

2. In an estate where a Federal estate tax return is required to be filed and where the discounts for an interest in a family limited partnership claimed have a Federal estate tax consequence, the discounts, if any, permitted by the Internal Revenue Service will generally be permitted for New Jersey estate tax purposes unless deemed by the Director to be excessive.

3. In an estate where a Federal estate tax return is not required to be filed and where the tax is computed in accordance with the provisions of (a)1 above (maximum credit) and in an estate where a Federal estate tax return is required to be filed but where the discount claimed for an interest in a family limited partnership has no Federal estate tax consequence:

i. If an interest in a family limited partnership was created or funded within one year of a decedent's death, it is presumed that the value of the interest is the value of the underlying assets on the date of death of the decedent unless conclusive proof to the contrary is submitted which clearly indicates a different value. Discounts are not permitted unless the Director determines that they are warranted by the interest in the partnership and/or the nature of and risk associated with the underlying assets. Discounts totaling more than 10 percent are not permitted unless the Director determines that a greater total discount is warranted by the nature and risk associated with the underlying assets.

ii. If an interest in a family limited partnership was created or funded more than one year prior to a decedent's death, the interest is valued based upon the interest in the partnership and the value of the underlying assets on the date of death of the decedent. Discounts totaling more than 10 percent are not permitted unless the Director determines that a greater total discount is warranted by the nature and risk associated with the underlying assets.

4. In an estate where a Federal estate tax return has not been filed and is not required to be filed and the tax is computed in accordance with (a)2 above (simplified tax system), an interest in a family limited partnership is valued at the value of the underlying assets on the date of the death of the decedent. Discounts are not permitted for an interest in a family limited partnership unless the Director determines that they are warranted by the nature of and risk associated with the underlying assets.

Amended by R.2006 d.196, effective June 5, 2006.
See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Section was named "Amount of the tax"; in (a)2, substituted "The Simplified Tax System" for "Simplified Tax System,"; and added (b).

18:26-3A.3 Simplified Tax System

(a) The taxable value of the estate is determined as follows:

1. Net estate determined for New Jersey inheritance tax purposes under the provisions of the statutes and regulations in effect on December 31, 2001 (line 7 of recital page of form IT-R); plus

2. Real and tangible personal property located outside New Jersey; plus

3. Proceeds of any contract of insurance on the life of the decedent owned by the decedent or transferred by the decedent within three years of death paid to any beneficiary other than the executor, administrator, or estate; plus

4. All transfers made within three years of the decedent's death not included in the inheritance tax net estate; plus

5. In the event that the decedent was a surviving spouse and received qualified terminable interest property (QTIP) from the predeceased spouse for which the marital deduction was elected for Federal and/or New Jersey, the full value of the QTIP property; less

6. Any property passing outright to the decedent's surviving spouse provided he or she was a U.S. citizen on the decedent's date of death; and

7. Any property 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 any institution or organization organized and 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 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 to such institutions and organizations of this State. This exemption does not apply if any portion of the property can be used by, for the benefit of or paid to any private stockholder, individual or corporation.

(b) The taxable value of the estate is reduced by \$60,000 and taxed at the following rates:

1. On any amount less than \$615,000, no tax;

2. On any amount equal to or more than \$615,000 but less than \$667,174, 37.0 percent of the excess over \$615,000;

3. On any amount equal to or more than \$667,174 but less than \$840,000, 4.8 percent of the excess over \$667,174 plus \$19,304;

4. On any amount equal to or more than \$840,000 but less than \$1,040,000, 5.6 percent of the excess over \$840,000 plus \$27,600;

5. On any amount equal to or more than \$1,040,000 but less than \$1,540,000, 6.4 percent of the excess over \$1,040,000 plus \$38,800;

6. On any amount equal to or more than \$1,540,000 but less than \$2,040,000, 7.2 percent of the excess over \$1,540,000 plus \$70,800;

7. On any amount equal to or more than \$2,040,000 but less than \$2,540,000, 8.0 percent of the excess over \$2,040,000 plus \$106,800;

8. On any amount equal to or more than \$2,540,000 but less than \$3,040,000, 8.8 percent of the excess over \$2,540,000 plus \$146,800;

9. On any amount equal to or more than \$3,040,000 but less than \$3,540,000, 9.6 percent of the excess over \$3,040,000 plus \$190,800;

10. On any amount equal to or more than \$3,540,000 but less than \$4,040,000, 10.4 percent of the excess over \$3,540,000 plus \$238,800;

11. On any amount equal to or more than \$4,040,000 but less than \$5,040,000, 11.2 percent of the excess over \$4,040,000 plus \$290,800;

12. On any amount equal to or more than \$5,040,000 but less than \$6,040,000, 12.0 percent of the excess over \$5,040,000 plus \$402,800;

13. On any amount equal to or more than \$6,040,000 but less than \$7,040,000, 12.8 percent of the excess over \$6,040,000 plus \$522,800;

14. On any amount equal to or more than \$7,040,000 but less than \$8,040,000, 13.6 percent of the excess over \$7,040,000 plus \$650,800;

15. On any amount equal to or more than \$8,040,000 but less than \$9,040,000, 14.4 percent of the excess over \$8,040,000 plus \$786,800;

16. On any amount equal to or more than \$9,040,000 but less than \$10,040,000, 15.2 percent of the excess over \$9,040,000 plus \$930,800; and

17. On any amount equal to or more than \$10,040,000, 16.0 percent of the excess over \$10,040,000 plus \$1,082,800.

Amended by R.2006 d.196, effective June 5, 2006.
See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In (a)4, substituted "plus" for "less"; inserted present (a)5; and recodified former (a)5 and (a)6 as (a)6 and (a)7; and inserted "provided he or she was a U.S. citizen on the decedent's date of death" in (a)6.

18:26-3A.4 Reduction of tax

The tax as computed in N.J.A.C. 18:26-3A.2 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. The amount of any reduction shall not exceed the proportion of the tax otherwise due under N.J.A.C. 18:26-3A.2 that the amount of the estate's property subject to tax by the other jurisdictions bears to the entire estate taxable for New Jersey estate tax purposes.

18:26-3A.5 Estate tax where no inheritance tax imposed

In the case of a decedent where no inheritance, succession or legacy tax is due this State, the estate tax imposed shall be determined pursuant to N.J.A.C. 18:26-3A.2.

18:26-3A.6 Lien

The estate tax imposed upon the estate of a resident decedent remains a lien on all property of a decedent as of the date of death of the decedent until paid. Except as otherwise provided in this chapter, no property owned by the decedent as of the decedent's date of death may be transferred without the written consent of the Director.

18:26-3A.7 Time limit for assessments

(a) No assessment of additional estate tax shall be made after the expiration of more than four years from the date of filing of an estate tax return except in the following cases:

1. The return is false or fraudulent with the intent to evade tax;

2. If, before the expiration of the four-year period prescribed in this subsection for the assessment of additional tax, a taxpayer consents in writing that such period may be extended, the amount of such additional tax may be determined at any time within such period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period;

3. The taxpayer requests that the completion of the assessment be held in abeyance pending the final determination in the Federal estate tax proceeding;

4. The estate tax return is amended by the taxpayer to include additional property of a decedent.

i. The issues raised in an amended tax return may be assessed within four years from the date that the amended tax return is filed;

5. A decedent's interest in property, or the value thereof, as of the decedent's date of death, has not been determined at the time of the filing of the estate tax return due to litigation or controversy.

i. A decedent's interest in property, or the value thereof, which is established after the estate tax return is filed may be assessed within four years from the date on which the interest or value is established, and the Division receives notification; or