

TAX COURT OF NEW JERSEY

- REPLACED THE DIVISION OF TAX APPEALS, AN ADMINISTRATIVE BODY WITHIN THE EXECUTIVE BRANCH - HEADED BY PART-TIME JUDGES - ITS DECISIONS WERE REVIEWED BY THE HEAD OF A STATE AGENCY, DIVISION OF TAXATION
- TAX COURT ESTABLISHED BY LEGISLATURE IN 1979
- PART OF THE JUDICIAL BRANCH OF THE GOVERNMENT
- STATUTE REQUIRES AT LEAST SIX AND NO MORE THAN 12 JUDGES ON THE COURT. CURRENTLY WE HAVE ELEVEN.
- BY STATUTE, JUDGES SHOULD BE LAWYERS ADMITTED TO PRACTICE LAW IN NEW JERSEY FOR AT LEAST 10 YEARS
- BY STATUTE, JUDGES SHALL BE CHOSEN FOR THEIR SPECIAL QUALIFICATIONS, KNOWLEDGE, AND EXPERIENCE IN TAXATION
- HON. LAWRENCE L. LASSER FIRST TAX COURT JUDGE AND FIRST PRESIDING JUDGE - INSTRUMENTAL IN CREATING THE COURT; ORGANIZATIONAL STRUCTURE; ESTABLISHING PROCEDURAL RULES AND FORMS

ADMINISTRATION

- PERFORMED BY THE TAX COURT MANAGEMENT OFFICE
- DOCKETING E-FILED (MUST FOR LAWYERS) OR PAPER FILED (ONLY FOR SELF-REPRESENTED LITIGANTS) COMPLAINTS
E-filing is done via eCourts, a judiciary web-based application, since 2015
- FOLLOW-UP CASE MANAGEMENT - ISSUING CASE ASSIGNMENT NOTICES; TRIAL NOTICES; JUDGMENTS
- RESPONDING TO RECORDS REQUESTS
- PROVIDING ADA ACCOMODATION; INTERPRETING SERVICES; OTHER ACCESS ISSUES
- DATA COLLECTION AND DISSEMINATION

TAX COURT'S JURISDICTION

- **STATUTORY COURT OF STATE-WIDE BUT LIMITED JURISDICTION**
The Tax Court shall have jurisdiction to review actions or regulations with respect to a tax matter of the following:
 - (1) Any State agency or official;
 - (2) A county board of taxation;
 - (3) A county or municipal official.

- **CAN ALSO HEAR ACTIONS COGNIZABLE IN THE SUPERIOR COURT ON TAX ISSUES IN WHICH THE COURT'S SPECIAL EXPERTISE IS DESIRABLE**

- **SHALL DECIDE ALL ISSUES OF FACT AND OF LAW DE NOVO**

- **CAN GRANT LEGAL AND EQUITABLE RELIEF IN ALL CASES WITHIN ITS JURISDICTION**

- **NO JURY**

- **OBJECTIVES -**
 - (1) to provide effective, expeditious, inexpensive, convenient and equitable judicial review of state and local tax matters;
 - (2) to create a consistent, uniform body of tax law for the guidance of the bar, taxpayers, and tax administrators to promote certainty in tax law and its application, and
 - (3) to promote the creation of a qualified and informed state and local tax bar.

- **OPINIONS ARE PUBLISHED AND REPORTED IN THE N.J. TAX REPORTER. LETTER OPINIONS ARE POSTED ON THE JUDICIARY'S WEBSITE AND THEN ON RUTGER LAW WEBSITE**

- **TAX COURT JUDGMENTS APPEALABLE, AS OF RIGHT, TO THE APPELLATE DIVISION OF THE SUPERIOR COURT.**

PROCEEDINGS IN COURT

- ALL PROCEEDINGS RECORDED ELECTRONICALLY VIA COURTSMART
- IF HELD REMOTELY, HEARINGS ARE LIVE-STREAMED
- CAN HOLD HYBRID IF ONE PARTY WANTS IN-PERSON AND THE OTHER REQUESTS REMOTE
- SINCE COVID, MOST STATE TAX CASES ARE HEARD VIA REMOTE PROCEEDINGS
- MOST STATE TAX CASES ARE HEARD ON MOTIONS, MEANING NO TRIAL WITH WITNESSES, SINCE MOST INVOLVE ONLY LEGAL ISSUES
- ALL STATE TAXES ARE ADMINISTERED, ASSESSED, COLLECTED BY NEW JERSEY DIVISION OF TAXATION SO THE DEFENDANT IN A STATE TAX CASE IS ALMOST ALWAYS THIS STATE AGENCY
- ALMOST ALL STATE TAX CASES APPEAL TAXATION'S FINAL DETERMINATION WHICH IS ISSUED AFTER A REVIEW OF THE TAXPAYER'S PROTEST BY THE DIVISION'S CONFERENCE & APPEALS BRANCH
- TAXATION IS REPRESENTED IN COURT BY A DEPUTY ATTORNEY GENERAL (DAG)
- AFTER COMPLAINT IS FILED
 - Filing Issues
 - Is entity plaintiff (Inc., LLC), represented by an attorney? If not, provide time to get one. If no compliance with Order can dismiss complaint.

 - Did plaintiff pay correct filing fees (\$250 for first state tax at issue; \$50 for each other tax)? If not, provide time to fix - if not fixed, issue an Order to fix - if no compliance with Order can dismiss complaint. If plaintiff seeks waiver, court decides issue
- AFTER THE DAG FILES AN ANSWER
 - Case Manage (status conferences; discovery issues; settlement conferences)
- IF NO SETTLEMENT
 - Schedule matter for summary judgment motion or trial

TYPICAL STATE TAX CASES HANDLED BY THE COURT

- CORPORATE
 - Corporation Business tax
 - Sales & Use tax
 - Excise tax
 - Litter tax
 - Insurance Premiums tax
 - Payroll tax

- PERSONAL
 - Gross Income tax
 - Trust fund tax.

- DEATH
 - Estate tax (imposed on estate for death occurring until 12/31/2018)
 - Inheritance tax (imposed on beneficiary)

List of taxes and fees administered by Taxation is listed on its website

<https://www.state.nj.us/treasury/taxation/adminby.shtml>

TYPICAL STATE TAX ISSUES

- TIMELINESS OF THE COMPLAINT

By statute, a complaint should be filed in court within 90 days of Taxation's Final Determination. If not, the court HAS to dismiss the complaint.

If taxpayer alleges it did not receive the Final Determination or that it did file the complaint, the court has a hearing to determine whether this is true.

The court and the Tax Court Management Office can refer cases of this type to the Legal Services of New Jersey for pro bono representation

- CORPORATE INCOME TAX

Nexus

Addback

Net Operating Losses

Exemptions

Cash Audits (using a markup to portray taxable sales due to alleged lack of adequate books and records)

- PERSONAL INCOME TAX

Audit based on federal income tax audit

Disallowance of deductions

Property Tax Rebates

Innocent Spouse (not available in NJ)

- ESTATE TAX; INHERITANCE TAX

What comprises taxable estate

Disallowance of claimed deductions

Value of decedent's real estate or shares

Whether transfer was made in contemplation of death