

CHAPTER 14

SENIOR CITIZENS', DISABLED PERSONS',
SURVIVING SPOUSES'/CIVIL UNION
PARTNERS' DEDUCTION

Authority

N.J.S.A. 54:4-8.19 and 8.47.

Source and Effective Date

R.2009 d.213, effective July 6, 2009.
See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 14, Senior Citizens', Disabled Persons', Surviving Spouses'/Civil Union Partners' Deduction, expires on January 2, 2017. See: 48 N.J.R. 1613(a).

Chapter Historical Note

Chapter 14, Senior Citizens' Deduction, was filed and effective prior to September 1, 1969. Amendments were filed and effective on April 28, 1977, as R.1977 d.150. See: 9 N.J.R. 194(a), 9 N.J.R. 295(c). Pursuant to Executive Order No. 66(1978), Chapter 14, Senior Citizens' Deduction, was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Senior Citizens' Deduction, was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Pursuant to Executive Order No. 66(1978), Chapter 14 expired on July 29, 1993.

Chapter 14, Senior Citizens' Deduction, was adopted as new rules by R.1993 d.481, effective October 4, 1993. See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Senior Citizens' Deduction, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Chapter 14, Senior Citizens' Deduction, was readopted as R.2003 d.460, effective October 30, 2003. See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a). Chapter 14, Senior Citizens' Deduction, expired on April 28, 2009.

Chapter 14, Senior Citizens', Disabled Persons', Surviving Spouses'/Civil Union Partners' Deduction, was adopted as new rules by R.2009 d.213, effective July 6, 2009. As a part of R.2009 d.213, Subchapter 2, Qualifications, was renamed Nature of and Qualifications for Deduction; and Subchapter 3, Nature of Deduction, was renamed Procedures for Approving and Denying Deductions. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 14, Senior Citizens', Disabled Persons', Surviving Spouses'/Civil Union Partners' Deduction, was scheduled to expire on July 6, 2016. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. DEFINITIONS

18:14-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Annual income limits" shall be: \$5,000 for any year prior to 1981; \$8,000 for the year 1981; \$9,000 for the year 1982; and \$10,000 for the year 1983 and each year thereafter, exclusive of certain income as identified by constitutional provision, statute or administrative regulation. There are certain categories of income that are to be excluded from income for eligibility purposes, such as those set forth in Article VIII, section 1, paragraph 4 of the New Jersey Constitution and N.J.S.A. 54:4-8.41.

"Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends and angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

"Business income" means gross income derived from a business, trade, profession or from the rental of property after deductions of the ordinary and necessary expenses attributable to the business, trade, profession or from the property's rental, as allowed under the Federal Internal Revenue Code and regulations.

"Citizen and resident of this State" means a person who on October 1 of the pretax year is a permanent resident or

domiciliary of New Jersey and who has been such for a period of not less than one year immediately preceding October 1st of the pretax year. Such person need not hold United States' citizenship in order to be eligible for the deduction.

"Civil Union Partner" means a person who has established a civil union pursuant to P.L. 2006, c. 103.

"Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey, which entitles its shareholders to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association.

"Dwelling house" means the dwelling where claimant makes his or her principal and permanent home. Where a claimant resides in housing, which is his or her principal place of residence and occupies a cottage or bungalow during the summer months, the summer home cannot be considered as a dwelling house upon which claimant receives this deduction.

1. If a claimant owns, but occupies only a portion of, a property, the tax deduction is applied to the taxes due from that portion of the property, which he or she occupies as his or her dwelling house.

"Federal Internal Revenue Code income definition—when applicable" means that, except as otherwise indicated, the definition of income under the Federal Internal Revenue Code and regulations shall constitute the basis for computing claimant's income when determining whether it meets the applicable annual income limit.

"Income" means that the claimant's anticipated income from all sources for the tax year for which the deduction is claimed will not exceed the applicable annual income limit, exclusive of Social Security benefits; benefits received under the Federal Railroad Retirement Act and other Federal pension, disability and retirement programs; or pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under the Federal Social Security Act. Income shall include, but not be limited to, salaries, wages, bonuses, commissions, tips and other compensations before payroll deductions, all dividends, interest, realized capital gains, royalties, income from rents, business income and, in their entirety, pension, annuity and retirement benefits. Realized capital gains, except for capital gain resulting from the sale or exchange of real property owned and used by the taxpayer as his or her principal residence, and on which he or she received a deduction allowed by this act, and dividends, interest, pensions, annuities and retirement benefits must be included in full without deductions even though they may be wholly or partially exempt for Federal income tax purposes.

1. Example: Capital gain. The property owner sold his home on September 1 of the tax year resulting in a capital gain of \$10,000. None of this amount is includable in in-

come when determining the applicable annual income limit.

2. Excludable Income. Applicants may exclude benefits under only one of the following three categories:

- i. The Federal Social Security Act and all its amendments and supplements;

- ii. Any other Federal government program or pursuant to any other Federal law, which provides benefits in whole or in part in lieu of benefits referred to in, or for persons excluded from coverage under the Federal Social Security Act, including, but not limited to, the Federal Railroad Retirement Act and Federal pension, disability and retirement programs; or

- iii. Pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under, the Federal Social Security Act provided that the total amount of benefits to be excluded by any owner under items ii. or iii. above shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under i above.

3. Where husband and wife/civil union partners are receiving pension, disability or retirement benefits, the benefits of both combined may be excluded, subject to the maximum limits provided by law.

4. Income received by claimant and spouse/civil union partner is combined in establishing deduction eligibility, unless they are living apart in a state of separation. "State of separation" means a permanent and indefinite period of separation and shall not mean temporary periods of separation, such as separate vacations, business trips and hospitalizations.

5. Income of members of a claimant's family, other than his or her spouse/civil union partner, shall not be combined with the income of the claimant when determining annual income limit.

"Mutual housing corporation" means a not for profit corporation incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the "National Defense Housing Act," Pub. L. 76-849 (42 U.S.C. §§ 1521 et seq.), which acquired a National Defense Housing Project authority.

"Owned" means ownership of an estate in fee, life estate, or ownership of qualifying shares in a cooperative or mutual housing corporation, individually or as joint tenants, tenants in common or tenants by the entirety. Ownership extends to property where title is held by a partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be eligible to claim such deduction. Ownership shall not include an estate for a term of years, a leasehold estate, an estate of less than a fee interest or where property title is held by a corporation with the exception of mutual housing corporations as stated above.

"Permanently and totally disabled" means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness. "Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

"Post-tax year" means the calendar year immediately following the "tax year".

"Pretax year" means the calendar year immediately preceding the "tax year".

"Property tax deduction amount" shall not exceed: in any year prior to 1981, \$160; in the year 1981, \$200; in the year 1982, \$225; and, in the year 1983 and in each year thereafter, \$250.

"Real property tax deduction" means the deduction for senior citizen's or for permanently and totally disabled persons and their surviving spouses/civil union partners in certain cases against the real property taxes payable by such persons if they were not eligible for the deduction.

"Resident" means one legally domiciled within the State of New Jersey for a period of one year immediately preceding October 1 of the pretax year. Seasonal or temporary residence within the State, of whatever duration, shall not constitute domicile within the State for purposes of qualifying for the deduction. Absence from this State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile within the State is upon the claimant.

"Surviving spouse/civil union partner" means the surviving spouse/civil union partner of the deceased citizen and resident of this State who during his or her life received a real property tax deduction pursuant to this act, so long as he or she remains unmarried/not in a new civil union and a resident in the same dwelling house for which said deduction was granted. Said surviving spouse/civil union partner shall be eligible for the same deduction, upon the same conditions, with respect to the same real property, provided that he or she is 55 years of age or older at the time of the death of said citizen and resident deduction recipient.

"Tax year" means the calendar year in which the general property tax is due and payable.

"Tenancy by the entirety" means ownership of real property by both a husband and wife/civil union partners by virtue of title acquired by them jointly after marriage/entering into a civil union.

Amended by R.1981 d.426, effective November 2, 1981.
See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

"Annual income limitations" and "property tax deduction amount" added; "Federal Internal Revenue Code income definition—when applicable" and "Income" amended.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Added "Cooperative" and "Mutual housing cooperation."

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

Rewrote "Owned".

Amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Substituted definition "Annual income limits" for definition "Annual income limitations" and definition "Surviving spouse/civil union partner" for "definition "Surviving spouse"; rewrote definitions "Annual income limits", "Dwelling house", "Federal Internal Revenue Code income definition—when applicable", "Income", "Real property tax deduction" and "Surviving spouse/civil union partner"; added definitions "Blindness" and "Civil Union Partner"; in definition "Business income", deleted "therefrom" following "deductions" and "issued thereunder" from the end, and substituted "property's rental, as" for "rental of property which are"; in definition "Citizen and resident of this State", substituted "October 1st of the pretax year" for "such date"; in definition "Cooperative", inserted a comma following "New Jersey", and substituted "its shareholders" for "a shareholder thereof"; in definition "Owned", inserted "Ownership" twice, substituted a period for "and" following "entirety", "eligible" for "entitled", a period for "but" following "deduction", and a comma for "or" following "leasehold estate", deleted "the" following the first occurrence of "where", and inserted "or where property title is held by a corporation with the exception of mutual housing corporations as stated above"; and in definition "Tenancy by the entirety", inserted "/civil union partners" and "/entering into a civil union".

Case Notes

Tax assessor was immune from liability for negligence in award of deduction. *Borough of Franklin Lakes v. Mutzberg*, 226 N.J.Super. 46, 543 A.2d 477 (A.D.1988).

Specific allegations of fraud were required on municipality's fraud claim against former assessor. *Borough of Franklin Lakes v. Mutzberg*, 226 N.J.Super. 46, 543 A.2d 477 (A.D.1988).

Real property trust settlors held able to claim senior citizen deduction where reservation in declaration in effect included right to possess and reside in property and to make it their principal and permanent home. *Warren v. Jackson Tp.*, 1 N.J.Tax 536 (Tax Ct.1980).

SUBCHAPTER 2. NATURE OF AND QUALIFICATIONS FOR DEDUCTION

18:14-2.1 Eligibility of persons of the age of 65 or more years, or less than 65 years of age who are permanently and totally disabled or who are surviving spouses/civil union partners of the age of 55 or more years; general prerequisites for deduction eligibility

(a) Every fact essential to support a claim for deduction must exist on October 1 of the year preceding the tax year for which a deduction is claimed, except the age, permanent and total disability or widow/widower/surviving civil union partner requirements must be met as of December 31 of the pretax year. A claimant as of October 1, must establish that's he or she was:

1. A citizen of New Jersey and a legal resident thereof for a period of one year immediately prior to such date;
 2. The owner of a dwelling house, which is a constituent part of the real property of which the deduction is claimed; or the owner of a dwelling house, which is assessed as real property is situated on land owned by another or others; or a tenant shareholder in a cooperative or mutual housing corporation;
 3. Residing as the principal place of residence in said dwelling house or in a cooperative or mutual housing corporation as a tenant shareholder;
 4. Where an initial PTD application is made on or before December 31 of the pretax year or during the tax year, the anticipated income of the claimant and his or her spouse/civil union partner for the tax year will not exceed the applicable annual income limit; and
 5. As of December 31 of the pretax year is:
 - i. Age 65 years or more;
 - ii. Permanently and totally disabled; or
 - iii. Age 55 years or more at the time of the deceased deduction recipient and is unmarried.
- (b) First time claimants must make an application for the deduction on Form PTD Claim for Real Property Tax Deduction on Dwelling House of Qualified N.J. Resident Senior Citizen Disabled Person or Surviving Spouse/Civil Union Partner.
- (c) Form PTD must be filed in the taxing district where the dwelling is located with the assessor on or before December 31 of the pretax year, or filed with the tax collector during the tax year.
- (d) A claim for deduction once approved by the assessor or collector continues in force from year to year. However, a claimant is required to file an Annual Post-Tax Year Income Statement Form PD-5 under oath on or before March 1 of the post-tax year establishing income during the prior tax year and anticipated income for the current tax year, as well as any other information necessary to remain eligible for the deduction.
- (e) The collector may grant a reasonable extension of time for filing the required Post-Tax Year Income Statement, Form PD-5. But the extension shall terminate no later than May 1 of the post-tax year when it shall appear to the satisfaction of the collector that the failure to file by March 1 was due to the illness of the claimant and the claimant has filed with the collector a physician's certificate stating that the claimant was physically incapacitated and unable to file on or before March 1. In any case, where such an extension is granted by the collector, the required statement shall be filed on or before May 1 of the post-tax year.

(f) No application for a real property tax deduction for any previous tax year shall be allowed by any assessor, collector or governing body.

(g) Each taxing district is required to provide forms for claimants' use.

(h) Form PD-4, Notice of Disallowance, would be sent by the collector or assessor, as appropriate, if the claimant is ineligible for the deduction.

(i) A notice of disallowance, on a form prescribed by the Director of the Division, shall be mailed to that person by the collector on or before April 1 of the post-tax year or, where an extension of time for filing has been granted, no later than June 1, and his or her taxes to the extent represented by the amount of said deduction shall be payable on or before June 1 of the post-tax year or, where an extension of time for filing has been granted, no later than 30 calendar days after the notice of disallowance was mailed, after which date if unpaid, said taxes shall be delinquent, constitute a lien on the property and, in addition, the amount of said taxes shall be a personal debt of said person.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Amended (d)1; deleted (d)2 and 3; recodified (d)4 and 5 as 2 and 3.

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

In (b), substituted "PTD" for "PD 1, 2 or 3"; in (c), rewrote the introductory paragraph, substituted "2003" for "June 1986" in 1, and added "Form" in the beginning of 2 and 3.

Amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Application for deduction". Rewrote (a) and (b); added new (c); recodified former (c) as (d); rewrote (d); and added (e) through (i).

18:14-2.2 Filing by claimants of statement of income limits and eligibility information

In addition, a claimant must file with the collector on or before March 1 of the post-tax year, a statement, under oath, of his or her income for the tax year and his or her anticipated income for the current tax year, as well as any other information deemed necessary to establish the right of such claimant to a deduction for the current tax year.

Amended by R.1981, d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(a)3: "and" deleted and "or the owner ... or others; and" added.

(b): "\$5,000" deleted and "the applicable annual income limitation" substituted therefor.

(c): "that" added after "oath."

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a)3, added "residing as tenant shareholder in cooperative or mutual housing corporation."

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

In (c), substituted "March" for "February", "that" for "of" following "under oath", and added "or her" preceding "income" and "anticipated income".

Amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Proof required to establish right to deduction of persons of the age of 65 or more years or less than 65 years of age who are permanently and totally disabled". Deleted (a) and (b); and deleted designation (c).

18:14-2.3 Proofs of age for senior citizens or of total and permanent disability for disabled persons, or of survivorship for widows, widowers and surviving civil union partners

(a) Proof of age or date of birth as an original or photostatic copy, for persons of the age 65 or more years, of a birth or baptismal certificate or marriage/civil union license or any other reasonable proof, instrument, official document or record, reliably establishing claimant's age or date of birth required, is considered sufficient and satisfactory proof of age to support a claim by a person of the age of 65 or over.

(b) Every claim for a deduction by a person who is permanently and totally disabled shall include a physician's certificate or Social Security award certificate, Form SSA-30, or a report of Confidential Social Security Benefits Information, Form SS-2458, or a Social Security Third Party Query Response, verifying the claimant's permanent and total disability and in the claim by a person who is blind, he or she may additionally submit a certificate from the New Jersey Commission for the Blind and Visually Impaired certifying to blindness as defined.

(c) Proof of claimant's age or date of birth as an original or photostatic copy of a birth or baptismal certificate or marriage/civil union license, or any other reasonable proof, instrument, official document or record, reliably establishing claimant's age or date of birth required and is considered sufficient and satisfactory proof of age to support a claim by a surviving spouse/surviving civil union partner of the age of 55 or over.

(d) Every claim for a deduction by a person who is a surviving spouse/surviving civil union partner shall include a copy of the death certificate of the decedent spouse/decedent civil union partner.

The following annotations apply to N.J.A.C. 18:14-2.3 prior to its repeal by R.2009 d.213:

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(a)3: ":", and" deleted and "or the owner ... or others; and" added.

(b): "\$5,000" deleted and "The applicable annual income limitation" substituted therefor.

Re-number code misprint (b) as (c).

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a)3, added "residing as tenant shareholder in cooperative or mutual housing corporation."

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

In (c), substituted "March" for "February"; substituted references to surviving spouse for references to claimant and neutralized gender references throughout.

The following annotations apply to N.J.A.C. 18:14-2.3 subsequent to its recodification from N.J.A.C. 18:14-2.4 by R.2009 d.213:

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

Deleted "(1-74)" after "SSA-30".

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Added "confidential Social Security Benefits" and "Third Party Query Response."

Recodified from N.J.A.C. 18:14-2.4 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Proof of totally and permanently disabled". Added (a), (c) and (d); designated existing text as (b); and in (b), inserted "and Visually Impaired", and deleted "(See N.J.A.C. 18:14-1.1 for a definition of 'blindness.')" from the end. Former N.J.A.C. 18:14-2.3, Proof required to establish right to deduction for surviving spouse, repealed.

18:14-2.4 Proof of citizenship

To be eligible for the deduction, a claimant must submit proof that he or she is a citizen and resident of this State. United States citizenship is not required.

Recodified from N.J.A.C. 18:14-2.6 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Rewrote the section. Former N.J.A.C. 18:14-2.4, Proof of totally and permanently disabled, recodified to N.J.A.C. 18:14-2.3.

18:14-2.5 Legal domicile of claimant must be in New Jersey

(a) Claimant need not have resided in the dwelling house on which deduction is claimed nor in the same municipality or county for one year immediately preceding October 1 of the pretax year. Claimant meets the residency requirement, so long as he or she was domiciled in the State of New Jersey during said entire one-year period.

1. For example: An application for deduction for the tax year 2008 must establish that claimant was legally domiciled in New Jersey during the period October 1, 2006 to and including October 1, 2007.

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(a)1: "1981" was "1977"; "1979" was "1975"; "1980" was "1976".

Recodified from N.J.A.C. 18:14-2.7 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

In the introductory paragraph of (a), deleted the former first three sentences, inserted a comma following "requirement", inserted "or she", and substituted "one-year" for "one year"; and in (a)1, substituted "2008" for "1981", "2006" for "1979" and "2007" for "1980". Former N.J.A.C. 18:14-2.5, Proof of surviving spouse, repealed.

18:14-2.6 Proof of ownership; beneficial interest; partnership or fiduciary ownership; cooperative or mutual housing ownership interest

(a) The claimant must be the owner of the dwelling house, which is a constituent part of the real estate on which the deduction is claimed or the owner of a dwelling house, which is assessed as real property but which is situated on land owned by another or others, or residing as a tenant shareholder in a cooperative or a mutual housing corporation. A claimant should be prepared to furnish, on request of the

assessor or collector, proof of ownership of the property for which deduction is claimed. Where the claimant asserts that his or her interest in the dwelling house on which deduction is claimed arises from a will or the intestate laws of this State, care should be exercised to make certain that he or she is the owner of the legal title to such property, individually or jointly, or has a life estate in such dwelling house. A deed or probated will indicating ownership shall suffice.

(b) A tenant-shareholder in a cooperative or mutual housing corporation must submit proof of residency in a dwelling house owned by him or her, which is a constituent part of such real property, or residing in a dwelling house owned by him or her, which is assessed as real property but which is situated on land owned by another or others, or residing as tenant-shareholder in a cooperative or mutual housing corporation, therein as of October 1 of the pre-tax year.

(c) A claimant must furnish, on request of the municipal tax assessor or collector, proof of ownership of the real property for which the deduction is claimed.

(d) Ownership shall be satisfied by the holding of a beneficial interest in the dwelling house where legal title is held by another who retains a security interest in the dwelling house.

(e) The right to claim a deduction extends to property the title to which is held by a partnership, to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled to claim such deduction hereunder, but not to property, the title to which is held by a corporation, except that a residential shareholder in a cooperative or mutual housing corporation shall be entitled to claim a deduction he or she is otherwise eligible to receive to the extent of the proportionate share of the taxes assessed against the real property of the corporation, or any other entity holding title, attributable to his or her unit therein.

1. The term "partner or partnership" as used in this subsection, shall not refer to a civil union partner or couple.

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(a): "or the owner of a dwelling house ... owned by another or others" added.

(b): "For purposes ... sale or property" deleted and text substituted therefor.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a), added "residing as tenant shareholder in cooperative or mutual housing corporation". Added (c).

Recodified from N.J.A.C. 18:14-2.8 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Proof of ownership". Rewrote (a), deleted former (b); recodified former (c) as (b); rewrote (b); and added new (c) through (e). Former N.J.A.C. 18:14-2.6, Proof of citizenship, recodified to N.J.A.C. 18:14-2.4.

Case Notes

Real property trust settlers' rights to possess and reside in property and make it their principal and permanent home are greater than those of a life tenant, who is entitled to claim a senior citizen property tax deduction if he or she is responsible for paying the taxes. *Warren v. Jackson Tp.*, 1 N.J.Tax 536 (Tax Ct.1980).

18:14-2.7 Proof of income; post-tax year statement

(a) Real property tax deduction recipients are required to file with the collector of the taxing district on or before March 1 of the post-tax year a statement under oath of his or her income for the tax year and his or her anticipated income for the current tax year, as well as any other information necessary to establish the claimant's eligibility for a tax deduction for such current tax year.

1. The collector may grant a reasonable extension of time for filing the statement required, which extension shall terminate no later than May 1 of the post-tax year, in any event which it shall appear to the satisfaction of the collector that the failure to file by March 1 was due to the illness of the claimant and the claimant has filed with the collector a physician's certificate stating that the claimant was physically incapacitated and unable to file on or before March 1. In any case where such an extension is granted by the collector, the required statement shall be filed on or before May 1 of the post-tax year.

(b) Such statement is to be made on the form approved by the director, and furnished by the taxing district in which such statement is required to be filed. Each collector may require the submission of proof as he deems necessary to verify such statement.

(c) A claimant's failure to file the statement within time provided or to submit such proof as the collector deems necessary to verify a statement, or if it is determined that the claimant's income exceeded the applicable annual income limit for said tax year, then the tax deduction for said tax year will be disallowed and the taxes in the amount of said deduction will be payable on or before June 1 of the post-tax year.

(d) Any taxes due under (c) above and not paid on or before June 1 of the post-tax year, constitute a lien on the property of the person liable for the tax and become a personal debt of such person.

(e) Only that income earned between January 1 and December 31 of the tax year is considered when determining the annual income limit.

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(c): "\$5,000" deleted and "the applicable annual income limitation" substituted therefor.

(e): "\$5,000" deleted and "applicable annual" substituted therefor.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a), changed filing dates from February 1 to March 1; March 1 to May 1. In (c) and (d), changed filing dates from March 1 to June 1.

Recodified from N.J.A.C. 18:14-2.10 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Rewrote the introductory paragraph of (a), (c) and (e); and in (d), deleted "in addition" preceding "become". Former N.J.A.C. 18:14-2.7, Legal domicile of claimant must be in New Jersey, recodified to N.J.A.C. 18:14-2.5.

18:14-2.8 Deduction in addition to veteran's deduction

(a) A claimant receiving a veteran's deduction provided under P.L. 1963, c. 171, as amended (N.J.S.A. 54:4-8.10 et seq.), may also be eligible for the deduction provided herein and, in addition, may receive any homestead rebate or credit provided by law.

1. Example: Mary Row, who is a veteran and the surviving spouse/surviving civil union partner of a veteran, upon reaching the age of 65 years, may be eligible for deductions in the amount of \$750.00 (\$250.00 as a veteran's surviving spouse/surviving civil union partner; \$250.00 as a veteran; and \$250.00 as a qualified senior citizen).

New Rule, R.1987 d.224, effective May 18, 1987.

See: 19 N.J.R. 195(b), 19 N.J.R. 884(b).

Old rules "No deduction allowable to claimant receiving another deduction or exemption from taxes."

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

In (a)1, substituted "\$750.00" for "\$350.00", "\$250.00" for "\$50.00". Recodified from N.J.A.C. 18:14-2.11 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

In the introductory paragraph of (a), substituted "c. 171" for "c.171" and "eligible for the deduction" for "entitled to the deduction"; and rewrote (a)1. Former N.J.A.C. 18:14-2.8, Proof of ownership, recodified to N.J.A.C. 18:14-2.6.

18:14-2.9 (Reserved)

Repealed by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Proof of age or date of birth for persons of the age 65 or more years".

18:14-2.10 (Reserved)

Recodified to N.J.A.C. 18:14-2.7 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Proof of income; post-tax year statement".

18:14-2.11 (Reserved)

Recodified to N.J.A.C. 18:14-2.8 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Deduction in addition to veteran's deduction".

SUBCHAPTER 3. PROCEDURES FOR APPROVING AND DENYING DEDUCTIONS

18:14-3.1 Approving claim for deduction

(a) Where an application is approved by the assessor, a contingent liability for taxes in the deduction amount is to be

maintained should the deduction be subsequently disallowed based on income, the transfer of the property title, or the failure to meet any other prerequisites. Claims for deductions by resident-shareholders residing in cooperatives or mutual housing associations allowed by the assessor or collector shall be recorded on an official notice listing residents to be provided assessors by qualified cooperatives or mutual housing associations pursuant to N.J.S.A. 54:4-8.62(d). Assessors shall provide a copy of the aforesaid notice to tax collectors noting individual amounts approved.

(b) Where an application is filed and allowed by the collector he shall determine the amount of the reduction in tax to which the claimant is entitled and shall allow such amount as an offset against the tax then remaining unpaid.

1. If the amount allowable as an offset exceeds the amount of the tax then unpaid for that tax year, or if the application for deduction is not filed with the collector until after all taxes for the tax year have been fully paid, the claimant may make application to the governing body of the taxing district for a refund of any tax overpaid, without interest, and the governing body may, in its discretion, direct the return of any tax deemed by it to have been overpaid by reason of claimant's failure to make timely application; in no event, however, may an application for a real property tax deduction for any previous tax year be allowed by any assessor, collector or governing body.

2. Where an application for a real property tax deduction is filed with and allowed by a collector he shall promptly transmit such application and all exhibits attached thereto, or a photostatic copy thereof, to the assessor of the taxing district. Upon receipt thereof, the assessor shall review the application and if approved by him, it shall have the same force as if originally filed with him.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a), added claims to be recorded on a notice listing residents and assessors to provide copy of list to collectors.

Amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Procedure upon allowance of claim for deduction". Rewrote (a).

18:14-3.2 Apportionment of deduction; joint tenancies

(a) Where the title to a property for which a deduction is claimed is held by claimant and another or others, either as tenants in common or as joint tenants, a claimant is not allowed a deduction in an amount in excess of his proportionate share of the taxes assessed against said property, which proportionate share, for the purposes of the act, is deemed to be equal to that of each of the other tenants, unless it is shown that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

(b) Nothing herein precludes more than one tenant, whether title be held in common or joint tenancy, from claiming a deduction from the taxes assessed against the property so held, but no more than the equivalent of one full deduction

in regard to such property will be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof, such deduction will be apportioned between or among them in proportion to their interest.

(c) Property held by husband and wife/civil union partners, as tenants by the entirety, shall be deemed wholly owned by each tenant, but no more than one deduction in regard to such property shall be allowed in any year.

Amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

In (c), inserted “/civil union partners”.

18:14-3.3 Deduction in case of added assessment

(a) Where an added assessment is levied upon a dwelling house, the owner, if entitled to claim a tax deduction and timely application is made, may make claim for such a tax deduction and the assessor shall allow the same if all of the requirements of said law and this chapter have been complied with provided, however, that the claimant held legal title, as of October 1 of the pretax year, to the property on which the improvement has been made and the aggregate amount of the tax deduction claimed against the total taxes on the entire property does not exceed the maximum deduction allowed for the applicable tax year pursuant to the provisions of the act.

(b) The amount allowed as a tax deduction shall be deducted from the amount of taxes extended on the added assessment after the apportionment of such assessment pursuant to the provisions of the act. No tax deduction shall be allowed unless ownership of the dwelling house against which an added assessment has been levied vested in the claimant on October 1 of the pretax year.

The following annotation applies to N.J.A.C. 18:14-3.3 prior to its repeal by R.2009 d.213:

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Added exception providing shareholder entitled to claim deduction to extent share of taxes proportionate to property assessed.

The following annotations apply to N.J.A.C. 18:14-3.3 subsequent to its recodification from N.J.A.C. 18:14-3.4 by R.2009 d.213:

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

In (a): “\$160.00” deleted and “the maximum deduction ... of the act” added.

Recodified from N.J.A.C. 18:14-3.4 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Former N.J.A.C. 18:14-3.3, Deduction where property owned by partnership, fiduciary or corporation, repealed.

18:14-3.4 Deduction in case of assessment of omitted property

Where an assessment of omitted property is levied pursuant to law against a dwelling house owned by a claimant, the person owning the property, if entitled to claim a tax deduction, may make claim for such a tax deduction and the assessor shall allow the same if all the requirements of said law and this chapter have been complied with.

Recodified from N.J.A.C. 18:14-3.5 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Former N.J.A.C. 18:14-3.4, Deduction in case of added assessment, recodified to N.J.A.C. 18:14-3.3.

18:14-3.5 Limitation on deduction

(a) A qualified claimant may obtain only one deduction on only one dwelling house. This deduction may not be divided between two or more residences and the dwelling house upon which deduction may be allowed must be the claimant's principal place of residence. A deduction cannot be allowed on a dwelling house on which the claimant has only an estate for a term of years, a leasehold interest or an interest of any other nature less than an estate in fee. A deduction may be allowed where the claimant's interest in the dwelling house is that of a tenant for life provided the tenant is responsible for the payment of taxes on the property on which the deduction is granted.

(b) Where both the claimant and his or her wife/civil union partner meet all prerequisites for deduction as persons 65 years or over and where the claimant owns one residence and his or her wife/civil union partner another, deduction may be allowed only with respect to the dwelling house, which constitutes their principal place of residence. The result is the same where the claimant and his or her wife/civil union partner, as tenants by the entirety, own two residences. A deduction may be allowed only on the dwelling house, which constitutes claimant's principal place of residence. One spouse/civil union partner may not claim the deduction on one house and the other spouse/civil union partner claim the deduction on the second house.

(c) Where the title to the dwelling house is held by a senior citizen or a totally and permanently disabled citizen or a surviving spouse/surviving civil union partner, and a veteran, either as tenants by the entirety, joint tenants or as tenants in common, each claimant shall be entitled to his or her full deduction even if the aggregated deduction so granted exceeds the maximum deduction allowed for the applicable year, provided that the deductions so granted do not exceed each claimant's proportionate share of the total taxes assessed against the property.

(d) The sum deducted shall not exceed: in any year prior to 1981, \$160.00; in the year 1981, \$200.00; in the year 1982, \$225.00; and, in the year 1983 and in each year thereafter, \$250.00.

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(c): “\$160.00” deleted and “the maximum deduction allowed for the applicable year” substituted therefor.

(d) added.

Recodified from N.J.A.C. 18:14-3.6 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

In the introductory paragraph of (a), substituted the first occurrence of “only” for “but”, and inserted the third and fourth sentences; deleted former (a)1; in (b), inserted “or her” and “/civil union partner” throughout, and inserted a comma following “house” twice; and in (c),

inserted "surviving civil union partner" and "or her". Former N.J.A.C. 18:14-3.5, Deduction in case of assessment of omitted property, recodified to N.J.A.C. 18:14-3.4.

18:14-3.6 Deduction where claimant dies

(a) Where a claimant files a claim for deduction on form PTD (2003) with the local assessor in the pretax year and the claimant dies prior to January 1 of the ensuing tax year, the claim for deduction for such tax year shall be disallowed.

(b) If it is determined that the claimant's application form PTD (2003) satisfied all the prerequisites essential to the deduction on October 1 of the pretax year and the claimant dies on January 1 of the tax year or subsequent thereto, the claim for deduction shall be allowed. There shall be no need for proration and no post-tax year statement need be filed during the year following such tax year, except as hereinafter provided.

(c) Where a claimant files an application form PTD (2003) for deduction with the tax collector during the tax year and the claimant dies after approval of such application, there shall be no need for proration and no post-tax year statement need be filed during the year following such tax year, except as hereinafter provided.

(d) Where a claim for deduction has previously been filed and granted, and the owner of the dwelling house dies after December 31 of the pretax year and prior to filing a post-tax year statement (form PD 5) in accordance with the provisions of N.J.S.A. 54:4-8.44a and 54:4-8.45, the deduction may be allowed for the tax year if all prerequisites for deduction as of October 1 of the pretax year have been fully met. There shall be no need for proration and no post-tax year statement need be filed during the year following such tax year, except as hereinafter provided.

(e) Where a claimant dies after having filed a post-tax year statement (form PD 5) in accordance with the provisions of N.J.S.A. 54:4-8.44a and 54:4-8.45, there shall be no need for proration and no post-tax year statement need be filed during the year following such tax year, except as hereinafter provided.

(f) However, in the event the surviving spouse/civil union partner, if any, the heirs at-law, successors, or assigns of the decedent claimant sells or transfers title to the dwelling house at any time during the tax year of the decedent claimant's death, the deduction so granted ceases as of the date of such transfer of title and the tax collector shall prorate the deduction based on the number of days remaining in the tax year following the date upon which title to the dwelling house was transferred. The amount so prorated by the tax collector shall constitute a lien against the dwelling house and shall be considered satisfied by the tax collector upon payment of the prorated amount for that portion of the tax year for which entitlement to the claimant's deduction was not established.

(g) An executor, administrator or any other person on behalf of a claimant who dies without having filed an application for deduction on form PTD (2003) may not file an application for deduction on behalf of said decedent since this deduction is deemed to be a personal one.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Added PTD form (June 1986).

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

Substituted "2003" for "June 1986" throughout.

Recodified from N.J.A.C. 18:14-3.7 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

In (f), inserted "/civil union partner". Former N.J.A.C. 18:14-3.6, Limitation on deduction, recodified to N.J.A.C. 18:14-3.5.

18:14-3.7 Change in status; notice

(a) Any person receiving a deduction is required to notify the collector or assessor immediately upon the occurrence of any transfer of title or other change in status which affects a person's eligibility or right to the deduction.

(b) Any cooperative or mutual housing corporation with respect to which claims for the deduction have been allowed for units therein and any person receiving a deduction are required to notify the collector or assessor immediately upon the occurrence of any transfer of title or other change in status which affects a person's eligibility or right to deduction.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

Added (b).

Recodified from N.J.A.C. 18:14-3.8 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Former N.J.A.C. 18:14-3.7, Deduction where claimant dies, recodified to N.J.A.C. 18:14-3.6.

18:14-3.8 Pro rata or complete revocation of deduction

(a) Where a claimant sells, transfers title to or no longer principally occupies the dwelling house during the tax year, a post-tax year statement must be filed to prove his entitlement to the deduction for that portion of the tax year prior to the sale, transfer, or where the property is no longer occupied as the principal residence. The amount of any lien and tax liability shall be prorated by the tax collector upon the transfer of title based on the number of days during the tax year that entitlement to the claimant's tax deduction is established. Hence, where a claimant sells, transfers title to or no longer principally occupies the property during the tax year, a post-tax year statement must be filed to prove his entitlement to the deduction for the portion of the tax year prior to the sale, transfer, or when the property is no longer occupied as the principal residence.

(b) Upon the failure of any such person to file the statement within the time prescribed or to submit such proof as the collector deems necessary to verify a statement that has been filed, or if it is determined that the income of any such person exceeded \$10,000 for the tax year during which the

change of circumstances occurred, his or her tax deduction for said tax year shall be disallowed and his or her taxes to the extent represented by the amount of said deduction shall be payable on or before June 1 of the post-tax year or, where an extension of time for filing has been granted no later than 30 calendar days after the expiration of said extension, after which date if unpaid, said taxes shall be delinquent, constitute a lien on the property, and, in addition, the amount of said taxes shall be a personal debt of said person.

Amended by R.1983 d.366, effective September 6, 1983.

See: 15 N.J.R. 885(a), 15 N.J.R. 1487(c).

Permitted deduction where property is no longer occupied as the principal residence.

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (b), changed tax payment date from March 1 to June 1.

Recodified from N.J.A.C. 18:14-3.9 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Former N.J.A.C. 18:14-3.8, Change in status; notice, recodified to N.J.A.C. 18:14-3.7.

18:14-3.9 Disallowance of claim; notice

(a) If the application for deduction has been disapproved, a notice of disallowance form (PD 4) shall be forwarded to the claimant by regular mail and shall set forth the reason or reasons for disallowance of the claim and shall also set forth a statement notifying the taxpayer of his or her right to appeal to the county board of taxation on or before April 1 of the tax year.

1. By the assessor: Where an initial application for deduction under N.J.S.A. 54:4-8.40 et seq. form PTD has been filed with the assessor on or after October 1 and no later than December 31 of the year preceding the tax year for which the deduction is claimed and it has been denied, notice of disallowance form (PD-4) shall be forwarded by the assessor to the claimant on or before June 1 of the tax year.

2. By the collector:

i. Where an initial application for deduction under N.J.S.A. 54:4-8.40 et seq. form PTD has been filed with the collector on or after January 1 and not later than December 31 of the tax year and it has been denied, notice of disallowance form (PD-4) shall be forwarded by the collector to the claimant within 30 days of receipt of the application; or

ii. Where the deduction has been denied by the collector because the claimant failed to prove his or her entitlement to the deduction for the tax year or to the continuation of the deduction for the ensuing tax year, as required by N.J.S.A. 54:4-8.44a, notice of disallowance form (PD-4) shall be forwarded to the claimant on or

before April 1 of the post-tax year or, where an extension of time for filing has been granted, no later than 30 calendar days following the expiration of said extension.

Amended by R.1981 d.426, effective November 2, 1981.

See: 13 N.J.R. 462(d), 13 N.J.R. 779(f).

(a)1-2: "April 1981" was "January 1977".

Amended by R.1991 d.104, effective March 18, 1991.

See: 22 N.J.R. 3200(b), 23 N.J.R. 883(b).

In (a)1 and 2, added PT form (June, 1986). In (a)2ii, changed notice date from February 10 to April 1. Deleted (a)2iii.

Amended by R.2003 d.460, effective December 1, 2003.

See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a).

In (a), substituted "April 1" for "August 15" in the introductory paragraph, and substituted "Nov. 2002" for "April 1981" and "2003" for "June 1986" throughout.

Recodified from N.J.A.C. 18:14-3.10 and amended by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Deleted ", Nov. 2002" following "(PD-4)" throughout; in the introductory paragraph of (a), deleted ", Nov. 2002" following "(PD 4)" and inserted "or her"; in (a)1 and (a)2i, deleted "(2003)" following "PTD"; and in (a)2i, substituted "form" for "from", and inserted "or" at the end. Former N.J.A.C. 18:14-3.9, Pro rata or complete revocation of deduction, recodified to N.J.A.C. 18:14-3.8.

18:14-3.10 Appeals

An aggrieved taxpayer may appeal from the disposition of a claim for a real property tax deduction in the same manner as is provided for appeals from assessments generally. However, in the event that a claimant's application for allowance of a real property tax deduction is disallowed by the assessor or collector at a date too late to permit the applicant to file an appeal with the county board of taxation on or before April 1 of such year, then, in such case, the applicant would be entitled to file an appeal at any time on or before April 1 of the succeeding year. If such appeal is filed by the applicant within such time as to permit it to be calendared and heard by the county board of taxation during the year immediately following the year to which such appeal relates, the county board of taxation may hear and decide such appeal for the tax year to which the appeal relates. The appeal should set forth the reasons, the nature and the location of the property and relief sought.

Amended by R.1993 d.481, effective October 4, 1993.

See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Recodified from N.J.A.C. 18:14-3.11 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Former N.J.A.C. 18:14-3.10, Disallowance of claim; notice, recodified to N.J.A.C. 18:14-3.9.

18:14-3.11 (Reserved)

Recodified to N.J.A.C. 18:14-3.10 by R.2009 d.213, effective July 6, 2009.

See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

Section was "Appeals".