

J. Salema



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
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XXXXXXXXXXXX

File

(609) 292-1527

July 12, 1991

Karen Jezierny
Assistant Treasurer
State House
CN 001
Trenton, New Jersey 08625

Re: Release of Homestead Rebate and Gross Income Tax Information

Dear Assistant Treasurer Jezierny:

You have asked whether the Division of Taxation may release information obtained from gross income tax returns and/or homestead rebate applications. More specifically, you have asked whether the Division may release the names and addresses of recipients of homestead rebates. For the reasons set forth below, you are advised that the Division may not release this information.

The state tax confidentiality statute, N.J.S.A. 54:50-8 and 50-9, requires that the "records and files" of the Division of Taxation respecting the administration of "any State tax law" be kept confidential. Division employees and others who may have obtained information from the Division's files are prohibited from disclosing the information and may be prosecuted criminally for violating the statute. The confidential nature of the information continues in a judicial proceeding. There are limited exceptions covering, among other things, a person seeking copies of his own tax returns, the publication of statistics, and the inspection of the file relating to a particular case by the Attorney General. These exceptions have been narrowly construed. See Monmouth Airlines, Inc. v. Taxation Div. Director, 2 N.J. Tax 47,54 (Tax Ct. 1980). None of the exceptions covers the release of tax information to public officials whether they be members of the executive, legislative, or judicial branches.

New Jersey Is An Equal Opportunity Employer

Under the Homestead Property Tax Rebate Act of 1990, L. 1990 c. 61, an applicant for a rebate must file his application with the Director of the Division of Taxation. N.J.S.A. 54:4-8.61a. Since eligibility for the rebate is tied to a claimant's income, the application is part of the gross income tax return. Ibid. As homestead rebate applications are filed with the Division of Taxation and are included in a state income tax return, they become part of the records and files of the Director and are therefore confidential under N.J.S.A. 54:50-8. The names and addresses of those individuals who receive homestead rebates are likewise covered by the confidentiality statute because the names and addresses are derived from the applications, which are on file with the Director. Moreover, none of the exceptions to the confidentiality statute would apply to permit the release of homestead rebate applications, gross income tax returns, or information derived from such applications or returns, e.g. the names of homestead rebate recipients.

You are therefore advised that the Division of Taxation may not release the names and addresses of homestead rebate recipients.

Very truly yours,

ROBERT J. DEL TUFO
ATTORNEY GENERAL OF NEW JERSEY

By: Mary R. Hamill
Mary R. Hamill
Deputy Attorney General

MRH:bc
c: AAG Harla