New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor

Department of the Treasury
Division of Taxation
Rebate Programs

January 1, 2006 to March 31, 2008

Richard L. Fair
State Auditor
The Honorable Jon S. Corzine  
Governor of New Jersey

The Honorable Richard J. Codey  
President of the Senate

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services

Enclosed is our report on the audit of the Department of the Treasury, Division of Taxation, Rebate Programs for the period of January 1, 2006 to March 31, 2008. If you would like a personal briefing, please call me at (609) 292-3700.

Thomas R. Meseroll  
Assistant State Auditor  
June 18, 2008
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Department of the Treasury  
Division of Taxation  
Rebate Programs  

**Scope**  
We have completed an audit of the Department of the Treasury, Division of Taxation rebate programs for the period January 1, 2006 to March 31, 2008. The scope of the audit was limited to the Homestead Property Tax Rebate program and the Property Tax Reimbursement (PTR) program for tax year 2006. Rebates for tax year 2006 were made in fiscal year 2008 and totaled $2.1 billion as of November 2007. The primary purpose of these programs is to provide property tax relief to taxpayers. The Homestead Property Tax Rebate program provides relief to both homeowners and tenants based on the amount of income and property taxes paid. The PTR program effectively freezes property taxes for eligible New Jersey senior citizens and disabled persons by reimbursing them for property tax increases. Rebates are accounted for in the Property Tax Relief Fund.

**Objectives**  
An objective of the audit was to determine if the division has processes in effect that monitor whether rebates are properly earned and accurately calculated. We also determined whether rebates were related to the programs and were recorded properly in the accounting systems. In addition, we reviewed the impact the programs had on an individual’s net property tax.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

**Methodology**  
Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the Department of the Treasury, and policies of the division. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of rebate transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A statistical and nonstatistical sampling approach was used. Our samples of rebate transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample populations were sorted and rebates were randomly and judgmentally selected for testing.

**Conclusions**

We found that the rebate transactions included in our testing were related to the programs and were properly recorded in the accounting systems. Although the division has processes to monitor whether rebates are earned and accurate, we noted certain weaknesses where corrective action is needed. Our tests also determined the magnitude of rebates to individual taxpayers may not be consistent with the intent of the programs.
Coordinated of Rebate Benefit Programs

We analyzed various aspects of the Homestead Property Tax Rebate program and the Property Tax Reimbursement (PTR) program to determine if they were adequately coordinated to prevent unreasonable payments. We determined that the combination of the effects of the two programs raises several areas of concern.

Homestead Rebate Calculation

New Jersey residents who are at least 65 or disabled can receive both a Homestead rebate and a PTR. The current Homestead calculation requires a taxpayer to multiply an income based percentage against the first $10,000 of property taxes paid. The PTR program, which has existed since 1998, freezes property taxes for eligible persons by reimbursing them for property tax increases since their base year. A disproportionate Homestead rebate occurs for any individual who receives both benefits because the Homestead calculation does not factor in the net taxes paid on a property for anyone receiving a PTR.

For example, we identified a taxpayer who paid $10,000 in property taxes in 2006. Their property taxes have been frozen for six years at a base amount of $7,000. Consequently, they received a $3,000 reimbursement from the PTR program. In addition, their Homestead calculation was based on gross taxes paid, which resulted in a $2,000 rebate. If the calculation was performed on the net taxes paid of $7,000, it would yield a rebate totaling $1,400 or $600 less than the current methodology.
For tax year 2006 there were 136,000 residents who received both a Homestead rebate and a PTR. We performed a recalculation of the Homestead rebates using net taxes paid and determined that 36,000 taxpayers would have received a reduced rebate. The state would have saved an estimated $5.8 million if it had utilized this alternate calculation.

**Rebates Exceeding Taxes Paid**

Program statutes allow individuals to receive benefits from a variety of tax relief programs including the Homestead rebate, Property Tax Reimbursement, and the veteran’s and senior citizen’s credit. These tax benefits were developed to reduce the property tax burden for the residents of the state. However, it is not reasonable that the total relief exceeds the total property taxes paid. The statutes do not address how the total benefit received from all of the programs combined should be coordinated.

For tax year 2006 we identified 5,200 taxpayers who received combined rebates in excess of total property taxes paid. The total rebates were $868,000 greater than taxes paid.

**Recommendation**

We recommend the division improve its efforts to coordinate and evaluate the combined effect of the Homestead Rebate and PTR programs. Rebate payments should be based on net taxes paid after other property tax credits and reimbursements are considered. Total rebates/reimbursements should not exceed taxes paid.
Rebate Overpayments

The division's responsibility is to process, calculate, and distribute rebates to homeowners in accordance with the statutes. In order to comply with these laws, the division implements various system edits to ensure the accuracy of the rebates being processed. Our testing revealed various weaknesses in system edits that allowed inaccurate rebates to be issued.

Property Tax Reimbursement Overpayments

Overpayments can occur when applicants enter inaccurate data on their Property Tax Reimbursement (PTR) application. The division has a review in place to flag PTRs that exceed a specific threshold. Per our audit sample, the most common filing error by applicants involves the misinterpretation of the form directions and filing as if they owned a mobile home, which would require an 18 percent multiplication of site fees to calculate the base and subsequent year property taxes paid. However, applicants are multiplying property taxes by 18 percent to calculate their base year and in future years entering 100 percent of their property taxes to calculate their reimbursement. For example, one taxpayer has received a $7,000 overpayment annually since 2003 due to entering incorrect information on the application.

For tax year 2006 we performed an analysis to identify high-risk payments. We determined that 980 PTR applicants' current property taxes were at least 100 percent greater than their base year taxes. We randomly sampled 84 transactions within this population and identified 49 inaccuracies. We performed a statistical projection and estimated that total overpayments were $700,000 in 2006.
Multi-owner Property Overpayments

Residents can share ownership of a home and be eligible for a rebate based on the percentage of the property they owned. The total ownership can not exceed 100 percent. We noted numerous occasions where system review categories were not being triggered when property ownership claimed was greater than 100 percent. This occurs because the division mails out the Homestead rebate applications with a unique number derived from the New Jersey Property Tax System (MOD IV) database which is unique to the individual taxpayer, but not to the property. We conservatively estimated these type errors caused $300,000 in overpayments for tax year 2006. A majority of these overpayments were the result of married individuals receiving one rebate as a couple and a second rebate as an individual.

Tenants Receiving More Than One Type of Rebate

Per statute, a taxpayer should receive a rebate based on their residence as of October 1st and can receive either the Homestead tenant or homeowner rebate, but not both. Current system edits do not adequately identify taxpayers applying for and receiving both rebates. As a result, taxpayers have been able to receive both the tenant and homeowner rebate in the same year. We performed a match of all taxpayers who applied for both a tenant and homeowner rebate in tax year 2006 and identified 1,400 taxpayers. Through a combination of random and judgmental reviews of 30 taxpayers, we identified 11 taxpayers who received both rebates, totaling $8,400 in overpayments.

In addition, taxpayers can not receive a Homestead tenant rebate and a PTR unless they are mobile homeowners. A match of taxpayers who applied for both a tenant rebate and a PTR resulted in 1,600 matches. Although this type of potential error is being identified by the division,
their manual reviews are deficient. Our review noted that not all 1600 matches were errors; however, our review of 20 of these taxpayers noted five cases where an individual was not a mobile homeowner and received both a tenant rebate and a PTR. These overpayments totaled $4,500.

**Recommendation**

We recommend the division:

- Improve existing system reviews for the PTR program by developing an edit to flag and review abnormal tax increases from one year to the next.

- Make adjustments to refine the current PTR form to help eliminate confusion by taxpayers.

- Develop stronger edits to cap rebate payments at 100 percent ownership of a property. The division could use identifiers unique to each residence block and lot to enforce this policy.

- Enhance manual reviews of multiple rebate edits to ensure that taxpayers do not receive rebates they are not eligible to receive.

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**Deceased Taxpayers**

The division does not perform a match against death records before rebate checks are processed. This condition creates a heightened risk of ineligible rebate payments. We performed a match from the Bureau of Vital Statistics death files to both the Homestead Rebate and PTR programs for tax year 2006 and identified 1,900 matches. We judgmentally selected 35 and
verified that four of the matches were deceased individuals with no surviving spouse and did not meet any other qualifying condition. These cases have a potential overpayment of $30,000 and have been referred to the Division of Taxation’s Criminal Investigation Unit.

**Recommendation**

We recommend the division strengthen its monitoring procedures for potential overpayments to deceased individuals. The division should utilize the Bureau of Vital Statistics death records and perform matches to the rebate programs.

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**Subsidized Tenant Rebates**

Per a New Jersey tax court ruling the language and purpose of the Homestead Property Tax Rebate Act implicitly make the payment of local property tax an eligibility requirement for a homestead property tax rebate. In addition, per statute, rent amounts entered on the rebate application shall not include any amount paid under the federal Housing Choice Voucher Program or paid as a rental assistance grant. There are several state and federal rental assistance programs available to New Jersey residents. The Department of Community Affairs (DCA) administers approximately one third of total rental assistance cases within the state, totaling 21,000 individuals. Assistance provided by these programs can exceed 100 percent of the total rent paid. Currently, the division does not coordinate with the DCA to identify tenants who receive rental assistance. For tax year 2006, we determined 6,800 tenants received both rental assistance and Homestead Tenant Rebates totaling $2.9 million. Due to the current structure of the DCA’s database system, we could not project how many tenants received rental
assistance greater than 100 percent. However, we were able to determine from DCA personnel that if a person receives a utility reimbursement, there is a high probability that they are receiving a 100 percent rental subsidy. For tax year 2006, we identified 500 tenants who received utility reimbursements. These tenants received rebates totaling $191,000.

Furthermore, without rental assistance data the division can not properly calculate a tenant rebate for a senior or disabled person. For tenants 65 or older and/or disabled, the rebate calculation takes into consideration the amount of property taxes paid which equates to 18 percent of rent paid. The division can not determine how much rent was actually paid for individuals who receive rental assistance. We determined that 1,500 seniors and/or disabled persons received tenant rebates and rental assistance. We judgmentally selected 15 tenants and recalculated their rebates based on actual rent paid. All 15 cases were overpaid for a total of $7,600.

**Recommendation**

We recommend the division coordinate with the DCA and develop monitoring procedures to identify tenants who receive rental assistance. Individuals with 100 percent rental subsidy should be excluded from the Homestead Rebate Program.
June 13, 2008

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Re: Division of Taxation Rebate Programs
January 1, 2006 to March 31, 2008

Dear Mr. Eells:

This responds to the Report on the Audit of the Division of Taxation’s (Division) administration of the Property Tax Rebate Programs for the period January 1, 2006 to March 31, 2008. We appreciate the opportunity to offer comments to the four recommendations included in the Audit.

Coordination of Rebate Benefit Programs

The report recommends the Division improve its efforts in coordinating the distribution of benefits under the Homestead Rebate Program and the Property Tax Reimbursement Program (PTR). The auditors determined that some senior citizens participating in both programs in fact received benefits in excess of taxes paid. To correct this situation, the report suggests that rebate payments should be based on net taxes paid after other property tax credits and reimbursements are considered and that total benefits should not exceed taxes paid. The Division respectfully disagrees as neither of these statements is supported by statute and the prescribed actions cannot be implemented without changes to the laws governing these programs.

The Division is tasked with implementing and administering the laws as enacted. The PTR Act was enacted on January 14, 1998 (Chapter 348, P.L.1997). At that time there were two other property tax relief programs in existence: a property tax deduction and a homestead rebate program. As part of the PTR Act the Legislature amended the property tax deduction provisions to limit the amount a PTR recipient could deduct on his/her income tax return to the amount of “base year” property taxes. N.J.S.A. 54A:3A-17 (g). Thus if a PTR applicant’s property taxes were $6500 in 2006, but the amount of his/her base year taxes was $4000, the applicant’s 2006 property tax deduction was limited to $4000. No such limitation was made to the Homestead Rebate Act in effect at that time, nor was it made to the Homestead Property Tax Credit Act that was approved on April 3, 2007.
Although the rebate program has been through several incarnations since 1998, the basics have not changed. In 1997-1998, the rebate for seniors was calculated based on the extent that property taxes paid exceeded 5% of gross income. That provision is still in effect.

Based on the above, it is reasonable to conclude that the Legislature contemplated the existence of other property tax relief programs at the time the PTR was enacted and chose not to amend the rebate act to limit the amount of property taxes paid as may be affected by the PTR. The Division is correct in using the full amount of property taxes and not taking the PTR into account when calculating the homestead rebate.

The Homestead Rebate Act specifically provides that the rebate cannot exceed the amount of property taxes paid. No similar language exists in the PTR Act as the benefit is defined as the difference between current property taxes paid and base year taxes paid. Each benefit is based on the amount of property taxes paid for the year at issue. Neither the definition of property taxes under the PTR Act, nor the definition under the Homestead Rebate Act, requires a reduction based on property tax benefits received.

These are two separate programs with separate eligibility requirements. There is no provision in either the Homestead Rebate Act or the PTR Act that limits the benefits paid to a homeowner as a result of benefits paid under the other program. The Legislature was aware of the existence of the HR Act at the time it enacted the PTR and was aware of the existence of the PTR Act in 1998 when SAVER was enacted, 2004 when FAIR was enacted and 2007 when the most recent version of the HR was enacted. The Legislature did not choose to limit benefits of one program in relation to benefits paid under the other in any of the referenced changes to the programs. The Division cannot do so absent further legislative action.

Rebate Overpayments

The audit identified some examples of overpayments that resulted from applicant errors in reporting property taxes, in identifying the percentage of ownership interest in properties with multiple owners, and in claiming eligibility for both tenant and homeowner Homestead Rebates. The auditors suggested the Division improve its edit processes and expand its manual review of applications.

The Division has confirmed that up to 572 PTR recipients received overpayments in tax year 2006 due to erroneous property tax information reported on their applications. The Division will refine its audit selection criteria to reduce this error rate of 0.4% of PTR benefits paid.

The auditors found $300,000 (.015% of the $2.1 billion program) in overpayments to married couples who received two rebates for the same property. The Division agrees with this finding and has made the necessary change to its processing system to minimize the possibility of recurrence.

The auditors also determined that a small number of applicants received a homeowner rebate and a tenant rebate. This finding is correct, and is due to manual
errors by Division employees. Additional training will be provided to these employees to minimize or eliminate a recurrence of such errors.

There was a finding that a small number of applicants received a tenant rebate and a PTR. This situation occurred largely due to erroneous filings by the applicants. Of the five cases identified, four are actually instances where the applicants likely were underpaid due to the fact that they would be eligible for a larger homeowner rebate in addition to the PTR.

**Deceased Taxpayers**

The Audit Report states that a match with the database of the Bureau of Vital Statistics shows 1,900 Homestead Rebates or Property Tax Reimbursements were paid to deceased individuals. Of this number, the report cites four cases from a sample of 35 with no surviving spouse that did not meet any other qualifying condition. The report concludes that the Division overpaid these ineligible recipients in the amount of $30,000. After an initial review of the cases, the Division cannot yet determine whether these payments were fraudulent.

The fact that a Homestead Rebate or Property Tax Reimbursement was issued in the name of a decedent does not necessarily mean that an application was filed fraudulently or that payment was made to an ineligible claimant. Each year the Division identifies many claims filed by the heir of a decedent, which claims mistakenly include the decedent’s name and social security number. In most cases, the heirs are eligible in their own right for the rebate payments.

The Division’s initial review of three of the four cases cited in the audit report has prompted an outreach to the estate or heir of the decedents for documentation which will allow the Division to verify the legitimacy of the rebate payments. As a result, those three cases do not warrant referral at this time to the Division’s Criminal Investigation Unit as suggested in the report. The initial review of the fourth case suggests the possibility of a fraudulent filing and that case is being reviewed for possible criminal investigation. If the Division determines that any of the payments were received erroneously or fraudulently, appropriate steps will be taken to recover the payments from the ineligible recipients. Additional action will be taken if is determined that a payment was made as the result of a criminal act.

The Division has requested access to the Bureau of Vital Statistics database, and has been advised that, in the absence of a statutory requirement, the Bureau would require an annual access charge. The current fee is 74 cents per record and is scheduled to increase to $2.63 per record next year. The total annual cost for access to the Vital Statistics database would exceed $50,000. It appears that such an expense does not reflect a cost effective solution for identifying fraudulent filings as cited in the audit report. However, the Division will draft a legislative proposal which, if enacted, would authorize access to the Bureau’s records without cost.

Should the Division gain access to the Vital Statistics database, staff will match the records with rebate claims and withhold rebates until receiving satisfactory proof of eligibility from the estates or heirs of decedents. However, it is important to note that this process will require Division employees to review manually up to an additional 2,000 claims each year. Since the Division’s 35 employees assigned to this task already
manually review tens of thousands of claims each year, it can be expected that the rebate payments for these eligible estates and heirs will be delayed for several months.

Subsidized Tenant Rebates

The auditors concluded that the Division should strengthen its monitoring of the tenant rebate program, suggesting that its review of Division records matched against records of the Department of Community Affairs (DCA) disclosed overpayments in the tenant rebate program of $200,000. The report recommends that the Division perform a match with the rental assistance database maintained by DCA.

Several years ago, the Division requested access to rental assistance records from the Division of Housing in the Department of Community Affairs. The request was declined on the basis of federal government restrictions on the release of the data. The Division recently renewed the request which resulted in the same response. The Division will seek legal advice from the Attorney General’s Office as to the scope of applicable federal restrictions to determine whether any legal bases support release of rental assistance data to the Division.

Once again, I thank you for the opportunity to comment on the audit findings.

Very truly yours,

Maureen Adams
Director
Division of Taxation