

4. The director of any county welfare board in cases where no executor or administrator has been appointed and an heir-at-law or next-of-kin is not available, or is unwilling to execute such returns, provided that such return is accompanied by a copy of the report of the board upon which the decision to grant assistance was based, and a copy of any document signed by the applicant (decedent) for assistance.

Historical Note

Formerly regulation of Transfer Inheritance Tax Bureau filed on 12/31/47.

Statutory References

N.J.S.A. 54:35-2 and 54:35-3.

18:26-9.3 Form of returns

Returns are required to be made on forms IT-R (Resident) and IT-NR (Non-Resident) approved by the Director which may be obtained by writing to the Transfer Inheritance Tax Branch, CN-249, Trenton, New Jersey 08646-0249.

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 N.J.R. 1088(b), 15 N.J.R. 1488(b).

Deleted district supervisor of county.

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Stylistic changes.

18:26-9.4 Resident decedents' returns

(a) In the case of a resident decedent, all returns must be filed and tax computed on one of the following forms and accompanied by payment of tax, a copy of the decedent's will, if such decedent died testate, as well as a copy of the decedent's income tax return (form 1040 or 1040A) filed with the Internal Revenue Service for the last full year preceding his or her date of death:

1. Form IT-R (Resident): Must be used in all resident estates.

2. Form L-4: Preliminary affidavit to be used in making application for consents to transfer prior to completion of the original return. The Branch will retain in every case control over a sufficient portion of the assets to assure collection of the tax, even though a payment on account may have been made. The Branch will not issue consents to transfer all the personal property and depends upon real property as security for the tax. The only exception to the procedure is where a bank, trust company, or similar institution has been named executor and guarantees in writing, payment of tax.

3. Form L-8: Self-executing waiver for use in permitting a transfer of assets to a Class "A" beneficiary.

4. Form L-9: Application by the representative of the estate of a resident decedent for issuance of a waiver

permitting a transfer of real estate to a Class "A" beneficiary.

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 N.J.R. 1088(b), 15 N.J.R. 1488(b).

Deleted filing with district supervisor where decedent dies.

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Added text to (a)2 "except when filed ..."

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Tax computation and payment required with return; Forms L-8 and -9 required.

Statutory References

N.J.S.A. 54:34-3.

18:26-9.5 Nonresident returns

(a) In the case of a nonresident decedent, a return must be filed and tax computed on Form IT-NR (Non-Resident) or, where the representative or beneficiary of such estate agrees to the use of a flat tax rate a flat tax rate affidavit, either of which must be accompanied by payment of tax, and a certified copy of the decedent's will, if such decedent dies testate.

(b) A flat tax may be paid in lieu of filing the information required in Form IT-NR, if the representative or beneficiary of a nonresident estate files an affidavit containing the following information:

1. The name of the decedent; date of death and legal domicile as of the date of death;

2. A description and fair market value if the New Jersey goods, wares and merchandise, describing (by lot and block number and deed reference) the New Jersey real estate and giving the assessed and market values thereof for the year of decedent's death and explaining how any fractional ownership in real estate was derived if the decedent owned a fractional interest, as well as any liens or encumbrances outstanding at decedent's death;

3. A statement as to the value of gross estate of decedent both in and outside of New Jersey, certifying whether the decedent made any gifts or transfers in contemplation of death, or to take effect at or after death, or created any trust in his lifetime and giving the names and relationship to decedent of donees or transferees, and market value of gifts, transfers or trusts;

4. Where the decedent died testate, attach a certified copy of the will and give the ages as of the date of death of decedent of any life tenants or annuitants and stating whether all beneficiaries survived. In those cases where decedent died intestate, state the names of the heirs-at-law and the next-of-kin and their relationship to decedent, giving the parentage of any heirs and next-of-kin taking a deceased parent's share;

5. A recital to the effect that all right is waived for a refund of the payment of tax and interest found due.

(c) On the basis of the above data the flat tax will usually approximate the tax payable as if the detailed report were filed. Statutory rates and exemptions will be used in the flat rate computation.

Amended by R.1991 d.384, effective August 5, 1991.
See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Tax payment required with return.

Statutory References

N.J.S.A. 54:34-3.

Case Notes

Testamentary transfers to Qualified Terminable Interest Property Trust by nonresident decedent with surviving spouse receiving present interest and surviving stepson receiving future interest in New Jersey realty and tangible personalty were exempt from Flat Tax. Estate of Lustgarten v. Director, Div. of Taxation, 15 N.J.Tax 1 (1994), affirmed 281 N.J.Super. 275, 657 A.2d 456, 1995183748;;15;591;1;

Noted that affidavit for payment of flat tax on transfer of decedent's New Jersey real estate filed by executrix; devise of all of testator's interest in real property to wife was a general devise; ratio formula correct method for calculating inheritance tax due on transfer of New Jersey real property of nonresident testator. Estate of Lansing v. State, Dep't of Treasury, Div. of Taxation, 6 N.J.Tax 137 (Tax Ct.1983).

18:26-9.6 Amendment to original return

In the case of both resident and nonresident estates, any assets and liabilities not disclosed in the original return and all supplemental data requested by the Branch is to be filed in affidavit form on legal size paper and attested to by the duly authorized statutory representative of the estate, next of kin, or beneficiary certifying in detail a description of the asset, real or personal and/or the liability and the reasons for failure to disclose same in the original return and filed directly with the Transfer Inheritance Tax Branch, CN-249, Trenton, New Jersey 08646-0249.

Amended by R.1991 d.384, effective August 5, 1991.
See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Stylistic changes.

Historical Note

Formerly Regulation of Transfer Inheritance Tax Bureau filed on 12/31/47.

Statutory References

N.J.S.A. 54:34-3.

18:26-9.7 Confidential nature of returns

(a) All transfer inheritance tax returns and data filed in connection therewith are considered privileged communications pursuant to N.J.S.A. 54:33-8 and 54:50-8 and are not to be inspected or copied by any person other than:

1. In the case of an intestate, the administrator duly appointed, or beneficiary entitled to share in the estate under the intestate laws or any duly authorized attorney for the foregoing persons; or

2. In the case of a testate decedent, those persons entitled to share under a probated will or the executor, or any duly authorized attorney for the aforementioned persons; or,

3. In the case of either an intestate or testate proceeding, a surviving joint tenant, or cestui que trustent, or beneficiary, or trustee or any duly authorized attorney for such persons.

4. Photostatic copies of records on file with the Transfer Inheritance Tax Branch may be obtained by authorized persons only upon proper application. Cost of photostatic copies shall be \$.40 per page and check in payment thereof shall be drawn to the order of Treasurer, State of New Jersey. Authentication will cost \$1.00 in addition to the charge per page.

Amended by R.1994 d.627, effective December 19, 1994.
See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Historical Note

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

Statutory References

N.J.S.A. 54:33-8.

18:26-9.8 (Reserved)

Repealed by R.1988 d.407, effective September 6, 1988.
See: 19 N.J.R. 2255(b), 20 N.J.R. 2310(c).

Provisions on failure to file return repealed.

Administrative Correction: Deleted text on failure to file return and reserved section.

See: 22 N.J.R. 2752(a).

18:26-9.9 Payment

(a) Due date of payment. The New Jersey Inheritance Tax is due at the date of a decedent's death; however, payment may be made at any time within eight months after the date of death. There is no extension of time permitted or granted for the payment of the tax.

(b) Due date, executory devises, contingent future estates, estates subject to power of appointment. The New Jersey Inheritance Tax on executory devise or the transfer of property subject to a contingency or a power of appointment is due and payable within two months after the person entitled to the property comes into enjoyment, seisin or possession of such property.

Amended by R.1980 d.198, effective May 6, 1980.
See: 12 N.J.R. 221(a), 12 N.J.R. 355(b).