

CHAPTER 12

GENERAL

Authority

N.J.S.A. 54:1-35.1, 54:3-14, 54:3-21.5, 54:4-8.47,
54:4-23.21, 54:4-26 and 54:50-1.

Source and Effective Date

R.1998 d.421, effective July 21, 1998.
See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Executive Order No. 66(1978) Expiration Date

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

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 Subchapter 4 was repealed and new rules adopted as R.1983 d.221, effective June 20, 1983.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), Subchapters 1, 2, 3, 4 and 10 were readopted as R.1993 d.482, effective October 4, 1993. See: 25 N.J.R. 2652(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 12, General, was readopted as R.1998 d.421, effective July 21, 1998. See: Source and Effective Date.

Law Review and Journal Commentaries

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

Property Tax Update. Steven J. Brodman and Kathleen Bycsek, 158 N.J.L.J. 63 (1999).

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SUBCHAPTER 1. CATEGORIES OF NONUSABLE DEED TRANSACTIONS

18:12-1.1 Categories enumerated

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

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

- 11. Judicial sales such as partition sales;
- 12. Sheriff's sales;
- 13. Sales in proceedings in bankruptcy, receivership or assignment for the benefit of creditors and dissolution or liquidation sales;
- 14. Quit-claim deeds;
- 15. Sales to or from the United States of America, the State of New Jersey, or any political subdivision of the State of New Jersey; including boards of education and public authorities;

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

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

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

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

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

21. Sales of cemetery lots;

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

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

Case Notes

To exclude challenged sales taxpayer must demonstrate that inclusion of challenged sale was improper because sale was not for fair market value. 1530 Owners Corp. v. Borough of Fort Lee, 135 N.J. 394, 640 A.2d 811 (1994).

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

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

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

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

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

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

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

Although general category of the regulation enumerating certain categories of sales that are not usable when calculating ratio of assessed to true value addresses the circumstances of the parties to the sale in terms of the sale price as an indicator of market value, other factors besides the utility of the sale price as market indicator may make a sale not usable. Northvale Borough v. Director, Div. of Taxation, 17 N.J.Tax 204 (N.J.Tax 1998).

Latex manufacturing process which started inside manufacturing building and point of connection of outside piping that transferred materials from storage tanks was the meter on the fourth floor of the building where the pipes merged and materials were introduced into the latex manufacturing reactors, tanks, and processing equipment, did not render outside piping excludable from property tax. B. F. Goodrich v. Oldmans Tp., 17 N.J.Tax 114 (Tax Ct.1997).

Director properly excluded sale of real property from sales ratio study used to develop table of equalized valuations where property was sold as part of private deal, and parties to sale were not knowledgeable as to facts about property. Pennsville Tp. v. Director, Div. of Taxation, 16 N.J.Tax 47 (A.D.1996).

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

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

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

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

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

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

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

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

SUBCHAPTER 2. PREPARATION OF LOCAL PROPERTY TAX LIST AND DUPLICATE

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

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

PROPERTY CLASSIFICATION CODE

Symbol	Category
1	Vacant Land
2-	Residential (4 Families or less)
3A	Farm (Regular)
3B	Farm (Qualified)

Symbol	Category
4A	Commercial
4B	Industrial
4C	Apartment
5A	Class I Railroad
5B	Class II Railroad
6A	Telephone
6B	Telegraph
6C	Messenger Service
15A	Exempt Public School
15B	Exempt Other School
15C	Exempt Public
15D	Exempt Charitable
15E	Exempt Cemetery
15F	Exempt Miscellaneous

Case Notes

Development property represented as single lot on tax map but divided into multiple assessment line items as accommodation to taxpayer was treated as having one aggregate assessment for purposes of application of average ratio of assessed valuation to true value. *Hull Junction Holding Corp. v. Princeton Borough*, 16 N.J.Tax 68 (1996).

18:12-2.2 Property classification definitions

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

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

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

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

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

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