

INTRODUCTION
NEW JERSEY TRANSFER INHERITANCE TAX - ESTATE TAX

GENERAL

New Jersey has had a Transfer Inheritance Tax since 1892 when a 5% tax was imposed on property transferred from a decedent to a beneficiary. Currently, the law imposes a graduated Transfer Inheritance Tax ranging from 11% to 16% on the transfer of real and personal property with a value of \$500.00 or more to certain beneficiaries.

The Transfer Inheritance Tax recognizes five beneficiary classes, as follows:

Class "A" - Father, mother, grandparents, spouse, child or children of the decedent, adopted child or children of the decedent, issue of any child or legally adopted child of the decedent and step-child of the decedent.

Class "B" - Eliminated by statute effective July 1, 1963.

Class "C" - Brother or sister of the decedent, including half brother and half sister, wife or widow of a son of the decedent, or husband or widower of a daughter of the decedent.

Class "D" - Every other transferee, distributee or beneficiary who is not included in Classes "A", "C" or "E".

Class "E" - The State of New Jersey or any political subdivision thereof, or any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to, for the use of or in trust for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that the exemption does not extend to transfers of property to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption on transfers of property for the benefit of such institutions and organizations of this State.

NOTES: If any beneficiary is claimed to be the mutually acknowledged child of the decedent, said claim should be set forth in the detailed manner prescribed under N.J.A.C. 18:26-2.6.

For the purposes of the New Jersey Transfer Inheritance Tax an adopted child is accorded the same status as a natural child and, therefore, his relations are treated in the same manner as those of a natural child. (i.e. if the decedent's adopted son marries, his spouse is "the wife of a son of the decedent" and therefore a class "C" beneficiary).

A devise of real property to a husband and wife as "tenants by the entirety" provides each with a vested life estate, the remainder being contingent. See N.J.A.C. 18:26-8.12.

The issue of stepchildren ARE Class "D" (NOT Class "A") beneficiaries.

The following ARE Class "D" (NOT Class "C") beneficiaries: stepbrother or stepsister of the decedent, wife or widow of a stepchild of the decedent, husband or widower of a step-child of the decedent, wife or widow of a mutually acknowledged child of the decedent, and husband or widower of a mutually acknowledged child of the decedent.

The fact that a beneficiary may be considered "nonprofit" by the Internal Revenue Service does not necessarily mean that it qualifies for exemption as a Class "E" beneficiary since the criteria are different.

TAX RATES

Each class of beneficiary has its own separate tax rate. See the Rate Schedule on Page 4.

EXEMPTIONS

1. The transfer of real and personal property in this State held by a husband and wife as "tenants by the entirety" to the surviving spouse is not taxable for New Jersey Inheritance Tax purposes.
2. The transfer of intangible personal property such as stocks, bonds, corporate securities, bank deposits and mortgages owned by a nonresident decedent is not subject to the New Jersey Inheritance Tax.
3. Any sum recovered under the New Jersey Death Act as compensation for wrongful death of a decedent is not subject to the New Jersey Inheritance Tax except as provided below:
 - a. Any sum recovered under the New Jersey Death Act representing damages sustained by a decedent between the date of injury and date of death, such as the expenses of care, nursing, medical attendance, hospital and other charges incident to the injury, including loss of earnings and pain and suffering are to be included in the decedent's estate.
 - b. Where an action is instituted under the New Jersey Death Act and terminates through the settlement by a compromise payment without designating the amount to be paid under each count, the amount which must be included in the inheritance tax return is an amount, to the extent recovered, which is equal to specific expenses related to the injury. These expenses are similar to those mentioned in sections a. above and include funeral expenses, hospitalization and medical expenses, and other expenses incident to the injury. Any amount which is recovered in excess of these expenses is considered to be exempt from the tax.
4. The proceeds of any contract of insurance insuring the life of a resident or nonresident decedent paid or payable, by reason of the death of such decedent, to one or more named beneficiaries other than the estate, executor or administrator of such decedent are exempt for New Jersey Inheritance Tax purposes.
5. The transfer of property to a beneficiary or beneficiaries of a trust created during the lifetime of a resident or nonresident decedent, to the extent such property results from the proceeds of any contract of insurance, insuring the life of such decedent and paid or payable to a trustee or trustees of such decedent by reason of the death of such decedent, is exempt from the New Jersey Inheritance Tax irrespective of whether such beneficiary or beneficiaries have a present, future, vested, contingent or defeasible interest in such trust.

6. The transfer of life insurance proceeds insuring the life of a resident or nonresident decedent, paid or payable by reason of the death of such decedent to a trustee or trustees of a trust created by such decedent during his lifetime for the benefit of one or more beneficiaries irrespective of whether such beneficiaries have a present, future, vested, contingent or defeasible interest in such trust, is exempt from the New Jersey Inheritance Tax.

7. The transfer, relinquishment, surrender or exercise at any time or times by a resident or nonresident of this State, of any right to nominate or change the beneficiary or beneficiaries of any contract of insurance insuring the life of such resident or nonresident, regardless of when such transfer, relinquishment, surrender or exercise of such right occurred, is exempt from the tax.

8. Any amount recovered (under the Federal Liability for Injuries to Employees Act) for injuries to a decedent by the personal representative for the benefit of the classes of beneficiaries designated in that Statute, whether for the pecuniary loss sustained by such beneficiaries as a result of the wrongful death of the decedent or for the loss and suffering by the decedent while he lived, or both is not subject to the Inheritance Tax.

Any amount recovered by the legal representatives of any decedent by reason of any war risk insurance certificate or policy, either term or converted, or any adjusted service certificate issued by the United States, whether received directly from the United States or through any intervening estate or estates, is exempt from the New Jersey Inheritance Tax.

This exemption does not entitle any person to a refund of any tax heretofore paid on the transfer of property of the nature aforementioned; and does not extend to that part of the estate of any decedent composed of property, when such property was received by the decedent before death.

9. The proceeds of any pension, annuity, retirement allowance, return of contributions or benefit payable by the Government of the United States pursuant to the Civil Service Retirement Act, Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent are exempt.

10. All payments at death under the Teachers Pension and Annuity Fund, the Public Employees' Retirement System for New Jersey, and the Police and Firemen's Retirement System of New Jersey, and such other State, county and municipal systems as may have a tax exemption clause as broad as that of the three major State systems aforementioned, whether such payments either before or after retirement are made on death to the employee's estate or to his specifically designated beneficiary, are exempt from the New Jersey Inheritance Tax.

The benefit payable under the supplementary annuity plan of the State of New Jersey is not considered a benefit of the Public Employee's Retirement System and is taxable whether paid to a designated beneficiary or to the estate.

The benefits paid to decedent's widow by the New Jersey State Firemen's Association per N.J.S.A. 43:17-35 and benefits paid to decedent's widow by the New Jersey State Judges Pension

Act per N.J.S.A.. 2A:3-21.4 et seq. and 43:6 et seq. are exempt from taxation.

The death benefits paid by the Social Security Administration or railroad Retirement Board to the spouse of a decedent are also exempt. For purposes of filing a return these amounts need not be reported nor are they to be deducted from the amount claimed as a deduction for funeral expenses.

In all other cases the death benefit involved should either be reported as an asset of the estate or deducted from the amount claimed for funeral expenses.

11. Other pensions. An exemption is provided for payments from any pension, annuity, retirement allowance or return of contributions, which is a direct result of the decedent's employment under a qualified plan as defined by section 401(a), (b), and (c) or 2039(c) of the Internal Revenue Code, which is payable to a surviving spouse.

12. The amount payable by reason of medical expenses incurred as a result of personal injury to the decedent should be reflected by reducing the amount claimed for medical expenses as a result of the accident.

The amount payable at the death of an income producer as a result of injuries sustained in an accident, which are paid to the estate of the income producer, is reportable for taxation. In all other instances this amount is exempt.

The amount paid at death to any person under the essential services benefits section is exempt from taxation.

The claim for funeral expense is to be reduced by the amount paid under the funeral expenses benefits section of the law.

SAFE DEPOSIT BOXES

Safe deposit boxes are no longer inventoried by the New Jersey Division of Taxation. On September 30, 1992, the Division issued a blanket release in the form of a letter from the Director, Division of Taxation, to all banking institutions, safe deposit companies, trust companies, and other institutions which serve as custodians of safe deposit boxes. The contents of the boxes may be released without inspection by the Division.

WHERE TO FILE

All returns except the L-8 are to be filed with the New Jersey Division of Taxation, Individual Tax Audit Branch, Transfer Inheritance and Estate Tax, 50 Barrack Street, PO Box 249, Trenton, New Jersey 08695-0249.

WHEN TAX RETURNS ARE DUE

A Transfer Inheritance Tax Return must be filed and the tax paid on the transfer of real and personal property within eight months after the death of either:

A RESIDENT decedent for the transfer of real or tangible personal property located in New Jersey or intangible personal property wherever situated, or

A NONRESIDENT decedent for the transfer of real or tangible personal property located in New Jersey. No tax is imposed on nonresident decedents for real property located outside of New Jersey and intangible personal property wherever situated.

The return must be filed whenever any tax is due or a waiver is needed. The tax is a lien on all property for fifteen years unless paid sooner or secured by an acceptable bond. Interest accrues on unpaid taxes at the rate of 10% per annum.

For EXEMPTIONS see the heading "EXCEPTIONS" below.

AMENDMENTS TO AN ORIGINAL RETURN

In the case of both resident and non-resident estates, any assets and/or liabilities not disclosed in the original return and all supplemental data requested by the Division is to be filed in affidavit form and attested to by the duly authorized statutory representative of the estate, next of kin, or beneficiary certifying in detail a description of the asset, real or personal and/or the liability and the reasons for failure to disclose same in the original return and filed directly with the NJ Transfer Inheritance.

ESTATE TAX

In addition to the inheritance tax, the State of New Jersey imposes an estate tax on the estate of certain resident decedents. The estate tax is designed to absorb any portion of the credit allowable for State death taxes under the federal estate tax law that is not fully taken up by the aggregate amount of all death taxes paid to any State, United States territory or the District of Columbia. The tax is the difference, if any, determined by subtracting the amount of the inheritance, legacy and succession taxes paid to this State and elsewhere from the allowable credit. Even estates that are partially or fully exempt from the inheritance tax may be subject to the New Jersey State Tax.

The New Jersey Estate Tax obligation is in no way discretionary on the part of the taxpayer. It MAY NOT be satisfied by payment of the appropriate amount to the Federal Government in lieu of claiming the credit allowable for Federal Estate Tax purposes.

The law requires that a copy of the Federal Estate Tax return be filed with the Division within thirty days after the filing of the original with the Federal Government. Also, the Division must be supplied with copies of all communications from the Federal Government making final changes or confirming, increasing or decreasing the tax shown to be due. Further instructions are contained in the body of the Estate Tax return, a copy of which is included in this booklet. (Not included in IT-R Schedule Booklet.)

WAIVERS

Bank accounts, certificates of deposit etc., in the name of, or belonging to a RESIDENT decedent, in financial institutions located in this state, cannot be transferred without the written consent of the Division of Taxation. This consent is referred to as a WAIVER.

Stocks and bonds etc., in the name of, or belonging to a RESIDENT decedent, of corporations organized under the laws of this state are subject to the same waiver requirements.

Real property, located in New Jersey, in the name of, or belonging to a RESIDENT or a NON-RESIDENT decedent is subject to the same waiver requirements, however, real property held by a husband and wife as "tenants by the entirety" in the estate of the spouse dying first need not be reported, regardless of the date of death and waivers are not required.

A membership certificate or stock in a cooperative housing

corporation held in the name of the decedent and a surviving spouse as joint tenants with the right of survivorship is exempt on or after May 6, 1980, if it was their principal residence. However a waiver is required for this transfer in the estate of a RESIDENT decedent.

Waivers are not required for automobiles, household goods, personal effects, accrued wages or mortgages, but these items must be reported in the return filed.

EXCEPTIONS

Notwithstanding the waiver provisions above any financial institution may release up to 50% of any bank account, certificate of deposit etc. to the survivor, in the case of a joint account, the executor, administrator or other legal representative of a RESIDENT decedent's estate. This procedure is referred to as a BLANKET WAIVER. This procedure is not available for the transfer of stocks and bonds. For a detailed explanation see N.J.A.C. 18:26-11.16.

A SELF EXECUTING WAIVER, FORM L-8, has been created for Class "A" beneficiaries in the estates of RESIDENT decedents. This form may be used in two instances:

1. Transfers to a surviving spouse in estates of decedents dying on or after January 1, 1985.

2. Transfers to a surviving spouse or any other Class "A" beneficiary in estates of decedents dying on or after July 1, 1988.

Use of this form MAY eliminate the need to file a formal Inheritance Tax return. Your attention is directed to the instructions contained in the body of the L-8, a copy of which is included in this booklet. (Not included in IT-R Schedule Booklet.)

This form is to be filed with the financial institution which will then be authorized to release the subject asset without the necessity of receiving a waiver from the Division. DO NOT file this form with the Division.

A REQUEST FOR A REAL PROPERTY TAX WAIVER, FORM L-9, has been created for Class "A" beneficiaries in the estates of RESIDENT decedents. This form may be used in two instances:

1. Transfers to a surviving spouse in estates of decedents dying on or after January 1, 1985 and the decedent's interest was in the decedent's name alone.

2. Transfers to a surviving spouse or any other Class "A" beneficiary in estates of decedents dying on or after July 1, 1988 and the decedent's interest in the real estate was in the name of the decedent alone or with any other Class "A" beneficiary.

Use of this form MAY eliminate the need to file a formal Inheritance Tax Return. Your attention is directed to the instructions contained in the body of the L-9, a copy of which is included in this booklet. (Not included in IT-R Schedule Booklet.)

This form is to be filed directly with the Branch. If the form is in order the necessary waiver/waivers will be promptly issued.

NEITHER THE L-8 NOR THE L-9 may be used where it is claimed that a relationship of mutually acknowledged child exists.

IMPORTANT REMINDERS

- If the decedent died TESTATE you must supply a legible copy of the LAST WILL AND TESTAMENT, all CODICILS thereto and any SEPARATE WRITINGS.
- A copy of the decedent's last full year's FEDERAL INCOME TAX RETURN is required.
- All returns, forms and correspondence must contain the decedent's SOCIAL SECURITY NUMBER.
- PAYMENTS ON ACCOUNT may be made to avoid the accrual of interest. (Form IT-EP)
- If PAYMENTS are not made by CERTIFIED CHECK the issuance of waivers may be delayed.
- All CHECKS should be made payable to N.J. INHERITANCE TAX and sent to the New Jersey Division of Taxation, Individual Tax Audit Branch, Transfer Inheritance and Estate Tax, 50 Barrack Street, PO Box 249, Trenton, NJ 08695-0249.

**A SURVIVING SPOUSE IS ENTIRELY EXEMPT
EFFECTIVE IN ESTATES OF DECEDENTS DYING ON OR AFTER JANUARY 1, 1985**

**REMAINING CLASS "A" TRANSFEREES ARE ENTIRELY EXEMPT
EFFECTIVE IN ESTATES OF DECEDENTS DYING ON OR AFTER JULY 1, 1988**

		Rates applicable to class A transferees in estates of decedents dying prior to dates indicated above			
		7-1-87 thru 6-30-88	7-1-86 thru 6-30-87	7-1-85 thru 6-30-86	7-1-78 thru 6-30-85
First	\$ 5,000	Exempt	Exempt	Exempt	Exempt
Next	10,000	Exempt	Exempt	Exempt	Exempt
Next	35,000	Exempt	Exempt	Exempt	2%
Next	50,000	Exempt	Exempt	3%	3%
Next	50,000	Exempt	Exempt	4%	4%
Next	50,000	Exempt	5%	5%	5%
Next	50,000	Exempt	6%	6%	6%
Next	50,000	6%	6%	6%	6%
Next	200,000	7%	7%	7%	7%
Next	200,000	8%	8%	8%	8%
Next	200,000	9%	9%	9%	9%
Next	200,000	10%	10%	10%	10%
Next	300,000	11%	11%	11%	11%
Next	300,000	12%	12%	12%	12%
Next	500,000	13%	13%	13%	13%
Next	500,000	14%	14%	14%	14%
Next	500,000	15%	15%	15%	15%
Over	3,200,000	16%	16%	16%	16%

Class "C" Transferees

		On or after 7-1-88	3-29-62 thru 6-30-88	
			If less than \$500: no tax - If \$500 or more: no exemption	
First	\$ 25,000	Exempt	11%	
Next	1,075,000	11%	11%	
Next	300,000	13%	13%	
Next	300,000	14%	14%	
Over	1,700,000	16%	16%	

**Class "D" Transferees
On or after 3-29-62**

		If less than \$500: no tax If \$500 or more: no exemption	
First	\$700,000		15%
Over	\$700,000		16%