

CHAPTER 26

TRANSFER INHERITANCE AND ESTATE TAX

Authority

N.J.S.A. 54:38-1 and 54:50-1.

Source and Effective Date

R.2003 d.152, effective March 17, 2003.
See: 34 N.J.R. 3935(a), 35 N.J.R. 1567(b).

Chapter Expiration Date

Chapter 26, Transfer Inheritance and Estate Tax, expires on March 17, 2008.

Chapter Historical Note

Chapter 26, Transfer Inheritance and Estate Tax, became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 26, Transfer Inheritance and Estate Tax, was readopted as R.1983 d.356, effective August 12, 1983. See: 15 N.J.R. 1088(b), 15 N.J.R. 1488(b).

Pursuant to Executive Order No. 66(1978), Chapter 26, Transfer Inheritance and Estate Tax, was readopted as R.1988 d.300, effective June 7, 1988. See: 20 N.J.R. 637(a), 20 N.J.R. 1571(a).

Pursuant to Executive Order No. 66(1978), Chapter 26, Transfer Inheritance and Estate Tax, was readopted as R.1993 d.314, effective June 4, 1993. See: 25 N.J.R. 1498(a), 25 N.J.R. 2906(a).

Pursuant to Executive Order No. 66(1978), Chapter 26, Transfer Inheritance and Estate Tax, was readopted as R.1998 d.194, effective March 26, 1998. See: 30 N.J.R. 609(a), 30 N.J.R. 1426(b).

Chapter 26, Transfer Inheritance and Estate Tax, was readopted as R.2003 d.152, effective March 17, 2003. As a part of R.2003 d.152, Subchapter 3A, Estate Tax—Decedent's Dying after December 31, 2001, was adopted as new rules. See: Source and Effective Date. See, also, section annotations.

Subchapter 3, Additional Tax (New Jersey Estate Tax), was renamed Estate Tax—Decedents Dying on or before December 31, 2001; and Subchapter 3A, Estate Tax—Decedent's Dying after December 31, 2001, was renamed Estate Tax—Decedents Dying after December 31, 2001, by R.2006 d.196, effective June 5, 2006. See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

18:26-1.1 Definitions

SUBCHAPTER 2. IMPOSITION AND COMPUTATION OF TAX

- 18:26-2.1 Nature of tax
- 18:26-2.2 Law at the time of death controls
- 18:26-2.3 Computation of tax
- 18:26-2.4 Exclusion of exempt transfers
- 18:26-2.5 Rates for Class "A" transferee
- 18:26-2.6 Mutually acknowledged child or domestic partner
- 18:26-2.7 Rates of Class "C" transferee
- 18:26-2.8 Rates of Class "D" transferee
- 18:26-2.9 Escheat
- 18:26-2.10 Multiple transfers
- 18:26-2.11 Distribution by agreement
- 18:26-2.12 Renunciation or disclaimer
- 18:26-2.13 Possibility of divestment

- 18:26-2.14 Composition of taxes on certain transfers
- 18:26-2.15 Bond in lieu of payment
- 18:26-2.16 Ratio tax on transfer of nonresident's property
- 18:26-2.17 Direction in will as to payment of tax
- 18:26-2.18 through 18:26-2.19 (Reserved)

SUBCHAPTER 3. ESTATE TAX—DECEDENTS DYING ON OR BEFORE DECEMBER 31, 2001

- 18:26-3.1 Estates subject to tax
- 18:26-3.2 Amount and nature of tax
- 18:26-3.3 Maximum estate tax where no inheritance tax imposed
- 18:26-3.4 Additions or reductions to estate tax
- 18:26-3.5 Change in Federal estate tax
- 18:26-3.6 Taxation of future interests after estate tax paid; credit
- 18:26-3.7 Payment; due date; interest; extension of time
- 18:26-3.8 Certificate of inheritance
- 18:26-3.9 Refunds
- 18:26-3.10 Protests, hearings and appeals

SUBCHAPTER 3A. ESTATE TAX—DECEDENTS DYING AFTER DECEMBER 31, 2001

- 18:26-3A.1 Estate subject to tax—decendent's dying after December 31, 2001
- 18:26-3A.2 Amount of the tax and certain valuations
- 18:26-3A.3 Simplified Tax System
- 18:26-3A.4 Reduction of tax; out-of-State property
- 18:26-3A.5 Estate tax where no inheritance tax imposed
- 18:26-3A.6 Lien
- 18:26-3A.7 Time limit for assessments
- 18:26-3A.8 Filing of tax return and other information
- 18:26-3A.9 Taxation of future interest after estate tax paid; credit
- 18:26-3A.10 Payment; due date; interest; extension of time
- 18:26-3A.11 Certificate of inheritance
- 18:26-3A.12 Refunds
- 18:26-3A.13 Protests, hearings and appeals

SUBCHAPTER 4. COMPROMISES (INHERITANCE AND ESTATE TAXES)

- 18:26-4.1 Domicile doubtful; terms of settlement
- 18:26-4.2 Compromise and settlement of certain tax claims or liens; waiver of defenses
- 18:26-4.3 Payment pursuant to compromise
- 18:26-4.4 through 18:26-4.5 (Reserved)

SUBCHAPTER 5. TRANSFERS SUBJECT TO TAX

- 18:26-5.1 Transfers generally
- 18:26-5.2 Transfers of residents and nonresidents
- 18:26-5.3 Property includible in estate of decedent
- 18:26-5.4 Classification of property as real or personal
- 18:26-5.5 Devises in lieu of commissions
- 18:26-5.6 Inter vivos transfers
- 18:26-5.7 Transfers made in contemplation of death
- 18:26-5.8 Transfers taking effect in possession or enjoyment at or after death
- 18:26-5.9 Certain profit sharing and retirement plans
- 18:26-5.10 Transfers not deemed to take effect at or after death
- 18:26-5.11 Jointly held property
- 18:26-5.12 Powers of appointment; estates in expectancy
- 18:26-5.13 Insurance proceeds subject to New Jersey Inheritance Tax
- 18:26-5.14 Proceeds payable to testamentary trustee
- 18:26-5.15 Proceeds under matured endowment policies
- 18:26-5.16 Proceeds under claim settlement certificates and supplementary contracts
- 18:26-5.17 Proceeds of retirement contracts
- 18:26-5.18 Proceeds of single premium life insurance with annuity contracts
- 18:26-5.19 Annuity contracts
- 18:26-5.20 Dividends and refunds on life insurance policies

18:26-5.21 (Reserved)

SUBCHAPTER 6. EXEMPTIONS

- 18:26-6.1 Class "A" transfers
- 18:26-6.2 Class "C" transfers
- 18:26-6.3 Dower or curtesy
- 18:26-6.4 Tenancy by the entirety
- 18:26-6.5 Intangible property of a nonresident
- 18:26-6.6 Wrongful death action
- 18:26-6.7 (Reserved)
- 18:26-6.8 Life insurance proceeds
- 18:26-6.9 Beneficiary of insurance trust
- 18:26-6.10 Trustee of insurance trust
- 18:26-6.11 Surrender of right to change beneficiary of contract of insurance
- 18:26-6.12 Public educational, scientific and charitable institutions
- 18:26-6.13 Property received from the Federal Government
- 18:26-6.14 Federal pensions
- 18:26-6.15 State pensions
- 18:26-6.16 Other pensions
- 18:26-6.17 No fault insurance

SUBCHAPTER 7. DEDUCTION

- 18:26-7.1 Deductions generally permitted
- 18:26-7.2 Decedent's debts
- 18:26-7.3 Debts secured by out-of-State real property
- 18:26-7.4 Mortgages
- 18:26-7.5 Debts secured by life insurance
- 18:26-7.6 Debt for claim of county welfare boards or State institutions
- 18:26-7.7 Estates subject to escheat
- 18:26-7.8 Funeral and last illness expenses
- 18:26-7.9 Administration expenses
- 18:26-7.10 Executor's and administrator's expenses
- 18:26-7.11 Counsel fees
- 18:26-7.12 Real estate broker's commissions
- 18:26-7.13 Storage expense
- 18:26-7.14 Operating costs of business
- 18:26-7.15 State, county and local taxes
- 18:26-7.16 Transfer taxes due other jurisdictions
- 18:26-7.17 Loans secured by life insurance policies
- 18:26-7.18 (Reserved)

SUBCHAPTER 8. ASSESSMENT AND VALUATION

- 18:26-8.1 (Reserved)
- 18:26-8.2 Appointment of appraisers
- 18:26-8.3 Notice of appraisal; evidence; report
- 18:26-8.4 Failure to testify before appraiser; false statements
- 18:26-8.5 Additional assessment
- 18:26-8.6 Final assessment
- 18:26-8.7 Assessment notices; required statements
- 18:26-8.8 Time limit for assessment
- 18:26-8.9 Appeals from assessment
- 18:26-8.10 Valuations generally
- 18:26-8.11 Fractional interest in real property
- 18:26-8.12 Life estate in realty held by the entirety
- 18:26-8.13 Bonds and mortgages
- 18:26-8.14 Partnerships
- 18:26-8.15 "Close" or "Family" corporation
- 18:26-8.16 Assets of close corporation or partnership of known market value
- 18:26-8.17 Government bonds and securities
- 18:26-8.18 Stocks, bonds, mutual funds and securities
- 18:26-8.19 Patents, trade marks, copyrights, and other items
- 18:26-8.20 Discretionary and legal common trust funds
- 18:26-8.21 Contingent or defeasible estates
- 18:26-8.22 Estates for life, estates for a term of years and annuities
- 18:26-8.23 Vested remainders after estate for life, estate for a term of years, or annuity
- 18:26-8.24 Estates subject to power of appointment
- 18:26-8.25 Certificates of deposit, savings certificates and special savings accounts

18:26-8.26 (Reserved)

SUBCHAPTER 9. RETURNS, PAYMENT AND PENALTIES

- 18:26-9.1 Date return due
- 18:26-9.2 By whom filed
- 18:26-9.3 Form of returns
- 18:26-9.4 Resident decedents' returns
- 18:26-9.5 Nonresident returns
- 18:26-9.6 Amendment to original return
- 18:26-9.7 Confidential nature of returns
- 18:26-9.8 (Reserved)
- 18:26-9.9 Payment
- 18:26-9.10 How tax is payable
- 18:26-9.11 Persons responsible
- 18:26-9.12 Liability for nonpayment
- 18:26-9.13 Late payment; general provisions
- 18:26-9.14 Payment on executory devise or transfer subject to a contingency or power of appointment
- 18:26-9.15 Bond for failure to pay tax
- 18:26-9.16 Composition of taxes, bond
- 18:26-9.17 (Reserved)

SUBCHAPTER 10. COLLECTION AND REFUND

- 18:26-10.1 Levy of tax; resident and nonresident decedents
- 18:26-10.2 Lien of tax; duration
- 18:26-10.3 (Reserved)
- 18:26-10.4 Deduction or collection of tax before distribution
- 18:26-10.5 Payment of tax collected; receipt
- 18:26-10.6 Statement of payment or exemption
- 18:26-10.7 Proceedings to compel payment of taxes; collection cost fees
- 18:26-10.8 (Reserved)
- 18:26-10.9 Refund for erroneous overpayment
- 18:26-10.10 Overpayment of account
- 18:26-10.11 Refund when debt proved after legacy or distributive share paid
- 18:26-10.12 Time and manner of making application for refund
- 18:26-10.13 Interest on refunds

SUBCHAPTER 11. WAIVERS—CONSENT TO TRANSFER

- 18:26-11.1 Consent to transfer; generally
- 18:26-11.2 Executors and trustees to pay tax
- 18:26-11.3 Consent to transfer not issued
- 18:26-11.4 Real and personal property of resident and nonresident decedents
- 18:26-11.5 Leasehold interest
- 18:26-11.6 Mortgage participation certificates
- 18:26-11.7 Share of a deceased beneficiary
- 18:26-11.8 Transfers to savings accounts without a waiver
- 18:26-11.9 From one fiduciary to another
- 18:26-11.10 Transfer from joint fiduciaries to successors
- 18:26-11.11 Transfer of partnership interest
- 18:26-11.12 Transfer of assets held by nonresident custodian
- 18:26-11.13 Transfer of tangible or intangible personal property
- 18:26-11.14 Exempt property not subject to waiver
- 18:26-11.15 Certain small estates not subject to waiver
- 18:26-11.16 Blanket waiver
- 18:26-11.17 Funds held in a banking institution
- 18:26-11.18 Funds held in bank accounts
- 18:26-11.19 Transfer of collateral
- 18:26-11.20 Release of safe deposit box contents
- 18:26-11.21 through 18:26-11.28 (Reserved)
- 18:26-11.29 Transfer of stock of a New Jersey corporation
- 18:26-11.30 Life insurance companies
- 18:26-11.31 Notice
- 18:26-11.32 Penalty for failure to obtain consent or give notice—Inheritance Tax

SUBCHAPTER 12. ADMINISTRATION AND FORMS

- 18:26-12.1 General powers of Director