

CHAPTER 12

GENERAL

Authority

N.J.S.A. 54:1-35 et seq., 54:4-26; 54:50-1 et seq.; and 54:4-1 et seq.

Source and Effective Date

R.1993 d.482, effective October 4, 1993.
See: 25 N.J.R. 2652(a), 25 N.J.R. 4604(a).

Executive Order No. 66(1978) Expiration Date

Chapter 12, General, expires on October 4, 1998.

Chapter Historical Note

Chapter 12, General, was filed and became effective prior to September 1, 1969 with Subchapter 1, Categories of Nonusable Deed Transactions; Subchapter 2, Preparation of Local Property Tax List and Duplicate, and Subchapter 3, Preparation and Filing of Exempt Property Tax List and Duplicate.

Subchapter 4, Revaluation of Real Property by Appraisal Forms, was adopted as R.1972 d.179, effective September 13, 1972. See: 4 N.J.R. 197(b), 4 N.J.R. 249(a). Subchapter 4 was repealed and new rules adopted as R.1983 d.221, effective June 20, 1983. See: 15 N.J.R. 322(a), 15 N.J.R. 1039(a).

Subchapter 5, Property Tax Appeals, was adopted as R.1973 d.144, effective June 1, 1973. See: 5 N.J.R. 167(c), 5 N.J.R. 247(a). Section 5.1 was amended by R.1991 d.511, effective October 21, 1991. See: 23 N.J.R. 2230(a), 23 N.J.R. 3177(a). Pursuant to Executive Order No. 66(1978), Subchapter 5 expired on July 29, 1993.

Section 6.1, Definitions, of Subchapter 6 was adopted as R.1976 d.172, effective June 3, 1976. See: 8 N.J.R. 259(b), 8 N.J.R. 356(b). Subchapter 6, Allowance of Home Improvement Exemptions, was adopted as R.1976 d.185, effective June 10, 1976. See: 7 N.J.R. 522(b), 8 N.J.R. 356(d). Amendments to Subchapter 6 were adopted as R.1978 d.287, effective August 15, 1978. See: 10 N.J.R. 301(a), 10 N.J.R. 407(c). Subchapter 6 was replaced by a new Subchapter 6, One and Two Unit Residences, and Subchapter 6A, Multiple Dwellings, by Emergency Amendment R.1980 d.253, effective June 16, 1980. See: 12 N.J.R. 436(b). Section 6A.6, Construction permit; certificate of occupancy, was adopted as Emergency Rule R.1980 d.335, effective July 28, 1980. See: 12 N.J.R. 554(c). Section 6A.7, Notification of disallowance, was adopted as R.1980 d.553, effective December 22, 1980. See: 12 N.J.R. 614(b), 13 N.J.R. 111(b). Section 6A.8, Supplemental procedural rules for assessors, was adopted as R.1982 d.78, effective March 15, 1982. See: 14 N.J.R. 72(b), 14 N.J.R. 278(b). Section 6A.8 was amended by R.1983 d.256, effective July 5, 1983. See: 15 N.J.R. 613(a), 15 N.J.R. 1105(a). Sections 6A.1 and 6A.2 were amended by R.1984 d.550, effective December 17, 1984. See: 16 N.J.R. 2424(a), 16 N.J.R. 3480(a). Subchapter 6, Home Improvement Exemption: One and Two Unit Residences, and Subchapter 6A, Home Improvement Exemptions: Multiple Dwellings, were repealed by R.1993 d.130, effective March 15, 1993. See: 24 N.J.R. 4335(a), 25 N.J.R. 1228(c).

Subchapter 7, Homestead Tax Rebate, was adopted as Emergency Rule R.1976 d.333, effective October 21, 1976. See: 8 N.J.R. 582(c). New Subchapter 7 was adopted as R.1978 d.4, effective January 4, 1978. See: 9 N.J.R. 596(a), 10 N.J.R. 81(b). Section 7.1 was amended by R.1977 d.130, effective April 14, 1977. See: 9 N.J.R. 143(a), 9 N.J.R. 245(a); by R.1978 d.411, effective December 5, 1978. See: 10 N.J.R. 518(a), 11 N.J.R. 51(d); by R.1979 d.432, effective October 26, 1979. See: 11 N.J.R. 525(a), 11 N.J.R. 650(a); by R.1989 d.146, effective March 20, 1989. See: 21 N.J.R. 16(b), 21 N.J.R. 778(c). Section 7.2 was amended by R.1977 d.130, effective April 14, 1977. See: 9 N.J.R.

143(a), 9 N.J.R. 245(a); by R.1978 d.411, effective December 5, 1978. See: 10 N.J.R. 518(a), 11 N.J.R. 51(d). Section 7.3 was amended by R.1977 d.130, effective April 14, 1977. See: 9 N.J.R. 143(a), 9 N.J.R. 245(a). Sections 7.4 and 7.10 were amended by R.1978 d.411, effective December 5, 1978. See: 10 N.J.R. 518(a), 11 N.J.R. 51(d); by R.1987 d.477, effective November 16, 1987. See: 19 N.J.R. 1637(a), 19 N.J.R. 2201(a). Section 7.5 was amended by R.1977 d.130, effective April 14, 1977. See: 9 N.J.R. 143(a), 9 N.J.R. 245(a). Sections 7.9, 7.10 and 7.11 were amended by R.1977 d.130, effective April 14, 1977. See: 9 N.J.R. 143(a), 9 N.J.R. 245(a). Section 7.12 was amended by R.1976 d.339, effective October 29, 1976. See: 8 N.J.R. 586(c); by R.1977 d.90, effective March 16, 1977. See: 9 N.J.R. 199(b); by R.1977 d.448, effective November 30, 1977. See: 10 N.J.R. 44(a); by R.1978 d.10, effective January 18, 1978. See: 10 N.J.R. 81(c); by R.1978 d.406, effective November 28, 1978. See: 11 N.J.R. 51(b); by R.1978 d.411, effective December 5, 1978. See: 10 N.J.R. 518(a), 11 N.J.R. 51(d); by R.1979 d.467, effective November 28, 1979. See: 12 N.J.R. 56(b); by R.1980 d.517; effective December 1, 1980. See: 13 N.J.R. 47(a); amended on an emergency basis by R.1981 d.474, effective December 1, 1981. See: 13 N.J.R. 948(b); readopted, R.1982 d.41, effective February 2, 1982. See: 14 N.J.R. 212(a); amended on an emergency basis by R.1982 d.439, effective November 30, 1982 and expired on February 1, 1983. See: 14 N.J.R. 1466(a); amended on an emergency basis by R.1983 d.582, effective December 1, 1983. See: 15 N.J.R. 2177(a); amended on an emergency basis by R.1984 d.15, effective January 17, 1984. See: 16 N.J.R. 252(b); amended on an emergency basis by R.1984 d.584, effective December 4, 1984 and expired February 4, 1985. See: 16 N.J.R. 3498(a), 17 N.J.R. 740(a), 17 N.J.R. 746(b). Correction: Date changed in (h) to March 1, 1984; emergency amendment, R.1985 d.655, effective December 5, 1985 (expired February 3, 1986). See: 18 N.J.R. 107(a); readopted, R.1986 d.64, effective March 17, 1986. See: 18 N.J.R. 107(a), 18 N.J.R. 568(b); emergency amendment, R.1986 d.482, effective December 1, 1986 (expired January 30, 1987). See: 18 N.J.R. 2460(a); readopted, R.1987 d.223, effective May 18, 1987. See: 18 N.J.R. 2460(a), 19 N.J.R. 884(a); emergency amendment, R.1987 d.537, effective December 2, 1987 (expired January 31, 1988). See: 19 N.J.R. 2498(a); emergency amendment, R.1988 d.109, effective March 7, 1988. See: 19 N.J.R. 2498(a), 20 N.J.R. 547(a); amended by R.1989 d.146, effective March 20, 1989. See: 21 N.J.R. 16(b), 21 N.J.R. 778(c). Sections 7.13 and 7.14, new rules, R.1978 d.411, effective December 5, 1978. See: 10 N.J.R. 518(a), 11 N.J.R. 51(d). Section 7.15, emergency new rule, R.1991 d.251, effective April 6, 1991 (expired June 15, 1991). See: 23 N.J.R. 1464. Adoption of concurrent proposal, R.1991 d.527, effective November 4, 1991. See: 23 N.J.R. 1464(a), 23 N.J.R. 3345(a). Pursuant to Executive Order No. 66(1978), Subchapter 7 expired on July 29, 1993.

Subchapter 8, Exemptions: Solar Energy Heating and Cooling Systems, was adopted as R.1978 d.225, effective July 7, 1978. See: 10 N.J.R. 264(c), 10 N.J.R. 264(a). Pursuant to Executive Order No. 66(1978), Subchapter 8 was readopted by R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b). Pursuant to Executive Order No. 66(1978), Subchapter 8 expired on July 29, 1993.

Subchapter 9, Moratorium on Taxation of Mobile Homes as Real Property, was adopted as R.1980 d.147, effective April 9, 1980. See: 12 N.J.R. 160(a), 12 N.J.R. 293(c). Sections 9.3, 9.5 and 9.6 were amended by R.1981 d.207, effective July 9, 1981. See: 13 N.J.R. 162(b), 13 N.J.R. 462(c). Pursuant to Executive Order No. 66(1978), Subchapter 9 expired on July 29, 1993.

Pursuant to Executive Order No. 66(1978), Chapter 12 was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b). Pursuant to Executive Order No. 66(1978), Chapter 12 was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a).

Subchapter 10, Real Property Defined, was adopted as R.1988 d.581, effective December 19, 1988. See: 20 N.J.R. 1787(a), 20 N.J.R. 3142(c).

Pursuant to Executive Order No. 66(1978), Subchapters 1, 2, 3, 4 and 10 were readopted as R.1993 d.482. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

18:12-10.4 Security interests

Law Review and Journal Commentaries

The Business Retention Act: An Act Concerning the Taxation of Certain Business Property. Kenneth R. Kosco, 18 Seton Hall Legis.J. 873 (1994).

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SUBCHAPTER 1. CATEGORIES OF NONUSABLE DEED TRANSACTIONS

18:12-1.1 Categories enumerated

(a) The deed transactions of the following categories are not usable in determining assessment-sales ratios pursuant to N.J.S.A. 54:1-35.1 et seq.:

1. Sales between members of the immediate family;
2. Sales in which "love and affection" are stated to be part of the consideration;
3. Sales between a corporation and its stockholder, its subsidiary, its affiliate or another corporation whose stock is in the same ownership;
4. Transfers of convenience; for example, for the sole purpose of correcting defects in title, a transfer by a husband either through a third party or directly to himself and his wife for the purpose of creating a tenancy by the entirety, etc.;
5. Transfers deemed not to have taken place within the sampling period. Sampling period is defined as the period from July 1, to June 30, inclusive, preceding the date of promulgation, except as hereinafter stated. The recording date of the deed within this period is the determining date since it is the date of official record. Where the date of deed or date of formal sales agreement occurred prior to January 1, next preceding the commencement date of the sampling period, the sale shall be nonusable;
6. Sales or property conveying only a portion of the assessed unit, usually referred to as apportionments, split-offs or cut-offs; for example, a parcel sold out of a larger tract where the assessment is for the larger tract;
7. Sales of property substantially improved subsequent to assessment and prior to the sale thereof;
8. Sales of an undivided interest in real property;
9. Tax sales;
10. Sales by guardians, trustees, executors and administrators;
11. Judicial sales such as partition sales;
12. Sheriff's sales;
13. Sales in proceedings in bankruptcy, receivership or assignment for the benefit of creditors and dissolution or liquidation sales;
14. Quit-claim deeds;

15. Sales to or from the United States of America, the State of New Jersey, or any political subdivision of the State of New Jersey; including boards of education and public authorities;

16. Sales of property assessed in more than one taxing district;

17. Sales to or from any charitable, religious or benevolent;

18. Transfer to banks, insurance companies, savings and loan associations, mortgage companies, or any other lien holder, when the transfer is made in lieu of foreclosure;

19. Sales where purchaser assumes more than two years of accrued taxes;

20. Acquisitions, resale or transfer by railroads, pipeline companies or other public utility corporations for right-of-way purposes;

21. Sales of cemetery lots;

22. Transfers of property in exchange for other real estate, stocks, bonds, or other personal property;

23. Sales of commercial or industrial real property which include machinery, fixtures, equipment, inventories, goodwill when the values of such items are indeterminate;

24. Sales of property, the value of which has been materially influenced by zoning changes where the latter are not reflected in current assessments;

25. Transactions in which the full consideration as defined in the "Realty Transfer Fee Act" is less than \$100.00;

26. Sales which for some reason other than specified in the enumerated categories are not deemed to be a transaction between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell;

27. Sales occurring within the sampling period but prior to a change in assessment practice resulting from the completion of a recognized revaluation or reassessment program; i.e., sales recorded during the period July 1 to December 31 next preceding the tax year in which the result of such revaluation or reassessment program is placed on the tax roll.

(b) Transfers of the foregoing nature should generally be excluded but may be used if after full investigation it clearly appears that the transaction was a sale between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell, and that it meets all other requisites of a usable sale.

Amended by R.1980 d.62, effective February 4, 1980.
See: 12 N.J.R. 56(a), 12 N.J.R. 162(a).

Law Review and Journal Commentaries

Burdens—Municipalities—Taxes. Judith Nallin, 134 N.J.L.J. No. 1, 71 (1993).

Tax assessments. Steven P. Bann, 137 N.J.L.J. No. 3, 76 (1994).

Case Notes

Taxpayer may correct substantially skewed "chapter 123 ratio". 1530 Owners Corp. v. Borough of Fort Lee, 263 N.J.Super. 382, 622 A.2d 1350 (A.D.1993), certification granted 134 N.J. 478, 634 A.2d 525, judgment modified and remanded 135 N.J. 394, 640 A.2d 811.

Tax court could refuse to apply previous year's discount where circumstances have changed. 1530 Owners Corp. v. Borough of Fort Lee, 263 N.J.Super. 382, 622 A.2d 1350 (A.D.1993), certification granted 134 N.J. 478, 634 A.2d 525, judgment modified and remanded 135 N.J. 394, 640 A.2d 811.

When sale price was used to establish "chapter 123 ratio", the taxpayer has burden of proving that price was less than market value. 1530 Owners Corp. v. Borough of Fort Lee, 263 N.J.Super. 382, 622 A.2d 1350 (A.D.1993), certification granted 134 N.J. 478, 634 A.2d 525, judgment modified and remanded 135 N.J. 394, 640 A.2d 811.

Taxpayer could not substitute unweighted, unclassified ratio of assessment to true value for purpose of determining whether taxable value was subject to revision. Glenpointe Associates v. Township of Teaneck, 241 N.J.Super. 37, 574 A.2d 459 (A.D.1990), certification denied 122 N.J. 391, 585 A.2d 392.

Taxpayer improperly relied on tax year in question to determine if taxpayer could substitute unweighted unclassified ratio for statutory ratio. Glenpointe Associates v. Township of Teaneck, 241 N.J.Super. 37, 574 A.2d 459 (A.D.1990), certification denied 122 N.J. 391, 585 A.2d 392.

Statute providing method for taxpayer's discrimination relief is not a sole remedy; statute establishes rebuttable presumption of common level assessment; taxpayer restricted to use of average ratio in statute to establish common level; to overcome common level presumption, a taxpayer must establish that application of the ratio would be virtually confiscatory. Murnick v. City of Asbury Park, 95 N.J. 452, 471 A.2d 1196 (1984).

Upon demonstration that the sales price on an FHA-financed sale was substantially distorted by extraordinary charges so that it does not reflect the true consideration for the property as between the seller and the buyer, the sale should be discarded and not used in a sales-ratio study for equalization table computation purposes. Trenton v. Mercer Cty. Bd. of Taxation, 66 N.J. 470, 333 A.2d 1 (1975).

Comparison of properties for real property taxation includes physical characteristics and economic aspects. Ford Motor Co. v. Edison Tp., 10 N.J.Tax 153 (1988), affirmed 12 N.J.Tax 244, affirmed 127 N.J. 290, 604 A.2d 580.

Property value was more accurately presented by taxpayer's expert than municipality's expert. Chevron U.S.A., Inc. v. City of Perth Amboy, 10 N.J.Tax 114 (1988), affirmed 237 N.J.Super. 280, 567 A.2d 597, superseded 11 N.J.Tax 480, certification denied 121 N.J. 628, 583 A.2d 324.

No weight could be attributed to the sale price of the subject property by taxpayer to borough in reviewing assessments; valuation and entitlement to discrimination relief. Linwood Properties, Inc. v. Fort Lee Boro., 7 N.J.Tax 320 (Tax Ct.1985).

Adoption of "master plan" and land development ordinances by township pursuant to Pinelands Comprehensive Management Plan held to have no effect on the sale prices of three properties, sales of which were used by the Director in arriving at assessed value-true value ratio; sales held properly included in a sales study for the establishment of the county equalization table; ratio for residential properties properly applied by the Director to vacant land in the township where no sales of vacant land occurred in the relevant time period. Washington Tp. v. Burlington Cty. Bd. of Taxation, 7 N.J.Tax 1 (Tax Ct.1984).

On appeal by township of 1984 county equalization table, held that, as of the date of the sale in question, the sale price of the parcel could not be related to an identical parcel that had been assessed for the 1982 tax year, and that the sale, therefore, could not be used in arriving at the equalization ratio for the township. *Cranbury Tp. v. Middlesex Cty. Bd. of Taxation*, 6 N.J.Tax 501 (Tax Ct.1984), affirmed 7 N.J.Tax 667 (App.Div.1985).

Sale of post office property by Federal government held not ipso facto unusable for assessment-sale ratio, without offering of evidence that requisites of usable sale not met; statute providing tax assessment discrimination remedy held not constitutionally repugnant; discrimination relief ordered. *Kearny Leasing Corp. v. Town of Kearny*, 6 N.J.Tax 363 (Tax Ct.1984), affirmed 7 N.J.Tax 665, certification denied 102 N.J. 340, 508 A.2d 215.

Sale price of lot in open, competitive sales market sold and bought by undressed, use-knowledgeable parties was a reliable indicator of market value and usable in a county equalization table calculation of the ratio of assessments to true value; two usable sales were a sufficient basis from which to determine total true value of "vacant land" classification of property. *West Deptford Tp. v. Gloucester Cty. Bd. of Taxation*, 6 N.J.Tax 79 (Tax Ct.1983).

Sale of commercial property used as trucking company depot held a nonusable deed transaction concerning the sale of commercial property including indeterminable items, thus properly excluded from the Division assessment practices study. *Union Twp. v. Director, Division of Taxation*, 1 N.J.Tax 15, 176 N.J.Super. 239, 422 A.2d 803 (Tax Ct.1980).

SUBCHAPTER 2. PREPARATION OF LOCAL PROPERTY TAX LIST AND DUPLICATE

18:12-2.1 Insertion of property classification code on line items

The assessor of each taxing district shall classify each line item appearing in the tax list according to the several categories shown below, and shall designate the same by the applicable property classification code symbol.

PROPERTY CLASSIFICATION CODE

Symbol	Category
1	Vacant Land
2-	Residential (4 Families or less)
3A	Farm (Regular)
3B	Farm (Qualified)
4A	Commercial
4B	Industrial
4C	Apartment
5A	Class I Railroad
5B	Class II Railroad
6A	Telephone
6B	Telegraph
6C	Messenger Service
15A	Exempt Public School
15B	Exempt Other School
15C	Exempt Public
15D	Exempt Charitable
15E	Exempt Cemetery
15F	Exempt Miscellaneous

18:12-2.2 Property classification definitions

(a) Class 1: "Vacant Land" means land itself above and under water in its original, indestructible, immobile state. Vacant land is idle land, not actively used for agricultural or any other purpose; unused acreage; and is land in an approved subdivision actively on the market for sale or being held for sale.

(b) Class 2: "Residential" means property described generally as a dwelling house including the lot or parcel of land on which the dwelling house is situated. The dwelling is functionally designed for use and enjoyment by not more than four families. A dwelling functionally designed for use and enjoyment by more than four families should be designated Class 4C.

(c) Class 3A: "Farm property (Regular)" means land being used for agricultural or horticultural purposes, including its use for the breeding, pasturing, and production of livestock and animal products. Farm property also includes land, together with improvements, where the use of the land and function of the buildings thereon are for agricultural or horticultural purposes, as well as farm houses and the lots or parcels of land on which they are situated.¹

(d) Class 3B: "Farm property (Qualified)" means land which has qualified and is assessed under the Farmland Assessment Act, Chapter 48, Laws of 1964.

(e) Class 4A: "Commercial properties" means any other type of income-producing property other than property in Classes 1, 2, 3A, 3B and those properties included in Classes 4B and 4C below.

(f) Class 4B: "Industrial properties".

(g) Class 4C: "Apartments" designed for the use and enjoyment of five families or more.²

(h) Class 5A: "Railroad Class I" means real property consisting of the length of main stem of a railroad in each taxing district.

(i) Class 5B: "Railroad Class II" means all real property used for railroad purposes which is not Class I or Class III.

(j) Class 6A: "Personal Property Telephone" means tangible goods and chattels exclusive of inventories used in the business of telephone companies.

(k) Class 6B: "Personal Property Telegraph" means tangible goods and chattels exclusive of inventories used in the business of telegraph companies.

(l) Class 6C: "Personal Property Messenger Service" means tangible goods and chattels exclusive of inventories used in the business of messenger services.

(m) Class 15A: "Public School Property" means real property owned by federal, state, county or local governments or their agencies used for public education.

(n) Class 15B: "Other School Property" means real property owned by a non-governmental, non-profit corporation used for educational purposes.

(o) Class 15C: "Public Property" means real property owned by federal, state, county or local governments or their agencies and devoted to public uses.

(p) Class 15D: "Church and Charitable Property" means real property owned by religious and charitable organizations actually and exclusively used in the work of the organizations.

(q) Class 15E: "Cemeteries and Graveyards" means real property solely devoted to or held for use as a cemetery, graveyard or burial ground.

(r) Class 15F: "Other Exempt" means real property exempt from taxation but not described in any of the foregoing classes.

¹ For definitions of Agricultural Use and Horticultural Use see Reg. 16:12-10.100(c) and (g) of the Regulations Governing The Valuation, Assessment and Taxation of Land Under the "Farmland Assessment Act of 1964".

² While Classes 4A, 4B and 4C are required to be separately designated on the tax list, the aggregate of these classes will be indicated as Class 4 ("Other") for the purpose of the table of equalized valuations (school aid table).

18:12-2.3 Tax list page summaries; recapitulation of property

(a) The assessor shall prepare a summary containing the valuations as they appear in his tax list and duplicate for

both taxable and exempt properties. In addition, the assessor shall prepare an alphabetical index listing the taxpayer by name. The summaries will pertain to the property classification code as described in section 1 of this subchapter.

(b) The assessor shall make provisions for a summary of deduction amounts for veterans, senior citizens, disabled citizens, surviving spouses and widows of veterans. There shall also be a summary setting forth the number of parcels and the exemption amounts for the following:

1. Air pollution control;
2. Water pollution control;
3. Fallout shelter;
4. Sewerage treatment control;
5. Water supply control;
6. Household improvement;
7. Solar energy;
8. Commercial/Industrial improvement.

(c) The assessor shall prepare a summary of special tax districts such as fire, garbage, sewer, light and water.

18:12-2.4 Insertion of building description code on line items

The assessor of each taxing district shall include in the tax list the applicable building description code designation for each line item and such inclusion shall be in accordance with the building description code appearing below.

BUILDING DESCRIPTION CODE

FORMAT

Stories:

S Prefix S with number of stories

Structure:

Al Aluminum siding
 B Brick
 CB Concrete block
 F Frame
 M Metal
 RC Reinforced concrete
 S Stucco
 SS Structural steel
 St Stone
 W Wooden

Style:

A Commercial
 B Industrial
 C Apartments
 D Dutch Colonial
 E English Tudor

FORMAT

F Cape Cod
 L Colonial
 M Mobile home
 R Rancher
 S Split level
 T Twin
 W Row home
 X Duplex
 Z Raised rancher
 O Other
 2 Bilevel
 3 Trilevel

Garage:

AG Attached garage
 UG Unattached garage

Note: Number of cars is prefixed to Code.

Example: 15SST L 2AG means 1½ stories; stone; colonial; 2 car attached garage.

18:12-2.5 Separate line item for farm property assessment

Where a portion of a parcel of farmland is assessed under the provision of the Farmland Assessment Act as Farm (Qualified), Class 3B, and another portion of the parcel is assessed as Farm (Regular), Class 3A, each said portion must be shown on the tax list as a separate line-item. All farm real property improvements should be included under classification 3A.

Cross-Reference

See Section 16:12-10.230 of the Regulations Governing the Valuation, Assessment and Taxation of Land under the Farmland Assessment Act of 1964.

18:12-2.6 Veteran, senior citizen, disabled citizen and surviving spouse deductions

(a) Approval of a tax deduction should be indicated by designating the claimant as "V" in the case of veteran, by "W" in the case of a veteran's or serviceman's widow, by "S" in the case of a senior citizen, by "D" in the case of a disabled citizen, and by "R" in the case of a surviving spouse.

(b) In the case of multiple ownership of a property for which tax deduction is claimed, each line item of the tax list and duplicate must reflect the total number of owners and the number of veterans, veterans' and servicemens' widows, senior citizens, disabled citizens and surviving spouses.

18:12-2.7 Hackensack Meadowland District designations¹

(a) The assessor or board of assessors for the taxing districts of Carlstadt, East Rutherford, Little Ferry, Lyndhurst, Moonachie, North Arlington, Ridgfield, Rutherford, South Hackensack and Teterboro all in Bergen County; and Jersey City, Kearny, North Bergen and Secaucus, all in Hudson County, shall review the 1969 municipal real property tax list and shall indicate for each parcel of property whether or not such parcel is located within the boundaries of the Hackensack Meadowlands District, and in preparing the Tax List for the tax year 1970 and for each tax year thereafter for the aforementioned taxing districts shall, in addition to furnishing all other information required on the Tax List, indicate for each parcel of property whether or not such parcel is located within the boundaries of the Hackensack Meadowlands District, i.e., the area within the jurisdiction of the Hackensack Meadowlands Development Commission as such area is described in Section 4 of the Hackensack Meadowlands Reclamation and Development N.J.S.A. 13:17-63.

(b) In the case of a parcel of property located within the boundaries of the Hackensack Meadowlands District, the assessor or board of assessors shall indicate such fact by adding the letter "HM" to the lot number or to the lot number suffix in the column of the Tax List captioned "Block No. Lot No."

(c) When the boundary of the Hackensack Meadowlands District divides a lot of land, the entire lot shall be included within the district.

As amended, R.1969, d.11, effective October 23, 1969.
See: 1 N.J.R. 24(a).

¹ Section 61 of the Hackensack Meadowlands Reclamation and Development Act (N.J.S.A. 13:17-63) provides, as follows:

"(a) In preparing the list of owners of taxable property pursuant to Revised Statutes 54:4-24, the assessor of each constituent municipality shall indicate in the list for each parcel of property whether or not it is located regulations prescribed by the Director of the Division of Taxation.

"(b) When the boundary of the district divides a lot of land, the entire lot shall be included within the district".

Authority

N.J.S.A. 13:17-63.

18:12-2.8 Tax list and instructions

(a) Reproduced and made a part hereof are the real property tax list and accompanying instructions.

Editor's note: Graphics which were filed with these rules are not reproduced herein. Information on such data may be obtained from the Division of Taxation, West State and Willow Streets, Trenton, N.J. 08625.

(b) These instructions describe the form and content of the real property tax list and duplicate for each tax year as prescribed by the Director of the Division of Taxation.

1. The size of the tax list and duplicate should be 14 inches by 17 inches. Each page of a tax list should provide for 14 line items.

i. Page headings:

(1) Title: "REAL PROPERTY TAX LIST"; An identical list shall also be prepared which shall serve as the assessor's duplicate.

(2) Page number;

(3) Taxing district name and number;

(4) County name and number;

(5) County percentage level.

ii. Columnar headings: The following headings shall appear on the real property tax list and duplicate.

(1) Column 1—Line number: This column assigns a line number to a particular parcel of property for identification in billing and other purposes. Each line must be consecutively numbered on every page.

(2) Column 2—Block number, lot number, qualification code and account number: Insert the block and lot number of the parcel and the qualification code if any. Qualification codes are shown on the real property tax list under the legend. The account number, if used, shall be entered in this column.

(3) Column 3—Land dimensions, acreage, property classification, building description code and additional lots: Insert land dimensions of lot or lots or the acreage where applicable, appropriate building description code, and the appropriate property classification.

(4) Column 4—Owner's name: Insert owner's name, mailing address and zip code, property location, billing code, type of zoning as shown on zoning map of taxing district, and tax map page.

(5) Column 5—Land taxable value.

(6) Column 6—Improvements taxable value.

(7) Column 7—Exemptions: The exemption code and the exemption amount should be inserted in this column. The specific exemptions are as follows:

Code	
A—Air Pollution Control	(N.J.S.A. 54:4-3.56)
P—Water Pollution Control	(N.J.S.A. 54:4-3.56)
F—Fallout Shelter	(N.J.S.A. 54:4-3.58)
S—Certain Water and Sewage Disposal Structures	(N.J.S.A. 54:4-3.59)
W—Water Supply Control	(N.J.S.A. 54:4-3.56)
H—Household Improvement	(N.J.S.A. 54:4-3.72)
C—Solar Energy	(N.J.S.A. 54:4-3.114)
B—Commercial/Industrial Improvement	(N.J.S.A. 54:4-3.97)

(8) Column 8—Net taxable value: Insert the total of columns 5 and 6 minus column 7.

(9) Column 9—Deductions: Approval of a tax deduction should be indicated by designating "V" in the case of a veteran, "W" in the case of a veteran's or serviceman's widow, "S" in the case of a senior citizen, "D" in the case of a disabled citizen and "R" in the case of a surviving spouse. If there are several owners or deductions, indicate this information in this column.

(A) The above information is necessary to determine the proportionate share of the eligible applicant's interest in the property.

(10) Special tax codes: Insert the special tax codes as follows:

F—Fire
G—Garage
S—Sewer
L—Light
W—Water

iii. Property classification summary:

(1) The summary of the several real property classes will be prepared on a separate listing. The summary will facilitate the preparation of an accurate sales ratio card (Form SR-3A) for each taxing district in the State.

(2) Note that classification 3 (Farm) has been divided into two sub-classes, Classification 3A (Regular) includes all farmland and farm improvements not subject to the "Farmland Assessment Act of 1964" (P.L. 1964 c.48). Classification 3B (Qualified) includes those lands which are assessed under the Farmland Assessment Act of 1964. Farms listed under classification 3B are subject to roll-back taxes in the event of a change in use.

iv. Assessor's affidavit—form and content:

(1) See N.J.S.A. 54:4-36 for form of affidavit to be annexed to the Tax List and Duplicate.

(2) When a district-wide adjustment of real property taxable valuations has been completed and put into operations, and such taxable valuations conform to the percentage level established for such year for expressing the taxable value of real property in the county, the assessor should be sure to affix to his assessment list and duplicate the affidavit and additional statement required under N.J.S.A. 54:4-36 (a) and (b), in order that the percentage level as is established for the taxable value of real property in the county may be accepted as the common level for such year. (See N.J.S.A. 54:4-11).

Case Notes

Tax assessor is obligated to first ascertain assessable value of total complex and then allocate where improvements of single economic unit span more than one lot. Mobil Oil Corp. v. Greenwich Tp., 9 N.J.Tax 123 (1986).

SUBCHAPTER 3. PREPARATION AND FILING OF EXEMPT PROPERTY TAX LIST AND DUPLICATE

18:12-3.1 Tax exempt list; format and contents

(a) Each assessor is required to enter in the exempt property list and duplicate, a description of all churches, cemeteries, public buildings and other real property exempt from taxation with the name of the owner and the value of such land and buildings, in accordance with the directions appearing on Form NJPT-03-2.

(b) Reproduced and made a part hereof are the exempt property list and accompanying instructions.

Editor's Note: Graphics which were filed with these rules are not reproduced herein. Information on such data may be obtained from the Division of Taxation, West State and Willow Streets, Trenton, N.J. 08625.

(c) These instructions describe the form and content of the exempt property list and duplicate as prescribed by the Director of the Division of Taxation. The size of the

exempt property list and duplicate should be 14 inches x 17 inches. Each page of the list should provide for 14 line items.

1. Page headings:

i. Title: "EXEMPT PROPERTY LIST": An identical list shall also be prepared which shall serve as the assessor's duplicate.

ii. Page number;

iii. Taxing district name and number;

iv. County name and number;

v. County percentage level.

2. Columnar headings: The following headings shall appear on the exempt property list.

i. Column 1—Line number: This column assigns a line number to a particular parcel or property for identification purposes.

ii. Column 2—Block number, lot number, qualification code and account number: Insert the Block and Lot number of the parcel and the qualification code, if any. Qualification codes are shown on the exempt property list under the legend. The account number, if used, should be entered in this column.

iii. Column 3—Name of facility: Insert building description code, property classification, land dimensions, acreage and additional lots.

iv. Column 4—Owner's name: Insert the full name of the owner, his mailing address, the property location which identifies the location by street name and number, the billing code, zoning and the tax map page.

v. Column 5—Identification code: Use the code as shown in the "Exempt Property Identification Code Book" issued by the Division of Taxation. Insert the two appropriate digits which denote ownership. Insert the two appropriate digits which denote the property purpose or use. Also, insert the three appropriate digits which denote specific description.

vi. Column 6—Statute under which exemption claimed: In accordance with the provisions of N.J.S.A. 54:4-27, assessors are required to state the grounds for exemption for each parcel of property to which exemption from taxation is allowed. The citation of the statute under which an exemption is allowed can be found on Line 13 of a properly executed Initial Statement Form, Form IS.

vii. Column 7—Filing date of statement: Insert the date on which the initial statement and/or further statement was filed with the assessor's office as required by law. A further statement, Form FS, is required to be filed every third year following the filing of an initial statement which was the basis for granting the exemption. See N.J.S.A. 54:4-4.4.

viii. Column 8—Land value: Insert the true value of the land to which an exemption has been granted. This will facilitate the conduct of the ongoing statewide statistical study. This value should be consistent with full values of other real property in the taxing district.

ix. Column 9—Improvement value: Insert the true value of all buildings or improvements to which an exemption has been granted.

x. Column 10—Total exempt value: Insert in this column the sum of column 8 and column 9. The total of all exempt property should agree with the total exempt property as shown in the table of aggregates that is filed with the county board of taxation. The exempt property list should be produced in block and lot sequence together with an alphabetical list showing the owner of the exempt property. These lists should be inserted in the back portion of the tax list and duplicate.

Amended by R.1979 d.91, effective March 8, 1979.
See: 11 N.J.R. 100(a), 11 N.J.R. 211(a).

SUBCHAPTER 4. REVALUATION OF REAL PROPERTY BY APPRAISAL FIRMS

18:12-4.1 Definitions

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

"Contract" means any agreement between a firm, as defined below, and a municipality for a revaluation or reassessment of all or designated portions of the real property in a municipality.

"Director" means the Director of the Division of Taxation.

"Firm" means any individual, partnership, corporation or other association contracting to perform a revaluation.

18:12-4.2 Authority of the Director; approval of contracts

(a) The Director shall establish standards to be used in the valuation and revaluation of real property for assessment purposes and shall prescribe minimum qualifications for firms engaged in the business of providing such services to municipalities in this State.

(b) Prior to the execution of any contract, a municipality shall submit the contract to the Director for his review. The Director shall make a determination regarding the contract within 30 days of submission.

(c) No firm shall assign or transfer a contract or any interest therein without written permission from the municipality, surety company, county board of taxation and the Director.

(d) No changes will be permitted in the contract except upon mutual consent of the contractual parties and written permission of the surety company and the Director.

18:12-4.3 Appeals from Director's disapproval of contract

(a) Any municipality, firm or individual aggrieved by any determination of the Director respecting a contract may request a formal hearing before the Director who shall render a decision within 30 days of the completion of the said hearing.

(b) Such hearing shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) An appeal of the Director's decision may be taken within 90 days of the date of decision to the Tax Court of New Jersey.

18:12-4.4 Appraisal firm: required information to be submitted

(a) A firm seeking approval from the Director shall initially provide the following information which shall be submitted annually thereafter:

1. Financial statements, including balance sheets and income statements for the past three years;
2. A list of municipalities in New Jersey and outside the State where revaluations have been performed during the past five years;
3. The names and addresses of the officers and the number of years each officer has been engaged in real property valuation;
4. A statement of whether any litigation involving the firm's performance or revaluation contract has occurred during the past five years and, if so, explain in detail the nature of such litigation and the results thereof;
5. Any additional information the Director deems pertinent to determine whether the firm has adequate staff and resources to undertake a municipal valuation project;
6. A written statement asserting that the firm shall meet State and Federal requirements with respect to Equal Employment Opportunity laws and minimum wage rates; and
7. The names and addresses of the firm's parent corporation and subsidiaries, if any, shall be submitted.

18:12-4.5 Conflict of interest

(a) A contract submitted to the Director shall include the following provisions with respect to officers, stockholders and employees of the firm:

1. No commissioner or employee of a county board of taxation within the county shall have any interest whatsoever, directly or indirectly, as an officer, stockholder, or employee or in any other capacity in the firm.

2. No company referred to in N.J.A.C. 18:12-4.4(a)7 shall represent any property owner or taxpayer filing a tax appeal with respect to a revaluation by the firm.

Amended by R.1994 d.81, effective February 22, 1994.
See: 25 N.J.R. 4951(a), 26 N.J.R. 1110(a).

18:12-4.6 Appraisal firm: qualifications of principals and employees

(a) The principals of the firm and the employees of the firm directly engaged in municipal evaluation programs in this State shall meet the following minimum requirements:

1. Principals shall have five years of practical and extensive appraisal experience in the valuation of the four classifications of property;
2. Supervisors shall have four years of practical and extensive appraisal experience in the appraisal of the particular type of properties for which they are responsible. Two years of this experience must have been in the mass appraisal field and occurred within the past five years;
3. Field personnel, building enumerators and lists shall have received 150 hours of in-service training pertaining to their particular phase of work and shall be generally aware of all other phases of the revaluation project before starting actual field work;
4. Personnel determining final land values shall meet the qualification prescribed for supervisors in direct charge of the work; and
5. A resume shall be submitted in behalf of principals and supervisors.

18:12-4.7 Municipality: conditions to be met

(a) A municipality shall facilitate a firm's performance of the revaluation by providing the following:

1. An up-to-date tax map:
 - i. Prior to the municipality's execution of a contract for revaluation, the tax map shall be submitted to the Local Property and Public Utility Branch to determine if it is suitable for revaluation use.
 - ii. A letter from a licensed land surveyor shall be submitted with the tax map to said branch certifying that the map is up-to-date.
2. Official records and such other assistance required as an aid to the firm's performance;
3. Letters of introduction to facilitate the firm's representative access to property; and

4. The mailing addresses of all property owners in the municipality to enable the revaluation firm to maintain a current mailing list. Informational letters mailed by the revaluation firm to property owners may require the signature of the assessor.

18:12-4.8 Standards for revaluation

(a) Any firm engaged in the revaluation of all or a portion of the real property in a municipality shall comply with the standards and conditions set forth in this subchapter. The revaluation firm constitutes the agent of the assessor and all determinations made by the firm shall be submitted to the assessor.

1. Real property shall be valued in accordance with N.J.S.A. 54:4-1 et seq.;

2. With regard to real property being constructed or altered, the firm shall determine the percentage of completion and the appraised value of said property as of October 1 of the pretax year;

3. A separate list of exempt properties shall be provided indicating the values of said properties as if taxable;

4. Land qualified under the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. shall be valued in accordance with its qualified farmland value and its highest and best use value;

5. In determining taxable values of all real property, the firm shall employ the three approaches to value where applicable. The capitalization procedure shall be included with the property record card and reconciled with the other approaches to value;

6. To facilitate the use of the approaches to value the most recent edition of the Real Property Appraisal Manual for New Jersey Assessors shall be used. The use of any other appraisal manual as a basis for valuing real property shall require approval by the Director;

7. The firm shall include real property identification material on properly labeled individual property record cards similar in form and content to those illustrated in the Real Property Appraisal Manual. Distinct property record cards for each of the four classifications of real property shall be provided;

8. The real property identification material to be entered on property record cards shall include, but not necessarily be limited to, the following:

i. A scaled sketch of the exterior building dimensions;

ii. Notations of significant building components as ascertained from both an interior and exterior inspection;

iii. Entries on the property record cards respecting the values of each lot and building including such items as age, construction, condition, depreciation, obsolescence, additions and deductions, appraised value, recent sales prices, rental data and all other pertinent information pertaining to the valuation of the property;

iv. Where more than one property card is required in the description of a property, all cards shall be assembled in a standard file folder and properly labeled;

v. Each property record card shall identify the individual making the inspection and set forth the date when the interior inspection was made.

9. The inspection of each property shall be performed in the following manner:

i. No less than three attempts shall be made to gain entry to each property;

ii. If successful entry has not been made after the first attempt, a card shall be left at the property indicating a date when a second attempt to gain entry will be made;

iii. The card shall include a phone number and address to permit the property owner to contact the firm to make other arrangements, if necessary;

iv. If entry is not possible upon the second visit, written notice shall be left advising that an assessment will be estimated unless a mutually convenient arrangement is made for a third visit to gain access to the property;

v. The firm shall schedule inspections during reasonable hours which shall include evenings and Saturdays;

vi. The assessor shall be notified in writing of each failure to gain entry to a property and a list of all non-entries and reasons for same shall be provided to the assessor prior to the mailing of values.

10. Every contract shall include the following items respecting progress and control of operations:

i. A commencement date and a completion date, the latter not later than October 1, except for completion of taxpayer's reviews which shall be not later than November 1;

ii. A requirement providing for the submission to the assessor of a work schedule or plan of operations;

iii. The firm shall provide written monthly progress reports to the assessor for his review. The assessor shall forward the reports to persons designated by contract to receive the same;

iv. Each progress report shall indicate the status or work progress which shall serve as a basis for proportional payments by the municipality. In no event shall more than 90 percent of the total contract price be billed until full completion and performance of the contract, except any requirements for defense of tax appeals;

v. Any change in personnel shall be submitted in writing to the assessor and county board of taxation.

11. A provision committing the firm to conduct and/or assist the municipality in a program of taxpayer orientation and education regarding the revaluation program including, but not necessarily limited to, the following:

i. Press releases describing the purpose and nature of the revaluation program;

ii. Meetings with public groups in the community;

iii. Mailings approved by the assessor, at the firm's expense, to all property owners explaining the nature and purpose of the revaluation and setting forth a proposed date for the commencement of inspections in the municipality.

12. The firm shall provide its representatives with photographic identification cards;

13. Following the formulation of land valuations, a land value map shall be prepared for the assessor for his review which will indicate all unit values and underlying data used to derive unit values;

14. The firm shall provide all office space, furniture, equipment, machines, and other items required in connection with this project unless otherwise provided by contract;

15. The firm shall assist by providing expert witnesses in the defense of all valuations rendered to the municipality which are appealed to the county tax board. The firm's obligation with respect to this requirement is limited to the initial appeal of an assessment filed during the year in which the revaluation is implemented or the following tax year. Such assistance shall include a qualified expert from the firm who is knowledgeable with regard to challenged assessments. In the event the municipality elects to utilize the defense services of the firm for appeals beyond the county board of taxation level and which are filed during the year in which the revaluation is implemented or the following tax year, an hourly rate for such services shall be set forth by the firm. Said hourly rate shall apply to services rendered by the firm in connection with preparation, reinspections, consultations and actual appearances at appeal proceedings.

Case Notes

The Real Property Appraisal Manual for New Jersey Assessors is required to be used in connection with real property valuation by appraisal firms (citing former N.J.A.C. 18:26-4.9); fair market value defined (citing former rule); assessment of bank held proper but

remanded for further findings. *Bostian v. Franklin State Bank*, 167 N.J.Super. 564, 401 A.2d 549 (App.Div.1979) on remand 1 N.J.Tax 270, affirmed 2 N.J.Tax 391, 179 N.J.Super. 174, 430 A.2d 1140 (App.Div. 1980).

On appeal by township of 1984 county equalization table, held that, as of the date of the sale in question, the sale price of the parcel could not be related to an identical parcel that had been assessed for the 1982 tax year, and that the sale, therefore, could not be used in arriving at the equalization ratio for the township. *Cranbury Tp. v. Middlesex Cty. Bd. of Taxation*, 6 N.J.Tax 501 (Tax Ct.1984), affirmed 7 N.J.Tax 667 (App.Div.1985).

For taxation purposes, fair market value is the price which could be obtained for the property, in money, at a fair sale between a willing seller not obliged to sell and a willing buyer not obliged to buy; the original cost of construction should be considered but is not controlling; value determined (citing former rule). *Dworman v. Boro. of Tinton Falls*, 1 N.J.Tax 445 (Tax Ct.1980) aff'd 3 N.J.Tax 1, affirmed 3 N.J.Tax 1, 180 N.J.Super. 366, 434 A.2d 1134 (App.Div.1981), certification denied 88 N.J. 495, 443 A.2d 709 (1981). *RCA Corp. v. East Windsor Tp.*, 1 N.J.Tax 481 (Tax Ct.1980).

18:12-4.9 Taxpayer review procedure

(a) The firm shall provide each taxpayer with an opportunity to review the proposed assessment of his property.

(b) The firm, at its expense, shall mail a written notice, approved by the assessor, indicating the appraised value of the property and advising the taxpayer of his right to attend an individual informal review.

(c) Informal reviews shall be held at a designated location within the municipality and shall be scheduled so as to allow the firm sufficient time to fully review and discuss the proposed assessment with the taxpayer.

1. Each taxpayer attending a review shall be afforded an individual meeting with a qualified person employed by the firm;

2. Sufficient time shall be allotted to hear and conclude reviews on or before November 1;

3. A written record of each review shall be provided to the assessor in a format approved by the assessor;

4. Suggested revisions by the firm resulting from the taxpayers' reviews shall be made with the consent of the assessor;

5. Each taxpayer shall be informed in writing by the firm of the results of their assessment review within four weeks of the conclusion of all reviews.

18:12-4.10 Surety and insurance

(a) Prior to the commencement of a contract, the firm shall provide assurance that the municipality will be adequately protected and saved harmless from any lawsuit, litigation, demand, or claim arising out of the revaluation contract. In support of the foregoing, the firm shall provide the following coverages:

1. Workers' compensation insurance coverage in accordance with the standards of this State as set forth in N.J.S.A. 34:15-1 et seq.;

2. Public liability and automobile liability in amounts not less than those provided for by law for any one person and any one occurrence respecting property damage;

3. A performance surety bond in the amount of the contract, executed by a reputable bonding company authorized to do business in this State, subject to reduction to 10 percent of the contract amount upon acceptance of the completed revaluation by the assessor. Said reduced amount shall remain in effect until the firm has discharged all obligations respecting the defense of the contract;

4. The terms and conditions of all the foregoing may be in greater amounts if required by the municipality and copies of all policies shall be provided to the municipality prior to the commencement of any portion of the contract.

18:12-4.11 Delivery and summary

(a) A firm shall provide the assessor with completed property record cards filed in sequence by block and lot numbers for all taxable and exempt properties. All supporting data, documentation and special procedures used in deriving values shall also be provided to the assessor.

(b) A firm shall make available qualified personnel for the purpose of giving full explanation and instructions to the assessor and his staff with regard to all materials submitted in all phases of the final revaluation.

(c) In the event a magnetic tape containing the new values is provided by the firm, said tape shall be in a format consistent with the New Jersey Property Tax System MOD IV so that entry of the data can be made directly into the taxing district's Master File.

SUBCHAPTERS 5 THROUGH 6. (RESERVED)

SUBCHAPTER 7. HOMESTEAD PROPERTY TAX REBATE

Authority

N.J.S.A. 54:4-8.57 et seq. and 54:50-1.

Source and Effective Date

R.1994 d.136, effective March 21, 1994.
See: 26 N.J.R. 109(b), 26 N.J.R. 1370(a).

18:12-7.1 Extension of time to file homestead property tax rebate applications

(a) No homestead rebate shall be allowed pursuant to the Homestead Property Tax Rebate Act of 1990 except upon written application therefor, in a manner and on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury.

(b) Every claimant seeking a rebate shall file the rebate application form as part of a gross income tax return.

(c) Every claimant shall file the rebate application form pursuant to the filing deadlines provided in the New Jersey Gross Income Tax Act; in the case of calendar year claimants, April 15 of each year. The filing deadline for the rebate applications will be extended as follows:

1. For claimants who have properly prepared and timely filed for a Federal and/or New Jersey extension of time to file their New Jersey gross income tax return pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., and, in particular, N.J.S.A. 54A:8-1(b) and N.J.A.C. 18:35-1.18, the rebate application must be filed with their NJ-1040 on or before the extended due date. The rebate application will be considered timely filed, even though the request for the extension of time to file the NJ-1040 is subsequently denied by the Division of Taxation for any reason other than untimely filing or the gross income tax return itself is considered to be untimely filed pursuant to law.

2. For claimants who are not otherwise required to file a gross income tax return pursuant to the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., the rebate application must be filed no later than January 15 following the date of payment and distribution of rebates for the prior tax year, pursuant to N.J.S.A. 54:4-8.63. If the fifteenth day falls on a weekend or holiday, then the application must be filed on or before the next business day.

(d) Paragraphs (c)1 and (c)2 above shall apply to claimants for homestead property tax rebates for tax year 1992 and thereafter.

Case Notes

Legislative classification in homestead rebate statute distinguishing homes used as a principal residence as against those used for a less essential purpose is legitimate for allocating tax burdens and is not an unconstitutional violation of equal protection of the privileges and immunities clause; taxpayers found ineligible for rebates on taxes paid on summer homes (citing former rule). *Rubin v. Glaser*, 166 N.J. Super. 258, 399 A.2d 984 (App.Div.1979), affirmed 83 N.J. 299, 416 A.2d 382 (1980) appeal dismissed 101 S.Ct. 389, 449 U.S. 977, 66 L.Ed.2d 239 (1980).

Court declined to toll deadline for filing of a 1983 homestead rebate claim on either the basis of the property owner's physical and mental condition or because the deadline fell between the death of the homeowner and the appointment of the executor of the homeowner's estate. *Olsson v. Director, Div. of Taxation*, 6 N.J. Tax 430 (Tax Ct.1984).

Taxpayer's age, hospital confinement and subsequent incapacity did not provide a basis for extending the deadline for filing of a homestead tax rebate application. *Perrine v. Taxation Div. Director*, 4 N.J. Tax 335 (Tax Ct.1982).

No abuse of discretion by the Director found in refusal to grant an additional homestead rebate filing extension to a homeowner, after blanket extension given to all homeowners; lack of tax bill held insufficient reason for homeowner's delay in filing for rebate. *Horrobin v. Director, Division of Taxation*, 1 N.J. Tax 213, 172 N.J. Super. 173, 411 A.2d 479 (Tax Ct.1979).

SUBCHAPTERS 8 THROUGH 9. (RESERVED)

SUBCHAPTER 10. REAL PROPERTY DEFINED

18:12-10.1 Definitions

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

“Affixed” means fastened or attached physically.

“Appurtenance” includes any tangible personal property affixed to land or improvements thereon.

“Functionally essential” refers to machinery, apparatus or equipment necessary for the habitability of the structure, including, but not limited to, such items as air conditioning and heating equipment or apparatus, lighting and bathroom fixtures, elevators, escalators, electrical wiring, plumbing, etc.

“Machinery, apparatus or equipment” means any machine, device, mechanism, instrument, tool, tank or item of tangible personal property used or held for use in business. The term includes, but is not limited to, that machinery, apparatus or equipment described in N.J.A.C. 18:24-4.2. The term also includes machinery, apparatus or equipment directly used in the production of sale of gas, water, steam, electricity or telecommunication services and such items directly used in the production of property on farms as defined in N.J.S.A. 54:32B-8.16.

“Material injury” in the case of real property means serious physical damage to the real property. Some of the factors which can be considered in determining whether “serious physical damage” has occurred are any appreciable change in the market value of the real property as a result of removal; the amount of time and the cost required to repair the condition caused by removal; and the hazard or dislocation caused by the removal.

“Material injury” in the case of property severed or removed from the real property means physical damage to the personal property sufficient to destroy its utility.

“Not ordinarily intended to be affixed permanently to real property” means that, in the custom and usage of the trade, like personal property is not intended to be permanently affixed. Indicators that personal property of a like kind is not ordinarily intended to be affixed permanently to real property include the following:

1. In the event of sale of the realty, the personal property would not ordinarily pass with title to the realty;
2. In the case of a business, the personal property ordinarily would be removed from the real property in the event of the relocation of the business;
3. Similar items of personal property are frequently resold separate from the real property.

“Production process” means the process of commencing with the introduction of raw materials or components into a systematic series of manufacturing, assembling, refining or processing operations and ceasing when the product is in the form in which it will be sold to the ultimate consumer.

“Structure” means any assemblage of building or construction materials fixed in place for the primary purpose of supporting, sheltering, containing, or enclosing persons or property. The term “structure” does not include machinery, apparatus or equipment which the structure is designed to hold in place, shelter, contain or enclose.

“Used or held for use in business” means any item of machinery, apparatus or equipment used or held for use in a business transaction, activity or occupation conducted for profit in New Jersey.

Amended by R.1993 d.504, effective October 18, 1993.
See: 25 N.J.R. 61(a), 25 N.J.R. 4792(a).

Case Notes

Dam used in creation of hydroelectric power was not “structure” for purposes of real property taxation. *American Hydro Power Partners, L.P. v. Clifton City*, 12 N.J.Tax 264 (A.D.1991).

Machinery and equipment in batch ester plant property were not within real property tax exclusion. *Badische Corp. v. Town of Kearny*, 11 N.J.Tax 385 (1990).

Items such as gauges and electrical control systems were to be taxed as real property when functionally essential to special purpose property. *Texas Eastern Transmission Corp. v. Department of Treasury Div. of Taxation*, 11 N.J.Tax 198 (1990).

Legislature intended to broaden definition of real property to include personal property intended to be affixed permanently to real property. *Texas Eastern Transmission Corp. v. Department of Treasury Div. of Taxation*, 11 N.J.Tax 198 (1990).

Tax regulation’s definition of “structure” was limited to general purpose property and did not apply to special purpose property. *Texas Eastern Transmission Corp. v. Department of Treasury Div. of Taxation*, 11 N.J.Tax 198 (1990).

Under tax regulation for special purpose property, “functionally essential” refers to supporting, sheltering or enclosing persons or property which were functionally essential. *Texas Eastern Transmission Corp. v. Department of Treasury Div. of Taxation*, 11 N.J.Tax 198 (1990).

All property permanently affixed to mainline natural gas pipe was real property not subject to business personal property tax. *Texas Eastern Transmission Corp. v. Department of Treasury Div. of Taxation*, 11 N.J.Tax 198 (1990).

18:12-10.2 Real property

(a) Real property means all lands and improvements thereon and includes personal property affixed to real property or an appurtenance thereto, unless personal property so affixed meets all of the conditions in (a)1 through 3 below or in (a)4 below.

1. It can be removed or severed without material injury to the real property;

2. It can be removed or severed without material injury to the personal property itself; and

3. It is not ordinarily intended to be affixed permanently to the real property; or unless

4. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property. For purposes of this subsection, real property includes pipe racks, and piping and electrical wiring up to the point of connections with the machinery, apparatus, or equipment of a production process.

(b) Personal property includes only the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, excluding items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into petroleum products.

(c) The provisions of this section shall not be construed to repeal or alter in any way the classification of property as either real or personal where that classification is otherwise provided by statute.

Amended by R.1993 d.504, effective October 18, 1993.
See: 25 N.J.R. 61(a), 25 N.J.R. 4792(a).

Case Notes

Dam was not "structure" for purposes of real property tax. American Hydro Power Partners, L.P. v. Clifton City, 12 N.J.Tax 264 (A.D. 1991).

Valuation of real property must result in fair and reasonable distribution of local property tax burden of municipality among its property owners. Brockway Glass Co. v. Freehold Tp., 10 N.J.Tax 356 (1989), affirmed 12 N.J.Tax 263, certification granted and remanded 130 N.J. 3, 611 A.2d 643.

18:12-10.3 Tanks with a capacity in excess of 30,000 gallons

A storage tank having a capacity of more than 30,000 gallons is deemed to be real property. The fact that products are mixed, blended, heated or subjected to a similar non-production process within a storage tank shall not in itself render that tank personal property.

Amended by R.1993 d.504, effective October 18, 1993.
See: 25 N.J.R. 61(a), 25 N.J.R. 4792(a).

18:12-10.4 Security interests

The classification of property as real property under this subchapter shall not affect any transaction or security interest provided for in N.J.S.A. 12A:9-101 et seq.