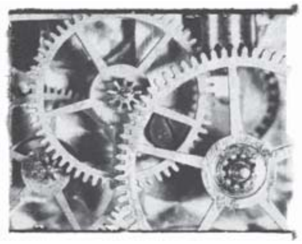
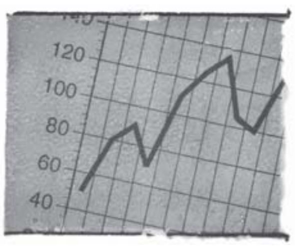
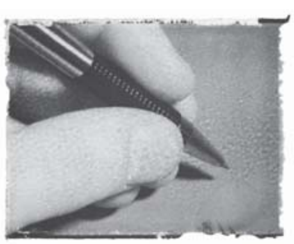






ANALYSIS OF THE NEW JERSEY BUDGET

TAX AND REVENUE OUTLOOK

FISCAL YEAR 2017-2018

PREPARED BY OFFICE OF LEGISLATIVE SERVICES
NEW JERSEY LEGISLATURE • APRIL 2017

NEW JERSEY STATE LEGISLATURE

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

Paul A. Sarlo (D), 36th District (Parts of Bergen and Passaic), *Chair*
Brian P. Stack (D), 33rd District (Part of Hudson), *Vice-Chair*
Jennifer Beck (R), 11th District (Part of Monmouth)
Anthony R. Bucco (R), 25th District (Parts of Morris and Somerset)
Nilsa Cruz-Perez (D), 5th District (Parts of Camden and Gloucester)
Sandra B. Cunningham (D), 31st District (Part of Hudson)
Patrick J. Diegnan Jr. (D), 18th District (Part of Middlesex)
Linda R. Greenstein (D), 14th District (Parts of Mercer and Middlesex)
Steven V. Oroho (R), 24th District (All of Sussex, and parts of Morris and Warren)
Kevin J. O'Toole (R), 40th District (Parts of Bergen, Essex, Morris and Passaic)
M. Teresa Ruiz (D), 29th District (Part of Essex)
Samuel D. Thompson (R), 12th District (Parts of Burlington, Middlesex, Monmouth and Ocean)
Jeff Van Drew (D), 1st District (All of Cape May, and parts of Atlantic and Cumberland)

GENERAL ASSEMBLY BUDGET COMMITTEE

Gary S. Schaer (D), 36th District (Parts of Bergen and Passaic), *Chair*
John J. Burzichelli (D), 3rd District (All of Salem, parts of Cumberland and Gloucester), *Vice-Chair*
Anthony M. Bucco (R), 25th District (Parts of Morris and Somerset)
John DiMaio (R), 23rd District (Parts of Hunterdon, Somerset and Warren)
Gordon M. Johnson (D), 37th District (Part of Bergen)
John F. McKeon (D), 27th District (Parts of Essex and Morris)
Raj Mukherji (D), 33rd District (Part of Hudson)
Elizabeth Maher Muoio (D), 15th District (Parts of Hunterdon and Mercer)
Declan J. O'Scanlon, Jr. (R), 13th District (Part of Monmouth)
Eliana Pintor Marin (D), 29th District (Part of Essex)
Maria Rodriguez-Gregg (R), 8th District (Parts of Atlantic, Burlington and Camden)
Troy Singleton (D), 7th District (Part of Burlington)
Benjie E. Wimberly (D), 35th District (Parts of Bergen and Passaic)

OFFICE OF LEGISLATIVE SERVICES

Frank W. Haines III, *Legislative Budget and Finance Officer*
Thomas Koenig, *Assistant Legislative Budget and Finance Officer*

Marvin W. Jiggetts, *Director, Central Staff*
Catherine Z. Brennan, *Section Chief, Revenue, Finance and Appropriations Section*

This report was prepared by the Revenue, Finance and Appropriations Section of the Office of Legislative Services under the direction of the Legislative Budget and Finance Officer. The primary authors were Martin Poethke and Jordan DiGiovanni with additional contributions by Luke E. Wolff and Anna Uger.

Questions or comments may be directed to the OLS Revenue, Finance and Appropriations Section (609-847-3835) or the Legislative Budget and Finance Office (609-847-3105).

The FY 2017 and FY 2018 Tax and Revenue Outlook

Introduction

The Office of Legislative Services (OLS) has prepared this report to assist the members of the Senate Budget and Appropriations Committee and the Assembly Budget Committee as they develop the FY 2018 annual appropriations bill. The OLS revenue estimates rely on a review of current State revenue collections, revisions to statutory law, historical revenue collection patterns, and a variety of economic data and forecasts, as well as professional judgment.

The OLS projects that combined FY 2017 and FY 2018 revenues will be $436.2 million less than the estimates in the FY 2018 Governor's Budget Recommendation:

- For FY 2017, the OLS revenue estimates are $223.3 million, or 0.6%, below the Executive budget estimates (page 2).

- For FY 2018, the OLS revenue estimates are $212.9 million, or 0.6%, below the Executive budget estimates (page 3).

Contents **Page**

Fiscal Year 2017 Revenue Estimates

Figure 1
Fiscal Year 2017 Revenue Estimates
($ millions)

	Governor's Budget Message				
	Appropriations Act Certified	Revised Amount	Change	OLS Est. Amount	OLS vs. GBM Difference
Gross Income Tax	$13,982.3	$13,940.3	-$42.0	$13,800.0	-$140.3
Sales Tax*	9,597.4	9,294.7	-302.7	9,350.0	55.3
Corporation Bus. Tax*	2,471.0	2,471.0	0.0	2,400.0	-71.0
CBT Banks & Financials	150.0	172.7	22.7	150.0	-22.7
Petroleum Products GR Total	218.1	939.0	720.9	939.0	0.0
Less PPGR Capital Reserves	*0.0*	*-416.2*	*-416.2*	*-416.2*	*0.0*
Inheritance Taxes	848.5	703.9	-144.6	722.0	18.1
Insurance Premiums	688.7	615.5	-73.2	550.0	-65.5
Realty Transfer Fee	330.4	339.3	8.9	342.4	3.1
$1 Million Assessed Properties	124.5	137.8	13.3	136.2	-1.6
Alcoholic Beverage Excise	110.8	110.3	-0.5	111.5	1.2
Other Revenues*	6,080.6	6,046.0	-34.6	6,046.0	0.0
Grand Total, All Funds	**$34,602.3**	**$34,354.3**	**-$248.0**	**$34,130.9**	**-$223.3**

See appendices for additional detail. Numbers may not add due to rounding.
GBM = Governor's Budget Message. * Sales and corporate energy revenues are in Other Revenues.

Figure 1 presents the FY 2017 revenue certification from the Appropriations Act (June 2016), the Executive's revisions as presented in the February 2017 Governor's Budget Message and the OLS forecast. Highlights of the revenue estimates include:

Executive

- Revised estimates for total revenues are down by $248.0 million from the level certified in the FY 2017 Appropriations Act.
- The estimate for the gross income tax is down $42.0 million.
- The estimate for the sales tax is down $302.7 million.
- The estimate for the corporation business tax is unchanged.
- The estimate for the CBT banks and financials tax is up $22.7 million.
- The petroleum products tax, including the Capital Reserves, is up $720.9 million.
- The inheritance taxes estimate is down $144.6 million.
- The estimate for the insurance premiums tax is down $73.2 million.

Office of Legislative Services

- The total revenue estimate for FY 2017 is **$223.3 million below** the Executive's revised projection.
- The estimate for the gross income tax is $140.3 million below the Executive's.
- The estimate for the sales tax is $55.3 million above the Executive's.
- The estimate for the corporation business tax is $71.0 million below the Executive's.
- The CBT banks and financials tax estimate is $22.7 million below the Executive's.
- The petroleum products tax estimate is the same as the Executive’s.
- The inheritance taxes estimate is $18.1 million above the Executive's.
- The estimate for the insurance premiums tax is $65.5 million below the Executive's.

Fiscal Year 2018 Revenue Estimates

Figure 2
Fiscal Year 2018 Revenue Estimates
($ millions)

	Governor's Budget Message		OLS Estimates		
	Amount	Annual Growth	Amount	Annual Growth	OLS vs. GBM Difference
Gross Income Tax	$14,435.0	3.5%	$14,420.0	4.5%	-$15.0
Sales Tax*	9,450.7	1.7%	9,385.0	0.4%	-65.7
Corporation Bus. Tax*	2,594.5	5.0%	2,500.0	4.2%	-94.5
CBT Banks & Financials	185.7	7.5%	160.0	6.7%	-25.7
Petroleum Products GR Total	1,457.9	55.3%	1,457.9	55.3%	0.0
Less PPGR Capital Reserves	*-926.5*	*122.6%*	*-926.5*	*122.6%*	*0.0*
Inheritance Taxes	657.5	-6.6%	731.0	1.2%	73.5
Insurance Premiums	661.6	7.5%	577.5	5.0%	-84.1
Realty Transfer Fee	369.8	9.0%	368.1	7.5%	-1.7
$1 Million Assessed Properties	144.6	5.0%	143.0	5.0%	-1.6
Alcoholic Beverage Excise	111.9	1.5%	114.0	2.2%	2.1
Other Revenues*	6,452.2	6.7%	6,452.2	6.7%	0.0
Grand Total, All Funds	**$35,595.0**	**3.6%**	**$35,382.1**	**3.7%**	**-$212.9**

See appendices for additional detail. Numbers may not add due to rounding.
GBM = Governor's Budget Message. * Sales and corporate energy revenues are in Other Revenues.

Figure 2 displays the Executive FY 2018 revenue estimates as presented in the February 2017 Governor's Budget Message and the OLS forecast. Highlights of the revenue estimates include:

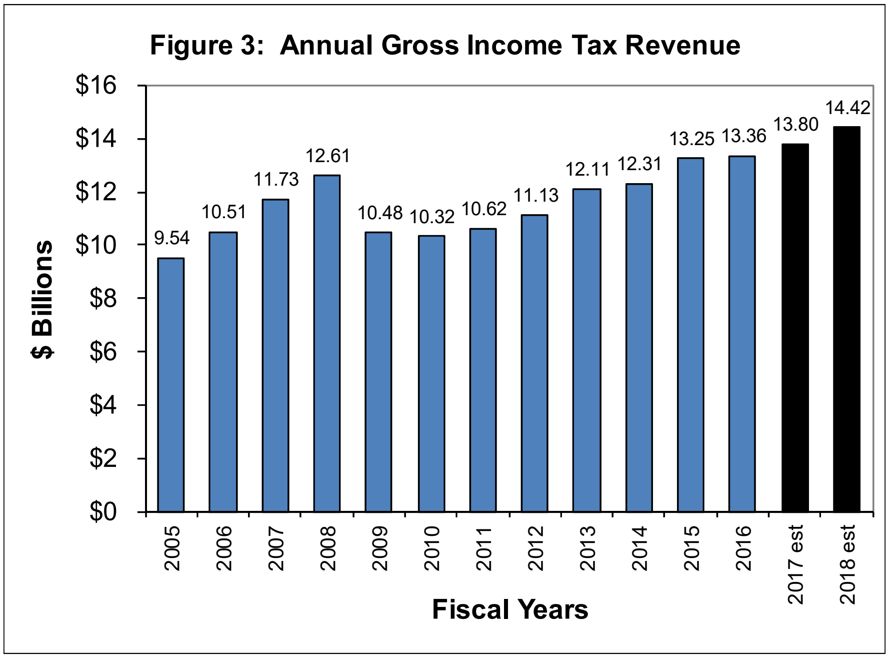
Executive

- The total revenue estimate is $1.241 billion above FY 2017, a 3.6% increase. (Including the petroleum products Capital Reserves, the increase is $1.751 billion, or 5.0%.)
- The gross income tax estimate is up $494.7 million, or 3.5%.
- The sales tax estimate is up $156.0 million, or 1.7%.
- The corporation business tax estimate is up $123.5 million, or 5.0%.
- The CBT banks and financials tax estimate is up $13.0 million, or 7.5%.
- The petroleum products tax estimate is up $518.8 million, or 55.3%.
- The inheritance taxes estimate is down $46.4 million, or 6.6%.
- The insurance premiums tax estimate is up $46.1 million, or 7.5%.

Office of Legislative Services

- The total revenue estimate for FY 2018 is **$212.9 million below** the Executive's projection, a 3.7% increase above the OLS estimated FY 2017 total.
- The gross income tax estimate is $15.0 million below the Executive's.
- The sales tax estimate is $65.7 million below the Executive's.
- The corporation business tax estimate is $94.5 million below the Executive's.
- The CBT banks and financials tax estimate is $25.7 million below the Executive's.
- The petroleum products tax estimate is the same as the Executive's.
- The inheritance taxes estimate is $73.5 million above the Executive's.
- The insurance premiums tax estimate is $84.1 million below the Executive's.

Gross Income Tax



Note: Unless otherwise referenced, all graphs display actual or OLS estimated revenues.

The gross income tax (GIT) continues to be the State's largest revenue. FY 2016 was the sixth consecutive year of annual growth, but that growth averaged just 4.4% compared to a long-run average growth of about 5.8%, reflecting the slow economic recovery. Growth is projected to continue for FY 2017 and FY 2018, even as collections are held down by recently enacted tax reductions under P.L.2016, c.57.[1]

Fiscal Year 2017

Through the first eight months of FY 2017, the GIT was up 8.7%, about $665.0 million above the same period last year. **However, after adjusting for two payment timing shifts, the underlying GIT trend for the first eight months of FY 2017 reflects 0.8% growth compared to last year**.

First, a sharp drop in refund payments from the State to taxpayers, down 37.5% from the same period last year, has artificially enhanced net GIT collections at this time. In February, the Division of Taxation delayed the payment of approximately $400 million in taxpayer refunds, but this delay is expected to be reversed in March.

Second, GIT collections have been enhanced by a gain of $207.2 million from out-of-state partnership withholding payments transferred from the corporation business tax to the GIT on a monthly basis, rather than in a single year-end transfer. After adjusting the GIT total downward by $607.2 million for the refund delay and the partnership transfer, the underlying GIT trend reflects 0.8% growth.

In addition, year-to-date withholding receipts were up 2.5%, while individual estimated payments were down 2.2%.

[1] See the background report on *The 2016 New Jersey Tax Revisions*, beginning on appendices page A-7, for greater detail on the various provisions of P.L.2016, c.57.

For FY 2017, the Executive has reduced its GIT estimate by only $42.0 million from the amount certified in June, to $13.940 billion, 4.4% growth over FY 2016. Given the weak underlying growth to date, attaining the Executive's estimate depends on a significant improvement in one or more of the GIT components in the final months of FY 2017.

The OLS also assumes improvement in the GIT trend over the rest of the year. As is true in most years, the forecast is tied to how the minority of taxpayers who pay the majority of the GIT fared during the prior year. High-income taxpayers pay the bulk of April final payments and quarterly estimated payments, and these taxpayers may have seen a boost at the end of 2016. Financial markets were up at the end of last year, as indicated by a 9.5% rise in the S&P 500 index. Related to this factor, estimated payments for December and January combined were up 5.3%, which can be a leading indicator for growth in April tax collections. In addition, last April's payments were down slightly from the year before, suggesting that growth off a weak base is likely.

Tempering expectations for robust April tax payments, however, are concerns about how, if at all, taxpayer behavior may have been influenced by discussions of future federal tax changes.[2] Analysts at the Rockefeller Institute of Government state[3] that *"These potential changes created incentives for taxpayers to push income out of 2016 and into 2017, when rates might be lower."* They estimate *"that taxpayers might defer as much as 10 to 20 percent of capital gains from 2016 to 2017 or later."*

Capital gains income is not tracked on a monthly basis, and the OLS does not explicitly project capital gains. **Figure 4**, on the following page, shows how closely capital gains ("net gains" according to the *NJ Statistics of Income*) are correlated to the performance of the financial markets. Taxpayers who defer such income to later tax years may have a measurable impact on annual collections. For example, if by Tax Year 2016, New Jersey capital gains reached $15.0 billion, a 10% deferral of those gains into future years would equal $1.5 billion, which might yield between $100.0 million and $135.0 million in deferred GIT revenue.

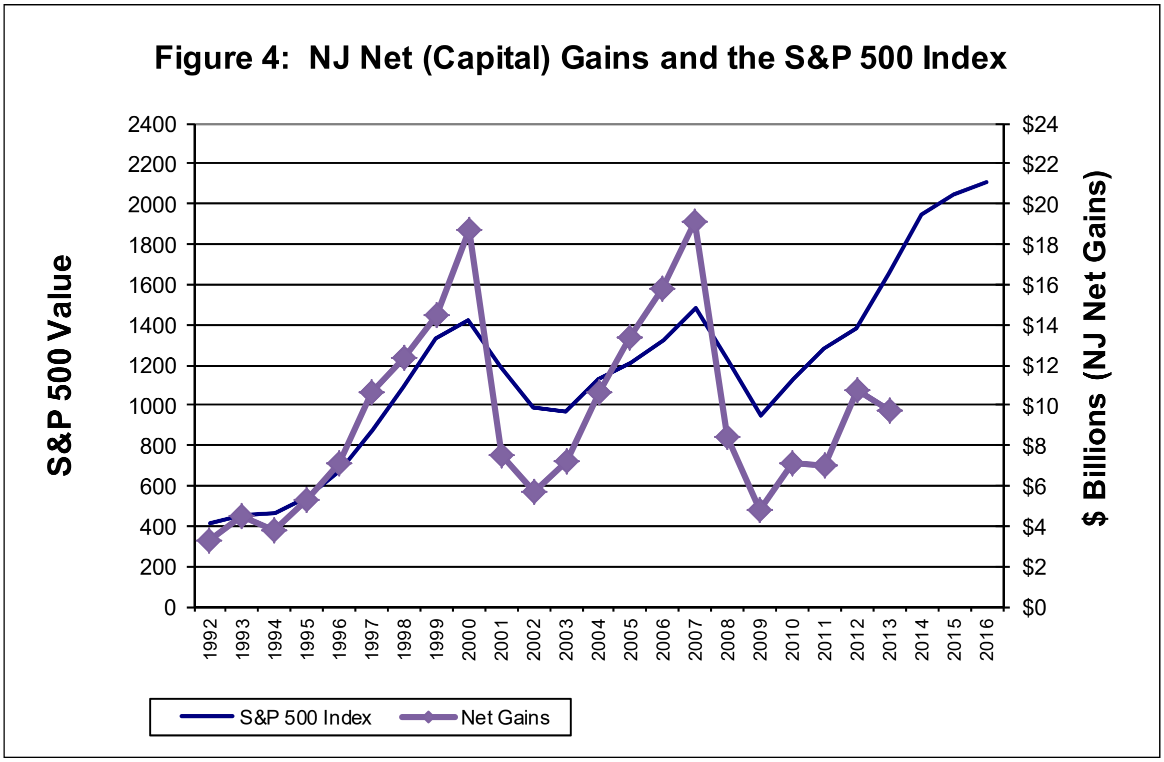
Balancing the encouraging and tempering factors leads the OLS to project solid but not spectacular growth of 8.0% in final and estimated payments this spring. These payments drive the expectation that GIT performance will improve from the weak underlying growth noted through the end of February.

The OLS assumes that refunds, after the Division's processing shift between February and March, will return to a normal pattern and will grow by 3.0% for the remainder of the fiscal year. Refunds will also be impacted by enhanced NJ Earned Income Tax Credit (NJ EITC) payments of about $62.0 million, pursuant to P.L.2016, c.57. These increased taxpayer refunds will be offset by an additional $95.1 million allocation of federal Temporary Assistance for Needy Families (TANF) funding utilized to support the NJ EITC. Lastly, the OLS assumes that the year-to-date trend of about 2.5% growth in withholding payments will continue.

Accordingly, the OLS estimates the GIT will collect $13.800 billion for FY 2017, 3.3% growth over FY 2016, up from the current 0.8% underlying growth through February. However, that OLS estimate is $140.3 million below the Executive's estimate.

[2] See also the discussion of the "reverse fiscal cliff" in the box on page 7 of this report.

[3] *State Revenue Report #106*, March 2017, pages 10-11. The Nelson A. Rockefeller Institute of Government, State University of New York.



Net Gains (capital gains) data from the NJ Statistics of Income through Tax Year 2013, http://www.state.nj.us/treasury/taxation/soiintro.shtml.

Fiscal Year 2018

The Executive projects 3.5% growth for the GIT in FY 2018, yielding $14.435 billion. The OLS projects a higher growth rate of 4.5% than the Executive, yielding $14.420 billion from a lower FY 2017 base, or $15.0 million less than the Executive. These projected growth rates are in line with recent moderate annual rates of growth and forecasts in other states. The median state forecast for personal income tax growth is 3.6%.[4]

The OLS's GIT estimate for FY 2018 assumes growth in withholding receipts of 3.5%, up from 2.5% growth in FY 2017 due to expectations that a tightening labor market will accelerate wage growth. Withholding accounts for about three-quarters of total GIT collections each year, so the assumption of improved withholding growth is a primary driver of the OLS's improved overall rate of growth in FY 2018 compared to FY 2017.

Additionally, the OLS's FY 2018 GIT estimate rests on the assumption of continued positive growth in quarterly estimated payments and final payments by high-income taxpayers. As discussed, expectations of federal tax reform likely created incentives for high-income taxpayers to push some income, such as capital gains, out of 2016 and into 2017. The OLS assumes that such tax planning will help maintain rates of 8.0% growth for estimated payments and final payments during FY 2018, even off solid growth in the FY 2017 base.

[4] *State Revenue Report #106*, March 2017, page 2. The Nelson A. Rockefeller Institute of Government, State University of New York.

The OLS also anticipates steady growth of 2.0% in refund payments in FY 2018 and a marginal loss of $100.0 million from tax cuts under P.L.2016, c.57.

Estimating GIT revenue is inherently subject to uncertainty and volatility. GIT revenue growth is highly influenced by the performance of the financial markets, which impacts high-income taxpayers through capital gains, certain kinds of business income, as well as bonus income. Income changes for a small portion of the tax-paying population can have a large impact on GIT revenues. For example, the number of resident tax returns with income over $500,000 reached a new high of 52,497 in Tax Year 2013. These taxpayers accounted for 1.3% of total taxable returns, 21.4% of gross income, and 38.8% of tax payments. Changes in these high-income returns are highly correlated with fluctuations in financial markets. Forecasting the GIT is largely dependent on evaluating the income gains and losses, and the tax planning decisions, of these high-income taxpayers.

The OLS GIT forecast is constructed from an analysis of four separate components of the GIT cash flow:

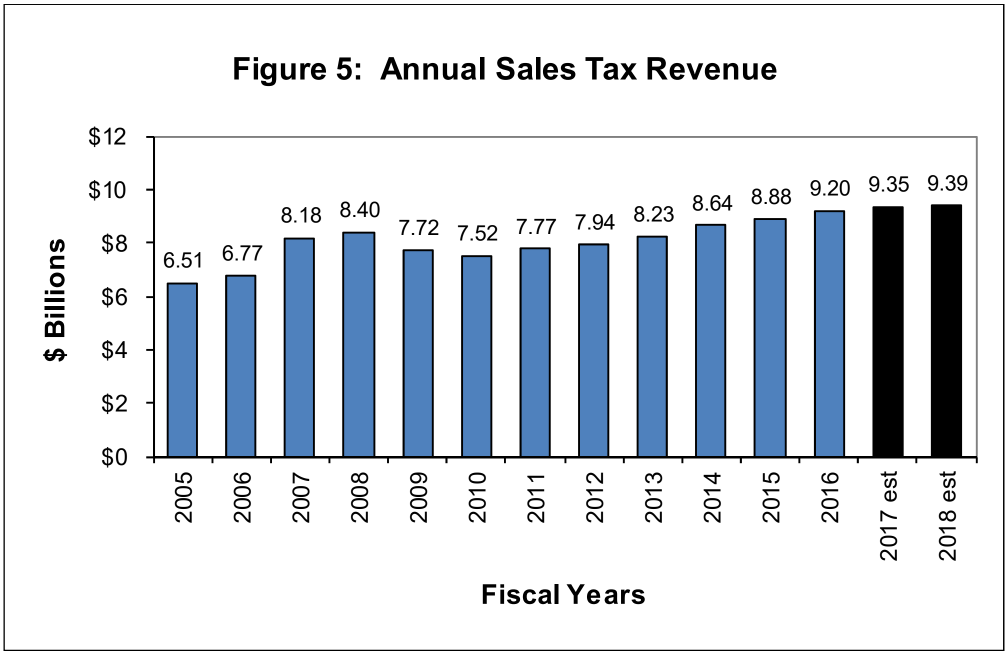
- **Withholding**: Paid throughout the year by employers from amounts deducted from workers' paychecks (including bonuses and some stock options);
- **Estimated Payments**: Generally paid quarterly in April, June, September, and December/January by taxpayers with significant non-wage income, such as capital gains, dividends, and partnership income;
- **Final Year-End Payments**: Due each April, reconciling the prior tax year liability. Generally paid by taxpayers with significant non-wage income;
- **Refund Payments**: Paid by the State to taxpayers whose April tax filings show tax payments exceeding tax liability.

Reverse Fiscal Cliff?

Expectations regarding changes to the federal tax treatment of capital gains may impact State GIT collections in FY 2017 and FY 2018. Currently, long term capital gains are taxed federally at lower rates than ordinary income. Federal tax reform may include provisions that would further decrease capital gains tax rates. These proposals, coupled with November's federal election results, may have altered taxpayer behavior in such a way as to reduce New Jersey GIT collections in FY 2017, effectively producing a "reverse fiscal cliff." For example, in 2012, as certain federal income tax rates were set to ***rise*** on January 1, 2013, tax analysts anticipated a "fiscal cliff" in which some filers were able to shift income realization into Tax Year 2012 to avoid the tax rate increase in Tax Year 2013. This tax planning behavior produced a jump in taxable income and a jump in tax payments in April of 2013. The following year, in April of 2014, tax payments slumped.

At the end of calendar year 2016, taxpayers may have anticipated a federal tax rate ***cut***, the reverse of the expected tax rate increases in Tax Year 2013, producing a "reverse fiscal cliff" caused by taxpayers who ***delayed*** recognizing capital gains. The delay in recognition would affect New Jersey GIT collections in the second half of FY 2017, as there may be lower capital gains income in the New Jersey GIT returns of taxpayers. However, irrespective of whether the proposed federal tax reforms are enacted, to the extent that taxpayers delayed capital gain realization at the end of calendar year 2016, New Jersey will see a boost in GIT collections in FY 2018 as more capital gains are included on Tax Year 2017 New Jersey GIT returns.

Sales Tax



The sales tax in FY 2017 and FY 2018 will be impacted by a two-step reduction in the tax rate from 7.0% to 6.875% on January 1, 2017, and then to 6.625% on January 1, 2018.[5] Generally, this tax is among the steadiest of the major tax revenues, providing reliable, moderate rates of growth. Since FY 2011, growth averaged 3.5% and varied only within a narrow range of 2.2% to 4.9%. However, the tax rate changes will depress revenue growth over the next two years.

FY 2017 performance is at the low end of the post-recession range, up 2.2% through the end of February compared to the same months last year. The Executive decreased its estimate from the $9.597 billion certified last June to $9.295 billion, a drop of $302.8 million. The Executive expects the sales tax to grow by 1.0% in FY 2017, and by 1.7% in FY 2018, to $9.451 billion.

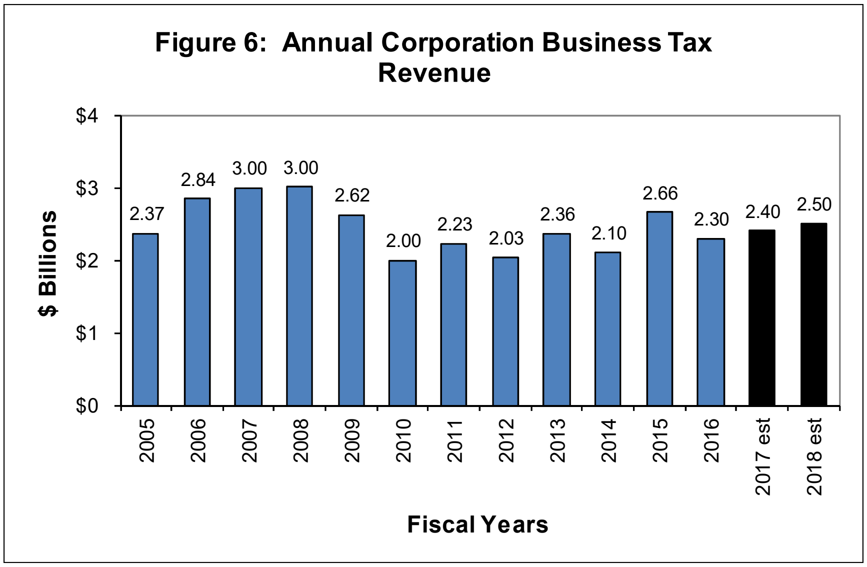
Nationally, sales tax revenue growth has been low, with median state growth of 2.8% in FY 2016 and median projected state growth of 4.3% for FY 2017, according to an annual survey compiled by the National Association of State Budget Officers.

Given current trends and the impact of the tax rate reductions, the OLS is slightly above the Executive for FY 2017. The OLS projects underlying growth of 2.6% from the prior year, less a tax reduction impact of $92.4 million, yielding a total of $9.350 billion, 1.6% net growth over last year, $55.3 million more than the Executive's projection.

In FY 2018, the OLS assumes underlying growth of 3.5% from a slightly higher base, and then reduces the estimate by $290.0 million for the phased-in impact of the rate cuts. Accordingly, the OLS projects $9.385 billion in FY 2018, net growth of only 0.4%, and $65.7 million less than the Executive.

[5] See the background report on *The 2016 New Jersey Tax Revisions*, beginning on appendices page A-7, for greater detail on the various provisions of P.L.2016, c.57.

Corporation Business Tax



The corporation business tax (CBT) is among the most difficult revenues to project. Annual collections typically include both payments and refunds from multiple tax years. Corporate accounting practices and various tax credits also impact annual payments. Furthermore, detailed statistical data available for the GIT are not available for the CBT. Analytically, the CBT is somewhat of a "black box" for revenue estimators.

Actual cash collections are often the best data available for forecasting the CBT. In FY 2017 this revenue is down 13.0% through the end of February. However, as noted in the GIT discussion, FY 2017 cash collections reflect the transfer of out-of-state partnership withholding payments from the CBT to the GIT on a monthly basis, rather than in a single year-end shift. Through the end of February, $207.2 million has been transferred. **After adjusting for this amount, underlying CBT receipts are up 5.4% on a comparable basis.**

An additional factor complicating CBT projections involves the impact of CBT tax credits. The Division of Taxation's *Tax Expenditure Report* estimates that various CBT tax credits will reduce annual collections by $292.3 million in FY 2017 and $347.4 million in FY 2018.[6] These projections are difficult to tie directly to individual fiscal year CBT revenue forecasts because amounts awarded can be delayed or adjusted for tax planning purposes. However, these credits depress growth in CBT collections.

The Executive's revised estimates maintain the certified FY 2017 projection of $2.471 billion, 7.6% above the prior year total. For FY 2018, the Executive projects $2.595 billion, 5.0% growth over FY 2017.

Given that current collections are trailing the Executive's FY 2017 target, the OLS estimates $2.400 billion, 4.6% growth over last year, or $71.0 million below the Executive's estimate. The OLS is also more cautious for FY 2018, estimating $2.500 billion, 4.2% growth from OLS's lower FY 2017 base, or $94.5 million below the Executive's estimate.

[6] See the background report on *Economic Development Tax Credit Awards* beginning on appendices page A-20.

Petroleum Products Gross Receipts Tax and Motor Fuels Tax

Figure 7: Petroleum Products Gross Receipts Tax

Millions of Dollars

	FY16 Actual	FY17 Certified	Certified % Change	FY17 Revised	Revised % Change	FY18 Estimated	Estimated % Change
PPGRT Total	$214.8	$218.1	1.5%	**$939.0**	**337.3%**	**$1,457.9**	**55.3%**
Capital Reserves	$0.0	$0.0		**$416.2**		**$926.5**	**122.6%**
Adjusted PPGRT	$214.8	$218.1	1.5%	**$522.8**	**143.4%**	**$531.3**	**1.6%**

Note: The Petroleum Products Gross Receipts Tax (PPGRT) was significantly amended under P.L.2016, c.57.

New Jersey imposes two taxes on the sale of gasoline and diesel fuels, the petroleum products gross receipts tax (PPGRT) and the motor fuels tax (which are at times collectively referred to as the "gas tax"). The PPGRT was significantly increased under P.L.2016, c.57.[7] Subsequently, in November of 2016, New Jersey voters constitutionally dedicated the revenues for the purposes of the Transportation Trust Fund.

Figure 7 displays PPGRT revenues between FY 2016 and FY 2018. Last June, the Governor certified $218.1 million for FY 2017. The Executive increased that estimate to $939.0 million, or 337.3% growth over last year, including the impact of the tax rate increases for eight months of FY 2017. A portion of this increase, $416.2 million, is allocated to the PPGRT Capital Reserves for dedicated transportation purposes. The residual $522.8 million remains in the General Fund to support transportation debt service payments.

For FY 2018, the Executive estimates the PPGRT will increase to $1.458 billion, up 55.3% from FY 2017, including the tax increases over a full 12 months. The Capital Reserves portion is projected to grow to $926.5 million, while the General Fund portion increases to $531.3 million.

Through the end of February, the PPGRT is running 185.4% above the same months last year. Treasury notes that about $221.6 million has been received from the tax changes for December, January and February. The OLS believes collections are performing close to expectations and therefore agrees with the Executive's estimates for FY 2017 and FY 2018.

The **motor fuels tax** was not amended under P.L.2016, c.57. Revenue peaked at $566.8 million in FY 2004 and has since fluctuated during a period of highly variable retail fuel prices. The Executive pushed up its FY 2017 estimate for the motor fuels tax from $540.0 million certified last June, to $562.0 million, 1.4% growth over FY 2016. For FY 2018, the Executive projects 2.0% growth to a new peak of $573.3 million.

While motor fuels tax revenue is up only 0.6% year-to-date through the end of February, the OLS believes the Executive's targets are achievable. Even with the recent PPGRT rate increases, fuel prices remain relatively low and economic growth steady. The OLS agrees with the Executive's low-growth motor fuels tax estimates for FY 2017 and FY 2018.

[7] See the background report on *The 2016 New Jersey Tax Revisions*, beginning on appendices page A-7, for greater detail on the various provisions of P.L.2016, c.57.

Other Selected Revenues

Figure 8: Cigarette Tax Estimates and Distributions

Millions of Dollars

	Actual	Executive Estimates		OLS Estimates		OLS Difference	
	FY2016	FY2017	FY2018	FY2017	FY2018	FY2017	FY2018
Total Collections All Sources	**$671.9**	**$677.6**	**$667.4**	**$677.6**	**$667.4**	**$0.0**	**$0.0**
Less, Health Care Subsidy Fund	-396.5	-396.5	-396.5	-396.5	-396.5	0.0	0.0
Less, Dedication for Debt Service	-107.9	-104.5	-97.9	-104.5	-97.9	0.0	0.0
Total Collections On-Budget	**$167.5**	**$176.6**	**$173.0**	**$176.6**	**$173.0**	**$0.0**	**$0.0**

Cigarette Tax

In recent fiscal years, the cigarette tax has generated close to $700 million in annual State receipts. But only a portion of this amount appears as budgeted General Fund revenue (see **Figure 8**). In FY 2016, for example, the State received $671.9 million in total cigarette tax collections. Of that total, $396.5 million supported the off-budget Health Care Subsidy Fund, $107.9 million was used off-budget to pay debt service on cigarette tax revenue securitization bonds, and $167.5 million was accounted for on-budget as General Fund revenue.

The Executive projects $176.6 million in FY 2017 on-budget cigarette tax receipts. This estimate assumes 0.9% growth in taxed cigarette sales from FY 2016. The OLS shares the same perspective as the Executive regarding taxed cigarette sales. Cigarette tax revenues traditionally decline year-to-year by between 2.5% and 3.0% as consumers quit smoking and purchase fewer cigarette packs. However, Pennsylvania increased its cigarette tax from $1.60 per pack to $2.60 per pack effective August 1, 2016, reducing the incentive for New Jersey residents to buy their cigarettes across the border. This impact, combined with a weak revenue collections base during the final months of FY 2016, support the conclusion that in FY 2017 this revenue will exceed the prior year total.

For FY 2018, the Executive assumes that taxed cigarette sales will recede by 1.5%. The OLS concurs with the Executive's estimate. Specifically, the Executive forecasts $173.0 million in FY 2018 on-budget General Fund receipts, or a 2.0% decline from its FY 2017 estimate.

The anticipated year-over-year decrease for FY 2018 reflects the structure of the cigarette tax's revenue allocation. The statutory law shields from the effects of eroding cigarette sales the fixed $396.5 million off-budget Health Care Subsidy Fund dedication and, up to a point, the required off-budget debt service payments on cigarette tax revenue securitization bonds. The remaining on-budget portion of cigarette tax collections will absorb the entire revenue loss from the anticipated 1.5% decline in taxed cigarette sales. In FY 2018, the on-budget portion of cigarette tax collections would drop by a larger amount were it not for a decrease in required off-budget debt service payments on cigarette tax revenue securitization bonds. The debt service payments will drop by $6.6 million from $104.5 million in FY 2017 to $97.9 million in FY 2018.

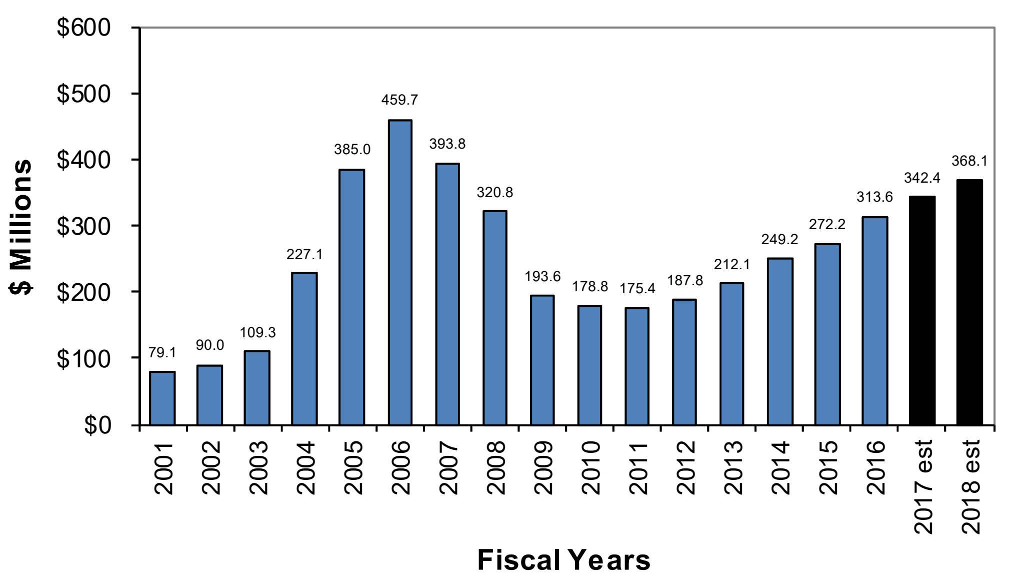
Realty Transfer Fees

Since FY 2011, the real estate market has rebounded from the depths of the Great Recession, with realty transfer fee collections through FY 2016 increasing by 79.0%. Both the Executive and OLS expect the upward trajectory to continue in FY 2017 and in FY 2018.

The Executive estimates $339.3 million in FY 2017 realty transfer fee revenue, or 8.2% growth over FY 2016, and $369.8 million in FY 2018, or 9.0% growth over FY 2017. The OLS shares the expectation of rising collections, but is slightly more optimistic for FY 2017 and more conservative for FY 2018. FY 2017 year-to-date collections through February are up 9.4%. Over the remaining months of the fiscal year, realty transfer fee revenues would have to grow at a reduced 6.2% to reach the Executive's year-end projection. Based on the current growth trend, the OLS estimates $342.4 million in FY 2017. Its $368.1 million FY 2018 forecast, in turn, is due to caution regarding increasing mortgage rates and the tightening supply of homes available for purchase. The FY 2017 estimate reflects a 9.2% growth rate over FY 2016 and the FY 2018 estimate a 7.5% growth rate over FY 2017.

The Executive has increased the outlook for the **separate one-percent assessment on property sales valued over $1 million**. The Executive now forecasts $137.8 million in FY 2017 assessment collections and $144.6 million in FY 2018, reflecting 5.0% growth in each year. Through February, actual collections are up 3.2% over FY 2016. To achieve the Executive's FY 2017 projection, collections over the remaining months of the current fiscal year would have to grow by 8.4%. Given recent growth and an extraordinary jump in the base last year, the OLS estimates a lower $136.2 million in FY 2017, or 3.8% growth over FY 2016, and 5.0% growth through the remainder of the current fiscal year. Additionally, the OLS agrees with the Executive's projected growth rate of 5.0% for FY 2018. Thus, the OLS estimates $143.0 million for FY 2018, which is derived from the OLS's lower base estimate for FY 2017.

Figure 9: Annual Realty Transfer Fee Revenue



Inheritance Taxes

Inheritance tax collections consist of revenues from two inter-related taxes: the transfer inheritance tax and the estate tax. Historically, each tax has produced about 50.0% of the overall total. Under P.L.2016, c.57, the estate tax portion will be phased out over two tax years, reducing revenue collections across the next several fiscal years.[8] The initial impact of the first step of the tax cut (effective January 1, 2017) during the final six months of FY 2017 is expected to be relatively small, principally since estates have nine months to file tax returns.

The Executive decreased its estimate for these combined taxes in FY 2017 from the $848.5 million certified last June to $703.9 million, assuming a decline of 8.5% from FY 2016.

Actual collections this fiscal year are down 5.6% through February. Since the current rate of decline is smaller than assumed by the Executive's revised estimate, and given that the initial impact of the estate tax cut is likely to be small in the remainder of FY 2017, the OLS estimates a somewhat higher level of $722.0 million, down 5.1% from last year, but $18.1 million above the Executive's revised estimate.

For FY 2018, the Executive estimates a further decline to $657.5 million, down 6.6%. In contrast, the OLS projects $731.0 million, up 1.2% from FY 2017, or $73.5 million above the Executive's estimate. The OLS estimate derives from the assumption of 10.0% underlying growth in both the transfer inheritance and the estate tax portions of this revenue from the FY 2017 base, spurred by strong recent growth in asset values. However, that growth is largely offset by an estimated $73.0 million revenue reduction from the phased-in cut in the estate tax.

[8] See the background report on *The 2016 New Jersey Tax Revisions*, beginning on appendices page A-7, for greater detail on the various provisions of P.L.2016, c.57.

CBT on Banks and Financial Institutions

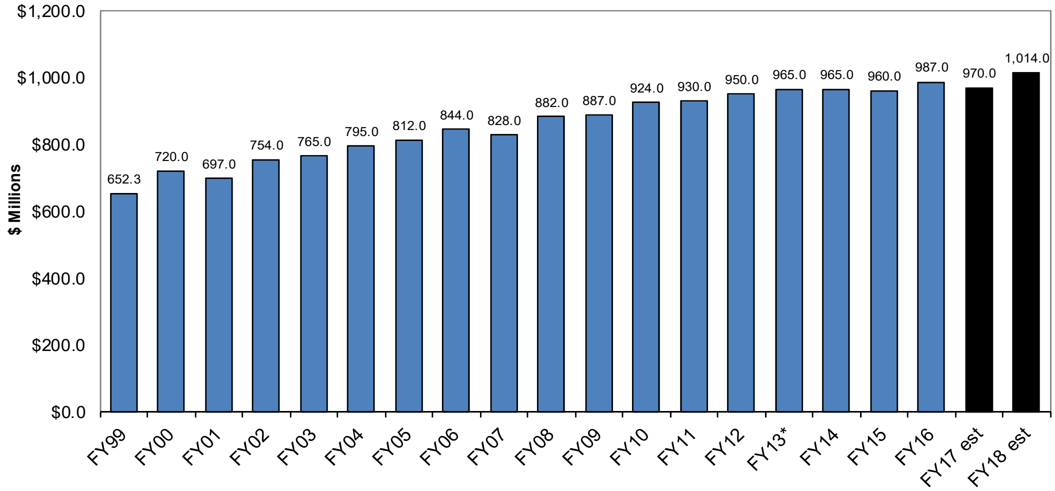
The corporation business tax on banks and financial institutions (CBT B&F) raises a fraction of the revenue of the "regular" CBT. Through the end of February, the CBT B&F is running 12.2% ahead of the same period last year. The Executive increased its estimate for FY 2017 from the $150.0 million certified last June to $172.7 million. The Executive's projection assumes a decline from FY 2016 of 3.1%, indicating caution for the remainder of FY 2017. For FY 2018, the Executive assumes an increase to $185.7 million, up 7.5%.

In the final quarter of FY 2016, the CBT B&F surged to the second highest quarterly receipt in this revenue's history, booking $104.3 million, nearly 60.0% of the entire FY 2016 total. The OLS does not expect such a robust quarter to be repeated and agrees with the Treasury that caution is prudent for the remainder of the year. The OLS believes the original certified level of $150.0 million remains an appropriate target for FY 2017, $22.7 million below the Executive's revised estimate. For FY 2018 the OLS estimates $160.0 million, growth of 6.7% from the lower base in FY 2017, and $25.7 million less than the Executive's estimate.

Insurance Premiums

For the insurance premiums tax, the Executive projects $615.5 million in FY 2017 and $661.6 million in FY 2018. However, growth has been weak, down 14.3% through February, with additional weakness likely in March. The Executive requires nearly 20.0% growth for the remainder of FY 2017 to achieve its target.

The OLS projects $550.0 million in FY 2017, an 8.0% decline from FY 2016, $65.5 million below the Executive's estimate. For FY 2018 the OLS projects $577.5 million, 5.0% growth over the prior year, or $84.1 million below the Executive.



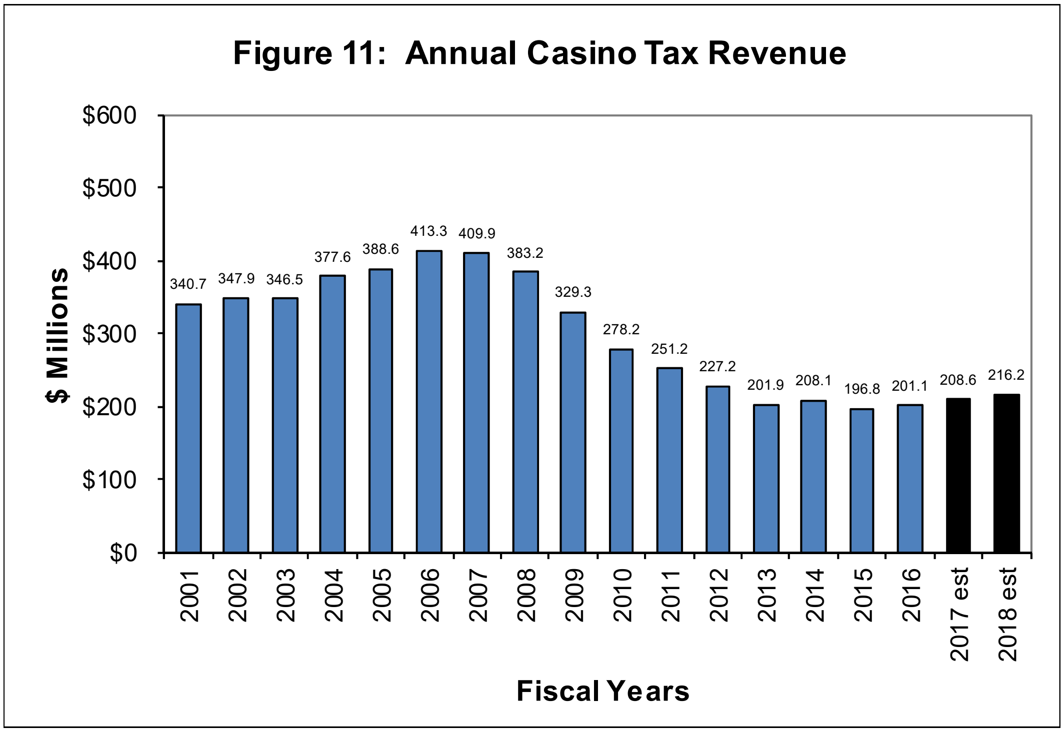
* FY13 excludes the $120 million one-time contractor prepayment. In October 2013 a private contractor took over management of the Lottery's sales and marketing functions.

State Lottery Fund

State Lottery revenues differ from other revenues in two ways. First, Lottery revenues do not represent gross collections, but net income after deducting business expenses. Second, the budget line captures only the amount the Executive decides to transfer each fiscal year out of unexpended State Lottery Fund balances to the General Fund. In determining the annual transfer, the Executive is statutorily required to contribute at least 30% of ticket sales receipts to State institutions and State aid for education.

Since FY 2012, the State Lottery Fund has contributed between $950.0 million and $987.0 million annually to the General Fund (**Figure 10**). The relative lack of growth in the State Lottery Fund transfer is largely the result of Lottery net income developments that appear to have been part of a broader national trend. Specifically, higher-margin draw game ticket sales, Mega Millions and Powerball, have been declining, while lower-margin instant game ticket sales have been increasing. In June 2016, the Governor certified a $965.0 million transfer to the General Fund for FY 2017, 2.2% less than the $987.0 million transferred in FY 2016. The Executive revised the FY 2017 transfer estimate upward to $970.0 million, an increase of $5.0 million. This increase is possible due to the availability of $11.4 million in FY 2016 year-end surplus. For FY 2018, the Executive estimates a $1.014 billion transfer, or 4.5% growth, which relies on the use of $6.0 million surplus remaining from FY 2016.

The OLS accepts the Executive's estimates of $970.0 million for FY 2017 and $1.014 billion for FY 2018. However, the OLS notes that lottery revenues in FY 2017 have not experienced the same boost that occurred in January of 2016, when lottery revenues were up a strong 59.1%. The Executive assumes a drop in FY 2017 gross sales revenues of 2.0% below FY 2016 and net revenues that would be short of the target set in the contract with operator NorthStar New Jersey. Projections for FY 2018 reflect a rebound in gross sales of 4.2% and net revenues of $1.008 billion, equal to the contracted target. But the Executive controls the amount of the annual transfer, subject to the statutory requirement. For that reason, the OLS cannot forecast the extent to which any lottery revenues may yield additional General Fund revenues.



Casino Tax Revenue

From FY 2006 to FY 2013, casino tax collections deposited into the Casino Revenue Fund plummeted 51%, from $413.3 million to $201.9 million. The decline halted briefly in FY 2014, as the $208.1 million total was boosted by new internet gambling revenues, but resumed in FY 2015, falling to $196.8 million. Growth returned in FY 2016, with collections rising to $201.1 million, and is expected to continue in FY 2017 and FY 2018. **Figure 11** displays the historical pattern since FY 2001.

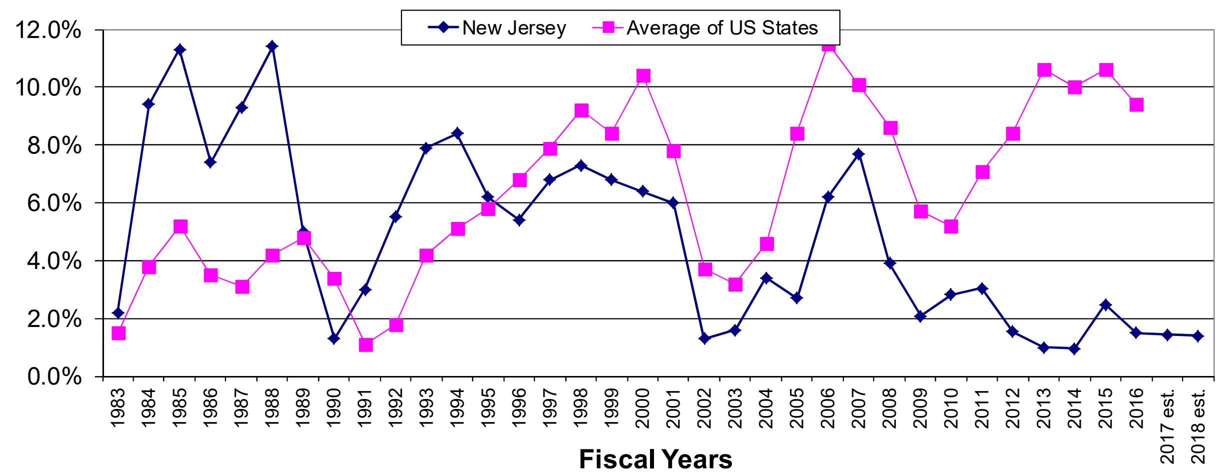
Although the Great Recession added to the decline, competition from new casinos in other states is seen as the primary cause of the fall. The decrease in visitors to Atlantic City drove down gambling activity and the State's casino tax revenue. Since 2014, five of Atlantic City's 12 casinos closed.

To supplement casino revenues, internet gambling began late in 2013, with initial Executive tax revenue projections in excess of $160.0 million per year. Actual collections in FY 2014 yielded $10.7 million followed by $19.8 million in FY 2015 and $25.8 million in FY 2016. Through the first eight months of FY 2017, internet gambling has booked $20.9 million. The OLS anticipates continued growth in this component of the casino tax revenues.

Through the end of February, overall casino tax revenues are up 6.8% year-to-date. The Executive has increased its FY 2017 casino tax estimate, from $199.1 million certified last June to a revised $208.6 million. The Executive projects continued growth for FY 2018, to $216.2 million. The OLS believes the recent growth is likely to continue and concurs with the Executive's estimates.

The Budget's Year-End Balance

Figure 12: Year-End Budget Surplus as a Percent of Expenditures



Revenue shortfalls and unplanned expenditures can destabilize the budgets of governments with balanced budget requirements. Contingency reserves, such as rainy day funds, are intended to mitigate potentially disruptive short-term fiscal stress by providing emergency budget resources out of previously saved surplus balances.

In New Jersey, the Executive projects an FY 2018 year-end balance of $492.8 million, 1.4% of budgeted expenditures.[9] As part of its annual analysis, the OLS recalculates the State's year-end budgeted balance based solely on the revenue forecast differences between the Executive and the OLS. All other things being equal, the $436.2 million lower OLS revenue estimates would produce a year-end balance of $56.6 million or 0.2% of FY 2018 expenditures.

The Executive's projected 1.4% surplus is low by both historical and national standards.

As reflected in **Figure 12**, over the last 36 years the State's actual surplus has exceeded 2.0% of expenditures 27 times, largely tracking, although rarely meeting, the average attained by other states. And while two of the seven completed fiscal years during which State surpluses fell below 2.0% were impacted by economic recessions (FY 1990 and FY 2002), four of those low points have occurred since FY 2012. According to an annual survey compiled by the National Association of State Budget Officers, the long-run average state surplus is 6.0%. Unlike New Jersey, the national average of all states' surpluses has not fallen below 2.0% since FY 1992, has exceeded 4.0% in each of the last 13 completed fiscal years, and has topped 8.0% since FY 2012.

Ultimately, the actual year-end balance will be determined by numerous spending decisions as well as revenue collections. Decisions on these and other matters will be made by the Executive, both budget committees and the full Legislature during the next three months and throughout the next fiscal year.

[9] The $492.8 million balance does not include the estimated $194.0 million dedicated for the Open Space Reserve via constitutionally dedicated corporation business tax revenue.

Appendices Contents Page

Detailed Fiscal Year 2017 Revenue Estimates

Millions of $

Revenue Source	Appropriations Act (June 2016)	Executive Revised	OLS	Diff: OLS - Executive
Major Taxes:				
Sales Tax, Total	**$9,032.6**	**$8,723.5**	**$8,778.8**	**$55.3**
Sales Tax, Base	*9,597.4*	*9,294.7*	*9,350.0*	*55.3*
Dedicated Transfer to PTRF	*-729.0*	*-719.0*	*-719.0*	*0.0*
Sales Tax, Energy	*164.2*	*147.8*	*147.8*	*0.0*
Corporation Business Tax, Total	**$2,493.0**	**$2,481.0**	**$2,410.0**	**-$71.0**
Corporation Business Tax, Base	*2,471.0*	*2,471.0*	*2,400.0*	*-71.0*
Corporation Business Tax, Energy	*22.0*	*10.0*	*10.0*	*0.0*
Inheritance Taxes	848.5	703.9	722.0	18.1
Motor Fuels Tax	540.0	562.0	562.0	0.0
Insurance Premiums Tax	688.7	615.5	550.0	-65.5
Realty Transfer Fee	330.4	339.3	342.4	3.1
Motor Vehicle Fees	515.6	514.2	514.2	0.0
Cigarette Tax	149.0	176.6	176.6	0.0
Petroleum Products Gross Receipts Tax	218.1	939.0	939.0	0.0
Less: Petroleum Products GR Capital Reserves	*0*	*-416.2*	*-416.2*	*0.0*
Corp. Business Tax - Banks and Financial	150.0	172.7	150.0	-22.7
Alcoholic Beverage Excise Tax	110.8	110.3	111.5	1.2
Tobacco Products Wholesale Tax	22.4	23.8	23.8	0.0
Public Utilities Excise Tax	15.6	17.8	17.8	0.0
Subtotal, Major Taxes	**$15,114.6**	**$14,963.3**	**$14,881.9**	**-$81.5**
Misc. Taxes, Fees and Revenues				
Medicaid Uncomp. Care Reimbursement	371.9	357.8	357.8	0.0
Settlements	140.0	140.0	140.0	0.0
Federal Funds - Graduate Medical Education	126.0	123.3	123.3	0.0
Public Utility Taxes (State Retention)	120.0	129.0	129.0	0.0
Assessment on Property Sold Over $1 Million	124.5	137.8	136.2	-1.6
Telephone Assessment	122.1	121.3	121.3	0.0
Hotel Occupancy Tax	105.5	102.3	102.3	0.0
Asset Sales	0.0	0.0	0.0	0.0
Fringe Benefit Recoveries (Interdepartmental)	649.4	697.9	697.9	0.0
Interdepartmental Accounts, Other	96.6	100.4	100.4	0.0
Other	1,184.5	1,078.8	1,078.8	0.0
Subtotal, Misc. Revenues	**$3,040.3**	**$2,988.6**	**$2,987.0**	**-$1.6**
Interfund Transfers				
State Lottery Fund	965.0	970.0	970.0	0.0
Unclaimed Personal Property Trust Fund	172.0	172.0	172.0	0.0
State Disability Benefit Fund	38.8	38.9	38.9	0.0
Enterprise Zone Assistance Fund	78.6	71.1	71.1	0.0
Other	199.8	202.6	202.6	0.0
Subtotal, Interfund Transfers	**$1,454.2**	**$1,454.6**	**$1,454.6**	**$0.0**
TOTAL GENERAL FUND	**$19,609.1**	**$19,406.5**	**$19,323.5**	**-$83.1**
Property Tax Relief Fund (Income Tax)	**$13,982.3**	**$13,940.3**	**$13,800.0**	**-$140.3**
PTRF Transfer from GF (Sales Tax)	***$751.1***	***$741.1***	***$741.1***	***$0.0***
Casino Revenue Fund (CRF)	**$208.5**	**$216.1**	**$216.1**	**$0.0**
CRF Taxes	$199.1	$208.6	$208.6	$0.0
CRF Other	$9.4	$7.5	$7.5	$0.0
Casino Control Fund	**$50.5**	**$49.6**	**$49.6**	**$0.0**
Gubernatorial Elections Fund	**$0.7**	**$0.7**	**$0.7**	**$0.0**
GRAND TOTAL, ALL FUNDS	**$34,602.3**	**$34,354.3**	**$34,130.9**	**-$223.3**

Detailed Fiscal Year 2018 Revenue Estimates

Millions of $

Revenue Source	February 2017 Gov's Budget	GBM % Change	April 2017 OLS	OLS % Change	Diff: OLS - Executive
Major Taxes:					
Sales Tax, Total	**$8,870.7**	**1.7%**	**$8,805.0**	**0.3%**	**-$65.7**
Sales Tax, Base	*9,450.7*	1.7%	*9,385.0*	0.4%	*-65.7*
Dedicated Transfer to PTRF	*-745.0*		*-745.0*		
Sales Tax, Energy	*165.0*	11.6%	*165.0*	11.6%	*0.0*
Corporation Business Tax, Total	**$2,606.5**	**5.1%**	**$2,512.0**	**4.2%**	**-$94.5**
Corporation Business Tax, Base	*2,594.5*	5.0%	*2,500.0*	4.2%	*-94.5*
Corporation Business Tax, Energy	*12.0*	20.0%	*12.0*	20.0%	*0.0*
Inheritance Taxes	657.5	-6.6%	731.0	1.2%	73.5
Motor Fuels Tax	573.3	2.0%	573.3	2.0%	0.0
Insurance Premiums Tax	661.6	7.5%	577.5	5.0%	-84.1
Realty Transfer Fee	369.8	9.0%	368.1	7.5%	-1.7
Motor Vehicle Fees	498.2	-3.1%	498.2	-3.1%	0.0
Cigarette Tax	173.0	-2.0%	173.0	-2.0%	0.0
Petroleum Products Gross Receipts Tax	1,457.9	55.3%	1,457.9	55.3%	0.0
Less: Petroleum Products GR Capital Reserves	*-926.5*		*-926.5*	*122.6%*	*0.0*
Corp. Business Tax - Banks and Financial	185.7	7.5%	160.0	6.7%	-25.7
Alcoholic Beverage Excise Tax	111.9	1.5%	114.0	2.2%	2.1
Tobacco Products Wholesale Tax	24.9	4.5%	24.9	4.5%	0.0
Public Utilities Excise Tax	18.4	3.4%	18.4	3.4%	0.0
Subtotal, Major Taxes	**$15,283.0**	**2.1%**	**$15,086.7**	**1.4%**	**-$196.3**
Misc. Taxes, Fees and Revenues					
Medicaid Uncomp. Care Reimbursement	337.6	-5.6%	337.6	-5.6%	0.0
Settlements	75.0	-46.4%	75.0	-46.4%	0.0
Federal Funds - Graduate Medical Education	141.0		141.0		0.0
Public Utility Taxes (State Retention)	133.0	3.1%	133.0	3.1%	0.0
Assessment on Property Sold Over $1 Million	144.6	5.0%	143.0	5.0%	-1.6
Telephone Assessment	134.3	10.7%	134.3	10.7%	0.0
Hotel Occupancy Tax	106.4	4.0%	106.4	4.0%	0.0
Asset Sales	325.0		325.0		0.0
Fringe Benefit Recoveries (Interdepartmental)	689.5		689.5		0.0
Interdepartmental Accounts	95.8	-4.7%	95.8	-4.7%	0.0
Other	1,160.9	7.6%	1,160.9	7.6%	0.0
Subtotal, Misc. Revenues	**$3,343.1**	**11.9%**	**$3,341.5**	**11.9%**	**-$1.6**
Interfund Transfers					
State Lottery Fund	1,014.0	4.5%	1,014.0	4.5%	0.0
Unclaimed Personal Property Trust Fund	160.0	-7.0%	160.0	-7.0%	0.0
State Disability Benefit Fund	38.5	-1.0%	38.5	-1.0%	0.0
Enterprise Zone Assistance Fund	66.7	-6.1%	66.7	-6.1%	0.0
Other	213.2	5.2%	213.2	5.2%	0.0
Subtotal, Interfund Transfers	**$1,492.4**	**2.6%**	**$1,492.4**	**2.6%**	**$0.0**
TOTAL GENERAL FUND	**$20,118.5**	**3.7%**	**$19,920.7**	**3.1%**	**-$197.9**
Property Tax Relief Fund (Income Tax)	**$14,435.0**	**3.5%**	**$14,420.0**	**4.5%**	**-$15.0**
PTRF Transfer from GF (Sales Tax)	***$767.1***		***$767.1***		
Casino Revenue Fund (CRF)	**$223.6**	**3.5%**	**$223.6**	**3.5%**	**$0.0**
CRF Taxes	$216.2	3.6%	$216.2	3.6%	$0.0
CRF Other	$7.4	-0.3%	$7.4	-0.3%	$0.0
Casino Control Fund	**$50.0**	**0.9%**	**$50.0**	**0.9%**	**$0.0**
Gubernatorial Elections Fund	**$0.7**	**0.0%**	**$0.7**	**0.0%**	**$0.0**
GRAND TOTAL, ALL FUNDS	**$35,595.0**	**3.6%**	**$35,382.1**	**3.7%**	**-$212.9**

Revenue from Taxes on Energy and Utility Services

Energy utilities are subject to the corporation business tax (CBT) and collect and remit sales tax on their energy sales. Telecommunications utilities are subject to the CBT, while other utilities are taxed on the basis of their gross receipts. The revenues are divided into two categories: municipal use, which are "off-budget" and State use, which are "on-budget."

Figure A displays public utility revenues from FY 1995 through FY 2018. Collections through FY 1997 were under the old public utility tax system. Since FY 1998, taxes have been collected under the current law. **Figures B through E** display the actual and anticipated revenues from FY 2015 through FY 2018 in greater detail.

From a budgeting perspective, the municipal use tax revenues are credited to the Energy Tax Receipts Property Tax Relief Fund (ETR Fund), and allocated to municipalities under a statutory formula. These amounts, considered "off-budget," are not included in either the anticipated Schedule 1 revenues or the amount of State aid appropriated in the annual appropriations act. This amount has been held at $788.5 million by annual budget language since FY 2005.

After allocation of $788.5 million to the ETR Fund, the remaining revenues come "on-budget" for State use in the General Fund. Some of this on-budget State use portion was the Transitional Energy Facility Assessment (TEFA), which was imposed from FY 1998 through FY 2013.

Total State use "on-budget" collections from all energy and utility sources were $187.0 million in FY 2016 and are estimated at $304.6 million in FY 2017 and $328.4 million in FY 2018.

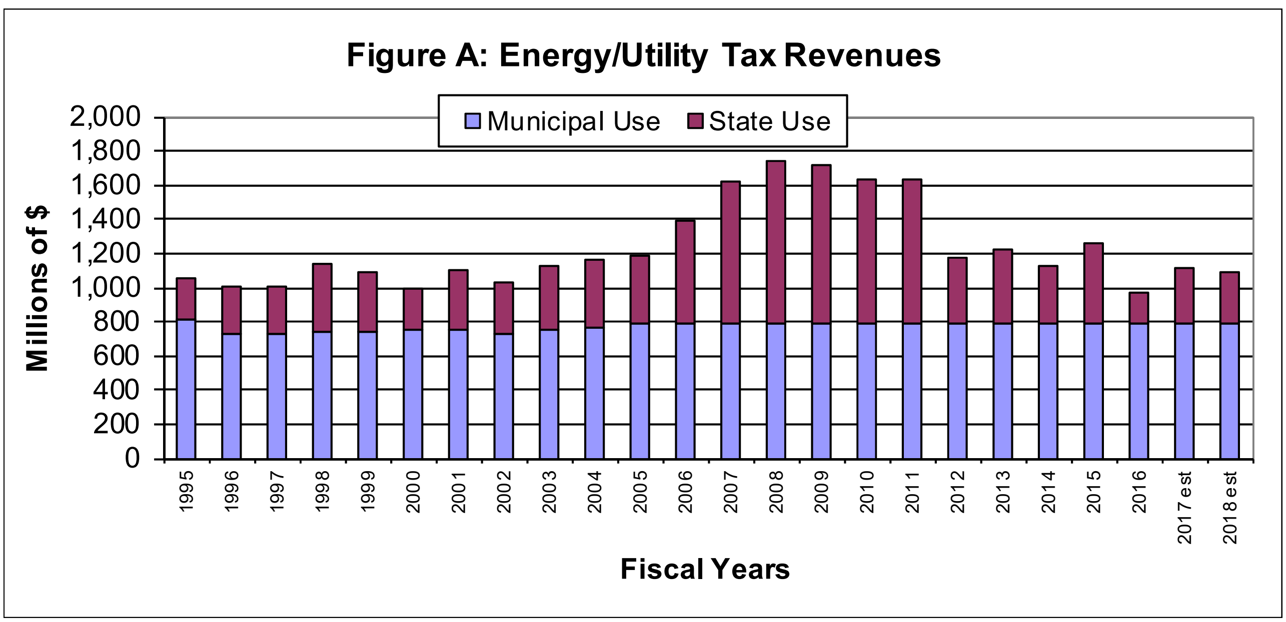


Figure B

Actual Energy/Utility Tax Revenue Fiscal Year 2015

Millions of $

Revenue Source	On-Budget (State Use)	Off-Budget (Municipal Use)	Total
Sales and Use Tax	$248.8	$719.2	$968.0
Corporation Business Tax	$83.7	$69.3	$153.1
Transitional Energy Facilities Assessment (TEFA)	$1.2		$1.2
Franchise and Gross Receipts Tax Water and Sewer Utilities	$120.9		$120.9
Public Utility Excise Tax Water and Sewer Utilities	$15.6		$15.6
Total	**$470.3**	**$788.5**	**$1,258.8**

Source: Department of the Treasury, March 2016.

Figure C

Actual Energy/Utility Tax Revenue Fiscal Year 2016

Millions of $

Revenue Source	On-Budget (State Use)	Off-Budget (Municipal Use)	Total
Sales and Use Tax	$42.0	$755.1	$797.1
Corporation Business Tax	$3.6	$33.4	$37.0
Transitional Energy Facilities Assessment (TEFA)	$0.0		$0.0
Franchise and Gross Receipts Tax Water and Sewer Utilities	$124.2		$124.2
Public Utility Excise Tax Water and Sewer Utilities	$17.2		$17.2
Total	**$187.0**	**$788.5**	**$975.5**

Source: Department of the Treasury, March 2017.

Figure D

Anticipated Energy/Utility Tax Revenue Fiscal Year 2017

Millions of $

Revenue Source	On-Budget (State Use)	Off-Budget (Municipal Use)	Total
Sales and Use Tax	$147.8	$753.5	$901.3
Corporation Business Tax	$10.0	$35.0	$45.0
Transitional Energy Facilities Assessment (TEFA)	$0.0		$0.0
Franchise and Gross Receipts Tax Water and Sewer Utilities	$129.0		$129.0
Public Utility Excise Tax Water and Sewer Utilities	$17.8		$17.8
Total	**$304.6**	**$788.5**	**$1,093.1**

Source: Department of the Treasury, March 2017.

Figure E

Anticipated Energy/Utility Tax Revenue Fiscal Year 2018

Millions of $

Revenue Source	On-Budget (State Use)	Off-Budget (Municipal Use)	Total
Sales and Use Tax	$165.0	$768.5	$933.5
Corporation Business Tax	$12.0	$20.0	$32.0
Transitional Energy Facilities Assessment (TEFA)	$0.0		$0.0
Franchise and Gross Receipts Tax Water and Sewer Utilities	$133.0		$133.0
Public Utility Excise Tax Water and Sewer Utilities	$18.4		$18.4
Total	**$328.4**	**$788.5**	**$1,116.9**

Source: Department of the Treasury, March 2017.

The 2016 New Jersey Tax Revisions

The recent enactment of P.L.2016, c.57, which effectuated a number of statutory revisions to State tax law, is projected to significantly reduce revenues attributable to the sales and use tax, estate tax, and gross income tax, while also significantly increasing certain fuels tax revenues, phased in over a period of years. The net impact on State revenue collections from these statutory revisions was estimated by the Office of Legislative Services (OLS), in the Legislative Fiscal Estimates to Assembly Bill 12 (2R) and Senate Bill No. 2411 of 2016, to result in a gain of $544,440,000 in FY 2017, and a gain of between $555,200,000 and $585,200,000 in FY 2018. In FY 2019, a smaller net gain of between $124,500,000 and $159,500,000 was anticipated. Thereafter, the OLS projected the tax changes to result in an annual net revenue decline of between $23,200,000 and $63,200,000 in FY 2020, rising to an estimated loss of between $168,050,000 and $214,400,000 by FY 2022. What follows is a summary of the OLS' annual estimates, by tax, as previously published. (The Executive has not provided any projections on the tax law revisions.)

Office of Legislative Services Estimate

Fiscal Impact	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
State Revenue Loss:						
General Fund Sales & Use Tax	($92,400,000)	($382,200,000)	($592,800,000)	($613,900,000)	($633,800,000)	($655,400,000)
Estate Tax	($16,000,000)	($116,400,000)	($320,000,000)	($470,100,000)	($521,900,000)	($561,900,000)
PTRF (GIT) Increased Pension Exc.	$0	($60,000,000) to ($90,000,000)	($70,000,000) to ($105,000,000)	($80,000,000) to ($120,000,000)	($85,000,000) to ($130,000,000)	($87,550,000) to ($133,900,000)
Veterans' Exclusion	$0	($23,000,000)	($23,000,000)	($23,000,000)	($23,000,000)	($23,000,000)
EITC	($62,000,000)	($63,500,000)	($65,000,000)	($66,500,000)	($68,500,000)	($70,500,000)
Total Loss in GF and PTRF	**($170,400,000)**	**($645,100,000) to ($675,100,000)**	**($1,070,800,000) to ($1,105,800,000)**	**($1,253,500,000) to ($1,293,500,000)**	**($1,332,200,000) to ($1,377,200,000)**	**($1,398,350,000) to ($1,444,700,000)**
State Revenue Gain:						
12.5% PPGR	$694,120,000	$1,159,600,000	$1,159,600,000	$1,159,600,000	$1,159,600,000	$1,159,600,000
7% Non-Motor	$20,720,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000	$31,100,000
4 cent/gal Diesel	$0	$39,600,000	$39,600,000	$39,600,000	$39,600,000	$39,600,000
Total Gain, Fuels Taxes	**$714,840,000**	**$1,230,300,000**	**$1,230,300,000**	**$1,230,300,000**	**$1,230,300,000**	**$1,230,300,000**
Net Total State Revenue All Funds	**$544,440,000**	**$585,200,000 to $555,200,000**	**$159,500,000 to $124,500,000**	**($23,200,000) to ($63,200,000)**	**($101,900,000) to ($146,900,000)**	**($168,050,000) to ($214,400,000)**

Note: GIT is gross income tax. PTRF is Property Tax Relief Fund. GF is General Fund. EITC is Earned Income Tax Credit. PPGR is Petroleum Products Gross Receipts tax.

Detailing the net impact of the tax changes, the table on the previous page displays how revenue decreases will be phased in over time, starting with an estimated $170,400,000 loss in FY 2017 and rising to an estimated loss of between $1,398,350,000 and $1,444,700,000 in FY 2022. The revenue increases begin in FY 2017 with an estimated gain of $714,840,000 stabilizing at an estimated gain of $1,230,300,000 for FY 2018 and thereafter from the various fuels tax increases. New Jersey voters constitutionally dedicated the fuels tax revenues to the purposes of the Transportation Trust Fund in November of 2016, subsequent to the enactment of the tax changes.

Summary of Provisions

P.L.2016, c.57, adjusts various State taxes as follows:

- **Sales and Use Tax:** Reduces the rate of the New Jersey sales and use tax from 7.0% to 6.875% on January 1, 2017 and to 6.625% on January 1, 2018.

- **Estate Tax:** Phases out the New Jersey estate tax by increasing the tax exclusion threshold under the New Jersey estate tax, first by replacing the current $675,000 threshold with a "true" exclusion amount initially established at $2.0 million for decedents dying on or after January 1, 2017, and eliminating the estate tax for decedents dying on and after January 1, 2018.

- **Gross Income Tax -- Deduction for Veterans:** Establishes an annual personal exemption under the New Jersey gross income tax of $3,000 for any individual resident taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status.

- **Gross Income Tax -- Retirement Exclusion**: Increases the gross income tax pension and retirement income exclusion to $100,000 for joint filers, $75,000 for individuals, and $50,000 for married but filing separately. The exclusion is increased over four years as follows:

Filer Type	Present	2017	2018	2019	2020
Joint	$20,000	$40,000	$60,000	$80,000	$100,000
Individual	$15,000	$30,000	$45,000	$60,000	$75,000
Separate	$10,000	$20,000	$30,000	$40,000	$50,000

(The legislation retains provisions in current law that exclude taxpayers having gross income of more than $100,000 for the taxable year from receiving the benefit of the pension and retirement income exclusions.)

- **Gross Income Tax – Earned Income Tax Credit**: Increases the New Jersey Earned Income Tax Credit (NJ EITC) from 30 percent to 35 percent of the federal benefit amount beginning in Tax Year 2016.

- **Petroleum Products Gross Receipts Tax:** Increases the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State's transportation infrastructure.

- **Review Council**: Establishes a three-member review council to report to the Governor and the Legislature on the council's consensus estimate of the increase or decrease in State revenues under each provision, and to monitor the actions of the Legislature on an ongoing basis for modification of the implementation of the tax changes under P.L.2016, c.57.

Fiscal Analysis By Tax

Sales and Use Tax

The OLS estimates that P.L.2016, c.57, will reduce sales and use tax revenues deposited into the General Fund by $92.4 million in FY 2017, $382.2 million in FY 2018, $592.8 million in FY 2019, $613.9 million in FY 2020, $633.8 million in FY 2021, and $655.4 million in FY 2022.

The estimate is based on OLS extrapolations from the Governor's certified revenue estimates for FY 2017. The certification estimated sales and use tax revenues of $9.597 billion plus $917.7 million from the sales tax on energy, for total sales and use tax collections of $10.515 billion for FY 2017. Accordingly, each 1/8th of a cent of the current 7.0 cent sales and use tax is worth about $186.0 million.

In FY 2017 the sales and use tax revenue loss from a 1/8th cent tax decrease for six months will equal an estimated $92.4 million. Assuming annual sales tax revenue growth between 3.0% and 3.5%, and an additional 2/8ths cent tax rate decrease on January 1, 2018, revenues will decline by $382.2 million in FY 2018, by $592.8 million in FY 2019, by $613.9 million in FY 2020, by $633.8 million in FY 2021, and the revenue loss will increase to an estimated $655.4 million in FY 2022.

Estate Tax

The OLS estimates the elimination of the estate tax in two steps by January 1, 2018 and the incorporation of a "true" exclusion amount for estates below the applicable exclusion amounts, will reduce annual estate tax revenues deposited into the General Fund by $16.0 million in FY 2017, $116.4 million in FY 2018, $320.0 million in FY 2019, $470.1 million in FY 2020, $521.9 million in FY 2021, and $561.9 million in FY 2022. The amount of revenue forgone will continue to change with the value of estates.

Given that estates typically take nine months to complete the tax filing process, P.L.2016, c.57, will have a relatively small fiscal impact in FY 2017. Significant impacts will begin in FY 2018 and would be fully phased-in over subsequent years. The OLS estimates the annual revenue loss at each step of the process as follows:

Estimated Impact of Estate Tax Change*			
Fiscal Year	**Est. Estate Tax Revenue Current Law**	**Est. Estate Tax Revenue Under P.L.2016, c.57**	**Est. Revenue Loss Under P.L.2016, c.57**
2017	$464,000,000	$448,000,000	($16,000,000)
2018	$485,000,000	$368,600,000	($116,400,000)
2019	$507,000,000	$187,000,000	($320,000,000)
2020	$530,000,000	$59,900,000	($470,100,000)
2021	$554,000,000	$32,100,000	($521,900,000)
2022	$579,000,000	$17,100,000	($561,900,000)
After 2022	The amount of revenue forgone will continue to change with the value of estates.		

**The OLS has used different estimates for projecting FY 2017 and FY 2018 revenues in the Tax and Revenue Outlook, reflecting actual collections in FY 2016. The amounts in this table and discussion were used in the Fiscal Estimates for the bills which became P.L.2016, c.57.*

These estimates are based on Treasury data from FY 2014, the most recent year for which OLS has tax collections data by size of estate, during which the estate tax accounted for $320.0 million in revenue. In the two most recent years, FY 2014 and FY 2015, total estate and inheritance taxes increased by 10% and 15% respectively, while growth over the last five completed years has averaged about 7%. The OLS assumes annual growth in future years of 4.5%. For the phase-in years, the OLS applied the annual growth to estate tax amounts at the different levels of the value of estates, as detailed in the Treasury data. In addition, the OLS estimated the impact of eliminating the “bump” below the “true” exclusion amounts using the number of estates at each level applied to the tax table amounts from the Division of Taxation’s estate tax worksheet.

Data from the Department of the Treasury indicate that P.L.2016, c.57, once fully implemented, will eliminate the estate tax on approximately 3,500 estates annually. This number equals about 5% of the approximately 70,000 deaths reported by the Department of Health each year in the State.

The OLS notes that the estate tax is a volatile revenue source. Much of that volatility reflects assets such as stocks, which can see sharp increases and decreases in value, as indicated by the major stock indexes such as the Standard and Poor’s 500 index. Accordingly, a prolonged or severe “bear” or “bull” market could indicate subsequent downward or upward volatility in the potential value of the forgone revenues under P.L.2016, c.57. In addition, there may be some remnant of estate tax revenue received over a number of fiscal years to the extent that some estates may face longer settlement delays.

Gross Income Tax – Pension and Retirement Income

The increase in the pension and retirement exclusion will yield a range of annual gross income tax revenue losses to the Property Tax Relief Fund. With the five-year phase-in period beginning on January 1, 2017, the OLS estimates the increased exclusion will reduce FY 2018 revenues by between $60 million and $90 million, FY 2019 revenues by between $70 million and $105 million, FY 2020 revenues by between $80 million and $120 million, and FY 2021 revenues by between $85 million and $130 million.

More precise estimates are not feasible, as the OLS is extrapolating from aggregate data using Division of Taxation's annual *Statistics of Income (SOI)* publication. This data does not allow for a detailed analysis of individual returns, nor an understanding of the interactions between gross income, pension and retirement income, and the statutory exclusion levels for individual returns. Using the SOI's aggregate data in broad income bands, the OLS estimates current pension and retirement income exclusion levels and then projects the potential exclusion increases under P.L.2016, c.57.

The OLS notes that average pension income for senior tax returns in gross income brackets under $100,000 varies from approximately $18,000 at the lower income levels to about $45,000 at the higher income levels, based on SOI data. Most senior taxpayers do not receive enough pension and retirement income to claim an exclusion near the new maximum levels under P.L.2016, c.57. Accordingly, most of the estimated revenue loss from will occur in the first step of the five-year phase-in, followed by smaller incremental increases in subsequent years as the majority of taxpayers with gross income under $100,000 will have maximized their exclusion amount.

In comparison to the overall revenue losses estimated under P.L.2016, c.57, the Division of Taxation's publication, *A Report on Tax Expenditures in New Jersey (February 2015)*, reports that the current gross income tax exclusion for pension income and other retirement income reduces State revenues by an estimated $125.5 million annually. While P.L.2016, c.57, will increase the current maximum exclusion levels to five times the current limit, it is projected to less than double the estimated revenue loss under current law for taxpayers with gross income under $100,000. Few of these taxpayers will be able to claim an exclusion near the new maximum levels. Most such taxpayers will claim exemptions substantially below the proposed maximum levels, and some unknown number of taxpayers who already exempt all of their pension and other retirement income under current law will see no benefit from P.L.2016, c.57.

Lastly, while the OLS expects the preponderance of the fiscal impact to begin in FY 2018 when taxpayers file their final returns in April of 2018 for the 2017 Tax Year, some revenue reductions may occur in the Spring of FY 2017, to the extent that certain taxpayers adjust their quarterly estimated payments downward in April and June of 2017. The OLS has no data on the value of senior taxpayers' quarterly estimated payments, nor the extent to which such adjustments might occur, and is unable to project the size of this potential impact in FY 2017.

Gross Income Tax – Veterans' Exclusion

The OLS estimates the $3,000 exclusion for certain veterans under P.L.2016, c.57, will reduce GIT revenues by an estimated $23.0 million annually. The State's published gross income tax statistics do not reveal how many veterans currently face a GIT liability each year, so the potential number of taxpayers who may benefit from this additional personal exemption is unknown. However, a $3,000 personal exemption provides an average tax benefit of $105.00 when assuming an average marginal tax rate of 3.50%. According to the federal Department of Veterans Affairs, there were 428,396 living veterans in New Jersey in 2014. A majority of senior citizens do not have an annual New Jersey GIT liability; about 55% of New Jersey veterans are age 65 or older. Low income joint filers with less than $20,000 gross income ($10,000 for single or separate filers) also do not owe State GIT. Accordingly, it is possible that more than half of all New Jersey veterans do not currently have a State GIT liability and would therefore not gain a tax benefit from the $3,000 veterans' exemption. Assuming about 220,000 veterans currently have a State GIT liability and would therefore gain an estimated average tax benefit of $105.00 from a $3,000 personal exemption, the potential tax savings, or potential State revenue loss, equals about $23.0 million annually beginning in FY 2018.

Gross Income Tax – Earned Income Tax Credit

The OLS estimates that the Earned Income Tax Credit (EITC) portion of P.L.2016, c.57, will reduce gross income tax revenues deposited into the Property Tax Relief Fund by about $62.0 million in FY 2017, $63.5 million in FY 2018, $65.0 million in FY 2019, $66.5 million in FY 2020, $68.5 million in FY 2021, and $70.5 million in FY 2022.

The NJ EITC is a refundable credit based on the federal EITC and is paid to eligible taxpayers through the State's gross income tax. The OLS estimate begins with the Executive's assessment that the recent increase of the NJ EITC, from 20 percent to 30 percent of the federal credit (P.L. 2015, c.73), reduced gross income tax revenues by $122.0 million in FY 2016, as estimated on pages 30 and 33 in the FY 2017 Budget Summary. The increase from 30 percent of the federal credit to 35 percent is projected to have approximately half the incremental impact as the previously enacted increase. Historically, the federal credit amounts have grown by approximately 2.0 percent annually, but recent Internal Revenue Service preview data indicate the value of federal credits may grow by less than 1.0 percent in 2016. Lower levels of growth in the federal benefit, combined with the New Jersey Division of Taxation's recent enhanced enforcement efforts, suggests growth in the State program may be contained in FY 2017, the first year of impact under P.L.2016, c.57. Accordingly, the OLS assumes a revenue loss of $62.0 million in FY 2017 with low growth of losses annually thereafter.

Based on available federal Internal Revenue Service preview data, it is estimated that under P.L.2016, c.57, the average NJ EITC benefit amount will increase by about $128, from $708 in TY 2015 to approximately $836 in TY 2016. According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. It is noted, however, that the number of taxpayers receiving an EITC in recent years has experienced some variance due, in part, to the Division of Taxation's enforcement efforts.

Motor Fuels and Petroleum Taxes

The increase in taxes imposed under the Petroleum Products Gross Receipts Tax (PPGRT) consists of three major components: (1) an increase in the tax rate on motor fuels by 12.85 percent with a phase-in of the diesel component; (2) an increase in the tax on non-motor fuels subject to the PPGRT from 2.75% to 7%; and (3) an increase in the tax on diesel fuels by 4 cents per gallon in FY 2018 and beyond. The estimated amounts for these components are shown in the table below.

Estimated Impact of Various Petroleum Products Gross Receipts Tax Changes ***$ in Millions***						
	FY 2017	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
12.85% PPGR Tax	$694.1	$1,159.6	$1,159.6	$1,159.6	$1,159.6	$1,159.6
7% Tax on Non-Motor Fuels PPGR	$20.7	$31.1	$31.1	$31.1	$31.1	$31.1
4 Cent/gal Tax on Diesel PPGR	$0	$39.6	$39.6	$39.6	$39.6	$39.6
Total Fuel Taxes	**$714.8**	**$1,230.3**	**$1,230.3**	**$1,230.3**	**$1,230.3**	**$1,230.3**

These tax changes are expected to increase PPGRT revenue by about $714.8 million in FY 2017, reflecting eight months of collections, and about $1.23 billion per year for FY 2018 and beyond. P.L.2016, c.57, is structured in a manner that adjusts the cents-per-gallon 12.85% PPGRT tax rate annually to target the amount of revenue generated in FY 2016 had increased PPGRT taxes been in effect. This will result in variation of the cents-per-gallon rate depending on the future total annual sales of products subject to the PPGRT. The volume of future consumption is highly uncertain due to increasing vehicle fuel efficiency, increasing adoption of alternative fuel vehicles, and slowing State population growth, which accordingly makes the likely future tax rate uncertain as well. It is likely that changes in the consumption of fuels will require increases in the cents-per-gallon PPGRT tax rate, in order to ensure a level amount of revenue.

(1) The motor fuels subject to the PPGRT are likely to generate approximately $49.47 million per year for each cent-per-gallon imposed on motor fuels. This is consistent with revenues from the existing taxes on motor fuels. The OLS estimates that the 12.85% rate would convert to a cents-per-gallon rate of 23 cents. This results in revenues of $1.16 billion. The amount for FY 2017 was then reduced according to the phase-in schedule for the diesel component and to reflect only eight months of tax collections in FY 2017. The distribution of motor fuel sales in the State is approximately 80% gasoline and 20% diesel. Applying that ratio to the phase-in schedule and reducing the revenue accordingly nets a FY 2017 revenue of $694.1 million over eight months.

(2) The motor fuels component of the PPGRT was estimated at $197.88 million, derived by multiplying the $49.47 million for each cent-per-gallon estimate of motor fuels by the existing 4 cents per gallon. Subtracting that from the $218 million in total FY 2016 PPGRT revenues results in a non-motor fuel revenue estimate of $20.12 million at the 2.75% rate. Using these same ratios, an increase to 7% is likely to generate an additional $31.1 million in additional revenue per year. The FY 2017 $20.7 million amount reflects eight months of collections.

(3) Using the above motor fuel distribution and applying it to the $49.47 million per year revenue for each cent-per-gallon imposed on motor fuels results in $9.9 million per year in revenue per cent-per-gallon imposed on diesel fuel. As a result, the additional 4 cents-per-gallon rate above the existing 4 cents-per-gallon rate imposed by the PPGRT is estimated to generate $39.6 million beginning in FY 2018.

Review Council

The legislation requires the review council established in section 19 of P.L.2016, c.57, to monitor the actions of the Legislature on an ongoing basis for revisions to the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill's provisions), the council would certify this action to the Director of the Division of Taxation. This certification would in turn trigger the cessation of the imposition of one of the components of the petroleum products gross receipts tax comprising a portion of the non-motor fuels tax revenue under current law, and all of the fuels tax increases under P.L.2016, c.57, except for the additional 4 cents per gallon of tax on diesel fuel to be imposed beginning July 1, 2017. In the event of such cessation, the projected State tax revenue impact estimated in this analysis would no longer apply.

Potential Revenue Impact of FCC Broadcast Auction

The Governor's Budget Recommendation for FY 2018 anticipates $325 million in State revenue from the sale of certain assets. According to information provided by the Department of the Treasury, the State revenue anticipated from the sale of these assets is comprised, in part, of proceeds that are expected to be derived from the New Jersey Public Broadcasting Authority's (NJPBA) participation in the Federal Communication Commission's (FCC) Broadcast Incentive Auction, which was authorized by Congress in 2012 to reclaim a portion of the available spectrum dedicated to broadcast television for wireless broadband use.

Despite knowing the relative magnitude of the revenue the State may receive from participation in the auction, a number of unknowns remain. In particular, it is unknown how much of the anticipated State revenue expected to be derived from the incentive auction is attributable to the licenses for each of the four public broadcasting television stations currently operated by the NJPBA; when the anticipated State revenue may be realized; and how those revenues will be utilized.

Additionally, it is unknown how the outcome of the auction will affect the public broadcasting television stations operated by the NJPBA. While the Executive Director of the NJPBA has indicated that the authority does not intend to exit public television, the decision to participate in the auction will necessitate certain future changes that may disproportionately affect those viewers who rely on over-the-air broadcasts for access to the programs and services those stations currently provide.

How Much Anticipated Revenue is Attributable to Each Station?

The Governor's Budget Recommendation for FY 2018 includes an estimated $325 million (as Schedule 1 State revenues) from certain unspecified "Asset Sales." Some preliminary information provided by the Department of the Treasury indicates that this anticipated revenue is comprised, in part, of proceeds from the NJPBA's participation in the incentive auction. But those reports and the budget recommendation do not provide additional detail on the revenue attributable to the licenses for each television station operated by the authority that would allow for further analysis of the revenues assumed in the budget.

Currently, the NJPBA is the FCC licensee for four broadcast television stations in this State. The NJPBA operates, in conjunction with a programming and services agreement with Public Media NJ, two channels that serve Northern and Central New Jersey (WNJB Channel 8 New Brunswick and WNJN Channel 51 Montclair), and two channels serving Southern New Jersey (WNJS Channel 22 Camden and WNJT Channel 43 Trenton).

At the time the Department of the Treasury announced NJPBA's intent to participate in the auction, it indicated the maximum revenue the State may gain from relinquishing the spectrum for each of those four stations and from moving the stations from their current location on the ultra-high frequency (UHF) band to a lower, less desirable location on the very-high frequency (VHF) band. According to a January 2016 press release, the department indicated that the opening bid prices to be offered for each of those stations were as shown in **Figure 1**.

Figure 1: FCC Incentive Auction – Opening Bid Prices *By Station*			
Station	**Relinquish Spectrum**	**Move to Low VHF**	**Move to High VHF**
WNJB - TV	$475,608,780	$277,438,455	N/A
WNJN - TV	$775,742,400	$581,806,800	$310,296,960
WNJS - TV	$501,644,700	$376,233,525	$200,657,880
WNJT - TV	$581,433,300	$436,074,975	$232,573,320
Total	***$2,334,429,180***	***$1,671,553,755***	***$743,528,160***

Source: Department of the Treasury, January 12, 2016

However, the department made clear in that January 2016 press release that the above opening bid prices represented the maximum amounts that may be paid under ideal conditions, and that actual clearance prices would depend on a number of competing factors. The department also cautioned that the State may not realize any revenue if the auction did not succeed as planned.

The Center for Public Broadcasting and others familiar with the auction have suggested that the uncertainty surrounding potential revenues was a function of the format used to conduct the auction. This format gave broadcasters like the NJPBA the opportunity to choose one of several paths in electing to participate in the auction, including a path that allows those entities to relinquish their spectrum and discontinue over-the-air broadcast and other less lucrative paths that allow them to move to a less-powerful frequency or enter into a channel-sharing arrangement.

In addition, the format involved a multi-step process that incorporated a *reverse auction* in which broadcasters bid for compensation in exchange for surrender of their spectrum, a *repacking process* through which the FCC reorganized the UHF band to reclaim spectrum for wireless broadband, and a *forward auction* during which the FCC sold the relinquished spectrum to wireless companies. During the reverse auction, the NJPBA was required to compete against other broadcasters participating in the auction as a means to drive down the total incentive payments that would be required to be made to broadcasters in exchange for spectrum.

In February 2017, the FCC announced that all "clock phase bidding" in the forward auction had concluded with 84 megahertz of broadcast television spectrum being repurposed for wireless broadband use, with wireless companies agreeing to pay nearly $20 billion for the reclaimed spectrum. Of that amount, more than $10 billion is to go to broadcasters who sold their rights to their spectrum, $6 billion is to go to the United States Treasury for federal deficit reduction, and up to $1.75 billion is to be made available to certain broadcasters that incur costs in changing channels.

The FCC also announced it had issued a partial waiver of its prohibited communication rule to permit broadcasters and related entities to discuss their channel reassignments and coordinate post-auction planning. A number of public and private broadcasters (but not the NJPBA) have taken the opportunity presented by this waiver to disclose the results of the auction and their expected take of the $10 billion that is to go to broadcasters from the sale of their rights to the spectrum.

When Will the Anticipated Revenue be Realized?

The public will know more about the results of the incentive auction by the end of April 2017, at which time the FCC will have issued a Closing and Channel Reassignment Public Notice. At that time, it is expected the FCC will announce the formal close of the incentive auction and provide information about the winning bidders and the post-auction television spectrum, including the results of the reverse and forward auctions, the post-auction channel assignments for all reverse auction-eligible stations that remain on air after auction, and the date by which each station must transition off its pre-auction channel.

However, even after the public notice is issued it may not be clear when the NJPBA and other broadcasters participating in the auction will receive payment of auction proceeds from the United States Treasury. In large part, it may not be clear because payment of auction proceeds is dependent on certain actions that must be taken by wireless companies receiving rights to the spectrum, as well as certain actions that must be taken by broadcasters, during the post-auction transition period.

For wireless companies receiving rights to the spectrum, the actions that must be taken include making and filing an application to the FCC for the appropriate license to use the reclaimed spectrum, the review and approval of the application for license, and payment for rights to the spectrum (at the price determined by the forward incentive auction) after the application for license has been approved. For broadcasters participating in the auction, these actions include submitting the appropriate forms detailing payment instructions to the FCC and following all specified steps detailed by the FCC in its upcoming public announcement to validate payment information prior to final disbursement.

The Governor's Budget Recommendation for FY 2018 assumes each of the actions identified above will be taken by wireless companies and the NJPBA prior to the close of the upcoming fiscal year, but an acceleration or a delay in fulfilling one or more of the actions could affect the timing of payments within the upcoming fiscal year or result in payments being spread over multiple fiscal years. There are a number of complicating factors that leave open the possibility that one or more of the payments of auction proceeds could be made before the close of the current fiscal year or could be delayed to some point in time beyond FY 2018.

How Will the Anticipated Revenue Ultimately be Used?

As previously noted, a number of public and private broadcasters have taken the opportunity presented by the FCC's partial waiver of its prohibited communication rule to disclose the results of the auction and their expected take of the $10 billion that is to go to broadcasters. In doing so, some of these broadcasters have disclosed to the public their plans to use the anticipated proceeds from the auction.

Of those public broadcasters that have disclosed their plans, there is no single, unifying purpose to which the expected proceeds are expected to be used. Some broadcasters have announced plans to use auction proceeds to generally support university or local initiatives, others have released statements indicating that proceeds may be used to invest in technology upgrades for the station or provide funding for new programs or content, and certain others have signaled plans to use proceeds to pay down debt or replenish depleted endowments.

Figure 2: Public Broadcasters Participation in FCC Incentive Auction – Use of Proceeds
By Station / As of March 23, 2017

Station	Auction Outcome	Proceeds	Expected Use
KRCB – Rohnert Park, CA	UHF > VHF	$72 Million	Station Upgrades / Endowment
WVTA – Windsor, VT	Sold–Off Air	$56 Million	Station Upgrades / Programming
WVIA – Pittston, PA	Channel Share	$25.9 Million	Station Upgrades / Endowment
WITF – Harrisburg, PA	Channel Share	$25 Million	Endowment / New Initiatives
WUSF – Tampa, FL	Sold–Off Air	$18.5 Million	Support University Initiatives
WCMZ – Flint, MI	Sold–Off Air	$14 Million	TBD
WQED – Pittsburg, PA	Lower VHF	$9.9 Million	Pay Debt / Endowment / Station Upgrades
KVCR – San Bernardino, CA	UHF > VHF	$157 Million	Station Upgrades / Community Initiatives
WHUT – Washington, DC	Withdrew Bid	N/A	N/A
WPBO – Portsmouth, OH	Sold–Off Air	$8.8 million	University Initiatives / Endowment

Source: The FCC Spectrum Auction. http://current.org/series/spectrum-auction/

The NJPBA, like the majority of other broadcasters participating in the auction, has not yet disclosed its plans for the use of the expected proceeds, and presumably will wait until the FCC issues its Closing and Channel Reassignment Public Notice in April 2017 before it goes on record and provides the public with any further notice about its future plans. This, however, does not mean that steps are not being taken to allocate the potential future proceeds.

A language provision included in the Governor's Budget Recommendation for FY 2018 provides a means to divert auction proceeds from the trust fund established for the support of public broadcasting by the "New Jersey Public Broadcasting System Transfer Act," NJSA 48:23-18 et. seq., in 2010 to the General Fund to be used for general State purposes. That language, in section 88 of the General Provisions (page F-10 of the Governor's Budget Message), provides that: ". . . proceeds from the sale of non–real estate assets by the State or an authority and deposited in a fund other than the General Fund are appropriated for deposit in the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting."

How Will Auction Outcome Affect Each Station?

At the outset of the incentive auction, the Executive Director of the NJPBA stated in a January 2016 press release that the authority had no intention of exiting public television because of the valuable service it provided to New Jersey television viewers. In that same press release, the executive director went on to declare that the NJPBA had "an obligation to provide robust New Jersey-centric programming to our residents, and we will continue to do so."

Despite these assurances, it is not yet known how the outcome of the auction will ultimately affect the four public broadcast television stations operated by the NJPBA. The NJPBA's decision to participate in the auction, and the level of participation that it elected to pursue, will necessitate certain technical changes that are linked to the FCC's mandatory repacking process that followed the reverse auction.

During that process, the FCC repacked the remaining television stations that have decided to remain on air into a smaller segment of the available spectrum, a move that will require many stations to change channels and modify their transmission facilities to accommodate the change during the post-auction transition period. Stations that are required to move to a different channel as a result of the repacking process are expected to experience disruption in their broadcast service and incur a variety of relocation expenses, and may not be able to provide as much geographic coverage as before the auction.

This potential loss of geographic coverage is not expected to have an impact on television viewers who have access to public television programs and services through existing cable and satellite subscriptions, but may disproportionately affect those viewers who are dependent on over-the-air broadcast for access to programs and services. These viewers may have fewer channels to choose from or may lose their signal entirely dependent on their location and their technological capacity to receive the available signal being transmitted from the recently changed station.

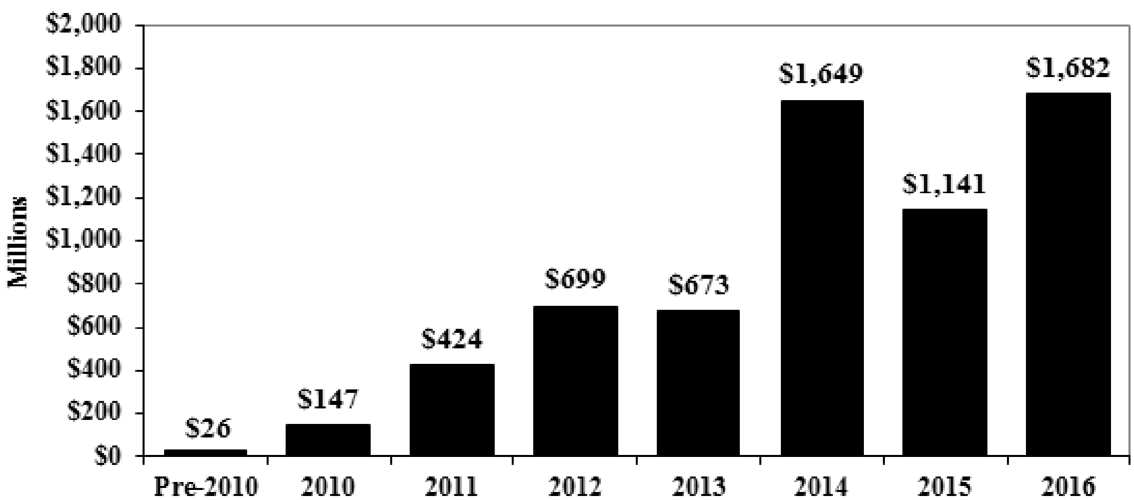
Economic Development Tax Credit Awards

State tax collections are continuing to absorb the delayed effects of the recent escalation of economic development tax credit approvals. According to the Division of Taxation's "Fiscal Year 2018 State of New Jersey Tax Expenditure Report," the division expects taxpayers to increase their use of economic development tax credits against corporation business tax (CBT) liabilities from $120.5 million in FY 2016 to $292.3 million in FY 2017 and $347.4 million in FY 2018. The growing tax credit use depresses CBT collections and, given its scale, is rapidly becoming a relevant factor in CBT revenue projections.

In terms of process, a tax credit applicant must clear two hurdles before the Economic Development Authority (EDA) authorizes the applicant to use an economic development tax credit to offset tax liabilities. First, before work begins on a project, the EDA board must approve the pertinent tax credit application. In so doing, the board also imposes conditions on the venture. Second, upon project completion, the EDA ascertains that the applicant complied with its project conditions and, if so, finalizes the tax credit award for taxpayer use.

The graph below depicts the brisk acceleration since calendar year 2010 of EDA economic development tax credit application approvals. Before then, the EDA had only authorized a cumulative $26.4 million in economic development tax credit applications. But in CY 2010 it approved $146.9 million in such applications, growing to a high of $1.7 billion by CY 2016. In sum, the EDA sanctioned some $6.4 billion in economic development tax credit applications through the end of 2016, predominantly reflecting the enactment of "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, which established new tax credit programs and expanded existing ones.

Economic Development Tax Credit Award Approvals by Calendar Year



Note: Annual tax credit award approvals subject to change based on modifications to original projects. Data updated as of 3/3/2017.

The EDA operated only one economic development tax credit program prior to 2010. Under the Business Retention and Relocation Assistance Grant (BRRAG) tax credit program, it approved $26.4 million in tax credits between 2005 and 2009. Economic development tax credit approvals began to take off in 2010 with the implementation of the Urban Transit Hub Tax Credit (UTHTC) Program. In 2011, BRRAG tax credit approvals temporarily shot up following substantial revisions to the statutory program. In 2012, the Grow New Jersey (GROW NJ) Assistance Program commenced operations. "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, then closed the BRRAG and UTHTC programs to new applicants, substantially revised the GROW NJ tax credit program, and created the Economic Redevelopment and Growth (ERG) tax credit program for residential redevelopment projects. The revised GROW NJ tax credit program accounted for most of the jump in economic development tax credit approvals in 2014. P.L.2014, c.63 established the Public Infrastructure Project Tax Credit (PIPTC) Program for redevelopers that donate, as part of a redevelopment project, certain public infrastructure to a governmental entity. Subsequently, P.L.2015, c.69 established the Mixed Use Parking Tax Credit Program to encourage the development of mixed use parking projects by allowing municipal parking authorities and certain private developers to apply for tax credits.

Economic Development Tax Credit Award Approvals by Calendar Year (in $ Millions)

Program	Pre-2010	2010	2011	2012	2013	2014	2015	2016	TOTAL
BRRAG (Legacy)	$26.4	$2.2	$86.9	$9.4	$0.2	-	-	-	$125.1
UTHTC (Legacy)	-	$144.7	$337.1	$412.8	$342.6	-	-	-	$1,237.2
GrowNJ (Legacy)	-	-	-	$276.7	$253.1	-	-	-	$529.7
GrowNJ	-	-	-	-	$76.9	$1,493.1	$908.0	$1,499.4	$3,977.5
ERG	-	-	-	-	-	$156.0	$218.3	$166.9	$541.2
PIPTC	-	-	-	-	-	-	$15.0	$2.0	$17.0
Mixed Use Parking	-	-	-	-	-	-	-	$14.0	$14.0
TOTALS	$26.4	$146.9	$424.0	$698.8	$672.9	$1,649.1	$1,141.3	$1,682.3	$6,441.6

As the approvals gradually turn into actual finalized tax credit awards, they will weigh ever more heavily on State tax collections in the coming years. However, the $6.4 billion in approved tax credits may overstate final tax credit awards. This is because the EDA approves projects for tax credits based on project specifications that applicants present before work begins on the projects. But the EDA does not finalize credit awards for taxpayer use until it has verified a project's specifications after project completion. It is therefore possible for applicants to receive less than the amount for which they were approved if realized projects fall short of tax credit agreement requirements. Also, approved credits may never turn into actual credits if realized projects fail to meet minimum program requirements or if applicants never carry out the projects for which they received tax credit approvals.

The timing of taxpayers' eventual tax credit use is also uncertain, given that the EDA's final tax credit authorizations are conditional upon project completion. However, taxpayers may only use their finalized tax credit awards in annual installments over, depending on the specific program, up to 20 years. Therefore, the $6.4 billion in approved tax credit awards will not lower State tax collections all at once but will do so dispersed over more than two decades.

In general, this background paper focuses exclusively on the nominal dollar value of approved tax credit applications. It is acknowledged, however, that the tax credits' direct revenue loss may potentially be offset, in whole or in part, by indeterminate indirect tax collections that might accrue from additional economic activity that the tax credits may directly catalyze.

Lastly, this analysis considers only economic development tax credit programs. It leaves aside incentive awards in the form of grant payments whose disbursement is subject to annual appropriations: the ERG grant program for commercial redevelopment projects and the Business Employment Incentive Program (BEIP). But grant awards could at a later date turn into tax credits. For example, P.L.2015, c.194 allowed BEIP grant recipients to voluntarily convert their outstanding grant payments into refundable tax credits during a 180-day window starting on January 11, 2016 and ending on July 11, 2016. According to information provided informally by the EDA, as of July 12, 2016, 213 companies (84.6% of all companies) opted into converting BEIP grant awards into tax credits with an approximate cumulative payout of $1.08 billion between 2017 and 2025. However, P.L.2016, c.9 revised the priority schedule requiring the EDA to issue tax credits for outstanding grant awards that accrued to businesses during 2008 through 2013 over a five-year period beginning in 2017. P.L.2016, c.9 revised the priority schedule to decrease the percentage of the accrued amounts that are required to be issued as tax credits to businesses in year one and year two of the five-year period, and to increase the percentage in years three, four, and five.

Description of Economic Development Tax Credit Programs

Six programs comprise the economic development tax credit approval data series.

BRRAG (Legacy): P.L.2004, c.65 established the original Business Retention and Relocation Assistance Grant (BRRAG) tax credit program. Following several changes, "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, closed the program to new applicants effective on September 18, 2013, but honored any approved but not yet used tax credit award. Since inception, the EDA executed BRRAG agreements totaling $125.1 million in tax credits for 85 projects representing an estimated $2.08 billion in capital investments and 31,654 in retained jobs. In reply to EDA Discussion Point #6 in the OLS FY 2016-2017 Department of the Treasury Budget Analysis, the EDA shared that taxpayers were still scheduled to use $54.3 million in BRRAG tax credits from 2016 through 2020. The EDA lists all BRRAG agreements at: http://www.njeda.com/pdfs/reports/BRRAG_Activity.aspx.

BRRAG's latest permutation had a $20 million cap on the total dollar value of tax credits that taxpayers may apply against tax liabilities in a given tax period with a requirement that credits could only be used in the tax periods for which they were issued. Tax credits were available under the corporation business and insurance premiums taxes to businesses that relocated operations within New Jersey and retained jobs or that maintained jobs at a current location and made a qualified capital investment. The per-employee tax credit ranged from $1,500 to $9,000, depending on the number of full-time positions retained. Businesses earned a tax credit bonus of 50 percent of the base amount if they relocated at least 2,000 jobs from a location in New Jersey into a designated urban area. They could earn another 50 percent bonus if their capital investment was at least twice the amount of tax credits granted prior to the application of a bonus. In addition to the receipt of the tax credit being a material factor in the business' decision to retain full-time positions in New Jersey, an applicant had to demonstrate that the tax credit would yield a net fiscal benefit to the State. Tax credit awards were only certified for use upon project completion.

UTHTC (Legacy): P.L.2007, c.346 established the original Urban Transit Hub Tax Credit (UTHTC) program. Applicants first qualified for tax credit awards in 2010. Following several program changes, "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, closed the program to new applicants effective on September 18, 2013, but honors any approved but not yet used tax credit awards. Since inception, the EDA executed UTHTC agreements totaling $1.24 billion in tax credits for 26 projects representing an estimated $3.64 billion in capital investments and 3,693 in new jobs. The EDA lists all UTHTC agreements at: http://www.njeda.com/pdfs/reports/HUB_Activity.aspx.

Under the UTHTC program, the EDA awarded tax credits to taxpayers who invested at least $50 million in real property situated in urban transit hubs. Subject to certain qualifying criteria, capital investments in business facilities that were to house at least 250 full-time positions could earn tax credits of 100 percent of the capital investment if at least 200 of the full-time positions were new to the State or of 80 percent of the investment if fewer than 200 of the full-time positions were new to the State. Residential investments, in turn, could earn tax credits of up to 35 percent of the investment and mixed use projects either of up to 35 percent for the entire investment or of up to 35 percent for the project's residential component if it represented at least a $17.5 million capital investment and of up to 100 percent for the project's business facility component if it represented at least a $17.5 million capital investment. Taxpayers receive their finalized tax credit awards in ten equal annual installments beginning after project completion. Urban transit hubs were the area within a one-half mile radius around a rail or light rail station in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson, and Trenton, with the Camden urban transit hub covering the area within a one-mile radius around a rail or light rail station. In addition, there was an urban transit hub in the area within a one-mile radius of a rail or light rail station that was subject to a Choice Neighborhoods Transformation Plan. (The only New Jersey Choice Neighborhood was in Jersey City at the McGinley Square – Montgomery Corridor.) Acute care medical facilities and closed hospitals located within a one-mile radius of a rail or light rail station also qualified for tax credits.

GROW NJ (Legacy): P.L.2011, c.149 established the legacy Grow New Jersey (GROW NJ) Assistance Program. Applicants qualified for tax credit awards in 2012 and 2013 only. "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, closed the program to new applicants effective on September 18, 2013, but honors any approved but not yet used tax credit awards. The EDA executed legacy GROW NJ agreements totaling $530 million in tax credits for 18 projects representing an estimated $1.02 billion in capital investments, 2,523 in new jobs, and 6,685 in retained jobs. All agreements are listed at: http://www.njeda.com/pdfs/reports/Approved_GrowNJ_Legacy.aspx.

The legacy GROW NJ program provided tax credits to businesses for: a) making a minimum $20 million capital investment in a business facility in a qualified area; and b) at that business facility either retaining at least 100 full-time positions with health benefits in New Jersey or creating at least 100 new full-time positions with health benefits in an industry the EDA identified as desirable to maintain or attract. Tax credits were awarded only if: a) the project yielded a positive fiscal net benefit to the State; b) the tax credit award was a material factor in the business decision to create or retain eligible full-time positions; and c) the project did not involve a point-of-final-purchase retail facility. The EDA could waive the material factor requirement for businesses that were required to respond to requests for proposal and to fulfill a contract with the federal government and that submitted a tax credit application by March 31, 2012. (Lockheed Martin Corporation was the only credit recipient meeting the latter requirement.)

The credit equaled ten annual installments of $5,000 each per full-time position created or retained as long as the number of new full-time jobs for which a business received a tax credit did not exceed the number of retained full-time jobs for which a business received a credit, unless the business qualified by creating at least 100 new full-time positions in an industry identified by the EDA as desirable for the State to attract or maintain. The annual credit amount increased to $8,000 if: a) the business operated in an industry the EDA identified as desirable to maintain or attract; b) the business was in proximity to a qualified area adjacent to or within walking distance or short-distance-shuttle service of a public transit facility; c) the full-time jobs created carried salaries in excess of New Jersey's average full-time salary; or d) the qualified area was negatively affected by the approval of a "qualified business facility" under the UTHTC program.

A qualified area was: a) a vacant commercial building having over 400,000 square feet of office, laboratory or industrial space available; b) an area designated for development within the Highlands, Meadowlands, and Pinelands; c) Fort Monmouth; and d) areas designated as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or as an urban, regional or town designated center under the State Development and Redevelopment Plan.

GROW NJ: "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, instituted the reconfigured GROW NJ program with lower eligibility thresholds than the legacy program and an expanded geographic reach. P.L.2014, c.63 and P.L.2015, c.217 further adjusted the program's eligibility and award calculation parameters. Through March 3, 2017, the EDA signed GROW NJ agreements totaling $4.05 billion in tax credits under the program's Economic Opportunity Act configuration for 224 projects representing an estimated $3.5 billion in eligible capital investments, 27,837 in new jobs, and 27,281 in retained jobs. The EDA lists all agreements at: http://www.njeda.com/pdfs/reports/Approved_GrowNJ_EOA.aspx.

The GROW NJ tax credit program is intended to encourage job creation and retention. There is no cap on the aggregate dollar amount of tax credit awards, but the EDA may only consider applications submitted prior to July 1, 2019. GROW NJ tax credits are available for eligible projects located in certain geographic areas that meet two financial conditions. First, the financial assistance must be a material factor in a project's realization. Second, the project must yield fiscal benefits to the State over a period of up to 20 years (or up to 30 years in the case of a "mega project" or a project in one of five municipalities designated as a Garden State Growth Zone, or up to 35 years if a project is located in the city of Camden) that equal or exceed 110 percent of the tax credit amount (or 100 percent in the case of the city of Camden). On December 13, 2016, the EDA announced that effective on February 16, 2017 it would begin to only consider a proposed project's fiscal benefits to the State over a period of 15 years, or the statutory commitment period imposed on tax credit recipients for the maintenance of creditable jobs and investments, unless the EDA concludes an agreement with a longer commitment period with the applicant business. Hitherto the EDA customarily used the maximum benefit period allowed by law in determining tax credit amounts.

Minimum capital investment and full-time employment requirements vary depending on project characteristics. The EDA may grant individual tax credits for up to ten years in amounts ranging from $500 to $15,000 per year for each job created, depending on project attributes. Credit amounts for retained jobs are generally the lesser of 50 percent of those for new jobs or one-tenth of the capital investment divided by the number of retained and new full-time jobs (except that certain limited projects earn job retention tax credits equal to the 100-percent rate of new full-time positions). Tax credit recipients must maintain the project and related employment for 1.5 times the period in which they receive tax credits unless they agree to a longer commitment period with the EDA. Tax credits are certified for taxpayer use only after project completion.

ERG (includes Mixed Use Parking Tax Credit Program): "The New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161, newly established the Economic Redevelopment and Growth (ERG) tax credit program for residential redevelopment projects. Through March 3, 2017, the EDA signed ERG agreements totaling $566 million in tax credits for 35 projects representing an estimated $2.17 billion in capital investments and Mixed Use Parking Tax Credit Program agreements totaling $34 million in tax credits for two projects representing an estimated $68 million in capital investments. The EDA lists all approved agreements at: http://www.njeda.com/pdfs/reports/Approved_ERG_EOA.aspx. (The list also includes ERG grant awards for commercial redevelopment projects and tax credit awards under the Public Infrastructure Project Tax Credit Program.)

As amended by P.L.2015, c.69, P.L.2015, c.217, P.L.2015, c.242, and P.L.2016, c.51, the $718 million ERG tax credit program applies to residential redevelopment and mixed use parking projects in eligible geographic areas and university infrastructure projects situated on the campus of Rutgers, the State University of New Jersey. Projects may receive ERG tax credits if the financial assistance closes a project financing gap that otherwise would be likely to prevent a project's realization. Residential redevelopment projects must also have minimum project costs ranging from $5.0 million to $17.5 million, depending on their specific location. No minimum capital investment threshold applies to mixed use parking projects and university infrastructure projects. The program does not require residential redevelopment, mixed use parking, and university infrastructure projects to generate fiscal benefits to the State in excess of the incentive amount. Tax credit awards are authorized for taxpayer use in up to ten annual installments following project completion. For residential redevelopment and university infrastructure projects, tax credit awards cannot exceed 30 percent of total project cost in conjunction with any municipal ERG award (or 40 percent in the five Garden State Growth Zone municipalities). For mixed use parking projects, tax credit awards equal up to 100 percent of a project's parking component cost and up to 40 percent of its non-parking component cost. The application deadline for residential projects was July 1, 2016 and is July 1, 2019 for mixed use parking projects. Residential projects must obtain temporary certificates of occupancy by July 28, 2019, except that certain mixed use parking projects have until July 28, 2021 to secure a temporary certificate of occupancy.

Public Infrastructure Project Tax Credit Program: The "Economic Opportunity Act of 2014, Part 3," P.L.2014, c.63, inaugurated a tax incentive program for redevelopers that donate, as part of a redevelopment project, certain public infrastructure to a governmental entity. Through March 3, 2017, the EDA signed Public Infrastructure Project Tax Credit agreements totaling $17 million for three projects in Wood-Ridge, Bergen County, and one project in Jersey City, Hudson County, representing an estimated $99.9 million in capital investments. Along with ERG grant and tax credit awards, the EDA lists all agreements at:

http://www.njeda.com/pdfs/reports/Approved_ERG_EOA.aspx.

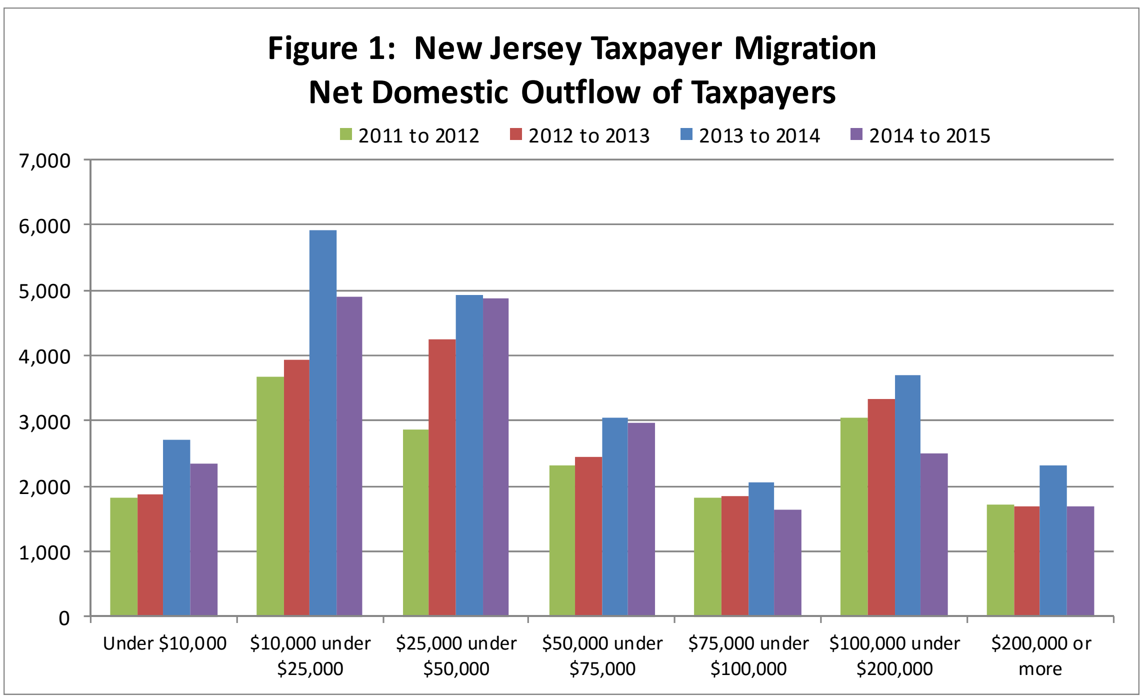
As amended by P.L.2015, c.217, the Public Infrastructure Project Tax Credit Program makes $22 million in corporation business tax credits available to redevelopers that donate to a governmental entity, as part of a redevelopment project, public infrastructure with a minimum $5 million fair market value or open space without improvements with a minimum $1 million fair market value. Tax credits equal the cost of providing the public infrastructure, but not more than $5 million per project (or $2 million cumulatively for all projects appertaining to a brownfields redevelopment project comprising park and infrastructure development within an urban transit hub municipality). To qualify for the credit, the public infrastructure must be: a) donated or built and donated after January 1, 2013; b) part of a new capital investment of more than $10 million in a building or complex of buildings, whose construction shall be completed by December 31, 2019; and c) part of a redevelopment project that has not received a GROW NJ tax credit or an ERG tax credit or grant. Incentive awards are available statewide and are not contingent upon the incentives being vital to the execution of a redevelopment project or its public infrastructure components. Moreover, redevelopment projects and their attendant public infrastructure components are not required to generate indirect fiscal benefits to the State in excess of the cost of the tax incentive. Applicants may submit tax credit applications from October 24, 2014 to December 31, 2019.

Recent Trends in New Jersey Taxpayer Migration

The following discussion, tables and graphs review the issue of outmigration using data from the federal Internal Revenue Service (IRS), the U.S. Census Bureau, and the New Jersey *Statistics of Income (SOI)*. In recent years the IRS has published data on domestic taxpayer[1] migration between U.S. states, and more recently has released some data sorted by income levels. These IRS data do not include taxpayers who migrate between the U.S. and other nations. The Census Bureau and the SOI provide additional data over time, also sorted by income levels, providing a broader perspective about New Jersey residents than the IRS migration data.

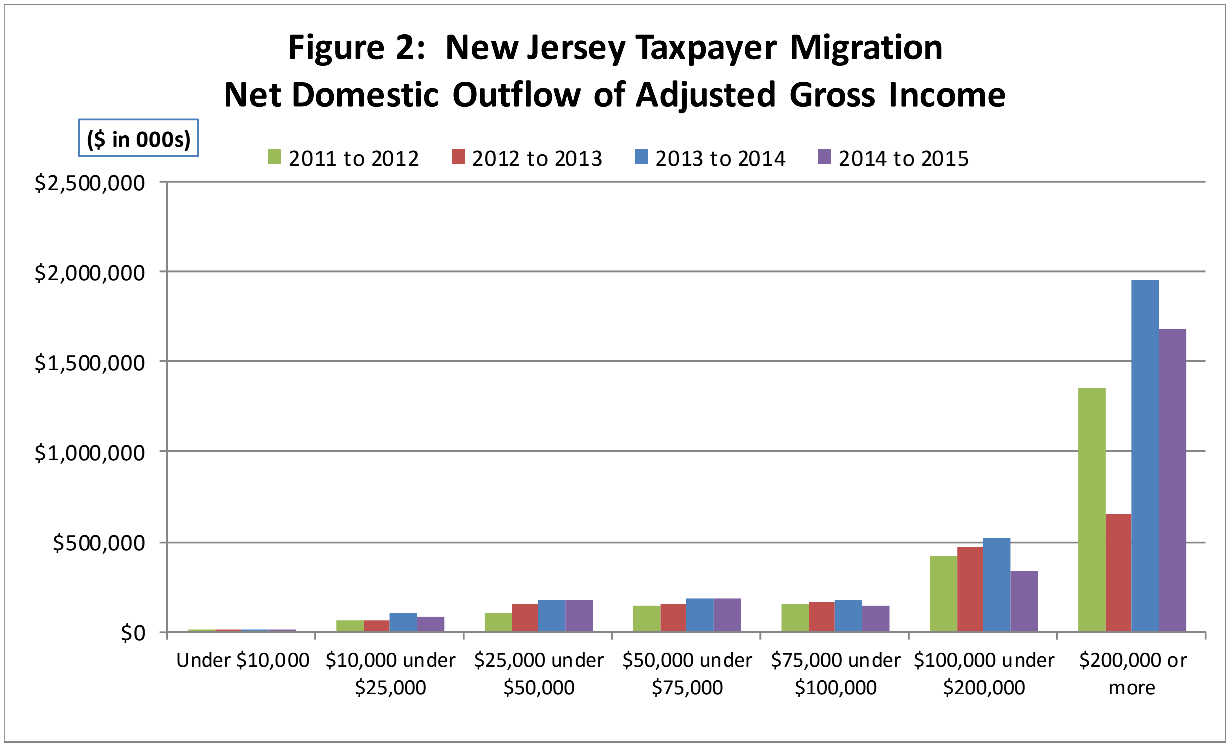
Domestic U.S. Taxpayer Migration

Figures 1, below and Figure 2, on the following page, display numbers from a new data set published by the IRS that breaks out domestic taxpayer migration by seven income groupings. The data are currently available in this form only for domestic taxpayer migration between states for the years 2014-2015, 2013-2014, 2012-2013, and 2011-2012. Figure 1 shows a net domestic outflow of New Jersey taxpayers (outflow less inflow) for each of the seven income groups during the four available time periods. More net outflow of taxpayers occurred in the $10,000-$25,000, the $25,000-$50,000, and the $100,000-$200,000 income groups than in the other groups. Figure 2 shows that the net domestic outflow of Adjusted Gross Income (AGI) occurred primarily in the $100,000-$200,000 and the $200,000 or more income strata. The IRS migration data reflecting income of $200,000 or more cannot be further refined into smaller subgroups. The underlying data for these graphs can be found in Figure 7, later in this analysis.



Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data.
Note: Does not reflect foreign in- or out-migration.

[1] Unless otherwise noted, "taxpayer" means the number of tax returns. The number of individuals, taxpayers, or family members per tax return is unknown.

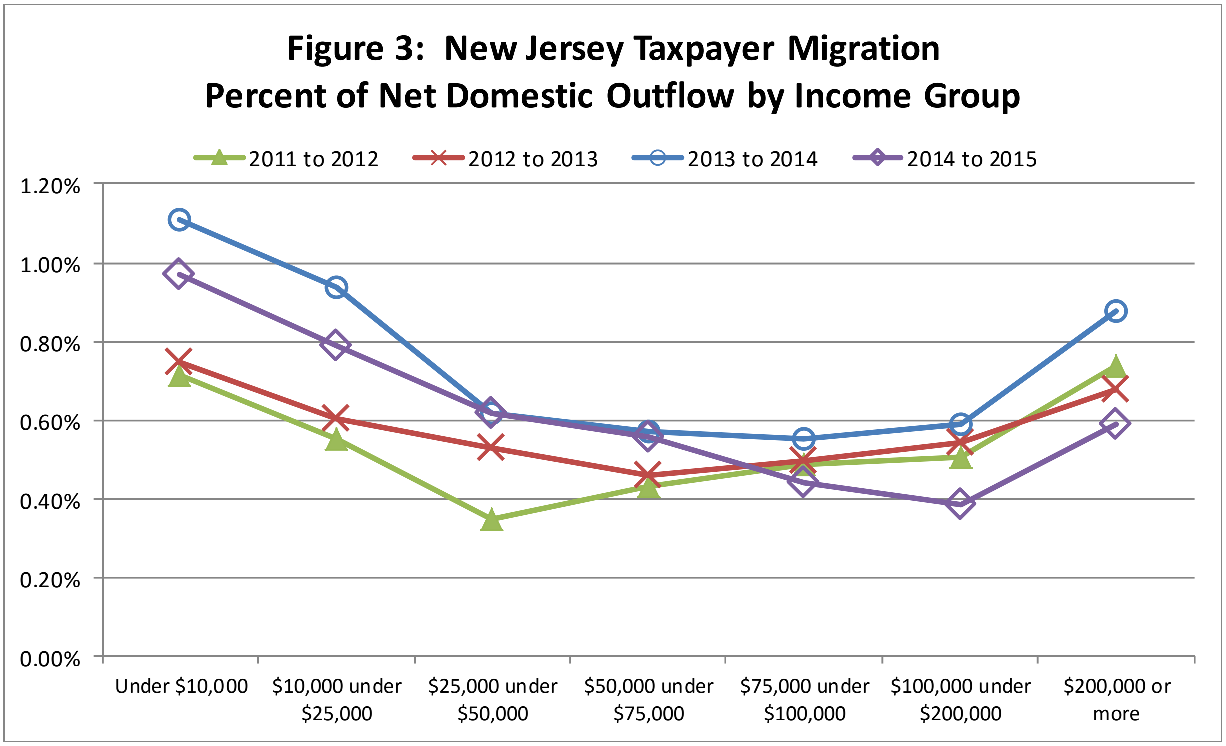


Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data.
Note: Does not reflect foreign in- or out-migration.

Net domestic outmigration of New Jersey taxpayers to other states has occurred in all income groups. Figure 3, on the following page, suggests an interesting pattern to this net outmigration. The graph displays, for each of the seven income groups, net outflow as a percentage of total taxpayers in each group. Each of the four years of data display a distinct "U" shaped curve, in which a higher rate of outflow occurred among both lower income groups and higher income groups. The rate of net outflow of all taxpayers was 0.50% in 2011-2012, 0.56% in 2012-2013, 0.71% in 2013-2014, and 0.60% in 2014-2015 (see also Figure 7). In other words, New Jersey annually lost between 0.50% (one half of one percent) and 0.71% (seven tenths of one percent) of taxpayers to other U.S. states during these years. But net outmigration was greater than average among the Under $10,000 and the $10,000-$25,000 groups, the two groups at the low end of the income scale, and also among the $200,000 and more group at the high end of the scale. For these groups, the rate of net outflow almost always exceeded 0.60% and reached as high as 1.11%. Some income groups out-migrated at nearly twice the rate of other income groups.[2]

---

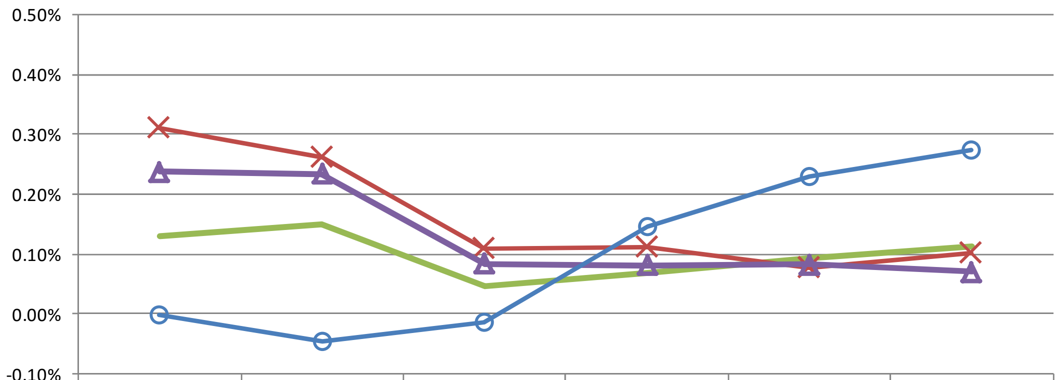
[2] The U-shaped pattern seen in Figure 3 for taxpayers, is also similar for AGI. While not shown in a graphic, the AGI percentages by income group are found in Figure 7.



Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data.
Note: Does not reflect foreign in- or out-migration.

The IRS's domestic migration data allow for an additional sorting of taxpayers by six age groups. Figure 4, on the following page, displays the three income groups from Figure 3 that had the highest rates of domestic outmigration, the two lowest income groups and the highest income group, sorted by age cohorts. A distinct, contrasting pattern emerges from the data. Within the highest income group of $200,000 or more, taxpayers age 45 and older display rates of net domestic outmigration well above the New Jersey average, but display rates at or well below average among taxpayers below age 45. The opposite is true for the two lower income groups, in which the rates of domestic outmigration are above average under age 45, but approximately average above age 45. In New Jersey, the taxpayers with the greatest incidence of net domestic outmigration are young low-income taxpayers and older taxpayers with high incomes.

Figure 4: 2015 New Jersey Taxpayer Migration by Age
Percent of Net Domestic Outflow
for Highest and Lowest Income Groups



	Under 26	26 to 35	35 to 45	45 to 55	55 to 65	Over 65
NJ Avg All Incomes	0.13%	0.15%	0.05%	0.07%	0.09%	0.11%
Under $10,000	0.31%	0.26%	0.11%	0.11%	0.08%	0.10%
$10,000 to $25,000	0.24%	0.23%	0.08%	0.08%	0.08%	0.07%
Over $200,000	0.00%	-0.04%	-0.01%	0.14%	0.23%	0.27%

Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data.
Note: Does not reflect foreign in- or out-migration.

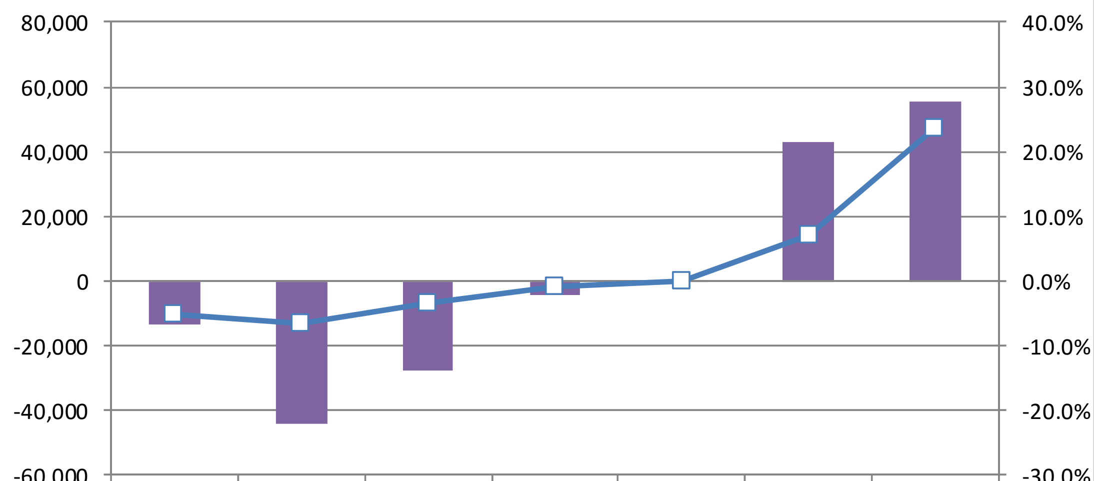
The IRS domestic migration data allow for analysis of *who* is migrating, but does not shed any light on *why* these taxpayers are migrating to other states. Which factors induce young, lower income taxpayers to leave New Jersey and which factors induce older high income taxpayers to leave? Are the factors the same or different? As far as OLS can determine, no study of outmigration has attempted to identify *why* different income groups and age groups migrate at different rates. The reasons for domestic outmigration vary widely, including but not limited to factors such as housing costs, general cost of living, warmer climate, job relocation, retirement planning, local property taxes, and statewide taxes like the income tax, sales tax and estate tax. Presumably taxpayers at different income levels and ages value these factors to varying degrees of importance. This is a topic ripe for more rigorous academic study.

Changes in Total Tax Returns from 2012 to 2015

While the IRS domestic migration data provide a new and valuable resource for analysis, a weakness in that data is the lack of information on inflows and outflows internationally, which may be significant in New Jersey. The IRS cannot easily track taxpayers after they have relocated out of the U.S. and does not have access to prior year foreign tax data for taxpayers who have relocated to the U.S. Nor does this domestic migration data set track taxpayers who shift *between* income groups *within* a state's internal population. The internal state-to-state migration data clearly indicate a net outflow from New Jersey among all income groups, with certain groups demonstrating higher rates of net domestic outmigration. Yet, according to the Census Bureau, New Jersey's total population has grown annually, and as of 2015 (8,958,013) was up 1.9% since 2010 (8,791,936) and up 6.5% since 2000 (8,414,350). Some combination of domestic population growth and international migration is more than offsetting net domestic outmigration.

The IRS domestic migration data set includes all taxpayers filing a return in at least two consecutive years, between 2012 and 2015. Figures 5 and 6 display the number of *total* N.J. returns and the amount of *total* N.J. AGI. The total figures comprise migrants and non-migrants, including those foreign immigrant taxpayers who filed a State return for at least two years. Total taxpayers and total AGI did not decline uniformly for all income groups, even as New Jersey was experiencing net domestic outmigration among all income groups.

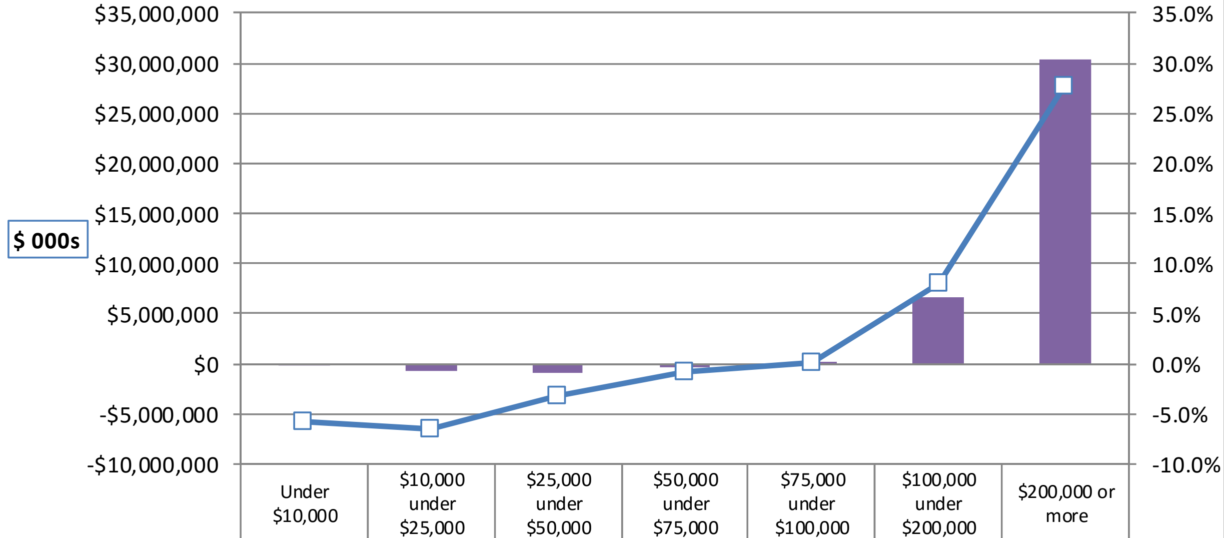
Figure 5: New Jersey Tax Returns
Change in Number of Returns from 2012 to 2015



	Under $10,000	$10,000 under $25,000	$25,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 or more
Amount (left axis)	-13,096	-43,946	-27,333	-4,246	344	43,001	55,230
Percent (right axis)	-5.1%	-6.6%	-3.3%	-0.8%	0.1%	7.1%	23.8%

Source: Internal Revenue Service. *https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data*.

Figure 6: New Jersey Tax Returns
Change in Adjusted Gross Income from 2012 to 2015



	Under $10,000	$10,000 under $25,000	$25,000 under $50,000	$50,000 under $75,000	$75,000 under $100,000	$100,000 under $200,000	$200,000 or more
Amount (left axis)	-$87,610	-$756,547	-$924,299	-$251,526	$49,114	$6,630,658	$30,392,253
Percent (right axis)	-5.8%	-6.5%	-3.1%	-0.8%	0.2%	8.0%	27.7%

Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data.

Specifically, Figures 5 and 6 show that total N.J. taxpayers and total N.J. AGI between 2012 and 2015 declined in the four groups with income below $75,000, but total returns and total AGI increased for the three groups with income above $75,000. The largest decline was in the $10,000-$25,000 income group, which saw a 6.6% drop in total taxpayers and a 6.5% loss of AGI between 2012 and 2015. The largest growth was in the $200,000 or more income group, which saw a 23.8% increase in taxpayers and a 27.7% increase in AGI between 2012 and 2015. The total returns data provide a bigger picture of New Jersey's tax-paying population, because this data contains both domestic migrant and non-migrant taxpayers, including some foreign immigrant taxpayers.

Figure 7, on the following page, displays the underlying numbers from the IRS migration data sets used to create Figures 1 through 6.

As has been noted, Figures 1 through 7 provide data on domestic migration between New Jersey and the other U.S. states, but the data do not fully reflect the impact of foreign migrants and overall population change. The net migration numbers are a subset of the total domestic taxpayer pool, but that domestic data set is also only a subset of the total taxpayer population. Other data sets exist which track a state's total population, including both domestic and foreign migrants and non-migrants. Figures 8 and 9 present Census household data and New Jersey gross income tax SOI data over time.

Figure 7: Domestic Taxpayer Migration Between New Jersey and Other U.S. States, 2011 to 2015

Adjusted Gross Income (AGI) $ in Thousands

TY 2014 to TY 2015	Total Returns	AGI 2015	Outflow	AGI 2015	Inflow	AGI 2015	Net Outflow	Net Out AGI	Net Outflow as % of Returns	Net AGI Outflow as % of AGI
New Jersey Total	3,488,353	$335,287,370	84,521	$7,574,294	63,600	$4,958,998	20,921	$2,615,296	0.60%	0.78%
Under $10,000	242,070	$1,418,401	10,083	$58,443	7,731	$45,663	2,352	$12,780	0.97%	0.90%
$10,000 under $25,000	620,503	$10,839,249	19,878	$339,318	14,979	$255,558	4,899	$83,760	0.79%	0.77%
$25,000 under $50,000	790,051	$28,892,039	19,788	$717,269	14,917	$543,512	4,871	$173,757	0.62%	0.60%
$50,000 under $75,000	532,308	$32,818,692	12,020	$739,475	9,049	$556,296	2,971	$183,179	0.56%	0.56%
$75,000 under $100,000	370,077	$32,124,777	7,180	$620,529	5,546	$479,158	1,634	$141,371	0.44%	0.44%
$100,000 under $200,000	645,691	$89,115,864	9,928	$1,362,192	7,428	$1,020,042	2,500	$342,150	0.39%	0.38%
$200,000 or more	287,653	$140,078,346	5,644	$3,737,066	3,950	$2,058,766	1,694	$1,678,300	0.59%	1.20%

TY 2013 to TY 2014	Total Returns	AGI 2014	Outflow	AGI 2014	Inflow	AGI 2014	Net Outflow	Net Out AGI	Net Outflow as % of Returns	Net AGI Outflow as % of AGI
New Jersey Total	3,469,214	$319,012,747	104,661	$9,220,090	79,959	$6,082,704	24,702	$3,137,386	0.71%	0.98%
Under $10,000	245,339	$1,445,834	11,786	$67,224	9,069	$53,348	2,717	$13,876	1.11%	0.96%
$10,000 under $25,000	631,201	$11,021,461	23,532	$403,561	17,614	$301,186	5,918	$102,375	0.94%	0.93%
$25,000 under $50,000	794,303	$29,029,016	24,121	$877,709	19,199	$700,639	4,922	$177,070	0.62%	0.61%
$50,000 under $75,000	531,921	$32,795,721	15,145	$931,906	12,093	$745,291	3,052	$186,615	0.57%	0.57%
$75,000 under $100,000	371,285	$32,221,396	9,273	$801,292	7,215	$622,326	2,058	$178,966	0.55%	0.56%
$100,000 under $200,000	630,563	$86,778,139	13,512	$1,860,153	9,798	$1,342,650	3,714	$517,503	0.59%	0.60%
$200,000 or more	264,602	$125,721,177	7,292	$4,278,242	4,971	$2,317,260	2,321	$1,960,982	0.88%	1.56%

TY 2012 to TY 2013	Total Returns	AGI 2013	Outflow	AGI 2013	Inflow	AGI 2013	Net Outflow	Net Out AGI	Net Outflow as % of Returns	Net AGI Outflow as % of AGI
New Jersey Total	3,476,627	$319,093,488	108,250	$9,159,926	88,830	$7,496,221	19,420	$1,663,705	0.56%	0.52%
Under $10,000	249,627	$1,476,661	12,192	$72,232	10,328	$60,836	1,864	$11,396	0.75%	0.77%
$10,000 under $25,000	650,940	$11,366,972	24,588	$420,506	20,655	$354,245	3,933	$66,261	0.60%	0.58%
$25,000 under $50,000	805,152	$29,390,642	25,905	$938,766	21,648	$787,086	4,257	$151,680	0.53%	0.52%
$50,000 under $75,000	533,479	$32,896,588	15,348	$946,033	12,887	$792,371	2,461	$153,662	0.46%	0.47%
$75,000 under $100,000	371,225	$32,215,826	9,602	$829,736	7,748	$667,629	1,854	$162,107	0.50%	0.50%
$100,000 under $200,000	616,193	$84,524,468	13,610	$1,872,898	10,260	$1,407,129	3,350	$465,769	0.54%	0.55%
$200,000 or more	250,011	$127,222,329	7,005	$4,079,752	5,304	$3,426,921	1,701	$652,831	0.68%	0.51%

TY 2011 to TY 2012	Total Returns	AGI 2012	Outflow	AGI 2012	Inflow	AGI 2012	Net Outflow	Net Out AGI	Net Outflow as % of Returns	Net AGI Outflow as % of AGI
New Jersey Total	3,478,399	$300,235,329	109,294	$8,332,379	92,010	$6,077,890	17,284	$2,254,489	0.50%	0.75%
Under $10,000	255,166	$1,506,011	12,779	$75,644	10,949	$64,876	1,830	$10,768	0.72%	0.72%
$10,000 under $25,000	664,449	$11,595,796	25,166	$431,752	21,500	$369,037	3,666	$62,715	0.55%	0.54%
$25,000 under $50,000	817,384	$29,816,338	29,423	$1,073,508	26,556	$968,321	2,867	$105,187	0.35%	0.35%
$50,000 under $75,000	536,554	$33,070,218	14,777	$907,085	12,444	$764,159	2,333	$142,926	0.43%	0.43%
$75,000 under $100,000	369,733	$32,075,663	8,827	$761,094	7,013	$604,541	1,814	$156,553	0.49%	0.49%
$100,000 under $200,000	602,690	$82,485,206	12,162	$1,667,767	9,103	$1,244,801	3,059	$422,966	0.51%	0.51%
$200,000 or more	232,423	$109,686,093	6,160	$3,415,527	4,445	$2,062,152	1,715	$1,353,375	0.74%	1.23%

Source: Internal Revenue Service. https://www.irs.gov/uac/SOI-Tax-Stats-Migration-Data. Does not reflect foreign in- or out-migration.

Changes in Total Households - Census Data

Figure 8: Estimated New Jersey Households by Income Level, 2005 and 2014

Income	2005 Percent	2005 Est. Households	2014 Percent	2014 Est. Households	2005 to 2014 Change Households	Change %
Total		**3,141,956**		**3,194,844**	**52,888**	**1.7%**
Less than $10,000	6.3%	197,943	5.7%	182,106	-15,837	-8.0%
$10,000 to $14,999	4.7%	147,672	3.7%	118,209	-29,463	-20.0%
$15,000 to $24,999	8.8%	276,492	8.1%	258,782	-17,710	-6.4%
$25,000 to $34,999	8.3%	260,782	7.6%	242,808	-17,974	-6.9%
$35,000 to $49,999	12.6%	395,886	10.6%	338,014	-57,872	-14.6%
$50,000 to $74,999	18.2%	571,836	16.0%	509,897	-61,939	-10.8%
$75,000 to $99,999	13.5%	424,164	12.3%	392,327	-31,837	-7.5%
$100,000 to $149,999	15.7%	493,287	17.1%	545,679	52,392	10.6%
$150,000 to $199,999	5.9%	185,375	8.6%	274,757	89,381	48.2%
$200,000 or More	6.0%	188,517	10.4%	332,264	143,746	76.3%

Source: Census Bureau, American Community Survey, data tables S1901, Income in the Past 12 Months.

Figure 8, above, displays a similar pattern among income groups as is shown in Figures 5 and 6, but for the last decade, between 2005 and 2014. This display uses a different data set that estimates the number of households in New Jersey from the Census Bureau's American Community Survey.[3] Overall, the number of New Jersey households rose slightly in the last decade, by about 1.7%, according to the Census data. The number of households fell for all groups below $100,000 income, while the number of households rose for all groups above $100,000 income. Some of this pattern is likely due to inflation and rising incomes over time, moving households into higher income groups.

The Census data reinforce the concept, also seen in the IRS data in Figures 5 and 6, that the change in the number of New Jersey taxpayers over time varies by income groups, with declines among lower income groups and increases among higher income groups. These larger patterns for total taxpayers and total households have occurred even while the domestic migration data show net domestic outmigration from New Jersey to other U.S. states.

[3] The OLS observes that while the Census data reports 3.19 million N.J. households, the IRS data reports 3.47 million tax returns in 2014. The greater number of tax returns may in part be reflective of spouses or children who file separate returns and therefore split one household into multiple tax returns.

Changes in Total Taxpayers - N.J. Gross Income Tax Data

Figure 9: New Jersey Tax Returns by Income Level, 2005 and 2013

Income	2005 Percent	2005 Tax Returns	2013 Percent	2013 Tax Returns	2005 to 2013 Change Tax Returns	Change %
Total		**3,820,441**		**4,037,191**	**216,750**	**5.7%**
Less than $10,000	20.1%	769,530	23.5%	947,646	178,116	23.1%
$10,000 to $19,999	12.7%	485,937	12.7%	511,557	25,620	5.3%
$20,000 to $34,999	15.5%	593,454	13.7%	552,324	-41,130	-6.9%
$35,000 to $49,999	12.1%	461,863	10.0%	404,195	-57,668	-12.5%
$50,000 to $74,999	13.2%	502,650	11.8%	477,431	-25,219	-5.0%
$75,000 to $99,999	8.4%	321,882	7.5%	301,815	-20,067	-6.2%
$100,000 to $199,999	13.1%	499,081	14.2%	573,378	74,297	14.9%
$200,000 to $499,999	3.8%	146,352	5.4%	216,348	69,996	47.8%
$500,000 or More	1.0%	39,692	1.3%	52,497	12,805	32.3%

Source: New Jersey Division of Taxation Statistics of Income, Tables 1.4. http://www.state.nj.us/treasury/taxation/soiintro.shtml.

Figure 9, above, displays a pattern among income groups which is largely similar to that shown in Figure 8, for the last decade between 2005 and 2013 (the most recent year available). This display uses a third data set that reports the number of taxpayers in New Jersey from the New Jersey Division of Taxation's *Statistics of Income (SOI)*.[4] The SOI reports State gross income for all resident returns, regardless of whether or not there is a matching return in a second year, such as with the IRS domestic migration data. This gross income data is a different income measure from the adjusted gross income reported by the IRS. The SOI data include all resident taxpayers, both domestic and foreign, who filed a resident return in New Jersey. Overall, the number of New Jersey taxpayers rose by about 5.7% during this period, according to the SOI data. The number of taxpayers fell for all groups between $20,000 and $100,000 income, while the number of taxpayers rose for all groups above $100,000 income, but also for groups below $20,000 income. As with the Census data, some of this pattern above $20,000 income is likely due to inflation and rising incomes over time, moving taxpayers into higher income groups.

The IRS, Census, and New Jersey SOI data all indicate that the change in the total number of New Jersey taxpayers (or households) over time varies by income groups, with declines generally among lower income groups and increases among higher income groups. These larger patterns for total taxpayers and total households have occurred even while the domestic migration data show net domestic outmigration from New Jersey to other U.S. states.

[4] The New Jersey SOI data reports 4.04 million tax returns in 2013, greater than the Census household data total. The greater number of tax returns may in part be reflective of spouses or children who file separate returns and therefore split one household into multiple tax returns.

Conclusion

The available federal and State data indicate three trends regarding net domestic outmigration from New Jersey. First, net domestic outmigration is occurring across the entire income spectrum. Second, two groups in particular appear to show rates of net domestic outmigration that significantly exceed the statewide average: low-income (below $25,000) taxpayers under the age of 35 and higher-income (above $200,000) taxpayers who are nearing the traditional age of retirement (between 55-65 years of age). Third, notwithstanding the net domestic outmigration, the total number of New Jersey households, and the number of taxpayers filing State tax returns, has grown slowly over the last decade with the number of households with incomes above $150,000 showing particularly marked growth. However, while these patterns are observable in the data, the reasons underlying these patterns have not been well studied and are not well understood.

Reciprocal Personal Income Tax Agreement Between Pennsylvania and New Jersey

This background paper explores the circumstances which led to the signing of the Reciprocal Personal Income Tax Agreement between Commonwealth of Pennsylvania and State of New Jersey (Reciprocal Agreement), the benefits offered by the Reciprocal Agreement, and the revocation and subsequent reinstatement of the Reciprocal Agreement in 2016. The Reciprocal Agreement was entered into on December 20, 1976, amended on October 19, 1977 and became effective with the 1978 tax year. The Reciprocal Agreement exempts certain individuals and corporations from their obligation to comply with the New Jersey Gross Income Tax Act (GIT).

The Genesis of the Reciprocal Agreement

The Reciprocal Agreement is unique in that it is the only instance of this State entering into a reciprocal agreement with a sister state to exempt certain individuals and corporations from their obligation to comply with the GIT. To understand the genesis of the Reciprocal Agreement, it helps to study the historical context of the era in which it was signed.

In 1961, the Emergency Transportation Tax (ETT), P.L.1961, c.126, was enacted.[5] The ETT imposed a tax on the income derived by New Jersey residents from "critical area states" and on income derived from New Jersey by critical area state residents. What constituted a "critical area state" resident was determined annually by the State Highway Commissioner. The ETT provided for graduated tax rates with the rate dependent on the taxpayer's gross income.

Subsequently, in 1971, the Transportation Benefits Tax Act (TBT), P.L.1971, c.222, was enacted. The TBT also imposed a tax on the income that New Jersey residents received from a critical area state and a tax on the income that critical area states derived from New Jersey, as the term "critical area state" was defined by the State Transportation Commissioner. The TBT was imposed at a rate of 2%. The TBT was a temporary tax which expired on December 31, 1980.

Together, the TBT and the ETT were known as "commuter taxes" as they imposed a tax only on those individuals who worked in one state but lived in another state. A "commuter tax" was intended to compensate the jurisdiction in which the tax is imposed for the burden that commuters imposed on the jurisdiction, such as reliance on public transportation, wear and tear on the jurisdiction's roads, and police and fire services. The passage of "commuter taxes" in this State predated the passage of this State's first tax on gross income.

In 1976, New Jersey's Gross Income Tax Act, P.L.1976, c.47, was enacted. While the ETT and the TBT taxed certain sourced income from certain New Jersey residents and nonresidents, the GIT imposed a tax on all income of New Jersey residents, regardless from what source derived, and income derived from New Jersey by nonresidents. After the enactment of the GIT, a New Jersey resident working in Pennsylvania would, potentially, have to file three tax returns, a New Jersey resident GIT, a Pennsylvania non-resident GIT, and a federal tax return. In turn, a Pennsylvania

[5] The ETT was found to violate the Privilege and Immunities Clause by Salorio v. Glaser, 93 N.J. 447 (1983) and was therefore deemed invalid.

resident working in New Jersey would, potentially, have to file four tax returns, a New Jersey nonresident GIT, a TBT, a Pennsylvania gross income tax, and a federal tax return.

To lift the burden of filing multiple returns, the Reciprocal Agreement was signed.

The Benefits Afforded by the Reciprocal Agreement

The Reciprocal Agreement was entered into December 20, 1976, amended October 19, 1977, and became effective with the 1978 tax year. The Reciprocal Agreement impacted three groups: taxpayers of both states working in the other state; employers; and administrators in both the New Jersey Division of Taxation and Pennsylvania Department of Revenue.

The Reciprocal Agreement exempted a resident of New Jersey working in Pennsylvania from paying Pennsylvania tax and from filing a Pennsylvania tax return on compensation earned in Pennsylvania. The New Jersey resident would simply have to pay New Jersey GIT on income earned in Pennsylvania. Similarly, the Reciprocal Agreement exempted a resident of Pennsylvania working in New Jersey from paying New Jersey tax and from filing a New Jersey tax return on compensation earned in New Jersey. The Pennsylvania resident would simply have to pay Pennsylvania taxes on income earned in New Jersey. However, two important limitations exist under the benefits afforded by the Reciprocal Agreement. The first limitation is that the Reciprocal Agreement extends only to compensation from wages and salary as it is defined by the New Jersey GIT Act and the Pennsylvania Income Tax Act. Other types of income may include, but are not limited to, income from pensions, trusts or gains from the sale of real estate. The second limitation is that the Reciprocal Agreement does not exempt New Jersey or Pennsylvania residents working in the other state from the payment of local taxes. Therefore, notably, the Reciprocal Agreement does not exempt a resident of New Jersey working in Philadelphia from paying the Philadelphia wage tax.

The Reciprocal Agreement also relieved New Jersey employers from the withholding of New Jersey Personal Income Tax on compensation paid in New Jersey to residents of Pennsylvania. Instead, the Reciprocal Agreement holds New Jersey employers liable to Pennsylvania for the withholding of Pennsylvania Personal Income Tax on compensation paid in New Jersey to Pennsylvania residents. Similarly, the Reciprocal Agreement relieved Pennsylvania employers from the withholding of Pennsylvania Gross Personal Income Tax on compensation paid in Pennsylvania to New Jersey residents but holds Pennsylvania employers liable to New Jersey for the withholding of New Jersey Personal Income Tax on compensation paid in Pennsylvania to New Jersey residents. This is unusual as, ordinarily, an employer is only liable for withholding taxes in a state in which it is located.

Finally, the Reciprocal Agreement obligates Pennsylvania's Department of Revenue and New Jersey's Division of Revenue and Enterprise Services (DOERS) to audit a certain amount of employers within their respective states to ensure compliance with the provisions of the Reciprocal Agreement. Additionally, the Reciprocal Agreement mandates the exchange of the following information by Pennsylvania's Department of Revenue and DOERS:

- Name, address and federal taxpayer identification number of each taxpayer filing a tax return in one state but showing an address in the other state;
- The amount of income tax on each such return;

- The amount and nature of adjustments made to the tax liability of such individual; and
- Copies of certificates of non-residency filed by each individual claiming residency in the other state.

While it may be assumed that the exchange of information and audits obligations required by the Reciprocal Agreement are being fulfilled, there is no publicly available information from either New Jersey's Division of Taxation or Pennsylvania's Department of Revenue to confirm this assumption.

Termination and Subsequent Reinstatement

On September 1, 2016, a written notice of termination from the Director of the New Jersey Division of Taxation was forwarded to Pennsylvania's Department of Revenue. The notice of termination declared New Jersey's intention to withdraw from the Reciprocal Agreement as of the 2017 calendar year. The termination of the Reciprocal Agreement would have meant that New Jersey residents working in Pennsylvania would have had to file Pennsylvania tax returns and pay Pennsylvania income tax on their Pennsylvania earnings, while Pennsylvania residents working in New Jersey would have had to file New Jersey tax returns and pay New Jersey income tax on their New Jersey earnings, and employers in both states would have been tasked with withholding taxes on behalf of their employees. The motivation for the termination by New Jersey State officials appears to have been the gain of an estimated net revenue benefit of about $180.0 million, extrapolated from 2013 tax data.

To take a closer look at the financial impact of the termination of the Reciprocal Agreement on New Jersey residents, the ability of taxpayers to offset their liabilities with a credit for taxes paid to other jurisdictions must be considered. Pursuant to N.J.S.A.54A:4-1, New Jersey allows a credit against the gross income tax for taxes paid in the same year on the same income to another state. The credit is intended to protect the taxpayer from double taxation on the same income. Therefore, a New Jersey resident working in Pennsylvania, who would have to pay Pennsylvania income tax due to the termination of the Reciprocal Agreement, may claim the state and municipal taxes actually paid to Pennsylvania as a credit on the resident's New Jersey tax return. The amount of credit allowed may not exceed the amount of tax that New Jersey would otherwise impose on the same amount.

As the amount of credit allowed may not exceed the amount of tax that New Jersey would otherwise impose on the same income, no New Jersey resident working in Pennsylvania and paying tax in both states would pay less in taxes. Some New Jersey residents working in Pennsylvania may pay the same amount of taxes to the two states were the Reciprocal Agreement terminated, and some may pay more. For example, Pennsylvania imposes a flat 3.07% tax rate on gross income. New Jersey, on the other hand, imposes a graduated tax rate on gross income. Therefore, very generally, if the Reciprocal Agreement were terminated, a New Jersey resident working in Pennsylvania, whose sole income is derived from that state and whose income is currently taxed by New Jersey at a lower tax rate than Pennsylvania, will pay more in taxes. Conversely, a New Jersey resident working in Pennsylvania, whose sole income is derived from that state and whose income is currently taxed by New Jersey at a higher tax rate than Pennsylvania, will pay the same amount in taxes. This is because, under the Reciprocal Agreement, the New Jersey resident would have been paying taxes to New Jersey but not to Pennsylvania. After termination of the Agreement, the New Jersey resident working in

Pennsylvania will pay taxes to Pennsylvania and then, using the credit for taxes paid to other jurisdiction deduction, reduce his or her tax liability to New Jersey by the amount of taxes paid to Pennsylvania.

Due to the difference in the respective tax rates imposed on gross income by New Jersey and Pennsylvania, the termination of the Reciprocal Agreement would have imposed an additional financial burden on New Jersey's low and middle income earners. **Figure 1**, below, demonstrates the additional tax burden that would have been imposed on New Jersey taxpayers if the Reciprocal Agreement were terminated. The additional tax burden would have been borne by taxpayers at the lower end and middle of the income scale because New Jersey's marginal tax rates are lower at those income levels than Pennsylvania's flat tax rate. Therefore, New Jersey residents working in Pennsylvania would have had to pay Pennsylvania's higher income tax rate on their Pennsylvania income.

Figure 1

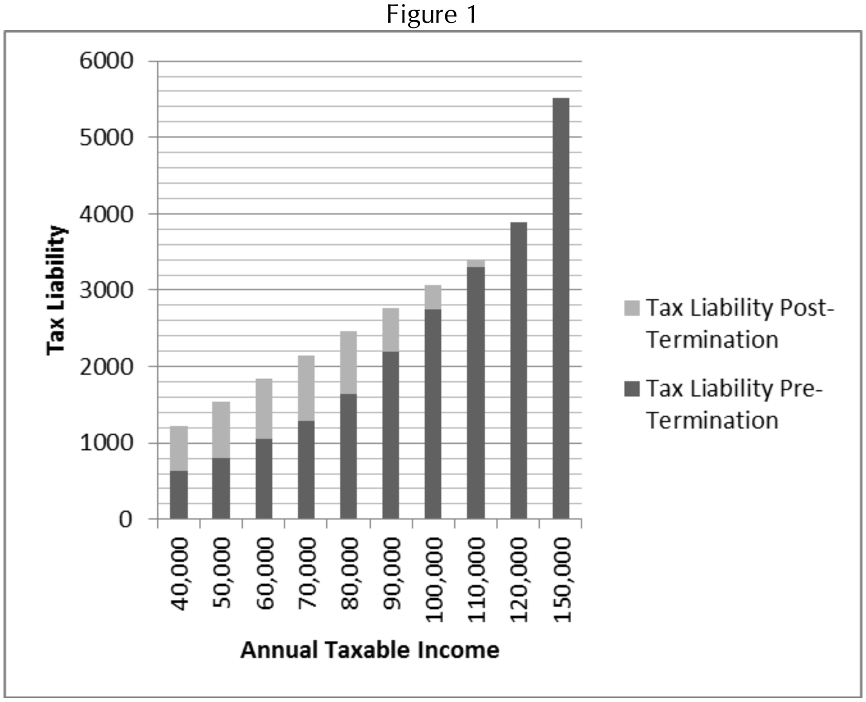


Table 1 illustrates the tax ramifications of the termination of the Reciprocal Agreement to a New Jersey resident working in Pennsylvania. As can be seen from Table 1, a net increase in tax liability accrues to those New Jersey taxpayers who have an annual gross income of less than $110,000. For New Jersey taxpayers with an annual gross income of more than $120,000, there is no net increase in taxes but merely a change to which State taxes are paid.

Table 1
New Jersey Resident Commuter Wage Tax Liability
Absent the PA-NJ Reciprocal Agreement

Annual Taxable Income	Current New Jersey Tax Liability	Expected Pennsylvania Tax Liability	Taxes to be Paid to Pennsylvania	Taxes to be Paid to New Jersey	Total Income Tax Liability	Net Increase in Tax Liability to Taxpayer
$40,000	$630	$1,228	$1,228	$0 *	$1,228	$598
$50,000	$805	$1,535	$1,535	$0 *	$1,535	$730
$60,000	$1,050	$1,842	$1,842	$0 *	$1,842	$792
$70,000	$1,295	$2,149	$2,149	$0 *	$2,149	$854
$80,000	$1,645	$2,456	$2,456	$0 *	$2,456	$811
$90,000	$2,197	$2,763	$2,763	$0 *	$2,763	$566
$100,000	$2,750	$3,070	$3,070	$0 *	$3,070	$320
$110,000	$3,302	$3,377	$3,377	$0 *	$3,377	$75
$120,000	$3,885	$3,684	$3,684	$201	$3,885	$0
$150,000	$5,512	$4,605	$4,605	$907	$5,512	$0
$200,000	$8,697	$6,140	$6,140	$2,557	$8,697	$0
$250,000	$11,883	$7,675	$7,675	$4,208	$11,883	$0
$500,000	$27,808	$15,350	$15,350	$12,458	$27,808	$0
$1,000,000	$72,658	$30,700	$30,700	$41,958	$72,658	$0

The table above assumes joint married filers with taxable income derived only from Pennsylvania after any exclusions, credits, or deductions.
The above table does not account for any local taxes paid.

Taxable income derived exclusively from salaries and wages.
* A New Jersey income tax payer may claim a credit for taxes paid to another State up to the amount of the New Jersey liability on the same income.

Table 2 on the following page, illustrates the tax ramifications of the termination of the Reciprocal Agreement to a Pennsylvania resident working in New Jersey. As can be seen, if the Reciprocal Agreement is terminated, it is the higher earning Pennsylvania residents who will bear the burden of the termination. As can be seen from Table 2, a net increase in tax liability accrues to those Pennsylvania taxpayers who have an annual gross income of more than $120,000. A Pennsylvania resident making less than $110,000 will not be impacted by the termination of the Reciprocal Agreement.

Table 2
Pennsylvania Resident Commuter Wage Tax Liability
Absent the PA-NJ Reciprocal Agreement

Annual Taxable Income	Current Pennsylvania Income Tax Liability	Expected New Jersey Income Tax Liability	Taxes to be Paid to New Jersey	Taxes to be Paid to Pennsylvania	Total Income Tax Liability	Net Increase in Tax Liability to Taxpayer
$40,000	$1,228	$630	$630	$598	$1,228	$0
$50,000	$1,535	$805	$805	$730	$1,535	$0
$60,000	$1,842	$1,050	$1,050	$792	$1,842	$0
$70,000	$2,149	$1,295	$1,295	$854	$2,149	$0
$80,000	$2,456	$1,645	$1,645	$811	$2,456	$0
$90,000	$2,763	$2,197	$2,197	$566	$2,763	$0
$100,000	$3,070	$2,750	$2,750	$320	$3,070	$0
$110,000	$3,377	$3,302	$3,302	$75	$3,377	$0
$120,000	$3,684	$3,885	$3,885	$0 *	$3,885	$201
$150,000	$4,605	$5,512	$5,512	$0 *	$5,512	$907
$200,000	$6,140	$8,697	$8,697	$0 *	$8,697	$2,557
$250,000	$7,675	$11,883	$11,883	$0 *	$11,883	$4,208
$500,000	$15,350	$27,808	$27,808	$0 *	$27,808	$12,458
$1,000,000	$30,700	$72,658	$72,658	$0 *	$72,658	$41,958

The table above assumes joint married filers with taxable income derived only from New Jersey after any exclusions, credits, or deductions.
The above table does not account for any local taxes paid.
Taxable income derived exclusively from salaries and wages.
* A Pennsylvania income taxpayer may claim a credit for taxes paid to another State up to the amount of the Pennsylvania liability on the same income.

The calculation of the impact of the termination of the Reciprocal Agreement on taxpayers is moot for now. On November 22, 2016, New Jersey Governor Chris Christie announced that New Jersey will keep in place the Reciprocal Agreement. While the Reciprocal Agreement allows for a unilateral revocation of the Reciprocal Agreement, it does not allow for a unilateral reinstatement of the previously revoked Reciprocal Agreement. Therefore, while it is unclear the authority by which Governor Christie unilaterally reinstated the Reciprocal Agreement, such reinstatement is presumed as it appears that Pennsylvania has agreed to such reinstatement.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services provides nonpartisan assistance to the State Legislature in the areas of legal, fiscal, research, bill drafting, committee staffing and administrative services. It operates under the jurisdiction of the Legislative Services Commission, a bipartisan body consisting of eight members of each House. The Executive Director supervises and directs the Office of Legislative Services.

The Legislative Budget and Finance Officer is the chief fiscal officer for the Legislature. The Legislative Budget and Finance Officer collects and presents fiscal information for the Legislature; serves as Secretary to the Joint Budget Oversight Committee; attends upon the Appropriations Committees during review of the Governor's Budget recommendations; reports on such matters as the committees or Legislature may direct; administers the fiscal note process and has statutory responsibilities for the review of appropriations transfers and other State fiscal transactions.

The Office of Legislative Services Central Staff provides a variety of legal, fiscal, research and administrative services to individual legislators, legislative officers, legislative committees and commissions, and partisan staff. The central staff is organized under the Central Management Unit into ten subject area sections. Each section, under a section chief, includes legal, fiscal, and research staff for the standing reference committees of the Legislature and, upon request, to special commissions created by the Legislature. The central staff assists the Legislative Budget and Finance Officer in providing services to the Appropriations Committees during the budget review process.

Individuals wishing information and committee schedules on the FY 2018 budget are encouraged to contact:

Legislative Budget and Finance Office
State House Annex
Room 140 PO Box 068
Trenton, NJ 08625
(609) 847-3105 • Fax (609) 777-2442