

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY

Rules of the
DIVISION OF TAX APPEALS
Revised March 8, 1949

Rule I—Organization and Meetings

(a) The Division of Tax Appeals shall meet on the second Tuesday in July of each year at the State House, in the City of Trenton, at the hour of 10:30 o'clock in the forenoon, Eastern Standard Time (Eastern Daylight Time, when the same is in use), for the purpose of organization. Regular meetings shall be held on the second and fourth Tuesday of each month, at the hour of 10:30 o'clock in the forenoon, Eastern Standard Time (Eastern Daylight Time, when the same is in use), at the State House, in the City of Trenton, unless the Division shall otherwise order. A special meeting may be called by the President upon forty-eight hours' written notice to the members of the Division, stating the purpose of the meeting. In the event that the President shall fail to call a special meeting, after having been requested by two members so to do, any four members of the Division may call such special meeting. At such special meeting only such matters as are referred to in the notice shall be considered. Other meetings shall be held at such place and time as the Division shall fix and determine.

(b) The Division shall meet on the third Monday of May in each year for the purpose of fixing a time and place for the hearing of any complaint as to the validity or amount of any assessment or reassessment of property filed under R. S. 54:29-A-31.

(c) The Division shall meet on the first Tuesday of September in each year for the purpose of fixing a time and place for the hearing of any complaint as to the validity or amount of any assessment or reassessment of franchise tax filed under R. S. 54:29-A-31.

(d) Four members of the Division shall constitute a quorum.

Rule II—Secretary

The Secretary of the Division shall have charge of all clerical, technical, and secretarial work and general supervision of the administrative functions of the Division.

Rule III—Seal

The seal of the Division shall be circular in shape and around the outside margin thereof shall be the words "Department of the Treasury—New Jersey," and in the center thereof a copy of the coat of arms of the State of New Jersey, and the words "Division of Tax Appeals." This seal shall be used upon all certificates or processes of the Division.

Rule IV—Entitling of Causes

All proceedings before the Division shall be captioned "Department of the Treasury, Division of Tax Appeals," and shall be entitled in the cause in which the said proceedings are had.

Rule V—Appeals from County Boards of Taxation

(a) *Tax Appeals.* All appeals from county tax boards, under the provisions of R. S. 54:2-35 and R. S. 54:2-39 shall be filed within one month from the date on which the county board of taxation shall have published the entry of judgment or within one month from the date fixed for final decisions by the county boards, whichever date shall be earlier. Such appeals shall be instituted by a petition which shall be verified by oath. No appeal, however, shall lie to the Division of Tax Appeals where the appeal to the county board of taxation has been (a) withdrawn at the hearing, or previously thereto in writing by the appellant or his agent; (b) dismissed because of appellant's failure to prosecute the appeal at a hearing called by the county tax board; (c) settled by mutual consent of the taxpayer and the assessor of the taxing district. This provision shall not preclude an appeal to the Division of Tax Appeals in the event that the appeal was "dismissed without prejudice" by the county board of taxation.

(b) All appeals from county tax boards, under the provisions of 54:4-63.11 shall be filed on or before February 1st of the year following the year in which the assessment affected by the appeal was added to the tax rolls. In all other respects such appeals shall be governed by the laws concerning appeals from county board judgments.

(c) All appeals from county boards, under the provisions of R. S. 54:4-63.23 shall be filed on or before the first day of December following the rendering of the judgment by the county board of taxation or within three months from the time of the rendering of such judgment, whichever date is the later.

In case the petitioner is unable to sign and verify any petition in connection with the foregoing appeals, such petition may be signed and verified by his attorney or authorized agent. A petition of appeal of a corporation

or an association shall be executed and verified by an officer thereof or by an attorney-at-law of New Jersey.

Where the appeal is taken by a taxing district it shall be in the name of said district and the petition shall be executed by an officer duly authorized by the governing body thereof or by the attorney for the taxing district.

Where two or more parcels of real estate are included in one petition, the Division may require a separate petition in the case of each parcel. Where such is the case, the petitioner may file substituted petitions, which shall be deemed to have been filed in time if the original petition was so filed.

The petition of appeal shall set forth the full name of the petitioner and recite in clear and concise fashion the matters in controversy, and the action, determination or judgment appealed from, and the date upon which entry of county board judgment was published. The date of publication of entry of county board judgment shall be deemed to be the first business day following the date when the county board shall have transmitted a memorandum of its judgment under R. S. 54:3-26. It shall likewise contain a description of the subject matter involved, stating the valuation made by the taxing authority, the year for which the assessment was levied, the block, lot number and street number where the property was assessed; also full and complete information as to the land, including the size of the lot, the square foot area of the lot, a description of the buildings and structures thereon, if any, and the use thereof; and in case of income producing property, shall detail the income and expense of operation. No petition shall fix any sum as the value of the property in question but shall contain a general prayer that the assessment be "increased" or "decreased" to the true value thereof. The petition, or its endorsement, shall further set forth the name and address of appellant and of respondent and the name and address of appellant's agent or attorney, where the appeal is instituted through an agent or attorney, for the purpose of service of papers in connection with the appeal. Where appellant appears pro se, his address shall appear in the petition, or its endorsement, for the same purpose.

Any petition may be executed by the taxpayer or an attorney-at-law of New Jersey. In case the taxpayer is unable to sign and verify any petition filed under sections (a), (b), (c) or (e) of this rule by reason of illness, incapacity or absence from the State, or for any other reasonable cause, said petition may be executed and verified by petitioner's duly authorized agent, which agent shall attach his affidavit, specifying that he is authorized to take the appeal and giving the reasons for the inability or failure of the taxpayer to sign and verify the petition.

(d) *Appeals from County Equalization Tables.* Petitions under Revised Statutes, Sec. 54:2-37, for the review of county equalization tables, shall be filed within thirty days from the date of confirmation of such tables by the county boards of taxation. A copy of the petition shall be served by the petitioner on the president or secretary of the county board of taxation, whose action is to be reviewed, on the director or clerk of the board of chosen freeholders and on the clerk of every municipality in the county.

Said petition shall likewise set forth the full name of the petitioner and recite in a clear and concise fashion the matters in controversy, and the action or determination appealed from. The petition, or the endorsement thereof, shall further set forth the name and address of the appellant and of each respondent and of appellant's attorney for the purpose of service of papers in connection with the appeal.

(e) *All Other Appeals.* All other appeals from actions or determinations of county boards of taxation, where no time is fixed by statute, shall be filed within three months from the date of the action or determination of the county board appealed from, shall be begun by petition setting forth in clear and concise fashion the matters in controversy, and the action, determination or judgment appealed from, and shall set forth the name and address of appellant and respondent and of appellant's agent or attorney for the purpose of service of papers in connection with the appeal. Such appeal shall be verified under oath. Where the petitioner is a corporation, the petition shall be signed and verified by an officer thereof, or by an attorney-at-law of New Jersey.

(f) *Service of Appeal from County Board.* A copy of the petition of appeal from a determination or judgment of a county board of taxation shall be served on such county board by leaving a copy thereof with its secretary or with a person in charge of its office, and in such case:

(1) On appeal by a taxpayer, a copy of the petition shall also be served upon the assessor, clerk or attorney of the taxing district in which the property is located, by leaving it at the office of such assessor, clerk or attorney, with a person in charge thereof, and,

(2) On appeal by a taxing district, a copy of the petition shall also be served upon the respondent, if an individual, personally, or mailed to his last known address, or to his agent or attorney of record; in the case of a domestic corporation, upon the president or other head officer or agent in charge of its principal office in this State, or left at his dwelling house or usual place of abode, and if the president or other head officer or agent cannot be found, then upon the clerk, secretary, one of the corporation's directors or trustees, or its agent or attorney of record; and in the case of a foreign corporation, upon the statutory agent located in this State, or its

attorney, or by mailing the same to the corporation at any known place of business thereof outside the State.

(3) On appeal under Revised Statutes, Sec. 54:9-1, et seq., a copy of the petition shall be served upon the county board by leaving a copy thereof with its secretary or with a person in charge of its office, on the taxing district where the bank is located by leaving a copy of the petition at the office of the assessor, clerk or attorney of the taxing district, with the person in charge thereof, and on the county where the bank is located by leaving a copy of the petition at the office of the clerk of the Board of Chosen Freeholders or County Counsel, with a person in charge thereof.

Where service is on one other than the respondent, the affidavit of service shall state the reason therefor.

Rule VI—Correction of Errors in Assessments

A property owner seeking to correct an error in an assessment under the provisions of R. S. 54:2-41, shall institute the action by petition, which petition shall state the subject matter of the tax with the same particularity as petitions of appeal from county boards. Petitions shall set forth the year or years for which the assessment is sought to be corrected, and the facts constituting the error. Such petition shall be verified by affidavit of the property owner and the assessor. Such petition shall bear the consent of a majority of the governing body of the municipality, to be evidenced by a true copy of a resolution adopted by such governing body, certified by its clerk, which resolution shall set forth the facts causing and constituting the error. The Division may require such further proof as it may deem necessary or proper.

Rule VII—Appeals from Director of Division of Taxation

(a) *Generally.* All appeals to the Division from any action, determination, order, assessment or reassessment entered by the Director of the Division of Taxation shall be by petition, in writing, filed within one year from the action, determination, order or assessment complained of, unless otherwise provided by law. The petition shall state in brief fashion the action, finding, decision, order or assessment appealed from, shall contain a clear and concise statement of the matters in controversy, the grounds of appeal and the relief sought. Said petition shall be signed by the appellant, or his agent or attorney and shall contain, or have endorsed thereon, the post office address of the party filing the same for the purpose of service of papers in connection with the appeal. A copy of said petition shall be served upon the Director of the Division of Taxation prior to the taking of the appeal and proof or acknowledgment of service shall be attached to the petition.

(b) *Appeals from Apportionment of Utilities Franchise and Gross Receipts Taxes.* Petitions for the Review of apportionment valuations established by the Director of the Division of Taxation, under R. S. 54:31-15.14 et seq., shall be filed with the Division on or before the first Monday in March of the year for which the tax is assessed under said statute. A copy of such petition shall be served upon the Attorney-General and upon the clerk of every municipality entitled to share in the apportionment of the tax, by mail, within ten days after filing the petition; and proof of service shall be attached to the original petition, or service thereon acknowledged, or filed forthwith when service is made after the filing of the petition.

(c) *Appeals from Valuations for Utilities Franchise and Gross Receipts Taxes.* Petitions for the review of the assessments of taxes imposed by R. S. 54:31-15.14 et seq., shall be filed with the Division within three months after the certification of the apportionment of such taxes to the municipalities and notice thereof to the taxpayer. A copy of such petition shall be served upon the Director of the Division of Taxation, and the taxpayer, and mailed to the clerk of every municipality entitled to share in the apportionment of the tax, within ten days after the filing of the petition; and proof of service and mailing shall be attached to the original petition, or service thereon acknowledged, or filed forthwith when service is made after the filing of the petition.

(d) *Railroad Property Tax Appeals.* Appeals from the validity or amount of any assessment or reassessment of railroad property taxes made by the Director of the Division of Taxation, under the Railroad Tax Act, R. S. 54:29A-31, shall be instituted by complaint. All such complaints shall be filed on or before the third Monday in May following the levy or imposition of the tax. If the complaint is made by a railroad company, a copy thereof and notice of application for hearing shall be served upon the Attorney-General at least five days before the filing of such complaint and, with respect to Class II property, a copy of the complaint and notice of application for hearing shall be served upon the clerk of every taxing district in which such property is located. If the complaint is made by the Attorney-General, or by the authority of any taxing district, a copy of the complaint and notice of application for hearing shall be served upon the railroad company at least five days before the filing thereof.

(e) *Railroad Franchise Tax Appeals.* Appeals from the validity or amount of any assessment or reassessment of railroad franchise taxes made by the Director of the Division of Taxation, under the Railroad Tax Act, R. S. 54:29A-31, shall be instituted by complaint. All such complaints shall be filed on or before the first Tuesday in September following the assessment or reassessment thereof. If the complaint is made by a railroad company, a copy thereof and notice of application for hearing shall be served upon the

Attorney-General. If complaint is made by the Attorney-General or by authority of any taxing district, a copy of the complaint and notice of application for hearing shall be served upon the railroad at least five days before the filing thereof.

Rule VIII—Notice of Hearings

After preparation of the hearing lists by the secretary of the Division he shall give notice of the time and place of the hearing by mailing a notice thereof to the parties at the address noted on the petition of appeal, at least ten days prior to the date of such hearing. Notices mailed to taxing districts shall be sent to the assessor or board of assessors and to the clerk of the municipality. Hearings may be continued from time to time.

Rule IX—References

Appeals may be referred by the Division to a panel of two or more of its members, at least one of whom shall be an attorney-at-law, at any designated place for the purpose of conducting the hearing and reporting to the Division for its action.

Rule X—Hearings

(a) All proceedings shall be open to the public. Any person may appear and act for himself, or for a partnership of which he is a member, or for a corporation of which he is an officer, or for a Board of which he is a member, or may be represented by an attorney-at-law admitted to practice before the courts of this State. A panel may suspend, with or without terms, the rule restricting to a member of the New Jersey Bar the presentment of any matter before it.

(b) Appeals shall be placed on a hearing list compiled by the secretary, in such order as shall be convenient and shall be separately numbered. Unless the panel otherwise directs, all matters shall be heard in the order as listed, but appeals which shall have been adjourned without date shall not be placed on a hearing list in advance of other appeals ready for hearing, which have not been so adjourned, unless the Division so orders.

(c) Continuance and adjournments may be ordered by the Division or the panel, on its own motion, or may be granted on motion of either party.

(d) At all hearings, the appellant shall first produce evidence. Proof as to the existence or contents of books, documents, records and other papers, may, in the discretion of the panel be offered without producing originals. When books, documents, records or other papers have been received in evidence, a copy thereof, or so much thereof as may be material or relevant,

may in the discretion of the panel be substituted therefor. The originals of books, documents, records, models, diagrams, or other exhibits introduced into evidence may be withdrawn in such manner and upon such terms as the Division in its discretion may prescribe. In any proceeding where deeds or other instruments of conveyance do not state the true consideration or sales price of the property which is the subject of appeal, the United States documentary stamps, if any, attached to such deeds or instruments, shall be admitted as prima facie evidence of the true consideration or sales price of the property.

(e) Any appeal may be dismissed on motion, where it appears that the appeal to the county board of taxation has been (1) withdrawn at the hearing, or previously thereto in writing by the appellant or his agent; (2) dismissed because of appellant's failure to prosecute the appeal at a hearing called by the county tax board; (3) settled by mutual consent of the taxpayer and assessor of the taxing district. This provision shall not preclude an appeal to the Division of Tax Appeals in the event that the appeal was "dismissed without prejudice" by a county board of taxation.

(f) A petition of appeal may be withdrawn by the petitioner, or his attorney or agent, at any time until judgment has been entered.

(g) Petitions of appeal may be amended, and amended petitions of appeal may be further amended, with or without terms. However, this right to amend shall not be construed to permit an amendment that would add any subject matter not included in the original appeal.

(h) No judgment shall be entered in any appeal from a county board action upon the oral consent or agreement of a taxpayer with the taxing district, municipality or county concerned in such appeal, or their respective attorneys, but judgment shall be entered in such appeals only upon the written consents or agreements of the taxpayer and the taxing district, municipality or county concerned, or their respective attorneys, verified by **at least one qualified** expert as to the facts therein alleged, in support of the valuations therein consented to.

If any party fails to appear at the time set for the hearing, the Division may proceed ex parte or dismiss the petition for lack of prosecution.

Rule XI—Motions

All motions addressed to the Division shall be in writing, which shall state the relief sought and the grounds upon which the same are based, on at least five days' notice to the adverse party. The party making the motion may annex thereto such affidavits as are deemed essential to the disposition of the motion, which shall be served with the notice and to which the adverse party may reply with counter-affidavits at the hearing of the

RULE XII - DEPOSITIONS
(As amended December 8, 1953;
effective December 16, 1953.)

Depositions of any person, including a party, may be taken upon oral examination or written interrogatories, for the purpose of discovery, or for use as evidence in the action or for both purposes. The deposition may be taken without first obtaining leave of the Division, and at any time after the petition of appeal is filed. The attendance of witnesses may be compelled by the use of subpoena procured pursuant to R.S. 54:2-17. The practice and procedure for the taking of depositions shall conform to the practice and procedure prescribed by the rules of civil practice for the Superior Court, and for this purpose the following rules of civil practice are incorporated herein by reference and specifically made a part of this rule; except that whenever the word "court" is used in the Rule of Civil Practice, it shall read as "Division, or a part thereof sitting as a Panel", R.R. 4:16-2 to 6 incl.; 4:18-1 to 4 incl.; 4:19; 4:20-1 to 7 incl., except that R.R. 4:20-6(a) is modified to read: "The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by witness. He shall then securely seal the deposition in an envelope endorsed with the title of the action and shall promptly file it with, or send it by registered mail, postage charges prepaid, to the Secretary of the Division. Upon being filed, the deposition shall be open to inspection, unless otherwise ordered by the Division."; 4:21; 4:22; and, 4:27.

RULE XIII - INTERROGATORIES
(As amended December 8, 1953; effective December 16, 1953.)

Interrogatories may be demanded by any party of any other party at any time after the petition of appeal is filed with the Division. The practice and procedure will conform to the practice and procedure prescribed by the rules governing civil practice in the Superior Court, and for this purpose the following rules of civil practice are incorporated by reference and specifically made a part of this rule: R.R. 4:23-3 to 11, incl., and R.R. 4:27, except that whenever the word "court" is used in the rule, it shall be read as "Division, or a part thereof sitting as a Panel."

same. Motions to be heard must be filed with the Secretary of the Division at least three days before the return date. The Division may, if necessary to the disposition of the motion, require testimony in lieu of affidavits. Motions shall be returnable on any Tuesday, in the forenoon, when the Division is in session at Trenton, or in cases which have been referred to two or more of its members in accordance with Rule IX, may be heard by such member or members at the place of hearing other than Trenton. Service on the agent or attorney of record shall be deemed service on the adverse party within the meaning of this rule.

Rule XII—Depositions

Depositions may be taken without the State, pursuant to the provisions of Revised Statutes, Chapter 54:2-21.

(a) When either party proposes to take depositions, an application together with affidavit shall be filed with the Division setting forth the following:

- (1) The name and post-office address of each witness whose deposition it is proposed to be taken.
- (2) Matters concerning which the witnesses are to testify, together with a statement of explanation of the materiality of the testimony sought to be obtained.

(b) Service of a copy of the application shall be made at least five days prior to the return date of the application upon the adverse party, or upon his attorney or agent of record, and unless written objection is filed thereto with the secretary of the Division, within five days thereafter, the Division may, in its discretion, make an order specifying the time when, the place where, and the officer before whom the witnesses are to testify. If objection is made, the application shall be set down for a hearing, and the parties notified of the date thereof by the secretary.

(c) The parties may, by stipulation duly signed and filed, take depositions before a commissioner of the State where the witnesses reside, or a Master of the Superior Court of New Jersey, specifically appointed for that purpose. In territory west of the Mississippi, or in any foreign state or kingdom, the president shall fix the time and place of such examination.

(d) The officer taking the depositions shall state in his return that the witnesses were properly sworn or affirmed, that the questions and answers were taken down in his presence, and, if the commission issued upon written interrogatories prepaid in advance, that neither party, unless the party is also a witness, was present at the time, either personally or by attorney, or agent. The officer shall forward the depositions with a

copy thereof, by registered mail, postage charges prepaid, in a sealed packet, to the president of the Division.

Rule XIII—Interrogatories

Interrogatories, or bills of particulars, may be demanded upon order of the Division, sitting in its entirety, or as a panel, after four days' notice of demanding same to the adverse party.

Rule XIV—Subpoena

Either party may summon witnesses or may require the production of books or papers by process of subpoena under the seal of the Division, signed by the secretary, president or a member of the Division and served in the manner required for the purpose of trial in the courts of this State. A panel to whom a matter has been referred, may summon and examine witnesses and require by subpoena the production of any returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry at any designated place of hearing. Service of a notice in writing, attached to a subpoena, addressed to any person named therein, requiring the production at the time and place named in such subpoena of any books, papers or documents designated therein, in the custody or under the control of such person, shall be equivalent to a subpoena duces tecum.

Rule XV—Proof of Service

Proof of service shall in all cases not otherwise specified in these rules, be evidenced by an affidavit endorsed upon or attached to the original pleading, or service thereon acknowledged.

Rule XVI—Misconduct

Misconduct on the part of any person attending a hearing, or the failure of any witness, when duly subpoenaed, to attend, to give testimony, or produce any records, shall be punishable to the county court of the county in which the alleged misconduct has taken place in the same manner as such failure is punishable by such court in a case therein pending, upon certification of such fact by the Division or the presiding member thereof.

Rule XVII—Judgments

All matters shall be decided by a majority vote of the members present. The "Ayes" and "Nays" may be called for by any member of the Division. The determination of any matter shall be evidenced by a judgment which shall be signed by at least four members and filed in the office of the Division.

RULE XVIII—Reports and Opinions

(a) A panel shall report in writing on any matter referred to it, which report shall be signed by the members of the panel. The said report shall include in substance the facts and particulars of the testimony taken; said reports shall be public records.

(b) Reasons may be filed in any matter by a member of the Division, but shall not constitute the opinion of the Division, unless approved by an affirmative vote of at least four members.

Rule XIX—Practice and Procedure

Except as herein otherwise provided, the practice and procedure before the Division shall conform to that prevailing in the courts of this State, but the Division reserves the right to make the proceedings and hearings thereunder as informal as possible, to the end that substance and not form shall govern, and that a final determination of all matters before it may be promptly reached.

Rule XX—Filing Fees

(a) Upon the filing of a petition of appeal by any taxpayer or taxing district with the Division, pursuant to R. S. 54:2-34, R. S. 54:2-35, R. S. 54:2-39, R. S. 54:4-63.11 or R. S. 54:4-63.23, such taxpayer or taxing district filing such petition shall pay to the Secretary of the Division a fee according to the following schedule:

If the valuation involved is:	
Less than \$5,000.00 the fee shall be	\$ 1.00
\$5,000.00 or more but less than \$20,000.00	
the fee shall be	2.00
\$20,000.00 or more but less than \$50,000.00	
the fee shall be	3.00
\$50,000.00 or more but less than \$100,000.00	
the fee shall be	5.00
\$100,000.00 or more, the fee shall be	10.00

The fees in the foregoing schedule shall apply to each item of assessment and not to the entire parcel, for instance: In an appeal from a judgment affecting a land assessment of \$1,000 and an improvement assessment of \$3,000, the fee shall be \$1.00 for each item of assessment or a total of \$2.00 as a filing fee for the petition; in an appeal from a judgment affecting a land assessment of \$10,000 and an improvement assessment of \$30,000, the fee shall be \$2.00 for the item of land assessment and \$3.00 for the item of improvement assessment, or a total of \$5.00 as a filing fee for the petition.

(b) In an appeal filed involving the valuation of main stem (Class I) railroad property, the petitioner shall pay a fee in accordance with the schedule hereinbefore set forth, and as the main stem is assessed as a unit and so reported to the railroads, an appeal with respect to main stem is to be treated as one item.

In an appeal filed involving a valuation of Class II railroad property, the petitioner shall pay a fee in accordance with the schedule hereinbefore set forth for each parcel of land and for each structure separately assessed.

In an appeal filed involving a reclassification of railroad property, the petitioner shall pay a fee of \$10.00 for every parcel sought to be reclassified.

(c) In appeals involving (1) railroad franchise tax, (2) gross receipts tax on public utility corporations and (3) franchise tax on public utility corporations, the petitioner shall pay a fee of \$10.00 in each instance for such appeal.

(d) In an appeal filed pursuant to R. S. 54:2-37, the petitioner shall pay a fee of \$10.00.

Rule XXI—Reservation

The Division, or a panel thereof, reserves the right to amend, relax and dispense with these rules from time to time as circumstances may require, or render necessary or expedient.