

# 54:48-2

## LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

**LAWS OF:** 2006                    **CHAPTER:** 36

**NJSA:** 54:48-2 (Concerns electronic methods for filing tax returns and paying State taxes; establishes additional penalty for failure to use required methods and requires certain tax preparers to file gross income tax returns and payments electronically)

**BILL NO:** A4704 (Substituted for S1985)

**SPONSOR(S)** Gordon and Bryant

**DATE INTRODUCED:** June 22, 2006

**COMMITTEE:**            **ASSEMBLY:** Budget

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** June 26, 2006

**SENATE:** June 30, 2006

**DATE OF APPROVAL:** July 8, 2006

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (1st reprint enacted)

**A4704**

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    [ASSEMBLY:](#) [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

**S1985**

[SPONSOR'S STATEMENT:](#) (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH 3/4/08

P.L. 2006, CHAPTER 36, *approved July 8, 2006*  
Assembly, No. 4704 (*First Reprint*)

1 AN ACT concerning filing methods for 'State' tax '[documents and  
2 filing standards when] returns and payments, including<sup>1</sup>  
3 electronic filing methods '[are utilized] , and' requiring certain  
4 tax preparers to electronically file gross income tax returns,  
5 amending '[P.L.1987, c.76] R.S.54:48-2<sup>1</sup>, P.L.1992, c.175 and  
6 R.S.54:49-4 and supplementing Title 54A of the New Jersey  
7 Statutes.

8  
9 **BE IT ENACTED** by the Senate and General Assembly of the State  
10 of New Jersey:

11  
12 1. '[Section 1 of P.L.1987, c.76 (C. 54:48-2)] R.S.54:48-2<sup>1</sup> is  
13 amended to read as follows:

14 54:48-2. As used in this subtitle:

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

17 "Department" means the Division of Taxation in the Department  
18 of the Treasury.

19 "Director" means the Director of the Division of Taxation.

20 "Prime rate" means the average predominant prime rate, as  
21 determined by the Board of Governors of the Federal Reserve  
22 System, quoted by commercial banks to large businesses as of the  
23 first business day of the calendar quarter within which the payment  
24 was due; except that as to the calculation of interest accruing on and  
25 after the July 1 next following enactment of P.L.1992, c.175 "prime  
26 rate" means that rate quoted as of December 1 of the calendar year  
27 immediately preceding the calendar year in which the payment was  
28 due, provided however, that if the director determines that the prime  
29 rate quoted by commercial banks to large businesses varies by more  
30 than one percentage point from the rate otherwise determined, the  
31 director shall redetermine the prime rate to be that quoted prime  
32 rate for subsequent calendar quarters of the calendar year in which  
33 payments become due.

34 "State tax" means any tax which is payable to or collectible by  
35 the director, and "State tax law" means any law which levies or  
36 imposes a State tax as herein defined.

37 "Taxpayer" means any person owing or liable to pay any State  
38 tax or any person deemed by the director to be so owing or liable.

39 "Tax preparer" means any person who prepares for  
40 compensation, or who employs one or more persons to prepare for  
41 compensation, any return of tax or claim for refund under any State  
42 tax law.

43 (cf: P.L.1992,c.175,s.1)

**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 22, 2006.

1       2. Section 13 of P.L.1992, c.175 (C.54:49-3.1) is amended to  
2 read as follows:

3       13. a. Except as another payment method may be specified by  
4 law, a tax return, report, notice, petition, protest, claim or other  
5 document to be filed or remittance containing payment of tax,  
6 required to be filed within a prescribed period, or on or before a  
7 prescribed date, under the provisions of any State tax that, after the  
8 period or the date, is delivered by United States mail to the director,  
9 bureau, office, officer or person with which or with whom the  
10 document is required to be filed shall be deemed to be delivered on  
11 the date of the United States postmark stamped on the envelope.  
12 This shall apply only if the postmark date falls within the prescribed  
13 period or on or before the prescribed date for the filing of the  
14 document, determined with regard to any extension granted for  
15 filing, and the document was deposited in the mail, postage prepaid,  
16 properly addressed to the director, bureau, office, officer or person  
17 with which or with whom the document is required to be filed. If  
18 any document is sent by United States registered or certified mail,  
19 such registration or certification shall be prima facie evidence that  
20 the document was delivered to the director, bureau, office, officer  
21 or person to which or to whom addressed. This section shall also  
22 apply to postmarks not made by the United States Postal Service to  
23 the extent the Director of the Division of Taxation in the  
24 Department of the Treasury may prescribe.

25       b. Notwithstanding any law to the contrary, the director is  
26 authorized to permit or mandate the acceptable methods of filing  
27 '[and payment for any document, including returns, or] any return  
28 required to be filed and making any<sup>1</sup> payment required to be  
29 remitted within a prescribed period, or on or before a prescribed  
30 date, under the provisions of any State tax law. The director may  
31 prescribe reasonable methods for filing and payment, including  
32 electronic filing and payment methods, at the director's discretion,  
33 by the promulgation of regulations '[or filing instructions]' . The  
34 provisions of this section shall not be deemed to authorize the  
35 director to require any individual taxpayer preparing the taxpayer's  
36 own gross income tax return pursuant to the "New Jersey Gross  
37 Income Tax Act," N.J.S.54A:1-1 et seq., or any tax preparer  
38 preparing a gross income tax return pro bono, to file that return or  
39 to remit payment of the tax by electronic methods.

40       c. For '[documents] returns<sup>1</sup> required or permitted by law, or  
41 by regulation '[or instruction]' promulgated by the director, to be  
42 filed electronically, the date the '[document] return<sup>1</sup> is transmitted  
43 to the division shall be deemed the date of filing.

44 (cf: P.L.1992, c.175, s.13)

45

46       3. R.S. 54:49-4 is amended to read as follows:

1       54:49-4. a. In addition thereto any taxpayer failing to file a return  
2 with the director within the time prescribed under the act imposing  
3 such tax shall be liable to a late filing penalty of \$100 for each  
4 month or fraction thereof that such return is delinquent, plus a  
5 penalty of 5% per month or fraction thereof of the underpayment  
6 not to exceed 25% of such underpayment, except that if no return  
7 has been filed within 30 days of the date on which the first notice of  
8 delinquency in filing the return was sent to the taxpayer, the penalty  
9 shall accrue at 5% per month or fraction thereof of the total tax  
10 liability not to exceed 25% of such tax liability. Unless any part of  
11 any underpayment of tax required to be shown on a return or report  
12 is shown to be due to reasonable cause, there shall be added to the  
13 tax an amount equal to 5% of the underpayment.

14       b. In addition to any other penalty for failing to file a return  
15 within the time prescribed or underpayment provided in this section  
16 or pursuant to any other provision of law, if a taxpayer or tax  
17 preparer fails to use electronic methods to file a return <sup>1</sup> [or pay  
18 tax] <sup>1</sup> as <sup>1</sup> may be <sup>1</sup> required <sup>1</sup> [under] pursuant to <sup>1</sup> the provisions of  
19 subsection b. of section 13 of P.L.1992, c.175 (C.54:49-3.1),  
20 section <sup>1</sup> [3] <sup>1</sup> 4 <sup>1</sup> of P.L. , c. (C. ) (now pending before the  
21 Legislature as this bill) or the law imposing the tax, <sup>1</sup> [the] or if a  
22 taxpayer <sup>1</sup> [or tax preparer] fails to use electronic methods to pay  
23 tax as may be required pursuant to the provisions of subsection b. of  
24 section 13 of P.L.1992, c.175 (C.54:49-3.1), or the law imposing  
25 the tax, the taxpayer <sup>1</sup> shall be liable for a penalty of \$50 for each  
26 return or payment for which the taxpayer <sup>1</sup> [or preparer] <sup>1</sup> failed to  
27 file or pay electronically as <sup>1</sup> [required] <sup>1</sup> may be applicable, and the  
28 tax preparer shall be liable for a penalty of \$50 for each return for  
29 which the tax preparer failed to file electronically as may be  
30 applicable <sup>1</sup> . The director may exercise discretion to abate all or  
31 any portion of the penalty in any circumstances the director  
32 determines appropriate, including but not limited to circumstances  
33 in which a taxpayer or tax preparer demonstrates to the director's  
34 satisfaction that the failure to file or pay electronically was due to  
35 reasonable cause.

36 (cf: P.L.1998, c.106, s.12)

37

38       4. (New section) a. (1) Notwithstanding any other law to the  
39 contrary, for New Jersey gross income tax returns for taxable years  
40 beginning in 2006, if a tax preparer prepared or filed 100 or more  
41 gross income tax returns for the prior taxable year, the tax preparer  
42 shall use electronic methods for filing the returns and paying the tax  
43 for all the returns prepared or filed by the tax preparer for a taxable  
44 year, subject to such exceptions as the Director of the Division of  
45 Taxation may determine are reasonable. The director may exercise  
46 discretion to extend this requirement to a tax preparer that has

1 prepared or filed 100 or more gross income tax returns for any of  
2 the five prior taxable years.

3 (2) The director is authorized '[, by notice or instruction,]' to  
4 extend 'by regulation' the electronic methods filing requirement,  
5 commencing with New Jersey gross income tax returns filed for  
6 taxable years beginning in 2007, to tax preparers that prepared or  
7 filed 50 or more gross income tax returns for the prior taxable year.  
8 The director 'by regulation,' may exercise discretion to extend this  
9 requirement to a tax preparer that has prepared or filed 50 or more  
10 gross income tax returns for any of the five prior taxable years.

11 b. As used in this section, "tax preparer" means any person who  
12 prepares for compensation, or who employs one or more persons to  
13 prepare for compensation, any return of tax or claim for refund  
14 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et  
15 seq.

16 c. The director shall determine the method or methods of  
17 electronic filing of returns and paying tax that satisfy the  
18 requirements imposed in this section 'including a procedure by  
19 which a taxpayer may elect that the tax preparer not file the  
20 taxpayer's return by electronic methods'.

21 d. The director is authorized to determine if the requirements of  
22 this section shall apply to declarations and payments of estimated  
23 tax made by a tax preparer. To the extent that the director  
24 determines it will not be unduly burdensome, the director is  
25 authorized to require employers and payors of gambling winnings  
26 that withhold tax under N.J.S.54A:7-1, and payors of voluntary  
27 withholdings under section 1 of P.L.1989, c.328 (C.54A:7-1.1), to  
28 file returns and pay tax by electronic methods.

29 e. A tax preparer, employer or payor, other than an individual  
30 taxpayer preparing the taxpayer's own gross income tax return or a  
31 tax preparer preparing a return pro bono, failing to use electronic  
32 methods as required in this section shall be liable for the penalties  
33 provided in subsection b. of R.S.54:49-4 or as otherwise provided  
34 under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

35

36 5. This act shall take effect immediately.

37

38

39

40 Concerns electronic methods for filing tax returns and paying  
41 State taxes; establishes additional penalty for failure to use required  
42 methods and requires certain tax preparers to file gross income tax  
43 returns and payments electronically.

# ASSEMBLY, No. 4704

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 22, 2006

**Sponsored by:**

**Assemblyman ROBERT M. GORDON**

**District 38 (Bergen)**

**SYNOPSIS**

Concerns filing methods for tax documents and filing standards when electronic filing methods are utilized; requires certain tax preparers to electronically file gross income tax returns.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning filing methods for tax documents and filing  
2 standards when electronic filing methods are utilized requiring  
3 certain tax preparers to electronically file gross income tax  
4 returns, amending P.L.1987, c.76, P.L.1992, c.175 and  
5 R.S.54:49-4 and supplementing Title 54A of the New Jersey  
6 Statutes.

7  
8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:

10  
11 1. Section 1 of P.L.1987, c.76 (C. 54:48-2) is amended to read  
12 as follows:

13 54:48-2. As used in this subtitle:

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

16 "Department" means the Division of Taxation in the Department  
17 of the Treasury.

18 "Director" means the Director of the Division of Taxation.

19 "Prime rate" means the average predominant prime rate, as  
20 determined by the Board of Governors of the Federal Reserve  
21 System, quoted by commercial banks to large businesses as of the  
22 first business day of the calendar quarter within which the payment  
23 was due; except that as to the calculation of interest accruing on and  
24 after the July 1 next following enactment of P.L.1992, c.175 "prime  
25 rate" means that rate quoted as of December 1 of the calendar year  
26 immediately preceding the calendar year in which the payment was  
27 due, provided however, that if the director determines that the prime  
28 rate quoted by commercial banks to large businesses varies by more  
29 than one percentage point from the rate otherwise determined, the  
30 director shall redetermine the prime rate to be that quoted prime  
31 rate for subsequent calendar quarters of the calendar year in which  
32 payments become due.

33 "State tax" means any tax which is payable to or collectible by  
34 the director, and "State tax law" means any law which levies or  
35 imposes a State tax as herein defined.

36 "Taxpayer" means any person owing or liable to pay any State  
37 tax or any person deemed by the director to be so owing or liable.

38 "Tax preparer" means any person who prepares for  
39 compensation, or who employs one or more persons to prepare for  
40 compensation, any return of tax or claim for refund under any State  
41 tax law.

42 (cf: P.L.1992,c.175,s.1)

43  
44 2. Section 13 of P.L.1992, c.175 (C.54:49-3.1) is amended to  
45 read as follows:

**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.**



1       13. a. Except as another payment method may be specified by  
2 law, a tax return, report, notice, petition, protest, claim or other  
3 document to be filed or remittance containing payment of tax,  
4 required to be filed within a prescribed period, or on or before a  
5 prescribed date, under the provisions of any State tax that, after the  
6 period or the date, is delivered by United States mail to the director,  
7 bureau, office, officer or person with which or with whom the  
8 document is required to be filed shall be deemed to be delivered on  
9 the date of the United States postmark stamped on the envelope.  
10 This shall apply only if the postmark date falls within the prescribed  
11 period or on or before the prescribed date for the filing of the  
12 document, determined with regard to any extension granted for  
13 filing, and the document was deposited in the mail, postage prepaid,  
14 properly addressed to the director, bureau, office, officer or person  
15 with which or with whom the document is required to be filed. If  
16 any document is sent by United States registered or certified mail,  
17 such registration or certification shall be prima facie evidence that  
18 the document was delivered to the director, bureau, office, officer  
19 or person to which or to whom addressed. This section shall also  
20 apply to postmarks not made by the United States Postal Service to  
21 the extent the Director of the Division of Taxation in the  
22 Department of the Treasury may prescribe.

23       b. Notwithstanding any law to the contrary, the director is  
24 authorized to permit or mandate the acceptable methods of filing  
25 and payment for any document, including returns, or payment  
26 required to be remitted within a prescribed period, or on or before a  
27 prescribed date, under the provisions of any State tax law. The  
28 director may prescribe reasonable methods for filing and payment,  
29 including electronic filing and payment methods, at the director's  
30 discretion, by the promulgation of regulations or filing instructions.  
31 The provisions of this section shall not be deemed to authorize the  
32 director to require any individual taxpayer preparing the taxpayer's  
33 own gross income tax return pursuant to the "New Jersey Gross  
34 Income Tax Act," N.J.S.54A:1-1 et seq., or any tax preparer  
35 preparing a gross income tax return pro bono, to file that return or  
36 to remit payment of the tax by electronic methods.

37       c. For documents required or permitted by law, or by regulation  
38 or instruction promulgated by the director, to be filed electronically,  
39 the date the document is transmitted to the division shall be deemed  
40 the date of filing.

41 (cf: P.L.1992, c.175, s.13)

42

43       3. R.S. 54:49-4 is amended to read as follows:

44       54:49-4. a. In addition thereto any taxpayer failing to file a  
45 return with the director within the time prescribed under the act  
46 imposing such tax shall be liable to a late filing penalty of \$100 for  
47 each month or fraction thereof that such return is delinquent, plus a  
48 penalty of 5% per month or fraction thereof of the underpayment

1 not to exceed 25% of such underpayment, except that if no return  
2 has been filed within 30 days of the date on which the first notice of  
3 delinquency in filing the return was sent to the taxpayer, the penalty  
4 shall accrue at 5% per month or fraction thereof of the total tax  
5 liability not to exceed 25% of such tax liability. Unless any part of  
6 any underpayment of tax required to be shown on a return or report  
7 is shown to be due to reasonable cause, there shall be added to the  
8 tax an amount equal to 5% of the underpayment.

9 b. In addition to any other penalty for failing to file a return  
10 within the time prescribed or underpayment provided in this section  
11 or pursuant to any other provision of law, if a taxpayer or tax  
12 preparer fails to use electronic methods to file a return or pay tax as  
13 required under the provisions of subsection b. of section 13 of  
14 P.L.1992, c. 175 (C.54:49-3.1), section 3 of P.L. , c. (C. ) (now  
15 pending before the Legislature as this bill) or the law imposing the  
16 tax, the taxpayer or tax preparer shall be liable for a penalty of \$50  
17 for each return or payment for which the taxpayer or preparer failed  
18 to file or pay electronically as required. The director may exercise  
19 discretion to abate all or any portion of the penalty in any  
20 circumstances the director determines appropriate, including but not  
21 limited to circumstances in which a taxpayer or tax preparer  
22 demonstrates to the director's satisfaction that the failure to file or  
23 pay electronically was due to reasonable cause.

24 (cf: P.L.1998, c.106, s.12)

25  
26 4. (New section) a. (1) Notwithstanding any other law to the  
27 contrary, for New Jersey gross income tax returns for taxable years  
28 beginning in 2006, if a tax preparer prepared or filed 100 or more  
29 gross income tax returns for the prior taxable year, the tax preparer  
30 shall use electronic methods for filing the returns and paying the tax  
31 for all the returns prepared or filed by the tax preparer for a taxable  
32 year, subject to such exceptions as the Director of the Division of  
33 Taxation may determine are reasonable. The director may exercise  
34 discretion to extend this requirement to a tax preparer that has  
35 prepared or filed 100 or more gross income tax returns for any of  
36 the five prior taxable years.

37 (2) The director is authorized, by notice or instruction, to extend  
38 the electronic methods filing requirement, commencing with New  
39 Jersey gross income tax returns filed for taxable years beginning in  
40 2007, to tax preparers that prepared or filed 50 or more gross  
41 income tax returns for the prior taxable year. The director may  
42 exercise discretion to extend this requirement to a tax preparer that  
43 has prepared or filed 50 or more gross income tax returns for any of  
44 the five prior taxable years.

45 b. As used in this section, "tax preparer" means any person who  
46 prepares for compensation, or who employs one or more persons to  
47 prepare for compensation, any return of tax or claim for refund

1 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et  
2 seq.

3 c. The director shall determine the method or methods of  
4 electronic filing of returns and paying tax that satisfy the  
5 requirements imposed in this section.

6 d. The director is authorized to determine if the requirements of  
7 this section shall apply to declarations and payments of estimated  
8 tax made by a tax preparer. To the extent that the director  
9 determines it will not be unduly burdensome, the director is  
10 authorized to require employers and payors of gambling winnings  
11 that withhold tax under N.J.S.54A:7-1, and payors of voluntary  
12 withholdings under section 1 of P.L.1989, c.328 (C.54A:7-1.1), to  
13 file returns and pay tax by electronic methods.

14 e. A tax preparer, employer or payor, other than an individual  
15 taxpayer preparing the taxpayer's own gross income tax return or a  
16 tax preparer preparing a return pro bono, failing to use electronic  
17 methods as required in this section shall be liable for the penalties  
18 provided in subsection b. of R.S.54:49-4 or as otherwise provided  
19 under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

20

21 5. This act shall take effect immediately.

22

23

24

#### STATEMENT

25

26 This bill mandates the use of electronic methods for the filing of  
27 tax returns and payment of liabilities for State income tax. The  
28 supplementary section of the bill affects State personal income tax  
29 returns, while the amendatory sections of the bill affect all other  
30 State tax returns.

31 For State personal income tax returns and payments for taxable  
32 year 2006, the bill requires any tax preparer that prepared or filed  
33 100 or more income tax returns for the preceding taxable year to  
34 use electronic filing and payment methods, except for persons filing  
35 their own returns and professionals preparing returns pro bono. The  
36 Director is authorized to extend this requirement to a tax preparer  
37 that has prepared 100 or more returns for any of the five preceding  
38 taxable years.

39 The Director is authorized to extend mandatory electronic filing  
40 and payment for taxable years beginning with taxable year 2007, to  
41 tax preparers who prepared or filed 50 or more returns for the  
42 preceding year. In addition, the Director is authorized to require  
43 electronic filing and payment, if such a mandate would not be  
44 unduly burdensome, by (a) employers and payors of gambling  
45 winnings that withhold income tax under N.J.S.A.54A:7-1, and (b)  
46 pension plans that apply taxpayer directed withholding to pension  
47 or annuity payments under N.J.S.A.54A:7-1.1. Statutory authority

**A4704 GORDON**

6

1 for the Director to issue regulations to administer and enforce the  
2 gross income tax is conferred by N.J.S.A.54A:9-17.  
3 For all other State taxes, the bill authorizes the Director to  
4 prescribe reasonable methods for the filing of documents and  
5 payment of liability. The bill amends the State Uniform Tax  
6 Procedure Law, applicable to all State taxes, to (1) Add the  
7 definition of “tax preparer” (2) Authorize the Director to prescribe  
8 the acceptable method of filing of any document, or of payment  
9 required to be remitted within a prescribed period, under any State  
10 tax law. For documents filed electronically, the bill specifies that  
11 the date of transmittal shall be the date on which the document is  
12 deemed to have been filed; and (3) Impose upon any taxpayer or tax  
13 preparer who fails to use electronic methods to file a return or pay  
14 tax as required by or pursuant to the bill a penalty of \$50 for each  
15 such failure, which shall be in addition to any other penalty  
16 prescribed by law. The Director is allowed discretion to abate all or  
17 a portion of the penalty whenever the failure was due to reasonable  
18 cause. Statutory authority for the Director to issue regulations to  
19 implement the State Uniform Tax Procedure Law is conferred by  
20 N.J.S.A.54:50-1.

# ASSEMBLY BUDGET COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4704**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 23, 2006

The Assembly Budget Committee reports favorably Assembly Bill No. 4704, with committee amendments.

Assembly Bill No. 4704, as amended, mandates the use of electronic methods for the filing of tax returns and payment of liabilities for State income tax. The supplementary section of the amended bill affects State personal income tax returns, while the amendatory sections affect all other State tax returns.

For State gross income tax (GIT) returns and payments for taxable year 2006, the amended bill requires any tax preparer that prepared or filed 100 or more GIT returns for the preceding taxable year to use electronic filing and payment methods, except for persons filing their own returns and professionals preparing returns pro bono. The Director of the Division of Taxation is authorized to extend this requirement to a tax preparer that has prepared 100 or more GIT returns for any of the five preceding taxable years.

The director is authorized to extend mandatory electronic filing and payment for taxable years beginning with taxable year 2007, to tax preparers who prepared or filed 50 or more GIT returns for the preceding year. In addition, the director is authorized to require electronic filing and payment, if such a mandate would not be unduly burdensome, by (a) employers and payors of gambling winnings that withhold income tax under N.J.S.A.54A:7-1, and (b) pension plans that apply taxpayer directed withholding to pension or annuity payments under N.J.S.A.54A:7-1.1.

The amendatory sections of the amended bill change the State Uniform Tax Procedure Law, applicable to all State taxes, to (1) add the definition of "tax preparer;" (2) authorize the director to prescribe the acceptable method of filing of tax returns and payments; (3) specify that, for returns filed electronically, the date of transmittal shall be the date on which the return is deemed to have been filed; and (4) impose upon any taxpayer or tax preparer who fails to use electronic methods to file a return or pay tax as required by or pursuant to the act a penalty of \$50 for each such failure, which shall be in addition to any other penalty prescribed by law. The director is allowed discretion to

abate all or a portion of the penalty whenever the failure was due to reasonable cause.

FISCAL IMPACT:

The Governor's FY2007 Budget document attributed savings of \$1.3 million to the electronic filing initiative that is embodied in this legislation. The OLS is unable to evaluate the accuracy of the Executive estimate, in part because the requirements in this bill reflect filing regulations already in place.

COMMITTEE AMENDMENTS:

The amendments refine the electronic file mandate to apply only to tax returns and payments of taxes, not to other documents that may be filed with the Division of Taxation. They also remove the authority for the Director of the Division of Taxation to require electronic filing mandate through promulgating filing instructions or notices. With the amendments, the director may only do so through regulations. The amendments also clarify that penalties for failure to pay tax through electronic means do not apply to tax preparers but do apply to a taxpayer for failure of the taxpayer to pay by electronic means. Finally, the amendment adds a provision for taxpayers to opt-out of the electronic filing mandate for gross income tax returns. This change reflects current practice through regulations.

**FISCAL NOTE**  
 [First Reprint]  
**ASSEMBLY, No. 4704**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: AUGUST 1, 2006

**SUMMARY**

- Synopsis:** Concerns electronic methods for filing tax returns and paying State taxes; establishes additional penalty for failure to use required methods and requires certain tax preparers to file gross income tax returns and payments electronically.
- Type of Impact:** Annually Recurring Expenditure Reduction to the State General Fund.
- Agencies Affected:** Department of the Treasury.

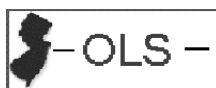
**Executive Estimate**

Fiscal Impact	<u>Fiscal Year 2007</u>	<u>Fiscal Year 2008</u>	<u>Fiscal Year 2009</u>
<b>State Cost Reduction</b>	\$1,300,000 per Fiscal Year		

**Office of Legislative Services Estimate**

Fiscal Impact	<u>Fiscal Year 2007</u>	<u>Fiscal Year 2008</u>	<u>Fiscal Year 2009</u>
<b>State Cost Reduction</b>	Indeterminate		

- The Office of Legislative Services (OLS) **does not concur** with the Executive estimate. Since the bill is merely codifying existing electronic filing regulations and authorizing the issuance of additional electronic filing regulations, the legislation’s sole direct cost reduction may materialize on account of the new penalty for noncompliance with the mandate. The penalty may motivate currently noncompliant tax practitioners to file returns electronically, which would result in efficiencies to the State, as the processing of electronic returns is less costly than that of paper returns. The OLS, however, has no information on the scope of e-filing mandate violations, which precludes it from estimating any resultant economies.
- In Fiscal Year 2005, the Department of the Treasury spent \$8.9 million to process 4.5 million gross income tax returns. Of the total, \$8.0 million were expended to process three million paper returns and \$880,000 to process 1.5 million electronic returns.



- The OLS calculates that the average return filed electronically costs \$2.13 less to process than a paper return, as the average paper return costs \$2.70 to process and the average electronic return \$0.57. For every one percent increase in the proportion of electronically filed returns to total returns filed would reduce the State's administrative expenses by an estimated \$96,000.

## **BILL DESCRIPTION**

Assembly Bill No. 4704 (1R) of 2006 requires professional tax preparers who filed at least 100 gross income tax returns for tax year 2005 to use electronic filing and payment methods for tax year 2006 gross income tax returns. The Director of the Division of Taxation within the Department of the Treasury may extend mandatory electronic filing and payment for tax years beginning with tax year 2007 to tax preparers who filed 50 or more returns for the preceding year. For all other State taxes, the bill authorizes the director to prescribe reasonable methods for the filing of documents and payment of liability. Lastly, the bill imposes a \$50 penalty for each violation of the electronic filing mandate.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

In the Governor's Fiscal Year 2007 Budget, the Executive projects that its e-filing initiative would save the State \$1.3 million in General Fund resources in fiscal year 2007. The e-filing initiative includes a requirement for all professional tax practitioners preparing at least 100 gross income tax returns to file the returns and pay the tax liabilities electronically as well as a mandate for employers to e-file their quarterly wage reports when they have five employees rather than the current ten employee threshold.

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

The OLS does not concur with the Executive estimate that the bill would lower the processing cost of gross income tax returns by \$1.3 million. Since the bill is merely codifying existing electronic filing regulations and authorizing the issuance of additional electronic filing regulations, the legislation's sole direct cost reduction may materialize on account of the new penalty for noncompliance with the mandate. The penalty may motivate currently noncompliant tax practitioners to file returns electronically, which would result in efficiencies to the State, as the processing of electronic returns is less costly than that of paper returns. The OLS, however, has no information on the scope of e-filing mandate violations, which precludes it from estimating any resultant economies. The OLS surmises that the Executive estimate includes the savings from lowering the electronic filing threshold for tax preparers who file more than 200 returns in 2005 to tax preparers who file more than 100 returns in 2006. The associated cost savings, however, would also occur in the absence of the legislation pursuant to existing regulations (N.J.A.C. 18:35-6.4). The bill would not cause this efficiency.



*The Economies of Electronic Filing*

In response to an OLS discussion point in the Fiscal Year 2007 Department of the Treasury Budget Analysis, the Department of the Treasury stated that it processed 4.5 million gross income tax returns in Fiscal Year 2005, of which 1.5 million, or 34 percent, were filed electronically. Overall, the department spent \$8.9 million processing the returns; paper returns accounted for \$8.0 million of the total and electronic returns for the remaining \$880,000.

Based on these data, the OLS calculates that an average return filed electronically costs \$2.13 less to process than a paper return (the average paper returns costs \$2.70 and the average electronic return \$0.57). Accordingly, the OLS computes that the 1.5 million returns filed electronically in Fiscal Year 2005 saved the State \$3.3 million and that the State would have saved an additional \$6.3 million had all returns been filed electronically (actual total processing expenditure of \$8.9 million versus an estimated \$2.6 million if all returns had been filed electronically). In general, the OLS estimates that every one percent increase in the proportion of electronically filed returns to total returns filed would reduce the State's administrative expenses by about \$96,000.

The OLS notes further that according to Internal Revenue Service data on the 2006 filing season, 57.1 percent, or 70 million, of the 122.7 million national personal income tax returns were filed electronically, which exceeded New Jersey's 34 percent from the 2005 filing season. Tax preparers accounted for 72 percent of all federal electronic returns.

*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. 1985

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 22, 2006

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Concerns electronic methods for filing tax returns and paying State taxes; establishes additional penalty for failure to use required methods and requires certain tax preparers to file gross income tax returns and payments electronically.

**CURRENT VERSION OF TEXT**

As introduced.



S1985 BRYANT

2

1 AN ACT concerning filing methods for State tax returns and  
2 payments, including electronic filing methods, and requiring  
3 certain tax preparers to electronically file gross income tax  
4 returns, amending R.S.54:48-2, P.L.1992, c.175 and R.S.54:49-4  
5 and supplementing Title 54A of the New Jersey Statutes.

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

9

10 1. R.S.54:48-2 is amended to read as follows:

11 54:48-2. As used in this subtitle:

12 "Commissioner" means the Director of the Division of Taxation  
13 in the Department of the Treasury.

14 "Department" means the Division of Taxation in the Department  
15 of the Treasury.

16 "Director" means the Director of the Division of Taxation.

17 "Prime rate" means the average predominant prime rate, as  
18 determined by the Board of Governors of the Federal Reserve  
19 System, quoted by commercial banks to large businesses as of the  
20 first business day of the calendar quarter within which the payment  
21 was due; except that as to the calculation of interest accruing on and  
22 after the July 1 next following enactment of P.L.1992, c.175 "prime  
23 rate" means that rate quoted as of December 1 of the calendar year  
24 immediately preceding the calendar year in which the payment was  
25 due, provided however, that if the director determines that the prime  
26 rate quoted by commercial banks to large businesses varies by more  
27 than one percentage point from the rate otherwise determined, the  
28 director shall redetermine the prime rate to be that quoted prime  
29 rate for subsequent calendar quarters of the calendar year in which  
30 payments become due.

31 "State tax" means any tax which is payable to or collectible by  
32 the director, and "State tax law" means any law which levies or  
33 imposes a State tax as herein defined.

34 "Taxpayer" means any person owing or liable to pay any State  
35 tax or any person deemed by the director to be so owing or liable.

36 "Tax preparer" means any person who prepares for  
37 compensation, or who employs one or more persons to prepare for  
38 compensation, any return of tax or claim for refund under any State  
39 tax law.

40 (cf: P.L.1992,c.175,s.1)

41

42 2. Section 13 of P.L.1992, c.175 (C.54:49-3.1) is amended to  
43 read as follows:

44 13. a. Except as another payment method may be specified by  
45 law, a tax return, report, notice, petition, protest, claim or other

**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.**

S1985 BRYANT

1 document to be filed or remittance containing payment of tax,  
2 required to be filed within a prescribed period, or on or before a  
3 prescribed date, under the provisions of any State tax that, after the  
4 period or the date, is delivered by United States mail to the director,  
5 bureau, office, officer or person with which or with whom the  
6 document is required to be filed shall be deemed to be delivered on  
7 the date of the United States postmark stamped on the envelope.  
8 This shall apply only if the postmark date falls within the prescribed  
9 period or on or before the prescribed date for the filing of the  
10 document, determined with regard to any extension granted for  
11 filing, and the document was deposited in the mail, postage prepaid,  
12 properly addressed to the director, bureau, office, officer or person  
13 with which or with whom the document is required to be filed. If  
14 any document is sent by United States registered or certified mail,  
15 such registration or certification shall be prima facie evidence that  
16 the document was delivered to the director, bureau, office, officer  
17 or person to which or to whom addressed. This section shall also  
18 apply to postmarks not made by the United States Postal Service to  
19 the extent the Director of the Division of Taxation in the  
20 Department of the Treasury may prescribe.

21 b. Notwithstanding any law to the contrary, the director is  
22 authorized to permit or mandate the acceptable methods of filing  
23 any return required to be filed and making any payment required to  
24 be remitted within a prescribed period, or on or before a prescribed  
25 date, under the provisions of any State tax law. The director may  
26 prescribe reasonable methods for filing and payment, including  
27 electronic filing and payment methods, at the director's discretion,  
28 by the promulgation of regulations. The provisions of this section  
29 shall not be deemed to authorize the director to require any  
30 individual taxpayer preparing the taxpayer's own gross income tax  
31 return pursuant to the "New Jersey Gross Income Tax Act,"  
32 N.J.S.54A:1-1 et seq., or any tax preparer preparing a gross income  
33 tax return pro bono, to file that return or to remit payment of the tax  
34 by electronic methods.

35 c. For returns required or permitted by law, or by regulation  
36 promulgated by the director, to be filed electronically, the date the  
37 return is transmitted to the division shall be deemed the date of  
38 filing.

39 (cf: P.L.1992, c.175, s.13)

40

41 3. R.S. 54:49-4 is amended to read as follows:

42 54:49-4. a. In addition thereto any taxpayer failing to file a return  
43 with the director within the time prescribed under the act imposing  
44 such tax shall be liable to a late filing penalty of \$100 for each  
45 month or fraction thereof that such return is delinquent, plus a  
46 penalty of 5% per month or fraction thereof of the underpayment  
47 not to exceed 25% of such underpayment, except that if no return  
48 has been filed within 30 days of the date on which the first notice of

1 delinquency in filing the return was sent to the taxpayer, the penalty  
2 shall accrue at 5% per month or fraction thereof of the total tax  
3 liability not to exceed 25% of such tax liability. Unless any part of  
4 any underpayment of tax required to be shown on a return or report  
5 is shown to be due to reasonable cause, there shall be added to the  
6 tax an amount equal to 5% of the underpayment.

7 b. In addition to any other penalty for failing to file a return  
8 within the time prescribed or underpayment provided in this section  
9 or pursuant to any other provision of law, if a taxpayer or tax  
10 preparer fails to use electronic methods to file a return as may be  
11 required pursuant to the provisions of subsection b. of section 13 of  
12 P.L.1992, c.175 (C.54:49-3.1), section 4 of P.L. , c. (C. ) (now  
13 pending before the Legislature as this bill) or the law imposing the  
14 tax, or if a taxpayer fails to use electronic methods to pay tax as  
15 may be required pursuant to the provisions of subsection b. of  
16 section 13 of P.L.1992, c.175 (C.54:49-3.1), or the law imposing  
17 the tax, the taxpayer shall be liable for a penalty of \$50 for each  
18 return or payment for which the taxpayer failed to file or pay  
19 electronically as may be applicable, and the tax preparer shall be  
20 liable for a penalty of \$50 for each return for which the tax preparer  
21 failed to file electronically as may be applicable. The director may  
22 exercise discretion to abate all or any portion of the penalty in any  
23 circumstances the director determines appropriate, including but not  
24 limited to circumstances in which a taxpayer or tax preparer  
25 demonstrates to the director's satisfaction that the failure to file or  
26 pay electronically was due to reasonable cause.

27 (cf: P.L.1998, c.106, s.12)

28  
29 4. (New section) a. (1) Notwithstanding any other law to the  
30 contrary, for New Jersey gross income tax returns for taxable years  
31 beginning in 2006, if a tax preparer prepared or filed 100 or more  
32 gross income tax returns for the prior taxable year, the tax preparer  
33 shall use electronic methods for filing the returns and paying the tax  
34 for all the returns prepared or filed by the tax preparer for a taxable  
35 year, subject to such exceptions as the Director of the Division of  
36 Taxation may determine are reasonable. The director may exercise  
37 discretion to extend this requirement to a tax preparer that has  
38 prepared or filed 100 or more gross income tax returns for any of  
39 the five prior taxable years.

40 (2) The director is authorized to extend by regulation the  
41 electronic methods filing requirement, commencing with New  
42 Jersey gross income tax returns filed for taxable years beginning in  
43 2007, to tax preparers that prepared or filed 50 or more gross  
44 income tax returns for the prior taxable year. The director, by  
45 regulation, may exercise discretion to extend this requirement to a  
46 tax preparer that has prepared or filed 50 or more gross income tax  
47 returns for any of the five prior taxable years.

S1985 BRYANT

- 1       b. As used in this section, "tax preparer" means any person who  
2 prepares for compensation, or who employs one or more persons to  
3 prepare for compensation, any return of tax or claim for refund  
4 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et  
5 seq.
- 6       c. The director shall determine the method or methods of  
7 electronic filing of returns and paying tax that satisfy the  
8 requirements imposed in this section.
- 9       d. The director is authorized to determine if the requirements of  
10 this section shall apply to declarations and payments of estimated  
11 tax made by a tax preparer. To the extent that the director  
12 determines it will not be unduly burdensome, the director is  
13 authorized to require employers and payors of gambling winnings  
14 that withhold tax under N.J.S.54A:7-1, and payors of voluntary  
15 withholdings under section 1 of P.L.1989, c.328 (C.54A:7-1.1), to  
16 file returns and pay tax by electronic methods.
- 17       e. A tax preparer, employer or payor, other than an individual  
18 taxpayer preparing the taxpayer's own gross income tax return or a  
19 tax preparer preparing a return pro bono, failing to use electronic  
20 methods as required in this section shall be liable for the penalties  
21 provided in subsection b. of R.S.54:49-4 or as otherwise provided  
22 under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

23

24       5. This act shall take effect immediately.

25

26

27

STATEMENT

28

29       This bill authorizes the Director of the Division of Taxation in  
30 the Department of Treasury to determine the acceptable methods of  
31 filing any State tax and making any tax payment required under the  
32 provisions of any State tax law. Under this bill, the director may  
33 prescribe reasonable methods for filing and payment, including  
34 electronic filing and payment methods. The bill also establishes an  
35 additional penalty of \$50 for failure to use required methods for  
36 each return or payment. This also requires certain commercial tax  
37 preparers who have prepared a certain quantity of returns to file  
38 gross income tax returns and payments electronically.

39       For State gross income tax (GIT) returns and payments for  
40 taxable year 2006, the bill requires any tax preparer that prepared or  
41 filed 100 or more GIT returns for the preceding taxable year to use  
42 electronic filing and payment methods, except for persons filing  
43 their own returns and professionals preparing returns pro bono. The  
44 director is authorized to extend this requirement to a tax preparer  
45 that has prepared 100 or more GIT returns for any of the five  
46 preceding taxable years.

47       The director is authorized to extend mandatory electronic filing  
48 and payment for taxable years beginning with taxable year 2007, to

**S1985 BRYANT**

6

1 tax preparers who prepared or filed 50 or more GIT returns for the  
2 preceding year. In addition, the director is authorized to require  
3 electronic filing and payment, if such a mandate would not be  
4 unduly burdensome, by (a) employers and payors of gambling  
5 winnings that withhold income tax under N.J.S.A.54A:7-1, and (b)  
6 pension plans that apply taxpayer directed withholding to pension  
7 or annuity payments under N.J.S.A.54A:7-1.1.

8 For all other state taxes, the bill amends the State Uniform Tax  
9 Procedure Law to (1) add the definition of “tax preparer;” (2)  
10 authorize the director to prescribe the acceptable method of filing of  
11 tax returns and payments; (3) specify that, for returns filed  
12 electronically, the date of transmittal shall be the date on which the  
13 return is deemed to have been filed; and (4) impose upon any  
14 taxpayer or tax preparer who fails to use electronic methods to file a  
15 return or pay tax as required by or pursuant to the bill a penalty of  
16 \$50 for each such failure, which shall be in addition to any other  
17 penalty prescribed by law. The director is allowed discretion to  
18 abate all or a portion of the penalty whenever the failure was due to  
19 reasonable cause.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO SENATE, No. 1985

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 26, 2006

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1985, with committee amendments.

This bill, as amended, authorizes the Director of the Division of Taxation in the Department of Treasury to determine the acceptable methods of filing any State tax and making any tax payment required under the provisions of any State tax law. Under this amended bill, the director may prescribe reasonable methods for filing and payment, including electronic filing and payment methods. The amended bill also establishes an additional penalty of \$50 for failure to use required methods for each return or payment. This also requires certain commercial tax preparers who have prepared a certain quantity of returns to file gross income tax returns and payments electronically.

For State gross income tax (GIT) returns and payments for taxable year 2006, the amended bill requires any tax preparer that prepared or filed 100 or more GIT returns for the preceding taxable year to use electronic filing and payment methods, except for persons filing their own returns and professionals preparing returns pro bono. The director is authorized to extend this requirement to a tax preparer that has prepared 100 or more GIT returns for any of the five preceding taxable years.

The director is authorized to extend mandatory electronic filing and payment for taxable years beginning with taxable year 2007, to tax preparers who prepared or filed 50 or more GIT returns for the preceding year. In addition, the director is authorized to require electronic filing and payment, if such a mandate would not be unduly burdensome, by (a) employers and payors of gambling winnings that withhold income tax under N.J.S.A.54A:7-1, and (b) pension plans that apply taxpayer directed withholding to pension or annuity payments under N.J.S.A.54A:7-1.1.

For all other state taxes, the amended bill changes the State Uniform Tax Procedure Law to (1) add the definition of "tax preparer;" (2) authorize the director to prescribe the acceptable method of filing of tax returns and payments; (3) specify that, for returns filed



electronically, the date of transmittal shall be the date on which the return is deemed to have been filed; and (4) impose upon any taxpayer or tax preparer who fails to use electronic methods to file a return or pay tax as required by or pursuant to the bill a penalty of \$50 for each such failure, which shall be in addition to any other penalty prescribed by law. The director is allowed discretion to abate all or a portion of the penalty whenever the failure was due to reasonable cause.

As amended and reported, this bill is identical to Assembly Bill No. 4704 (1R).

COMMITTEE AMENDMENTS:

The amendment adds a provision for taxpayers to opt-out of the electronic filing mandate for gross income tax returns. This change reflects current practice through regulations.

FISCAL IMPACT:

The Governor's FY2007 Budget document attributed savings of \$1.3 million to the electronic filing initiative that is embodied in this legislation. However, the OLS cannot determine the magnitude of any cost savings this legislation may generate. Given that the bill codifies existing regulations directing tax practitioners to file tax returns electronically, its sole direct cost reduction may materialize on account of the new penalty for noncompliance with the mandate. The penalty may motivate currently noncompliant tax practitioners to file returns electronically, which would result in efficiencies to the State, as the processing of electronic returns is less costly than that of paper returns. The OLS, however, has no information on the scope of e-filing mandate violations, which precludes it from estimating any resultant cost savings.

**FISCAL NOTE**  
 [First Reprint]  
**SENATE, No. 1985**  
**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

DATED: AUGUST 1, 2006

**SUMMARY**

- Synopsis:** Concerns electronic methods for filing tax returns and paying State taxes; establishes additional penalty for failure to use required methods and requires certain tax preparers to file gross income tax returns and payments electronically.
- Type of Impact:** Annually Recurring Expenditure Reduction to the State General Fund.
- Agencies Affected:** Department of the Treasury.

**Executive Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2007</u></b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>
<b>State Cost Reduction</b>		\$1,300,000 per Fiscal Year	

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Fiscal Year 2007</u></b>	<b><u>Fiscal Year 2008</u></b>	<b><u>Fiscal Year 2009</u></b>
<b>State Cost Reduction</b>		Indeterminate	

- The Office of Legislative Services (OLS) **does not concur** with the Executive estimate. Since the bill is merely codifying existing electronic filing regulations and authorizing the issuance of additional electronic filing regulations, the legislation's sole direct cost reduction may materialize on account of the new penalty for noncompliance with the mandate. The penalty may motivate currently noncompliant tax practitioners to file returns electronically, which would result in efficiencies to the State, as the processing of electronic returns is less costly than that of paper returns. The OLS, however, has no information on the scope of e-filing mandate violations, which precludes it from estimating any resultant economies.
- In Fiscal Year 2005, the Department of the Treasury spent \$8.9 million to process 4.5 million gross income tax returns. Of the total, \$8.0 million were expended to process three million paper returns and \$880,000 to process 1.5 million electronic returns.

- The OLS calculates that the average return filed electronically costs \$2.13 less to process than a paper return, as the average paper return costs \$2.70 to process and the average electronic return \$0.57. For every one percent increase in the proportion of electronically filed returns to total returns filed would reduce the State's administrative expenses by an estimated \$96,000.

## **BILL DESCRIPTION**

Senate Bill No. 1985 (1R) of 2006 requires professional tax preparers who filed at least 100 gross income tax returns for tax year 2005 to use electronic filing and payment methods for tax year 2006 gross income tax returns. The Director of the Division of Taxation within the Department of the Treasury may extend mandatory electronic filing and payment for tax years beginning with tax year 2007 to tax preparers who filed 50 or more returns for the preceding year. For all other State taxes, the bill authorizes the director to prescribe reasonable methods for the filing of documents and payment of liability. Lastly, the bill imposes a \$50 penalty for each violation of the electronic filing mandate.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

In the Governor's Fiscal Year 2007 Budget, the Executive projects that its e-filing initiative would save the State \$1.3 million in General Fund resources in fiscal year 2007. The e-filing initiative includes a requirement for all professional tax practitioners preparing at least 100 gross income tax returns to file the returns and pay the tax liabilities electronically as well as a mandate for employers to e-file their quarterly wage reports when they have five employees rather than the current ten employee threshold.

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

The OLS does not concur with the Executive estimate that the bill would lower the processing cost of gross income tax returns by \$1.3 million. Since the bill is merely codifying existing electronic filing regulations and authorizing the issuance of additional electronic filing regulations, the legislation's sole direct cost reduction may materialize on account of the new penalty for noncompliance with the mandate. The penalty may motivate currently noncompliant tax practitioners to file returns electronically, which would result in efficiencies to the State, as the processing of electronic returns is less costly than that of paper returns. The OLS, however, has no information on the scope of e-filing mandate violations, which precludes it from estimating any resultant economies. The OLS surmises that the Executive estimate includes the savings from lowering the electronic filing threshold for tax preparers who file more than 200 returns in 2005 to tax preparers who file more than 100 returns in 2006. The associated cost savings, however, would also occur in the absence of the legislation pursuant to existing regulations (N.J.A.C. 18:35-6.4). The bill would not cause this efficiency.

*The Economies of Electronic Filing*

In response to an OLS discussion point in the Fiscal Year 2007 Department of the Treasury Budget Analysis, the Department of the Treasury stated that it processed 4.5 million gross income tax returns in Fiscal Year 2005, of which 1.5 million, or 34 percent, were filed electronically. Overall, the department spent \$8.9 million processing the returns; paper returns accounted for \$8.0 million of the total and electronic returns for the remaining \$880,000.

Based on these data, the OLS calculates that an average return filed electronically costs \$2.13 less to process than a paper return (the average paper returns costs \$2.70 and the average electronic return \$0.57). Accordingly, the OLS computes that the 1.5 million returns filed electronically in Fiscal Year 2005 saved the State \$3.3 million and that the State would have saved an additional \$6.3 million had all returns been filed electronically (actual total processing expenditure of \$8.9 million versus an estimated \$2.6 million if all returns had been filed electronically). In general, the OLS estimates that every one percent increase in the proportion of electronically filed returns to total returns filed would reduce the State's administrative expenses by about \$96,000.

The OLS notes further that according to Internal Revenue Service data on the 2006 filing season, 57.1 percent, or 70 million, of the 122.7 million national personal income tax returns were filed electronically, which exceeded New Jersey's 34 percent from the 2005 filing season. Tax preparers accounted for 72 percent of all federal electronic returns.

*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.