of \$500, up to a maximum rebate of \$1,200
- homeowners under the age of 65 and not disabled are eligible for a minimum rebate of \$500, up to a maximum of \$800.

Tenants can expect to see their homestead rebate increase by \$50.

**However, no taxpayer may receive a rebate in excess of the amount of property taxes actually paid and rebates are not available to taxpayers with gross income in excess of \$200,000.**

The property tax rebates, which are intended to provide instant and direct property tax relief to nearly 2 million middle class families and seniors, are to be funded by a new increased gross income tax for the highest-income taxpayers. The intent is that the rebates are to be subsidized by those taxpayers who can best afford it.

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### New "Millionaire's Tax"

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The New Jersey Legislature has approved legislation which establishes a new "millionaire's tax" for taxpayers with taxable income over \$500,000 annually.

Proceeds from this tax are directed toward funding the new homestead property tax rebate program. **The new legislation establishes the top tax**

**rate at 8.97% on taxable income over \$500,000.** (Previously, the top tax rate was 6.73% on taxable income over \$150,000 for married individuals filing jointly, individuals filing as head of household, or on taxable income over \$75,000 for married individuals filing separately and single filers.)

Additionally, the new legislation imposes a 12% withholding tax on salary and wage income paid in excess of \$500,000 during tax year 2004.

The withholding tax changes are required to be implemented as soon as practicable, but no later than September 1, 2004. The income tax provisions are retroactive to January 1, 2004.

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### Business Net Operating Loss Changes

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New legislation has been enacted limiting the corporation business tax use of net operating losses to 50% of taxable income for tax years 2004 and 2005. (**The Business Tax Reform Act** had completely suspended the application of net operating losses for privilege periods beginning in calendar years 2002 and 2003. The state enacts this type of legislation in order to increase its tax revenues. By suspending or limiting the amount of losses that corporate taxpayers may take on their annual income tax returns, the corresponding tax revenues increase.)

The foregoing NOL limitations are only temporary. **Beginning in calendar year 2006, net operating losses will be deductible in full and those losses that were subject to suspension or limitation in prior years may be carried forward and consumed in subsequent years.**

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### Electronic Funds Transfer Threshold

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Electronic Funds Transfer (EFT) is a payment method that corporate taxpayers use to satisfy their tax liabilities. This form of payment, which replaces the traditional check-writing method, is already in place at the federal level and is becoming more widespread at the state level. In fact, effective July 1, 2004, corporate taxpayers with a prior year's tax liability of \$10,000 or more in

any one type of tax are required to remit payments for all taxes to the NJ Division of Revenue using the EFT payment method. The Division annually notifies those taxpayers who have crossed the threshold in any one tax of their required participation. The notification includes program information and documents to be completed. While many companies are required by law to remit payments in this manner, voluntary participation in the EFT program is both allowed and encouraged.

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### Realty Transfer Fees Increased

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Effective August 1, 2004, the rates associated with the realty transfer fee on standard transactions and on new constructions have increased on transfers of real property. The benchmark used for determining fee rates is total consideration of \$350,000. Once the purchase price exceeds this amount, the fees are calculated at higher rates than for purchases not in excess of \$350,000.



In addition to the rate increase, a new fee has been imposed on the transfer of real property zoned for residential use whether improved upon or not. Purchases in excess of \$1,000,000 are now subject to a fee of 1% of the entire amount of the consideration to be paid by the buyer. When transferring property, an **Affidavit of Consideration** (RTF-1) is now required to be affixed to and recorded with all deeds. This document is intended to attest to the value of the property as well as the property zoning class.

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### Nonresidents Subject to Accelerated Estimated Tax Payments on Sale of Real Property

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Effective August 1, 2004, nonresident individuals, estates, or trusts that sell or transfer real property in New Jersey are required to make an estimated income tax payment on the gain prior to the recording of the deed. The estimated tax is determined by:

multiplying the seller's gain, as computed for tax purposes, by the highest gross income tax rate of 8.97%

In no case may the estimated payment be less than 2% of the purchase price. The seller has the option of paying the estimated tax prior to closing

or at the closing itself. If the seller chooses to prepay, he/she must complete the **Nonresident Seller's Tax Prepayment Receipt Form** GIT/REP-2 along with estimated tax payment Form NJ-1040ES. Both forms must be filed at one of the Division of Taxation's regional branch offices. Sellers who choose not to prepay the estimated tax must complete the **Nonresident Seller's Tax Declaration Form** GIT/REP-3 which must be submitted at closing.

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### CBT Filers Denied Federal Depreciation Benefits

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For federal purposes, an expense deduction is provided for taxpayers who elect to treat the cost of qualifying property, called Section 179 property, as an expense rather than a capital expenditure.

Pursuant to the federal **Jobs and Growth Tax Relief Reconciliation Act of 2003**, the maximum Code Section 179 deduction was increased to \$100,000 for tax years 2003, 2004, and 2005. The foregoing act also increased the federal "bonus" depreciation deduction for qualifying property acquired after May 5, 2003 from 30% to 50%. **New Jersey State has "decoupled" from these federal provisions, meaning that the state does not recognize these federal tax benefits.** Corporation Business Tax filers may only take Section 179 benefits up to \$25,000. Additionally, bonus depreciation taken at the federal level is added back to income for purposes of determining New Jersey state tax income.

Items in this publication should not be considered official statements of position, nor advice for individuals or organizations without consulting a tax advisor. For more information, please contact Howard Pell or Leo Parmegiani at:

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