Borough of Eatontown, NJ
Wednesday, September 6, 2023

Chapter 293. Taxation

[HISTORY: Adopted by the Borough Council of the Borough of Eatontown as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Assessor — See Ch. **48**, Art. IV.

Article I. Collection of Personal Tangible Property Taxes

[Adopted 7-23-1969 as Ch. 71, Art. I, of the 1969 Code]

§ 293-1. Application for permit to move property.

Every person, partnership, association, corporation or other legal entity owning or claiming to own any tangible personal property located in or on any premises in the Borough of Eatontown (except in or on a warehouse premises of any person, partnership, association, corporation or other legal entity engaged in the business of storing goods for hire) and who desires to transport or remove the same or cause the same to be transported or removed so that the whole or a substantial part thereof will be transported from such premises in or on which it is located, shall, in person or by an agent duly appointed for such purpose, first make written application to the Borough Collector of Taxes. Said written application shall contain:

A. The name and address of the truckman or person who is to transport or remove such property.

B. The name and address of the person owning or claiming to own such property.

C. The address of the premises from which, and the address of the premises to which, such property is to be transported or removed; and if either or both such premises be not designated by an address, then in lieu thereof such premises shall be clearly identified in the application.

D. A description of the whole or substantial part of the property to be transported or removed, described with such particularity as will enable the Borough Collector of Taxes to identify the same, as well as the portion or quantity to be transported or removed.

§ 293-2. Hours.

The written application required by § **293-1** hereby shall be made between the hours of 9:00 a.m. and 4:00 p.m. on any day except holidays, Sundays and Saturdays; provided, however, that in case of a bona fide emergency, such application may be made at any time.

§ 293-3. Assessment procedure.

Upon the filing of the written application required by § **293-1** hereof, it shall be the duty of the Borough Collector of Taxes to ascertain forthwith the total amount of taxes due that has been charged or assessed against the person owning or claiming to own the tangible personal property sought to be removed or transported and which have not been paid at the time of the making of such application, together with the interest and any other charges thereon, and to notify the applicants of the total amount due for such taxes, interest and other charges. When such application is made during or after the period provided by statute for the assessment of taxes for any year, the person, partnership, association, corporation or other legal entity owning or claiming to own the tangible personal property to be transported or removed shall be liable to pay not only the taxes previously assessed and unpaid, but also taxes thereon for the year for which assessment is being made at the time of the making of such application, and in the event the tax rate of the Borough for the year for which assessment is being made at the time of said application be not then determined, then the tax rate used to determine the taxes for the year prior to that for which the assessment is being made shall, for the purposes of this article be the rate used by the Collector to determine the taxes for which the assessment is then being made.

§ 293-4. Right to appeal.

Upon payment of the taxes, interest and other charges specified in § **293-3** hereof, the Borough Collector of Taxes shall forthwith, and without costs therefor, issue a permit for the transportation or removal applied for. No such permit shall be issued by the Collector unless and until such taxes, interest and other charges have been paid in full; provided, however, that if the person owning or claiming to own such property has a right to appeal the assessment for any year or years included in the amount owned as determined hereby and files with the Tax Collector a notice in writing, duly verified under oath, that it is intended to appeal the same, then in lien of paying the taxes, interest and other charges for the year or years to be appealed, the person owning or claiming to own said property shall furnish to the Tax Collector a bond entered into by a surety or fidelity company having a certificate of authority from the Commissioner of Banking and Insurance to do business in this state, which bond shall be in quintuplicate, the amount of the taxes, interest and other charges determined for the year or years to be appealed, but in no case for less than the amount of $100 and which bond shall be conditioned for the payment, within two years from the date of the bond, of the taxes, interest and other charges found to be due as of the date actual payment thereof is made, and provided further that all taxes, interest and other charges found to be due as of the date actual payment thereof is made, and provided further that all taxes, interest and costs as to which no such right of appeal as aforesaid must be paid forthwith.

§ 293-5. Permit in quadruplicate.

The permit herein provided for shall be made in quadruplicate. The original shall be delivered to the applicant, the first copy to the Police Department of the Borough of Eatontown, the second copy to the Tax Collector of the taxing district to which such tangible personal property is to be transported or removed, if such taxing district be in this state, and the third copy shall be retained by the Tax Collector issuing the permit and shall be filed in the Tax Collector's office as a public record.

§ 293-6. Exceptions.

Nothing contained in this article shall be construed so as to require any owner of any tangible personal property described and excepted by N.J.S.A. 40:52A-9[1] as at any time hereinafter amended or supplemented, to apply for or obtain any permit required by this article.

[1] *Editor's Note: N.J.S.A. 40:52A-9 was repealed by L. 1970, c.299.*

§ 293-7. Violations and penalties.

Each and every person, partnership, association, corporation or other legal entity violating any of the clauses, provisions, terms or sections of this article shall, upon conviction thereof, forfeit and pay a fine of not more than $50 or be imprisoned not to exceed 90 days, or both.

Article II. Exemptions of Tangible Household Personal Property

[Adopted 7-23-1969 as Ch. 71, Art. II, of the 1969 Code]

§ 293-8. Personal property and effects exempted.

All tangible household property and personal effects located within the Borough of Eatontown shall not be assessed and taxed.

§ 293-9. Application of exemption.

This article shall apply to taxes on tangible household personal effects due and payable in the year 1962, and thereafter so long as this article shall be in effect, and shall not affect the obligation, lien or duty to pay any taxes, interest or penalties which have accrued or may accrue by virtue of assessment made or which may be made with respect to taxes levied for any year prior to the year 1962, nor shall this article affect the legal authority to assess and collect taxes which may be or have been due and payable prior to January 1, 1962, together with such interest and penalties as would have accrued thereon under any provisions of law amended or repealed hereby; nor shall this article invalidate any assessments or affect any proceedings for the enforcement thereof pending upon the effective date of this article or upon January 1, 1962, or during the period between such dates.

§ 293-10. Filing with county and state.

A certified copy of this article shall be filed with the Division of Taxation in the Department of the Treasury of the State of New Jersey, and with the County Board of Taxation of Monmouth County.

Article III. Exemption for Residential Structures

[Adopted 8-8-2001 by Ord. No. 13-2001]

§ 293-11. Title.

This article shall be known as the "Five-Year Exemption Law For Residential Structures."

§ 293-12. Purpose.

The purpose of this article is to establish procedures whereby qualified individuals may avail themselves of the property tax exemptions which the Borough of Eatontown is permitted by law to grant pursuant to N.J.S.A. 40A:21-1 et seq.

§ 293-13. Designated area.

The entire Municipality of the Borough of Eatontown is hereby designated as an area which residential buildings may avail themselves of this article.

§ 293-14. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AREA IN NEED OF REHABILITATION
All of the municipality for purposes of residential buildings as set forth more fully in § **293-13** which has been determined to be an area in need of rehabilitation or development pursuant to law where a program of rehabilitation, improvement and new construction will prevent further deterioration and promote the overall development of the municipality.

ASSESSOR
The officer of the Borough of Eatontown charged with the duty of assessing real property for the purposes of general taxation.

COMPLETION
Substantially ready for the intended use for which the building or structure is constructed, improved or converted.

CONVERSION OR CONVERSION ALTERATION
The alteration or renovation of a nonresidential building or structure or hotel, motel, motor hotel or guest house, in such manner as to convert the building or structure from its previous use to use as a residential dwelling.

EXEMPTION
That portion of the Assessor's full and true value of any improvement, conversion alteration or construction not regarded as increasing the taxable value of a property pursuant to this article.

HORIZONTAL PROPERTY REGIME
A property submitted to a horizontal property pursuant to the Horizontal Property Act, P.L. 1963, c. 168 (N.J.S.A. 46:8A-1 et seq.)

IMPROVEMENT
A modernization or rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In no case shall it include the repair of fire or other damage to the property for which payment of a claim was received by any person from an insurance company at any time during the three-year period immediately preceding the filing of the application pursuant to this article.

RESIDENTIAL DWELLING
A building or part of a building used, to be used or held for use as a home or residence (owner occupied), including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building defined as a "multiple dwelling" pursuant to the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include general common elements or common elements of such horizontal

property regime or condominium as defined pursuant to the Horizontal Property Act, P.L. 1963, c. 168 (N.J.S.A. 46:8A-1 et seq.), or the Condominium Act, P.L. 1969, c. 257 (N.J.S.A. 46:8B-1 et seq.), or of a cooperative, or the residential units that are owned separately.

§ 293-15. Exemption; improvements.

A. This article authorizes an exemption from taxation of improvements to residential dwellings at least 20 years old for the first $25,000 of otherwise taxable improvements for a period of five years following completion of such improvements pursuant to N.J.S.A. 40A:21-5 and the regulations duly promulgated pursuant thereto.

B. In regard to residential dwellings, and the exemption provided pursuant to this section, during the exemption period, the assessment on the property shall not be less than the assessment thereon existing immediately prior to the improvements, unless there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

§ 293-16. Assessor's determination.

The Borough Assessor shall determine on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. The amount of tax to be paid for the first full tax year following completion shall be based on the assessed valuation of the property for the previous year, minus the amount of reduction caused by damage, if any, pursuant to § **293-15B** of this article, plus any portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this article. The property owner shall continue to be treated in the appropriate manner under the terms of this article and the tax agreement, if any, for each of the five full tax years subsequent to the original determination by the Tax Assessor.

§ 293-17. Subsequent improvements and exemptions.

Any additional improvements, conversions or construction, completed on a property granted a previous exemption pursuant to this article during the period in which such previous exemption is in effect, shall be qualified for an exemption, just as if such property had not received a previous exemption. In such case, the additional improvement, conversion or construction shall be considered as separate for the purpose of calculating exemptions pursuant to this article, except that the assessed value of any previous improvement, conversion or construction shall be added to the assessed valuation as it was prior to that improvement, conversion, alteration or construction for the purpose of determining the assessed valuation of the property.

§ 293-18. Tax delinquency.

No exemption shall be granted pursuant to this article with respect to any property for which property taxes are delinquent or remain unpaid, or for which penalties for nonpayment of taxes are due.

§ 293-19. Application for exemption.

No exemption shall be granted pursuant to this article except upon written application filed with and approved by the Borough Tax Assessor. Every application shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury and provided for the use of claimants by the Borough of Eatontown and shall be filed with the Borough Assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion or alteration of construction and/or issuance of a certificate of occupancy, whichever occurs first. Every application for exemption which is filed within the time specified shall be approved and allowed by the Assessor and the governing body to the degree that the application is consistent with the provisions of the adopting ordinance, provided that the improvement, conversion, alteration or construction for which the application is made qualified as an improvement, a conversion, alteration or construction pursuant to the provisions of this article. The granting of an exemption shall be recorded and made a permanent part of the official tax records of the Borough, which records shall contain a notice of termination date thereof.

§ 293-20. Exemption applicable to all levys.

The exemption of real property taxes pursuant to this article shall apply to property taxes levied for municipal purposes, school purposes, county government purposes and for the purposes of funding any other property tax exemptions.

§ 293-21. Notice of exemption program.

The Borough Tax Collector shall include a notice describing the exemption program provided for by this article and the application procedure therefore in the mailing of annual property bills to each owner of residential property located in the Borough of Eatontown and which may be allowed pursuant to this article during the first year following adoption of this article.

§ 293-22. Report of Tax Assessor.

The Borough Council shall report, on or before October 1 of each year, to the Director of the Division of Local Government Services in the Department of Community Affairs and to the Director of the Division of Taxation in the Department of Treasury the total amount of real property taxes exempt within the Borough for current tax year under this article.

§ 293-23. Prior exemptions remain in effect.

No exemption granted by any prior ordinance or law shall be affected or terminated by this article, but shall remain in effect for the time and under the terms granted as if the ordinance had not been superseded or repealed.

§ 293-24. Effective date.

This article shall take effect immediately, and exemptions may be granted for the first full tax year commencing after enactment and for tax years thereafter.

§ 293-24.1. Period of forgiveness for past improvements; Council approval.

A. The Borough Tax Collector shall mail out a notice within 60 days of enactment of this section, notifying all property owners that qualify normally under this chapter for an exemption that, if they made an improvement that would normally qualify under the chapter between August 2001 and January 2005, they have a right to make an application for exemption, pursuant to and in accordance with the chapter as amended, by filing an application with the Borough Assessor within 30 days of notice being mailed from the Assessor's office seeking such an exemption. All improvements after January 2005 will be in accordance with the thirty-day requirement set forth in § **293-19**, as amended. The Assessor's determination regarding these applications and all future applications must be approved or disapproved by the Borough Council by resolution.

B. All applications for exemptions filed with the Borough Tax Assessor must be approved by the Tax Assessor and the Borough Council, by resolution.

Article IV. Hotel and Motel Occupancy Tax

[Adopted 8-6-2003 by Ord. No. 23-2003]

§ 293-25. Definitions.

As used in this article, the following terms shall have the meanings indicated:

HOTEL

A building containing one or more rooms used, rented or hired out on a transient basis to be occupied for sleeping purposes only and not containing individual eating and cooking facilities.

MOTEL

A building containing one or more rooms with individual entrances used, rented or hired out on a transient basis to be occupied for sleeping purposes only and not containing individual eating and cooking facilities.

§ 293-26. Municipal taxation of hotels and motels.

The Borough of Eatontown hereby imposes a tax on all hotels and motels at a uniform percentage rate of 1% on charges of rent for every occupancy upon the effective date of this article through June 3, 2004, and 3% on charges of rent for every occupancy on and after July 1, 2004. This tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance upon occupancy of a hotel or motel room.

§ 293-27. Obligations of vendor paying tax.

All taxes imposed by this article shall be paid by the purchaser or renter with the following conditions imposed upon the owner or vendor:

A. Vendor or owner shall not assume or absorb any tax imposed by this article;

B. The vendor or owner shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer.

§ 293-28. Responsibility for collection.

The hotel and motel tax shall be collected on behalf of the municipality by the vendor or owner or person collecting the rent from the hotel or motel customer. Each person required to collect a tax imposed by this article shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from the customer as if the tax were part of the rent and payable at the same time; provided, however that the Chief Financial Officer of the Borough shall be joined as a party in any action or proceeding brought to collect the tax. A person required to collect the tax imposed by this article shall, on or before the date required pursuant to Section 17 of P.L. 1966, c. 30 (N.J.S.A. 54:32B-17), forward to the Director of the Division of Taxation in the Department of the Treasury the tax collected in the preceding month and make and file a return for the preceding month with the Director on any form and containing any information as the Director shall prescribe as necessary to determine liability for the tax in the preceding month during which the person was required to collect the tax. All other requirements concerning payment of tax to the State of New Jersey shall be pursuant to state statute and shall be governed by the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq.

§ 293-29. Violations and penalties.

Each assumption or absorption by a vendor/owner of the tax shall be deemed a separate offense, and each representation or advertisement by a vendor/owner for each day the representation or advertisement continues shall be deemed a separate offense. Any person, firm, partnership, association, corporation, LLC or the like who shall violate any provision of this article shall be subject to a fine of not more than $1,250, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, or any combination thereof in the discretion of the Judge hearing the matter.

§ 293-30. When and how effective.

This article shall take effect upon advertisement and final adoption in accordance with the law. A copy of the article adopted shall be transmitted upon adoption or amendment to the Treasurer of the State of New Jersey. The tax provisions of the article or any amendment to the tax provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer of the article adopted in the calendar year 2003 or on the first day of the first full month occurring 90 days after the date of transmittal to the State Treasurer for the article or amendments adopted in the calendar year 2004 and thereafter. This article shall only be effective upon final adoption of the state law imposing a state hotel and motel occupancy fee and tax.