

TITLE 54. TAXATION

Subtitle 5. TRANSFER INHERITANCE AND ESTATE TAXES

Part 1. TRANSFER INHERITANCE TAX

Chapter 33. GENERAL PROVISIONS

Section

- 54:33-1 Definitions.
- 54:33-2 Jurisdiction of tax court.
- 54:33-3 Rights and remedies under prior acts saved.
- 54:33-4 Repeal of certain tax acts; taxes and liens thereunder discharged.
- 54:33-5 Powers of comptroller exercised by tax commissioner.
- 54:33-6 Books, records and documents; custody.
- 54:33-7 Records kept by tax commissioner.
- 54:33-8 Returns of appraisers and other data as privileged communications.
- 54:33-9 Appraisers and employees; employment by tax commissioner.
- 54:33-9.1 District supervisor in Inheritance Tax Division; residence qualification.
- 54:33-10 Apportionment of tax receipts to counties.
- 54:33-11 Certain officers and employees; retention.
- 54:33-12 Commissioner may abolish unnecessary positions.
- 54:33-13 [Reallocated as §54:33-9.1].
- 54:33-14 Annual report.

54:33-1. Definitions. As used in chapters 33 to 36 of this title (§54:33-1 et seq.):

“Estate” and “property” mean the interest of the testator, intestate, grantor, bargainor or vendor, passing or transferred to the individual or specific legatee, devisee, heir, next of kin, grantee, donee or vendee, not exempt from the provisions of said chapters 33 to 36, whether such property be situated within or without this state.

“Transfer” includes the passing of property, or any interest therein, in possession or enjoyment, present or future, by distribution by statute, descent, devise, bequest, grant, deed, bargain, sale or gift.

54:33-2. Jurisdiction of tax court. The tax court on appeal shall have jurisdiction to hear and determine all questions in relation to a

tax levied under the provisions of chapters 33 to 36 of this Title (§54:33-1 et seq.).

Amended. L. 1953, c. 51, §138; L. 1978, c. 32, §1.

54:33-3. Rights and remedies under prior acts saved. Except as provided by the acts saved from repeal in section 54:33-4 of this title, nothing contained in chapters 33 to 36 of this title (§54:33-1 et seq.) shall affect or impair the lien of any tax assessed or due and payable under any heretofore existing law, or any remedy for the collection thereof, or to surrender any remedies, powers, rights or privileges acquired by this state under any such law, or to relieve any person or corporation from any penalty imposed by any such law; and for such purposes such laws are hereby continued in force.

54:33-4. Repeal of certain tax acts; taxes and liens thereunder discharged. L.1927, c. 248, p. 469, entitled "An act to repeal an act entitled "An act to tax intestates' estates, gifts, legacies and collateral inheritance in certain cases," approved March twenty-third, one thousand eight hundred and ninety-two," approved March twenty-eighth, one thousand nine hundred and twenty-seven, saved from repeal.

L.1927, c. 249, p. 470, entitled "An act to repeal an act entitled "An act to revise and amend "An act to tax intestates' estates, gifts, legacies and collateral inheritance in certain cases," approved March twenty-third, one thousand eight hundred and ninety-two,' approved March sixteenth, one thousand eight hundred and ninety-three," approved March twenty-eighth, one thousand nine hundred and twenty-seven, saved from repeal.

L.1927, c. 247, p. 468, entitled "An act to repeal an act entitled "An act to tax intestates' estates, gifts, legacies, devises and collateral inheritance in certain cases,' approved May fifteenth, one thousand eight hundred and ninety-four," approved March twenty-eighth, one thousand nine hundred and twenty-seven, saved from repeal. [These acts repeal certain earlier tax acts and their amendments and supplements, and release, abate and discharge taxes due or to become due thereunder and liens created thereby, without creating a right to claim or have a refund or repayment of taxes which were paid thereunder prior to March 28,1927.]

54:33-5. Powers of comptroller exercised by tax commissioner. The powers and duties heretofore exercised and performed by the state comptroller in relation to the assessment and collection of taxes under chapters 33 to 36 of this title (§54:33-1 et seq.) shall be exercised and performed by the state tax

commissioner, and all proceedings and matters pending before the comptroller prior to July first, one thousand nine hundred and thirty-one, shall continue before and be determined by the state tax commissioner.

54:33-6. Books, records and documents; custody. The books, accounts, blanks, papers, documents and other records transferred from the custody and control of the comptroller of the treasury of this state to the state tax commissioner, pursuant to section one of an act entitled "An act to supplement chapter two hundred and twenty-eight of the laws of nineteen hundred and nine, being an act entitled 'An act to tax the transfer of property, of resident and nonresident decedents, by devise, bequest, descent, distribution by statute, gift, deed, grant, bargain and sale, in certain cases,' approved April twentieth, nineteen hundred and nine," approved April twenty-first, one thousand nine hundred and thirty-one (L.1931, c. 197, §1, p. 496), shall remain in the state tax department, in the charge and custody of the state tax commissioner.

54:33-7. Records kept by tax commissioner. The state tax commissioner shall keep a record in his department of all returns made by appraisers, cash value of annuities, life estates and terms of years, and the amount of all taxes assessed by him. The commissioner may also enter in such books all other information and data which he may deem desirable or proper.

54:33-8. Returns of appraisers and other data as privileged communications. The returns made by appraisers and all data otherwise gathered by the state tax commissioner, shall be considered privileged communications and shall not be inspected or copied by any person other than the executor, administrator or a beneficiary entitled by the will or by intestate law to share in the estate, or the duly authorized attorney of the executor, administrator or beneficiary.

Nothing in this section shall be construed to prohibit the use of such returns or data in legal proceedings involving the assessment, collection or abatement of taxes provided for by the various inheritance tax statutes of this state.

54:33-9. Appraisers and employees; employment by tax commissioner. The state tax commissioner shall appoint all appraisers and employees necessary to carry out the provisions of chapters 33 to 36 of this title (§54:33-1 et seq.), subject always to the provisions of Title 11, Civil Service.

TRANSFER INHERITANCE TAX

54:33-9.1. District supervisor in Inheritance Tax Division; residence qualification. No person shall be appointed a district supervisor in the Inheritance Tax Division of the State Tax Department for any county of this State unless such person has been a resident of said county for at least one year before the date of his appointment.

54:33-10. Apportionment of tax receipts to counties. After the close of each fiscal year the state comptroller shall draw his warrant on the state treasurer in favor of the county treasurer of each county for five per cent of the amount of tax collected under chapters 33 to 36 of this title (§54:33-1 et seq.), from property of resident decedents in the county during the fiscal year, as certified to the comptroller by the state tax commissioner, whereupon the same shall be paid out of the state treasury.

54:33-11. Certain officers and employees; retention. The officers and employees formerly in the employ of the comptroller of the treasury, who were transferred to and continued as employees of the state tax department by virtue of an act entitled "An act to supplement chapter two hundred and seventy-eight of the laws of nineteen hundred and seventeen, being an act entitled "An act concerning the officers or employments of appraisers and employees appointed or employed by the comptroller of the treasury pursuant to the provisions of an act entitled "A supplement to an act entitled "An act to tax the transfer of property of resident and nonresident decedents by devise, bequests, descent, distribution by statute, gift, deed, grant, bargain and sale, in certain cases," approved April twentieth, one thousand nine hundred and nine," approved March twenty-sixth, one thousand nine hundred and fourteen," approved April fourth, nineteen hundred and seventeen," approved April twenty-first, one thousand nine hundred and thirty-one (L.1931, c. 202, p. 502), shall be retained in their offices and positions in the state tax department unless removed in accordance with the civil service laws.

54:33-12. Commissioner may abolish unnecessary positions. The state tax commissioner may, however, abolish any office or position which may be found to be unnecessary.

54:33-13. [Reallocated as §54:33-9.1].

54:33-14. Annual report. The Director of the Division of Taxation shall prepare and transmit to the Governor and the Legislature, on or before October 1, 1986 and on or before October

1 annually thereafter, a report concerning the taxation of property transfers under the transfer inheritance tax, R.S. 54:34-1 et seq., in such a manner as to facilitate an evaluation of the comparability of this State's inheritance tax structure to selected other states. The report shall also include a statistical analysis of the number and value of estates, by gross estate value and taxable estate value, for each class of transfer, displayed in increments of value corresponding to the tax rate schedule in R.S. 54:34-2 for transfers made through June 30 of the immediately preceding fiscal year, that will enable an evaluation of the tax liability for gross and taxable estates. The report shall identify the number, value, and tax reduction on estates for the immediately preceding fiscal year, as a result of the change in exemptions applicable to transfers made in that year. The director shall include in the report such observations and recommendations as he shall deem appropriate concerning the taxation of property transfers under the inheritance tax, R.S. 54:34-1 et seq. In addition, the report to be transmitted on or before October 1, 1986 shall include observations concerning the equity of tax liabilities for transfers within the same class, specifically, but not limited to, the relationship between siblings under a broad range of circumstances.

Adopted. L. 1985, c. 57, §2.

Chapter 34. ASSESSMENT OF TAX

Section

- 54:34-1 Imposition of tax on transfers.
- 54:34-1.1 Irrevocable disposition of reserved income, rights, over property transferred 3 years prior to death.
- 54:34-2 Transfer inheritance tax phase-out.
- 54:34-2.1 Mutually acknowledged relationship of parent and child; stepchildren.
- 54:34-3 Ratio tax on transfer of property on nonresident.
- 54:34-4 Exemptions from taxation.
- 54:34-5 Deductions to ascertain market value.
- 54:34-6 Appointment of appraisers.
- 54:34-7 Compensation of appraisers.
- 54:34-8 Misconduct of appraiser; penalty.
- 54:34-9 Making appraisal; notice of; taking evidence; report.
- 54:34-10 Failure to testify before appraiser; penalty.
- 54:34-11 Repealed.
- 54:34-12 Levying the tax; notice to parties interested.
- 54:34-13 Assessment appeal.

54:34-1. Imposition of tax on transfers. Except as provided in section 54:34-4 of this Title, a tax shall be and is hereby imposed at the rates set forth in section 54:34-2 of this Title upon the transfer of property, real or personal, of the value of \$500.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to or for the use of any transferee, distributee or beneficiary in the following cases:

a. Where real or tangible personal property situated in this State or intangible personal property wherever situated is transferred by will or by the intestate laws of this State from a resident of this State dying seized or possessed thereof.

b. Where real or tangible personal property within this State of a decedent not a resident of this State at the time of his death is transferred by will or intestate law.

c. Where real or tangible personal property within this State of a resident of this State or intangible personal property wherever situate of a resident of this State or real or tangible personal property within this State of a nonresident, is transferred by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death.

A transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration and within three years prior to the death of the grantor, vendor or donor of a material part of his estate or in the nature of a final disposition or distribution thereof, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death within the meaning of subsection c. of this section; but no such transfer made prior to such three-year period shall be deemed or held to have been made in contemplation of death.

d. Where by transfer of a resident decedent of real or tangible personal property within this State or intangible property wherever situate, or by transfer of a nonresident decedent of real or tangible personal property within this State, a transferee, distributee or beneficiary comes into the possession or enjoyment therein of:

(1) An estate in expectancy of any kind or character which is contingent or defeasible, transferred by an instrument taking effect on or after July 4, 1909; or

(2) Property transferred pursuant to a power of appointment contained in an instrument taking effect on or after July 4, 1909.

e. When a decedent appoints or names one or more executors or trustees and bequeaths or devises property to him or them in lieu of commissions or allowances, the transfer of which property would otherwise be taxable, or appoints him or them his residuary legatee or legatees, and the bequest, devise or residuary legacy exceeds what would be reasonable compensation for his or their services, such excess shall be deemed a transfer liable to tax. The Superior Court having jurisdiction in the case, shall determine what is a reasonable compensation.

f. The right of the surviving joint tenant or joint tenants, person or persons, to the immediate ownership or possession and enjoyment of real or personal property held in the joint names of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, excluding, however, the right of a spouse, as a surviving joint tenant with his or her deceased spouse, or the right of a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), as a surviving joint tenant with that person's deceased domestic partner, to the immediate ownership or possession and enjoyment of a membership certificate or stock in a cooperative housing corporation, the ownership of which entitles such member or stockholder to occupy real estate for dwelling purposes as the principal residence of the decedent and spouse or domestic partner, as applicable, shall upon the death of one of such persons, be

deemed a transfer taxable in the same manner as though such property had belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed by his will to the surviving joint tenant or joint tenants, person or persons, excepting therefrom such part of the property as such survivor or survivors may prove to the satisfaction of the Director of the Division of Taxation to have originally belonged to him or them and never to have belonged to the decedent.

In the case of a nonresident decedent, subsection f. of this section shall apply only to real or tangible personal property within this State.

Amended. L. 1951, c. 250, §1; L. 1953, c. 51, §139; L. 1979, c. 413, §1; L. 1991, c. 91, §510, effective April 9, 1991; L. 2003, c. 246, §36, effective July 10, 2004.

54:34-1.1. Irrevocable disposition of reserved income, rights, over property transferred 3 years prior to death. A transfer of property by deed, grant, bargain, sale or gift wherein the transferor is entitled to some income, right, interest or power, either expressly or by operation of law, shall not be deemed a transfer intended to take effect at or after transferor's death if the transferor, more than 3 years prior to death, shall have executed an irrevocable and complete disposition of all reserved income, rights, interests and powers in and over the property transferred.

Adopted. L. 1955, c. 135, §1.

54:34-2. Transfer inheritance tax phase-out. a. (1) The transfer of property to a husband or wife, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a decedent shall be taxed at the following rates:

For transfers made through December 31, 1984:

On any amount in excess of \$15,000.00, up to \$50,000.00	2%
On any amount in excess of \$50,000.00, up to \$100,000.00	3%
On any amount in excess of \$100,000.00, up to \$150,000.00	4%
On any amount in excess of \$150,000.00, up to \$200,000.00	5%
On any amount in excess of \$200,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made on or after January 1, 1985 there shall be no tax imposed under this paragraph.

(2) The transfer of property to a father, mother, grandparent, child or children of a decedent, or to any child or children adopted by the decedent in conformity with the laws of this State, or of any of the United States or of a foreign country, or the issue of any child or legally adopted child of a decedent, shall be taxed at the following rates:

For transfers through June 30, 1985:

On any amount in excess of \$15,000.00, up to \$50,000.00.....	2%
On any amount in excess of \$50,000.00, up to \$100,000.00.....	3%
On any amount in excess of \$100,000.00, up to \$150,000.00.....	4%
On any amount in excess of \$150,000.00, up to \$200,000.00.....	5%
On any amount in excess of \$200,000.00, up to \$300,000.00.....	6%
On any amount in excess of \$300,000.00, up to \$500,000.00.....	7%
On any amount in excess of \$500,000.00, up to \$700,000.00.....	8%
On any amount in excess of \$700,000.00, up to \$900,000.00.....	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00.....	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00.....	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00.....	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00.....	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00.....	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00.....	15%
On any amount in excess of \$3,200,000.00.....	16%

For transfers made from July 1, 1985 through June 30, 1986:

On any amount in excess of \$50,000.00, up to \$100,000.00.....	3%
On any amount in excess of \$100,000.00, up to \$150,000.00.....	4%
On any amount in excess of \$150,000.00, up to \$200,000.00.....	5%
On any amount in excess of \$200,000.00, up to \$300,000.00.....	6%
On any amount in excess of \$300,000.00, up to \$500,000.00.....	7%
On any amount in excess of \$500,000.00, up to \$700,000.00.....	8%
On any amount in excess of \$700,000.00, up to \$900,000.00.....	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00.....	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00.....	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00.....	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00.....	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00.....	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00.....	15%
On any amount in excess of \$3,200,000.00.....	16%

For transfers made from July 1, 1986 through June 30, 1987:

On any amount in excess of \$150,000.00, up to \$200,000.00.....	5%
On any amount in excess of \$200,000.00, up to \$300,000.00.....	6%
On any amount in excess of \$300,000.00, up to \$500,000.00.....	7%
On any amount in excess of \$500,000.00, up to \$700,000.00.....	8%
On any amount in excess of \$700,000.00, up to \$900,000.00.....	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00.....	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00.....	11%

On any amount in excess of \$1,400,000.00, up to \$1,700,000.00	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made from July 1, 1987 through June 30, 1988:

On any amount in excess of \$250,000.00, up to \$300,000.00	6%
On any amount in excess of \$300,000.00, up to \$500,000.00	7%
On any amount in excess of \$500,000.00, up to \$700,000.00	8%
On any amount in excess of \$700,000.00, up to \$900,000.00	9%
On any amount in excess of \$900,000.00, up to \$1,100,000.00	10%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00	11%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00	12%
On any amount in excess of \$1,700,000.00, up to \$2,200,000.00	13%
On any amount in excess of \$2,200,000.00, up to \$2,700,000.00	14%
On any amount in excess of \$2,700,000.00, up to \$3,200,000.00	15%
On any amount in excess of \$3,200,000.00	16%

For transfers made on or after July 1, 1988 there shall be no tax imposed under this subsection.

b. (Deleted by amendment.)

c. The transfer of property to a brother or sister of a decedent, wife or widow of a son of a decedent, or husband or widower of a daughter of a decedent shall be taxed at the following rates:

(1) For transfers through June 30, 1988:

On any amount up to \$1,100,000.00	11%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00	13%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00	14%
On any amount in excess of \$1,700,000.00	16%

(2) For transfers made on or after July 1, 1988:

On any amount in excess of \$25,000.00, up to \$1,100,000.00	11%
On any amount in excess of \$1,100,000.00, up to \$1,400,000.00	13%
On any amount in excess of \$1,400,000.00, up to \$1,700,000.00	14%
On any amount in excess of \$1,700,000.00	16%

d. The transfer of property to every other transferee, distributee or beneficiary not hereinbefore classified shall be taxed at the following rates:

On any amount up to \$700,000.00	15%
On any amount in excess of \$700,000.00	16%

For every purpose of this subtitle all persons, including the decedent, shall be deemed to have been born in lawful wedlock and this provision shall apply to the estate of every decedent whether said decedent died before March 25, 1935, or shall die thereafter, but it shall not entitle any person to a refund of any tax paid before the aforementioned date.

Amended. L. 1962, c. 15, §1; L. 1962, c. 61, §1; L. 1977, c. 219, §1; L. 1985, c. 57, §1; L. 2003, c. 246, §37, effective July 10, 2004.

54:34-2.1. Mutually acknowledged relationship of parent and child; stepchildren. The transfer of property passing to any child to whom the decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided such relationship began at or before the child's fifteenth birthday and was continuous for ten years thereafter, shall be taxed at the same rates and with the same exemptions as the transfer of property passing to a child of said decedent born in lawful wedlock.

The transfer of property passing to a stepchild of a decedent shall be taxed at the same rates and with the same exemptions as the transfer of property passing to a child of said decedent born in lawful wedlock.

This section shall apply to the estate of every decedent, whether the said decedent died prior to June second, one thousand nine hundred and thirty-seven, or shall die after said date, but this section shall not entitle any person to a refund of any tax paid prior to said date.

54:34-3. Ratio tax on transfer of property on nonresident. A tax shall be assessed on the transfer of property made subject to tax as aforesaid in this state of a nonresident decedent if all or any part of the estate of such decedent, wherever situate, shall pass to transferees, distributees or beneficiaries, taxable under chapters 33 to 36 of this title (§54:33-1 et seq.), which tax shall bear the same ratio to the entire tax which the said estate would have been subject to under said chapters 33 to 36 if such nonresident decedent had been a resident of this state, and all his property, real and personal, had been located within this state, as such taxable property within this state bears to the entire estate, wherever situated.

Nothing in this section shall apply to a specific bequest or devise of property in this state.

54:34-4. Exemptions from taxation. The following transfers of property shall be exempt from taxation:

a. Property passing to or for the use of the State of New Jersey, or to or for the use of a municipal corporation within the State or other political subdivision thereof, for exclusively public purposes.

b. Property passing to a beneficiary or beneficiaries having any present or future, vested, contingent or defeasible interest under any trust deed or agreement heretofore or hereafter executed by a resident or nonresident decedent, to the extent that the trust fund results from the proceeds of contracts of insurance heretofore or hereafter in force, insuring the life of such decedent, and paid or

payable, at or after the death of such decedent, to the trustee or trustees under such trust deed or agreement.

c. Property passing to (i) a trustee or trustees of any trust deed or agreement heretofore or hereafter executed or (ii) to a trustee or trustees of a trust created by the will of a decedent, by virtue of any contract of insurance heretofore or hereafter in force insuring the life of a resident or nonresident decedent and the proceeds of which are paid or payable at or after the death of such decedent to such trustee or trustees for the benefit of a beneficiary or beneficiaries having any present or future, vested, contingent or defeasible interest under such trust deed, agreement or will.

d. That part of the estate of any decedent which passes to, for the use of or in trust for any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to, for the use of or in trust for any institution or organization organized and operated exclusively 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 this exemption shall 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 of transfers of property for the benefit of such institutions and organizations of this State.

e. That part of the estate of any decedent who has heretofore died, or may hereafter die, received, either heretofore or hereafter, by the legal representatives of such decedent, whether directly from the United States, or through any intervening estate or estates, by reason of any war risk insurance certificate or policy, either term or converted, or any adjusted service certificate, issued by the United States. Nothing contained in this subsection e. shall entitle any person to a refund of any tax heretofore paid on the transfer of property of the nature aforementioned; and provided further, that the exemption provided for in this subsection e. shall not extend to that part of the estate of any decedent composed of property of the nature aforementioned, when such property was received by the decedent before death.

f. The proceeds of any contract of insurance heretofore or hereafter in force insuring the life of a resident or nonresident decedent paid or payable at or after the death of such decedent to any beneficiary or beneficiaries other than the estate or the executor or administrator of such decedent.

g. Any transfer, relinquishment, surrender or exercise at any time or times by a resident or nonresident of any right to nominate or change the beneficiary or beneficiaries of any contract of insurance heretofore or hereafter in force insuring the life of such resident or nonresident irrespective of whether such transfer, relinquishment, surrender or exercise of such right took place or whether the proceeds of such policy were paid or payable, before or after the taking effect of this act [L.1939, c. 303].

h. The value 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 to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent.

i. The value of any annuity payable by the Government of the United States pursuant to the Retired Serviceman's Family Protection Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent.

j. The value of any pension, annuity, retirement allowance or return of contributions, regardless of the source, 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, payable to a surviving spouse, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), and not otherwise exempted pursuant to this section or other law of the State of New Jersey.

Adopted. L. 1939, c. 303, §1. **Amended.** L. 1941, c. 422, §1; L. 1948, c. 268, §1; L. 1955, c. 78, §1; L. 1962, c. 61, §2; L. 1967, c. 264, §1; L. 1978, c. 38, §1; L. 1979, c. 137, §1; L. 1981, c. 152, §1; L. 2003, c. 246, §38, effective July 10, 2004.

54:34-5. Deductions to ascertain market value. Taxes imposed by chapters 33 to 36 of this title (§54:33-1 et seq.) shall be computed upon the clear market value of the property transferred.

In determining the clear market value of the property the following deductions and no others shall be allowed:

Debts of decedent; exception. a. Debts of the decedent owing at the date of death, except that debts of a resident decedent owing for or secured by property outside this state shall not be allowed unless:

(1) The property for which the debt is owing or for which it is secured is subject to the tax imposed by said chapters 33 to 36; or,

(2) The foreign debt exceeds the value of the property securing it or for which it was contracted, when the excess may be deducted;

Funeral and last illness expenses. b. A reasonable sum for funeral expenses and last illness.

Administration expenses; fees of executors and attorneys. c. The ordinary expenses of administration, including the ordinary fees allowed executors and administrators and the ordinary fees of their attorneys.

Proportion of state, county and local taxes. d. Such proportion of the state, county and municipal taxes upon the property for the current fiscal year as the elapsed portion of the said year bears to the full calendar year.

Transfer taxes of other states or United States. e. Transfer taxes paid or payable to other states or territories or the District of Columbia or foreign countries on any property the transfer of which is taxable hereunder, but the amount due or paid the government of the United States as a federal estate tax shall not be considered as an expense of administration and shall not be allowed as a deduction.

54:34-6. Appointment of appraisers. In order to fix the value of property of persons whose estates are liable to the payment of a tax under this subtitle, whether the same be in the ownership of a resident or nonresident decedent, the state tax commissioner shall, upon application of an interested party, or upon his own motion, appoint a competent person as appraiser as often as and whenever occasion may require.

54:34-7. Compensation of appraisers. The compensation of an appraiser shall be a sum not exceeding five dollars per day, to be fixed and determined upon by the state tax commissioner and to be paid out of the state treasury. An appraiser shall be reimbursed for all actual expenses incurred in the discharge of his duties.

54:34-8. Misconduct of appraiser; penalty. If an appraiser takes a fee or reward, either directly or indirectly, from an executor or administrator or any other person liable to pay a tax or any portion thereof, under the provisions of this subtitle, he shall be guilty of a misdemeanor, and, on conviction, he shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court. In addition, the state tax commissioner shall immediately dismiss the appraiser so offending from his employment.

54:34-9. Making appraisal; notice of; taking evidence; report. An appraiser appointed pursuant to section 54:34-6 of this title shall forthwith give notice, by mail, to such persons as the state tax commissioner shall direct, of the time and place when and where he will appraise the property. He shall at such time and place appraise the same at its fair market value, and for that purpose the appraiser is authorized to issue subpoenas and compel the attendance of witnesses and to take the evidence of such witnesses under oath concerning such property and the value thereof. The appraiser shall make report thereof to the state tax commissioner, together with such other facts in relation thereto as the state tax commissioner may by order require. The report and other data shall be filed in the office of the commissioner.

54:34-10. Failure to testify before appraiser; penalty. A person failing to attend before an appraiser after service of a subpoena, or refusing to give information concerning an estate, shall be liable to a penalty of two hundred dollars, to be recovered in an action at law by the state tax commissioner.

54:34-11. Repealed.

Repealed. L. 1987, c. 76, §65.

54:34-12. Levying the tax; notice to parties interested. From the report and other data filed in his office pursuant to section 54:34-9 of this title the state tax commissioner shall forthwith assess and fix the cash value of the estate and levy the tax to which the same is liable and he shall give immediate notice thereof, by mail, to all parties known by the state tax commissioner to be interested therein.

54:34-13. Assessment appeal. a. Any interested person dissatisfied with the appraisal or assessment so made may appeal therefrom to the tax court within 90 days after the making and entering of the assessment, in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq.

b. Any aggrieved taxpayer that has neither protested or appealed from an additional assessment of tax may, pursuant to subsection (b) of R.S.54:49-14, file a claim for refund of the assessment paid.

Amended. L. 1948, c. 336, §1; L. 1978, c. 32, §2; L. 1983, c. 36, §38; L. 1998, c. 106, §8, effective Sept. 14, 1998 and it shall apply to return periods beginning on or after January 1, 1999 .

Chapter 35. COLLECTION AND ENFORCEMENT OF TAX; REFUNDS

Section

- 54:35-1 Date when taxes due and payable.
- 54:35-2 Tax, how payable; liability for nonpayment.
- 54:35-3 Nonpayment; interest; reduction of penalty;
postponement as to estate of member of armed forces.
- 54:35-4 Bond required when payment delayed.
- 54:35-4.1 Nonpayment within 30 days of receipt of award or
settlement.
- 54:35-5 Lien of tax; duration.
- 54:35-5.1 Expiration of time to collect tax.
- 54:35-5.2 Effective date.
- 54:35-6 Deduction or collection of tax prior to distribution.
- 54:35-7 Sale of property to pay tax.
- 54:35-8 Payment of taxes collected by executor; receipt.
- 54:35-9 Statement of exemption issued by Commissioner.
- 54:35-10 Refund of erroneous tax payment.
- 54:35-10.1 Application of act.
- 54:35-11 Refund when debts proved after legacies and
distributive shares paid.
- 54:35-12 Notice of transfer of realty filed with tax commissioner.
- 54:35-13 Report of probate; penalty.
- 54:35-14 Search of probate records.
- 54:35-15 Enforcement of tax lien.
- 54:35-16 Prosecution of action.
- 54:35-17 Information as to property taxable; reward to informant.
- 54:35-18 Payment of reward to informant.
- 54:35-19 Transfer of decedent's assets.
- 54:35-20 Penalty for failure to notify or obtain consent of tax
commissioner.
- 54:35-21 Transfer of stock of domestic corporation; notice and
consent required; penalty.
- 54:35-22 Transfer of collateral; consent of tax commissioner.
- 54:35-23 Consents to transfer assets.

54:35-1. Date when taxes due and payable. Taxes under chapters 33 to 36 of this Title (§54:33-1 et seq.), shall be due and payable at the death of the testator, intestate, grantor, donor or vendor, unless otherwise provided by said chapters 33 to 36; but, with respect to any sum recovered as compensation for death of a person caused by a wrongful act, neglect or default, whether by

award of damages or settlement of compromise, taxes thereon shall be due and payable on the date of said award or settlement.

Amended. L. 1978, c. 172, §1.

54:35-2. Tax, how payable; liability for nonpayment. All taxes imposed by chapters 33 to 36 of this title (§54:33-1 et seq.), shall be paid to the state tax commissioner to be deposited by him when and as collected, with the treasurer of the state for the use of the state. Executors, administrators, trustees, grantees, donees or vendees shall be personally liable for any and all such taxes until paid as hereinafter directed, for which an action at law shall lie in the name of the state of New Jersey.

54:35-3. Nonpayment; interest; reduction of penalty; postponement as to estate of member of armed forces. If such tax is not paid within 8 months after the date on which it became due and payable pursuant to R.S. 54:35-1, the tax shall bear interest at the rate of 10% per annum from the expiration of 8 months after the date on which it became due and payable to the date when the tax is paid, unless, payment was tendered by the taxpayer within the 8 months period and is evidenced by the postmark on the letter conveying the payment, or by other acceptable proof, but was not credited through no fault of the taxpayer, in which case no interest shall be charged, or unless, by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, the decedent's estate, or a part thereof, cannot be settled before the expiration of 8 months from the date on which said tax became due and payable, in which case only 6% per annum shall be charged from the expiration of such 8 months until the cause of delay is removed; provided, however, that if the decedent shall have heretofore died or shall hereafter die while a member of the Armed Forces of the United States, no such tax shall commence to bear such interest until the expiration of 8 months after receipt of official notification of the death of the decedent by the wife, husband, father, mother, or next of kin of such decedent.

Amended. L. 1946, c. 70, §1; L. 1962, c. 15, §2; L. 1976, c. 110, §1; L. 1978, c. 172, §2.

54:35-4. Bond required when payment delayed. When executors, administrators, grantees, donees, vendees or trustees fail to pay the tax imposed by chapters 33 to 36 of this Title (section 54:33-1 et seq.), within 8 months from the date on which said tax became due and payable pursuant to R.S. 54:35-1, they shall be

required to give a bond to the State of New Jersey in double the amount of the tax, conditioned to pay the tax and interest which may fall due, the bond to be approved as to form and sufficiency by the Director of the Division of Taxation.

Amended. L. 1978, c. 172, §3; L. 1982, c. 15, §3.

54:35-4.1. Nonpayment within 30 days of receipt of award or settlement. Notwithstanding the provisions of R.S. 54:35-3 and R.S. 54:35-4, with respect to any sum recovered as compensation for death of a person caused by a wrongful act, neglect or default, interest shall accrue at the rates and in the manner provided in R.S. 54:35-3 and a bond shall be required to be given as provided in R.S. 54:35-4, if the tax is not paid within 30 days of the receipt of an award or settlement therefor.

Adopted. L. 1978, c. 172, §4.

54:35-5. Lien of tax; duration. Notwithstanding the provisions of any other law, taxes heretofore or hereafter imposed, whether levied and assessed or not, under chapters 33 to 36 of this Title (§54:33-1 et seq.), shall be and remain a lien on all property owned by the decedent as of the date of his death for a period of 15 years after the date of such death, and no longer, unless sooner paid or secured by bond as provided by said chapters 33 to 36.

Amended. L. 1946, c. 240, §1; L. 1947, c. 376, §1; L. 1979, c. 417, §1.

54:35-5.1. Expiration of time to collect tax. On the expiration of a period of 15 years after the date when any transfer inheritance tax assessed or assessable under chapters 33 to 36 of Title 54, or any amendment thereof or supplement thereto, or under P.L.1909, c. 228, as amended and supplemented, became or shall become due and payable, (1) no proceeding shall thereafter be instituted to assess or collect said tax, interest or penalties chargeable thereunder; (2) no notice to, or written consent of, the Director of the Division of Taxation, relative to the transfer of real or personal property, as required by sections 54:35-19 and 54:35-21 of the Revised Statutes, shall be necessary; (3) the personal liability of executors, administrators, trustees, grantees, donees, vendees, devisees, legatees, heirs, next-of-kin and beneficiaries for said tax, interest and penalties shall cease; and (4) the director is hereby authorized to cancel all assessments of taxes, interest and penalties, the collection of which is barred by the limitations herein provided and to destroy returns and records relating thereto which are rendered useless by

the provisions of this act [L.1947, c. 369]. Nothing herein contained, however, shall affect the rights of the State (a) under any certificate of debt, decree or judgment for taxes, interest and penalties duly recorded with the Clerk of the Superior Court, or with any county clerk; or (b) to assess and enforce collection of any tax, interest and penalties pursuant to the terms of any bond or other agreement securing the payment of such tax, interest and penalties.

Adopted. L. 1947, c. 369, §1. **Amended.** L. 1953, c. 51, §140; L. 1979, c. 417, §2.

54:35-5.2. Effective date. This act [L.1947, c. 369] shall take effect the first day of January, one thousand nine hundred and forty-eight.

Adopted. L. 1947, c. 369, §2.

54:35-6. Deduction or collection of tax prior to distribution. Any executor, administrator or trustee having a legacy or property in charge or trust for distribution shall deduct the tax therefrom, unless the legacy or property be not money, in which event the executor, administrator or trustee shall collect the tax thereon upon the appraised value thereof from the legatee or person entitled to the property, and he shall not deliver or be compelled to deliver any such legacy or property to any person until he has collected such tax.

If a legacy is charged upon or payable out of real estate, the heir or devisee, before paying the legacy, shall deduct the tax therefrom and pay such tax to the executor, administrator or trustee, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner as the payment of such legacy might be enforced.

If a legacy is given in money to a person for a limited period, the executor, administrator or trustee shall retain the tax upon the whole amount, but, if not in money, he shall, if the case require it, apply to the court having jurisdiction of his accounts to make an apportionment of the sum to be paid into his hands by the legatees, and for such further order relative thereto as may be necessary.

54:35-7. Sale of property to pay tax. Executors, administrators and trustees may sell so much of the property of the decedent as will enable them to pay the tax, in the same manner as they may sell property to pay debts of their decedent.

54:35-8. Payment of taxes collected by executor; receipt. Any sum of money retained by an executor, administrator or trustee, or paid into his hands for a tax due under chapters 33 to 36 of this title

(§54:33-1 et seq.), shall, within thirty days thereafter, be paid by him to the state tax commissioner. The person so paying shall be entitled to receive a receipt for such payment, signed by the state treasurer and countersigned by the state tax commissioner, which receipt shall be a proper voucher in the settlement of the account of such executor, administrator or trustee.

54:35-9. Statement of exemption issued by Commissioner.

When the tax and interest chargeable has been paid in full or secured by bond, or when an estate is determined by the State Tax Commissioner to be exempt from any inheritance tax of this State, a statement of such fact, signed by the State Tax Commissioner, shall be issued to the executor, administrator or other representative of the estate. The statement shall be in such form as the commissioner may adopt and shall include a concise but definite description of the real property disclosed in the proceeding. Such statement may be recorded in the office of the county clerk of the county wherein the real property is situate, in a book which shall be kept by the clerk for such purpose, labeled "inheritance tax," for which recording and indexing the clerk shall receive the fee prescribed therefor by section 22:2-19 of the Title Fees and Costs.

Amended. L. 1938, c. 278, §1.

54:35-10. Refund of erroneous tax payment. When any amount of a tax assessed pursuant to chapters 33 to 36 of this Title (section 54:33-1 et seq.) shall have been paid erroneously to the Director of the Division of Taxation, the Director of the Division of Budget and Accounting may, on satisfactory proof of such erroneous payment to the Director of the Division of Taxation and duly certified by him to the Director of the Division of Budget and Accounting, draw his warrant on the State Treasurer, in favor of the executor, administrator, person or persons who have paid the tax in error, or who may be lawfully entitled to receive the same, for the amount of the tax so paid in error, but all applications for repayment of such tax shall be made within 3 years from the date of such payment, or from the date of the final determination of a court of competent jurisdiction which establishes the fact that the decedent had no legal or equitable interest in the property on which the tax was assessed and erroneously paid, whichever is later; provided, however, no refund shall be made where such final determination occurs more than 20 years after the date of death of the decedent.

Amended. L. 1944, c. 74, §1; L. 1956, c. 54, §1.

54:35-10.1. Application of act. The provisions of this act [L.1956, c. 54] shall apply to any tax erroneously paid on or after January 1, 1950.

Adopted. L. 1956, c. 54, §2.

54:35-11. Refund when debts proved after legacies and distributive shares paid. When a debt is proved against the estate of the decedent, after payment of legacies or distribution of property from which the tax has been deducted, or upon which the tax has been paid, and a refund is made by the legatee, devisee, heir or next of kin to pay such debt, a proportion of the tax so paid shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the state tax commissioner, or, by the state treasurer if the same has been paid into the state treasury.

54:35-12. Notice of transfer of realty filed with tax commissioner. When any of the real property of which a decedent dies seized passes to a body politic or corporate, or to a devisee or beneficiary other than the corporations, institutions and organizations specifically exempted under chapters 33 to 36 of this title (§54:33-1 et seq.), from the tax thereby imposed, the heirs, devisees, executors, administrators or trustees of such decedent shall give information thereof in writing to the state tax commissioner within six months after they obtain title thereto or undertake the execution of their respective duties, or, if the fact be not known to them within that period, then within one month after the same has come to their knowledge.

54:35-13. Report of probate; penalty. The Clerk of the Superior Court or the surrogate of the county shall, within ten days after the probate of a foreign or domestic will, the filing of a copy of a foreign will or the taking out of letters of administration, notify the Director of the Division of Taxation thereof in writing. If the clerk or surrogate fails so to notify the director, he shall be liable to a penalty of two hundred dollars, (\$200.00), to be recovered in a civil action in the name of the State.

Amended. L. 1953, c. 51, §141.

54:35-14. Search of probate records. The Director of the Division of Taxation or any of his employees may examine any and all papers, documents and files which now are or hereafter may be filed or lodged with the Clerk of the Superior Court or the surrogate of any county or with any other official of this State or of any municipality thereof, or with any person or corporation, for the

purpose of ascertaining what property, if any, is or shall be liable to the tax provided for by chapters thirty-three to thirty-six of this Title (§54:33-1 et seq.).

Amended. L. 1953, c. 51, §142.

54:35-15. Enforcement of tax lien. Any tax which has accrued under chapters thirty-three to thirty-six, inclusive, of this Title (§54:33-1 et seq.), and has not been paid, shall be sued for and shall be recoverable and the lien thereof, if any, shall be enforceable, by action instituted in the Superior Court, by and in the name of the Director of the Division of Taxation, Department of the Treasury. No issue which would have been cognizable on an appeal from the assessment of the tax under the provisions of section 54:34-13 of the Revised Statutes shall be heard or decided in the action for the collection of the tax and enforcement of the lien under the provisions of this section.

A judgment entered in any such action shall have the same effect as other judgments entered in the Superior Court and shall constitute a lien, and execution shall issue thereon.

Amended. L. 1948, c. 336, §2; L. 1953, c. 51, §143.

54:35-16. Prosecution of action. If the Director of the Division of Taxation shall determine to institute an action pursuant to section 54:35-15 of this Title he shall notify the Attorney General thereof, who shall, if he have probable cause to believe that the tax is due and unpaid, prosecute the action.

On warrant of the comptroller and certification of the Director of the Division of Taxation, the State Treasurer shall pay all expenses of such proceeding.

Amended. L. 1953, c. 51, §144.

54:35-17. Information as to property taxable; reward to informant. When a resident or nonresident of this state has died or shall hereafter die testate or intestate, seized or possessed of property subject to a tax under the provisions of chapters 33 to 36 of this title (§54:33-1 et seq.), or any prior existing statute, or when there is real or personal property subject to a tax under said chapters 33 to 36 or any prior existing statute, as a tax upon the transfer of property by such decedent, and such decedent has been dead for a period of four years without notice of his death or information of the transfer of the property so liable to a tax having been received by the state tax department, the state tax commissioner may enter into an agreement in writing with the person first giving him information of the

existence of property so liable to a tax, to pay him an amount computed as follows:

- a. On that portion of the tax and penalty collected, not exceeding \$300,000 10%
- b. On any excess over \$300,000 and under \$2,000,000 5%
- c. On any excess over \$2,000,000..... 2%

The agreement herein provided for shall apply only to the tax and penalty accruing and collected as a result of the information disclosed by the informant and no informant who has willfully or otherwise permitted or caused the delay in the filing of a full and complete record of the decedent’s estate, including transfers made in contemplation of or to take effect at or after death, shall receive compensation under the provisions of this section and section 54:35-18 of this title.

54:35-18. Payment of reward to informant. Upon the collection of such tax, and penalties thereon, if any, the comptroller of the treasury may, on satisfactory proof of the agreement and the amount of tax and penalties, if any, paid into the state treasury, duly certified to him by the state tax commissioner, draw his warrant on the state treasurer in favor of the person giving the information for the amount called for by the terms of the agreement.

All amounts becoming due under the provisions of this section shall be paid from the same fund provided in the annual appropriation bill for the payment of refunds to estates pursuant to section 54:35-10 of this title and refunds to counties pursuant to section 54:33-10 of this title.

54:35-19. Transfer of decedent’s assets. Unless the Director of the Division of Taxation consents in writing thereto, no State or federally chartered bank, savings bank, savings and loan association or credit union, or safe deposit company, trust company or other institution, corporation or person shall deliver or transfer any securities, deposits or other assets within its or his control or possession, including capital stock of or other interests in the State or federally chartered bank, savings bank, savings and loan association or credit union or safe deposit company, trust company, institution, or corporation, which belong to or stand in the name of a resident decedent or in the joint names of a resident decedent and one or more persons, to an executor, administrator or legal representative of a resident decedent, or upon his or their order or request, or, to the survivor or survivors when held in the joint names

of a resident decedent and one or more persons, or upon his or their order or request, without:

a. Notice of the time and place of such intended delivery or transfer being served upon the Director of the Division of Taxation at least 10 days prior thereto, and

b. The retention by the State or federally chartered bank, savings bank, savings and loan association or credit union, or safe deposit company, trust company, institution, corporation or persons of sufficient of the assets mentioned herein to pay any tax and interest which may be assessed on such delivery or transfer under authority of chapters 33 to 36 of Title 54 of the Revised Statutes.

The Director of the Division of Taxation may, either personally or by representative, examine such securities, deposits or assets of a resident decedent.

Notwithstanding the foregoing provisions of this section, a State or federally chartered bank, savings bank, savings and loan association or credit union, or safe deposit company, trust company, institution, corporation or person may transfer not in excess of the amounts hereinafter provided of funds of a resident decedent, on deposit or otherwise in its or his control or possession, without the written consent of the Director of the Division of Taxation, to a surviving spouse or \$5,000.00, to any one other than the surviving spouse, \$200.00; provided, such transferor shall first obtain from the transferee an affidavit, in such form as shall be prescribed by the director, establishing that the value of the gross estate, real and personal, of the decedent does not exceed \$200.00 where the transferee is one other than the surviving spouse or \$5,000.00 where the transferee is the surviving spouse, which affidavit, within 30 days after the transfer, shall be filed by the transferor with the director.

With respect to deaths occurring on or after July 1, 1988, the provisions of this section shall not apply to any securities, deposits or other assets which belong to or stand in the name of a resident decedent and are payable on death to his or her surviving spouse, parent, grandparent, child or children, child or children adopted by the decedent in conformity with the laws of the State, or of the United States or of a foreign country, or the issue of any child or legally adopted child of a decedent, either by virtue of joint ownership or pursuant to the decedent's will. It shall be lawful, notwithstanding the other provisions of this section, for any State or federally chartered bank, savings bank, savings and loan association or credit union, or safe deposit company, trust company, or other

institution, corporation or person to deliver or transfer any securities, deposits, or other assets within its or his control or possession to a surviving spouse, parent, grandparent, child or children, child or children adopted by the decedent in conformity with the laws of this State, or of the United States, or of a foreign country, or the issue of any child or legally adopted child, without prior notice to the Director of the Division of Taxation and without the retention of any assets to pay any tax and interest which may be assessed on that delivery or transfer under the authority of chapters 33 to 36 of Title 54 of the Revised Statutes. The Director of the Division of Taxation may require affidavits or reports and records of the delivery or transfer of securities, deposits or other assets as he may deem necessary, but shall in no manner restrict the exercise of any right of a transferee to a transfer of securities, deposits or other assets subject to the provisions of this paragraph.

Amended. L. 1951, c. 177, §1; L. 1964, c. 217, §1; L. 1979, c. 217, §1; L. 1988, c. 103, §1.

54:35-20. Penalty for failure to notify or obtain consent of tax commissioner. A safe deposit company, trust company, bank or other institution or corporation or person failing to serve notice, allow an examination or retain a sufficient portion or amount to pay the tax and interest, pursuant to the requirements of section 54:35-19 of this title, shall be liable to pay the amount of the tax and interest due or to become due upon the securities, deposits, shares of stock or other assets so transferred or delivered, and in addition shall be liable to a penalty of one thousand dollars. Such liability to pay the tax and interest and penalty, may be enforced in an action at law in the name of the state, and, when recovered, the same shall be paid into the treasury for the use of the state.

This section shall not be deemed to render a safe deposit company, trust company, bank or other institution or corporation or person liable to such tax and interest or penalty of one thousand dollars where it or he delivers securities, deposits, shares of stock or other assets belonging to or standing in the names of two or more persons to one of such persons without knowledge or reasonable ground to believe that another one of such persons is dead.

54:35-21. Transfer of stock of domestic corporation; notice and consent required; penalty. No corporation of the state shall transfer any of its stock standing in the name of or belonging to a resident decedent or in joint names of such a decedent and one or more persons, or in trust for a resident decedent, unless notice of the

time of the intended transfer be served upon the state tax commissioner at least ten days prior to the transfer, nor until the commissioner consents thereto in writing.

A corporation making such a transfer without first obtaining the consent of the state tax commissioner thereto shall be liable for the amount of any tax which may thereafter be assessed on account of the transfer of such stock, together with interest thereon, and in addition it shall be liable to a penalty of one thousand dollars. Such liability to pay the tax and interest and penalty prescribed may be enforced in an action at law in the name of the state, and, when recovered, the same shall be paid into the treasury for the use of the state.

54:35-22. Transfer of collateral; consent of tax commissioner.

A state bank, state banking association, trust company, national bank and national banking association shall, for the purpose of liquidating a loan or debt due from a resident decedent secured in whole or part by stocks, bonds or other personal securities, by assignment in blank or otherwise, have the same authority as the legal representative of such decedent has, or would have if appointed, to make demand upon the state tax commissioner for his consent to the transfer of the collateral so held, and, upon the granting of such consent, to have such collateral transferred by the assignment so held, on the books of a corporation having an office in this state, as such bank, banking association and trust company or the assignment may direct. The corporation upon whose books such transfer is made shall be forever discharged from all claims and demands whatsoever by reason of such transfer.

54:35-23. Consents to transfer assets. Before the Director of the Division of Taxation shall issue any consents to transfer assets of a person dying domiciled in the State of New Jersey, he shall require that proof be submitted to him that the will of such decedent was originally probated in New Jersey, or that letters of administration upon the estate of such decedent were originally granted in New Jersey; and if it shall appear that original probate or that original administration was had in a foreign jurisdiction, the director shall withhold issuance of all consents to transfer the decedent's assets, and shall make report thereof to the Superior Court, and shall await the further order of the court. This act shall not apply in cases where it shall appear to the director that neither the probate of a decedent's will nor the grant of letters of administration shall be required by the laws of this State respecting administration of estates.

Notwithstanding the provisions of this act, the director may, in his discretion, issue any or all consents to transfer assets of a decedent in any case where, in his judgment, withholding issuance thereof would jeopardize the collection of transfer inheritance taxes payable to this State.

Adopted. L. 1939, c. 122, §1. **Amended.** L. 1943, c. 38, §1; L. 1953, c. 51, §145; L. 1991, c. 91, §511, effective April 9, 1991.

Chapter 36. ASSESSMENT, COLLECTION AND ENFORCEMENT OF TAXES ON ESTATES SUBJECT TO FUTURE INTERESTS

Section

- 54:36-1 Vested remainders after estate for life or years.
- 54:36-2 Valuation of estates for life or years.
- 54:36-3 Executory devises or contingent or defeasible estates in expectancy.
- 54:36-4 Estates subject to a power of appointment.
- 54:36-5 Taxes on executory devises, contingent future estates, estates subject to power of appointment; when payable.
- 54:36-6 Composition of taxes in certain estates; bond in lieu of present payment.
- 54:36-7 Executor or trustee not to deliver property until tax paid.

54:36-1. Vested remainders after estate for life or years.

When a person shall bequeath or devise, convey, grant, sell or give any property or interest therein, or income therefrom, to a person or corporation for life or for a term of years, and a vested interest in the remainder or corpus of such property to a person or to a body politic or corporate, the whole of the property so transferred shall be appraised immediately at its clear market value. The value of the life estate or estate for a term of years shall be fixed in the manner provided in section 54:36-2 of this title. The value of the remainder in the property so limited shall be ascertained by deducting the value of the life estate or estate for a term of years from the appraised market value of the property so limited. The tax on such estate or estates, remainder or remainders, interest or interests, shall be immediately due and payable and remain a lien upon the entire property so limited until paid.

54:36-2. Valuation of estates for life or years. In determining the value of a life estate, annuity, or estate for a term of years, the United States Life Tables, after December 31, 1970, Single Life Male 6% and Single Life Female 6%, published by the United States Department of Health, Education and Welfare, Public Health Service, with interest at the rate of 6% per annum, shall be used and shall be effective with respect to estates of decedents dying on or after January 1, 1978.

Amended. L. 1977, c. 219, §2.

54:36-3. Executory devises or contingent or defeasible estates in expectancy. When an instrument creates an executory devise, or an estate in expectancy of any kind or character which is contingent or defeasible, the property which is the subject of such devise or in which such contingent or defeasible interest is created shall be appraised immediately at its clear market value. The life estate or estate for a term of years shall be valued in accordance with section 54:36-2 of this title, and if taxable, the tax shall be assessed and levied thereon immediately and shall be immediately due and payable. Thereupon, the value of the estate for life or term of years shall be deducted from the appraised value of the property which is the subject of such devise or limitation and the tax on such balance of the estate shall not be levied or assessed until the person or corporation entitled thereto comes into the beneficial enjoyment, seizin or possession thereof, at which time, if taxable under the provisions of chapters 33 to 36 of this title (§54:33-1 et seq.), it shall be taxed.

54:36-4. Estates subject to a power of appointment. When an instrument creates a power of appointment, the life estate, or estate for a term of years, created and transferred by such instrument shall, if taxable, be immediately appraised and taxed at its clear market value, but the appraisal and taxation of the interest or interests in remainder to be disposed of by the donee of the power shall be suspended until the exercise of the power of appointment. Such interest or interests in remainder shall then be taxed, if taxable, at the clear market value of such property, which value shall be determined as of the date of the death of the creator of the power.

54:36-5. Taxes on executory devises, contingent future estates, estates subject to power of appointment; when payable. A tax on an estate for life, or on an estate for a term of years, levied and assessed as directed by sections 54:36-3 and 54:36-4 of this title, shall be due and payable as provided in section 54:35-1 of this title.

All other taxes levied and assessed as directed in said sections 54:36-3 and 54:36-4, and all taxes on property which may be transferred to the residuary legatees, heir or next of kin of a decedent, or which may revert to the heir of a decedent by reason of the failure of a contingency upon which a remainder may be limited, shall be due and payable within two months after the person entitled to the property shall come into the enjoyment, seizin or possession thereof, and if not paid shall thenceforth bear interest at the rate of ten per cent per annum until paid.

54:36-6. Composition of taxes in certain estates; bond in lieu of present payment. Where an estate was so created that the remainders or expectant estates therein were of such nature or were so disposed or circumstanced that the taxes thereon were held to be not presently payable, or where the interests of legatees or devisees were not ascertainable at the death of the testator, grantor, donor or vendor, the State Tax Commissioner may enter into an agreement with the executors or trustees for the purpose of compounding such taxes upon such terms as may be deemed equitable and expedient.

The payment of the taxes provided for in such composition shall be conclusive in favor of the executor or trustee as against the interests of such cestuis que trustent as may possess present rights of enjoyment or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates.

If the executor or trustee elects to defer the adjustment of the taxes until the person or body politic or corporate beneficially interested in the property chargeable with the tax comes into actual possession or enjoyment of the property, such executor or trustee shall execute a bond to the State of New Jersey, in twice the amount of the tax imposed at the highest possible rate, with such surety or sureties as the State Tax Commissioner shall approve, conditioned to pay the tax and interest thereon at such time or period as hereinabove provided, which bond shall be filed in the office of the State Tax Commissioner. Upon the filing and approval of such bond, the State Tax Commissioner shall be authorized to issue consents permitting the transfer of any and all property disclosed in the proceeding.

Amended. L. 1943, c. 165, §1.

54:36-7. Executor or trustee not to deliver property until tax paid. No executor or trustee shall turn over any property of an estate mentioned in sections 54:36-3 to 54:36-6 of this title until the tax due thereon, and interest, if any, shall have been paid to the state tax commissioner. Any executor or trustee who shall turn over any such property prior to the payment of the tax due thereon, together with interest, shall be personally liable for such tax and interest, which liability may be enforced in an action at law in the name of the state.

Chapter 37. DEATH TAXES DUE TO OTHER STATES

Section

- 54:37-1 Definitions.
54:37-2 Construction.
54:37-3 Application of chapter; reciprocity.
54:37-4 Original grant of letters; notice to domiciliary state.
54:37-5 Proof of payment of death taxes of domiciliary state.
54:37-6 Failure to prove tax payment; notice to domiciliary state.
54:37-7 Action to compel an accounting; remission of property.
54:37-8 Final accounting not allowed until taxes paid.

54:37-1. Definitions. As used in this chapter:

“State” includes any territory of the United States, the District of Columbia and any foreign country.

“Probate court” means any court of this state having jurisdiction over the probate of wills.

54:37-2. Construction. The provisions of this chapter shall be liberally construed so that the state of domicile of a decedent shall receive any death taxes, together with interest and penalties thereon, due it.

54:37-3. Application of chapter; reciprocity. This chapter shall not apply to estates of resident decedents and shall apply to the estates of nonresident decedents only when:

a. The laws of the state of his domicile contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance of the collection of its death taxes, interest and penalties, from the estates of decedents dying domiciled in this state in cases where the estates of such decedents are being administered by the probate court of such other state, or

b. The state of domicile does not grant letters in nonresident estates until after letters have been issued by the state of domicile.

54:37-4. Original grant of letters; notice to domiciliary state. Within thirty days after the original, not ancillary, qualification in a probate court of this state of an executor of the will of, or administrator of the estate of, a nonresident decedent, notice thereof, by mail, shall be given by the clerk of such probate court to the official or body of the domiciliary state charged with the administration of the death tax law thereof with respect to such estate. Such notice shall state the full name of the decedent, date of decedent’s death, name of the county and state wherein he resided at

the date of death, and the name and address of each person to whom letters have been issued.

54:37-5. Proof of payment of death taxes of domiciliary state.

Within eighteen months after so qualifying such executor or administrator shall file with the probate court of this state proof that all death taxes, with interest or penalties thereon, due to the state of domicile or its political subdivisions, have been paid or secured, or that no such taxes, interest or penalties are due, as the case may be, unless it appears that letters have been issued in the state of domicile. Such proof may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state.

54:37-6. Failure to prove tax payment; notice to domiciliary state. If the proof required by section 54:37-5 of this title is not filed within the time therein limited, the clerk of such probate court shall forthwith notify by mail the official or body of the domiciliary state so charged with the administration of the death tax. The notice shall state:

- a. The name, date of death and last domicile of the decedent;
- b. The name and address of each executor or administrator;
- c. The fact that the executor or administrator has not filed theretofore the proof so required; and
- d. A summary of the values of the real estate and tangible and intangible personalty, wherever situate, belonging to the decedent at the time of his death, if known to the clerk.

The clerk shall attach to the notice a plain copy of the will and codicils if the decedent died testate, or, if he died intestate, a list of the heirs and next of kin so far as known to the clerk.

54:37-7. Action to compel an accounting; remission of property. If the official or body charged with the administration of the death tax laws of the domiciliary State shall, within sixty days after a notice is mailed pursuant to section 54:37-6 of this Title commence an action to compel an accounting in such estate with a court of this State having jurisdiction over the accounts of the estate, the court shall require such accounting. When the accounting has been filed and approved by the court, the court shall direct the remission to the fiduciary appointed by the domiciliary State of sufficient of the intangible personalty, after payment of creditors in

this State and expenses of administration in this State, to satisfy the claims of the domiciliary State for death taxes, interest and penalties.

Amended. L. 1953, c. 51, §146.

54:37-8. Final accounting not allowed until taxes paid. No executor or administrator shall be entitled to a judgment settling his final account or to a discharge in any court of this State unless he has complied with the provisions of section 54:37-5 of this Title.

Amended. L. 1953, c. 51, §147.

Part 2. ESTATE TAX

Chapter 38. IMPOSITION AND COLLECTION OF TAX

Section

- 54:38-1 Imposition of tax; amount.
- 54:38-2 Additional tax in certain cases.
- 54:38-3 Tax due.
- 54:38-4 Taxation of future interests after estate tax paid; credit.
- 54:38-5 When tax due; interest on arrearages; time extensions.
- 54:38-6 Assessment and collection; disposition of proceeds; executors personally liable.
- 54:38-7 Copy of federal estate tax return filed; rules and regulations.
- 54:38-8 Repealed.
- 54:38-9 Repealed.
- 54:38-10 Jurisdiction.
- 54:38-11 Funds out of which tax is payable.
- 54:38-12 Certificate of inheritance withheld until tax paid; exception.
- 54:38-13 Purpose of chapter; liberal construction.
- 54:38-14 Estates subject to tax.
- 54:38-15 Constitutional construction.
- 54:38-16 Other state taxes and liens unaffected.

54:38-1. Imposition of tax; amount. a. In addition to the inheritance, succession or legacy taxes imposed by this state under authority of chapters 33 to 36 of this title (R.S. 54:33-1 et seq.), or hereafter imposed under authority of any subsequent enactment, there is hereby imposed an estate or transfer tax:

(1) Upon the transfer of the estate of every resident decedent dying before January 1, 2002 which is subject to an estate tax payable to the United States under the provisions of the federal revenue act of one thousand nine hundred and twenty-six and the amendments thereof and supplements thereto or any other federal revenue act in effect as of the date of death of the decedent, the amount of which tax shall be the sum by which the maximum credit allowable against any federal estate tax payable to the United States under any federal revenue act on account of taxes paid to any state or territory of the United States or the District of Columbia, shall exceed the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property

owned by such decedent or subject to such taxes as a part of or in connection with the estate; and

(2) (a) Upon the transfer of the estate of every resident decedent dying after December 31, 2001, but before January 1, 2017, which would have been subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the amount of which tax shall be, at the election of the person or corporation liable for the payment of the tax under this chapter, either

(i) the maximum credit that would have been allowable under the provisions of that federal Internal Revenue Code in effect on that date against the federal estate tax that would have been payable under the provisions of that federal Internal Revenue Code in effect on that date on account of taxes paid to any state or territory of the United States or the District of Columbia, or

(ii) determined pursuant to the simplified tax system as may be prescribed by the Director of the Division of Taxation in the Department of the Treasury to produce a liability similar to the liability determined pursuant to clause (i) of this paragraph reduced pursuant to paragraph (b) of this subsection.

(b) The amount of tax liability determined pursuant to subparagraph (a) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estates's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

(3) (a) Upon the transfer of the estate of each resident decedent dying on or after January 1, 2017, whether or not subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code (26 U.S.C. s.1 et seq.), the amount of the taxable estate, determined pursuant to section 2051 of the federal Internal Revenue Code (26 U.S.C. s.2051), shall be subject to tax pursuant to the following schedule:

On any amount up to \$100,000..... 0.0%

On any amount in excess of \$100,000, up to \$150,000.....
0.8% of the excess over \$100,000

On any amount in excess of \$150,000, up to \$200,000.....	
\$400 plus 1.6% of the excess over \$150,000	
On any amount in excess of \$200,000, up to \$300,000.....	
\$1,200 plus 2.4% of the excess over \$200,000	
On any amount in excess of \$300,000, up to \$500,000.....	
\$3,600 plus 3.2% of the excess over \$300,000	
On any amount in excess of \$500,000, up to \$700,000.....	
\$10,000 plus 4.0% of the excess over \$500,000	
On any amount in excess of \$700,000, up to \$900,000.....	
\$18,000 plus 4.8% of the excess over \$700,000	
On any amount in excess of \$900,000, up to \$1,100,000.....	
\$27,600 plus 5.6% of the excess over \$900,000	
On any amount in excess of \$1,100,000, up to \$1,600,000.....	
\$38,800 plus 6.4% of the excess over \$1,100,000	
On any amount in excess of \$1,600,000, up to \$2,100,000.....	
\$70,800 plus 7.2% of the excess over \$1,600,000	
On any amount in excess of \$2,100,000, up to \$2,600,000.....	
\$106,800 plus 8.0% of the excess over \$2,100,000	
On any amount in excess of \$2,600,000, up to \$3,100,000.....	
\$146,800 plus 8.8% of the excess over \$2,600,000	
On any amount in excess of \$3,100,000, up to \$3,600,000.....	
\$190,800 plus 9.6% of the excess over \$3,100,000	
On any amount in excess of \$3,600,000, up to \$4,100,000.....	
\$238,800 plus 10.4% of the excess over \$3,600,000	
On any amount in excess of \$4,100,000, up to \$5,100,000.....	
\$290,800 plus 11.2% of the excess over \$4,100,000	
On any amount in excess of \$5,100,000, up to \$6,100,000....	
\$402,800 plus 12.0% of the excess over \$5,100,000	
On any amount in excess of \$6,100,000, up to \$7,100,000.....	
\$522,800 plus 12.8% of the excess over \$6,100,000	
On any amount in excess of \$7,100,000, up to \$8,100,000.....	
\$650,800 plus 13.6% of the excess over \$7,100,000	
On any amount in excess of \$8,100,000, up to \$9,100,000.....	
\$786,800 plus 14.4% of the excess over \$8,100,000	
On any amount in excess of \$9,100,000, up to \$10,100,000....	
\$930,800 plus 15.2% of the excess over \$9,100,000	
On any amount in excess of \$10,100,000.....	\$1,082,800
plus 16.0% of the excess over \$10,100,000	

(b) A credit shall be allowed against the tax imposed pursuant to subparagraph (a) of this paragraph equal to the amount of tax which would be determined by subparagraph (a) of this paragraph if the amount of the taxable estate were equal to the exclusion amount.

For the transfer of the estate of each resident decedent dying on or after January 1, 2017, but before January 1, 2018, the exclusion amount is \$2,000,000.

(c) The amount of tax liability of a resident decedent determined pursuant to subparagraphs (a) and (b) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state of the United States, including inheritance taxes actually paid this State, in respect to any property owned by that decedent or subject to those taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estate's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

(4) For the transfer of the estate of each resident decedent dying on or after January 1, 2018, there shall be no tax imposed.

b. (1) In the case of the estate of a decedent dying before January 1, 2002 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, but an estate tax is due the United States under the provisions of any federal revenue act in effect as of the date of death, wherein provision is made for a credit on account of taxes paid the several states or territories of the United States, or the District of Columbia, the tax imposed by this chapter shall be the maximum amount of such credit less the aggregate amount of such estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

(2) In the case of the estate of a decedent dying after December 31, 2001, but before January 1, 2017, where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, the tax imposed by this chapter shall be determined pursuant to paragraph (2) of subsection a. of this section.

(3) In the case of the estate of a decedent dying on or after January 1, 2017 the tax imposed by this chapter shall be determined pursuant to paragraphs (3) and (4) of subsection a. of this section.

c. For the purposes of this section, a "simplified tax system" to produce a liability similar to the liability determined pursuant to clause (i) of subparagraph (a) of paragraph (2) of subsection a. of this section is a tax system that is based upon the \$675,000 unified

estate and gift tax applicable exclusion amount in effect under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, and results in general in the determination of a similar amount of tax but which will enable the person or corporation liable for the payment of the tax to calculate an amount of tax notwithstanding the lack or paucity of information for compliance due to such factors as the absence of an estate valuation made for federal estate tax purposes, the absence of a measure of the impact of gifts made during the lifetime of the decedent in the absence of federal gift tax information, and any other information compliance problems as the director determines are the result of the phased repeal of the federal estate tax.

Amended. L. 2002, c. 31, §1, effective July 1, 2002, and shall apply to the estate of any resident decedent dying after December 31, 2001; L. 2016, c. 57, §7, effective October 14, 2016.

54:38-2. Additional tax in certain cases. If subsequent to the determination of the tax due under this chapter an additional or increased estate tax shall become payable to the United States by reason of any redetermination, or additional or corrected assessment, as to a portion of which the estate is entitled to a credit on account of estate, inheritance, succession or legacy taxes paid to any state or territory of the United States or the District of Columbia, then an additional estate tax shall be due and payable to this state to be assessed in the same manner as provided by section 54:38-1 of this title.

54:38-3. Tax due. If, subsequent to the determination of the tax due under this chapter, the amount of the Federal estate tax shall be decreased and the amount of the Federal credit correspondingly reduced by reason of any corrected assessment or redetermination, the tax due hereunder shall be reduced accordingly upon satisfactory proof submitted to the State Tax Commissioner, and, if the tax due hereunder shall have theretofore been paid into the State treasury, the Comptroller of the Treasury, on satisfactory proof of such fact submitted to the State Tax Commissioner, and duly certified by him to the Comptroller, shall draw his warrant on the State Treasurer in favor of the executor, administrator, trustee, person or corporation who has paid said tax, or who may be lawfully entitled to receive the same, for the amount of such tax excessively paid and said warrant shall be paid by the State Treasurer out of any appropriation for the refund of transfer inheritance taxes the same as warrants for the refund of such taxes under the transfer inheritance tax statutes of this

State are paid. The foregoing provisions respecting refund shall apply with the same force and effect to any other payments determined by the State Tax Commissioner to have been excessively made under this chapter.

All applications for the refund of taxes claimed to have been excessively or erroneously paid hereunder must be filed with the State Tax Commissioner within three years from the date of payment.

Amended. L. 1944, c. 75, §1.

54:38-4. Taxation of future interests after estate tax paid; credit. If after the payment of the tax hereby imposed there shall become due and payable a tax upon any future interest in any property under an instrument creating an executory devise or an estate in expectancy of any kind or character which is contingent or defeasible, under sections 54:36-3 to 54:36-7 of this title, or if by reason of any additional or corrected assessment by the state tax commissioner an additional inheritance, succession or legacy tax shall become due and payable under chapters 33 to 36 of this title (§54:33-1 et seq.), or under any subsequent enactment imposing taxes of a similar nature, the tax paid under this chapter shall be credited against the tax arising under said sections 54:36-3 to 54:36-7 or any additional tax as aforesaid, but the amount so credited shall not in any event exceed the amount of the tax so accruing. Nothing contained in this chapter shall reduce the amount of inheritance, succession or legacy taxes due and payable to the state under the provisions of said chapters 33 to 36 of this title, or under any subsequent enactment or entitle the estate of any resident decedent to a refund because the taxes paid thereunder shall exceed the amount of the credit under any federal revenue act in effect as of the date of death of the decedent.

54:38-5. When tax due; interest on arrearages; time extensions. All taxes imposed by R.S.54:38-1 and R.S.54:38-2 shall become due at the date of death of the decedent and if not paid before the expiration of nine months from the date of the death of the decedent shall bear interest at the rate of ten percent per annum from the expiration of said nine months until paid, unless an extension of time to file the federal estate tax return is granted, in which case the director may reduce the interest rate to six percent per annum until the expiration of the extension; provided however, that if the decedent shall have heretofore died or shall hereafter die while a member of the Armed Forces of the United States, no such tax shall

commence to bear such interest until the expiration of nine months after receipt of official notification of the death of the decedent by the husband, wife, father, mother, or next of kin of such decedent. The director may, for cause shown, extend the time for payment with interest at the rate of ten percent per annum for such period as the circumstances, in his discretion, may require.

Amended. L. 1992, c. 39, §1, effective June 30, 1992.

54:38-6. Assessment and collection; disposition of proceeds; executors personally liable. The Director of the Division of Taxation in the Department of the Treasury shall assess and collect all taxes imposed by this chapter. Such taxes when and as collected by the director shall be paid forthwith into the State Treasury for the exclusive use of the State, and all administrators, executors, trustees, grantees, donees and vendees, shall be personally liable for any and all such taxes until paid, for which an action at law shall lie in the name of the State. Notwithstanding the provisions of any other law to the contrary, taxes imposed under this chapter shall remain a lien on all property of the decedent as of the date of the decedent's death until paid. No property owned by the decedent as of the date of the decedent's death may be transferred without the written consent of the director, or pursuant to such rules as the director may prescribe.

Amended. L. 2002, c. 31, §2, effective July 1, 2002, and shall apply to the estate of any resident decedent dying after December 31, 2001.

54:38-7. Copy of federal estate tax return filed; rules and regulations. The executor, administrator, trustee or other person or corporation liable for the payment of the tax hereunder shall file with the Director of the Division of Taxation in the Department of the Treasury a copy of the federal estate tax return within thirty days after the filing of the original with the federal government, and a copy of any communication from the federal government making any final change in said return, or confirming, increasing or diminishing the tax thereby shown to be due, which is to be filed within thirty days after receipt thereof. In the case of any decedent dying after December 31, 2001 the executor, administrator, trustee or other person or corporation liable for the payment of such tax shall prepare and file with the director, in addition to a copy of such return, if any, as shall have been filed with the federal government, a federal estate tax return in the form in which such return would have been required to be filed with the federal government under the provisions of the federal Internal Revenue Code of 1986, 26 U.S.C.

s.l et seq., in effect on December 31, 2001, within 30 days after the date on which such a filing would have been due under those provisions for a decedent dying on that date; provided however, that a person or corporation liable for the payment of the tax under this chapter that elects to determine tax pursuant to clause (ii) of subparagraph (a) of paragraph (2) of subsection a. of R.S.54:38-1 shall file such alternate New Jersey estate tax forms as may be prescribed by the director pursuant to the requirements of that clause.

In addition to the copy or copies of the federal estate tax return, or alternate tax forms, the executor, administrator, trustee or other person or corporation shall file any other evidence, information or data that the Director of the Division of Taxation shall in the director's discretion deem necessary. For the purposes of this chapter the Director of the Division of Taxation is hereby authorized and empowered to promulgate such rules and regulations, not inconsistent with the provisions hereof, as the director shall deem necessary.

Amended. L. 2002, c. 31, §3, effective July 1, 2002, and shall apply to the estate of any resident decedent dying after December 31, 2001.

54:38-8 through 54:38-9. Repealed.

Repealed. L. 2002, c. 31, §4, effective July 1, 2002, and shall apply to the estate of any resident decedent dying after December 31, 2001.

54:38-10. Jurisdiction. a. The tax court on appeal shall have jurisdiction to hear and determine all questions in relation to any tax imposed under the provisions of this chapter. Any executor, administrator, trustee, person or corporation liable for the payment of any tax imposed by this chapter may appeal to the tax court for a review thereof within 90 days of the date of notice assessing the tax complained of, in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq.

b. Any aggrieved taxpayer that has neither protested or appealed from an additional assessment of tax may, pursuant to subsection (b) of R.S.54:49-14, file a claim for refund of the assessment paid.

Amended. L. 1953, c. 51, §148; L. 1978, c. 32, §3; L. 1983, c. 36, §39; L. 1998, c. 106, §9, effective Sept. 14, 1998, and it shall apply to return periods beginning on or after January 1, 1999 .

54:38-11. Funds out of which tax is payable. The tax imposed by this chapter shall be paid out of the same funds as those from which federal estate taxes are payable.

54:38-12. Certificate of inheritance withheld until tax paid; exception. The state tax commissioner shall not issue any certificate or other evidence of inheritance, succession or legacy tax paid this state in the estate of a resident decedent for use before the internal revenue bureau in an estate tax proceeding until all estate taxes imposed by this chapter have been paid or payment duly provided for, but the state tax commissioner may, in his discretion, pending final determination of all inheritance, succession, legacy, transfer or estate taxes due this state, issue temporary or preliminary certificates, so marked, showing payments on account of such taxes.

54:38-13. Purpose of chapter; liberal construction. It is the intent and purpose of this chapter to obtain for this state the benefit of the credit allowed under the provisions of section three hundred and one, subsection "b" of the federal revenue act of one thousand nine hundred and twenty-six, the amendments thereof and supplements thereto and any subsequent modifications thereof. The provisions of this chapter shall be interpreted and construed liberally in order to accomplish the purpose thereof and the state tax commissioner shall have, in addition to his other powers and those in this chapter specified, all additional, implied and incidental powers which shall be proper and necessary to effect and carry out the expressed intent and purpose of this chapter.

54:38-14. Estates subject to tax. This chapter shall apply to the estates of all decedents dying hereafter and to the estates of those who died subsequent to February twenty-sixth, one thousand nine hundred and twenty-six, which are still in process of settlement and subject to the jurisdiction of the courts of probate of this state, but shall not apply where the inheritance, succession or legacy tax due the state has been fully paid and the inheritance tax proceeding considered closed by the state tax commissioner, or where the estate tax due the United States has been fully paid and the time within which to claim the benefits of the credit provision of the federal revenue act of one thousand nine hundred and twenty-six, or any modifications thereof has expired prior to June twenty-second, one thousand nine hundred and thirty-four.

54:38-15. Constitutional construction. If for any reason any section or any provision of this chapter shall be questioned in any

court, and shall be held to be unconstitutional or invalid, the same shall not be held to affect any other section or provision hereof. If for any reason any section, or provision, or the chapter in its entirety, shall be held to be unconstitutional or invalid, the same shall not be held to affect or invalidate, in whole or in part, any inheritance, succession or legacy tax laws of this state either heretofore or hereafter effective.

54:38-16. Other state taxes and liens unaffected. Nothing contained in this chapter shall be construed to decrease any inheritance, succession or legacy tax due or to become due the state or to impair the lien of the state for any such tax.

Part 3. INHERITANCE AND ESTATE TAXES

Chapter 38A. COMPROMISES

Section

- 54:38A-1 Director claims decedent was domiciled in the State.
- 54:38A-2 Effective.
- 54:38A-3 Compromise of claims for past due inheritance taxes.
- 54:38A-4 Payment to state; receipt; satisfaction of lien.
- 54:38A-5 Construction of act; implied and incidental powers.
- 54:38A-6 Severability.

54:38A-1. Director claims decedent was domiciled in the State. Where the Director of the Division of Taxation claims that a decedent was domiciled in this State at the time of death and the taxing authorities of another State or States make a similar claim with respect to their State or States, and investigation discloses a reasonable doubt regarding domicile, the Director may, in his discretion, enter into a written agreement with such taxing authorities and the executor, administrator or trustee, fixing the sum acceptable to this State in full settlement of the transfer inheritance tax imposable under chapters thirty-three to thirty-six, inclusive, of Title 54 of the Revised Statutes; provided, that said agreement also fixes the sum acceptable to such other State or States in full settlement of the death taxes imposable by such State or States; and provided further, that said agreement has the approval of a judge of the Tax Court of New Jersey. If the aggregate amount payable under such agreement to the States involved is less than the maximum sum allowable as a credit to the estate against the Federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the Director so much of the difference between such aggregate amount and the amount of such credit as the amount payable to the Director under the agreement bears to such aggregate amount, and the agreement aforesaid shall so provide. Payment of the sum or sums fixed by said agreement shall be accepted by the Director in full satisfaction of this State's claim for transfer inheritance and estate taxes which would otherwise be chargeable under subtitle five of Title 54 of the Revised Statutes, and the executor, administrator or trustee is hereby empowered to enter into the agreement provided for herein.

Adopted. L. 1944, c. 220, §1. **Amended.** L. 1999, c. 208, §11.

54:38A-2. Effective. This act [L.1944, c. 220] shall take effect immediately and shall apply where death occurs on or after its effective date.

Adopted. L. 1944, c. 220, §2.

54:38A-3. Compromise of claims for past due inheritance taxes. Where any lien or claim for any past due transfer inheritance taxes or estate or transfer taxes shall be brought into question, claimed to be invalid or impaired, or shall be in the course of litigation, and the State Commissioner of Taxation and Finance or the Director of the Division of Taxation of the State Department of Taxation and Finance, shall, after investigation, determine that there is reasonable doubt of the State's ability to enforce said lien or claim or to collect the taxes due, or claimed to be due, or that there is a reasonable doubt that said lien is valid or unimpaired, such officer shall be empowered and authorized to enter into an agreement with the executor, administrator or trustee of any estate against whose assets said lien or claim shall be asserted, or the heirs, next of kin or beneficiaries succeeding to the property of any decedent against which such lien or claim is asserted, to alter, revise, compromise and settle all claims or liens for past due inheritance taxes or estate or transfer taxes, together with all interest or interest penalties thereon; provided, however, that the executor, administrator, trustee, heir or heirs, next of kin, beneficiary or beneficiaries, shall waive all defenses which might be set up against the claim or lien of the State and shall submit to such terms of payment and settlement as the Commissioner or Director shall deem to be equitable and just and in the best interest of the State.

Adopted. L. 1945, c. 127, §1.

54:38A-4. Payment to state; receipt; satisfaction of lien. Any such alteration, revision, compromise or settlement shall be null and void unless the amount agreed to be paid pursuant thereto shall be paid within the time or times fixed in said agreement and in such event all payments made thereunder shall belong to the State and shall be credited upon the arrears of taxes and interest or interest penalties due. Upon payment in full of the amount agreed to be paid pursuant to the terms of such agreement of alteration, revision, compromise or settlement, the person or persons so paying shall be entitled to receive a receipt for such payment in the manner and form provided by section 54:35-8 of the Revised Statutes, which shall be a proper voucher as provided therein, and the commissioner or the director shall issue a statement in the manner and form provided in

section 54:35-9 of the Revised Statutes, which may be recorded in the manner and form therein set forth. If a judgment or decree has been entered in favor of the State of New Jersey, the commissioner or the director, upon payment of the amount agreed upon or upon determination that the assessment be canceled, shall execute and record a proper satisfaction of the lien, claim, judgment or decree in accordance with the facts.

Adopted. L. 1945, c. 127, §2.

54:38A-5. Construction of act; implied and incidental powers. The provisions of this act [L.1945, c. 127] shall be construed to be additional legislation on the subject matter covered hereby and not as a revision or repeal of any other act relating to the same or similar subject matter. The provisions of this act shall be interpreted and construed liberally in order to accomplish the purpose thereof, and the commissioner and the director shall have, in addition to their other powers and those in this act specified, all such additional implied and incidental powers as shall be proper and necessary to effect and carry out the expressed intent and purpose of this act.

Adopted. L. 1945, c. 127, §3.

54:38A-6. Severability. The provisions of this act [L.1945, c. 127] shall be severable and if any part or provision thereof shall be declared to be unconstitutional, invalid or inoperative, in whole or in part, by a court of competent jurisdiction, this act and any part or provision thereof shall to the extent that it is not unconstitutional, invalid or inoperative, be enforced and effectuated, and the decision of the court shall not affect the validity or effectiveness of the remainder of the act or any part or provision thereof; and this act or any part or provision thereof shall not be deemed to be invalidated or made ineffectual to the extent that its operation is not unconstitutional, by reason of the fact that a court of competent jurisdiction may declare any particular application or applications or operation of this act or any part or provision thereof to be unconstitutional.

Adopted. L. 1945, c. 127, §4.