

AMENDMENTS TO AN ORIGINAL RETURN

For all estates, any assets or liabilities not disclosed in the original return should be reported in the form of a supplemental affidavit executed by the duly authorized representative of the estate, next of kin, or beneficiary. Data submitted should consist of a thorough but concise description of the items being reported, including the fair market value of each on the decedent's date of death. The supplemental affidavit along with supporting documentation should be forwarded to the Inheritance and Estate Tax Branch.

IMPORTANT REMINDERS

When filing with the Division

- If the decedent died Testate (with a will) you must supply a legible copy of the WILL, plus any CODICILS (addendums to the will) and/or any SEPARATE WRITINGS which may affect the distribution of the estate.
- A copy of the decedent's last full year's FEDERAL INCOME TAX RETURN is required.
- All returns, forms and correspondence must contain the required SOCIAL SECURITY NUMBERS.
- PAYMENTS ON ACCOUNT should be made to avoid the accrual of interest.
- All CHECKS should be made payable to NJ INHERITANCE AND ESTATE TAX
- SEND correspondence, checks and documents to:
New Jersey Division of Taxation
Inheritance and Estate Tax
PO Box 249
Trenton, NJ 08695-0249

GENERAL INFORMATION

Inheritance and Estate Tax

**Inheritance and Estate Tax Branch
New Jersey Division of Taxation
50 Barrack Street 3rd Floor
PO Box 249
Trenton, NJ 08695-0249**

**For additional information call:
(609) 292-5033
(8:30 AM–4:30 PM, M–F)**

**or go to:
www.njtaxation.org
“Inheritance & Estate Tax”**

O-10-C
(01-17, R-13)

INTRODUCTION

Transfer Inheritance Tax is a “beneficiary” tax, and is based on who specifically receives a decedent’s assets, and how much each beneficiary received. The Estate Tax is based on the size of the entire estate, and does not break down the distribution of assets beyond exemptions for spouses and charities. In New Jersey, the Inheritance Tax is a credit against the Estate Tax; an estate pays only the higher of the two.

New Jersey has had an Inheritance Tax since 1892 when a 5% tax was imposed on property transferred from a deceased person (“decedent”) to a beneficiary. Currently, the law imposes a graduated Inheritance Tax ranging from 11% to 16% on the transfer of real and personal property with an aggregate value of \$500 or more to certain beneficiaries. New Jersey first enacted an Estate Tax in 1934. Its purpose was to ensure New Jersey receives the full amount of the Credit for State Death Taxes allowed against the Federal Estate Tax.

WHAT’S NEW?

P.L. 2016, c. 57 signed into law on Oct. 14, 2016, provides that the New Jersey Estate Tax exemption will increase from \$675,000 to \$2 million for the estates of resident decedents dying on or after January 1, 2017, but before January 1, 2018. For these estates, the New Jersey Estate Tax no longer conforms to the provisions of the Federal Internal Revenue Code in effect on Dec. 31, 2001, and instead follows the current Federal Internal Revenue Code for determining the value of the estate which will be subject to New Jersey Estate Tax.

Additionally, no New Jersey Estate Tax will be imposed on the estates of resident decedents dying on or after Jan. 1, 2018.

FORMS, INSTRUCTIONS

Necessary forms and instructions concerning the procedure to be followed in completing an Inheritance Tax or Estate Tax return may be obtained at or from the Inheritance and Estate Tax Branch in Trenton or downloaded from the Division's web page at www.njtaxation.org.

WHEN INHERITANCE TAX RETURNS ARE DUE

An Inheritance Tax return must be filed and the tax paid on the transfer of real or personal property within eight months after the date of death.

For a resident decedent a return must be filed for the transfer of real or tangible personal property located in New Jersey and ALL intangible personal property.

For a nonresident decedent a return must be filed for the transfer of real or tangible personal property located in New Jersey. Though there is no direct tax on intangible assets (e.g., bank accounts, stock, etc.), all such assets are used in

the calculation of the tax and must be reported on the return.

For either a resident or nonresident decedent a return must be filed whenever any tax is due or when property is passing to someone other than Class A beneficiaries. The tax is a lien on all New Jersey property for 15 years from the date of death unless the tax is paid before that time, or an acceptable bond is filed. Interest on unpaid tax will accrue at the rate of 10% per annum beginning eight months after a decedent's date of death. The return should be filed directly with the Inheritance and Estate Tax Branch in Trenton.

BENEFICIARY CLASSES AND TAX RATES

There are four active Inheritance Tax beneficiary classes as follows:

●Class A – Exempt from tax

- Spouse,
- Civil union partner after Feb. 19, 2007,
- Domestic partner after July 10, 2004,
- Child (includes legally adopted child)
- Grandchild, great-grandchild, etc.,
- Parents, grandparents, etc.,
- Mutually acknowledged child,
- Stepchild (but not step-grandchild or their issue).

●Class B – Eliminated by amendment July 1, 1963.

●Class C

- Brother or sister of a decedent,
- Spouse or surviving spouse of a child of a decedent (i.e., son-in-law or daughter-in-law),
- Civil union partner or surviving civil union partner of a child of a decedent (after Feb. 19, 2007).

	Rate for Each Beneficiary	
First	\$25,000	No tax
Next	\$1,075,000	@ 11%
Next	\$300,000	@ 13%
Next	\$300,000	@ 14%
Over	\$1,700,000	@ 16%

●Class D – Every other transferee, distributee or beneficiary not classified as A, C, or E.

	Rate for Each Beneficiary	
First	\$700,000	@ 15%
Over	\$700,000	@ 16%

●Class E – Exempt from tax

Including but not limited to:

- Qualified charities (generally 501(c)3),
- Religious institutions,
- Educational and medical institutions,
- Non-profit benevolent or scientific institutions,
- The State of New Jersey or any of its political subdivisions.

EXEMPTIONS

In addition to the exemptions listed under "Beneficiary Classes and Tax Rates," no Inheritance Tax is imposed on:

- Transfers to a beneficiary having an aggregate value of less than \$500.
- Life insurance proceeds paid to a named beneficiary.
- Payments from the New Jersey Public Employees Retirement System, the New Jersey Teachers' Pension and Annuity Fund, and the New Jersey Police and Firemen's Retirement System.
- Federal Civil Service Retirement benefits payable to a beneficiary other than the estate or the executor or administrator of a decedent's estate.
- Annuities payable by the U.S. Government pursuant to the Retired Serviceman's Family Protection Plan or the Survivor Benefit Plan to a Beneficiary other than the estate or the executor or administrator of a decedent.

ESTATE TAX

In addition to the Inheritance Tax, the State of New Jersey imposes an Estate Tax on the estates of certain resident decedents. (There is no Estate Tax assessed against non-resident decedent's estates.) Even estates that are partially or fully exempt from Inheritance Tax may be subject to the New Jersey Estate Tax. NOTE: A number of assets that are not reportable for Inheritance Tax are included in the gross estate for Estate Tax, most notably life insurance paid to a named beneficiary and non-NJ real estate.

For decedents dying after Dec. 31, 2001, but before Jan. 1, 2017

The New Jersey Estate Tax is an amount equal to the credit for State death taxes allowed under Federal Estate Tax law, less that portion of the credit which is attributable to property located outside New Jersey, and less any New Jersey Inheritance Tax.

The credit allowable is calculated in accordance with the provisions of the Internal Revenue Code in effect on Dec. 31, 2001. A 2001 Federal Form 706 must be completed in accordance with the provisions of the Internal Revenue Code in effect on Dec. 31, 2001.

Although the 2001 Internal Revenue Code did not permit a marital deduction for property passing to a surviving civil union partner, such a deduction is permitted for New Jersey Estate Tax purposes for decedents dying on or after Feb. 19, 2007. In these cases, the 2001 Form 706 should be completed as though the Internal Revenue Code treated a surviving civil union partner and a surviving spouse in the same manner.

As an alternative to filing a completed 2001 Form 706, an estate may, in many cases, use the Simplified Method to compute the New Jersey Estate Tax. This method is based upon the net estate as determined for the New Jersey Inheritance Tax, with certain adjustments. The Simplified Method is not intended for use in all estates. It may not be used if an estate files, or is required to file, a Federal Estate Tax return (Form 706) with the IRS, or if its use does not produce a tax liability similar to that produced using the 2001 Federal Form 706. This method permits a marital deduction only for property passing outright to a surviving spouse or to a surviving civil union partner on, or after, Feb. 19, 2007.

For decedents dying on or after Jan. 1, 2017, but before Jan. 1, 2018

The Estate Tax is calculated on the amount of the taxable estate pursuant to the current Internal Revenue Code, using a progressive rate schedule with rates ranging from 0% to 16%. Credits against the Tax will include: the portion of the tax attributable to property located outside New Jersey, any New Jersey Inheritance Tax, and a credit equal to the tax due on the \$2 million exclusion amount (\$99,600).

A completed current Federal Form 706 must be submitted along with the New Jersey Estate Tax Return whether or not the estate is subject to Federal Estate Tax.

For decedents dying on or after Jan. 1, 2018

There is no New Jersey Estate Tax imposed on the estates of resident decedents dying on or after Jan. 1, 2018. This provision does not affect the New Jersey Inheritance Tax, which remains in force.

FEDERAL ESTATE TAX RETURN

The law requires that a copy of the Federal Estate Tax return be filed with the Division within 30 days after the filing of the original with the federal government. Also, a copy of any communication from the Federal Government making any final change in the return, or confirming, increasing, or reducing the tax shown to be due must be filed with the Division within 30 days of receipt.

INHERITANCE AND ESTATE TAX WAIVERS

Certain property in the name of or belonging to a decedent cannot be transferred without the written consent of the Director, Division of Taxation. This consent, commonly known as a "waiver," will not be granted until any tax due has been paid or provided for.

A. PERSONAL PROPERTY – RESIDENT DECEDENTS

1. Waivers are not required for automobiles or other vehicles, household goods, accrued wages, or mortgages, but these assets must be reported in the tax return(s) filed.
2. A membership certificate or stock in a cooperative housing corporation held in the name of a decedent and

a surviving spouse, civil union partner or domestic partner as joint tenants with right of survivorship is exempt from the Inheritance Tax. However, a waiver is required to transfer ownership to the survivor.

3. Banks, savings and loan associations, and other financial institutions may release 50% of all funds on deposit with them to the proper party prior to the issuance of a waiver. The full amount on deposit as of date of death of decedent must be listed in the tax return(s) and will eventually require a waiver. This procedure is referred to as a BLANKET WAIVER and is not available for the transfer of stocks and bonds.

4. A SELF-EXECUTING WAIVER, FORM L-8, has been created for use in the estate of a RESIDENT decedent. This form may be used in most cases to transfer bank accounts, stocks, bonds and brokerage accounts, when the transfer is to a Class A beneficiary only. This form may NOT be used:

- a. For the transfer of real estate.
- b. For decedents dying after Dec. 31, 2001, but before Jan. 1, 2017, and the taxable estate plus adjusted taxable gifts exceeds \$675,000 for Federal Estate Tax purposes under the provisions of the Internal Revenue Code in effect on Dec. 31, 2001. (If the decedent died on or after Feb. 19, 2007, survived by a civil union partner a marital deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code in effect on Dec. 31, 2001, may be used in determining the taxable estate.)
- c. For decedents dying on or after Jan. 1, 2017, but before Jan. 1, 2018, and the taxable estate exceeds \$2 million for Federal Estate Tax purposes under the provisions of the current Internal Revenue Code.

The completed Form L-8 should be filed with the **financial institution or transfer agent** who will then be authorized to release the subject asset, if warranted, without the necessity of receiving a waiver from the Division. DO NOT file this form with the Division.

B. PERSONAL PROPERTY – NONRESIDENT DECEDENTS

In the estate of a NONRESIDENT decedent, no waivers are required for bank accounts, brokerage accounts or other intangible property, including stock and membership certificates or shares held in a co-op. However, all of these assets must be reported on the return. For full information on nonresident filing requirements, see the Division's website or call Inheritance Tax Information at 609-292-5033.

C. REAL PROPERTY – RESIDENTS AND NONRESIDENTS

Commonly called "real estate," this refers to land and/or physical buildings that are permanent structures attached to land.

1. Unpaid Inheritance and Estate Taxes constitute a lien on New Jersey real property. Tax waivers are required to transfer the realty. However, real property held by husband and wife or civil union partners as "tenants by the entirety" in the estate of the spouse or civil union partner who dies first, need not be reported and may be transferred without a waiver.

2. A REQUEST FOR A REAL PROPERTY TAX WAIVER, Forms L-9 (Resident Decedent) and L-9 NR (Non-Resident Decedent) have been created for use by Class A beneficiaries. These forms may be used if the entire estate is untaxable for Inheritance Tax purposes and passes to Class A beneficiaries, and the only reason to file a return is to obtain a tax waiver for real property.

Proper use of these forms may eliminate the need to file a formal tax return(s). Form L-9 may not be used if there is any New Jersey Estate Tax payable or:

- a. For resident decedents dying after Dec. 31, 2001, but before Jan. 1, 2017, the gross estate plus adjusted taxable gifts exceeds \$675,000 for Federal Estate Tax purposes under the provisions of the Internal Revenue Code in effect on Dec. 31, 2001, or
- b. For resident decedents dying on or after Jan. 1, 2017, but before Jan. 1, 2018, the gross estate exceeds \$2 million for Federal Estate Tax purposes under the provisions of the current Internal Revenue Code.

These forms are to be filed with the Inheritance and Estate Tax Branch in Trenton. If the form is in order, the necessary waiver(s) will be promptly issued.

NEITHER THE L-8 NOR L-9 MAY BE USED WHEN IT IS CLAIMED THAT A RELATIONSHIP OF MUTUALLY ACKNOWLEDGED CHILD EXISTS.

SAFE DEPOSIT BOXES

Safe deposit boxes are no longer inventoried by the New Jersey Division of Taxation. The Division has 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.