



STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
TAX DIVISION  
425 QUEEN STREET  
HONOLULU, HAWAII 96813  
Tel. No.: (808) 586-1470

October 19, 2011

The Honorable Frederick D. Pablo  
Director of Taxation  
State of Hawaii  
830 Punchbowl Street  
Honolulu, Hawaii 96813-5094

Dear Director Pablo:

Re: Tax Filing Status of Partners of Civil Unions

We are responding to your request in your email dated August 9, 2011, for a legal opinion on the questions presented below.

I. QUESTIONS PRESENTED

Based on your email dated August 9, 2011 as clarified by your email dated October 5, 2011, we understand that your questions are as follows:

1. What tax filing status (e.g., single, married filing separately, or married filing jointly) would civil union partners under Act 1, Session Laws of Hawaii 2011 ("State's Civil Union Act"), be eligible to use for filing their Hawaii income tax return?

2. Do the definitions of "marriage" and "spouse" under the Defense of Marriage Act (DOMA), Pub. L. No. 104-199, 110 Stat. 2419, preclude civil union partners recognized in the State's Civil Union Act from filing joint tax returns for Hawaii income tax purposes?

II. BRIEF ANSWERS

1. Under the State's Civil Union Act, civil union partners have the same tax filing status options as married

couples for Hawaii income tax purposes. We, however, bring to your attention that the State's Civil Union Act takes effect on January 1, 2012, and will only apply to taxable years beginning after December 31, 2011.

2. The definitions of "marriage" and "spouse" under DOMA do not preclude civil union partners recognized under the State's Civil Union Act from filing joint tax returns for Hawaii income tax purposes. The filing status of civil union partners may be different for federal and Hawaii income tax purposes after the State's Civil Union Act takes effect, which should be considered when determining the appropriate Hawaii income tax return form.

### III. DISCUSSION

Under the State's Civil Union Act, civil union partners have the same tax filing status options as married couples for Hawaii income tax purposes for taxable years beginning after December 31, 2011. The DOMA definitions of "marriage" and "spouse," which expressly limit the terms to couples of the opposite gender, do not preclude civil union partners recognized under the State's Civil Union Act from filing joint tax returns for Hawaii income tax purposes.

#### A. Under the State's Civil Union Act, Civil Union Partners Have the Same Tax Filing Status Options as Married Couples for Hawaii Income Tax Purposes for Taxable Years Beginning After December 31, 2011

Section 23 of article I of the Constitution of the State of Hawaii provides that "[t]he legislature shall have the power to reserve marriage to opposite-sex couples." Under section 572-1.5, Hawaii Revised Statutes (HRS), "[w]hen used in the statute or other laws of Hawaii, 'marriage' means the union licensed under section 572-1." Under section 572-1, HRS, a valid marriage contract "shall be only between a man and a woman."

The intent of the State's Civil Union Act, is "to recognize civil unions in Hawaii" but not to "revise the definition or eligibility requirements of marriage under chapter 572, Hawaii Revised Statutes." Act 1, § 1, 2011 Haw. Sess. Laws 1. The legislative history of Senate Bill No. 232,

House Draft 1, which was ultimately enacted as the State's Civil Union Act, is clear:

The purpose of this bill is to statutorily establish civil unions in Hawaii, and in so doing provide partners to a civil union the same rights, benefits, and responsibilities granted under chapter 572, Hawaii Revised Statutes (HRS). . . .

It is the intention of your Committee that this measure be liberally construed to provide equality of rights, benefits, protections, and responsibilities to the partners of a civil union. It is not the intention of your Committee to omit any substantive rights, benefits, protections, or responsibilities with respect to the application of this new chapter to any current law . . . .

H.R. Stand. Comm. Rep. No. 156, 26th Leg., 2011 Reg. Sess., Haw. H.R.J. \_\_\_\_ (2011) (emphasis added). The State's Civil Union Act does not expressly provide a gender requirement for civil unions. Act 1, § 2, 2011 Haw. Sess. Laws 1. Thus, partners of a civil union do not have to be of the opposite gender.

The State's Civil Union Act amends the HRS by adding, in part, the following sections in a new chapter:

§ -9 **Benefits, protections, and responsibilities.** Partners to a civil union lawfully entered into pursuant to this chapter shall have all the same rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil law, as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572.

§ -11 **References and inclusions.** A party to a civil union shall be included in any definition or use of the terms "spouse", "family", "immediate family", "dependent", "next of kin", and other terms

that denote the spousal relationship, as those terms are used throughout the laws of the State.

Act 1, § 2, 2011 Haw. Sess. Laws 1, 3.

The House Committee on Judiciary amended the prior draft of the bill, Senate Draft 1, in part, by "[a]dding three new sections to specifically include civil unions and the partners to a civil union in the application of chapters 231 (administration of taxes), 235 (income taxes), and 236D (estate and transfer tax), HRS" (emphasis added). H.R. Stand. Comm. Rep. No. 156, 26th Leg., 2011 Reg. Sess., Haw. H.R.J. \_\_\_\_\_ (2011). These three new identically worded sections read as follows:

**Effect of civil union.** All provisions of the Internal Revenue Code referred to in this chapter that apply to a husband and wife, spouses, or person in a legal marital relationship shall be deemed to apply in this chapter to partners in a civil union with the same force and effect as if they were "husband and wife", "spouses", or other terms that describe persons in a legal marital relationship.

Act 1, §§ 3, 4, and 5, 2011 Haw. Sess. Laws 3-4.

In short, under the State's Civil Union Act, civil union partners have all the same rights, benefits, protections, and responsibilities under the law as married couples who are of the opposite gender. Thus, civil union partners have the same tax filing status options as married couples who are of the opposite gender for Hawaii income tax purposes.

We bring to your attention, however, that the State's Civil Union Act takes effect on January 1, 2012, and will only apply to taxable years beginning after December 31, 2011.

**B. The Definitions of "Marriage" and "Spouse" Under DOMA Do Not Preclude Civil Union Partners from Filing Joint Tax Returns for Hawaii Income Tax Purposes**

When the bill that was ultimately enacted as DOMA (H.R. 3396) was introduced, as a result of Baehr v. Lewin, 74 Haw.

530, 852 P.2d 44 (1993), the state courts in Hawaii appeared to be on the verge of requiring that Hawaii issue marriage licenses to same-sex couples. H.R. Rep. 104-664, 104th Cong., 2d Sess. 1996, 1996 U.S.C.C.A.N. 2905, 2906-2910. DOMA, a federal law, was "inspired . . . not by the effect of Baehr v. Lewin inside of Hawaii, but rather the implications that lawsuit threatens to have on the other States and on federal law." Id. at 2910-11 (emphases added).

The legislative history of DOMA (H.R. 3396) clearly explains that it is defining "marriage" and "spouse" for federal law purposes only:

H.R. 3396, the Defense of Marriage Act, has two primary purposes. The first is to defend the institution of traditional heterosexual marriage. The second is to protect the right of the States to formulate their own public policy regarding the legal recognition of same-sex unions, free from any federal constitutional implications that might attend the recognition by one State of the right for homosexual couples to acquire marriage licenses.

To achieve these purposes, H.R. 3396 has two operative provisions. Section 2, entitled "Powers Reserved to the States," provides that no State shall be required to accord full faith and credit to a marriage license issued by another State if it relates to a relationship between persons of the same sex. And Section 3 defines the terms "marriage" and "spouse" for purposes of federal law only to reaffirm that they refer exclusively to relationships between persons of the opposite sex.

H.R. Rep. 104-664, 104th Cong., 2d Sess. 1996, 1996 U.S.C.C.A.N. 2905, 2906 (emphasis added).

We understand that you are concerned with section 3 (not section 2)<sup>1</sup> of DOMA. And, section 3 of DOMA, codified in 1

<sup>1</sup> Section 2 of DOMA, codified in 28 U.S.C.A. § 1738C (West 2006), provides that the states are not required to give effect to other states' laws treating same sex unions as a marriage:

§1738C. Certain acts, records, and proceedings and the effect thereof

U.S.C.A. § 7 (West 2005), provides that the definition of "marriage" and "spouse" refer exclusively to relationships between persons of the opposite sex for the purposes of federal law:

**§7. Definition of "marriage" and "spouse"**

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife, and the word "spouse" refers only to a person of the opposite sex who is a husband or a wife. [Emphases added.]

As clearly recognized by the legislative history of DOMA:

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No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship. [Emphasis added.]

This "merely provides that, in the event Hawaii (or some other State) permits same-sex couples to marry, other States will not be obligated or required, by operation of the Full Faith and Credit Clause of the United States Constitution, to recognize that marriage, or any right or claim arising from it." H.R. Rep. 104-664, 104th Cong., 2d Sess. 1996, 1996 U.S.C.C.A.N. 2905, 2929. "It will not forestall or in any way affect developments in Hawaii, or, for that matter, in any other State." Id. Indeed, nothing in section 2 of DOMA "would either prevent a State on its own from recognizing same-sex marriages, or from choosing to give binding legal effect to same-sex marriage license issued by another State." Id. Legislative history indicates that:

[I]t is important that States be able to apply their own laws, expressing their own public policy, on this matter. Section 2 [of DOMA] does not, of course, determine the choice-of-law issue; when a State that does not itself permit homosexual couples to marry is confronted with a same-sex marriage license from another State, that State will still have to decide whether to recognized the couple as married. But Section 2 does mean that the Full Faith and Credit Clause will play no role in that choice of law determination, thereby improving the ability of various States to resist recognizing same-sex marriage celebrated elsewhere.

Id. at 2930.

The most important aspect of Section 3 [of DOMA] is that it applies to federal law only; in the words of the statute, these definitions apply only "[i]n determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States." It does not, therefore, have any effect whatsoever on the manner in which any State (including, of course, Hawaii) might choose to define these words. Section 3 applies only to federal law, and will provide the meaning of these two words only insofar as they are used in federal law.

. . . . .  
If Hawaii or some other State eventually recognizes homosexual "marriage," Section 3 will mean simply that the marriage will not be recognized as a "marriage" for purposes of federal law. Other than this narrow federal requirement, the federal government will continue to determine marital status in the same manner it does under current law. Whether and to what extent benefits are available to married couples under state law will be available to homosexual couples is purely a matter of state law, and Section 3 in no way affects that question.

H.R. Rep. 104-664, 104th Cong., 2d Sess. 1996, 1996 U.S.C.C.A.N. 2905, 2934-35 (emphases added). Thus, the definitions of "marriage" and "spouse" under DOMA are applicable for only federal law purposes. Further, it is state law that determines whether and to what extent benefits are available to couples of the same gender.

For Hawaii income tax purposes, section 235-93, HRS, in part, provides:

**§235-93 Joint returns.** (a) A husband and wife, having that status for purposes of the Internal Revenue Code and entitled to make a joint federal return for the taxable year, may make a single return jointly of taxes under this chapter for the taxable year. [Emphasis added.]

In accord, section 18-235-93, Hawaii Administrative Rules (HAR), currently provides that "[a] husband and wife, as defined in section 235-1, HRS, may file a single joint return" (emphasis added).

Under section 235-1, HRS, "husband and wife" "means the same as in the Internal Revenue Code." Under the State's Civil Union Act, however, pursuant to section -11 of the new chapter added to the HRS, "[a] party to a civil union shall be included in any definition or use of the terms 'spouse' . . . and other terms that denote the spousal relationship, as those terms are used throughout the laws of the State." Act 1, § 2, 2011 Haw. Sess. Laws 3. The State's Civil Union Act further provides that "[a]ll provisions of the Internal Revenue Code referred to in this chapter [235] that apply to a husband and wife, spouses, or person in a legal marital relationship shall be deemed to apply in this chapter to partners in a civil union with the same force and effect as if they were 'husband and wife', 'spouses', or other terms that describe persons in a legal marital relationship." Act 1, § 4, 2011 Haw. Sess. Laws 4.

It, however, appears that only married couples who are of the opposite gender have the status of husband and wife for the purpose of the Internal Revenue Code (IRC) and are entitled to make a joint federal income tax return. Section 6013, IRC, provides that only a husband and wife may file joint federal income tax returns:

**§6013. Joint returns of income tax by husband and wife**

(a) **Joint returns.**--A husband and wife may make a single return jointly of income taxes under subtitle A . . . . [Emphasis added.]

The IRC itself does not appear to limit the term "husband and wife" to a couple of the opposite gender.<sup>2</sup> Under section 3 of

<sup>2</sup> Section 7701, IRC, provides in part:

**§7701. Definitions.**

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof --

(17) Husband and wife. - As used in sections 682 and 2516, if the husband and wife therein referred to are divorced, wherever



DOMA, codified in 1 U.S.C.A. § 7 (West 2005), however, the terms "marriage" and "spouse" are expressly limited to relationships between persons of the opposite sex for the purposes of federal law, which includes the IRC:

**§7. Definition of "marriage" and "spouse"**

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife, and the word "spouse" refers only to a person of the opposite sex who is a husband or a wife. [Emphases added.]

Thus, under DOMA, only married couples who are of the opposite gender have the status of "husband and wife" for purposes of the IRC and are entitled to file federal income tax returns under section 6013, IRC.

Prior to the State's Civil Union Act, because only married couples who were of the opposite gender had the status of husband and wife for purposes of the IRC and were entitled to file federal income tax returns, only married couples who were of the opposite gender were eligible to file joint Hawaii income tax returns under section 235-93, HRS. Under the State's Civil Union Act, however, it is because married couples who are of the opposite gender are eligible to file joint Hawaii income tax returns under section 235-93, HRS, that the civil union partners are also eligible to file joint Hawaii income tax returns. As previously discussed, the State's Civil Union Act expressly provides, pursuant to section -9 of the new chapter added to the HRS, that

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appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such section, the term "husband" shall be read "wife" and the term "wife" shall be read "husband." [Emphasis added.]

This definition does not confine a "husband and wife" to a couple of the opposite gender. Moreover, this definition is only for the purposes of sections 682 and 2561, IRC. Section 682, IRC, relates to income of an estate or trust in case of divorce, etc. Section 2561, IRC, relates to certain property settlements.

"[p]artners to a civil union lawfully entered into pursuant to this chapter shall have all the same rights, benefits, protections, and responsibilities under law, whether derived from statutes, administrative rules, court decisions, the common law, or any other source of civil law, as are granted to those who contract, obtain a license, and are solemnized pursuant to chapter 572." Act 1, § 2, 2011 Haw. Sess. Laws 3. Furthermore, as previously noted, the House Committee on Judiciary, which recommended the draft of the bill ultimately enacted as the State's Civil Union Act, expressly stated that, "[i]t is the intention of your Committee that this measure be liberally construed to provide equality of rights, benefits, protections, and responsibilities to the partners of a civil union." H.R. Stand. Comm. Rep. No. 156, 26th Leg., 2011 Reg. Sess., Haw. H.R.J. \_\_\_\_ (2011). Thus, it is clear that if a married couple of the opposite gender is eligible to file joint Hawaii income tax returns, under the State's Civil Union Act, partners to a civil union are also eligible to do so.

Thus, the definitions of "marriage" and "spouse" under DOMA may preclude civil union partners of the same gender under the State's Civil Union Act from filing jointly for federal income tax purposes, but they do not preclude civil union partners from filing joint tax returns for Hawaii income tax purposes.

This may result in different filing status for civil union partners for federal and Hawaii income tax purposes, which should be considered for the purpose of determining the appropriate Hawaii income tax return form. We suggest that the Department consider how other states have addressed similar situations.

For example, under Connecticut law, "[t]wo persons who are parties to a civil union . . . that has not been dissolved or annulled by the parties or merged into a marriage by operation of law . . . as of October 1, 2010, shall be deemed to be married . . . on said date and such civil union shall be merged into such marriage by operation of law on said date." Conn. Gen. Stat. Ann. § 46b-38rr (West Supp. 2011). And, the provisions of its income tax laws "shall apply to parties to a civil union recognized under the laws of this state [Connecticut] as if federal income tax law and federal estate and gift tax law recognized such a civil union in the same manner as Connecticut law." Conn. Gen. Stat. Ann. § 46b-

38pp (West 2009). The Connecticut Resident Income Tax Return Form CT-1040 for 2010 provides for seven filing statuses: (1) single; (2) filing jointly for federal and Connecticut; (3) filing jointly for Connecticut only; (4) filing separately for federal and Connecticut; (5) filing separately for Connecticut only; (6) head of household; and (7) qualifying widow(er) with dependent child. For your convenience, a copy of the form is attached as Exhibit 1.

Another example is New Jersey. Under that state's law, "[c]ivil union couples shall have all of the same benefits, protections and responsibilities under law, whether they derive from statute, administrative or court rule, public policy, common law or any other source of civil law, as are granted to spouses in a marriage." N.J. Stat. Ann. § 37:1-31(a) (West Supp. 2011). New Jersey law also provides that the "laws relating to taxes imposed by the State or a municipality including but not limited to homestead rebate tax allowances, tax deductions based on marital status or exemptions from realty transfer tax based on marital status" shall apply in like manner to civil union couples." N.J. Stat. Ann. § 37:1-32(n) (West Supp. 2011). It further provides that "[w]henver in any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to 'marriage,' 'husband,' 'wife,' 'spouse,' 'family,' 'immediate family,' 'dependent,' 'next of kin,' 'widow,' 'widower,' 'widowed' or another word which in a specific context denotes a marital or spousal relationship, the same shall include a civil union pursuant to the provisions of this act." N.J. Stat. Ann. § 37:1-33 (West Supp. 2011). In Quarto v. Adams, 395 N.J. Super. 502, 929 A.2d 1111 (N.J. Super. Ct. App. Div. 2007), the Superior Court of New Jersey recognized that N.J. Stat. Ann. § 54A:8-3.1(b) (West 2002) requires that married persons who file separate federal income tax returns with the Internal Revenue Service must also file "separate returns for New Jersey income tax purposes." Quarto at 517 n.12, 929 A.2d at 1120 n.12. The Superior Court of New Jersey in Quarto, however, was advised that the Acting Director of the Division of Taxation of the New Jersey Department of the Treasury and the Attorney General of New Jersey were evaluating the continued vitality of the statute in light of caselaw and supervening enactment of the civil union act. Id. And, the Superior Court of New Jersey accepted their representation that the taxpayers in Quarto would be permitted to file a joint state return after the effective date of the

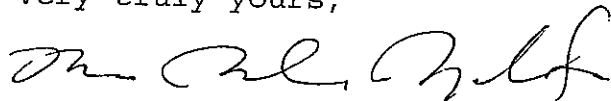
civil union law. Id. The State of New Jersey Income Tax-Resident Return Form NJ-1040 for 2010 provides for five filing statuses: (1) single; (2) married/civil union couple, filing joint return; (3) married/civil union partner, filing separate return; (4) head of household; and (5) qualifying widow(er)/surviving civil union partner. For your convenience, a copy of the form is attached as Exhibit 2.

#### IV. CONCLUSION

Based on the foregoing, civil union partners have the same tax filing status options as married couples for Hawaii income tax purposes for taxable years beginning after December 31, 2011. The definitions of "marriage" and "spouses" under DOMA, which are limited to one man and one woman, do not preclude civil union partners from filing joint tax returns for Hawaii income tax purposes. We add that the tax filing status of civil union partners, however, may be different for federal and Hawaii income tax purposes after the State's Civil Union Act takes effect, which should be considered when determining the appropriate Hawaii income tax form.

If there are any questions or problems, please feel free to contact us.

Very truly yours,



Mary Bahng Yokota  
Deputy Attorney General

APPROVED:



David M. Louie  
Attorney General

Attachments





**Schedule 1 - Modifications to Federal Adjusted Gross Income**

See instructions, Page 18.

Enter all items as positive numbers.

31. Interest on state and local government obligations other than Connecticut	31.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
32. Mutual fund exempt-interest dividends from non-Connecticut state or municipal government obligations	32.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
33. Cancellation of debt income: See instructions.	33.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
34. Taxable amount of lump-sum distributions from qualified plans not included in federal adjusted gross income	34.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
35. Beneficiary's share of Connecticut fiduciary adjustment: Enter only if greater than zero.	35.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
36. Loss on sale of Connecticut state and local government bonds	36.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
37. Domestic production activity deduction from federal Form 1040, Line 35	37.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
38. Other - specify _____	38.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
<b>39. Total additions: Add Lines 31 through 38. Enter here and on Line 2.</b>	<b>39.</b>	<b>[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]</b>	<b>[ ] [ ]</b>
40. Interest on U.S. government obligations	40.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
41. Exempt dividends from certain qualifying mutual funds derived from U.S. government obligations	41.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
42. Social Security benefit adjustment: See <i>Social Security Benefit Adjustment Worksheet</i> , Page 20.	42.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
43. Refunds of state and local income taxes	43.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
44. Tier 1 and Tier 2 railroad retirement benefits and supplemental annuities	44.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
45. 50% of military retirement pay	45.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
46. Beneficiary's share of Connecticut fiduciary adjustment: Enter only if less than zero.	46.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
47. Gain on sale of Connecticut state and local government bonds	47.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
48. Connecticut Higher Education Trust (CHET) contributions Enter CHET account number: [ ] [ ] [ ] [ ] - [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] (can be up to 14 digits)	48.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
49. Other - specify: Do not include out of state income. _____	49.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]
<b>50. Total subtractions: Add Lines 40 through 49. Enter here and on Line 4.</b>	<b>50.</b>	<b>[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]</b>	<b>[ ] [ ]</b>

**Schedule 2 - Credit for Income Taxes Paid to Qualifying Jurisdictions**

You must attach a copy of your return filed with the qualifying jurisdiction(s) or your credit will be disallowed.

51. Modified Connecticut adjusted gross income See instructions, Page 24.	51.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
52. Enter qualifying jurisdiction's name and two-letter code: See instructions, Page 24.	52.	<table border="1"> <tr> <th colspan="2">Column A</th> <th colspan="2">Column B</th> </tr> <tr> <td>• Name</td> <td>Code</td> <td>• Name</td> <td>Code</td> </tr> <tr> <td>[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]</td> <td>[ ] [ ]</td> <td>[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]</td> <td>[ ] [ ]</td> </tr> </table>	Column A		Column B		• Name	Code	• Name	Code	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]	
Column A		Column B													
• Name	Code	• Name	Code												
[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
53. Non-Connecticut income included on Line 51 and reported on a qualifying jurisdiction's income tax return: Complete <i>Schedule 2 Worksheet</i> , Page 24.	53.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
54. Divide Line 53 by Line 51. May not exceed 1.0000	54.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
55. Income tax liability: Subtract Line 11 from Line 6.	55.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
56. Multiply Line 54 by Line 55.	56.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
57. Income tax paid to a qualifying jurisdiction See instructions, Page 25.	57.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
58. Enter the lesser of Line 56 or Line 57.	58.	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ]												
<b>59. Total credit: Add Line 58, all columns. Enter here and on Line 7.</b>	<b>59.</b>	<b>[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]</b>	<b>[ ] [ ]</b>												

**Complete applicable schedules on Page 4 and send all four pages of the return to DRS.**





5R

For Tax Year Jan.-Dec. 31, 2010, Or Other Tax Year Beginning \_\_\_\_\_, 2010, Month Ending [ ] [ ] , 20

IMPORTANT! YOU MUST ENTER YOUR SSN (s). Fill in [ ] if application for Federal extension is enclosed or enter confirmation #

Your Social Security Number [ ][ ][ ] - [ ][ ][ ] - [ ][ ][ ][ ][ ][ ]

Last Name, First Name and Initial (Joint filers enter first name and initial of each - Enter spouse/CU partner last name ONLY if different)

Spouse's/CU Partner's Social Security Number [ ][ ][ ] - [ ][ ][ ] - [ ][ ][ ][ ][ ][ ]

Home Address (Number and Street, including apartment number or rural route)

County/Municipality Code (See Table p. 51) [ ][ ][ ][ ]

City, Town, Post Office

State

Zip Code

Place label on form if all preprinted information is correct. Otherwise, print or type your name and address.

NJ RESIDENCY STATUS If you were a New Jersey resident for ONLY part of the taxable year, give the period of New Jersey residency:

From [ ][ ][ ]/[ ][ ][ ]/[ ][ ][ ] To [ ][ ][ ]/[ ][ ][ ]/[ ][ ][ ]

For Privacy Act Notification, See Instructions

FILING STATUS

- (Fill in only one) 1. Single 2. Married/CU Couple, filing joint return 3. Married/CU Partner, filing separate return... 4. Head of household 5. Qualifying widow(er)/Surviving CU Partner

EXEMPTIONS

- 6. Regular 7. Age 65 or Over 8. Blind or Disabled 9. Number of your qualified dependent children 10. Number of other dependents 11. Dependents attending colleges 12. Totals

ENTER NUMBERS HERE [6][ ][ ] [7][ ][ ] [8][ ][ ] [9][ ][ ] [10][ ][ ] [11][ ][ ] [12a][ ][ ] [12b][ ][ ]

DEPENDENTS

Table with 4 columns: 13. Dependent's Last Name, First Name, Middle Initial; Dependent's Social Security Number; Birth Year; and a checkbox for health insurance.

GUBERNATORIAL ELECTIONS FUND

Do you wish to designate \$1 of your taxes for this fund? If joint return, does your spouse/CU partner wish to designate \$1?

Yes No Yes No

Note: if you fill in the Yes oval(s), it will not increase your tax or reduce your refund.

Under the penalties of perjury, I declare that I have examined this income tax return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Your Signature Date Spouse's/CU Partner's Signature Date

Pay amount on Line 55 in full, Write Social Security number(s) on check or money order and make payable to:

STATE OF NEW JERSEY - TGI Mail your check or money order with your NJ-1040-V payment voucher and your return to: NJ Division of Taxation Revenue Processing Center PO Box 111 Trenton, NJ 08645-0111

IF REFUND: NJ Division of Taxation Revenue Processing Center PO Box 555 Trenton, NJ 08647-0555 You may also pay by e-check or credit card. For more information go to: www.state.nj.us/treasury/taxation

I authorize the Division of Taxation to discuss my return and enclosures with my preparer (below) Paid Preparer's Signature Federal Identification Number Firm's Name Federal Employer Identification Number

Division Use [1][2][ ][ ][ ][3][ ][ ][ ][4][ ][ ][ ][5][ ][ ][ ][6][ ][ ][ ][7][ ][ ][ ][ ]

Name(s) as shown on Form NJ-1040		Your Social Security Number			
14. Wages, salaries, tips, and other employee compensation (Enclose W-2) Be sure to use State wages from Box 16 of your W-2(s). See Instructions .....	14				
15a. Taxable interest income (See instructions) (Enclose Federal Schedule B if over \$1,500).....	15a				
15b. Tax-exempt interest income (See instructions)..... (Enclose Schedule) DO NOT include on Line 15a	15b				
16. Dividends .....	16				
17. Net profits from business (Enclose copy of Federal Schedule C, Form 1040).....	17				
18. Net gains or income from disposition of property (Schedule B, Line 4) .....	18				
19. Pensions, Annuities, and IRA Withdrawals (See instruction page 24) .....	19				
20. Distributive Share of Partnership Income (See instruction page 27) (Enclose Schedule) .....	20				
21. Net pro rata share of S Corporation Income (See instruction page 27) (Enclose Schedule) .....	21				
22. Net gain or income from rents, royalties, patents & copyrights (Schedule C, Line 3) .....	22				
23. Net Gambling Winnings (See instruction page 27) .....	23				
24. Alimony and separate maintenance payments received .....	24				
25. Other (Enclose Schedule) (See instruction page 28) .....	25				
26. Total Income (Add Lines 14, 15a, and 16 through 25) .....	26				
27a. Pension Exclusion (See instruction page 28) .....	27a				
27b. Other Retirement Income Exclusion (See worksheet and instr. page 30) ...	27b				
27c. Total Exclusion Amount (Add Line 27a and Line 27b).....	27c				
28. New Jersey Gross Income (Subtract Line 27c from Line 26) .....	28				
29. Total Exemption Amount (See instruction page 30 to calculate amount) .....	29				
30. Medical Expenses..... (See Worksheet and instruction page 31)	30				
31. Alimony and Separate Maintenance Payments .....	31				
32. Qualified Conservation Contribution .....	32				
33. Health Enterprise Zone Deduction.....	33				
34. Total Exemptions and Deductions (Add Lines 29, 30, 31, 32, and 33) .....	34				
35. Taxable Income (Subtract Line 34 from Line 28) If zero or less, MAKE NO ENTRY.	35				
36a. Total Property Taxes Paid (See instruction page 32)..	36a				
36b. Fill in oval if you were a New Jersey homeowner on October 1, 2010.	<input type="checkbox"/>				
36c. Property Tax Deduction (See instruction page 35) .....	36c				
37. NEW JERSEY TAXABLE INCOME (Subtract Line 36c from Line 35) If zero or less, MAKE NO ENTRY. ....	37				
38. TAX (From Tax Table, page 53) .....	38				

CONTINUE TO PAGE 3

Name(s) as shown on Form NJ-1040	Your Social Security Number
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39. TAX (From Line 38, page 2) .....	39								
40. Credit For Income Taxes Paid to Other Jurisdictions Enter other jurisdiction code (See instructions).....	40								
41. Balance of Tax (Subtract Line 40 from Line 39) .....	41								
42. Sheltered Workshop Tax Credit .....	42								
43. Balance of Tax after Credit (Subtract Line 42 from Line 41) .....	43								
44. Use Tax Due on Out-of-State Purchases (See instruction page 38) If no Use Tax, enter ZERO (0.00). .....	44								
45. Penalty for Underpayment of Estimated Tax. Fill in <input type="checkbox"/> if Form NJ-2210 is enclosed. ....	45								
46. Total Tax and Penalty (Add Lines 43, 44, and 45) .....	46								
47. Total New Jersey Income Tax Withheld (From enclosed Forms W-2 and 1099) .....	47								
48. Property Tax Credit (See instruction page 35) .....	48								
49. New Jersey Estimated Tax Payments/Credit from 2009 tax return .....	49								
50. New Jersey Earned Income Tax Credit (See instruction page 40) Fill in <input type="checkbox"/> if you had the IRS figure your Federal Earned Income Credit only one <input type="checkbox"/> if you are a CU couple claiming the NJ Earned Income Tax Credit	50								
51. EXCESS New Jersey UI/WF/SWF Withheld (See instr. page 40) (Enclose Form NJ-2450) .....	51								
52. EXCESS New Jersey Disability Insurance Withheld (See instr. page 40) .....	52								
53. EXCESS New Jersey Family Leave Insurance Withheld (see instr. page 40) Enclose Form NJ-2450	53								
54. Total Payments/Credits (Add Lines 47 through 53) .....	54								
55. If Line 54 is LESS THAN Line 46, enter AMOUNT YOU OWE .....	55								
56. If Line 54 is MORE THAN Line 46, enter OVERPAYMENT .....	56								
57. Your 2011 tax .....	57								
58.  N.J. Endangered Wildlife Fund .....	58								
59.  N.J. Children's Trust Fund To Prevent Child Abuse .....	59								
60.  N.J. Vietnam Veterans' Memorial Fund .....	60								
61.  N.J. Breast Cancer Research Fund .....	61								
62.  U.S.S. New Jersey Educational Museum Fund .....	62								
63. Other Designated Contribution See instruction page 41 .....	63								
64. Total Deductions from Overpayment (Add Lines 57 through 63) .....	64								
65. REFUND (Amount to be sent to you. Subtract Line 64 from Line 56) .....	65								

ENTER  
AMOUNT  
OF  
CONTRIBUTION

**SIGN YOUR RETURN ON PAGE 1**