

CHAPTER 12

LOCAL PROPERTY TAX: GENERAL

Authority

N.J.S.A. 54:1-35.1, 54:1-35.35, 54:3-14, 54:4-1, 54:4-8.66d, 54:4-23.21, 54:4-26 and 54:50-1.

Source and Effective Date

R.2005 d.366, effective November 21, 2005.
See: 37 N.J.R. 1128(a), 37 N.J.R. 4462(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 12, Local Property Tax: General, expires on May 20, 2011. See: 42 N.J.R. 2749(a).

Chapter Historical Note

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

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 Subchapter 4 was repealed and new rules adopted as R.1983 d.221, effective June 20, 1983.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

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

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

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

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 12, General, was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 12, General, was readopted as R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Subchapter 10, Real Property Defined, was adopted as R.1988 d.581, effective December 19, 1988. See: 20 N.J.R. 1787(a), 20 N.J.R. 3142(c).

Pursuant to Executive Order No. 66(1978), Chapter 12, General, was readopted as R.1993 d.482, effective October 4, 1993. See: 25 N.J.R. 2652(a), 25 N.J.R. 4604(b). Subchapter 7, Homestead Property Tax Rebate, was adopted as R.1994 d.136, effective March 21, 1994. See: 26 N.J.R. 109(b), 26 N.J.R. 1370(a).

Subchapter 11, Disabled Veteran's Property Tax Exemption: Retroactive Reimbursement, was adopted as R.1998 d.70, effective January 20, 1998. See: 29 N.J.R. 4411(a), 30 N.J.R. 380(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, General, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Subchapter 8, New Jersey Saver, was adopted R.1999 d.316, effective August 20, 1999, to expire February 20, 2000. See: 31 N.J.R. 2644(a). Subchapter 8, New Jersey Saver, was adopted as R.2000 d.82, effective February 7, 2000. See: 31 N.J.R. 271(a), 32 N.J.R. 814(a).

Chapter 12, General, expired on July 21, 2003.

Chapter 12, Local Property Tax: General, was adopted as new rules by R.2005 d.366, effective November 21, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. CATEGORIES OF NONUSABLE DEED TRANSACTIONS

18:12-1.1 Categories enumerated

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

1. Sales between members of the immediate family;
2. Sales in which "love and affection" are stated to be part of the consideration;
3. Sales between a corporation and its stockholder, its subsidiary, its affiliate or another corporation whose stock is in the same ownership;
4. Transfers of convenience; for example, for the sole purpose of correcting defects in title, a transfer by a husband either through a third party or directly to himself and his wife for the purpose of creating a tenancy by the entirety, etc.;
5. Transfers deemed not to have taken place within the sampling period. Sampling period is defined as the period from July 1 to June 30, inclusive, preceding the date of promulgation, except as hereinafter stated. The recording date of the deed within this period is the determining date since it is the date of official record. Where the date of deed or date of formal sales agreement occurred prior to January 1, next preceding the commencement date of the sampling period, the sale shall be nonusable;
6. Sales of property conveying only a portion of the assessed unit, usually referred to as apportionments, split-offs or cut-offs; for example, a parcel sold out of a larger tract where the assessment is for the larger tract;
7. Sales of property substantially improved subsequent to assessment and prior to the sale thereof;
8. Sales of an undivided interest in real property;
9. Sales of properties that are subject to an outstanding Municipal Tax Sales Certificate, a lien for more than one year in unpaid taxes on real property pursuant to N.J.S.A. 54:5-6, or other governmental lien;
10. Sales by guardians, trustees, executors and administrators;
11. Judicial sales such as partition sales;
12. Sheriff's sales;
13. Sales in proceedings in bankruptcy, receivership or assignment for the benefit of creditors and dissolution or liquidation sales;
14. Sales of doubtful title including, but not limited to, quit-claim deeds;
15. Sales to or from the United States of America, the State of New Jersey, or any political subdivision of the State of New Jersey, including boards of education and public authorities;

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

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

18. Transfers to banks, insurance companies, savings and loan associations, or mortgage companies when the transfer is made in lieu of foreclosure where the foreclosing entity is a bank or other financial institution;

19. Sales of properties whose assessed value has been substantially affected by demolition, fire, documented environmental contamination, or other physical damage to the property subsequent to assessment and prior to the sale thereof;

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

21. Sales of low/moderate income housing as established by the Council on Affordable Housing;

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

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

24. Sales of property, the value of which has been substantially influenced by zoning changes, planning board approvals, variances or rent control subsequent to assessment and prior to the sale;

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

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

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

28. Sales of properties which are subject to a leaseback arrangement;

29. Sales of properties subsequent to the year of appeal where the assessed value is set by court order, consent judgment, or application of the "Freeze Act";

30. Sale in which several parcels are conveyed as a package deal with an arbitrary allocation of the sale price of each parcel;

31. First sale after foreclosure by a Federal- or State-chartered financial institution;

32. Sale of a property in which an entire building or taxable structure is omitted from the assessment; and

33. Sales of qualified farmland or currently exempt property.

(b) Transfers falling within the foregoing category numbers 1, 2, 3, 9, 10, 13, 15, 17, 26, 28 and 31 (under (a) above), should generally be excluded but may be used if after full investigation it clearly appears that the transaction was a sale between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell, with all conditions requisite to a fair sale with the buyer and seller acting knowledgeably and for their own self-interests, and that the transaction meets all other requisites of a usable sale.

Case Notes

Director of the New Jersey Division of Taxation and a county board of taxation correctly excluded the sale of two hotel property sites from the calculations of the city's school aid, county equalization, and chapter 123 ratios for local property tax value purposes because the sites were non-usable as both an assemblage and as part of a package deal with an arbitrary allocation. The Tax Court of New Jersey also found that the city did not otherwise establish that the sale was an arms-length transaction reflective of the two sites' fair market values. *City of Atl. City v. Director, Div. of Taxation*, 24 N.J. Tax 1, 2008 N.J. Tax LEXIS 10 (Tax Ct. 2008).

County board's assessment of a taxpayer's property was upheld where the equalization ratio used by the county taxation board, pursuant to N.J.S.A. 54:3-17 and N.J.A.C. 18:12-1.1 et seq., was correct and where the board correctly excluded sale of a specific distribution center that had been split-off and was valued differently for farmland valuation purposes under N.J.S.A. 54:4-23.1. *Cranbury Twp. v. Middlesex County Bd. of Taxation*, 6 N.J. Tax 501, 1984 N.J. Tax LEXIS 36 (Tax Ct. 1984), affirmed by 7 N.J. Tax 667, 1985 N.J. Tax LEXIS 20 (Tax Ct. 1985).

SUBCHAPTER 2. PREPARATION OF LOCAL PROPERTY TAX LIST AND DUPLICATE

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

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

PROPERTY CLASSIFICATION CODE

<u>Symbol</u>	<u>Category</u>
1	Vacant Land
2	Residential (4 Families or less)
3A	Farm (Regular)
3B	Farm (Qualified)
4A	Commercial
4B	Industrial
4C	Apartment/cooperative
5A	Class I Railroad

<u>Symbol</u>	<u>Category</u>
5B	Class II Railroad
6A	Personal Property Telephone
6B	Machinery, Apparatus or Equipment of Petroleum Refineries
15A	Exempt Public School
15B	Exempt Other School
15C	Exempt Public
15D	Exempt Charitable
15E	Exempt Cemetery
15F	Exempt Miscellaneous

18:12-2.2 Property classifications with definitions

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

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

(c) Class 3A: "Farm property (Regular)" means land being used for agricultural or horticultural purposes, including its use for the breeding, pasturing and production of livestock and animal products. Farm property also includes land, together with improvements, where the use of the land and function of the buildings thereon are for agricultural or horticultural purposes, as well as farm houses and the lots or parcels of land on which they are situated. For definitions of agricultural use and horticultural use, see N.J.A.C. 18:15-1.1, adopted under the "Farmland Assessment Act of 1964," N.J.S.A. 54:4-23.1 et seq.

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

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

(f) Class 4B: "Industrial properties" means land or land and improvements adaptable for industrial use; ideally, a combination of land, improvements, and machinery which has been integrated into a functioning unit intended for the assembling, processing, and manufacturing of finished or partially finished products from raw materials or fabricated parts, such as factories; or a similar combination intended for rendering service, such as laundries, dry cleaners or storage warehouses.

(g) Class 4C: "Apartments" designed for the use and enjoyment of five families or more. This class includes residential co-operatives and mutual housing corporations.

1. While classes 4A, 4B and 4C are required to be separately designated on the tax list, the aggregate of these classes will be indicated as class 4 ("Other") for the purpose of the Table of Equalized Valuations (school aid table).

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

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

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

(k) Class 6B: "Machinery, Apparatus or Equipment of Petroleum Refineries" means the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refinery processes commencing with the introduction of crude oil and ending with refined petroleum products, but shall exclude items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into petroleum products.

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

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

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

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

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

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

Administrative correction.
See: 38 N.J.R. 2887(b).