

**CHAPTER 23**  
**RAILROAD PROPERTY TAX**

**Authority**

N.J.S.A. 54:29A-6.

**Source and Effective Date**

R.2009 d.258, effective August 17, 2009.  
See: 40 N.J.R. 6953(a), 41 N.J.R. 3111(b).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 23, Railroad Property Tax, expires on February 13, 2017. See: 48 N.J.R. 1619(a).

**Chapter Historical Note**

Chapter 23, Railroad Property Tax, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 23, Railroad Property Tax, was readopted as R.1984 d.100, effective April 2, 1984. See: 16 N.J.R. 233(b), 16 N.J.R. 747(c).

Pursuant to Executive Order No. 66(1978), Chapter 23, Railroad Property Tax, was readopted as R.1989 d.147, effective February 24, 1989. See: 21 N.J.R. 18(a), 21 N.J.R. 779(c).

Subchapter 7, Appeal and Review, was repealed and Subchapter 7, Appeal and Review, was adopted as new rules by R.1990 d.630, effective December 17, 1990. See: 22 N.J.R. 2250(a), 22 N.J.R. 3762(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Railroad Property Tax, was readopted as R.1994 d.132, effective February 15, 1994. See: 26 N.J.R. 110(a), 26 N.J.R. 1371(a).

Pursuant to Executive Order No. 66(1978), Chapter 23, Railroad Property Tax, was readopted as R.1999 d.12, effective December 9, 1998. See: 30 N.J.R. 3612(a), 31 N.J.R. 56(a).

Chapter 23, Railroad Property Tax, was readopted as R.2003 d.484, effective November 17, 2003. See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c). Chapter 23, Railroad Property Tax, expired on May 16, 2009.

Chapter 23, Railroad Property Tax, was adopted as new rules by R.2009 d.258, effective August 17, 2009. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 23, Railroad Property Tax, was scheduled to expire on August 17, 2016. See: 43 N.J.R. 1203(a).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. PURPOSE AND DEFINITIONS**

- 18:23-1.1 Purpose; scope; history
- 18:23-1.2 Definitions

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

- 18:23-2.1 Property not used for railroad purposes
- 18:23-2.2 Municipal assessments
- 18:23-2.3 Grade crossing improvements
- 18:23-2.4 Improvements to capital facilities
- 18:23-2.5 (Reserved)

**SUBCHAPTER 3. PROPERTY SUBJECT TO NEW JERSEY RAILROAD PROPERTY TAX**

- 18:23-3.1 Property taxable
- 18:23-3.2 Leased property

- 18:23-3.3 Tax in lieu
- 18:23-3.4 Railroad property assessed
- 18:23-3.5 Tax rate of railroad property
- 18:23-3.6 Real property deemed to be in railroad use

**SUBCHAPTER 4. RAILROAD FRANCHISE TAX**

- 18:23-4.1 Railroad franchise tax; rates, how computed
- 18:23-4.2 Measurement of franchise tax
- 18:23-4.3 Deductions from operating revenues subject to regulation by Director
- 18:23-4.4 Railway tax accruals; definition and method of computing
- 18:23-4.5 Depreciation and amortization; limitation on amount claimed
- 18:23-4.6 Net railway operating income allocation
- 18:23-4.7 Assessment of railroad franchise tax; dates when computed; when due
- 18:23-4.8 (Reserved)

**SUBCHAPTER 5. ASSESSMENT AND DISPOSITION OF THE RAILROAD PROPERTY AND FRANCHISE TAXES**

- 18:23-5.1 Classification of railroad property
- 18:23-5.2 Valuation of Class II property; how and when determined
- 18:23-5.3 Statement of classification and valuation to be forwarded to taxpayer
- 18:23-5.4 Identification of facilities used in passenger service
- 18:23-5.5 Apportionment of facilities used in passenger service
- 18:23-5.6 Inspection of classifications and valuations; conference; appeal
- 18:23-5.7 Property tax statement to be received by taxpayer
- 18:23-5.8 Franchise tax statement
- 18:23-5.9 Failure to receive tax statements does not relieve obligation to pay by due date
- 18:23-5.10 through 18:23-5.11 (Reserved)

**SUBCHAPTER 6. REASSESSMENT AND OMITTED PROPERTY**

- 18:23-6.1 Reassessment; investigation and audit
- 18:23-6.2 Omitted property
- 18:23-6.3 Credit for taxes paid locally on omitted property
- 18:23-6.4 Time limitation for making a reassessment
- 18:23-6.5 Review of a reassessment or an assessment of omitted property available to taxpayer
- 18:23-6.6 Review of reassessment or assessment; time and place
- 18:23-6.7 Taxes reassessed or assessed; due date
- 18:23-6.8 (Reserved)

**SUBCHAPTER 7. APPEAL AND REVIEW**

- 18:23-7.1 Appeals
- 18:23-7.2 Dual assessment; appeal to Tax Court

**SUBCHAPTER 8. RETURNS; PAYMENTS; REFUNDS**

- 18:23-8.1 Return of information
- 18:23-8.2 Monthly statistics report
- 18:23-8.3 Certification of returns
- 18:23-8.4 Extension of filing time
- 18:23-8.5 Payments; due dates
- 18:23-8.6 Payment
- 18:23-8.7 Payment by person interested
- 18:23-8.8 Payment pending litigation
- 18:23-8.9 Refunds; erroneous overpayment
- 18:23-8.10 (Reserved)

**SUBCHAPTER 9. PENALTIES AND INTEREST**

- 18:23-9.1 Delinquent returns; civil penalty
- 18:23-9.2 Fraudulent returns; criminal penalties
- 18:23-9.3 Delinquent payment; interest
- 18:23-9.4 (Reserved)

## SUBCHAPTER 10. COLLECTION OF DELINQUENT TAXES

- 18:23-10.1 Lien on tax
- 18:23-10.2 Tax a debt
- 18:23-10.3 Additional remedy available to Director
- 18:23-10.4 Enforcement of lien
- 18:23-10.5 Parties to proceedings
- 18:23-10.6 Determination of rights; direction of sale by court
- 18:23-10.7 Receivership
- 18:23-10.8 Release of property from lien
- 18:23-10.9 through 18:23-10.11 (Reserved)

## SUBCHAPTER 11. ADMINISTRATION AND PROCEDURES

- 18:23-11.1 Audits and investigations
- 18:23-11.2 Taxpayer's right to informal conference
- 18:23-11.3 Taxpayer's right to a formal hearing
- 18:23-11.4 Power of Director to issue subpoenas
- 18:23-11.5 Power of Director to administer oaths
- 18:23-11.6 Power of Director to apply for order to compel
- 18:23-11.7 Effect of false swearing
- 18:23-11.8 Use of Director's personal knowledge for valuation
- 18:23-11.9 Offenses deemed committed at Trenton

## APPENDIX I

## SUBCHAPTER 1. PURPOSE AND DEFINITIONS

## 18:23-1.1 Purpose; scope; history

(a) The first general New Jersey Railroad Tax Law dates back to 1884<sup>1</sup> when railroad property was assessed both by the State and local governments. Since that time, the tax rate and classification of property have been the subject of many statutory amendments. In 1941 the basic structure for the present tax law was adopted<sup>2</sup> and the previous statutes repealed. The new law provided for both a property tax and a franchise tax, based on net railway operating income allocated to New Jersey on the basis of a trackage formula. The Franchise Tax is not a tax on earnings but a Franchise Tax measured by net operating income allocated to New Jersey.<sup>3</sup> In 1948, the tax was extensively amended so as to adopt the present system of classifying railroad property and the current franchise rate of 10 percent of net railway operating income.<sup>4</sup> Again, in 1964 and 1966, the law was amended so as to exclude main stem and facilities used in passenger service.<sup>5</sup> Furthermore, the 1966 amendment eliminated local rates of taxation of property used for railroad purposes and substituted a uniform tax, collected by the State of New Jersey.

(b) The Act for which these rules are promulgated is the Railroad Tax Law of 1948. These rules are issued pursuant to N.J.S.A. 54:29A-6.

(c) These rules, insofar as they are identical in substance to existing rules relating to the same subject matter shall be construed as restatements and continuations and not new rules.

(d) Any reference in these rules to the "Act" or the "Tax Act" refers to the Railroad Tax Act of 1948 as amended, (N.J.S.A. 54:29A-1 et seq.).

(e) The Railroad Tax law of 1948 is administered by the Division of Taxation through Property Administration.

Amended by R.1979 d.48, effective February 6, 1979.

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

Amended by R.1994 d.132, effective March 21, 1994.

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

<sup>1</sup> P.L.1884, c. 101

<sup>2</sup> P.L.1941, c. 291

<sup>3</sup> Delaware, Lackawanna & W.R.R.N. Division of Tax Appeals, N.J. State Department of Taxation and Finance, 3 N.J. 27; 68 A.2d 749 (1949), State Department of Taxation and Finance, 3 N.J. 27; 68 A.2d 749 (1949), appeal dismissed 338 U.S. 946.

<sup>4</sup> P.L.1948, c. 40, 41.

<sup>5</sup> P.L.1964, c. 251 P.L.1966, c. 139

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), deleted last sentence.

## 18:23-1.2 Definitions

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

"Director" means the Director of the Division of Taxation, Department of the Treasury, State of New Jersey.

"Facilities Used in Passenger Service" means land, stations, terminals, roadbeds, tracks, appurtenances, ballast and all structures used in connection with rendering passenger service, including signal systems, power system, equipment storage, repair and service facilities.

"Main stem" means the roadbed not exceeding 100 feet in width, as measured horizontally at the elevation of the base of the rail, including the full embankment or excavated area, with slopes, slope ditches, retaining walls or foundations necessary to provide a width not to exceed 100 feet at base of rail, together with all tracks, appurtenances, ballast and all structures erected thereon and used in connection therewith, but not including passenger or freight buildings erected thereon.

"Pre-tax year" means the year immediately preceding the tax year.

"Railroad" means any common carrier by railroad engaged in, owning or constructing facilities for the transportation of persons or property in or through this State, including railroads not owning any rolling stock, other than a street railway or traction company using or occupying the public streets, highways, roads or other public places, the taxation of which is otherwise provided by law.

"System" means any independently operating railroad which operates its facilities and those of one or more other railroads as a single utility for furnishing transportation service. A system includes all companies, the property of which is so operated either by virtue of control through direct or indirect ownership of a majority or more of capital stock, or under lease, trackage rights or under any other form of contract, and for which separate operating accounts are not maintained.

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 pro-

hibited 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).

**Case Notes**

Though the Railroad Franchise Tax (RFT), N.J.S.A. 54:29A-13 through 54:29A-15, is facially constitutional, two railroads obtained reversal of the RFT assessments made against them for various tax years after submitting sufficient evidence that their incomes attributable to their State of New Jersey operations were substantially lower than the incomes the Director of the New Jersey Division of Taxation attributed to their New Jersey operations, to make a prima facie showing that the RFT may be unconstitutional as applied to them. *CSX Transp., Inc. v. Director*, 393 N.J. Super. 235, 923 A.2d 252, 2007 N.J. Super. LEXIS 156 (App.Div. 2007).

Ten percent Railroad Franchise Tax rate, pursuant to N.J.S.A. 54:29A-13, does not violate the Railroad Revitalization and Regulatory Reform Act of 1976, the 4-R Act, 49 U.S.C. § 11501, and the formula used by the Director of the New Jersey Division of Taxation to compute the percentage of a railroad's net income attributable to its operations in New Jersey is not unconstitutional on its face. *CSX Transp., Inc. v. Director*, 393 N.J. Super. 235, 923 A.2d 252, 2007 N.J. Super. LEXIS 156 (App.Div. 2007).

States need not exact the same percentage of tax on railroads as they do on other corporations; states merely need to ensure that the tax they do impose on railroads is not discriminatory. *CSX Transp., Inc. v. Director*, 393 N.J. Super. 235, 923 A.2d 252, 2007 N.J. Super. LEXIS 156 (App.Div. 2007).

**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.

(b) Where the taxes due other states or the Federal Government have been accrued in prior years and there has been a change in the amount of such taxes due for such, for the purposes of the New Jersey Railroad Franchise Tax, such change is to be reflected and adjusted in the taxpayer's net railway operating income for the year in which the taxpayer first receives notice of such change.

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

#### **18:23-4.5 Depreciation and amortization; limitation on amount claimed**

In determining the net railway operating income of a railroad for the pre-tax year, the depreciation and amortization charges cannot exceed those amounts permitted by the Interstate Commerce Commission as a deduction for such charges.

##### **Statutory References**

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

#### **18:23-4.6 Net railway operating income allocation**

The net railway operating income of each system or railroad not part of a system used to determine the measure of the franchise tax is to be allocated to this State in the same proportion as the total number of miles of all track over which the railroad or system operates in this State bears to the total number of miles of all track over which it operates.

##### **Statutory References**

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

#### **18:23-4.7 Assessment of railroad franchise tax; dates when computed; when due**

The New Jersey Railroad Franchise Tax is computed and assessed against each taxpayer on or before June 1, of the tax year and is due and payable on June 15 of the tax year.

##### **Statutory References**

N.J.S.A. 54:29A-15, 46.

#### **18:23-4.8 (Reserved)**

### **SUBCHAPTER 5. ASSESSMENT AND DISPOSITION OF THE RAILROAD PROPERTY AND FRANCHISE TAXES**

#### **18:23-5.1 Classification of railroad property**

(a) On or before November 1 of the pre-tax year all real property used for railroad purposes in this State is classified

as Class I, Class II or Class III railroad property for tax purposes.

1. Class I real property consists of the length of main stem (roadbed not exceeding 100 feet in width) of each railroad in this State;

2. Class II real property consists of all real property used for railroad purposes in each taxing district which is not classified as Class I or Class III;

3. Class III real property consists of facilities used in passenger service in this State.

(b) In the event any railroad property is used for both freight and passenger service, such property is apportioned between Class II and Class III property in the manner provided in this subchapter.

Amended by R.1994 d.132, effective March 21, 1994.  
See: 26 N.J.R. 110(a), 26 N.J.R. 1371(a).

##### **Statutory References**

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

#### **18:23-5.2 Valuation of Class II property; how and when determined**

(a) On or before November 1 of the pre-tax year, the true value, as of January 1 of such year of all Class II property used for railroad purposes in this State is determined.

(b) Any Class II property passing out of railroad ownership subsequent to January 1, and before October 1, of the pre-tax year and not used for railroad purposes on October 1, is excluded.

#### **18:23-5.3 Statement of classification and valuation to be forwarded to taxpayer**

Detailed statements, as to the classification of all railroad property and the valuation of Class II railroad property, are forwarded to each taxpayer not later than November 10 of the pre-tax year.

##### **Statutory References**

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

#### **18:23-5.4 Identification of facilities used in passenger service**

"Facilities used in passenger service" (Class III) are not subject to the annual property tax levied upon railroad property. The term, "Facilities used in passenger service" is restricted to those facilities actually in use in connection with passenger service rendered by a railroad. Railroad property used partially for exempt passenger service (Class III) and used partially as taxable Class II railroad property, must be apportioned between the two classes before applying the tax rate to the Class II property and determining the tax payable thereon.

**18:23-5.5 Apportionment of facilities used in passenger service**

The portion of railroad property actually in use in connection with passenger service rendered by a railroad is to be determined according to the following provisions:

**(a) Property used exclusively in rendering passenger service:**

1. Where land is used exclusively in rendering passenger service, the measured land area involved is to be classified as Class III railroad property;
2. Where track is used exclusively in rendering passenger service, the lineal measure of track and its appurtenances is to be classified as Class III railroad property;
3. Where a structure is used exclusively in rendering passenger service, the entire structure is to be classified as Class III railroad property.

**(b) Property used partially in rendering passenger service:**

1. Where track is used partially in rendering passenger service and partially for other railroad uses:

- i. That portion of the value of track and its appurtenances to be allocated to Class III railroad property is to be calculated by multiplying such total value of the track and its appurtenances by a factor equivalent to the ratio of the number of locomotive units using the track to render passenger service to the total number of locomotive units using the track;

- ii. The value of the land supporting such track and its appurtenances allocated to Class III is to be calculated by applying the ratio employed in subparagraph i of this section to the total value of such land area.

2. Where a structure is used partially in rendering passenger service and partially for other railroad uses, the value of such structure allocated to Class III railroad property is to be determined as follows:

- i. In the case of a station building, the portion of the total value thereof allocated to Class III railroad property is to be calculated by multiplying the total value thereof by a factor equivalent to the ratio of the measured floor area used in rendering passenger service to the total measured floor area of the station building;

- ii. In the case of a general railroad office (offices used in connection with the operation of the railroad as a whole), the portion of the total value thereof allocated to Class III railroad property is to be calculated by multiplying the total value thereof by a factor, equivalent to the ratio of gross passenger operating revenues of the railroad to the gross system operating revenues of the railroad;

- iii. In the case of a repair facility, the portion of the total value thereof allocated to Class III railroad property is to be calculated by multiplying the total value thereof by a factor equivalent to the ratio of the operating costs expended in repairing equipment used in a passenger service at the facility to the total operating costs expended in repairing all equipment at such facility;

- iv. In the case of a locomotive servicing facility, the portion of the total value allocated to Class III railroad property is to be calculated by multiplying the total value by a factor equivalent to such ratio of the number of passenger locomotive units serviced at the facility to such total number of locomotive units serviced at such facility;

- v. In the case of a power facility, the portion of the total value thereof allocated to Class III railroad property is to be calculated by multiplying the total value by a factor equivalent to the ratio of the output power used in rendering passenger service to the total output power transmitted by such facility.

3. The value of the land supporting any facility described in paragraph 2 of this subsection and allocated to Class III railroad property is to be calculated by applying the pertinent ratio for such facility to the total value of the land area.

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

**Historical Note**

Prior Regulation—P.U.T. 1.

**Statutory References**

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

**18:23-5.6 Inspection of classifications and valuations; conference; appeal**

(a) Any taxpayer may, prior to December 1, of the pre-tax year, inspect the Director's classification and valuations of such taxpayer's railroad property used in the pre-tax year.

(b) Any taxpayer may request an informal conference with the Director regarding the correctness of such classifications and valuations, which is to be held on or before December 1, of the pre-tax year.

(c) Any matters not corrected at such time are not given further administrative review and may be corrected only by appeal to the Tax Court in accordance with applicable law.

Amended by R.1990 d.630, effective December 17, 1990.  
See: 22 N.J.R. 2250(a), 22 N.J.R. 3762(a).  
Railroad tax appeals go to Tax Court, in (c).

**Statutory References**

N.J.S.A. 54:29A-18.1.

**18:23-5.7 Property tax statement to be received by taxpayer**

Not later than December 15, of the pre-tax year, each taxpayer is to receive a detailed statement of the taxpayer's Class II property and a statement of the assessment of Railroad Property Tax payable in the tax year.

**Statutory References**

N.J.S.A. 54:29A-18.1.

**18:23-5.8 Franchise tax statement**

Within ten days after completing the computation of the New Jersey Railroad Franchise Tax, but in any event not later than June 10 of the tax year, each taxpayer is to receive a statement of the Railroad Franchise Tax assessed and the manner in which such tax was computed.

**Statutory References**

N.J.S.A. 54:29A-15, 21.

**18:23-5.9 Failure to receive tax statements does not relieve obligation to pay by due date**

The failure of any taxpayer to receive either of the tax statements in sections 5.7 and 5.8 of this chapter does not invalidate any assessment or the resulting lien, nor is the taxpayer relieved of his obligation to make timely payment of the tax when due.

**Statutory References**

N.J.S.A. 54:29A-21.

**18:23-5.10 through 18:23-5.11 (Reserved)****SUBCHAPTER 6. REASSESSMENT AND OMITTED PROPERTY****18:23-6.1 Reassessment; investigation and audit**

(a) The Director in his discretion may cause an examination of all the information submitted by any taxpayer, and if he deems it necessary cause an audit, investigation and reaudit of such taxpayer's books and records.

(b) If upon such audit, investigation or reaudit it is determined that there was a deficient or excessive assessment made, for any reason, including, but not limited to, the under- (or over-) valuation of real property, the Director may correct such error by reassessing the tax or any part thereof.

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

**Statutory References**

N.J.S.A. 54:29A-25.

**18:23-6.2 Omitted property**

Whenever a taxpayer has omitted any property subject to the Act from his information return or otherwise failed to report such property, the Director may, upon discovering such omission, cause such property to be assessed for any omitted years, subject to section 6.3 (Credit for taxes paid locally on omitted property) of this chapter.

**Statutory References**

N.J.S.A. 54:29A-25.

**18:23-6.3 Credit for taxes paid locally on omitted property**

(a) Any taxpayer will be given credit against the assessment for the Railroad Property Tax for the local tax paid if the taxpayer:

1. Has omitted property subject to the Act (section 6.2 of this chapter); and
2. Has been required to pay the Railroad Property Tax on the omitted property pursuant to section 6.2 of this chapter; and
3. Has paid to the local taxing district whatever local property tax was assessed against his omitted property; and
4. Has submitted satisfactory proof of such payment to the Director and to the Tax Court, if the matter is pending before it.

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

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

Railroad tax appeals go to Tax Court, in (a)4.

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), substituted "the taxpayer" for "he" in the introductory paragraph.

**Statutory References**

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

**18:23-6.4 Time limitation for making a reassessment**

Generally, no reassessment or omitted assessment shall be made pursuant to N.J.S.A. 54:29A-25 after the expiration of more than four years from the filing deadline of a return, except as otherwise provided in N.J.S.A. 54:49-6(b). In the case of a false or fraudulent return with intent to evade tax, or failure to file a return, the tax may be assessed at any time.

Repealed by R.1994 d.132, effective March 21, 1994.

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

Section was "Period of limitations on assessment of omitted property".

New Rule, R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).



## Statutory References

N.J.S.A. 54:29A-27.

**18:23-6.5 Review of a reassessment or an assessment of omitted property available to taxpayer**

Where property omitted by a taxpayer is assessed under section 6.2 (Omitted property) of this chapter, or where the tax is reassessed under section 6.1 (Reassessment) of this chapter, notice thereof is immediately given to the taxpayer, who upon receipt of such notice may request an administrative review of such assessment or reassessment.

## Statutory References

N.J.S.A. 54:29A-26.

**18:23-6.6 Review of reassessment or assessment; time and place**

(a) The review shall be held at the time and place specified by the Director, but in no event later than 20 days from the date the assessment or reassessment is made.

(b) The time spent in the review of a matter may not exceed 30 days, including adjournments. (See sections 11.2 and 11.3 of the chapter.)

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), substituted "made" for "determined".

**18:23-6.7 Taxes reassessed or assessed; due date**

The amount of taxes determined to be due after a review, or where no review has been requested the amount of taxes due as determined by the assessment or reassessment, are due and payable on or before the 15th day following the time limited for review.

## Statutory References

N.J.S.A. 54:29A-26.

**18:23-6.8 (Reserved)****SUBCHAPTER 7. APPEAL AND REVIEW****18:23-7.1 Appeals**

Any taxpayer desiring to contest the validity or amount of any assessment or reassessment of property or franchise tax made by the Director of the Division of Taxation under the railroad tax law may appeal to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. (See N.J.S.A. 54:51A-13.)

**18:23-7.2 Dual assessment; appeal to Tax Court**

(a) If property of a taxpayer has or shall have been, in any year, assessed by the local taxing district, and also has or shall have been classified as Class I or Class III property or classified and assessed by the Director of the Division of Taxation as Class II property, an appeal may be taken to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., which Court shall determine the character of the property and whether used for railroad purposes and by whom it has lawfully been assessed.

(b) Such determination shall be made whether the taxes in question have been paid or not and whether an appeal to review either assessment has been made or not.

**SUBCHAPTER 8. RETURNS; PAYMENTS; REFUNDS****18:23-8.1 Return of information**

(a) Every taxpayer must, on or before March 1 of the pretax year, file with Property Administration statements and/or schedules showing:

1. The character and value of real property owned or leased by the taxpayer on the first day of January of the pretax year;
2. The capitalization and the indebtedness of the taxpayer as of the same date.

(b) Property Administration has developed and maintains a perpetual inventory of all property owned by each railroad or system in the State of New Jersey and only changes in the ownership, character or value of such property are required to be reported annually. Such annual returns of information must be submitted to Property Administration on forms R.R.51 through R.R.45 which are available from said office.

(c) In addition to the statements and schedules above described, the taxpayer must submit a statement entitled, "Completion Reports and Plans". Such statement must include:

1. Progress reports on all projects involving real property undertaken during the pre-tax year; and
2. Completion reports on all projects completed during the pre-tax year.

(d) On or before April 1 of the tax year, each taxpayer must file with the Director, through Property Administration, at its own expense, a sworn and complete copy of its Railroad Annual Report for the pretax year, which has been filed or will be filed with the Surface Transportation Board or with the Department of Transportation of the State of New Jersey.

(e) Furthermore, all taxpayers must complete and file with Property Administration Forms R.R.551 through 556.

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).

Administrative process updated.

Amended by R.1994 d.132, effective March 21, 1994.

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

Amended by R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

In (d), substituted "Surface Transportation Board" for "Interstate Commerce Commission"; rewrote (e).

#### Statutory References

N.J.S.A. 54:29A-44.

### 18:23-8.2 Monthly statistics report

All taxpayers shall submit monthly reports of net railway operating income to Property Administration, as soon as such information is available or projected. Such report shall include the monthly net railway operating income, and the cumulative net railway operating income for the year up to the month reported.

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.

Amended by R.1994 d.132, effective March 21, 1994.

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

#### Statutory References

N.J.S.A. 54:29A-45.

### 18:23-8.3 Certification of returns

(a) All returns must be signed and sworn to by the President, Vice-President, or other principal officer of the taxpayer, and also, by the Treasurer, Assistant Treasurer, or Chief Accounting Officer.

(b) Whenever a receiver, trustee or assignee is operating the property or business of a taxpayer, such receiver, trustee or assignee is to compute the returns in the same manner and form as required of the taxpayer. Returns not properly signed will be deemed improperly filed and delinquent.

#### Statutory References

N.J.S.A. 54:29A-45.

### 18:23-8.4 Extension of filing time

(a) The Director, for good and sufficient cause shown may grant a reasonable extension of time for the filing of returns.

(b) However, he may require a taxpayer to submit any pertinent information necessary for the administration of the Act.

#### Statutory References

N.J.S.A. 54:29A-51.

### 18:23-8.5 Payments; due dates

(a) Franchise tax. The full amount of the Railroad Franchise Tax assessed against a taxpayer is due and payable on June 15 of the tax year.

(b) Property tax. The full amount of the Railroad Property Tax assessed against a taxpayer is due and payable on December 1 of the tax year.

### 18:23-8.6 Payment

All checks shall be made payable to the New Jersey State Treasurer, and mailed or delivered to the Division of Budget and Accounting, 33 West State Street, Trenton, New Jersey 08625.

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

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

Address change.

#### Statutory References

N.J.S.A. 54:29A-46.

### 18:23-8.7 Payment by person interested

(a) If a taxpayer is in default in the payment of any Railroad Property or Franchise Taxes, any person having an interest in a mortgage or other lien on the taxpayer's franchise or property may pay to the State Treasurer the amount of those taxes with interest thereon and receive from the Treasurer a certificate of such payment.

(b) The tax and interest shall continue to be a lien on the franchise and property of the taxpayer for the benefit of such party in interest until paid by the taxpayer from the sale of his franchise and property. Upon the sale of the franchise or property, such party in interest shall be entitled to reimbursement for the amount of taxes paid, plus interest at the rate of 12 percent per annum.

(c) Where an action has been commenced by the Attorney General to enforce payment of the taxes, any party in interest desiring to pay the tax and interest must also pay an additional amount as provided by the Superior Court for the reasonable expenses and services incurred in the proceeding.

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.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

In (b), substituted "12" for "18".

#### Statutory References

N.J.S.A. 54:29A-48.

### 18:23-8.8 Payment pending litigation

(a) Any taxpayer may pay the entire amount of the tax assessed against him, notwithstanding the fact that there is

pending litigation to determine the validity of the whole or any part of such tax.

(b) In the event it is determined through litigation that the whole or a part of such tax paid has been unlawfully assessed or imposed, credit shall be given to the taxpayer for such overpayment, against the taxes next legally levied and payable subsequent to such determination.

(c) As a condition for prosecuting an appeal, the taxpayer shall pay to the State Treasurer the amount of the taxes then not in substantial controversy, as provided in N.J.S.A. 54:51A-20.

Amended by R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

Added (c).

#### Statutory References

N.J.S.A. 54:29A-49.

### 18:23-8.9 Refunds; erroneous overpayment

Where an erroneous overpayment of the taxes due under the Act has been determined, such overpayment is credited against the taxpayer for the taxes next levied and payable by such taxpayer subsequent to such determination.

#### Statutory References

N.J.S.A. 54:49-16; 54:29A-49.

### 18:23-8.10 (Reserved)

## SUBCHAPTER 9. PENALTIES AND INTEREST

### 18:23-9.1 Delinquent returns; civil penalty

Any taxpayer who willfully neglects to file a return when due, is subject to any penalty not exceeding \$10,000.00, as a jury of the Superior Court of this State may determine. The Director shall certify to the Attorney General of this State any taxpayer so in default.

#### Statutory References

N.J.S.A. 54:29A-52.

### 18:23-9.2 Fraudulent returns; criminal penalties

Any person who fails to file any report under the Act, or files or causes to be filed with the Director any false or fraudulent report or statement, or aids or abets another in filing with the Director any false or fraudulent report or statement, with the intent to defraud the State or evade the payment of any tax, fee, penalty or interest, or any part thereof, which is due under the Act, is guilty of a misdemeanor and, upon conviction, is subject to a fine, not to exceed \$1,000.00 or imprisonment, not to exceed three years, or both, at the discretion of the court.

#### Statutory References

N.J.S.A. 54:29A-70.

### 18:23-9.3 Delinquent payment; interest

Any taxpayer who fails to pay either the railroad franchise tax or the railroad property tax when due shall pay in addition to the tax, unless otherwise provided in the law imposing such tax, interest and penalty, if any, on said tax at the rate of three percentage points above the prime rate assessed for each month or fraction thereof, compounded annually at the end of each year, from and including the date the payment was due up to the date payment is actually received by the Director of the Division of Budget and Accounting.

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.1994 d.132, effective March 21, 1994.

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

Amended by R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

Rewrote the section.

#### Statutory References

N.J.S.A. 54:29A-53.

### 18:23-9.4 (Reserved)

## SUBCHAPTER 10. COLLECTION OF DELINQUENT TAXES

### 18:23-10.1 Lien on tax

The taxes imposed by the Act constitute a lien on all of the revenue, and real and personal property owned, used or controlled by the taxpayer in this State on and after January 1 of the tax year.

#### Statutory References

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

### 18:23-10.2 Tax a debt

(a) In addition to constituting a lien, the taxes imposed by the Act constitute and remain a debt of the taxpayer preferred in the event of insolvency and recoverable by the State on an action at law.

(b) No court by writ or order may stay the payment of the taxes assessed or to be assessed under the Act.

#### Statutory References

N.J.S.A. 54:29A-55, 56.

**18:23-10.3 Additional remedy available to Director**

(a) As an additional or alternative remedy, the Director of Budget and Accounting may issue a certificate, stating the amount to which a taxpayer is indebted under the Act, to the Clerk of the Superior Court, who thereupon shall enter upon the docket the name of the taxpayer and the State, the amount of the debt, the name of the tax and the date of such entry.

(b) Such entry upon the docket shall have the same force and effect as the entry of a docketed judgment and shall be subject to the same remedies for collection thereof as may be taken upon the recovery of a judgment, but without prejudice to the taxpayer's right of appeal.

**Statutory References**

N.J.S.A. 54:29A-57.

**18:23-10.4 Enforcement of lien**

Where a taxpayer refuses or neglects to pay any tax assessed under the Act, and it has become necessary to seize and sell the property and rights to property (real and personal) of the taxpayer, the Director, of the Division of Budget and Accounting may request the Attorney General to commence an action in the Superior Court to enforce the State's lien upon the taxpayer's property or subject such property to the payment of the tax.

**Statutory References**

N.J.S.A. 54:29A-58.

**18:23-10.5 Parties to proceedings**

In any action to enforce the collection of the taxes assessed under the Act, any person having a lien upon or claiming an interest in the property or rights to property of a taxpayer, are to be made a party to the proceeding.

**Statutory References**

N.J.S.A. 54:29A-59.

**18:23-10.6 Determination of rights; direction of sale by court**

In any proceeding instituted for the collection of the taxes assessed under the Act, the court is required to determine the claims and liens to the property in question, and where the claim or interest of the State is established, may direct the sale of such property and rights to property and a distribution of such proceeds in conformity to its findings.

Amended by R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

Inserted "may" preceding "direct the sale".

**Statutory References**

N.J.S.A. 54:29A-60.

**18:23-10.7 Receivership**

In any proceeding provided in section 10.6 (Determination of rights) of this chapter, the court may, at the insistence of the Attorney General appoint a receiver to enforce the State's lien, or upon certification by the Director, Division of Budget and Accounting that it is in the public interest, appoint a receiver with all the powers of a receiver in equity.

**Statutory References**

N.J.S.A. 54:29A-61.

**18:23-10.8 Release of property from lien**

(a) The Director, Division of Budget and Accounting, upon written application and payment of a fee of \$5.00, may release any property from the lien of any tax, interest or penalty imposed by the Act, or of any certificate, judgment or levy procured by him, provided:

1. Payment is made to the said Director in such sum as he deems adequate for the release; or
2. A bond is filed in an amount the said Director deems necessary to secure the payment of any debt evidenced by the lien of such tax, interest, penalty, certificate, judgment or levy sought to be released; or
3. The said Director is satisfied that payment of the tax is sufficiently provided for.

(b) The application for such release is to be in the form prescribed by the Director, Division of Budget and Accounting and must contain an accurate description of the property to be released together with such other information which the Director may require.

(c) Any such release is to be given under the seal of the Director, Division of Budget and Accounting, and may be recorded in any office in which conveyances of real estate are filed.

**Statutory References**

N.J.S.A. 54:29A-77.

**18:23-10.9 through 18:23-10.11 (Reserved)****SUBCHAPTER 11. ADMINISTRATION AND PROCEDURES****18:23-11.1 Audits and investigations**

(a) The Director may in his discretion at any time make or cause to be made by any employee, an audit, examination, or investigation of the books, records, papers, vouchers, accounts, and documents of any taxpayer and all field

surveys, and inspections and examinations of all bonds and physical property.

1. Whenever an audit or investigation is ordered, it shall be the duty of every taxpayer and of every director, officer, agent or employee of such taxpayer to exhibit and make available to the Director, all the books, records, papers, vouchers, accounts, and documents requested and to facilitate any audit, examination, field examination, or investigation as much as possible.

2. The Director, or any employee designated by him, may take the oath of any person signing an application, deposition, statement or report which has been requested by the Director in administering the Act.

3. Where a taxpayer fails to file a return, the Director may, by any convenient method, ascertain any necessary facts from the best information obtainable, including his personal knowledge and judgment.

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)3, substituted "ascertain" for "assert".

#### Statutory References

N.J.S.A. 54:29A-63, 64.

### 18:23-11.2 Taxpayer's right to informal conference

Where, under N.J.A.C. 18:23-5.6, a taxpayer requests an informal hearing, a conference will be held before Property Administration to be conducted on an informal basis, with or without representation on behalf of the taxpayer or other party in interest.

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 change.

Amended by R.1994 d.132, effective March 21, 1994.

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

#### Statutory References

N.J.S.A. 54:29A-62.

### 18:23-11.3 Taxpayer's right to a formal hearing

(a) Where, under N.J.A.C. 18:23-6.5, Review of reassessment or reassessment, a taxpayer requests an administrative review, such review will be granted by means of a formal hearing, in the following manner:

1. All evidence at a formal hearing shall be taken before a court recorder and the parties shall not be bound by common law or statutory rules of evidence. All testimony having reasonable probative value shall be admitted, but immaterial, irrelevant or unduly cumulative testimony may be excluded. Every party shall have the right to present their case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required to a full, true disclosure of the facts;

2. After all parties have been given the opportunity of presenting all the evidence in support of the issues, Property Administration shall take the matter under advisement and reach a determination on the record and facts disclosed;

3. Upon reaching a determination, Property Administration shall notify the taxpayer, other party in interest or their representative by mail of the determination made;

4. The Director or any employee of the Division of Taxation he may designate, may conduct hearings, administer oaths to, and examine under oath, any taxpayer and the directors, officers, agents, and employees of any taxpayer, and all other witnesses relative to the liability of the taxpayer for any taxes pursuant to the provisions of the act.

(b) The Attorney General, or any deputy the Attorney General may appoint, will attend any formal hearing on behalf of the State.

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).

Correction to (a)4 to add "any taxpayer . . . of the act."

Amended by R.1994 d.132, effective March 21, 1994.

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

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), deleted "or" following "taxpayer" and substituted "their" for "his" in 3; in (b), substituted "the Attorney General" for "he".

#### Statutory References

N.J.S.A. 54:29A-64.

N.J.S.A. 54:29A-68.

### 18:23-11.4 Power of Director to issue subpoenas

The Director has the power to issue subpoenas compelling the attendance of witnesses and the production of books and papers.

#### Statutory References

N.J.S.A. 54:29A-65.

### 18:23-11.5 Power of Director to administer oaths

The Director has the power to administer oaths in order to ascertain any facts necessary in the administration of the Act; and may reduce the statements of any person sworn, to writing, and require such person to swear and subscribe thereto.

#### Statutory References

N.J.S.A. 54:29A-64.

**18:23-11.6 Power of Director to apply for order to compel**

The Director is authorized to apply, ex parte, to the Superior Court of this State and obtain an order compelling any person who has failed to comply with a subpoena to submit to examination.

**Statutory References**

N.J.S.A. 54:29A-65.

**18:23-11.7 Effect of false swearing**

Any person who swears to, affirms, or verifies any false or fraudulent statement with the intent to evade the payment of any tax or who being under oath, testifies falsely at any hearing held pursuant to the Act, is guilty of perjury.

**Statutory References**

N.J.S.A. 54:29A-71.

**18:23-11.8 Use of Director's personal knowledge for valuation**

The Director and any person delegated by the Director to value and assess railroad property are entitled to use their personal knowledge and judgement in the valuation of any property subject to assessment or review of assessment.

Amended by R.2003 d.484, effective December 15, 2003.

See: 35 N.J.R. 3483(a), 35 N.J.R. 5551(c).

Substituted "the Director" for "him", "are" for "is" and "their" for "his".

**Statutory References**

N.J.S.A. 54:29A-67.

**18:23-11.9 Offenses deemed committed at Trenton**

(a) The failure to perform any act required under the provisions of the Act is deemed an act committed in part at the office of the Director in Trenton.

(b) The certificate of the Director stating that a taxpayer has failed to perform an act required under the Act, is prima facie evidence that such act has not been done.

**Statutory References**

N.J.S.A. 54:29A-72.

**APPENDIX I****CALENDAR OF TAX EVENTS****PRE-TAX YEAR**

January 1	Property valuations: Determined as of this date. (See N.J.A.C. 18:23-5.2, 5.3)
March 1 (On or before)	Property report: Railroads shall make reports to the Director, Division of Taxation, of their property as it existed on January 1, preceding. (See N.J.A.C. 18:23-8.1)

Second Monday  
of June (On or  
before)

Reports of local assessors: Local assessors, if required to do so by the Director, Division of Taxation, shall report to the Director the description and valuation of railroad property not used for railroad purposes. (See N.J.S.A. 54:29A-16)

November 1  
(On or before)

Valuations to be fixed: The Director, Division of Taxation, will determine the true value of Class II property used for railroad purposes. (See N.J.A.C. 18:23-5.2, 5.3)

November 10  
(Not later  
than)

Statement of valuations to taxpayer: The Director, Division of Taxation, shall deliver a detailed statement of Class II property valuations to each taxpayer. (See N.J.A.C. 18:23-5.2, 5.3)

December 1  
(Prior to)

Taxpayer may confer with Director concerning valuations: Any taxpayer may inspect the Director's valuations and confer with the Director concerning these valuations. (See N.J.A.C. 18:23-5.6)

December 1

Due date property tax: Property taxes are due and delinquent on this date. (See N.J.A.C. 18:23-8.5, 8.6)

December 10  
(On or before)

Certify changes in base value to county boards of taxation: The Director, Division of Taxation, shall certify any changes in base value to the several county boards of taxation for use in determining equalized valuation for the succeeding year. (See N.J.S.A. 54:29A-24.6)

December 15  
(Not later  
than)

Deliver statement of amount of State aid payable to each municipality for the following year: The Director, Division of Taxation, shall deliver to each municipality entitled to State aid a statement of the amount of State aid payable for the following year. (See N.J.S.A. 54:29A-24.5)

December 15  
(Not later  
than)

Deliver detailed statement of Class II property and property tax to taxpayers: The Director, Division of Taxation, shall deliver to each taxpayer a detailed statement of the Class II property and the tax for the property for the following year. (See N.J.A.C. 18:23-5.7, 5.8, 5.9)

December 15  
(After)

Certify property tax to Director, Division of Budget and Accounting: The Director, Division of Taxation, shall report and certify property tax assessments to the Director, Division of Budget and Accounting. (See N.J.S.A. 54:29A-22)

**TAX YEAR**  
January 1

Property tax lien date: Taxes become a lien as of this date. (See N.J.A.C. 18:23-10.1)

January 1

Franchise Tax lien date: Taxes become a lien as of this date. (See N.J.A.C. 18:23-10.1)

April 1  
(On or before)

Operating income reports to be filed: Railroads to make reports to the Director, Division of Taxation, showing their railway operating revenues of the pre-tax year, all deductions therefrom, and the net railway operating income remaining after such deductions. (See N.J.A.C. 18:23-10.7)

June 1  
(On or before)

Franchise tax assessment date: The Director, Division of Taxation, shall compute and assess the franchise tax. (See N.J.A.C. 18:23-4.7)

June 1  
(After)

Franchise tax certified to the Director, Division of Budget and Accounting: The Director, Division of Taxation, shall certify his franchise assessments and the statements thereof to the Director, Division of Budget and Accounting. (See N.J.S.A. 54:29A-22)

June 10  
(On or before)

Franchise tax bills to taxpayers: The Director, Division of Taxation, shall certify the amount of franchise tax and the manner of computation thereof to each taxpayer within ten days after the completion of his assessment of franchise tax. (See N.J.A.C. 18:23-5.7, 5.8, 5.9)

June 15

Due date franchise tax: Franchise taxes are due and delinquent on this date. (See N.J.A.C. 18:23-8.5, 8.6)

Amended by R.1990 d.630, effective December 17, 1990.  
See: 22 N.J.R. 2250(a), 22 N.J.R. 3762(a).  
Administrative Changes reflected.