

## NOTICE TO THE BAR

### APPELLATE DIVISION / TAX COURT -- PROPOSED AMENDMENTS TO RULE 1:36-3 (“UNPUBLISHED OPINIONS”) AND PROPOSED NEW RULE 8:9-6 (“PUBLICATION OF TAX COURT OPINIONS”) -- PUBLICATION FOR COMMENT

The Supreme Court invites written comments on a proposal to amend Rule 1:36-3, and to adopt new Rule 8:9-6 to confirm and formalize the precedential status of an unpublished Appellate Division opinion reviewing a published Tax Court opinion, when that unpublished opinion is published in the New Jersey Tax Reports.

The proposed amendments to Rule 1:36-3 are as follows:

#### 1:36-3. Unpublished Opinions

No unpublished opinion shall constitute precedent or be binding upon any court. Except for appellate opinions not approved for publication that have been reported in New Jersey Tax Court Reports or an authorized administrative law reporter, and except to the extent required by res judicata, collateral estoppel, the single controversy doctrine or any other similar principle of law, no unpublished opinion shall be cited by any court. No unpublished opinion shall be cited to any court by counsel unless the court and all other parties are served with a copy of the opinion and of all contrary unpublished opinions known to counsel.

In addition to the above amendments, proposed new Rule 8:9-6 is as follows:

#### Rule 8:9-6 – Publication of Tax Court Opinions

(a) Opinions of the Tax Court approved for publication by the Tax Court shall be published in the New Jersey Tax Reports.

(b) Opinions of the Appellate Division of the New Jersey Superior Court reviewing a published Tax Court opinion that are not published in the New Jersey Superior Court Reporter, shall be published in the New Jersey Tax Reports with consent of the Appellate Division of the New

Jersey Superior Court. If published in the New Jersey Tax Reports, such opinions will be precedential in the Tax Court.

Please send any comments on the proposed amendments in writing by August 15, 2022 to:

Glenn A. Grant  
Administrative Director of the Courts  
Comments on Proposed Amendments to Rule 1:36-3 and Adoption of  
New Rule 8:9-6  
Hughes Justice Complex, P.O. Box 037  
Trenton, New Jersey 08625-0037

Comments may also be submitted by email to: [Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov).

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.



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Glenn A. Grant  
Administrative Director of the Courts

Dated: July 13, 2022