



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO Box 269
TRENTON, NJ 08695-0269

JON S. CORZINE
Governor

R. DAVID ROUSSEAU
Acting State Treasurer

March 17, 2008

New Retro-Active New Jersey S Corporation Election

In order to provide uniform relief for corporations who have inadvertently failed to make a timely valid New Jersey S Corporation election, the Division of Taxation has adopted a retro-active S Corporation election procedure.

Regulation 18:7-20.3, which was recently promulgated details the procedure that can enable a corporation and its shareholder(s) to cure a defective New Jersey S Corporation election. Taxpayers requesting a retroactive election will need to file form CBT-2553-R and remit the required fee.

Taxpayers should take care to ensure that they qualify for the new procedure, since the required fee is not refundable if the retro-active election is denied.

A retro-active election will only be granted providing all of the following criteria are satisfied:

- A completed form CBT-2553-R is submitted containing the signature of all shareholders along with a non-refundable administrative fee equal to \$100.00 for each year being impacted by the back dating.
- The Corporation is authorized to do business in New Jersey and registered with the Division of Taxation.
- All appropriate Corporation Business Tax returns have been timely filed and taxes timely paid as if the New Jersey S Corporation election request had been previously approved.
- The New Jersey S Corporation retro-active request is received prior to a final assessment for a year covered by the requested becoming final.
- The Division has not issued a notice denying a previous late filed New Jersey S election request, and the taxpayer has not protested the denial within ninety (90) days.
- All shareholders have filed appropriate tax returns and paid the tax in full when due as if the New Jersey S Corporation election request had been previously approved, and the taxpayers have reported the appropriate S Corporation income on those returns.