

Statutory References

N.J.S.A. 54:35-1, 54:36-5.

18:26-9.10 How tax is payable

(a) A certified or cashiers check in full payment of the tax and interest, if any, must be filed together with the return directly with the Inheritance Tax Branch, CN-249, Trenton, New Jersey 08646-0249.

(b) Where interest has accrued at the time of any payment, such payment is first credited in satisfaction of the accrued interest, and the excess credited in payment of the tax chargeable. The interest shall continue to accrue on any remaining balance from the date of said payment to the date of final adjustment.

(c) Payment on account of any transfer inheritance tax to be assessed may be made in advance of the actual assessment. Any payment on account will also be accepted to cover any compounded, contingent or compromise assessment.

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Zip code changed from 08625 to 08646.

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R.188(b), 23 N.J.R. 2320(a).

Payment method clarified.

Statutory References

N.J.S.A. 54:35-2; 54:35-4.

18:26-9.11 Persons responsible

Any administrator, executor, trustee to the extent of any estate funds in his possession, grantee, donee, cestui que trust, beneficiary and vendee is personally liable for any and all New Jersey Inheritance Taxes until paid or provided for by bond in double the amount of the tax due to the extent of his or her interest in the estate and an action at law may be brought in the name of the State against any such person for payment of such tax. See N.J.A.C. 18:26-10.4 (Deduction or collection of tax before distribution).

Statutory References

N.J.S.A. 54:35-2; 54:35-4.

18:26-9.12 Liability for nonpayment

The tax on a gift in contemplation of death, or to take effect in possession or enjoyment at or after death, if not paid by the donee must be paid by executor or administrator to the extent of the assets within such fiduciary's possession or control.

Historical Note

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

Statutory References

N.J.S.A. 54:35-2.

18:26-9.13 Late payment; general provisions

(a) Any payment of the New Jersey inheritance tax after the expiration of the corresponding day of the eighth month following the date on which it became due and payable shall bear interest at the rate of 10 percent per annum on any unpaid portion of the tax, from the expiration of eight months after the date on which it became due and payable until the date of actual payment, unless payment was tendered by the taxpayer within the eight month period and is evidenced by the postmark of the United States Postal Service on the letter conveying the payment, by a postmark made by other than the United States Postal Service (that is, metered mail) within the eight month period and the payment was received by the Inheritance Tax Branch within three days of the expiration of the eight month period, or by other acceptable proof, but was not credited through no fault of the taxpayer, in which case no interest shall be charged, or unless by reason of any claims made upon the estate, necessary court litigation, or other unavoidable cause of delay, the decedent's estate or a part thereof, cannot be settled before the expiration of eight months from the date of death, in which event interest at the rate of only six percent per annum is to be charged from the expiration of eight months until the cause of delay is removed.

(b) In cases where there is no corresponding day in the eighth calendar month following the date of death, the first business day of the succeeding month shall be the effective date for purposes of determining interest penalties; for example where decedent died June 30, 1962, the tax payment will not bear interest if made on or before March 1, 1963.

(c) In cases where a decedent dies while a member of the Armed Forces of the United States, the tax due shall begin to bear interest at the rate of ten per cent per annum on any unpaid balance due after the expiration of eight months after receipt of official notification of the death of the decedent by the spouse, parent or next of kin of such decedent.

(d) Any person liable for the payment of the tax, may, in order to avoid a penalty, estimate and pay the tax believed to be owing prior to actual receipt of a tax bill. In the event of any over-payment of the tax, a refund will be made. In the event of an underpayment, interest will be charged on the balance due.

(e) Tax on any sum recovered as compensation for the death of a person caused by a wrongful act, neglect, or default must be paid within 30 days of the receipt of the award or settlement. Tax not paid within 30 days shall bear interest at the rate of 10 percent per annum from the expiration of eight months after the due date (the date of the award settlement) to the date of actual payment subject to the exceptions in (a) above.

(f) For returns due on or after July 1, 1993 the Director shall waive the payment of any part of any penalty or interest attributable to the executor's, administrator's, or trustee's reasonable reliance on erroneous advice furnished to the taxpayer in writing on or after July 1, 1993 by an employee of the Transfer Inheritance and Estate Tax Branch acting in the employee's official capacity, provided that the penalty or interest did not result from the failure of the executor, administrator or trustee to provide adequate or accurate information. The executor, administrator, or trustee has the affirmative obligation to show that it was reasonable to rely on the written advice.

Amended by R.1978 d.31, effective January 27, 1978.
See: 10 N.J.R. 43(a), 10 N.J.R. 128(a).
Amended by R.1994 d.627, effective December 19, 1994.
See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Statutory References

(a) N.J.S.A. 54:35-3; (e) N.J.S.A. 54:35-4.1; (f) N.J.S.A. 54:49-11(b).

Case Notes

Interest was properly assessed on inheritance tax due at rate of 10%, absent showing of unavoidable cause of delay. *Heine v. Director of New Jersey Div. of Taxation*, 10 N.J.Tax 435 (1989).

18:26-9.14 Payment on executory devise or transfer subject to a contingency or power of appointment

(a) With respect to the payment of the tax due on an executory devise, or a transfer subject to a contingency or power of appointment, any payment on such a transfer after the expiration of two months from the date the contingency occurs or the property vests, shall bear interest at the rate of ten percent per annum from the date the contingency occurs or the property vests, until the date of actual payment.

(b) In any case where a contingent remainder vests in beneficial possession and enjoyment subsequent to the death of the original decedent, but prior to the expiration of the statutory interest period, interest on the contingent tax does not start to accrue until eight months from the date of death of the original decedent.

Amended by R.1980 d.287, effective June 27, 1980.
See: 12 N.J.R. 352(b), 12 N.J.R. 497(a).

Statutory References

N.J.S.A. 54:36-5.

18:26-9.15 Bond for failure to pay tax

(a) Where an executor, administrator, grantee, donee, vendee, or trustee fails to pay the tax due within eight months from the date of a decedent's death, such person is required to give a bond, on a form approved by the Director, to the State of New Jersey, in double the amount of the tax to secure payment of any tax and interest which may become due.

(b) In the case of tax due on any sum recovered as compensation for the death of a person caused by a wrongful act, neglect, or default, the bond shall be required within eight months of the due date (the date of the award or settlement) if the tax is not paid within 30 days of the receipt of the award or settlement.

Amended by R.1994 d.627, effective December 19, 1994.
See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Statutory References

N.J.S.A. 54:35-3, 54:35-4, 54:35-4.1, 54:35-5.

18:26-9.16 Composition of taxes, bond

(a) Where an estate is so created that the remainders or expectant estates are of such a nature or are so disposed or circumstanced that the taxes thereon are held not to be presently payable, or where the interests of legatees or devisees are not ascertainable at the death of the testator, grantor, donor or vendor, the Director may enter into an agreement with the executors or trustees of such estate for the purpose of compounding the tax due upon such terms as are deemed equitable and expedient.

(b) The payment of the tax due pursuant to a composition or compromise are conclusive in favor of the executor or trustee as against any cestui que trust and who possess a present right of enjoyment, interest in, or fixed, absolute or indefeasible right of future enjoyment in property and any cestui que trustents as would possess such rights in the event a particular estate would terminate.

(c) If the executor or trustee elects to defer the adjustment of the taxes due until the person or body politic or corporate beneficially interested in the property chargeable with the tax comes into actual possession or enjoyment of the property, such executor or trustee must execute a bond to the State of New Jersey in twice the amount of the tax imposed at the highest possible rate, with such surety or sureties as approved by the New Jersey Department of Banking and Insurance or by the Director, conditioned to pay the tax and interest at the time or period when such contingency occurs.

Statutory References

N.J.S.A. 54:36-6.