

# **TAX COURT OF NEW JERSEY**



## **ANNUAL REPORT OF THE PRESIDING JUDGE OF THE TAX COURT OF NEW JERSEY JULY 1, 2015 - JUNE 30, 2016**

The Tax Court of New Jersey  
R.J. Hughes Justice Complex  
P.O. Box 972  
25 Market Street  
Trenton, New Jersey 08625-0972

Web page: [www.judiciary.state.nj.us/taxcourt](http://www.judiciary.state.nj.us/taxcourt)

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## I.

### INTRODUCTION

During the 2015-2016 court year, the Tax Court experienced a continued decline in the number of new filings, attributable in large part to a reduction in local property tax appeals. This trend, which began during the 2013-2014 court year, likely reflects an improvement and stabilization in numerous aspects of the real estate market in New Jersey. In addition, during the court year, the Tax Court made notable advancements in the implementation of eCourts Tax, the judiciary's electronic case initiation and document filing system for the Tax Court. The expansion of eCourts Tax resulted in increased efficiencies in the processing and disposition of cases. These developments assisted the court in reducing its year-end inventory of pending cases for the second court year in a row, reducing the total number of pending cases to below 40,000 for the first time since the 2012-2013 court year.

As of June 30, 2016, the court docketed 14,654 new cases, the lowest number of new filings since the 2008-2009 court year. For the third court year in a row, new filings have decreased as compared to the prior court year. The reduction in new filings provided the court with much needed relief and an opportunity to focus on resolution of the pending inventory of cases accumulated during a precedent setting increase in filings over an extended number of court years. At the start of the 2015-2016 court year, the court's inventory of cases was 42,662. That number was reduced to an inventory of 39,224 by the close of the court year. This reduction was accomplished through the disposition of 18,092 cases, the second highest number of cases disposed of in a single court year in the history of the court. The 2015-2016 court year was the second court year in a row in which the court closed more cases than were opened. This two-year period of dispositions exceeding new filings ends a 15-year trend in which filings exceeded dispositions each court year, in some instances by vast amounts.

In addition, on December 8, 2015, the second phase of the eCourts Tax implementation program became effective. As of that date, attorneys are required to file all local property tax pleadings and other documents through eCourts Tax. Given that local property tax cases comprise approximately 98% of the Tax Court's docket, mandatory electronic filing for that case type brought the court significantly closer to full implementation of electronic filing, one of the goals outlined in the June 15, 2009 "Report of the Supreme Court Special Committee on Electronic Filing" (specifically A2 – Mandatory Use). By the end of the 2015-2016 court year, 141,875 total filings had been made through eCourts Tax since the program was initiated. Of those filings, 19,230 were new Complaints. These figures far outpace those at the close of the prior court year, when use of eCourts Tax was optional for most attorneys.<sup>1</sup>

eCourts Tax requires all new local property tax appeals filed by attorneys to be initiated by the electronic filing of a Complaint through a web-based portal. Electronic case initiation automatically assigns the Complaint a docket number, collects the appropriate filing fee, and serves the Complaint and accompanying documents on any attorney registered to use the program. Electronic case initiation eliminates a significant amount of data entry by Tax Court staff, allowing for the more efficient operation of the Tax Court Management Office. In addition, all papers filed by attorneys in existing local property tax matters must be filed through eCourts Tax, whether those matters were initiated electronically or by paper. Electronic filing of any document automatically enters that document in the electronic case jacket and the court's case management system, collects any applicable filing fee, notifies the appropriate Judge's staff of the existence of the document, and effectuates service on any registered attorney appearing in the matter.

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<sup>1</sup> At the end of the 2015-2016 court year, preparations were underway to extend eCourts Tax to State tax matters, the only case type not yet included in the eCourts Tax program. Self-represented parties continue to initiate cases through the filing of paper Complaints and do not have access to eCourts Tax.

Additionally, as of January 1, 2016, all docketing notices, trial notices, orders, opinions, judgments and other communications from the Tax Court in all local property tax matters are filed electronically through eCourts Tax. Paper copies of those documents are not mailed to attorneys. This brings the court considerably closer to the full integration of eCourts Tax into the practices of the Tax Court Management Office. The Tax Court Clerk/Administrator and her staff continue to revise and streamline procedures to maximize efficiencies and fully realize the benefits eCourts Tax.

## II.

### THE COURT

The Tax Court was established on July 1, 1979 as a trial court with statewide jurisdiction to review State and local property tax assessments. Over the past thirty-seven years, the court has disposed of hundreds of thousands of cases. The court's published opinions fill 29 volumes of the New Jersey Tax Court Reports. The court's unpublished opinions are available on the judiciary's website for a period of two weeks, after which they are collected by Rutgers-Camden Law School for inclusion in its free online library. The development of a body of legal precedent benefits the State and its taxpayers by facilitating the implementation of tax policy, as decided by our Legislature and Governor, and providing a reliable structure in which to resolve tax conflicts. In addition to deciding tax disputes, Tax Court Judges hear Superior Court cases in which the Judges' expertise in taxation is desirable. Tax Court Judges have helped resolve complex issues relating to taxation and asset valuation in business, matrimonial, foreclosure, condemnation, and other cases.

On July 1, 2015, the first day of the 2015-2016 court year, the Hon. Mark Cimino, J.T.C., took his oath of office, filling the only vacancy on the court at that time. Judge Cimino filled the seat vacated by the Hon. James E. Isman, J.T.C., on the first day of the 2014-2015

court year. Judge Cimino was assigned to both the Tax Court and the Superior Court, Chancery Division, Family Part, in the Atlantic/Cape May Vicinage. He devotes approximately 40% of his time to Tax Court matters.

On February 1, 2016, the Hon. Joseph L. Foster, J.T.C., retired after more than seventeen and a half years on the bench. During his entire tenure, Judge Foster was assigned to the Superior Court, Ocean Vicinage. At the close of the court year, the vacancy created by Judge Foster's retirement had not been filled.

In addition to the nine Judges assigned to the Tax Court, during the 2015-2016 court year, one Tax Court Judge was assigned to the Superior Court, Appellate Division, and two Tax Court Judges were assigned full time to Superior Court trial divisions, although, as noted above, Judge Foster retired during the court year. In addition, as noted above, Judge Cimino served on both the Tax Court and the Superior Court during the court year. In this way, the court contributed to the disposition of cases by the judiciary overall.<sup>2</sup>

During the court year, the Judges assigned to the Tax Court were: Presiding Judge Patrick DeAlmeida, Judge Vito L. Bianco, Judge Mala Sundar, Judge Joseph M. Andresini, Judge Christine M. Nugent, Judge Mary Siobhan Brennan, Judge Kathi F. Fiamingo, Judge Joshua D. Novin, and Judge Mark Cimino. The Judges maintained chambers and heard cases in Hackensack (Judge Andresini), Newark (Judge Nugent, Judge Fiamingo, and Judge Novin), Morristown (Judge Bianco), Trenton (Presiding Judge DeAlmeida, Judge Sundar, and Judge Brennan), and Atlantic City (Judge Cimino). Each Judge is designated to hear local property tax cases from specific geographic areas. These cases are assigned according to the location of the real property at issue. State taxes case are assigned by the Presiding Judge.

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<sup>2</sup> At the end of the 2015-2016 court year, the Hon. Francine I. Axelrad, who retired from the Tax Court, was serving on recall on the Superior Court, Chancery Division, Family Part, Camden Vicinage, and Judge Foster was serving on recall on the Superior Court, Chancery Division, Family Part, Ocean County.

Table 1 categorizes filings and dispositions for the 2015-2016 court year. The analysis represents Tax Court cases only and does not include Superior Court cases or miscellaneous tax applications handled by Tax Court Judges. An examination of the table shows that the vast majority of the court's cases, 98%, involve local property tax. The remaining 2% of cases concern assessments by the Director, Division of Taxation, of State taxes, such as gross income tax, corporation business tax, sales and use tax, transfer inheritance tax, as well as other taxes, homestead rebate cases, and challenges to equalization tables and school aid ratios. Although small in number, these cases tend to be complicated and often involve complex legal questions that require significant judicial resources.

TABLE 1  
TAX COURT OF NEW JERSEY  
CATEGORIES OF CASES FILED  
COURT YEAR 2015-2016

<b>A. Cases filed by general category</b>			
Local property tax cases	98%		14,231
State tax and Equalization Table cases	2%		280
Total	100%		14,511
<b>B. Local property tax cases filed during the court year</b>			
Regular cases	60%		8,555
Small claims cases	40%		5,676
Total	100%		14,231
<b>C. State tax and Equalization Table cases filed during the court year</b>			
State tax cases (other than Homestead Rebate & related cases)	83%		233
Homestead rebate & related cases	15%		42
Equalization Table cases	2%		5
Total	100%		280

More detailed Tax Court statistics for the 2015-2016 court year can be found in the Appendix.

### III.

#### THE TAX COURT MANAGEMENT OFFICE

The Tax Court Management Office is the administrative arm of the Tax Court. Cheryl A. Ryan has been the Clerk/Administrator since her appointment on October 1, 2005. This office provides the support services necessary for the efficient functioning of the court. Not only is the office responsible for case flow management, record keeping, and the case management functions necessary to move cases to disposition, but also it manages the resources needed to support the Tax Court Judges and support staff in six locations. Specifically, the Tax Court Management Office accepts papers for filing, assigns local property tax cases, prepares calendars and judgments, responds to attorney and litigant inquiries, and provides procedural guidance.

During the court year, the Management Office worked closely with the Judiciary's business analysts and IT unit to oversee the implementation of eCourts Tax. Two case management teams continued to be responsible for docketing, screening, data processing, calendaring, records management and administrative services. The expansion of electronic filing required significant revisions to the policies and procedures currently in place. A priority for the management office continues to be reviewing the court's operations and implementing changes to accommodate electronic filing. These changes result in improved efficiency in operations, including a reduction of data entry by staff, increased efficiency in issuing judgments, and a reduction in costs.

To assist users with navigating eCourts Tax, the Tax Court website includes links to instructions and information regarding the electronic filing program. Additionally, various reports and information are available to provide timely and efficient service to litigants and the public. For example, the court provides reports on the judgments entered each month and new cases docketed. Other information available on the court's website includes: published and



unpublished Tax Court opinions, notices regarding important changes to Tax Court policies, all state and local property Tax Court forms, the Rules of the Tax Court (Part VIII), a small claims handbook, the Tax Court's standard form interrogatories, as well as the Annual Reports of the Presiding Judge and the Biennial Reports of the Supreme Court Committee on the Tax Court. Links to the State's twenty-one county boards of taxation are also available on-line.

#### IV.

#### CASELOAD

##### A.

#### FILINGS AND DISPOSITIONS

Table 2 in the Appendix (page a) summarizes the history of filings and dispositions of Tax Court cases since court year 1986-1987. At the beginning of the 2015-2016 court year, the Tax Court had an inventory of 42,662 cases. Tax Court cases docketed during the court year totaled 14,511 and an additional 143 previously closed cases were reinstated. Thus, the aggregate total number of cases in inventory was 57,316. Dispositions for the court year totaled 18,092 cases, resulting in an inventory of 39,224 cases at the end of the court year.<sup>3</sup> As noted above, the Tax Court Judges cleared the court's calendar for the second straight year. The court reduced the existing inventory of cases approximately 8% during the court year. The inventory of cases at the close of the court year constitutes approximately two and a quarter years of dispositions at the current rate of disposition. That is consistent with our objective of closing standard track cases within eighteen months to two years after filing. As of the last day of the 2015-2016 court year, approximately 44% of the court's caseload was in "backlog" (cases over two years old). We find that this is an unacceptably high number, but one that can reasonably be expected given the dramatic increase in case filings in the court years 2006-2007

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<sup>3</sup> The figures do not include miscellaneous tax applications and Superior Court cases assigned to Tax Court Judges.

through 2012-2013. Although we have experienced the first three years of significant declines in case filings since the 2006-2007 court year, our docket continues to have many unresolved older cases filed during recent peak filing years. The Tax Court Judges are redoubling efforts to resolve those cases.

B.

### PRODUCTIVITY

Table 3 in the Appendix (page b) indicates the number of dispositions per Tax Court Judge per year for the past sixteen years. Dispositions per judge in the past seven court years (2009-2010 through 2015-2016) have been significant. The 2015-2016 court year saw a slight drop in the per-Judge disposition rate as compared to the prior court year. The decrease reflects the shrinking inventory of pending cases, the pooling of cases reported settled, but which have not been disposed of due to financial constraints on municipal defendants' ability to issue refunds, and the finite number of real estate appraisers available to serve as experts before an increasing number of Judges assigned to the Tax Court.

It should be noted that dispositions per Judge per year is not the sole measure of the quantity and quality of the court's work. The court has developed a significant body of law through published opinions reported in Volumes 1 through 29 of the New Jersey Tax Court Reports. The published opinions reflect a fraction of the written and oral opinions issued by Tax Court Judges during the 2015-2016 court year. A description of the most significant Tax Court opinions, as well as significant published opinions of appellate courts, follows.

C.

DECISIONS

1. SUPREME COURT OF THE UNITED STATES

During the 2015-2016 court year, no petition for certiorari was filed with the Supreme Court of the United States in a case that originated in the Tax Court.

2. SUPREME COURT OF NEW JERSEY

At the start of the 2015-2016 court year, no petitions for certification were pending before the Supreme Court of New Jersey in cases that originated in the Tax Court. During the court year, four petitions for certification were filed. As of June 30, 2016, the Supreme Court denied three petitions for certification and one petition for certification had been withdrawn. The Court issued no opinions in matters that originated in the Tax Court during the 2015-2016 court year.

3. SUPERIOR COURT, APPELLATE DIVISION

During the 2015-2016 court year, appeals from thirty-two Tax Court decisions were filed with the Superior Court, Appellate Division. Table 4 (page c) provides the number of Tax Court cases appealed to the Appellate Division over the past twenty-nine years. Table 5 (page d) shows the disposition of Tax Court cases by the Appellate Division during the 2015-2016 court year. Appellate Division opinions in appeals from Tax Court matters are published either in the New Jersey Superior Court Reports or the New Jersey Tax Court Reports. Significant published opinions issued by the Superior Court, Appellate Division, during the 2015-2016 court year in cases that originated in the Tax Court included:

- A. **Marina District Development Co., LLC v. City of Atlantic City**  
28 N.J. Tax 568 (App. Div.), certif. denied, 223 N.J. 354 (2015)

The Tax Court correctly applied the income approach to determine the true market value of the Borgata Hotel Casino in Atlantic City. In addition, the Tax Court appropriately considered national economic difficulties and changes in the regional casino gaming market when determining true market value for local property tax purposes.

- B. **Lorillard Licensing Co., LLC v. Director, Division of Taxation**  
29 N.J. Tax 275 (App. Div. 2015), certif. denied, 226 N.J. 212 (2016)

The Tax Court correctly interpreted the holdings in Whirlpool Props. Inc. v. Director, Div. of Taxation, 208 N.J. 141 (2011) and Lanco, Inc. v. Director, Div. of Taxation, 188 N.J. 380 (2006), certif. denied, 551 U.S. 1131 (2007), when applying the “Throw-Out Rule,” codified in N.J.S.A. 54:10A-6(B), to apportion the taxpayer’s income subject to tax in New Jersey.

- C. **Robert H. Hill v. Director, Division of Taxation**  
29 N.J. Tax 318 (App. Div. 2016)

The Tax Court correctly held that the Division of Taxation was not prohibited from issuing notices of deficiencies to Pennsylvania resident beneficiaries of New Jersey resident trusts after it had mistakenly refunded gross income tax to them, even though the New Jersey Gross Income Tax Act did not specifically provide for the recovery of erroneous refunds. The refunds issued here were the result of clerical errors which could be corrected through the issuance of notices of deficiencies.

#### 4. TAX COURT

Published Tax Court opinions are reported in the New Jersey Tax Court Reports. As of the date of this report, there are twenty-eight complete volumes of the New Jersey Tax Court Reports and a twenty-ninth volume which is partially complete.

##### (1) LOCAL PROPERTY TAX CASES

The following published opinions of the Tax Court concerning local property taxes were among the most significant of the 2015-2016 court year:

A. **East Newark Town Center, LLC v. Borough of East Newark**  
29 N.J. Tax 164 (Tax 2016)

Municipal redevelopment ordinance which disallowed nonconforming uses in non-industrial subdistrict did not render subject property's pre-existing, non-conforming use legally impermissible for purposes of determining highest and best use when valuing property. In order to determine whether an activity constitutes expansion or intensification of nonconforming use, the court must review the relevant ordinance, facts and the effect the increased nonconforming use will have on other property. Borough's possession of expert report valuing subject property far below assessed value does not violate the square corners doctrine, where the borough did not move to dismiss the taxpayer's case at the close of taxpayer's proofs, did not reduce assessment on subject property in future years based on the expert report, and elected not to rely on the expert report upon belief that the expert reached an incorrect conclusion of highest and best use.

B. **Kenneth Fields v. Trustees of Princeton University**  
29 N.J. Tax 284 (Tax 2016)

Action by taxpayers challenging the exemption granted to Princeton University on more than 150 parcels for local property tax purposes was not an action to review the real property tax assessments on those parcels. Plaintiffs, instead, challenge the exempt status of the University as property owner. Thus, the filing fee for plaintiffs' complaints is based on a "per complaint" calculation, and not a "per parcel" calculation, reducing the filing fees from an aggregate of \$25,450 to \$250 for each of the two complaints filed by plaintiffs.

C. **Kenneth Fields v. Trustees of Princeton University**  
28 N.J. Tax 574 (Tax 2015)

In action by taxpayers challenging municipality's grant of exemption to Princeton University on more than 150 parcels for local property tax purposes, the presumption of validity that attaches to an assessor's determination of value does not apply to the assessor's determination that parcels are exempt from local property tax. In addition, Princeton University, as the property owner, has the burden of proof to establish that it is entitled to the exemption, even where the challenge to the exemption is brought by third-party taxpayers challenging the assessor's grant of the exemption.

**D. Forsgate Ventures IX, LLC v. Township of South Hackensack**  
29 N.J. Tax 28 (Tax 2016)

Actual use of subject property, in the highest-and-best use analysis of value, was as a large discount retail store rather than as a warehouse. Cost approach used by township was not an appropriate approach to determine value, where township's expert utilized an automated valuation software to generate cost estimates, but township did not produce testimony to authenticate and explain the calculations used by the automated valuation software, and court was not provided with amount expended by taxpayer on building improvements.

**E. Positive Health Care, Inc. v. City of Newark**  
29 N.J. Tax 213 (Tax 2016), appeal pending

Nonprofit corporation's failure to file applications for exemptions on its residential properties for additional tax years it sought to include in amended complaint in action challenging denial of exemption for those properties in one tax year defeated corporation's motion to amend complaint, since claims for exemption for additional tax years would have ultimately been dismissed for lack of jurisdiction, despite strength of exemption claim. The fact that the properties had been purchased with federal funds did not give taxpayer special standing to challenge exemptions outside the statutory timeframes established in State law and did not violate the Supremacy Clause of the United States Constitution.

**F. Seaboard Landing, LLC v. Borough of Penns Grove**  
28 N.J. Tax 607 (Tax 2015), appeal pending

The square corners doctrine did not preclude municipality from opposing taxpayer's application for Freeze Act relief in proceedings in which taxpayer sought reduction in assessments on real property, even though, during discovery, municipality commissioned expert report that opined that the subject property's true market value was more than 50% lower than the implied equalized assessed value for certain tax years, where taxpayer did not file complaints challenging the assessments for those years. In addition, application of the Freeze Act to preclude relief in years in which districtwide revaluation took place does not violate the Uniformity Clause of the State Constitution.

**G. Krystal Fisher v. City of Millville**  
29 N.J. Tax 91 (Tax 2016), appeal pending

A 100% disabled veteran, who served as part of the rear detachment, performing duties for the portion of her unit deployed overseas, was not disabled as a result of "direct support" of the overseas operation, as required to support exemption from local property tax; even though materials handled by the veteran would ultimately be shipped to a dangerous location, veteran was not exposed to danger.

**H. ACP Partnership v. Borough of Garwood**

29 N.J. Tax 102 (Tax 2016)

In tax appeal contesting local property tax assessment on multi-tenanted and multi-structured industrial and warehouse complex being operated on property contaminated while in the hands of a prior owner, the environmental condition of the property will be taken into consideration in determining true market value, including accounting for past and future estimated costs associated with the cleanup of the contamination.

**I. New Jersey Turnpike Authority v. Township of Monroe**

29 N.J. Tax 55 (Tax 2016), appeal pending

Property acquired by Turnpike Authority to satisfy its mitigation obligations to the Department of Environmental Protection for loss of environmentally protected lands disturbed for Turnpike expansion was used for a “transportation project,” and thus exempt for local property tax under Turnpike Authority’s enabling statute, even if Turnpike Authority acquired acreage in excess of what was required for mitigation purposes. Turnpike Authority’s failure to challenge denial of exemption in a timely fashion precluded its claim for an exemption, even though Turnpike Authority was granted exemption for the same property in the prior tax year and there was no change in ownership or use.

**J. Savage Mills Enterprises, LLC v. Borough of Little Silver**

29 N.J. Tax 295 (Tax 2016)

Tax Court has subject matter jurisdiction to consider property owner’s claim that it was entitled to a partial exemption for portion of property used by a tax-exempt entity, even though owner was obligated under lease to pay any local property taxes on the portion of the property used by the exempt entity. While a statutory exemption can apply when the lessor is a tax-exempt entity and the lessee is a for-profit entity, the converse is not true.

**K. Farmland Dairies, Inc. v. Borough of Wallington**

29 N.J. Tax 310 (Tax 2016)

Neighboring property owner’s motion to intervene in taxpayer’s action challenging borough’s assessment on its property did not relate back to the taxpayer’s timely complaint, and thus was barred as untimely, where neighboring property owner sought to assert new cause of action contesting purported underassessment of taxpayer’s property.

L. **Palisadium Management Corp. v. Borough of Cliffside Park**  
29 N.J. Tax 245 (Tax 2016), appeal pending

Computer program used to generate cost estimates for use in the cost approach to determining true market value was not sufficiently reliable. There was no independent testimony to corroborate calculations produced by software, there had been no demonstration of software's reliability in any other court, witnesses did not independently check resulting calculations to determine their accuracy, and the court was provided with no explanation of the underlying data, basis or reasoning utilized by the software.

(2) **STATE TAX CASES**

The following published opinions of the Tax Court concerning State taxes were among the most significant of the 2015-2016 court year:

A. **Flagstar Bank, FSB v. Director, Division of Taxation**  
29 N.J. Tax 130 (Tax 2016)

Mortgage loans made to New Jersey borrowers that were acquired by taxpayer, a foreign multi-state banking institution, in its wholesale mortgage operations were integrated with business it conducted in New Jersey, and thus income derived from those intangible assets constituted business income earned within New Jersey subject to corporation business tax. The taxpayer's taxable income includes interest accruing on New Jersey mortgage loans, gross proceeds of sales of mortgage loans and mortgage backed securities, and originating fees charged for preparing and processing loans. Mortgage servicing fees and income from the sale of mortgage servicing rights were derived outside of New Jersey and were not, therefore, included in taxpayer's taxable income.

B. **Anthony Y. Kite v. Director, Division of Taxation**  
29 N.J. Tax 75 (Tax 2016), appeal pending

Monetary recovery to New Jersey resident relator under the qui tam provisions of the federal False Claims Act, 31 U.S.C.A. § 3730(d), is an "award" subject to New Jersey gross income tax. Recovery was based, in part, on relator's skill at identifying and prosecuting his claims. Taxable amount of award was full amount of recovery prior to deduction of attorneys' fees incurred in securing recovery, as well as amounts paid pursuant to contract to other relators who brought similar claims under the Act.



C. **Springs Licensing Group, Inc. v. Director, Division of Taxation**  
29 N.J. Tax 1 (Tax 2015)

Non-domestic company was required to file corporation business tax returns to report and pay tax on royalty income from its parent, a foreign company doing business in New Jersey, even if parent filed New Jersey corporate business tax return and added back the deducted royalty payments to its subsidiary on parent's return. If non-domestic company files corporate business tax return and pays tax on royalty income from its parent, nothing prevents the parent from claiming an exemption to the add-back requirement to prevent unfair results of multi-state taxation of apportionable income.

D. **Kraft Foods Global, Inc. v. Director, Division of Taxation**  
29 N.J. Tax 224 (Tax 2016), appeal pending

Director, Division of Taxation acted within his statutory discretion under the Corporation Business Tax Act when he determined that disallowing deduction from taxable income of interest payments taxpayer made to a related entity was not unreasonable. Although taxpayer argued that interest payments were made on actual debts of the taxpayer, the record contained no credible evidence suggesting that the taxpayer ultimately was responsible for the related company's debts, that it had guaranteed the related company's debts, or that the taxpayer was unable to borrow funds on its own in the capital markets.

E. **Mark Sahaya v. Director, Division of Taxation**  
29 N.J. Tax 18 (Tax 2015)

While the statutory provision governing the ninety-day period for establishing the Tax Court's jurisdiction to review decision of the Director, Division of Taxation is strictly construed, a more flexible approach applies when the court interprets the court rule allowing taxpayers a ten-day period to cure deficiencies in an otherwise timely filed Complaint. Here, the court relaxed the ten-day cure period for an additional ten days where the taxpayer reasonably expected that the court's deficiency notice would be sent to the accountant who signed the Complaint, even though the accountant was not authorized to do so by law, and not to the last address on file with the Division for plaintiff.

V.

SUPREME COURT COMMITTEE ON THE TAX COURT

The Supreme Court Committee on the Tax Court is comprised of members of the bench and tax bar, as well as representatives of taxpayers' groups, local, county, and state tax administrators, and others concerned with the administration of New Jersey tax laws. The committee fulfills a vital role in its advisory capacity by developing and recommending rule changes affecting the operation of the court. The committee meets quarterly and will next issue a report in January 2018.

Respectfully submitted,

/s/Hon. Patrick DeAlmeida, P.J.T.C.

February 3, 2017

TABLE 2

## THIRTY YEAR HISTORY OF TAX COURT FILINGS AND DISPOSITIONS

Year ended	Pending first day of period	Filings	Dispositions	Pending last day of period
6/30/87	3,437	4,619	4,687	3,369
6/30/88	3,369	4,764	5,629	2,504
6/30/89	*2,532	6,570	4,627	4,475
6/30/90	4,475	7,901	5,262	7,114
6/30/91	7,114	11,371	6,026	12,459
6/30/92	*12,402	16,300	9,224	19,478
6/30/93	19,478	14,967	16,560	17,885
6/30/94	17,885	15,223	11,697	21,411
6/30/95	21,411	12,741	17,402	16,750
6/30/96	16,750	9,410	12,075	14,085
6/30/97	14,085	7,954	10,406	11,633
6/30/98	11,633	7,124	9,390	9,367
6/30/99	9,367	6,356	7,005	8,718
6/30/00	*9,069	5,386	6,702	7,753
6/30/01	7,753	4,815	4,515	8,053
6/30/02	8,053	5,952	5,932	8,073
6/30/03	8,073	6,639	5,444	9,268
6/30/04	9,268	8,105	5,973	11,400
6/30/05	11,400	7,332	6,719	*12,282
6/30/06	12,282	8,205	7,533	*13,120
6/30/07	13,120	10,759	8,283	*15,596
6/30/08	15,596	11,760	8,749	18,607
6/30/09	18,607	14,103	8,808	23,902
6/30/10	23,902	18,426	10,938	31,390
6/30/11	31,390	19,776	15,467	35,699
6/30/12	35,699	15,556	15,457	35,798
6/30/13	35,798	25,364	17,168	43,994
6/30/14	43,994	18,962	15,747	47,209
6/30/15	47,209	16,173	20,720	42,662
6/30/16	42,662	14,654	18,092	39,224

\* Adjusted to reflect year-end physical case inventory.

TABLE 3

TAX COURT OF NEW JERSEY PRODUCTIVITY  
DISPOSITIONS PER JUDGE 2001-2016

Year ended	Pending first day of period	Filings	Dispositions	Pending last day of period	# of Judges (full time equivalents)	Dispositions per Judge
6/30/01	7,753	4,815	4,515	8,053	4 - Axelrad appointed to Appellate Division 6/2000; Andrew retired 10/2000	1,129
6/30/02	8,053	5,952	5,932	8,073	5 - Bianco appointed 8/2001	1,186
6/30/03	8,073	6,639	5,444	9,268	6 - Menyuk appointed 8/2002	907
6/30/04	9,268	8,105	5,973	11,400	7 - Hayser transferred to Tax Court	853
6/30/05	11,400	7,332	6,719	*12,282	7 - Kahn retired 6/2005	960
6/30/06	12,282	8,205	7,533	*13,120	6	1,256
6/30/07	13,120	10,759	8,283	*15,596	6	1,381
6/30/08	15,596	11,760	8,749	18,607	6.5 - DeAlmeida appointed 1/2008	1,346
6/30/09	18,607	14,103	8,808	23,902	7 - Kuskin retired 6/2009	1,258
6/30/10	23,902	18,426	10,938	31,390	6 - Small, Pizzuto retired 10/2009; Sundar appointed 7/2009; Andresini appointed 10/2009	1,823
6/30/11	31,390	19,776	15,467	35,699	6 - Hayser retired 10/2010; Nugent appointed 10/2010	2,578
6/30/12	35,699	15,556	15,457	35,798	6 - Brennan appointed 6/2012	2,576
6/30/13	35,798	25,364	17,168	43,994	6.5 - Menyuk retired 1/2013	2,641
6/30/14	43,994	18,962	15,747	47,209	6 - Fiamingo appointed 4/2014	2,625
6/30/15	47,209	16,173	20,720	42,662	8 – Novin appointed 8/14	**2,590
6/30/16	42,662	14,654	18,092	39,224	8.25 – Cimino appointed 7/15 (Partial Caseload)	2,193

\* Adjusted to reflect year-end physical case inventory.

\*\* Corrected error reported in 2014-2015 annual report.

TABLE 4

## TAX COURT CASES APPEALED TO THE APPELLATE DIVISION 1986-2016

<b>Court Year</b>	<b>Number of Cases</b>
1987-1988	48
1988-1989	44
1989-1990	32
1990-1991	40
1991-1992	49
1992-1993	43
1993-1994	67
1994-1995	84
1995-1996	79
1996-1997	53
1997-1998	71
1998-1999	58
1999-2000	45
2000-2001	35
2001-2002	41
2002-2003	50
2003-2004	34
2004-2005	41
2005-2006	46
2006-2007	38
2007-2008	46
2008-2009	33
2009-2010	47
2010-2011	27
2011-2012	29
2012-2013	36
2013-2014	33
2014-2015	23
2015-2016	32

TABLE 5

ACTIONS TAKEN BY APPELLATE DIVISION ON TAX COURT CASES  
COURT YEAR 2015-2016

Action	Number of Cases
Affirmed	12
Dismissed	6
Motion for leave to appeal denied	3
Motion for leave to appeal granted and remand	2
File as within time denied	1
<b>Total Dispositions</b>	<b>24</b>

TABLE 6

TAX COURT CASES PENDING, FILED AND DISPOSED  
COURT YEAR 2015-2016

	<b>Local Property Tax</b>	<b>State Tax</b>	<b>Equalization &amp; related cases</b>	<b>Totals</b>
<b>Cases pending as of first day of period</b>	42,124	538	0	42,662
<b>New cases filed during period</b>	14,231	275	5	14,511
<b>Reinstated</b>	143	0	0	143
<b>Subtotal</b>	<b>56,498</b>	<b>813</b>	<b>5</b>	<b>57,316</b>
<b>Cases disposed</b>	17,797	290	5	18,092
<b>Pending</b>	38,701	523	0	39,224

TABLE 7

CHARACTER OF COMPLAINTS FILED  
COURT YEAR 2015-2016

	FILED	REINSTATED
<b>1. Local Property Tax</b>		
Regular	8,555	118
Small Claims	5,676	25
<b>TOTAL</b>	<b>14,231</b>	<b>143</b>
<b>2. Other than Local Property Tax (STATE)</b>		
Regular	190	0
Small Claims	90	0
<b>TOTAL</b>	<b>280</b>	<b>0</b>
<b>Grand Total</b>	<b>14,511</b>	<b>143</b>

Type of State Tax

Gross Income	81	
10 Day Deficiency	49	
Inheritance Tax	12	
Corporation Business	23	
Sales and Use	55	
Property Tax Reimbursement	26	
Cigarette	4	
Transfer from Superior Court	1	
Miscellaneous	2	
Fair Homestead Rebate	16	
Judgment Complaint	2	
Motor Fuels Sales (Div. of Tax.)	1	
School Aid (Table of Equalization Valuation)	5	
Non-Residential Development Fee (COAH)	1	
Estate Tax	1	
Mansion Tax	1	
<b>Total</b>	<b>280</b>	<b>0</b>



TABLE 8

LOCAL PROPERTY TAX COMPLAINTS FILED BY COUNTY  
2008-2016

	6/30/08	6/30/09	6/30/10	6/30/11	6/30/12	6/30/13	6/30/14	6/30/15	6/30/16
Atlantic	128	256	374	406	241	472	731	356	336
Bergen	2,369	2,761	3,699	3,935	3,486	5,621	3,834	2,698	2390
Burlington	160	248	395	424	336	501	303	283	226
Camden	120	158	214	218	255	481	213	154	136
Cape May	176	110	123	104	102	117	65	88	86
Cumberland	32	52	52	51	43	127	173	97	47
Essex	2,523	2,743	3,109	3,471	2,985	4,471	3,493	3,612	3064
Gloucester	88	111	144	121	190	412	296	159	113
Hudson	522	773	1,105	1,214	735	1,040	749	689	497
Hunterdon	48	68	91	97	70	139	115	89	76
Mercer	180	206	243	374	240	338	252	213	189
Middlesex	901	966	1,248	1,490	1,058	1,645	1,250	1,106	953
Monmouth	848	1,019	1,747	1,433	944	1,736	1,566	1,178	1354
Morris	581	797	1,078	1,228	766	1,936	1,251	1,011	878
Ocean	555	722	1,015	876	479	996	659	610	501
Passaic	989	1,456	1,546	1,522	1,443	2,404	1,641	1,375	1369
Salem	28	34	41	69	41	72	50	44	28
Somerset	221	316	546	619	384	653	403	392	321
Sussex	111	78	352	329	231	288	178	136	187
Union	573	711	948	1,163	1,077	1,402	1,189	1,393	1380
Warren	48	50	77	130	99	205	143	108	100
<b>TOTALS</b>	<b>11,201</b>	<b>13,635</b>	<b>18,147</b>	<b>19,274</b>	<b>15,205</b>	<b>25,056</b>	<b>18,554</b>	<b>15,791</b>	<b>14,231</b>