



# THE NJ-1040 LETTER

Written by Robert D Flach -  
the internet's "Wandering Tax Pro"

JULY 2016

**You are paying too much New Jersey state income tax - and it's nobody's fault but your own!**

Most NJ taxpayers concentrate on their federal tax return and spend minimal time on their NJ return, simply taking numbers from the 1040 and putting them on the NJ-1040. As a result they are paying more NJ state tax than necessary, often paying tax on income that is not even taxed by NJ.

By becoming informed on NJ state tax law and using proper tax planning you can make sure that you pay the absolute least amount of NJ Gross Income Tax possible for your particular situation.

Whether or not you use a professional tax preparer (and I strongly recommend that you do - rather than relying on a "box" to correctly prepare your return), the more you know about NJ taxes the more you will be able to properly structure your financial transactions during the year to minimize taxes and the better prepared you will be when giving your "stuff" to your preparer at tax time.

I have been preparing NJ-1040s for as long as there has been a NJ-1040, and federal income tax returns for even longer. I want to share my knowledge and experience from over 40 years as a professional tax preparer to help you to pay the absolute least amount of NJ Gross Income Tax possible.

Your comments on this issue, and suggestions of topics for future editions, are welcomed. You may contact me at [rdftaxpro@yahoo.com](mailto:rdftaxpro@yahoo.com). Please put THE NJ-1040 COMMENT in the "Subject Line".

## THE NJ-1040

New Jersey had to be different.

State income tax returns generally follow the federal 1040 to some degree, starting with either the federal Adjusted Gross Income or federal Taxable Income and adding or subtracting various state adjustments. But here in the Garden State there is the New Jersey Gross Income Tax - a "stand alone" tax with different rules for what is taxable and what is deductible

As the title suggests, the NJ state income tax is a "gross" tax - income is grouped into categories, and net losses in one category are not deductible against net income in other categories. A net stock loss cannot be used to offset dividend income. And there are no carry forwards or carrybacks - if an investment loss is not used in the current tax year it is "lost" forever.

New Jersey modeled its state income tax after that of Pennsylvania, which also has a "gross" state income tax. But where PA has a flat tax rate and allows no exemptions or deductions, NJ does provide for a few deductions -

- medical expenses in excess of 2% of NJ Gross Income,
- alimony paid,

- up to \$10,000 of property tax paid on a principal personal residence (or 18% of rent paid if a tenant),
- an "alternative business calculation adjustment",
- qualified conservations contributions, and
- a "Health Enterprise Zone" deduction.

It also allows for personal exemptions and has a graduated tax rate schedule.

The Garden State was one of the last states to adopt a state income tax. There had been a non-resident "Transportation Tax" on New York residents who worked in New Jersey, in response to New York taxing NJ residents working in NY, enacted in 1961 (ah, yes, I remember it well from my early days in the business). But the current state income did not become effective until 1976.

New Jersey's "Gross Income Tax Act" was the result of a series of state Supreme Court rulings that declared NJ's method of funding local schools unconstitutional because it relied too much on local property taxes. A personal income tax was imposed on the New Jersey taxable income of resident and nonresident individuals, and estates and trusts, beginning with taxable years ending on or after July 1, 1976. The original tax rate was 2% on taxable income up to \$20,000 and 2.5 percent on taxable income over \$20,000, regardless of marital status.

The income tax was supposed to expire in 1978. But after the 1977 re-election of Brendan Byrne the legislature repealed the expiration, making NJ's state income tax permanent.

Legislation enacted in 1982 under Governor Kean added a third tax bracket - 3.5 percent on income in excess of \$50,000. In 1990 Governor Florio imposed a new rate structure, adding 5%, 6.5% and 7% brackets. Tax rates were lowered in three stages from 1994 to 1996 under Christie Whitman. Beginning with tax year 2000 NJ added a limited state Earned Income Credit based on the federal amount, which has been expanded in recent years. During Governor McGreevey's term a new top rate of 8.97 percent on income over \$500,000 (married or single) was enacted. Under Corzine the top rates were expanded to 10.25% on taxable income over \$500,000, and 10.75% on taxable income over \$1 Million for 2009. These higher top rates were repealed effective with tax year 2010.

Beginning with tax year 2012 the "Alternative Business Calculation Adjustment", and new supplemental forms NJ-BUS-1 and NJ-BUS-2, was added to the NJ-1040 to allow taxpayers with income from businesses (i.e. Schedule C), partnerships, sub-S corporations, rents, royalties, patents, and copyrights to claim a partial deduction for losses. This adjustment permits limited netting of gains from one of these business categories and losses from another category. The maximum adjustment of 50% of a calculated "business increment" amount is phased in over a 5-year period ending in 2016. Unused losses can be carried forward.

### **MY BEST TAX ADVICE**

Before I begin to discuss how to save taxes on your NJ-1040 let me tell you what I believe is the best tax advice I can give any taxpayer in any situation -

**DON'T ACCEPT FEDERAL OR STATE TAX ADVICE FROM ANYONE OTHER THAN A PROFESSIONAL TAX PREPARER.**

Don't listen to a broker, a banker, an insurance salesman, or your Uncle Charlie!

You wouldn't ask your butcher for a medical opinion, so why would you listen to tax advice from your MD?

If you are given any tax information by any non-tax person (or read or hear something about taxes in a newspaper or magazine, online, or on radio or television) be sure to **check it out with your, or a, tax professional before taking any action.**

### **KEEP TRACK OF YOUR MEDICAL EXPENSES**

Most taxpayers, even those who itemize, do not get a federal tax benefit for medical expenses because of the 10% or 7½% of AGI exclusion. As a result most taxpayers do not keep track of their medical costs for the year. However, **all New Jersey taxpayers should keep accurate records of allowable out of pocket medical expenses paid during the year.**

Unreimbursed "out-of-pocket" medical expenses is one of the very few items you can deduct on your NJ-1040. You can deduct expenses paid during the year that exceed 2% of the New Jersey Gross Income reported on Line 28 of your NJ-1040. If the total of your medical expenses is \$2,000 and your NJ Gross Income is \$50,000 you can deduct \$1,000. You can deduct medical expenses on your NJ-1040 even if you do not itemize and claim medical deductions on your federal Form 1040.

As a general rule medical expenses that are allowed for federal income tax purposes are also allowed for New Jersey state income tax purposes. Under Internal Revenue Code Section 213(a)(1), a taxpayer may deduct amounts paid for the *"diagnosis, cure, mitigation, treatment or prevention of disease or for the purpose of affecting any structure or function of the body"*.

I have written a detailed GUIDE TO MEDICAL EXPENSES that explains what you can, and cannot, deduct as a medical expense on Schedule A. It is available for \$2.00 sent as a pdf email attachment. I will send this guide to paid subscribers of THE NJ-1040 LETTER for only \$1.00. Send your check payable to TAXES AND ACCOUNTING, INC and your email address to MEDICAL EXPENSE GUIDE FOR SUBSCRIBERS OFFER, TAXES AND ACCOUNTING, INC, PO BOX A, HAWLEY PA 18428.

One of the items you can deduct as a medical expense on your federal, and state, return is health insurance premiums, whether you pay the premium directly or it is deducted from your payroll or pension check. **Employee contributions to an employer-sponsored Section 125 cafeteria plan for health, dental, and vision insurance**, while "pre-tax" for federal income tax purposes, and therefore not deductible on Schedule A (because they have already been deducted via a reduction in the amount of taxable wages reported on Line 7 of the Form 1040), **are not "pre-tax" for NJ state income tax purposes, and can be included in medical expenses deducted on the NJ-1040.** In most cases where this applies the amount of health insurance withheld from your paycheck will put you over the 2% of NJ Gross Income threshold.

You can see that federal pre-tax health insurance payments are not pre-tax for NJ on your W-2. The amount shown for NJ state taxable wages in Box 16 will be greater than the amount of federal taxable wages reported in Box 1. The amount of health insurance premiums will often be identified in Box 14.

FYI, deductible health insurance premiums include COBRA payments, dental, prescription, and contact lens insurance, a separate charge for medical coverage included in your dependent child's college fees, and the amount deducted from monthly Social Security and Railroad Retirement benefits to pay for Medicare Part B and Part D premiums.

A deduction is allowed for the unreimbursed medical expenses that are paid during the year for yourself, your spouse and any of your dependents. This includes amounts paid for (1) a person who would otherwise qualify as a dependent but cannot be claimed as one on your tax return because his/her income exceeds the income limitation or because that person filed a joint return, and (2) a person who was

your dependent in the year the expenses were incurred but not in the year the expenses were actually paid.

The non-custodial divorced or separated parent of a child, who cannot claim the child as a dependent, can claim a deduction for any medical expenses, including health insurance premiums, paid for the child. For purposes of the medical expense deduction the child is considered to be the dependent of both parents.

You must reduce your medical expenses by any reimbursements you receive from an insurance provider, an employer-sponsored medical reimbursement plan, an Archer Medical Savings Account, a Health Savings Account (HAS), or any other source. But, as employee contributions to an employer-sponsored Flexible Spending Account for medical and dental expenses and an HSA are not "pre-tax" for NJ state income tax purposes, you can deduct expenses paid from or reimbursed by such an account.

Health and long-term insurance premiums paid by a self-employed taxpayer that are included in the federal "self-employed health insurance deduction" and qualified Archer Medical Savings Account contributions from IRS Form 8853, which are allowed as "adjustments to income" on Page 1 of your federal Form 1040, **can be deducted in full on the NJ-1040, without regard to the 2% of NJ Gross Income exclusion.**

Determine your NJ medical expense deduction as follows -

- (1) Enter total allowable out of pocket medical expenses. Do not include the federal self-employment health insurance or Archer MSA deductions. \_\_\_\_\_
- (2) Enter 2% of the NJ Gross Income reported on NJ-1040 Line 28. \_\_\_\_\_
- (3) Subtract (2) from (1). If (2) is more than (1) enter "0" \_\_\_\_\_
- (4) Enter the federal self-employed health insurance deduction \_\_\_\_\_
- (5) Enter the federal deduction for Archer MSA contributions \_\_\_\_\_
- (6) Deduction for Medical Expenses \_\_\_\_\_

And so I repeat - **all New Jersey taxpayers should keep accurate records of allowable out of pocket medical expenses paid during the year.**

A Medical Expense Worksheet appears at the end of this issue.

**PTR APPLICATION DEADLINE EXTENDED (AS IT IS EVERY YEAR)**

Oops, they did it again! The NJ Division of Taxation has announced -

*"The deadline for filing 2015 Senior Freeze (Property Tax Reimbursement) applications has been extended to October 17, 2016. The original deadline was June 1, 2016.*

*Information on the 2015 Senior Freeze Program, including the eligibility requirements, is available on the Division of Taxation's website {click [here](#) - rdf}."*

This happens every year. The statutory deadline for submitting the PTR (Property Tax Reimbursement or "Senior Freeze") application forms (PTR-1 and PTR-2) is June 1st. But each and every year the deadline is extended, sometimes more than once, to eventually the middle or end of October.

But, as of this writing, there is no word yet on whether the DFBs in Trenton (clean version is damned fool bureaucrats) will once again reduce the income threshold to \$70,000 to screw some senior or disabled homeowners out of their reimbursement check in order to balance the budget.

As for the NJ Homestead Benefit (formerly the NJ Homestead Rebate), the Treasury Department announced that most New Jersey homeowners who were eligible and filed for a 2013 Homestead Benefit would receive the benefit as a credit on their May 2016 property tax bills.

Homeowners received their benefit in the form of a check in early May if their home was a unit in a co-op or a continuing care retirement community, or they indicated when filing that they no longer owned the home that was their principal residence on Oct. 1, 2013.

The 2013 benefit, which is paid in 2016, is based on the 2006 property taxes for the applicant's principal residence on Oct. 1, 2013. If no property taxes were assessed on the home for 2006, the state will determine the amount of property taxes that would have been due. Confusing enough?

You can check the status of your homestead benefit [here](#). And find additional information about the NJ Homestead Benefit [here](#).

### **PAY THE SALES TAX AND AVOID THE DIVORCE LAWYER**

States like New Jersey have much greater success raising revenue from sales tax audits than from audits of income tax returns.

A while back then Director of the NJ Division of Taxation Robert Thompson - who left office after being charged with "*making discretionary decisions while under undisclosed conflicts of interest caused by their receipt of meals, entertainment, golf outings and other gifts*" from OSI, the outside collection agency hired by the NJDOT to collect outstanding NJ taxes - told the NJ chapter of the National Association of Tax Professionals about NJ's special sales tax audit initiative.

The program would target NJ businesses where pretty much 100% of gross receipts are subject to sales tax - like pizza parlors, liquor stores, and taverns. NJDOT would get purchase information from vendors who supplied the business selected for audit with "cost of goods sold" items (i.e. wholesale pizza dough and liquor purchases), get a price list or menu from the business being audited, verify inventory numbers, and, using industry standards for spoilage and theft, "back into" what the business should have reported in gross sales subject to sales tax. If this was more than what was actually reported on quarterly sales tax reports the business would receive a bill.

It was not the goal of the program to put the pizza parlors, liquor stores or taverns being audited out of business. The sole purpose was to collect more tax. No criminal or other action was brought against the business by the State and the bill was not overloaded with penalties.

This program was very successful.

Bob Thompson told of the audit of one pizza parlor, which happened to be located around the corner from the NJDOT headquarters in Trenton. The Division asked the parlor to submit a menu, which was reviewed by the auditors. One auditor then visited the parlor and asked the owner, "How come if the menu you sent us says you charge \$2.00 for a slice of pizza, when I come in here for lunch you charge me \$2.75?" Apparently the owner was not too bright!

My favorite story concerns the state's attempt to collect "use tax" on out of state purchases.

A sales tax is a "consumption" tax assessed and paid at the "point of purchase". The State of NJ current charges a 7% sales tax on the purchase of qualifying items made within the state. You go to a local McDonalds in Jersey City and buy a Big Mac and you pay NJ state sales tax on the purchase. The sale takes place in NJ and you "take possession" of the Big Mac in NJ - so it is subject to NJ sales tax.

If a New Jersey resident purchases a taxable item in New York and will walk out of the store with that item in hand he/she will pay New York state sales tax on the item, even though the item will ultimately be used in New Jersey, and will not owe any tax to NJ.

But if a NJ resident purchases an item from a New York vendor and has the item shipped to a New Jersey address he/she does not pay New York state sales tax at the point of purchase. That person then must pay a use tax on the purchase to the State of New Jersey.

NJ use tax is paid by any individual who "stores, uses, or consumes" within the borders of the state of New Jersey tangible personal property subject to NJ sales tax that was purchased from an out-of-state seller and no local sales tax was paid at the "point of purchase" to the out-of-state seller. Got that?

So if you order a bracelet from a New York jeweler and have it shipped to your New Jersey address you would not pay sales tax to New York, but you would be liable for New Jersey use tax on the purchase.

Individuals pay any NJ use tax liability as part of the filing of the NJ-1040. Most state tax returns will have a line where the taxpayer can enter an amount for use tax due. Many of these states, NJ included, require that if a resident is not declaring a use tax liability he/she must enter "0" on the appropriate line - so that the taxpayer is "going on record" that he/she does not owe any use tax.

And that is what the story is about.

The NJ Division of Taxation got a hold of the records of a jewelry store located in New York (possibly as a result of a NYS audit of the store - I don't remember the actual details) and made a list of all purchases where the items were shipped to a New Jersey address and no NY state sales tax was paid. The Division then sent a bill for the appropriate amount of use tax to the registered NJ residences of all those on the list.

One of these bills arrived at the home of a married doctor and was opened by the wife. The bill assessed use tax on the purchase of 2 diamond bracelets. After she reviewed the bill she immediately called the NJ Division of Taxation.

"I have just received a bill for use tax from the Division of Taxation and I think you have made an error," she said.

"What is the error," the DOT employee asked.

"My husband only gave me one bracelet!"

So the moral of the story - **if you are going to give your wife and your mistress the same expensive gift don't buy both at the same time, and be sure to pay state sales tax on the gift for your mistress!**

## NJ DIVISION OF TAXATION WEBSITE

I have never been impressed by the competence of the NJ Division of Taxation (with a very few special exceptions), and have been a long-time vocal critic some of its often unethical practices. But I gladly acknowledge that the Division's website - [www.state.nj.us/treasury/taxation](http://www.state.nj.us/treasury/taxation) - is, like the website of the IRS ([www.irs.gov](http://www.irs.gov)), an excellent resource for state tax planning and preparation.

At the NJDOT website you can -

- ✓ check the status of a refund - (<http://www.state.nj.us/treasury/taxation/refinfo.shtml>)
- ✓ file your NJ-1040 directly with the Division for free via NJWebFile - (<http://www.state.nj.us/treasury/taxation/pcfile/njwebfile.shtml>)
- ✓ make a tax payment or file an extension - ([https://www1.state.nj.us/TYTR\\_RevTaxPortal/jsp/IndTaxLoginJsp.jsp](https://www1.state.nj.us/TYTR_RevTaxPortal/jsp/IndTaxLoginJsp.jsp))
- ✓ check the status of a current or prior year NJ Homestead Benefit - ([https://www1.state.nj.us/TYTR\\_Saver/jsp/common/HRInquiry.jsp](https://www1.state.nj.us/TYTR_Saver/jsp/common/HRInquiry.jsp))
- ✓ download current and prior year state forms - (<http://www.state.nj.us/treasury/taxation/prntgit.shtml>)
- ✓ download state tax publications - (<http://www.state.nj.us/treasury/taxation/pubs.shtml>)
- ✓ download a current or prior year Form 1099-G for state income tax refunds - ([https://www1.state.nj.us/TYTR\\_Saver/jsp/TGI\\_1099/NJ1099Login.jsp](https://www1.state.nj.us/TYTR_Saver/jsp/TGI_1099/NJ1099Login.jsp))
- ✓ get detailed information on the state's property tax relief programs - (<http://www.state.nj.us/treasury/taxation/relief.shtml>)
- ✓ and get detailed information on a variety of other tax topics.

Businesses can file returns and pay state payroll taxes, sales taxes, and other state taxes and fees online at the NJDOT website. NJ requires that most of these returns be filed online - paper returns are no longer accepted.

Each state tax agency has a website that provides similar state-specific resources and information. Click [here](#) for links to the tax agencies of each state, the District of Columbia, and Puerto Rico.

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Click [here](#) for some FREE STUFF from me and other sources.

If you have a question about any of the topics discussed above I recommend that you consult your, or a, tax professional.

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**MEDICAL EXPENSE WORKSHEET**

**TAX YEAR 2016**

Taxpayer: \_\_\_\_\_

INSURANCE PREMIUMS: PreTax Section 125 \_\_\_\_\_

Medicare Parts B and D \_\_\_\_\_

Medicare Supplement (AARP, etc) \_\_\_\_\_

Premiums Withheld from Pensions \_\_\_\_\_

COBRA payments \_\_\_\_\_

Other: \_\_\_\_\_

LONG-TERM CARE INSURANCE (Age: H= \_\_\_\_\_ W= \_\_\_\_\_) \_\_\_\_\_

DOCTORS, DENTISTS, THERAPISTS, NURSES \_\_\_\_\_

HOSPITAL BILLS, LAB TESTS \_\_\_\_\_

PRESCRIPTIONS \_\_\_\_\_

MEDICAL SUPPLIES, EQUIPMENT AND ACCESSORIES \_\_\_\_\_

EYE EXAMS, GLASSES, CONTACT LENSES + SOLUTIONS \_\_\_\_\_

TRAVEL TO RECEIVE MEDICAL CARE:

\_\_\_\_\_ miles x \_\_\_\_\_ trips = \_\_\_\_\_ miles

\_\_\_\_\_ miles x \_\_\_\_\_ trips = \_\_\_\_\_ miles

\_\_\_\_\_ miles x \_\_\_\_\_ trips = \_\_\_\_\_ miles

\_\_\_\_\_ miles x \_\_\_\_\_ trips = \_\_\_\_\_ miles

\_\_\_\_\_ miles @ 19 cents/mile = \_\_\_\_\_

Tolls: \_\_\_\_\_ x \_\_\_\_\_ trips = \_\_\_\_\_

\_\_\_\_\_ x \_\_\_\_\_ trips = \_\_\_\_\_ = \_\_\_\_\_

Bus/Taxis: \_\_\_\_\_ x \_\_\_\_\_ trips = \_\_\_\_\_

\_\_\_\_\_ x \_\_\_\_\_ trips = \_\_\_\_\_

OTHER: \_\_\_\_\_

SUB-TOTAL - DEDUCTIBLE ON NJ-1040 \_\_\_\_\_

LESS AMOUNT REIMBURSED BY EMPLOYER "FLEXIBLE SPENDING PLAN" (FSA) (\_\_\_\_\_)

LESS: PRE-TAX (\_\_\_\_\_)

TOTAL SCHEDULE A DEDUCTION FOR MEDICAL EXPENSES \_\_\_\_\_



# TAX GUIDE FOR NEW HOMEOWNERS

by Robert D Flach  
the internet's [Wandering Tax Pro](#)

I have written a guide especially for new homeowners - a detailed review of all of the special tax benefits available to homeowners.

The guide discusses –

- ✓ itemized deductions for real estate taxes, mortgage interest, points, and mortgage insurance premiums,
  - ✓ the home office deduction,
  - ✓ rental income and deductions for a 2-family home,
  - ✓ the home sale exclusion, and
  - ✓ the dreaded Alternative Minimum Tax.

It also includes special sections on Other Itemized Deductions and Choosing a Tax Professional, a listing of the 2016 inflation adjustments for deductions and credits, and special forms, schedules, and worksheets to use during the year and at tax time.

The cost of this special tax guide, sent to you as a pdf email attachment, is **only \$7.95**. A print version sent via postal mail is also available for \$9.95.

Attention tax and real estate professionals – reprint rights of this report is available for free distribution to current and potential clients. Email [rdftaxpro@yahoo.com](mailto:rdftaxpro@yahoo.com), with HOMEOWNERS TAX GUIDE REPRINT RIGHTS in the subject line, for information.

Send your check or money order for \$7.95 or \$9.95, payable to TAXES AND ACCOUNTING, INC, and your email or postal address, to –

TAX GUIDE FOR NEW HOMEOWNERS  
TAXES AND ACCOUNTING, INC  
POST OFFICE BOX A  
HAWLEY PA 18428

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I have enclosed my check or money order, payable to TAXES AND ACCOUNTING, INC,  
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\_\_\_\_\_ \$11.95 - my issues delivered to me as a pdf email attachment

\_\_\_\_\_ \$24.95 - a print edition delivered to me via postal mail

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