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RWH 4/30/08

P.L. 2007, CHAPTER 100, *approved June 28, 2007*  
Assembly, No. 5002 (*First Reprint*)

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

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. R.S.54:49-10 is amended to read as follows:

9 54:49-10 All penalties and interest when imposed by this or by  
10 any State tax law as well as the fee imposed for the cost of  
11 collection under R.S.54:45-12.1, R.S.54:49-13, and the  
12 compensation for debt collection services under section 2 of  
13 P.L.1992, c.172 (C.54:49-12.3) shall be payable to and recoverable  
14 by the director in the same manner as if they were a part of the tax  
15 imposed.

16 (cf: P.L.1987, c.76, s.5)

17

18 2. R.S.54:49-12.1 is amended to read as follows:

19 54:49-12.1 a. If any State tax is not paid within the time  
20 prescribed by law, and the director issues a certificate of debt  
21 pursuant to R.S.54:49-12, a fee for the cost of collection of the tax  
22 may be imposed by the director. In lieu of imposing the actual cost  
23 of collection as the fee, the director may impose a fee in the amount  
24 of 5% of the tax or \$100.00, whichever is greater. In the event that  
25 the State tax remains unpaid following the issuance of the  
26 certificate of debt and the director takes any further collection  
27 action including referral of the matter to the Attorney General, the  
28 fee imposed, in lieu of the actual cost of collection, may be 10% of  
29 the tax or \$200.00, whichever is greater. In the further event that  
30 the tax remains unpaid and suit is instituted for the collection of the  
31 tax, the fee imposed, in lieu of the actual cost of collection, may be  
32 20% of the tax or \$500.00, whichever is greater. The fees imposed  
33 pursuant to this section shall be in addition to any interest or  
34 penalty, or both, otherwise provided by law. The director shall  
35 promulgate regulations for determining the cost of collection.

36 b. A fee for the cost of collection of 10% of the tax assessed or  
37 \$200.00, whichever is greater, shall be imposed by the director on  
38 the amount of an arbitrary assessment under R.S.54:49-5 or  
39 R.S.54:49-7 that is agreed to as final by the taxpayer.

40 (cf: P.L.1987, c.76, s.8)

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ABU committee amendments adopted June 18, 2007.

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

3       1. a. For purposes of this section:

4       "Account" means a demand deposit account, checking or  
5 negotiable order of withdrawal account, savings account, time  
6 deposit account, or money market mutual fund account. "Account"  
7 also includes an equity securities account if permitted under federal  
8 law. "Account" does not include: an account to which a tax debtor  
9 does not have access due to the pledge of funds as security for a  
10 loan or other obligation; funds deposited to an account after the  
11 time that a financial institution initially attaches an account; an  
12 account to which a financial institution has a present right to  
13 exercise a right of set off [; an account to which the tax debtor does  
14 not have an unconditional right of access; and an account that has  
15 an account holder of interest named as an owner on the account.

16       "Account holder of interest" means any person, other than the tax  
17 debtor, who asserts an ownership interest in an account].

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

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

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

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

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

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

1 identifying information; and all account numbers and the balances  
2 in each account.

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

8 d. A financial institution furnishing a report to the director  
9 under this section is prohibited from disclosing to a tax debtor that  
10 the name of the debtor has been received from or furnished to the  
11 director unless authorized in writing by the director. A violation of  
12 this subsection shall result in the imposition of a civil penalty of  
13 \$1,000 for each instance of unauthorized disclosure by a financial  
14 institution.

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

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

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

22 (cf: P.L.2004, c.56)

23

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

26 3. a. The Director of the Division of Taxation shall, by December  
27 31 of each calendar year, review the records pursuant to the "Sales  
28 and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the retail  
29 sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et  
30 seq.), and the tax on predominantly tourism related retail receipts  
31 pursuant to the "Tourism Improvement and Development District  
32 Act," P.L.1992, c.165 (C.40:54D-1 et seq.), as well as other State  
33 taxes to which the licensee is subject, of those alcoholic beverage  
34 retail licensees and holders of any license that confers the right to  
35 sell alcoholic beverages to consumers that are subject to review  
36 pursuant to subsection e. of this section to determine if the licensees  
37 have satisfied all requirements for filing those taxes and  
38 information returns and for paying those taxes for which they have  
39 been liable individually or as operators of current or past  
40 businesses. The same review shall be performed at any time upon  
41 request by a prospective alcoholic beverage retail licensee or  
42 prospective holder of any license that confers the right to sell  
43 alcoholic beverages to consumers subject to review pursuant to  
44 subsection e. of this section, within such time limits as the director  
45 may determine.

46 b. If the director determines that a licensee or prospective  
47 licensee has complied with all requirements for filing tax and  
48 information returns pursuant to the "Sales and Use Tax Act,"

1 P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth  
2 class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on  
3 predominantly tourism related retail receipts pursuant to the  
4 "Tourism Improvement and Development District Act," P.L.1992,  
5 c.165 (C.40:54D-1 et seq.) as well as any other State tax reviewed  
6 pursuant to subsection a., and for paying or remitting those taxes,  
7 the director shall issue to the licensee or prospective licensee an  
8 alcoholic beverage retail licensee clearance certificate.

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

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

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

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

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

46 (3) in calendar year 1997 and each calendar year thereafter,  
47 alcoholic beverage licensees and prospective licensees with  
48 business locations or prospective locations in those counties listed

1 in paragraphs (1) and (2) of this subsection and in Atlantic,  
2 Camden, Cape May, Cumberland, Morris, Passaic, and Sussex  
3 counties.

4 (cf: P.L.1995, c.161, s.3)

5

6 5. (New Section) a. Whenever a person shall make a sale,  
7 transfer, or assignment in bulk of any part or the whole of the  
8 person's business assets, otherwise than in the ordinary course of  
9 business, the purchaser, transferee or assignee shall, at least 10 days  
10 before taking possession of the subject of the sale, transfer or  
11 assignment, or paying therefor, notify the director by registered  
12 mail <sup>1</sup>, or other such method as the director may prescribe,<sup>1</sup> of the  
13 proposed sale and of the price, terms and conditions thereof whether  
14 or not the seller, transferrer or assignor has represented to, or  
15 informed the purchaser, transferee or assignee that the seller,  
16 transferrer or assignor owes any State tax and whether or not the  
17 purchaser, transferee, or assignee has knowledge that such taxes are  
18 owing, and whether any such taxes are in fact owing. Within 10  
19 days of receiving such notice, the director shall notify the  
20 purchaser, transferee or assignee <sup>1</sup>by such means as the director  
21 may prescribe<sup>1</sup> that a possible claim for State taxes exists and  
22 include the amount of the State's claim.

23 <sup>1</sup>b. If, upon receiving timely notice of a sale, transfer or  
24 assignment from a purchaser, transferee or assignee, the director  
25 fails to provide timely notice to the purchaser, transferee or  
26 assignee that a possible claim for such State tax or taxes exists, the  
27 purchaser, transferee or assignee may transfer over to the seller,  
28 transferrer or assignor any sums of money, property or choses in  
29 action, or other consideration to the extent of the amount of the  
30 State's claim. The purchaser, transferee or assignee shall not be  
31 subject to the liabilities and remedies imposed under the provisions  
32 of the uniform commercial code, Title 12A of the Revised Statutes  
33 of New Jersey, and shall not be personally liable for the payment to  
34 the State of any such taxes theretofore or thereafter determined to  
35 be due to the State from the seller, transferrer or assignor.

36 c.<sup>1</sup> If the purchaser, transferee or assignee shall fail to give  
37 notice to the director as required by the preceding paragraph, or if  
38 the director shall inform the purchaser, transferee or assignee that a  
39 possible claim for such State tax or taxes exists, any sums of  
40 money, property or choses in action, or other consideration, which  
41 the purchaser, transferee or assignee is required to transfer over to  
42 the seller, transferrer or assignor shall be subject to a first priority  
43 right and lien for any such State taxes theretofore or thereafter  
44 determined to be due from the seller, transferrer or assignor to the  
45 State, and the purchaser, transferee or assignee is forbidden to  
46 transfer to the seller, transferrer or assignor any such sums of  
47 money, property or choses in action to the extent of the amount of

1 the State's claim. For failure to comply with the provisions of this  
2 section the purchaser, transferee or assignee, in addition to being  
3 subject to the liabilities and remedies imposed under the provisions  
4 of the uniform commercial code, Title 12A of the Revised Statutes  
5 of New Jersey, shall be personally liable for the payment to the  
6 State of any such taxes theretofore or thereafter determined to be  
7 due to the State from the seller, transferrer or assignor, and such  
8 liability may be assessed and enforced in the same manner as the  
9 liability for any State tax under the State Uniform Tax Procedure  
10 Law, R.S.54:48-1 et seq.

11

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

15

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17

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19 \_\_\_\_\_  
20 Concerns enhancement of tax compliance under the State  
Uniform Tax Procedure Law.



# ASSEMBLY, No. 5002

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**SYNOPSIS**

Concerns enhancement of tax compliance under the State Uniform Tax Procedure Law.

**CURRENT VERSION OF TEXT**

As introduced.



A5002 BURZICHELLI

2

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

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6 of New Jersey:

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11 collection under R.S.54:45-12.1, R.S.54:49-13, and the  
12 compensation for debt collection services under section 2 of  
13 P.L1992, c.172 (C.54:49-12.3) shall be payable to and recoverable  
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16 (cf: P.L.1987, c.76, s.5)

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23 of collection as the fee, the director may impose a fee in the amount  
24 of 5% of the tax or \$100.00, whichever is greater. In the event that  
25 the State tax remains unpaid following the issuance of the  
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27 action including referral of the matter to the Attorney General, the  
28 fee imposed, in lieu of the actual cost of collection, may be 10% of  
29 the tax or \$200.00, whichever is greater. In the further event that  
30 the tax remains unpaid and suit is instituted for the collection of the  
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32 20% of the tax or \$500.00, whichever is greater. The fees imposed  
33 pursuant to this section shall be in addition to any interest or  
34 penalty, or both, otherwise provided by law. The director shall  
35 promulgate regulations for determining the cost of collection.

36 b. A fee for the cost of collection of 10% of the tax assessed or  
37 \$200.00, whichever is greater, shall be imposed by the director on  
38 the amount of an arbitrary assessment under R.S.54:49-5 or  
39 R.S.54:49-7 that is agreed to as final by the taxpayer.

40 (cf: P.L.1987, c.76, s.8)

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

44 1. a. For purposes of this section:

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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13 "Account holder of interest" means any person, other than the tax  
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15 "Director" means the Director of the Division of Taxation in the  
16 Department of the Treasury.

17 "Financial institution" means a State or federally chartered bank,  
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25 reduced to judgment pursuant to a Certificate of Debt filed with the  
26 Clerk of the Superior Court by the director.

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

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

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

47 c. A financial institution that complies with a request from the  
48 director by submitting a report to the director in accordance with

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1 this section shall not be liable under State law to any person for any  
2 disclosure of information to the director, or any other action taken  
3 in good faith to comply with the requirements of this section.

4 d. A financial institution furnishing a report to the director  
5 under this section is prohibited from disclosing to a tax debtor that  
6 the name of the debtor has been received from or furnished to the  
7 director unless authorized in writing by the director. A violation of  
8 this subsection shall result in the imposition of a civil penalty of  
9 \$1,000 for each instance of unauthorized disclosure by a financial  
10 institution.

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

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

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

18 (cf: P.L.2004, c.56)

19

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

22 3. a. The Director of the Division of Taxation shall, by December  
23 31 of each calendar year, review the records pursuant to the "Sales  
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25 sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-8.15 et  
26 seq.), and the tax on predominantly tourism related retail receipts  
27 pursuant to the "Tourism Improvement and Development District  
28 Act," P.L.1992, c.165 (C.40:54D-1 et seq.), as well as other State  
29 taxes to which the licensee is subject, of those alcoholic beverage  
30 retail licensees and holders of any license that confers the right to  
31 sell alcoholic beverages to consumers that are subject to review  
32 pursuant to subsection e. of this section to determine if the licensees  
33 have satisfied all requirements for filing those taxes and  
34 information returns and for paying those taxes for which they have  
35 been liable individually or as operators of current or past  
36 businesses. The same review shall be performed at any time upon  
37 request by a prospective alcoholic beverage retail licensee or  
38 prospective holder of any license that confers the right to sell  
39 alcoholic beverages to consumers subject to review pursuant to  
40 subsection e. of this section, within such time limits as the director  
41 may determine.

42 b. If the director determines that a licensee or prospective  
43 licensee has complied with all requirements for filing tax and  
44 information returns pursuant to the "Sales and Use Tax Act,"  
45 P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth  
46 class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on  
47 predominantly tourism related retail receipts pursuant to the  
48 "Tourism Improvement and Development District Act," P.L.1992,

1 c.165 (C.40:54D-1 et seq.) as well as any other State tax reviewed  
2 pursuant to subsection a., and for paying or remitting those taxes,  
3 the director shall issue to the licensee or prospective licensee an  
4 alcoholic beverage retail licensee clearance certificate.

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

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

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

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

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

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

48 (cf: P.L.1995, c.161, s.3)

A5002 BURZICHELLI

1       5. (New Section) a. Whenever a person shall make a sale,  
2 transfer, or assignment in bulk of any part or the whole of the  
3 person's business assets, otherwise than in the ordinary course of  
4 business, the purchaser, transferee or assignee shall, at least 10 days  
5 before taking possession of the subject of the sale, transfer or  
6 assignment, or paying therefor, notify the director by registered  
7 mail of the proposed sale and of the price, terms and conditions  
8 thereof whether or not the seller, transferrer or assignor has  
9 represented to, or informed the purchaser, transferee or assignee  
10 that the seller, transferrer or assignor owes any State tax and  
11 whether or not the purchaser, transferee, or assignee has knowledge  
12 that such taxes are owing, and whether any such taxes are in fact  
13 owing. Within 10 days of receiving such notice, the director shall  
14 notify the purchaser, transferee or assignee that a possible claim for  
15 State taxes exists and include the amount of the State's claim.

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

38

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

42

43

STATEMENT

44

45       This bill makes several changes to tax collection procedures in  
46 order to increase revenues for the State.

47       The bill authorizes the imposition of a fee for the cost of  
48 collection on arbitrary assessments, which results when a taxpayer

## A5002 BURZICHELLI

7

1 fails to file required tax returns or fails to register to conduct  
2 business in the State. The cost of collection fee on arbitrary  
3 assessments is the greater of 10% of the tax liability or \$200. The  
4 fee could be levied in advance of a judgment for arbitrary  
5 assessments as to which the taxpayer agrees as final, and would be  
6 refundable if it is ultimately determined that no debt is owed. It is  
7 intended to allow the Division of Taxation to recoup costs incurred  
8 in tracking down taxpayers who fail to file taxes or to register to  
9 conduct business in the State.

10 The bill authorizes the Division of Taxation to request deposit  
11 information from financial institutions about more kinds of bank  
12 accounts when a tax judgment has been secured against a bank  
13 customer. The Department of Treasury uses bank account  
14 information to recover overdue taxes. The Department has  
15 recovered \$6 million in outstanding taxes over the past two years.  
16 Current law limits the Department's access to accounts held solely  
17 by the delinquent taxpayer and allows the financial institution to  
18 withhold account information when someone other than the  
19 taxpayer has an ownership interest in the account. In order to  
20 increase tax collection potential, the amendment removes a  
21 restriction on access to joint accounts, or certain accounts that are  
22 held in the name of someone other than the taxpayer, requiring  
23 disclosure on such accounts similar to individual accounts. The bill  
24 does not affect any other aspect of the collection process.

25 This bill also amends the procedure for the issuance of alcoholic  
26 beverage retail licensee clearance certificates by broadening the  
27 taxes reviewable prior to license issuance or renewal to any State  
28 taxes to which the license is subject. This amendment helps ensure  
29 the collection of taxes due to the State when an alcoholic beverage  
30 retail license is purchased or renewed. Current law limits such tax  
31 clearance procedures to only specified taxes that are due and owing.

32 Finally, this bill supplements Title 54 to add a requirement that a  
33 business pay all due State taxes before the sale of a substantial part  
34 of the assets of that business. The purchaser must notify the  
35 Director of the Division of Taxation of the sale at least 10 days  
36 before the transfer of goods or payment. The Director must respond  
37 within 10 days of receiving the notice if the seller owes State taxes.  
38 If the purchaser fails to notify the Director, or if purchaser receives  
39 notice from the Director that the seller owes taxes, the amount of  
40 taxes due must be paid to the State and the purchaser becomes  
41 personally liable for the payment. Current law only requires the  
42 payment of sales taxes by sellers required to collect the sales tax  
43 before such bulk sale.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5002**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 18, 2007

The Assembly Budget Committee reports favorably Assembly Bill No. 5002, with committee amendments.

The bill, as amended, makes several changes to tax collection procedures to increase compliance with State tax laws.

The bill authorizes the imposition of a fee for the cost of collection on arbitrary assessments. An "arbitrary assessment" results when a taxpayer fails to file required tax returns or fails to register to conduct business in the State. The fee authorized by the bill for the cost of collection on an arbitrary assessment is the greater of 10% of the tax liability or \$200. The fee could be levied in advance of a judgment for arbitrary assessments as to which the taxpayer agrees as final, and would be refundable if it is ultimately determined that no debt is owed. The fee is intended to allow the Division of Taxation to recoup costs incurred in tracking down taxpayers who fail to file taxes or to register to conduct business in the State.

The bill authorizes the Division of Taxation to request deposit information from financial institutions about more kinds of bank accounts when a tax judgment has been secured against a bank customer. The Department of Treasury uses bank account information to recover overdue taxes. The department has recovered \$6 million in outstanding taxes over the past two years using this information. Current law limits the department's access to accounts held solely by the delinquent taxpayer and allows the financial institution to withhold account information when someone other than the taxpayer has an ownership interest in the account. In order to increase tax collection potential, the amendment removes a restriction on access to joint accounts, or certain accounts that are held in the name of someone other than the taxpayer, requiring disclosure on such accounts similar to individual accounts. The bill does not affect any other aspect of the collection process.

This bill also amends the procedure for the issuance of alcoholic beverage retail licensee clearance certificates by broadening the taxes reviewable prior to license issuance or renewal to any State taxes to which the license is subject. This amendment helps ensure the



collection of taxes due to the State when an alcoholic beverage retail license is purchased or renewed. Current law limits such tax clearance procedures to only specified taxes that are due and owing.

This bill adds a requirement that helps assure that a business pays all due State taxes before the sale of a substantial part of the assets of that business is completed. The purchaser must notify the Director of the Division of Taxation of the sale at least 10 days before the transfer of goods or payment. The director must respond within 10 days of receiving the notice if the seller owes State taxes. If the purchaser fails to notify the director, or if purchaser receives notice from the director that the seller owes taxes, the purchaser must pay the amount of taxes due to the State instead of to the seller before the sale. If the purchaser fails to notify the director and does not pay the amount of taxes to the State instead of the seller before the sale is completed, the purchaser becomes personally liable for the payment. Current law only requires the payment of the sales tax liability of sellers required to collect the sales tax before such bulk sale.

As reported, this bill is identical to Senate Bill No. 3001 Sca.

#### FISCAL IMPACT:

The Executive estimates that the imposition of a fee for the cost of collection on arbitrary assessments will yield \$1,000,000 in new revenues annually.

The Executive estimates that the authorization of the Division of Taxation to request deposit information from financial institutions about more kinds of bank accounts when a tax judgment has been secured against a bank customer will generate \$10,000,000 in annual revenues. This amount will be achieved with staff expansion in the division, which will cost \$276,000. The Executive states that appropriations for the cost are included in the Governor's Fiscal Year 2008 proposed budget.

The Executive estimates that the collection of taxes tied to the issuance of alcoholic beverage retail licensee clearance certificates will generate \$5,000,000 in Fiscal Year 2008.

Finally, the Executive estimates that the collection of taxes tied to bulk sales will also generate \$5,000,000 in Fiscal Year 2008.

#### COMMITTEE AMENDMENTS:

The amendments add a subsection to section 5 of the bill to clarify the penalty provision. The tax payment and personal liability penalty only applies to purchasers who fail to provide timely notice of a bulk sale to the Director of the Division of Taxation. It does not apply when the Division fails to notify the purchaser of taxes owed by the seller after receiving the purchaser's notice. If the Division fails to notify the purchaser, the purchaser is not liable for taxes due. The new subsection states this explicitly.

The amendments also clarify the methods of notice required by purchasers and the Director of the Division of Taxation related to bulk sales.

**FISCAL NOTE**  
[First Reprint]  
**ASSEMBLY, No. 5002**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JULY 9, 2007

**SUMMARY**

**Synopsis:** Concerns enhancement of tax compliance under the State Uniform Tax Procedure Law.

**Type of Impact:** A recurring revenue increase to the State General Fund and the State Property Tax Relief Fund.

**Agencies Affected:** Department of the Treasury.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>	<b><u>Fiscal Year 2010</u></b>
<b>State Cost</b>	(\$276,000)	(\$276,000)	(\$276,000)
<b>State Revenue</b>	<u>\$21,000,000</u>	<u>\$21,000,000</u>	<u>\$21,000,000</u>
<b>Net Impact</b>	\$20,724,000	\$20,724,000	\$20,724,000

- The Office of Legislative Services (OLS) **tentatively concurs** with the Executive estimate, demurring, however, that it cannot independently ascertain the accuracy of the Executive projection since the Executive has not elaborated on the method and data underlying its estimate and since the OLS has been unable to locate any information that would have enabled it to construct an independent analysis.

**BILL DESCRIPTION**

Assembly Bill No. 5002 (1R) of 2007 modifies tax collection procedures to enhance the collection of deficient and delinquent State taxes.

First, the bill imposes a fee of the greater of ten percent of the tax liability or \$200 when a taxpayer fails to file required tax returns or register to conduct business in the State.

Second, when a tax judgment has been secured against a taxpayer, the legislation authorizes the Division of Taxation to request deposit information from financial institutions about joint accounts and certain accounts held in the name of someone other than the taxpayer that are linked to the delinquent taxpayer.

Third, when an applicant seeks the issuance or renewal of an alcoholic beverage retail license, the bill requires the division to review whether the applicant has an outstanding New Jersey tax liability and authorizes it to withhold the license until the tax delinquency has been resolved.

Forth, the bill requires a purchaser of a substantial part of a seller's business assets to notify the division of the pending sale so as to allow the division to check its tax records on the seller. If the seller owes taxes to the State, the purchaser must pay the tax amount due to the State and deduct it from the purchase price paid to the seller. The purchaser becomes personally liable for taxes owed by the seller if the purchaser fails to file the notice with the division.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation within the Department of the Treasury estimates that this bill would yield an additional \$20.7 million in annual State revenue. The division, however, has not provided any information on the method and data underlying its projection.

Specifically, it estimates that:

- authorizing the division to request deposit information from financial institutions about more bank accounts connected to delinquent taxpayers would generate \$10 million annually offset by \$276,000 in annually recurring administrative expenditures;
- strengthening tax debt collection procedures tied to the issuance of alcoholic beverage retail licenses would generate \$5 million annually;
- enhancing tax debt collection procedures tied to business asset sales would generate \$5 million annually; and
- imposing a fee for the failure to file required tax returns or to register to conduct business in the State would yield \$1 million per year.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS tentatively concurs with the Executive estimate, demurring, however, that it cannot independently ascertain the accuracy of the Executive projection since the Executive has not elaborated on the method and data underlying its estimate and since the OLS has been unable to locate any information that would have enabled it to construct an independent analysis.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

# SENATE, No. 3001

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**  
**Senator SHIRLEY K. TURNER**  
**District 15 (Mercer)**

### **SYNOPSIS**

Concerns enhancement of tax compliance under the State Uniform Tax Procedure Law.

### **CURRENT VERSION OF TEXT**

As introduced.



S3001 TURNER

2

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

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. R.S.54:49-10 is amended to read as follows:

9 54:49-10 All penalties and interest when imposed by this or by  
10 any State tax law as well as the fee imposed for the cost of  
11 collection under R.S.54:45-12.1, R.S.54:49-13, and the  
12 compensation for debt collection services under section 2 of  
13 P.L1992, c.172 (C.54:49-12.3) shall be payable to and recoverable  
14 by the director in the same manner as if they were a part of the tax  
15 imposed.

16 (cf: P.L.1987, c.76, s.5)

17

18 2. R.S.54:49-12.1 is amended to read as follows:

19 54:49-12.1 a. If any State tax is not paid within the time  
20 prescribed by law, and the director issues a certificate of debt  
21 pursuant to R.S.54:49-12, a fee for the cost of collection of the tax  
22 may be imposed by the director. In lieu of imposing the actual cost  
23 of collection as the fee, the director may impose a fee in the amount  
24 of 5% of the tax or \$100.00, whichever is greater. In the event that  
25 the State tax remains unpaid following the issuance of the  
26 certificate of debt and the director takes any further collection  
27 action including referral of the matter to the Attorney General, the  
28 fee imposed, in lieu of the actual cost of collection, may be 10% of  
29 the tax or \$200.00, whichever is greater. In the further event that  
30 the tax remains unpaid and suit is instituted for the collection of the  
31 tax, the fee imposed, in lieu of the actual cost of collection, may be  
32 20% of the tax or \$500.00, whichever is greater. The fees imposed  
33 pursuant to this section shall be in addition to any interest or  
34 penalty, or both, otherwise provided by law. The director shall  
35 promulgate regulations for determining the cost of collection.

36 b. A fee for the cost of collection of 10% of the tax assessed or  
37 \$200.00, whichever is greater, shall be imposed by the director on  
38 the amount of an arbitrary assessment under R.S.54:49-5 or  
39 R.S.54:49-7 that is agreed to as final by the taxpayer.

40 (cf: P.L.1987, c.76, s.8)

41

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

44 1. a. For purposes of this section:

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**S3001 TURNER**

1 "Account" means a demand deposit account, checking or  
2 negotiable order of withdrawal account, savings account, time  
3 deposit account, or money market mutual fund account. "Account"  
4 also includes an equity securities account if permitted under federal  
5 law. "Account" does not include: an account to which a tax debtor  
6 does not have access due to the pledge of funds as security for a  
7 loan or other obligation; funds deposited to an account after the  
8 time that a financial institution initially attaches an account; an  
9 account to which a financial institution has a present right to  
10 exercise a right of set off [; an account to which the tax debtor does  
11 not have an unconditional right of access; and an account that has  
12 an account holder of interest named as an owner on the account.

13 "Account holder of interest" means any person, other than the tax  
14 debtor, who asserts an ownership interest in an account].

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

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

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

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

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

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

47 c. A financial institution that complies with a request from the  
48 director by submitting a report to the director in accordance with

**S3001 TURNER**

1 this section shall not be liable under State law to any person for any  
2 disclosure of information to the director, or any other action taken  
3 in good faith to comply with the requirements of this section.

4 d. A financial institution furnishing a report to the director  
5 under this section is prohibited from disclosing to a tax debtor that  
6 the name of the debtor has been received from or furnished to the  
7 director unless authorized in writing by the director. A violation of  
8 this subsection shall result in the imposition of a civil penalty of  
9 \$1,000 for each instance of unauthorized disclosure by a financial  
10 institution.

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

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

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

18 (cf: P.L.2004, c.56)

19

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

22 3. a. The Director of the Division of Taxation shall, by  
23 December 31 of each calendar year, review the records pursuant to  
24 the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.),  
25 the retail sales tax in fourth class cities, P.L.1947, c.71 (C.40:48-  
26 8.15 et seq.), and the tax on predominantly tourism related retail  
27 receipts pursuant to the "Tourism Improvement and Development  
28 District Act," P.L.1992, c.165 (C.40:54D-1 et seq.), as well as all  
29 other State taxes to which the licensee is subject, of those alcoholic  
30 beverage retail licensees and holders of any license that confers the  
31 right to sell alcoholic beverages to consumers that are subject to  
32 review pursuant to subsection e. of this section to determine if the  
33 licensees have satisfied all requirements for filing those taxes and  
34 information returns and for paying those taxes for which they have  
35 been liable individually or as operators of current or past  
36 businesses. The same review shall be performed at any time upon  
37 request by a prospective alcoholic beverage retail licensee or  
38 prospective holder of any license that confers the right to sell  
39 alcoholic beverages to consumers subject to review pursuant to  
40 subsection e. of this section, within such time limits as the director  
41 may determine.

42 b. If the director determines that a licensee or prospective  
43 licensee has complied with all requirements for filing tax and  
44 information returns pursuant to the "Sales and Use Tax Act,"  
45 P.L.1966, c.30 (C.54:32B-1 et seq.), the retail sales tax in fourth  
46 class cities, P.L.1947, c.71 (C.40:48-8.15 et seq.), and the tax on  
47 predominantly tourism related retail receipts pursuant to the  
48 "Tourism Improvement and Development District Act," P.L.1992,



**S3001 TURNER**

1 c.165 (C.40:54D-1 et seq.) as well as all other State tax reviewed  
2 pursuant to subsection a., and for paying or remitting those taxes,  
3 the director shall issue to the licensee or prospective licensee an  
4 alcoholic beverage retail licensee clearance certificate.

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

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

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

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

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

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

48 (cf: P.L.1995, c.161, s.3)

**S3001 TURNER**

1       5. (New Section) a. Whenever a person shall make a sale,  
2 transfer, or assignment in bulk of any part or the whole of the  
3 person's business assets, otherwise than in the ordinary course of  
4 business, the purchaser, transferee or assignee shall, at least 10 days  
5 before taking possession of the subject of the sale, transfer or  
6 assignment, or paying therefor, notify the director by registered  
7 mail of the proposed sale and of the price, terms and conditions  
8 thereof whether or not the seller, transferrer or assignor has  
9 represented to, or informed the purchaser, transferee or assignee  
10 that the seller, transferrer or assignor owes any State tax and  
11 whether or not the purchaser, transferee, or assignee has knowledge  
12 that such taxes are owing, and whether any such taxes are in fact  
13 owing. Within 10 days of receiving such notice, the director shall  
14 notify the purchaser, transferee or assignee that a possible claim for  
15 State taxes exists and include the amount of the State's claim.

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

38

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

42

43

44

**STATEMENT**

45

46       This bill makes several changes to tax collection procedures in  
47 order to increase revenues for the State.

**S3001 TURNER**

1       The bill authorizes the imposition of a fee for the cost of  
2 collection on arbitrary assessments, which results when a taxpayer  
3 fails to file required tax returns or fails to register to conduct  
4 business in the State. The cost of collection fee on arbitrary  
5 assessments is the greater of 10% of the tax liability or \$200. The  
6 fee could be levied in advance of a judgment for arbitrary  
7 assessments as to which the taxpayer agrees as final, and would be  
8 refundable if it is ultimately determined that no debt is owed. It is  
9 intended to allow the Division of Taxation to recoup costs incurred  
10 in tracking down taxpayers who fail to file taxes or to register to  
11 conduct business in the State.

12       The bill authorizes the Division of Taxation to request deposit  
13 information from financial institutions about more kinds of bank  
14 accounts when a tax judgment has been secured against a bank  
15 customer. The Department of Treasury uses bank account  
16 information to recover overdue taxes. The Department has  
17 recovered \$6 million in outstanding taxes over the past two years.  
18 Current law limits the Department's access to accounts held solely  
19 by the delinquent taxpayer and allows the financial institution to  
20 withhold account information when someone other than the  
21 taxpayer has an ownership interest in the account. In order to  
22 increase tax collection potential, the amendment removes a  
23 restriction on access to joint accounts, or certain accounts that are  
24 held in the name of someone other than the taxpayer, requiring  
25 disclosure on such accounts similar to individual accounts. The bill  
26 does not affect any other aspect of the collection process.

27       This bill also amends the procedure for the issuance of alcoholic  
28 beverage retail licensee clearance certificates by broadening the  
29 taxes reviewable prior license issuance or renewal to any State taxes  
30 to which the license is subject. This amendment helps ensure the  
31 collection of taxes due to the State when an alcoholic beverage  
32 retail license is purchased or renewed. Current law limits such tax  
33 clearance procedures to only specified taxes that are due and owing.

34       Finally, this bill supplements Title 54 to add a requirement that a  
35 business pay all due State taxes before the sale of a substantial part  
36 of the assets of that business. The purchaser must notify the  
37 Director of the Division of Taxation of the sale at least 10 days  
38 before the transfer of goods or payment. The Director must respond  
39 within 10 days of receiving the notice if the seller owes State taxes.  
40 If the purchaser fails to notify the Director, or if purchaser receives  
41 notice from the Director that the seller owes taxes, the amount of  
42 taxes due must be paid to the State and the purchaser becomes  
43 personally liable for the payment. Current law only requires the  
44 payment of sales taxes by sellers required to collect the sales tax  
45 before such bulk sale.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3001**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 18, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3001, with committee amendments.

This bill, as amended, makes several changes to tax collection procedures to increase compliance with State tax laws.

Specifically, the bill authorizes the imposition of a fee for the cost of collection on arbitrary assessments. An “arbitrary assessment” results when a taxpayer fails to file required tax returns or fails to register to conduct business in the State. The fee authorized by the bill for the cost of collection on an arbitrary assessment is the greater of 10% of the tax liability or \$200. The fee could be levied in advance of a judgment for arbitrary assessments as to which the taxpayer agrees as final, and would be refundable if it is ultimately determined that no debt is owed. The fee is intended to allow the Division of Taxation to recoup costs incurred in tracking down taxpayers who fail to file taxes or to register to conduct business in the State.

The bill authorizes the Division of Taxation to request deposit information from financial institutions about more kinds of bank accounts when a tax judgment has been secured against a bank customer. The Department of Treasury uses bank account information to recover overdue taxes. The department has recovered \$6 million in outstanding taxes over the past two years. Current law limits the department’s access to accounts held solely by the delinquent taxpayer and allows the financial institution to withhold account information when someone other than the taxpayer has an ownership interest in the account. In order to increase tax collection potential, the amendment removes a restriction on access to joint accounts, or certain accounts that are held in the name of someone other than the taxpayer, requiring disclosure on such accounts similar to individual accounts. The bill does not affect any other aspect of the collection process.

This bill also amends the procedure for the issuance of alcoholic beverage retail licensee clearance certificates by broadening the taxes reviewable prior to license issuance or renewal to any State taxes to which the license is subject. This amendment helps ensure the collection of taxes due to the State when an alcoholic beverage retail

license is purchased or renewed. Current law limits such tax clearance procedures to only specified taxes that are due and owing.

This bill adds a requirement that helps assure that a business pays all due State taxes before the sale of a substantial part of the assets of that business is completed. The purchaser must notify the Director of the Division of Taxation of the sale at least 10 days before the transfer of goods or payment. The director must respond within 10 days of receiving the notice if the seller owes State taxes. If the purchaser fails to notify the director, or if purchaser receives notice from the director that the seller owes taxes, the purchaser must pay the amount of taxes due to the State instead of to the seller before the sale. If the purchaser fails to notify the director and does not pay the amount of taxes to the State instead of the seller before the sale is completed, the purchaser becomes personally liable for the payment. Current law only requires the payment of the sales tax liability of sellers required to collect the sales tax before such bulk sale.

#### COMMITTEE AMENDMENTS:

The amendments add a subsection to section 5 of the bill to clarify the penalty provision. The tax payment and personal liability penalty only applies to purchasers who fail to provide timely notice of a bulk sale to the Director of the Division of Taxation. It does not apply when the Division fails to notify the purchaser of taxes owed by the seller after receiving the purchaser's notice. If the Division fails to notify the purchaser, the purchaser is not liable for taxes due. The new subsection states this explicitly.

The amendments also clarify the methods of notice required by purchasers and the Director of the Division of Taxation related to bulk sales.

#### FISCAL IMPACT:

The Executive estimates that the imposition of a fee for the cost of collection on arbitrary assessments will yield \$1,000,000 in new revenues annually.

The Executive estimates that the authorization of the Division of Taxation to request deposit information from financial institutions about more kinds of bank accounts when a tax judgment has been secured against a bank customer will generate \$10,000,000 in annual revenues. This amount will be achieved with staff expansion in the division, which will cost \$276,000. The Executive states that appropriations for the cost are included in the Governor's Fiscal Year 2008 proposed budget.

The Executive estimates that the collection of taxes tied to the issuance of alcoholic beverage retail licensee clearance certificates will generate \$5,000,000 in Fiscal Year 2008.

Finally, the Executive estimates that the collection of taxes tied to bulk sales will also generate \$5,000,000 in Fiscal Year 2008.

**FISCAL NOTE**  
[First Reprint]  
**SENATE, No. 3001**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: JULY 9, 2007

**SUMMARY**

**Synopsis:** Concerns enhancement of tax compliance under the State Uniform Tax Procedure Law.

**Type of Impact:** A recurring revenue increase to the State General Fund and the State Property Tax Relief Fund.

**Agencies Affected:** Department of the Treasury.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>	<b><u>Fiscal Year 2010</u></b>
<b>State Cost</b>	(\$276,000)	(\$276,000)	(\$276,000)
<b>State Revenue</b>	<u>\$21,000,000</u>	<u>\$21,000,000</u>	<u>\$21,000,000</u>
<b>Net Impact</b>	\$20,724,000	\$20,724,000	\$20,724,000

- The Office of Legislative Services (OLS) **tentatively concurs** with the Executive estimate, demurring, however, that it cannot independently ascertain the accuracy of the Executive projection since the Executive has not elaborated on the method and data underlying its estimate and since the OLS has been unable to locate any information that would have enabled it to construct an independent analysis.

**BILL DESCRIPTION**

Senate Bill No. 3001 (1R) of 2007 modifies tax collection procedures to enhance the collection of deficient and delinquent State taxes.

First, the bill imposes a fee of the greater of ten percent of the tax liability or \$200 when a taxpayer fails to file required tax returns or register to conduct business in the State.

Second, when a tax judgment has been secured against a taxpayer, the legislation authorizes the Division of Taxation to request deposit information from financial institutions about joint accounts and certain accounts held in the name of someone other than the taxpayer that are linked to the delinquent taxpayer.

Third, when an applicant seeks the issuance or renewal of an alcoholic beverage retail license, the bill requires the division to review whether the applicant has an outstanding New Jersey tax liability and authorizes it to withhold the license until the tax delinquency has been resolved.

Forth, the bill requires a purchaser of a substantial part of a seller's business assets to notify the division of the pending sale so as to allow the division to check its tax records on the seller. If the seller owes taxes to the State, the purchaser must pay the tax amount due to the State and deduct it from the purchase price paid to the seller. The purchaser becomes personally liable for taxes owed by the seller if the purchaser fails to file the notice with the division.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation within the Department of the Treasury estimates that this bill would yield an additional \$20.7 million in annual State revenue. The division, however, has not provided any information on the method and data underlying its projection.

Specifically, it estimates that:

- authorizing the division to request deposit information from financial institutions about more bank accounts connected to delinquent taxpayers would generate \$10 million annually offset by \$276,000 in annually recurring administrative expenditures;
- strengthening tax debt collection procedures tied to the issuance of alcoholic beverage retail licenses would generate \$5 million annually;
- enhancing tax debt collection procedures tied to business asset sales would generate \$5 million annually; and
- imposing a fee for the failure to file required tax returns or to register to conduct business in the State would yield \$1 million per year.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS tentatively concurs with the Executive estimate, demurring, however, that it cannot independently ascertain the accuracy of the Executive projection since the Executive has not elaborated on the method and data underlying its estimate and since the OLS has been unable to locate any information that would have enabled it to construct an independent analysis.

*Section: Revenue, Finance and Appropriations*

*Analyst: Thomas Koenig  
Associate Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67.