

## CHAPTER 100

AN ACT concerning the enhancement of tax compliance under the State Uniform Tax Procedure Law, amending and supplementing Title 54 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. R.S.54:49-10 is amended to read as follows:

Penalties, interest, collections costs as part of tax.

54:49-10. All penalties and interest when imposed by this or by any State tax law as well as the fee imposed for the cost of collection under section 8 of P.L.1987,c.76 (C.54:49-12.1), R.S.54:49-13, and the compensation for debt collection services under section 2 of P.L.1992, c.172 (C.54:49-12.3) shall be payable to and recoverable by the director in the same manner as if they were a part of the tax imposed.

2. Section 8 of P.L.1987, c.76 (C.54:49-12.1) is amended to read as follows:

C.54:49-12.1 Fees for cost of collection.

8. a. If any State tax is not paid within the time prescribed by law, and the director issues a certificate of debt pursuant to R.S.54:49-12, a fee for the cost of collection of the tax may be imposed by the director. In lieu of imposing the actual cost of collection as the fee, the director may impose a fee in the amount of 5% of the tax or \$100.00, whichever is greater. In the event that the State tax remains unpaid following the issuance of the certificate of debt and the director takes any further collection action including referral of the matter to the Attorney General, the fee imposed, in lieu of the actual cost of collection, may be 10% of the tax or \$200.00, whichever is greater. In the further event that the tax remains unpaid and suit is instituted for the collection of the tax, the fee imposed, in lieu of the actual cost of collection, may be 20% of the tax or \$500.00, whichever is greater. The fees imposed pursuant to this section shall be in addition to any interest or penalty, or both, otherwise provided by law. The director shall promulgate regulations for determining the cost of collection.

b. A fee for the cost of collection of 10% of the tax assessed or \$200.00, whichever is greater, shall be imposed by the director on the amount of an arbitrary assessment under R.S.54:49-5 or R.S.54:49-7 that is agreed to as final by the taxpayer.

3. Section 1 of P.L.2004, c.56 (C.54:50-37) is amended to read as follows:

C.54:50-37 Definitions relative to reporting of certain account information by financial institutions; report requirements.

1. a. For purposes of this section:

"Account" means a demand deposit account, checking or negotiable order of withdrawal account, savings account, time deposit account, or money market mutual fund account. "Account" also includes an equity securities account if permitted under federal law. "Account" does not include: an account to which a tax debtor does not have access due to the pledge of funds as security for a loan or other obligation; funds deposited to an account after the time that a financial institution initially attaches an account; an account to which a financial institution has a present right to exercise a right of set off.

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Financial institution" means a State or federally chartered bank, savings bank, savings and loan or credit union; a benefit association; insurance company; safe deposit company; money market mutual fund; or similar entity authorized to do business in this State. "Financial institution" also includes an investment and loan corporation if permitted under federal law.

"Tax debtor" means a person liable for a State tax indebtedness, including tax, interest, penalties and related fees, that has been reduced to judgment pursuant to a Certificate of Debt filed with the Clerk of the Superior Court by the director.

b. The director may request assistance and information from financial institutions in order to collect on the judgment of a tax debtor, as follows:

(1) Not more frequently than once every calendar quarter, or as otherwise agreed to by the financial institution, the director may provide to a financial institution information in an electronic format containing the names, social security numbers or other taxpayer identification numbers and any other identifying information within the director's records, of tax debtors and request that the financial institution provide a report to the director pursuant to paragraph (2) of this subsection.

(2) Within 30 days of the request by the director, or as otherwise agreed to by the financial institution, the financial institution shall provide a report, in an electronic format prescribed by the director, containing the following information appearing in the records of the financial institution with respect to each tax debtor having an account with that financial institution: full name; address; social security or other taxpayer identification number; any other identifying information; and all account numbers and the balances in each account.

c. A financial institution that complies with a request from the director by submitting a report to the director in accordance with this section shall not be liable under State law to any person for any disclosure of information to the director, or any other action taken in good faith to comply with the requirements of this section.

d. A financial institution furnishing a report to the director under this section is prohibited from disclosing to a tax debtor that the name of the debtor has been received from or furnished to the director unless authorized in writing by the director. A violation of this subsection shall result in the imposition of a civil penalty of \$1,000 for each instance of unauthorized disclosure by a financial institution.

e. The director may institute civil proceedings to enforce the provisions of this section.

f. The procedures described in this section are in addition to any remedies available by law to the director for the collection of tax indebtedness.

g. The director may promulgate regulations concerning the administration of this section.

4. Section 3 of P.L.1995, c.161 (C.54:50-28) is amended to read as follows:

C.54:50-28 Issuance of alcoholic beverage retail licensee clearance certificate, conditions.

3. a. The Director of the Division of Taxation shall, by December 31 of each calendar year, review the records pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.), as well as other State taxes to which the licensee is subject, of those alcoholic beverage retail licensees and holders of any license that confers the right to sell alcoholic beverages to consumers that are subject to review pursuant to subsection e. of this section to determine if

the licensees have satisfied all requirements for filing those taxes and information returns and for paying those taxes for which they have been liable individually or as operators of current or past businesses. The same review shall be performed at any time upon request by a prospective alcoholic beverage retail licensee or prospective holder of any license that confers the right to sell alcoholic beverages to consumers subject to review pursuant to subsection e. of this section, within such time limits as the director may determine.

b. If the director determines that a licensee or prospective licensee has complied with all requirements for filing tax and information returns pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.) as well as any other State tax reviewed pursuant to subsection a., and for paying or remitting those taxes, the director shall issue to the licensee or prospective licensee an alcoholic beverage retail licensee clearance certificate.

c. If the director determines that the licensee or prospective licensee has not filed all required tax and information returns or has not paid or remitted all tax, penalties, interest or fees due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on predominantly tourism related retail receipts pursuant to the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.), and any other State tax reviewed pursuant to subsection a., the director shall issue a notice of delinquency or deficiency listing unfiled returns or balances due. The director may require a licensee or prospective licensee to resolve all delinquencies and deficiencies before an alcoholic beverage retail licensee clearance certificate is issued, or upon review of the total circumstances, the director shall issue an interim alcoholic beverage retail licensee clearance certificate if the director determines to the director's satisfaction that the licensee or prospective licensee will resolve all such delinquencies and deficiencies.

d. The director's issuance of a regular or interim alcoholic beverage retail licensee clearance certificate shall not constitute a waiver of authority to demand resolution of all deficiencies and delinquencies and shall not prevent further audit or the assessment of additional taxes, penalties, interest or fees as may be provided by law.

e. Alcoholic beverage retail licensees and holders of any license that confers the right to sell alcoholic beverages to consumers, or prospective licensees or holders, subject to the review required by this section are:

(1) in calendar year 1995, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in Bergen, Burlington, Essex, Gloucester, Middlesex, Ocean and Salem counties;

(2) in calendar year 1996, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in those counties listed in paragraph (1) of this subsection and in Hudson, Hunterdon, Mercer, Monmouth, Somerset, Union, and Warren counties; and

(3) in calendar year 1997 and each calendar year thereafter, alcoholic beverage licensees and prospective licensees with business locations or prospective locations in those counties listed in paragraphs (1) and (2) of this subsection and in Atlantic, Camden, Cape May, Cumberland, Morris, Passaic, and Sussex counties.

C.54:50-38 Notification to director of proposed sale, transfer, assignment of business assets; claim for State taxes.

5. a. Whenever a person shall make a sale, transfer, or assignment in bulk of any part or the whole of the person's business assets, otherwise than in the ordinary course of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of the sale, transfer or assignment, or paying therefor, notify the director by registered mail, or other such method as the director may prescribe, of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferrer or assignor has represented to, or informed the purchaser, transferee or assignee that the seller, transferrer or assignor owes any State tax and whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Within 10 days of receiving such notice, the director shall notify the purchaser, transferee or assignee by such means as the director may prescribe that a possible claim for State taxes exists and include the amount of the State's claim.

b. If, upon receiving timely notice of a sale, transfer or assignment from a purchaser, transferee or assignee, the director fails to provide timely notice to the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, the purchaser, transferee or assignee may transfer over to the seller, transferrer or assignor any sums of money, property or choses in action, or other consideration to the extent of the amount of the State's claim. The purchaser, transferee or assignee shall not be subject to the liabilities and remedies imposed under the provisions of the uniform commercial code, Title 12A of the Revised Statutes of New Jersey, and shall not be personally liable for the payment to the State of any such taxes theretofore or thereafter determined to be due to the State from the seller, transferrer or assignor.

c. If the purchaser, transferee or assignee shall fail to give notice to the director as required by the preceding paragraph, or if the director shall inform the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferrer or assignor shall be subject to a first priority right and lien for any such State taxes theretofore or thereafter determined to be due from the seller, transferrer or assignor to the State, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferrer or assignor any such sums of money, property or choses in action to the extent of the amount of the State's claim. For failure to comply with the provisions of this section the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of the uniform commercial code, Title 12A of the Revised Statutes of New Jersey, shall be personally liable for the payment to the State of any such taxes theretofore or thereafter determined to be due to the State from the seller, transferrer or assignor, and such liability may be assessed and enforced in the same manner as the liability for any State tax under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

6. This act shall take effect immediately, but section 5 shall remain inoperative until the first day of the second month following enactment.

Approved June 28, 2007.