TAXATION OF PERSONAL PROPERTY IN NEW JERSEY

PART III

IMPLEMENTATION OF CHAPTER 51

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ADVISORY COMMITTEE ON ASSESSMENT PRACTICES

June 24, 1960

State Treasurer John A. Kervick today announced the membership of the Advisory Committee on Assessment Practices formed by Kervick following enactment of Assembly Bill No. 198--the County Ratio Assessment Act. The Committee, which will hold its first meeting at the State House on June 28th, will be composed of representatives of local and county tax offices, industry and the accounting and legal professions. It will consult with State tax officials in the preparation of the new procedures, regulations and forms made necessary by the enactment of A-198 and will study the impact of the new legislation from the standpoint of sound administration and equitable tax results.

. . . .

MEMBERSHIP OF COMMITTEE

Association of Municipal Assessors of New Jersey

Thomas Hunt
Director of Revenue
Newark, N. J.

Russel Wilson
Tax Assessor
City Hall
Englewood, N.J.

Marriott Haines
Tax Assessor
Vineland, N. J.

Anthony Berenato
Tax Assessor
Atlantic City, N. J.

Merle St. Amour
Tax Assessor
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George Linger
Tax Assessor
South Plainfield, N. J.

John Connolly
Tax Assessor
South Orange, N. J.

Alfred J. Greene, Jr.
Tax Assessor
Clifton, N. J.

William F. Alexander
Chief Asst. Assessor
Town Hall
Kearny, N. J.

It takes more than a tax law to make a tax program. Chapter 51 became law on June 15th, 1960 and required filing of the first taxpayer returns on May 1st, 1961. These first tax returns covered the "book values" of personal property used in business on January 1, 1960 as the basis for property taxes payable in 1962.

The new legislation, therefore, provided 11 months for administrative activities preceding receipt of the first returns. These activities were intended to set rules and regulations, provide return forms and instructions for taxpayer use, distribute the forms to taxpayers, and prepare assessors and other administrative personnel to receive and process the new returns. The overall problems requiring immediate solution fell into five major categories:

1. Formulation of rules and regulations to implement Chapter 51.
2. Development and distribution of a taxpayer return form, together with instructions for reporting the book value of Tangible Personal Property Used in Business.
3. Establishment of an educational program for county tax board members, local assessors, and other persons associated with local assessment administration.
4. Creation of a general public relations program to explain the intent and features of the law.
5. Organization and staffing of a Personal Property Tax Section within the Local Property Tax Bureau (Division of Taxation) to handle inquiries and process the duplicate returns required by law.

A. Advisory Committee on Assessment Practices

Immediately upon the Governor's approval of Chapter 51 on June 15th, 1960 the State Treasurer appointed an Advisory Committee on Assessment Practices. In addition to representatives of the State Division of Taxation, the Association of Municipal Assessors, and the Association of

County Tax Board Commissioners and Secretaries, this 45 member Advisory Committee included representatives of the New Jersey Manufacturers Association, New Jersey Bar Association, New Jersey Taxpayers Association, New Jersey Association of Real Estate Boards, New Jersey State Chamber of Commerce, New Jersey Association of Public Accountants, New Jersey Society of Certified Public Accountants, New Jersey Farm Bureau and the New Jersey State League of Municipalities. Representatives of the various organizations were selected by the organizations themselves at the invitation of the State Treasurer.

The Committee also included six individuals appointed by the State Treasurer in recognition of their knowledge and experience in New Jersey property tax matters. This group included Aaron K. Neeld, former State Treasurer and Director of Taxation; E. Rowland Major, former State Supervisor of the Local Property Tax Bureau; Thomas F. Carlin, Secretary of the State Division of Tax Appeals; Theodore I. Botter, Deputy Attorney General; Ernest C. Reock, Jr., Director, (Rutgers University) Bureau of Research and Leo Rosenblum of Jersey City, attorney for the New Jersey Association of Municipal Assessors.

The purpose of this Committee was stated in the introductory remarks of the Director of Taxation at the first Committee Meeting on June 28, 1960:

> The purpose of this meeting is to consider procedures for administering Assembly Bill No. 198 signed into law by Governor Meyner on June 15, 1960. We are concerned here with the contents of a specific law already enacted. Whatever reservations some of us may have concerning any of the features of this law, we must proceed in full recognition that we are not going to change any of them here today. This is not a legislative hearing where alternative provisions may be discussed or new proposals developed. We can save time and accomplish our purpose by avoiding digressions into the realm of "what might have been."

> Each of us here today has a special interest in making the new law work equitably and with a minimum of administrative friction or cost. To this end, I propose that our discussion be limited to administrative requirements for implementing Assembly Bill 198 (Chapter 51, Laws of 1960) and resist temptation to appraise its contents in any other terms. There is plenty in the new law to occupy our full attention within this practical restriction.

This large Advisory Committee was supplemented by so many "volunteers" that attendance at every meeting far exceeded the Committee's membership. Supplied with the latest information about the rules, regulations and return forms being prepared by the Division of Taxation, the Committee met in four all-day sessions to consider in detail each aspect of Chapter 51's administrative requirements and procedures. The meetings, for which members undertook extensive preparation, were marked by a wide diversity of views.

Highlights of the Advisory Committee's activities are summarized below:

June 16, 1960 -	State Treasurer John A. Kervick announced plans for formation of Advisory Committee on assessment practices to consult with state officials in the preparation of new procedures, regulations and forms made necessary by enactment of Assembly Bill No. 198 (Chapter 51, L. 1960)
June 24, 1960 -	State Treasurer announced the membership of the Advisory Committee and set its first meeting for June 28th.
June 28, 1960 -	First meeting. Reviewed Chapter 51 and four major elements of its implementation: (1) tax calendar; (2) rules, regulations, and interpretations; (3) personal property taxpayer return form; and (4) educational programs.
August 3, 1960 -	First outline of Rules and Regulations mailed to members together with memoranda and other materials relative to location and identification of taxable personal property used in business and method of depreciation.

August 18, 1960 - Second meeting. (1) Procedure established for distribution of taxpayer return forms through County Boards of Taxation local assessors; (2) Distinctions between real and personal property, and among categories of personal property explained; (3) Developed basis for interpreting "district-wide adjustment of real property taxable valuations" in questions of making an exception to the "common level" provision (Sec. 8); (4) Extended discussion of methods of depreciation and possible regulations; (5) Discussed other problems, such as base year of property valuations, railroad property revaluation, mechanical data processing and billing facilities.

September 27, 1960 - Draft of Rules and Regulations, model municipal ordinance exempting household personal property, and other materials mailed to members.

October 6, 1960 - Third meeting. (1) Reviewed tentative rules and regulations in detail; (2) Discussed different views on requirements of the new law concerning depreciation and considered possible regulations; (3) Form and content of possible uniform local property tax bills discussed from standpoint of practical implementation; (4) Received subcommittee report on tax forms and mechanical operations.

November 30, 1960 - Tentative business personal property tax form (PPT-1), amended definition of real property, regulations relating to depreciation together with sample schedules for their application and methods for determining average inventory valuations mailed to Committee members.

December 7, 1960 - Fourth meeting. Various methods of depreciation and opposing views concerning appropriate regulation thoroughly reviewed. Other discussion included the tax treatment of business inventories and miscellaneous questions concerning the tentative taxpayer return form for tangible personal property used in business (PPT-1).

It is apparent from even so casual a cataloging of its activities that the Advisory Committee was an active center of discussion and review of the preparations necessary to implement Chapter 51. Although the Committee was most concerned with regulations and taxpayer returns implementing "book value" assessments of tangible personal property used in business, its advice was sought in all aspects of the new legislation.

It is significant that Committee members helped the Division of Taxation personnel and local tax officials explain the program to taxpayer groups after the Committee's formal work had been completed. In this respect, the Advisory Committee was an outstanding example of a cooperative effort by taxpayers and tax officials to make a new tax measure work in the best possible manner.

B. Cooperating Committee of County Board Commissioners and Secretaries

In addition to the Advisory Committee on Assessment Practices and Laws, the Division of Taxation turned to the New Jersey Association of County Tax Board Commissioners and Secretaries for professional counsel. This fifteen year old organization had, in 1952, established a Cooperating Committee as an advisory group to assist in establishing a Local Property Property Tax Bureau within the Division of Taxation. Afterwards, the Cooperating Committee began to hold monthly meetings with the Director of Taxation and the Local Property Tax Bureau to review legislation, court decisions, and other matters concerning local property tax administration. The Committee was influential in developing the Rutgers program for assessors -- both the in-service training courses and the annual conference. It was responsible for the success of a series of introductory courses for assessors in the use of the Real Property Appraisal Manual. And it played a prominent role in developing the current equalization program.

Besides continuing to advise the Director of Taxation, the Committee has undertaken the monthly publication of "The Cooperating Committee Report." This report, containing detailed accounts of monthly discussions with the Director and personnel of the Local Property Tax Bureau, is an important source of current property tax information for county tax boards throughout the state.

Assembly Bill 198 came under study by the Cooperating Committee immediately after its introduction in January, 1960. The Committee participated in legislative discussions of the bill and later in the deliberations of the Treasurer's Advisory Committee on Implementation of Chapter 51. The extensive consideration given by the Cooperating Committee to Assembly Bill 198 both before and after its enactment as Chapter 51 can be seen in the following list of specific subjects covered in its meetings:

January 28, 1960	County variable rations Effect on veteran exemptions " " utility tax " " debt limits " " equalization process " " personal property " " farm land " " state school aid
February 25, 1960	Amendments proposed by state assessors association, including market value definition, base year concept, depreciation, inventories, return forms, penalties, raw materials and small tools
March 24, 1960	Amendment of date for establishment of county ratio, other amendments and companion legislation
April 28, 1960	Personalty used in business, common level concept, household personalty, administrative burden on assessors
March 26, 1960	Equalization of personal property, effect on state school aid, abandonment of household personalty
June 23, 1960	Review of A-198 as finally adopted on June 15, 1960, constitutionality, participation in Treasurer's Advisory Committee, distribution of law to all assessors
September 29, 1960	Review of Director's rules and regulations

October 27, 1960	Choice of county ratios, abandonment of household personalty, depreciation of business personalty return forms
January 26, 1961	County ratios, amendment of rules and regulations, orientation classess for assessors
February 23, 1961	Trailers and motor vehicles, return form for personal property, distribution of forms to taxpayers
March 23, 1961	Progress of orientation classes, return form, amendment of rules and regulations, review of tax list forms, assessors' questions
May 4, 1961	Postponement of Chapter 51, continued abandonment of household personalty

In addition to its Cooperating Committee's monthly discussions and reports on A-198, the annual meeting of the Association of County Tax Board Commissioners and Secretaries in May, 1961 subjected Assembly Bill 198 to a thorough review.

The Cooperating Committee took the lead in organizing an educational program for assessors in each of the twenty-one New Jersey counties. Throughout the "implementation period" for Chapter 51 (June 15, 1960 -- May 4, 1961), the Cooperating Committee and the county tax board members and secretaries they represented met with local assessors. County tax boards also served as distribution centers through which more than one million personal property tax return forms and instructions were given to assessors and taxpayers. From the Cooperating Committee had come the leadership needed to prepare county tax boards for their new responsibilities under Chapter 51.

NEW JERSEY ASSOCIATION OF COUNTY TAX BOARD COMMISSIONERS AND SECRETARIES

Cooperating Committee Membership

Fred C. McCoy, Secretary, Morris County Board of Taxation, President

Frederick G. Sundheim, Secretary, Warren County Board, Vice-President

Ralph N. Bull, member of Sussex County Board, Secretary-Treasurer

Abraham Bahooshian, member of Morris County Board

Lawrence Berardelli, Jr., Cape May County Board

John A. Borden, President, Camden County Board

Francis A. Byrne, member of Essex County Board

William J. Harding, President of Middlesex County Board

J. Chester Holman, Secretary, Ocean County Board

Robert B. Murphy, Secretary, Bergen County Board

Anthony J. Panaro, Secretary, Mercer County Board

Carl A. Ruhlmann, member of Hudson County Board

Raymond Wheeler, Tax Collector, Haddonfield, representing New Jersey Association of Collectors and Receivers

Russel T. Wilson, Assessor, Englewood, representing New Jersey Association of Municipal Assessors

At each monthly meeting, two county tax boards not represented in the Association's Executive Committee are invited to join the Cooperating Committee.

C. Rules and Regulations

(1) Basis for rules and regulations

By direct reference and by inference, the Legislature made the Director of Taxation responsible for promulgating and enforcing rules and regulations to transform this "legislative blueprint" into a local property tax structure capable of uniform application throughout the State.

Specific references in Chapter 51 to measures, rules and regulations to be developed by the Director of Taxation appear as follows:

Ascertaining real or personal property

> Section 9 (54:4-2.31). "The director shall make, promulgate and enforce uniform rules and regulations for ascertaining whether property is real or personal and for identifying and determining the several personal property classifications."

Taxpayer return form for tangible personal property used in business

> Section 10 (54:4-12). "...each person owning personal property used in business...shall prepare and file...a return...in such form and containing such information...as the Director of the Division of Taxation shall prescribe.

Net book value of tangible personal property used in business

> Section 5 (54:4-2.29). "...the Director of the Division of Taxation may promulgate uniform rules and regulations for the determination and reporting of costs, depreciation, and net book value of such property as he may find necessary to provide for fair and equal assessments, and such rules and regulations may include provisions for averaging in a group or composite accounts in the case of a taxpayer holding items of like property in more than 1 taxing district, where it is determined by the Director that it is impracticable to report with respect to each item separately; and provided that so long as any depreciable property shall remain in use or be held for use its fair value shall be presumed to be not less than 20% of its original cost to the person assessed as shown by his said books and records, unless otherwise provided in said uniform rules and regulations."

Valuation of business inventories

> Section 6 (54:4-2.30). "...the Director of the Division of Taxation may promulgate uniform rules and regulations for the fair, equitable and practical valuation of inventories."

Common level of assessment

> Section 8 (54:4-11). "...for the purpose of this section "common level" shall mean the unweighted average ratio of assessed to true value of real property in the taxing district determined by the Director of the Division of Taxation as of October 1 of the year preceeding the tax year...."

Household personal property and personal effects

> Section 13 (54:4-9.2). "...according to standards and practices set forth in uniform rules and regulations promulgated by the Director of the Division of Taxation."

Form and method used by assessors

> Section 27 (54:4-26). "...the assessor shall follow such forms and methods as may be prescribed by the Director of the Division of Taxation...."
>
> "...the director may by rule require the assessor to certify land and improvements in his tax list according to such characteristics thereof as the Director may prescribe and he may require the assessor to append to his tax list a statement showing the total valuation of each category of such property in the taxing district."

Assessor's list and duplicate

> Section 30 (54:4-35). "...they shall be properly made up in such manner and form required by the Director of the Division of Taxation...."

In addition to rules and regulations to be promulgated by the Director of the Division of Taxation, Chapter 51 recognized the Division of Taxation as the general "control tower" for operations under the new tax law. The Director was charged with responsibility to receive and review records of virtually every action associated with local administration of the act and, by inference, to assure that such actions were taken in the manner prescribed by law. All of this only supplements the

provisions of existing law establishing the Director as the State's chief tax official with broad responsibility for enforcing tax laws at the State and local government levels (52:27B-51 - 54:1-6).

Chapter 51 contained the following requirements for filing records of local administrative actions with the Division of Taxation:

Percentage level of taxable value established by County Boards of Taxation

> Section 3 (54:4-2.27). "...the secretary of the county board of taxation, not later than April 10 of each year, shall mail to the Director of the Division of Taxation, to each assessor and board of assessors, and to the municipal clerk of each municipality within the county, a copy of such resolution, or, if such resolution was not adopted, a statement to that effect."

Taxpayer returns of tangible personal property used in business

> Section 10 (54:4-12). "...the returns required to be filed on or before May 1, 1961 shall be filed in duplicate and every assessor shall, upon receipt thereof, forward the duplicate to the Director of the Division of Taxation."

Municipal ordinance not to tax household personal property and personal effects

> Section 13 (54:4-9.2). "...a certified copy of such ordinance shall be filed with the Division of Taxation in the Department of the Treasury, and with the county board of taxation."

Equalization table prepared by County Boards of Taxation

> Section 19 (54:3-17). "...a copy of the table shall be mailed to the assessor of each district, and to the Division of Taxation, and be posted at the court house, at least 1 week before the hearings provided for in section 54:3-18 of this Title."

> Section 21 (54:3-19). "...a certified copy of the equalization table as confirmed shall be transmitted to the Division of Tax Appeals, the Director of the Division of Taxation, and each taxing district in the county."

(2) Definitions of real and personal property

New Jersey law contains no explicit definition of real estate. This omission had been unimportant when real estate and tangible personal property were assessed as general property according to the same standard of

value. But because Chapter 51 provided different standards for assessing real and personal property, the distinction between the two classes of property became an important one. The need for a ruling to clarify this distinction was made apparent by the different definitions applied in different local taxing districts. This was the reply of a Gas Pipe Line Corporation to an inquiry by the Division of Taxation:

> "Our total ad valorem taxes to be paid all taxing jurisdictions in the State of New Jersey for the year 1961 will be, as near as can be determined, ________. Of this amount, ________ will be classified as personal. Most of our property in the State of New Jersey is gas transmission pipeline and as you can readily see, about 50% is classified as personal and 50% as real."

Although pipelines may involve special valuation problems, the condition described in this reply is hardly limited to such unusual property. While complete documentation is unavailable, examples of industrial machinery, facilities and other properties classed as real estate in one district and as personal property in another are easy to find. This not only complicates Chapter 51's legal enviroment; it also raises doubts about the reliability of current personal property tax statistics and of predictions of what Chapter 51's effect on them.

An additional stimulus for a clear definition of real estate was the possibility that New Jersey may eventually follow the example of New York and Pennsylvania by exempting all personal property. A definition adopted now could carry over to such a future exemption. In this respect the distinction drawn by New York and Pennsylvania was regarded as a model for New Jersey.

In the absence of a statutory definition of real estate and personal property, it is necessary to rely on the general section relating to

definitions. As contained in R. S. 1:1-2, it reads:

> Unless it be otherwise expressly provided or there is something in the subject or context repugnant to such construction, the following words and phrases, when used in any statute, shall have the meaning herein given to them. ***Real estate; real property. The words "real estate" and "real property" include lands, tenements and herditaments and the rights thereto and interests therein.***
>
> "Personal property" includes goods and chattels, rights and credits, moneys and effects, evidences of debts, choses in action and all written instruments by which any right to, interest in, or lien or encumbrance upon property or any debt or financial obligation is created, acknowledge, evidenced, transferred, discharged or defeated, in whole or in part, and everything except real property as herein defined may be the subject of ownership.

The few New Jersey court decisions rendered on this subject have been so narrow that they are not much help in establishing broad definitions. Referring to the definitions used in New York and Pennsylvania the first draft of regulations for consideration by the Advisory Committee was intended to insure a complete definition of real property. It listed eight categories of real estate:

(a) Land itself, above and under water, in its original or nonreproducible, indestructible, immobile state, including certain items or additions thereto as dirt fill, grading, leveling, and drainage.

(b) Trees and undergrowth thereon, and mines, minerals, quarries and fossils in and under the land.

(c) Buildings and other structures and articles, sub-structures, and super-structures erected upon, under or above the land, or affixed thereto, including bridges and wharves, bulkheads and piers.

(d) Surface, underground or elevated roads and related structures, sub-structures and super-structures, tracks and metal thereon, and other fixtures permitted or authorized to be laid, placed in, upon, above or under any private or public street or place. (Note: How would such a regulation affect public utility property?)

(e) Discuss treatment of mains, pipes and tanks, not including tanks in gasoline service stations, laid or placed in, upon, above or under the land of any public or private place or anywhere.

(f) Boilers, ventilating apparatus, elevators, plumbing, heating, lighting and power generating apparatus, and equipment for distribution of heat, light, power, gases and liquids, but shall not include movable machinery, or equipment consisting of structures or erections to the operations of which machinery is essentially used for trade or manufacture and not essential for the support of the building, structure or super-structure, and removable without material injury thereto.

(g) Machinery and equipment shall be real property when permanently affixed to land or to a building, structure or improvement in such a manner that removal thereof would cause material damage to such machinery and equipment or to the site to which it is affixed.

(h) Forms of housing adaptable to motivation by a power connected thereto, commonly called "trailers" or "mobile homes" which are rendered immovable by annexation to the

land shall be real estate; for example, a home trailer that is jacked up and surrounded by landscaping and connected to utility services or a trailer which is permanently in place without such annexation where it is intent of the occupant to remain indefinitely at that location.

Important as the clarification of the distinction between real and personal property may have been, it was somewhat overshadowed in the Advisory Committee meetings by the depreciation debate.

(3) "Book Value" of Depreciable Property

(a) The Depreciation Debate

Adoption of Chapter 51 did not end the debate about definitions of "book value" as a basis for measuring "taxable value" of tangible personal property used in business. Most of the same proposals which the Legislature had been urged to incorporate into the law were also urged upon the Director of Taxation as subjects of regulation. Besides discussing the definition of "book value" itself, the debate expanded to consider the interpretation of legislative intent and the kind of regulation required to comply with both the language and intent of the new law.

The controversial section was Section 5 of Chapter 51 (54:4-2.29), reading as follows:

> The fair value of tangible personal property used in business shall be presumed to be the net book value thereof as shown by the books and records of the person assessed as of the listing date; provided that the Director of the Division of Taxation may promulgate uniform rules and regulations for the determination and reporting of costs, depreciation, and net book value of such property as he may find necessary to provide for fair and equal assessments, and such rules and regulations may include provisions for averaging in a group or composite accounts in the case of a taxpayer holding items of like property in more than 1 taxing district, where it is determined by the Director that it is impracticable to report

with respect to each item separately; and provided that so long as any depreciable property shall remain in use or be held for use its fair value shall be presumed to be not less than 20% of its original cost to the person assessed as shown by his said books and records, unless otherwise provided in said uniform rules and regulations.

The Case for a Uniform Method

It seemed simple enough to view this Section as one which permits the Director of the Division of Taxation to "promulgate uniform rules and regulations...as he may find necessary to provide fair and equal assessments." In the case of depreciable property, the Director's authority would include the establishment of rules and regulations relating to the "determining and reporting of costs, depreciation and net book value of such property." But except for provisions concerning the "averaging of group or composite accounts in the case of a taxpayer holding items of like property in more than 1 taxing district and the minimum "fair value -- presumed to be not less than 20% of original cost to the person assessed", the Director seemed to have no authority to promulgate rules and regulations that would not apply uniformly to all taxable business personal property in all taxing districts.

This raised questions concerning the promulgation of any rules and regulations based on accepting costs, depreciation and net book value determined by unlike methods among taxpayers and thus reflected differently in their books and records. The fact that "book value" did not always mean the same thing emphasized the importance of interpretations that would "provide fair and equal assessments" among taxpayers and among taxing districts. "Net book value as shown by the books and records of the persons assessed" was but the result of a combination of such factors as costs and depreciation both of which were specifically identified in the

in the Director's authority to "promulgate uniform rules and regulations." Adjustment of one of these factors without a corresponding adjustment in "book value" would be meaningless.

Under this interpretation, "net book value", presumed to be the "fair value" of tangible personal property used in business, could thus have only one meaning, i.e., "as shown by the books and records of the person assessed," adjusted to reflect requirements of "uniform rules and regulations for the determination and reporting of costs, depreciation and net book value". Uniformity of personal property tax assessments seemed incompatible with any other interpretation.

It is necessary to point out in this connection that the timing of depreciation charges during the life of a depreciable asset has a different tax consequence under a property tax based upon net book value than it has under a net income tax. Table 3-1 shows that variations in depreciation charged by two common methods throughout the life of an asset effect only the tax year in which the depreciation becomes a deduction from taxable income; they do not change the total amount deducted except as salvage value may be reflected. There is no such compensating adjustment of property tax based upon net book values, and once the depreciation deduction is allowed it is eliminated from the property tax base for the remaining life of the asset. Although straight-line depreciation results in higher average annual depreciation charges than double declining balance depreciation, it also results in a higher average "book value" remaining after deductions of all depreciation charges.

TABLE 3-1

DEPRECIATION AND NET BOOK VALUE
of
ASSET WITH 20-YEAR LIFE
UNDER TWO DEPRECIATION METHODS
(with 20% minimum book value)

Year	Under Straight Line Depreciation: Depreciation	Under Straight Line Depreciation: Book Value	Under Double Declining Balance Depreciation: Depreciation	Under Double Declining Balance Depreciation: Book Value
0	0	$ 100,000	0	$ 100,000
1	$ 5,000	95,000	$ 10,000	90,000
2	5,000	90,000	9,000	81,000
3	5,000	85,000	8,100	72,900
4	5,000	80,000	7,290	65,610
5	5,000	75,000	6,561	59,049
6	5,000	70,000	5,905	53,144
7	5,000	65,000	5,314	47,830
8	5,000	60,000	4,783	43,047
9	5,000	55,000	4,305	38,742
10	5,000	50,000	3,874	34,868
11	5,000	45,000	3,487	31,381
12	5,000	40,000	3,138	28,243
13	5,000	35,000	2,824	25,419
14	5,000	30,000	2,542	22,877
15	5,000	25,000	2,288	20,589
16	5,000	20,000	2,059	20,000
17	5,000	20,000	1,853	20,000
18	5,000	20,000	1,668	20,000
19	5,000	20,000	1,501	20,000
20	5,000	20,000	1,351	20,000
Total	$100,000	$1,000,000	$87,843	$814,708
Average	5,000	50,000	4,392.14	40,735.40

Subject to adjustment for salvage value

It was on this basis that the Division of Taxation first approached the task of interpreting Section 5 to mean that uniformity of property tax assessment according to "book value" requires the application of uniform depreciation methods to original costs determined in a uniform manner for all taxpayers.

Preoccupation with particular uniform measures of depreciation made it difficult from the beginning to focus attention on the distinction between depreciation charges designed to spread asset costs over the anticipated useful life of the asset and depreciation charges used for measuring property valuations at any given time for an ad valorem tax. Mr. Duane E. Minard (New Jersey State Chamber of Commerce) became his organization's minority representative by vigorously supporting a uniform rule of depreciation as the only procedure compatible with concepts of ad valorem property taxation:

> I would go back to my espousal of uniformity and I do not believe that the Russian roulette or the laissez faire of books as kept is any test or any measure or any assurance of uniformity among taxpayers who, for this purpose, are valuing assets. This is not an expensing of depreciation over the useful life of property for income tax purposes. This is a determination of advalorem, the value of the asset, and I do not believe that you can achieve equality, I do not believe that you can achieve the uniformity that is required under the doctrines of our judicial determinations unless you do have uniformity....
>
> ...if we are going to have some taxpayers on straight-line and other taxpayers on double declining balances, we are not going to have uniformity, and it seems to me that that being the touchstone in this whole piece of legislation whether or not the statute is contrived and properly written should not bar us from achieving what the courts ultimately are going to require in any event, and that's uniformity....
>
> Now, I cannot ignore nor can I dismiss lightly the requirement imposed by the statute upon the Director to secure uniform and equal assessments, and whatever method is devised, in my view, has got to measure that

> uniformity or the Director is going to find himself confronted by suits such as Hillsborough and the cases in New Jersey subsequent to Hillsborough where uniformity is the predominant principle.
>
> So that what I'm for is uniformity, and what I'm against is a laissez faire reliance on books, which are a completely unreliable reading so far as uniformity is concerned....[1]

A Different Interpretation

Another interpretation of Section 5 would have kept the Director from promulgating any uniform method of depreciation, on the assumption that such a regulation would be incompatible with the statutory presumption that "fair value" is "the net book value...as shown by the books and records of the person assessed". Under this interpretation, the authority of the Director to promulgate rules requiring deviation from "book value" as reported by the taxpayer would be limited to exceptional cases where such "book values" were inadequate measures of "fair value". This interpretation was summarized in a memorandum by the New Jersey State Chamber of Commerce as follows: [2]

> The portion of Chapter 51, Laws of 1960, which is relevant to the depreciation question reads as follows:
>
> 5. The fair value of tangible personal property used in business shall be presumed to be the net book value thereof as shown by the books and records of the person assessed as of the listing date; provided that the Director of the Division of Taxation may promulgate uniform rules and regulations for the determination and reporting of costs, depreciation, and net book value of such property as he may find necessary to provide for fair and equal assessments, . . .; and provided that so long as any depreciable property shall remain in use or be held for use its fair value shall be presumed to be not less than 20% of its original cost to the person assessed as shown by his said books and records, unless otherwise provided in said uniform rules and regulations.

[1]Advisory Committee on Assessment Practices Implementing Chapter 51, Laws of 1960, Transcript of Proceedings at meeting held December 7, 1960, pp 19, 21.

[2]Statement by the Cost of Government Committee of the New Jersey State Chamber of Commerce to the Advisory Committee on Implementation of Chapter 51, Laws of 1960. (September 21, 1960) p. 1

State Chamber Interpretation of the Statute

> The underlining in the above-quoted statute is the writer's. It is designed to highlight the fact that the statutory presumption that fair value is net book value as shown by the taxpayer's books and records cannot be vitiated by a permissive promulgation of rules and regulations which are limited by the statute to application to that property for which rules and regulations are necessary in order to achieve a contradictory goal of fair and equal assessments....[1]

This view that Section 5 evidenced legislative intent to "limit the authority of the Director of Taxation to certain policing powers in the issuance of appropriate rules and regulations" was stated in greater detial by Mr. G. F. Smith (President of Johnson & Johnson Corporation) as follows:[1]

> The Legislature intended to, and did, restrict the authority of the Director of Taxation to certain policing powers in the issuance of appropriate rules and regulations.
>
> The Legislature provided "that the Director of the Division of Taxation may promulgate uniform rules and regulations for the determination and reporting of costs, depreciation, and net book value of such property as he may find necessary to provide for fair and equal assessments . . . ."
>
> Such authority to the Director is necessary, for there are obvious situations where rules are necessary to apply the statutory presumption that "the fair value of tangible personal property used in business shall be presumed to be the net book value thereof as shown by the books and records of the person assessed as of the listing date . . . ."
>
> The policing powers of the Director are necessary, for example, in the following situations:
>
> (1) Where no books of account are kept by the taxpayer. Many cash basis businesses do not keep such books. They are on the cash basis for Federal income tax purposes, and frequently have inadequate records and no formal books of accounts.

[1]Submitted to Advisory Committee on Assessment Practices on September 23, 1960.

(2) Where the books reflect improper expensing of capital items, which should have been capitalized.

(3) Where the original costs of tangible capital acquisitions on the books do not correctly reflect such related costs as installation costs.

(4) Where the books do not properly reflect accrued depreciation for advalorem tax purposes, with respect to the actual usage and other characteristics of the property involved.

In these instances, the Director is empowered to supplement the Statute with appropriate Regulations. In the case of item (4), the Director should formulate rules correcting the improper book depreciation. He has this power only when the book depreciation is inacurrate of true depreciation. Thus, if an asset of personalty has depreciation of 70% of cost accrued on the books, and if 35% is the correct figure, then the asset should be listed for tax purposes at 65% of cost instead of the book 30% of cost. His rule - making power is limited to this formulation: "Book depreciation is subject to correction where it does not truly reflect the depreciated condition of the property."

Indeed, if the powers of the Director are construed so as to authorize a Regulation that 150% declining balance depreciation must be substituted for book depreciation in every case, then various questions as to the unconstitutionality of this Regulation are raised:

(1) The important delegation of Legislative functions to an Administrative Agency;

(2) The improper assumption of Legislative functions by an Administrative Agency; and

(3) The undue process of law in many specific instances resulting from the use of 150% declining balance depreciation straight across the board for all taxpayers.

If the Legislature intended the latter method to be used, we firmly believe that it would have so legislated; and this it did not do.

(b) <u>Methods of Depreciation</u>

If it did nothing else, the search for a workable interpretation of "book value" and for regulations to implement such an interpretation created an awareness that depreciation is an averaging process and that depreciated

(book) value is an intangible term which has not the same meaning for all businesses or properties five basic approaches were developed:

> First - Uniform depreciation allowance of 50% of original cost for all depreciable personal property, with the provision that the depreciated (book) value shall remain at 50% of original cost until the time when straight line depreciation would result in depreciated (book) value below the statutory minimum of 20%. At that time, it becomes 20%, and stays at that level so long as the property remains in use.
>
> Second - A single depreciation method for all taxable personal property. The "declining balance" and "straight line" methods based upon anticipated useful asset life used for Federal Income Taxes were the most commonly discussed methods.
>
> Third - Depreciation and depreciated (book) values actually reflected in books of account as reported to the Securities and Exchange Commission or to the Bureau of Internal Revenue were suggested as a way to achieve uniform assessments. In this method, uniformity derives from uniform sources of information in an accounting sense, as opposed to uniform values for like properties.
>
> Fourth - Depreciation and depreciated (book) value actually reflected in taxpayer books of account without reference to any other requirements concerning their use or the method by which they are compiled except that they be "according to sound accounting practice."
>
> Fifth - Uniform depreciation determined according to a single method and based upon a single useful life for all taxable assets - thus requiring only two basic ingredients, original cost and age.

The 50% Rule

This approach has the appeal of simplicity; it was therefore, suggested by assessors as one which would provide a stable and easily determinable tax base. It would require only the three basic informational ingredients common to most depreciation calculations - original cost, anticipated useful life and age. Doubts were raised concerning the absence of graduation in resulting fair value between new properties and old properties and a possible incompatibility with statutory requirements of assessment according to book value.

Single Depreciation Method

This approach offered the hope of simplified taxpayer compliance consistent with uniform treatment of all taxable properties by the application of established depreciation schedules to the original cost of assets reported according to anticipated useful life and age.

"Straight line" and "declining balance" methods received the most attention as possible single methods because they are simple to apply and appeared to be the most common methods used for federal income taxes. As indicated by the following brief descriptions, their application requires a minimum of data gathering. Only the original cost of the depreciable asset and its estimated useful life, the principal ingredients of any depreciation method are necessary.

> Straight Line - This method divides the depreciation over the years of estimated useful life of the asset and causes the undepreciated balance (book value) to decline by the same amount each year.
>
> Declining Balance - This method applies at a fixed percentage to the remaining balance in the asset account (book value) to determine the amount of depreciation chargeable each year, and causes the undepreciated balance to decline most rapidly during the early years of the estimated useful life of the asset. It also leaves a small and decreasing balance in the asset account indefinitely.

The straight line method is the most familiar to taxpayers because it is the oldest in common usage. The declining balance method has grown in use since first authorized for Federal Income Tax purposes in 1954. Its major attribute is its consistency with the pattern by which depreciable property suffers its greatest loss of value during its first years of use. This is an important consideration in determining taxable value of property under an ad valorem tax which presumes that taxable value is measurable in terms of "book value."

The Division of Taxation developed a tentative rule requiring that all taxpayers use a single method of depreciation based upon a combination of the "straight line" and "declining balance" methods and requiring no more data than the date of acquisition and anticipated useful life. This approach became known as the "uniform depreciation-variable life" method. This method was accomplished by preparing tables of depreciation multipliers (see page 30) for application to all assets grouped by date of acquisition and anticipated life. It was assumed that useful life used for federal income taxes would be acceptable.

Using the declining balance method, tables were developed showing depreciation rates at 1.5 times the straight line rate. This method was used so long as the undepreciated balance in the asset account (book value) was less than would result from straight line depreciation. After such time straight line depreciation was applied until the undepreciated balance in the asset account (book value) was reduced to 20 per cent of the original cost of the asset. 20 per cent of original cost is the minimum "fair value" of depreciable property established by Chapter 51.

Taxpayers questioned the assumption that easy compliance was possible by using records already available, especially in those instances where group or composite accounting is used. There was further doubt that complete uniformity would result from this method, since some taxpayers owning like kinds of property used varying useful life estimates for federal income taxes.

Securities and Exchange Commission and Internal Revenue

This approach was supported by taxpayers and others who saw it as a way to avoid the need for additional data. The need to report by municipalities and to adjust for accelerated depreciation and the 20 per cent

minimum fair value seemed to make some of this advantage more apparent than real. Discussions considered the view that Chapter 51 requires this approach because it reflects value shown in books of account. Also discussed was the lack of uniformity in book values of similar properties depreciated by different methods.

Corporations reporting to the Federal Securities and Exchange Commission claimed that these reports reflected their "true" asset position more accurately than federal income tax records. These reports were described as a mirror of corporation "books of account." They are a matter of record, available for review by assessors. The corporations seemed to feel that the reports could be broken down to reflect asset values within a single plant or municipality for businesses with numerous locations.

But not all business taxpayers report to the Securities and Exchange Commission. Any decision to use such reports as a basis for assessing personal property would thus require an alternative source for many smaller taxpayers. Federal Income Tax returns were suggested because they are a matter of record and are subject to the control of federal audit.

Suggested regulations were drafted to require book value reporting based upon either Securities and Exchange reports or Federal Income Tax records, whichever is greater. An alternative was to require Securities and Exchange reports where available and federal Income Tax records for all other taxpayers. Of the two alternatives, the first appeared to more nearly satisfy requirements of uniform rules without using Federal Income records to the exclusion of Securities and Exchange Reports. There was some suggestion that the choice between the two should be left with the taxpayer.

Unadjusted Book Value

This approach rests on a literal interpretation of the presumption that the "fair value" of tangible personal property used in business is "the net book value thereof as shown by the books and records of the person." A statement addressed to the Advisory Committee by the State Chamber of Commerce stated this position as follows:[1]

> The language of the proviso, which permits the Director to formulate rules and regulations, does not permit him to establish a value concept other than company book value but rather limits such rules and regulations to coping with the exceptional cases. Note the underlined words in the proviso: "rules and regulations for the determinations and reporting of costs, depreciation, and net book value of such property as he may find necessary to provide for fair and equal assessments." It is interesting to note that this proviso apparently is a composite of two subsections of Senate Bill No. 81 of 1959 and that in the combining of these subsections the underlined words in the following were lost: "as he may find necessary to provide for fair and equal assessment" for all taxpayers similarly situated.

Although this method was promoted vigorously, it was generally recognized as an approach which would place the local assessor in the position of receiving and recording voluntary taxpayer declarations. It is true he could compel taxpayer returns, but he would have little control over their content. The fact that most business taxpayers maintain books of account in accord with Federal Income Tax requirements was small assurance that all taxpayers would report by standards meeting even this degree of uniformity. It was generally agreed that the assumption that rules and regulations could not involve adjusting book values as reflected in books of account was fallacious.

[1]Statement by Cost of Government Committee, New Jersey State Chamber of Commerce, to Advisory Committee on Implementation of Chapter 51, Laws of 1960. (August 15, 1960)

But there was some evidence that this agreement was more apparent than real. The kind of adjustments contemplated would have required the assessor to show that book values reported by a taxpayer did not reflect "true depreciation actually occurring." In so doing, he would place the assessment of business tangible personal property back on the same negotiated basis that Chapter 51 was expected to eliminate. For example, Mr. T. M. Fieschko (Johnson & Johnson Corporation) addressed the final meeting of the Advisory Committee on Assessment Practices as follows: [1]

> To refresh your recollections, our position is that the Director of Taxation has no authority to formulate regulations which require the mandatory blanket use of any single depreciation method. The law itself accepts book depreciation as presumptively correct, and not conclusive. We believe that the assessors, and the Division of Taxation, may rebut, in individual cases, the use of book depreciation where it does not correctly reflect the true depreciation actually occurring. This procedure requires the assessors and the Division to produce substantial facts, in the individual case, to support their rebuttal. Once they have produced such evidence, the burden of proof then shifts to the taxpayer to refute the assessors' evidence and to defend usage of book values. Accordingly, we maintain that the regulations cannot legally set up a denial of use of book depreciation by the arbitrary establishment of a 150% declining balance rule. If the assessors of the Division of Taxation want to deny the use of book depreciation, they must first establish, in the individual case, facts which prove that the impropriety of book depreciation. This is the basic legal position which we have set out in our legal brief, a copy which you have....
>
> ...Accordingly, first, I am authorized to say here that Johnson & Johnson will offer financial assistance towards the legal costs and active cooperation to that taxpayer who will litigate in the courts a proper test case on the legality of the 150% rule, or any regulation similar in arbitrariness. What fact situation is the best one to litigate, and for us to support, I cannot predict at this time.

[1] Advisory Committee on Assessment Practices Implementing Chapter 51, Laws of 1960, Transcript of proceedings at meeting held December 7, 1960, pp 27, 28 29.

> Second, if the assessors and the Division of Taxation feel constrained to approach the Legislature for the enactment of amendatory language on depreciation, we at Johnson & Johnson will welcome the opportunity to present to the legislative committees the case for a wise depreciation rule which will be for the overall benefit of the State of New Jersey. This will also be an opportunity for us to present the arguments for a legislative amendment to abolish the machinery and inventory tax in its entirety.
>
> We regret that we must advise you of our position regarding impending litigation. We disclaim the use of threats. Our position is legally correct, but, more important, correct from the viewpoint of the state's welfare....

Single Method - Single Life

This suggestion grew out of discussions of the first four approaches. It was an attempt to resolve the problems of useful life determination and reporting by ignoring them. The distinctive feature of this approach was the assumption that all depreciable personal property has the same anticipated useful life -- for example, 10 years. Book values could then be determined on the basis of fixed multipliers established by regulation and applied to the original cost of all assets acquired within a single year. The multipliers were developed through a procedure similar to that used in the single method approach. Because it required only the original cost and year of acquistion of taxable assets, the single method - single life approach promised to minimize both taxpayer compliance costs and administrative problems of assessors. (Fair) values of all depreciable personal property taxable in 1962 would be reported as of the filing date of January 1, 1961, as illustrated in the following example.

Year of Acquisition (1)	Original Cost (2)	Retirements at Cost (3)	Remaining Cost (2-3) (4)	Fair Value Multiplier (5)	Fair Value (4x5) (6)
1960	$500,000	$ 1,000	$499,000	$.850	$424,150
1959	500,000	50,000	450,000	.723	325,350
1958	500,000	100,000	400,000	.614	245,000
1957	500,000	100,000	400,000	.522	208,800
1956	500,000	200,000	300,000	.444	133,200
1955	500,000	300,000	200,000	.377	75,400
1954	500,000	300,000	200,000	.300	60,000
1953 & Prior	1,000,000	800,000	200,000	.200	40,000
Total depreciated (fair) value					1,512,500

This is essentially the procedure described in the Detroit personal property return form for use under a true value standard and applied in other Michigan cities. Like all simplifications of complicated procedures, it has arbitrary features. The most obvious is the assumption of a single useful life expectancy for all depreciable assets. Those who favored this method stressed its simplicity and argued that the practical results would outweigh any imprecision in reflecting actual depreciation for single assets. Ultimately, though, this method's success would depend on its application to all taxable personal property.

About all that could be said in support of the 10 year uniform useful life was that it seemed a reasonable expectation. Information to determine averages of industrial experience for personal property alone was not available. Suggestions were made to modify this approach by classifying depreciable personal property into two or more groups reflecting different useful lives and establishing separate multipliers to be applied uniformly within each group. But this method faced the problem of agreeing what to include in each group and how to enforce those classifications.

The Director of Taxation took the position that the single method - single life approach was so far removed from the book value concept that he had no authority to promulgate it by regulation. Evidently, this approach could be established only by legislative action. And there was no evidence that it had enough support to gain adoption in time to be included with the rules and regulations under consideration.

Depreciation Methods
Sample Opinions Expressed at Final Meeting of
Advisory Committee on Assessment Practices Implementing
Chapter 51, Laws of 1960 (Trenton, December 7, 1960)

H. Russel Brown (N. J. Manufacturers Association)
Stick with what the law says and say net book value, and then have the Director provide some minor exceptions.

Leonard W. Nathan (N. J. Taxpayers Association)
We have to recognize book values.

James H. Symons (N. J. State Chamber of Commerce)
Net book value which turned up by SEC data or Federal Income Tax return data without the proviso "whichever is greater".

Duane E. Minard, Jr. (N. J. State Chamber of Commerce)
What I'm for is uniformity, and what I'm against is a laissez faire reliance on books.

Austin Tebbens (N. J. Society of Certified Public Accountants)
Use of a net book value rather than introducing any SEC requirements.

Alfred J. Greene, Jr. (Association of Municipal Assessors of N.J.)
The only ones we are in agreement with are (1) fixed depreciation with fixed useful life and (2) fixed depreciation with variable useful life.

T. M. Fieschko (Johnson & Johnson Corporation)
Director of Taxation has no authority to require...use of any single depreciation.

James S. Bruen (Thomas A. Edison Industries) and
Ralph Mayfield (Campbell Soup Company)
New book value used for reporting (1) to Federal SEC or (2) for Federal Income Tax purposes.

Joseph W. Fitzpatrick (Certified Public Accountant and Attorney)
...a uniform method which would be more just, more equitable would not...be a great burden if that chosen rate happened to differ from the rate by the individual company.

Aaron K. Lasser (N. J. Association of Public Accountants)
Fix depreciation with variable useful life.

Leo Rosenblum (Jersey City)
If business itself can arrive at two different book values...why can't the Director arrive at a third way which achieves equality.

Joseph H. McCabe (N. J. Society of Certified Public Accountants)
The proviso whereby the Director will promulgate rules and regulations should cover exceptions and...net book value should be accepted.

(c) The Question Unresolved

The depreciation debate lasted through the four meetings of the Advisory Committee, innumerable interim conferences, and a prolific exchange of correspondence. Its most notable feature was its lack of accomplishment. When it ended, there was little evidence of any greater agreement between opposing points of view than when it all began. To the contrary, each point of view acquired the invulnerability of habitual repetition and thus seemed beyond reconcilation by mutual agreement. The debate had made clear that taxpayers use different depreciation methods to determine book value. It was less clear, however, that assessment for ad valorem taxation would require adjustment of book value to reflect a common measure of depreciation for all taxable property.

The core of the discussion, this issue was pinpointed by the Director of Taxation in a series of questions during the final meeting of the Advisory Committee:

First, In the matter of differences in book value:[1]

> Now I would like to address a question at this time to the accountants in this group and I wonder whether it would be possible to answer briefly these specific questions:
>
> No. 1, when we speak about net book values we speak in the main of net book values arrived at according to, let us say, sound accounting principles. Now, is that a correct statement?...
>
> Now, are we likewise to understand that accepted accounting principles permit more than one method of treatment of the various figures that are involved, starting with the original cost? In other words, when we say that two taxpayers started out with an original cost of $10,000 and that both of them thereafter owned that asset over a period of five years, and that they both kept their books with respect to the depreciation that they entered against that original cost of $10,000 during those five years in accordance with sound

[1]Advisory Committee on Assessment Practices, December 7, 1960 - pp 49-51.

accounting principles we do not necessarily mean that at the end of five years they have both wound up with the identical residual value, do we?

MR. WILKENS: They would not necessarily wind up with the same factor, but they would not necessarily be in the same position. Management decides on the rate of depreciation and it's presumed to be proper.

THE DIRECTOR: I'm going to come to that. In answer to my last question, they would not necessarily wind up with the same figure as the undepreciated book value.

Now, let's explore the reasons why they would not wind up with the same book figure. One reason might well be the fact that one established a useful life for that asset of 20 years and the other one established a useful life for that asset of 10 years.

Now, suppose each of them established a useful life of that asset for the identical number of years, would they still wind up with the same or with a different value at the end of five years?

MR. WILKENS: It could still be different.

THE DIRECTOR: It could still be different. And why would it be different?

MR. WILKENS: Because it's a different method.

THE DIRECTOR: Because they would use a different rate of depreciation.

Now, the reason why they set up a different useful life would be related to the economic use of that particular asset. One might use it in a single shift or might use it very infrequently. One might use it in a double or trible shift, isn't that true? But what justification do we have for the use of the different rate of depreciation once both taxpayers have set up the same useful life? What is the explanation for that?

MR. WILKENS: Well, the particular person recording his assets on depreciation life is trying to recover cost. He is not trying to show a particular value.

THE DIRECTOR: He is not trying to show an ad valorem value. He is merely recovering his cost at a more rapid or a less rapid rate.

MR. WILKENS: Well, we have had a change in thinking over the past few years where it is now recognized that your economic rate of depreciation would be greater during the earlier years, dollar for dollar, even though your rate of production use of machinery might be the same over a long period of time.

THE DIRECTOR: Along that line, if we were to start out with the same useful life rate, which in itself reflects the economic use of the property, if we were to start out with the same rate of useful life we would find that 150% declining balance method, for example, would allow for a greater depreciation during the initial years of use than a straight-line method of depreciation, wouldn't we, which would in part, at least, take care of the objection you made regarding the greater ad valorem depreciation during the earlier years of the use of an asset.

Second, In the matter of uniform property assessments:[1]

Now, I have, then, a question which I would like to address to the proponents of the net book value method. The statute, as we know, sets up a presumption of the net book value with the qualification that the Director should concern himself with fairness and equality. I'm paraphrasing and generalizing now. Now, fairness and equality in turn, I think we will all agree, means fairness and equality as between taxpayers similarly situated. That was a point that was made in the memorandum of the State Chamber of Commerce and we believe that it was well made; namely, that these terms in the statute, to provide for fair equal assessments, must be read as if the word "assessments" were followed by the phrase "as between taxpayers in similar circumstances."

Now, my question to the advocates of the net book value method is: since it has been established that net book value according to sound accounting principles would not necessarily wind up with the same figure for all, even after making proper adjustment for the same useful life to be used by taxpayers who are going to use that asset to the same degree of use in industrial activity, how will we get equality if we permit different taxpayers to use different rates of depreciation?

I want to repeat again the variable useful life will be permissible to reflect the differences in the economic use of the assets. But assuming that we have already permitted the taxpayer to set up a useful life that is consistent with his experience in the use of that asset, how do we get equality between taxpayers similarly situated if we permit differnt taxpayers to use, one a straight-line method, another one a 200% declining balance method, another one a sum-of-the-digits method?

[1]Advisory Committee on Assessment Practices, December 7, 1960 - pp 51-52, 55-61.

MR. TEBBENS: I think it is a little presumptuous on my part to try and answer that question because obviously it is a very difficult one to answer. I think that's why it has puzzled us all right along.

I think, though, that when you use the term "equality" you are using it in a quantitative sense.

THE DIRECTOR: No. I said equality for taxpayers similarly situated.

MR. TEBBENS: That's right, and I still say I think the term is being applied in a quantitative sense. Actually, I think there is equality from the point of view of principle, in that all taxpayers may adjust their books to take advantage of these accelerated depreciation methods. Now, of course, there may be some reasons why, because of compliance with the rules of regulatory bodies, et cetera, a taxpayer is forced to use the straight-line method on his books, and it is in anticipation of that difficulty that it was my suggestion that we use book value or Federal Income Tax values, period, because I think on that basis we can get equality and uniformity. But just confining our thoughts to whether book value would result in equality, I believe it is and would result in equality because all taxpayers can use an accelerated method.

MR. BROWN: Since I have been an advocate of net book value, I probably should try to answer some of that, Bill.

First, I think you are making the assumption that a third party, meaning you and me and this group here and the tax assessor can do a better job in determining value than the person who owns the assets, who has the assets on his books.

Actually, if a similar taxpayer or taxpayers with similar assets had a couple of different methods, they are eventually going to arrive at the same answer, and I can't think that anyone has the wisdom to come up with taxable value that's better than the person who's working on it.

One thing that hasn't been talked about very much, except I say it; we are also forced to try to be practical. I have never said, and I don't think any of the net book value advocates have said that this is a perfect taxable value answer, because that just isn't available. And I can't think of any of these systems that can be proved to come up with a better taxable value than net book value, which is certainly a practical method to use.

We talk about the difficulties of taxpayers complying. I can't help but think of the difficulty of some 567 taxing districts complying with what a tax assessor should do as

compared with what the taxpayers should do. We are going to come up with some regulations for taxpayers, and they may be very difficult, with which to comply. I happen to think that net book value is an easy one with which to comply. And in turn, if the tax assessor is going to do any kind of a decent job at all, he should do some auditing; and if he does some auditing, the easiest figure to look at is the general ledger, where you are going to find net book value.

Now, I do not think that the outsider, which is where we are getting, can determine a better value and I do not think that uniformity necessarily determines what should be the taxable value. I know that Duane talked about uniformity, but it's uniformity of procedure and not necessarily uniformity in value, and I think that we should be careful in setting our widsom up as that of Solomon in determining the value by some certain system because that can be defeated on an equity basis just as much as the net book value that we have advocated.

MR. SYMONS: Repeat the question again, please.

MR. BROWN: You can see Jim and I aren't together.

THE DIRECTOR: Do you mean that seriously?

MR. SYMONS: Yes.

THE DIRECTOR: I will try to repeat the question. Assuming that we have two taxpayers who were both using sound accounting principles, they both bought the same asset at the same time for the same price and they are both going to use it at the same rate, and we have permitted them to establish the same useful life. Now, we get to the point where one of them is going to use a straight-line method and another is going to use the double declining balance method. How do we satisfy the requirement for equality of taxpayers similarly situated, because they have been similarly situated up to the time that they got to what is a mere arithmetical computation?

MR. SYMONS: Well, the way is question is put would indicate that you have two firms, same asset, different lives, I assume in the same industry, producing the same commodity.

THE DIRECTOR: I beg your pardon. Did you say different lives. I did not say different lives.

MR. SYMONS: You are assuming the same lives?

THE DIRECTOR: Same lives.

MR. SYMONS: Two firms with the same asset, same machinery, the same lives. I assume the same industry.

THE DIRECTOR: Yes.

MR. SYMONS: Producing the same product, and yet one chooses to use one method of depreciation--

THE DIRECTOR: One rate.

MR. SYMONS: One rate.

THE DIRECTOR: Or the same method. I wouldn't care.

MR. SYMONS: Pattern of depreciation, straight-line versus double declining balance or some other.

In the first place, I point out that cases of that sort you would find would be extremely limited, so that the impact of the apparent lack of equality would be a very special case.

More than likely you will find the same asset is being used for the production of different products or in different industry, in which case the obsolescence would be greater in one case than the other, depending not only upon the fact the new machine might be developed, but the product might be changed, in which case you'd also need a new machine.

But it is conceivable that there might be some few cases, if we were to look very hard, that would fulfill the terms of your question. That's why I asked the question be repeated.

Over and against that the alternative seems to be to take all such assets of all taxpayers, no matter what the use is, the purpose, and impose on them arbitrarily one method of depreciation. Now, I would maintain the inequality in that case --

THE DIRECTOR: With a variable useful life.

MR. SYMONS: Even with a variable useful life, imposition of one pattern of depreciation on all assets of all taxpayers, all industries, all products, all uses, would imply much greater inequality than with the few cases you might find.

THE DIRECTOR: Could you tell us why that would bring about greater inequality?

MR. SYMONS: Because you are then treating them as if they were similarly-situated taxpayers, who are not.

THE DIRECTOR: Aren't they similarly situated when they establish the same useful life? Up to that point aren't they similarly situated? Isn't the rest of it merely an arithmetical approach toward the recapture of the original investment?

MR. SYMONS: No, I don't agree.

THE DIRECTOR: I'm not advocating anything at all. I'm trying to get into the record some of the reasoning which I'm sure led to the advocacy of the net book value. The record does not have that reasoning in it at present and I think it would be very important to get that reasoning into the record.

MR. SYMONS: Mr. Fitzpatrick placed the emphasis in the Federal action on the sociological reason of encouraging the renewal of equipment and a rapid disposing of it. I read carefully the hearings in connection with the 1954 Act and the reports of the committees. The fact is that more often, in fact almost exclusively the point was not one of a sociological objective of getting more machinery and equipment but, rather, to become more realistic about what is really happening to business machinery and equipment. In fact, the reports of the Congressional committees points out that very thing as their conclusion.

The Senate report said:

"The liberalized declining balance method" --meaning the double declining balance method--"included in the bill concentrates deduction in the early years of service and results in a timing of allowances more in accord with the actual pattern of loss of economic usefulness. With the rate limited to twice the corresponding straight-line rate and based on a realistic estimate of useful life, the proposed system conforms to sound accounting principles."

Also the House Committee Report:

"The method of allocating depreciation allowances to the years of use in also a matter of judgment. In many cases present allowances for depreciation are not in accord with economic reality, particularly when it is considered that adequate depreciation must take account of the factor of obsolescence."

No one would disagree with the statement that obsolescence is not the same for all kinds of equipment in the hands of all taxpayers for all uses in the production of all products. And if the depreciation is not the same regardless of useful life, then it is not treating those similarly situated in the same manner.

THE DIRECTOR: Isn't the establishment of useful life dependent upon obsolescence, the judgment of management as to obsolescence?

MR. SYMONS: The overall life is reflected in that, but the pattern of obsolescence, how fast it takes place, depends upon the method of depreciation.

THE DIRECTOR: That to an extent is unpredictable, but not necessarily related to whether you use a 200% declining balance method or a straight-line method. When you set up a particular useful life, management presumably uses its best judgment. At the time that the useful life is established, you can't gaze into a crystal ball and say for a certainty whether or not that asset may become obsolete within that useful life or prior to the expiration of the useful life, but that doesn't necessarily have to do with the rate of depreciation, does it?

MR. SYMONS: When you say you can't gaze into a crystal ball, that is not the actual case because the businessman who determines the obsolescence rate is basing it on past experience and a look into the future with regard to the rate of obsolescence, the pattern of the particular equipment that he is going to buy.

What you are substituting in place of that is a crystal ball for this group to find the one magic method of depreciation that will cover all industries, all assets and all products.

(d) The Decision

The lack of agreement concerning appropriate regulations concerning depreciation methods, and the amount of heat generated by the depreciation debate (see Appendix______) placed the Director of Taxation in the position of having to promulgate a regulation which had little chance of general acceptance. Against this background, it became necessary to develop the regulation which offered the greatest promise of administrative feasibility consistent with the requirements of Chapter 51 as it was adopted by the Legislature.

The regulation which was promulgated was based upon acceptance of depreciation charges as reported by taxpayers for Federal Income Tax purposes with a minimum of adjustments to exclude accelerated and extra first year depreciation charges and to reflect the statutory minimum value of 20 per cent of original cost for properties depreciated below that level. This regulation appears as follows:

Except as may be otherwise provided by regulation, net book value for the various items of depreciable property referred to in Reg. 2.100 (A) shall be the depreciated value of

such property as reported to the Internal Revenue Service for Federal Income Tax purposes in accordance with the Internal Revenue Code of 1954 and the rules and regulations promulgated thereunder, in effect on January 1, 1961, for the last complete reporting year immediately preceding the listing date, and adjusted to such listing date for additional depreciation, additions and disposals. In the case of depreciable assets acquired subsequent to the close of the last complete reporting year and prior to the listing date, the net book value to be reported hereunder shall be determined in the same manner as was used by the taxpayer for comparable property in such last reporting year. In the case of depreciable assets acquired by a taxpayer prior to establishment of the first reporting year for Federal Income Tax purposes and prior to the listing date, the net book value to be reported hereunder shall be determined in such manner as is contemplated to be used by the taxpayer in his first return for Federal Income Tax purposes. In the case of any other depreciable taxable property for which no net book value has been determined for Federal Income Tax purposes, the net book value to be reported hereunder shall be determined as the original cost of the property less depreciation computed according to the straight line method based upon the average useful life for comparable assets reflected in the U. S. Treasury Department, Bureau of Internal Revenue Bulletin "F".

Notwithstanding the provisions of the foregoing, paragraph, net book value shall in no instance reflect accelerated depreciation of emergency facilities permitted for Federal Income Tax purposes under Sec. 168 or additional first-year depreciation allowance under Sec. 179, of the Internal Revenue Code, and in no instance, except as may be otherwise expressly provided by regulation, shall net book value be less than 20 per cent of original cost for any depreciable asset remaining in use or held for use.

(e) Adjustment of Listing Date

Not all of the problems associated with "book value" assessment of depreciable business personal property were concerned with methods of depreciation. Chapter 51 established January 1st as the listing date when the value of taxable property was to be reported. This requirement was no problem for taxpayers who kept their books and reported for Federal Income Taxes on a calendar year basis. But the minority of business taxpayers using other fiscal years could not comply with the law by simply reporting the unadjusted book values given for Federal Income taxes. Although the Director of Taxation was urged to provide by regulation that

that such taxpayers could use their year end book values even when this meant a deviation form January 1st listing date, he had no alternative but to require adjustment of the listing date. The regulations were so drawn. (Reg. 16:12-2.240 and Reg. 16:12-2.140)

(f) Group or Composite Accounts

The provision of Chapter 51 permitting the Director of Taxation to provide for "averaging in a group or composite accounts in the case of a taxpayer holding items of like property in more than 1 taxing district where it is determined by (him) that it is impractical to report with respect to each item separately" (54:4-2.29) was the basis for various suggestions to modify the requirement for reporting book values of property in each local taxing district. Legislative committee deliberations before the adoption of Chapter 51 indicated that this provision was intended to facilitate reporting for taxpayers maintaining composite accounts of properties capable of valuation on an average or unit basis. Examples of such properties are telephone poles, vending machines and service station gasoline pumps. The regulations promulgated by the Director included the following provision:

> A taxpayer holding items of like property in more than one taxing district is not permitted to report net book value on the basis of average valuations of such property in group or composite accounts except when it is determined by the Director of the Division of Taxation upon application first made to him by the taxpayer, that it is impractical for the taxpayers to report separately with respect to each item.
>
> Where a taxpayer desires to obtain authority to report net book value on the basis of average valuations in group or composite accounts, he shall make written application to the Director, in duplicate, and such application shall contain the following:
>
> 1. A detailed description of the items of like property involved.

2. A list of the taxing districts in which such items of like property are located.

3. A statement of the manner in which the valuations of such items are reflected in the taxpayer's books of accounts for Federal Income Tax purposes.

4. A statement setting forth in full the reasons why the taxpayer contends that it is impractical to report with respect to each item separately.

5. An explanation of the averaging method that the taxpayer proposes to use.

6. Any other pertinent information that may be helpful to the Director in determining that it is impractical for the taxpayer to report with respect to each item separately and that the averaging method that the taxpayer proposes to use will adequately reflect the valuations of the items of property involved.

Besides providing for average valuations based on group or composite accounts, this regulation became the basis for developing average or unit values for standardized property on an industry-wide basis. In the interest of uniform valuation of such property, the motor fuel industry initiated a request to develop unit values for gasoline service station equipment based on their composite book values. This request was granted by the Director and unit values were developed in consultation with representatives of the industry and the Association of Municipal Assessors.

At the time the effective date of Chapter 51 was postponed, discussions to establish a similar system of unit values were in progress with the New Jersey Bell Telephone Company and with representatives of the bowling industry. Other requests for such rulings are expected to be processed before Chapter 51 takes effect.

(4) <u>Business Inventories</u>

The most challenging problem related to business inventories concerned the distinction between taxable and exempt inventories. There was considerable confusion about the definition of "raw materials and supplies",

specifically exempted by Chapter 51. Thus, in addition to the obvious subjects of regulation and reporting with regard to inventory valuation and averaging methods, it became necessary to develop suitable definitions of "raw materials and supplies" and to establish an adequate method for excluding them from average inventories as reported by taxpayers.

(a) Raw materials and supplies

"Raw materials" and "supplies" are primarily accounting terms which have meaning only in terms of the operation of specific businesses. This means that no definition in terms of itemized lists of commodities or goods can satisfy the requirements of the exemption provided in Chapter 51. Commodities which are finished products for one industry or business may well become raw materials or supplies for another. The distinction depends on the point at which the productive process for each industry begins and how the commodities are to be used. Regulations promulgated by the Director of Taxation contained the following definitions (Regulation 16:12-2.180):

> A. RAW MATERIALS: Raw materials means goods purchased for use as an ingredient or component part of an operation to be performed by the reporting taxpayer, and on which taxpayer has performed no work or processing of any kind. Merchandise which is finished goods for one company may be raw materials for another. Thus for one company the "raw material" may be raw cotton; for another company, the "raw material" may be woven cloth. Raw materials lose their exempt status as soon as they become work in process. "Raw materials" become work in process as soon as the initial step is taken to enter them into the manufacturing process.
>
> B. SUPPLIES: Supplies represent auxiliary commodities which do not enter directly into finished products but which are necessary to the taxpayer's operation and production. Office supplies, lubricating oils, and packing and shipping supplies and common types of supplies which may represent such auxiliary commodities when not held for sale.

Although the concepts underlying this definition commanded general agreement among members of the Advisory Committee on Assessment Practices, their translation into a workable standard was not as simple as that agreement would indicate. For example, defining raw materials in terms of the operations of each taxpayer raised questions concerning unlike tax treatment between materials transferred from one plant, or one operation, to another within a single integrated company and similar materials purchased by the same taxpayer, or by another taxpayer, from an outside supplier. In the first instance, the materials were classified as "goods in process" and were therefore taxable to the business which had performed work or processing upon them. In the second instance, the purchased materials were clearly "raw materials" because the taxpayer business had performed" no work or processing of any kind" upon them. The suggestion that this definition of raw materials be applied to operations within each manufacturing or processing plant, as contrasted with each business entity, was rejected as something which was both contrary to the law and impractical to administer.

While any business taxpayer could use supplies in the course of its activity, the Director took the position that only manufacturers and processors could have inventories of raw materials. This raised questions about the definition of "manufacturers and processors" and about inventories of materials maintained by taxpayers engaged in trades and services involving such activities as installation, cutting, fitting, assemblying, etc. Dealers in lumber and similar products insisted that their inventories were exempt because they were sold as "raw materials" for production or processing. It was easy enough to explain that the processing had to be done by the taxpayer claiming the exemption, but it was not so easy to draw the line

between processors and service businesses in cases where some change in the product was made by the seller. While general rules were developed, it became obvious that some of the questions raised would need to be considered individually and that complete uniformity of definition would probably never be achieved in all local taxing districts and for all taxpayers.

(b) Net Book Value

Consistent with the acceptance of net book value of depreciable personal property as reported for Federal Income Tax purposes, the regulations define net book value of business inventories as (1) the cost or (2) the lower of cost or market, whichever the taxpayer reports for Federal Income Tax purposes (Regulation 16:12-2.220).

Although it is common for manufacturers and processors to accumulate production labor and overhead expenses as part of their inventory costs, this accumulation is not always timed so that it appears in the valuation of goods in process before they become finished, or semi-finished goods. So that all taxpayers engaged in manufacturing and processing may be treated alike, the regulations provide especially that:

> In the case of manufacturers and processors, the value of inventories shall include accumulated production labor and burden of overhead expenses incurred by the taxpayer in the production process applicable to the goods as they exist at the time of each reporting period used as a basis for averaging.

(c) Averaging of Inventories

To help taxpayers submit the average inventory reports required by Chapter 51 (54:4-2.30) with minimal compliance costs, the regulations were drawn to permit quarterly rather than monthly averages. But where he considers it necessary in order to represent the average value "fairly or accurately," the local assessor may require more frequent reporting. Also, the taxpayer may report more frequently if he wants to. The method for determining average inventory values is described as follows:

In reporting average quarterly listings, the amount on hand at the end of each quarter shall be separately recorded and the total of the four such values reduced to an average by dividing by four. In the event a more frequent listing is used, such listing shall include values as of each date reflected and the total of all such values shall be reduced to an average by dividing by the number of such dates.

In case the taxpayer has not been engaged in business in the taxing district during the full period of twelve months preceding the listing date, he shall report the values on hand at the end of each month, or other specified day during the month, in which he has been so engaged in business in the district and divide the sum by the number of months the taxpayer was engaged in business in the taxing district during such period.

EXAMPLE: Taxpayer commenced business as a manufacturer in "X" taxing district on July 1, 1960. To ascertain the average value of his inventory to be reported as of the listing date of January 1, 1961, he would add the values at the end of each month, or other specified day during the month, remaining in the calendar year 1960 and divide the total by 6.

The regulation sought to further minimize compliance costs by letting taxpayers who maintain no inventory accounts estimate their inventory values to reach an average. Sample computations were provided to illustrate this method:

Where perpetual inventories are not maintained or where the taxpayer does not maintain adequate records for the determination of periodic inventory values, the estimated values for the end of each period to be reflected within the average may be determined by use of the "percentage of gross profit method."

APPENDIX - TABLE II

Average Inventories - Percentage of Gross Profit Method

Sample computation to illustrate a quarterly method of averaging a merchandise inventory

THE ABC CORPORATION

Inventory Schedule

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Net Purchases	Net Sales	Sales At Cost 59.54%	Gross Estimated Quarterly Inventory	Goods Stored In a Public Warehouse	Net Estimated Quarterly Inventory (Total Col.5-Total Col.
Inventory 1-1-60	($47,050)					
Jan. 1 - Mar. 31	$6,043	$20,092	$11,963	$41,130	$ 600	$40,530
Apr. 1 - June 30	3,731	14,216	8,465	36,396	1,000	35,396
Jul. 1 - Sept.30	3,893	9,995	5,951	34,338	1,000	33,338
Oct. 1 - Dec. 31	2,084	9,440	5,621	30,801	500	30,301
Total	$15,751	$53,743	$32,000	$142,665	$3,100	$139,565
Average Inventory		($139,565 divided by 4)		$ 34,891		
Inventory 1-1-60		$47,050				
Plus: Purchases 1960		15,751	$62,801			
Less: Inventory 12-31-60			30,801			
Cost of Goods Sold				$ 32,000		
Cost of Sales ($32,000) divided by Net Sales ($53,743) = ...				59.54%		

It is usually a simple matter to estimate quarterly inventories from the Purchases and Sales of a retail dealer. The initial inventory ($47,050) plus the total January 1 thru March 31 net purchases ($6,043) less the January 1 thru March 31 net sales reduced to cost ($11,963) establishes the inventory on hand March 31 ($41,130). The March 31 inventory ($41,130) plus net purchases April thru June ($3,731) less net sales reduced to cost ($8,465) establishes the inventory of June 30. Such procedure continued throughout the year should give a result very close to the end of the year figure

Purchases and sales used in this computation should be net. Purchases should include Freight-In and exclude Discount earned and Purchases returned and allowances. Sales should be exclusive of Sales returns and Allowances and discount expense (if any).

APPENDIX - TABLE III

Average Inventories - Percentage of Gross Profits Method
Sample computation to illustrate a quarterly method of averaging a manufacturer's inventory
THE XYZ CORPORATION
Inventory Schedule

(1)	(2) Labor	(3) Burden	(4) Net Purchases	(5) Total Labor Burden & Purchases	(6) Net Sales	(7) Cost of Sales 88.6%	(8) Gross Quarterly Inventories	(9) Exempt Raw materials	(10) Goods Stored in a Public Warehouse	(11) Net Est. Inv. (Col.8-The Sum of Col.9 +Col.10)
Inventory 1-1-60	($174,276)									
Jan.1-Mar.31	$ 8,414	$16,819	$39,279	$64,512	$19,173	$16,987	$221,801	$6,000	$3,000	
Apr.1-June 30	13,656	27,315	60,583	101,554	37,586	33,301	290,054	2,000	3,000	
July 1-Sept.30	12,691	25,388	25,791	63,870	176,705	156,561	197,363	6,000	3,000	
Oct.1-Dec.31	12,298	24,599	38,460	75,357	112,037	99,264	173,456	4,000	3,000	
Total	$47,059	$94,121	$164,113	$305,293	$345,501	$306,113	$882,674	$18,000	$12,000	$852,674
Average Inventory		($852,674 divided by 4)								
Inventory 1-1-60		$174,276								
Labor,Burden & Purchases1960		$305,293			$479,569					
Less: Inventory 12-31-60					$173,456					
Cost of Goods Sold...							$306,113			
Cost of Sales ($306,113) divided by Net Sales ($345,501)=							88.6%			

This computation of a manufacturer's inventory involves the inclusion of all factory cost and purchases into total quarterly accounts. The initial inventory ($174,276) plus the total January 1 through March 31 labor, burden and purchases ($64,512) less the January 1 through March 31 Sales at cost ($16,987) establishes the Inventory on hand March 31 inventory ($221,801) plus the total April, May and June labor, burden and purchases ($101,554) less the April, May and June Net Sales at cost ($33,301) establishes an Inventory on Hand June 30. This same procedure continues throughout the year.

Purchases should be NET including in-bound transportation charges and excluding discounts earned, purchases returned and allowances. Such items should be deducted from the total purchases in the quarter that the transactions are made. Labor includes all direct labor and such indirect or administrative wages, salaries, and personal expense as are properly allocated to the factory, such as for superintendence, rate, purchasing, cost, time and receiving departments, janitors and store keepers. Burden should include repairs to equipment and factory buildings, light, heat and power, depreciation, taxes, rent, insurance, leases on machinery and equipment, factory truck expense insofar as these are applicable to the factory. General administrative and overhead costs, as for executive, secretarial, auditing, financial and selling departments, need not be included.

(5) Other Regulations

It is not the purpose here to review all regulations issued by the Director of Taxation in compliance with requirements of Chapter 51. The complete Regulations, issued on January 1, 1961, are contained in Appendix ________.

D. Tax Return Forms

The taxpayer return form PPT-1 developed for use by business personal property taxpayers in compliance with Chapter 51 became the focal point for most of the criticism of both the Act itself and the tax changes it sought to accomplish. Printed on two sides of a single page (see pp ___), this was a form containing six schedules as follows:

Schedule A - General information. This schedule asked for the name and address of the taxpayer, his accounting office, the nature of his business, and the address of any real estate owned within the taxing district.

Schedule B - Summary of personal property. As its name implies, this schedule was nothing more than a place to bring together for the convenience of the taxpayer and the assessor personal property values recorded in other schedules.

Schedule C - Business inventories. This schedule provided space for recording monthly or quarterly inventory valuations entering into the average value used to determine the taxable value. Extra columns were provided for recording and deduction of valuations of exempt inventories of raw materials and supplies and goods stored in a public warehouse.

Schedule D - Cost of goods sold. This schedule applied only to manufacturers and processors. Its sole purpose was to provide for orderly recording of inventory valuations as they flow from the exempt category of raw materials to the taxable categories of goods in process and finished goods and accumulate value by the addition of "labor and overhead."

Schedule E - Depreciable personal property. This schedule was in the nature of a worksheet upon which to record adjustments in net book value required by Chapter 51 for (1) bringing "fiscal year" book values to the January 1st listing date and (2) bringing all property depreciated to less than 20% of cost back to this minimum value. It also included space to record exclusions by regulation of the Director of Taxation of (1) additional first year depreciation taken under Section 179 of the Internal Revenue Code and

(2) accelerated depreciation taken under Section 168 of Internal Revenue Code.

Schedule F - Personal Property not owned by taxpayer. This was an informational schedule for reporting tangible business personal property in possession of taxpayer, but owned by and presumably taxable to, someone else.

This taxpayer return form was developed in consultation with representatives of the New Jersey Society of Certified Public Accountants, and it was reviewed by the Advisory Committee on Assessment Practices. In contrast to the criticism it later drew the return was acclaimed as more simple than similar forms used in other states. The consensus was that it required a minimum of information consistent with the requirements of the law it was designed to implement.

The most serious criticism of Form PPT-1 concerned the special problems of small business and farmers. At the time the effective date of Chapter 51 was postponed by the Legislature, the Division of Taxation was meeting with The New Jersey Farm Bureau and the State Grange to develop special rules and a special return form for farmers. Also, a short form had been developed for businesses reporting inventory valuations not exceeding $10,000 and/or depreciable personal property valuations (at cost) not in excess of $10,000. This procedure for small business, however, involved some short-cuts not entirely consistent with Chapter 51, and the question of whether the law authorized such procedures was in the process of being resolved.

E. Educational Program

The effectiveness of even the best of tax regulations and return forms depends on the understanding with which they are applied. Besides actually preparing such materials, it is necessary to inform both taxpayers and local assessors of the new requirements and their responsibilities under them. Because time was short and personnel limited, it was necessary for the same people to advance on both of these fronts at once. The following brief review of some of those activities suggests that if taxpayers

and assessors were uninformed about Chapter 51, it was not due to a lack of effort to expose them to information about it.

(1) Orientation Program for Assessors

While the return form and the Rules and Regulations were being developed to implement Chapter 51, plans were also made to provide an educational program for assessors. This program was organized and directed by the Local Property Tax Bureau and was designed to:

(a) Familiarize assessors and assessors-elect with all aspects of the new legislation.

(b) Review and define their increased responsibilities.

(c) Present and explain the Rules and Regulations and the requirements of the return forms.

A staff of 14 instructors and four alternates was selected to receive specialized training at four intensive briefing sessions. The members of this group were:

F. Edward Biertuempfel, Jr., Supervising Field Representative, Local Property Tax Bureau

Alvin E. Bills, Jr., Supervising Field Representative, Local Property Tax Bureau

*Owen J. Carney, Senior Field Representative, Local Property Tax Bureau

Clarence N. Delgado, CAE; Assessor, Village of Ridgewood

James L. Faber, Supervising Field Representative, Local Property Tax Bureau

*Orville W. Freeman, Assessment Evaluator, Local Property Tax Bureau

Albert R. Galik, Assessor, City of Passaic

Alfred J. Greene, Jr., MAI; President, Association of Municipal Assessors of New Jersey; Assessor, City of Clifton

Marriott G. Haines, CAE; Vice President, Association of Municipal Assessors of New Jersey; Assessor, City of Vineland

*Alan F. Hart, State Supervisor, Local Property Tax Bureau

Robert S. Johnston, Principal Field Representative,
Local Property Tax Bureau

Daniel P. Kiely, Jr., Vice President, Association of Municipal Assessors of New Jersey; Assessor, City of Plainfield

Edward P. Markowich, Assessor, Township of Cranford

Thomas J. McGann, Legal Analyst, Local Property Tax Bureau

*James E. Pierson, Assistant State Supervisor,
Local Property Tax Bureau

Merle R. St. Amour, CAE; Assessor, Borough of Fairlawn

Daniel W. Summers, Principal Field Representative,
Local Property Tax Bureau

Robert B. White, Supervising Field Representative,
Local Property Tax Bureau

* Alternates

Each member of the staff was given a comprehensive Instructor's Guide prepared by Dr. Ernest C. Reock, Jr., Director of the Bureau of Government Research at Rutgers. Instructors were divided into seven teams of two men each, one assessor and one representative of Local Property Tax Bureau. Each team handled three counties.

Arrangements for classroom facilities and assessor attendance were made through the County Tax Boards and County Assessors Association. Beginning early in February, three weekly two hour classes were held in each of the 21 counties. In eight counties the classes were concluded before the authorized versions of the Rules and Regulations and the return form were available. In these counties a fourth class was convened to review these editions. A total of 71 meetings was held.

The two hour sessions were equally divided between a lecture and a question and answer period. The lecture consisted of readings from the law and the rules and regulations interspersed with comments by the instructors.

Despite unusually severe weather conditions throughout much of

February and March, few assessors failed to attend all three sessions. Local Property Tax Bureau field representatives also attended the meetings held in their assigned counties.

All classes were completed by April 19. The detailed schedule follows:

County	Instructors	Dates of Meetings	Time	Location of Meetings
Cape May	Marriott G. Haines James L. Faber	Feb.7,14,21 Mar.13	7:00 P.M.	Cape May Court House
Salem		Feb.28, Mar.7,14, Apr.19	7:00 P.M.	Salem
Camden		Mar.20,27, Apr.3	8:00 P.M.	Camden
Bergen	Edward P. Markowich	Feb.7,14,21, Mar.21	8:00 P.M.	Hackensack
Mercer	Alvin E. Bills, Jr.	Feb.28,Mar.7,14	7:30 P.M.	Trenton
Gloucester		Mar.23,30,Apr.6	7:30 P.M.	Woodbury
Cumberland	Daniel P. Kiely	Feb.6,13,20,Mar.13	7:00 P.M.	Bridgeton
Ocean	Robert B. White	Feb.28, Mar.7,14	7:30 P.M.	Toms River
Monmouth		Mar.21,28, Apr.4	7:30 P.M.	Freehold
Atlantic	Albert Galik	Feb.7,14,21,Mar.[illegible], 20	8:00 P.M.	Atlantic City
Middlesex	F.E. Biertuempfel,Jr.	Feb.27, Mar.6,13	7:00 P.M.	New Brunswick
Somerset		Mar.21,28, Apr.4	7:30 P.M.	Somerville
Hunterdon	Clarence N. Delgado	Feb.7,14,21, Apr.4	7:00 P.M.	Flemington
Warren	Daniel W. Summers	Mar.2,9,16	8:00 P.M.	Belvidere
Sussex		Mar.23,30, Apr.6	7:00 P.M.	Newton
Morris	Alfred J. Greene, Jr.	Feb.7,14,21, Apr.12	8:00 P.M.	Morristown
Union	Thomas J. McGann	Feb.28, Mar.7,14	8:00 P.M.	Elizabeth
Essex		Mar.21,28, Apr.4	8:00 P.M.	Orange
Burlington	Merle St. Amour	Feb.8,15,22, Mar.22	8:00 P.M.	Mount Holly
Passaic	Robert S. Johnston	Feb.28, Mar.7,14	8:00 P.M.	Paterson
Hudson		Mar.21,28, Apr.4	10:00 A.M.	Jersey City

(2) Rutgers In-Service Training Course

The Rutgers Bureau of Government Research and the University Extension Division offer annual, fourteen week course for assessing officials, held at various locations throughout the state. The courses are called Principles of Municipal Assessing I and II. Trained assessors instruct according to a syllabus developed from ten years experience with the courses.

In 1961 both courses were extended two weeks to give special attention to Chapter 51.

(3) Rutgers Conference

The Rutgers Bureau of Government Research and the University Extension Division also sponsor an annual five day conference for assessing officials on the New Brunswick campus. Intensive instruction is offered at three levels of competence by a faculty of experienced assessors, assisted by other tax officials and guest speakers. The program normally focuses on tax law, real property appraisal technique and assessing procedure.

The 1960 conference program shifted emphasis to prepare assessors to comply with Chapter 51, which had been signed into law by Governor Meyner only five days before the conference began. Approximately half of the advanced program was devoted to assessment of personal property.

The emphasis on Chapter 51 was to have been continued in the 1961 conference. But an elaborately prepared program, scheduled for June 19 to 23, was abruptly set aside when Chapter 51 was postponed on May 4. Crash measures were taken to shift the program to fit a new emergency--implementation of Chapter 9, Laws of 1961, the senior citizen exemption. Nevertheless, attention was given to Chapter 51 in several sessions.

(4) League of Municipalities Conference

Attention was focused on Chapter 51 at the New Jersey League of Municipalities annual conference, held November 15-18, 1960 in Atlantic City. Assemblyman Elmer Matthews, an author of the bill, reviewed Chapter 51

(2) Rutgers In-Service Training Course

The Rutgers Bureau of Government Research and the University Extension Division offer annual, [illegible] courses for assessing officials, held at various locations throughout the State. The courses are called Principles of Municipal Assessing I and II. Trained assessors instruct according to a syllabus developed from ten years' experience with the courses.

In 1961 the courses were extended two weeks to give special attention to Chapter 51.

(3) [illegible] Conference

The Rutgers Bureau of Government Research and the University Extension Division also sponsor [illegible] conference for assessing officials [illegible] by a Committee of experienced assessors, [illegible] and [illegible].

The 1960 [illegible] were to comply with Chapter 51, [illegible]

[illegible] 1959 [illegible] session, scheduled for June 19 [illegible] Chapter 51 was reviewed [illegible] the senior citizen [illegible]

(4) League of Municipalities Conference

Attention was focused on Chapter 51 at the New Jersey League of Municipalities annual conference, held November 15-18, 1960 in Atlantic City. Assemblyman Elmer Matthews, an author of the bill, reviewed Chapter 51 at one of the general sessions of the conference. William Kingsley, acting Director of Taxation reported on the progress of the Advisory Committee on Assessment Practice. A panel discussion followed the two speeches. These discussions were reported in the League Magazine, New Jersey Municipalities (January 1961).

At the same conference, before a session of the Association of Municipal Assessors of New Jersey, Senators Grossi and Dumont and Assemblyman Matthews presented "Our Views of Chapter 51", Division of Taxation personnel participated in a panel discussion of the legal aspects and administration of Chapter 51.

During the consulting period on general municipal topics, Division personnel acted as consultants on Chapter 51.

(5) Public Presentation by Division of Taxation

Besides participating in orientation sessions for assessors, personnel of the Division of Taxation and members of Advisory Committee made 71 presentations of Chapter 51 material to various business, professional and public groups throughout the twenty-one counties. Notable among these meetings was the series of ten large meetings in key locations arranged by the New Jersey Manufacturers Association.

Sponsor	Number of Meetings
Association of Assessors or municipal officials	26
N. J. Manufacturers Association	10
Chambers of Commerce	13
Business or Professional Association	9
Service Clubs	6
Rutgers Municipal Orientation Conference	1
Womens Republican Club	1
Public Meetings	5
	71

(6) Press Releases

In addition to releases given to press representatives by the Division of Taxation, the Local Property Tax Bureau prepared five model press releases to be given by assessors to their local papers. These releases treated major aspects of Chapter 51 and were designed to promote taxpayer compliance. Blank spaces in the releases permitted assessors to localize them. Local use of the releases is illustrated by the following article from the April 6, 1961 issue of a Gloucester County newspaper. It is similar to articles that appeared throughout the state.

ASSESSOR EXPLAINS PERSONAL PROPERTY
TAX RULE FOR '62

"Borough Assessor, Merrill B. Boals, announced that Chapter 51, Laws of 1960 establishes an accounting basis for the assessment of personal property used in business. In general, personal property used in business will be reported on the same basis employed for federal income tax purposes.

The information filed by businessmen on the new PPT-1 form, "Return of Tangible Personal Property Used in Business" will provide the assessor with data which will constitute the basis for the 1962 assessment.

Under the true value standard, Boals stated, no single method was used to determine the value of personal property for local tax purposes. Chapter 51, Laws of 1960 is a step in the right direction toward the attainment of better assessment practices in the assessment of tangible personal property used in business.

The two-page PPT-1 return form, in many respects, requires information similar to that called for on taxpayers' Federal Income Tax Return. Taxpayers are cautioned to read carefully the interpretations and instructions which appear on the return form and accompanying instructions.

The law provides for a penalty of $2 per day for late filing plus additional penalties for returns filed more than 3 months after the due date, or for filing willfully false or fraudulent returns. However, no penalties or interest charges for late filing will be imposed with respect to any return filed in the assessor's office on or before June 15, 1961.

Returns must be filed with the assessor of each municipality in which taxable personal property used in business is located even though the owner may reside or have headquarters elsewhere.

Local assessors are in the process of mailing the return forms and instructions to all known businesses in their municipalities. Failure to receive these forms, however, does not relieve a taxpayer from the responsibility of filing. The return forms and in-"

The following article taken from the Asbury Park Press issue of March 3, 1961, is an example of an article based on a release from the Division of Taxation.

STATE FIRMS GRANTED GRACE FOR RETURNS
Press State House Bureau
TRENTON

"State Tax Director, William Kingsley announced today that all New Jersey firms will be given a 45-day grace period for the filing of tax returns covering tangible business personal property.

He said the deadline for filing such returns has been extended from May 1 to June 15 and that no interest or penalties will be charged if returns are filed on or before June 15.

The 45-day grace period was provided for in regulations filed today which set up the ground rules for implementation of the new local property tax assessment law.

The new law, adopted last year, goes into effect with the 1962 tax year.

List Provisions

In general, it provides for:

1. Establishment of county-wide assessment ratios by the respective county tax boards.
2. Establishment of an accounting basis for the assessment of personal property used in business.
3. Establishment of a "common-level" as the basis for assessment of tangible business personalty.
4. Assessment of real property at full market value; business machinery and equipment at net book value; and assessment of farm machinery, farm inventories and business inventories at one-fourth the level of real property.
5. Elimination of the tax on household property at the option of the governing body of each municipality.
6. Elimination of household property evaluations for the apportionment of county government costs.
7. The equalization of personal property assessments among taxing districts for the apportionment of the county tax burden."

(7) Publications

Beginning in January , 1960 a total of 29 articles, coverning all aspects of Chapter 51 and its implementation, appeared in the "Local Property Tax Bureau News" a monthly newsletter mailed to assessors, county tax board members, mayors and municipal clerks. An example from the February, 1961 issue follows:

RECENT DEVELOPMENTS IN IMPLEMENTING
CHAPTER 51, LAWS OF 1960
Orientation Courses

"Sparked by the realization that new duties and deadlines are imminent, assessors and county tax board commissioners and secretaries are setting attendance records at the three-session orientation courses for Chapter 51, Laws of 1960. Each session consists of a thorough discussion of the regulations, as well as a general question and answer period.

As of this writing, the sessions have been completed in fourteen counties and are at present being conducted in Camden, Essex, Gloucester, Hudson, Monmouth, Somerset, and Sussex Counties.

Percentage Levels Established
by County Boards

Regulation 16:12-1.150 implementing Chapter 51, Laws of 1960, requires the county board of taxation to establish the percentage level of taxable value of real property on or before April 1, 1961 to be effective for the tax year 1962.

Regulation 16:12-1.170 specifies that percentage levels so established "shall remain in full force and effect for a period of not less than three years and until altered."

Regulation 16:12-1.180 provides that when a county return forms have been issued in quantities sufficient to furnish each taxpayer with a copy. The taxpayer is cautioned to read the instructions carefully before filling in the return.

Upon receipt of the completed return forms, the assessor should stamp the date thereon, and assign a separate code number for each tax return. Date stamps can be procured at a nominal cost.

Assessors are again reminded of the fact that they should stamp or otherwise imprint their name and address in the space provided for on the return form. Where a mechanical method is not employed, it is suggested that the assessor procure a rubber stamp for such purpose.

Forms for Tax List and Duplicate

"The form of the tax list and duplicate will be substantially changed by reason of the enactment of Chapter 51, Laws of 1960. Those districts which do not elect to repeal the tax on household personalty will also be required to prepare a separate household personal property tax list and duplicate on a separate and newly precribed form.

An assessors' committee has studied all aspects of the problems relating to the development of these new forms and has submitted its recommendations to the Director, Division of Taxation. The objective of the committee has been to devise suitable forms for use in all counties. An important consideration has been the question of the adaptability of such forms to existing mechanical printing and recording devices.

Development and publication of these forms will be made at the earliest possible date.

Public Relations

For the immediate future, all those engaged in assessment administration will undoubtedly be faced with questions as to specific interpretations of the regulations, the meaning and effect of new percentage levels, the option to eliminate the assessment on household personalty, and the new return form.

It is important that all aspects of the new law be explained to prospective taxpayers and their representatives."

Several thousand copies of Chapter 51 in booklet form were printed and distributed to assessors and county tax board members by the Local Property Tax Bureau. The booklets served as a permanent reference source for the assessors and as a text in the orientation courses.

Numerous bulletins and memoranda were mimeographed and distributed to assessors over the 16 month "implementation period" to keep them abreast of developments, to serve as instructional aids in the orientation classes, and to assist in administration of the law.

Several thousand copies of the Rules and Regulations were mimeographed and printed for distribution to assessors and taxpayers.

A series of five codified memoranda, labelled L.P.T.B. Memorandum 100 to 104, interpreting the law and relating it to other tax laws, was prepared

for distribution to all assessors and tax board members.

Personal Property Taxpayers Return Forms, instructions and letters to the taxpayer were printed and distributed to assessors for local use as follows:

PPT-1 Form	1,350,000
Instructions	400,000
Letter to taxpayer	300,000

(f) <u>Questions Raised at Chapter 51 Meetings</u>

A record was kept of questions asked in all meetings of assessors and taxpayers. A total of 748 questions were recorded - 90 by the assessors and 65 by the taxpayers.

Questions were compiled and mimeographed for study by instructors and the field staff of Local Property Tax Bureau. Standard answers were developed. Questions which could not be answered at the sessions were studied for the purpose of preparing answers to be given at subsequent session.

To facilitate analysis of the question, 26 categories of questions were established as shown in Table 3-2. Among assessors 30% of the questions dealt with the personal property return form - its content, execution by the taxpayer, and processing by the assessor. The fact that assessors questions showed no other clear focus of concern may be attributable in a part to the thoroughness of the orientation courses and to the constant stream of information assessors had received in the year preceding the orientation course.

Taxpayers were also concerned with the return form and 15% of their questions centered on this subject. But they showed even greater interest in defining the difference between taxable and exempt inventories. Taxpayers questions revealed intense interest in other areas, indicated below in order

of frequency.

Taxable vs. exempt inventories	18%
Return forms	15%
Depreciable Property - Definition and Tax Status	11%
Equity, feasibility of Chapter 51	9%
Depreciation methods	9%
Averaging inventories	8%
Consigned property	6%

Analysis of Questions on Chapter 51	Assessors	Taxpayers
1. Tax forms, instructions, logistics	27	102
2. Inventory, definition	1	31
3. Average inventories, method & procedure	2	53
4. Inventory, taxable v. exempt	1	52
5. Exempt inventories, definition	7	66
6. Farm property	4	6
7. Valuation--standards & methods besides depreciation.	7	25
8. Depreciation, methods and adjustment	5	56
9. Depreciable property, definition	0	27
10. Depreciable property, taxable v. exempt	2	46
11. Common level	3	9
12. Percentage level	1	4
13. Schedule F, property held but not owned	5	38
14. Schedule D, cost of goods sold	0	28
15. Revaluation	1	3
16. Tangible personal property, definition	0	8
17. Personal property not used in business, definition	0	6
18. Household property, definition	1	1
19. Household p.p. & pers. effects v. p.p. not used in business	1	0
20. Real v. personal property	3	12
21. Real property, taxable v. exempt	0	6
22. Personal exemptions, e.g. veterans	2	0
23. Tax rate	0	15
24. Assessors' problems	7	3
25. Publicity	5	0
26. Chapter 51, Equity, Propriety, Feasibility, etc	2	61
	90	658

The equity and feasibility type of question arose at every meeting and usually was phrased with strong feeling. The taxpayer "viewed with alarm" the new tax that threatened to drive business out of town or industry out of the state. Care was taken at each meeting to point out that Chapter 51 did not create a new tax but simply put an old tax on a more business-like basis.

Among assessors the equity and feasibility type of question most often came from older rural assessors who were most concerned with the effect of the tax on farmers and who asked them more in private than in public meetings.

In both groups, assessors and taxpayers, least concern was expressed for Chapter 51's effect on household personal property. It is interesting to note that the next lowest ranking type of question was related to the effect of Chapter 51 on exemptions, the veteran exemption in particular. The county ratio provisions of Chapter 51 tended to reduce the value of the veteran exemption significantly; this fact undoubtedly had a strong influence on the choice of ratio in most counties. In all meetings of assessors convened to consider the choice of a county ratio (meetings unrelated to Chapter 51 orientation courses), rationale presented in support of a particular ratio was predicated most frequently upon the effect of the ratio on the veteran exemption. Even so, the question seldom arose in assessor meetings, and it was not raised at all in taxpayer groups.

Few questions arose concerning county ratios. Taxpayers showed some concern, the assessors very little. The effect of Chapter 51 on revaluations evoked few questions. Assessors showed some concern over the amount of publicity being given to Chapter 51. Taxpayers showed no concern in this matter.

g. Household Personal Property

Household personal property and personal effects has long been recognized as the weakest part of the New Jersey local property tax structure. Chapter 51, by permitting municipalities to exempt such property by ordinance was a compromise with persistent recommendations for a state-wide exemption. Where local ordinance did not exempt it, this class of property was to be taxed apart from the general property tax. Chapter 51 further provided

that household personal property taxes be classified as "miscellaneous" revenues, to be anticipated for local budget purposes along with bank stock tax, dog license, and other such revenues. Because it is taxed separately from the general property tax, the valuations of tangible household personal property and personal effects are not to be included in the computations for the apportionment of county costs of government. Rather, household personal property tax is reported by the assessor on a separate tax list and duplicate. R.S. 54:4-3.16, which granted a $100 exemption on household goods, has been repealed, starting with the tax year 1962.

As of September 1, 1961, when the effective date of Chapter 51 was postponed, 324 municipalities had adopted ordinances exempting household personal property and personal effects.

Continued interest in exempting household personal property and personal effects is shown by the fact that additional municipalities have passed exemption ordinances since May 4th. As shown in Table 3-3, municipalities which have adopted such ordinances are distributed throughout the State in each of the 21 counties.

Municipalities having exempted Household Personal Property as of September 1, 1961

COUNTY	No. of Municipalities in each County	No. of Municipalities Exempting Household Personalty	% of all Municipalities in County	
Atlantic	23	21	91.3 %	
Bergen	70	46	65.7	
Burlington	40	16	40.0	
Camden	37	26	70.3	
Cape May	16	14	87.5	
Cumberland	14	2	14.3	
Essex	22	12	54.5	
Gloucester	24	9	37.5	
Hudson	12	10	83.3	
Hunterdon	26	2	7.7	
Mercer	13	6	46.2	
Middlesex	25	17	68.0	
Monmouth	53	43	81.1	
Morris	39	28	71.8	
Ocean	33	19	57.6	
Passaic	16	14	87.5	
Salem	15	2	13.3	
Somerset	21	15	71.4	
Sussex	24	6	25.0	
Union	21	11	52.4	
Warren	23	5	21.7	
State Total	567	324	57.1 %	

H. Facilities and Personnel

It is no accident that this discussion of facilities and personnel comes late in the cataloging of activities associated with the implementation of Chapter 51. Pressure to more promptly in many directions at once made it necessary to use only the experienced personnel of the office of the Director of Taxation and the Local Property Tax Bureau. There was no time to train new personnel and develop new facilities during the early stages of the "implementation period."

But there was one aspect of the implementation process in which new facilities and personnel was indispensable. Extensive preparations had to

be made for administering Chapter 51 on a continuing basis. Although it had been estimated that between 300,000 and 350,000 personal property tax returns would be filed annually, there was no assurance that this was an accurate estimate. Local tax rolls showed almost 160,000 separate business personal property assessments (line items) distributed among the 21 counties, as shown in Table 3-4. The difference between this number of assessments and the estimated number of potential returns suggested that Chapter 51 would involve many taxpayers who had not paid personal property taxes under the present law and who would therefore regard Chapter 51 as a new tax. As a result, it was necessary that Chapter 51, though a mere revision of an old tax, be administered as if it were entirely new. A new section was established within the Local Property Tax Bureau. Its chief functions were the review and analysis of duplicate personal property tax returns filed with the Division of Taxation, the maintainence of correspondence with tax officials and taxpayers seeking information and instructions, and the distribution of regulations, tax forms and related materials. The Personal Property Tax Section employed 16 people as follows:

3 Clerk Typists
3 Clerks
4 Clerk Stenographers
4 Auditors
2 Correspondents

The total cost charged to the new section up to the time Chapter 51 was postponed was $38,139, distributed as follows:

Rental of office space	$ 2,422.30
Purchase of equipment	7,635.30
Rental of equipment	1,422.00
Salaries	14,238.12
Instructors' salaries	2,650.00
Supplies, paper	1,564.83
Printing	6,572.02
Vehicle rent	57.00
Overtime to print shop	1,247.30
Overtime supper money, print shop	330.00
	$38,138.87

After the postponement of Chapter 51, this section was reduced to a skeleton force of three auditors and two senior clerks. Preparations for the new effective date must include rebuilding the staff and reappraising the facilities required to meet the Division's responsibilities under the act.

Number of Business Personal Property Assessments
In 1960 - By County

ATLANTIC COUNTY	5,105
BERGEN COUNTY	17,077
BURLINGTON COUNTY	5,059
CAMDEN	7,118
CAPE MAY	4,526
CUMBERLAND	2,599
ESSEX	28,253
GLOUCESTER	3,621
HUDSON	16,940
HUNTERDON	2,033
MERCER	8,917
MIDDLESEX	9,405
MONMOUTH	7,244
MORRIS	6,116
OCEAN	3,528
PASSAIC	10,639
SALEM	2,897
SOMERSET	2,515
SUSSEX	1,800
UNION	11,531
WARREN	2,429
	159,342

Source: number of line items on local assessment rolls

NOTHING REPORTED FROM THE MUNICIPALITIES

LISTED UNDER THE FOLLOWING COUNTIES:

CAMDEN COUNTY

Audubon

MONMOUTH COUNTY

Avon-by-the-Sea Borough
Marlboro Twp.
Matawan Borough
Rumson Borough

OCEAN COUNTY

Island Beach Borough

WARREN COUNTY

Harmony
Independence
Liberty
Oxford
Pahaquarry

J. Postponement

Chapter 51 had the misfortune to reach its hour of administrative implementation during an election year. Although it had been painstakingly developed over a long period as a solution to the "personal property tax problem," and had even been adopted by substantial majorities in both houses of the Legislature, it lacked the strength to stand alone against the adverse public reaction which any new tax program must overcome. The long range view of its survival in 1961 was obscured by the glitter of votes to be had by panning it. Detecting a need for time to allow taxpayers to gain an understanding of the law, the legislature voted.

Having studied the "personal property tax problem" for approximately one generation and the specific provisions contained in Chapter 51 for almost 4 years the State found that more study is required before the laws can become practiced to postpone the effective date of Chapter 51 for a year. The bill was signed into law by Governor Meyner on May 4, 1961 (Chapter 17, Laws of 1961).

Postponement means that business taxpayers will not be required to file, with local assessors this year, the personal property tax forms which have attracted so much adverse criticism. In the meantime, personal property continues to be taxable at its full value as it always has been. Such property is subject to assessment by local assessors at its true value. Past experience suggests that some of it will be assessed and some of it will not. There will be little uniformity among taxpayers. It is possible that some taxpayers will find postponement a costly blessing. This became increasingly apparent as Chapter 17 seemed to lose some of its momentum as it moved through the Legislature. After passing the Senate easily, it passed the Assembly with a majority of one vote.

The announced purpose of postponement is to provide time for taxpayers study and understanding. Tax forms which had been sent out by local assessors have been variously described as complicated and worse. Announced intentions to develop short forms for small taxpayers and special reporting methods for farmers did not quiet enough fears to avoid postponement. Any tax form seems complicated to a taxpayer who has never filed before and any tax seems oppressive to a taxpayer who has been accustomed to paying little or no tax.

It is possible that postponement will enable taxpayers and local assessors to become familiar with the new requirements and with their

responsibilities under this new law relating to an old tax. A more likely result will be the kind of relaxation which goes with a reprieve to be followed by a new round of surprises one year from now when the whole record must be played through again. Perhaps a few changes in the score can be made, but the general tune will be the same. Sympathetic audience participation will be most improbable.

There is not much to be gained by a detailed review of the acrimony leading to the postponement of Chapter 51. The story of this postponement is illustrated by the following excerpts from the many volumes of newspaper debates of the day:

TAXPAYERS REACT

Newark Sunday Star Ledger 4-2-61

New tax form a headache

By ROBERT WALDRON

The next voice you hear will be that of a small New Jersey businessman:

"Aaagh!"

He may be a little unintelligible at the moment, but he must be forgiven.

He has just received his handy little personal property tax form on inventories and store equipment.

When, with the aid of a Univac, he gets the thing filled out, it will form the basis of his personal business property tax for 1962.

The form replaces the hodgepodge method of a local tax assessor walking into his store, looking it over, asking a few questions, and writing him down for, say, $25,0000 worth of stuff.

The new method will make a self-assessor of the businessman and his reaction last week was: "I'll take the hodgepodge method."

The new method of figuring personal property taxes was legislated last year to equalize personal assessments within each of the state's municipalities.

It will take the guesswork and the negotiation out of business personal taxing.

Now each businessman will pay a rate fixed at the common level of assessment in each community for his equipment and machinery. Inventories will be taxed at one-quarter of the common level. Simple?

No! Say the businessmen.

But no more difficult than making out income taxes, says the state, which developed the forms and sent them to each municipality this year.

A spokesman said that any businessman who had enough information in his books to make out a proper income tax form can use this same information in figuring his personal business tax.

The form itself states:

"In general, referen... books by an acc... enable you to... turn pro...

"H...

A...

Manasquan Protests New Business Tax

Asby. Pk. 9/18/61

MANASQUAN—The state's recently passed personal property tax for businessmen and manufacturers received another blast in the form of a resolution adopted last night by Borough Council.

In its resolution, Council calls for the Legislature to repeal the new law.

The matter came up when Frank J. Sisto, president of the Manasquan Chamber of Commerce, said the law is so complicated many businessmen can't understand it.

Mr. Sisto said some businessmen have told him they would "go to jail" before they'd pay the tax.

"It's an unjust tax," Mr. Sisto said.

He said the chamber will circulate petitions in the borough also calling for repeal of the tax.

Local Businessmen Riled Over Perplexing Tax Form

Somerville News 3/30/61

Irate businessmen fuming over Form PPT-1, the state's two-page report form for listing tangible personal property used in business, have a ray of hope.

State Senator William E. Ozzard said yesterday that he sympathizes with their objections and has his fingers crossed that some action can be taken in Trenton to modify the new tax law requirement.

Up and down Main street merchants who received the new report form last week are buzzing with indignation.

"Boy, oh boy, I'm cussin' everybody up and down," said one.

"I was so mad when I got it I didn't even read it," said another.

"My accountant's going to blow his cork."

"It's absolutely assinine . . ." "They're crazy," "A sad state of affairs," "Ridiculous! You'd have to be a genius to figure it out." So run the merchants' eloquent commentaries.

Ozzard said one local businessman walked into his office, threw down the form, and said, "You boys voted for it; now you can fill it out."

Form PPT-1, the Senator agrees, is not information a small businessman can readily supply. He said legislators in voting for the new tax law approved only a general taxation principle, but had no idea the Division of Taxation would come up with such a complicated form.

Business Tax Opposed By Board

Asby Pk Press 4/?/61

TOMS RIVER — The Greater Toms River Chamber of Commerce board of directors has announced its opposition to the state business personal property tax.

The board asked lawyers Percy Camp and Philip Kronowitt Wednesday night to prepare a petition stating the chamber's opposition to the levy. All chamber members will be asked to secure signatures on the petitions which will be sent to state officials.

Directors, if they choose, will prepare their own statements of opposition to the tax. These statements will be attached to the petitions.

Names Committee

The board named Carlos Wil-

Personal Tax Too Confusing, CPAs Declare

Paterson News 5-17-61

ATLANTIC CITY (AP) — New Jersey's personal property tax needs simplification, says the State's Society of Certified Public Accountants.

Of 109 CPA's queried at the group's convention, 65 said the tax reporting from, which is scheduled to take effect next year, is too complicated, 36 said the entire new law should be repealed, and only eight called the form satisfactory.

Somerville—If animals could read New Jersey's newest tax form for farmers, cows immediately would start producing sour milk, sheep would shed their wool in clusters to the wind, and chickens would go on a sitdown strike.

And who could blame them? —after all, it would be a terrible shock for any self-respecting farm animal to discover suddenly it had lost its living identity under the cold, technical classification of "Depreciable Property."

Newark News 4/14/61

"Idiotic Law"

To the Editor:

Sir—We have just received copies of the new personal property tax forms for each of our three branches in Newark, Paterson and Jersey City.

I cannot understand how anyone could allow our Trenton lawmakers to pass such an idiotic law. Every businessman should wake up and go to "war" against the worst thing that has happened to business in this state.

This law should brin... sion of...

CANDIDATES RESPOND

Candidates Criticize Tax Form

3/29/61
Courier News

Flemington—A critical attack on the requirements of the new tax return for tangible personal property used in business and in farming was levelled this week by E. R. N. Douglass and Frank C. Dalrymple, "Organization Republican" candidates for State Senate and Assembly nomination.

Declaring that preparation of the tax information required by the form "threatens the economic structure of Hunterdon County," the candidates urged an additional postponement of the deadline for filing the return to permit "its broad revision and simplification."

Speaking before a gathering ... Republicans last night in ... Township in the ... Mrs. Robert ... Dal-

Tax Form Rapped

Mitchell also described as "frightful and frightening" New Jersey's personal property tax form. Newark Ev. News 4/3/61

He said the form exceeds "all . . . gobbledegook" he came across in Washington. "The form is bad enough; the instructions are completely incomprehensible," Mitchell said. He also criticized as unduly harsh the established $2 daily penalty for delinquent filing.

Jones Raps Tax Forms

Newark Sunday News 4/2/61

State Questionnaire on Personal Property Is Called 'Nightmare'

HACKENSACK (AP) — State Sen. Walter H. Jones, R-Bergen, said yesterday the personal property tax form being distributed by the state is a "bureaucratic nightmare."

Jones, a candidate for the Republican gubernatorial nomination, said in a statement that to be filled out properly, the form being distributed to more than 350,000 businessmen and farmers would require the talents of a "lawyer, accountant and mind reader."

"For example, few small businessmen to my knowledge make a monthly inventory and yet that is called for if anyone is to answer the 200-odd questions listed on this form," Jones said. "Furthermore, this form requires a distinction between raw materials, which are not taxable, and goods in process and finished goods, which are taxable.

"Nonsense"

"How does a farmer list milk that may be earmarked for cheese; as raw material or a finished product? Is hay a finished product or, if it is to be fed to cows, is it goods in process? This is nonsense!"

Jones added he would consult with Republican colleagues when the Legislature returns April 24 to see if the deadline for filing personal tax reports could be extended.

Jones said the form was brought to his attention by Edward R. N. Douglass, Hunterdon County Republican chairman and a candidate for the Republican Senate nomination there.

Jone's headquarters also announced that Mrs. Walter E. Edge, widow of the late Governor, has endorsed Jones for the nomination.

For Shorter Tax Forms

Lance Cites Dumont Plea on Personal Levy Returns

Newark News 4/12/61

Staff Correspondent.

CLINTON — Sen. Wesley L. Lance, R-Hunterdon, said yesterday that Sen. Wayne Dumont, candidate for the Republican nomination for Governor, would simplify the personal property tax forms put out by the state.

Sen. Lance, who spoke for Dumont at the Women's Republican Club meeting here, said "there have been a lot of complaints about the new personal property tax forms put out by the State Department of Taxation. Much of the trouble and nuisance caused by these forms arise out of taxing business inventories which vary widly in value from month to month."

"Dumont has been on record for several years for the abolition of this tax.

"Dumont states," Lance added, "that such a tax is a deterrent to new industry coming to New Jersey and hence reduces job opportunities."

"Dumont says," Lance concluded, "if New Jersey insists upon retaining this tax, then the personal property tax returns should be simplified. He suggests that short forms be put out by the State Tax Department to cover the case of the small business man where the value of his inventories would be under a certain figure."

A FEW DEMOIR

C. of C. Is Deluged By Queries on New State Tax Form

Phila Inquirer 4/5/61

Businessmen, Farmers Protest Complexity of Questions Asked

TRENTON, April 4 (AP).—A State Chamber of Commerce spokesman said Tuesday his office has been besieged by questions about a new State tax form for businessmen and farmers.

Albert S. Acken, executive vice president, said the form "frightens people when they first see it, but it's not really as formidable if they just sit down and study it."

Opposed to Tax Plan

Summit Lee Tennessee 5-3-61

SUMMIT—The Common Council last night announced its opposition to a Senate bill postponing the implementation of the new uniform county assesment law until 1963.

The council voted its opposition to the postponement bill "in the light of the emergency action of the Legislature and the absence of hearings to determine the sentiment of all of the municipalities of the state and the public.' It asked Gov. Meyner to veto the bill.

In a resolution, the council said the city "has expende much time, effort and money to calculate the new taxable value of real property, to change over the records to assess business property." Senate Bill 175, passed by the Senate on April 24 and the Assembly on Monday, would defer the applicable date of the law requiring this from 1962 to 1963.

Under the assessment law, county tax boards set uniform ratios of assessed to true value in the municipalities. Union County had seta ratio of 40 per cent, effective in 1962. Summit's present ratio is 30 per cent.

"FROM THE WAY people are yelling, you'd think that it was a new tax being imposed," a spokesman for tax division says.

"Actually, this is the same old tax on business equipment, office furniture and inventories that we have had from time immemorial.

"The only difference is that the law is finally being enforced, with records required to provide a proper base for business taxation.

"Many of the people who are yelling the loudest have been getting away with little taxes. Now we have a law which will catch up with them at last—provided the legislature doesn't put it off."

One reason for all the to-do is that so many taxpayers are involved, the spokesman said. At least 400,000 will have to fill out forms, compared for example with only 95,000 affected by the state's

(Continued Page 14, Column 1)

Seek to Delay Tax Reform

Hudson Dispatch 5-1-61

Legislature to Study New Property Levy

TRENTON, Apr. 30 (AP)—Is it too late to postpone New Jersey's new property tax reform law for a year?

The New Jersey legislature will face that question when it meets tomorrow.

The senate has already passed a bill to postpone start of the reform until 1963. It also passed another bill that would ease the state into the new system in three annual steps.

A rebellion by small businessmen prompted the delay move, Gov. Robert B. Meyner says. They complain that a personal property tax form they must fill out is too complicated.

But the State League of Municipalities contends it would do more harm than good to postpone the law now. Counties have already adopted new assessment ratios, some municipalities have repealed household goods taxes, and administrative machinery has been changed for the new system, the league said in a letter to legislators.

The league said the new law is a step toward eliminating the chaos of the present tax setup. And it added that a delay raises the threat of court orders to make assessments at 100 percent. It was this threat that prompted the reform laws.

Asks Simplification

Assembly Speaker Le Roy J. D'Aloia, D-Essex, said he doesn't think it is necessary to postpone the entire law. The legislature should simplify the tax form, he said.

The State Tax Division has been trying to simplify the form and has given businessmen an extra month and a half to file the return this year.

An added problem in the picture is that the assembly and senate proponents of delay are not in step with each other. The senate passed two delay bills. The assembly has one combined bill. Since the measures differ, their passage by both houses would not enact the delay.

Meyner has been cool to the plan and his signature is required before the postponement would go into effect.

THE LEGISLATURE CAPITULATES

Grossi Feels Personal Tax Delay Sure

Asserting that the taxation traditions of a century cannot reasonably be upset overnight, Sen. Anthony J. Grossi last night predicted legislative victory for his bill to defer the tax equalization program, of which the hated personal tax form is a part.

His measure, introduced some six weeks ago, Senate Bill 106, would defer effective date of the equalization program one year to Jan. 1, 1963 to give the State Division of Taxation time to study the problem and simplify or modify all phases of the program. In addition, the bill calls for the impact to be spread equally over three years.

Grossi, in his first appearance since returning from a Florida respite, addressed the Passaic County Democratic Club and noted that his bill has bipartisan support since the confusing personal tax forms appeared.

Bill Endorsed

The club, on motion of Surrogate Carroll J. Stark, seconded by Alderman Sam Newman, unanimously adopted a resolution supporting the bill and calling upon all citizens to transmit their views to legislators.

"It is a matter of record," said Grossi, "that when I presented my bill I predicted that the equalization program would create confusion by too rapid application. I regret that the confusion I predicted has developed into utter chaos.

"When I presented the bill, Sen. Wayne Dumont Jr., principal sponsor of the equalization measure, said he would not, under any circumstances, support any measure which would delay effective date of the program which includes the personal tax form.

"However," Grossi asserted, "that was before the public saw the personal tax forms. Now, I note with great interest, that he finds merit in my proposal.

"I also note that Sen. Walter H. Jones majority leader, plans to do something about simplification of the program. I hold that this bipartisan support is important and welcome and that it spells victory for the measure.

Welcomes Support

"All 10 Democratic senators favor the bill and I am gratified that my friends on the other side of the Senate aisle are hearing the voice of the people."

Senate delays property tax reforms to '63

Newark Star Ledger 4-26-61

The State Senate yesterday passed a bill that would postpone the effects of the state's historic new property tax reform laws until the 1963 tax year.

The senate voted 19-0 for a bill by Sen. Anthony J. Grossi, (D-Passaic), which would give municipalities another year to get ready for the laws.

It passed a companion measure by a 14-1 vote which would give local assessors three years to bring their tax rolls up to snuff. Originally all portions of the reform law were to take effect with the 1962 tax year.

Some portions of law had already taken effect. April 1 was the deadline for counties to adopt percentages of true value to use as the basis for property tax assessments.

There was disagreement about what happens to the resolutions adopted by the counties. Grossi said they would just take effect next April 1. But Sen. Wayne Dumont Jr., (R-Warren), chief sponsor of the original legislation, said the counties would have to rescind the resolutions.

Passage of the bill was the chief action in the legislature's first session after a month's recess for the gubernatorial primary elections.

K: Court Reviews

Chapter 51 was the subject of a new Switz Case[1] challenging virtually every feature of the law. Originally filed in the Monmouth County District Court on January 6, 1961, this case was decided on June 26. The constitutionality of all of Chapter 51's features except two was upheld. The two features judged incompatible with the Constitution were those relating to the assessment of agricultural acreage and to farm machinery and farm livestock. The decision, handed down by Judge Knight, reads as follows:

DETERMINED AND ADJUDGED:

1. The sentence contained in R.S. 54:4-1 reading as follows:

> "***In the assessment of acreage which is activiely devoted to agricultural use, such value shall not be deemed to include prospective value for subdivisions or non-agricultural use.***"

be, and the same is hereby declared to be invalid and contrary to law and is hereby excised from Chapter 51 of the Laws of 1960.

2. That the provisions of R.S. 54:4-11 of said Chapter under which the taxable value of farm machinery and farm livestock shall be fixed at percentage levels of fair value different and lower than those applicable to the fixing of taxable values for machinery and equipment used in business be, and the same are hereby declared to be arbitrary, invalid and contrary to law and are hereby excised from said statute; and such taxable value of such farm machinery and farm livestock shall be fixed at the same level provided in said Chapter for fixing the taxable value of machinery and equipment used in business.

3. The provisions of said Chapter herein excised are separable and severable from the remaining provisions of said Chapter and such remaining provisions of said Chapter and such remaining provisions of said Chapter are valid in all respects.

4. Except to the extent above provided, the plaintiff's motion for summary judgment is denied and the defendants' motion for entry of judgment upholding the constitutionality of said statute, is granted, all without costs in favor of either party as against the other.

Immediately following this decision in the District Courts, appeals were filed in the Superior Court.[2]

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(1) 69 N.J. Super 27 (Law Division 1961)
(2) Superior Court of New Jersey - Appellate Division - Docket #A893-60