

IMPORTANT REMINDERS

- If the decedent died TESTATE you must supply a legible copy of the WILL, CODICILS and any SEPARATE WRITING.
- 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 and sent to the New Jersey Division of Taxation, Inheritance and Estate Tax, PO Box 249, Trenton, New Jersey 08695-0249.

GENERAL INFORMATION

Inheritance and Estate Tax

**Individual Tax Audit Branch
Inheritance and Estate Tax
New Jersey Division of Taxation
PO Box 249
Trenton, New Jersey 08695-0249
(609) 292-5033
www.state.nj.us/treasury/taxation/**

O-10-C
(12-07, R-11)

INTRODUCTION

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 fully absorb the credit for state estate, inheritance, succession or legacy taxes allowable in the Federal estate tax proceeding.

AMENDMENTS TO AN ORIGINAL RETURN

In the case of both resident and non-resident 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 Individual Tax Audit Branch - Inheritance and Estate Tax in Trenton.

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 Individual Tax Audit Branch - Inheritance and Estate Tax in Trenton or downloaded from the Division's web page at www.state.nj.us/treasury/taxation/.

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 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 intangible personal property.

A return must be filed whenever any tax is due or when benefits are passing to other than Class "A" beneficiaries. The tax is a lien on all property for 15 years, unless paid sooner or secured by acceptable bond. Interest on unpaid tax will accrue at the rate of 10% per annum beginning 8 months after a decedent's date of death.

The return should be filed directly with the Individual Tax Audit Branch - Inheritance and Estate Tax in Trenton.

BENEFICIARY CLASSES and TAX RATES

There are five Inheritance tax beneficiary classes ranging from "A" to "E", as follows:

- Class "A" - Father, mother, grandparents, wife, husband, civil union partner after 2/19/07, child or children of a decedent, adopted child or children of a decedent, issue of a child or legally adopted child of a decedent, mutually acknowledged child, stepchild (includes a grandchild and great-grandchild but not a stepgrandchild or a great-stepgrandchild), and domestic partner after 7/10/04.

Rate: Exempt from tax in estates of decedent's dying on or after 7/1/88.

- Class "B" - Deleted by amendment 7/1/63.
- Class "C" - Brother or sister of a decedent, wife or civil union partner after 2/19/07 or widow or surviving civil union partner after 2/19/07 of a son of a decedent, or husband or civil union partner after 2/19/07 or widower or surviving civil union partner after 2/19/07 of a daughter of a decedent.

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 otherwise classified.

Rate for Each Beneficiary

First	\$700,000	@ 15%
Over	\$700,000	@ 16%

- Class "E" - Transfers to the State of New Jersey or any of its political subdivisions for public or charitable purposes, an educational institution, church, hospital, orphan asylum, public library, and certain other nonprofit agencies, etc.

Rate: Totally exempt.

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.
- Charitable transfers for the use of any educational institution, church, hospital, orphan asylum, public library, etc.
- Transfers for public purposes made to New Jersey or any political subdivision of the State.

- 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 estate of certain resident decedents. The estate tax is an amount equal to the credit allowable for inheritance, estate, succession or legacy taxes paid to any state or territory of the United States or the District of Columbia 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.

Even estates that are partially or fully exempt from inheritance tax may be subject to the New Jersey Estate Tax.

For decedents dying on or before 12/31/01 the credit allowable is calculated in accordance with the provisions of the Internal Revenue Code in effect on the decedent's date of death.

For decedents dying after 12/31/01, the credit allowable is calculated in accordance with the provisions of the Internal Revenue Code in effect on 12/31/01.

For decedents dying after 12/31/01, a 2001 Federal Form 706 must be completed in accordance with the provisions of the Internal Revenue Code in effect on 12/31/01. 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 2/19/07. 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.

For decedents dying after 12/31/01, as an alternative to filing a completed 2001 Form 706, an estate may in many cases use the simplified tax system 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 and 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. The simplified tax system permits a marital deduction only for property passing outright to a surviving spouse or to a surviving civil union partner on or after 2/19/07.

The estate tax is reduced by the portion of the credit which is attributable to real and tangible personal property located outside New Jersey. Intangible personal property is generally considered to be located in New Jersey regardless of its actual location. The reduction permitted is determined by multiplying the tax due on the entire gross estate wherever located by a fraction the numerator of which is the gross value of property located outside New Jersey and the denominator of which is the New Jersey entire gross estate wherever located.

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. For decedents dying after 12/31/01, a tax return must be filed if the gross estate plus adjusted taxable gifts as determined in accordance with the provisions of the Internal Revenue Code in effect on 12/31/01 exceeds \$675,000.

For the estates of decedents dying after 12/31/01, the estate tax is a lien on all property of a decedent as of the decedent's date of death and no property may be transferred without the written consent of the Director.

For the estates of decedent's dying on or after 3/1/92 interest accrues at the rate of 10% per annum on any New Jersey Estate Tax not paid within nine months of the decedent's date of death unless an extension of time to file the Federal Estate Tax return is granted. The Director of the Division of Taxation may then reduce the interest rate to 6% per annum until the expiration of the Federal extension.

For decedents dying on or before 12/31/01, the estate tax return must be filed within nine months after a decedent's death. For decedent's dying after 12/31/01, the estate tax return must be filed within nine months plus thirty days after a decedent's death. If the simplified tax system is used, the return must be filed within nine months of the decedent's death.

For estates of decedent's dying prior to 3/1/92, interest accrues at the rate of 6% per annum on any New Jersey Estate Tax not paid within eighteen months of a decedent's death or within 60 days of the final determination of the Federal Estate Tax by the Federal authorities, whichever is later.

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 govern-

ment 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

1. Waivers are not required for automobiles household goods, accrued wages or mortgages, but these assets must be reported in the tax return(s) filed.
2. Under current statute, 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. In the estate of a resident decedent, banks, savings and loan associations, and buildings and loan associations 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 the 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. For a detailed explanation see N.J.A.C. 18:26-11.16.
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.

Proper use of this form MAY eliminate the need to file a formal tax return(s). However, the Form L-8 cannot be used for the transfer of real estate nor when, for decedents dying after 12/31/01, the taxable estate plus adjusted taxable gifts exceeds \$675,000.00 for Federal Estate Tax purposes under the provisions of the Internal Revenue Code in effect on 12/31/01. (If the decedent died on or after 2/19/07 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 12/31/01 may be used in determining the taxable estate).

The completed Form L-8 is filed with the financial

institution or transfer agent which 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. REAL PROPERTY

1. Unpaid inheritance and estate taxes constitute a lien on real property and 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 first dying 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.

Use of these forms may eliminate the need to file a formal tax return(s).

Form L-9 may not be used when, for resident decedents dying after 12/31/01, the gross estate plus adjusted taxable gifts exceeds \$675,000.00 for Federal estate tax purposes under the provisions of the Internal Revenue Code in effect on 12/31/01 or there is any NJ Estate Tax payable.

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

NEITHER THE L-8 OR L-9 MAY BE USED WHEN IT IS CLAIMED THAT A RELATIONSHIP OF MUTUALLY-ACKNOWLEDGED CHILD EXISTED.

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.