

Separate operating accounts does not refer to technically separate accounting records, but refer to truly independent, disconnected or unassociated operating accounts, from the standpoint of furnishing transportation service.

"Tangible personal property" means the rolling stock, cars, locomotives, ferryboats, all machinery, tools and other tangible personal property of a railroad company and also the locomotive and cars not belonging to such railroad company but built for its use and actually used in this State, or run under its control in this State by a sleeping car company or other company; but the rolling stock of other persons or corporations temporarily used on any such road, but not forming part of the equipment of such road, is not included in this term.

"Taxpayer" means any person, railroad or system subject to taxation under the provisions of the Act.

"Tax year" means the year in which the tax is payable under the Act.

"True value" means the market value of the property at a fair and bona fide sale at private contract on the assessment date.

As amended, R.1979 d.48, effective February 6, 1979.

See: 11 N.J.R. 43(a), 11 N.J.R. 151(c).

Amended by R.1990 d.630, effective December 17, 1990.

See: 22 N.J.R. 2250(a), 22 N.J.R. 3762(a).

Stylistic changes.

Recodified from 18:23-1.1 by R.1994 d.132, effective March 21, 1994.

See: 26 N.J.R. 110(a), 26 N.J.R. 1371(a).

Statutory References

See N.J.S.A. 54:29A-2; 54:4-23.

SUBCHAPTER 2. PROPERTY NOT SUBJECT TO NEW JERSEY RAILROAD PROPERTY TAX

18:23-2.1 Property not used for railroad purposes

(a) Property of a railroad company not used for railroad purposes, such as facilities and buildings leased or used for commercial purposes, is not subject to the Railroad Property Tax.

(b) Such property is assessed and taxed in the same manner and at the same rate as other property in the taxing district.

Statutory References

N.J.S.A. 54:29A-4.

18:23-2.2 Municipal assessments

Streets, sidewalks, sewers or other municipal improvements are not subject to assessment under the New Jersey

Railroad Property Tax; however, a municipality is not prohibited from assessing such benefits against the property of a railroad, operating in New Jersey, in the same manner as other property of individuals subject to local taxation.

Statutory References

N.J.S.A. 54:29A-5.

18:23-2.3 Grade crossing improvements

Grade crossing improvements required by a State Agency and/or a municipality to be made by a railroad are not included in the taxable valuations made under the Act; however, any improvements of grade crossings voluntarily made by a railroad are included in the valuation of property taxed under the Act.

Statutory References

N.J.S.A. 54:29A-10.

18:23-2.4 Improvements to capital facilities

The improvements to capital facilities undertaken by a railroad pursuant to the provisions of a contract with the New Jersey Department of Transportation or with a municipality, where such improvements were made after January 1, 1963, are not subject to valuation under the Act.

Statutory References

N.J.S.A. 54:29A-17.1.

18:23-2.5 (Reserved)

SUBCHAPTER 3. PROPERTY SUBJECT TO NEW JERSEY RAILROAD PROPERTY TAX

18:23-3.1 Property taxable

All property used for railroad purposes, except main stem, tangible personal property, facilities used in passenger service, and Class II real property which passed out of railroad ownership subsequent to January 1 and before October 1 and not used for railroad purposes on October 1, is assessed by the Director.

Statutory References

N.J.S.A. 54:29A-17.

18:23-3.2 Leased property

Any property of a railroad leased to or operated by another corporation, foreign or domestic, and used for railroad purposes is assessed and taxed to the lessor (or railroad) in the same manner as other property subject to the Act.

Statutory References

N.J.S.A. 54:29A-8.

18:23-3.3 Tax in lieu

(a) Any property used for railroad purposes, and, therefore, taxable under the Act, including any main stem, tangible personal property and facilities used in passenger service, is not subject to any other State or local tax measured by property used for railroad purposes.

(b) Any property not used for railroad purposes and therefore not subject to the Act is subject to taxation by the local taxing authorities of this State.

Amended by R.2003 d.484, effective December 15, 2003.
See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

In (a), inserted "and, therefore, taxable under the Act," preceding "including any main stem" and substituted "tax measured by property used for railroad purposes" for "taxation".

Statutory References

N.J.S.A. 54:29A-11.

18:23-3.4 Railroad property assessed

Property used for railroad purposes is assessed against each system or each railroad not part of a system in the manner provided by the Act.

Statutory References

N.J.S.A. 54:29A-12.

18:23-3.5 Tax rate of railroad property

Property used for railroad purposes except as noted in section 3.1 (Property taxable) of this chapter is assessed by the Director at the rate of \$4.75 per \$100.00 of true value of such property as determined on January 1 of the pre-tax year.

Cross References

For definition of true value, see N.J.A.C. 18:23-1.2.

Statutory References

N.J.S.A. 54:29A-7.

Case Notes

Determination as to whether property met "fairly anticipated use for railroad purposes" on particular date required evaluation of use for period of years. N.Y. Susquehanna & Western Ry. Corp. v. Hardyston Tp., 8 N.J.Tax 626 (1987).

Property was exempt from local tax as it was used for railroad purposes. N.Y. Susquehanna & Western Ry. Corp. v. Hardyston Tp., 8 N.J.Tax 626 (1987).

18:23-3.6 Real property deemed to be in railroad use

Real property shall be deemed to be in railroad use if such property is used for the transportation of persons or freight by a railroad, regardless of the ownership or possession of the real property.

New Rule, R.1990 d.630, effective December 17, 1990.
See: 22 N.J.R. 2250(a), 22 N.J.R. 3762(a).

SUBCHAPTER 4. RAILROAD FRANCHISE TAX**18:23-4.1 Railroad franchise tax; rates, how computed**

(a) The New Jersey Railroad Franchise Tax is assessed against each railroad or system operating in the State of New Jersey at the rate of 10 per cent of its net railway operating income adjusted and allocated on the basis of the percentage of all track miles operated within the State to the total track miles operated everywhere by such railroad or system.

(b) The minimum franchise tax payable by any taxpayer is \$100.00 for taxpayers having total railway operating revenues of \$1,000,000.00 or less allocated to New Jersey for the pre-tax year; and \$4,000.00 for all other taxpayers.

As amended, R.1979 d.48, effective February 6, 1979.
See: 11 N.J.R. 43(a), 11 N.J.R. 151(c).

18:23-4.2 Measurement of franchise tax

(a) The New Jersey Railroad Franchise Tax is measured by a taxpayer's net railway operating income, which consists of the total operating revenues from all sources, including any revenue whatever, directly or indirectly derived from property which is used for railroad purposes, less the costs of railroad maintenance, operation, depreciation and amortization, railway tax accruals, uncollectible railway revenues, rentals (both debts and credits) for equipment leased for less than one year, interchanged and joint facility rents (both debts and credits).

(b) The amounts paid by the State of New Jersey or any county, municipality, agency, authority or subdivision thereof, pursuant to contracts for passenger service, are not included in such operating revenues.

Statutory References

N.J.S.A. 54:29A-14.

18:23-4.3 Deductions from operating revenues subject to regulation by Director

Deductions from operating revenues for depreciation, additions and betterments, and compensation for personal services are subject to regulation by the Director, as to reasonableness of amount and appropriateness of accounting distribution.

Statutory References

N.J.S.A. 54:29A-14.

18:23-4.4 Railway tax accruals; definition and method of computing

(a) For the purposes of this chapter railway tax accruals mean the taxes due for the year which have been assessed by the State of New Jersey and other states, including the taxes due to the United States Federal Government, which have been recorded in the books and records of the taxpayer according to acceptable accounting methods.