Handbook

For

New Jersey Assessors

CHRIS CHRISTIE, ***Governor***

FORD M. SCUDDER, ***Acting State Treasurer***

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Property Administration – Local Property
Division of Taxation – Department of the Treasury
State of New Jersey

Trenton, New Jersey **Revised**

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Memorandum

To: **County Tax Board Administrators, County Assessor, and Tax Assessors**

From: **Judy P. Miller, Chief – Property Administration**

Subject: **Assessors' Handbook Updates**

Date: **January 20, 2016**

This is the fourth annual update to the originally revised 2012 Handbook for New Jersey Assessors.

HANDBOOK FOR NEW JERSEY ASSESSORS

For nearly half a century, the Handbook for New Jersey Assessors has been an essential tool for New Jersey assessors. I am pleased to provide this 4th edition of the Handbook updated as of September 2012. As with any new edition a great deal of new information has been included, such as in Chapter 5, Rehabilitation, Redevelopment, Abatements, Limited Exemptions and "Zone" Options.

In these trying economic times, property taxes are a significant concern to the citizens of New Jersey. The statutory responsibility to fairly apportion the burden of property taxation is of great importance to administrators, residents and business owners alike. This ready reference guide will help assessors and others cope with the many difficult questions and problems they face in the daily discharge of their duties. It will also continue to serve as the basic textbook for the training courses in property tax administration offered through Rutgers University, Center for Government Services.

This Handbook supplements the Real Property Appraisal Manual for New Jersey Assessors and New Jersey statutory law found primarily in Titles 54 and 40A. For your convenience, this Handbook will be available at the Division of Taxation's website at http://www.state.nj.us/treasury/taxation/ under Local Property/ Reference Materials for printing or researching.

I offer my special thanks to the author of this edition's revisions, updates and new information, Susan Dobay. Her faithful dedication to this project was unwavering. This material was edited and reviewed with the capable assistance of all units of the Property Administration/Local Property Section. I am sure you will be pleased with this final product.

I urge all New Jersey assessors and citizens to take advantage of the information contained in this book so that, in the interest of transparency to the taxpayers of this State, the laws are followed in a uniform manner to better serve all property owners in New Jersey.

Michael J. Bryan, Acting Director
Division of Taxation

Trenton, New Jersey
September 2012

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Chapter 1 Introduction

101. Local Government in New Jersey.

101.01 Four Types of Local Government Units.

The basic units of local government in New Jersey are the county, municipality, school district, and special district.

101.02 County Government.

A number of counties in New Jersey date back to colonial times and were initially agents for the English monarchy. The original counties were subdivided periodically until Union, the last of the present 21 counties, was created by the State Legislature in 1857.

101.03 Classification of Counties.

For purposes of general legislation, counties are divided into six classes by population and geographic location:

Class	***Population***	***Location***
First	Over 550,000 and density of more than 3,000 persons per square mile	Any part of State
Second	Over 200,000	Not bordering on Atlantic Ocean
Third	50,000 to 200,000	Not bordering on Atlantic Ocean
Fourth	Under 50,000	Not bordering on Atlantic Ocean
Fifth	Over 125,000	Bordering on Atlantic Ocean
Sixth	125,000 or less	Bordering on Atlantic Ocean

REFERENCES:
***New Jersey Statutes Annotated* hereafter abbreviated as *N.J.S.A.* This legal source is used throughout the Handbook whenever statutes are cited.**
N.J.S.A. 40A:6-1 and 6-2, as amended by P.L. 2001, c. 336.

The counties of New Jersey are classified as follows:

First:	Bergen, Essex, Hudson
Second:	Burlington, Camden, Gloucester, Mercer, Middlesex, Morris, Passaic, Somerset, Union
Third:	Cumberland, Hunterdon, Salem, Sussex, Warren
Fourth:	None
Fifth:	Atlantic, Monmouth, Ocean
Sixth:	Cape May

101.04 Apportionment of County Costs.

The revenue for county government comes from taxes on real and personal property. The amount to be raised for a county's budget is apportioned among the municipalities of the county based on the equalized value of real property and certain locally assessed personal property in each municipality.

REFERENCES:
N.J.S.A. 54:3-17; 3-18; 3-19

101.05 Municipal Government.

Many municipalities of New Jersey also had their origins in the colonial period and are organized similar to their English counterparts. A few of the oldest communities in the State have special charters. Most municipalities today are organized as prescribed by State law. Unlike many western states, the entire area of New Jersey, except for the U.S. military reservation at Sandy Hook, is within the boundaries of an incorporated municipality. In New Jersey, the municipality is the "taxing

district" for purposes of property taxation and the terms "municipality" and "taxing district" are often used interchangeably.

REFERENCES:
For a general publication on municipal government, see Julius Mastro, Governing New Jersey Municipalities (New Brunswick: Bureau of Government Research and Department of Government Services, Rutgers University, 1979).

101.06 Classification of Municipalities.

New Jersey municipalities are classified in two ways: type of municipality and form of government.

101.07 Five Types of Municipalities.

Type is the name by which the municipality is commonly known. There are five types of municipality: city, town, borough, township, and village. Towns, boroughs, townships, and villages may be located in any part of the State with any population. Cities, by law, are further divided into four classes based on population and geographic location:

Class	***Population***	***Location***
First	Over 150,000	Not bordering on Atlantic Ocean
Second	12,000 to 150,000	Not bordering on Atlantic Ocean
Third	All cities not 1st or 2nd class	Not bordering on Atlantic Ocean
Fourth	Any population	Bordering on Atlantic Ocean

101.08 Forms of Municipal Government.

A number of forms of municipal government are prescribed by State law. Their organizational name frequently coincides with their municipal type. For example, most boroughs operate under the borough form of government and most townships under the township form. There are also optional forms of government organization which may be adopted by any type of municipality. For instance, the City of Newark operates under a

mayor-council form, the Township of Teaneck under the council-manager form, and the Borough of Belmar under the commission form.

REFERENCES:

N.J.S.A. 40A:6-4, as amended by P.L. 1979, c. 181
Ernest C. Reock, Jr. and Raymond D. Bodnar, *Forms of Municipal Government in New Jersey*. (Trenton: New Jersey County and Municipal Government Study Commission, January, 1979).

STATEWIDE CENSUS TOTALS 2000/2010

Population 2010 Census	8,791,894
Population 2000 Census	8,414,350
Land Area, Square Miles (2000 census)	7,417.34

2014 Statewide Totals

Net Taxable Value – Municipal	982,730,957,386
Net Taxable Value for County Apportionment	1,168,157,392,598
State Equalized Valuation	1,162,713,305,713
Tax Levy	$27,651,166,919

TYPES OF LOCAL GOVERNMENT UNITS IN NEW JERSEY

COUNTIES (21) **MUNICIPALITIES (565*)**

COUNTY	BOROUGH	TOWNSHIP	CITY	TOWN	VILLAGE	TOTAL
Atlantic	3	6	13	1	0	23
Bergen	56	9	3	0	2	70
Burlington	6	31	3	0	0	40
Camden	27	8	2	0	0	37
Cape May	7	4	5	0	0	16
Cumberland	1	10	3	0	0	14
Essex	5	15	2	0	0	22
Gloucester	10	13	1	0	0	24
Hudson	1	2	4	5	0	12
Hunterdon	10	14	1	1	0	26
Mercer	4	7	1	0	0	12
Middlesex	12	10	3	0	0	25
Monmouth	35	15	2	0	1	53
Morris	16	20	0	3	0	39
Ocean	19	14	0	0	0	33
Passaic	10	3	3	0	0	16
Salem	3	11	1	0	0	15
Somerset	12	9	0	0	0	21
Sussex	8	15	0	1	0	24
Union	7	8	5	1	0	21
Warren	2	17	0	3	0	22
Total	250	245	52	15	3	565

*As of Tax Year 2014

***NOTE*:** On January 1, 2013, Princeton Borough and Princeton Township consolidated into Princeton with a Borough form of government. On July 2, 1997, Pahaquarry Township, Warren County was dissolved and incorporated into Hardwick Township.

Form Local Government Organization	Method of Assessor Selection
Commission Form (AKA the Walsh Act) – an elected governing body of three or five members (determined by population class) with both legislative and administrative authority.	Assessor or assessor with deputy assessors appointed by commission at organization meeting by director of department at subsequent date. (N.J.S.A. 40:72-7)
Municipal Manager Form (1923 Law) – an elected body of five, seven or nine members which appoints its mayor and other officers. It appoints a municipal manager who is given authority to administer the local unit.	Assessor or assessor with deputy assessor appointed by council. (N.J.S.A. 40:81-11)
Council-Manager Form (1950 Law) – an elected policy-making council of five, seven or nine members (at discretion of voters) which appoints its mayor, a municipal clerk and municipal manager who has authority and responsibility for overall municipal administration. This form differs from the 1923 form in the greater degree of discretion of both council of representation and administrative organization.	Assessor or assessor with deputy assessors appointed by mayor with advice and consent of council or by department head who has been appointed by mayor. (N.J.S.A. 40:69A-43)
Mayor-Council Administrator Form – an elected policy-making body of five, seven or nine members (voter's option) and a separately elected mayor with authority and responsibility for overall administration including the appointment of a business administrator to direct the department of administration required under this plan.	Assessor or assessor with deputy assessors appointed by mayor with advise and consent of council or by department head who has been appointed by mayor. (N.J.S.A. 40:69A-43)
Small Municipalities Form – an elected policy-making body of three, five or seven members including a mayor elected by the voters or the council who has authority for overall administration of the unit. This form of government is limited to units with less than 12,000 persons.	Assessor or assessor with deputy assessors appointed by mayor with advice and consent of council. (N.J.S.A. 40:69A-122)
City Mayor-Council Form – includes referendum charter forms authorized between 1897 and 1908 and special charters approved by the Legislature. Its constituency varies in size.	A wide variety of statutory provisions for appointed assessors.
Town Form – similar to the borough form with a separately elected mayor and council sized according to number of wards.	Assessor or assessor with deputy assessors appointed by governing body. (N.J.S.A.40A:9-146)
Borough Form - an elected council usually six members with both administrative and policy making powers and an elected mayor with limited authority for administration.	Assessor or assessor with deputy assessors appointed by mayor with advice and consent of council. (N.J.S.A. 40A:60-2-5-6-8, 40A:9-146)
Township Form – an elected governing body usually of three or five members with both legislative and administrative authority.	Assessor or assessor with deputy assessors appointed by the governing body. (N.J.S.A.40A:9-146)
Village Form – an elected body of five trustees with both legislative and administrative authority.	Assessor or assessor with deputy assessors appointed by the governing body. (N.J.S.A.40A:9-146)

Form of County Government Organization

County Executive Plan – an elected board of chosen freeholders of five, seven or nine members and an elected county executive authorized to supervise, direct and control all county administrative departments.
County Manager Plan – an elected board of chosen freeholders of five, seven or nine members and an appointed county manager authorized to supervise, direct and control all county administrative departments.
County Supervisor Plan – an elected board of chosen freeholders of five, seven or nine members and an elected county supervisor. Legislative power is vested in the board of chosen freeholders; the executive power is exercised by the county supervisor.
County Board President Plan – an elected board of chosen freeholders of five, seven or nine members who elect a board president who presides at board meetings and oversees the work of the appointed administrator.

REFERENCES:
Fifty-Fifth Annual Report of Division of Local Government Services, 1992 (Trenton: State of New Jersey, p.677).

101.09 School Districts.

School districts were established in New Jersey during the nineteenth century when public education became the responsibility of government. Most school districts cover the same area as the municipality. However, State law provides for districts covering two or more municipalities and for regional districts. There are currently more than 600 school districts in New Jersey; approximately 61 of these are regional districts.

101.10 Classification of School Districts.

Most New Jersey school districts are either Type I or II.

1. In Type I (formerly Chapter 6, Title 18 of Revised Statutes) or "city" school districts, members of the board of education are appointed by the mayor or other Chief Executive Officer of the municipality. The school budget is prepared by the board of education and approved by the board of school estimate which consists of the mayor or Chief

Executive Officer, two members of the board of education, and two members of the municipal governing body.

2. a. In Type II (formerly Chapter 7, Title 18 of Revised Statutes) or non-city school districts, members of the board of education are elected and the school budget is submitted to the voters for approval.

   b. In consolidated and regional school districts, both all purpose and limited purpose, membership on the board of education is apportioned among the participating districts according to population. Board members are elected and the school budget must be approved by the voters.

3. State-operated school districts conducted by a State district superintendent were authorized by statutory amendments in 1987.

4. A charter school is a public school operated under a charter granted by the commissioner of the Department of Education (DOE), which is operated independently of a local board of education and is managed by a board of trustees. The board of trustees, upon receiving a charter from the commissioner, is deemed to be a public agent authorized by the State Board of Education to supervise and control the charter school.

REFERENCES:

N.J.S.A. 18A:9-2 and 18A:9-3
N.J.S.A. 18A:10-1 as amended by P.L. 1987, c. 399, sec. 21
N.J.S.A. 18A:12-7 and 18A:12-11
N.J.S.A. 18A:12-2 as amended by P.L. 1981, c. 23, et seq.
N.J.S.A. 18A:13-8 as amended by P.L. 1992, c. 159, sec. 9 et seq.
N.J.S.A. 18A:13-17 as amended by P.L. 2001, c. 26, sec. 1 et seq.
N.J.S.A. 18A:22-1 et seq. and 18A:22-4 et seq.
N.J.S.A. 18A:22-14 as amended by P.L. 1996, c. 138, sec. 55 et seq.
N.J.S.A. 18A:22-26 as amended by P.L. 2010, c. 39, sec. 21 et seq.

101.11 Apportionment of Regional School District Costs.

The annual or special appropriations for regional districts, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district, shall be apportioned among the municipalities included within the regional district, as may be approved by the voters of each municipality at the annual school election or a special school election, upon the basis of:

a. the portion of each municipality's equalized valuation allocated to the regional district, calculated as described in the definition of equalized valuation in section 3 of P.L.2007, c. 260 (N.J.S.A. 18A:7F-45)*;
b. the proportional number of pupils enrolled from each municipality on the 15th day of October of the pre-budget year in the same manner as would apply if each municipality comprised separate constituent school districts; or
c. any combination of apportionment based upon equalized valuations pursuant to subsection a. of this section or pupil enrollments pursuant to subsection b. of this section.

*"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the Tax Court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the Equalized Table certified by the Director shall be revised by the Tax Court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value rate, Statewide average equalized school tax rate, or Statewide equalized total tax rate.

REFERENCES:
N.J.S.A. 18A:7A-3 as amended by P.L. 2007, c. 16
N.J.S.A. 18A:13-23 as amended by P.L. 2007, c. 260
N.J.S.A. 18A:23.3 as amended by P.L. 1993, c. 67

101.12 Special Districts.

New Jersey laws authorize special districts to provide specific government services such as fire protection to portions of a municipality. The voters may be empowered to elect a governing body for the special district and approve the levying of a property tax to finance the costs of these services. Or the tax may be determined by the municipal governing body. Some special districts permit only special improvement assessments or taxes to cover the initial cost of installing facilities. Where property taxes for annual operating costs are authorized, they are based on the assessed valuation of taxable property in that portion of the municipality receiving the services. In 1990, individual statutes allowing for the creation of street lighting districts, sewerage districts, garbage districts and road districts etc. were repealed and consolidated under one or two statutes providing for their authorization generally.

REFERENCES:
N.J.S.A. 40A:14-70 fire districts
N.J.S.A. 40A:60-7
N.J.S.A. 40A:63-6 as amended by P.L. 1989, c. 157
N.J.S.A. 40A:63-7d as amended by P.L. 1989, c. 157

101.13 Powers of Counties, Municipalities, School Districts, and Special Districts.

Counties, municipalities, school districts, and special districts of New Jersey are known as "creatures of the State," that is, they have been created by the State legislature and granted legal powers by State law. The State, at any time, may create new or abolish existing counties, municipalities, school districts, and special districts, or may alter their powers. Local government units and officers may perform only those

activities and only within the limits authorized by State law or special charter.

102. Local Government Finances.

102.01 Sources of Local Revenue in the United States.

Traditionally, the general property tax has been the major revenue source for operating local governments throughout the United States. While still true, in recent decades the property tax has declined in importance nationwide as other local revenue sources have developed. These include municipal sales and income taxes; gross receipt taxes; charges for services, such as garbage collection and sewage disposal; licenses, fees, and permits; parking receipts; and aid, sometimes called "revenue sharing," from county, state and federal governments.

103. Sources of Local Revenue in New Jersey.

The property tax has remained the mainstay of local finance in New Jersey. Few states exceed New Jersey in the reliance placed upon the property tax. Property tax revenue supports local government services for New Jersey residents, such as the public school system; municipal police and fire departments; emergency services; trash and snow removal; libraries; senior services; and many other local services. Some local governments also impose limited user fees for specific services, such as, special event parking surcharges and admissions surcharges for amusements to fund essential municipal services.

In 2015, $7,846,143,841.17 was collected for local municipal purposes. The total amount collected for 2014 was $7,754,790,366.94 and in 2013 it was $7,550,032,512.16.

REFERENCES:

New Jersey Division of Taxation Abstract of Ratables
http://www.state.nj.us/treasury/taxation/lpt/abstractrate.shtml

New Jersey Department of Community Affairs Property Tax Data
http://www.state.nj.us/dca/divisions/dlgs/resources/property_tax.html

New Jersey League of Municipalities
http://www.njslom.org/SG-Property_Taxes.html

103.01 New Jersey Property Tax Procedure.

The steps in determining the tax on each property may be summarized as follows:

1. On or before January 10 of the tax year, each assessor files with the County Board of Taxation the Tax List (real property, personal property and exempt property) and Tax List Duplicate showing the assessed value of each property in the taxing district. Value is determined as of October 1 of the preceding year for real property and January 1 of the preceding year for certain locally assessed personal property.

2. Early in the calendar year, the municipal and county governing bodies and the local boards of education make up their respective budgets. Anticipated revenue from various sources is deducted from the budget amounts required. The amount remaining to be raised by a levy on real and personal property is reported to the County Board of Taxation.

3. Each County Tax Board apportions the amount to be raised by property taxes to support county government among the taxing districts in the county, adds to the respective county portion the amounts needed from property taxes to finance the municipal government and the school district, and divides the total levy by the assessed value of all taxable property to establish the local tax rate.

4. The tax rates are reported to the municipality which collects the property tax for the county, the school district, and itself.

5. If there are special district costs, the special district governing body reports the amount needed to the assessor, who calculates the tax rate for this purpose by dividing the amount to be raised by the total value of taxable property in the special district. This rate is applied to the properties in the special district.

6. The appropriate tax rate is multiplied by the assessment on each property to determine the taxes due for the current year.

104. Legislative Limit on Municipal and County Budget Increases.

In an effort to curb the rising costs of county and local governments, laws limiting spending were enacted by the Legislature. It was recognized, however, that these governments could not be so constrained as to make it impossible to provide services to residents.

104.01 Municipal "Budget Caps."

In the preparation of its budget, a municipality shall limit any increase in said budget to 2.5% or the cost-of-living adjustment, whichever is less, over the previous year's final appropriations subject to the following exceptions:

1. Capital expenditures (See N.J.S.A. 40A:2.21 and 40A:2-22 for bondable requirements);
2. An increase due to an emergency situation (See N.J.S.A. 40A:4-20 and 40A:4-46), if approved by at least two-thirds of the governing body and the Director, Division of Local Government Services, not to

exceed 3% of the previous year's final current operating appropriations;

3. All debt service;
4. Amounts, as approved, required for funding a preceding year's deficit;
5. Amounts reserved for uncollected taxes;
6. Amounts from new or increased construction, housing, health or fire safety inspection service fees imposed by State law, rule, regulation or local ordinance;
7. Amounts approved by referenda;
8. Amounts to fund free public libraries (See R.S. 40:54-1 through 40:54-29) and privately owned libraries and reading rooms (See R.S. 40:54-35);
9. Amounts for projects, facilities or public improvements for water, sewerage, parking, senior citizen housing;
10. Amounts for expenditures resulting from the impacts of a hazardous waste facility as per P.L. 1981, c. 279;
11. Amounts mandated due to natural disaster, civil disturbance or other emergency so declared by the U.S. President or the Governor;
12. Amounts mandated by court order, federal or State statute, or by order of a State agency as certified to the Local Finance Board;
13. Amounts for staffing and operating municipal courts;
14. Amounts for administering a joint insurance fund;
15. Amounts for implementing and maintaining a total property tax levy sale pursuant to P.L. 1997, c. 99.

REFERENCES:
N.J.S.A. 40A:4-45.3 as amended by P.L. 2007, c. 311, section 17

104.02 Certification by Assessors.

All municipal assessors must provide to their County Tax Board by January 10 on Forms CNC-1 and 2 the assessed value of new construction and improvements, the local municipal purpose rate, and the allowable

increase to the budget cap for their municipality. This information may be abstracted from the Added Assessment List for the previous year. Also to be included are partial assessments on the current year's Tax List for new construction not included in the prior year's Added Assessment List. The certification should be made by January 10 in the tax year, and should not include values of properties transferred from exempt to taxable status, nor Omitted-Added Assessments for a prior year.

REFERENCES:
JOINT DIRECTIVE, Implementation of Chapter 68, Laws of 1976, Director, Division of Taxation and Director, Division of Local Government Services, January 11, 1977 and November 27, 1995.

104.03 County "Budget Caps."

In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 2.5% or the cost-of-living adjustment, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

1. The revenue amount generated by the increase in valuations in the county based on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements;
2. Capital expenditures, (See N.J.S.A. 40A:2-21 and 40A:2-22 for bondable requirements);
3. An increase due to an emergency (See N.J.S.A. 40A:4-20 and 40A:4-46), if approved by at least two-thirds of the governing body and the Director, Division of Local Government Services, not to exceed 3% of the previous year's final current operating appropriations;
4. All debt service;
5. Amounts for projects, facilities or public improvements for water, sewerage, parking, senior citizen housing;
6. Amounts mandated due to natural disaster, civil disturbance or other emergency as declared by the U.S. President or the Governor;

7. Amounts mandated by court order, federal or State statute, or by order of a State agency as certified to the Local Finance Board;
8. Funding to a county college in excess of the county tax levy required to fund the college in local budget year 1992;
9. Amounts appropriated for the cost of administering a joint insurance fund.

REFERENCES:
N.J.S.A. 40A:4-45.4 as amended by P.L. 1993, c. 76 and P.L. 1993, c. 269.

104.04 Certification by County Tax Administrators.

County Tax Administrators must review and correct Forms CNC-1 and 2 filed by the Assessors and certify to their Chief Financial Officers and the Director of Local Government Services by January 31 the apportionment assessed valuation of all new construction or improvements in the county multiplied by the preceding year's county tax rate. This information may be abstracted from the aggregate of all Added Assessment Lists filed the previous year. Certification may also be included for partial assessments on the current year's Tax Lists for new construction not included in the prior year's Added Assessment List. This will help determine a portion of the amount excluded from a county's 2.5% Budget "CAP."

Certification should not include values of properties transferred from exempt to taxable status, nor amounts for Omitted-Added Assessments for a prior year. County Tax Administrators must also provide the aggregate equalized value of added and new construction ratables for all municipalities in the county multiplied by the prior year's county tax rate to their Chief County Financial officers by January 31.

REFERENCES:
JOINT DIRECTIVE, Implementation of Chapter 68, Laws of 1976, Director, Division of Taxation and Director, Division of Local Government Services, January 11, 1977 and November 27, 1995.

104.05 Tax Levy Caps.

In preparation of an annual budget, no local unit, including municipalities, counties, fire districts, and existing solid waste collection districts with a tax rate of more than $.10 (ten cents) may increase the tax levy above 2% of the previous year's with the following exceptions:

1. Capital expenditure increases
2. Debt service increases
3. Emergencies – weather and "declared" emergencies
4. Pensions and health benefits

Regulations for these caps are administered by the Department of Community Affairs, Division of Local Government Services, and Local Finance Board. Any questions about budget caps or tax levy caps should be directed to that agency.

REFERENCES:
N.J.S.A. 40A:4-45.44 et seq.
Local Finance Notice, "2010 Levy Cap Law Guidance and CY 2011 Budgets," January 14, 2011.

105. The Position of Assessor.

105.01 General.

Assessors, though selected and appointed by municipal officials, are public officers whose duties are imposed by and defined in State law. The assessor occupies a unique position within the framework of local government. When assessing property for taxation, the assessor performs a governmental function as an agent of the Legislature. The position of assessor takes on a judicial quality in determining taxability and assessments of property. In discharging these duties, an assessor is not subject to the control of a municipality. The intent is that assessors, like judges, should be free to perform their duties without fear of local

retaliation and should be immune from pressure and harassment. However, the assessor is subject to certain local requirements and to supervision at both the County and State levels of government.

REFERENCES:

Carlson v. Hackensack, 410 N.J. Super. 491 (App. Div. 2009).
Kaman v. Montague Twp. Comm., 158 N.J. 371 (1999).
Casamasino v. City of Jersey City, 158 N.J. 333 (1999).
Jeffers v. City of Jersey City, 8 N.J. Tax 313 (Law Div. 1986) affirmed by 14 N.J. Super. 584 (App. Div. 1987).
Horner v. Ocean Twp. Comm., 175 N.J. Super. 533 (App. Div. 1980).
Unreported Law Division case: Paterson v. Rooney Jr., Docket No. L-2266-72 P.W., decided June 20, 1973.
Arace v. Town of Irvington, 75 N.J. Super. 258 (Law Div. 1962).
Ream v. Kuhlman, 112 N.J. Super. 175 (App. Div. 1970) cert. denied by Ream v. Council of Evesham, 59 N.J. 267 (1971).

105.02 Code of Ethics and Professional Behavior for Assessors.

The New Jersey Administrative Code referring to the Assessor Qualification, Examination and Tenure Act, contains the following statement concerning an assessor's actions:

"It should be noted that, for the assessor himself, professionalization carries with it both benefits and responsibilities. Municipal governing bodies should recognize the right of an assessor to be adequately compensated for his professional responsibilities. At the same time, an assessor must recognize the need to perform competently, diligently, and in conformity with the professional ethics that reasonably accompany his professional status. In observing professional ethics, the assessor must have in mind not only the avoidance of activities which will obviously and presently involve a conflict with his ethical official duties, but also the probability or possibility that such a situation will develop…"

The Association of Municipal Assessors of New Jersey has adopted the Code of Ethics published by the International Association of Assessing Officers for assessors affiliated with the New Jersey Association.

REFERENCES:
New Jersey Administrative Code, Title 18, Chapter 17, Foreword
N.J.A.C. 18:12A-1.9(f), 18:12A-1.9(l).

105.03 Only One Assessor Position is Authorized for Each Municipality.

New Jersey law currently authorizes only one position of assessor for each municipality. In the past, either a single assessor or a board of assessors was permissible. However, in 1982 boards of assessors were eliminated and the former secretary of each board or the individual having primary responsibility for the assessment function in each municipality was named assessor. Other members of the former boards of assessors were designated deputy assessors.

REFERENCES:
N.J.S.A. 40A:9-146 as amended by P.L. 2000, c. 126
N.J.S.A. 40A:9-146.1

105.04 Assessment - Pilot Programs.

Gloucester County Assessor Pilot Program.

("Property Tax Assessment Reform Act" P.L. 2009, c. 118, approved August 18, 2009.)

Chapter 118 established the Gloucester County Pilot Program which transfers, over three years, municipal property assessment to the county. A full-time County Assessor was appointed by county government for a 5-year term and is assisted by Deputy County Assessors. The positions of Municipal and Deputy Assessor and County Tax Administrator are eliminated. The pilot county is to be considered a taxing district for property assessment purposes.

The County Assessor is responsible to the county governing body for efficiencies of office and is to determine employment jurisdictions and to direct the work of county deputy assessors. The County Assessor is also responsible for ensuring compliance with standards for staffing and equipping offices; for reviewing, revising and correcting Assessment Lists and for their public posting; for monitoring and correcting revaluations/reassessments and apprising the County Tax Board of their status; for preparing tables of aggregates and for equalization; for providing technical and professional assistance; and for any other task deemed necessary to ensure the process of property valuation within the pilot county.

Chapter 118 authorized a commission to study the structure, function, fiscal relationship and services delivery between the various levels of local government. The Commission is to report their findings to the Governor, Senate President and Assembly Speaker within 3 years. However, the results of the County Pilot Program are to be reported on within 6 years.

Real Property Assessment Demonstration Program
P.L. 2013, C. 15 approved February 4, 2013. (Monmouth County)
Chapter 15 authorizes a Real Property Assessment Demonstration Program which seeks to create a more cost-effective, accurate process of property valuation through the county-wide uniform use of technology, changes to the annual assessment calendar as it relates to municipal budgeting and tax appeals.

A participating county must meet strict criteria as to its municipal assessors' approval by vote of the program, its ability to finance program costs including computerization and to provide the Director, Division of Local Government Services, Department of Community Affairs (DCA,

DLGS) and the Director, Division of Taxation, its plan to implement the Demonstration Program, not less than 60 days prior to October 1.

Not more than four counties may participate in the Demonstration Program. Assessors in Demonstration Counties are required to take an additional 10 credit hours of continuing education courses pertaining to assessment function in the Demonstration County. Assessors who fail to satisfy this requirement will be barred from working in the Demonstration County.

DATES RELATIVE TO CERTIFICATION OF THE TAX LIST, ASSESSMENT APPEALS, AND THE CALCULATION OF LOCAL TAX RATES IN DEMONSTRATION COUNTIES		
Description of Function	***Current Date***	***Proposed Date for All Municipalities***
Assessing Date	October 1 of pre-tax year	October 1 of pre-tax year
Certification of Preliminary Assessment	N/A	November 1 of pre-tax year
Notification of Assessment Postcards	February 1	November 15 of pre-tax year
Assessment Appeal Filing Deadline	April 1; May 1 in municipalities wherein revaluation of real property has occurred	January 15
Assessment Appeals Heard	May, June and July	February, March and April
Tax List Filed	January 10	May 5
County Preliminar y Equalization	March 10	May 15
County Final Equalization	March 10	May 25
Municipal Budget to Tax Board	March 31	May 15
County Budget to Tax Board	April 1	May 15
School Budget to Tax Board	19-May	May 15
Certified Tax Rates	May 20	May 31
Tax Duplicates	June 3	June 3
Tax Bills	June 14	June 14

REFERENCES:
N.J.S.A. 54:1-86 et seq.

105.05 Tax Assessor Certificate Required.

As of July 1, 1971, only persons having a valid Tax Assessor Certificate issued by the Director of the Division of Taxation can be appointed to office as assessor. Deputy assessors, assessors operating with an inter-local agreement and joint assessors are also required to possess a valid Tax Assessor Certificate. Any individual who was in office as assessor July 1, 1967 and who served continuously since that time was permitted reappointment as assessor without a Tax Assessor Certificate.

REFERENCES:
N.J.S.A. 54:1-35.30; 54:1-35.33; and 40A:9-148.1
N.J.A.C. 18:17-2.4 and 18:17-2.5
Inter-Local and Joint Statute.

105.06 Continuing Education.

Assessors are required to complete continuing education courses in property tax administration and real property appraisal to keep their Tax Assessor Certificate in force.

REFERENCES:
N.J.S.A. 54:1-35.25b

105.07 Office of Assessor An Appointed Position.

Assessor appointments are usually made by the local governing body or chief executive officer of the municipality. However, by law, where no qualified person holds office of assessor on October 1, the Governor is to notify the mayor or other chief executive officer of the governing body that ten days after service of notice he will appoint an assessor. If, after ten days, the vacancy still exists, the Governor is authorized to appoint an assessor to perform the duties of office.

REFERENCES:
N.J.S.A. 40A:9-148, and 40A:9-149

105.08 Length of Term of Office and Filling Vacancies.

All assessors, including deputy assessors, are appointed for four-year terms of office beginning July 1 following their selection. For example: A term which began July 1, 2006 would end on June 30, 2010. Where a vacancy occurs in the office of assessor, other than at the expiration of a term, the vacancy is filled by appointment for the unexpired portion of the term.

Expired Term Example

A tenured retiring assessor leaves office at the end of his four-year term on June 30, 2006. On July 1, 2006, the position is vacant and a new assessor is not hired until September 15, 2006. Even though a new assessor is employed by the municipality on September 15, 2006, he must be appointed until June 30, 2007 **AND** from July 1, 2007 continuing through June 30, 2011. If reappointed to a second four-year term commencing July 1, 2011, tenure would be obtained. Terms of less than four years only occur when filling unexpired terms.

Unexpired Term Example

A nontenured assessor is hired for a four year term beginning July 1, 2003 through June 30, 2007, but dies in office on April 20, 2005. A new assessor is appointed May 15, 2005, and completes the deceased assessor's term which ends June 30, 2007. His first full four-year term begins July 1, 2007 and ends June 30, 2011. If reappointed to a second four year term beginning July 1, 2011, tenure would be obtained.

REFERENCES:
N.J.S.A. 40A:9-146 as amended by P.L. 2000, c. 126
N.J.S.A. 40A:9-146.3
N.J.S.A. 40A:9-148

105.09 Tenure.

Assessors and deputy assessors possessing a Tax Assessor's Certificate, who have served four continuous years in office immediately prior to reappointment, acquire tenure with such reappointment.

REFERENCES:
N.J.S.A. 54:1-35.31 as amended by P.L. 1999, c. 278
N.J.S.A. 54:1-35.32
N.J.A.C. 18:17-3.2, and 18:17-3.5
Kaman v. Montague Township Committee, 306 N.J. Super. 291 (App. Div. 1997), cert. granted by 156 N.J. 383 (1998), aff'd by 158 N.J. 371 (1999).
Casamasino v. City of New Jersey, 158 N.J. 333(1999).

105.10 Municipal Positions and Residency.

Recent law provides that a municipal assessor may be appointed in more than one taxing district, as long as the multiple appointments do not interfere with the proper discharge of statutory duties nor conflict with obligations to the respective municipalities in which he serves. Earlier statute provided that a taxing district, by resolution or ordinance, may have required its officers or employees appointed after June 30, 1978 to be domiciliary residents of the municipality. However, such an ordinance or resolution must have included a provision that whenever the governing body or hiring authority determined special skills for certain positions were not likely to be found among residents of the municipality, then the residency requirements were to be inoperative. The taxing district then advertised for other qualified applicants, and considered and appointed applicants in the following order: (1) residents of the county in which the municipality was located; (2) residents of counties contiguous to the county in which the municipality was located; (3) other residents of the State; (4) all other applicants.

The New Jersey First Act, approved May 17, 2011, effective the first day of the fourth month after enactment, makes legal domicile in New Jersey a

requirement for government employment for hirees after the Act's effective date.

REFERENCES:
N.J.S.A. 52:14-7

105.11 Compensation.

The assessor's salary, as well as funds to operate the office, are determined by municipal officials and provided for in the municipal budget. An assessor's salary may be increased, decreased or altered but may not be reduced during his term of office. The compensation of an assessor appointed in more than one municipality is not to be reduced due to the multiple appointments. Also increases in compensation are not to be denied any individual because of service in more than one municipality.

REFERENCES:
Attorney General's Opinion 91-0046, Assessor Salary Reduction.
N.J.S.A. 40A:9-1.3; 40A:9-1.6; 40A:9-1.7; 40A:9-146.4; and 40A:9-165.
Carlson v. Hackensack, 410 N.J. Super. 491 (App. Div. 2009).
Association of Municipal Assessors of N.J. v. Mullica Twp., 225 N.J. Super. 475 (Law Div.1988).

105.12 Tax Assessor Certification Program.

Realizing New Jersey's property tax was a major source of local revenue, was likely to remain important in the foreseeable future, and that competent, equitable administration and levying of the property tax required the original assessment be made by a well qualified individual, the Legislature passed a tax assessor qualification, examination and tenure law. Possession of a valid Tax Assessor Certificate is, in effect, a license to practice as an assessor in New Jersey.

105.13 Administration of the Certification Program.

The Director of the Division of Taxation is responsible for the tax assessor certification program. The Director, through Property Administration,

Local Property, Policy and Planning Section, reviews all applications for admission to assessor certification exams, and admits only those persons qualified in accordance with the law.

REFERENCES:
N.J.S.A. 54.1-35.25
N.J.A.C. 18:17-1.1(a) through (c)

105.14 Qualification for Admission to Certified Tax Assessor(C.T.A.) Exam.

To qualify for admission to a certification exam an applicant must:

1. File a written application with the Director of the Division of Taxation not less than 30 days before an examination;
2. Be at least 21 years of age;
3. Be a citizen of the United States;
4. Be of good moral character;
5. Have obtained a diploma from an approved high school or have received an academic education accepted by the Commissioner of Education as fully equivalent;
6. Have graduated from a four-year course at a college of recognized standing. Full-time real estate appraisal work or experience in property tax assessment work on a year-for-year basis may be substituted for the education requirement.

NOTE: Market analysis appraisals used by realtors for listings does not constitute appraisal experience to qualify for admission to the C.T.A. exam.

REFERENCES:
N.J.S.A. 54:1-35.25, and 54:1-35.25a
N.J.A.C. 18.17-1.3

105.15 C.T.A. Exam.

To obtain a Tax Assessor Certificate, a candidate must pass a written examination. The exam is divided into two parts – the first half covers property tax administration, property tax assessment law, practices and procedures, and the second half covers real property appraisal principles,

techniques and practical applications. The C.T.A. examination is held twice a year, usually on Saturdays, in March and September with a scheduled completion time of six hours.

105.16 Application for Admission to a C.T.A. Exam.

The application form for the C.T.A. Exam can be found at the Division of Taxation's website at: http://www.state.nj.us/treasury/taxation/pdf/lpt/ac_1.pdf

Application forms and filing instructions may also be obtained from State of New Jersey, PO Box 251, Trenton, NJ 08695-0251. Telephone Number (609) 292-9332. A check or money order in the amount of $10, payable to the State Treasurer, must accompany the application. The completed application together with all required proofs and the $10 application fee must be returned to Property Administration no later than 30 days prior to the announced date of an examination.

REFERENCES:
N.J.S.A. 54.1-35.25

105.17 Rutgers Training Courses.

Rutgers University training courses for assessors-Property Tax Administration 1 and 2; Fundamentals of Real Property Appraisal; and Income Approach to Valuation are recommended as preparation for the C.T.A. exam. Information concerning the training courses may be obtained from:

Center for Government Services
Division of Continuing Studies
Rutgers University
303 George Street
New Brunswick, NJ 08901-2020
Attention: Assessment Administration
Telephone**:** (732) 932-3640 extension 622
Fax Number: (732) 932-3586

To obtain the course schedule, brochures, and other information about the program, click on: http://cgs.rutgers.edu/programs/assessment.

105.18 Issuance of a Tax Assessor Certificate.

An applicant who successfully completes a certification exam is issued a Tax Assessor Certificate upon his payment of a $25 certificate fee to the State Treasurer.

REFERENCES:
N.J.S.A. 54.1-35.26 and 54:1-35.28

105.19 Removal of Tax Assessor Certificate.

The Director of the Division of Taxation may revoke or suspend an individual's Tax Assessor Certificate for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the N.J. Constitution and laws relating to the assessment and collection of taxes, or for any good cause. Revocation or suspension of a certificate may occur only after a hearing before the Director or his designee with due notice. When a Tax Assessor Certificate is revoked, the individual is to be removed from office as assessor, and is not eligible to hold that office for five years from the date of removal.

REFERENCES:
N.J.S.A. 54.1-35.29
N.J.A.C. 18.17-2.2

105.20 Removal from Office Non-Civil Service.

Upon complaint of the County Tax Board after hearing with due notice, the Director, Division of Taxation, may remove an assessor from office for willful failure, neglect, or refusal to comply with the N.J. Constitution and statutes relating to the assessment and collection of taxes. The County Board of Taxation may remove an assessor for failure to file the Tax List and Duplicate as required by law. Upon complaint by the Director, the

Superior Court may remove an assessor. The Director himself may revoke an individual's tax assessor certificate after a hearing with due notice.

REFERENCES:
N.J.S.A. 54.1-36, 54:1-37, and 54:4-37

105.21 Forfeiture of Office.

Any person, including an assessor, holding public office, either elective or appointive, in State government or any of its political subdivisions or agencies who is convicted of or pleads guilty to an offense involving dishonesty, or a crime of the third degree or higher, or an offense touching upon the office, forfeits office as of the date of conviction or guilty plea. If the conviction is later reversed, the individual may be restored to office with all rights and wages or salary from the date of forfeiture.

REFERENCES:
N.J.S.A. 2C:51-2 as amended by P.L. 2007, c. 49

105.22 Civil Service.

Any municipality in New Jersey, by action of the voters, may adopt the Civil Service System for its public employees. The New Jersey Department of Personnel, formerly Civil Service, provides personnel services for municipalities under this system.

REFERENCES:
N.J.S.A. 11A:9-2

105.23 Standardized Classifications for Assessing Position.

Standardized classifications (titles) have been established by the Department of Personnel for positions in a municipal assessor's office under the Civil Service System. For each title classification, a job specification defines the position, gives examples of work, and states the minimum requirements applicants must meet. Job specifications may be obtained from the Department of Personnel, Trenton, NJ 08625.

105.24 Classification.

Each position in a municipality is examined and assigned to either the classified or unclassified service.

1. Unclassified service includes positions filled by election and appointment such as department heads. The office of municipal tax assessor is in the unclassified services.

2. Classified service includes competitive and non-competitive positions. Competitive positions are those for which the Merit System Board considers testing appropriate to determine the qualifications of applicants. Most positions in an assessor's office fall within this category. Non-competitive positions include those which are difficult to fill, such as janitorial or service occupations.

REFERENCES:
N.J.S.A. 11A:1.1 et seq. and 11A:3-5 et seq.

105.25 Other Personnel Services.

In addition to classifying assessing positions, the Department of Personnel conducts examinations, certifies job applicants, and enforces the laws and regulations in municipalities operating under the Civil Service System.

105.26 Removal Under Civil Service.

Once an employee satisfactorily completes a probationary period and obtains permanent status under Civil Service, he may be removed if incompetent, insubordinate, unfit for duty, a hazard to other employees or public services, charged with a crime of the first, second, third or fourth degree when job related, guilty of misconduct or other sufficient cause. The employee must be notified in writing of dismissal or discipline, the reasons for it and within 30 days have an opportunity for a hearing before the appointing authority. The employee has twenty days in which to appeal to the Merit System Board. The Board may refer the matter to the

Office of Administrative Law. The Board may thereafter adopt, reject or modify the decision of the Administrative Law Judge.

105.27 Dual Titles for Assessors (Non-Civil Service, Civil Service).

A person appointed to the position of municipal assessor may also hold a Civil Service position. For example, a person might be the appointed assessor, a position requiring reappointment after four years continuous service in order to acquire tenure, and Chief Assistant Assessor under the Civil Service Act, a position from which he may be removed only for reasons such as described in the foregoing section.

105.28 Assessors' Responsibilities to the Citizens.

The assessor is responsible to the citizens of the taxing district for the fair assessment of all property in order that the tax burden be distributed equitably. In the interest of good public relations, it is desirable that the assessor keep the public well-informed on tax assessment matters.

REFERENCES:
N.J.A.C. 18:17-3.3; Assessor Qualification Law.

105.29 Assessors' Responsibilities to the Municipality.

The assessor is responsible to the municipality for proper expenditure of funds allotted to carry out the work of his office. The assessor is also responsible and subject to municipal control for maintaining regular office hours during which he or a member of his staff is to be available to the general public.

REFERENCES:
N.J.S.A. 40A:9-146 as amended L. 2000c. 126 eff. September 21, 2000.
Rules for County Boards of Taxation, N.J.A.C. 18:12A-1.3(1).
Arace v. Township of Irvington, 75 N.J. Super. 258 (Law Div. 1963).
Joseph C. Horner v. Township Committee of the Township of Ocean, 175 N.J. Super. 533 (App. Div. 1980).

105.30 Assessors' Responsibilities to the Director of the Division of Taxation.

The Division of Taxation is empowered to investigate, review, revise and equalize assessments so as to conform with the law and to generally oversee the activities of local tax officials. The assessor is responsible to the Director for following prescribed procedures and using officially promulgated forms. The Division of Taxation's Property Administration, Local Property Branch serves as the administrative agency through which the Director contacts the local assessor regarding required actions and provides advice and assistance where necessary.

REFERENCES:
N.J.S.A. 54:1-1 et seq.

105.31 Assessors' Responsibilities To the County Tax Administrator.

The assessor is accountable to the County Tax Administrator, under supervision and control of the County Board of Taxation, in making assessments in the taxing district.

REFERENCES:
N.J.S.A. 54:3-16
N.J.A.C. 18:12A-1.3(k), (i)

105.32 Assessors to Notify County Tax Administrator When Assuming Office.

Any newly appointed assessor must notify the County Tax Administrator of his appointment within 30 days and provide him with a copy of the resolution of appointment. Notice to the Administrator must include whether the assessor is serving in a full or part-time capacity, in more than one municipality and the names of the municipalities, if multiple, and the hours served in each. Notice must also include hours the assessor's office is open to the public and the hours devoted to field and office duties. It is advisable for the new assessor to meet with the County Tax Administrator to become personally acquainted and to learn what is expected of him by the Administrator and the County Board of Taxation.

REFERENCES:
N.J.A.C. 18:12A-1.3(k)

105.33 Assessor to Notify County Tax Administrator When Terminating Position.

An assessor intending to terminate his position must, within 30 days of the termination date, notify the County Tax Administrator. A departing assessor should inform the Administrator of the status of the assessor's office and the administration of the property tax in the municipality. The assessor should do everything possible to assure that his departure is orderly and to facilitate the transition to the incoming assessor.

105.34 Assessors to Furnish County Tax Administrator with Schedule of Hours.

All assessors must furnish the County Tax Administrator with a schedule of hours annually prior to January 25 as to when they report to the municipality, including office and field hours, and when they or their staff will be available to the public. The County Tax Administrator must summarize the schedule of hours and forward the summary to the Director of the Division of Taxation prior to February 1 annually. The summary, organized in district order, must separately indicate hours of field and office time and hours open to the public. This summary is available on the Division's website at: www.state.nj.us/treasury/taxation/lpt/aaddr.shtml.

REFERENCES:
N.J.A.C. 18:12A-1.3(l) 1-2
Joseph C. Horner v. Township Committee of the Township of Ocean, 175 N.J. Super. 533 (App. Div. 1980).

Lines of Authority for the Tax Assessor

As noted in sections 105.28 through 31, the assessor has responsibilities to the citizens of the municipality, to the municipal governing body, to the County Board of Taxation and County Tax Administrator, and to the Director of the Division of Taxation .

In Jeffers v. City of Jersey City, 8 N.J. Tax 313, 317 (Law Div. 1986), the court stated that, "for some purposes, assessors must be regarded as municipal officials, while, for other purposes they are state officials." The position of the assessor straddles the line between local government and state government, for "[a]lthough his jurisdiction is local, his powers and duties are prescribed by the Legislature, and it is of paramount importance that the integrity of his office be in no way diluted by local interference," Ream v. Kuhlman, 112 N.J. Super. 175, 190 (App. Div. 1970). For further discussion of this topic, see Arace v. Irvington, 75 N.J. Super. 258 (Super. Ct. 1962); Bd. of Taxation v. Belleville, 92 N.J. Super. 338 (Super. Ct. 1966) , aff'd. 95 N.J. Super. 327 (App. Div. 1967) ; Paterson v. Rooney Jr., Docket No. L-2266-72 P.W., decided June 20, 1973.

Assessment Matters		Personnel Matters
County Board of Taxation	**Division of Taxation**	**Municipality**
N.J.S.A. 54:3-16 County tax administrator, under supervision of County Board of Taxation, directs officers in making assessments as per rules of the Board of Taxation as approved by Director, Division of Taxation **N.J.S.A. 54:4-37** County Board of Taxation may remove assessor from office for the failure to file Tax List **N.J.A.C. 18:12A-1.3(1)** Assessor must maintain specific office hours and County Tax Administrator must furnish Director, Division of Taxation with a schedule **N.J.A.C. 18:12A-1.1 et seq.** Regulations pertaining to County Boards of Taxation	**N.J.S.A. 54:1-19** Director may examine assessor under oath concerning assessments upon complaint by county or taxing district **N.J.S.A. 54:1-25** Director may investigate assessor's methodology of property assessments **N.J.S.A. 54:1-27** Director may order assessor to reassess any or all property within the taxing district **N.J.S.A. 54:1-35.25 et seq.** Director to administer assessor certification exam **N.J.A.C. 18:17-1.1 et seq.** Regulations for assessor qualification law **N.J.S.A. 54:1-35.29** Director may revoke C.T.A. and remove assessor from office **N.J.S.A. 54:1-36** Director may remove assessor from office upon complaint of County Board of Taxation **N.J.S.A. 54:1-37** Director initiates removal of assessor from office via action in Superior Court	**N.J.S.A. 40A:9-146** Municipal governing body/chief executive appoints assessor and deputy assessors and sets compensation by ordinance **N.J.S.A. 40A:9-165** Municipal governing body fixes salary and compensation by ordinance. No ordinance may reduce salary of assessor or deny without good cause an increase given to all other municipal officers and employees **Carlson v. City of Hackensack, 410 N.J. Super. 491 (2009)** Municipality may not reduce the salary of assessor during a term, even if the salary is commensurate with a reduction in office hours **Horner v. Twp. Comm. of Ocean, 175 N.J. Super. 533 (App. Div. 1980)** Municipal governing body may pass reasonable ordinances regulating the office hours of the assessor **Casamasino v. City of Jersey City, 158 N.J. 333 (1999)** **and** **Kaman v. Montague Twp. Comm., 158 N.J. 371 (1999)** Assessor reappointment must follow statutory scheme for assessor to receive tenure; assessor continuing in office without proper reappointment is holdover and treated as working at-will **N.J.S.A. 40A:65-4** For shared services agreements, assessor's tenure cannot prohibit sharing of that position; assessor from one of the two entering agreement will retain position; tenured assessor removed because of shared services agreement will be reappointed and regain tenure if the agreement is cancelled or expires within two years of assessor's dismissal

106. Conflict of Interest.

106.01 Assessors' Outside Activities.

Many assessors' positions are not full-time. Certain outside occupations for assessors otherwise employed have been proscribed under the County Board of Taxation ***Rules for County Boards of Taxation.*** No assessor may appear before the Board as an expert witness against another assessor or taxing district within the State, except to defend the assessment of his own taxing district. The assessor should avoid work activities outside his position as assessor from which a strong presumption of conflict of interest could be drawn. Assessors are required to fill out an Outside Employment(OE-1) form to report any employment outside of their public service.

REFERENCES:
N.J.A.C. 18:12A-1.9(l), 18:12A-1.18, 18:12-4.5(a) 1
Attorney General Opinion, 00-0038: Whether a Municipal Assessor May Concurrently Serve as Administrator for the Same Municipality, July 13, 2001.
Attorney General Opinion, 00-0018: Whether a Municipal Assessor May Concurrently Perform Appraisal Services for the Same Municipality in Tax Appeal Cases, July 13, 2001.
Attorney General Opinion, 00-0083: Whether a Municipal Assessor May Concurrently Serve as Zoning Officer for the Same Municipality, July 13, 2001.
Attorney General Opinion, 01-0104: Whether a Municipal Assessor May Purchase Tax Sale Certificates in the Municipality the Assessor Services, July 13, 2001.
Attorney General Opinion, 00-0007: Whether There is a Conflict of Interest When a Person Serves as the Certified Municipal Finance Officer and Also as the Assessor of the Same Municipality, February 22, 2000.
Attorney General Opinion, 96-0103: Whether a Conflict of Interest Arises When an Assessor Engages in Real Estate Activities in the Municipality Where He Serves as Assessor, July 8, 1996.
Informal Letter Opinion: Proposed Conflict of Interest on the Part of an Assessor Simultaneously Employed by a Real Estate Appraisal Firm, October 4, 1979.

106.02 Assessor Placing a Value on Property in which He has an Interest.

The assessor is required to value each parcel of property in the taxing district. This sometimes means the assessor must value a property in which he has a financial interest, creating a potential conflict of interest. One way to avoid this would be for the municipality to employ an outside appraiser. Another means to ensure objectivity would be for the County Board of Taxation, which by law reviews the assessments of all properties in the county, to direct particular attention to properties owned by the assessors under their jurisdiction. Also, if any taxpayer disagrees with the value an assessor has placed upon his own or any other property in the county, the taxpayer may appeal to the County Board of Taxation for a review of the assessment.

REFERENCES:
N.J.S.A. 54:3-21
N.J.A.C. 18:12A-1.6 et seq.
Letter To Benjamin Jager, Sussex County Tax Administrator, from Deputy Attorney General Harry Haushalter, July 30, 1982.

107. Joint Municipal Tax Assessor.

New Jersey statutes provide for the establishment of joint municipal assessor offices. By law, the governing bodies of any two or more municipalities may, by adopting similar ordinances within six months of each other, create and maintain the office of joint municipal assessor.

REFERENCES:
N.J.S.A. 40:48B-14, as amended by P.L. 1995, c. 356

107.01 Agreement of Conditions of Operation.

The agreement adopted by the governing bodies of participating municipalities must provide for the appointment of a joint municipal assessor for a term of four years; for the appointment of other necessary personnel; for the apportionment of office operating costs, and expenses among the participating municipalities; for the addition of other

municipalities in the same county and any other terms and conditions necessary for the establishment and maintenance of the joint tax assessor office.

REFERENCES:
N.J.S.A. 40:48B-15, as amended by P.L. 1995, c. 356; and 40:48B-16

107.02 Approval of Agreement.

The agreement must be approved by resolution of the governing bodies of the participating municipalities prior to its execution. Copies of pertinent ordinances, resolutions, agreements, as well as any amendments, must be filed with both the Director of the Division of Taxation, Department of the Treasury and the Director of the Division of Local Government Services, Department of Community Affairs.

REFERENCES:
N.J.S.A. 40:48B-15 as amended by P.L. 1995, c. 356

107.03 Apportionment of Costs.

Costs and expenses of a joint municipal assessor's office may be based on the apportionment valuations of each participating municipality as per the county abstract of ratables at N.J.S.A. 54:4-49. Costs may also be apportioned using the number of taxable properties, population, budgets and any other factors in the agreement establishing the joint office.

REFERENCES:
N.J.S.A. 40:48B-15, as amended by P.L. 1995, c. 356

107.04 Personnel.

The joint municipal assessor's office should consist of an assessor and such subordinate personnel needed to carry out the assessment function properly in accordance with the law. Any assessor with tenure of office in a municipality entering into a joint municipal assessor arrangement is to be employed on the same basis as a member of the staff of the joint municipal assessor providing they were tenured as of July 27, 1967 the

effective date of the Act. The salary of said assessor member may not be less than he was receiving at the time the joint agreement took effect. By law, all employees of a joint assessor's office are employees of the municipality having the largest apportionment valuation of those participating in the joint arrangement.

REFERENCES:
N.J.S.A. 40:48B-16; 40:48B-17, 40:48B-18; 54:4-49
Attorney General's Opinion 96-0153, November 8, 1996, Joint Assessor Tenure.

107.05 Tenure Lost and Tenure Gained for Joint Municipal Assessor.

Upon forming a joint district, tenure of assessors in each individual district is lost. A newly appointed joint municipal assessor serves for a four year term. If reappointed after serving four years as joint assessor, he then acquires tenure and holds his position during good behavior and efficiency, and may not be removed except for good cause after a hearing before the Director of the Division of Taxation.

REFERENCES:
N.J.S.A. 40:48B-16
Attorney General's Opinion 96-0153

107.06 Records to be Maintained Separately.

The assessment function for the jointly participating municipalities is to be performed in the same manner and extent that it was for each municipality separately. The Tax List and Duplicate, Property Record Cards and all other records for each participating municipality must be maintained separately by the joint assessor.

REFERENCES:
N.J.S.A. 40: 48B-19

107.07 Termination of the Joint Agreement.

Joint arrangements may be ended by resolution of the governing body of one of two participating municipalities or by 2/3's of the governing bodies

of more than two participating municipalities. Ordinarily termination of the office of joint municipal assessor may not take effect sooner than June 30 following the expiration of 12 full calendar months after the adopting by the required number of municipalities. A joint municipal assessor's office may be terminated sooner only by unanimous agreement of the participating municipalities.

REFERENCES:
N.J.S.A. 40:48B-20

108. Interlocal Service Agreements, Shared Service Agreements, and Consolidated Service Agreements.

Administered by the Department of Community Affairs, Division of Local Government Services, they are conceptually similar to Joint Assessing districts and can affect the position of municipal tax assessor.

REFERENCES:
N.J.S.A. 40A:65-1 et seq.

108.01 Common Sense Shared Services Pilot Program Act.

This Act concerns shared service agreements and joint contracts, in certain municipalities, for certain tenured local employees under the Uniform Shared Services and Consolidation Act. The statutory requirement that every municipality must have a tax assessor and any necessary deputy tax assessor as per N.J.S.A. 40A:9-146 may be fulfilled by the sharing of tax assessors and deputy tax assessors under shared service agreements.

108.02 Pilot Program.

The Pilot counties participating are Camden, Morris, Ocean, Sussex, and Warren. Pilot Municipalities are those located in a Pilot county that entered into a shared services agreement. Local employees are tenured municipal assessors, tax collectors, clerks, chief financial officers, treasurers, and certain public works managers. These employees may be

dismissed to effectuate sharing services in the interest of economy and efficiency. In pilot municipalities, tenure rights will not prohibit sharing services of tenured local employees and will allow for the dismissal of tenured employees not selected to be service providers under shared service agreements.

108.03 Shared Service Agreements.

These agreements must be filed with the Department of Community Affairs, Division of Local Government Services, together with an estimate of cost savings. No shared services agreement can be adopted until copies of the agreement are provided to all affected employees at least two weeks before adoption of the resolution and a public hearing has been held. At the public hearing an overview of the agreement terms and estimated cost savings are to be provided. The agent-party chooses, from among the pilot municipalities, one employee who was serving in a particular capacity prior to the shared services agreements.

108.04 Dismissal.

Tenured tax assessors may be dismissed to effectuate sharing services. Such dismissal is deemed to be in the interest of economy and efficiency. The pilot municipality must provide the assessor with a written copy of the shared services agreement and a letter stating that the position of tax assessor was eliminated in the interest of economy and efficiency as a result of a shared services agreement. If the shared services agreement is cancelled or expires within two years of a dismissal, the dismissed individual is to be reappointed to his/her former position with tenure.

REFERENCES:
N.J.S.A. 40A:65-1 et seq.
Public Law 2013, chapter 166, and amending Public Law 2007, chapter 63.
N.J.S.A. 40A:9-146
N. Doman v. Boro of Audubon Camden Sup. Crt. APP. Div. Oct 6, 2011 Docket # CAM-L-R63-11

109. County Boards of Taxation.

Each of New Jersey's 21 counties has a County Board of Taxation to supervise the work of the County Tax Administrator, the municipal assessors and to perform appellate and other administrative functions relative to property taxation.

109.01 Composition of the Boards.

Each County Board of Taxation is to be composed of five members*, to be appointed by the Governor with the advice and consent of the Senate.

Each member must be a resident and citizen of the county in and for which he is appointed. Members are chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than three of the members in a five-member board belong to the same political party.

Exception:
In counties having a population of more than 510,000 (according to the most recent Federal census) there are to be seven members of whom no more than four may belong to the same political party.
*Members are also known as commissioners

REFERENCES:
N.J.S.A. 54:3-2; as amended by P.L. 2005, c. 44

109.02 Officers of the Board.

President – Each County Board of Taxation selects one of its members as president. Some County Boards of Taxation appoint an annual Vice President.

County Tax Administrator – The Board also appoints a County Tax Administrator and with the approval of the governing body of the county other clerical assistants as necessary.

109.03 Length of Terms of Offices.

The term of office for County Boards of Taxation composed of five members (formerly three members) is three years. Counties having a population of more than 510,000 require a tax board composed of seven members (formerly five members) serving five-year terms.

Each term begins on May 1. Should the term of a member expire, that member continues to serve until his successor is appointed. When a member is unable to complete a term, the Governor proceeds with the appointment process to fill the unexpired term with the advice and consent of the Senate. If a vacancy occurs for reasons other than for expiration of the term, e.g. death or resignation, during a recess of the Legislature, the Governor fills the vacancy. That appointment will expire at the end of the next session of the Legislature, unless a successor is appointed and confirmed before the expiration of the legislative term.

REFERENCES:
N.J.S.A. 54:3-3; 54:3-5; 54:3-7 as amended by P.L. 1991, c. 363; and 54:3-9 as amended by P.L. 1991, c. 363.

109.04 Salaries.

The minimum salaries of County Tax Board members and County Tax Administrators are set forth by law based on the county's population. The salaries of members of County Boards of Taxation are paid by the State of

New Jersey. The salary of the County Tax Administrator and other personnel employed by the County Board of Taxation are fixed by the Board of Freeholders and are paid from county funds. The President of each County Board of Taxation receives an additional sum of $2,000 per year.

REFERENCES:
N.J.S.A. 54:3-6 as amended by P.L. 1999, c. 380 eff. Jan 14, 2000
N.J.S.A. 54:3-8 as amended by P.L. 1988, c. 96
N.J.S.A. 54:3-31

109.05 Qualifications of Board Members.

By law, County Tax Board members are chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property.

Each member shall, within 24 months of appointment, (unless the member shall have served as a member of the County Board of Taxation continuously for at least 10 years prior to the effective date of P.L. 1981, c. 516, was reappointed to a five-year term prior to that date, and is currently serving that term), furnish proof that he has received certificates indicating satisfactory completion of Rutgers University Center for Government Services training courses or that he possesses an assessor's certificate. The training courses cover the areas of Property Tax Administration; Fundamentals of Real Property Appraisal; and Income Approach to Value.

If any member does not furnish proof within the 24-month period, the County Tax Administrator must immediately notify the President of the County Board of Taxation and the Director of the Division of Taxation. The Director would then declare the position vacant, and notify the Governor that a vacancy exists. The Governor then appoints, with the

advice and consent of the Senate, a citizen and resident of that county to fill the unexpired term.

REFERENCES:
N.J.S.A. 54:3-2
N.J.A.C. 18:12A-1.2(a),(b),(c).
Deputy Attorney General Letter 94 – 0053: Clarification of the requirement that Commissioners of County Boards of Taxation complete training courses within 24 months of appointment.

109.06 Responsibilities of the President of the County Board of Taxation.

The President presides over meetings of the Board, acts as presiding commissioner at appeal hearings, and as assignment officer in situations where the commissioners sit separately while hearing tax appeals. The President of the County Board of Taxation is responsible for overseeing the writing of memoranda of judgments. Each memorandum must be under his signature, as well as the signature of all other members of the County Board of Taxation who rendered the judgment of that appeal. Each year on or before August 15, the President of the County Board is to forward a written report, Form TAS, to the Director of Division of Taxation summarizing the disposition of the regular tax appeals. Form TAS is available at the Division's website at http://www.state.nj.us/treasury/taxation/pdf/lpt/CountyTaxBoardHandbook.pdf and as Form # 33 in the Handbook for County Boards of Taxation.

REFERENCES:
N.J.S.A. 54:3-5; 54:3-5.1
N.J.A.C. 18:12A-1.2(g)
N.J.A.C. 18:12-A-1.12(b) 3i

109.07 Qualifications of the County Tax Administrator.

After January 1, 1980, no person may be newly appointed as a County Tax Administrator unless he possesses a Tax Assessor Certificate. After 1988, no person may be newly appointed as a County Tax Administrator without four years experience in property tax administration at the State, county or

municipal level and having completed Rutgers training program in tax board administration within 24 months of appointment.

REFERENCES:
N.J.S.A. 54:3-7 as amended by P.L. 1991, c. 363
N.J.S.A. 54:1-35.25
Rules for County Boards of Taxation, N.J.A.C. 18:12A-1.3

109.08 Responsibilities of the County Tax Administrator.

The County Tax Administrator, under supervision of the County Board of Taxation, is responsible for the administrative functions of the Board. Duties include but are not limited to: supervising all officers charged with making assessments in accordance with statutory provisions; and enforcing administrative rules and orders issued by the County Board of Taxation. The County Tax Administrator must develop a county equalization table as provided by the law, and on or before March 1 of each year submit the equalization table to the County Board of Taxation for their review. The County Tax Administrator may appoint clerical assistants as necessary, subject to the personnel policies of the county governing body.

REFERENCES:
N.J.S.A. 54:3-7
N.J.S.A. 43:3-16
N.J.S.A. 54:3-17 and 54:3-18
N.J.A.C. 18:12A-1.3(i)

109.09 Responsibilities of the Board.

The responsibilities of the County Board of Taxation fall into two major categories: administrative and appellate.

109.10 Administrative Duties.

The County Board of Taxation performs seven major administrative functions:

1. **Supervision –** The County Tax Administrator and the County Board members, also known as commissioners, directly supervise municipal assessors in the performance of their duties. The Board may remove an assessor from office for failure to file his Tax List and Duplicate; it may request his removal by the Director of the Division of Taxation in other cases.

REFERENCES:
N.J.S.A. 54:1-36; 54:3-16; 54:4-3

2. **Assessment –** The County Board of Taxation, by resolution, establishes the percentage of true value at which all real property in the county must be assessed, i.e., county percentage level. In addition, the County Board may upon its own initiative act as assessor, inspecting properties, and revising and correcting assessments. Once the Tax List is filed with the County Board of Taxation by the assessor, only the County Board or the assessor under the direction of the Board may make corrections or alterations to the List. If a County Board of Taxation determines that a taxing district needs a revaluation or reassessment it may, with the approval of the Director of the Division of Taxation, order the municipality to undertake one.

REFERENCES:
N.J.S.A. 54:3-15; 54:3-16; 54:4-2.25 to 54:4-2.27; 54:4-46

3. **Equalization –** The County Tax Administrator ascertains the level of assessment in each taxing district and apportions or distributes the costs of county government equitably among the taxing districts in the county. The County Tax Administrator works in cooperation with the assessor and the Division of Taxation. The work is reviewed by the County Board of Taxation. The County Board of Taxation initiates all SR-1A forms and reviews all SR-3A forms, monitors their data input

by local assessors and forwards the completed forms to Property Administration's Local Property Branch of the Division of Taxation.

REFERENCES:
N.J.S.A. 54:3-17
N.J.A.C. 18:12A-1.17

4. **Calculation of Tax Rates** – The County Tax Board prepares a Table of Aggregates (County Abstract of Ratables) annually and calculates the tax rate for each taxing district.

REFERENCES:
N.J.S.A. 54:4-52

5. **Electronic Data Processing** – Under the MOD IV New Jersey Property Tax System, the County Tax Administrator designates the dates for submitting electronic data processing program data. The County Tax Board receives copies of all data changes used for the construction of the tax rolls and satellite reports. Each Board may adopt procedure it considers necessary to implement the specifications in the E.D.P. program as adopted by the Director, Division of Taxation.

REFERENCES:
New Jersey Property Tax System MOD IV (Computer Applications in Tax Administration), January, 1983.
N.J.A.C. 18:12A-1.16(f)(g)

6. **Certifications** – In addition to certifying the County Equalization Table, the County Board of Taxation must by June 15 certify to the Director of the Division of Taxation the amounts of veterans and real property tax deductions allowed by all municipalities in the county, as well as to certify each January to the Chief Financial Officer of the county, the apportionment valuation of all new construction and partial assessments in the county multiplied by the preceding year's County Tax Rate.

REFERENCES:
N.J.S.A. 54:3-17, 18, 19; 54:4-8.52; 54A:10-3
Joint Directive, Implementation of Chapter 68, Laws of 1976, Director, Division of Taxation, and Director, Division of Local Government Services, November 27, 1995.

7. **Annual Report** – On or before August 15, each County Board of Taxation must file an Annual Report with the Director of the Division of Taxation for review. The Director prescribes the form of the Annual Report which must contain: the total number of appeals filed with the County Board; the disposition of the appeals; the character of the appeals filed with regard to property classification; the total of assessments involved in the appeals; the number of appeals in each filing fee category; and the total amount of reductions and increases of assessed valuation granted by the County Tax Board.

REFERENCES:
N.J.S.A. 54:3-5.1

109.11 Appellate Duties.

By far the most important duty the County Board of Taxation has is to hear appeals from taxpayers and taxing districts and direct adjustments to assessments where warranted. Memoranda of judgments rendered are to be in writing and are to set forth the reasons on which the judgment was based, with copies sent to the assessor, the taxpayer, and also the collector where amount of tax is revised. The County Board of Taxation may record all proceedings involving tax appeals, and if recorded, must furnish a transcript of the proceedings to any party to that appeal who requests it upon the payment of a reasonable fee.

REFERENCES:
N.J.S.A. 54:3-14; 54:3-21 to 27
N.J.A.C. 18:12A-1.6; 18:12A-1.11; 18:12A-1.12

109.12 Conflicts of Interest.

The Executive Commission on Ethical Standards, as advised by the Attorney General, has held that County Boards of Taxation are State agencies. Therefore, members of County Boards of Taxation are subject to the New Jersey Conflicts of Interest Law. This law requires every State agency to adopt a code of ethics to guide and govern the conduct of officers and employees in the agency.

REFERENCES:
N.J.S.A. 40A:9-22.1 et seq.
N.J.A.C. 18:124.5(a)1
N.J.A.C. 18:12A-1.18
Attorney General Opinion, 02-0141: Whether Residence or Property Ownership in a Municipality Requires the Per Se Disqualification of a Tax Board Commissioner from Hearing Tax Appeals from that Municipality, July 31, 2002.
Attorney General Opinion, 96-0101: Whether a County Tax Administrator may Accept a Position as a Municipal Tax Assessor in Another County, July 2, 1996.
Informal Opinion No. 91-0141: Whether Commissioners of County Boards of Taxation are Subject to Local Government Ethics Law, November 18, 1991.
Attorney General Opinion, M82-5142: Whether the Positions of Senior Field Representative of a County Board of Taxation and Councilman in a Municipality Within the Same County are Incompatible, September 13, 1982.
Attorney General Opinion, M82-5142: Common Law Doctrine of Incompatibility – County Tax Board Commissioners Cannot Serve as Members of Governing Body in Same County, September 13, 1982. See Jones v. MacDonald, 33 N.J. 132 (1960).
Attorney General Opinion, M80-4660: Meaning of a Full-Time Tax Administrator, February 6, 1981.
Attorney General Opinion, M80-4336: Whether an Individual May Hold the Position of County Tax Administrator While Simultaneously Being a Member of a Municipal Governing Body in the Same County, February 19, 1981.
Attorney General Opinion, M81-4883: Whether the Hunterdon County Tax Administrator is Complying with the Full-time Standard of N.J.S.A. 54:3-7(b) by Virtue of Simultaneously Maintaining a Part-time Position as Tax Assessor in a Municipality in Another County, August 5, 1981.

Attorney General Opinion, M79-4183: Whether a Conflict of Interest Arises by Virtue of a Commissioner of a County Board of Taxation Simultaneously Holding the Position of Mayor of a Taxing District Within the Same County, October 11, 1979.
Attorney General Opinion, M77-3191: Whether a Member of a Local Governing Body Can Maintain that Position and Still Serve as a Member of County Tax Board, February 28, 1977.
Attorney General Opinion, M77-3208: Legality of Dual Office Holding, April 4, 1977.
Executive Commission on Ethical Standards, Advisory Opinion No. 33: County Tax Board Members and Employees are State Employees for the Purposes of the Conflict of Interest Law, September 17, 1975.

109.13 Code of Ethics.

General standards set forth in the Conflicts of Interest Law must be met for any code of ethics adopted by any branch or agency of State government. Each code of ethics must be reviewed by the Attorney General for compliance with the Conflicts of Interest Law and must also be approved by the Executive Commission on Ethical Standards.

REFERENCES:
N.J.S.A. 54:3-3

109.14 Rules.

Through legislation enacted in 1973, all 21 County Boards of Taxation operate under a uniform set of rules first promulgated by the Director of the Division of Taxation on April 13, 1974. In drafting the ***Rules For County Boards of Taxation***, the Director received the assistance of the Association of County Tax Board commissioners and County Tax Administrators; the New Jersey Association of Municipal Assessors; and the New Jersey Bar Association. The rules cover such areas as employment requirements, organization, petitions of appeal, commercial and industrial or multi-dwelling appeals, filing fees, subpoenas, revaluation and assessments, Tax Lists and duplicates, SR-1A and SR-3A forms and conflict of interest. These rules help to ensure uniform operation of the boards and treatment of taxpayers.

109.15 The Open Public Meetings Act.

The Open Public Meetings Act, commonly known as the "Sunshine Law," controls meetings and deliberations of public bodies. "Public bodies" are defined as a body organized by law that is empowered as a multi-member voting body authorized to spend public funds or affect persons' rights. County Boards of Taxation are organized under the law and are subject to the Open Public Meetings Act because they have the power to affect property assessments for taxation which in turn, affects the rights of persons.

REFERENCES:
N.J.S.A. 10:4-6 through 10:4-21

109.16 Notice of Meetings Required.

Adequate notice is required for the public body's regular and special meetings. Normally 48 hours advance notice must be given by prominent posting, filed with an officer of the public body and provided to two newspapers. Publication of a legal notice is not required. An exception is made to the 48 hour advance notice requirement in situations where the matters to be discussed are of such urgency that waiting to give notice would result in substantial harm to the public interest. Even in these situations a three-fourth vote of the members present is required to initiate such a meeting.

REFERENCES:
N.J.S.A. 10:4-9

109.17 Statement of Adequate Notice.

A publicly announced statement is required at every meeting confirming that adequate notice of the meeting was provided. If adequate notice was not provided, a statement of explanation is required.

REFERENCES:
N.J.S.A. 10:4-10

109.18 Meetings Are to be Open to the Public.

No public body is to fail to invite any of its membership to a meeting. All meetings are to be open to the public with the following exceptions: the public may be excluded from that portion of a meeting at which the public body discusses: (1) a matter which by Federal or State law or rule of the court is rendered confidential; (2) a matter in which release of information would impair a right to receive funds from the U.S. government; (3) disclosure of any material which constitutes an unwarranted invasion of individual privacy; (4) any collective bargaining agreement or negotiation; (5) any matter involving the purchase or acquisition of real property with public funds or investment of public funds where the discussion of the matter could hurt the public interest; (6) any tactics and techniques utilized in protecting the safety and property of the public if their disclosure would impair protection; (7) any investigation of violations or possible violations of the law; (8) any pending or anticipated litigation or contract negotiation in which the public body might become a party; (9) any matter involving the employment, appointment conditions or termination, evaluation or disciplining of any public officer or employee, unless such public officer or employee requests in writing that the matter be discussed at a public meeting; (10) any deliberations of a public body after a public hearing that may result in a specific civic penalty upon the responding party.

REFERENCES:
N.J.S.A. 10:4-12 as amended by P.L. 2008, c. 14

109.19 Resolution Required For Closed Meeting.

To exclude the citizenry from a meeting for the purpose of discussing any matters described in the foregoing paragraph, the public body must first adopt a resolution at a publicly attended meeting. The resolution must indicate the general nature of the subject to be discussed and include a statement as to when the circumstances of the closed session can be made public.

REFERENCES:
N.J.S.A. 10:4-13

109.20 Minutes of Meetings to be Kept.

Minutes of all meetings of a public body are to be maintained showing the time and place, the members present, the subjects considered, the actions taken, the vote of each member and any other information required by law to be shown in the minutes.

REFERENCES:
N.J.S.A. 10:4-14

109.21 Notice of Regularly Scheduled Meetings to be Posted.

At least once a year, within seven days following the annual reorganization meeting, or if there is no reorganization meeting then not later than January 10 of each year, every public body must post in at least one public place and keep posted throughout the year a schedule of its regular meetings. The meeting schedule must also be mailed to at least two newspapers which are most likely to inform the public in the area affected, and must be filed with the Clerk of the County (in the case of County Boards of Taxation) and should be sent to Director, Division of Taxation.

REFERENCES:
N.J.S.A. 10:4-18

109.22 Contents of the Schedule of Meetings.

The schedule of meetings must give the location, time and date of each meeting. If a schedule is revised the public body, within seven days, must post, mail and file any revision in the manner described above.

REFERENCES:
N.J.S.A. 10:4-18

109.23 Schedules to be Made Available Upon Request.

The public body must, upon request of any person, mail copies of the regular meeting schedule and any revisions. If a person requests it, the public body must mail written advance notice of all its meetings. A charge may be fixed by resolution of the public body to cover the cost of providing notices.

REFERENCES:
N.J.S.A. 10:4-19

110. The Tax Court of New Jersey.

The Tax Court was established by legislation in 1978, and became operational July 1, 1979. The Tax Court replaced the Division of Tax Appeals and assumed jurisdiction over the hearing of appeals filed by taxpayers and taxing districts from rulings and judgments of County Boards of Taxation concerning assessments and equalization tables. For properties where the assessed value exceeds $1,000,000 a complaint may be made directly with the Tax Court bypassing appeal to the County Tax Board. The Tax Court also hears complaints from rulings and determinations of the Director of the Division of Taxation, other state officials, and county recording officers with regard to Realty Transfer Fee matters.

REFERENCES:
N.J.S.A. 2B:13-1, 2B:13-2, 2B:13-14
N.J.S.A. 54:3-21 as amended by P.L. 2009, c. 251
Rules of the Tax Court, 8:3-4(b), (c), (d).

110.01 Operation of the Tax Court.

The Tax Court is subject to rules of the Supreme Court. It is a court of record. Decisions of the Tax Court are to be published as directed by the Supreme Court. The Tax Court operates in a “de novo” fashion hearing

all issues of fact and law that come before it. That is, both previously presented evidence and new evidence may be accepted.

REFERENCES:
N.J.S.A. 2B:13-1b, 2B:13-3

110.02 Small Claims Division.

The Small Claims Division of the Tax Court has jurisdiction in the following types of cases.

1. A proceeding for refund for any year for which the refund amount claimed does not exceed $5,000, exclusive of interest and penalties;

2. A proceeding to set aside additional taxes assessed or taxes assessed in any year where the disputed amount does not exceed $25,000, exclusive of interest and penalties.

REFERENCES:
N.J. Court Rules, R. 8:11 (2011).

110.03 Appeals from Decisions of the Tax Court.

Appeals from decisions of the Tax Court are to be made to the Appellate Division of the Superior Court.

REFERENCES:
N.J.S.A. 2B:13-4

110.04 Composition of the Tax Court.

The Tax Court consists of not less than six nor more than twelve judges who are appointed by the Governor with the advice and consent of the State Senate. Each judge must have been admitted to practice law in the State at least ten years prior to his appointment. Judges are chosen for their special qualifications, knowledge and experiences in matters of taxation.

REFERENCES:
N.J.S.A. 2B:13-6

110.05 Presiding Judge Appointed.

The Chief Justice of the New Jersey Supreme Court appoints a presiding judge from one of the judges of the Tax Court. The presiding judge is responsible for the administration of the Tax Court and works under the supervision of the Chief Justice and the Administrative Director of the New Jersey Courts.

REFERENCES:
N.J.S.A. 2B:13-10

110.06 Annual Report.

Yearly, the presiding judge is to present a written report to the Chief Justice of the Supreme Court. The nature of the contents of the report is set forth by law.

REFERENCES:
N.J.S.A. 2B:12-11

110.07 Term of Office.

Judges of the Tax Court are initially appointed for seven-year terms. Upon reappointment, a judge holds office during good behavior. Tax Court judges are to be retired upon reaching 70 years of age.

REFERENCES:
N.J.S.A. 2B-13.7

110.08 Removal.

Judges of the Tax Court are subject to impeachment, and removal from office by the Supreme Court for the same causes judges of the Superior Court would be removed. In cases of a Tax Court judge's incapacitation and if the Supreme Court certifies to the Governor, the Governor is to appoint a commission of three persons to inquire into the circumstances. Upon recommendation of this commission, the Governor may retire the judge from office on pension.

REFERENCES:
N.J.S.A. 2B:13-9 a and b

110.09 Clerk Appointed.

The Supreme Court has the responsibility of appointing the Clerk and Deputy Clerk of the Tax Court to serve at its pleasure. The Clerk of the Tax Court assigns cases to the Small Claims Division of the Tax Court based on examination of the complaint (petition of appeal) to determine jurisdiction.

REFERENCES:
N.J.S.A. 2B:13-14, 2B:13-15

Chapter 2 Constitutional and Statutory Basis of Assessing

201. The New Jersey Constitution.

The current State Constitution was adopted at the general election of 1947 and became effective January 1, 1948. New Jersey's two prior Constitutions date from 1776 and 1844 respectively. The Constitution of the State of New Jersey establishes the basis for the taxation of property within the State. The pertinent sections have been reproduced here to provide an understanding of the foundation from which all implementing statutes are derived.

201.01 Constitutional Excerpts Re: Assessment.

The New Jersey Constitution of 1947 at Article VIII, Section 1, Paragraphs 1 through 7 and Section 3, Paragraph 1 provides:

201.02 Section 1, Par. 1. Uniformity in Taxation; Farmland Assessment.

Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.

The Legislature shall enact laws to provide that the value of land, not less than 5 acres in area, which is determined by the assessing officer of the taxing jurisdiction to be actively devoted to agricultural or horticultural use and to have been so devoted for at least the 2 successive years immediately preceding the tax year in issue, shall, for local tax purposes, on application of the owner, be that value which such land has for

agricultural or horticultural use. Any such laws shall provide that when land which has been valued in this manner for local tax purposes is applied to a use other than for agriculture or horticulture it shall be subject to additional taxes in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued and assessed as otherwise provided in this Constitution, in the current year and in such of the tax years immediately preceding, not in excess of 2 such years in which the land was valued as herein authorized. Such laws shall also provide for the equalization of assessments of land valued in accordance with the provisions hereof and for the assessment and collection of any additional taxes levied thereupon and shall include such other provisions as shall be necessary to carry out the provisions of this amendment.

(As adopted in the general election of November 4, 1947; as amended in the general election of November 5, 1963.)

201.03 Section 1, Par. 2. Exemptions.

Exemptions from taxation may be granted only by general laws. Until otherwise provided by law all exemptions from taxation validly granted and now in existence shall be continued. Exemptions from taxation may be altered or repealed, except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit.

(As adopted in the general election of November 4, 1947.)

201.04 Section 1, Par. 3. Exemptions to Honorably Discharged Veterans.

Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service

in time of war or of other emergency as, from time to time, defined by the Legislature, in any branch of the Armed Forces of the United States shall be entitled, annually, to a deduction from the amount of any tax bill for taxes on real and personal property, or both, including taxes attributable to a residential unit held by a stockholder in a cooperative or mutual housing corporation, in the sum of $50.00 or if the amount of any such tax bill shall be less than $50.00, to a cancellation thereof, except that the deduction or cancellation shall be $100 in tax year 2000, $150 in tax year 2001, $200 in tax year 2002 and $250 in each tax year thereafter. Any person hereinabove described who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability, shall be entitled to such further deduction from taxation as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has met or shall meet his death on active duty in time of war or of other emergency as so defined in any such service shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this paragraph provided for honorably discharged veterans and to such further deduction as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has had or shall hereafter have active service in time of war or of other emergency as so defined in any branch of the Armed Forces of the United States and who died or shall die while on active duty in any branch of the Armed Forces of the United States, or who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in time of war or of other emergency as so defined in any branch of the Armed Forces of the United States shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this

paragraph provided for honorably discharged veterans and to such further deductions as from time to time may be provided by law.

(As adopted in the general election of November 4, 1947; as amended in the general elections of November 3, 1953, November 5, 1963, November 8, 1983 and November 8, 1988, amended December 2, 1999.)

201.05 Section 1, Par. 4. Homestead Exemption for Persons Age 65 or Over. The Legislature may, from time to time, enact laws granting an annual deduction from the amount of any tax bill for taxes on the real property, and from taxes attributable to a residential unit in a cooperative or mutual housing corporation, of any citizen and resident of this State of the age of 65 or more years, or any citizen and resident of this State less than 65 years of age who is permanently and totally disabled according to the provisions of the Federal Social Security Act, residing in a dwelling house owned by him which is a constituent part of such real property, or residing in a dwelling house owned by him which is assessed as real property but which is situated on land owned by another or others, or residing as tenant-shareholder in a cooperative or mutual housing corporation, but no such deduction shall be in excess of $160.00 with respect to any year prior to 1981, $200.00 per year in 1981, $225.00 per year in 1982 and $250.00 per year in 1983 and any year thereafter and such deduction shall be restricted to owners having an income not in excess of $5,000.00 per year with respect to any year prior to 1981, $8,000.00 per year in 1981, $9,000.00 per year in 1982 and $10,000.00 per year in 1983 and any year thereafter, exclusive of benefits under any one of the following:

a. The Federal Social Security Act and all amendments and supplements thereto;
b. Any other program of the federal government or pursuant to any other federal law which provides benefits in whole or in part in lieu of benefits referred to in, or for persons excluded from coverage under, a.

hereof including but not limited to the Federal Railroad Retirement Act and federal pension, disability and retirement programs; or

c. Pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under a. hereof; provided, however, that the total amount of benefits to be allowed exclusion by any owner under b. or c. thereof shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under a. hereof.

The surviving spouse of a deceased citizen and resident of this State who during his or her life received a deduction pursuant to this paragraph shall be entitled, so long as he or she shall remain unmarried and a resident of the same dwelling house situated on the same land with respect to which said deduction was granted, to the same deduction, upon the same conditions, with respect to the same real property or with respect to the same dwelling house which is situated on land owned by another or others, or with respect to the same cooperative or mutual housing corporation, notwithstanding that said surviving spouse is under the age of 65 and is not permanently and totally disabled, provided that said surviving spouse is 55 years of age or older. Any such deduction when so granted by law shall be granted so that it will not be in addition to any other deduction or exemption, except a deduction granted under paragraph 3 of this section, to which the said citizen and resident may be entitled but said citizen and resident may receive in addition any homestead rebate or credit provided by law. The State shall annually reimburse each taxing district in an amount equal to one-half of the tax loss to the district resulting from the allowance of deductions pursuant to this paragraph.

(As adopted in the general election of November 3, 1960; as amended in the general election of November 5, 1963, November 3, 1970, November 2, 1971, November 4, 1975, November 4, 1980, November 6, 1984 and November 8, 1988.)

201.06 Section 1, Par. 5. Property Tax Credits.

The Legislature may adopt a homestead statute which entitles homeowners, residential tenants and net lease residential tenants to a rebate or a credit of a sum of money related to property taxes paid by or allocable to them at such rates, and subject to such limits, as may be provided by law. Such rebates or credits may include a differential rebate or credit to citizens and residents who are of the age of 65 or more years, or less than 65 years of age who are permanently and totally disabled according to the provisions of the Federal Social Security Act, or are 55 years of age or more and the surviving spouse of a deceased citizen or resident of this State who during his lifetime received, or who, upon the adoption of this amendment and the enactment of implementing legislation, would have been entitled to receive a rebate or credit related to property taxes.

(As adopted in the general election of November 4, 1975; as amended in the general election of November 2, 1976, amended December 2, 1976.)

201.07 Section 1, Par. 6. Property Tax Exemptions Authorized in Areas in Need of Rehabilitation.

The Legislature may enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such building or structures are erected and which is necessary for the fair enjoyment thereof. Such exemptions shall be for limited periods of time as specified by law, but not in excess of 5 years.

(As adopted at the general election of November 4, 1975. Added effective December 4, 1975.)

201.08 **Section 1, Par. 7. a. Distribution of Personal Income Tax Revenue.**

No tax shall be levied on personal incomes of individuals, estates and trusts of this State unless the entire net receipts therefrom shall be received into the treasury, placed in a perpetual fund designated the Property Tax Relief Fund and be annually appropriated, pursuant to formulas established from time to time by the Legislature, to the several counties, municipalities and school districts of this State exclusively for the purposes of reducing or offsetting property taxes. In no event, however, shall a tax so levied on personal incomes be levied on payments received under the federal Society Security Act, the federal Railroad Retirement Act, or any federal law which substantially reenacts the provisions of either of those laws.

201.09 **Section 1, Par. 7. b.**

There shall be annually credited from the General Fund and placed in a special account in the perpetual Property Tax Relief Fund established pursuant to this paragraph, which account shall be designated the Property Tax Reform Account, an amount equal to the annual revenue derived from a tax rate of 0.5% imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1et seq.), as amended and supplemented, or any other subsequent law of similar effect, which amount shall be appropriated annually by the Legislature exclusively for the purpose of property tax reform.

Article VIII, Section I, paragraph 7 added effective December 2, 1976; amended effective December 6, 1984; amended effective December 7, 2006.

(As adopted in the general election of November 2, 1976; as amended the general election of November 6, 1984.)
(Sec. 1 above is as last amended in the general election of November 8, 1988.)

201.10 Section 3, Par. 1. Clearance and Development of Blighted Areas; Exemption from Taxation.

The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment; and improvements made for these purposes and uses, or for any of them, may be exempted from taxation, in whole or in part, for a limited period of time during which the profits of and dividends payable by any private corporation enjoying such tax exemption shall be limited by law. The conditions of use, ownership, management and control of such improvements shall be regulated by law.

(As adopted at the general election of November 2, 1947.)

REFERENCES:

Constitutional excerpt taken from Assessors' Law Manual, July, 1998.

201.11 Constitutional Amendments.

Amendments to Constitutional provisions require not only the approval (3/5ths of the members of each house or by a majority of the members of each house) of both the N.J. Senate and Assembly but also a majority of the State's voters by referendum ballot at a general election.

201.12 Constitutional Standards for Property Valuation.

While the Constitution at Section 1, part 1, paragraphs 1 and 2, requires that property be assessed for taxation under "general laws and by uniform rules," it authorizes different treatment of real and personal property, as well as qualified agricultural and horticultural land. All real property must be assessed according to the "same standard of value" except for qualified agricultural or horticultural land which is assessed based on its farm use. No specific Constitutional standard of value is provided for real property other than qualified farmland. The Legislature and Governor may adopt

any standard of value as long as it is applied to all real property. The assessment of personal property is not bound by the "same standard of value" requirement for real property. The Legislature and Governor are free to divide personal property into classes and to provide different standards of value for the different classes, provided it is done by law and under uniform rules.

REFERENCES:
N.J. Constitution, Article VIII, IX
N.J.S.A. 54:4-1 et seq.

202. Property Tax Laws.

All statutes, to be valid, must conform to the provisions of the Constitution. Property taxation statutes are found in Title 54 of both the ***Revised Statutes of New Jersey, 1937*** and the ***New Jersey Statutes Annotated.*** Many of these laws are reprinted in the ***Assessors' Law Manual,*** July 1998. The assessor should also have some familiarity with portions of N.J.S.A. Title 18, which deals with education, and N.J.S.A. Title 40, which covers the operation of counties and municipalities. Regulations and guidelines for new laws of importance to assessors are often issued by the Director of the Division of Taxation. The **New Jersey Administrative Code** is a comprehensive compilation of these rules and regulations which carries the force of law. Property tax guidelines are codified in N.J.A.C. Title 18.

202.01 Statutory Basis Real and Personal Property Valuation.

Title 54 of **N.J. Statutes Annotated** at Chapter 4, Article 1 provides, "All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. Such property shall be valued and assessed at the taxable value

prescribed by law. Land in agricultural or horticultural use which is being taxed under the "Farmland Assessment Act of 1964," P.L. 1964, c.48 (C.54:4-23.1 et seq.) shall be valued and assessed as provided by that act…."

202.02 Real Property Value Standards.

N.J.S.A. 54:4-2.25 provides, "All real property subject to assessment and taxation for local use shall be assessed according to the same standard of value, which shall be the true value of such real property and the assessment shall be expressed in terms of the taxable value of such property, which taxable value shall be that percentage of true value as shall be established by each County Board of Taxation as the level of taxable value to be applied uniformly throughout the county."

202.03 True Value i.e. Market Value.

"True Value" is defined in N.J.S.A. 54:4-23 as the "…full and fair value of each parcel of real property situate in the taxing district at such price as, in his [the assessor's] judgment, it would sell for at a fair and bona fide sale by private contract on October 1 next preceding the date on which the assessor shall complete his assessments…"

202.04 Taxable Value.

Real property is assessed for taxation at some *percentage of its true value established by each of the 21 county boards of taxation. Per N.J.S.A. 54:4-2.26, "Every percentage level of taxable value of real property established by a County Board of Taxation shall be expressed as a multiple of 10%, and no level so established shall be lower than 20% or higher than 100% of the standard of value." Per N.J.S.A. 54:4-2.27, "Each County Board of Taxation shall, by resolution, establish the percentage level of taxable value of real property … on or before April 1

of the year preceding the tax year, and the level so established shall be applied uniformly in such county for the purpose of assessing the taxable values to be used in levying taxes for the calendar year next succeeding the year in which such level was established. The level so established may be altered by any such board by establishing, on or before the date fixed by this section in any year, a new level; but the percentage level last established pursuant to this act shall remain in full force and effect for a period of not less than 3 years and until altered as provided in this section. In the event that the County Board of Taxation for any county shall fail to initially establish the percentage level for such county, then until the same shall be done the level of assessment shall be 50% of the true value…" The true value multiplied by the county percentage level is known as the taxable value. The assessing date is October 1 of the pretax year. 2012 property taxes would be levied on the taxable value of real property as of October 1, 2011.

* The county percentage level is currently 100% for all counties in New Jersey.

REFERENCES:
N.J.S.A. 54:4-1 et seq., 54:4-23, 54:4-2.25, 26 and 27

202.05 Farm Property Value Standards - Land.

N.J.S.A. 54:4-23.2 provides, "For general property tax purposes, the value of land,… [qualified farmland] shall "…be that value which such land has for agricultural or horticultural use." N.J.S.A. 54:4-23.7 further provides that "…in valuing land which qualifies as land actively devoted to agricultural or horticultural use…consider only those indicia of value which such land has for agricultural or horticultural use…the assessor shall consider available evidence of agricultural or horticultural capability derived from the soil survey data at Rutgers, The State University, the National Co-operative Soil Survey, and the recommendations of value of

such land as made by any county or State-wide committee which may be established to assist the assessor."

202.06 Farm Property Value Standards - Structures.

N.J.S.A. 54:23.12 provides "All structures, which are located on land in agricultural or horticultural use and the farmhouse and the land on which the farmhouse is located, together with the additional land used in connection therewith, shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable structures and other land in the taxing district, regardless of the fact that the land is being valued, assessed and taxed pursuant to P.L. 1964, c.48 (C.54:4-23.1 et seq.): provided, however, that the term "structures" shall not include "single-use agricultural or horticultural facilities."

202.07 Personal Property Value Standards – True Value.

N.J.S.A. 54:4-2.44 provides, "The standard of value according to which tangible personal property used in business subject to taxation shall be assessed shall be the true value thereof. Such assessment shall be expressed in terms of the taxable value of the property."

202.08 Personal Property Value Standards – Taxable Value.

N.J.S.A. 54:4-2.45 provides, "The true value of taxable tangible personal property used in business…shall be presumed to be the original cost of such property less depreciation as of the assessment date,…provided that the true value of depreciable property shall, so long as such property remains in use or is held for use, be presumed to be not less than 20% of its original cost." The assessing date is January 1 of the pretax year.

REFERENCES:
N.J.S.A. 54:4-1 et seq.; 54:4-2.44, 2.45 and 2.46
Verizon New Jersey Inc. v. Hopewell Borough, 26 N.J. Tax 400, (Tax Court 2012).

203. Property Types Defined.

203.01 Real Property.

Most property will fall readily into either the real or personal category. Borderline cases must be considered carefully since the classification will have far-reaching consequences, particularly for equalization programs. Real property consists of the land and any objects attached to the land in a permanent manner, such as trees, improvements, buildings, and permanent railroad trackage. Real Property incorporates the bundle of rights issuing from and exercised with ownership of property. Rights include the right to sell, lease, use, give away, enter/exit the property, and to refuse to do any of the above(also known as SLUGER).

203.02 Personal Property.

Personal property is defined by exception as all other property that is not considered real property. The common characteristic of personal property is its movability without damage to itself or to the real estate to which it may be attached. There are two categories of personal property, tangible and intangible. Tangible personal property is that which has physicality. The only tangible personal property currently taxed in New Jersey is that of local exchange telephone, , companies, excluding inventories, and certain personal property of petroleum refineries. Intangible personal property, such as cash, accounts receivable, and securities, is not subject to the property tax in New Jersey.

Fixture-is a tangible thing, which was previously personal property, but which has been attached to the land or installed in a structure on the land in such a way as to become part of the real estate. A thing is considered to be affixed to the building when it is attached to it by its roots, imbedded in it, permanently resting on it, or permanently attached to it by cement,

plaster, nails, bolts, screws, etc. Examples: built in bookcases and cabinets, elevators.

Chattels-are usually defined and treated as personal property. Chattel Interest-is a non-ownership right in real estate such as a leasehold, an easement or a lien.

Net Lease-the tenant pays, in addition to the fixed rent, all property expenses normally incurred by the owner including real estate taxes, insurance, maintenance, repairs, and utilities.

Gross Lease-the tenant pays a flat rental amount and the landlord pays all property expenses incurred through ownership.

REFERENCES:
N.J.S.A. 54:4-1; 54:4-1.12
P.L. 1986, c. 117 as amended P.L. 1992, c.24; P.L. 1997 c. 162.
Verizon New Jersey Inc. v. Hopewell Borough, 26 N.J. Tax 400, (Tax Court 2012).

203.03 Three Pronged Test – Real vs. Personal, Real Property Liability for Taxation.

All real property is subject to taxation in the taxing district in which it is located unless exempted by provision of law or by the State or Federal Constitutions. Real property is defined to mean all land and improvements including personal property affixed to them unless:

a. 1. The personal property so affixed can be removed or severed without material injury to the real property;

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

3. The personal property so affixed is not ordinarily intended to be affixed permanently to real property: or

b. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property.

REFERENCES:
N.J.S.A. 54:4-1
P.L. 1986, c. 117 as amended P.L. 1992, c.24; P.L. 1997, c. 162.

203.04 Outdoor Advertising Sign, (Bill Board) Structure – Real Property.

Notwithstanding the provisions of N.J.S.A. 54:4-1, an outdoor advertising sign required to be permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L. 1991, c. 413 (C.27:5-5 et seq.), the sign's supporting structure having the primary purpose of supporting the outdoor advertising sign, its other constituent parts, and the foundation if any to which the supporting structure is attached, are deemed to be real property.

REFERENCES:
N.J.S.A. 54:4-1.20; L.2004,c.42,s.14.

203.05 Storage Tanks.

For definitive purposes, the Legislature has declared storage tanks having a capacity of more than 30,000 gallons to be real property.

REFERENCES:
N.J.S.A. 54:4-1.20; L.2004,c.42,s.14.

203.06 Personal Property Subject to and Liability for Taxation.

Personal property subject to taxation at the local level includes "…only the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of

the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, 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 and the tangible goods and chattels, exclusive of inventories, used in the business of local exchange telephone, telegraph and messenger systems, companies, corporations or associations." Such personal property is to be taxed in the municipality where it is located at the general real property tax rate, of the taxing district, applied to the taxable value of personal property.

REFERENCES:
N.J.S.A. 54:4-1, 54:4-1.13 et seq., 54:4.2.44 et seq.
Verizon New Jersey Inc. v. Hopewell Borough, 26 N.J. Tax 400, (Tax Court 2012).

203.07 Business Retention Act.

Business Retention Act, Public Law 1992, Chapter 24, amended Revised Statutes 54:4-1 and Public Law 1986, Chapter 117 and redefined real and personal property to reaffirm the broad exclusion from local property taxes of certain business personal property.

204. Property Not Subject To Taxation.

Property may be exempted from taxation only by constitutional provision or by general laws. Property may be exempted from all property taxes or a specified dollar amount. Exemptions are discussed in detail in Chapter 4.

205. Property Subject To Taxation Under Special Conditions.

AGRICULTURAL and HORTICULTURAL LAND

N.J.S.A. 54:4-23.1 et seq.; Farmland Assessment Act of 1964;L. 1964, c. 48 as amended.

MOBILE HOMES

N.J.S.A. 54:4-1.2 et seq.; Manufactured Home Taxation Act; L. 1983, c. 400.

PERSONAL PROPERTY

N.J.S.A. 54:4-1 and 54:4-1.13 et seq.; Business Retention Act; L. 1992, c. 24.

LOCAL REDEVELOPMENT AND HOUSING LAW

N.J.S.A. 40A:12A-1 et seq.; P.L.1992, c. 79.

LOCAL TERM TAX EXEMPTION LAW

N.J.S.A. 40A:20-1 et seq.; P.L. 1991, c.431 as amended by P.L. 2003, c. 125.

FIVE-YEAR TAX EXEMPTION AND ABATEMENT LAW

N.J.S.A. 40A:21-1 et seq.; P.L. 1991, c.441 as amended by P.L.2007, c. 268.

HOUSING AND MORTGAGE FINANCE AGENCY PROJECT TAX EXEMPTION LAW

N.J.S.A. 55:14K-37; P.L. 1983, c. 530.

URBAN ENTERPRISE ZONE RESIDENTIAL TAX ABATEMENT LAW

N.J.S.A. 54:4-3.139 et seq.; P.L. 1989, c.207 as amended by P.L.1991, c. 469.

ENVIRONMENTAL OPPORTUNITY ZONE ACT

N.J.S.A. 54:4-3.150 et seq.; P.L. 1995, c.413 as amended by P.L.1997, c. 278.

PUBLIC UTILITY PROPERTY

N.J.S.A. 54:30-1 et seq.; and 54:30A-16 et seq. as amended.

RAILROAD PROPERTY

N.J.S.A. 54:29A-1 et seq.; Railroad Tax Law of 1948; L. 1948, c. 40 as amended.

(Property assessed and taxed under special conditions is more fully explained in Chapters 4, 5 and 6.)

206. Legal Sources.

The laws of New Jersey affecting property taxation are found in several published sources.

206.01 Session Laws.

The ***"Session Laws"*** or ***"Pamphlet Laws"*** are laws passed each year during the legislative session and signed by the Governor. A separate volume is compiled annually in numerical order and indexed by subject matter. They are referred to by their chapter and year of enactment. For example, the two hundred and thirteenth law enacted in 2009 is known as

Chapter 213 of the Laws of 2009. The abbreviated citation of this law would be L. 2009, c. 213.

206.02 Revised Statutes of New Jersey, 1937.

Periodic revisions bring together all of the general legislation in effect. The last revision took place in 1937 when existing State legislation was collected, codified, reauthorized, and published in five volumes as the ***Revised Statutes of New Jersey, 1937.*** Statutes enacted since 1937 have been collected in several supplements. The supplements are not cumulative; that is, they contain only the laws passed during certain designated years. The numbering system used in the Revised Statutes bring together all effective statutes concerning the same subject using a series of Titles, Chapters, and Sections. "Chapters" here should not be confused with "Chapters" for the Session Laws. All general statutes are grouped into fifty nine Titles; the Titles are divided into Chapters, and the Chapters into Sections. For instance, R.S. 54:4-3.25 means ***Revised Statutes of New Jersey, 1937,*** Title 54, Chapter 4, Section 3.25.

206.03 New Jersey Statutes Annotated.

New Jersey Statutes Annotated is a series of commercially published volumes. It includes all of the effective laws of the State usually using the same numbering system as the ***Revised Statutes of New Jersey, 1937.*** For example, N.J.S.A. 54:4-3.25 is the same law as R.S. 54:4-3.25. The ***New Jersey Statutes Annotated*** are updated with "pocket part" supplements printed every year for each volume of the series. The supplement is kept in a flap at the end of the volume and is cumulative; that is, it reprints all laws enacted and still in effect since the basic volume was printed. Included also are annotations concerning legal history, previous statutes, and court decisions.

206.04 Other Commercial Sources.

A number of other compilations of New Jersey tax statutes are published commercially such as Commerce Clearing House's ***New Jersey Tax Reports*** and Prentice-Hall's ***State and Local Tax Service*** and should be available on-line too.

206.05 Assessors' Law Manual.

The ***Assessors' Law Manual,*** last revised in July 1998, reprints statutes relating to local taxation of property and to the assessor. It is issued by the N.J. Division of Taxation, Property Administration, Local Property Branch and is provided to the assessor's office in each taxing district. The ***Assessors' Law Manual*** excerpts the New Jersey Constitution, much of the first four chapters of Title 54 pertaining to property taxation and portions of Title 40 regarding the municipal assessor's office, the assessor's term, etc. A system of numbered paragraphs identifies each subject. The laws reprinted in the ***Manual*** are identified both by their designations from the ***Revised Statutes*** and ***Commerce Clearing House, New Jersey Tax Reports*** as Sec. 54:4-3.25 and as Par. 94-593 respectively. A subject-matter index refers the user to the text of the law by the Commerce Clearing House paragraph designation only. Although the Assessors' Law Manual is a convenient, ready reference because it gathers into one volume much of local property tax law, it should be used with care as it does not reflect any constitutional or statutory changes occurring after 1998. When using the Manual, assessors should try to compare its content to the most current informational source available for the subject in question to ensure that it is still accurate.

206.06 New Jersey Administrative Code.

The New Jersey Administrative Code (N.J.A.C.) is the official publication of the Office of Administrative Law (OAL) and contains all

effective rules adopted by agencies. Each agency's body of rules is codified in a title of the Code. Each title contains a chapter table of contents and an index. Each individual chapter also contains a table of contents. The ***Code*** is annotated to provide the reader with a complete context in which to analyze the rules. Annotations include: legislative authority for the rulemaking; source and effective date of the rules; historical notes which discuss prior regulatory activity; Executive Order #66 (1978) expiration date; and case notes, (which are salient New Jersey Court and OAL cases, and Formal Attorney General Opinions).

206.07 Title 18 Department of Treasury – Taxation.

Title 18 Department of Treasury – Taxation, Subtitle F Local Property and Public Utility Branch covers Senior Citizen Deductions, Veteran Deductions, Disabled Veteran Exemptions, Farmland Assessment, Realty Transfer Fees, Assessor Qualification Law, County Board of Taxation, Railroad Property Tax, Tax Maps and general issues. All State agency rulemaking activities must be submitted to the Office of Administrative Law for review of technical, substantive and legal conformance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30 Table 2.1 compares the legal citation methods for a single law.

207. The Path of Legislation in New Jersey.

207.01 Bill Drafting.

1. Bill Drafting A legislator from either the Senate or Assembly may sponsor a bill at the suggestion of a constituent, interest group, public official or the Governor. The legislator may ask other legislators in the same House to join as co-sponsors. At the legislator's direction, the

nonpartisan Office of Legislative Services provides research and drafting assistance and prepares the bill in proper technical form.

207.02 Introduction of the Bill.

2. Introduction of the Bill During a session, the sponsoring legislator gives the bill to the Secretary of the Senate or Clerk of the General Assembly, who reads the bill title aloud. This is known as the first reading. The bill is then printed and released to the public.

207.03 Committee Reference and Action.

3. Committee Reference and Action The President of the Senate or Speaker of the General Assembly usually refers the bill to a committee for review, but may send it directly to second reading to speed consideration. When scheduled by the chair, the committee considers the bill at an open public meeting. The committee may report the bill to the House as is, with amendments, or by a substitute bill. If not considered or reported, the bill remains in committee.

207.04 Second and Third Reading.

4. Second and Third Reading When the bill is reported to the floor (or referred directly without committee review), its title is read aloud for the second reading. The bill may now be amended. When scheduled by the President or Speaker, the bill is given a third reading, debated and voted upon. To ensure thorough consideration, rules prohibit a second and third reading on the same day except by an emergency vote of three-quarters of the members.

207.05 House Vote.

5. House Vote A bill passes each House when approved by a majority of authorized members (21 votes in the Senate, 41 in the Assembly).

When a bill is delivered to the second House, it will go through the same process of first reading, committee action, second reading and final vote. If the second House amends the bill, it is returned to the first House for a vote on the changes. A bill receives final legislative approval only when it passes both Houses in identical form.

207.06 Governor's Action.

6. Governor's Action After legislative passage, the bill is sent to the Governor. The Governor may sign it, conditionally veto it (returning it for changes) or veto it absolutely. The Governor may also veto individual line items of appropriation bills.

207.07 Law.

7. Law A bill becomes law upon the Governor's signature or after 45 days if no action is taken. However, should no action be taken on a bill passed within the last 10 days of a legislative session, it fails to become a law. If vetoed, a bill may become law if the Legislature overrides the veto by a two-thirds vote (27 in the Senate, 54 in the Assembly). A law takes effect on the day specified in its text or, if unspecified, the July 1 following its passage.

REFERENCES:

Prepared by the Office of Legislative Services, Office of Public Information, State House Annex, P.O. Box 068, Trenton, NJ 08625-0068, website is www.njleg.state.nj.us.

Table 2-1: Comparison of Legal Citations	
Deduction for Senior Citizens, Disabled Persons and Surviving Spouses.	
Legal Source	**Citation of Law**
Session Laws	L. 1963, c. 172
Revised Statutes of New Jersey, 1937	R.S. 54:4-8.40 et seq.
New Jersey Statutes Annotated	N.J.S.A. 54:4-8.40 et seq.
Assessor's Law Manual	Text of Law: Par. 94-796 Sec. 54:4-8.40 et seq.
New Jersey Administrative Code	N.J.A.C. 18:14-1.1 et seq.

Chapter 3 The Assessor's Office

301. Responsibilities of the Assessor.

The assessor's duties may be divided into these major functions:

1. Discovery and location of all real property and certain personal property used in business in the taxing district;
2. Listing and description of property in a systematic, convenient manner through MOD IV;
3. Determination of taxability based on a wide variety of tax exemption and tax deduction statutes;
4. Valuation of property through an appraisal of each property and an assessment based on that appraised value;
5. Tax equalization responsibilities via district revaluation programs and for purposes of distributing State Aid to schools;
6. Defense of assessments upon appeal.

The assessor, in his work of discovering, describing, and valuing all taxable property, takes the first step in raising the bulk of the funds necessary to finance local government in New Jersey.

302. Organization of Staff and Work Assignments.

302.01 Organization and Size of Staff.

Staff should be well organized and of a sufficient size to allow delegation of work where appropriate to employee skills, experience and qualifications.

302.02 Lines of Authority.

Lines of authority and responsibility should be clearly defined. Staff members should know who they are expected to supervise and to whom they report.

302.03 Final Authority.

Final accountability for all assessment responsibilities in a municipality is with the assessor. Where deputy assessors are appointed, the assessor is to oversee their work as well as that of all subordinate employees.

302.04 Types of Organization.

The organization of an assessor's office often depends on the size and characteristics of the taxing district. Two types commonly used in assessors' offices are organization by function and by geography.

302.05 Functional Organization.

A functional organization is divided according to the type of work performed. For example, in a medium-sized district, one person might make all field inspections, another complete all office clerical work, while a third might determine taxability and defend appeals. Advantages of such a plan are that staff members become expert in their area and all properties are treated alike. A disadvantage is that none of the staff may be familiar with the assessment process in its entirety. Also, in large taxing districts, functional organization may be cumbersome because of the traveling required of each field employee.

302.06 Geographical Organization.

In a geographic organization, the taxing district is divided into sectors by location. Each staff member makes field inspections, appraises properties, completes office clerical work, determines properties' taxability, and

defends appeals for his own sector. The advantage is that each member works with a sector's properties from the beginning to the end of the assessment process. Travel and expense may be reduced. A disadvantage is the difficulty in obtaining equal treatment for properties among the various sectors of the taxing district because of individual judgments in applying assessment standards. Another disadvantage of geographic organization is that staff members may not attain a level of expertise, since they perform so many duties. Probably, some form of functional organization will be most useful. A geographic organization should be used sparingly and with care due to the problem of achieving equity, although it may be necessary when a large number of properties are involved. Regardless of the organizational form, the assessor should be aware of the difficulties of obtaining equalization throughout his taxing district and take steps to overcome them.

303. Office Records.

Good records are essential for the assessor to be able to locate, describe, and value properties in the taxing district.

303.01 Necessary Records.

The following records should be found in every assessor's office:

1. Tax Maps
2. Land value maps
3. Land capability maps
4. Abstracts of deeds
5. Real property record cards
6. Claims for tax deductions and exemptions

a. Senior citizens, disabled persons and surviving spouses:

Form PTD:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/ptd.pdf

Form PD-4:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/pd4.pdf

Form PD-5:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/pd502.pdf

Form PTD-SI:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/NJ_PT_Supplement Income.pdf

b. Veterans and surviving spouses of veterans:

Form V.S.S.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/vss.pdf

c. Disabled veterans and surviving spouses of disabled veterans:

Form D.V.S.S.E.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/dvsse.pdf

Form C.O.E.D.V.S.S.E.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/coedvsse.pdf

Supplemental Form D.V.S.S.E./V.S.S.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/suppform.pdf

Form V.N.D.A.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/vnda.pdf

d. Blast or radiation fallout shelters, Form F.S.1

e. Initial Statements and Further Statements:

Form I.S.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf

Form F.S.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf

Interim Status Report and Status Report for Historic Site Exemption

Form S.R.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/sr.pdf

f. Farmland Assessment Applications and Woodland Data:

Form FA-1:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/Form_FA-1_2011.pdf

Form FA-1GS:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/fa1-gs.pdf

Form WD-1:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/wd1.pdf

g. Application for Certification of Renewable Energy Systems:

Form: CRES:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/cres.pdf.

h. Application for 5 Year Exemption/Abatement for Improvement, Conversion or Construction of Property under C.441, P.L. 1991.

Form E/A-1:

http://www.state.nj.us/treasury/taxation/pdf/lpt/ea1.pdf.

i. Report of Property Subject to Tax Agreements Pursuant to Chapter 441, P.L. 1991, Form E/A-4.

j. Application for Real Property Tax Exemption for Certain Contaminated Real Property

Form E.O.Z.-1:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/eoz1.pdf

k. Application for Real Property Tax Abatement for Residential Property in an Urban Enterprise Zone

Form U.E.Z.:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/uez.pdf

7. Certification of New Construction/Improvements/Partial Assessments

Form CNC-1:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/cnc1.pdf

8. Itemized Breakdown Listing/Supplemental to Form CNC-1

Form CNC-2:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/cnc2.pdf

9. Non-Residential Development Fee Certification/ Exemption

10. Claim for Property Tax Exemption for Automatic Fire Suppression Systems:

Form FSS:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/fss.pdf

Exempt Property Lists

11. Assessment Lists
12. Added Assessment Lists
13. Omitted Assessment Lists
14. Omitted-Added Assessment Lists
15. Sales Ratio Data

303.02 Public Records.

Under the "Open Public Records Act," known as "OPRA," any records required by law to be made, maintained or kept on file are "public records." Agencies, departments or officials required by statute to

maintain such public records are "custodians" of the records. At the municipal level, the custodian of records is the Municipal Clerk. Public records must be made available by the custodian for public inspection and duplication for a fee, subject only to reasonable controls as to time, place, copying, etc. OPRA requires a written request form to be submitted to the custodian. Contact the custodian for details in submitting the form.

303.03 Copies of Records; Fees; Special Service Charges.

Copies of a government record may be purchased upon payment of the fee prescribed. Except as otherwise provided, the fee for the duplication of a government record in printed form shall be $0.05 per letter size page or smaller, and $0.07 per legal size page or larger.

If it can be demonstrated that actual costs for duplication exceed the foregoing rates, the government agency is permitted to charge for the actual cost of duplication. The actual cost of duplication is the cost of materials and supplies used. It does not include the cost of labor or other overhead expenses associated with making the copy. Any information available on agencies' internet websites is available with no OPRA request being required for these records. Access to electronic records/non-print materials is free of charge. The public agency may charge for the actual costs of any needed supplies (such as computer discs). Whenever the format or volume of a government record is such that extraordinary time and measures are necessary to accommodate the request, the public agency may include a special service charge in addition to the duplication costs. Rates for duplication of records when the actual copying costs exceed foregoing rates are established in advance by municipal ordinance. The requestor must be given an opportunity to review and object to the charge prior to it being incurred.

If the public agency does not maintain the record in the medium requested:

- The custodian of records shall convert the record to the medium requested;
- Or a copy must be provided in some other meaningful medium.

If a request for a government agency record is not in a medium or routinely developed or maintained by the agency, or requires substantial use of information technology, the public agency may include a special service charge in addition to the duplication costs.

REFERENCES:
N.J.S.A. 47:1A-5, amended 2010, Chapter 75, section 5, effective September 10, 2010, operative November 9, 2010.
OPRA website: http://www.state.nj.us/opra/
Government Records Council: http://www.state.nj.us/grc/

303.04 Initial and Further Statements.

Initial Statement and Further Statement claims for property tax exemption of religious, charitable, education and such other nonprofit corporations are maintained as public records at the County Board of Taxation, once filed by the assessor with the County Board. It is good practice for the assessor to keep copies of all Initial and Further Statements.

REFERENCES:
N.J.S.A. 54:4-4.4

303.05 Tax List, Added Assessment List and Omitted Assessment List.

The Tax List, and Added and Omitted Assessment List, once certified by the County Board of Taxation, remain as public records at the County Board.

REFERENCES:
N.J.S.A. 54:4-55; 54:4-63.5; 54:4-63.17

303.06 SR-1A Forms.

Copies of SR-1A forms maintained at the County Board of Taxation containing real property sales information, including the address or block and lot numbers, have been declared by specific legislation to be public records whether in paper or electronic format.

REFERENCES:
N.J.S.A. 54:1-35.6

303.07 Property Record Cards.

Property Record Cards are generally used by assessors to record a wide variety of individual property data. The public status of the Property Record Card is controversial and has been addressed by the courts on several occasions. Property Record Cards are not required to be maintained according to statute and, therefore, per the court are not public records. The court stated, however, it could find no reason why the information on Property Record Cards should be withheld from a person having a legitimate interest in the data. For example, the court indicated that in the context of a tax appeal, Property Record Cards should be available to taxpayers for inspection and duplication since they contain important information relating to assessments. The court held that any inspection of Property Record Cards would be permissible subject only to reasonable controls as to time, place, copying, etc. Property Record Cards are also mentioned in the New Jersey Administrative Code. Under N.J.A.C. 18:12A-1.9(h), at the request of a taxpayer-party, the municipality shall also furnish that party with a copy of the Property Record Card for the property under appeal at least one week prior to the hearing.

REFERENCES:
N.J.A.C. 18:12A-1.9(h)
DeLia v. Kiernan, 119 N.J. Super. 581 (App. Div. 1972) cert. den. 62 N.J. 74 (1972).

303.08 Other Documents.

Public standing is less clear with other documents, such as claims for tax exemptions, abstracts of deeds, and land value maps. However, the assessor is advised to permit examination of any records which are specifically requested.

303.09 Government Records Council.

- OPRA Central
  http://www.state.nj.us/opra/
- OPRA's 25 Exemptions From Disclosure
  http://www.state.nj.us/grc/public/exempt/
- Executive Orders Exemptions from Disclosure
  http://www.nj.gov/grc/public/eoexempt/

303.10 Electronic File Assessment Records (formerly known as) Computer-Taped Assessment Records.

The New Jersey Supreme Court has affirmed a common law right to these assessment lists where legitimate public and private interests are served.

REFERENCES:
Tagliabue v. Township of North Bergen, 9 N.J. 32 (1952).
De Lia v. Kiernan, 119 N.J. Super. 581 (App. Div. 1972).
Higg-A-Rella v. County of Essex, 141 N.J. 35 (1995).

303.11 Filing Systems.

Some characteristics of a good filing system are:

1. Simple – the system should be easy to install, easy to operate, and easily understood by inexperienced persons.
2. Revisable – the system should permit, without difficulty, the adjustment, addition, and deletion of records.
3. Logical – the system should ensure the sound, plausible grouping of related records.

4. Effective – the system should ensure speed in locating any record filed and the completeness of the record.
5. Economical – the system should represent the most return for the money.

REFERENCES:

Irving A. Polster, "Filing and Indexing of Municipal Records." Proceedings of the First Annual Conference for Municipal Clerks, 1958 (New Brunswick: Bureau of Government Research, Rutgers, The State University, August, 1959), pp. 19-25.

303.12 Retention of Records.

No person having public records under his control or custody is permitted to destroy or dispose of those records without written consent of the Division of Revenue & Enterprise Services in the Department of Treasury. The records management, records storage, records disposition, and imaging and micrographic functions were transferred from the Division of Archives in the Department of State to the Division of Revenue in the Department of Treasury in July 2012.

http://www.state.nj.us/treasury/revenue/

303.13 Records Retention Schedules.

Records retention schedules have been promulgated for many assessors' records, and for records commonly found in the offices of County Boards of Taxation. The retention periods indicated in the schedules are based upon experience and legal requirements. However, county or municipal officials are not required to destroy any records they may desire to keep longer than scheduled. A request for authorization to dispose of records must be submitted to the Division of Revenue prior to their destruction.

The Records Retention Schedule for NJ Assessors can be found at: http://www.state.nj.us/treasury/revenue/rms/pdf/m120000.pdf.

The Record Retention Schedule for the NJ County Tax Boards can be found at: http://www.state.nj.us/treasury/revenue/rms/pdf/c250000.pdf.

The NJ Division of Archives and Records Management's website is: http://www.state.nj.us/state/archives/. The N.J. State Archive will remain in the Department of State.

The State Archives is New Jersey's official research center for public records of historical value.

REFERENCES:
N.J.S.A. 47:3-8.1 et seq. and 47.3-15 et seq.
Local Records Manual, State of New Jersey, Department of State, Division of Archives and Records Management, Trenton, New Jersey.

304. Office Equipment and Space.

The municipal governing body is responsible for providing the assessor with the office equipment needed to perform his job. A saving of time, effort, and money can be made by a wise investment in equipment and computer systems which are adaptable to the changing needs of the assessor's office and which may serve several offices of the municipality. The New Jersey Property Tax System (MOD IV) is the current electronic data processing system and is effectuated through EDP centers and computerization. CAMA systems are not currently employed on a statewide basis, but may be implemented by a municipality for use by its assessor. It is desirable that the assessor's records be safely and conveniently located. Most of New Jersey's municipalities give the assessor office space in the municipal building.

The New Jersey Property Tax System, MOD IV, is a statewide computer database used by assessors to keep every line item current as to value and other descriptive data.

305. Relations with the General Public.

As a public official, one of the assessor's principal responsibilities is to establish good taxpayer relations. Every opportunity should be used to explain both the statutory requirements of the property tax laws and programs, and the methods used in arriving at individual assessments.

305.01 Personal Contact.

Courteous and efficient procedures should be maintained at all times whether answering a telephone, responding to email, or meeting with a taxpayer who visits the office. If the assessor's staff is polite and helpful, the relationship is earmarked for success. If their demeanor is elusive and defensive, the taxpayer is likely to adopt a hostile attitude. Even when the taxpayer comes into the office in an aggressive frame of mind, his attitude may well be ameliorated by courteous treatment.

305.02 Correspondence.

Prompt, understandable answers to correspondence helps foster favorable relations with the public.

305.03 News Releases.

The assessor should use every opportunity to issue news releases describing aspects of his work which are of general interest. For example, the public advertisement that the Tax List is available for inspection might be accompanied by a news release describing the procedures which will be followed in translating the List into next year's tax bills.

- **Simplicity.**

In preparing a news release, the assessor should remember that many taxpayers are unfamiliar with the property tax. Technical words should be avoided or, where necessary, clearly defined.

- **Length.**

For the most effectiveness, a news release should be as brief as possible, while still telling the full story.

- **Timing.**

The assessor should learn the deadlines of various newspapers. Early filing of news releases will be appreciated by the editors and may result in more favorable treatment of a story.

- **Accuracy.**

Every news release should contain accurate, concise information.

- **Composition.**

A good news release gives a summary of the story in the first paragraph – preferably in the first sentence. This summary should include the following five points.

1. Who did it?
2. What was done?
3. When was it done?
4. Where was it done?
5. How was it done?

Succeeding paragraphs in the release then give details. In general, the most important details should come earliest in the story. If a release's completeness depends on a point made in the last paragraph, an incorrect

impression will be left where a story is edited at the end for reason of space.

- **Format.**

The name and telephone number of the release's preparer should be readily apparent, so the editor may check any questionable points.

- **Speaking Engagements.**

Many service organizations and clubs frequently have speakers on local subjects such as taxation. The assessor may contact an organization's program chairman to express his willingness to talk to a group.

306. Relations With Other Public Officials.

It is desirable that the assessor attend meetings of the governing body, since he is the "expert" on matters of local property taxation. In performing his duties, the assessor collects a wealth of information about the community. This information should be made available to other public officials so the municipal government can function as effectively as possible for the benefit of the general population. The assessor should work in concert with the municipal governing body, the Board of Education, the planning board, the building inspector, the tax collector, etc. to this end.

307. Public Agencies Which Assist the Assessor.

This is a brief summary of a number of public agencies available to help the assessor with his work.

307.01 Division of Taxation.

The New Jersey Division of Taxation oversees and coordinates local property tax procedures on a statewide basis. Administrative regulations and guidelines on various property tax matters are often issued by the

Director of the Taxation Division. The Division also provides advisory and technical services to County Boards of Taxation and to local assessors. The Division of Taxation is located in the Taxation Building at:
50 Barrack Street
Trenton, NJ 08695.

307.02 Property Administration, Local Property Branch.

The Local Property Branch in the Division of Taxation is exclusively concerned with the many facets of property tax administration and assessment. The Local Property Branch assists assessors, collectors, county tax administrators and commissioners, and other public officials and taxpayers. Office staff members of the Branch are available for consultation on property tax issues.
The address is:
New Jersey Division of Taxation, Property Administration
PO Box 251
Trenton, NJ 08695-0251
Telephone: (609) 292-7974
Website: http://www.state.nj.us/treasury/taxation/lpt/localtax.shtml

Field representatives of the Branch are also available to assist local assessors, and may be contacted via Division of Taxation Regional Offices except where noted.

The Division of Taxation communicates with Municipal Assessors and County Tax Administrators through the myNewJersey portal. To have access to this portal, please contact our Administration Group at Treasury.PropAdmin@treas.nj.gov .

Division of Taxation Regional Offices

FAIR LAWN

2208 Rt. 208 South
Fair Lawn, NJ 07410

CAMDEN

Suite 200, One Port Center
2 Riverside Drive
Camden, NJ 08103

NEWARK**
124 Halsey Street
2nd Floor
Newark, NJ 07101

TRENTON
Taxation Building
50 Barrack Street, 1st Floor Lobby
Trenton, NJ 08695

NORTHFIELD**

1915-A New Road (Route 9)
Northfield, NJ 08225

NEPTUNE

1828 West Lake Ave, 3rd Floor
Neptune, NJ 07753

SOMERVILLE
75 Veterans Memorial Drive East
Suite 103
Somerville, NJ 08876

****Presently no Local Property staff are located here.**

307.03 County Boards of Taxation.

County Boards of Taxation may be consulted by assessors on all property tax matters. The names of the County Tax Administrators and the locations of the board offices are found at:

http://www.state.nj.us/treasury/taxation/pdf/lpt/cb/ctb_statewide.pdf

307.04 Rutgers University Center for Government Services.

The Center for Government Services at Rutgers, the State University organizes and presents training programs for assessors and other persons interested in the administration of the property tax. The programs are offered in cooperation with the Division of Taxation's Local Property Branch, the Association of Municipal Assessors of New Jersey, the New Jersey Association of County Tax Boards, and the New Jersey State League of Municipalities. The Center conducts research on problems of

state and local government including projects dealing with the property tax. Rutgers has an extensive reference library of reports from New Jersey and from other states dealing with governmental problems. The Center is located at:

303 George Street, Suite 604
New Brunswick NJ 08901-2020
Telephone: (732) 932-3640
http://cgs.rutgers.edu/assessment

308. New Jersey Assessors' Continuing Education Program.

308.01 Requirements and Procedures.

All tax assessor certificates issued prior to July 1, 2000, expire within five years of that date and must be renewed in accordance with the procedure established in N.J.S.A. 54:1-35.25 b. Tax assessor certificates issued after July 1, 2000 expire five years following the date of issuance of the certificate and must be renewed in accordance with the procedure established in N.J.S.A. 54:1-35.25 b.

Prior to the first renewal date of the tax assessor certificate, proof must be furnished by the CTA holder that a total of at least 50 continuing education credit hours over the prior five year period were earned. Breakdown of credit hours is as follows:

i. Twenty credit hours in property tax administration;
ii. Twenty credit hours in real property appraisal; and
iii. Ten hours in either property tax administration or real property appraisal.

Prior to each succeeding renewal date, the CTA holder must furnish proof of having earned at least 30 continuing education credit hours over the prior three year period. Breakdown credit hours are as follows:

i. Ten credit hours in property tax administration;

ii. Ten credit hours in real property appraisal; and

iii. Ten credit hours in either property tax administration or real property appraisal.

A CTA holder must retain documentation for at least five years of the completed continuing education hours in order to verify program attendance and/or activity completion. Each CTA holder must submit such documentation to the Division of Taxation upon request. The Division reviews the records of CTA holders at the end of a cycle or at the discretion of the Director, on a random basis, to determine compliance with continuing education requirements.

Documentation of continuing education requirements for courses, seminars and training programs approved by the Tax Assessor Continuing Education Eligibility Board (CEEB) consists of a "Uniform Continuing Education Form" CEU-3, attesting that the CTA holder attended an approved continuing education offering. The CTA holder is required to maintain his/her CEU-3s and must list the continuing education completed during the five/three-year licensing period on the Division provided renewal application form CEU-1. Falsification of any information submitted with the renewal application may result in penalties and/or the suspension or revocation of a license or certification.

One continuing education credit hour means 50 minutes of classroom or lecture time. All tax assessor certificates shall be renewed upon application to and by the Director, Division of Taxation upon payment of

the $50.00 fee paid to the order of the Treasurer of the State of New Jersey and verification that the applicant has met the necessary continuing education requirements as provided in P.L. 1999, c.278.

When the holder of a tax assessor certificate has allowed the certificate to lapse by failing to renew the certificate, a new application and certificate is required. If application is made within six months of the expiration of the certificate, application may be made in the same manner as a renewal, but with the additional late renewal fee of $50.00.

The six-month period referred to above is to be used for the submission of all necessary documentation only. No courses attended during the six-month period will be credited to the prior continuing education cycle. Additional continuing education credits earned beyond the required amount during each cycle cannot be applied to the subsequent continuing education cycle.

308.02 Continuing Education Course Topics.

The CEEB approves only those continuing education activities and course topics as are deemed to be consistent with the purpose of continuing education. Credits shall be classified as either Property Tax Administration or Real Property Appraisal.

Property Tax Administration covers the local government units of New Jersey, State Constitution and the statutory basis of assessing. Examples include real property tax deductions, exemptions, abatements, farmland assessment, revaluation and reassessment duties, the appeal process and sales ratio. Acceptable human resource courses or computer courses must be related to assessment duties or functions of assessor or County Board of Taxation at the municipal, county or State level.

Real Property Appraisal concerns the theory and techniques of valuing real property. Examples include the cost approach, sales comparison and

income approach to value, land valuation, mass appraisal, Computer Assisted Mass Appraisal (CAMA), analysis of income and expense statements, capitalization methods and techniques, and ad valorem taxation.

Uniform Standards of Professional Appraisal Practice (USPAP) may be categorized as either property tax administration or real property appraisal.

The examples cited above are illustrative only and are not inclusive or exclusive of acceptable course topics.

The CEEB approves only such continuing education programs as are available and advertised on a reasonably nondiscriminatory basis to all certified tax assessors in the State. CEEB approval of all credits must occur prior to the start of the course or seminar.

The CEEB may revoke approval of those continuing education activities and course topics deemed to no longer be consistent with the purpose of continuing education.

The CTA holder may obtain continuing education credits for the following:

1. Training programs offered by the State or Federal agencies or commissions;

2. Educational programs provided during professional trade organization conferences;

3. Colleges or universities accredited by the New Jersey Commission on Higher Education or any accrediting agency approved by the CEEB; community or junior colleges accredited by the New Jersey Commission on Higher Education; proprietary schools;

4. Seminars offered by assessor, real estate appraisal, municipal or county organizations;

5. Seminars offered by vendors of commercial products geared toward the assessing office or County Board of Taxation;

6. Participation, other than as a student, in property tax administration or property tax appraisal education programs, as approved by the CEEB;

    i. Examples of activities for which credit may be granted including teaching real property administration courses and/or real property appraisal courses.

    ii. No more than one-half of the total hours of credit required for a renewal cycle may be awarded for the activities qualifying under this section.

    iii. Within each renewal cycle, credit can only be given once for the same exact course.

Effective January 1, 2003, the CEEB agrees to accept for continuing education purposes, for tax assessors' certificates, pursuant to N.J.S.A. 54:1-32.25(b), credits for real property appraisal courses which have been approved for continuing education by the State Real Estate Appraisers Board.

Likewise, the New Jersey State Board of Real Estate Appraisers agrees to accept for continuing education purposes, for licensed and certified real estate appraisers, credits for real property appraisal courses which have been approved for continuing education by the CEEB in the Division of Taxation. This agreement shall not apply to any credits for the continuing education courses which the State Real Estate Appraisers Board retroactively approves for an individual. This agreement shall not apply to credits for courses relating to assessment administration which are approved by the CEEB or any other course not consistent with the requirements of the Appraisal Qualification Board of the Appraisal Foundation.

308.03 Continuing Education Forms/Requirements.

Form CEU-1 Assessor Recertification Renewal Application: is submitted to the CEEB by CTA holder when they have obtained the total credit hours needed to renew their certification.
http://www.state.nj.us/treasury/taxation/pdf/lpt/ceu1.pdf.

Form CEU-2 Continuing Education Sponsor Agreement Form: is submitted to the CEEB by sponsors to apply for continuing education credits for a course they are offering.
http://www.state.nj.us/treasury/taxation/pdf/lpt/ceu2.pdf.

Form CEU-3 Uniform Request for Continuing Education Credit: is given by the course sponsor to the attendees to verify attendance at each course or seminar. Sponsors are responsible to make sure these forms are distributed at the conclusion of the course. Attendees are required to retain these forms to submit with the renewal application.
http://www.state.nj.us/treasury/taxation/pdf/lpt/ceu3.pdf.

Form CEU-4 Attendance Record for Continuing Education: this is the attendance record submitted by the course sponsor to the CEEB after completion of course or seminar.
http://www.state.nj.us/treasury/taxation/pdf/lpt/ceu4.pdf.

Form CEU-5 Participant Evaluation: is the participant evaluation completed by course attendees and returned to the CEEB by the course sponsor.
http://www.state.nj.us/treasury/taxation/pdf/lpt/ceu5.pdf.

All providers of continuing education courses must secure CEEB approval prior to advertising or otherwise representing that any course is approved for continuing education credit in New Jersey.

i. Submit request 30 days before the course is scheduled to be held. No credits will be given for a course that is submitted after the course is actually held.

ii. A detailed description of the course content and estimated hours of instruction;

iii. One continuing education credit hour means 50 minutes of classroom or lecture time;

iv. Any printed material describing the course.

If course is multi-part, indicate if all parts must be attended in order to receive credit. If partial credit will be given, include the breakdown and conditions of partial credit.

v. The name of the instructor(s) proposed to teach the course or seminar; and

vi. A curriculum vitae or resume of the instructor(s) including information concerning the specific background which qualifies the instructor to teach the particular course offering; and

vii. Any additional information as may be requested by the CEEB.

All providers of continuing education courses must monitor the attendance at each approved course and provide the Division of Taxation with a CEU-4 form (roster of attendees) within two weeks of the conclusion of the program. All continuing education courses shall be taught in public facilities.

REFERENCES:
N.J.S.A. 54:1-35.25 b
N.J.A.C. 18:17-2.1 et seq.

308.04 Required Additional Continuing Education for Demonstration Program Counties.

Not later than September 1 immediately preceding demonstration program implementation, and using its own funds, the County Tax Board of each demonstration county must provide MOD-IV and CAMA software and training to each municipality that does not use the software, at no cost to those municipalities. Thereafter, each municipality shall pay an annual fee per each taxable line item in the municipality to the County Tax Board for the MOD-IV and CAMA service.

REFERENCES:
N.J.S.A. 43:1-104(c)(1), Public Law 2013, chapter 15.

To address the introduction to, and competency of, municipal assessors and County Tax Board personnel with the technology, administrative procedures, and real property appraisal requirements within a demonstration county, the county tax administrator, in consultation with the County Tax Board, must develop a training program to provide annually, free of charge, an additional 10 credit hours of continuing education concerning the real property assessment function in the demonstration county for all assessors, deputy assessors, tax board commissioners, the county tax administrator, and the deputy county tax administrator. Attendance at the training program is required for each of these professionals, and the county tax administrator of the demonstration county must annually certify to the Director of the Division of Taxation that each professional has completed this training. The continuing education credit hours required by this subsection are in addition to the regular continuing education requirements and shall not be used to satisfy any regular requirements. Persons who do not meet the additional continuing education training required by this subsection are ineligible to function as assessor or deputy assessor in any municipality located in a

demonstration county until the additional continuing education training requirement is satisfied.

REFERENCES:
N.J.S.A. 54:1-35.25b(2)(e), Public Law 2013, chapter 15.

308.05 Required Additional Continuing Education Regarding Farmland Assessment.

Commencing January 1, 2018, for tax assessors of municipalities, and for any county assessors of counties, in which one or more Class 3B (Farm Qualified) properties subject to farmland assessment pursuant to P.L.1964, c.48 (C.54:4-23.1 et seq.) are located, prior to every renewal date of a tax assessor certificate pursuant to P.L.1999, c.278 (C.54:1-35.25b et al.), the renewal applicant must on a form prescribed by the Director of the Division of Taxation, furnish proof of having taken, at least once in the prior three years, a continuing education course concerning farmland assessment required to be offered, free of charge, by the Division of Taxation, in conjunction with the Department of Agriculture.

REFERENCES:
N.J.S.A. 54:1-35.25b, Public Law 2013, chapter 43.

The Division of Taxation, in conjunction with the Department of Agriculture, must offer at time intervals established by the Director of the Division of Taxation but at least biennially, and free of charge, a continuing education course to municipal assessor, county assessors, county tax administrators, and other appropriate local government officials on the guidelines developed and adopted concerning the valuation, assessment and taxation of land pursuant to P.L.1964, c.48.

REFERENCES:
N.J.S.A. 54:4-23.3d, Public Law 2013, chapter 43.

309. Associations.

Several associations provide assistance to the assessor.

309.01 International Association of Assessing Officers.

The International Association of Assessing Officers (IAAO) is an organization of assessors and officials from the United States, Canada, Philippines, Puerto Rico, and other countries. The Association holds conferences and publishes text books and educational materials dealing with real estate appraisal, case studies on assessment administration and research reports on assessment subjects. The International Association of Assessing Officers awards three professional designations to its members. The designations are: Certified Assessment Evaluator, for real property appraisers employed by government assessment agencies; Accredited Assessment Evaluator, for both realty and personalty appraisers not employed by government agencies; and Certified Personalty Evaluator for personal property appraisers employed by government agencies. The central office is located at: 314 West 10th Street, Kansas City, MO 64105; Telephone: (816) 701-8100 and website address: http://www.iaao.org/.

309.02 Association of Municipal Assessors of New Jersey.

The Association of Municipal Assessors of New Jersey (AMANJ) is an organization of municipal assessors and other individuals interested in property tax administration in New Jersey. The Association meets every November in Atlantic City in conjunction with the annual conference of the New Jersey State League of Municipalities. It issues a quarterly newsletter and represents the interest of municipal assessors before the Legislature. The Association sponsors the Society of Municipal Assessors, an organization in which membership is conditioned upon substantial experience in the assessing field and upon the satisfactory

completion of required examinations and appraisals. The Association also assists in the presentation of training programs for municipal assessors. The names of the Association's officers may be obtained from the association's website at: http://www.amanj.org/.

309.03 County Associations of Assessors.

Municipal assessors have formed county associations affiliated with the Association of Municipal Assessors of New Jersey. The names of the presidents of the county associations are available from the County Boards of Taxation.

309.04 Association of County Tax Boards.

The New Jersey Association of County Tax Boards (NJACTB) is an organization of County Tax Board members and County Tax Administrators. The Association presents training programs for its membership and assists with assessor training. A summer conference for County Board of Taxation Commissioners and County Tax Administrators is held annually. Committees of the Association meet with other tax officials to discuss coordination of policies and advise on the implementation of rules and regulations. The association's website is: http://www.njactb.org.

309.05 New Jersey State League of Municipalities.

The New Jersey State League of Municipalities is an association of municipal governments. The League publishes a monthly magazine, New Jersey Municipalities, represents the interests of municipal governments before the Legislature, serves as a clearinghouse for information concerning municipal government in New Jersey, and holds an annual conference in Atlantic City each November. The League also acts as a co-

sponsor of training programs for tax assessors. The office of the League is located at 222 W. State Street, Trenton, NJ 08608.
Telephone: (609) 695-3481. The New Jersey State League of Municipalities website address is: http://www.njslom.org.

310. Useful Publications.

The New Jersey Division of Taxation's Property Administration Branch provides on their website the following:

310.01 Real Property Appraisal Manual for New Jersey Assessors.
Volume 1:
http://www.state.nj.us/treasury/taxation/pdf/lpt/realpropertyappraisalvol1.pdf.
Volume II:
http://www.state.nj.us/treasury/taxation/pdf/lpt/realpropertyappraisalvol2.pdf.

310.02 Handbook for New Jersey Assessors.
http://www.state.nj.us/treasury/taxation/pdf/assessorshandbook.pdf.

310.03 Property Administration Work Calendar for Tax Assessors, Collectors and Treasurers.
http://www.state.nj.us/treasury/taxation/pdf/pubs/workcalendar.pdf.

Other helpful publications generated by the Division of Taxation are: a quarterly newsletter, the New Jersey State Tax News; and the Annual Report.

310.04 New Jersey State Tax News.
http://www.state.nj.us/treasury/taxation/publnews.shtml.

310.05 Annual Report.

http://www.state.nj.us/treasury/taxation/annual.shtml.

310.06 County Tax Board Handbook.

http://www.state.nj.us/treasury/taxation/pdf/lpt/CountyTaxBoardHandbook.pdf

310.07 MOD-IV Handbook.

http://www.state.nj.us/treasury/taxation/pdf/lpt/modIVmanual.pdf

311. The Assessor's Calendar.

Most work of the assessor must be performed in accordance with a calendar of dates, usually specified by law. The assessor should have some knowledge of Tax Collectors' dates also. The Work Calendar is prepared each year by Property Administration Local Property Policy Unit and is available at:
http://www.state.nj.us/treasury/taxation/pdf/pubs/workcalendar.pdf.

The assessor should note that the calendar dates in many cases are deadlines for filing completed lists, reports, or other documents. The preparation of these documents cannot be left until the statutory deadline. The assessor should estimate preparation time of each document and begin well in advance of the due dates. To simplify the use of this calendar as a daily check-off list for the assessor, the actions dealing with the pretax year, and the post-tax year have been consolidated into a single twelve-month listing. Each item should be read carefully to make sure of the year concerned.

***NOTE*:** The Monmouth County Real Property Assessment Demonstration Program calendar changes are available in section 105.04 of this Handbook.

NOTE: Tax Court Dates – Dates for filing complaints (appeals) with the Tax Court are not separately shown, but are in accordance with the

following schedule: complaints to review any Equalization Table are to be filed within 45 days of the adoption or promulgation of the Table; complaints to review all other actions of a County Board of Taxation are to be filed within 45 days of the action to be reviewed; complaints to review actions by the Director of the Division of Taxation or any other State agency (other than an equalization table) are to be filed within 90 days of the action reviewed.

REFERENCES:
N.J.S.A. 54:51A-4
Rules of the Tax Court 8:4-1 (a) and (b).
N.J.S.A. 2B:13-1 et seq.

312. Assessment Lists.

Assessors must be familiar with a number of different assessment lists. In preparing and filing these lists, the assessor officially places his assessment on each property.

312.01 Tax Lists – Regular.

All regular assessments of real property and tangible personal property used in business must be entered on the Real Property Tax Assessment List and the Personal Property used in Business Tax Assessment List filed with the County Board of Taxation by January 10 of the tax year. The terms "Assessment List" and "Tax List" are used interchangeably in both the statutes and regulations.

312.02 Maintaining and Changing Tax Lists.

Assessors are required to keep their Assessment Lists current. County Recording officers are required by law to provide the assessor with abstracts of deeds from property transactions affecting title. Statute also permits new property owners to present their deeds or other proofs of title for proper notation on the Tax List. Assessors are sometimes asked by attorneys, divorced parties, heirs or devises etc. to change the names of property owners on the Tax List. It is important to recognize that a Tax

List is not regarded as an official statement of ownership. In fact, the law provides, "…No assessment of real or personal property shall be considered invalid because listed or assessed in the name of one not the owner thereof, or because erroneously classed as the land of an unknown." However, because accurate Tax Lists are necessary to the orderliness of the assessment function and to correct identification of persons responsible for payment of taxes, assessors should be careful to obtain adequate authorization for such changes.

The following documents may be used to support requests for name changes on a Tax List:

1. a new deed, properly executed;
2. a copy of a probated will, accompanied by a probate order;
3. a court order or a Surrogate's Letter of Administration;
4. a death certificate for the purpose of deleting the deceased's name;
5. a written statement of an attorney indicating ownership status and advising that change is warranted;
6. a written statement by a new owner showing evidence of title and notifying the assessor of the title change.

REFERENCES:
N.J.S.A. 54:4-29; 54:4-31; 54:4-54

312.03 Form and Content of Real Property Tax Lists.

The Director of the Division of Taxation prescribes the form of the Real Property Tax Assessment List as authorized by law. The height of each property line on the list should permit four lines of printing. Every page heading is to consist of the following information:

a. Title: REAL PROPERTY TAX LIST
   An identical form title: REAL PROPERTY TAX DUPLICATE must also be prepared for all copies of the Real Property Tax List.
b. Name and number of taxing district and county. (Example: East Windsor Township 01, Mercer County 11.)

In addition to the page heading the following information must be provided for each property on the Real Property Tax List in the appropriate numbered column or field:

1. Line Numbers Column -
   - Identifies every real property parcel's position on the Real Property Tax List. Each line must be numbered consecutively on each page of the List.
2. Block and Lot Numbers, Qualification Codes and Account Number Column -
   - Identifies the property in relation to blocks and lots on the tax map.
   - Further identifies, where needed, the property by qualification code such as with duplicate block and lot numbers of condominium units.
   - Lists the account number if the municipality has an account numbering system to identify taxpayers.
3. Land Dimensions, Building Descriptions, Additional Lots, Acreage, Property Classification Column -
   - Shows land dimensions and size, in feet or acres.
   - Shows type of building construction by code:

BUILDING DESCRIPTIONS

Format: Stories Structure Style Garage

STORIES

S	Prefix S with number of stories

STRUCTURE

AL	Aluminum Siding
B	Brick
CB	Concrete Block
F	Frame
M	Metal
RC	Reinforced Concrete
S	Stucco
SS	Structural Steel
ST	Stone
W	Wood

STYLE

A	Commercial
B	Industrial
C	Apartments
D	Dutch Colonial
E	English Tudor
F	Cape Cod
L	Colonial
M	Mobile Home
R	Rancher
S	Split Level
T	Twin
W	Row Home
X	Duplex
Z	Raised Rancher
O	Other
2	Bi-Level
3	Tri-Level

GARAGE

AG	Attached Garage
UG	Unattached Garage

***NOTE*:** Number of Cars is prefixed to code.

EXAMPLE: 1.5SL2AG *MEANS:*

1 1/2 Story Colonial 2-Car Attached Garage

- shows property classification by code:

1 = vacant land	15A = public school property
2 = residential	15B = other school property
3A = farm – regular	15C = public property
3B = farm – qualified	15D = church and charitable
4A = commercial	15E = cemeteries and graveyards
4B = industrial	15F = other exempt properties
4C = apartment	

- shows additional lots which overflow from column 2.

4. Owner's Name and Mailing Address Column -
   - gives full name and address of the owner.
   - shows assigned billing codes for banks or institutions receiving duplicate tax bills.
   - shows property location.
5. Taxable Value of Land, Improvements and Total Taxable Value Column -
   - Shows the taxable value of land and the taxable value of improvements, and the total taxable value of land and improvements. The values are arranged in a "stacked" fashion for each individual line item.
6. Exemptions Column –
   - Shows the dollar amount of any partial exemption reducing the taxable value of the property. A portion of this column also lists the exemption code:

P	-	Pollution Control
F	-	Fallout Shelter
W	-	Water Supply Control
E	-	Fire Suppression System
G	-	Commercial Industrial Exemption

I	-	Dwelling Exemption
J	-	Dwelling Abatement
K	-	New Dwelling/Conversion Exemption
L	-	New Dwelling/Conversion Abatement
N	-	Multiple Dwelling Exemption
O	-	Multiple Dwelling Abatement
U	-	Urban Enterprise Zone Abatement
Y	-	Renewable Energy

7. Net Taxable Value Column –
   - Gives the sum of the figures in Column (5) minus any figures in Column (6)
8. Deductions Column -
   - Shows property tax deductions granted according to code:

S	=	Senior Citizen Deduction
V	=	Veteran Deduction
W	=	Veteran's Widow Deduction
D	=	Disabled Person Deduction
R	=	Surviving Spouse Deduction

   - Shows the number of deductions for qualified veterans, veterans' spouses, senior citizens, disabled persons or surviving spouses and shows the total number of property owners for prorating deductions where multiple ownership occurs.
9. Special Tax Codes Column -
   - Shows by code properties located in areas within the taxing district having special tax rates for services such as fire protection.

F	=	Fire
G	=	Garbage
S	=	Special Improvement

R	=	R.E.A.P. Eligible
D	=	Revenue Allocated District

REFERENCES:
N.J.S.A. 54:4-26, 54:4-28, 54:4-35
N.J.A.C. 18:12-2.1 through 18:12-2.8

312.04 Form and Content of Personal Property used in Business Assessment List.

The Director of the Division of Taxation prescribes the form of the Personal Property used in Business Assessment List as authorized by law. However, since this List is usually small, the column headings and arrangement are preprogrammed into the database for production of the Real Property Tax List. Therefore, separate pages for business personalty need not be purchased from a commercial printer, but are printed automatically when the data processing system makes up the Personal Property used in Business Assessment List. The list is to contain the following:

(a) Title: TANGIBLE PERSONAL PROPERTY OF TELEPHONE, PIPELINE AND MISCELLANEOUS TAX LIST

(b) Name and number of taxing district and county. In addition to the page heading, the following information must be provided for each property on the Personal Property Tax List in the appropriate numbered column:

1. Block and Lot Numbers, Qualification Codes and Account Numbers Column-
   - Identifies the location of personal property used in business in relation to tax map designations.
   - Lists the account numbers only if the municipality is using an account numbering system to identify taxpayers.

2. Property Description and Class Columns-
   - Shows type of building construction by code.
   - Shows property classification code designating the type of business for which the personal property is being used. The codes are:

     6A Personal Property Telephone

     6B Machinery, Apparatus or Equipment of Petroleum Refineries Pipeline

3. Owner's Name and Mailing Address Column-
   - Gives full name and address of the owner of the locally assessed personal property.
   - Space is also provided for the location of the personal property, if not assigned a Block and Lot location in Column 1.

4. Reported Depreciated Book Value Column-
   - Shows amounts taken from line 8 of Form PT-10, Return of Tangible Personal Property Used in Business, or of Form PT-10.1, Return of Machinery, Apparatus or Equipment of a Petroleum Refinery, Etc.

5. Average Assessment Ratio Column-
   - Provides the Director's Average Weighted Ratio, promulgated on October 1 of the year immediately prior to the tax year for districts which have not effected a district-wide adjustment of taxable real property valuations for the tax year at issue. If the Director's Average Weighted Ratio exceeds the County Percentage Level, then the County Percentage Level is shown. For taxing districts which have effected a district-wide adjustment of taxable values for the tax year at issue, the

County Percentage Level established for taxable values of real property is also used for tangible personal property.

In no instance may the percentage figure in Column 6 exceed 100%.

6. Taxable Value of Tangible Personal Property Column-
   - Reflects amounts obtained by multiplying the figures shown respectively in Column 4 by the ratios shown in Column 5. Amounts are those to which the tax rate is applied to develop the taxes payable by the owners of the personal property, as listed.

7. Special Tax Codes Column-
   - Shows the code of any special district in which the personal property reflected on a particular line is located. Codes for special taxing districts are:

F	=	Fire
G	=	Garbage
S	=	Special Improvement
R	=	R.E.A.P. Eligible
D	=	Revenue Allocated District

REFERENCES:
N.J.S.A. 54:4-2.25 et seq.

312.05 Assessor's Affidavit.

Each assessor is required to complete and file with his Real Property Tax List and Personal Property Used in Business Tax List and their Duplicates the following Affidavit:

"I, ……as assessor of the…….. of ……, do swear (or affirm) that the foregoing list contains the valuations of all the property liable for taxation in the taxing district in

which I am assessor, and that such property has been valued without favor or partiality, at its taxable value and I have allowed only such exemptions as are prescribed by law."

Where a "district-wide adjustment" of real property taxable valuations has been put into effect, the assessor must add to the affidavit the following statement:

"I do further swear (or affirm) that, for the tax year 20_____, I have completed and put into operation a district-wide adjustment of real property taxable valuations and such taxable valuations conform to the percentage level established for such year expressing the taxable value of real property in the county."

REFERENCES:
N.J.S.A. 54:4-36
N.J.A.C. 18:12-2 and 12-3

312.06 Filing the Assessment Lists.

The regular Real Property Tax List is prepared by the assessor in triplicate, with the original and the first copy being filed with the County Board of Taxation by January 10 of the tax year. The original is retained by the County Tax Board. The first copy, called the Tax Duplicate is returned to the assessor, who turns it over to the municipal tax collector for posting. The second copy of each List is retained in the assessor's office.

REFERENCES:
N.J.S.A. 54:4-36

312.07 Extending the Tax.

Statute provides that once the County Board of Taxation strikes the tax rates for the taxing districts, each assessor obtains the Tax Duplicate, either from the Board or the tax collector, and "extends" the tax. In

actuality, the Data Centers perform this calculation by multiplying the taxable value of each property by the appropriate General Tax Rate for the district and entering the tax amount on the Duplicate List. General Tax Rates by County and Municipality are found on the Division of Taxation's website at http://www.state.nj.us/treasury/taxation/lpt/taxrate.shtml.

If special district taxes are to be levied, the assessor calculates the tax rate for special district purposes, unless the County Board of Taxation has already done so, by dividing the amount to be levied by the taxable value of all property within the limits of the district, and adds this rate to the rates certified by the County Tax Board. After taxes are extended, the assessor returns the Tax Duplicate to the County Board of Taxation which, by June 3 of the tax year, must correct and revise both the Tax List and Duplicate, and return the Duplicate to the tax collector, certified as the true record of taxes to be levied. Any extensions of taxes made prior to changes, revisions or corrections entered on the Real Property Tax List by the County Board of Taxation must be corrected before bills are mailed. In current practice, the extension of taxes is accomplished automatically by computer.

REFERENCES:
N.J.S.A. 54:4-48; 54:4-55 as amended P.L. 1995, c. 94

312.08 Exempt Property List.

All cemeteries, churches, public buildings, and other real property exempt from taxation must be placed on an Exempt Property List filed with the County Board of Taxation by January 10 of the tax year.

REFERENCES:
N.J.S.A. 54:4-27

312.09 Form and Content of the Exempt Property List.

a. Title: EXEMPT PROPERTY LIST

b. Name and Number of Taxing District and County.

c. The Exempt Property List headings on the Columns 1, 2 and 4 are identical to those on the Real Property Tax List.

Column 3, Name of Facility -

- Gives a descriptive word or name for each property listed, as well as the Building Description Code, Property Classification and Land Dimensions.
- Acreage is calculated based on the entry in the Land Dimensions' Code for exempt property. Classes are:

15A = public school	15D = church and charitable
15B = other school	15E = cemeteries and graveyards
15C = public property	15F = other exempt

Column 5, Identification Code –

- Has three segments for codes reflecting: type of ownership; purpose or use of the exempt property; and specific description of the exempt property.

Column 6, Statute Under which Exemption is Claimed –

- Cites the statute under which the property is exempted.

Column 7, Filing Date of Statement –

- Lists filing dates of the Initial Statement claim for exemption, and every third year the Further Statement claim for continuing the exemption. Initial and Further Statements are not required of government owned exempt property.

Column 8, Land and Improvement Value –

- Shows both the assessed value of the exempt land and the exempt improvement.

Column 9, Total Exempt Value –

- Shows the total assessed value of exempt land plus exempt improvement.

312.10 Filing the Exempt Property List.

The Exempt Property List is prepared in triplicate in the same manner as the regular Tax List. When filed with the County Board of Taxation on January 10 of the tax year, the Exempt Property List must be accompanied by copies of all Initial and Further Statements.

REFERENCES:
N.J.S.A. 54:4-4.4
N.J.A.C. 18:12-3.1

312.11 Added Assessment List.

All added assessments of real property must be entered on an Added Assessment List filed with the County Board of Taxation on October 1 of the tax year.

REFERENCES:
N.J.S.A. 54:4-64.5

312.12 Form and Content of the Added Assessment List.

The Director of the Division of Taxation prescribes the form of the Added Assessment List. Page headings of every Added Assessment List must consist of:

i. Title: ADDED ASSESSMENT REAL PROPERTY TAX LIST
ii. Name and number of the taxing district and county

In addition to the page heading, the following information must be provided for each property on the Added Assessment List in the appropriate column:

1. Line Number Column –
   - Identifies the parcel of real property as to its position in the Added Assessment List. Each line must be numbered consecutively on each page of the List.
2. Block and Lot Numbers, Qualification Codes and Account Number Column
   - Block and Lot Numbers and Qualification Code – are used for identifying the property in relation to the tax map.
   - Account Numbers are used in municipalities using this system to identify taxpayers.
3. Land Dimensions, Building Description, Property Classification. Additional Lots and Calculated Acreage Columns.
   - shows land dimensions and size, either in feet or acres
   - shows the type of construction by code:

BUILDING DESCRIPTIONS

Format: Stories Structure Style Garage

STORIES	
S	Prefix S with number of stories
STRUCTURE	
AL	Aluminum Siding
B	Brick
CB	Concrete Block
F	Frame
M	Metal
RC	Reinforced Concrete
S	Stucco
SS	Structural Steel
ST	Stone
W	Wood
STYLE	
A	Commercial
B	Industrial
C	Apartments
D	Dutch Colonial
E	English Tudor
F	Cape Cod
L	Colonial
M	Mobile Home
R	Rancher
S	Split Level
T	Twin
W	Row Home
X	Duplex
Z	Raised Rancher
O	Other
2	Bi-Level
3	Tri-Level
GARAGE	
AG	Attached Garage
UG	Unattached Garage

***NOTE*:** Number of Cars is prefixed to code.

EXAMPLE: 1.5SL2AG *MEANS:*

1 1/2 Story Colonial 2-Car Attached Garage

- Shows property classification by code:

1 = vacant land	15A = public school property
2 = residential	15B = other school property
3A = farm – regular	15C = public property
3B = farm – qualified	15D = church and charitable
4A = commercial	15E = cemeteries and graveyards
4B = industrial	15F = other exempt properties
4C = apartment	

- Shows additional lots which overflow from Column 2.
- Shows acreage calculated from entry in land dimension field.

4. Owner's Name and Mailing Address, Property Location and Billing Code Column –
   - Gives full name and address of the owner.
   - Shows assigned billing codes for bank institution receiving duplicate tax bills.
   - Shows property location.

5. Taxable Value, Land Improvements, Exemption Amount and Code and Net Total Column –

   Identifies exemptions granted by code:

P	-	Pollution Control
F	-	Fallout Shelter
W	-	Water Supply Control
E	-	Fire Suppression System
G	-	Commercial Industrial Exemption
I	-	Dwelling Exemption
J	-	Dwelling Abatement
K	-	New Dwelling/Conversion Exemption
L	-	New Dwelling/Conversion Abatement

N	-	Multiple Dwelling Exemption
O	-	Multiple Dwelling Abatement
U	-	Urban Enterprise Zone Abatement
Y	-	Renewable Energy

This column provides for a "stacking" of taxable values for Land, Improvements, the dollar amount of any Exemption applicable, and the Net Total of these items for each line item.

6. Months Assessed Column –
   - Shows the number of whole months remaining in the calendar year following the date of assessed structure's completion or of property which ceased to qualify for exemption.

7. Date of Completion Column -
   - Shows the month and day of a structure's completion or the cessation of qualification for tax exemption. This is the basis for prorating the Added Assessment.

8. Prorated Assessment Column -
   - Shows the amount resulting from multiplying the full taxable value of the Added Assessment times the number of whole months remaining in the year following the date of the structure's completion and dividing this figure by 12.

9. Total Real Property Tax Column -
   - Shows the amount of tax due on the added assessment calculated by multiplying the general tax rate for the year in which the Added Assessment is levied times the Prorated Added Assessment (Column 8).

10. Special Tax Column -

- Shows the code identifying the special district and the amount of special tax due if a property subject to Added Assessment is situated in a special taxing district (i.e. fire).

11. Deductions Code Column -

- Reflects by code any deductions which apply to the property subject to Added Assessment, and the amount deducted.

12. Net Amount of Tax Column -

- Contains the net Added Assessment tax due.

312.13 Filing the Added Assessment List.

The Added Assessment List is prepared in triplicate, with the original and the first copy being filed with the County Board of Taxation on October 1 of the tax year, and the second copy being retained by the assessor. The first copy, called the assessor's Duplicate, must be returned by the County Tax Board to the municipal tax collector on or before October 10. Any corrections or revisions of the County Tax Board are entered both on the original list and on the Duplicate, and the Duplicate must be certified by the County Board of Taxation as the true record of the taxes to be levied.

REFERENCES:
N.J.S.A. 54:4-63.5

312.14 Omitted Property Assessment List.

All properties for which the County Board of Taxation has rendered judgment prior to October 1 that the property was omitted from assessment must be entered on the Omitted Property Assessment List which is filed with the County Board on October 1 of the tax year. Also the Assessor's Omitted Property Assessment List and Duplicate containing assessments of omitted properties which the assessor himself

has listed under the Alternate Method for levying an Omitted Assessment must be filed with the County Board on October 1.

REFERENCES:
N.J.S.A. 54:4-63.15; 54:4-63.17; 54:4-63.22

312.15 Form and Content of the Omitted Property Assessment List.

The same forms used for the Added Assessment List may be used for the Omitted Property Assessment List by substituting the word omitted for added.

312.16 Filing the Omitted Property Assessment List.

The Omitted Property Assessment List is prepared in triplicate in the same manner as the Added Assessment List.

REFERENCES:
N.J.S.A. 54:4-63.15; 54:4-63.17

313. The Table of Aggregates.

On or before May 20 of the tax year, the County Board of Taxation prepares a Table of Aggregates for each taxing district, using information in the assessors' Duplicates and information on the taxable value of second class railroad property supplied by the Director of the Division of Taxation.

REFERENCES:
N.J.S.A. 54:4-52 as amended P.L. 1995, c. 345

313.01 Form and Content of the Table of Aggregates.

The contents of the Table of Aggregates is prescribed in detail by law. However, the Director of the Division of Taxation may require additional information be included in the Table.

REFERENCES:
N.J.S.A. 54:4-52

313.02 Disposition of the Tables of Aggregates.

The Tables of Aggregates must be signed by the members of the County Boards of Taxation and, within three days after May 20, transmitted to the County Treasurer. The County Treasurer is responsible for having the Tables printed and for transmitting certified copies to the Director of the Division of Taxation, the State Auditor, the clerk of each municipality in the county, and the clerk of the Board of Chosen Freeholders.

REFERENCES:
N.J.S.A. 54:4-52 as amended P.L. 1995, c. 345

313.03 The Abstract of Ratables.

When the Tables of Aggregates are printed in a consolidated form, they are known as the Abstract of Ratables. The Abstract of Ratables contains the same information for all taxing districts in the county as is found in the individual Tables of Aggregates for each of the taxing districts. The Abstract of Ratables is found on the Division of Taxation's website at: http://www.state.nj.us/treasury/taxation/lpt/abstractrate.shtml.

Chapter 4 Tax Deductions and Exemptions

401. Constitutional and Statutory Authority.

Tax deductions and exemptions are granted only by provision of the New Jersey Constitution or by general law. At present, deductions and exemptions granted by constitutional provision concern property of war veterans and their surviving spouses*; senior citizens, disabled persons and their surviving spouses; property of urban renewal corporations and property in blighted areas needing rehabilitation. Other exemptions are granted by general law and except for those exemptions granted prior to 1947 to non-profit religious, educational, charitable, and cemetery organizations, may be altered or repealed at any time by the State Legislature. Website access for the New Jersey Constitution and New Jersey Statutes Annotated N.J.S.A. may be found at http://www.njleg.state.nj.us/Default.asp

The fundamental approach of New Jersey's Property Tax Laws is that all property bear its just share of the public responsibility of taxation. Statutes granting tax exemptions depart from that approach by providing preferential treatment which shifts the tax burden onto the nonexempt taxpayers in the taxing district. Therefore, the statutes granting tax exemption must be strictly construed.

* The State Legislature enacted the "Domestic Partnership Act" as P.L. 2003, c. 246, and established civil unions in P.L. 2006, c. 103. These laws provide that couples in domestic partnerships are entitled to certain, and those in civil unions the same, rights, privileges, and obligations as those in marriage. As such, any references to marriage may apply to domestic partnerships and equally apply to civil unions, and any references to spouses or husbands and wives may apply to domestic partners and equally apply to civil union partners.

REFERENCES:
N.J. Constitution, Art. VIII, Sec. 1, Par. 2,3,4,5,6 and Sec. 3, Par. 1
N.J.S.A. 54:4-3.6; 54:4-3.9; 54:4-3.30; 54:4-8.10; 54:4-8.40
N.J.S.A. 54:4-4.4
N.J.S.A. 8A:1-1 et seq.
Princeton University Press vs. Princeton., 35 N.J. 209 (1961).

402. Deduction-Senior Citizens, Disabled Persons, Surviving Spouses.

The New Jersey Constitution authorizes an annual $250 deduction from the real property taxes on a dwelling house owned and occupied by a person, 65 years of age or older or permanently and totally disabled; or the qualified surviving spouse, 55 years of age or older, of a senior citizen or disabled person; where annual income is $10,000 or less after permitted exclusions. General laws have been enacted to implement this constitutional provision, and regulations issued by the Director of the Division of Taxation.

REFERENCES:
N.J. Constitution, Art. VIII, Sec. 1, Par. 4
N.J.S.A. 54:4-8.40 et seq.
N.J.A.C. 18:14-1.1. et seq.

402.01 Eligibility.

To qualify for the annual $250 Real Property Tax Deduction, a claimant must meet requirements of citizenship, property ownership, residency, income, timely application, and age or disability or widowhood/widowerhood as follows:

402.02 Citizenship.

An applicant for the Real Property Tax Deduction must be a citizen of New Jersey as of October 1 of the pretax year, i.e., the year prior to the tax year for which the deduction is requested. Per a ruling of the Attorney

General's office this does not mean United States citizenship. If all other requirements are met, the assessor or collector should assume the applicant is a citizen of New Jersey.

REFERENCES:
N.J.S.A. 54:4-8.41 and 8.44
N.J.A.C. 18:14-2.1 and 2.4
Attorney General's Opinion 1961-No. 34.

402.03 Property Ownership.

A Real Property Tax Deduction applicant must own the dwelling for which the deduction is claimed on October 1 of the pretax year. Proof of legal title may be required of the applicant. Considered as **qualifying ownership** are: Executory contract for the purchase of property; a dwelling owned by a deduction claimant and assessed as real property, but situated on land owned by another; shares held by residents of co-operative or mutual housing associations per a 1988 voter-approved referendum; property owned by a partnership of which a deduction claimant is a member on his interest; property held by a guardian, trustee, committee, conservator, or other fiduciary for a deduction claimant; an interest arising from a will or the intestate laws of this State where the deduction claimant has legal title to such property, whether individually, jointly or as a life tenant, i.e. having a life estate, life rights or life tenancy in a dwelling.

402.04 Ownerships Defined.

Tenancy by the entirety - ownership of property by spouses or civil union partners. Spouses or civil union partners are treated as one person. Neither is allowed to break the tenancy by disposing of, conveying or mortgaging his/her interest without the signature of the other spouse. Upon the death of either, the property passes to the survivor. In New Jersey, a tenancy by the entirety is automatically created when a deed conveys property to spouses or civil union partners unless another type of

co-ownership is specifically created. If spouses or civil union partners divorce, a tenancy in common would result.

Tenancy by the entirety in a tenancy in common or joint tenancy - a tenancy by the entirety may also exist in concert with other forms of co-ownership. For example, a property is deeded to a husband, wife, and a third party, and there is no specification of the type of ownership of the parties. The law will assume the overall ownership to be a tenancy in common, with the husband and wife assumed to hold one half undivided interest under a tenancy by the entirety, and the other half undivided interest held by the third party.

Tenancy by the severalty - sole ownership. Severalty means that the owner's interest is severed or separate from that of any other person.

Tenancy in common - an undivided ownership interest in property by two or more persons. When property is conveyed to more than one person, not being spouses or civil union partners, New Jersey law assumes the ownership to be a tenancy in common unless otherwise stated in the deed. One owner would be free to sell his/her interest as he/she sees fit and the new owner would become a new tenant in common with the other owner or owners. Co-owners may have unequal ownership interest but they are entitled to equal use and possession. Upon the death of one tenant in common, there is no right of survivorship among the other tenants in common. But the deceased tenant's property would pass to his/her heirs.

Joint tenancy with right of survivorship - ownership of property by two or more persons. All owners have a right to equal use and enjoyment of the entire property during their lives. On the death of a joint tenant, his/her ownership interest passes to the surviving joint tenants. Property can be

conveyed by deed by all co-tenants. The deed must specifically create a joint tenancy in its grant, otherwise a tenancy in common is assumed.

Life tenancy aka life estate, lifetime right - a life tenant is entitled to all the rights of ownership during the term of the life tenancy. He/she may not materially destroy or injure the property. He/she must keep the property repaired, pay the property taxes, mortgages, & any loans etc. He/she may sell, mortgage or lease the life interest. But upon his/her death, the sold, mortgaged or leased rights of others will automatically terminate. A life estate is not an estate of inheritance, that is, the right cannot be passed onto the owner's heirs. It exists only during the lifetime of a particular person.

Condominium ownership - a condo owner has an individual ownership interest (fee ownership) in his/her dwelling unit which can be deeded, mortgaged, refinanced, insured, leased and taxed separately from the other dwelling units. He/she also has an undivided ownership interest with the other residence owners of the condo's public or common areas, elements and facilities such as lobbies, stairwells, elevators, walkways, lawns, gardens, tennis courts, swimming pools, driveways, parking areas, recreational land areas, etc. Each unit owner is also taxed on his/her proportionate share of the common areas, elements and facilities. Condominiums are not limited to residential dwellings. Commercial office structures, parking spaces, campsites, hotels, and others have utilized the condominium form of ownership.

Cooperative or co-op ownership - is a form of ownership in which a corporation holds title to property and leases the property to shareholders in that corporation. Persons wishing to occupy units owned by the corporation sign an agreement for stock and enter into a proprietary lease.

In the proprietary lease, the shareholder agrees to pay a proportionate share of expenses incurred by the corporation for property taxes, maintenance, etc. based on the total amount of stock he/she owns. The shareholder's right or interest in the co-op is considered to be personal property, not real property. He/she owns shares of stock in the corporation, i.e., personal property and has a leasehold, i.e., personal property. His/her right is one of occupancy or residence in the dwelling rather than ownership of it. Co-op owners qualify for property tax deductions by specific constitutional and statutory amendments.

Executory Contract - is a contract that has not been fully performed, or for which there remains something to be done by both parties, often times as part of a larger transaction; it may be memorialized in an informal letter agreement, by memorandum, or by oral agreement. An executory contract may be sufficient for ownership in certain, but not all, New Jersey real property tax benefit programs.

REFERENCES:

N.J.S.A. 46:3-17 et seq., Estates and Interests in Real Property
N.J.S.A. 46:8B-1 et seq., Condominium Act
N.J.S.A. 46:8D-1 et seq., Cooperative Recording Act
Principles & Practices of New Jersey Real Estate, 7th Edition, (1986) Kovats, Kovco Publications, Inc. Paramus, N.J. 07652
Real Estate Law, 8th Edition, (1983) Kratovil & Werner, Prentice Hall, Inc. Englewood Cliffs, N.J. 07632
Real Estate Appraisal Terminology, (1975) Boyce, Ballinger Publishing Co., Cambridge Mass.
Black's Law Dictionary (9th ed. 2009)
13 N.J. Practice Series, Real Estate Law And Practice §§ 5:7, 5:13, 5:14 (3d ed. 2014)

402.05 Trusts.

The $250 Senior/Disabled/Survivor Deduction, the $250 Veteran Deduction, the Homestead Property Tax Benefit (Credit) , Property Tax Reimbursement (Senior/Disabled Tax Freeze) and the Disabled Veteran

Exemption all provide property tax relief for properties held in trust for qualified claimants. Right to claim the aforesaid benefits extends to property title to which is held by “a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be entitled” to claim such benefit.

A trust is a fiduciary relationship in which one party, the trust creator or trustor (also known as a settlor, grantor, founder, or donor) gives property (real or personal) to another party, the trustee, who has an equitable obligation to keep or use the property for the benefit of a third party, the beneficiary. The trustor may also be the trustee or the trustee may also be the beneficiary, but there must always be at least two parties to a trust. This is because a person cannot have an obligation to himself or herself, as would be the case if he or she was the trustor, trustee, and sole beneficiary. However, if there are multiple beneficiaries, then the sole trustee may also be a beneficiary.

There are many classifications of trusts, each of which may be further divided into subcategories that will determine their treatment for taxation and in legal disputes. For the purposes of property tax benefits, there are two main types of trusts that the assessor will encounter:

1. “Living” Trust (inter vivos): A trust that is created and in effect during the trustor's lifetime.
2. Testamentary Trust: A trust that is created through the will of a deceased person and is not operative until the will is probated.

A further distinction may be made between revocable and irrevocable trusts. A “living” trust may be either revocable or irrevocable, while a testamentary trust must be irrevocable, since it will come into existence only upon the death of the trustor.

Irrevocable Trust

A trust into which a grantor deposits assets for use by a beneficiary where the terms of the trust cannot be modified or abrogated without permission of the beneficiary. That is, when a grantor sets up an irrevocable trust, he/she completely relinquishes ownership of the assets placed in the trust. As a result, an irrevocable trust is not usually considered part of the grantor's estate for estate tax purposes.

Revocable Trust

A trust for which the provisions can be altered or canceled dependent on the grantor. During the life of the trust, income earned may be distributed to the grantor, and only after death does property transfer to the beneficiaries, either outright or distributed under a continuation of the trust. This is also referred to as a "revocable living trust". A revocable trust that continues after the death of the settlor-beneficiary becomes an irrevocable trust.

REFERENCES:
Restatement (Third) of Trusts (2003)
Bogert's Trusts and Trustees
NJ Estate Planning Manual (NJICLE)
Warren v. Jackson Tp., 1 N.J. Tax 536 (1980)

402.06 Trusts on the Tax List.

As per N.J.S.A. 54:4-24, "the assessor shall make a list in tabular form of the names of the owners … of each parcel…. Property held in trust shall be assessed in the name of 1 or more of the trustees as such, separately from his individual assessment." This is because property held in trust is legally owned by the trustee, as noted in the previous section. If other information needs to be reflected, such as the beneficiary's name, it can be listed in the "additional owners" field. For assistance in the proper formatting, please contact the MODIV vendor.

REFERENCES:
N.J.S.A. 54:4-24

402.07 Partial or Multi-Ownership and Prorated Deductions.

Where title to a dwelling is shared by a claimant with other owners, he is eligible for the Real Property Tax Deduction on his share of the real estate tax bill. Unless some other situation is shown to exist, each owner is assumed to hold an equal ownership interest in the property. Regardless of the number of claimant-owners, the total deduction on such dwelling may not be more than $250 for 1983 and thereafter. Per N.J.S.A. 54:4-8.46 "Where title to property...is held by claimant and another or others…claimant shall not be allowed a deduction in an amount in excess of his proportionate share of the taxes assessed against said property…" See also Section on Aggregate Deduction.

Example: 2 owners

1 Senior Citizen	$125.00
1 Disabled Person	+ $125.00
Deduction	$250.00

Example: 3 owners

1 Senior Citizen	$83.33
1 Disabled Person	$83.33
1 Surviving Spouse	+ $83.34
Deduction	$250.00

Example: 4 owners

4 Senior Citizens	$62.50
Or Disabled	$62.50
Persons or	$62.50
Surviving Spouses	+$62.50
Deduction	$250.00

Example: 1 Senior Citizen w/75% ownership	$187.50
1 Senior Citizen w/25% ownership	+$62.50
Deduction	$250.00

Example: Total annual taxes - $3,000.00
2 property owners where only one owner is a deduction claimant.
$3,000 ÷ 2 = $1,500 deduction, claimant receives full $250.00 tax deduction.

Although this almost never occurs:
Example: Total annual taxes - $800.00
4 property owners w/equal ownership interest where only one owner is deduction claimant.
$800 ÷ 4 = $200 deduction, amount restricted by proportionate tax payment.

402.08 Ineligible Ownership.

A Real Property Tax Deduction is not permitted on a dwelling in which the claimant has only an estate for a term of years, a leasehold interest or an interest of any other nature less than an estate in fee. Property owned by a corporation is not entitled to a deduction.

REFERENCES:
N.J.S.A. 54:4-8.44 and 8.46
N.J.A.C. 18:14-1.1, 18:14-2.6; 18:14-3.2 and 3.5
Warren v. Jackson Twp., 1 N.J. Tax 536 (Tax Court 1980).
West Jersey Grove Assoc. v. City of Vineland. 80 N.J. Super. 361, (App. Div. 1963).
Guidelines for Implementation of Chapter 129, P.L. 1976,
Attorney General's Opinion "Apportionment of Senior Citizen Deduction," Dated Jan 10, 1983.

402.09 Residence.

A senior citizen, disabled, or widowed/widowered (surviving spouse) Real Property Tax Deduction applicant must meet two residence requirements as of October 1 of the pretax year. A third condition of residency is required of a surviving spouse deduction applicant.

1. **Residence in New Jersey.** A Real Property Tax Deduction claimant must have been domiciled in New Jersey for at least one year immediately preceding October 1 of the pretax year. An applicant need not have resided in the same dwelling for which the deduction is

claimed, nor in the same municipality or county during that time, as long as he was domiciled in this State for one year immediately prior to pretax year October 1.

Example: State residence begins June 1, 2010 through June 1, 2011. Residence in claimed dwelling October 1, 2011 pretax year establishes deduction for tax year 2012.

Example: State residence begins November 1, 2010 through November 1, 2011. Residence in claimed dwelling October 1, 2011 means ineligible for deduction 2012. Residence in claimed dwelling October 1, 2012 pretax year establishes deduction for tax year 2013.

Seasonal or temporary residence, regardless of duration, does not constitute **domicile** for purposes of this deduction. Absence from this State for 12 months is considered prima facie evidence of abandonment of domicile.

Domicile Defined. A domicile is any place you regard as your permanent home - the place to which you intend to return after a period of absence (as on vacation abroad, business assignment, educational leave, etc.). A person has only one domicile, although he may have more than one place to live. Once established, your domicile continues until you move to a new location with the intent to make it your permanent home and to abandon your New Jersey domicile. Moving to a new location, even for a long time, does not change your domicile if you intend to return to New Jersey. Some proofs of domicile are New Jersey voter registration, New Jersey motor vehicle registration and driver's license, resident tax return filing.

Prima Facie Defined. A fact presumed to be true unless disproved by some evidence to the contrary.

2. **Residence in the Dwelling House.** A Real Property Tax Deduction applicant must reside in the dwelling for which the deduction is claimed on October 1 of the pretax year. "Dwelling house" means the dwelling where the claimant makes his principal and permanent home.

For example, where an apartment is the claimant's principal place of residence and a cottage or bungalow is occupied during vacations, the vacation residence is not eligible for a deduction.

3. **Residence as a Surviving Spouse.** A surviving spouse of a deceased senior citizen or disabled person Real Property Tax Deduction recipient must reside in the same dwelling for which the deduction was originally granted, and the survivor's property tax deduction may apply only to that dwelling.
4. **Partial Occupancy.** Where a claimant owns property but resides in or occupies only a portion of it, the Real Property Tax Deduction is applied to the taxes due from that portion of the property occupied as the dwelling.
5. **Residences of Husband and Wife.** A claimant may receive only one Real Property Tax Deduction on the dwelling owned and used as the principal place of residence. A husband and wife, both meeting all eligibility requirements, even if they own more than one property, are granted only one deduction for their principal residence.

REFERENCES:
N.J.S.A. 54:4-8.40, 8.41(a), 8.44 and 8.46
N.J.A.C. 18:14-1.1, 18:14-2.5, 18:14-3.5
Attorney General's Opinion "Residency Requirement for Senior Citizens," dated Feb. 6, 1975.
Mc Dougall v. Vernon Township, 6 N.J Tax 488 (Tax Court 1984).
Black's Law Dictionary, 5th Edition, West

402.10 Income.

A Real Property Tax Deduction applicant must establish that his anticipated income from all sources for the tax year for which the deduction is claimed will not exceed $10,000 after excluding income under ONE of the following three income categories:

1. The Federal Social Security Act and all its amendments and supplements; **or**

2. Any other Federal government program or Federal law which provides benefits in whole or in part in lieu of Social Security benefits or for persons excluded from Social Security coverage, including but not limited to the Federal Railroad Retirement Act and Federal pension, disability and retirement programs; **or**
3. Pension, disability or retirement programs of any state or its political subdivisions or agencies, for persons not covered under (1) Social Security, provided that the total benefit excludable under (2) or (3) is not in excess of the maximum benefit excludable in similar circumstances under (1) Social Security.

402.11 Definitions.

"Income". Income includes but is not limited to: salaries, wages, bonuses, commissions, tips, and other compensations before payroll deductions, all dividends, interest, *realized capital gains, royalties, income from rents, business income and, in their entirety, pension, annuity and retirement benefits. Dividends, interest, *realized capital gains, pensions, annuities and retirement benefits must be included in full, without deductions, even though they may be wholly or partially exempt for Federal income tax purposes.

*Realized capital gain from the sale or exchange of real property owned and used by a claimant as his principal residence, and on which he received a senior citizen, disabled person or surviving spouse property tax deduction is not to be included as income when calculating the $10,000 income limit.

"Business Income" means gross income derived from a business, trade, profession or from the rental of property after deductions of the ordinary and necessary expenses of the business, trade, profession or property rental as allowed under the Federal Internal Revenue Code and regulations.

“Disability Income” is excludable by law when calculating deduction income limits for benefits received under a Federal, State or political subdivision program to the extent of the maximum benefits available under the Federal Social Security Act. Any other disability income than that received under a Federal, State or political subdivision program is to be evaluated based on its proper treatment for Federal income tax purposes.

“Marital and Family Income” Where both husband and wife are entitled to Social Security benefits, government retirement pensions or government disability pensions, each is permitted their own exclusion from one of the categories of excludable income subject to the maximum limitations provided by law. Income received by a Real Property Tax Deduction claimant and spouse is combined in establishing eligibility for the deduction unless they are living apart in a state of separation whether under judicial decree or otherwise.

“Family Income” In determining a claimant’s income, family members’ incomes, other than a spouse, are not to be combined with the income of the claimant.

“State of separation” means a permanent and indefinite period of separation and does not include temporary periods of separation such as separate vacations, business trips, hospitalizations, etc.

“Federal Internal Revenue Code Income Definition Applicable.” Except as otherwise indicated, the definition of income under Federal Internal Revenue Code and regulations is the basis for computing income levels for purposes of determining deduction entitlement.

"Income Guidelines" Guidelines to aid in determining income eligibility are issued annually by the Division of Taxation, Property Administration, available on the portal and the Division's website at:

http://www.state.nj.us/treasury/taxation/pdf/lpt/2015incomeguidlines.pdf

REFERENCES:
N.J. Constitution, Art. VIII Sec. 1 Par.4
N.J.S.A. 54:4-8.40 (a), 8.41 and 8.44
N.J.A.C. 18:14-1.1 et seq.
Guidelines for Implementation of Chapter 129, Laws of 1976
Local Property and Public Utility Branch News, September-October, 1977, p. 1.

402.12 Timely Application - No Retroactive Claims; Personal Deduction.

Claimants must apply for the deduction on Form PTD, found at: http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/ptd.pdf. "Claim for Real Property Tax Deduction on Dwelling House of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse/Surviving Civil Union Partner" is also supplied by each municipality. Forms may be filed with the assessor from October 1 through December 31 of the pretax year, i.e., the year prior to the calendar tax year or with the tax collector from January 1 through December 31 of the calendar tax year. For example, for a property tax deduction claimed for tax year 2011, the pretax year filing period would be October 1 - December 31, 2010 with the assessor. The tax year filing period would be January 1 - December 31, 2011 with the collector.

NOTE: No application for a previous tax year is to be permitted by the assessor, tax collector or governing body. An executor, administrator etc. may not apply for deduction on behalf of a decedent who died without having filed PTD application since this deduction is deemed to be a personal one. See also Section on Application Procedures.

REFERENCES:
N.J.S.A. 54:4-8.42, 8.43 and 8.47
N.J.A.C. 18:14-2.2, 18:14-3.1

402.13 Age.

Age requirements for the Real Property Tax Deduction differ among Senior Citizens, Disabled Persons and Surviving Spouses.

1. Senior Citizen. A senior citizen must be 65 or more years of age as of December 31 of the pretax year. Proof of age should be attached to the application in the form of an original or photocopy of a birth certificate, baptismal record, family bible page, official census record, marriage certificate, court record, social security record, military discharge or other record, immigration document, insurance policy, or some similar record. Where photocopying of an original immigration document is not permitted, the assessor or collector should abstract the appropriate information and attach the abstract to the application.
2. Disabled Person. There is no age requirement to be met by a disabled person.
3. Surviving Spouse. A surviving spouse must be at least 55 or more years of age on or before December 31 of the pretax year and had to have been at least age 55 at the time of death of the deceased spouse. Proof of age or date of birth should be documented with an original or photocopy of a birth, baptismal or marriage certificate, death certificate or any other similar official record.

REFERENCES:
N.J.SA. 54:4-8.41, 8.41(a) and 8.44
N.J.A.C. 18:14-2.2, 18:14-2.3

402.14 Permanent and Total Disability.

"Permanently and totally disabled" means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness as of December 31 of the pretax year.

"Blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye having limited field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees is considered as having a central visual acuity of 20/200 or less. Acceptable proofs to be retained with the application are: physician's certificate; various Social Security Award Certificates, in addition to Social Security Award Form SSA-30, or Report of Confidential Social Security Benefits Information Form No. SS-2458 and Social Security Third Party Query Response Form TPQY, provided they verify permanent and total disability in accordance with the Federal Social Security Act and clearly indicate the individual is, in fact, awarded such benefits based on disability; a certificate from the New Jersey Commission for the Blind verifying blindness.

REFERENCES:
N.J.S.A. 54:4-8.40(b), 8.41 and 8.44
N.J.A.C. 18:14-1.1
Guidelines for Implementation of Chapter 129, P.L. 19, 1977. 76.
Local Property and Public Utility Branch News, May-June.

402.15 Surviving Spouse.

A surviving spouse is the unremarried widowed or widowered partner of a marriage, who was at least 55 years of age as of December 31 of the pretax year and at time of the deceased spouse's death, where the decedent spouse during his or her life received either a senior citizen or disabled person's real property tax deduction. A qualified surviving spouse is eligible for a deduction on the same dwelling for which the deceased spouse received a property tax deduction. Proofs on file should include a copy of a death certificate of the decedent spouse, documentation of survivor's age and the marriage certificate.

REFERENCES:
N.J.S.A. 54:4-8.41a
N.J.A.C. 18:14-1.1, 18:14-2.1, 18:14-2.3, 18:14-2.5
Guidelines For Implementation of Chapter 129, P.L. 1976.

402.16 Aggregate Real Property Tax Deduction Limited.

By law, the aggregate real property tax deduction from taxes levied on a dwelling may not be more than $250 for 1983 and thereafter. Statute does not preclude more than one owner - claimant, whether title is held as tenancy in common or joint tenancy, from requesting the deduction, but no more than one full real property tax deduction per property is allowed in any year. An individual senior/disabled/widow(er) deduction claimant who also qualifies as a veteran deduction claimant is entitled to both the $250 real property tax deduction and the $250 veteran's property tax deduction. Where title to a dwelling house is held by both a real property tax deduction claimant as a senior citizen, disabled person, or surviving spouse and by a veteran property tax deduction claimant or his surviving spouse either as tenants by the entirety, joint tenants or as tenants in common, the $250 property tax deduction claimant and the $250 veteran property tax deduction claimant are each entitled to their applicable deduction, even if the aggregate amount exceeds $250, provided that it does not exceed each claimant's proportionate share of the total taxes assessed against the property.

Examples:

1 owner	2 owners
$250 Senior Citizen Deduction	$125 Senior Citizen Deduction
+ $250 Veteran Deduction	$125 Senior Citizen Deduction
$500 Aggregate Amount	+ $250 Veteran Deduction
	$500 Aggregate Amount

2 or 3 owners

$250 Senior Citizen Deduction

$250 Veteran Deduction

+$250 Veteran Deduction

$750 Aggregate Amount

In addition, a recipient of a real property tax deduction may also receive any homestead credit or property tax reimbursement provided by law.

REFERENCES:
N.J. Constitution, Art. VIII, Sec. 1, Par. 4
N.J.S.A. 54:4-8.41 and 8.46
N.J.A.C. 18:14-2.8, 18:14-3.6
Moe Rose v Boro. of Highland Park, Division of Tax Appeals, 1965.
Deputy Attorney General's letter dated 5/3/72 to Chief Clerk, Camden County Tax Board.
Guidelines For Implementation of Chapter 129, P.L. 1976.

403. Applying for Real Property Tax Deduction.

403.01 Application Claim Forms Used.

Real property tax deduction claim forms for senior citizens, permanently and totally disabled persons and their surviving spouses currently in use are:

Form PTD (February 2007) "Claim for Real Property Tax Deduction on Dwelling House of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse/Surviving Civil Union Partner". Form PTD can be found here:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/ptd.pdf

Form PD 4 (November 2002) "Notice of Disallowance of Claim For a Tax Deduction on Dwelling House of a New Jersey Resident Senior

Citizen, Disabled Person, or Surviving Spouse". Form PD 4 can be found here: http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/pd4.pdf

Form PD 5 (January 2011) "Annual Post Tax Year Income Statement of Qualified New Jersey Resident Senior Citizen, Disabled Person, or Surviving Spouse/Surviving Civil Union Partner Required to Continue Receipt of Real Property Tax Deduction on Dwelling House". Form PD 5 can be found here:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/pd502.pdf

Form PTD-SI Supplemental Income Form The use of this $250 Real Property Tax Deduction form is recommended by the Division of Taxation. The form was revised and widely distributed in 2011 for use by assessors and collectors in New Jersey. Form PTD-SI can be found here: http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/NJ_PT_SupplementIncome.pdf

403.02 Municipality Supplies Claim Forms; Reproducible; Cost State Reimbursed.

Each taxing district is required to provide application forms for the use of claimants. However, pursuant to P.L. 1997, c.30, the State will annually reimburse each district an additional 2% over the cost of the actual deductions to offset administrative expenses. The forms are promulgated by the Director, Division of Taxation and may be reproduced for distribution, but may not be altered without prior approval.

REFERENCES:
N.J.S.A. 54:4-8.42
N.J.A.C. 18:14-2.1
Guidelines For Implementation of Chapter 129, P.L. 1976.

403.03 Filing Claim Forms; Under Oath.

Claimants applying for the Real Property Tax Deduction for the first time must file "Claim for Real Property Tax Deduction on Dwelling House of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse/Surviving Civil Union Partner," Form PTD, with the assessor on or after October 1 and not later than December 31 of the pretax year or with the tax collector between January 1 and December 31 of the calendar tax year. After approval of initial application, claimants must timely submit "Annual Post-Tax Year Income Statement of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse", Form PD5, by March 1 every year thereafter to retain the deduction. Assessors and tax collectors and their assistants are authorized to administer the oath which may be required of applicants but no charge may be made for this. All declarations of deduction claimants are considered as if made under oath and subject to penalties for perjury if falsified.

REFERENCES:
N.J.S.A. 54:4-8.43, 54:4-8.47 and 8.48
N.J.A.C. 18:14-2.1 and 2.2
Guidelines For Implementation of Chapter 129, P.L. 1976.

403.04 Accepting Claim Forms.

All applications for Real Property Tax Deduction should be accepted, if filed within the prescribed time periods, whether or not the claimant appears qualified. This allows a claimant to file an appeal with the County Board of Taxation if he feels his application is denied incorrectly.

403.05 Processing Claim Forms.

By Assessors. Assessors should maintain complete files of all approved and disapproved PTD applications and their supporting documents, and note approved claims in the records. Supporting documents remain the

property of each assessor's office. Tax collectors should note contingent tax liabilities for each claimant's deduction amount should it later be disallowed based on excess income, change of ownership or residence or failure to meet any other prerequisites.

By Collectors. Where a PTD application is filed with and a deduction allowed by the tax collector, he is to determine the amount of the claimant's tax reduction and offset the amount against the tax then unpaid. The tax collector should transmit the application, together with all attachments or photocopies, to the assessor. The assessor is then to review the application and, if approved by him, it will have the same force as if originally filed with him.

REFERENCES:
N.J.S.A. 54:4-8.43

403.06 Continuing Deduction.

A Real Property Tax Deduction, once granted, continues in force from year to year without further applications as long as a recipient remains eligible. Each assessor may, at any time, inquire into a recipient's right to continue the deduction and require a new application or such proof as he considers necessary to determine continued entitlement. Also, every deduction recipient, by law, is to inform the assessor of any change which might affect his ongoing entitlement to the deduction. However, every year after initial application is approved, a deduction recipient must file with the tax collector by March 1 an Annual Post-Tax Year Income Statement, PD5, verifying his income for the preceding tax year did not exceed the maximum allowed and that the income he anticipates for the ensuing tax year will not exceed it. Each collector may require such proof as he considers necessary to verify the statement.

REFERENCES:
N.J.S.A. 54:4-8.42 54:4-8.44(a), 54:4-8.45
N.J.A.C. 18:14-2.1(c) and 2.7

403.07 Post-Tax Year Income Statement Required.

On or before March 1 of the post-tax year, that is, the year following the calendar tax year, a deduction recipient must file with the tax collector, Form PD5, a statement of his income for the tax year. If the statement is not timely filed or satisfactorily documented or if the income exceeds the permitted maximum, deduction must be disallowed. The deduction amount previously granted would then be payable by its recipient to the taxing district by June 1 of the post-tax year. If not paid by that date, the taxes become delinquent, a lien on the property and a personal debt of the homeowner.

403.08 Post-Tax Year Income Statement Filing Deadline Extended.

Where a tax collector is satisfied that failure to file an income statement by March 1 was due to a claimant's illness or medical problem, he may grant a filing extension to no later than May 1 of the post-tax year. The claimant must provide the collector with a physician's statement that the claimant was physically incapacitated and unable to file by the original March 1 filing deadline. If the Real Property Tax Deduction is then disallowed for untimeliness, income etc. taxes in an amount equal to the deduction must be paid on or before June 1 or where filing extension to May 1 was granted no later than 30 calendar days after the Notice of Disallowance was mailed. If unpaid, the taxes become delinquent, a lien on the property and a personal debt.

REFERENCES:
N.J.S.A. 54:4-8.44(a)
N.J.A.C. 18:14-2.7
Guidelines for Implementation of Chapter 120, P.L. 1976.

403.09 Disallowing Claim Forms.

If application for Real Property Tax Deduction is disapproved, a Notice of Disallowance, Form PD 4, must be sent to the claimant by regular mail giving the reason or reasons for denial and advising the claimant of his right to appeal to the County Board of Taxation on or before April 1.

1. Application Denied By Assessor.
   Where an initial application for property tax deduction, Form PTD, is denied by the assessor, he must forward a Notice of Disallowance, Form PD 4, to the claimant on or before June 1 of the tax year.
2. Application Denied By Collector.
   Where an initial application for property tax deduction, Form PTD, is denied by the tax collector, he must forward a Notice of Disallowance, Form PD 4, to the claimant within 30 days of receipt of the application.
3. Application Denied By Collector Per Post-Tax Year Statement.
   Where the deduction is denied by the tax collector because the claimant failed to timely file the Post-Tax Year Income Statement, Form PD 5, or because claimants' annual income exceeded/will exceed the $10,000 limit, he must forward a Notice of Disallowance, Form PD 4, to the claimant on or before April 1 of the post-tax year or, where filing extension to May 1 has been granted, not later than June 1 post-tax year.

REFERENCES:
N.J.S.A. 54:4-8.44(a)
NJ.A.C. 18:14-3.9
Guidelines For Implementation of Chapter 129, P.L. 1976.

403.10 Change in Ownership or Residence; Tax Liability Proration, Lien.

Where a Real Property Tax Deduction recipient transfers ownership, sells or ceases to occupy his dwelling as his principal residence during the tax

year, a post-tax year income statement must be filed to verify deduction entitlement for that portion of the tax year prior to the sale, transfer or change in residence. Any tax liability is to be prorated by the tax collector based on the number of days during the tax year that entitlement to the property tax deduction ceased.

For example: Qualified property tax deduction recipient sells the claimed dwelling house on May 3 of the tax year. Proration of the $250 deduction is calculated as:

(May 4 to December 31)

$$\frac{\text{242 days of nonownership}}{\text{365 days in year}} \times \$250 \text{ deduction} = \$165.75$$

$250.00 Deduction
-$165.75 Deduction to be repaid to municipality
$ 84.25 Prorated Deduction amount allowed

Failure to timely file or document the income statement or if income exceeded the allowable annual $10,000 maximum, the full property tax deduction for that tax year is to be denied and taxes in an amount equal to said deduction must be paid on or before June 1 of the post-tax year or, where filing extension has been granted no later than 30 calendar days after the Notice of Disallowance was mailed. If unpaid, the taxes become delinquent, a lien on the property and a personal debt.

REFERENCES:
N.J.S.A. 54:4-8.44(a)
N.J.A.C. 18:14-3.7
Guidelines For Implementation of Chapter 129, P.L. 1976.

403.11 Death of a Property Tax Deduction Claimant/Recipient.

The Director of the Division of Taxation has promulgated the following guidelines:

1. Where a qualified claimant applies for property tax deduction during October 1 -December 31 of the pretax year and dies prior to January 1 of the ensuing tax year, the deduction for such tax year should be disallowed.
2. Where a qualified claimant applies for a deduction between October 1 - December 31 of the pretax year and dies on January 1 of the tax year or thereafter, the deduction for such tax year should be allowed. There is no need for proration nor filing of Post-Tax Year Income Statement, except as noted below.
3. Where a qualified claimant applies for deduction during the tax year, is granted deduction, and dies during that tax year, there is no need for proration nor filing of Post-Tax Year Income Statement, except as noted below.
4. Where an established qualified claimant who has been receiving deductions dies after December 31 of the pretax year (i.e. during tax year or thereafter) and prior to filing a Post-Tax Year Income Statement, the deduction should be allowed for the tax year if all prerequisites have been met as of October 1 of the pretax year. There is no need for proration and no Post-Tax Year Income Statement need be filed, except as noted below.
5. Where a qualified claimant dies after filing a Post-Tax Year Income Statement, there is no need for proration and no Post-Tax Year Income Statement need be filed during the year following such tax year, except as noted below.

EXCEPTION: If the surviving spouse, heirs-at-law, or assigns of the deceased deduction recipient sell or transfer title to the dwelling house during the tax year of recipient's death, the deduction ceases as of the sale or transfer date and the tax collector should prorate the deduction based on the number of days remaining in the tax year following the date of sale or transfer. The prorated amount constitutes a lien against the dwelling.

REFERENCES:
NJ.A.C. 18:14-3.6
Guidelines For Implementation of Chapter 129, P.L. 1976.
Director's Letter to Assessors, Collectors, Tax Commissioners, November 19, 1974.
Attorney General's Opinion M82-5202 Collection of Improperly Taken Local Property Tax Deductions(1985)

403.12 Appeals.

An aggrieved claimant may appeal the denial of a Real Property Tax Deduction in the same manner as appeals from assessments generally. If a claimant's deduction is disallowed by an assessor or collector at a date too late to permit the filing of an appeal with the County Board of Taxation on or before April 1 of the current year, then, the claimant would be entitled to appeal at any time on or before April 1 of the succeeding year. If the appeal is filed in time to permit it to be calendared and heard by the County Tax Board during the year immediately following the year to which the appeal relates, the board may hear and decide the appeal for that tax year. The appeal should indicate the nature and location of the property, the reasons for complaint and the relief sought. Form A-1 "Regular Petition of Appeal: may be found online at the NJ Division of Taxation website:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/petappl.pdf. This form must be printed on legal size paper.

REFERENCES:
N.J.S.A. 54:4-8.49
N.J.A.C. 18:14-3.10
Guidelines For Implementation of Chapter 129, P.L. 1976.

404. Tax Deduction Applied to Added and Omitted Assessments.

404.01 Added Assessments.

A Real Property Tax Deduction may be applied to an Added Assessment levied on a dwelling house where all deduction prerequisites, including

having legal title to the improved property as of pretax year October 1, have been met and the aggregate amount of the deduction claimed against the total taxes on the entire property does not exceed $250 for 1983 and thereafter. The amount of deduction is subtracted from the amount of taxes on the Added Assessment List after apportioning the assessment as provided by law.

REFERENCES:
N.J.A.C. 18:14-3.3
Guidelines For Implementation of Chapter 129, P.L. 1976.

404.02 Omitted Assessments.

A Real Property Tax Deduction may also be applied to an Omitted Assessment levied on a dwelling house where all deduction requirements have been met. Only one deduction may be received on the dwelling which constitutes the principal residence. The deduction may not be divided between two or more residences.

REFERENCES:
N.J.A.C. 18:14-3.4

Form AA-1 "Added/Omitted Petition of Appeal" may be found at the NJ Division of Taxation website.
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/adomap.pdf.
This form must be printed on legal size paper.

405. Deduction - Veterans, Veterans' and Servicepersons' Surviving Spouses.

New Jersey's Constitution provides for a deduction of up to $250 from taxes levied on real and personal property owned by: qualified war veterans, their surviving spouses, and the surviving spouses of servicepersons who served in time of war and died on active duty. General laws have been enacted to implement the constitutional provisions

and administrative regulations have been promulgated by the Director of the Division of Taxation.

REFERENCES:
N. J. Constitution, Art.VIII, Sec. 1, Par. 3
N.J.S.A. 54:4-8.10 et seq.
N.J.A.C. 18:27 et seq.

405.01 Eligibility.

To qualify for the $250 Veteran's Property Tax Deduction, a claimant must meet requirements of citizenship, residency, active wartime service in United States Armed Forces, honorable discharge, real or personal property ownership, timely application, and surviving spouse where warranted as follows:

405.02 Citizenship.

The veteran applicant must be a citizen of New Jersey as of October 1 of the pretax year, i.e., the year prior to the tax year for which deduction is requested. The Constitutional and statutory language requiring a veteran and a veteran's surviving spouse to be "citizens of this State" means New Jersey citizenship not United States citizenship.

REFERENCES:
N. J. Constitution, Art.VIII, Sec. 1, Par. 3
N.J.S.A. 54:4-8.10; 54:4-8.11
N.J.A.C. 18:27-2.2, 2.4; 18:27-3.3
Attorney General's Opinion 1961 -No. 34.

405.03 Residence in New Jersey.

The Veteran Property Tax Deduction applicant must be a legal or domiciliary resident of New Jersey as of October 1 of the pre-tax year.

Domicile Defined. Domicile is any place you regard as your permanent home - the place you intend to return to after a period of absence (as on vacation abroad, business assignment, educational leave, etc.). A person

has only one domicile, although he may have more than one place to live. Your domicile, once established, continues until you move to a new location with the intent to make it your permanent home and to abandon your New Jersey domicile. Moving to a new location, even for a long time, does not change your domicile if you intend to return to New Jersey. Some proofs of domicile are N.J. voter registration, New Jersey motor vehicle registration, driver's license and resident tax return filing.

Seasonal or temporary residence in this State is not sufficient. Absence from this State for twelve months or more is prima facie evidence of abandonment of domicile. In Roxbury Twp. v. Heydt, the Tax Court of New Jersey held that duration of a military serviceperson's residence in New Jersey was not a significant factor in determining domicile in view of duty reassignment practices of the Armed Forces. The burden of proving legal domicile is on the deduction claimant.

REFERENCES:
N. J. Constitution, Art.VIII, Sec. 1, Par. 3
N.J.S.A. 54:4-8.10; 54:4-8.11
N.J.A.C. 18:27-2.4; 18:27-3.3
Roxbury Twp. v. Heydt, 6 N.J. Tax 73 (Tax Court 1983).

405.04 Active Service in the United States Armed Forces.

A Veteran Property Tax Deduction applicant must have served full-time active duty in the Armed Forces of the United States in time of war. The Armed Forces of the United States includes:

1. Air Force
2. Army
3. Army Transport Command
4. Coast Guard
5. Marine Corps
6. Navy
7. Women's Army Corps (As of July 1, 1943)
8. Regularly established women's auxiliary units of the Coast Guard, Marine Corps, and Navy, together with Nurses, when on active duty with any of the above listed military service branches.

Reserve Unit Personnel of the following units when detailed for and on active duty with the above listed service branches are also included:

3. Air Force Enlisted Reserve
4. Coast Guard Regular Reserve
5. Coast Guard Reserve
6. Dental Reserve Corps of the Navy
7. Enlisted Reserve Corps
8. Marine Corps Reserve
9. Marine Corps Reserve Force
10. Medical Reserve Corps of the Army
11. Medical Reserve Corps of the Navy
12. National Naval Volunteers
13. National Guard of the United States
    A. Air National Guard of the United States
    B. Army National Guard of the United States
14. Naval Auxiliary Reserve
15. Naval Militia
16. Naval Reserve
17. Naval Reserve Force
18. Officers' Reserve Corps of the Air Force
19. Officers' Reserve Corps of the Army
20. Officers' Reserve Corps of the Navy
21. Organized Reserve
22. Public Health Service
23. Regular Army Reserve
24. Reserve Corps of the Public Health Service
25. Reserve Officers Training Corps
26. Students' Army Training Corps
27. United States Maritime Service or Merchant Marines (during World War II only)
28. United States Army Transport Service (Transportation Corps during World War II)
29. United States Naval Transportation Service (during World War II)

Maritime Service - Merchant Marines

On January 19, 1988, the "American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945," was determined to be "active duty" under Public Law

95-202 for all laws administered by the Veterans Administration. Although not part of the United States Merchant Marine, Civil Service crew members aboard U.S. Army Transport Service and Naval Transportation Service vessels in oceangoing service or foreign waters are also in this approved group.

An "active duty" determination was also made regarding eligibility for New Jersey's veterans' property tax benefits. To qualify for the New Jersey property tax deduction or exemption, the following is required:

1. Employment by the War Shipping Administration or Office of Defense Transportation or their agents as merchant seamen documented by the U. S. Coast Guard or Department of Commerce (Merchant Mariner's Document/Certificate of Service), or by the U. S. Army Transport Service (later redesignated U. S. Army Transportation Corps, Water Division) or the Naval Transportation Service as a civil servant; ***and***

2. Satisfactory service as a crew member during the period of armed conflict, December 7, 1941; to August 15, 1945, aboard
   a. merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service (46 USCA 10301 and 10501) and "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, ***or***
   b. public vessels in oceangoing service or foreign waters.

REFERENCES:
N.J.A.C. 18:27-2.7
Attorney General's Opinion "Merchant Marines—Entitlement to NJ Property Tax Benefits" dated June 7, 1988.
Attorney General's Opinion "Public Health Service Members During a Time of War Qualify as a Veteran," dated October 10, 1979.

405.05 Ineligible Service.

"Active duty for training" or "field training" as a member of a Reserve Component of the Armed Forces of the United States during the pendency of the Vietnam conflict is not considered "active duty" or "active service in time of war," and such military service is not eligible military service for purposes of receiving Veterans Tax Deductions and Exemptions. In a 1973 Deputy Attorney General opinion, excerpting the Military and Veterans Law, N.J.S.A. 38A1-l(i) **"Active duty"** is defined as full time duty in the active military service of the United States, other than active duty for training.

"Active duty for training" is defined as "full time duty in the active military service of the United States with or without pay for training purposes, including the initial period of training required by 10 U.S.C. 511(d) for enlisted members of the Army National Guard of the United States and Army Reserve and, with respect to the Army Reserve annual training, attendance at Army service schools...field training exercises or maneuvers under 10 U.S.C. 672(b), 672(d) or 673."

"Annual training" is defined by the Army Regulation to mean "a period of full time training duty for members of the Army National Guard and a period of active duty for training for members of the Army Reserve required to be performed each calendar year, including duty performed at summer encampments, and field exercises and maneuvers." The provisions of 10 U.S.C. Si 1(d), Reserve Enlistment Program of 1963, state that each person enlisted in a reserve component program shall perform an initial period of active duty for training of not less than four months to commence, so far as practicable, within 180 days after the date of enlistment. See also: 32 U.S.C. 502.

Duty performed by a member of the organized militia other than active duty or active duty for training is characterized as **"inactive duty training."**

N.J.S.A. 38A: 1-6 provides "Federal laws and regulations relating to and governing the Armed Forces of the United States shall insofar as the same are applicable and not inconsistent with the State Constitution, apply to and govern the military forces of this State."

In Township of Dover v. Scuorzo, the Superior Court of NJ, Appellate Division held that the term "active service in time of war" was not self-defining and unambiguous. The Director of the Division of Taxation's construction was reasonable and the court must defer to that construction. Therefore, "active duty for training" as a member of the Reserves or National Guard is not a qualifying service for purposes of New Jersey property tax benefits. However, Guard and Reserve members may qualify for benefits when they are called into active service or deployed by Presidential or Congressional Order.

The Newark Riots of 1967

Although the National Guard was activated by the Governor for riot control and the President's offer to federalize the Guard was declined this service is not qualifying for property tax benefit purposes.

Incarcerated Veterans

Per the New Jersey Department of Military and Veterans Affairs, incarcerated veterans' VA benefits are stopped until released from incarceration. A pre-existing DD214 honorable discharge status would not be changed and benefits are reinstated after release.

The following organizations are not considered Armed Forces of the United States:

1. American Red Cross
2. New Jersey State Guard
3. New Jersey State Militia
4. Salvation Army
5. Women's Army Auxiliary Corps (Prior to July 1, 1943)
6. YMHA, YM-YWCA

Civilian employees of the United States and civilians serving in civil defense units, such as air raid precautions, auxiliary police and fire

service, and coast guard reserves, are not eligible for the Veteran's Property Tax Deduction.

A tax deduction cannot be granted based on a disenrollment certificate or any form of release terminating temporary service in a military or naval branch of the Armed Forces on a voluntary or part-time basis without pay.

A release from or deferment of induction into active air, military, or naval service, such as a "Discharge from Draft" form used in World War I, does not indicate active duty in the Armed Forces of the United States.

REFERENCES:
N.J.S.A. 54:4-8.10, 54:4-8.11
N.J.A.C. 18:27-2.2, 2.6, 2.7, and 2.8
Township of Dover v. Scuorzo 392 N.J. Super. 466 (App. Div. 2007).
Attorney General's Opinion No. 24, July 13, 1956, Discharge from Draft.
Attorney General's Opinion "Member of the National Oceanic … Veteran's Tax Deduction" dated March 20, 1975.
Attorney General's Opinion "Individuals Who Served in a Reserve Component Ineligible Unless Activated into Federal Military Service by Presidential Order" dated January 7, 1993.
Assistant Attorney General's letter to Director, Division of Taxation, February 23, 1973.

405.06 Active Wartime Service.

The Veteran Property Tax Deduction applicant must have served in the Armed Forces of the United States in "time of war."

"Time of war" has been defined as the following periods:

MISSION	INCEPTION DATE	TERMINATION DATE
Operation Iraqi Freedom	March 19, 2003	Ongoing
Operation Enduring Freedom	September 11, 2001	Ongoing
Operation Northern/ Southern Watch	August 27, 1992	March 17, 2003
"Joint Endeavor/Joint Guard" – Bosnia and Herzegovina	November 20, 1995	June 20, 1998
"Restore Hope" Mission – Somalia	December 5, 1992	March 31, 1994
Operation "Desert Shield/ Desert Storm" Mission	August 2, 1990	February 28, 1991
Panama Peacekeeping Mission	December 20, 1989	January 31, 1990
Grenada Peacekeeping Mission	October 23, 1983	November 21, 1983 (extended from October 25, 1983)
Lebanon Peacekeeping Mission	September 26, 1982	December 1, 1987 (extended from February 25, 1984)
Vietnam Conflict	December 31, 1960	May 7, 1975
Lebanon Crisis 1958	July 1, 1958	November 1, 1958
Korean Conflict	June 23, 1950	January 31, 1955
World War II	September 16, 1940	December 31, 1946
World War I	April 6, 1917	November 11, 1918

United States Military Forces in Russia - April 6, 1917 to April 1, 1920

REFERENCES:
Wellington v. Township of Hillsborough, 27 N.J. Tax 37 (Tax Ct. 2012).

405.07 Site and Length of Wartime Service Peacekeeping Missions.

A minimum of 14 days service in the actual combat zone except where service-incurred injury or disability occurs in the combat zone, then actual time served, though less than 14 days, is sufficient for purposes of property tax deduction. The 14 day requirement for Bosnia and Herzegovina may be met by service in one or both operations for 14 days continuously or in aggregate. For Bosnia and Herzegovina combat zone also includes airspace above those nations.

"Active service time of war" means active service in:

- Operation "Iraqi Freedom", in Iraq or in another area in the region in direct support of that operation;
- Operation "Enduring Freedom", in a theater of operation and in direct support of that operation;
- Operation "Restore Hope", in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation;
- Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, in direct support of one or both of the operations in that nation or in another area in the region, or on board a United States naval vessel operating in the Adriatic Sea, or in airspace above the Republic of Bosnia and Herzegovina;
- Operation "Northern Watch" and Operation "Southern Watch", in the theater of operation, including in the Arabian Peninsula and the Persian Gulf, and in direct support of that operation;
- Operation "Desert Shield/Desert Storm" mission in the Arabian Peninsula and the Persian Gulf, in the Arabian Peninsula or on board any ship actively engaged in patrolling the Persian Gulf;
- Panama Peacekeeping Mission, in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation;

- Grenada Peacekeeping Mission, in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation;
- Lebanon Peacekeeping Mission, in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation;
- Lebanon Crisis, in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation.

"Territorial waters" this term is used in conjunction with peace keeping missions and operations where required for a specific military operation defined in N.J.S.A. 54:4-8.10, and means the part of the sea adjacent to the coast of a given country which is deemed by international law to be within the sovereignty of that country. Its courts have jurisdiction over offenses committed on those waters, even by persons on board a foreign ship, or inland waters, all waters between line of mean tide and line of ordinary low water, and all waters seaward to a line three geographical miles distant from the coastline.

Wars and Conflicts. In Donnenwirth v. Edison Twp., a marine who sustained service connected 100% total and permanent disability stateside during the Vietnam conflict was entitled to property tax benefits. The court held that statute does not limit the place where injuries may be sustained. No specific length of time is prescribed. Any active service in the Armed Forces of the United States in time of war, no matter how brief, is sufficient.

REFERENCES:
N.J.S.A. 54:4-8.10
N.J.A.C. 18:27-1.1
Donnenwirth v. Edison Twp., Division of Tax Appeals (1967).

Federalized Service.

The Postal Strike of 1970 began in New York City and spread throughout the Northeast Region including Northern New Jersey and across the United States.

President Nixon called out the US Armed Forces Reserves and National Guard in attempt to distribute the mail and break the strike. Because the Armed Forces were activated by the president the term "federalized" is used and service members who participated are eligible for benefits.

405.08 Honorable Discharge.

A veteran claimant must have been honorably discharged or released under honorable circumstances from full-time active duty during a period of war. All discharges, except those designated as "dishonorable," "undesirable," "bad conduct," by sentence of "general court martial," "by sentence of summary court martial," or other similar indicator that the discharge or release was not under honorable conditions, qualifies the claimant as a veteran.

Clemency discharge is a "neutral" discharge according the U.S. Justice Department. Although it is not less than honorable, it is something other than honorable, as such, it does not meet the requirement of honorable discharge.

There is no provision for deduction for military personnel on active duty in the Armed Forces, prior to discharge, even in time of war. Members of the Armed Forces of the United States having continuous military service and who are still in the service do not qualify for deduction as confirmed by Attorney General Opinion No. 31 - 1951. An honorable discharge or release under honorable circumstances is required. However, an

honorably discharged U. S. war veteran does not lose his deduction by reentering into the military service.

Records. The National Archives and Records Administration, National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132-5100 is responsible for storing and maintaining veterans' service and health records. An Armed Forces Discharge Certificate may be obtained by filling out a DD Form 2168 and sending it to one of the following offices:

Merchant Marine:

Commanding Officer
U.S. Coast Guard – National Maritime Center
Attn: Records Management Branch (NMC-41)
100 Forbes Drive
Martinsburg, WV 25404

Army Transport Service:

Commander
Army Reserve Components
ARPERSCOM-PSV-V
9700 Page Avenue
St. Louis, MO 63132-5200

Naval Transportation Service:

Commander
Naval Personnel Command
(PERS-312)
Millington, TN 38054-5054

Forms are available from Veterans Administration Offices, Merchant Marine veterans organizations, and from the offices listed above. Additional assistance may also be obtained from NJ. Department of Military and Veterans' Affairs, Division of Veterans' Services, 101 Eggert Crossing Road, Trenton, NJ 08625.

REFERENCES:
N.J.S.A. 54:4-8.10
N.J.A.C. 18:27-2.5, 2.6

405.09 Property Ownership- Eligible.

A veteran claimant must have legal title, i.e., full or partial ownership interest, in the property for which the deduction is claimed. The ownership criteria is met by:

1. An executory contract for the sale of land under which the veteran claimant takes possession.
2. Partnership property to the extent of the veteran claimant's ownership interest as a partner up to a tax levy of $250.
3. Shareholders of co-ops or mutual housing corporations to the extent of the veteran claimant's proportionate share of taxes assessed against the real property.
4. Property held by a guardian, trustee, committee, conservator, or other fiduciary for any person otherwise eligible.
5. Joint tenants, tenants in common, or tenants by the entirety on their interest, but the tax deduction for any one claimant may not exceed the taxes due on his proportionate share. The interests of joint tenants and tenants in common are equal unless the deed provides otherwise. If property is held by husband and wife, as tenants by entirety, each is considered to own a full interest. For example, if a husband and wife hold title to a property and both are veterans, a double deduction, or $500, is permitted.
6. Property in which the claimant has an estate for life, life tenancy or life time rights.
7. Interest arising from a probated will or the intestate laws of this State provided care is taken to ensure that the claimant is a legal owner of full or fractional interest in such property.

Ineligible Ownership. Corporate property is not eligible.

REFERENCES:
N.J.S.A. 54:4-8.10, 54:4-8.15, 54:4-8.17, 54:4-8.18
N.J.A.C. 18:27:2.9-2.16
Sheppard v. Willingboro Twp., 1 N.J. Tax 530 (Tax Court 1980).
Hennefeld v. Township of Montclair, 22 N.J.Tax 166 (Tax Court 2005).
Jackson v. Neptune, 15 N.J. Tax 498(1996).
Attorney General's Opinion 1995- Life Estate

405.10 Ownership Change After October 1 Does Not Affect Entitlement.

Eligibility for a veteran's property tax deduction is established as of October 1 of the pretax year. Once established as of October 1st a deduction prevails for the whole of the ensuing tax year despite any change in title to the property which may occur between October 1 and December 31 of the pretax year or at any time during the calendar tax year.

The law does not provide for transfer of the deduction from one property to another when a veteran sells his property after October 1st and buys a new property, even if the change occurs in the same taxing district.

To obtain the benefit of the deduction, an adjustment of the property taxes must be made at closing by applying the proper debit and credit. The reconciliation of this issue is a private matter between buyer and seller.

When a veteran sells his property and buys another, this timeline shows how deduction continues where property ownership changes.

EXAMPLE 1

TAX YEAR 2011

Veteran applies for and receives Veteran's Property Tax Deduction for Old Avenue property for tax year 2011, based on eligibility requirements met on pretax year October 1, 2010.

EXAMPLE 2

TAX YEAR 2012

Veteran sells Old Avenue property after October 1, 2011, but deduction stays in place on Old Avenue for tax year 2012. If veteran sells the Old Avenue property before the deduction appears on his tax bill, the deduction may be adjusted for at closing or settlement.

EXAMPLE 3

If Veteran acquires ownership of New Avenue property after October 1, 2011 having owned Old Avenue property as of pretax year October 1, 2011, the veteran is not eligible for deduction on the New Avenue property for tax year 2012. An adjustment of the property taxes at settlement is needed to give the veteran credit for the deduction on Old Avenue property for tax year 2012.

EXAMPLE 4

If Veteran acquires ownership of New Avenue property **on or before** October 1, 2011, veteran is eligible for deduction on the New Avenue property for tax year 2012 and an application must be filed for New Avenue.

EXAMPLE 5

TAX YEAR 2013

If Veteran acquires ownership of New Avenue property **after** October 1, 2011, veteran is not eligible for deduction for 2012 on New Avenue. Veteran must file an application on or after October 1, 2012 for New Avenue to qualify for deduction on that property for tax year 2013.

REFERENCES:
N.J.A.C. 18:27-2.17

405.11 Death of Veteran Deduction Recipient.

Where a deduction claim has previously been filed and a claimant veteran, surviving spouse of a veteran or serviceperson dies after October 1 of the pretax year, the deduction should be allowed for the whole of the ensuing tax year if all other prerequisites were met as of October 1.

405.12 Timely Application - No Retroactive Claims.

Claimants must apply for the deduction on Form V.S.S. "Property Tax Deduction Claim by Veteran or Surviving Spouse/Civil Union or Domestic Partner of Veteran or Serviceperson" available on the Division of Taxation's website at:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/vss.pdf or the Municipal Tax Office. Forms may be filed with the assessor by December 31 of the pretax year or with the tax collector between January 1 and December 31 of the calendar tax year. For example, for veteran deduction claimed for tax year 2011, pretax year filing would be made October 1, 2010 through December 31, 2010 with the assessor and January 1 - December 31, 2011 with the collector.

***NOTE*:** No application for a previous tax year is to be permitted by the assessor, tax collector or governing body. See also Section on Application Procedures.

REFERENCES:
N.J.S.A. 54:4-8.13
N.J.A.C. 18:27-2.23

405.13 Eligibility of Surviving Spouses of Veterans and Servicepersons.

To qualify for a property tax deduction as the surviving spouse of a veteran or serviceperson, the surviving spouse must have been married to the veteran or serviceperson at the time of death, and at death the veteran or serviceperson himself or herself must have met the requirements for deduction of citizenship, residence, active military service in a time of war, (and for veterans' honorable discharge). In addition, the surviving spouse, as of October 1 of the pretax year;

1. must not have remarried;
2. must be a legal resident of New Jersey;
3. must have full legal title or a fractional ownership interest in the property;
4. must prove that the deceased was a citizen and resident of New Jersey at death; and
5. must timely apply for the tax deduction.

REFERENCES:
N.J.S.A. 54:4-8.10 (j); 54:4-8.11 and 54:4-8.12
N.J.A.C. 18:27-3.8

405.14 Surviving Spouse Defined.

"Surviving spouse" means a resident of this State who is the surviving wife or husband (i.e. widow or widower) of:

1. a citizen and resident of this State who dies while on active duty in time of war in any branch of the Armed Forces of the United States; ***or***
2. a citizen and resident of this State who has had active service in time of war in any branch of the Armed Forces of the United States and who dies while on active duty [not necessarily wartime] in a branch of the Armed Forces of the United States; (Brackets added for clarity.) ***or***
3. a citizen and resident of this State who has been honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

The status of surviving spouse ceases upon remarriage. Subsequent divorce does not restore surviving spouse status. While the Federal Government allows reinstatement of prior surviving spouse status upon dissolution of a second marriage, the State of New Jersey does not. However, for New Jersey annulment of a second marriage would restore status as a surviving spouse.

REFERENCES:
N.J.S.A. 54:4-8.10j
N.J.A.C. 18:27-1.1, 18:27-3.8
Jackson v. Neptune, 15 N.J. Tax 498(1996)- Divorce from Bed/Board.

405.15 Surviving Spouses Who are Veterans.

A qualified surviving spouse of a deceased veteran or deceased serviceperson who is also a qualified veteran himself/herself is eligible for a $250 property tax deduction under each status, or $500. See also Section on Aggregate Deduction.

REFERENCES:
N.J.S.A. 54:4-8.17

405.16 Ineligible Surviving Spouses - Surviving Spouses of Non-Resident Veterans and Servicepersons.

Constitutional and statutory provisions granting veterans' property tax deductions limit eligibility to veterans or servicepersons who are legal residents of this State. Accordingly, the surviving spouse of a veteran or serviceperson, though himself/herself a New Jersey resident, is not entitled to a deduction if the deceased veteran or serviceperson, at the time of death, was not a legal resident of this State.

REFERENCES:
N. J. Constitution, Art. VIII, sec. 1, Par. 3
N.J.S.A. 54:4-8.10(j), 54:4-8.11, 54:4-8.12, 54:4-8.15
N.J.A.C. 18:27-2.4
Garma v. Twp. of Lakewood, 14 N.J. Tax 1 (Tax Court 1994).
Roxbury Township v. Heydt, 6 N.J. Tax 73 (Tax Court 1983).

405.17 Aggregate Veteran's Property Tax Deduction.

A veteran tax deduction of $250 in the aggregate is allowed per individual claimant. While the deduction may be applied to property in any taxing district and may be divided among two or more properties, the total veteran's deduction per person may not be more than $250. An exception is made for surviving spouses of veterans who are veterans themselves where a double deduction totaling $500 is permitted. In the case of multi-owned property, each veteran claimant is eligible for his full $250 deduction provided their proportionate share of taxes paid is $250 or more. The tax deduction granted to veterans and their surviving spouses is in addition to all other deductions and exemptions for which the claimant may qualify.

Example:

4 owners
1/4 ownership interest each
all qualified veterans
total property taxes equal $6,000
eligible for 4 veteran deductions totaling $1,000.

REFERENCES:
N.J.S.A. 54:4-8.11; 54:4-8.17
N.J.A.C. 18:27-2.20

405.18 Continuing Deduction.

Once granted, a Veteran's Property Tax Deduction continues in force from year-to-year, without further applications, as long as a claimant remains eligible.

However, the assessor may inquire into a claimant's right to continue the deduction at any time. Annually as of October 1, the assessor should examine all deduction claims for changes in:

1. NJ domicile or legal residence in this State;

2. property ownership;
3. marital status of surviving spouse claimants.

The assessor may require such proof as he considers necessary to determine a claimant's continued eligibility. A claimant must, by law, inform the assessor of any change in status which would affect his continued right to the deduction.

REFERENCES:
N.J.S.A. 54:4-8.16
N.J.A.C. 18:27-3.9
Attorney General's Opinion M82-5202(1985) collection of improperly taken deductions

406. Applying for Veteran Property Deduction.

406.01 Application Claim Form Used, Municipality Supplies Claim Forms; Reproducible; Cost State Reimbursed.

Form V.S.S. "Property Tax Deduction Claim by Veteran or Surviving Spouse/Civil Union or Domestic Partner of Veteran or Serviceperson." V.S.S. applications are to be supplied by the municipality for claimants' use. However, pursuant to c. 30, P.L. 1997 the State will annually reimburse municipalities 2% above the actual deduction amounts for administrative costs. V.S.S. forms are promulgated by the Director, Division of Taxation and may be reproduced for distribution, but may not be altered without prior approval. V.S.S. forms can be found on the Division of Taxation's website at:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/vss.pdf

406.02 Filing Claim Forms - No Retroactive Applications.

Veteran Property Tax Deduction claimants must make written application for the deduction. V.S.S. applications should be filed with the assessor by

December 31 of the pretax year or with the tax collector between January 1 and December 31 of the calendar tax year.

Related exhibit follows:

State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
PO BOX 269
TRENTON NJ 08695-0269

RICHARD J. CODEY
Acting Governor

JOHN E. MCCORMAC, CPA
State Treasurer

In reply respond to:

December, 2005

TO: **MUNICIPAL ASSESSORS, TAX COLLECTORS, COUNTY TAX ADMINISTRATORS AND COUNTY TAX BOARD MEMBERS**

FROM: **PATRICIA WRIGHT, CHIEF, POLICY AND PLANNING**

RE: **NEW WARTIME SERVICE DATES**

REVISED VETERAN PROPERTY TAX DEDUCTION AND DISABLED VETERAN EXEMPTION FORMS

NEW CERTIFICATION OF ELIGIBILTY TO CONTINUE RECEIPT OF DISABLED VETERANS' REAL PROPERTY TAX EXEMPTION FORM

As a result of Chapter 64, P.L. 2005, passed on April 7, 2005 and effective on January 1, 2006, Operations "Northern Watch" and "Southern Watch" have been added as qualified war periods for property tax benefits. Operation Northern Watch and Operation Southern Watch are the names given to the missions that monitored and controlled airspace above and below the 33rd parallel in Iraq, otherwise known as "no-fly zones."

This law establishes a common start date of August 27, 1992 and these missions require service "…in the theater of operation, including the Arabian Peninsula and the Persian Gulf, and in direct support of the operation for a period, continuously or in the aggregate of at least 14 days in such active service, commencing on or before the date of termination as proclaimed by the President of the United States, Congress or United States Secretary of Defense ... [A]any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service…." The Department of Defense has established an end date of March 17, 2003 for both operations.

As always, to verify combat zone service it is necessary to review the veteran's DD-214 for indicators of the required 14 days in the combat zone. Additional information useful in determining if qualified service was performed as related to Operation Iraqi Freedom, Operation Enduring Freedom (Afghanistan), and Operations Northern Watch/Southern Watch may be found on the following pages.

Forms V.S.S. and D.V.S.S.E. have been changed to reflect these changes. Updated forms are enclosed for your review and use, starting with the 2006 tax year. The Director of the Division of Taxation has prescribed these forms. They may be reproduced for distribution, but not altered without prior approval.

A new form, Form COEDVSSE, Certification of Eligibility to Continue Receipt of Disabled Veterans' Real Property Tax Exemption, has been designed to confirm that recipients of the Disabled Veterans' Exemption remain eligible for that benefit.

The current wartime periods for property tax purposes, as specified in New Jersey statutes are:

ACTIVE SERVICE PERIODS FOR NEW JERSEY VETERAN PROPERTY TAX BENEFITS

MISSION	START DATE	END DATE
*Operation Iraqi Freedom	March 19, 2003	ongoing
*Operation Enduring Freedom	September 11, 2001	ongoing
*Joint Endeavor/Joint Guard-Bosnia/Herzegovina	November 20, 1995	June 20, 1998
*"Restore Hope" Mission - Somalia	December 5, 1992	March 31, 1994
*Operations Northern Watch/Southern Watch	August 27, 1992	March 17, 2003
*Operation Desert Shield/Desert Storm Mission	August 2, 1990	February 28, 1991
*Panama Peacekeeping Mission	December 20, 1989	January 31, 1990
*Grenada Peacekeeping Mission	October 23, 1983	November 21, 1983
*Lebanon Peacekeeping Mission	September 26, 1982	December 1, 1987
Vietnam Conflict	December 31, 1960	May 7, 1975
*Lebanon Crisis of 1958	July 1, 1958	November 1, 1958
Korean Conflict	June 23, 1950	January 31, 1955
World War II	September 16, 1940	December 31, 1946
World War I	April 6, 1917	November 11, 1918

*Peacekeeping Missions require a minimum of 14 days service in the actual combat zone except where service-incurred injury or disability occurs in the combat zone, then actual time served, though less than 14 days, is sufficient for purposes of property tax exemption or deduction. The 14 day requirement for Bosnia and Herzegovina may be met by service in one or both operations for 14 days continuously or in aggregate. For Bosnia and Herzegovina combat zone also includes the airspace above those nations.

The following websites may also be helpful in determining a veteran's status.
https://awards.navy.mil
http://www.defenselink.mil
http://www.hazegray.org/
http://usmilitary.about.com/od/deploymentsconflicts/
http://www.chinfo.navy.mil/navpalib/ribbons/navy_ribbons.html
http://www.milnet.com/pentagon/usnship.htm
http://www.army.mil/operations/
http://www.globalsecurity.org/military/ops/
http://www.history.navy.mil/medals/index.html
http://www.history.navy.mil/wars/
http://foxfall.com/index.htm

Afghanistan Campaign Medal

The Afghanistan Campaign Medal was established in 2004 and may be awarded to members of the Uniformed Services of the United States who serve or who have served in Afghanistan (or its contiguous air space) in support of Operation Enduring Freedom from October 24, 2001 to a date to be announced or upon the cessation of Operation Enduring Freedom. To be eligible for the Afghanistan Campaign Medal, a Service member must be assigned or attached to a unit participating in Operation Enduring Freedom for 30 consecutive days or for 60 nonconsecutive days in Afghanistan or meet one of the following criteria:

- Be engaged in actual combat against the enemy and under circumstances involving grave danger of death or serious bodily injury from enemy action, regardless of the time in Afghanistan.
- While participating in Operation Enduring Freedom or on official duties, regardless of time, is killed, wounded, or injured requiring medical evacuation from Afghanistan.
- While participating as a regularly assigned aircrew member flying sorties into, out of, within, or over Afghanistan in direct support of Operation Enduring Freedom; each day that one or more sorties are flown in accordance with these criteria shall count as one day.

Service members who qualified for the Global War on Terrorism Expeditionary Medal by reason of service in Afghanistan between October 24, 2001 and April 30, 2005 shall remain qualified for that medal. However, any Service member who wishes to do so may be awarded the Afghanistan Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal for that service. Additionally, any Army soldier authorized the arrowhead device may be awarded the Afghanistan Campaign Medal with arrowhead device in lieu of the Global War on Terrorism Expeditionary Medal with arrowhead device. No Service member shall be entitled to both the Global War on Terrorism Expeditionary Medal and the Afghanistan Campaign Medal for the same act, achievement, or period of service

Iraq Campaign Medal

The Iraq Campaign Medal was established in 2004 and may be awarded to members of the Uniformed Services of the United States who serve, or who have served in Iraq or its contiguous waters and air space, in support of Operation Iraqi Freedom from March 19, 2003 to a date to be announced (or until the cessation of Operation Iraqi Freedom). While participating as a regularly assigned aircrew member flying sorties into, out of, within, or over Iraq in direct support of Operation Iraqi Freedom; each day that one or more sorties are flown in accordance with these criteria shall count as one day.

Service members who qualified for the Global War on Terrorism Expeditionary Medal by reason of service between March 19, 2003 and April 30, 2005 shall remain qualified for that medal. However, any such person may be awarded the Iraq Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal for that service, at his or her request. In addition, any Army soldier who was authorized the arrowhead device may be awarded the Iraq Campaign Medal with arrowhead device in lieu of the Global War on Terrorism Expeditionary Medal with arrowhead device. No service member shall be entitled to both the Global War on Terrorism Expeditionary Medal and the Iraq Campaign Medal for the same act, achievement, or period of service.

War on Terrorism Expeditionary Medal

The War on Terrorism Expeditionary Medal, established in 2003, is awarded for qualifying service on or after September 11, 2001. Those awarded this medal must have been deployed abroad in Global War on Terrorism operations on or after September 11, 2001 and to a future date to be determined.

Initial approved operations for the Global War on Terrorism Expeditionary Medal were for Operation Enduring Freedom (Afghanistan) and Operation Iraqi Freedom. However, effective April 30, 2005, the Global War on Terrorism Expeditionary Medal is no longer authorized for service in Afghanistan and/or Iraq. Those qualified for this medal by reason of service in Afghanistan between October 24, 2001 and April 30, 2005 or by reason of service in Iraq between March 19, 2003 and April 30, 2005 remain qualified and may be respectively awarded the Afghanistan Campaign Medal or the Iraq Campaign Medal in lieu of the Global War on Terrorism Expeditionary Medal for that service. No Service member shall be entitled to both medals for the same act, achievement, or period of service.

The general area of eligibility encompasses all foreign land, water, and air spaces outside the fifty states of the United States and outside 200 nautical miles of the shores of the United States. At the present time, the areas of eligibility include the following specific locations:
Afghanistan (October 24, 2001 to April 30, 2005), Algeria, Bahrain, Bosnia-Herzegovina, Bulgaria, Chad, Columbia, Crete, Cyprus, Diego Garcia, Djibouti, Egypt, Eritrea, Ethiopia, Georgia, Guantanamo Bay, Cuba, Hungary, Iran, Iraq (October 24, 2001 to April 30, 2005), Israel, Jordan, Kazakhstan, Kenya, Kosovo (only specific GWOT operations not associated with operations qualifying for the Kosovo Campaign Medal), Kuwait, Kyrgyzstan, Lebanon, Mali, Mauritania, Niger, Oman, Pakistan, Philippines, Qatar, Romania, Saudi Arabia, Somalia, Syria, Tajikistan, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Yemen, that portion of the Arabian Sea north of 10 degrees north latitude and west of 68 degrees longitude, Bab El Mandeb, the Gulf of Aden, the Gulf of Aqaba, the Gulf of Oman, the Gulf of Suez, that portion of the Mediterranean Sea east of 28 degrees east longitude, the Persian Gulf, the Red Sea, the Strait of Hormuz, and the Suez Canal. It is also awarded for personnel serving in the Mediterranean Sea on boarding and searching vessel operations.

Because counter-terrorism operations are global in nature, the area of eligibility for an approved operation may be deemed to be non-contiguous. The Combatant Commander has the authority to approve award of the medal for units and personnel deployed within his theater. Under no condition will units or personnel within the United States, the general region excluded above, be deemed eligible for this medal. Service members must be assigned, attached, or mobilized to a unit participating in designated operations for 30 consecutive days or 60 nonconsecutive days in the area of eligibility, or meet one of the following criteria:
Be engaged in actual combat against the enemy and under circumstances involving grave danger of death or serious bodily injury from enemy action, regardless of time in the area of responsibility;
While participating in the designated operation, regardless of time, is killed, wounded, or injured requiring medical evacuation from the area of eligibility;
Service members participating as a regularly assigned air crew member flying sorties into, out of, within, or over the area of eligibility in direct support of Operations Enduring Freedom and/or Iraqi Freedom are eligible to qualify for the medal. Each day that one or more sorties are flown in accordance with these criteria shall count as one day.

NOTE: Important distinction between **Global War on Terrorism Expeditionary Medal** and **Global War on Terrorism Service Medal**. Service in an operationally deployed status abroad in a designated area of eligibility qualifies for the War on Terrorism Expeditionary Medal; personnel supporting the Global War on Terrorism in a non-deployed status, whether at home or overseas, are eligible only for the War on Terrorism Service Medal.

406.03 Overpayment Refunded.

If the resulting reduction in the property taxes due exceeds the taxes already paid, the municipal governing body may, at its discretion, permit a refund, without interest, upon the request of the deduction claimant.

REFERENCES:
N.J.S.A. 54:4-8.12 and 8.13
N.J.A.C. 18:27-2.24; 18:27-3.2

406.04 Accepting Claim Forms.

All applications for Veterans' Property Tax Deductions should be accepted, if filed within the prescribed time periods, regardless of whether or not the claimant appears qualified. This allows a claimant to file an appeal if he feels his application is denied incorrectly.

406.05 Processing Claim Forms.

If initially filed with the collector, the application and accompanying documents or their photocopies then must be forwarded to the assessor for review and approval. Approval by the tax collector does not relieve the assessor of examining the application and determining whether the deduction should be allowed. No application for a previous tax year is to be permitted by the assessor, tax collector or governing body.

406.06 Disposition of Claim Forms.

Assessors should maintain complete files of all approved and disapproved applications, together with supporting documents. Supporting documents remain the property of each assessor's office.

REFERENCES:
N.J.S.A. 54:4-8.12
N.J.A.C. 18:27-3.1, 3.2

406.07 Proofs - Veteran.

Form V.S.S. must be accompanied by a copy of the veteran's certificate of honorable discharge or release under honorable circumstances including the service record portion of the discharge, DD Form 214 showing:

1. the veteran served active duty in the Armed Forces of the United States;
2. the service was during wartime;
3. the veteran was honorably discharged or released from active duty under honorable conditions.

Additional proofs for the requirement of Active Wartime Service to supplement DD 214 may be:

1. Military Certificate indicating your participation in the Mission and the actual dates of service.
2. Deployment Orders.
3. Pay stubs indicating endangerment pay for the time period.
4. Letter from Military Officer on official letterhead indicating the location, date and type of service.
5. Any other official document(s) to support your claim.

Proof of property ownership such as a real property deed and of State residence or legal domicile via motor vehicle or voter registration etc. may also be required.

Below are samples of approved DD214 and WD53 forms, the circled fields reflect key information for determining eligibility. When determining eligibility, if the remarks or notes section of the form includes hazard pay or imminent danger this indicates the applicant served in a combat zone.

For explanation of each area of the DD 214 see the following link:

http://www.vva.org/Membership/Guide-to-Understanding-an-Applican1.pdf

ELIGIBLE

...TION: NOT TO BE USED FOR IDENTIFICATION PURPOSES

...IS IS AN IMPORTANT RECORD. SAFEGUARD IT.

...ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, ...)	2. DEPARTMENT, COMPONENT AND BRANCH USMCR (K4)		3. SOCIAL SECURITY NUMBER
4a. GRADE, RATE OR RANK CORPORAL	b. PAY GRADE E-4	5. DATE OF BIRTH (YYYYMMDD)	6. RESERVE OBLIGATION TERMINATION DATE (YYYYMMDD) 20051024
7a. PLACE OF ENTRY INTO ACTIVE DUTY NEWARK, NJ 07106		b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)	
8a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND 1STTSG, 1STFSSG, I MEF (KUWAIT)		b. STATION WHERE SEPARATED I-I STAFF, 6THMTBN, RED BANK, NJ 07701, RUC 80295	
9. COMMAND TO WHICH TRANSFERRED HQSVCCO, 6THMTBN, 338 NEWMAN SPRINGS RD, RED BANK, NJ 07701, (RUC 28111)		10. SGLI COVERAGE ☐ NONE AMOUNT: $250,000.00	

11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)
0121 PERSONNEL CLERK
09 MONTHS

12. RECORD OF SERVICE	YEAR(S)	MONTH(S)	DAY(S)
a. DATE ENTERED AD THIS PERIOD	03	01	14
b. SEPARATION DATE THIS PERIOD	03	11	24
c. NET ACTIVE SERVICE THIS PERIOD	00	10	11
d. TOTAL PRIOR ACTIVE SERVICE	00	03	10
e. TOTAL PRIOR INACTIVE SERVICE	04	05	09
f. FOREIGN SERVICE	00	08	07
g. SEA SERVICE	00	00	00
h. EFFECTIVE DATE OF PAY GRADE	2001	03	02

13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)
ARMED FORCES RESERVE MEDAL "M"
SEA SERVICE DEPLOYMENT RIBBON
NATIONAL DEFENSE SERVICE MEDAL

14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)
NONE

15a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		YES	X	NO
b. HIGH SCHOOL GRADUATE OR EQUIVALENT	X	YES		NO
16. DAYS ACCRUED LEAVE PAID RLB 0.0 SLB 0.0	17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION	YES	X	NO

18. REMARKS
ACTIVATED IN SUPPORT OF OPERATION ENDURING FREEDOM/IRAQI FREEDOM AS PRESCRIBED IN EXECUTIVE ORDER 13223, UNDER PROVISIONS OF TITLE 10, USC 12302.
BLOCK # 13 IS NOT COMPLETED AS OF THE DATE OF THIS FORM. A DD215 WILL BE ISSUED UPON THE APPROVAL OF ANY ADDITIONAL AWARDS.
NOT A FINAL DISCHARGE .

The information contained herein is subject to computer matching within the Department of Defense or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a Federal benefit program.

19a. MAILING ADDRESS AFTER SEPARATION (Include ZIP Code)	b. NEAREST RELATIVE (Name and address - include ZIP Code)
20. MEMBER REQUESTS COPY 6 BE SENT TO NJ DIRECTOR OF VETERANS AFFAIRS	X YES ☐ NO
21. SIGNATURE OF MEMBER BEING SEPARATED	22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION Released from active duty	24. CHARACTER OF SERVICE (Include upgrades) HONORABLE	
25. SEPARATION AUTHORITY MARCORSEPMAN PAR 1005	26. SEPARATION CODE MBK5	27. REENTRY CODE RE-1A
28. NARRATIVE REASON FOR SEPARATION COMPLETION OF REQUIRED ACTIVE SERVICE		
29. DATES OF TIME LOST DURING THIS PERIOD (YYYYMMDD) NONE		30. MEMBER REQUESTS COPY 4 (Initials)

DD FORM 214, FEB 2000 PREVIOUS EDITION IS OBSOLETE. MEMBER - 4

ELIGIBLE

ENLISTED RECORD AND REPORT OF SEPARATION SAMPLE WD 53

HONORABLE DISCHARGE

1. LAST NAME - FIRST NAME - MIDDLE INITIAL	2. ARMY SERIAL NO.	3. GRADE	4. ARM OR SERVICE	5. COMPONENT
		Pfc	FA	AUS

6. ORGANIZATION	7. DATE OF SEPARATION	8. PLACE OF SEPARATION
Hq Btry 208thFA BN	1Dec45	Sep CtrFortDix NJ

9. PERMANENT ADDRESS FOR MAILING PURPOSES	10. DATE OF BIRTH	11. PLACE OF BIRTH
		Mahoney City Pa

12. ADDRESS FROM WHICH EMPLOYMENT WILL BE SOUGHT	13. COLOR EYES	14. COLOR HAIR	15. HEIGHT	16. WEIGHT LBS.	17. NO. DEPEND.
See 9	Brown	Brown	5-6 3/4	140	4

18. RACE			19. MARITAL STATUS			20. U.S. CITIZEN		21. CIVILIAN OCCUPATION AND NO.
WHITE	NEGRO	OTHER (specify)	SINGLE	MARRIED	OTHER (specify)	YES	NO	Shipping Clerk II 1-34.14
Xx				Xx		Xx		

MILITARY HISTORY

22. DATE OF INDUCTION	23. DATE OF ENLISTMENT	24. DATE OF ENTRY INTO ACTIVE SERVICE	25. PLACE OF ENTRY INTO SERVICE
31May44		31May44	FtDix NJ

SELECTIVE SERVICE DATA	26. REGISTERED YES	NO	27. LOCAL B.S. BOARD NO.	28. COUNTY AND STATE	29. HOME ADDRESS AT TIME OF ENTRY INTO SERVICE
	xx		5	Mercer NJ	See 9

30. MILITARY OCCUPATIONAL SPECIALTY AND NO.	31. MILITARY QUALIFICATION AND DATE (i.e., infantry, aviation and marksmanship badges, etc.)
Rifleman 745	Combat Inf Badge

32. BATTLES AND CAMPAIGNS

CentralEurppe Rhineland G033 WD 45 as amended

33. DECORATIONS AND CITATIONS

EAME Service Medal Good Conduct Medal WorldWar II VictoryMedal

34. WOUNDS RECEIVED IN ACTION

None

35. LATEST IMMUNIZATION DATES

SMALLPOX	TYPHOID	TETANUS	OTHER (specify)
19Jun44	26Jul45	29Oct44	Ty 15Mar45

36. SERVICE OUTSIDE CONTINENTAL U. S. AND RETURN

DATE OF DEPARTURE	DESTINATION	DATE OF ARRIVAL
3Nov44	ETO	9Nov44
17Nov45	USA	26Nov45

37. TOTAL LENGTH OF SERVICE

CONTINENTAL SERVICE			FOREIGN SERVICE		
YEARS	MONTHS	DAYS	YEARS	MONTHS	DAYS
0	5	7	1	0	24

38. HIGHEST GRADE HELD

Pfc

39. PRIOR SERVICE

None

40. REASON AND AUTHORITY FOR SEPARATION

Convenience of the Government AR 615-365 15Dec44 and RR 1-1 Demobilization

41. SERVICE SCHOOLS ATTENDED

None

42. EDUCATION (Years)

Grammar	High School	College
8	2	0

PAY DATA

43. LONGEVITY FOR PAY PURPOSES			44. MUSTERING OUT PAY		45. SOLDIER DEPOSITS	46. TRAVEL PAY	47. TOTAL AMOUNT, NAME OF DISBURSING OFFICER
YEARS	MONTHS	DAYS	TOTAL	THIS PAYMENT			
1	6	1	$300	$100	None	$ 1.05	151.74 J HARRIS COL FD

INSURANCE NOTICE

IMPORTANT IF PREMIUM IS NOT PAID WITHIN DUE OR WITHIN THIRTY-ONE DAYS THEREAFTER, INSURANCE WILL LAPSE. MAKE CHECKS OR MONEY ORDERS PAYABLE TO THE TREASURER OF THE U. S. AND FORWARD TO COLLECTIONS SUBDIVISION, VETERANS ADMINISTRATION, WASHINGTON 25, D. C.

48. KIND OF INSURANCE			49. HOW PAID		50. Effective Date of Allotment Discontinuance	51. Date of Next Premium Due (Day month after 50)	52. PREMIUM DUE EACH MONTH	53. INTENTION OF VETERAN TO		
Nat. Serv.	U.S. Govt.	None	Allotment	Direct to V. A.				Continue	Continue only	Discontinue
XX			XX		30Nov45	31Dec45	$ 6.30	XX		

54. REMARKS (This space for completion of above items or entry of other items specified in W. D. Directives)

LAPEL BUTTON ISSUED

ASR SCORE 2Sep45 71

RIGHT THUMB PRINT

APPLICATION FOR REGISTRATION AND ALLOWANCE MADE THROUGH UNITED STATES EMPLOYMENT SERVICE COMMISSION OF NEW JERSEY

ON: 12-4-45 DATE

55. SIGNATURE OF PERSON BEING SEPARATED

57. [illegible] (Type name, grade and organization - signature)

CAPT, AC

WD AGO FORM 53, 55
1 November 1944

This form supersedes all previous editions of WD AGO Forms 53 and 55 for enlisted persons entitled to an Honorable Discharge, which will not be used after receipt of this revision.

NOT ELIGIBLE

PERSONAL DATA

2. SERVICE NUMBER	
3a. GRADE, RATE OR RANK	PVT E-2
1. DATE OF BIRTH	21 Jan 61
4. DEPARTMENT, COMPONENT AND BRANCH	ARMY USAR
3. PLACE OF BIRTH	
5. DATE OF BIRTH	7 Jul 41
10. RACE	CAU
b. SEX	M
c. COLOR HAIR	Brown
d. COLOR EYES	Brown
e. HEIGHT	5'5"
f. WEIGHT	122
g. U.S. CITIZEN	☒ YES ☐ NO
8. MARITAL STATUS	Single
11a. HIGHEST CIVILIAN EDUCATION LEVEL ATTAINED	4 Years High School
b. MAJOR COURSE OR FIELD	Academic

TRANSFER OR DISCHARGE DATA

11c. TYPE OF TRANSFER OR DISCHARGE	Released to USAR (see 32)
b. STATION OR INSTALLATION AT WHICH EFFECTED	Fort Knox, Kentucky
EFFECTIVE DATE	28 Jul 61
9. LAST DUTY ASSIGNMENT AND MAJOR COMMAND	MP Co, Eq Gp USAARMC, Fort Knox, Kentucky
12a. CHARACTER OF SERVICE	Honorable
8. TYPE OF CERTIFICATE ISSUED	None

SELECTIVE SERVICE DATA

14. SELECTIVE SERVICE NUMBER	
12. SELECTIVE SERVICE LOCAL BOARD NUMBER, CITY, COUNTY AND STATE	LB #127, 3207 Kensington Avenue Philadelphia 49, Pennsylvania
16. DATE INDUCTED	29 Jan 61
17. DISTRICT OR AREA COMMAND TO WHICH RESERVIST TRANSFERRED	Trans to Pennsylvania Military District

SERVICE DATA

18. TERMINAL DATE OF RESERVE OBLIGATION	20 Sep 66
19. CURRENT ACTIVE SERVICE OTHER THAN BY INDUCTION — SOURCE OF ENTRY	☐ ENLISTED ☐ ENLISTED (Prior Service) ☐ REENLISTED ☒ OTHER Ordered to ACDUTRA
b. TERM OF SERVICE	6 Mos
c. DATE OF ENTRY	29 Jan 61
20. PRIOR REGULAR ENLISTMENTS	None
21. GRADE, RATE OR RANK AT TIME OF ENTRY INTO CURRENT ACTIVE SERVICE	PVT E-1
22. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE	Philadelphia, Pennsylvania
23. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE	
24a. SPECIALTY NUMBER AND TITLE	716.10
b. RELATED CIVILIAN OCCUPATION AND D. O. T. NUMBER	

24. STATEMENT OF SERVICE	YEARS	MONTHS	DAYS
a. CREDITABLE FOR BASIC PAY PURPOSES (1) NET SERVICE THIS PERIOD	0	6	0
(2) OTHER SERVICE	0	4	7
(3) TOTAL (Item (1) + Item (2))	0	10	7
b. TOTAL ACTIVE SERVICE	0	6	0
c. FOREIGN AND/OR SEA SERVICE	0	0	0

25. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED

Marksman (M-1 Rifle)

27. WOUNDS RECEIVED AS A RESULT OF ACTION WITH ENEMY FORCES

N one

28. SERVICE SCHOOLS OR COLLEGES, COLLEGE TRAINING COURSES AND/OR POST-GRADUATE COURSES SUCCESSFULLY COMPLETED

SCHOOL OR COURSE	DATES	MAJOR COURSES
NA	NA	NA

29. OTHER SERVICE TRAINING COURSES SUCCESSFULLY COMPLETED: NA

VA DATA

30a. GOVERNMENT LIFE INSURANCE IN FORCE	☐ YES ☒ NO
b. AMOUNT OF ALLOTMENT	None
c. MONTH ALLOTMENT DISCONTINUED	NA
31a. VA BENEFITS PREVIOUSLY APPLIED FOR	None
b. VA CLAIM NUMBER	C- NA

AUTHENTICATION

32. REMARKS

BLOOD GROUPE "A" SSAN:

Item 11a: Released from Active Duty and returned to State Control as a member of the Army Reserve, State of Pennsylvania, to complete remaining Service obligation of 5 years, 1 month and 23 days.

RESERVE FORCES ACT 1955 6 MONTHS ACTIVE DUTY TRAINING

33. PERMANENT ADDRESS FOR MAILING PURPOSES AFTER TRANSFER OR DISCHARGE: Same as Item #23

34. SIGNATURE OF PERSON BEING TRANSFERRED OR DISCHARGED

35a. TYPED NAME, GRADE AND TITLE OF AUTHORIZING OFFICER: A. W. CARVER, CWO, W3, Pers Off

b. SIGNATURE OF OFFICER AUTHORIZED TO SIGN

DD FORM 1 NOV 52 214 REPLACES EDITION OF 1 JUL 52, WHICH IS OBSOLETE.

ARMED FORCES OF THE UNITED STATES
REPORT OF TRANSFER OR DISCHARGE

2

NOT ELIGIBLE

THIS IS AN IMPORTANT RECORD
SAFEGUARD IT.

PERSONAL DATA

1. LAST NAME-FIRST NAME-MIDDLE NAME:
2. SERVICE NUMBER:
3. SOCIAL SECURITY NUMBER:
4. DEPARTMENT, COMPONENT AND BRANCH OR CLASS: AIR FORCE AFRES
5a. GRADE, RATE OR RANK: AMN
5b. PAY GRADE: E-2
6. DATE OF RANK: DAY 4 MONTH AUG YEAR 67
7. U. S. CITIZEN: ☐ YES ☐ NO NA
8. PLACE OF BIRTH (City and State or Country): NA
9. DATE OF BIRTH: DAY NA MONTH YEAR

SELECTIVE SERVICE DATA

10a. SELECTIVE SERVICE NUMBER:
b. SELECTIVE SERVICE LOCAL BOARD NUMBER, CITY, COUNTY, STATE AND ZIP CODE: LB #6 507 HIGH ST BURLINGTON NJ 08016
c. DATE INDUCTED: DAY NA MONTH YEAR

TRANSFER OR DISCHARGE DATA

11a. TYPE OF TRANSFER OR DISCHARGE: RELEASE FROM ACTIVE DUTY
b. STATION OR INSTALLATION AT WHICH EFFECTED: MCGUIRE AFB NJ
c. REASON AND AUTHORITY: NA
d. EFFECTIVE DATE: DAY 23 MONTH DEC YEAR 67
12. LAST DUTY ASSIGNMENT AND MAJOR COMMAND: NA
13a. CHARACTER OF SERVICE: HONORABLE
b. TYPE OF CERTIFICATE ISSUED: NA
14. DISTRICT, AREA COMMAND OR CORPS TO WHICH RESERVIST TRANSFERRED: AFRES
15. REENLISTMENT CODE: NA

SERVICE DATA

16. TERMINAL DATE OF RESERVE/UNITED OBLIGATION: DAY 19 MONTH JUN YEAR 73
17. CURRENT ACTIVE SERVICE OTHER THAN BY INDUCTION
a. SOURCE OF ENTRY: ☐ ENLISTED (First Enlistment) ☐ ENLISTED (Prior Service) ☐ REENLISTED ☒ OTHER ACDUTRA 8 (SEC 672D TITLE 10 USC)
b. TERM OF SERVICE (Years): 4
c. DATE OF ENTRY: DAY 24 MONTH JUN YEAR 67
18. PRIOR REGULAR ENLISTMENTS: NA
19. GRADE, RATE OR RANK AT TIME OF ENTRY INTO CURRENT ACTIVE SVC: NA
20. PLACE OF ENTRY INTO CURRENT ACTIVE SERVICE (City and State): NA
21. HOME OF RECORD AT TIME OF ENTRY INTO ACTIVE SERVICE (Street, RFD, City, County, State and ZIP Code): NA
22. STATEMENT OF SERVICE

		YEARS	MONTHS	DAYS
a. CREDITABLE FOR BASIC PAY PURPOSES	(1) NET SERVICE THIS PERIOD		NA	
	(2) OTHER SERVICE		NA	
	(3) TOTAL (Line (1) plus Line (2))		NA	
b. TOTAL ACTIVE SERVICE			NA	
c. FOREIGN AND/OR SEA SERVICE			NA	

23a. SPECIALTY NUMBER & TITLE: NA
b. RELATED CIVILIAN OCCUPATION AND D.O.T. NUMBER: NA
24. DECORATIONS, MEDALS, BADGES, COMMENDATIONS, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED: NA
25. EDUCATION AND TRAINING COMPLETED: NA

VA AND EMP. SERVICE DATA

26a. NONPAY PERIODS/TIME LOST (Preceding Two Years): NO TIME LOST
b. DAYS ACCRUED LEAVE PAID: 02
27a. INSURANCE IN FORCE (NSLI or USGLI): ☐ YES ☒ NO
b. AMOUNT OF ALLOTMENT: $ NA
c. MONTH ALLOTMENT DISCONTINUED: NA
28. VA CLAIM NUMBER: C- NA
29. SERVICEMEN'S GROUP LIFE INSURANCE COVERAGE: ☒ $10,000 ☐ $5,000 ☐ NONE

REMARKS

30. REMARKS: HIGH SCHOOL GRADUATE BLOOD GROUP A-POS

AUTHENTICATION

31. PERMANENT ADDRESS FOR MAILING PURPOSES AFTER TRANSFER OR DISCHARGE (Street, RFD, City, County, State and ZIP Code): NA
32. SIGNATURE OF PERSON BEING TRANSFERRED OR DISCHARGED:
33. TYPED NAME, GRADE AND TITLE OF AUTHORIZING OFFICER: MSGT USAF
34. SIGNATURE OF OFFICER AUTHORIZED TO SIGN:

DD FORM 1 JUL 68 214 PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE. ARMED FORCES OF THE UNITED STATES

***NOTE*:** The Veterans' Administration can certify marital status, residency and service periods. Accordingly, the certificate received from the Veterans' Administration may be used to verify one or more eligibility conditions. To contact the New Jersey Veterans Service Office: http://www.state.nj.us/military/veterans/programs.html

REFERENCES:
N.J.S.A. 54:4-8.12
N.J.A.C. 18:27-3.4; 3.5; and 3.6

406.08 Proofs - Surviving Spouse of a Veteran or Serviceperson.

The same documentation required for a veteran's tax deduction is required for surviving spouses. Additionally a marriage license or death certificate of the decedent may be requested. For surviving spouses of servicepersons the following must be documented:

1. the death of the serviceperson while on active duty per U. S. Veteran's Administration Certificate. Past proof that a serviceperson died during time of war such as a photostatic copy of the War Department telegram or an official letter notification etc. is no longer necessary;
2. that the service was in the Armed Forces of the United States,
3. that the serviceperson had served during time of war.

NOTE: The Veteran's Administration can certify marital status, residency and service periods.

406.09 Appeals.

An aggrieved claimant may appeal the denial of a deduction as a veteran, as the surviving spouse of a veteran or serviceperson in the same manner as for appeals from assessments generally. However, where an application for a Veteran's Property Tax Deduction is disallowed by the assessor or collector at a date too late to permit the claimant to file an appeal with the County Board of Taxation on or before April 1 of the current year, then, the claimant would be entitled to file an appeal at any time on or before April 1 of the succeeding year. If the appeal is filed in time to permit it to be calendared and heard by the County Board during the year immediately

following the year to which the appeal relates, the Board may hear and decide the appeal for that tax year. The appeal should include the nature and the location of the property, the reasons for complaint and the relief sought.

NOTE: The statutory authorities for veterans' deductions and veterans' exemptions N.J.S.A. 54:4-8.10 and 54:4-3.30 are read together "in pari materia."

REFERENCES:
N.J.S.A. 54:4-8.21

406.10 Tax Deduction Applied to Added or Omitted Assessment.

The Veteran's Property Tax Deduction may be applied to taxes due on an Added or Omitted Assessment.

REFERENCES:
N.J.A.C. 18:27-2.18
Local Property Tax Bureau News, May-June, 1963.
Attorney General's Opinion No. 20, 1954.

407. Exemption - Disabled Veterans, Surviving Spouses of Disabled Veterans and Surviving Spouses of Servicepersons.

Qualified New Jersey resident war veterans having certain service-connected disabilities described in the law or having been declared totally or 100% permanently disabled by the United States Veterans' Administration are granted full tax exemption on their dwelling house and the lot or curtilage on which it's located, as of the date the veteran acquires the property, or as of the date his total or 100% permanent disability is declared. The surviving spouse of such New Jersey resident disabled veteran, who at time of death was lawfully entitled to exemption, is eligible, on making proper claim, for the same exemption as the deceased spouse, while widowed or widowered, a State resident and the legal owner and actual occupant of the dwelling house to be exempted or any other dwelling thereafter acquired, and used as the principal residence.

(The surviving spouse of a deceased serviceperson who was a citizen and resident of this State and who had wartime service in the U.S. Armed Forces and died on active duty may also qualify for the full property tax exemption.) The surviving spouse of a disabled veteran or serviceperson who would have become eligible had he or she lived is qualified to receive the exemption based on the broadening of the tax exemption on January 10, 1972. The January 10th broadening of the exemption via passage of P.L. 1971, c.398 concerned the character of the qualifying wartime service-connected disability and added the phrase "or from other service-connected disability declared by the U.S. Veteran's Administration or its successor to be a total or 100% permanent disability and not so evaluated solely because of hospitalization or surgery or recuperation."

REFERENCES:
N.J.S.A. 54:4-3.30 et seq.
N.J.A.C. 18:28-1.1
Roxbury Twp. v. Heydt, 6 N.J. Tax 73 (Tax Court 1983).
Attorney General's Opinion 94-60095, November 30, 1994 – "Disabled veteran residency requirement."

407.01 Eligibility.

To qualify for real estate tax exemption, the disabled war veteran must meet all requirements of New Jersey citizenship, legal or domiciliary New Jersey residence, principal or permanent residence in the claimed dwelling, property ownership, active wartime service in the United States Armed Forces, honorable discharge and VA certified 100% permanent and total disability. (See corresponding sections for Veteran Deductions.)

Note: A raised seal is no longer required to authenticate a 100% permanent disability. See a sample certification next following.

DEPARTMENT OF VETERANS AFFAIRS
Regional Office
20 Washington Place
Newark, NJ 07102

In Reply Refer To: 309/21
CSS

Dear

This is to certify that the records of the U.S. Department of Veterans Affairs disclose that your wartime service-connected disability is totally disabling. A 100% permanent and total evaluation was assigned effective in accordance with the Veterans Affairs Rating Schedule and not so evaluated because of hospitalization or surgery and recuperation.

The records further indicate that you served in the United States from to , and received a honorable discharge.

The above statement is issued in accordance with N.J.S.A. 54: 4-3.30, ET.SEQ.

Sincerely yours,

U. G. HENDERSON
Benefits Delivery Officer

SAMPLE

REFERENCES:
N.J.S.A. 54:4-3.30 et seq.
N.J.A.C. 18:28-2.1; 2.2; 2.6; and 2.7
Wellington v. Twp of Hillsborough, 27 N.J. Tax Court 37(Tax Court 2012)
Hennefeld v. Twp of Montclair, 22 N.J. Tax 166 (Tax Court 2005).

407.02 Disability.

A service-connected disability as declared by the United States Veterans Administration from:

1. paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs or permanent paralysis of both legs and lower parts of the body;
2. hemiplegia involving permanent paralysis of one leg and one arm on either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain, or disease of the spinal cord not resulting from any form of syphilis;
3. total blindness;
4. amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and foot,
5. other service-connected disability declared by the Veterans' Administration to be a total or 100% permanent disability and not so evaluated because of hospitalization or surgery and recuperation.

The disability must have been sustained through:

1. enemy action;
2. accident, or
3. disease contracted while in active service "in time of war."

***NOTE*:** Paraplegia or hemiplegia resulting from locomotor ataxia, or other forms of syphilis of the central nervous system, or from chronic alcoholism, or other forms of disease resulting from the veteran's own misconduct are **not** grounds for a disabled veteran's tax exemption.

407.03 Posthumous Disability Ratings.

If the veteran dies while waiting to get his or her rating, and the Department of Veterans Affairs retroactively grants the 100 percent total and permanent disability rating posthumously, the surviving spouse, civil union partner or domestic partner, if otherwise eligible, is entitled to receive the disability rating evaluation.

REFERENCES:
N.J.S.A. 54:4-3.30 et seq. as amended by P.L. 2007, c. 317 eff. January 13, 2008.
N.J.A.C. 18:28-2.11, 3.6
Robert D. Donnewirth and Susan Donnewirth v. Twp. of Edison, Division of Tax Appeals, July 1969.
Local Property Tax Bureau News, August - September 1969, p.2.

407.04 Property Ownership and Occupancy.

In an October 2012 Tax Court decision, Wellington and Pangilinan v. Township of Hillsborough, the Division of Taxation's longstanding position that full ownership of the primary dwelling by the disabled war veteran was required in order to qualify for property tax exemption was invalidated.

The Court stated that it could "identify no principled reason why a disabled veteran should lose an exemption because he elects to hold title to his residence as a joint tenant with a parent, child, other relative, caretaker, business partner, creditor, stranger, or, as is the case here, former spouse."

An earlier Court in Hennefeld v. Township of Montclair, 22 N.J. Tax 166 (2005) held, "a qualified disabled veteran who shares ownership in his or her 'dwelling house' as a joint tenant, is only entitled to a proportionate share of the disabled veteran's exemption. This is true regardless of whether the joint tenants are the same-sex, the opposite sex, or married but hold title as joint tenants instead of tenants by the entirety."

As per the Wellington ruling, partial ownership does not vitiate exemption but is to be calculated based on that percentage which reflects the veteran's proportionate share of ownership in the subject property.

A. **Ownership.**

1. A disabled veteran must have ownership, fully or in part, of the property for which exemption is claimed.
2. A disabled veteran and spouse, taking property title as tenants by the entirety, meet the full ownership requirement.
3. A disabled veteran possessing a dwelling as a vendee under executory contract for purchase of the land where the dwelling on the land is his principal residence is regarded as having qualifying ownership. The executory contract is deemed to be a mortgage for the unpaid balance of the purchase price.
4. A disabled veteran who owns a dwelling unit in a condominium property meets the ownership prerequisite.
5. A disabled veteran having a life estate, life tenancy or lifetime rights to a property fulfills the ownership requirement.

Multi-Unit Property

6. A multi-unit building such as a duplex must be at least partially owned by the veteran, but only that portion owned by and utilized as the vet's dwelling unit would be exempted.

B. **Occupancy.**

1. The disabled veteran must occupy the dwelling as his or her legal or domiciliary residence in New Jersey.
2. Full exemption applies to a one-family owner occupied building or structure, i.e. dwelling house, together with its lot or curtilage and the necessary out-houses or appurtenances.

Multi-Unit Property

3. Where part of a multiple-unit building or structure is occupied by a

veteran, the assessment on the lot or curtilage and veteran-occupied portion of the building or structure is to be aggregated to exempt that percentage of assessment in proportion to or as compared with the assessed value of the entire building or structure. For example, if a disabled veteran occupies one-half of a two-family dwelling and the aggregate assessment on the lot or curtilage and building or structure is $300,000, the exemption allowed is 50% of the aggregate assessment or $150,000.

C. **Ineligible Ownership.**

1. Mutual housing corporations and cooperative dwelling units do not qualify for exemption as they are deemed to be personal property not realty.

REFERENCES:
N.J.S.A. 54:4-3.31, 54:4-3.33
N.J.A.C. 18:28-2.10, 2.13, 2.9, 3.4
Jackson v. Neptune., 15 N.J. Tax 498 (Tax Court 1996).
Sheppard v. Willingboro Twp., 1 N.J. Tax 530, 176 N.J. Super. 637 (App. Div. 1980).
Hennefeld v. Township of Montclair, 22 N.J. Tax 166 (Tax Court 2005).
Wellington and Pangilinan v. Township of Hillsborough, 27 N.J. Tax 37 (Tax Court 2012).
Attorney General's Opinion December 21, 1995 - Life Estate.
Attorney General's Opinion January 8, 1975 – Fractional Interest.
Attorney General's Opinion August 26, 1975 – Special Assessments for Local Improvements Not Exempt from Taxation for Disabled Veterans.
Hays v. Paramus Borough, 28 N.J. Tax 342 (Tax Ct. 2015).

407.05 Exemption Prorated.

Partial or prorated exemption is permitted for the remainder of any taxable year as of the date of property ownership or the date of 100% permanent and total disability rating provided all other eligibility requirements are met. For example, where a dwelling house is acquired on February 14th

of the tax year, the assessed value is to be prorated so that 44/365 of the total assessment would be taxable and 321/365 would be exempt.

407.06 Exemption After Tax List is Filed.

Where exemption eligibility occurs when it is no longer possible to change the Tax List, by written confirmation to the local government and the tax collector that the totally and permanently disabled war veteran meets the conditions for exemption, an assessor can request cancellation of the remaining taxes for the year of application. Often a resolution is brought before the governing body to formalize the cancellation. The municipal tax collector ultimately cancels the taxes. The assessor's statement of approval, along with the governing body's resolution, is then forwarded to the Country Board of Taxation. In this manner, the disabled veteran is able to receive the benefit of exemption provided by law even though the Tax List is finalized.

REFERENCES:
N.J.S.A. 54:4-3.31
N.J.A.C. 18:28-2.14

407.07 Curtilage.

"Curtilage" means the enclosed space of ground and buildings immediately surrounding a dwelling house. The State Division of Tax Appeals (1971) held that 51 acres owned by a disabled veteran across the road from where he resided with his family were not includable in the "curtilage". This land was used by the veteran to raise and train horses.

The Division cited Italian-American Building and Loan Association v. Russo, 131 N.J. eq. 319 (1942), to the effect that a "curtilage is a piece of ground within the common enclosure belonging to a dwelling house and enjoyed with it for its more convenient occupation."

This interpretation was reaffirmed in McTague v. Monroe Twp. where 2 acres of a 40 acre parcel were exempted as reasonable for the fair enjoyment of the residence.

REFERENCES:
Joan Hays v. Paramus Borough, 28 N.J. Tax 342, New Jersey Tax Court, 2015
McTague v. Monroe Township, 1 N.J. Tax 66 (Tax Court 1980).
Gotwein v. Township of Hopewell, Division of Appeals, April 5, 1971.
Attorney General's. Opinion dated August 23, 1974 – What Constitutes Lot or Curtilage.

407.08 Ownership or Occupancy Change.

A disabled veteran's right to property tax exemption ceases by reason of change in ownership or occupancy in the dwelling house as of the first day of the month following the date of such change. The same is true for the surviving spouse of a disabled veteran. If the disabled veteran acquires ownership of another dwelling house, then that dwelling and the lot or curtilage is eligible for the tax exemption in the same manner as his former home, upon proper application, but no more than one exemption at a time is allowed. If a surviving spouse moves from the claimed dwelling and acquires ownership of another principal residence, he or she is entitled to exemption on the new dwelling. The tax exemption on the former residence ceases the first day of the month following the change.

REFERENCES:
N.J.S.A. 54:4-3.31; 54:4-63.26 to 63.29
Jackson v. Neptune, 15 N.J. Tax 498(1996)

407.09 Surviving Spouses.

A deceased disabled war veteran, who qualified for a property tax exemption at the time of death, eligibility status inures to the surviving spouse if the survivor meets all of the following requirements:

1. Widow or widower must not be remarried;
2. Widow or widower must be a citizen and resident of New Jersey;

3. Widow or widower's principal or permanent residence must be the claimed dwelling;
4. Widow or widower must be legal owner fully or in part of the dwelling;
5. Widow or widower must apply for the exemption with the municipal assessor;
6. Widow or widower must verify the deceased veteran was declared by the United States Veterans' Administration to have had a qualifying service-connected 100 % permanent and total disability as described in statute;
7. Widow or widower must verify that the deceased veteran was entitled to a property tax exemption at the time of death, meeting all criteria of active wartime service, honorable discharge, residency, ownership etc. or would have been entitled had the broadening of the definition of disability (via c.398, P.L.1971) to include total or 100 % permanent disability been in effect during the veteran's lifetime.

407.10 Statute Broadened.

Although it was formerly necessary for the disabled veteran to have been receiving the property tax exemption on the dwelling house while living for the surviving spouse to qualify, such is no longer true. If the deceased veteran would have been entitled to exemption, then the surviving spouse is entitled to the exemption.

407.11 Posthumous Disability Ratings.

The surviving spouse of any citizen and resident of New Jersey who was honorably discharged and, after the citizen and resident's death, is declared to have suffered a service-connected disability as provided in N.J.S.A. 54:4-3.30(a) is entitled, on proper claim made, to the same exemption the deceased would have become eligible for. The exemption shall continue

during the surviving spouse's widowhood or widowerhood and while a resident of New Jersey during the time that the surviving spouse is the legal owner and actually occupies the dwelling house or any other dwelling house thereafter acquired.

REFERENCES:
N.J.S.A. 54:4-3.30 and 54:4-3.31, as amended by Public Law 2007, chapter 317.
N.J.A.C. 18:28-2.3, 2.5, 3.5, 3.6
Guidelines Governing Administration of the Veteran Property Deduction As It Affects Vietnam War Veterans, (Chapter 166, Laws of 1972) promulgated November 3, 1972.
Jackson v. Neptune, 15 N.J. Tax 498 (Tax Court 1998).
Phyllis Garma v. Lakewood Twp., 14 N.J. Tax 1 (Tax Court 1994).
Borough of Wrightstown v. Medved, 193 N.J. Super. 398 (App. Div. 1978).

407.12 For Surviving Spouses of Deceased Servicepersons the following must be documented.

1. the death of the serviceperson while on active duty in the U.S. Armed Forces per U.S. Veteran's Administration Certificate.
2. that the serviceperson served during time of war.
3. that the survivor is the lawful spouse of a serviceperson who died while in active service in a branch of the Armed Forces in time of war and who at the time of death was a resident of New Jersey.
4. that the survivor spouse remains unremarried.
5. that the survivor is a resident of New Jersey.
6. that the survivor owns legal title fully or in part to the premises which constitute the dwelling house and survivor's principal place of residence.

407.13 Ownership Exception for Surviving Spouse of a Serviceperson.

The widow or widower of a citizen and New Jersey resident serviceperson who died on active wartime duty in the Armed Forces of the United States is entitled to property tax exemption on a dwelling house used as a

principal residence. It has been ruled that a qualified surviving spouse is entitled to exemption despite that the deceased serviceperson did not own legal title to the dwelling house.

REFERENCES:
N.J.S.A. 54:4-3.30, 54:4-3.31
N.J.A.C. 18:28-2.4
Letter To: All Assessors and County Tax Board Administrators from Sidney Glaser, Director, Division of Taxation, May 1, 1982.
Local Property and Public Utility Branch News, May-June, 1982.

407.14 Municipality supplies D.V.S.S.E. Claim Forms; Reproducible.

The "Claim for Property Tax Exemption on Dwelling House of Disabled Veteran or Surviving Spouse/Civil Union or Domestic Partner of Disabled Veteran or Serviceperson," (D.V.S.S.E.) forms are prescribed by the Director, Division of Taxation and were revised in April 2012. Forms are available on the Division of Taxation's website and are reproducible but may not be altered without permission of the Director.

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/dvsse.pdf

407.15 Filing and Disposition of D.V.S.S.E. Application.

All claims for disabled veterans and surviving spouses property tax exemption must be made in writing to the municipal assessor who determines the validity of the claim. If valid, the assessor should notify the tax collector of its approval and include the following information:

1. property owner's name
2. property description
3. property's assessed value
4. date property ownership acquired or date of total or 100% permanent disability rating by Veterans Administration, whichever is later; i.e. qualifying date of exemption.

Assessors should maintain files of all approved applications, together with attached supporting documents.

407.16 Proofs.

D.V.S.S.E. Claim Forms should be accompanied by:

1. Report of Separation Form DD214;
2. Certificate of Honorable Discharge;
3. Veteran Administration's Certification of Disability (Property tax exemption letter);
4. Proof of Ownership, e.g. Property Deed;
5. Death Certificate if surviving spouse;
6. If surviving spouse of serviceperson, a certificate from the Veterans' Administration confirming that the surviving spouse has not remarried; that the deceased serviceperson died while on wartime active duty in the United States Armed Forces; the date of death of the deceased serviceperson and that his/her home of record at the time of death was New Jersey.

Additional proofs for the requirement of Active Wartime Service to supplement DD 214 may be:

1. Military Certificate indicating your participation in the Mission and the actual dates of service.
2. Deployment Orders.
3. Pay stubs indicating endangerment pay for the time period required.
4. Letter from Military Officer on official letterhead indicating the location, date and type of service.
5. Any other official document(s) to support your claim.

REFERENCES:
N.J.A.C. 18:28-3.1, 3.2

407.17 C.O.E.D.V.S.S.E. Form.

The "Certification of Eligibility to Continue Receipt of Disabled Veterans' Real Property Tax Exemption" (C.O.E.D.V.S.S.E.) form is sent by the assessor to a claimant whose eligibility for the exemption has come into question, i.e. a change in ownership, change in primary residence, a secondary property is being claimed. It can be found on the Division of Taxation's website.

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/coedvsse.pdf

407.18 Taxes Refunded.

The governing body of each municipality, at its discretion, may, by resolution, refund all taxes collected on any property which would have been exempt from taxation if proper claim in writing had been timely made. The governing body of each municipality, by appropriate resolution, may also return to the veteran or the veteran's surviving spouse all property tax payments made since the time of the veteran's actual disability or since the time of the veteran's death. For qualified veterans having certain service-connected disabilities described in the law (generally characterized as paralysis or loss of limbs), no refund of taxes may be made for any year prior to the tax year 1948. For qualified veterans who have been declared by Veterans Administration to be service connected totally or 100% permanently disabled pursuant to statutory amendment for tax year 1972 and thereafter, no tax refunds may be made for any year prior to tax year 1972.

REFERENCES:

N.J.S.A. 54:4-3.31 and 54:4-3.32, as amended by Public Law 2007, chapter 317.
N.J.A.C. 18:28-2.15
McDowell v. Pine Hill, 736 F. Supp. 1313, 1990 U.S. Dist. (D.N.J. 1990), affirmed without opinion by 919 F. 2d 731, 1990 U.S. App. (3d. Cir. N.J. 1990).

Del Priore v. Edison Township, 26 N.J. Tax 502 (Tax Court 2012), aff'd by 2013 N.J. Super. unpub. (App. Div. May 22, 2013), cert. denied by 216 N.J. 363(2013).

407.19 Appeals.

An aggrieved claimant may appeal the denial of a property tax exemption as a disabled veteran, as a surviving spouse of a disabled veteran or deceased serviceperson in the same manner as for appeals from assessments generally. However, if an application for the property tax exemption is disallowed by an assessor at a date too late to permit the claimant to appeal to the County Board of Taxation on or before April 1 of the current year, then, the claimant is entitled to file an appeal at any time on or before April 1 of the succeeding year. If the appeal is filed by the claimant in time to permit it to be calendared and heard by the County Board during the year immediately following the year to which the appeal relates, the Board may hear and decide such appeal for that tax year. The appeal should explain the nature and location of the property, the reasons for complaint and the relief sought.

Where the appeal issue is qualification for property tax exempt status as a disabled veteran, the veteran appellant is not required to meet the tax payment conditions in order to appeal.

REFERENCES:
N.J.S.A. 54:4-8.21; 54:3-21; 54:3-27; 54:51A-1 and 54:51A-3
N.J.A.C. 18:28-2.18

408. Public/Government Property Tax Exemption.

408.01 General.

The fundamental approach of New Jersey statutes is that all property bear it's just share of the public burden of taxation. Statutes granting tax

exemption represent a departure from that approach. Therefore, exemptions from the local property tax are to be strictly construed and the burden of proof is on the taxpayer claiming exemption. At the same time, exemption statutes must also be construed reasonably so as not to defeat their legislative intent. However, local property tax exemptions favoring government entities are given a more liberal construction. N.J.S.A. 54:4-3.3 reads, in part, "Except as otherwise provided [(in 54:4-1 et seq.)] the property of the State of New Jersey; and the property of the respective counties, school districts and taxing districts used for public purposes...shall be exempt from taxation...." In an Opinion of the Attorney General's Office, dated June 25, 1979, the above statute was explained as follows: "The statute provides for a twofold approach regarding publicly owned property. On the one hand, property owned by the State of New Jersey is exempt from the Local Property Tax Law. On the other hand, property owned by a public body other than the State (school districts, counties and municipalities) is entitled to tax exempt status for local property tax purposes only if such property is used for 'public purposes.' Thus, the statute provides that State property is exempt regardless of use while the property owned by a lesser public entity must not only be owned by such entity but also used for public purposes."

REFERENCES:

Unpublished Opinion: Police and Fireman's Retirement System of New Jersey v. Township of Upper Deerfield, Docket No. 012570-2010 (Tax Court August 12, 2011).

Public Purpose and Tax Exemption.

The concept of public purpose is a broad one. Generally speaking, it connotes an activity which serves as a benefit to the community as a whole, and which, at the same time is directly related to the functions of government. Moreover, it cannot be static in its implications. To be serviceable it must expand when necessary to encompass changing public

needs of a modern dynamic society. Thus it is incapable of exact or enduring definition. In each instance where the test [of public purpose] is to be applied, the decision must be reached with reference to the object sought to be accomplished and to the degree and manner in which the object affects the public welfare.

REFERENCES:
Roe v. Kervick, 42 N.J. 191 (1964), (citations omitted)

Government tax immunities serve an important role in our society. They facilitate the provision of essential government services and create incentives for private entities to serve the public welfare. However, unauthorized exemptions from local property taxation can unduly burden particular communities that, by no choice of their own, are host to government agencies. It is therefore imperative that governmental immunities be subject to searching judicial review.

REFERENCES:
Twp. of Holmdel v. N.J. Highway Authority, 190 N.J. 74 (2007)

A basic test of public property exemption, therefore, is whether the property is used for government or public purposes, that is, does the use relieve the burden of government?

***NOTE*:** A Rule of Statutory Construction- When reviewing exemption claims of government property, remember that a specific statute takes priority over a general statute. For example: Property of a County Improvement Authority would be reviewed in accordance with N.J.S.A. 40:37A-85 or a County Park Commission with N.J.S.A.40:37-201.1 rather than N.J.S.A.54:4-3.3.which applies to County Government generally.
REFERENCES:
Bergen County v. Leonia Borough, 14 N.J. Tax 142 (Tax Ct. 1994)

408.02 Federal.

Prior to 1944, N.J.S.A. 54:4-3.3 provided tax exemption for real and personal property of the United States. The provision was repealed in

1944 and State law today contains no tax exemption for Federal Government property. Any such exemption must now be found in Federal law. The "supremacy clause of the United States Constitution and the doctrine of "sovereign immunity" precludes the levying of local property taxes on the Federal Government and, as a general rule, most Federal property is tax exempt. But immunity cannot be granted simply because a tax has an effect on the United States. Exemption is limited to taxes falling directly on the United States, i.e., the Federal Government or an entity so closely connected to that Government the two cannot be viewed as separate. In exempting a private contractor, the contractor "must actually stand in the Government's shoes."

Use of Federal property by a contractor in a for-profit business can be a taxable use. Where Federal property is leased to private enterprise, the leasehold is subject to taxation under New Jersey law. Federally owned property may be taxed locally only with the consent of the Government as expressed by some act of Congress. For instance, for real property owned by the Reconstruction Finance Corporation and the Farmers Home Administration permission to tax has been granted. Where possible assessors should access the United States Code for the particular entity to see if Congress has waived immunity to allow taxation. For example, Title 12 U.S.C. S1768 permits real property of Federal credit unions to be taxed by the State, territory, locality "to the same extent as other similar property is taxed". Title 12 U.S.C. S1825 and S1725 also waives tax immunity for real property of the Federal Deposit Insurance Corporation (FDIC) and the Federal Savings and Loan Insurance Corporation (FSLIC). By contrast, the National Credit Union Administration's property tax immunity has not been waived by Congress and remains tax exempt under the Supremacy Clause of the United States Constitution. Again, generally speaking, Federally owned personal property whether leased to or used by

private persons is probably not taxable. Competent legal advice should be obtained before taxing any real or personal property of the Federal Government.

408.03 Taxable Property Acquired by Federal Government - Start of Exemption - No Application Required.

Federal property is exempt immediately upon acquisition. The Federal Government is not required to file applications for exemption with the assessor. The appearance of the United States Government as grantor or grantee on abstracts of deeds routinely provided assessors by county registrars or clerks would serve to give the assessor notice.

REFERENCES:

N.J.S.A. 54:4-3.3
Property Taxation, Institute of Property Taxation, Washington, D.C. 1987.
Rainhold Holding Co., U.S. Postal Service, and Raintree Assoc. v. Freehold Twp., 14 N.J. Tax 266 (Tax Court 1994).
Thiokol Chemical Corp. v. Morris County Tax Board, 41 N.J. 405 (1964).
Todd Shipyards Corp. v. Weekawken, 45 N.J. 336 (1965).
United States and Borg-Warner Corp. v. City of Detroit, 355 U.S. 466.
City of Detroit v. The Murray Corp. of America, 355 U.S. 489.
Continental Motors Corp. v. Twp. of Muskegan, 355 U.S. 484.
Sidney Glaser, "New Developments Affecting the Exemption of Federal Property from Local Ad Valorem Taxation," Proceedings of the Seventh Annual Conference for Assessing Officers: 1960 (New Brunswick: Bureau of Government Research, Rutgers, The State University, May 1961), pp. 48-9.
Local Property and Public Utility Branch News, January-February 1978.

408.04 State.

Property owned by the State of New Jersey is exempt from the local property tax. The constraints of public use are not imposed upon it. In the absence of a clear expression by the Legislature that a particular category of State property should be taxed, that property will be exempt. However,

State owned property leased to a private entity for nonpublic purpose is taxable to the lessee under the Leasehold Tax Act, N.J.S.A. 54:4-2.3 to 2.13.

408.05 Taxable Property Acquired by State Government.

If State government acquires property after January 1 of the year either by purchase or condemnation from a non-exempt owner, the State is required to pay the property taxes for the remainder of the year. The Report of Eminent Domain Revision Commission of New Jersey (April 1965) recommended, as follows: "When municipalities adopt their annual budget and establish their local tax rate, they anticipate the payment of taxes which they have assessed. The taking of ratables during the year by tax exempt agencies who do not assume liability for such taxes for the period subsequent to the taking, severely disturbs the local municipal finance. The lost revenue must be reflected in the tax rate of the succeeding year. The Commission feels that this is an injustice and that payment of taxes for the entire year during which the taking occurs should be assessed to the municipality."

REFERENCES:
N.J.S.A. 54:4-3.3b
City of East Orange v. Dwight R. G. Palmer, John A. Kervick and New Jersey Highway Department, 47 N.J. 307 (1966).
Local Property Tax Bureau News, July-August 1966.

408.06 Taxable Real Property Acquired by State; Start of Exemption – No Application.

Real property acquired by the State, a State agency, or an authority created by the State, by purchase, condemnation or otherwise, becomes tax exempt on January 1 of the calendar year following the date of acquisition, provided the municipal assessor is given written notice of the acquisition by certified mail on or before January 10 of that year. And, if real property is acquired between January 1 and January 10 in the tax year and

the prescribed notice is given on or before January 10 that year, it becomes tax exempt as of the date acquired. Initial and Further Statement Exemption Applications need not be filed by State Government. The acquisition of land valued, assessed and taxed under the Farmland Assessment Act of 1964, by purchase, eminent domain or otherwise, is not exempt from the rollback taxes(Section 3 of Chapter 243, Laws of 1970, approved October 28, 1970) except as follows: If the land is acquired by the State pursuant to a Green Acres Bond Act and is assessed in accordance with the provisions of the "Farmland Assessment Act of 1964" at the time of acquisition by the State, rollback taxes may not be applied. This only applies to State owned property. Where the county or municipality owns land bought with Green Acres Trust dollars given by the State, rollback taxes can be assessed. The right of possession, subject to Chapter 214, Laws of 1970, or vesting of title, whichever occurs first is to be the acquisition date for such real property. However, notwithstanding the provisions of any law, rule, or regulation to the contrary, land which is valued, assessed and taxed under the provisions of P.L. 1964, c. 48 (C.54:4-23.1 et seq.) and is acquired by the State, a local government unit, a qualifying tax exempt non-profit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes shall not be subject to roll-back taxes. As used in this section, "acquired," "local government unit," "qualifying tax exempt non-profit organization," and "recreation and conservation purposes" mean the same as those terms are defined pursuant to section 3 of P.L. 1999, c. 152 (C.13:8C-3).

REFERENCES:
N.J.S.A. 54:4-3.3a - 54:4-3.3f
N.J.S.A. 54:4-23.8 as amended by P.L. 1999, c. 152 effective June 30, 1999 AKA Garden State Preservation Trust Act.

408.07 State's Liability for Taxes after Acquisition.

If the former owner paid taxes for the current tax year, in full or in part, beyond the date of acquisition by the State, its agencies, or authorities, the owner is to be reimbursed for the taxes he paid beyond that date. If the taxes for the remainder of the year have not been paid by the owner, the State, its agencies or authorities is to pay the municipality taxes due for the real property it acquired.

REFERENCES:
N.J.S.A. 54:4-3.3a - 54:4-3.3f

408.08 In Lieu of Payment is Rolled into Consolidated Municipal Property Tax Relief Aid Program (CMPTRA).

In 1977, New Jersey Statutes at N.J.S.A. 54:4-2.2a et seq. defined tax exempt State property and authorized State in lieu of tax payments to compensate municipalities for the cost of providing local services to the State property situated within their boundaries.

In fiscal year 1995-1996 the State in lieu of tax payment program was integrated with 13 other State Aid to Municipalities programs to become the Consolidated Municipal Property Tax Relief Aid Program (CMPTRA). At that time, the programs were: Legislative Initiative Block Grant Program; Supplemental Municipal Property Tax Relief Aid; Formula/Hold-Harmless Aid; Additional Urban Aid; Municipal Revitalization Aid; Business Personal Property Tax Replacement Aid; Safe and Clean Neighborhood Aid (3 programs); Municipal (URBAN) Aid; Payments in Lieu of Taxes on State Property; Municipal Purposes Taxes Assistance Aid; Insurance Premiums Taxes; Payments to Replace Telecommunications Franchise Taxes; Financial Business Taxes; and Payments in Lieu of Taxes, Class II Railroad Property. The aid amount for the 14 separate programs was combined and has been held at the 1995-1996 level since that time.

The CMPTRA Program is administered by the New Jersey Department of Community Affairs, Division of Local Government Services, PO Box 803, Trenton, NJ 08625-0803. CMPTRA Program staff may be reached directly at telephone number (609) 292-6110 or by email at dlgs@dca.state.nj.us. Their website for Municipal Aid information is http://www.nj.gov/dca/divisions/dlgs/.

***NOTE*:** As of the time of this writing, "in lieu" payments have been incorporated into other municipal aid funding (CMPTRA) using 1994 as base year.

REFERENCES:
N.J.S.A. 54:4-2.2a et seq.
P.L. 1990, c. 16, as amended.

409. Local Government Property.

409.01 County, Municipal and School District Property.

Most property owned by counties, school districts*, and municipalities used for public purposes or for the preservation or exhibit of historical data, records, or property, is exempt from local property tax**. Applications for exemption, Initial and Further Statements, Forms I.S. and F.S., need not be filed for properties owned by county, or municipal governments or any subdivision thereof. As with federally owned property, deed abstracts would apprise the assessor of government ownership.

***NOTE*:** A public school is defined as a school that is open to the public, funded by the public and accountable to the public. Charter schools meet all three tests. They must be open to all students on a space available basis including students with disabilities or limited English proficiency. Charters cannot select students based on skills, ability or past performance, have a selective admissions policy, charge tuition, and/or have a religious focus or affiliation. A charter school is a public school and is managed by a board of trustees. The board of trustees are public agents authorized by the State Board of Education to supervise and control the charter school.

REFERENCES:
N.J.S.A. 54:4-3.3
N.J.S.A. 18A:36A-2 and 3
City of Newark v. Essex County Board of Taxation, 103 N.J. Super. 41 (Law Div. 1968).

*****NOTE*:** The courts have adopted a more liberal attitude towards tax exemptions sought by governmental agencies and the requisite of use for public purpose is accorded a liberal construction, one reasonably broad enough to accomplish legislative aims.

409.02 School Districts.

N.J.S.A.54:4-3.3 provides in pertinent part, "...the property of ... school districts ... used for public purposes, or ... school district property which is leased to a nonprofit organization which is exempt from taxation under R.S. 54:4-3.6, for use by that organization in its exempt functions; school district property which is leased to another board of education or governmental agency; ... shall be exempt from taxation under this chapter, ..."

409.03 County and Municipal Governments, Property Use-Public v. Private.

Until 1903, properties owned by counties were exempt from municipal taxation. A public use condition for exemption first appeared in *L*. 1903, *c*. 208 which contained the language "when used for public purposes." The public use requirement has remained, despite numerous amendments and general tax revisions. Case law supports the interpretation that in addition to public ownership there must be public use.

REFERENCES:
Jamouneau v. Div. of Tax Appeals, 2 N.J. 325, (1949)

409.04 No Apportionment Between Public and Private Use for County or Municipality.

There is no statutory authority to allow for an apportioning between an exempt public use and a non-exempt private use in N.J.S.A.54:4-3.3. In

the New Jersey Tax Court decision Ocean County v. Dover Township, 3 N.J. Tax 434 (1981), where one-third of a county owned building was occupied by a private commercial tenant for private, for- profit use the entire building was taxable [to the county].

The New Jersey Superior Court, Appellate Division in County of Essex v. City of East Orange, 214 N.J. Super 568, (App. Div. 1987) reiterated that there is no statutory basis for apportionment under N.J.S.A. 54:4-3.3. The Court cited Ocean County v. Dover Township which noted "When there is to be an apportionment, the Legislature has specifically provided for it". Given as an example where the apportionment was permissible was N.J.S.A. 54:4-3.6 which provides that when any portions of buildings used for colleges, schools, academies or seminaries are leased to profit-making organizations the leased portions are to be taxed and the remaining portion is exempt. From this and other specific provisions was inferred a legislative intent that there be no apportionment when an exemption is claimed under N.J.S.A. 54:4-3.3 as that section does not authorize it. The Appellate Court in Essex v. East Orange held that the property must be totally taxed and further opined that although N.J.S.A. 54:4-3.3 does not specify that the property be "exclusively" used for public purposes, it seems clear that the use must be exclusive for exemption as otherwise property not used for public purposes will be exempt, a result not allowable under N.J.S.A. 54:4-3.3.

Again in Borough of Paramus v. County of Bergen, 27 N.J. Tax 215(Tax Ct. 2013) the court found that the assessment may not be apportioned between the publicly and privately used portions of a county owned building under N.J.S.A. 54:4-3.3, and, as well, that the Leasehold Taxing Act, N.J.S.A. 54:4-2.3, had no application to the facts

in that case because the county is taxable. [The Leasehold Taxing Act is applied when property ownership is held by the State or Federal government where the requirement for exemption is ownership alone. In these instances, the tax liability is passed onto the lessee.]

409.05 Exception- Leased School District Property- Apportionment Permitted for Certain Properties.

Whenever a portion of school district property is leased to an organization other than those described in R.S.54:4-3.3, that portion shall be subject to taxation and the remaining portion only shall be exempt.

REFERENCES:
N.J.S.A. 54:4-3.6e

409.06 Incidence of Tax: Where the Tax Liability Falls or Who Pays.

Leasehold Taxation Act does not apply to county and municipally owned property. It applies to State and Federal property.

Egg Harbor City v. Atlantic County, 10 N.J. Tax 7 (Tax Ct. 1988), explained there are at least four different situations involving the use of publicly owned property:

1. the publicly owned property is used by a governmental or public entity for public purposes;
2. the publicly owned property is used by a private entity to accomplish a public purpose;
3. the publicly owned property is used for private purposes; and
4. the publicly owned property is used by the government agency for a public purpose, but the government agency employs a private company to accomplish the purpose for it.

Under the first two situations, the property is exempt from local property taxation. Under the third situation, the property is subject to local property taxation. The fourth situation is clearly analogous to the first two, and the

property is exempt from local property taxation. The fact that the government agency employs a private company to carry out its public purpose should not result in local property taxation.

Center for Molecular Medicine and Immunology v. Twp. of Belleville, 357 N.J. Super. 41 (App. Div. 2003) quoting from Jamouneau v. Local Government Bd., 6 N.J. 281 (1951). When county property is devoted to a private purpose, the county is the proper taxpayer against which the assessment should be made.

The land is not in public use and therefore is taxable, Jamouneau v. Division of Tax Appeals, 2 N.J. 325 (1949), but the obligation upon the municipal owner to pay the land tax out of its land rental is not unreasonable,….. It is not, as appellant appears to contend, a grant of tax exemption. It is a retention of the tax obligation as a burden on the owner to be met from the annual rent charges…. (**There is nothing novel about the obligation of a municipality to pay taxes on property owned by it and not devoted to a public use.**) Newark v. Township of Clinton, 49 N.J.L. 370 (Sup. Ct. 1887)

As explained in Borough of Paramus v. County of Bergen, 27 N.J. Tax 215 (Tax Ct. 2013), nothing in N.J.S.A. 54:4-2.3 even remotely impacts on the requirement for exemption under N.J.S.A. 54:4-3.3 that county property be used for public purposes. N.J.S.A. 54:4-2.3 by its terms is applicable when the leasing of tax exempt property does not make the property taxable. In this case the leasing does make the property taxable [to the governmental entity] so no assessment may be made on the basis of the tenancy. Also, in County of Essex v. City of East Orange, 7 N. J. Tax 346 (Tax Ct. 1985), it was held that the Act "applies to property which is tax exempt by virtue of its ownership. As such, it would apply to

federally owned property where there is no requirement of public use." Because the exemption statutes at issue require that the property be used for a public purpose, the Leasehold Act has no application to these facts. The nature and use of the leased spaces will either render the property wholly exempt or wholly taxable [to the government entity]. [ ] Emphasis added.

In Martin v. Collingswood, 36 N.J. 447 (1962), the Camden County Park Commission "leased" to appellant Martin a portion of its property to operate a "milk bar." From 1957 - 1959 the land and building were assessed for local taxation against Martin under N.J.S.A. 54:4-2.3. Per the court there were 2 hypotheses the case permitted. First: the "lease" was for a *private* purpose. Second: the "lease" was made to further a *public* purpose the commission was authorized by statute to achieve either by direct operation of the facility or by arrangement with a private operator. Upon the premise that the "lease" was for private use, it was contended statute would not authorize taxation and reaches a lease transaction only if "the leasing * * * does not make the real estate taxable." The exemption given the park commission by N.J.S.A. 54:4-3.3 would fail if the property were used for a private purpose rather than the public purpose for which the exemption was intended. And that if the transaction made the property taxable to the park commission, as it would if the use were private, it follows there was no warrant for a further assessment against a "lessee."

The alternate hypothesis is that the "lease" was made by the commission to further the public purpose the Legislature assigned to it. The court was satisfied the statute did not apply because the Legislature intended the property's use for the public purpose must not be burdened with taxation. The court cited Walter Reade, Inc. v. Township of Dennis, 36 N.J. 435 (1962), There, as here, the public agency was empowered to furnish the

public use either directly or through an arrangement with a private operator. The court said, it would be odd to authorize the agency to choose between these methods and then encumber the choice with tax consequences which, realistically, must ultimately be assumed by the agency in the fixing of "rentals." The court thought it dispositive, upon the hypothesis stated above, that the commission furnished the public use by a method the Legislature authorized. The court stated that upon both possible approaches it explored, N.J.S.A. 54:4-2.3 does not apply.

409.07 Taxable Real Property Acquired by Local Government; Start of Exemption; October 1 Pre-Tax Year Ownership Required.

In City of Trenton v. Ewing Township, 23 N.J.Tax 295, 299 (Tax Court 2006), the Court held "There is no indication, however, that as finally enacted, N.J.S.A. 54:4-3.3b was intended to expand the exemption for entities other than those specifically enumerated in the statute, when property is acquired after the valuation date of the pretax year. I therefore conclude that, because Trenton…(i.e. municipality)…did not acquire the property until November 2005, it is not eligible for exemption for tax year 2006." Therefore, local government property is not afforded tax exemption in the same manner as the State, a State Agency, or an Authority as per N.J.S.A. 54:4-3.3a and 54:4-3.3b. A municipality is considered a political subdivision.

REFERENCES:
City of Trenton v. Ewing Township, 23 N.J. Tax 295 (Tax Court 2006).

409.08 Exception to October 1 Pre-Tax Year Ownership: Blue Acres Property Tax Exemption.

Blue Acres Property Tax Exemption exempts certain properties acquired by municipalities from county, school, and fire district taxes immediately upon acquisition.

Public Law 2013, Chapter 261 applies to areas designated as flood-prone and allows parcels of real property acquired by municipalities using federal, county, municipal, or State program funds to acquire real property situated in flood-prone areas of the municipality to become tax exempt immediately on the date of acquisition by the municipality rather than as of October 1, pre-tax year. The grant of right of possession and/or vesting of title to the municipality shall be deemed the acquisition date with respect to such real property.

The municipality shall provide written notice of intention to purchase flood properties to county, school board and board of fire commissioners. Written notice shall be within 15 calendar days of budget adoption or within 15 days of receipt of government funds for flood property purchases.

District tax due, County tax due, School tax due means those respective amounts assessed, less the respective proportionate amounts of the taxes no longer owed by the municipality due to the Blue Acres Exemption. Property owners who have paid property taxes shall be reimbursed by the municipality for the amount of taxes paid beyond the date of municipal acquisition. Disputed refund amounts shall be determined by the New Jersey Tax Court.

The municipality shall be entitled to a credit against the next installment of taxes to be paid to county, school district or fire district if the municipality has paid any taxes beyond the date of acquisition.

With regard to “Blue Acre Zones” assessors should be aware of a municipality’s intention to acquire parcel(s) of real property situated in a

flood-prone area of a municipality and cooperate with the tax collector and County Tax Board so that any debit or credit of property taxes paid by a municipality for a period beyond the date of acquisition may be recorded.

REFERENCES:
P.L. 2013, c.261

409.09 Authority Property.

Each authority is created and defined under separate legislation which establish these entities as "public bodies corporate and politic" and determine their tax status for various taxes. Assessors should index each authority for the applicable statute and confirm exempt/nonexempt standing.

REFERENCES:
N.J. Turnpike Authority v. Township of Monroe, 28 N. J. Tax 143 (Tax Court 2014), summary judgment granted by, dismissed by 28 N.J. Tax 158 (Tax Court 2014).
(Turnpike is not a Local Government Unit nor the State)

409.10 New Jersey Turnpike Authority.

Property owned by the New Jersey Turnpike Authority and used for "turnpike projects" is exempt from taxation. Turnpike Authority property not used for "turnpike projects" may be assessed and taxed locally. "Turnpike project" includes the main highway, all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage, and other buildings which the Authority considers necessary for the operation of the project.

REFERENCES:
N.J.S.A. 27:23-3, 27:23-4 and 27:23-12
N.J. Turnpike Authority v. Twp. Of Monroe, 2 N.J. Tax 371 (Tax Court 1981).
N.J. Turnpike Authority v. Washington Twp, Mercer County, 16 N.J. 38, 106 (1954).
Local Property Tax Bureau News, June-July, 1954, pp. 1-3.

409.11 Turnpike Roads.

Turnpike roads of any turnpike company used by the public without payment of tolls, are exempt from taxation. Initial and Further Statement applications for exemption must be filed.

REFERENCES:
N.J.S.A. 54:4-3.18, 54:4-4.4

409.12 New Jersey Highway Authority.

The New Jersey Highway Authority transferred its projects and functions to the New Jersey Turnpike Authority. The Legislature reaffirms that all existing facilities and property, and their operations, and management, of the authority and of the New Jersey Highway Authority, as transferred to the authority, are deemed public and essential governmental functions and are exempt from local taxes and assessments.

Property owned by the New Jersey Highway Authority, the operator of the Garden State Parkway, used for "projects" of the Authority is exempt from taxation. Property not used for "projects" may be assessed and taxed locally. "Projects" includes all of the facilities listed above for turnpikes as well as traffic circles, grade separations, and such adjoining park or recreational areas and facilities as the Authority, and the Department of Environmental Protection find necessary to promote the public health and welfare and find feasible for development. The courts have ruled that the lessees of lands and buildings operated as restaurants located on the Garden State Parkway are exempt from local property taxation under the provision of N.J.S.A. 54:4-2.3 et seq.

REFERENCES:
N.J.S.A. 27:12B-3, 27:12B-4 and 27:12B-16 were repealed by N.J.S.A. 27:23-41.
N.J. Highway Authority v. Town of Bloomfield, 8 N.J. Tax 637 (Tax Court 1987).
Walter Reade, Inc. v. Twp. of Dennis, et al, 36 N.J. 435 (1962).

Bloomfield v. Division of Tax Appeals, et al, 84 N.J. Super. 19, (App. Div. 1964).
City of East Orange v. Palmer, 47 N.J. 507 (1966).
Local Property Tax Bureau News, June-July, 1954, pp. 1-3.

409.13 Taxable Property Acquired by New Jersey Highway Authority.

Taxable property acquired by N.J. Highway Authority becomes exempt on January 1 of the calendar year following date of acquisition not as of the date of acquisition.

REFERENCES:
East Orange v. Palmer, 47 N.J. 307 (1966).
Hudson County Improvement Authority v. Town of Kearny, 244 N.J. Super. 619 (App. Div. 1980), 10 N.J. Tax 589 (Tax Court 1989).

409.14 County and Municipal Authorities.

The real and personal property of county or municipal sewerage, utilities, parking, and incinerator authorities is exempt from the property tax when used for public purpose.

REFERENCES:
N.J.S.A. 40:11A-19, 40:14A-31, 40:14B-63, 40:66A-38, 40:37A-85
N.J.S.A. 40:66A-24
Morris County MUA v. Morris Twp., 14 N.J. Tax 81. (Tax Court 1994).
City of Jersey City v. Jersey City Parking Authority, 71 N.J. 492 (1976).

409.15 Interstate Authorities and Commissions.

A number of interstate authorities and commissions hold title to real and personal property in New Jersey. In most cases, the authorizing acts for such organizations as the Port of New York Authority, the Delaware River Port Authority, the Delaware River Joint Toll Bridge Commission and others grant exemption to property used by the organization for its stated purposes. If the tax status of the property of interstate authorities and commissions is uncertain, the assessor should secure competent legal advice.

REFERENCES:
Port of New York Authority, N.J.S.A. 32:1-1 et seq.
Delaware River Port Authority, N.J.S.A. 32:3-1 et seq.
Delaware River Joint Toll Bridge Commission, N.J.S.A. 32:8-1 et seq.
Palisades Interstate Park Commission, N.J.S.A. 32:14-1.3 et seq.
Delaware River Basin Water Commission (INCODEL) N.J.S.A. 32:20-1 et seq.
Moonachie v. Port of N.Y. Authority, 38 N.J. 414 (1962).

409.16 Passaic Valley Sewerage Commission.

All real and personal property acquired by the Passaic Valley Sewerage Commission for use as part of or in connection with a main intercepting or trunk sewer, its branches or appurtenances, in the Passaic Valley sewerage district, is exempt from local property taxation.

REFERENCES:
N.J.S.A. 54:4-3.4

409.17 Watershed Land.

Land of counties, municipalities, and other municipal and public agencies of this State used for the purpose and protection of a public water supply is subject to tax by the respective taxing districts where located, but all other property, buildings and improvements are exempt from taxation.

REFERENCES:
N.J.S.A. 54:4-3.3
N.J.S.A. 13:1L-1 et seq.
City of Jersey City, Division of Water v. Township of Parsippany Troy-Hills, 16 N.J. Tax 504 (Tax Court 1997).
City of Newark v. Township of West Milford, 9 N.J. 295 (1952).
Hackensack Water Company v. Woodcliff Lake Borough, 9 N.J. Tax 545 (Tax Court 1988).
Hackensack Water Company v. Borough of Old Tappan, 77 N.J. 208 (1978).

409.18 Foreclosed Properties.

Properties acquired by municipalities through tax title foreclosures or by deed in lieu of foreclosure, if used for a public purpose, are exempt from

taxation. Property bought in for debts or on foreclosure of mortgages given to secure loans out of public funds is taxable if not for public use.

REFERENCES:
N.J.S.A. 54:4-3.3
Unpublished Opinion: Police and Fireman's Retirement System of New Jersey v. Township of Upper Deerfield, Docket No. 012570-2010 (Tax Court, August 12, 2011).

410. Leasing of Exempt Property

410.01 Taxable Leases, Assessment Procedure.

Usually tax exempt real property leased to an individual whose property is not exempt, is listed as the property of the lessee, rather than the owner, and the leasehold estate is assessed as taxable real estate as of the effective date of the lease. Leasehold estates beginning during the year should be entered on the next Added Assessment List filed after the effective lease date. Any such assessment is to be that proportion of the full amount of the assessment that the number of days the lease is in effect in the tax year bears to 365.

REFERENCES:
N.J.S.A. 54:4-2.3, 54:4-2.4 54:4-2.5
Borough of Moonachie v. Port of New York Authority, 38 N.J. 414 (1962).
Thiokol Chemical v. Morris County Board of Taxation, 41 N.J. 405 (1964).
Todd Shipyards Corporation v. Township of Weehawken, 45 N.J. 336 (1965).

410.02 Leases Terminated.

Where a taxable leasehold estate of previously exempt property terminates during a tax year, the lessee, after verifying termination to the municipal governing body, is entitled to a cancellation of the proportionate assessment and a refund of any taxes paid in excess of the amount required.

REFERENCES:
N.J.S.A. 54:4-2.9

410.03 Exempt Leases.

Certain exempt properties remain exempt even when leased to a nonexempt lessee:

1. property leased to or by any interstate agency under an interstate compact between the State of New Jersey and any other state;

2. property owned by a municipality and leased to some other person or interest for public purpose;

3. property owned by public housing authorities and various other housing and redevelopment agencies and leased for use as housing projects, when used for public purpose;

4. property owned by the New Jersey Turnpike Authority and operated as Concessions;

5. cultural centers leased by the governing body of any city of the first class;

6. certain property owned by school districts when leased to another school district or governmental agency, or for terms of less than 4 months to nonexempt users.

REFERENCES:
N.J.S.A. 40:60-49.1, 54:4-2.12, 54:4-3.3, 54:4-3.6(d)
NJ Highway Authority v. Town of Bloomfield, 8 N.J. Tax 637 (Tax Court 1987).
Howard D. Johnson Co. and Howard Johnson, Inc., v. Twp. of Wall, 36 N.J. 443 (1962).

Bergen County v. Leonia Borough, 14 N.J. Tax 142 (Tax Court 1994).
Walter Reade, Inc. v. Twp. of Dennis, et al., 36 N.J. 435 (1962).
Town of Bloomfield v. Division of Tax Appeals, et al., 84 N.J. Super. 19 (App. Div. 1964).
Todd Shipyards Corp. v. Weehawken Township. 45 N.J. 336 (1965).
Martin v. Collingswood, 36 N.J. 447 (1962).
State of New Jersey v. Eatontown Borough, 366 N.J. Super. 626 (App. Div. 2004).
Borough of Paramus v. County of Bergen, Bergen County Improvement Authority Solomon Health Group, L.L.C. and Bergen Regional Medical Center, L.P., 27 N.J. Tax 215 (Tax Court 2013).

411. Tax Exempt Real Property; Activity Conducted for Profit; Tax Liability of Private Party.

When tax exempt real property is used by a private party in connection with a for-profit activity and the use does not render the real property taxable pursuant to N.J.S.A. 54:4-2.3, i.e., the Leasehold Act or otherwise, the real property is to be assessed and taxed as real property of the private party. The private party is liable for taxation as though he owned the property or any portion of it, unless the owner consents to its taxation. "Use" means the right or license, express or implied, to possess and enjoy the benefits from any real property, whether or not that right or license is actually exercised.

REFERENCES:
N.J.S.A. 54:4-1.10

412. Educational, Religious, and Charitable Organizations.

412.01 General.

Legislative classifications for taxation/exemption must be based on features inherent in the property itself or in the purposes to which it is put. Exemptions cannot be based on the personal status or vocation of the property owner.

Per N.J.S.A. 54:4-3.6 and the Courts, real property tax exemption for educational, religious, and charitable entities is generally determined by: purpose of the organization; use of the property; absence, presence, degree and use of profit; timely ownership of the property; incorporation of the organization or its authorization to operate; extant buildings; and timely application.

412.02 Exempt Buildings.

The following buildings are exempt from property taxation:

1. All buildings actually used for colleges, schools, academies or seminaries, provided that if any portion of such buildings are leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, said portion shall be subject to taxation and the remaining portion only shall be exempt;
2. All buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue;
3. All buildings actually and exclusively used for public libraries, religious worship or asylum or schools for adults and children with intellectual disabilities;
4. All buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals;
5. All buildings actually and exclusively used and owned by volunteer first-aid squads, which squads are or shall be incorporated as associations not for pecuniary profit;
6. All buildings actually used in the work of associations and corporations organized exclusively for the moral and mental

improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt;

7. all buildings actually used in the work of associations and corporations organized exclusively for religious purposes, including religious worship, or charitable purposes, provided that if any portion of a building used for that purpose is leased to a profit-making organization or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion shall be exempt from taxation, and provided further that if any portion of a building is used for a different exempt use by an exempt entity, that portion shall also be exempt from taxation;
8. All buildings actually used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt;

***As amended by L. 1993, c. 166, “hospital purposes” includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L. 1979, c. 496 (C.55:13B-l et al.), the Rooming and Boarding House Act of 1979; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

9. All buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are actually and exclusively used in the work of two or more associations or

corporations organized exclusively for the moral and mental improvement of men, women and children;

10. All buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and actually and exclusively used in the work of one or more associations or corporations organized exclusively for charitable or religious purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them;
11. The buildings not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises;
12. all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of men, women, or children with intellectual disabilities shall also be exempt from taxation, provided that such corporation conducts and maintains research or professional training facilities for the care and training of men, women, or children with intellectual disabilities;

REFERENCES:

N.J.S.A. 54:4-3.6 as amended by P.L. 2010, c. 50, section 81, eff. November 14, 2010.
Grace and Peace Church v. Cranford Twp., 4 N.J. Tax 391 (Tax Court 1982).
Paper Mill Playhouse v. Millburn Twp., 7 N.J. Tax 78 (Tax Court 1984).
Salvation Army v. Alexandria Twp., 2 N.J. Tax 292 (Tax Court 1981).
Hackensack v. Hackensack Med. Ctr., 7 N.J. Tax 460 (Tax Court 1988).
Society of the Holy Child v. City of Summit, 205 N.J. Super. 365 (App. Div. 2011).
Presbyterian Home at Pennington, Inc. v. Borough of Pennington, 409 N.J. Super. 166 (App. Div. 2009).
Job Haines Home for the Aged v. Township of Bloomfield, 19 N.J. Tax 408 (Tax Court 2001).
Mesivta Ohr Torah of Lakewood v. Township of Lakewood, 24 N.J. Tax 314 (Tax Court 2008).

New Jersey Association of School Business Officials, Inc. v. Township of Hamilton, 22 N.J. Tax 467 (Tax Court 2005).
City of Long Branch v. Ohel Yaacob Congregation, 20 N.J. Tax 511 (Tax Court 2003).
NU Beta Alumni Association of Phi Gamma Delta v. City of New Brunswick, 7 N.J. Tax 379 (Tax Court 1984).
Shrine of Our Lady of Fatima v. Mantua Township, 12 N.J. Tax 392 (Tax Court 1992).
Pompton Lakes Senior Citizens Housing Corp., v. Borough of Pompton Lakes, 16 N.J. Tax 331 (Tax Court 1997).
Ehrlich v. Passaic City, 15 N.J. Tax 561 (Tax Court 1995).
Hunterdon Medical Center v. Township of Readington, 416 N.J. Super. 127 (App. Div. 2010).
Friends of Ahi Ezer Congregation, Inc. v. City of Long Branch, 16 N.J. Tax 591 (Tax Court 1997).
Hillcrest Health Services Systems v. Hackensack City, 18 N.J. Tax 38 (Tax Court 1998).
Clinton v. Camp Brett-Endeavor, 1 N.J. Tax 54 (Tax Court 1980).
Unpublished Opinion: Chabad of Randolph, Inc. v. Township of Randolph, Docket No. A-3244-07T3, (Tax Court, December 31, 2008).
Jersey Shore Medical Center v. Neptune Twp., 14 N.J. Tax 49 (Tax Court 1994).
Girls Friendly Society of Pennsylvania v. City of Cape May and Cape May County Board of Taxation. Docket No. 009803-2011, Tax Court of New Jersey, decided October 26, 2012.
Borough of Hamburg v. Trustees of the Presbytery of Newton, 28 N.J. Tax 311 (Tax Court 2015).
International Schools Services, Inc. v. West Windsor Twp., 207 N.J. 3 (2011).
AHS Hospital Corp., d/b/a Morristown Memorial Hospital v. Town of Morris town, 28 N.J. Tax 456 (Tax Court 2015).

412.03 Parsonage.

Parsonage under N.J.S.A. 54:4-3.6 is defined as "the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises."

House of Worship/Parsonage – it is not within the Legislative intent to grant tax exemptions to every building used and occupied by those having

personal religious convictions. Property tax exemptions are not based on the status or vocation of its owners or occupants but rather the use to which the property itself is devoted.

REFERENCES:
Township of Kingwood v. First Church of Divine Truth, Division of Tax Appeals, Docket No. L2573-77, decided December 7, 1978.

A parsonage is a derivative exemption; it cannot be a stand-alone exemption independent of an exempt house of worship.

REFERENCES:
Chester Borough v. World Challenge, Inc., 14 N.J. Tax 20 (Tax Court 1994).

A parsonage does not have to be in the same location/taxing district as the exempt house of worship.

REFERENCES:
City of Plainfield v. Goodwill Homes & Missions, Inc., 4 N.J. Tax 537 (Tax Court 1982).

Only two parsonage exemptions are allowed per religious corporation statewide.

REFERENCES:
Deal Yeshiva, Inc. v. Deal Borough, 16 N.J. Tax 599 (Tax Court 1997).

Officiating Clergyman is one who serves the needs of a reasonable localized and established congregation. Congregation is an assemblage of persons in society to worship publicly at a stated place at regular intervals.

REFERENCES:
St. Matthew's Lutheran Church for the Deaf v. Division of Tax Appeals, 18 N.J. Super 552 (App. Div. 1952).

Officiating Clergyman is one who presides over services; presents sermons; counsels congregants; officiates at weddings, funerals, and sacraments; has position of authority and obligation to ensure things are properly run.

REFERENCES:
Friends of Ahi Ezer Congregation, Inc. v. City of Long Branch, 16 N.J. Tax 591 (Tax Court 1997).

Officiating Clergyman is not restricted to an individual only having ultimate supervision of the congregation's affairs or one who is responsible for conducting regular worship services. Where the activities are regular and continuing, as opposed to sporadic and occasional the individual may be considered an officiating clergy. The question is fact-sensitive and the test is the character and extent of the activities actually performed.

REFERENCES:
Temple Emanu-El v. Englewood City, 21 N.J. Tax 462 (Tax Court 2004).

Ownership must be in the name of the nonprofit organization, i.e., institutional ownership not an individual.

REFERENCES:
Ehrlich v. Passaic City, 15 N.J. Tax 561 (Tax Court 1995).

412.04 Faculty Housing.

Faculty Housing – A nonprofit corporation operating a boys' private day school sought property tax exemption for 7 faculty houses. The New Jersey Supreme Court held that the absence of a profit making arrangement in the rental contract; desirability of providing housing at or near the school and whether providing housing for faculty furthered the educational purposes of the school were factors in deciding tax exemption. The Court also stated where occupancy of a faculty member or, more particularly, the administrative head of the institution is required to be on or nearby the institution's campus for faculty meetings, conferences and necessary social engagements adjunct to academic life, the residence will be exempt. It was stipulated that the availability of faculty housing facilitated in obtaining and retaining competent faculty members. Only

the head master and 9 of a total of 47 teaching staff were provided with low rental accommodations. Seven faculty houses were granted exemption.

REFERENCES:
Pingry Corp. v. Hillside Twp., 46 N.J. 457 (1966).

Two rent-free residences were occupied by two rabbis who served as the Assistant Dean of Students and the Director of the Sephardic Institute. One of the rabbis was required to be readily available for student emergencies and both homes contained office and counseling facilities not available on campus. Approving the exemption the Court reasoned, the two rabbis usually would be housed on campus but there was no room. Further it was necessary for education, discipline and morality to have the two rabbis housed in premises close to the school. The Court found the two premises to be an integral part of the school and necessary to its proper functioning.

REFERENCES:
Beth Medrash Govoha v. Twp. of Lakewood, Division of Tax Appeals (1972). See also: Blair Academy v. Blairstown Twp., 95 N.J. Super. 583 (App. Div. 1967), cert. denied by 50 N.J. 293 (1967).

Where the landlord-tenant relationship is secondary to the primary purpose of providing housing on campus for critical employees and no profit is realized, the property is actually used for the purposes of the educational institution and tax exemption is warranted.

REFERENCES:
Trustees of Stevens Institute of Technology v. City of Hoboken, 1 N.J. Tax 598 (Tax Court 1980).

412.05 Charitable Housing/Housing for the Disabled/Moral and Mental Improvement of Men, Women and Children.

Charitable Purpose: There is no precise definition as to what constitutes a charitable activity. Although the activity may be laudable whether it

constitutes a charitable purpose depends upon the manner in which the particular property is used to accomplish that end.

REFERENCES:
Presbyterian Homes of the Synod of N.J. v. Division of Tax Appeals, 55 N.J. 275 (1970).

A key characteristic is that it is typically an undertaking by which government is relieved from a burden it would otherwise have to perform. When an entity provides charitable service that government itself would otherwise have to provide, provides that service at a lower cost, and serves a number of individuals who are not supported by government subsidies, government is relieved of burden and charitable exemption should apply. Entitlement to exemption depends upon circumstances, charges and public betterment. Mere billing of clients for services does not in itself disqualify charitable use. Despite organization's receipt of government support on a fee for services basis, exemption was not invalidated because rents were either not charged or were below market; residents who were no longer able to pay were not evicted; services provided to the homeless were not available via the for-profit housing market; service entity was not conducted for profit, nor were its buildings operated for profit.

REFERENCES:
Salt & Light Co. v. Mount Holly Twp. 15 N.J. Tax 274 (Tax Court 1995) affirmed by 16 N.J. Tax 40 (App. Div. 1996).

Qualifications: To qualify as a charity eligible for real property taxation exemption entity must seek to provide services primarily for indigents and those who are unable to pay for services; this distinguishes charities from private practitioners who may occasionally lower their rates.

REFERENCES:
Church Contribution Trust v. Mendham Borough, 9 N.J. Tax 299 (Tax Court 1987).

Charitable Support Purpose Criteria were outlined by the State Tax Court as:

1. Level one organizational test, i.e., taxpayer-owner must be a corporation organized, conducted under, or subject to Title 15 or 15A;
2. The use test, the buildings must be actually used for charitable purposes;
3. Level two organizational test, must be used in the work of one or more other corporations organized and conducted for charitable purposes;
4. Level one and two not-for-profit tests, taxpayer's operation and uses of buildings, together with the operation and use of same by any other corporation must not be conducted for profit.

REFERENCES:
Fountain House v. Montague Twp., 13 N.J. Tax 387 (Tax Court 1993).

With respect to the *disabled* N.J.S.A. 54:4-3.6 as amended provides, "…all property owned and used by any nonprofit corporation in connection with its curriculum, work, care, treatment and study of intellectually disabled men, women or children…provided that such corporation conducts or maintains research or professional training facilities for their care and training…"

a. All of the property for which the exemption is claimed must be owned and used by a nonprofit corporation;
b. The property must be used in connection with its curriculum, work, care, treatment and study of intellectually disabled men, women or children;
c. The corporation must conduct and maintain research or professional training facilities for the care and training of the above persons;
d. The buildings or lands on which they stand and the organization using and occupying them must not be conducted for profit,

> except, where the benevolent work carried on therein is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings, the exemption is extended to those buildings provided the building is wholly controlled by and the entire income therefrom is used for said charitable, benevolent or religious purposes.

REFERENCES:
Disabilities Resource Center/Atlantic and Cape May, Inc. v. City of Somers Point, 371 N.J. Super. 1 (App. Div. 2004).

A nonprofit corporation that cared for the mentally retarded was eligible for property tax exemption; it was not required to be deemed charitable where fees and charges were received where the building was wholly controlled by the nonprofit organization and the entire income therefrom was used for benevolent purposes. Since the organized purposes of the corporation and the use and occupancy of its property are in compliance with the requirements of that portion of the statute pertaining to mentally disabled persons it is entitled to tax exempt status.

REFERENCES:
Mary's Manor, Inc. v. Galloway Twp., 12 N.J. Tax 189 (Tax Court 1991).

A facility that merely rents out dwellings to a disabled population is not entitled to exemption.

REFERENCES:
Essex Properties Urban Renewal Assoc., Inc. v. City of Newark, 20 N.J. Tax 360 (Tax Court 2002).

It was determined that a not-for-profit organization that provided housing and *rehabilitative services* for the mentally disabled was a charitable use which qualified for property tax exemption.

REFERENCES:
Community Access Unlimited v. City of Elizabeth, 21 N.J. Tax 604 (Tax Court 2003).

"Moral and mental improvement of men, women and children" elements of statute under N.J.S.A. 54:4-3.6 read, "…all buildings *actually used* in the work of associations and corporations *organized exclusively* for the moral and mental improvement of men…" And also, "…all buildings owned or held by an association or corporation created for the purpose of holding the title to such buildings as are *actually and exclusively used* in the work of 2 or more associations or corporations *organized exclusively* for the moral and mental improvement of men…"

To qualify as a moral and mental improvement entity, a property must generally meet four criteria:

1. the entity owning the property must be organized exclusively for the moral and mental improvement of men, women and children;
2. the property must be used in the work of the entity organized for moral and mental improvement;
3. neither the owning entity nor the property must be operated for profit;
4. the entity claiming the exemption must own the property and be authorized to carry out the purposes for which the exemption is claimed.

Whether property qualifies as a moral improvement entity based on exclusive organization is determined by statement of purpose in owning entity's certificate of incorporation. Corporation that owned property housing mentally ill tenants was not exclusively organized for moral and mental improvement and did not qualify for exemption on that ground. Purpose clause in certificate of incorporation indicated corporation was organized exclusively for charitable and/or education purposes.

REFERENCES:

1711 Third Avenue, Inc. v. City of Asbury Park, 16 N.J. Tax 174 (Tax Court 1996).

Advance Housing, a 501(c)(3) not-for- profit supportive housing and services provider for the mentally disabled which received funding from HUD, New Jersey Department of Health and Senior Services, the county, private donations and client rents, claimed property tax exemption. Advance Housing argued it was eligible for exemption under 3 provisions of N.J.S.A.54:4-3.6, i.e., for individuals with disabilities; moral and mental improvement of men, women, and children; and charitable purposes. Tax Court denied exemption because the residences were not used for charitable purposes, the housing component was "not integrated with the counseling and support services" and that a necessary institutional aspect to the housing program was lacking. Appellate Court reversed and granted exemption based on its organization and operation for charitable purposes that the organization did not require its residents to participate in services did not count against conferring tax exempt status. The Court noted Advance Housing's mission was to deinstitutionalize disabled individuals and promote independent community living. Nine defendant municipalities then appealed to State Supreme Court which affirmed the Appellate Court.

In its decision the Supreme Court set forth certain principles as to whether a nonprofit organized for charitable purpose is actually using the property for a charitable purpose.

1. The charitable work done by the private entity will spare government an expense that ultimately it must bear.
2. The private entity must not be engaged in a seeming commercial enterprise.
3. The property must be used in a manner to further the charitable purpose.

4. The receipt of government subsidies or funds is not contraindicative of a charitable purpose.
5. Financial support and recognition by the State of a private entity's charitable work may be indicative that its property is used for a charitable purpose.
6. The private entity in carrying out its charitable mission through the use of its property is addressing "an important and legitimate governmental concern."

REFERENCES:
Advance Housing, Inc. & Advance Housing 2000 v. Twp. of Teaneck et als, 215 N.J. 549 (2013). Supreme Court of New Jersey

Additional Related References:
Job Haines Home for the Aged v. Township of Bloomfield, 19 N.J. Tax 408 (Tax Court 2001).
Mega Care v. Union Twp., 15 N.J. Tax 566 (Tax Court 1996) affirmed by 22 N.J. Tax 604 (App. Div. 2004).
Woodstown Borough v. Friends Home at Woodstown, 12 N.J. Tax 197 (Tax Court 1992).
St. Luke's Village, Inc. v. Peapack & Gladstone Borough, 11 N.J. Tax 76 (Tax Court 1990).
Intercare Health Systems Inc. v. Cedar Grove Twp., 11 N.J. Tax 423 (Tax Court 1990).
Presbyterian Home at Pennington, Inc. v. Pennington Borough, 409 N.J. Super. 166 (App. Div. 2009), cert. denied by 201 N.J. 143 (2010).

412.06 Exempt Land.

The land the exempt buildings are erected on, up to 5 acres per building, is also exempt from taxation, provided it's necessary for the fair enjoyment of the property and devoted to the same purposes as the buildings. The relationship of land acreage to building number has had differing legal interpretations depending on the individual character of the property. For example, several buildings could be located on 5 or fewer acres or they could be situated such that 5 acres would be necessary for each. With the exception of cemeteries, graveyards, burial grounds and privately owned recreational or conservation land, and certain urban gardens (see pertinent

sections in this chapter) vacant land is not exempted even though titled to an otherwise exempt association or corporation. In the absence of buildings used for one of the exempt purposes specified by statute, land cannot be exempted.

REFERENCES:
N.J.S.A. 54:4-3.6
Borough of Allendale v. The Church of the Guardian Angel, Division of Tax Appeal, Case No. 1, Calendar 1/28/63.
Pingry Corp. v. Hillside Twp., 46 N.J. 457 (1966).
Boys Club of Clifton, Inc. v. Jefferson Twp., 72 N.J. 389 (1977).
Fairleigh Dickinson University v. Florham Park Boro, 5 N.J. Tax 343 (Tax Court 1983).
Greater Emmanual Etc. Tabernacles v. Montclair, 4 N.J. Tax 618 (Tax Court 1982).
Borough of Tenafly v. Society of African Missions, Inc., Division of Tax Appeals 1977.

412.07 Contiguous Land.

Land may be exempt where contiguous to land on which exempt buildings are located.

REFERENCES:
City of Hackensack v. Hackensack Medical Center, 228 N.J. Super. 310 (App. Div. 1988) cert. denied 114 N.J. 498 (1989).
St. Ann's Catholic Church v. Borough of Hampton, 14 N.J. Tax 88 (Tax Court 1994).
Planned Parenthood v. Hackensack City, 12 N.J. Tax 598 (Tax Court 1992).
Congregation B'Nai Yisroel v. Twp of Millburn, 35 N.J. Super. 67 (App. Div. 1955).

412.08 Eligibility

To qualify for exemption each organization must meet all of the following criteria. Wherever there is doubt as to eligibility, the burden of proof is on the applicant.

412.09 Existing Buildings.

The property must include buildings. The intention of an eligible organization to construct a building at a future date does not qualify vacant land for exemption, nor does the open-air use of land even if for an organization's stated purposes. (Exceptions: cemeteries, graveyards, burial grounds, privately owned conservation recreation lands and certain urban gardens.)

412.10 October 1 Ownership.

The property must be owned by the organization on the statutory assessing date - October 1 of the pretax year. This requirement has been interpreted to mean full legal title to the property, not merely an equitable interest.

REFERENCES:
Emanual Missionary Etc. Church v. Newark, 1 N.J. Tax 264 (Tax Court 1980).
Atlantic County New School, Inc. v. City of Pleasantville, 2 N.J. Tax 192 (Tax Court 1981).
Catholic Relief Services, U.S.C.C. v. South Brunswick Twp., 9 N.J. Tax 25 (Tax Court 1987) affirmed 9 N.J. Tax 650 (Tax Court 1987).
Holy Cross Etc. Church v. Trenton City, 2 N.J. Tax 352 (Tax Court 1981).
Jersey City v. N.J. Baptist Convention, 18 N.J. Misc. 209 (1940).
Presbyterian Home at Pennington v. Pennington Borough, 23 N.J. Tax 473 (Tax Court 2007).

412.11 Exception to October 1 Ownership.

An owner of tax exempt real property under N.J.S.A. 54:4-3.6 and 54:4-3.26 who acquires another property which is exempt under N.J.S.A. 54:4-3.3 through 54:4-4.4, upon application by the new owner, shall be allowed to continue the exemption on the newly acquired property even though he did not own it on October 1 of the pretax year. For example, purchasers of exempt property who are already owners of property granted exemption as a: college, school, academy, seminary; historical society owned by the state, county or a political subdivision; public library, church, parsonage,

asylum, school for the intellectually disabled; first aid squad; building for prevention of cruelty to animals; building used for moral and mental improvement of men, women and children; religious or charitable purpose buildings; hospitals; property used in work of a fraternal organization.

REFERENCES:
N.J.S.A. 54:4-3.6b
The Community League, Inc. v. City of Newark, 26 N.J. Tax 139 (tax Court 2011).

412.12 Exempt Use Test - Reasonable Necessity.

The accepted test for determining whether property is used in the work of an entity organized for an exempt purpose is whether the property is "reasonably necessary" for such purpose. Rather than just a convenience the use must be an integral part of the operation of the exempt organization and reasonably necessary for the proper and efficient operation of the exempt organization.

REFERENCES:
Jersey Shore Medical Center v. Neptune Twp., 14 N.J. 49 (1994).
Clinton Twp. v. Camp Brett-Endeavor, Inc., 1 N.J. Tax 54 (Tax Court 1980).

412.13 Actual Use.

With respect to "actual use," Grace and Peace Fellowship Church. Inc. v. Cranford Twp., 4 NJ. Tax 391 (Tax Court 1982) concluded, "For local property tax exemption to apply, there must be actual public use of building in accordance with exemption statute or building must be ready to provide such public use and mere intention to use for exempt purpose at some time in future will not suffice." Here the property was under construction and though utilized for occasional prayer it was deemed incidental use and exemption was disallowed. Holy Cross Precious Zion Glorious Church of God, 2 N.J. Tax 352 (Tax Court 1981), determined a fire damaged property under renovation ineligible for exemption with the

explanation "where taxpayer had never occupied or used property for its exempt purposes, fact that its intent as of assessing date was to use the subject property exclusively for religious purposes would not qualify it for exemption for property 'actually and exclusively' used for various religious purposes." This interpretation of "actual use" is of longstanding; Institute of Holy Angels v. Fort Lee, 80 N.J.L. 545, 77 A. 1035 (1910) Longport v. Bamberger Seashore Home, 91 N.J.L. 330, 102 A. 633 (1917) YMCA v. Orange, 3 NJ. Misc. 404, 128 A. 580 (Sup. Ct. 1915); all set forth the same understanding held in Grace and Peace. All properties in the above cases where their stated exempt use had never begun or had ceased were found to be ineligible.

In Paper Mill Playhouse v. Millburn Twp., 7 N.J. Tax 78 (Tax Court 1984), though the property was destroyed by arson fire, exemption was retained. The following distinction was made, "The issue here, however, is not an exemption predicated upon construction of a new building on property which had not previously been exempt. Rather, the issue concerns the exemption of a theater building in the course of reconstruction on property which had been exempt prior to its destruction by fire…(T)here is no such indication of an abandonment of the exempt use...Further, the prompt manner in which the Paper Mill acted to reconstruct its theater, and Paper Mill's continuing activities in support of its offsite presentations of the children's theater activities, all join in support of the proposition that its exemption was not lost as a result of an arsonist's activity."

City of Newark v. Block 322, 17 N.J.Tax 103 (1997), states that a church did not have a certificate of occupancy did not preclude it from the tax exemptions in N.J.S.A. 54:4-3.6 where it was shown that the church used the property for non-profit purposes during the relevant period.

412.14 Continued Exempt Character.

Pursuant to the "continued exempt character" exception, property which is previously exempt from property tax, under statute governing property tax exemptions for nonprofit organizations, at the time it commences construction will not lose said exemption even if, for a limited time period, it is not in actual use. The Court in Paper Mill Playhouse v. Millburn Twp., 7 N.J. Tax 78 (Tax Court 1984) intended to create an exception to the "actual use" requirement where previously exempt property is not in such actual use for a discrete construction period. In those cases, the court will grant a "continued character" exception during the construction period, and where reasonable, assume the previously exempt use will continue upon completion of the aforementioned period. (see Job Haines Home for the Aged v. Township of Bloomfield, 19 N.J. Tax 408 (Tax Court 2001).

412.15 Exclusive Use and Incidental Nonexempt Use.

An exclusive use requires that the "principal or primary" use of the property be the exempt use. An occasional or incidental nonexempt use or activity does not, by itself, void a property tax exemption.

N.J.S.A. 54:4-3.6 clearly contemplates that associations and corporations organized for exclusive purposes are exempt only when 'actually and exclusively used in the work' of the associations and corporations. Property is actually and exclusively used in the work of an association or corporation if the property is reasonably necessary for one of the purposes enumerated in N.J.S.A. 54:4-3.6. "Merely because an association leases a portion of its property, does not necessarily mean that it is no longer exclusively used for one of the purposes enumerated in N.J.S.A. 54:4-3.6...If the property being leased is not used for a purpose enumerated in

the act, then the corporation or association loses its tax exempt status. However, if the property leased is used for one of the purposes in the act, then the lessor - corporation is entitled to maintain its exemption and the lessee shoulders the tax burden." (P.L. 2001, c. 18).

412.16 Multi-Use.

In 1994, the New Jersey Tax Court remarked as follows relative to the amendment of N.J.S.A. 54:4-3.6, "There is absolutely no suggestion that, when the Legislature separated the pertinent portion of N.J.S.A. 54:4-3.6 into three parts, one for entities formed for moral and mental improvement purposes, another for hospital purposes, and another for religious or charitable purposes, it intended to eliminate the preexisting exemption for multipurpose entities. The sole purpose of the 1985 amendment to N.J.S.A. 54:4-3.6 was to permit a partial exemption for entities organized for moral and mental improvement purposes. As the intent of the Legislature in 1983 and 1985 was to make it easier to qualify for the hospital and moral and mental improvement exemptions, it would defy common sense to conclude that, with no explanation, the Legislature simultaneously intended to make it more difficult to qualify by limiting the exemption to single purpose entities...(statutory construction will not turn on 'literalisms, technisms or the so-called formal rules of interpretation; it will justly turn on the breadth of the objectives of the legislation and the commonsense of the situation')."

REFERENCES:

N.J.S.A. 54:4-3.6

Camp Alpine of Greater N.Y. Councils v. Borough of Norwood, 2 N.J. Tax 223 (Tax Court 1981) affirmed 183 N.J. Super. 13 (App. Div. 1982).

Jersey Shore Medical Center v. Neptune Twp., 14 N.J. Tax 49 (Tax Court 1994).

Phillipsburg Riverview Organization, Inc. v. Town of Phillipsburg, 26 N.J. Tax 167 (Tax Court 2011).

412.17 Non-Profit Use.

Neither the buildings, the land they are situated on, nor the owner-organization may be operated for profit. If any part of a building is used for profit, the entire building loses its exempt status, except for those buildings cited below:

1. Where a building property tax exempt as a college, school, academy or seminary is leased, in part, to a nonexempt profit-making organization, the leased portion of the building is subject to tax. The portion of the building used for college, school, academy or seminary purposes continues to be exempt.

Exception: A college, school, academy or seminary may lease out part of its property or building without losing even a portion of its tax exempt status if the lease arrangement meets these conditions:

a. income derived from the lease agreement must be used for the exempt purposes of the educational organization;
b. income derived from the lease agreement cannot result from a primarily profit-seeking transaction, and must be of a "de minimus" nature, not materially affecting the exempt purpose of the educational entity;
c. the lease cannot be more than 4 consecutive months in duration.

2. Buildings used in the work of associations and corporations organized exclusively for hospital purposes may be leased, in part to profit making organizations, but the leased portions are taxable, while the remainder of the buildings are exempt.
3. Buildings used in the work of associations and corporations organized exclusively for moral and mental improvement purposes may be leased, in part, to profit-making organizations; the leased portions are taxable and the remaining buildings exempt.
4. Buildings used in the work of religious or charitable associations and corporations organized exclusively for religious purposes may be

leased to profit making organizations; the leased portions are taxable and the remaining buildings exempt; also if any portion of a building is used for a different exempt use by an exempt entity that portion is also exempt.

5. Where a charitable, religious, or benevolent organization derives a portion of its income from fees and charges resulting from the use of its property, exemption should be granted provided:
   a. the entire income is devoted to the authorized purposes of the organization, and
   b. the building is wholly controlled by the charitable organization.

As excerpted from AHS Hospital Corp., v. Town of Morristown, 28 N.J. Tax 456 (Tax Ct. 2015):

The 2011 New Jersey Supreme Court decision *in International Schools Services, Inc. v. West Windsor Twp*., clearly held that tax exemption cases, including *Kimberly School*, are necessarily limited to their facts and are not controlling. While *Kimberly School* remains good law, it is clearly not the standard by which contemporary courts must determine whether the Hospital qualifies for property tax exemption under N.J.S.A. 54:4-3.6. The Court in *AHS Hospital Corp. v. Town of Morristown* also stated that the statutory test as set forth in *Paper Mill* is the standard for determining whether an organization qualifies for exemption.

The New Jersey Supreme Court, in Paper Mill Playhouse v. Millburn Township, 95 N.J. 503 (1984) held that to secure an exemption under N.J.S.A. 54:4-3.6, the following three criteria must be met, also known as the three prong test: (1) organizational prong - a corporation must be organized exclusively for the exempt purpose; (2) use prong - its property must be actually and exclusively* used for the tax exempt purpose; (3)

profit prong - its operation and use of its property must not be conducted for profit.
(*The 2nd prong use requirement has since been amended by subsequent case law to delete exclusivity and now provides for actual exempt use only in most areas of N.J.S.A. 54:4-3.6.)

As concerns profit, paraphrasing Kimberley School v. Town of Montclair, 2 N.J. 28, (1949), the past and present operation of each institution must be examined to determine its eligibility, not with regard to whether its income exceeds the cost of operation in any year or years, but rather whether charges are fixed with the intention of yielding a profit. **In applying the dominant motive test**, look at the background and nature of the school's organization; the character and nature of the membership of its board of trustees or governing body, particularly where former private owners are represented; the amount of its income compared with its operating costs; the amount of any excess income over costs, and the actual and possible use of such excess; the existence and extent of its accumulated surplus and its intended purpose; the tuition charged compared with that of similar schools; the salaries of its teachers and officials compared with similar schools, public and private; and any other factors bearing upon the dominant motive in the conduct of the school. Kimberley School was deemed nonprofit because tuition rates were not excessive, excess income over expenses was not unreasonable, salaries were low, property owners were not compensated and assets upon corporate dissolution went to other nonprofit educational institutions. In City of Trenton v. Division of Tax Appeals, 65 N.J. Super. 2 (App. Div., 1960), it was held that intent to have an operating surplus or profit rather than a loss does not necessarily constitute a profit motive. The key question here is, what happens to the money. If the funds go back into the operation of the educational facility and cannot be diverted to non-

institutional uses, exemption is permissible; if the monies, other than just compensation for services rendered, benefit an individual personally, exemption is not warranted, despite the nonprofit organization and educational function of the facility.

Federal 501(c) (3) status is not controlling with respect to New Jersey property tax exemptions.

REFERENCES:
N.J.S.A. 54:4-3.6 and 3.6d (as amended by P.L. 1983, c. 204; P.L. 1983 c.224; P.L. 1985, c. 395; and P.L. 2001, c. 18.)
International Schools Services, Inc. v. West Windsor Township, 207 N.J. 3(2011).
1711 Third Ave. v. City of Asbury Park, 16 N.J. Tax 174 (Tax Court 1996).
Jersey Shore Medical Center v. Neptune Township, 14 N.J. Tax 49 (Tax Court 1994).
Abunda Life Church of Body, Mind and Spirit v. City of Asbury Park, 18 N.J. Tax 483 (App. Div. 1999).
Black United Fund of New Jersey v. City of East Orange, 339 N.J. Super. 462 (App. Div. 2001).
New Jersey Association of School Business Officials, Inc. v. Hamilton Township, 22 N.J. Tax 467 (Tax Court 2005).
West Orange Township v. Joseph Kushner Hebrew Academy, 13 N.J. Tax 48 (Tax Court 1993).
Paper Mill Playhouse v. Millburn Township, 95 N.J. 503 (1984).
AHS Hospital Corp., d/b/a Morristown Memorial Hospital v. Town of Morris town, 28 N.J. Tax 456 (Tax Court 2015).

412.18 Incorporation.

The organization must be incorporated or otherwise organized under the laws of New Jersey or any other state, and authorized to carry out the purposes for which exemption is claimed. Once a corporation is authorized to operate in this State, even though not incorporated under New Jersey law, it is considered to have met the corporate/organizational criteria for exemption. As of May 2011, the Department of State maintains an online directory of government agencies which provide

resources to assist nonprofit organizations including available funding sources, volunteer opportunities, various forms, tax relief etc. (See NonProfit Information Center: http://www.state.nj.us/state/nonprofit.html). Incorporation or registration to do business is done through the Department of Treasury, Division of Revenue, Business Services Bureau, (609) 292-9292. The Secretary of State's Office is in the Department of State, 125 West State Street, Trenton, NJ 08608-1101, (609) 984-1900.

REFERENCES:
N.J.S.A. 54:4-3.6
WHYY, Inc. v. Borough of Glassboro, et al, 91 N.J. Super. 269 (1966), affirmed by 50 N.J. 6 (1967), and reversed by 390 U.S. 979 (1968).
Memorandum Opinion to Samuel Temkin, Superintendent, Local Property and Public Utility from D. A. G. Harry Haushalter, June 16, 1983.

412.19 Application.

Organizations must apply for real property tax exemption with the assessor on forms supplied by the municipality as prescribed by the Director, Division of Taxation in accordance with the following procedure. Separate applications must be filed for each parcel of property.

Initial Statement. An "Initial Statement," Form I. S., must be filed in duplicate with the assessor on or before November 1 of the pretax year. The Initial Statement establishes eligibility under the requirements of the various exemption statutes. A copy of this form can be found at the Division of Taxation's website at:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf.

Further Statement. "Further Statement," Form F.S., must be filed in duplicate with the assessor not later than November 1 of every third succeeding year. The Further Statement reaffirms that an exemption, granted for past years, should remain in effect. Further Statements show:

a. whether there was any change of use of the property, initially determined as tax exempt, during any 3-year period which would defeat the exemption; and

b. whether any new or additional property was acquired for which a tax exemption is claimed showing initially the new or additional property's right to the exemption. A copy of this form can be found at the Division of Taxation's website at http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf.

REFERENCES:
N.J.S.A. 54:4-3.6, 54:4-4.4
Blair Academy v. Blairstown, 95 N.J. Super. 583 (App. Div. 1967).
Kate Macy Ladd Fund v. Peapack-Gladstone, Division of Tax Appeals, October 27, 1971.

412.20 Disposition of Forms, Copy to County Tax Board.

Every Initial and Further Statement should be checked carefully by the assessor. The assessor should:

1. review Initial and Further Statement applications, Forms I. S. and F. S., as to which statute exemption is requested under.
2. review Initial and Further Statement applications, Forms I. S. and F. S., for explanation of organization's purpose(s).
3. review organization's certificate of incorporation, articles of association, charter or bylaws for statement of goals, objectives etc.
4. use of property should coincide with stated purpose(s) on application forms and in charter or bylaws and, use should be a permitted one per statute under which exemption is requested.
5. review financial data e.g. federal income tax returns etc. relative to nonprofit/profit status.
6. review purchase, acquisition dates in light of October 1 pretax year ownership criteria.

Each assessor may, at any time, inquire as to whether exemption should be continued and may require a Further Statement or such proofs as he considers necessary to determine the claimant's exemption standing. In the event of a claimant's failure to comply with the legal requirements, or where doubt as to entitlement exists the assessor should deny exemption and remove the property from the Exempt Property List. One copy of each approved form should be forwarded, together with the Exempt Property List, to the County Board of Taxation by January 10 of the year for which exemption is granted. The other copy should be retained by the assessor.

NOTE: Applications for exemption need not be filed on behalf of properties owned by Federal, State, county, or municipal governments or by any subdivision thereof.

412.21 Failure to File Further Statement.

While statute at N.J.S.A. 54:4-4.4, does suggest the necessity of the Further Statement by stating "...not later than November 1 of every third succeeding year, said assessor shall obtain a "further statement" under oath from each owner of real property for which tax exemption is claimed,..." the significance of the directive is unclear since the courts have repeatedly held that failure to file the Further Statement is of no consequence to eligibility for exemption. As noted in Emanuel Missionary Baptist Church v. Newark, 1 N.J. Tax 264 (Tax Court 1980), "The language of N.J.S.A. 54:4-4.4 does not permit the construction that the statement thereby contemplated is a condition precedent to the allowance of an exemption under N.J.S.A. 54:4-3.6. While exemption statutes are strictly construed against the exemption claimants, Princeton Univ. Press v. Princeton, 35 N.J. 209 (1961), the principle of strict construction must never be allowed to defeat the evident legislative design. Princeton Twp. v. Tenacre Foundation,. 69 N.J. Super. 559 (App. Div. 1961), quoted approvingly in. Boys Club of Clifton. Inc. v. Jefferson

Twp., 72 N.J. 389, 398, (1977). The evident legislative design is set forth with great particularity in N.J.S.A. 54:4-3.6." N.J.S.A. 3.6c also allows leeway where an application is not timely filed.

REFERENCES:
West Orange Twp. v. Hebrew Academy, 13 N.J. Tax 48 (Tax Court 1993).
Atlantic County School v. City of Pleasantville, 2 N.J. 192 (1981).
Renaissance Plaza v. Atlantic City, 18 N.J. Tax 342 (1998).
Blair Academy v. Blairstown TP., 95 N.J. Super 583(1967)

412.22 Property Tax Refunded by Governing Body.

The governing body of a municipality may, by ordinance, where good cause is shown why a timely application was not filed, return all taxes collected on one or more properties owned by associations or corporations organized exclusively for charitable or religious purposes which would have been exempt under N.J.S.A. 54:4-3.6 if a timely claim had been made. No refund is to be made if more than 3 years have passed since the last date of filing a timely application. No interest is to be paid by the municipality on any refund of this type.

REFERENCES:
N.J.S.A. 54:4-3.6c

413. Certain Sports and Entertainment Projects Exempt from Property Taxation, Special Assessments.

413.01 Terms Defined.

Sports and Entertainment Project**:** means a non-open air arena, stadium, pavilion, stands or playing fields, together with the buildings, structures, infrastructure, facilities, properties, and amenities related to or necessary for the operation, leasing, or use thereof.

Eligible City: means a city of the first class within the State. First class cities are those having a population of more than 150,000. Based upon the

2010 U.S. Census population information, the City of Newark (Essex County) and Jersey City (Hudson County) are the only two first class cities in New Jersey.

REFERENCES:
N.J.S.A. 54:4-3.6i
N.J.S.A. 40A:6-4
U.S. Census Bureau/Classification and Population of New Jersey Cities.

413.02 Use.

A sports and entertainment project constructed under a redevelopment plan adopted by an eligible city and owned by the eligible city, or an agency or instrumentality of the eligible city, which is used and operated by the eligible city, or the agency or instrumentality of the eligible city, or by a lessee thereof under a lease from the eligible city to provide sports and entertainment events, shows, public meetings or events, exhibitions, or other expositions, shall be deemed to be devoted to an essential public and governmental use and purpose, and the property thereof and any such leasehold estate therein shall be exempt from all property taxation and special assessments of the State or any political subdivision thereof…as long as the agency or instrumentality of the eligible city complies with the requirements regarding the payment of net rents and revenues to the city.

REFERENCES:
N.J.S.A. 54:4-3.6f

413.03 Payment of Net Rents and Revenues to the City.

The agency or instrumentality of the eligible city shall pay over to the city all net rents and other revenues received by the agency or instrumentality from its ownership, operation, or leasing of the sports and entertainment project, after providing for payment of all costs, expenses, and other obligations payable by the agency or instrumentality from such rents or

other revenues, including any amounts payable under any lease of the sports and entertainment project.

REFERENCES:
N.J.S.A. 54:4-3.6g

413.04 Independent Audits.

Prior to the funds being paid over to the eligible city, the agency or instrumentality of the eligible city shall cause independent audits to be conducted of: 1) all funds received and all costs, expenses, and obligations incurred by the agency or instrumentality that were associated with the operation of the sports and entertainment project and that are part of the calculation of the amount being paid over to the city; and 2) the financial records of any primary lessee of the sports and entertainment project that pertain to the amounts payable to the agency or instrumentality under a lease agreement. A report of each audit shall be filed with the governing body of the eligible city and with the Director of the Division of Local Government Services in the Department of Community Affairs. An individual or firm shall not be employed or otherwise engaged by an agency or instrumentality of an eligible city to conduct said audits without the prior written approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

REFERENCES:
N.J.S.A. 54:4-3.6g

413.05 Powers, Rights, Privileges Exercised by the City.

So long as the eligible city, or agency or instrumentality of the eligible city, is the owner of the sports and entertainment project, the powers, rights, and privileges granted under law to the eligible city, or agency or instrumentality of the eligible city, for any of its purposes, may be exercised by it for the purposes of the sports and entertainment project.

REFERENCES:
N.J.S.A. 54:4-3.6h

413.06 Application.

The eligible organization must apply for exemption on Initial Statement, Form I.S., http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf with the municipal assessor by November 1 pretax year and Further Statement, Form F.S. http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf every third year by November 1 after the exemption is granted.

414. Urban Farming and Gardening.

Public Law 2011, chapter 35 allows nonprofit corporations and associations located in any city of the first, second, third or fourth class to transform vacant properties into fruit and vegetable gardens.

414.01 Eligibility.

The land, less than five acres in area, must actually be used to cultivate and sell fresh fruit and vegetables and may be owned or leased by a duly incorporated nonprofit organization or association. The nonprofit's cultivation of previously vacant land, as well as the sale of fresh fruits and vegetables, must be among its principal purposes. This is considered a public use and warrants the property tax exemption. The produce may be sold to further the mission of the nonprofit entities. The nonprofit organization is authorized to sell fresh produce either on the land that was conveyed, off that land, or both, provided that the sales are related and incidental to the nonprofit purposes of the organization and the net proceeds received are used to further those purposes. The nonprofit organization may not be controlled, directly or indirectly, by any agricultural, commercial, or other business.

414.02 Classification and Population of New Jersey Cities (Classes: 1st, 2nd, 3rd, 4th) from Schedule in 2010 U.S. Census Population Information.

(See Section 101.07)

414.03 Application Form.

The eligible organization must apply for the exemption on the Initial Statement, Form I.S. http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf with the municipal assessor by November 1 pretax year and Further Statement, Form F.S. http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf every third year by November 1 after exemption approval.

REFERENCES:
P.L. 2011, c. 35
N.J.S.A. 54:4-3.6
N.J.S.A. 40A:6-4
U.S. Census Classification/Population Schedule of New Jersey Cities (2010).

415. Property Acquired by Exempt Organizations.

415.01 Taxable Property Purchased After October 1 Remains Taxable.

Property must be eligible for exemption as of the pretax year October 1 assessing date. If an exempt organization purchases taxable property after the October 1 assessing date, no exemption can be granted until the next following tax year. For example, real property owned by a nonexempt taxpayer on October 1, 2010 is liable for taxes for 2011. Purchase of this improved property in November 2010 by a qualified exempt organization does not gain its exempt status during 2011. If the exempt organization continues its ownership and exempt use of the property through October 1, 2011, exemption can be granted for tax year 2012 provided that neither use nor ownership changes after October 1, 2011.

415.02 Exempt Property Purchased After October 1 Remains Exempt – Application Considered Timely Filed.

Where owners of certain exempt properties acquire other exempt property, exemption remains in effect even though the acquiring exempt owner did not have ownership of the new exempt property on October 1 of the pretax year. Properties exempt under N.J.S.A. 54:4-3.6 or 54:4-3.26 which apply for exemption may be considered timely filed despite the acquisition being subsequent to October 1 of the pretax year, and the exemption may be granted, subject to the following conditions being met:

1. the applicant and subject property meet all other requirements for exemption; and
2. the subject property was exempt from taxation when acquired by the exempt applicant.

REFERENCES:
N.J.S.A. 54:4-3.6, 54:4-3.6b, 54:4-4.4, 54:4-23
The Community League, Inc. v. City of Newark, 26 N.J. Tax 139 (Tax Court 2011).

416. Exempt Property Ceases to be Exempt - Added and Omitted Assessments.

Properties listed on the tax roll as exempt on October 1 which later cease to be exempt become assessable as Added or Omitted Assessments.

416.01 Exempt Property Valued.

Although exempt property is taxed at zero dollars ($0), assessors must determine accurate taxable assessed values so that should exemption cease proper tax payments will be obtained. Also accurate valuing of exempt property ensures the correct basis for any “in lieu” of payments.

416.02 Ownership or Use Change.

When property ceases to be exempt because of a change in use or ownership, the property is to be assessed as "omitted" property. The County Board of Taxation, by resolution, directs the assessment to be made and entered on the Tax Duplicate in the same manner as other omitted property. Any such assessment is to be entered on the Added Assessment List of the municipality where the property is located.

REFERENCES:
N.J.S.A. 54:4.-63.26, 54:4-63.2 and 63.3

416.03 Previously Exempt Property Valued.

The assessment of such property is to be based on the assessor's valuation of the property indicated on the Exempt Property List subject to equalization and revision by the County Tax Board.

REFERENCES:
N.J.S.A. 54:4-63.27

416.04 When Exemption Ceases Affects Time of Assessment.

If exemption ceases during any tax year, property is assessed and taxed as of the first day of the month following the date the exemption ceased, for the proportionate part of the remainder of the year. If use or ownership changed after October 1 in any year and before January 1, the property becomes taxable as of the first day of the month following such change in use or ownership.

The "Added Assessment List" for the year in which the assessment is made is then filed with the County Tax Board on or before October 1 in the subsequent tax year. However, the tax rate applied should be the tax rate for the year in which the exemption ceased. If the exemption ceased between January 1 and October 1 in any year, the property is assessed and

taxed as of the first day of the month following the date the exemption ceased, for the proportionate part of the tax year remaining.

Examples:

Ownership changes from exempt to nonexempt between October 1 and January 1 in any year. Change occurs on October 25, 2010.

Total Assessed Value from 2010 Exempt List is $200,000.
Total Assessed Value from 2011 Exempt List is $200,000.

2010 Tax Rate is $3.60/$100
2011 Tax Rate is $3.80/$100

2010 $200,000 X 2/12 = $33,333 X .036 = $1,200
2011 $200,000 X 12/12 = $200,000 X .038 = $7,600
$8,800

Ownership changes from exempt to nonexempt between January 1 and October 1 in any year. Change occurs on April 3, 2011. Tax rate same as above.

2011 $200,000 X 8/12 = $133,333 X .038 = $5,066.67

Upon the assessor's investigation of an exempt building that had been vandalized, he realized that the property had not been used for exempt purposes for the past two years as well as the current year, 2011.

Total Assessed Value from 2009 Exempt List is $400,000.
Total Assessed Value from 2010 Exempt List is $400,000.
Total Assessed Value from 2011 Exempt List is $400,000.

2009 Tax Rate is $3.85/$l00
2010 Tax Rate is $3.90/$100
2011 Tax Rate is $4.00/$100

The assessor should make an Omitted Assessment in the 2011 Omitted Assessment List for the year the property was found to no longer be used for exempt purposes and one prior year.

2010 $400,000 X 12/12 = $400,000 X .039 = $15,600
2011 $400,000 X 12/12 = $400,000 X .040 = $16,000
$31,600

REFERENCES:
N.J.S.A. 54:4-63.13, 54:4-63.28
City of E. Orange v. 280 So. Harrison St. Assoc., 16 N.J. Tax 424 (Tax Court 1997).
City of Camden v. Camden Masonic Assoc., 9 N.J. Tax 331 (1987), Affirm. 11 N.J. Tax 88 (App. Div. 1989).
Guidelines for Implementation of Chapter 103, Laws of 1974 (an Act Concerning Added Assessments on Properties after October 1 and before January 1 following) - promulgated November 19, 1974.

416.05 Appeals.

Organizations seeking tax exemption for class 15D, 15B and 15F (exempt property) are not required to satisfy the tax payment provisions of N.J.S.A. 54:3-27 to pursue an appeal to a County Board of Taxation or a direct appeal to the Tax Court; per N.J.S.A. 54:51A-1b, where exemption qualification is the subject of the appeal.

However, although a church qualified for a tax exemption under N.J.S.A. 54:4-3.6 on the basis that its premises were used for non-profit purposes, the taxes assessed against it were affirmed pursuant to N.J.S.A. 54:3-21 because the church failed to file timely appeals of the assessments. The failure to timely challenge the assessments was fatal to the church's claim of tax exemption.

REFERENCES:
N.J.S.A. 54:51A-3; 54:3-27 as amended by Public Law 1999, chapter 208.
Morris-Sussex Area Co., Boy Scouts v. Hopatcong Boro, 15 N.J. Tax 438 (Tax Court 1996).
City of Newark v. Block 322, 17 N.J. Tax 103 (Tax Ct. 1997).

417. Nonprofit Educational Television and Radio Production and Broadcasting Property.

The following property is exempt from taxation: "All buildings and structures located in this State and used exclusively by a nonprofit

association or corporation organized under the laws of this or another state for the production and broadcasting of educational television or educational radio programs; the land whereon the buildings and structures are erected and which may be necessary for the fair enjoyment thereof, and which is devoted to the foregoing purpose, and no other purpose, and does not exceed 30 acres in extent; the furniture, equipment and personal property in said buildings and structures if used and devoted to the foregoing purpose. The foregoing exemption shall apply only where the association or corporation owns the property in question and is authorized to carry out the purpose on account of which the exemption is claimed."

417.01 Application.

The association or corporation must file an application for exemption Initial Statement, Form I.S., with the municipal assessor on or before November 1 pretax year and Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.6a, 54:4-4.4
WHYY, Inc. v. Borough of Glassboro, et al, 91 N.J. Super. 269 (1966), affirmed by 50 N.J. 6 (1967), and reversed by 390 U.S. 979 (1968).

418. District Superintendent of Religious Organizations.

Property tax exemption is granted on the dwelling house and lot or "**curtilage**" on which it's erected where the dwelling is actually occupied as a residence by a clergyman who is a **district superintendent** of any religious association or corporation, and to the accessory buildings on the same premises, if proper application is made.

"**Curtilage**" means the enclosed space of ground and buildings immediately surrounding a dwelling house.

"District Superintendent" means one who supervises a group of established congregations, rather than someone who occupies an executive position in a religious corporation, and does not include an officer of a missionary corporation whose interests are worldwide.

418.01 Eligibility.

To qualify for exemption, all of the following must be met.

1. **Ownership.** The property must be owned by the religious organization.
2. **Occupancy.** The property must be occupied as a residence by the district superintendent of the religious organization.
3. **Application.** Organization must apply for exemption with the municipal assessor on Initial Statement, Form I.S., on or before November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

NOTE: The residence of a district superintendent of a religious organization may be validly exempted even if the organization is not incorporated under New Jersey law.

REFERENCES:
N.J.S.A. 54:4-3.35, 54:4-4.4
International Missions, Inc., v. Borough of Lincoln Park, 87 N.J. Super. 170 (App. Div. 1965).
Shrine of Our Lady of Fatima v. Mantua Twp., 12 N.J. Tax 392 (Tax Court 1992).

419. Volunteer Aid and Relief Organizations.

Property tax exemption is granted to all real and personal property of any association or organization used for the purpose and in the work of providing volunteer aid to the sick and wounded of armies in wartime and/or carrying on a national and international system in peacetime to

relieve suffering caused by pestilence, famine, fires, floods, or other great national calamities. The American Red Cross is such an organization.

419.01 Eligibility.

To qualify for exemption the following conditions must be met:

1. **Ownership.** The organization must have legal or beneficial ownership of the property.

   Equitable Title vs. Legal Title: equitable title is a beneficial interest in the property that allows the holder the right to also acquire legal title if certain conditions are met, while legal title is apparent ownership without, necessarily, the beneficial interest or the full and complete title. In most real estate transactions, the grantee will receive both legal and equitable title in the property for full fee simple interest. However, the two titles may be separated in certain cases, such as in the creation of trusts. In these situations, the legal title will be held by the trustees, who administer the property, while equitable title will be held by the beneficiaries, who have the right to use the property. Historically, the differences in the two forms of title were the method by which relief could be sought in cases in which the holder of title was wronged; equitable title was under the jurisdiction of the courts of equity, while legal title was subject to courts of law. Today, an equitable estate is, for all intents and purposes, a legal estate.

   Beneficial Interest is a right or expectancy in a property without legal title to that property, such as the beneficiary of a trust having the right to use a parcel of real property held by the trust but not owning that real property himself.

REFERENCES:

Black's Law Dictionary (9th ed. 2009)
31 Corpus Juris Secundum, Estates §8
28 American Jurisprudence 2d, Estates §10

2. **Nonprofit Use.** No part of the property may be used for pecuniary profit.
3. **Application.** The organization must apply for the exemption with the municipal assessor on Initial Statement, Form I.S., on or before November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

***NOTE*:** The organization need not be incorporated to qualify for exemption.
***NOTE*: Red Cross**: The American Red Cross is to be treated as a Federal entity, so exemption would be immediate based on the following and the 1966 Supreme Court decision. The American Red Cross was renamed the American National Red Cross in 1893 to emphasize its national scope and is so referenced in its charters. The American Red Cross was charted by Congress in 1900 as a nonprofit rather than a government agency. In 1905, it was rechartered as a semi-governmental agency whose governors were appointed by the U.S. President. Congress has authorized the American National Red Cross as the agency to carry out the purposes of the Geneva Convention for the United States.
REFERENCES:
N.J.S.A. 54:4-3.27, 54:4-4.4
Department of Employment et al. v. United States et al., 385 U.S. 355 (1966). This U.S. Supreme Court case is regarding the Red Cross.

420. Military Purpose Property; Veterans' Organizations.

Revised Statutes, R.S. 54:4-3.5, provides that the real estate or personal property owned by any organization under state jurisdiction and used for military purposes; and any building, real estate, or personal property used by an organization composed entirely of veterans of any war of the United States is exempt from taxation.

420.01 Eligibility.

To qualify for exemption all of the following conditions must be met:

1. **Ownership.** Property used for military purposes must be owned by an organization under the jurisdiction of the State of New Jersey. For property used by an organization composed entirely of veterans, ownership is not specified in the statute but is assumed to be a requirement.
2. **Use.** The property must be used for military or charitable purposes or be used by any organization composed entirely of veterans of any war of the United States.
3. **Income.** For military purpose property, all income derived from the property, above the costs of maintenance and repair, must be used exclusively for military or charitable purposes. As per statutory amendment P.L. 1996 c. 82, no property shall lose or be denied exemption from taxation because of use of the property for an income-producing activity that is not the organization's primary purpose, as long as all net proceeds* from that activity are used in furtherance of the primary purpose of the organization or for other charitable purposes.

   ***NOTE*:** Black's Law Dictionary definition of "net proceeds" is gross proceeds, less charges which may be rightly deducted.
4. **Prorated Exemption.** In 1981, the New Jersey Tax Court held that where part of the property owned by an organization composed entirely of veterans is leased to a nonexempt tenant, only that portion of the premises used by the veteran's organization is to be exempt.
5. **Application.** The eligible organization must apply for exemption on Initial Statement, Form I.S., with the municipal assessor by November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.5, 54:4-4.4
P.L. 1996, c. 82 approved July 25, 1996 retroactive to January 1, 1994.
Cairola-Barber Post No. 2342, Inc. v. Borough of Fort Lee, 2 N.J. Tax 262 (Tax Court 1981).

Unpublished opinion: John Dolak Home Association v. Borough of Alpha, New Jersey, Superior Court, Appellate Division, 1994 for basis of statutory amendment.

421. Veterans' Organizations.

421.01 Veterans Organizations Only.

Real and personal property used by any organization composed exclusively of United States war veterans are exempt from taxation.. See Military Purpose Property.

REFERENCES:
N.J.S.A. 54:4-3.5

421.02 Veteran Organizations including Non-Vets.

Under N.J.S.A. 54:4-3.25, as amended by P.L.1996, c. 82, real and personal property used by bonafide national war veteran's organizations or posts, or bonafide affiliated associations, whether incorporated or unincorporated, is exempt even though the organization is not composed exclusively of war veterans, if the following conditions are met:

1. **Date Established and Membership.** Organization must have been existing and established as of June 18, 1936. Organizations membership need not be composed entirely of veterans of any war of the United States.
2. **Ownership.** Organization(s) must have legal or beneficial ownership of the property. See section 419.01 for definition of terms.
3. **Use**. Exemption does not require property be exclusively devoted to the purposes for which the veteran claimant was organized or that it be free from use for pecuniary profit.
4. **Income.** Exemption is conferred in an otherwise proper case, even though the property is devoted to commercial pursuits carried out in the building by the owner-organization itself. In accordance with amendment resulting from P.L. 1996 c. 82, no property shall lose or be

denied exemption from taxation because of the use of property for an income-producing activity that is not the organization's primary purpose as long as all net proceeds* from that activity are used to further the primary purpose of the organization or for other charitable purposes.

***NOTE*:** Black's Law Dictionary definition of "net proceeds" is gross proceeds, less charges which may be rightly deducted.

5. **Prorated Exemption**. Prior to the 1996 Amendment it was held exemption should be denied where a building, or parts thereof are permanently occupied as residences or used for commercial pursuits by individuals or groups other than the claimant veteran organization.
6. **Application.** The veterans' organizations must apply for exemption with the municipal assessor on Initial Statement, Form I.S., by November 1 pretax year and make Further Statements on Form F.S. every third year by November 1 after exemption approval.

REFERENCES:
P.L. 1996, c.82 approved July 25, 1996 retro to January 1, 1994.
N.J.S.A. 54:4-3.25, 54:4-4.4
Unpublished opinion: John Dolak Home Association v. Borough of Alpha, New Jersey, Superior Court, Appellate Division, 1994.
Cairola-Barber Post No. 2342, Inc. v. Borough of Fort Lee, 2 N.J. Tax 262 (Tax Court 1981).

422. Crippled Soldiers and Sailors.

422.01 Eligibility.

To qualify for property tax exemption:

1. **Area Limited.** Real estate may not exceed 250 acres in extent.
2. **Ownership and Use.** Any personal property or real estate not exceeding 250 acres in extent, owned and actually and exclusively used by any corporation organized under the laws of New Jersey to provide instruction in agricultural pursuits for soldiers and sailors of

the United States who have been permanently crippled while in active service in time of war, is exempt from taxation.

3. **Income.** All income derived from the property in excess of the expense of maintenance and operation must be used exclusively for the benefit of crippled soldiers and sailors.
4. **Application.** The veterans' organizations must apply for exemption with the municipal assessor on Initial Statement, Form I. S., by November 1 pretax year and on Further Statement, Form F.S., every third year after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.15, 54:4-4.4

423. Firefighter's Organizations.

Real and personal property of firefighter's organizations is exempt from taxation under certain conditions. The following organizations are eligible:

A. Exempt firefighter's associations;

B. Firefighter's relief associations;

C. Volunteer fire companies.

1. **Ownership.** The property must be owned by one of the above organizations.
2. **Incorporation.** The organization must be incorporated under New Jersey law.
3. **Use.** The real and personal property which is actually used for the purpose of the corporation is exempt from taxation.
4. **Income**. No property shall lose or be denied an exemption because of the use of the property for an income-producing activity that is not the organization's primary purpose provided all net proceeds* from that activity are utilized in furtherance of the primary purpose

of the organization or for other charitable purposes. Commencing with the effective date of P.L. 2001, c. 85, exempt firefighter's associations, firefighter's relief associations and volunteer fire companies shall be required to record the dates the property has been utilized for income-producing activities and to maintain such records during the calendar year in which the income-producing activity takes place and for the two calendar years thereafter.

***NOTE*:** Black's Law Dictionary definition of "net proceeds" is gross proceeds, less charges which may be rightly deducted.

5. **Application.** The organization must apply for the exemption with the municipal assessor on Initial Statement, Form I.S., on or before November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.10 as amended by P.L. 2001, c. 354 effective January 6, 2002, retroactive to January 1, 1998.
N.J.S.A. 54:4-4.4
Morristown Firemen's Relief Assoc. v. Town of Morristown, 20 N.J. Misc. 113 (1942).
Post v. Warren Point Volunteer Firemen's Assoc., 19 N.J. Misc. 367 (1941).
P.L. 2001, c. 354

424. Public Fire Patrol or Salvage Corps.

"The real and personal property of an association or corporation organized under the laws of this State to maintain, and actually maintaining a public fire patrol or salvage corps for the public purpose of saving life and property from destruction by fire, used exclusively for the purpose of such association or corporation shall be exempt from taxation under this chapter."

REFERENCES:
N.J.S.A. 54:4-3.13, 54:4-4.4

425. Young Peoples' Associations.

All real and personal property used for the purposes and in the work of certain young peoples' associations is tax exempt if the following conditions are met.

Eligible youth groups are:

1. Young Men's Christian Associations
2. Young Women's Christian Associations
3. Young Men's and Young Women's Christian Associations
4. Young Men's Hebrew Associations
5. Young Women's Hebrew Associations
6. Young Men's and Young Women's Hebrew Associations
7. Boy Scouts of America
8. Girl Scouts of the United States of America

425.01 Ownership.

The association must be the legal or equitable property owner.

Equitable Title vs. Legal Title: equitable title is a beneficial interest in the property that allows the holder the right to also acquire legal title if certain conditions are met, while legal title is apparent ownership without, necessarily, the beneficial interest or the full and complete title. In most real estate transactions, the grantee will receive both legal and equitable title in the property for full fee simple interest. However, the two titles may be separated in certain cases, such as in the creation of trusts. In these situations, the legal title will be held by the trustees, who administer the property, while equitable title will be held by the beneficiaries, who have the right to use the property. Historically, the differences in the two forms of title were the method by which relief could be sought in cases in which

the holder of title was wronged; equitable title was under the jurisdiction of the courts of equity, while legal title was subject to courts of law. Today, an equitable estate is, for all intents and purposes, a legal estate.

Beneficial Interest is a right or expectancy in a property without legal title to that property, such as the beneficiary of a trust having the right to use a parcel of real property held by the trust but not owning that real property himself.

REFERENCES:
Black's Law Dictionary (9th ed. 2009)
31 Corpus Juris Secundum, Estates §8
28 American Jurisprudence 2d, Estates §10

425.02 Area Limitation.

A maximum of five acres of land can be exempted or where the property is improved with a building(s) or structure(s) up to five acres per building may be exempted if the land is necessary to their "fair enjoyment." Also exempt within this limitation is any land upon which construction of a building has begun and is intended for use by the association.

425.03 Use.

Exemption does not apply to any property in whole or in part where used for purposes of pecuniary profit.

425.04 Application.

Application must be filed on Initial Statement, Form I.S., by November 1 pretax year with the municipal assessor and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

***NOTE*:** The young peoples' association need not be incorporated under New Jersey law to qualify.

REFERENCES:
N.J.S.A. 54:4-3.24, 54:4-4.4
Trustees, Y.W.C.A. v. New Brunswick, Division of Tax Appeals, January, 1972.
Boy's Club of Clifton, Inc. v. Twp. of Jefferson, Division of Tax Appeals, April, 1974.

426. Fraternal Organizations.

426.01 Property Tax Exemption for Fraternal Organizations or Lodges.

"All real and personal property used in the work and for the purposes of one or more fraternal organizations or lodges, or any association or society organized on the lodge plan, or affiliated associations, whether incorporated or unincorporated, is exempt from taxation under this chapter, if the legal or beneficial ownership of such property is in one or more of said organizations, lodges, associations or societies, and no part of such property is used for pecuniary profit, provided that each such organization, lodge, association or society is also organized and operated in substantial part for charitable or educational purposes and demonstrates these aims in its programs and activities."

426.02 Ownership.

Real property of a fraternal organization may be owned directly by the fraternal organization itself or by a separate entity composed of members of the fraternal organization. See section 425.01 for definition of legal or beneficial ownership as noted above.

426.03 Use.

Operated in "substantial part for charitable or educational purposes" means the charitable and/or educational activities are planned and executed on a regular, continuous basis as opposed to occasionally or

sporadically and are evidenced by the local organization's participation in such activities on a national, state, and local level. Examples of such activities are: drug abuse programs, cultural programs for teens and senior citizens, public safety programs, and health clinics in poverty areas. Supporting data should include a summary of the charitable and educational programs conducted during the pretax year and those to be conducted during the tax year.

426.04 Profit.

All net income must be spent on maintaining and operating the property, and carrying out charitable or educational programs as documented by current financial statements. "**Net income**", is defined as gross receipts, less any membership dues or assessments, less gross disbursements to maintain the physical property. No part of said income is to inure to the benefit of any individual or member.

426.05 Application.

The organization must apply for the exemption with the municipal assessor on Initial Statement, Form I.S., on or before November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.26
N.J.S.A. 54:4-4.4
Guidelines for the Property Tax Exemption of Fraternal Organizations Pursuant to R.S.54:4-3.26, as amended by P.L. 1971, c. 320 (April 25, 1973).
Nu Beta Alumni Assoc. of Phi Gamma Delta v. City of New Brunswick, 7 N.J. Tax 379 (Tax Court 1984), affirmed by 7 N.J. Tax 658 (App. Div. 1985).
Sigma Phi Epeilon v. City of Hoboken, 1 N.J. Tax 607 (Tax Court 1980).
Brunson v. Rutherford Lodge No. 547 etc., 128 N.J. Super. 66 (Law Div. 1974).

State v. Sivo et als., 341 N.J. Super. 302 (Law Div. 2000).

427. Historic Sites.

427.01 Eligibility.

To qualify for tax exemption, the historical property must meet certain conditions set forth by New Jersey Statutes and Regulations as amended by Public Law 2004, chapter 183 and Public Law 2007, chapter 157.

427.02 Historic sites; exemption.

As per N.J.S.A. 54:4-3.52:

a. Any building and its pertinent contents and the land on which it is erected and which may be necessary for its fair enjoyment owned by a nonprofit corporation and which is certified to be an historic site to the Director, Division of Taxation in the Department of the Treasury by the Commissioner of Environmental Protection as hereafter provided is to be exempted from real property taxation by the Director, Division of Taxation after a determination by the Director that the property meets the criteria in N.J.S.A. 54:4-3.54b in section 2 of Public Law 2004, chapter 183.

b. The municipal tax assessor shall annually certify to the Director, Division of Taxation that each property certified for historic site real property tax exemption continues to be qualified for its exempt status under the criteria set forth in N.J.S.A. 54:4-3.54b of section 2 of Public Law 2004, chapter 183.

c. The Director, Division of Taxation, by rule or regulation, sets an annual fee, to be collected by the municipal assessor from the owner of an historic site that was granted an historic site real property tax exemption, for review of the real property tax exemption status of the historic site. The fee is not to exceed $ 50 per year and is to be used to

offset the cost to the municipal assessor for review and certification to the Director.

427.03 Use Criteria.

In Town of Morristown v. Woman's Club of Morristown, the State Supreme Court explained, "nothing in the statute requires that the property be used in any way with respect to its historical purpose apart from action necessary to maintain historic site status. Nor do any of the unrelated statutes regarding historic sites impose a use requirement."

REFERENCES:
Township of Morristown v. Woman's Club of Morristown, 124 N.J. 605 (1991).
University Cottage Club of Princeton New Jersey Corp. v. New Jersey Dept. of Environmental Protection, 191 N.J. 38 (2007), related proceeding at 26 N.J. Tax 185 (Tax Ct. 2011).

427.04 Purpose.

As per N.J.S.A. 54: 4-3.54a:

After the effective date of Public Law 2004, chapter 183 (N.J.S.A. 54:4-3.54a et seq.) any building, its pertinent contents and the land on which it is erected and which may be necessary for its fair enjoyment, owned by a nonprofit corporation that: is organized under P.L.1983, c.127 (N.J.S.A. 15A:1-1 et seq.); is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. sec. 501(c) and meets all other State and federal requirements; has a primary mission as an historical organization to research, preserve and interpret history and architectural history; and is certified to be an historic site by the Commissioner of Environmental Protection, is exempt from taxation upon application to, and certification by, the Director, Division of Taxation in the Department of the Treasury.

427.05 Dates of Applicability.

The historic site exemption applies with respect to any site that, after July 1, 1999, the Director, Division of Taxation determines to be eligible for a historic site real property tax exemption pursuant to Public Law 2007, chapter 157, and with respect to any site for which the applicant applies for historic site real property tax exempt status after July 1, 1999. This is not applicable to historic sites that have been determined by the Director to be eligible for a historic site real property tax exemption on or before July 1, 1999, or to any applications for which historic site real property tax exempt status was made on or before July 1, 1999.

427.06 Certification.

Before an application for historic site real property tax exemption under P.L. 2007, c. 157, may be approved, certification as a historic site must be obtained.

1. The Commissioner of the Department of Environmental Protection must certify after consulting with the Historic Preservation Office to the Director, Division of Taxation on the form designated "Certificate of Historic Site" (issued to the applicant by the Commissioner) that the building and its pertinent contents and the land on which it is erected:
   - Has material relevancy to the history of the State and its government warranting its preservation as a historical site;
   - Must be in the event of a restoration of substantially the same kind, character and description as the original;
   - Meets all other conditions as the Commissioner may, by law, require to be declared to be a historic site.
2. The Director, Division of Taxation must certify the applicant owner's building to be a historic site qualified for a real property tax exemption whenever the property:

- Has material relevancy to the history of the State and its government warranting its preservation as a historical site;
- Is listed in the New Jersey Register of Historic Places;
- In the event of a restoration and/or rehabilitation work and such work has or will be done in accordance with the United States Secretary of the Interior's Standards for Treatment of Historic Properties;
- Is open to the general public and freely available to all people, without discrimination as to race, creed, color, religion or other protected classes under the Law Against Discrimination, N.J.S.A. 10:5-1 et seq. under reasonable terms and conditions, including, but not limited to, a nominal fee, to ensure the preservation and maintenance of the site, for a minimum of 96 days per year.

3. Before an initial determination of historic site real property tax exemption status can be made, pursuant to N.J.S.A. 54:4-4.4, each exemption claimant owning real property shall provide to each municipal assessor an Initial Statement (Form I.S.) http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/initialstment.pdf under oath as prescribed by the Director, Division of Taxation. The applicant must supply and certify to the Director the information set forth above on such form or forms to be certified by the applicant as the Director may provide.

427.07 Inability to Meet 96-Day Requirement.

If the applicant claims that the building cannot be open to the public for at least 96 days per year, the following conditions must be met:

- The municipal governing body where the building is located passes a resolution specifying the number of fewer days in support of the nonprofit corporation's application for fewer days, such resolution to be forwarded within seven days to the Director;

- The Director approves a fewer number of days after considering the municipal governing body's resolution and the following information, which must be supplied by the nonprofit corporation owning the building on a request form prescribed by the Director.

  a. Financial condition and resource information of the nonprofit corporation and a statement explaining why the 96-day requirement is not feasible;
  b. Whether or not the request is temporary because of a short-term constraint regarding the public's physical access to the building, and if so, documentation by the applicant explaining in detail the nature and reason therefore;
  c. If the property relies on volunteers to manage public access, the name and address of each volunteer;
  d. A detailed statement of the impact upon the public interest in restricting access to the real property historic site to the lesser number of days.

427.08 Initial and Further Statement Applications filed with the Assessor. Pursuant to N.J.S.A. 54:4-4.4, annually on or before November 1 the historic site real estate tax exemption applicant must submit to the municipal assessor an Initial Statement on the Division of Taxation's Form I.S., if one has not been filed previously. Thereafter on or before November 1 of every third succeeding year, the historic site real estate tax exemption recipient must submit to the municipal assessor a Further Statement for which a historic site tax exemption is claimed on the Division's Form F.S., http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/further.pdf except that no Further Statement need be filed in the same calendar year in which an Initial Statement was filed.

427.09 Annual Reviews.

Pursuant to N.J.S.A. 54:4-4.4, each assessor may at any time inquire into the right of an exemption recipient to continue exemption. He may require the filing of a Further Statement on Form F.S. at a time other than the third-year update specified in N.J.S.A. 54:4-4.4. The assessor may also require the submission of such proof as he deems necessary to determine the right of the recipient to continue the exemption. All Further Statements must include whether:

- There has been any change of use of the property initially exempted which would defeat the right of exemption;
- Any new or additional property was acquired for which a tax exemption is claimed and the justification for the exemption.

The municipal assessor must obtain the I.S. and F.S. Forms in duplicate from the property owner and file the duplicate copy with the County Board of Taxation with his Exempt Property List on or before the following January 10.

The municipal assessor is to collect an annual fee of $50 from the historic site owner granted an exemption, for the assessor's review of the real property tax exemption status which is to offset the cost to the municipal assessor for the review and certification to the Director, Division of Taxation. The review must be conducted on or before January 30, annually.

427.10 Tax Exempt Status Report.

On or before January 30, annually, the owner of the previously certified historic site eligible to receive a historic site real property tax exemption after July 1, 1999, and to any historic site for which application is made

for real property tax exempt status as a historic site after July 1, 1999 must submit a properly executed certification and Status Report on Form S.R. to the municipal assessor, the Historic Preservation Office in the Department of Environmental Protection, and the Director, Division of Taxation, that contains the following:

1. Evidence that the property was open to the public during the preceding calendar year, including proof of public notification or advertisement and a brief summary of visitation statistics. The summary must include:
   - A list of days the property was open to the public;
   - The total number of hours each day that the building was in use;
   - The hours of each day that the property was open to the public;
   - The number of visitors on each of those days;
   - The names of the employees or volunteers who served in any capacity to assist the public on each of the specified days;
   - A copy of the visitor sign-in lists that the property owner must make available to the public at a place prominent on the property;
   - A statement that a sign clearly advertising that the building is open for public access and easily read at a distance of 100 feet, is displayed outside the building;
2. A copy of any amendments or modifications to the current nonprofit corporation bylaws;
3. Evidence that the exemption claimant, if an organization, has current nonprofit status pursuant to N.J.S.A. 15A:1-1 et seq. and is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. Section 501(c);
4. A brief description of any physical restoration or rehabilitation undertaken in the preceding calendar year, with photographs documenting the current condition of the building;

5. A description of any physical restoration or rehabilitation anticipated to be taken in the subsequent calendar year.

   All certifications required, as well as the Status Report submitted to the municipal assessor, must be signed by an officer of the non-profit organization and be dated and contain the following language:

"I certify that: I am an officer of (name of the organization if incorporated) and am authorized by the organization to sign this certification and status report; or I am authorized by (name of the organization) to sign this certification and status report. I also certify that the information contained herein is true to the best of my knowledge and am aware that if any of the information is knowingly false, I am subject to any punishment under the law for making a false statement under oath."

If the Status Report indicates any physical restoration or rehabilitation, the municipal assessor must inspect the property to determine if a substantial change has occurred. If there is a substantial change, the assessor must notify the Historical Preservation Office of the Department of Environmental Protection in writing of the inspection results. The Historical Preservation Office will then make its own determination as to whether the property no longer qualifies for historic site preservation status due to a substantial change. If the Office finds that the property is no longer eligible for historical site preservation status, it will then forward its determination to the Commissioner who will cancel the property's historical site certification in accordance with N.J.S.A. 54:4-3.54 and N.J.A.C. 18:41-3.3(a), and inform the Director, Division of Taxation, and the Historical Preservation Office.

Upon completion of each required annual review by January 30, the

municipal assessor must certify to the Director that each property previously qualified under N.J.S.A. 54:4-3.54b, for a historic site real property tax exemption, continues to be qualified for its exempt status under these statutory provisions.

427.11 Tax Exempt Interim Status Report.

On or before August 31, annually, the nonprofit corporation that owns the building certified as a historic site must submit to the Historic Preservation Office in the Department of Environmental Protection, the municipal assessor, and the Director, Taxation Division, an Interim Status Report that contains current calendar year information as specified in N.J.A.C. 18:41-3.1(e) and (f) up to the date of the report's submission. The Director may request any additional information necessary to clarify the information previously provided by the nonprofit corporation in the Interim Status Report.

The Director, Division of Taxation must by September 15 of each year certify that the real property for which a tax exemption is claimed pursuant to N.J.S.A. 54:4-3.54a et seq., has met all of the qualifications for a historic site real property tax exemption.

If an owner and real property are not yet qualified for exemption because the property was not open to the public for at least the number of days required pursuant to N.J.A.C. 18:41-2.1(a) 2iv by August 31, but is otherwise qualified, the Director may certify the number of days the property was open by August 31, and that the owner and property will be qualified for such exemption if the property is open to the public for at least the required number of days by December 31. The Director then delivers such certification to the property owner and the assessor of the

taxing district in which the real property is located. Form S.R. can be found here:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/sr.pdf

427.12 Cancellation of Historic Site Certification and Property Which Ceases to be Exempt.

Upon cancellation by the DEP Commissioner of a certification as a historic site pursuant to N.J.S.A. 54:4-3.54c, the Commissioner, no later than the next business day, notifies the Director of Taxation and the municipal assessor where the historic site is located.

Any historic site real property tax exemption granted after July 1, 1999, or a historic site that is not in compliance with N.J.S.A. 54:4-3.54b is null and void, and the site owner is liable for the real property taxes to the taxing district for each tax year during which the historic site property was not in compliance.

Whenever any real property is by law exempt from taxation and the right to such exemption ceases by reason of a change in use or ownership, the property is assessable as omitted property as provided in N.J.S.A. 54:4-63.29 et seq.

427.13 Appeals.

An applicant for historic site certification, or a non-profit organization that is denied an application for certification or has certification canceled has the right to appeal said denial or cancellation to the Commissioner, Department of Environmental Protection. Appeals pertaining to historic site certification status are made to the Commissioner, Department of Environmental Protection and not to the County Board of Taxation.

An applicant for historic site real property tax exemption or the owner of a nonprofit organization that is denied an application for exemption or has an exemption canceled has the right to appeal such determination by the Director, Division of Taxation by way of an administrative hearing as the Director may prescribe pursuant to N.J.S.A. 54:50-3.

A non-profit organization that has its historic site real property tax exemption canceled or otherwise voided by the municipal assessor has the right to appeal the cancellation or voidance to the County Board of Taxation. Appeals to the County Board of Taxation may address any or all of the following subjects:

- The organization's purpose;
- The property's ownership as of October 1 of the pretax year;
- Incorporation of the organization or its authorization to operate in New Jersey;
- Land area or existing buildings;
- Timely application for historic site real property tax exempt status as of November 1 of the pretax year.

REFERENCES:
P.L. 2004, c. 183 as amended by P.L. 2007, c. 157.
N.J.S.A. 54:4-3.52, 3.53, and 3.54
N.J.A.C. 18:41-1.1 et seq.
Township of Morristown v. Woman's Club of Morristown, 124 N.J. 605 (1991).
University Cottage Club of Princeton New Jersey Corp. v. New Jersey Department of Environmental Protection, 191 N.J. 38 (2007).

428. Automatic Fire Suppression Systems.

To encourage property owners' voluntary installation of automatic fire suppression equipment and help defray the cost of those required by law to install it, property tax exemption is provided to the extent such equipment enhances the market value of the property in which it is installed.

Exemption applies to a fire suppression system installed in a residential, commercial or industrial building once certified by the enforcing agency.

"Automatic fire suppression system" means a mechanical system designed and equipped to detect a fire, activate an alarm, and suppress or control a fire without human intervention. Such a system activates as a result of a predetermined temperature rise, rate of temperature rise, or increase in the level of combustion products.

"Enforcing agency" means the municipal agency provided for under the State Uniform Construction Code Act 52:27D-l19 et seq.

REFERENCES:
N.J.S.A. 54:4-3.130, 54:4-3.131

428.01 Certification Required.

The local code enforcing agency, upon application, is to review and grant or deny certification of the system. An automatic fire suppression system is exempt from taxation when the equipment, facility, or system installed is designed primarily for purposes of automatic fire suppression as guided by regulations set forth by the Commissioner of the Department of Community Affairs. The certification must identify the system and its cost.

REFERENCES:
N.J.SA. 54:4-3.132, 54:4-3.133

428.02 Applying for Certification and Exemption.

Certification as an automatic fire suppression system is to be applied for to the local enforcing agency on Form FSS supplied by the enforcing agency and promulgated by the Director, Division of Taxation. The enforcing agency may, at any time, inquire into the claimant's right to exemption, and may require a new application or proofs it feels necessary to continue

the exemption. The enforcing agency has the right to inspect the premises for which exemption is claimed. The FSS form can be found on the Division of Taxation's website at:

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/fss.pdf

REFERENCES:
N.J.S.A. 54:4-3.132

428.03 Claimant, Assessor, Enforcing Agency to get Certificates.

The approved certificate itself is given to the claimant. A copy of the certificate is sent to the assessor of the municipality where the building having the automatic fire suppression system is located. A copy of the certificate is also retained by the enforcing agency.

REFERENCES:
N.J.S.A. 54:4-3.133

428.04 Assessor to Allow Exemption.

Once the assessor receives a copy of the enforcing agency's certification that an automatic fire suppression system is exempt from taxation, exemption begins in the tax year following the year in which certification was granted. The assessor should reflect the exemption on the Tax List as a partial exemption. The Tax List should show the full assessed value and, in a separate column, the amount of the exemption, as well as a separate net assessed valuation of the property.

REFERENCES:
N.J.S.A. 54:4-3.133

428.05 Exempt Amount.

The owner of a building equipped with a properly certified automatic fire suppression system is entitled to annual exemption on the assessed value of the building in an amount equal to the value of the fire suppression system. The assessor should first determine the assessed value of the property including the automatic fire suppression system and then

determine the assessed value of the property minus the fire suppression system. The difference between these two figures indicates the amount of exemption accorded the system.

REFERENCES:
N.J.S.A. 54:4-3.136

428.06 Certificate Revoked.

The enforcing agency, after notice to the FSS certificate holder, may revoke the certificate when:

1. the certificate was obtained by fraud or misrepresentation;
2. the exemption claimant failed substantially to proceed with construction, reconstruction, installation or acquisition of an automatic fire suppression system;
3. the mechanical system is no longer used for the primary purpose of automatic fire suppression, and is used for a different primary purpose;
4. the claimant so departed from the equipment, design and construction previously certified that in the enforcing agency's opinion the system is not suitable and reasonably adequate for providing automatic fire suppression.

REFERENCES:
N.J.S.A. 54:4-3.134

428.07 Appeal.

A person aggrieved by an action of the assessor may appeal to the County Tax Board or to the New Jersey Tax Court as appropriate. A person aggrieved by the action of the Director, Division of Taxation may seek a review before the Director. A person aggrieved by the action of the enforcing agency may seek a review before the board of appeals. Board of appeals means the municipal or county board provided for under the State Uniform Construction Code Act.

REFERENCES:
N.J.S.A. 54:4-3.135 and 3.130

428.08 Sales Ratio Usability of Property with a Certified Fire Suppression System.

Where property having an automatic fire suppression system exemption is sold, the assessor should attach a copy of the approved certification or application to the SR-lA form. The property assessment reported on the SR-lA form should be the full assessment including the assessed value of the system. This information should be carefully reviewed to determine the usability or nonusability of the sale. Generally, it's assumed there is a reasonable relationship between the full assessed value of the sold property and the selling price.

REFERENCES:
Letter to all Assessors from Samuel Temkin, Superintendent, Local Property and Public Utility Branch, September 12, 1983.

429. Renewable Energy Systems Exemption.

429.01 Definitions.

Public Law 2008, chapter 90, also known as the Renewable Energy Systems Exemption, was approved on October 1, 2008. Chapter 90 exempts certain renewable energy systems from real property taxation and defines "renewable energy system" as "any equipment that is part of, or added to, a residential, commercial, industrial, or mixed use building as an accessory use, and that produces renewable energy onsite to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building." The term "renewable energy" is also defined and includes solar, wind, wave or tide action hydropower, photo-voltaic and geothermal technology and biomass facilities. This exemption applies to newly

installed or pre-existing renewable energy systems. The "local enforcing agency" means the enforcing agency in any municipality provided for under the "State Uniform Construction Code Act," P.L. 1975, c. 217.

REFERENCES:
N.J.S.A. 54:4-3.113a et seq.

429.02 Eligibility.

Property - whether residential, commercial or industrial - must first be certified by a local enforcing agency (usually the construction code official) as a qualifying renewable energy system. Certification must be made by the local enforcing agency upon written application. The local enforcing agency may at any time inquire into the right of the claimant to the exemption and has the right to make an inspection of the premises which are the subject of the claim for exemption. A copy of the certification is to be provided to the municipal assessor.

429.03 Limited Partial Exemption Calculation.

The property owner does not receive a deduction in his/her tax bill for the "added value" of the renewable energy system. Nor would the retail value of the renewable energy system necessarily transfer identically into the assessed value. The annual exemption is the difference between the total assessed value of the property before and after the renewable energy system has been installed. The owner of real property which is equipped with a certified renewable energy system may have exempted annually from the assessed valuation of the real property a sum equal to the assessed valuation of the real property with the renewable energy system included, minus the assessed valuation of the real property without the renewable energy system. For example, a property's assessed value is $300,000. After installing a renewable energy system, the municipal assessor determines the new total assessment value of the property is

$330,000. This increased amount of assessed value resulting from the renewable energy system of $30,000 is exempt from property taxation. The property owner would be paying property taxes on an assessment of $300,000 of net taxable value.

429.04 When Exemption Takes Effect.

The exemption from taxation for the renewable energy system becomes effective for the tax year following the year in which certification has been granted and thereafter during its use primarily for such purpose.

429.05 Application.

The application for Certification of Renewable Energy System(s), Form CRES, is found at the Division of Taxation's website at: http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/cres.pdf.

430. Air and Water Pollution Facilities and Devices.

430.01 Pollution Abatement or Prevention Equipment.

Any equipment, facility or device constructed or installed and used primarily for abating or preventing pollution of the atmosphere or waters of this State which is certified to be an air or water pollution abatement facility by the Division of Environmental Quality and the Commissioner of the Department of Environmental Protection, is exempt from taxation.

REFERENCES:
N.J.S.A. 54:4-3.56

430.02 Certification.

The Commissioner of the Department of Environmental Protection certifies a facility as an air or water pollution abatement facility when he finds the equipment, facility or device constructed or installed, or to be

constructed or installed, is designed primarily for controlling or abating air or water pollution and is suitable and reasonably adequate for such purpose. The certificate must identify the facilities, their cost and be in such form and detail as the Commissioner prescribes. The certificate is to be sent to the applicant with a copy to the assessor of the taxing district where the facilities are located and installed. Tax exemption becomes effective for the tax year following the year in which certification is granted and thereafter during the facility's or equipment's use primarily for such purpose. The Claim Form for an Exemption of Air Pollution Abatement Facility is available at the New Jersey Department of Environmental Protection's website at www.nj.gov/dep.

REFERENCES:
N.J.S.A. 54:4-3.57

430.03 Certificate Revoked.

The Commissioner of Department of Environmental Protection, after giving notice to a pollution abatement certificate holder and an opportunity for a hearing, may revoke the certificate when:

1. the certificate is obtained by fraud or misrepresentation;
2. the exemption claimant fails substantially to proceed with construction, reconstruction, installation or acquisition of pollution control facilities;
3. the previous structure or equipment or both is no longer used for the primary purpose of pollution control and is used for a different primary purpose;
4. the claimant so departed from the equipment, design and construction previously certified that in the Commissioner's opinion the primary purpose of such installation is no longer to prevent pollution or the installation is not suitable and reasonably adequate for that purpose;

5. performance of the equipment as installed is not, in the Commissioner's opinion, suitable and reasonably adequate for the primary purpose for which certified; and in lieu of revocation, the Commissioner may modify the certificate in accordance with the facts.

The commissioner must forward a copy of the notice of revocation or modification of any certificate to the assessor of the taxing district in which the equipment is located.

REFERENCES:
N.J.S.A. 54:4-3.58

431. Improvement to Water Supply or Sewerage Disposal System.

431.01 Improvement Value Exempt.

The value of any "improvement" to real estate, to the extent the improvement enhances the value of the property, is exempt from taxation. An "**improvement**" or "**improvement to real estate**" means any structure, machinery, equipment, device or facility necessary to the installation or maintenance of a potable water supply system or a water-carried sewerage disposal system. Such improvements apply only to those located on land in agricultural or horticultural use.

REFERENCES:
N.J.S.A. 54:4-3.59, 54:4-3.60, 54:4-23.12

431.02 Application.

An initial application, Form WS-l, must be filed by the claimant with the assessor on or before October 1 of the pretax year. Forms are supplied by the municipality. Form WS-l as prescribed by the Director, Division of Taxation must authorize the assessor, or his representative, to enter the premises to periodically inspect the improvement.

REFERENCES:
N.J.S.A. 54:4-3.61

431.03 Exemption Continued.

A tax exemption, once granted, continues from year to year without further application as long as the improvement is maintained in working order as verified by the assessor.

REFERENCES:
N.J.S.A. 54:4-3.62

432. Growing Crops, Trees, Shrubs, and Vines

Commercially planted and growing crops, trees, shrubs, and vines are exempt from property taxation while in the ground. Real property is to be assessed at true value without regard to any enhancement in value because of commercially planted and growing crops, trees, shrubs or vines while in the ground.

REFERENCES:
N.J.S.A. 54:4-3.28
Julius Roehrs Co. Div. Tax Appeals, 16 N.J. 493 (1955).

433. Conservation or Recreation Land. (Green Acres Tax Exemption Act)

433.01 Legislative Rationale.

The Legislature finds "that natural open space areas for public recreation and conservation purposes are rapidly diminishing; that public funds for the acquisition and maintenance of public open space should be supplemented by private individuals and conservation organizations; and that it is therefore in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment."

433.02 Eligibility.

To qualify for exemption the property must meet the following conditions: Lands and improvements must be actually and exclusively used for conservation or recreation purposes, owned and maintained or operated for public benefit by a nonprofit 501c3 federal tax exempt organization and certified by the Commissioner of the N.J. Department of Environmental Protection as such.

433.03 Certification.

The property must be certified by the Department of Environmental Protection's Commissioner as a recreation or conservation area benefiting the public. Certification may be granted only after application is made to the Commissioner and a public hearing held to establish equal access to all citizens and public benefit.

REFERENCE:
N.J.S.A. 54:4-3.64; 54:4-3.66
Camp Alpine of Greater New York Councils v. Borough of Norwood, 2 N.J. Tax 223 (Tax Court 1981) affirmed by 183 N.J. Super. 13 (App. Div. 1982).

433.04 Application.

Property owners claiming tax exemption must file an application in duplicate for certification with the Commissioner of D.E.P. on or before August 1 of the pretax year. Applications as prescribed by the Commissioner require a physical description of the land and improvements, a plan for use and preservation, a statement of public uses and access. The application form and other materials may be found at the NJDEP website: http://www.nj.gov/dep/greenacres/pdflaunch.html.

REVISED GREEN ACRES TAX EXEMPTION PROGRAM RULES
HIGHLIGHTS OF CHANGES and CLARIFICATIONS

http://www.nj.gov/dep/greenacres/pdf/tax_ex_rules_2_4_08.pdf.

Please read these important highlights and the attached revised Tax Exemption Program Rules before completing and submitting your application forms.

Terms and Definitions – Several new terms have been added and some of the definitions of terms used in the previous version of the rules have been modified to update or clarify them. (See N.J.A.C. 7:35-1.2.)

Eligibility – A nonprofit organization must make its land available for public use for recreation and conservation purposes to be considered eligible for the program. (See N.J.A.C. 7:35-1.3.)

Buildings and Other Structures – An eligible property must be a natural open space area not dominated by buildings or other structures. Any buildings or structures on the land must be used exclusively for, or in support of, recreation and conservation purposes to be eligible for tax exemption. (See N.J.A.C. 7:35-1.4(a)1.)

Rescinding Certification of Eligibility – A property must continue to satisfy all eligibility requirements in order to continue to be exempt from taxes. If a change results in one or more of the requirements not being satisfied, the Department shall rescind its previous determination of eligibility and notify the appropriate municipal tax assessor. (See N.J.A.C. 7:35-1.4(b).)

Program Information and Forms – Please check the Green Acres Program web site at www.nj.gov/dep/greenacres/ and click on "Program Forms" for Tax Exemption Program information and forms. (See N.J.A.C. 7:35-1.5.)

Proof of Ownership – Applicants must submit to the Department a copy of the recorded deed to the property as proof of ownership. If not available at the time of application, the recorded deed must be submitted on or before August 15 in the year of application. (See N.J.A.C. 7:35-1.6(a)4.)

Maps – In addition to a tax map and street map, applications must also include a map showing any and all public access points, parking areas, roads, driveways, and points of interest on the property. (See N.J.A.C. 7:35-1.6(a)6, 7, and 8.)

Newspaper Advertisement – Applicants are responsible for advertising the public hearing regarding Tax Exemption Program applications in the official newspaper of the municipality in which the property that is the subject of the application is located. (See N.J.A.C. 7:35-1.6(d).)

Recertification Application Deadline – April 15 is the deadline for submitting applications to the Department for recertification. (See N.J.A.C. 7:35-1.7(a).)

Streamlined Recertification Application – If there have been no changes in use and/or ownership of a tax-exempt property as reported on the *Further Statement of Organization Claiming Property Tax Exemption* form, then the applicant does not need to submit the Department's *Application for Recertification of Exemption from Real Property Taxes* or the *Property Use Analysis* forms. (See N.J.A.C. 7:35-1.7(a)2.)

Change of Use or Ownership – If the use of a tax-exempt property changes to a use other than public recreation and conservation or is sold to an entity that is not an eligible nonprofit organization, then the property

shall no longer be eligible for tax exemption and shall be subject to roll-back taxes. (See N.J.A.C. 7:35-1.7(e) and 1.8.)

REFERENCES:
N.J.S.A. 54:4-3.67
N.J.A.C. 7:35 et seq. found online at:
http://www.nj.gov/dep/greenacres/pdf/2007_dec_tax_exempt_rule.pdf.

433.05 Commissioner to Notify.

The Commissioner of D.E.P. must approve any applications for certification, on or before September 15 of the pretax year and deliver them to the property owner and assessor of the taxing district where the property is located.

REFERENCES:
N.J.S.A. 54:4-3.67
Princeton Twp. v. Bardin, 147 N.J. Super. 557 (App. Div. 1977) Cert. denied 74 N.J. 281 (1977).
Wildlife Reserves Inc. v. Boro Lincoln Park, 151 N.J. Super. 533 (App. Div. 1977).

433.06 Assessor to Exempt.

Tax exemption for certified recreation or conservation land and improvements is to be granted in accordance with N.J.SA. 54:4-4.4 filing provisions for Initial and Further Statements.

Court decisions have held that the Department of Environmental Protection is not empowered to exempt property from taxation but rather to verify conservational/recreational use. "State Department of Environmental Protection (DEP) does not have the authority to grant a Green Acres property tax exemption, but may only certify that certain property is being used for the public benefit for conservancy and recreation." *Black United Fund v. City of East Orange, 17 N.J. Tax 446 (Tax Court 1998).*

"N.J.S.A. 54:4-3.63 et seq. grants to DEP only the power to certify real property as qualified or eligible for exemption. It does not give DEP authority to exempt property from taxation. That power belongs to the municipal tax assessor…pursuant to N.J.S.A. 54:4-4.4…" *West Milford Twp. v. Garfield Recreation Committee, 194 N.J. Super. 148 (Law Div. 1983).*

REFERENCES:
N.J.S.A. 54:4-3.68
West Milford Twp. v Garfield Recreation Committee, Inc., 194 N.J. Super. 148 (Law Div. 1983).
Black United Fund v. City of East Orange, 17 N.J. Tax 446 (Tax Court 1998) affirmed by 339 N.J. Super. 462 (App. Div. 2001).

433.07 Change of Use.

When real property exempt as a certified recreational or conservation area ceases to be used for that purpose, it is subject to roll-back taxes.

REFERENCES:
N.J.S.A. 54:4-3.69

433.08 Roll-back Taxes.

Roll-back taxes are to be assessed in an amount equal to taxes payable on the property if nonexempt for the year of the change in use and 2 years immediately prior to the year of the use change. Interest is to be charged at a rate of 8% compounded annually.

REFERENCES:
N.J.S.A. 54:4-3.69

433.09 Roll-back Taxes Restricted.

No roll-back taxes are to be assessed when the property which is exempted is sold, leased, donated or otherwise conveyed to a public agency nonprofit corporation or organization.

REFERENCES:
N.J.S.A. 54:4-3.69

Camp Alpine of Greater New York Councils v. Borough of Norwood, 2 N.J. Tax 223 (Tax Court 1981) affirmed by 183 N.J. Super. 13 (App. Div. 1982).

434. Cemeteries, Burial Grounds, Graveyards; Pet Cemeteries.

434.01 Cemeteries.

Lands used or intended for use as cemeteries and buildings for cemetery use erected on the land, mausoleums, vaults, crypts, or structures intended to hold or contain bodies of the dead or their ashes and solely devoted to or held for that purpose are exempt from taxation.. No limit is imposed on the area of a cemetery to be exempt. The lands used or dedicated to cemetery purposes is a question of fact in each case where proof plainly indicates that the property is actually used as a cemetery or within reasonable contemplation thereof. Lands being cleared and prepared for cemetery use may be in reasonable contemplation of cemetery use and may be exempt; but brush and swampland not needed for burial in a reasonable number of years, together with failure to obtain municipal permits, might be evidence to defeat a claim for exemption.

434.02 Graveyards and Burial Grounds.

Lands used or intended for use as graveyards, or burial grounds and cemeteries and buildings for cemetery use are exempt from taxation. The exemption for graveyard, or burial ground, is limited to 10 acres. A "graveyard" is defined as that plot next to a church used for burial of parishioners; the term "burial ground" remains undefined.

434.03 Application.

Cemetery associations or other owners must apply for exemption with the municipal assessor on Initial Statement, Form I.S. by November 1 pretax

year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
New Jersey Constitution, Article VIII, Section 1, Paragraph 2.
N.J.S.A. 54:4-3.9; 54:4-4.4; 8A:5-10.
Lakeview Memorial Park Association v. Twp. of Cinnaminson, Division of Tax Appeals, February 15, 1962.
City of Jersey City v. Roman Church Diocese of Newark, 4 N.J. Tax. 593 (Tax Court 1982).

435. Nonprofit Cemetery Associations or Corporations.

435.01 Exemptions.

Nonprofit cemetery companies are exempt from the real estate tax on lands dedicated for cemetery purposes, as well as land, structures, buildings, and equipment used for the operation and maintenance of the lands so dedicated.

REFERENCES:
N.J.S.A. 8A:5-10
Frank v. Kugler, 121 N.J. Super. 589 (Ch. Div. 1972) affirmed by 126 N.J. Super. 359 (App. Div. 1974).

435.02 Cemetery Size Limited.

An incorporated cemetery company may take by gift, purchase or devise and hold lands not to exceed 250 acres in extent at any one location.

REFERENCES:
N.J.S.A. 8A:6-1

435.03 Prohibited Activities.

Every cemetery company whether incorporated or organized prior to or subsequent to the enactment of the "New Jersey Cemetery Act" (P.L. 1971,c. 333), is prohibited from engaging directly or indirectly, in any of the following:

1. Manufacture or sale of monuments, markers or bronze memorials;

2. Manufacture or sale of vaults as defined in the act and manufacture or sale of private mausoleums or any private sarcophagus;
3. Conduct of any funeral home or engaging in the business or profession of mortuary science; provided that crematoriums operated in conjunction with funeral homes prior to December 1, 1972 are excepted from these provisions.

REFERENCES:
N.J.S.A. 8A:5-3
Frank v. Kugler, 121 N.J. Super. 589 (Ch. Div. 1972) affirmed by 126 N.J. Super. 359 (App. Div. 1974).
Terwilliger v. Graceland Memorial Park Association, 35 N.J. 259 (1961).
Frank v. Clover Leaf Park Cemetery Association, 29 N.J. 193 (1959).
Locustwood Cem. Assoc. v. Cherry Hill Twp., 133 N.J. Super. 92 (App. Div. 1975).
Greenwood Cemetery Association v. City of Millville, 1 N.J. Tax 408 (Tax Court 1980).

435.04 Cemetery Companies.

A cemetery company must not lease any of its lands, directly or indirectly, to any person or entity engaged in any activity prohibited under the statutes (see N.J.S.A. 8A:5-3). Engaging in any prohibited activities or any contractual lease agreements above may invalidate the cemetery company's exempt status.

REFERENCES:
N.J.S.A. 8A:6-2
Lakeview Memorial Park Association v. Boro. of Cinnaminson, Division of Tax Appeals, February 15, 1961.

The Cemetery Board licenses and regulates cemetery companies that are not considered religious corporations. Contact New Jersey Department of Law and Public Safety (Office of the Attorney General) at 1-800-242-5846 or http://www.njconsumeraffairs.gov/cem **for more information.**

435.05 Application.

The cemetery organization or association must apply for the exemption with the municipal assessor on Initial Statement, Form I.S. by November 1 pretax year and on Further Statement, Form F.S., every third year by November 1 after exemption approval.

REFERENCES:
N.J.S.A. 54:4-3.9, 54:4-4.4

435.06 Dedicated Pet Cemeteries.

A pet cemetery which is dedicated to pet cemetery purposes and which is organized as a nonprofit corporation pursuant to Title 15A of the New Jersey Statutes is exempt from taxation as real property for as long as the dedication remains in effect. This exemption shall apply to land, disposal sites, structures, facilities and buildings which are the subjects of the dedication and are used for pet cemetery purposes.

REFERENCES:
N.J.S.A. 54:4-3.138, P.L. 1985, c. 401.

436. Blast or Radiation Fallout Shelters.

Blast or radiation fallout shelters in residential properties are exempt from taxation to the extent that they enhance the value of the property, up to $1,000 of true value.

REFERENCES:
N.J.S.A. 54:4-3.48

436.01 Eligibility.

To qualify for exemption, the following conditions must be met as of October 1 of the pretax year:

436.02 Standards.

A shelter must comply with design and construction standards authorized by the New Jersey Department of Defense and issued by the United States Department of Defense, 500 C Street SW, Washington, DC 20472.

***NOTE*:** Office of Civil Defense is no longer in existence. It's authority is now under Federal Emergency Management Agency (FEMA).

REFERENCES:
N.J.S.A. 54:4-3.49

436.03 Completion.

A shelter must be erected, installed and completed.

436.04 Residential Property.

A shelter must be on property occupied for residential purposes by no more than two families. It may be inside another building or a separate structure.

REFERENCES:
N.J.S.A. 54:4-3.48

436.05 Application.

Claimants of shelter exemption must apply with the assessor on or before October 1 of the pretax year on Form F.S. 1 Claim for Exemption on Blast or Radiation Fallout Shelter prescribed by the Director, Division of Taxation. Claimant's authorization for the assessor to enter the property to make periodic inspections is required. An exemption, once granted, continues from year to year without further application as long as the shelter is properly maintained.

REFERENCES:
N.J.S.A. 54:4-3.50 and 3.51

436.06 Exempt Amount.

The amount of the exemption is the value by which the entire property is enhanced through construction of the shelter, but not in excess of $1,000 of true value. In calculating the enhanced value, assessors should consider the shelter's construction, erection, or installation costs.

REFERENCES:
N.J.S.A. 54:4-3.48

437. Other Property Tax Benefits - Homestead Benefit Program.

State Budgetary restrictions may affect both the Homestead Benefit and the Property Tax Reimbursement program**.** All property tax relief program information here is based on current law and is subject to change.

437.01 Information for Homeowners Age 65 or Older and/or Disabled on December 31, 2013.

Taxpayers age 65 or older and/or disabled on December 31, 2013, may be eligible for a 2013 New Jersey Homestead Benefit if their domicile or permanent legal residence is New Jersey and they meet the following:

- Owned and occupied a home in New Jersey that was the principal residence on October 1, 2013;
- Have New Jersey gross income for 2013 of $150,000 or less before exemptions and deductions. Income not subject to New Jersey gross income tax such as Social Security, Railroad Retirement benefits, or unemployment compensation is not included. View list of other nontaxable income at http://www.state.nj.us/treasury/taxation/njit12.shtml. The $150,000 income limit applies to a single individual, a married/civil union couple living in the same residence, and a married/civil union partner maintaining a residence separate from his/her spouse/civil union partner.

- The home must be subject to local property taxes, and 2013 property taxes must be paid.

437.02 Information for Homeowners Under Age 65 and/or NOT Disabled on December 31, 2013.

Eligibility requirements, filing procedures, and benefit amounts are the same as above EXCEPT for income.

- Applicants must have New Jersey gross income for 2013 of $75,000 or less before exemptions and deductions. Income not subject to New Jersey gross income tax such as Social Security, Railroad Retirement benefits, or unemployment compensation is not included. View list of other nontaxable income at http://www.state.nj.us/treasury/taxation/njit12.shtml. The $75,000 income limit applies to a single individual, a married/civil union couple living in the same residence, and a married/civil union partner maintaining a residence separate from their spouse/civil union partner.
- The home must be subject to local property taxes, and 2013 property taxes must be paid.

437.03 Ineligible Applicants

- Taxpayers who were not homeowners on October 1, 2013, are NOT eligible for a 2013 Homestead Benefit, even if they owned a home for part of the year.
- New Jersey residents are not eligible for a Homestead Benefit if no property taxes are paid on their dwellings. Homeowners completely exempt from paying property taxes on their principal residence include certain 100% permanently and totally disabled veterans and their unmarried surviving spouses/surviving civil union partners/surviving domestic partners.

- Homeowners who made Payments-in-Lieu-of-Tax P.I.L.O.T. payments which are not considered property taxes.

437.04 Benefit Amount.

The Homestead Benefit for 2013 is a credit applied to the February 2016 property tax bills. However, any Homestead Benefit will be issued in the form of a check (or direct deposit) if (1) the principal residence was in a co-op or continuing care retirement community or (2) the application stated that the principal residence on October 1, 2013 is no longer owned by the applicant.

Homestead Benefit amounts are based on an applicant's income, filing status, property taxes, and if the applicant was age 65 or older or blind or disabled for tax year 2013. The State Budget mandates that the 2013 benefit will be calculated using 2006 property taxes. As per the Budget, the 2013 benefit amount cannot exceed the homestead rebate paid for 2006 unless there was a change in an applicant's filing characteristics. "Filing characteristics" means a reduction in income range, a change in age/disability or filing status, or an increase in ownership.

The Homestead Benefit is in addition to the State's other property tax relief programs. The total amount of all property tax relief benefits received from Homestead Benefit, Property Tax Reimbursement, Property Tax Deduction for Senior Citizens/Disabled Persons, and Property Tax Deduction for Veterans cannot exceed the amount of property taxes paid on the applicant's principal residence for the same year. By law, if applicants receive a larger benefit amount than they are eligible for, they will be required to repay any excess. Amounts owed can be deducted from the applicant's Homestead Benefit, income tax refund or credit before the payment is issued.

See Benefit Amounts by Income Limits for Homeowners Under Age 65 and not Disabled at http://www.state.nj.us/treasury/taxation/homestead/nonseniorhomamnts.shtml.
See Benefit Amounts by Income Limits for Homeowners Age 65 or Older and/or Disabled at http://www.state.nj.us/treasury/taxation/homestead/hrhomeowneramounts.shtml.

437.05 Weblinks.

Homestead Benefit Frequently Asked Questions: http://www.state.nj.us/treasury/taxation/hremail.shtml.

Call the *Homestead Benefit Hotline* in the Division of Taxation at 1-888-238-1233 for any assistance.

437.06 How to File for the Homestead Benefit.

Most homeowners file their applications either online https://www1.state.nj.us/TYTR_Saver/jsp/common/Login.jsp or by phone (1-877-658-2972). Homeowners who need to file a paper application can request one through either of the automated filing systems after entering their ID and PIN. The Internet and automated phone filing systems are available 24 hours a day, 7 days a week.

438. Other Property Tax Benefit Program - Property Tax Reimbursement. (Senior/Disabled Freeze)

438.01 General Information.

Residents who receive Homestead Benefits and/or property tax credits or deductions may also receive the Property Tax Reimbursement. The Property Tax Reimbursement Program reimburses eligible senior citizens and disabled persons for property tax increases. The amount of

reimbursement is the difference between the property taxes due and paid for the "base year" (the first year that all the eligibility requirements are met) and the amount due and paid for the current year for which reimbursement is claimed if the amount paid for the current year is greater. See Property Tax Reimbursement Definitions: http://www.state.nj.us/treasury/taxation/ptr/defin.shtml.

The total of all property tax relief benefits received Property Tax Reimbursement, Homestead Benefit, Property Tax Deduction for Senior Citizens/Disabled Persons, and Property Tax Deduction for Veterans cannot exceed the amount of property taxes (or rent/mobile home park site fees constituting property taxes) paid on the principal residence for the same year. Applicants will be required to repay any excess. The amount owed can be deducted from any Property Tax Reimbursement, income tax refund or credit, or Homestead Benefit before payment is issued.

438.02 Eligibility Requirements.

The following requirements for the base year and each succeeding year, up to and including the year for which reimbursement is claimed must be met:

1. Taxpayer is age 65 or older or receiving Federal Social Security disability benefits; and
2. Taxpayer lived in New Jersey continuously for at least the last 10 years, as a homeowner or renter;
3. Taxpayer owned and lived in the home (or leased a site in a mobile home park on which he/she placed a manufactured or mobile home that he/she owns) for at least the last 3 years;
4. Taxpayer paid the full property taxes (or site fees if a mobile home owner) due on the home for the base year and for each succeeding

year, up to and including the year for which the reimbursement is claimed; and

5. Taxpayer met the income limits for the base year and each succeeding year, up to and including the year for which the reimbursement is claimed.

If taxpayer's residence is in a multiple-unit building of more than four units that he/she owns, taxpayer is not eligible for a Property Tax Reimbursement. Also, not eligible if the building has four units or less but more than one commercial unit.

***NOTE*:** The amount appropriated in the State Budget for property tax relief programs affected reimbursement payments for 2014. Applicants were eligible for 2014 reimbursement payments if their income did not exceed $84,289 for 2013 and $70,000 for 2014, provided they met all the other program requirements. Applicants whose income was over $70,000 but was $85,553 or less can establish their eligibility for future reimbursements by filing an application by the due date. This also ensures the Division will mail them applications for 2015.

All property tax relief program information provided here is based on current law and is subject to change.

Call the *Property Tax Reimbursement Hotline* in the Division of Taxation at 1-800-882-6597 for assistance.

Chapter 5 Rehabilitation, Redevelopment, Abatements, Limited Exemptions and "Zone" Options

501. Constitutional Authority

Property tax abatements and exemptions in rehabilitation and redevelopment areas draw their authority from two paragraphs in the New Jersey Constitution.

ARTICLE VIII, SECTION I, PARAGRAPH 6

"The Legislature may enact general laws under which municipalities may adopt ordinances granting exemptions or abatements from taxation on buildings and structures in areas declared in need of rehabilitation in accordance with statutory criteria, within such municipalities and to the land comprising the premises upon which such buildings or structures are erected and which is necessary for the fair enjoyment thereof. Such exemptions shall be for limited periods of time as specified by law, but not in excess of 5 years." (As adopted at the general election of November 4, 1975.)

ARTICLE VIII, SECTION III, PARAGRAPH 1

"The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment; and improvements made for these purposes and uses, or for any of them, may be exempted from taxation, in whole or in part, for a limited period of time during which the profits of and dividends payable by any private corporation enjoying such tax exemption shall be limited by law. The conditions of use, ownership, management and control of such improvements shall be regulated by law." (As adopted at the general election of November 2, 1947.)

REFERENCE:

N.J. Constitution Article VIII, Section One, Par. 6 & Section Three, Par. 1

501.01 Introduction.

New Jersey recognizes the need to encourage economic growth through rehabilitation and redevelopment of real property. Local Redevelopment and Urban Renewal Exemption/Abatement Laws operate in concert to restore the vitality of depressed areas and to increase municipal ratables upon which property taxes are levied. Their purpose is to gain maximum participation of the private sector in the revitalization of the State's distressed communities. Redevelopment is a public-private partnership with municipal government agencies, developers, local communities and property owners. Through redevelopment, communities can re-use existing underutilized or abandoned sites and buildings, clean up environmentally contaminated areas, create new jobs and business opportunities and environmentally sustainable neighborhoods with "green" building construction, and address critical housing needs all of which support important statewide objectives. Granting tax abatements and exemptions provides incentives for economic expansion. The Laws recognize that successful clearing, replanning, development and redevelopment of blighted areas require the use of special financial arrangements to obtain adequate private investment. In 1992, the Local Redevelopment and Housing Law (LRHL) was enacted. The LRHL consolidated and updated New Jersey's urban renewal statutes, including the Blighted Areas Act and the Redevelopment Agencies Law. The Local Redevelopment and Housing Law works as an umbrella statute over exemption and abatement statutes and programs. This statutory consolidation continues the original public purposes of the predecessor enactments, the restoration of deteriorated, neglected properties to productive use.

Historically, taxes collected from abated and exempt properties were not allotted to the county or the school districts. The old Fox-Lance Laws

required all payments in lieu of taxes to be used for municipal purposes. For this reason, when calculating a municipality's apportionment share of the county tax burden certain abated properties were not included. To include properties which by law could not contribute to those county taxes was deemed unfair. Nevertheless, in the counties where abated properties were located the tax burden shifted. Taxes of residents in municipalities with abatement projects were reduced and the loss was made up by other county residents.

Later Abatement/Exemption Laws of the 1960s either deleted or omitted requirements that abated or exempted property values be included in the equalization process. As noted, it was believed that providing relief from the county tax burden would encourage the granting of municipal abatements and thereby facilitate rehabilitation in areas in need.

In the early 1990s the various Abatement and Exemption Laws were updated and consolidated. At present, for county tax apportionment, the current Five-Year Tax Exemption and Abatement Law requires partial inclusion of exempt and abated property values in a municipality's aggregate valuation for equalization purposes, but the present Long Term Laws have had no such requirement. A recent amendment to the Long Term Tax Exemption Law, P.L. 2003 C. 125, now requires that each municipality entering into a financial agreement for abatement must remit 5% of the annual service charge to the county. Statutes do not address the treatment of abated/exempted properties with regard to school taxes or to equalization for purposes of State school aid.

Some of the more common abatement and exemption programs are:

Long Term Tax Exemption Law (N.J.S.A. 40A:20-1 et seq. P.L. 1991, c.431)

Five-Year Tax Exemption and Abatement Law (N.J.S.A. 40A:21-1 et seq. P.L. 1991, c.441)

Housing and Mortgage Finance Agency Project Tax Exemption Law (N.J.S.A. 55:14K-37 P.L. 1983, c.530)

Urban Enterprise Zone Residential Tax Abatement Law (N.J.S.A. 54:4-3.139 et seq. P.L. 1989, c.207)

Environmental Opportunity Zone Act (N.J.S.A. 54:4-3.150 et seq. P.L. 1995, c. 413)

Department of Community Affairs provides guidance regarding "smart growth" and municipal planning. Redevelopment plans must be adopted and considered in relation to the Master Plan and zoning ordinances.

The Municipal Assessor's Role

Abatement and/or exemption programs provide for municipal flexibility in negotiating tax exemptions and in lieu of tax payment formulas with urban renewal and local redevelopment entities. One of the **assessor's** primary responsibilities begins after a municipality is designated, via ordinance, as an area in need of redevelopment and/or rehabilitation. The assessor must record and track in the New Jersey Property Tax System (MOD IV) all exemptions and abatements to ensure that all taxable and exempt property is accounted for.

501.02 General Terms - Abatement & Exemption Defined.

An area must be designated "in need of rehabilitation or redevelopment." The area may be the entire municipality or a delineated geographic area within a municipality.

"Abatements" represent that portion of the assessed value of a property as it existed prior to construction, improvement or conversion.

"Exemptions" represent that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of property.

502. Five –Year Exemption and Abatement.

502.01 Purpose.

As with all abatement/ exemption programs generally, the purpose of the Five-Year Exemption and Abatement Law is to provide an incentive for private industry to invest capital in real property, to establish commercial and industrial centers, to aid homeowners in improving their property and to generate property purchases to ensure stable ratables.

502.02 Enabling Ordinance Required.

The decision to implement an abatement/exemption program is discretionary on the municipality's part; the municipal governing body must pass an enabling ordinance in order to implement the statutory options. The ordinance should identify the eligible or ineligible dwellings and commercial, industrial structures. It should state the amount of exemptions and/or abatements to be granted. The ordinance should also include the type of construction, e.g., new or reconstruction, improvement or conversion to be abated or exempted for each structure. Criteria may

differ among various neighborhoods, zones, areas or portions of the "rehab" area.

An enabling ordinance is valid for ten (10) years. The enabling ordinance may be revised and a new ordinance adopted before the ten-year period expires. Any amendments would not affect any exemption/abatement in force prior to the revision. When drawing up the ordinance, the municipality's specific intent should be expressed along with statutory provisions.

REFERENCE:
N.J.S.A. 40A:21-4

502.03 Eligible Properties.

Properties Eligible for a Five-Year Exemption or Abatement:

Dwelling is defined as a building or part of a building used, to be used or held for use as a home, residence, including accessory buildings on the same premises, and the land needed for their fair enjoyment. Dwelling also includes individual residences in cooperatives or condominiums, but not common elements. A residential dwelling includes a structure of no more than four residential units and is Property Class 2 in the NJ Property Tax MOD IV System.

Multiple Dwelling means a building or structure as defined in the "Hotel and Multiple Dwelling Law" (N.J.S.A. 55:13A-1 et seq.). Multiple dwelling includes for improvement or construction "general common elements" and "common elements" of a condominium, cooperative, or an apartment (more than 4 family) or hotel and is classified as Property Class 4C, multi-family, in the New Jersey Property Tax MOD IV System.

Commercial or Industrial Structure means a structure or part thereof used for manufacturing, processing or assembling material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities or warehousing purposes or for any combination thereof which the municipal governing body determines will maintain or provide gainful employment, assist in economic development, expand commerce and enhance the tax base. These properties are Property Class 4A, commercial, and 4B, industrial, in MOD IV.

REFERENCES:
N.J.S.A. 40A:21-3

502.04 Ineligible Improvements and Properties.

Ordinary painting, repairs and replacement of maintenance items are ineligible for exemption and abatement. Repairs for fire or other property damage for which an insurance payment was received by any person for a three year period immediately preceding application for exemption and abatement are also ineligible. Tax delinquent properties or those owing penalties for nonpayment are not permitted exemption or abatement. Licensed gambling casinos are not eligible for exemption/ abatement or tax agreement. If abatement is permitted for new construction or conversion alteration, the total of all abatements granted during the five-year period cannot exceed the full cost of the construction or conversion alteration.

REFERENCES:
N.J.S.A. 40A:21-3n
N.J.S.A. 40A:21-18

502.05 Applying for Exemption/Abatement & Filing Deadline.

No exemption or abatement is to be granted except upon written application filed with and approved by the municipal assessor within 30 days (including Saturdays and Sundays) of completion of the

improvement, conversion alteration or construction. The assessor's review is to ensure that the application conforms to the municipal enabling ordinance and/or tax agreement. Late claims are cause for denial. Application "Form E/A-1 (Rev. 8/2015) is prescribed by the Director, Division of Taxation and may be provided by the municipality for claimant's use. The E/A-1 Form is also on line at the Division website: http://www.state.nj.us/treasury/taxation/pdf/lpt/ea1.pdf.

No exemption application is to be approved if filed after the tenth (10) year of the implementing ordinance unless the ordinance is readopted.

A financial agreement is generally required with an in lieu of tax payment and should accompany the E/A -1 form when it is filed with the municipal assessor.

REFERENCES:
N.J.S.A. 40A:21-4
N.J.S.A. 40A:21-16
MOD IV User Manual
Costagno Tires vs. Asbury Park, 13 N.J. Tax 488 (1993).

502.06 Application for Limited Exemption/Abatement Form E/A-1.

Form EA-1 is set up with a header, four sections, claimant certification and an approval or disapproval by assessor.

Header identifies county, municipality and time frame to file the application.

Section I Identification. To be completed by applicant, identifies applicant and property.

Name of Applicant/ Corporate Officer
Contact Information
Address

Identification of Property - located at (address)

Block___, Lot ___

Section II Project Information. To be completed by applicant, identifies exemptions by property type and improvements completed as:

A. Subject property is a one or two family dwelling on which is completed:

New construction;

Conversion or conversion alteration of a building or structure into a dwelling;

Improvement of an existing dwelling.

B. Subject property is a multiple dwelling, commercial or industrial structure:

Construction of multiple dwelling under tax agreement;

Construction of commercial or industrial structure under tax agreement;

Improvement to a multiple dwelling;

Improvement to a commercial or industrial building or structure;

Conversion or conversion alteration of building or structure to a multiple dwelling;

C. Project Details provides the assessor with completion date and project cost. If exemption is a specific flat dollar amount, this information may not be necessary to calculate the exemption. However, if the exemption includes an in-lieu tax payment (PILOT), the project cost may be needed to calculate the in-lieu payment.

I. Date of completion of new construction, conversion, or improvement _____, 20___

II. Total cost of project $_____.

III. Brief description of nature and type of construction, conversion, or improvement.

D. Other Information is a record of prior exemption/abatement granted to the property, tax delinquent status, and additional documentation. (State "none" if no prior exemptions were granted on subject premises.)

Prior exemptions and/or abatement granted under P.L.1991,c. 441 amount to $_____:

Assessors may require copy of ordinance, evidence of governing body's approval of categories of improvements or specific project improvements, and additional proof as required to establish eligibility.

A copy of the tax agreement, if applicable, executed between the municipality and claimant and statement that there are no delinquent; or unpaid taxes should be included.

Section III Certification. This section is the date, applicant's signature and assessor's certification as approved or disapproved.

Application for Form E/A-1 Exemption and/or Abatement for the Improvement, Conversion or Construction of Property pursuant to P.L. 1991, C.441 (N.J.S.A. 40A:21-1 et seq.) and authorized by municipal

ordinance may be found at the Division of Taxation's website: http://www.state.nj.us/treasury/taxation/pdf/lpt/ea1.pdf.

REFERENCES:
Form: E/A-1 (Rev. 8/2015)

502.07 Applications for New Construction of Commercial, Industrial Structures and Multiple Dwellings.

Applicants for tax exemption and abatement for new construction of commercial or industrial structures or multiple dwellings must provide the municipal governing body with:

- General description of project requesting exemption and abatement;
- Legal description of all real estate for project;
- Plans, drawings and other documents as governing body requires to demonstrate project's structure and design;
- Number, classes and type of employees at the project site within two years of project's completion;
- Reasons for seeking tax exemption and abatement on the project, and a description of the benefits to be realized by granting tax agreement;
- Estimates of project costs;
- Real property taxes for project site; (2) estimated taxes to be paid annually on the project during the period of agreement, and (3) estimated tax payments to be made on the project during first full year following tax agreement's termination;
- If a commercial or industrial structure, lease agreements between applicant, and proposed project users and history and description of the users' businesses;
- If a multiple dwelling, the number and types of dwelling units to be provided, description of common elements or general common elements and proposed initial rentals or sales prices of dwelling units by type and any rental lease or resale restrictions for low or moderate income housing;

- Other pertinent information as governing body requires.

REFERENCE:
N.J.S.A. 40A:21-9

502.08 Denial of a Five-Year Limited Exemption/Abatement.

Reasons assessor would deny application for Five (5) Year Exemption/Abatement on Form E/A 5 (1-96) include but are not limited to:.

- Property not located in area designated in "need of rehabilitation".
- No municipal ordinance providing for exemption/abatement.
- Ten year ordinance granting initial year exemption/abatement expired.
- Dwelling not at least 20 years old.
- Property taxes are delinquent or remain unpaid.
- Application not timely submitted within 30 days of completion of improvement, conversion alteration, or construction.

502.09 Appeal of a Five-Year Limited Exemption/Abatement.

Denials may be appealed to the County Board of Taxation and/or to the State Tax Court as appropriate (See Chapter 11 Tax Appeal, this Handbook)

The E/A 5 form is available for the tax assessor on the Division of Taxation's Portal.

REFERENCE:
Form: E/A-5(Rev. 11/96) Notification of Disallowance of Claim for Exemption/Abatement of Property Taxes as applied for under P.L. 1991, c.441 (C. 40A:21-1 et seq.)
City of Asbury Park v. Castagno Tires, 13 N.J. Tax 488 (1993)

502.10 Exemption/Abatement Options for Dwellings & Multiple Dwellings.

Municipalities, via ordinance, may choose a statutorily set dollar amount of assessed value to be exempt. $5,000 or $15,000 or $25,000 of full and

true value of improvements or conversions for each dwelling unit. Existing dwellings must be at least 20 years old. With flat dollar amount exemptions, there are generally no PILOT payments. The property assessment cannot be less than the assessed value existing immediately prior to the improvements, unless abatements are also granted or there is damage to the property which warrants a value reduction. If authorized by enabling ordinance, annual abatement per property is limited to no more than 30% of the annual amount of exemption granted. Different percentages up to 30% may be applied for each year.

REFERENCES:
N.J.S.A. 40A:21-5
N.J.S.A. 40A:21-6

502.11 Exemption Options for Commercial, Industrial Properties.

For commercial or industrial improvements, full and true exempt property value stated by municipal ordinance is based on the assessors' full and true value. Improvements may not increase the property value for five years. The assessment must not be less than the existing assessment prior to improvement, unless damage to the structure warrants a reduction. Most exempted commercial/industrial properties are under tax agreements for in-lieu tax payments based on one of three formulas.

Cost – payment is based on 2% of the project's cost, that is, the cost or fair market value of direct labor, all construction materials, land acquisition and preparation and architectural, surveying, legal and engineering fees.

Gross Revenue – payment is based on 15% of the project's annual gross revenue, including gross rental plus other income, by contributions to taxes, insurance etc. if paid by the tenant. The tax agreement should be specific in these matters.

Tax Phase-In – payment is based on a graduated percentage of the taxes otherwise due as:

1st full year	0 % – zero taxes
2nd full year	not less than 20% of the taxes otherwise due
3rd full year	not less than 40% of the taxes otherwise due
4th full year	not less than 60% of the taxes otherwise due
5th full year	not less than 80% of the taxes otherwise due

Five-Year Tax Exemption & Abatement

Pursuant to Chapter 441, Laws of 1991, as amended (N.J.S.A. 40A:21-1 et seq.)

Category of Exemption & Abatement	Amount of Exemption or Abatement
Construction of New Single Dwelling or Conversion of Nonresidential Building to Single Dwelling or Both	• Exempts no more than 30% of full true assessed value annually • Abates portion of pre-existing assessed value not to exceed 30% of total cost of construction or conversion annually • Total amount of abatements to any single property may not exceed total cost of construction or conversion
Improvement to Existing Single Dwelling More than 20 Years Old	• Exempts $5,000, $15,000, or $25,000 of full true value of improvement • Property assessment not less than assessment prior to improvements, unless also abated • Abates portion of pre-existing assessed value not to exceed 30% of annual exemption
Improvement to Multiple Dwellings or Conversion of Nonresidential Buildings to Multiple Dwellings or Both	• Exempts full true value of the improvements or conversions • Property assessment not less than assessment prior to improvements, unless also abated • Abates portion of pre-existing assessed value not to exceed 30% of the improvement or conversion annually • Total amount of abatements to any single property may not exceed total cost of improvement or conversion
Improvement or Expansion of Commercial & Industrial Structures	• Exempts full true value of improvements • Property assessment not less than assessment prior to improvements • Abatements are **not** permitted for commercial & industrial structures

PILOT Payments under Tax Agreements for Exemption & Abatement of Construction of Multiple Dwellings and Construction of Commercial & Industrial Structures		
Annual Gross Revenue Basis	15% of the annual gross revenues from the project	
Cost Basis	2% of the cost of the project	
Tax Phase-In Basis	Year 1	0% of taxes otherwise due
	Year 2	Not less than 20% of taxes otherwise due
	Year 3	Not less than 40% of taxes otherwise due
	Year 4	Not less than 60% of taxes otherwise due
	Year 5	Not less than 80% of taxes otherwise due

502.12 Equalization Process for Five-Year Limited Exemption/Abatement.

Included in the aggregate true value for county equalization is that percentage which the PILOT represents against the property tax which would have been paid if exemption/abatement had not been granted.

REFERENCES:
N.J.S.A. 40A:21- 7
N.J.S.A. 40A:21-10

502.13 Applying Added Assessments.

On January 13, 2008, P.L. 2007, Chapter 268 took effect. The amendment was in response to New Jersey Tax Court decision Seventy-five P-B Corporation v. Town of Phillipsburg, 18 N.J. Tax 71 (Tax Court 1999), and, in part, reversed that decision. Before c.268, all 5-year exemptions/abatements began the next full tax year following the year of the project's completion and Added Assessments were applicable in the interim period between completion and January 1. The c. 268 amendment now provides that Five-Year Tax Abatements/Exemptions commence as of the date of a project's completion, except for projects subject to tax agreements.

Non Tax Agreements - After c. 268 Amendment. Now exemption or abatement becomes effective immediately upon completion of the project, or portion of the project, and continues for five annual periods (365 days) from that date, except for tax agreement projects which remain under the January 1 prior provisions. There is no interim Added Assessment upon completion, except for projects under tax agreements. Any amounts of tax to be paid for the year in which the project is completed and for the four subsequent years are to be prorated based on the assessed value of the property for the current tax year, minus the prorated abatement amount, plus any portion of the assessed value of the improvement, conversion, or construction, not exempted, also prorated.

Tax Agreements –After c. 268 Amendment. The amendment allows exemptions and abatements to commence for the tax year following project completion (next January 1) when the municipality and taxpayer enter into a tax agreement. Additional value exceeding the exempt amount (i.e. not exempt) would be subject to an Added Assessment at completion in the intervening period before January 1.

Prior to c. 268 Amendment Generally. If the enabling ordinance was adopted prior to January 13, 2008, the total additional value of a structural change is subject to the Added Assessment Law before exemption is granted. The exemption/abatement amount would be granted for a calendar tax year beginning on 01/01/year following improvement and ending on 12/31/year 5 years later. The limited E/A is returned to taxable status the same as property which ceases to be exempt, by applying the Added Assessment, prorating from the first of the month following the end date.

Additional assessment over the amount exempted should be treated as an Added Assessment. If provided for, an abatement should be calculated and excluded before the Added Assessment is imposed. By law, the amount of the abatement is no more than 30% of the exemption. Forms E/A 2.1, 2.2, and 2.3 help calculate the increased exemption/abatement.

REFERENCES:
N.J.S.A. 40A:21-13, 14
N.J.S.A. 54:4-63.26
P.L. 2007, Chapter 268, effective January 13, 2008
Seventy Five P-B Corporation v. Town of Phillipsburg, 18 N J Tax 71(Tax Court 1999).

502.14 Review of Application Form E/A 1 with In-Lieu Tax Payments.

Form Exemption/Abatement – 1 is filed with the municipal assessor within 30 days of the completion of the improvement, conversion or alteration. Any financial agreement must also be filed with the E/A -1 form. Based on the statement checked in Section II, the assessor must review and ascertain the appropriateness of the application. If approved, the assessor determines the amount of assessed value for exemption/abatement. The E/A-1 form is available on the Division of Taxation website at: http://www.state.nj.us/treasury/taxation/pdf/lpt/ea1.pdf.

Forms E/A 2.1, 2.2, 2.3 and 2.4 are calculation worksheets which assist the assessor. (Forms are available on the Division of Taxation's LPT Portal.)

REFERENCE:
N.J.S.A. 40A:21-10

502.15 Recording and Tracking Exemption/Abatement without In-Lieu Tax Payments.

Limited exemptions and abatements with a statutory set dollar amount of $5,000, $15,000, or $25,000 and without in-lieu tax payments are reported on the Tax List with the appropriate letter code and dollar amount. They are reflected as one line item on the Tax List. Also tracked in the New Jersey Property Tax System, but not printed on the Tax List, is the beginning year and the number of valid years for each limited exemption and abatement.

The letter codes are:

G Commercial/Industrial Exemption
I Dwelling Exemption
J Dwelling Abatement
K New Dwelling/Conversion Exemption
L New Dwelling/Conversion Abatement
N Multiple Dwelling Exemption
O Multiple Dwelling Abatement

Two fields record and track limited exemptions and abatements. Field 5 is nine characters and accepts the assessed value of the limited exemption/abatement. Field 29 is two characters, the first character accepts one alpha character designating a specific limited exemption or abatement. The second character is numeric and accepts numbers 1 through 5 for the number of years a limited exemption/abatement is valid.

The number 5 will not count down. Internally the system calculates five years from the beginning year to produce the "Abatement Exemption Audit Trail." The system accommodates four limited exemption/abatements per property record. On an annual basis at the time of consolidation, the "Abatement Exemption Audit Trail for the Year Ending NNNN" may be generated. The Audit Trail is created after consolidation and before production of the Tax List. The Audit Trail identifies properties with limited E/A by code letter and displays the following fields.

- Block-Lot-Qualifier
- Land Description-Building Description-Additional Lots
- Property Class
- Owners Name-Street Address-City-State-Zip-Bank Code
- Beginning/Ending Year- Limited E/A Code-Assessed Value of Exemption (This repeats four times)
- *EXPIRED*

When exemption/abatement ends as of 12/31 current year and is the same as the Tax List year following consolidation, the word "expired" prints instead of the end year and the assessor must manually remove the exempt code and amount and adjust the line item's assessed value to include the previously exempted amount as taxable. When exemption closes during the Tax Year, the exemption is valid as filed and should be left on the Tax List. "Expired" is key for assessors to use the Added Assessment List so taxes are collected for the months after exemption ceases. Again, assessors must then manually remove exempt codes and amounts and revise the line item assessed value to include the previously exempted amount as taxable.

REFERENCES:
N.J.S.A. 40A:21-1
MOD IV User Manual

502.16 Reporting and Tracking Exemptions and Abatements with In-Lieu Tax Payments.

A limited Exemption/Abatement with "in- lieu tax payments" is carried on the Tax List as both a taxable and an exempt line item. The taxable portion (usually land) and any improvement value existing before structural changes is recorded with the property class code. The total assessed exempt value appears on the Exempt List with the same block and lot as the taxable portion and an X qualifier and property class 15F to denote exemption.

Exempt Property List (EPL) codes are:

Part 1 ownership	24	other
Part 2 general use	17	C441 PL 1991
Part 3 specific use	994	5 year tax agreement

Assessors should place the beginning and ending dates of exemption in the initial and further filing date fields respectively. On the Tax List the property appears in sequence with the taxable portion, the original block, lot and qualifier, followed by the exempt portion with the original block, lot, qualifier and an "X" in sixth position in the qualifier field. The word "exempt" is shown in the taxable value field. The New Jersey Property Tax System MOD IV accepts only one "X" qualification code per line item. If there are two or more exemptions on the same block and lot, assessors must contact the State for coding and recording instructions.

502.17 MOD IV Five Year Report.

The EPL code is hard coded in MOD IV programming to create the Chapter 441 Exempt Property List. The List is filed at the County Board of Taxation along with the regular Exempt Property List on January 10.

REFERENCES:
N.J.S.A. 40A:21-10
N.J.A.C. 18:12-3.1

N.J.A.C. 18:12A-1.16 (g) & (h)

502.18 Review of Chapter 441 Exempt Property List by Assessor.

Assessors must annually review the Chapter 441 Exempt Property List. At the end of the fifth annual period assessors must return the exempt value to taxable status by adding the exempt amount to the taxable portion and deleting the exempt line item.

REFERENCE:
N.J.S.A. 40A:21-10

502.19 Review of Chapter 441 Exempt Property Listing by the County Tax Administrator.

The Chapter 441 Exempt List is filed with the County Board of Taxation. The County Tax Administrator supplies E/A 4 (1-96) Forms to the assessor of municipalities having such properties. The assessor completes E/A 4 Form Part A and returns the forms by February 1. The County Tax Administrator then completes Part B and calculates the assessed value to be equalized and included in the County Equalization Table, Column 5.

(See Chapter 10 Sales Ratio and Equalization this Handbook)

REFERENCE:
N.J.S.A. 40A:21-10

502.20 Billing for Payments in Lieu of Taxes (PILOTs).

Payments "in-lieu" of taxes (PILOTs) are currently calculated outside of the NJ Property Tax System MOD IV by the collector or finance officer based on one of the three forgoing formulas. (see section 502.11) In-lieu of property tax payments are made to the taxing district per the financial agreement between the municipality and abatement applicant in quarterly installments according to the same schedule as real property taxes. PILOT payments are not considered property taxes for purposes of property tax relief programs.

REFERENCE:
N.J.S.A. 40A:21-10
N.J.S.A. 50A:21-17

503. Long Term Tax Exemptions.

503.01 Purpose.

Public Law 1991, Chapter 431, the Long Term Tax Exemption Law also consolidated various statutes under which municipalities and private entities agreed to redevelopment projects in exchange for tax exemptions. Streamlined into one law were the Urban Renewal Corporation and Association Law; the Urban Renewal Non Profit Corporation Law; the Limited Dividend Non Profit Housing Corporation/Association Law and the Senior Citizen Non Profit Rental Housing Tax Law.

REFERENCES:
N.J.S.A. 40A:20-1 et seq.
N.J.S.A. 40A:20-19

503.02 Predecessor Statutes Continue to Operate.

The following statutes are repealed: N.J.S.A. 40:32A-1; 40:32A-2, N.J.S.A. 40:37A-56.1 through 40:37A-56.4, the Blighted Areas Act, the Redevelopment Agencies Law, the Local Housing Authorities Law, the Housing Co-operation Law, the National Defense Housing Projects Law, the Municipal Housing Law, the Veteran's Housing law, and the Public Housing Law. Urban renewal entities created under laws repealed by P.L. 1991, c. 431 may continue to operate existing projects, subject to existing financial agreements and tax exemptions. Some previously authorized agencies include but are not limited to:

- Urban renewal corporation or association
- Nonprofit urban renewal corporation
- Limited dividend housing corporation or association

Existing housing authorities and redevelopment agencies are continued and their prior acts are valid. Actions from January 19, 1992 are to be under P.L. 1991, c.431. Agencies and authorities were reconstituted to conform to this act. Rules issued under this act took effect immediately upon adoption and promulgation. All new redevelopment projects and financial agreements are subject to this act.

REFERENCES:
N.J.S.A. 40A:12A-1
N.J.S.A. 40A:20-2

503.03 "Redevelopment and Rehabilitation Area" Defined.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L. 1992, c. 79 (C.40A:12A-5 and 40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L. 1949, c. 187 (C.40:55-21.1 et seq.) repealed by this act. A **redevelopment area** may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part. By designating an area in need of redevelopment and adopting a redevelopment plan a municipality gains the ability to offer Long Term Exemption. A municipality which has an "urban enterprise zone" per the New Jersey Urban Enterprise Zone

Authority is also permitted Long Term Tax Exemption. Areas in “need of redevelopment” can also qualify as areas in “need of rehabilitation.”

“**Rehabilitation”** means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area. **“Rehabilitation area”** or “area in need of rehabilitation” means any area determined to be in need of rehabilitation pursuant to section 14 of P.L. 1992, c.79 (C. 40A:12A-14). The governing body must take specific action for areas “in need of redevelopment or rehabilitation” to be recognized.

REFERENCES:
N.J.S.A. 40A:12A-1 et al
N.J.S.A. 40A:20-3f

503.04 Urban Renewal Entities and Projects.

The municipal governing body which adopts a redevelopment plan, in accordance with the "Local Redevelopment and Housing Law," P.L. 1992, c.79 (N.J.S.A. 40A:12A-l et seq.), may enter into a financial agreement with an urban renewal entity for the undertaking of a project. An urban renewal entity may be authorized, by the agreement, to undertake housing, senior citizen housing, low and moderate income housing, business, industrial, commercial, administrative, community, health, recreational, educational, cultural, and/or welfare projects, or any combination thereof in a single project within a designated area. The municipality retains all necessary authority and control of the redevelopment area. The undertaking of a project by an urban renewal entity is a delegation of municipal power, to be exercised subject to law and the terms of the agreement. An **"urban renewal entity"** may be organized on either a

non-profit or limited profit basis and may be incorporated or unincorporated such as a partnership or association. Its name must include the words "urban renewal." The urban renewal entity's certificate of incorporation or other charter must identify the type of project that it will undertake, specify that it will undertake no other business while it is subject to a financial agreement, declare that it serves a public purpose and is subject to regulation by the municipality in which its project is to be located. Further, it must state that it is subject to the limitation of any dividends, limitations on the transfer of ownership of the project and must obtain the consent of the Commissioner of Community Affairs prior to any transfer of a project containing housing units to any entity other than another urban renewal entity. The charter document must cite the authority of the municipality in the event of the urban renewal entity's financial difficulties, and provide for supervision of project housing units by the Commissioner of Community Affairs. Approval by the Department of Community Affairs is required before the certificate of incorporation or other charter may be filed with the Secretary of State or a County Clerk. Urban renewal entities have authority to accept grants and loans, mortgage property, and obtain government-sponsored insurance or loan guarantees. Urban renewal entities can operate only so long as the financial agreement with the municipality remains in effect.

REFERENCE:
N.J.S.A. 40A:20-5- 9

503.05 Applying to Municipality for a Renewal Project.

Before proceeding with a project, urban renewal entities must make written application to the municipality for project approval. Applications must include:

- a statement of the general nature of the project, and that the project conforms to all municipal ordinances, the redevelopment plan, and the master plan;

- that redevelopment relocation housing projects provide for the relocation of residents displaced from a development area,
- that low and moderate income housing units are restricted to persons of low and moderate income;
- a description of the project area and all its units, including architectural and site plans;
- a statement by a qualified architect or engineer of the estimated cost of the project and of each unit thereof;
- the source, method and amount of private capital invested in the project and ownership interest obtained;
- a fiscal plan for the project;
- a proposed financial agreement.
- Application must be submitted to the mayor or chief executive of the municipality, who must, within 60 days of receipt submit it, with recommendations, to the governing body, which must approve or disapprove it, and which can recommend changes to make it acceptable. There is no standard application form, but applications must meet the foregoing requirements.

REFERENCES:
N.J.S.A. 40A:20 – 8 & 9.
BPUM Development and Urban Renewal Corp. v. Camden, 9 N.J. Tax 490 (Tax 1988), aff'd 11 N.J. Tax 95 (App. Div. 1989), certif. den. 118 N.J. 201 (1989). Application and financial agreement need to be filed and executed prior to construction.

503.06 Financial Agreement Requirements.

Approved projects require a financial agreement between the sponsor and the municipality. The financial agreement is to be in the form of a contract requiring full performance within 30 years from the date of project's completion. The financial agreement must provide for:

- Limiting dividends, if applicable, for the type of entity,
- Exempting all improvements from taxation,

- In lieu payments by the sponsor,
- Submitting annual auditor's reports to the mayor, governing body and Division of Local Government Services, Department of Community Affairs,
- Inspecting of its property and records by the municipality and State,
- Arbitrating of disputes, to be bound by the provisions of law until termination or expiration of the financial agreement.

REFERENCE:
Morris Twp. v. LP Associates, 10 N.J. Tax 240 (Tax 1988). Taxing district challenged grant of abatement by another taxing district which did not have authority to grant abatement for upper area of office/motel complex. Initial application and financial agreement were for lower garage area. No application or financial agreement completed for upper area.

503.07 Taxable Land and Term of Improvement Exemption.

Exemption applies to the value of the new improvements constructed as part of a redevelopment project. The land upon which housing is constructed , acquired, or rehabilitated by an urban renewal entity is exempt from taxation. Land on all other projects is taxable. The maximum exemption term is 30 years or no more than 35 years from the execution of the financial agreement.

REFERENCES:
N.J.S.A. 40A:20-12
Town of Secaucus v. City of Jersey City and TPI Urban Renewal, 19 N.J. Tax 10 (Tax 2000). Deviation from statutory provisions specifying amount of annual service charge was a material non-compliance with statute; city did not provide requisite annual certification as to status of financial agreement with corporation; tax exemption was not invalidated as a result of structure of entities using project; reformation of financial agreement not possible.
DCA Position Letter March 11, 1999 M. Ticktin
Attorney General Opinion July 21, 1983 predates Statutory Consolidation and Revision.
Tiffany Manor Assoc. LP. v. Newark, 18 N.J. Tax 190 (1999). Land status as taxable or exempt; land taxes credited toward PILOT; conflict statutory language v. financial agreement.

503.08 Copy of Municipal Ordinance & Financial Agreement to Assessor.

Municipal clerk delivers to local assessor the implementing ordinance and financial agreement with the urban renewal entity, approved by the governing body which constitutes certification for assessor to apply exemption. Exemption continues until its expiration date.

REFERENCE:
N.J.S.A. 40A:20-12

503.09 Two Options for Calculating Payments In-Lieu of Taxes and Service Charges.

In lieu payment must be determined in either way as follows: (1) a percentage of annual gross revenue which must not be more than 15% for low and moderate income housing, not less than 10% for other projects; or, (2) at municipal option or where annual gross revenue cannot be reasonably ascertained, a percentage of total project cost which is not more than 2% for low and moderate income housing and not less than 2% for all other projects. In either case, this amount is to be charged for the initial stage of the exemption period, which lasts between six and 15 years.

- During the second stage between one and six years, the payment must be that amount or 20% of total taxes otherwise due on the land and improvements, whichever is greater.
- During the third stage, one and six years, the payment must be the greater of initial amount or 40% of taxes;
- During the fourth stage, one and six years, the greater of the initial amount or 60% of taxes;
- During the final stage of not less than one year, the greater of the initial amount or 80% of taxes.

The urban renewal entity is entitled to credit for the amount, without interest, of the real estate taxes paid on the land during the previous four calendar quarters. The service charge must not be less than the total taxes paid during the last full year in which the property was subject to taxation. Minimum and staged increases in the annual service charge over the term of the financial agreement are not to apply to qualified subsidized housing.

REFERENCE:
N.J.S.A. 40A:20-12.1

Long Term Tax Exemption PILOT Payments
Pursuant to Chapter 431, Laws of 1991 (N.J.S.A. 40A:20-1 et seq.)

Annual Gross Revenue Method or Tax Phase-In

	Low & Moderate Income Housing	All Other Projects
Stage 1: 6 to 15 years	Not more than 15% of gross revenue	Not less than 10% of gross revenue
Stage 2: 1 to 6 years	Not more than 15% of gross revenue or 20% of taxes otherwise due, whichever is greater	Not less than 10% of gross revenue or 20% of taxes otherwise due, whichever is greater
Stage 3: 1 to 6 years	Not more than 15% of gross revenue or 40% of taxes otherwise due, whichever is greater	Not less than 10% of gross revenue or 40% of taxes otherwise due, whichever is greater
Stage 4: 1 to 6 years	Not more than 15% of gross revenue or 60% of taxes otherwise due, whichever is greater	Not less than 10% of gross revenue or 60% of taxes otherwise due, whichever is greater
Stage 5: 1 or more years	Not more than 15% of gross revenue or 80% of taxes otherwise due, whichever is greater	Not less than 10% of gross revenue or 80% of taxes otherwise due, whichever is greater

Total Project Cost Method or Tax Phase-In

	Low & Moderate Income Housing	All Other Projects
Stage 1: 6 to 15 years	Not more than 2% of project cost	Not less than 2% of project cost
Stage 2: 1 to 6 years	Not more than 2% of project cost or 20% of taxes otherwise due, whichever is greater	Not less than 2% of project cost or 20% of taxes otherwise due, whichever is greater
Stage 3: 1 to 6 years	Not more than 2% of project cost or 40% of taxes otherwise due, whichever is greater	Not less than 2% of project cost or 40% of taxes otherwise due, whichever is greater
Stage 4: 1 to 6 years	Not more than 2% of project cost or 60% of taxes otherwise due, whichever is greater	Not less than 2% of project cost or 60% of taxes otherwise due, whichever is greater
Stage 5: 1 or more years	Not more than 2% of project cost or 80% of taxes otherwise due, whichever is greater	Not less than 2% of project cost or 80% of taxes otherwise due, whichever is greater

Any financial agreement may allow the municipality to levy an annual administrative fee, not to exceed 2% of the annual service charge.

Each municipality which enters into a financial agreement on or after the effective date of P.L. 2003, Ch. 125 (July 9, 2003) shall remit 5% of the annual service charge to the county.

Under either method of calculating PILOT payments, the maximum period for a Long Term Tax Exemption is 30 years from project completion, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity.

503.10 Exemption where Project's Transferred/Sold or Qualified Condominiums Sold.

Agreements are to provide that the municipality must approve transfer of the project to another urban renewal entity which owns no other project at the time of transfer, and that the tax exemption will continue as long as the new entity accepts the obligations of the financial agreement. If the project includes condominium units, the municipality may consent to the sale of units to purchasers (who own no other unit at the time of transfer).

Financial agreements may permit conveyance of condominium units. Regardless of whether the condominium is residential, commercial, or industrial, the tax agreement continues in effect for the units sold. For residential condos, exemption continues in effect for owner-occupied units. For non-owner occupied units, the governing body may, by resolution, require either that the tax exemption lapse or that it continue subject to a higher in lieu payment.

REFERENCES:
N.J.S.A. 40A:20-9 and 10
N.J.S.A. 40A:21-14

503.11 Excess Profits of Limited Dividend Entities and Nonprofit Entities.

Urban renewal limited dividend entities under financial agreements for tax exemption are subject to profit restrictions. Limited dividend entities are required to pay an additional annual service charge in the amount of any profits that exceed the allowable net profits for the accounting period. This must be paid within 120 days of the close of the entity's fiscal year. The entity may maintain a reserve against vacancies, unpaid rent and contingencies in an amount established in the financial agreement not exceeding 10% of the last full fiscal year's gross revenues. Urban renewal nonprofits under financial agreements are required to pay over their net profits to the municipality within 90 days of the close of the fiscal year.

The entity may maintain a reserve against vacant and unpaid rentals in an amount established in the agreement not to exceed 10% of the entity's gross revenues for the last full fiscal year. At termination of financial agreements reserve amounts are to be paid to the municipality.

REFERENCE:
N.J.S.A. 40A:20-15 and 40A: 20-16

503.12 Authority for Audit and Modifications to the Financial Agreement.

The Local Finance Board in the Division of Local Government Services has authority to audit or investigate an urban renewal entity which owns a housing project in financial difficulties and to order implementation of a financial plan, including placing the entity under the control of the Department of Community Affairs. The financial plan may make modifications to the financial agreement with the consent of the municipal governing body, even if the entity does not consent.

REFERENCE:
N.J.S.A. 40A:21-18

503.13 5% of Annual Service Charge Paid to County.

Each municipality which enters into a financial agreement after the enactment of c.125 P.L. 2003, effective July 9, 2003, must remit 5% of the annual service charge to the county upon receipt of that charge.

REFERENCE:
P.L. 2003, c.125

503.14 Termination of Tax Exemption.

Tax exemption applies only as long as the urban renewal entity and its project are subject to the provisions of the Long Term Exemption statute. In no event shall the exemption extend more than 35 years from the date of execution of the financial agreement.

REFERENCE:
N.J.S.A. 40A:20–13

503.15 Voluntary Release of Tax Exempt Status.

An urban renewal entity may one year after project completion, notify the municipal governing body that it is relinquishing the project's tax exempt status as of a specified date. If the project includes housing units, the urban renewal entity must obtain the consent of the Commissioner of the Department of Community Affairs. As of the date specified, the tax exemption service charges and profit and dividend restrictions end. The termination date is considered the close of the entity's fiscal year. It must pay over to the municipality the amount of its accumulated reserves and excess net profits.

REFERENCE:
N.J.S.A. 40A:21 – 13. as amended P.L. 1999, c. 220.

503.16 Reporting and Tracking Long Term Exemptions.

A Long Term Exemption is carried on the Tax List as both a taxable and an exempt line item. Taxable land and any improvement value existing before the structural change is recorded on the Tax List with the appropriate property class code. The total assessed value exempted appears on the Exempt Property List with the same block and lot as the taxable portion with the addition of an X qualifier and exempt property class 15F. The Exempt Property List code for this type of exemption is:

Part 1 ownership	29	Urban Renewal Entity
Part 2 general use	13	Redevelopment and Rehabilitation C. 431, P.L. 1991
Part 3 specific use	048	In – Lieu Tax

Assessors should place the exemption's beginning date in the initial filing date field and the ending date in the further filing date field. On the Tax List the property appears in sequence with the taxable portion having the original block, lot, qualifier and the taxable amount, followed by the

exempt portion with the original block, lot and qualifier with an "X" in the sixth position in the qualifier field. If there are two or more exemptions on the same block and lot, without condominium qualifiers, assessors must contact the State for instructions to code and record the information.

REFERENCE:
MOD IV User Manual

503.17 Appeals of Long Term Exemptions.

N.J.S.A. 54:3-21b as amended by P.L. 2003, c. 125 provides no taxpayer or taxing district shall be entitled to appeal either an assessment or an exemption or both that is based on a financial agreement subject to the provisions of the "Long Term Tax Exemption Law" under the appeals process set forth in subsection a.

The validity of a Long Term Exemption or its financial agreement may be challenged only by filing an action in lieu of prerogative writ within 20 days of publication of notice of the adoption of the implementing ordinance.

REFERENCE:
N.J.S.A. 40A:20-12

503.18 Court Decisions Regarding Long Term Tax Exemptions.

Ferry Plaza Urban Renewal, L.P. v. City of Newark, 21 N.J. Tax 100 (App. Div. 2003), cert. denied by 177 N.J. 494 (2003).

New Jersey Metromall Urban Renewal Inc., v. City of Elizabeth, 22 N.J. Tax 276 (Tax Court 2003).

NBCP Urban Renewal Partnership v. City of Newark, 17 N.J. Tax 59 (Tax Court 1997).

Town of Secaucus v. Hudson County Board of Taxation, 17 N.J. Tax 215 (Tax Court 1998).

Town of Secaucus v. City of Jersey City, 19 N.J. Tax 10 (Tax Court 2000).

Town of Secaucus v. City of Jersey City, 20 N.J. Tax 384 (Tax Court 2002), related proceeding at 20 N.J. Tax 562 (Tax Court 2003).

Corbacho v. Mayor and Council of Newark City, 16 N.J. Tax 240 (App. Div. 1997), cert denied by 149 N.J. 141 (1997).

504. Urban Enterprise Zone Residential Tax Abatements.

504.01 Urban Enterprise Zones Generally.

The Urban Enterprise Zone Program (UEZ) was enacted in 1983 as P.L. 1983, c.303 to provide tax incentives for businesses in economically distressed urban centers as Corporate Business Tax credits, Sales and Use Tax exemptions and Unemployment Tax rebates. It originally authorized ten zones by the New Jersey Urban Enterprise Zone Authority: Camden, Newark, Bridgeton, Trenton, Plainfield, Elizabeth, Jersey City, Kearny, Orange and Millville/Vineland (joint zone). In 1994 the Act was amended to add ten more zones to the program. Of the ten new zones, six were predetermined: Paterson, Passaic, Perth Amboy, Phillipsburg, Lakewood, Asbury Park/Long Branch (joint zone). The four remaining zones were selected on a competitive basis. They are Carteret, Pleasantville, Union City and Mount Holly. Amendments in 1996 included seven additional zones. East Orange, Guttenberg, Hillside, Irvington, North Bergen, Pemberton and West New York. A further amendment in 2002 created three more zones, Bayonne City, Roselle Borough, and a joint zone consisting of North Wildwood City, Wildwood City, Wildwood Crest Borough, and West Wildwood Borough. The latest amendment in 2004 included Gloucester City and New Brunswick for a total of 32 zones in 37 municipalities.

REFERENCES:
Division of Taxation website: http://www.state.nj.us/treasury/taxation/
N.J.S.A. 52:27H- 60 et seq.
Annual Report NJ Division of Taxation

504.02 Purpose.

The Urban Enterprise Residential Tax Abatement Law was adopted to encourage development of new single-family housing in municipalities designated as Urban Enterprise Zones. The intent was to provide housing convenient to the business district to revitalize neighborhoods, improve vacant land and under-utilized structures. Buildings converted to residential housing may include commercial, industrial or under-used school buildings.

504.03 Qualified Municipality and Qualified Residential Property Defined.

Even though an Urban Enterprise Zone is usually about 30% of the municipality, the entire municipality in which a UEZ is located is a "qualified municipality" for residential property tax abatement purposes. A municipality can qualify for abatement under this law even if the development is not in the designated "zone" as long as a UEZ or part of a UEZ is designated for the municipality. "Qualified Residential property" means a building, to be used or held for use as a home or residence, including accessory buildings located on the same premises and condos, co-ops and horizontal property regimes. Unlike the 5 Year Exemption/Abatement Law, the Urban Enterprise Residential Abatement Law does not give separate definitions to the terms "abatement" and "exemption".

"Abatement" is defined as an exemption from real estate taxes.

REFERENCES:
NJ Constitution Article VIII, Section 1, Par. 6
N.J.S.A. 54:4-3.140

504.04 Enabling Ordinance.

The municipal governing body may determine, by ordinance, that one or more areas in the municipality are in need of rehabilitation and that one or

more buildings or structures could be converted to qualified residential use, or that vacant land could be used for construction of qualified residential property. This determination must be made in accordance with Department of Community Affairs regulations (N.J.A.C. 5:22) that take into account the existence of blighted areas, deterioration and age of the housing stock, supply of and demand for housing in the municipality, and property tax arrearages on residential property. Ordinance must provide for a property tax abatement term of five years, an application procedure with approval method by assessor or ordinance, a method for computing in lieu payments (PILOT's) and a requirement that units be owner-occupied or have annual PILOT payments increased by 1 %.

When an urban redevelopment project, approved pursuant to N.J.S.A. 40:55C-58, includes construction of qualified residential property located in a qualified municipality which adopts an ordinance to allow for UEZ abatements the urban renewal corporation or association carrying out the project may, upon its completion, apply for abatements on behalf of prospective purchasers of dwelling units whether owner-occupied or investor-owned.

REFERENCE:
N.J.S.A. 54:4-3.141 thru 143

504.05 Application.

No abatement is to be granted except upon written application filed with the municipal assessor where the improved/converted property is located and where the governing body has passed an enabling ordinance. The application form is prescribed by the Director, Division of Taxation and provided for claimant use by the municipality.

The application, Form UEZ revised Form MD-A1(2/90 APPLICATION FOR REAL PROPERTY TAX ABATEMENT FOR RESIDENTIAL PROPERTY IN AN URBAN ENTERPRISE ZONE CHAPTER 207,

PUBLIC LAWS 1989 (as amended) (C.54:4-3.139 et seq.) may be found at the Division of Taxation's website at:

www.state.nj.us./treasury/taxation/pdf/other_forms/lpt/uez.pdf.

REFERENCE:
N.J.S.A. 54:4-3.143 thru 144
Maria Padilla and 324th Street, LLC v. City of Elizabeth(Tax Court 9/16/15)

504.06 Application Data.

In addition to information identifying the property and applicant on lines 1 - 8, the following information is requested.

- Date of completion
- Description of improvements or alterations
- Municipal ordinance number and date adopted
- Is the unit owner-occupied – yes or no
- Are property taxes delinquent – yes or no
- Certification of responses by applicant.

REFERENCE:
N.J.S.A. 54:4-3.144

504.07 Financial Agreements.

Approved abatements require a financial agreement between the qualified municipality and the applicant in accordance with the enabling ordinance. Annual PILOT payments are to be computed as:

- Method 1
  Payment may be computed as two percent (2%) of the cost of the improvements or conversion alterations, as appropriate for five years following completion and in the sixth and all subsequent tax years following completion, 100% of the equalized taxes otherwise due;

- Method 2
  Payment may be computed as a portion of the real property taxes otherwise due, as:

1. First tax year following completion, no payment in lieu of taxes otherwise due;

2. Second tax year following completion, not less than 20% of taxes otherwise due;

3. Third tax year following completion, not less than 40% of taxes otherwise due;

4. Fourth tax year following completion, not less than 60% of taxes otherwise due;

5. Fifth tax year following completion, not less than 80% of taxes otherwise due;

6. Sixth and all subsequent tax years following completion, 100% of the equalized taxes otherwise due.

REFERENCE:
N.J.S.A. 54:4-3.145

504.08 No Added or Omitted Assessments Applied.

Added Assessment and Omitted Assessment provisions are not applicable to property for which the owner-occupant is granted a UEZ residential tax abatement.

REFERENCE:
N.J.S.A. 54:4-3.144

504.09 Filing Deadline and Abatement Start Date.

Applications must be filed with the municipal assessor within 30 days, including Saturdays and Sundays, following completion of the structure, improvements, or conversion alterations and allowed by him/ her if consistent with enabling ordinance and statutory requirements. Each application must be accompanied by a financial agreement between the applicant and the qualified municipality. An approved abatement takes effect upon issuance of a Certification of Occupancy (CO). Abatement is to be recorded as a permanent part of tax records and indicate a termination date.

504.10 Denial of a UEZ Residential Abatement.

There is no standard Denial Form. Application may be denied for:

- Municipality is not a qualified Urban Enterprise Zone
- Municipality does not have an enabling UEZ Residential Tax Abatement ordinance
- Property is not a qualifying residential property
- Application is filed late

Assessors must notify applicants of denial in writing including their right to appeal.

REFERENCE:
N.J.S.A. 54:4-3.144

504.11 Billing for Payments in Lieu of Taxes (PILOTs).

All payments "in-lieu" of taxes are currently calculated outside of the NJ Property Tax System (MOD IV) by either the collector or the finance officer as per the respective financial agreements and enabling ordinances.

PILOTs are paid to the municipality. No portion of the payment is provided to the county or school district. They are to be made in quarterly installments according to the same schedule as real property tax payments.

REFERENCES:
N.J.S.A. 54:4-3.142
N.J.S.A. 54:4-3.145
N.J.S.A. 54:4-3.146
N.J.S.A. 54:4-3.147

504.12 Recording and Tracking Five Year UEZ Residential Tax Abatements in MOD IV.

UEZ Residential Tax Abatements are reported and printed on the Tax List with code letter "U" and abated dollar amount. Also tracked in MOD IV

but not printed on the Tax List is the beginning year and total number of years for each abatement.

There are two fields to record and track limited exemptions and abatements. Field 5 is nine characters which accepts the assessed value of limited exemptions/abatements. Field 29 is two characters, the first character accepts one alpha character designating a specific limited exemption or abatement and the second character is a numeric field which accepts the numbers 1 through 5, the years a limited exemption/abatement is valid. On an annual basis at the time of consolidation, the "Abatement Exemption Audit Trail for the Year Ending NNNN" may be generated.

The Audit Trail is created after consolidation and before production of the Tax List. The Audit Trail identifies the properties with limited Exemption/Abatement by code letter and displays the following fields.

- Block-Lot-Qualifier
- Land Description-Building Description-Additional lots
- Property Class
- Owners Name-Street Address-City-State-Zip-Bank Code
- Beginning/Ending Year- Limited E/A Code-Assessed Value of Exemption (This repeats four times)
- *EXPIRED*

When the ending year of the exemption/abatement is the same as the Tax List year following consolidation, the word "expired" prints instead of the ending year and assessors <u>must manually remove</u> the exemption code and amount and revise the assessed value of the line item to include the previously exempted amount as taxable. When the exemption expires during the tax year, it is proper to leave the exemption on the Tax List as it is valid when the List is filed. "Expired" is the key for assessors to use

the Added Assessment List to collect taxes for the months following the expiration of the exemption. Do not use the increment function when establishing the Added Assessment. Assessors must manually remove the exemption code and amount for the following tax year.

REFERENCES:
N.J.S.A. 54:4-3, 139 et seq.
MOD IV User Manual
City of Newark v. Essex County Tax Board, 309 N.J. Super 476 (AD 1998) Re: Post Abatement Taxes.

LOCAL UEZ OFFICES

Asbury Park	(732) 502-5749
Bayonne	(201) 858-6357
Bridgeton	(856) 451-3407
Camden	(856) 757-7679
Carteret	(732) 541-3835
East Orange	(973) 266-5432
Elizabeth	(908) 289-0262 - Ext. 214
Gloucester City	(856) 456-6075
Guttenberg	(201) 868-2315 - Ext. 152
Hillside	(973) 926-1054
Irvington	(973) 399-5636
Jersey City	(201) 333-7797 - Ext. 25
Kearny	(201) 955-7400 - Ext. 8041
Lakewood	(732) 364-2500 - Ext. 5256
Long Branch	(732) 923-2040
Millville	(856) 563-0440
Mount Holly	(609) 845-1148
Newark	(973) 424-4154 - Ext.1010 or 1008
New Brunswick	(732) 745-5050
North Bergen	(201) 392-2467
Orange	(973) 266-4061
Passaic	(973) 365-5520
Paterson	(973) 321-1212
Pemberton Township	(609) 893-3619
Perth Amboy	(732) 442-6421
Phillipsburg	(908) 454-5500 - Ext. 338 or 362
Plainfield	(908) 226-2521
Pleasantville	(609) 484-7359
Roselle Borough	(908) 259-3001
Trenton	(609) 989-3508
Union City	(201) 271-2350
Vineland	(856) 563-0440
West New York	(201) 295-5289
The Wildwoods	(609) 522-2444 - Ext. 2248

Urban Enterprise Zone Program
PO Box 822
Trenton, NJ 08625-0822
(609) 292-1912
FAX (609) 633-8004

REFERENCE:
N.J.S.A. 52:27H-60 et seq.

505. Environmental Opportunity Zones (EOZs).

505.01 Purpose.

Properties which are underutilized or abandoned because of contamination are a burden on society and municipal services. These properties' remediation, revitalization and redevelopment bring tax ratables and jobs. To encourage remediation of contaminated property the Environmental Opportunity Zone Act provides real property tax exemption.

In addition to the E.O.Z. Act, there are several other remediation laws:

- Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1 et seq.)
- Industrial Site Recovery Act (N.J.S.A. 13:1K-6-1 et seq.)
- Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.)
- Solid Waste Management Act (N.J.S.A. 13:1E-1et seq.)
- Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-22 et seq.)
- Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.)
- Federal Clean Air Act

REFERENCE:
N.J.S.A. 54:4-3.150 et seq. (P.L. 1995, c.413 eff. June 10, 1996)
See also Air and Water Pollution Abatement Equipment Exemption in Chapter 4 of this Handbook.

505.02 Brownfields and Redevelopment.

Where a brownfield site meets one of the criteria for redevelopment and the site is in a designated redevelopment area, the municipality can exercise the authority and powers under the redevelopment law in addition to the Environmental Opportunity Zone Act.

REFERENCE:
N.J.S.A. 40A:12-1 et seq.

The Site Remediation Reform Act (SRRA) changed the way sites are remediated in New Jersey. SRRA established a program for licensing of Site Remediation Professionals (LSRPs) who are responsible for oversight of environmental investigation and cleanup.

505.03 Contaminated Qualified Real Property and Remediation Defined.

"Qualified Real Property" means a parcel of real property which is vacant or underutilized, and needing remediation due to discharge or threatened discharge of a contaminant. The most recent Department of Environmental Protection publication of hazardous discharge sites in New Jersey, prepared pursuant to P.L. 1982, c.202 (C.58:10-23.15 et seq.), may be found at: http://www.state.nj.us/dep/srp/.

"Remediation" means all necessary actions to investigate and clean up any known or suspected threat of discharge of contaminants including preliminary assessment, site investigation, remedial investigation and remedial action.

REFERENCES:
N.J.S.A. 54:4-3.152
N.J.S.A. 58:10-23.15

505.04 Enabling Ordinance to Designate Environmental Opportunity Zone.

A municipal governing body may adopt an ordinance designating and listing one or more qualified real properties as an Environmental Opportunity Zone in accordance with Municipal Land Use Law (N.J.S.A. 40:55D-1 et., seq.). Ordinance must also provide for property tax exemptions in the EOZ. The enabling ordinance must:

- Provide for a ten (10) year property tax exemption term or at municipal option up to a 15-year term
- Include the application procedure and approval method by assessor or by ordinance
- Compute Payments In-Lieu of Taxes (PILOTS)
- Require EOZ remediation be performed in compliance with Department of Environmental Protection Memorandum of Agreement or administrative consent order.
- On completion of remediation, the Environmental Opportunity Zone is to be used for commercial, industrial, residential or other productive purposes for the period of real property tax exemption.

REFERENCES:
N.J.S.A. 54:4-3.153
N.J.S.A. 54:4-3.154

505.05 Environmental Opportunity Zone Application Required.

No exemption is to be granted except on written application filed with the municipal assessor where the EO Zone is located and is to be approved by the governing body by resolution or ordinance, as required by the enabling ordinance. Form E.O.Z. – 1 Application for Real Property Tax Exemption for Certain Contaminated Real Property under Environmental Opportunity Zone Act should contain the following identifying information:

- County – Municipality
- Address of Qualified Property
- Block (s) and Lot (s) of Qualified Property
- Owner's Name and Mailing Address
- Municipal Ordinance Number and Date Adopted
- Present Use of Property
- Financial Agreement between Municipality and Applicant

The EOZ form is promulgated by the Division of Taxation and is to be provided to applicants by the municipality. It is also available on the Division of Taxation's website:
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/eoz1.pdf

No exemption can be granted until the property owner enters into dated and executed Memorandum of Agreement or administrative consent order with the Department of Environmental Protection for site remediation. In addition to the identifying information, property owners must submit a copy of the approved application to Division of Local Government Services in the Department of Community Affairs. Any exemption granted must be recorded as a permanent part of the tax record of the taxing district and indicate termination date.

REFERENCE:
N.J.S.A. 54:4-3.155

505.06 Financial Agreement and Payments In-Lieu of Property Taxes (PILOTS).

EOZ exemption requires a Financial Agreement, as per enabling ordinance, between applicant and municipality. During the exemption period the qualified real property's PILOT payments are:

First Year	No in lieu tax payment otherwise due
Second Year	Not less than 10% of taxes otherwise due
Third Year	Not less than 20% of taxes otherwise due
Fourth Year	Not less than 30% of taxes otherwise due
Fifth Year	Not less than 40% of taxes otherwise due
Sixth Year	Not less than 50% of taxes otherwise due
Seventh Year	Not less than 60% of taxes otherwise due
Eighth Year	Not less than 70% of taxes otherwise due
Ninth Year	Not less than 80% of taxes otherwise due

Taxes otherwise due are determined using the assessed value at the time of exemption approval by the assessor and are not to include any improvements made in the Environmental Opportunity Zone during the exemption term. In lieu of real property tax payments are to be paid quarterly to the municipality in accordance with the schedule for real property taxes. Where the exemption term extends beyond 10 years the municipality may provide a different payment schedule, not to exceed the length of exemption. At the end of the tenth and all subsequent years, unless extended, the exemption expires and the full real property taxes at the remediated property value are due.

REFERENCES:
N.J.S.A. 54: 4-3.156
N.J.S.A. 54:4-3.157

505.07 Exemption Terminated.

The following actions would cause exemption to be terminated:

- Applicant terminates the Memorandum of Agreement for remediation, unless an administrative consent order is issued in its place.
- Applicant fails to complete remediation pursuant to the Agreement or order or conditions of the ordinance are not met.
- Applicant fails to use the Environmental Opportunity Zone for a commercial, industrial, residential or other productive purpose during the exemption term.
- Applicant fails to make in lieu of real property tax payments.

REFERENCES:
N.J.S.A. 54:4-3.154
N.J.S.A. 54:4-3.156

505.08 Recording and Tracking Environmental Opportunity Zone Exemptions in MOD IV New Jersey Property Tax System.

Properties qualified for real property tax exemption under the Environmental Opportunity Zone Act are recorded and tracked on the

Exempt Property List. The property class code is 15F, unless the property qualifies for exempt status under one of the other Class 15 codes. Exempt Property List Codes are:

Owner	24 Other (unless another code is more applicable)
General Use	14 Remediation
Specific Use	048 In Lieu Tax Payment

The statutory reference for Environmental Opportunity Zone exemptions is N.J.S.A.54:4-3.150 et seq. Beginning and ending dates for EOZ exemption are recorded in the initial and further data fields. The appropriate assessed values are recorded in valuation fields.

REFERENCE:
MOD IV Manual

506. NJ Housing and Mortgage Finance Agency (NJHMFA) Tax Exemption.

506.01 Purpose.

Changing economic conditions reduce the availability of private sector financing for construction of new housing, conversion of non-residential structures to housing, rehabilitation and improvement of existing housing and transfer of existing housing for rental tenants and owner occupants. NJ Housing and Mortgage Finance Agency programs assist in revitalization of urban areas; develop housing initiatives, provide flexible finance vehicles; support affordable rental and for-sale housing for low and moderate income residents, first-time and urban homebuyers, citizens in senior and assisted living facilities and special needs residents.

REFERENCES:
N.J.S.A. 55:14K – 1 et seq.
Tiffany Manor Assoc & NJHMFA v. City Newark, 18 N.J. Tax 190 (1999).
Police & Firefighters Retirement System of New Jersey v. Upper Deerfield, New Jersey Tax Court 2010

506.02 Qualified Housing Sponsors and Annual Gross Revenue Defined.

Housing sponsor is any person, partnership, corporation, or association, whether organized for profit or not for profit, to which the Agency has made or proposes to make a loan, either directly or through an institutional lender for a housing project.

Annual gross revenue means the total annual gross rental or carrying charge and other income of a housing sponsor from a project.

506.03 Enabling Ordinances for NJ Housing Mortgage Finance Agency.

A municipal governing body in which a housing project is financed by the NJ Housing and Mortgage Finance Agency (NJHMFA) may by ordinance or resolution, enter into an agreement with the sponsor. The project is to be exempt from real property taxation where the agreement requires the housing sponsor to pay in lieu taxes (PILOTs) for municipal services.

REFERENCES:
N.J.S.A. 55:14K–3
N.J.S.A. 55:14K-37

506.04 Payment In-Lieu of Taxes (PILOTs) for Municipal Services Required.

Agreements may require the housing sponsor to pay to the municipality an amount up to 20% of the "annual gross revenue" from each housing project for each year of operation following the substantial completion of the project. If agreement for exemption is entered into from the project mortgage's recording date to the date of the project's substantial completion, the annual PILOT payment must not exceed the amount of the

project's taxes for the year preceding the mortgage recording date. The exemption may not extend beyond the date on which the NJHMF Agency loan is paid in full. The assessor should have a copy of the terms of the mortgage in the file as a record for the beginning and ending date of the exemption.

REFERENCE:
N.J.S.A. 55:14K–37

506.05 Exemption Impacts Loans.

Unless a tax exemption remains in effect during the entire term of the loan or a shorter tax exempt period is approved by NJHMF Agency no loan will be made for construction, improvement or rehabilitation of housing projects.

REFERENCE:
N.J.S.A. 55:14K – 7a (8)

506.06 NJHMF Agency Itself is also Exempt from Real Property Taxes.

The property of the Housing and Mortgage Finance Agency is public property devoted to an essential public, governmental function and purpose and is exempt from taxes and special assessments of the State or any political subdivision.

REFERENCES:
N.J.S.A. 55:14K-34
N.J.S.A. 55:14K -37b

506.07 Beginning and Ending Dates of the Real Property Tax Exemption.

Tax exemption must not extend beyond the date on which the NJHMF Agency loan is paid in full. Assessor's should have copy of the mortgage terms on file for beginning/ending dates of exemption.

REFERENCE:
N.J.S.A. 55:14K – 37

506.08 Recording and Tracking a Mortgage Housing Finance Property Tax Exemption.

A tax exempt property under the Housing Mortgage Finance Law is recorded as exempt property on the Exempt Property List. The Exempt Property List code is:

Part 1	35 New Jersey Housing Mortgage Finance Agency
Part 2	15 Mortgage Housing Finance Project
Part 3	048 in lieu tax payment

The statutory reference for the Mortgage Housing Finance Law is N.J.S.A. 55:14K – 37. Initial and further date fields should be used to record the beginning and ending dates of exemption. The assessment exempt from taxes should be recorded in the value fields.

REFERENCE:
MOD IV User Manual.

507. Health Enterprise Zone Property Tax Exemption.

507.01 Health Enterprise Zone Defined.

A "Health Enterprise Zone" (HEZ) is a portion of a municipality designated as a "medically underserved area" by the State Commissioner of Health and Senior Services." Medically underserved area" (health professional shortage area) means an urban or rural area or population group in the State which has a health professional manpower shortage or a public or not-for-profit private medical or dental facility or other public facility designated by the Commissioner of Health and Senior Services. A municipality should contact the Commissioner of Health and Senior Services to verify eligibility of an area before HEZ exemption is granted.

REFERENCES:
N.J.S.A. 54:4-3.160; L.2004, C. 139 eff. March 1, 2005
N.J.S.A. 54A: 3-7
N.J.S.A. 18A: 71C-32 and 35

Eligible Areas

2005 (Unofficial) List of Municipalities designated as "Medically Underserved Areas" Eligible for HEZ. The list of medically underserved areas is to be reviewed and recertified annually.

REFERENCE:
N.J.A.C. 9:16-1

Municipalities with Populations of 30,000 or more	
Atlantic City	Camden City
East Orange City	Newark City
Irvington Township	Paterson City
Jersey City	Perth Amboy City
Trenton City	New Brunswick City
Plainfield City	Elizabeth City
Passaic City	City of Orange Township
Vineland City	Long Branch City
Lakewood Township	

Municipalities with Populations of 5,000 to 29,999	
Asbury Park City	Salem City
Wildwood City (Cape May)	Bridgeton City
Keansburg Borough	Paulsboro Borough
Pleasantville City	Freehold Township (Monmouth)
Phillipsburg Town	Woodbury City
Millville City	Mount Holly Township
Red Bank Borough(Monmouth)	Burlington City
Glassboro Borough	Highlands Borough (Monmouth)
Newton Town (Sussex)	Lindenwold Borough (Camden)
Middle Township	Absecon City (Atlantic)
Belmar Borough (Monmouth)	Hammonton Town
Carteret Borough (Middlesex)	Commercial Township (Cumberland)
Fairfield Township	Gloucester City (Camden)
Jamesburg Borough (Middlesex)	Warren Township (Somerset)

REFERENCE:
N.J.S.A. 18A:71c-35 List Provided by NJ Health and Senior Service
http://www.state.nj.us/health/

Geographic areas can be considered on a case-by-case basis by the Commissioner of Health and Senior Services, if adequate documentation is provided.

Contact: NJ Department of Health and Senior Services
50 East State Street, 6th Floor, PO Box 364
Trenton, NJ 08625-0364

507.02 Municipal Implementation of a Health Enterprise Zone Property Tax Exemption.

A municipality may adopt a resolution to exempt from local property tax a structure, building or a portion thereof housing a medical or dental primary care practice located in the Health Enterprise Zone. Exemption remains in effect for tax years the State designation as an "underserved area" is in force, upon annual application by the property owner filed with and approved by the local assessor.

REFERENCE:
N.J.S.A. 54:4-3.160

507.03 Annual Application for Property Tax Exemption in a Health Enterprise Zone.

Property owners must apply for exemption on Form HEZ Claim for Property Tax Exemption of Medical/Dental Primary Care Facility in a Health Enterprise Zone, Chapter 139 P.L. 2004 effective March 2005. The application is filed with the municipal assessor. The application information includes:

- Property Location – municipality, county, street address, city, zip code, block(s), lot(s)
- Municipal Resolution/Ordinance Number and Date of Adoption

- Property Use
- Owner/Tenant Contact Information
- Tenant Rental Information – Tenant may be eligible for tenant rebate or Discounted rental payment
- Certification Statement and Signature

REFERENCES:
N.J.S.A. 34:1B-189
N.J.S.A. 54:4-3.160
NOTE: There are separate Gross Income Tax Benefits for qualifying HEZ property. See Technical bulletin on the Division of Taxation website http://www.state.nj.us/treasury/taxation/pdf/pubs/tb/tb56.pdf

508. Special Local Improvements, and Improvement Districts (SIDS).

A local improvement is one where the cost or a portion of the cost may be assessed on the lands in the vicinity which benefit from that local improvement.

REFERENCE:
N.J.S.A. 40:56-1

The statute further provides that special assessments may be imposed upon the parcels of real estate affected by the local improvement:

"All assessments levied under this chapter for any local improvements shall in each case be as nearly as may be in proportion to and not in excess of the peculiar benefit, advantage or increase in value which the respective lots and parcels of real estate shall be deemed to receive by reason of such improvement." N.J.S.A. 40:56-27.

Some examples of local improvements are curbing, sidewalks, paving, decorative lamp posts.

The justification for a municipality to levy a special assessment is the benefit or enhancement of value which the improvement confers upon property so assessed. Gabriel v. Paramus, 45 N.J. 381, 384, (1965). Although local assessments are sometimes denominated as special taxes for the payment of the cost of certain kinds of public improvements and are generally sustained under the exercise of the power of taxation, nevertheless such local assessments differ from general taxes:

> "[Local assessments] are not a tax at all in the constitutional sense or as taxes are generally understood, although it has been said that 'assessments for local improvements form an important part of the system of taxation.' Assessments as distinguished from other kinds of taxation are those special and local impositions upon the property in the immediate vicinity of the municipal improvements, which are necessary to pay for the improvement, and are laid with reference to the special benefit which the property is supposed to have derived therefrom. 14 McQuillin, Municipal Corporations, (3rd ed.), sec. 38.01, pp. 11 to 15." In re Public Service Electric & Gas Co., 18 N.J. Super. 357, 363 (App. Div. 1952).

Similarly, a Special Improvement District (SID), Business Improvement District (BID), Pedestrian Mall, Downtown and Main Street areas or commercial mixed use corridor permits a special assessment for the cost of improvements for property owners who benefit from the improvements. Such districts were authorized by statute in 1984 and are formed by municipal ordinances. Assessment revenues are utilized, for example, for improvement upgrades and maintenance, marketing, and security. The municipal executive officer may create or appoint an advisory board to the local governing board or a management corporation. The corporation sets the agenda and determines the budget and assessment amount. Improvement Districts are a means for property and business owners in a community to organize as a single entity to enhance or expand municipal services through these special local assessments. Municipal ordinance may exempt residential properties from the special assessments. The State

provides technical assistance and support via the NJ Department of Community Affairs see http://www.state.nj.us/dca/.

REFERENCES:
N.J.S.A. 40:56-65 et. seq.
N.J.S.A. 40:56-73 re: ordinance
N.J.S.A. 40:56-79 re: creates management corp.
N.J.S.A. 40:56-80 re: Assessment Lists
2nd Roc- Jersey Associates v. Morristown, 158 N.J. 581 (1999).
Informal Attorney General's Opinion- Haushalter(1975)

508.01 Mod IV Designation of Properties in Special Districts.

Each property in the designated district is coded in the New Jersey Property Tax System (MOD IV) with Special Taxing District code "S". The "S" is used regardless of the specific type of improvement district. If there is more than one Special Improvement or Business Improvement District, a two character numeric field is used for further delineation, as for example, the first district would be "S01" and the second district would be "S02".

REFERENCE:
MOD IV Manual

508.02 Calculating a Rate and Billing for an Improvement District.

Improvement District costs are billed to properties which are part of a district. The New Jersey Property Tax MOD IV System calculates the aggregate assessed value of the district. By statute the district's officers provide the "amount to be raised by taxation" to the municipal assessor. A rate for the Improvement District is calculated by dividing the amount to be raised by taxation by the aggregate assessed value of the property in the district. The rate is then applied to the assessed value of each property in the district to calculate the special assessment. The special district budget is provided to the County Tax Administrator and the special district tax rate is calculated and recorded with the other rates for the Abstract of Ratables. The rate and the taxes are printed on the tax bill.

REFERENCES:
N.J.S.A. 40:56-83
N.J.S.A. 54:4-52

509. Reallocation Aid District (RAD), Economic Redevelopment, and Economic Growth Grants (ERG, EGG).

509.01 Purpose.

Another district intended to combat deteriorating infrastructure and attract and retain business through private investment and redevelopment by using an incremental tax was created by the Revenue Allocation District Financing Act, N.J.S.A. 52:27D-459 et seq., (P.L. 2001, c.310). The RAD Act was superseded by the "New Jersey Economic Stimulus Act of 2009 (P.L. 2009, c.90). Some basic steps in the RAD/ERG process include: Apply for approval to create the district. Municipality adopts ordinance to establish the district and to designate the managing agent, e.g., municipality, county, improvement authority, etc. Ordinance must contain map of the proposed area which may not exceed 15% of total taxable property assessed within municipality (20% w/approval of DCA's Local Finance Board.) Prepare preliminary plan for Board approval. Upon receipt of two-part plan approvals, bonds can be issued, again upon approval from the Board, to finance project costs. See N.J.S.A. 52:27D-489a to 489n for more comprehensive redevelopment in certain areas.

REFERENCES:
N.J.S.A. 52:27D- 459 et. seq., P. L. 2001 c. 310
N.J.S.A. 52:27D – 489a-489n

509.02 Designated Areas and Projects.

The municipal governing body may by ordinance establish a RAD/ERG District. The total taxable value in all designated districts must not exceed 15% of the total taxable property assessed in the municipality determined by the local assessor. However, by request of the governing body approval

may be given for up to 20% of the total taxable property assessed in the municipality as approved by the assessor. Statutory authority further provides for the designation of "qualifying economic redevelopment and growth incentive areas as:

- Planning Area 1 (metropolitan)
- Planning Area 2 (suburban)
- Transit Village (part of a municipality)
- Federal Land approved for closure under a Federal Base Realignment Closing Commission Action determined by the Commissioner of Transportation
- A Pinelands Regional Growth Area, town management area or village redevelopment plan of the NJ Meadowlands Commission

Within these areas a municipality may approve specific improvement projects including buildings, real and personal property, land and lands under water, riparian rights, space rights, air rights or any interest therein undertaken by a developer.

REFERENCE:
N.J.S.A. 52:27D-462 (14b)

509.03 Financing and Property Tax Increments.

The municipal governing body located in a qualifying Economic Redevelopment or Growth Grant Area (ERG & EGG) may adopt an ordinance to establish a program to provide incentive grants to reimburse developers for all or a portion of financing gaps for redevelopment projects. No local Economic Redevelopment and Growth Grant Program can take effect until the Local Finance Board in the Department of Community Affairs approves the ordinance. The ordinance must define by block and lot all the properties included in the designated area. Economic Development and Growth Grants are also available at the State level

through the NJ Economic Development Authority. There are several funding mechanisms for area improvements. When a "Property Tax Increment" is used for financing the municipal assessor and County Tax Administrator are required to maintain base assessment information, annual changes in the base information, the apportionment of shared budgets and calculation of the tax rate.

REFERENCES:
N.J.S.A. 52:27D- 489d (4a) and 489e (5a)
N.J.S.A. 52:27D – 489a-489n

509.04 Determining the Property Tax Increment.

The assessed value of each property and the aggregate assessed value of the designated area are recorded. The assessor designates each property in the district with the code letter "D" in the special taxing district field. The New Jersey Property Tax System (MOD IV) provides the aggregate assessed value of the district on an annual basis. Because MOD IV does not provide for the base assessment of a RAD/EGG area, the assessor must find a way to record the base assessment information. The Property Tax Increment is equal to the difference between the total assessed value of a RAD/EGG district for the base year and the current assessed value of the district. If there is more than one RAD/EGG in the district and they have different base years a separate calculation is made for each RAD/EGG district and the Property Tax Increment for each RAD/EGG is totaled. The current year aggregate assessed value of the RAD/EGG district will change every year, but the base year value of the RAD/EGG district will remain constant until the implementation of a revaluation or reassessment. No adjustments are made to the base year total for appeals or "corrections of errors."

REFERENCES:
N.J.S.A. 52:27D- 489a- 489n
N.J.S.A. 52:27D - 473e

509.05 Assessor to Certify Property Tax Increment to County Tax Administrator.

At a minimum, certification by the assessor should include:

- Base Year of RAD/EGG
- Base Year Aggregate Assessed Value of RAD/EGG
- Current Year Aggregate Assessed Value of RAD/EGG
- Property Tax Increment (Difference in Base Year Aggregate Assessed Value and Current Year Aggregate Assessed Value of RAD/EGG)
- Percent of Property Tax Increment dedicated to the RAD/EGG district
- Whether a revaluation or reassessment was implemented for the current tax year?
- The certification should be filed prior to February 1.

REFERENCE:
N.J.S.A. 52:27D- 489a- 489n

509.06 Impact of Property Tax Increment on County Equalization.

Because county equalization does not utilize the base year aggregate assessed value of the RAD/EGG district, the Property Tax Increment does not impact equalization.

REFERENCES:
N.J.S.A. 52:27D- 489a – 489n

509.07 Impact of Property Tax Increment on Apportionment of Shared Budgets and Tax Rates.

The aggregate of Property Tax Increments is to be removed from the total ratable base for calculating of tax rates and removed from the net valuation on which county taxes are apportioned. A column should be added to the Abstract of Ratables and the Table of Aggregates for recording this amount. The current New Jersey Property Tax System MODIV does not include the fields to complete the certification to the County Tax Administrator. On the Abstract of Ratables the assessed value

of the property tax increment is noted as a reduction to column 11 "Net Valuation on which County Taxes are Apportioned."

REFERENCE:
N.J.S.A. 52:27D -489a – 489n

509.08 Calculation of Property Tax Increment Dollars.

The tax rate is calculated after the ratable base is reduced by the Property Tax Increment assessment. The taxes for each individual property in the municipality are calculated using the current year assessment.

The law permits up to 75% of the taxes calculated from the Property Tax Increment to be dedicated to the district and deposited in the fund dedicated for that purpose.

There is no change in the billing procedure.

REFERENCE:
N.J.S.A. 52:27D- 489a- 489n

509.09 Property Tax Increment and the Director's Table of Equalized Valuations.

The Property Tax Increment should be removed from the Equalized Value for the apportionment of regional school taxes. But the full incremental value of a project area must be included in the value used for county and regional school tax apportionment until the Director of the Division of Taxation can certify that the property tax management systems are capable of handling the technical and legal requirements of treating parcels in areas of redevelopment as exempt from county and regional school apportionment.

REFERENCE:
N.J.S.A. 54:27D- 489a- 489n

510. Garden State Growth Zones as per the Economic Opportunity Act of 2013.

Public Law 2013, chapter 161, or the "Economic Opportunity Act of 2013," encourages development and private sector job growth through "Garden State Growth Zones." Sections 22, 23, and 24 of P.L. 2013, c. 161 are pertinent to County Tax Administrators and Tax Assessors.

REFERENCE:
Public Law 2013, chapter 161, sections 22, 23 24.

510.01 Garden State Growth Zone.

Garden State Growth Zone is defined as the five New Jersey cities (Atlantic City, Camden, Trenton, Passaic City, and Paterson) with the lowest median family income based on the 2009 American Community Survey from the US Census. They are declared to be blighted areas and in need of rehabilitation and must, by ordinance, opt-in to this program within 90 calendar days (by December 17, 2013) of the enactment of P.L. 2013, c. 161.

510.02 Eligible Persons.

Eligible persons are purchasers or renters of an eligible residential residence within a Growth Zone after the enactment of P.L. 2013, c. 161. This is limited to individuals who establish permanent residency at the eligible residence, are subject to the NJ Gross Income Tax Act, and are current with state and local tax obligations.

510.03 Eligible Property.

Eligible property can be residential, commercial, industrial, or business and must be located within a Growth Zone. The property must receive a Certificate of Occupancy or be transferred in a legal sale on/after July 1, 2013. Purchasers of newly constructed homes are not applicants.

510.04 Exemption.

Exemption is that portion of the assessor's full and true value of any improvement; conversion; alteration; redevelopment; rehabilitation; or construction and is not to be regarded as increasing the taxable value of any eligible property within a Growth Zone.

510.05 Improvements.

Improvements include any repair, construction, reconstruction, including alterations or additions which rehabilitate a deteriorated property so that it becomes habitable and improves safety, health, economic use or amenity. Ordinary upkeep and maintenance is not considered an improvement.

510.06 Garden State Growth Zone Development Entity.

Garden State Growth Zone Development Entity is defined as a private corporation for which the profits are limited. The entity is exempt for improvements to eligible property for any new construction, improvements, or substantial rehabilitation of structures for a period of 20 years from receiving a final Certificate of Occupancy provided that a municipality within the Growth Zone, by ordinance, opts-in to such program within 90 calendar days of the enactment of P.L. 2013, c. 161.

510.07 Exemption Requirements.

The exemption is dependent upon the real property owner making improvements to the real property after the enactment of P.L. 2013, c. 161; and the Department of Community Affairs, Division of Codes and Standards, in consultation with the eligible municipality, issuing a final Certificate of Occupancy within 10 years of the date of enactment of P.L. 2013, c. 161.

510.08 Exemption Period.

The exemption period extends for a period of 20 years. The first 10 years immediately subsequent to the issuance of a Certificate of Occupancy, the Garden State Growth Zone Development Entity is exempt from the payment of property taxes on the improvements to the eligible property. Thereafter, the Garden State Growth Zone Development Entity pays the municipality in lieu of full property tax payments in an amount equal to a percentage of taxes otherwise due, as follows:

Eleventh Year	Not less than 10% of taxes otherwise due
Twelfth Year	Not less than 20% of taxes otherwise due
Thirteenth Year	Not less than 30% of taxes otherwise due
Fourteenth Year	Not less than 40% of taxes otherwise due
Fifteenth Year	Not less than 50% of taxes otherwise due
Sixteenth Year	Not less than 60% of taxes otherwise due
Seventeenth Year	Not less than 70% of taxes otherwise due
Eighteenth Year	Not less than 80% of taxes otherwise due
Nineteenth Year	Not less than 90% of taxes otherwise due
Twentieth Year	100 % of taxes otherwise due, and each year thereafter

An amount not less than five percent of all payments is paid to the county in which the municipality is located.

510.09 Termination of Exemption.

Upon termination of the exemption granted, the project, all affected parcels, land, and all improvements made are assessed and subject to taxation as are all other taxable properties in the municipality.

510.10 Property owners who do not qualify as a Garden State Growth Zone Development Entity.

Owners who don't qualify as a Garden State Growth Zone Development Entity may still be eligible for an exemption from taxation for improvements. Municipalities must consider the assessor's full and true value of the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby.

510.11 Sale of Property.

Any exemption obtained under this act is fully transferable upon the sale of real property, as long as the new owner meets all requirements for exemption.

Chapter 6 Real Property Assessment

601. Basis of Real Property Value.

601.01 Constitutional Value Standard.

The uniformity clause of New Jersey's Constitution requires that all real property, unless exempted or excepted, must be assessed according to the same standard of value.

601.02 Statutory Provisions.

Statutes define the standard of value as the "true value" of the property, that is, the price at which, in the assessor's judgment, each parcel of real property "would sell for at a fair and bona fide sale by private contract on October first next preceding the date on which the assessor shall complete his assessments…"

Every valuation of real property must be based on some sort of appraisal. Numerous methods are available. The method depends on the purpose for which the appraisal is made. For example, the value of property for insurance purposes, the value for investment purposes or the value of utility property for determining rates to be charged is not the same as the value for taxing purposes. In appraising a property for tax assessment purposes, the appraisal must be made in accordance with the basis of real property value recognized by State law, as interpreted by the courts.

REFERENCES:
Constitution of New Jersey, Article VIII, Section 1, Paragraph 1.
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-2.25
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
N.J.S.A. 54:4-35

601.03 Taxable Value.

Each County Board of Taxation establishes on or before April 1 of the pretax year, the percentage of true value at which real property will be assessed. The percentage selected must be a multiple of 10%. When this percentage is applied to the "true value" of a property, the result is the "taxable value" of the property. All twenty-one County Boards of Taxation have selected 100% as the percentage of true value at which assessments are to be expressed. Historically the selection of a percentage of less than 100% would not have relieved the assessor of the responsibility for finding the true value. Once the percentage level was established, it remained in effect beyond the minimum three year period until it was changed by the County Board of Taxation. If a County Board of Taxation failed to set a percentage level, the percentage automatically became 50%.

REFERENCES:
N.J.S.A. 54:4-2.25 to 54:-2.27

601.04 Judicial Interpretations.

The Constitution and statutes provide the basis of property valuation. Judicial interpretations of the statutes define further the methods which may be used to arrive at a property value for tax purposes. The following principles and methods have come to be generally accepted by the courts.

601.05 Willing Buyer – Willing Seller.

The courts have held that property must be assessed on the basis of the price, in terms of money, which it would bring in a private sale by an owner who is willing, but not forced to sell, to a purchaser who is willing, but not forced to buy property.

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
City of Newark v. West Milford Township, 9 N.J. 295 (1952).
Gibraltar Corrugated Paper Co. v. North Bergen Township, 20 N.J. 213 (1955).

601.06 Stability of Value.

The courts have indicated that property value changes relatively slowly, and that values arrived at by one or more of the three Approaches to Valuation may not reflect the true value of the property. For example, abnormal market conditions of short duration, abnormal construction costs or income conditions have been held to cause inaccurate true property value.

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
City Holding Co. v. State Board of Tax Appeals, 127 N.J.L. 168 (Sup. Ct. 1941).
Harborside Warehouse Co. v. Jersey City, 128 N.J.L. 263 (Sup. Ct. 1942) affirmed 129 N.J.L. 62 (E. and A. 1942) certiorari denied 318 U.S. 769; 63 S. Ct. 762 (1943).
City of Newark v. West Milford Township, 9 N.J. 295 (1952).
In re Erie R. System, 19 N.J. 110 (1955).

601.07 Property Valued in Condition Held.

Property must be valued for tax purposes in the "condition in which it is held" by the owner on the assessment date, October 1 of the pretax year for the next calendar tax year. An assessment would be considered invalid if it were based on anticipated or future use. However, the courts have also held that alternative uses to which the property might be put while in its present condition should be considered in arriving at a value. (Highest and Best Use)

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
Colwell v. Abbott, 42 N.J.L. 111 (1880).
Borough of Haworth, v. State Board of Tax Appeals, 127 N.J.L. 67 (Sup. Ct. 1941).
L. Bamberger and Co. v. Division of Tax Appeals, 1 N.J. 151 (1948).
Donato Clemente v. South Hackensack, 27 N.J. Tax 255 (Tax Court 2013).

601.08 Assessments at the "Common Level."

The courts have ruled that despite the "true value" requirement of the law a dominant principal of equality of treatment and burden must prevail. No assessment may be sustained at a ratio to true value which is above the "common level" of all assessments in the taxing district. Absent other evidence, the courts accept the Average Assessment-Sales Ratio determined by the Director of the Division of Taxation for School Aid purposes as the "common level" for the district. A common level ratio for each municipality is published annually on April 1 by the Director, Division of Taxation and may be obtained from the Division's website at http://www.state.nj.us/treasury/taxation/lpt/statdata.shtml.

REFERENCES:
Real Property Appraisal Manual For New Jersey Assessors.

601.09 Limits of Value.

The market value of a property is usually found somewhere between the highest and lowest figures obtained from the three Approaches. The range between the high and low estimates is known as the "Limits of Value.

REFERENCES:
N.J.S.A. 40A:4-53 and 55
N.J.A.C. 18:23A-1.1 et seq.
Local Property Tax Bureau News, March, 1953; p. 1; January, 1956 p. 1; November, 1956, p. 2; August-September, 1958, p. 2; October, 1958, p.2.
Tax Map Specifications. (Public Utility Tax Bureau, State of New Jersey) p. 1.
Real Property Appraisal Manual For New Jersey Assessors, pp. I-11 and I-12.
Local Property Tax Bureau News, November, 1956, p.2.

602. Assessor's Values- Presumed Correct at Appeal.

602.01 Presumption of Correctness.

The courts take the position that an assessment is valid until proven incorrect. The burden of proof initially is on the "appellant."

REFERENCES:
N.J.S.A. 54:4-1; 54:4-23
Aetna Life Insurance Co. v City of Newark, 10 N.J. 99 (1952).
Appeal of Kresge-Newark, Inc., 30 N.J. Super. 489 (App. Div. 1954).

603. Recognized Approaches to Value.

The validity of three methods for estimating property value for tax purposes is recognized: Market Data or Sales Comparison Approach; Replacement/Reproduction Cost or Summation Approach; and Income or Capitalization Approach. The courts have indicated that the result of a single Approach, in itself, is not to be considered an absolute determinant of the true value of a property. Whenever possible all three Approaches should be used in the final determination of value for tax purposes.

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251
In re Eric R. System, 19 N.J. 110 (1955).
Recommended Reading:
The Appraisal of Real Estate, American Institute of Real Estate Appraisers, Chicago, IL (1977).
Property Appraisal and Assessment Administration, IAAO, Chicago, IL (1990).

603.01 The Sales Comparison Approach or Market Data Approach.

The Comparison Approach analyzes the actual sale prices paid for comparable, real property in an effort to estimate the sales value of the subject property if it were placed on the market. When using the Comparison Approach:

1. The sales must be bona fide. That is, they must represent sales by a willing seller to a willing buyer. If, the sale is not considered bona fide, it should be disregarded. For example, a sale between members of the same family would probably not reflect the true value of the property.

2. The sales must be of comparable property. If the property sold differs in any substantial way from the property being appraised, adjustments are made to compensate for the differences. Common adjustments are the date of the sale, the location of the property, desirability or undesirability of the neighborhood; type of construction and number of rooms, number of baths, general condition, age, living area.

The Sales Comparison Approach is useful for the appraisal of land where the adjustment of sale prices for differences is fairly simple. The adjustments for buildings can be more difficult. The more specialized a

structure, the less use can be made of the Comparison Approach in estimating its value.

REFERENCES:

Real Property Appraisal Manual for New Jersey Assessors.
Lesley F. Greenblatt v. Englewood City, 26 N.J. Tax 41 (Tax Court 2010).
Elizabeth Center Apartments Urban Renewal Corporation v. City of Elizabeth, 27 N.J. Tax 196 (Tax Court 2013).

Tax Year 2014

Sales Comparison Adjustment Grid (Valuation Date 10/1/2013)

ITEM	SUBJECT	COMPARABLE #1		COMPARABLE #2		COMPARABLE #3	
Address	24 Broad St	3 Pine St		122 New Av		78 North Pl	
Block/Lot	22/6	166/3		23/14		55/21	
Proximity to Subject		.5 mile		2 Blocks		.10 mile	
Sales Price		$540,000		$505,000		$515,000	
		175.78		194.83		182.95	Price/Gross Liv. Area
Value Adjustments	DESCRIPTION	DESCRIPTION	Adjustment +/-	DESCRIPTION	Adjustment +/-	DESCRIPTION	Adjustment +/-
Sales Date		07/16/13	16,200	09/27/13		6/6/2013	20,600
Sales Concessions		Conv.		Conv.		Conv.	
Location	Avg	Traffic St	5,000	Avg		Avg	
Land Size	200x200	215x381	-2,000	180x190	2,000	202x197	
Style	Colonial	Colonial		Colonial		Colonial	
Quality of Construction	Avg	Avg		Avg		Avg	
Age	40	48	5,000	40		42	
Condition	Avg	Avg		Avg		Avg	
	Total | Bdrms | Baths	Total | Bdrms | Baths		Total | Bdrms | Baths		Total | Bdrms | Baths	
Rooms Above Grade	7 4 2.5	8 4 3.5	-5,000	7 4 2.5		7 4 2.5	
Gross Living Area	2,581	3,072	-34,400	2,592		2,815	-16,400
Basement & Finished	100/0	100/0		100/0		100/0	
Rooms Below Grade							
Functional Utilities							
Heating / Cooling	FHA/AC	HWBB/AC		FHA/AC		FHA/AC	
Garage / Carport	1 car	2car	-5,000	1 car		2 car	-5,000
Porches, Patio, Pools etc.	Patio	Porch/Deck/2Patio	-2,000	Patio		None	2,000
Special Energy Efficient Items		pool	-3,000				
Fireplace(s)	1	None	4,000	None	4,000	1	
Other (e.g. kitchen equip., remodeling)							
Net Adj, (Total)			-21,200		6,000		1,200
Indicated Value of Subject			$ 518,800		$ 511,000		$ 516,200
Gross Total Asmt	315,000	323,000		284,800		305,300	
Notes/Comments:	Time Adjustment 1%/Month - Comparable 1 adjusted 3 months, Comparable 3 adjusted 4 months Square Foot Adjustment $70/SF						
FINAL VALUE ESTIMATE $511,000							

603.02 The Replacement Cost Approach

The Replacement Cost Approach uses current building costs, and standards of material and design to estimate the cost of creating a building having the same utility as that of the subject property. An allowance then is made for depreciation. A value for the land is determined separately and added to the value developed for the building.

Current construction costs per square or cubic foot are available from a number of sources such as *Marshall and Swift* and *RS Means* for various types of construction. The Replacement Cost Approach frequently makes use of cost conversion factors which indicate the trend of building costs over a period of time and for different locations.

The *Real Property Appraisal Manual for New Jersey Assessors*, issued by the Local Property Branch, contains real property cost data for New Jersey, classed according to type and use for buildings and other kinds of real improvements. Each class is graded from the poorest construction to the best. A unit cost, usually on a square foot basis, is computed for each type of property. While the Replacement Cost Approach can be used for all types of structures, it is of no value by itself in valuing land.

The Reproduction Cost Approach

The Reproduction Cost Approach is based on a determination of the cost of reproducing an exact duplicate or replica of the building at current prices, and deducting from that cost a sum for the depreciation or loss in value resulting from the fact that the subject building is not new, and finally adding the land value which is separately determined, to the depreciated value of the building. The Reproduction Cost Approach uses the same materials, construction standards, design, layout and quality of workmanship, embodying all the deficiencies, super adequacies and

obsolescence of the subject building. This Approach is commonly used for historic property. The assessor should note that the cost of reproducing the building is not necessarily the current value of the building. Careful attention should be paid to estimating obsolescence and other forms of depreciation, guides for which are contained in the *Real Property Appraisal Manual for New Jersey Assessors*.

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
Town of Kearny v. Division of Tax Appeals, 137 N.J.L. 634 (1948) affirmed by 1 N.J. 409 (1949).
Real Property Appraisal Manual For New Jersey Assessors.

603.03 The Income Approach or Capitalization Approach.

The Income Approach or Capitalization Approach requires an analysis of the income produced by a property in order to estimate the sum which a person might prudently invest in the purchase of the property. The Income Approach is used in the appraisal of income-producing properties, such as stores, apartment houses. A detailed budgetary study must be made of the property. Gross annual income is either determined from actual figures or is estimated. Annual expense figures are obtained from the owner. Rents, operating expenses, and fixed charges of the subject property are analyzed and adjusted. The expenses then are subtracted from the gross income. The resultant net income is capitalized at an interest rate which the property investor can expect as a reasonable return. The capitalized value of the net income represents the present value of the property by this Approach.

Capitalization Rate- An overall capitalization rate is an “income rate for a total real property interest that reflects the relationship between a single year’s expected net operating income and the total property price or

value…" The overall capitalization rate is "used to convert net operating income into an indication of overall property value."

In using the Income Approach, the assessor must be sure that the income utilized can be traced strictly to the property itself, and not to the business which is conducted on the premises.

By law, the assessor should require the owner of income-producing property to furnish income data ("Chapter 91 Request"). If the owner refuses, the assessor may value the property at that amount which he believes it may be worth.

Steps in the Income Approach.

1. Determine the gross income of the property. If there is reason to believe that the actual current gross income does not represent a true picture of the future earning capacity of the property, a stabilized estimate of gross income should be used.
2. Establish the effective gross income by deducting an allowance for vacancies and collection loss (unpaid rents) from the gross income.
3. Find the net income by deducting allowable operating expenses from the effective gross income. In analyzing expense statements, the assessor must exercise care. Not all expense items are allowable in the Income Approach or the expenses listed may be higher or lower than normally expected. If this appears to be the case, only reasonable expense figures should be used.
4. Capitalize the net income to arrive at a value for the property.

   Capitalization Rate- An overall capitalization rate is an "income rate for a total real property interest that reflects the relationship between a single year's expected net operating income and the total property price

or value…" The overall capitalization rate is "used to convert net operating income into an indication of overall property value. Several methods of capitalization are available. The selection of a particular method depends largely upon the characteristics of the future income expected from the property. Direct capitalization and straight capitalization with straight line or sinking fund recapture are examples.

The Band of Investment technique is used to calculate an overall capitalization rate. "This technique is a form of 'direct capitalization' used 'to convert a single year's income estimate into a value indication.' The technique includes both a mortgage and equity component." The Band of Investment technique has been accepted by the Tax Court as a method of calculating market capitalization rates.

REFERENCES:

N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42.
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251.
North Bergen Township v. Bergen Blvd. Holding Co., 133 N.J.L. 569 (E. and A. Ct. 1946).
Diorio v. Atlantic City Sewerage Co., 20 N.J. Misc. 105 (1942).
Borough of Haworth v. State Board of Tax Appeals, 132 N.J.L. 306 (Sup. Ct. 1945).
Town of Kearny v. Division of Tax Appeals, 137 N.J.L. 634 (1948) affirmed by 1 N.J. 409 (1949).
Aetna Life Ins. Co. v. City of Newark, 10 N.J. 99 (1952).
City of Trenton v. John A. Roebling Co., 24 N.J. Super. 213 (App. Div. 1953).
City of Passaic v. Gera Mills, 55 N.J. Super. 73 (App. Div. 1959).
Gale and Kitson Fredon Golf, LLC. v. Township of Fredon, 26 N.J. Tax 268 (Tax Court 2011).
90 Riverdale, L.L.C. v. Borough of Riverdale, 27 N.J. Tax 328 (Tax Court 2013).
Venture 17 v. Hasbrouck Heights, 27 N.J. Tax 108 (Tax Court 2013).
Marina District Development Co., L.L.C. v. City of Atlantic City, 27 N.J. Tax 469 (Tax Court 2013), aff'd by 2015 N.J. Tax Court(App. Div. July 6, 2015).
Appraisal Institute, Appraisal of Real Estate, (10th ed 1992 & 13th ed 2008).

Hull Junction Holding, 16 N.J. Tax 68- 83 (quoting Glen Wall Assoc., 99 N.J. 265).

604. Building Assessment.

604.01 Approaches to Value.

Wherever possible, all three Approaches to Value should be used in the valuation of every property. Residential and farm properties are usually appraised through the use of the Replacement Cost Approach and the Comparison Approach. If information is available, the assessor may also consider using the Income Approach. More frequent use is made of the Income Approach in the valuation of commercial and industrial properties.

604.02 The Replacement Cost Approach.

Estimates the cost of creating a building having the same or equivalent utility as the subject building, as nearly as current prices and standards of material and design will allow.

REFERENCES:
The Appraisal of Real Estate, American Institute of Real Estate Appraisers.

605. Steps in using the Real Property Appraisal Manual For New Jersey Assessors.

1. Measure the subject property. Measuring begins at the right front corner of the building and proceeds around it in a clockwise direction until the point of beginning is reached again. Measure all indentations and protrusions as they appear.

2. Inspect the subject property, recording building data on a property record card. Building notes should include such items as the age of the

property, any major alterations, approximate cost, and date of their completion.

3. Classify the building according to type and grade. This is the most important step in using the *Real Property Appraisal Manual for New Jersey Assessors*. Compare the descriptive data on the property record card of the subject property with the base specifications listed in the *Real Property Appraisal Manual for New Jersey Assessors* for each class of property. The classification selected for the subject property should be one requiring the least number of additions and deductions due to variations from the base specifications. The assessor should consider quality of construction materials and workmanship in determining the grade of the structure.

4. The present physical condition of the building is not a factor in determining classification. Any loss in value due to poor physical condition should be covered by adjustments under depreciation, not by a change in building classification.

5. Complete the calculations: including determination of areas; cubic contents if necessary; unit construction costs; additions and deductions; and depreciation and obsolescence.

6. Review the final appraised value of the property by checking it against available sales. A re-inspection of the property is helpful.

Following these steps in order will enable the assessor to obtain maximum performance from the *Real Property Appraisal Manual for New Jersey Assessors*.

REFERENCES:
Real Property Appraisal Manual for New Jersey Assessors.

605.01 Unit Construction Costs.

To figure the construction cost of any structure, assessors must have knowledge of present building costs. Square foot of the construction cost is expressed as a unit cost per building area or per cubic foot of building volume. The principal source of unit construction cost figures for the assessor is the *Real Property Appraisal Manual for New Jersey Assessors*. The *Manual* provides a variety of unit construction cost figures based on a range of building characteristics, such as building use, quality of construction, type of materials used, number of floors, and size of floor area. For example, the cost of constructing an average grade, wood frame, two-story, single-family dwelling, with 1,000 square feet of floor area, is given in the *Manual* as $71.62 per square foot of ground floor area. Tables provide adjustments of the basic unit cost through additions or deductions for special building features for a particular class of building.

REFERENCES:
Real Property Appraisal Manual for New Jersey Assessors.

605.02 Cost Conversion Factors.

Base year unit cost figures contained in the *Manual*, June 2002, are kept up-to-date with annual cost conversion factors on line at the Division of Taxation, Local Property website at:
http://www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml.

A cost conversion factor provides an adjustment to bring the basic cost figures in the Manual into line with building costs for a specific year in a specific geographic area based on a buildings structure/use. For example, the October, 2011 cost conversion factor for a wood frame residence situated in Middlesex County is 1.41. While the *Manual* and the cost conversion factors have been prepared carefully, the assessor should make

periodic checks of actual construction costs in his area. Records of buildings completed may be examined to determine unit costs. Local architects and builders may be consulted for their opinions of building costs.

Because the cost conversion factors are county based, the assessor may develop his own adjustment or cost conversion factor to bring the *Manual* into line with the actual local costs.

REFERENCES:
Real Property Appraisal Manual for New Jersey Assessors.

605.03 Depreciation.

Depreciation is the loss in value from all causes in any structure. There are three principal types:

1. Physical Depreciation or deterioration is the loss in value which results from the aging process. All objects decline in value due to the wear and tear of age or constant use. Proper maintenance may lessen the rate of loss, but will never completely stop physical depreciation.

2. Functional Obsolescence is the loss in value caused by factors inside the subject property. Overtime the functional design of one era may become less valuable than that of a later era. For example, a four-story office building without an elevator would be functionally obsolescent. Even though well-maintained, the value of the building would decline because access to the upper stories would be more difficult.

3. Economic Obsolescence is the loss in value caused by factors outside the subject property. Changing neighborhood characteristics and the presence of undesirable properties contribute to economic obsolescence. For example, an apartment house located near a sewage

disposal plant would suffer from economic obsolescence if the plant frequently gave off unpleasant odors.

The Real Property Appraisal Manual for New Jersey Assessors provides policy which guides assessors in estimating physical depreciation and functional and economic obsolescence. Wherever possible, guideline depreciation should be checked against local data.

Material Depreciation of Structure Between October 1 and January 1. Where real property is destroyed by fire, natural disasters, e.g., storms, tornados and earthquakes, or intentional demolition so that its value is materially depreciated after October 1 and before January 1 of the following year and the assessor is notified before January 10th, the assessor must value the property as it stands on January 1. However, if property is removed or destroyed subsequent to January 1, or if assessor is not timely notified prior to January 10, property must be valued as it existed on pretax year October 1st, the statutory assessment date.

REFERENCES:
Real Property Appraisal Manual For New Jersey Assessors.
N.J.S.A. 54:4-35.1
East Washington Realty v.Washington Boro., 14 N.J.Tax 560 (1995) affirmed 15 N.J. Tax 705.
Rutherford Constr. Co. v. Rutherford Boro., 6 N.J. Tax 605 (1984).
Galloway Township. V. Dorflinger , 2 N.J. Tax 358 (1981).
Regent Care v. Hackensack City, 27 N.J. Tax 138 (Tax Court 2013).

606. Land Assessment.

606.01 Urban Land Valuation.

The Real Property Appraisal Manual for New Jersey Assessors provides land value rules and calculations for urban lots of irregular shape and size. Adjustments are suggested for such factors as corner influence and alley influence. The rules may be used:

1. to establish unit front foot values on the basis of sales data;
2. to apply the established unit front foot values to lots to estimate the property's value.

Assessors should make adjustments on the basis of conditions in each neighborhood.

REFERENCES:
Real Property Appraisal Manual For New Jersey Assessors.

606.02 Rural Land Valuation.

Acreage in rural areas must be valued for taxation based on the existing market, unless the owner is receiving special tax treatment under the Farmland Assessment Act. Even where the land qualifies under the Farmland Assessment Act, the assessor must establish the market value including the prospective value for subdivision or development purposes to be able to assess the "roll-back" taxes due if the use of the land changes from a qualifying agricultural one. Guidelines for valuing rural land are found in the *Real Property Appraisal Manual For New Jersey Assessors*.

REFERENCES:
N.J.S.A. 54:4-1, 54:4-23.1 et seq.
Colwell v. Abbott, 42 N.J.L. 111 (1880).
Real Property Appraisal Manual for New Jersey Assessors.

606.03 Rurban Land Valuation.

Rurban land lies between heavily populated urban areas and sparsely inhabited rural areas. It is characterized by elements of both areas. Some farming is done, but usually only for household use and it is not pursued on a full-time basis. The sizes of the tracts are larger than the lots of an urban area, but too small to support a family on farming alone. Guidelines for valuing rurban land are available in the *Real Property Appraisal Manual for New Jersey Assessors.*

REFERENCES:
***Real Property Appraisal Manual For New Jersey Assessors*.**

606.04 Sales Comparison Approach.

The Sales Comparison Approach is commonly used in the valuation of land. The process is the same as with buildings; sales of comparable parcels are used to estimate the value of a subject land parcel which has not been sold. A major difficulty with this Approach is that there are often not enough comparable land sales as to location, date of sale, and condition of land. Available sales must be adjusted to accommodate for differences.

REFERENCES:
Hovbros Cinnaminson Urban Renewal, LLC v. Twp. of Cinnaminson, N.J. Tax Court 2011(Site improvements included in vacant land value).

606.05 Allocation Method.

At times, it may be impossible to find comparable sales of vacant land or sales which can be adjusted satisfactorily. This is particularly true in central business districts and other built-up areas. Here, an Allocation Method is used. In the Allocation Method, the value of the entire property is estimated by the Income or Comparison Approaches; the value of the structure on the land is found by the Replacement Cost Approach and is deducted from the total value. The remaining amount is assumed to be the land value.

606.06 Land Residual Technique.

The Land Residual Technique is important where there are no unimproved or vacant land sales to support land value. When the building value on income producing real estate is known or can be estimated and represents the "highest and best use" of the land, the Land Residual Technique may be used to develop a land value. Here the net income amount imputable

to the property's building is subtracted from the overall net income. The remaining income is imputable to the land portion of the property. Net income imputable to the land is then capitalized into a land value by applying a capitalization rate.

REFERENCES:

***The Appraisal of Real Estate*, Sixth Edition, American Institute of Real Estates Appraisers, Chicago, Illinois.**
***Property Assessment Valuation*, International Association of Assessing Officers, Chicago, Illinois, 1988.**
Real Property Appraisal Manual for New Jersey Assessors.

606.07 Unit Land Values.

Unit land values provide a simple, uniform measurement of value which may be applied to all properties in a stated location. Two types of unit are used, the value per unit of area and the value per front foot:

1. **Area Units** – Area Units such as per acre or per square foot are applicable wherever it is assumed that, within the parcel, every plot or lot of land has the same value regardless of its location. For example, farmland is valued in terms of dollars per acre for each type of soil. The location of the land within the farm has little bearing on its value. Industrial land frequently is valued per square foot of area with each square foot having the same value for industrial purposes.

2. **Front Foot Units** – Front Foot Units of land value are used wherever, within a single parcel, the value of the land varies depending on its location on the parcel. For example, in commercial and residential areas the land at the front of the parcel, having ready access to the street, is usually considered more valuable than the rear portion of the parcel. To develop a front foot value, a standard depth is assumed and all land value data is tabulated on the basis of lots of that depth.

Standard depth tables show the variation in value as the depth of the lot increases.

REFERENCES:
Real Property Appraisal Manual For New Jersey Assessors.

606.08 Land Value Sources.

The best sources of land value are bona fide sales of land which are comparable in location, condition, and date of sale. Other information includes asking prices for land placed on the market, offers for the purchase of land, opinions of informed persons, and income and construction cost data for use in land residual techniques. Information on sale process may be obtained from abstracts of deeds, from inquiries directed to the seller or buyer of land, or from SR-1A forms used in the state-wide tax equalization program.

606.09 Deed Abstracts.

The County Clerk or Register of Deeds is required, by law, to provide to the assessor an abstract of the deed of every property for which a change of ownership is registered.

Abstracts of deeds are useful to the assessor because they show:

1. the old and new property owners' names, a property description and the property transfer date;
2. the property's legal description and block and lot numbers provide a check on the accuracy of the description used by the assessor.

Deed Abstracts are used in the construction of a tax map. Property description should conform with the outlines of the property on the tax map. Deed Abstracts help identify nonconformance; for example, when a portion of the property is sold without a valid subdivision by the planning board.

The Abstract indicates the price for which the property was sold. Every deed recorded by a county recording officer must contain a statement of the consideration paid, including the amount of any existing mortgage assumed by the purchaser. Also, a Realty Transfer Fee must be paid on the entire purchase price. The Fee is imposed upon the grantor, and is required to be paid when the deed is presented for recording. Certain sales are exempt or partially exempt from the Realty Transfer Fee. Therefore, the amount of the Realty Transfer Fee may not always be a true indication of the property's sale price. Where the sale price in the deed appears to be out of line based on other information available to the assessor, further inquiry should be made of the seller or purchaser.

REFERENCES:
N.J.S.A. 54:4-31
N.J.S.A. 46:15-5 et seq.
Local Property Tax Bureau News, March, 1955, p.1; May, 1955, p.2.

606.10 SR-1A Forms.

Sales Ratio SR-1A forms summarize the sales data from deed abstracts and are the primary tool used by an assessor to record sales data.

606.11 Questionnaires.

Some assessors send questionnaires to property purchasers to determine usability for the Assessment Sales Ration Program. This is useful when the sale price stated in the deed or indicated by the Realty Transfer Fee appears to be unusual, based upon the assessor's knowledge of the property and the area.

607. Description and Identification of Land.

Two systems of land description and identification are used in New Jersey: metes and bounds, and block and lot numbers.

607.01 Metes and Bounds.

One of the earliest forms of land identification is a bounded description. The description would begin a certain point and reference a land mark and move in a direction to another land mark and so on. Unfortunately the land marks which referenced a tree, a fence, a rock or someone else's property changed. Descriptions then required measuring the direction of property lines with compass bearings of north, east, south, west and the distance with a linear measurement. Property descriptions of this type are known as metes and bounds descriptions. A position on the boundary of a property is located by measuring its distance and direction from a known starting point. The description then makes a circuit of the property boundaries with the beginning of each line being the end of the preceding line as if you were walking the perimeter of the lot. The last line should always end at the point of beginning.

Sample: Metes and Bounds Description

The beginning point is not stated.

NORTH 33 degrees 30 minutes EAST a distance of 600 feet;

SOUTH 56 degrees 30 minutes EAST a distance of 400 feet;

SOUTH 63 degrees 30 minutes WEST a distance of 350 feet;

SOUTH 56 degrees 30 minutes EAST a distance of 175 feet;

SOUTH 33 degrees 30 minutes WEST a distance of 300 feet;

NORTH 56 degrees 30 minutes WEST a distance of 400 feet to the point and place of beginning.

REFERENCES:
N.J.A.C. 18:23A-1.1, 1.14

607.02 Block and Lot Numbers.

Block and lot numbers are used to identify land where there is an approved tax map, particularly in urban areas. Each block bounded by public roads is assigned a block number. Within the block each individual parcel of land is assigned a lot number. Reference to these two numbers identifies a parcel.

608. Tax Maps.

608.01 Tax Maps.

An essential property assessment tool is a tax map. It accurately reflects the size, shape, location and encumbrances of each parcel of land in a municipality. This information is necessary for the assessor to assign fair and equitable values to each parcel.

REFERENCES:
N.J.S.A. 54:1-15
N.J.A.C. 18:23A et seq.

608.02 Municipal Tax Maps are Required.

State law requires that every municipality, except townships with a population of less than 2,500 have a tax map. Townships with fewer than 2,500 inhabitants may prepare a tax map; it is recommended that they do so. In addition to the statutory tax map requirement for a municipality, an approved tax map is required to begin a municipal revaluation. Without a map it is almost impossible for the assessor to be sure that he is assessing all of the taxable land within his municipality.

REFERENCES:
N.J.S.A. 54:1-15
N.J.A.C. 18:12-4.7 and N.J.A.C. 18:23A-1.2

608.03 Information on Tax Maps.

Tax maps are used primarily by the municipal assessor and should contain information necessary for his purposes. A tax map is drawn to scale and shows the outlines and dimensions of every parcel in the taxing district. A key map shows the blocks and identifies the detail sheets for block information. The unique parcel identifier for each plot must be the same as the parcel identifier on the Assessment List. Other data, including but not limited to, street names, public utilities, easements, flood plains, riparian grants and leases, exemptions, bodies of water and railroad rights of way are shown on tax maps.

REFERENCES:
N.J.A.C. 18:23A et seq.

608.04 Tax Map Approval.

By State law, the Director, Division of Taxation, Department of Treasury is charged with rule making for the preparation, maintenance and revision of tax maps (Public Law 1913, chapter 175.) This function is administered through the Property Administration, Valuation and Mapping Section. The Taxation Division inspects and approves all tax maps made in New Jersey. Tax maps must be prepared by a New Jersey Licensed Land Surveyor in accordance with the Regulation set forth in New Jersey Administrative Code, Title 18, Chapter 23. The Director has issued administrative regulations titled "Tax Map Specifications" which are available on the NJ Division of Taxation website:
http://www.state.nj.us/treasury/taxation/lpt/digitaltaxmaps.shtml.

Currently municipalities are only required to send their hard copy tax maps to the Division of Taxation, Property Administration, Valuation and Mapping Section, for approval prior to a revaluation and/or for formal approval when a new map is drawn or redrawn using a different procedure. All new maps must conform to regulatory specifications.

Certification by Valuation and Mapping Section indicates that the information on the map is presented in accordance with the specifications, the parcels shown on the tax map are assessed on the Assessment List, and if railroads traverse the municipality, the railroads are shown in compliance with the railroad rights of way on file with the State.

REFERENCES:
N.J.S.A. 54:1-15
N.J.A.C. 18:23A

608.05 Tax Map Maintenance.

It is essential that tax maps be kept up-to-date. Provisions should be made by the municipal governing body for the maintenance of tax maps. It is good practice for a municipality to update their tax maps whenever there are changes in parcel information. New subdivision plots should be entered on the map as soon as they are approved. In some communities the municipal engineer is charged with the responsibility for maintaining the tax map. Regardless of where the maintenance responsibility is placed, the assessor should be familiar with its use, should be a partner when the map is constructed or updated, and should coordinate the parcels indentified on the Assessment List with tax map. When the map has not been maintained over a period of years, it is a time consuming and expensive undertaking to update. For example, where property is transferred and old map descriptions do not match recent surveys State approvals are delayed and affect the timely completion of a revaluation.

REFERENCES:
N.J.S.A. 54:1-15
N.J.A.C. 18:12-4.7; 18:12A-1.14(B)2; and 18:23A-1.27.

608.06 Digital Tax Maps and GIS.

Where a tax map is digitally maintained in a universal format, the sharing of data with different agencies is enhanced. Having a current digital tax map and parcel layer database maintained on an ongoing basis is

beneficial to the municipality. Once the file is accurately created, maintenance consists of reviewing each deed against the metes and bounds descriptions on the map. Any change is then transferred to the digital tax map and then the GIS based parcel data. By maintaining a tax map throughout the year, there will be no major mapping expenditures when a reassessment or revaluation is ordered.

REFERENCES:
N.J.A.C. 18:23A

608.07 Filing a Tax Map.

On or before January 1 of the year following the year in which a tax map is approved, the taxing district must file a duplicate of the map with the County Clerk or the County Register of Deeds. Tax Map Regulations and Standards state that a duplicate copy of a municipal tax map must be filed by the assessor with the County Tax Board annually. At the assessor's request, the County Board may waive the annual filing requirements when there have been no revisions. The tax map and Assessment List should have the same property identifications for all parcels.

REFERENCES:
N.J.S.A. 54:1-15
N.J.A.C. 18:23A-1.27
State of New Jersey Tax Maps Regulations and Standards found at:
http://www.state.nj.us/treasury/taxation/pdf/lpt/taxmapbluebook08.pdf.

608.08 Financing a Tax Map.

Because the initial preparation of a tax map is expensive, State law permits the municipality to finance the cost of a tax map over a five-year period.

REFERENCES:
N.J.S.A. 40A:4-53 as amended by P.L. 2010, c. 46.
N.J.S.A. 40A:4-54 as amended by P.L. 1999, c. 366.
N.J.S.A. 40A:4-54.1 to 54.3, as amended by P.L. 2009, c. 231.
N.J.S.A. 40A:4-55 to 55.6
N.J.A.C. 18:12-1.14(b) (2).

608.09 Land Value Maps.

Land unit values are indicated on a land value map. This data may be added to the tax map. A separate land value map may also be prepared. Such a map does not need to be drawn to scale. Suggestions for the construction of land value maps are found in the *Real Property Appraisal Manual for New Jersey Assessors*. Assessment-sales ratio data reported on SR-1A forms assists the assessor in keeping the land value map up-to-date.

REFERENCES:
Real Property Appraisal Manual For New Jersey Assessors.

609. Wetlands, Flood Hazard Areas and Coastal Area Facilities Review Act.

609.01 Wetlands.

Lands located in coastal wetland areas, situated in areas subject to flooding and located in coastal areas generally are subject to use regulations as set forth in State statute. Use restrictions affect value, and the assessor must be cognizant of factors influencing property values in his jurisdiction.

609.02 Purpose.

Laws governing coastal wetlands have as their purpose the protection of natural resources and ecological balance in lands flowed by tidal water and lands nearby. Wetlands are broadly defined as any bank, marsh, swamp, meadow, flat or other low land subject to tidal action or flow in New Jersey along both the Delaware Bay and Delaware River, Raritan Bay, Barnegat Bay, Sandy Hook Bay, Shrewsbury, Navesink and Shark Rivers, and the coastal inland waterways from Manasquan Inlet to Cape May Harbor. Along these areas is any land which is 1 foot or less above

local extreme high water. Maps delineating the exact areas subject to regulation are drafted by the Department of Environmental Protection, and show the coastal wetlands affected to run continuously southward from the Raritan River, around the coastal areas of the southernmost parts of New Jersey and generally northward up the Delaware River to Trenton. The Hackensack Meadowlands area is specifically excluded from the operation of The Wetlands Act.

610. Flood Hazard Areas.

610.01 Purpose.

Laws governing land use in flood prone areas are to reduce the danger of flood damage to persons and property, as well as to preserve the natural beauty of those areas. There are separate regulations for land situated in "Floodway" areas, as opposed to land situated in "Flood fringe" areas. Other terms used in the Flood Hazard Areas legislation include "Flood plain" and "Flood hazard area."

REFERENCES:
N.J.S.A. 58:16A-51

610.02 Floodway Areas.

The floodway includes the channel of a natural stream and portions of the flood plain adjoining the channel which are reasonably required to carry the flood water or flood flow of a natural stream. Development and use of land located in a designated floodway is subject to regulation by the Department of Environmental Protection. Such regulations are designed to preserve the flood carrying capacity of natural streams and to minimize the threat to public safety, health and general welfare. Uses permitted in floodway areas are public recreation areas such as playgrounds and picnic spots, agricultural activity for grazing, nurseries, farming, forestry and soil conservation programs. Uses do not include utilization of fill material to

build up river banks, building of structures on the floodway or modification of river channels. The object is not to impede the flow of water on the flood plain where it may be dissipated so as not to add to flooding downstream.

REFERENCES:
N.J.S.A. 58:16A-51; 58:16A-55

610.03 Flood Fringe Areas.

Flood fringe areas are those portions of the flood hazard area not designated as "Floodway". The development and use of these areas are subject to local regulations. The Department of Environmental Protection is required to promulgate minimum usage standards.

REFERENCES:
N.J.S.A. 58:16A-56

610.04 Assessment of Floodway or Flood Fringe Lands.

Assessors are required to consider the impact of regulations issued under the Flood Hazard Areas law in establishing full value of lands situated in floodway or flood fringe areas.

REFERENCES:
N.J.S.A. 58:16A-61

610.05 Mapping of Flood Hazard Areas.

The Department of Environmental Protection delineates maps and implements rules and regulations for portions of the flood plains throughout the State where the improper development and use of such areas could constitute a threat to the safety, health and general welfare.

REFERENCES:
N.J.S.A. 58:16A-52

611. Coastal Area Facilities Review Act.

611.01 Purpose.

This Act has as its aim the development of land uses in coastal areas of New Jersey to improve the overall economy of the inhabitants of the area, but permit only that type of development which preserves the exceptional, unique, irreplaceable and delicately balanced ecology of the area. The statutory boundaries of the affected area run from the southern bank of the Raritan Bay southward down the Atlantic coastline around the southern coast along the Delaware Bay, along the coast up the Delaware River to a point in the Salem County coastline. The depth varies from less than a quarter of a mile to more than 15 miles from the coast at some points.

REFERENCES:
N.J.S.A. 13:19-1; 13:19-4

611.02 Activity Regulated.

The construction of certain buildings or structures is subject to regulation by the Commissioner of the Department of Environmental Protection. Structures called "facilities" in the Act include such uses as electric power generation, food and food byproducts, wastes incineration, housing, agrichemical production, inorganic acids and salts manufacture, chemical processes, storage, metallurgical processes, and others.

REFERENCES:
N.J.S.A. 13:19-3

611.03 Permit Required.

No facility described in the law is to be constructed in the coastal area until a permit is issued by the Commissioner of the Department of Environmental Protection. An application for a permit must contain an environmental impact statement(EIS) to evaluate the effects of a proposed project on the coastal area. The EIS must contain an inventory of existing

environmental conditions at the project site, an assessment of the probable impact of the project on environmental conditions, a listing of adverse environmental impacts which cannot be avoided, steps to minimize adverse environmental impacts at the project site and in the surrounding region, alternatives to all or any part of the project with reasons for their acceptability or non-acceptability, and other requirements of the Act. Commissioner of the Department of Environmental Protection must determine that the proposed facility conforms to certain ecological, air and water pollution standards, and that it minimizes adverse environmental effects and threats to the public health, safety and welfare.

REFERENCES:
N.J.S.A. 13:19-5 and 10; 13:19-6; 13:19-7

612. Lands Affected by Conservation Restrictions Historic Preservation Restrictions.

612.01 Purpose.

This law permits landowners to convey or assign land use restrictions to the State or local governments or certain charitable, nonprofit organizations to maintain property in its historical or natural, open and scenic state.

612.02 Conservation Restriction.

A conservation restriction is an interest in a land or water area which is less than full title (fee simple absolute) and which is given by the owner to hold the land predominantly in its natural, scenic, open or wooded condition. It may also be given to hold the land for conservation of soil or habitat for fish or wildlife, or for outdoor recreation or park use. A conservation restriction may forbid or limit:

1. Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above ground;

2. Dumping or placing of soil or other substances, materials as landfill, or trash, waste or unsightly or offensive materials;
3. Removal or destruction of trees, shrubs or other vegetation;
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substances;
5. Surface use except for purposes which permit the land or water area to remain predominately in its natural condition;
6. Activities detrimental to drainage, flood or erosion control, water or soil conservation, or fish and wildlife habitat preservation;
7. Other acts or uses detrimental to the retention of land or water areas.

* See also Green Acres Exemption this *Handbook*.

REFERENCES:
N.J.S.A. 13:8B-2
Handbook for New Jersey Assessors.

612.03 Historic Preservation Restriction.

A historic preservation restriction is an interest in land which is less than full title (fee simple absolute), and which is given by the owner to preserve a structure or site which is historically significant for its architecture, archeology or for its historic associations. A historic preservation restriction may forbid or limit the following:

1. Alteration in exterior or interior features of a structure;
2. Changes in appearance or condition of such sites;
3. Uses of such structure or site which are not historically appropriate;
4. Other acts or uses detrimental to the appropriate preservation of such structures or sites.

* See also Historic Site Exemption this *Handbook.*

REFERENCES:
N.J.S.A. 13:8B-2
N.J.S.A. 54:4-3.52 et seq.
Handbook for New Jersey Assessors.

612.04 Type of Restrictions.

A restriction may take the forms of a right, easement, covenant or condition in any deed, will or other instrument, other than a lease. The restrictions must be executed by or on behalf of the owner.

REFERENCES:
N.J.S.A. 13:8B-2

612.05 Acquisition of Restrictions.

Conservation or historic preservation restrictions may be acquired by the Commissioner of Environmental Protection in the name of the State, or by local governmental unit, or by charitable conservancy. A charitable conservancy is defined as a non-profit corporation or trust whose purposes include acquisition and preservation of land or water areas. The restrictions, once acquired, may be enforced in the same manner as other interests in land. The holder of such restrictions is entitled to enter the land or water area to assure compliance with the restriction terms. The land subject to restriction is to be described by an adequate legal description or by a recorded plan showing its boundaries.

REFERENCES:
N.J.S.A. 13:8B-3; 13:8B-4

612.06 Restrictions to be Recorded.

All conservation and historic preservation restrictions, once granted, are to be recorded and indexed in the registry of deeds for the county where the land lies, in the same manner other conveyances of interests in land are recorded.

REFERENCES:
N.J.S.A. 13:8B-4

612.07 Release of Restrictions.

A conservation restriction or a historic preservation restriction may be released, in whole or in part, by the holder of the restriction for such

remuneration or consideration as the holder may determine, subject to any conditions which may be imposed at the time of the restriction's granting. However, before the release of any restriction, a public hearing must be held after three weeks notice of the hearing in a newspaper circulating in the municipality where the land is located. The hearing must be conducted by the governmental body holding the restriction. Where the restriction is a charitable organization's, the hearing must be held by the governing body of the municipality where the land is located. No conservation restriction acquired under the Conservation and Historical Preservation Restriction Act may be released without the approval of the Commissioner of Environmental Protection.

REFERENCES:
N.J.S.A. 13:8B-5; 13:8B-6

612.08 Valuation by Local Assessors.

Conservation or historical preservation restrictions acquired under the Conservation and Historical Preservation Restriction Act are to be considered by local assessors in establishing the full value of any lands subject to such restrictions.

Historically significant homes can be essentially the same in basic construction as contemporary homes, but may have many ornamental and custom features that increase their costs over those of standard designs. Also, the market may place a premium on these structures due solely to their special historic period, style, materials used, and architectural reference. Most residences that have a number of elaborate elements will not have significantly higher overall costs due to the lack of modern mechanical conveniences found in conventional housing. The majority of residences that are conventional in most respects, but have only one or two features similar to a historic home, can be priced as conventional and adjusted for minor differences. However, historical residences requiring

true reproduction values can have costs that are well above those of their contemporary counterparts.

See also Historic Site Exemption this *Handbook*.

REFERENCES:
N.J.S.A. 13:8B-7
N.J.S.A. 54:4-3.52 et seq.
Handbook for New Jersey Assessors.

613. Pinelands and Highlands.

Properties located in these areas of the State may have use/development restrictions which will impact value.

614. Contaminated Property as Special Purpose Property – Nominal Value.

Years ago, many wastes were dumped on the ground, in rivers or left out in the open. As a result, thousands of uncontrolled or abandoned contaminated sites were created. Some common contaminated sites include abandoned warehouses, manufacturing facilities, processing plants and landfills. In response to growing concern over health and environmental risks posed by these contaminated sites, Congress established the Superfund program in 1980 to clean up these sites. The Superfund program is administered by the U.S. Environmental Protection Agency (USEPA) in cooperation with individual states. In New Jersey, the Department of Environmental Protection's (NJDEP) Site Remediation Program oversees the Superfund program. See also Industrial Site Recovery Act (ISRA) N.J.S.A. 13:1K-6 to 14.

Federal regulations, including the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Superfund

Amendments and Reauthorization Act (SARA) require that a National Priorities List (NPL) of sites throughout the United States be maintained and revised at least annually. New Jersey is ranked with the most superfund sites in the United States.*

(*Excerpted from NJDEP website at http://www.nj.gov/dep/srp/superfund/)

614.01 Court Decision Excerpts on Valuation of Contaminated Property.

In *Methode Electronics, Inc. v. Township of Willingboro*, the Tax Court of New Jersey found:

The New Jersey Supreme Court has held that environmental contamination has an impact on property valuation for local property tax purposes. (*Inmar, as quoted in Methode).*

Where environmental contamination drives down the value of commercial property potentially subject to cleanup costs, the effect of those market forces cannot be ignored in the assessment process simply because it would be counter to the environmental policy. (*Inmar, as quoted in Methode*).

The methodology for resolving the question is not simply to deduct the cost of the cleanup from a putative [commonly accepted] value of the property. That would reflect only the cost of accounting of the current owners. (*Inmar, as quoted in Methode*).

In the absence of market data, contaminated properties might best be treated as special purpose properties using a measure of flexibility that

will aid in the determination of true value. Generally, when there is no market for the property, a property may so be classified. Contaminated property for which there is no market may have a distinct value in use to the owner so long as the owner continued to operate the facility. Hence, when property is in use, normal assessment techniques will remain an appropriate tool in the appraisal process. *(Sunshine Biscuits, as quoted in Methode).*

It matters not that the subject's lack of utility is the direct consequence of the property owner's prior deleterious activities. It is the true market value of property, and not the property owner's responsibility for a diminution in value, that controls. *(as quoted in Methode).*

The New Jersey Tax Court has concluded that use of discounting estimated contamination costs was not the best approach for determining value where a sophisticated seller and a sophisticated buyer, aware of contamination and an estimate of clean-up costs, freely negotiated a sale price for the property. *(Orient Way Corp., as quoted in Methode).*

The New Jersey Tax Court is convinced that the recognized approaches for valuing contaminated property for local property tax purposes are of limited utility for determining the true market value. The assessment of real property at a nominal value has been accepted in other contexts.
(as quoted in Methode).

See Chapter 5, section 505 in this *Handbook for New Jersey Assessors* for information concerning the "Environmental Opportunity Zone Act," or EOZ Act, which provides a real property tax exemption for certain contaminated properties.

REFERENCES:
N.J.S.A. 54:4-23
Inmar Associates, Inc. v. Borough of Carlstadt, 112 N.J. 593 (1988).
Methode Electronics, Inc. v. Township of Willingboro, 28 N.J. Tax 289 (Tax Ct. 2015).
Orient Way Corp. v. Township of Lyndhurst, 27 N.J. Tax 361 (Tax Ct. 2013), aff'd by 28 N.J. Tax 272 (App. Div. 2014), cert. denied by 220 N.J. 574 (2015).
Metuchen I, LLC., v. Borough of Metuchen, 21 N.J. Tax 283 (Tax Ct. 2004).
Badische Corporation (BASF) v. Town of Kearny, 288 N.J. Super. 171 (App. Div. 1996).
Pan Chemical Corp., v. Hawthorne Borough, 404 N.J. Super. 401 (App. Div. 2009).
Sunshine Biscuits, Inc. v. Borough of Sayreville, 4 N.J. Tax 486 (Tax Ct. 1982).
Ciba Specialty Chemicals Corp. v. Township of Dover, 2013 N.J. Tax Court, Unpublished Opinion, decided December 5, 2013.

615. The Mount Laurel Decisions and the Fair Housing Act; Affordable Housing; COAH and the Non-Residential Development Fee (NRDF).

In 1975, in the case of *Southern Burlington County NAACP v. Township of Mt. Laurel* (Mt. Laurel I), the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate income housing. In its 1983 Mt. Laurel II decision, the Supreme Court reaffirmed and expanded the Mt. Laurel doctrine and stated that all municipalities share in the obligation. The Supreme Court also provided guidance in determining a municipality's fair share and authorized specific judicial remedies to ensure that municipalities meet their constitutional obligation. On July 2, 1985 the Fair Housing Act (FHA) was enacted by the New Jersey Legislature, creating the Council on Affordable Housing (COAH) as an administrative alternative to the courts.

In its 1986 *Hills Development Corporation v. Bernards Township* decision (Mt. Laurel III), the Supreme Court declared the FHA constitutional and allowed the transfer to COAH of virtually all litigation then pending before the courts.

COAH Responsibility Transferred to Department of Community Affairs.

On June 29, 2011 the Governor issued a Reorganizational Plan which eliminated the 12-member Council on Affordable Housing effective August 29, 2011. Recognizing that the Department of Community Affairs is already responsible for providing assistance to local municipalities, the oversight of local governments, and which currently operates numerous affordable housing programs, the Governor consolidated and transferred all duties of COAH to the Commissioner of DCA. For more information on affordable housing, please go to http://www.nj.gov/dca/services/lps/hss on the DCA website.

REFERENCES:
The COAH Handbook, 2000-2001.

615.01 Affordable Housing – Valuation by Assessors.

In the New Jersey Superior Court decision of Prowitz v. Ridgefield Park Village, 237 N.J. Super. 435 (App. Div. 1989), the Court held "…while the maximum resale price obtainable under the deed restriction does not necessarily define assessable value, the resale restriction nevertheless is a factor that must be considered in fixing the assessment." The Court further held, "We also deem the restriction here analogous to value-depreciating government regulation. Thus, the provision of a fair share of affordable housing is, by reason of the Fair Housing Act, a municipal obligation imposed by statute, and the perpetuation of that stock by resale restriction is a matter of implementing the COAH regulation."

In order to ensure a designated housing unit as affordable, the property deed is restricted to limit the unit's resale value to its initial purchase price plus consumer price index increases. Municipal assessors are required to take these deed restrictions into account when determining the property's assessment, i.e. taxable value. However, because the purchase price is tied to increasing consumer price indexes, the property taxes, although lower, are not "frozen."

REFERENCES:
St. Luke's Village v. Peapack and Gladstone Boro. 11 N.J. Tax 76 (Tax Ct. 1990).

615.02 The Non-Residential Development Fee (NRDF).

Public Law 2008, chapter 46, the Non-Residential Development Fee Act, imposed a state-wide 2.5% fee on new construction and additions to non-residential development seeking approval subsequent to July 17, 2008. Monies collected supported the development of affordable housing, including funding the Urban Housing Assistance Fund.

The Non-Residential Development Fee Act superseded any municipal non-residential development fee ordinances. The Act standardized the amount of the fee (2.5% with limited exceptions) and allowable exemptions.

As for payment, COAH provided a list of municipalities authorized to use the collected development fee. The developer sent payment to the municipality if it appeared on the COAH list. All other payments were made to the Treasurer, State of New Jersey.

***NOTE*:** The moratorium has been lifted and the Non-Residential Development Fees are reimposed.

615.03 Valuation by the Assessor.

If an exemption was claimed by the developer, the assessor determined if it was justified. If not exempt, the assessor, based on review of plans and conceptuals submitted with the Construction Permit Application, prepared an estimate of the property value.

If the development was situated on real property that was previously developed, the assessor listed on the NRDF Form the existing equalized assessed value of the property as of the date the construction or demolition permit was sought. When the project was completed, the assessor prepared a final assessment and the final NRDF fee was determined.

615.04 Non-Residential Development Fee Moratorium.

On July 28, 2009, the New Jersey Economic Stimulus Act, Public Law 2009, chapter 90, in part, imposed a moratorium on the imposition of the Statewide Non-Residential Development Fee Act. This suspension was limited to projects which received preliminary or final site plan approval prior to July 1, 2010, provided that building permits were issued before January 1, 2013.

615.05 Non-Residential Development Fee Moratorium Extended.

Senate Bill 2974 was passed by both the Senate and the Assembly on June 29, 2011 and signed into law by the Lt. Governor on August 24, 2011. The new law extends the moratorium placed in effect in 2009 until July 1, 2013, provided that a permit for the construction of the building is issued prior to January 1, 2015. The law requires the return of any monies paid during the period from July 1, 2010 to the present, as a result of the previous expiration of the moratorium. Municipalities that are eligible to collect Non-Residential Development Fees would not be required to refund monies that have already been spent on affordable housing

projects. Construction Officials may contact the Division of Codes and Standards at 609-292-7899 and Assessors contact the Division of Taxation at 609-292-7974 with additional questions.

The following development types are exempt from the NRDF fee regardless of the applicability of the moratorium:

- Non-profit and public education buildings
- Houses of worship
- Public amenities (recreational, community or senior centers)
- Parking lots and structures
- Nursing homes or non-profit hospital relocations or improvements
- State, County and local government buildings
- Transit Hubs, Villages, and Light Rail Hubs
- Commercial farm buildings and Use Group U structures
- Developments with a general development plan approval, or executed developers or redevelopers' agreement, prior to July 17, 2008 with a fee or affordable housing requirement the equivalent of at least 1% of equalized assessed value (EAV).

616. Property Valued Under Special Conditions – Farmland Assessment.

616.01 Constitutional and Statutory Authority.

During the 1950's and 60's, New Jersey's 300 year old agricultural tradition suffered a serious farm loss, about 1/3 of total acreage, due to residential and commercial land development. Since that time, New Jersey Legislators have recognized the intrinsic value of the State's agricultural land through the passage of various laws designed to keep farming in the "Garden State" a viable industry. Authorization for the preferential assessment of New Jersey's agricultural land is via 1963 Constitutional amendment. The Farmland Assessment Act of 1964 and

administrative rules issued by the Director of the Division of Taxation provide the statutory and regulatory basis for the assessing of such land in New Jersey. A differential farmland tax is available in most of the fifty states.

REFERENCES:
N.J. Constitution, Article VIII, Sec. 1, Par. 1(b)
N.J.S.A. 54:4-23.1 et seq.
N.J.A.C. 18:15-1.1 et seq.
Switz v. Middletown Township, 33 N.J. 580 (1957).
Switz v. Kinglsey, 37 N.J. 566 (1962).

616.02 Eligibility.

Land devoted to agriculture or horticulture may be assessed for property tax purposes on its value for those uses, rather than on the market value of the land for any other use.

REFERENCES
N.J.S.A. 54:4-23.2
Department of Environmental Protection v. Franklin Township, 181 N.J. Super. 309 (1981) affirmed 5 N.J. Tax 476 (App. Div. 1983) later proceeding at 7 N.J. Tax 224 (Tax Court 1984), affirmed by 7 N.J. Tax 657 (App. Div. 1985).
Andover Township v. Kymer, 140 NJ. Super. 399 (App. Div. 1976).
Farmland Evaluation Advisory Committee (F.E.A.C.) Values.

616.03 Qualifications.

To qualify for Farmland Assessment, the following conditions must be met:

1. Applicants must own the land in question;
2. Land must consist of at least 5 acres;
3. Land must be devoted to agricultural or horticultural uses;
4. Land must be devoted to agricultural/horticultural uses for at least two years prior to the tax year;
5. Gross sales of products from the land must total at least $1,000 per year, or $500 per year for land under an approved Woodland

Management Plan, for the first 5 acres, plus $5 per acre for each acre over 5, except woodland or wetland where the income requirement is $.50 cents per acre for any acreage over 5;

6. Owners must timely apply for Farmland Assessment on or before August 1st of the pretax year;
7. Owners of farm management units of less than 7 acres must submit with the application a narrative description of the agricultural or horticultural activities undertaken on the property;
8. Land must continue in agricultural or horticultural use to the end of the tax year for which application is made.

REFERENCES:
N.J.S.A. 54:4-23.2 and - 23.5 and - 23.6 and - 23.14
N.J.A.C. 18:15-1.1 and 2.1 and 3.1-3.5

616.04 Ownership.

Applicants for Farmland Assessment must own the land on or before August 1 of the pretax year, i.e., the year prior to the calendar tax year. Where ownership changes for or during the tax year after the FA-1 application has been filed, Farmland Assessment is not lost, as long as the qualifying agricultural/horticultural use does not change. Landowners may rent the land to area farmers who do the actual cultivating without loss of Farmland Assessment. Single ownership or unified title, meaning ownership by one distinct legal entity is required in order to aggregate contiguous acreage. Assessors may require applicants to show proof of ownership.

REFERENCES:
N.J.S.A. 54:4-23.2; 4-23.6(c); 4-23.13
N.J.A.C. 18:15-2.1; 15-2.3; 18:15-3.5(b)
Dautel Builders v. Franklin Borough, 11 N.J. Tax 353 (Tax Court 1990).
City of Millville v. Ruske, 19 N.J. Tax 328 (Tax Court 2001).
Cheyenne Corporation v. Township of Byram; Western World v. Township of Byram, 248 N.J. Super 588(June 1991).

616.05 Land Area/Contiguity.

At least 5 acres of land must be included in one ownership to qualify for Farmland Assessment. The land need not all be in one tax map parcel, as long as it is contiguous. If the land is located in more than one taxing district, it is eligible for Farmland Assessment, as long as it is contiguous and in one ownership and meets all other requirements. The presence of a public right-of-way separating portions of the land does not make the land non-contiguous. In the case of non-contiguous parcels, an application must be filed for each parcel, and each parcel, by itself, must meet all requirements of the Act. Non-contiguous parcels may not be aggregated to meet the 5-acre requirement.

Minimum Land Area and Appurtenant Lands.

A minimum of 5 acres must be actively devoted to a qualifying agricultural or horticultural use such as cropland or pastureland before any appurtenant land can qualify. In other words, appurtenant land cannot be used to reach the 5 acre minimum of land actively devoted to agricultural or horticultural use.

REFERENCES:
N.J.S.A. 54:4-23.18
N.J.A.C. 18:15-13.1
Cheyenne Corp. v Byram Township, 248 N.J. Super. 588 (App. Div. 1991)
City of Millville v. Ruske, 19 N.J. Tax 328 (Tax Court 2001).
Snyder v. Township of Sparta, 16 N.J. Tax 321 (Tax Court 1997).

616.06 Eligible Land.

Eligible land area includes all land under agricultural or horticultural buildings, such as barns, sheds, silos, cribs, and greenhouses, and all land under lakes, dams, ponds, streams, irrigation ditches, and similar facilities.

616.07 Ineligible Land.

Land under the farmhouse and additional land actually used in connection with the farmhouse, such as lawns, flower gardens, shrubs, swimming pools, tennis courts, must not be included. Land used for these purposes must be assessed in the same manner as any other land in the taxing district. The assessor may require proof of the land area.

EXAMPLES:

1. Property consists of 22 acres of cropland harvested, 3 acres of permanent pasture, 4 acres of woodland, a 9 acre gravel pit and 1 acre under the farmhouse for a total of 39 acres. Provided all other criteria are met; 29 acres of land qualify for Farmland Assessment. The 9 acre gravel pit and 1 acre under the house are ineligible.
2. Property consists of 78 acres cropland harvested, 20 acres cropland pastured, 10 acres permanent pasture, 63 acres woodland, 1 acre pond, 2 acres under farmhouse, 5 acre dump for clean fill for a total of 179 acres; 172 acres qualify. Five acres for clean fill and 2 acres for farmhouse are not qualified.

REFERENCES:
N.J.S.A. 54:4-23.11, 54:4-23.12, 54:4-23.18
N.J.A.C. 18:15-3.2, 18:15-4.4, 18:15-13.1
Warselle Land Corp. v. Tewksbury Township, 3 N.J. Tax 565 (Tax Court 1981).
White v. Bernardsville Borough, 9 N.J. Tax 110 (Tax Court 1986) affirmed by 9 N.J. Tax 122 (App. Div. 1987).
Sinopoli v. Rumson Borough, 19 N.J. Tax 334 (Tax Court 2001) affirmed by 20 N.J. Tax 235 (App. Div. 2002).

616.08 Land Area 5 Acres Plus – Boarding and Training Horses.

Public Law 1995, chapter 276, known as the "Horse Farm Amendments," expanded the Farmland Assessment Act to include boarding, rehabilitating and training as qualifying agricultural uses provided that those activities are conducted in conjunction with land which otherwise qualifies for Farmland Assessment. Breeding, raising and grazing of horses are

considered to be traditional agricultural uses and qualify for Farmland Assessment if the basic requirements are met.

Boarding, rehabbing and training of horses cannot qualify on their own. There first must be 5 acres in qualifying traditional agricultural/horticultural use. (This can include the breeding, raising and grazing.)

In the New Jersey Tax Court decision Brousseau v. Millstone Township, the property's two acres used for training could qualify only because they were contiguous to independently qualifying eight acres of pasture land used for grazing.

Examples:

1. On a 10 acre parcel of land, 9 acres are devoted to grazing horses, with an imputed grazing value of $145 per acre, and generates annual gross sales of $1,305. The remaining acre is used for boarding horses and generates annual boarding fees of $8,500. Since the land used for boarding horses is contiguous to land five acres or more otherwise qualifying for Farmland Assessment, the fees from boarding may be included to meet the minimum gross sales income requirement and qualify the entire 10 acre parcel.

2. On an 8 acre parcel of land, 7 acres are devoted to grazing horses, with an imputed grazing value of $142 per acre, and generates annual gross sales of $994. The remaining acre is used for boarding horses and generates annual boarding fees of $8,500. The land contiguous to the land used for boarding horses does not otherwise qualify for Farmland Assessment, because it does not meet the minimum $1,010 necessary for a 7 acre parcel. Therefore, the fees from boarding may not be included to

meet the minimum gross sales income requirements, and the entire 8 acre parcel is ineligible for Farmland Assessment.

3. On a 10 acre parcel of land, 3.5 acres are devoted to growing crops and generate annual gross sales of $750. The remaining 6.5 acres are used for boarding horses and generate annual boarding fees of $10,500. The land contiguous to the land used for boarding horses does not otherwise qualify for Farmland Assessment, both because it is not at least five acres in area and because it does not meet the minimum $1,000 income requirement for the first five acres. Therefore, the fees from boarding may not be included to meet the minimum gross sales income requirements, and the entire 10 acre parcel is ineligible for Farmland Assessment.

4. Two horses and a pony are kept on their owners' land for pleasure riding. The animals pasture on 4.5 acres, which have an imputed grazing value of $643.50, and laying chickens are housed on .5 acres, generating $400 in egg sales for a total of $1,043.50 income. Although the combination of imputed grazing value and chicken egg sales exceeds the income requirements for qualification, the land nevertheless would be ineligible for Farmland Assessment since the horses and pony are not raised for sale, the horses and pony do not produce products for sale, and the grazing is not connected with breeding or raising livestock, nor are there boarding, rehabilitating or training activities conducted on land contiguous to five acres that otherwise qualify for Farmland Assessment.

REFERENCE:
Public Law 1995, chapter 276.
Brousseau v. Millstone Township, 16 N.J. Tax 344 (Tax Ct. 1997).

616.09 Land qualifies for Farmland Assessment when:

1. Land is under and used with barns, sheds, greenhouses, packing houses, farm storage facilities, seasonal farm markets selling

predominantly agricultural products, seasonal agricultural labor housing, silos, cribs and like structures when used in direct support of producing crops for sale.

2. Land is under poultry or livestock facilities in which animals or their products are sold.
3. Land is used for boarding, rehabilitating, or training livestock for a fee (not including acres pastured) where the livestock is owned by a party or parties other than the property owner(s), except that livestock shall not include dogs.
4. Land consists of lakes, ponds, streams, stream buffer areas, hedgerows, wetlands and/or irrigation ponds that are supportive and subordinate or reasonably required for maintaining agricultural or horticultural uses of a tract of land, having a minimum area of at least five acres devoted to agricultural or horticultural uses other than the production for sale of trees and forest products.
5. Land is not planted but is kept fallow during a growing season using cultivation or chemical control to eradicate or reduce weeds for future agricultural or horticultural production.
6. Land contains crops which are produced, harvested and sold, either at retail or wholesale, at a level of production common for that crop based on soil conditions.
7. Land contains trees and forest products produced for sale within a reasonable period of time and such land is in compliance with a written approved Woodland Management Plan.
8. Wooded land or wetlands is contiguous to, part of, or beneficial to land that is either cropland harvested, cropland pastured or permanent pasture to which the woodland is supportive and subordinate.
9. Land has limited farming or grazing potential, but is managed in an erosion control program, and is supportive and subordinate or reasonably required for agricultural or horticultural production of land

which has a minimum of five acres classified as cropland harvested, cropland pastured or permanent pasture.

10. Land qualifies for payments under a Federal Soil Conservation Program, such as the Conservation Reserve or Wetlands Reserve Programs.
11. Land is used for biomass, solar or wind energy generation. It is considered land actively devoted to agricultural or horticultural use as long as it meets the qualifications and limitations in subsection N.J.A.C. 18:15-6.1(d), except that the energy generated from such use shall not be considered an agricultural or horticultural product.
12. Land supports livestock which is raised, grazed, pastured, boarded or trained (rearage), and is enclosed by a fence sufficient to retain such animals which are themselves sold, or their products, except that "livestock" shall not include dogs.
13. Land supports poultry which are housed or ranged, but if ranged, the land must be enclosed by a fence sufficient to retain such animals.
14. Aquatic organisms are propagated, reared and harvested for sale in controlled or selected environments in which the farmer must actively intervene in the rearing process to effect, improve, or increase production for sale.

REFERENCES:

N.J.S.A. 54:4-23.5
N.J.A.C. 18:15-1.1, 18:15-6.2
Brousseau v. Millstone Township, 16 N.J. Tax 345 (Tax Court 1997).
Wyer v. Middletown Township, 16 N.J. Tax 544 (Tax Court 1997).
Rossi v. Upper Pittsgrove Township, 12 N.J. Tax 235 (Tax Court 1992).
Mt. Hope Mining Co. v. Rockaway Township, 8 N.J. Tax 570 (Tax Court 1986).
Franklin Barrett v. Princeton Borough, 6 N.J. Tax 558 (Tax Court 1984).
Borough of Califon v. Stonegate Properties, Inc., 2 N.J. Tax 153 (Tax Court 1981).
Jackson Township v Paolin, 3 N.J. Tax 39 (Tax Court 1981).
Mason v. Township of Wyckoff, 1 N.J. Tax 433 (Tax Court 1980).

Kugler v. Wall Township, 1 N.J. Tax 10 (Tax Court 1980).
Bass River Township v. Hogwallow, Inc., 1 N.J. Tax 612 (Tax Court 1980).

616.10 Land in Two Taxing Districts.

Assessor's determination that property did not qualify for Farmland Assessment was not binding on an assessor in neighboring township regarding adjacent property.

REFERENCES:
N.J.S.A. 54:4-23.18
Snyder v. Sparta Township, 16 N.J. Tax 321 (Tax Court 1997).

616.11 Preliminary Subdivisions.

The fact that a landowner has received preliminary subdivision approval is not conclusive regarding non-farm development plans for the land.

REFERENCES:
Centex Homes of N.J. v. Manalapan Township, 4 N.J. Tax 599 (Tax Court 1982).

616.12 Use Farmland- -Agricultural/Horticultural Use.

The Farmland Assessment Act emphasizes the importance of land use and productivity as primary measures of value when land is devoted to agricultural production. Land must be devoted to qualifying agricultural or horticultural use. The assessor may require the applicant to show proof of agricultural/horticultural use.

616.13 Agricultural Use.

Agricultural use is defined as the production for sale of plants and animals useful to man, including but not limited to forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, except dogs, includes beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, raising, grazing, boarding, rehabilitating or training of such animals; bees and apiary products; fur

animals; trees and forest products; biomass, solar or wind energy generation with limitations imposed by Public Law 2009, chapter 213.

616.14 Horticultural Use.

Horticultural use is defined as the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental or greenhouse products or when devoted to and meeting the requirements and qualifications for payments or other compensation according to a Soil Conservation Program under an agreement with a Federal Government Agency; biomass, solar or wind energy generation within limits imposed by Public Law 2009, chapter 213.

616.15 Guidelines.

Guidelines have been developed identifying generally accepted agricultural and horticultural practices to assist in determining active devotion. These guidelines are not exhaustive, and will be updated to reflect changes to farmland practice in New Jersey.

The Guidelines are published on the Department of Agriculture's website at: http://www.state.nj.us/agriculture/divisions/anr/pdf/agpractices.pdf

REFERENCES:
N.J.S.A. 54:4-23.3d

616.16 Actual Use vs. Intended Use.

The test for change in use is actual present use, not the intended future use.

616.17 Fallow Land.

Leaving farmland fallow is not a change of use, but comparable to rotating crops and correctly applied is recommended agricultural devotion. However, fallow is not the equivalent of abandonment; fallow property should be actively maintained, i.e. mowed, tilled, sown with cover crop etc. In general practice, one year is the maximum period land may be

fallow under Farmland Assessment. To "fallow" an entire farm all at the same time would be disqualifying for purposes of Farmland Assessment. Again, fallow is applied as a sectional rotation.

REFERENCES:
Hamilton Township v. Estate of Lyons, 8 N.J. Tax 112 (Tax Court 1986).
Alpha-Bella VI Inc. by United Jersey Bank v. Clinton Township, 14 N.J. Tax 597 (Tax Court 1995).
South Brunswick Township v. Bellemeade Development Corp., 8 N.J. Tax 616 (Tax Court 1987).
Angelini v. Freehold Township, 8 N.J. Tax 644 (Tax Court 1987).
Burlington Township v. Messer, 8 N.J. Tax 274 (Tax Court 1986) affirmed by 9 N.J. Tax 634 (App. Div. 1987).
Jackson Township v. Paolin, 181 N.J. Super. 293, 3 N.J. Tax 39 (Tax Court 1981).

616.18 Zoning – Legal/Illegal Use.

Though use must be a lawful, permitted use, not every zoning violation can be used to deny otherwise appropriate Farmland Assessment. Legality of use is not an element which the taxpayer must prove to qualify for Farmland Assessment. Once the taxpayer has met requirements for Farmland Assessment, the burden shifts to the municipality to prove illegality of use and its impact on the tax status of property regarding violation of the zoning ordinance.

REFERENCES:
Clearview Estates, Inc. v. Mountain Lakes, 188 N.J. Super. 99 (App. Div. 1982).
White v. Bernardsville Borough, 9 N.J. Tax 110 (Tax Court 1986).
Cheyenne Corporation v. Township of Byram and Western World v. Township of Byram, 248 N.J. Super 588(1991).
Sudler Lakewood Land v. Lakewood Township, 19 N.J. Tax 305 (App. Div. 2001); 18 N.J. Tax 451 (1999).

616.19 Devoted and Actively Devoted.

1. *"Devoted to agricultural use or horticultural use"* refers not only to the land that produces agricultural and horticultural products for sale at wholesale or retail, but also to the land that is supportive and has a

relationship to the agricultural and horticultural products produced for sale.

2. *"Devoted to agricultural and horticultural use"* refers not only to the land that produces agricultural and horticultural commodities, but also to the land that is supportive to the primary production acreage of a farm. This not only includes land on which crops are grown, but also supportive land that consists of lakes, ponds, streams, and hedgerows, among other things.
3. *"Actively devoted to agricultural and horticultural use"* refers specifically to the land and income generation activities (e.g., $1,000 sales minimum [or $500 for land under an approved Woodland Management Plan]) necessary to qualify for Farmland Assessment.
4. *"Actively devoted to agriculture or horticultural use"* refers specifically to the income requirements necessary to qualify for Farmland Assessment. The parcel must be in agricultural or horticultural use or "devoted to agricultural or horticultural use" and satisfy the income requirements in order to qualify for Farmland Assessment.

REFERENCES:
N.J.S.A. 54:4-23.3, 54:4-23.4
N.J.A.C. 18:15-1.1, 18:15-6.2

616.20 Dominant/Incidental Use.

When agricultural use is not the "dominant" use, land cannot be "actively devoted" to agricultural use. Historically, farmers have used their land to:

1. produce crops and animal products for sale or feed for animals on the farm.
2. remain fallow or in cover crops as part of a planned rotational program.
3. remain unplowed for grazing or conservation purposes.

4. remain in woods, streams, and meadows which enhances the productivity of all the land cultivated.

REFERENCES:
Mt. Hope Mining Co. v. Rockaway Township, 8 N.J. Tax 570 (Tax Court 1986).
Township of Wantage v. Rivlin Corp., 23 N.J. Tax 441 (Tax Court 2007).
Atlantic Coast LEH, LLC. v. Township of Little Egg Harbor, 26 N.J. Tax 151(Tax Ct. 2011).
State Farmland Evaluation Advisory Committee Report.

616.21 Use – Farm Buildings.

All structures used for agricultural or horticultural purposes must be valued, assessed, and taxed by the same standards, methods, and procedures as other taxable structures in the municipality, regardless of the fact that the land may be farm assessed. However, exemption is provided for "single – use agricultural or horticultural facilities" employed in farming operations, used for storage or growing and designed or constructed to be readily dismantled and sold separately from the farmland and buildings, such as temporary, demountable plastic covered framework made of portable parts with no permanent understructures or related apparatus, known as seed starting plastic greenhouses, or other readily dismantled silos, greenhouses, grain bins, manure handling equipment, and impoundments but not including a structure that encloses a space within its walls used for housing, shelter, or working, office or sales space, whether or not removable.

REFERENCES:
N.J.S.A. 54:4-23.12a
N.J.A.C. 18:15-4.5
Van Wingerden v. Lafayette Township, 15 N.J. Tax 475 (Tax Court 1996) reversed by 303 N.J. Super. 614 (App. Div. 1997); on remand at 18 N.J. Tax 81 (Tax Court 1999), and affirmed by 333 N.J. Super. 560 (App. Div. 2000) also published at 19 N.J. Tax 205 (Tax Court 2000).

616.22 Length or Duration of Farm Use.

Land must have been actively devoted to agricultural or horticultural use for at least two consecutive years prior to the tax year for which Farmland Assessment is claimed. For example, to qualify for the tax year 2011, the land must have been devoted to farm uses for all of the calendar years 2010 and 2009. In addition, the property owner must indicate that the land will continue to be used for agricultural/horticultural purposes until the end of the tax year for which the application is being filed. The assessor may require proof of the duration of agricultural or horticultural use. Assessors involved with Woodland Assessment should recognize that trees are significantly different from agricultural row crops, primarily in the time requirement to grow a commercial crop. For example, it takes 8 to 16 years to grow Christmas trees; 21 to 40 years to produce firewood, pulpwood, piling and fence posts; and between 61 and 80 years to yield saw timber and veneer logs. The longer growing seasons for trees does not relieve Farmland Assessment claimants from meeting "active devotion" or activity requirements as per Woodland Management Plans.

REFERENCES:
N.J.S.A. 54:4-23.2; 54:4-23.5; and 54:4-23.6
N.J.A.C. 18:15-3.1; 18:15-3.4, 18:15-3.4(a)
Rossi v. Upper Pittsgrove Township, 12 N.J. Tax 235 (Tax Court 1992).
Mt. Hope Mining Co. v. Rockaway Township, 8 N.J. Tax 570 (Tax Court 1986).
Burlington Township v. Messer, 8 N.J. Tax 274 (Tax Court 1986).
Green Pond Corp. v. Rockaway Township, 2 N.J. Tax 273 (Tax Court 1981).
Applying Farmland Assessment to Woodlands, Sheay and West, New Jersey Forestry Association, 1999.

616.23 Land Use Classes.

The historical uses of farmland are the basis for these land use classes.

1. *Cropland Harvested* is the heart of a farming enterprise and represents the highest use of land in agricultural. All land from which a crop was harvested in the current year falls into this category.
2. *Cropland Pastured* can produce crops, but its maximum income may not be realized in a particular year. Land that is fallow or in cover crops as part of a rotational program is in this class.
3. *Permanent Pasture* is not cultivated because its maximum economic potential is realized from grazing or as part of erosion control programs. Animals may or may not be part of the farm operation for land to qualify under this category.
4. *Non-Appurtenant Woodland* can only qualify for Farmland Assessment when in compliance with a Woodland Management Plan filed with the Department of Environmental Protection. It is actively devoted to the production for sale of tree and forest products.
5. *Appurtenant Woodland* is part of a farm and beneficial to the other farmland which is at least five acres in active agricultural or horticultural use other than trees or forest products. Usually appurtenant woodland has limited uses because of its slope, drainage capability, soil type or topography. Although such woodland has limited productive use, it benefits the other non-forest land which is actively devoted to agricultural or horticultural uses by providing windbreaks, watershed, buffers and soil erosion control, as well as lumber for on-farm use.

REFERENCES:
Report of State Farmland Evaluation Advisory Committee.

616.24 Roll-back Taxes Change in Use.

The Farmland Assessment Act provides that land which is in active agricultural or horticultural use is to be valued on its productivity and soil capability values rather than true market value. To recapture some of the taxes which would have been paid if the land had been taxed at the same

market value standard as all other property, roll-back taxes are applied if the use of the land changes from an agricultural/horticultural use. But roll-back taxes would not be applied when ownership of farmland changes provided the new owner continues to devote the land to agricultural or horticultural uses.

Cropland, woodland or livestock farming having no planned activity could lose Farmland Assessment. However, loss of Farmland Assessment for inadequate or under devotion during the tax year does not automatically result in rollback as a change in use.

REFERENCES:
N.J.S.A. 54:4-23.8
N.J.A.C. 18:15-7.1; 18:15-12.1

Exception to Change in use Rollback Provision.

Land which is valued, assessed and taxed under the Farmland Assessment Act and is acquired by the State, a local government unit, a qualifying tax exempt nonprofit organization, or the Palisades Interstate Park Commission for recreation and conservation purposes is not subject to roll-back taxes. "Acquired," "local government unit," "qualifying tax exempt nonprofit organization," and "recreation and conservation purposes" mean the same as those terms are defined in section 3 of P.L.1999, c.152 (C.13:8C-3), the Garden State Preservation Trust Act.

616.25 Separation and Split-offs.

The separation or split-off of a parcel assessed under the Farmland Assessment Act would not continue to qualify for Farmland Assessment if the use changes to nonfarm use and would be subject to roll-back taxes. If the remaining land (not split-off) continued to meet all farmland requirements, it would continue to be assessed under the Farmland Assessment Act and roll-back taxes would not apply. For example, if a

200 acre farm under the Act is split into two 100 acre farms, and both continue in agricultural or horticultural use and meet all other requirements, they may both continue under the Act, but if one 100 acre parcel is used to construct housing that 100 acre parcel would lose Farmland Assessment.

REFERENCES:
N.J.S.A. 54:4-23.16
N.J.A.C. 18:15-11.1
Wilson v. Hopewell Township, 23 N.J. Tax 240 (Tax Court 2006).

616.26 Period of Roll-back Taxes.

Roll-back taxes are applied for the year in which the change takes place and the two previous tax years, provided the land was assessed under the Act during that time.

EXAMPLES:

1. A parcel of land is assessed under the Farmland Assessment Act for the tax years 2009, 2010 and 2011. A change in use occurs in March, 2011. Roll-back taxes would apply for all three years.
2. A parcel of land is assessed under the Farmland Assessment Act for the tax years 2010 and 2011. A change in use occurs in March, 2011. Roll-back taxes would apply only for 2010 and 2011 because the land was not assessed under the Act in 2009.
3. A parcel of land is assessed under the Farmland Assessment Act in 2009 and 2010; however, it is not assessed under the Farmland Assessment Act in 2011. A change in use occurs in March, 2011. Roll-back taxes would apply only for 2009 and 2010 because the land was not assessed under the Act in 2011.
4. A parcel of land is assessed under the Farmland Assessment Act for the tax years 2008, 2009, 2010 and 2011. A change in use occurs in March, 2011. Roll-back taxes would apply for 2009, 2010 and 2011, the year of change in use and two prior years.

REFERENCES:
N.J.S.A. 54:4-23.8
N.J.A.C. 18:15-7.4, 18:15-7.5
Local Property Tax Bureau News, October, 1964, p.1.
Attorney General's Letter Opinion, October 11, 1978.
Attorney General's Letter Opinion, June 7, 1989.

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June 7, 1989

To All County Tax Board Commissioners and Administrators

Re: Application of Rollback Taxes

In a recent Tax Court proceeding in which I participated, the issue arose as to the applicable statute of limitations for applying rollback taxes under the Farmland Assessment Act (N.J.S.A. 54:4-23.1 et seq.) in the event the year of imposing the rollback tax is subsequent to the year of the change in use.

Under the Farmland Assessment Act, rollback taxes are imposed in the event the subject property is subjected to a change in use from a farmland to a non-farmland status. N.J.S.A. 54:4-23.8. Under the rollback provision, taxes are assessed for the year in which the change in use occurs and for the two previous years during which the property was assessed under the preferential farmland value. The rollback taxes are assessed in accordance with the procedure outlined in the original Omitted Assessment Law, N.J.S.A. 54:4-63.12 et seq.

It is not unusual for a change in use to occur in a prior tax year without the assessor's knowledge. The question that arose in this proceeding was the number of years affected by a rollback assessment in the event the change in use year were prior to the current year (in the year in which the rollback assessment is imposed). As an example, property subject to the Farmland Assessment Act changes use in the 1986 tax year without the assessor being aware of the changed status. The assessor first becomes aware of the change in the 1988 tax year. The subject property was not subjected to farmland assessment under this example in either the 1987 or 1988 tax years. The question raised

is whether the tax years 1986, 1985 and 1984, the years normally subject to rollback taxes (had the assessment been timely imposed) are still subject to such tax notwithstanding that the change in use was not discovered until 1988. The oral ruling by the Tax Court in this instance confirmed the policy which this office had previously recommended to the County Boards. Under that policy, and pursuant to the omitted assessment procedure, the discovery of a change in use situation in 1988 permits the assessor to go back one year, namely 1987, and commence the rollback assessment for that year and the two previous years, assuming the property was accorded farmland assessment for any of those years. Thus, utilizing our example, a 1988 rollback assessment would relate back to the tax years 1987, 1986 and 1985. Since the property was not subjected to farmland assessment in 1987 no rollback tax would be imposed for that year. However, since the property was accorded farmland assessment treatment for 1986 and 1985, the rollback assessment would include those two tax years. The 1984 tax year, which would have been included in a rollback assessment had it been timely imposed, would now be lost because the statute of limitations only permits the imposition of the rollback tax up to the 1985 tax year in the example.

Very truly yours,

PETER N. PERRETTI, JR.
ATTORNEY GENERAL OF NEW JERSEY

By: Harry Haushalter
Harry Haushalter
Deputy Attorney General

HH:bc

616.27 Calculation of Roll-back Tax.

1. The assessor determines the full and fair value, i.e., true market value of the land each year as of October 1 pretax year for which roll-back taxes apply by the same standards applied to all other land in the tax district;
2. In a district where assessments have not been annually maintained at true value, the Director's Ratio should be applied to the subject property's assessment for each year the property is subject to roll-back taxes pursuant to Public Law 1973, chapter 123.
3. The assessor then determines the amount of the additional assessment on the land by subtracting the actual assessment under the Farmland Assessment Act from the assessment calculated in 2.

4. The assessor calculates the amount of the roll–back tax by multiplying the additional assessment calculated in 3 by the general tax rate for each year in question. For purposes of roll-back calculation, the general tax rate does not include the additional rate for special districts such as fire districts.

ROLL-BACK COMPUTATION

	2009	2010	2011
1	$500,000	$450,000	$400,000
2	90%	95%	REVALUATION YEAR 100%
3	$450,000	$427,500	$400,000
4	$9,000	$8,900	$8,800
5	$441,000	$418,600	$391,200
6	$1.90	$1.82	$1.75
7	$8,379	$7,619	$6,846

1. Full and Fair Value
2. X Common Level percentage*
3. = Taxable Value if not assessed under P.L. 1964, c. 48
4. – Assessment under the Farmland Assessment Act
5. = Assessment subject to roll-back tax year
6. X *General Tax Rate for each applicable roll-back tax year
7. = Roll-back taxes due

*Director's Ratio

*No Special District Rate is to be used in calculating Roll-back Tax Amount.

REFERENCES:

N.J. Constitution Article VIII Section 1, Par. 1 (b)
N.J.S.A. 54:4-23.8.
N.J.A.C. 18:15-7.3.
Schere v. Township of Freehold, 150 N.J. Super. 404 (App. Div 1977).
V.B.R. Associates v. Bernards Township, 6 N.J. Tax 241 (Tax Court 1984).
Calton Homes v. West Windsor Township, 15 N.J. Tax 231 (Tax Court 1995).
Attorney General's Letter Opinion dated February 16, 1988.

616.28 Roll-back as Omitted Assessment and Appeal Procedure.

Roll-back assessment must proceed under provisions of the Regular Omitted Assessment Law (see N.J.S.A. 54:4-63.12 et seq.) Regular Roll-back procedures require filing of a complaint with the County Board of Taxation by the municipal assessor, tax collector, municipal governing body, any taxpayer, or the Board on its own motion. The Alternate Omitted Assessment Law cannot be applied when assessing roll-back taxes. The County Tax Board, after having given at least 15 days written notice to the affected taxpayer, hears and renders a rollback judgment. The proper assessment is entered on the Omitted Property Assessment List, filed by the assessor with the County Tax Board on October 1. Tax bills are issued by the municipal tax collector at least one week prior to November 1 following the List's certification. If the judgment is rendered by the Board prior to October 1 of any year, roll-back taxes are due on November 1 of that year. If the judgment is rendered after October 1 and before December 31, the roll-back taxes are due November 1 of the following year. The timing of the hearing and judgment between October 1 and December 31 require the assessor to postpone the filing of the List until the subsequent year.

REFERENCES:
N.J.S.A. 54:4-23.9; 54:4-63.12 et seq.
N.J.A.C. 18:15-7.6; 18:15-7.7; 18:15-7.10
Attorney General's Opinion Letter, August 6, 1982.

616.29 Liability for Roll-back Taxes.

The liability for roll-back taxes attaches upon a change in land use but not upon a change in land ownership. Roll-back taxes become a lien upon the land from January of the year in which the judgment of the County Board of Taxation is rendered.

REFERENCES:
N.J.S.A. 54:4-23.15
N.J.A.C. 18:15-7.2; 18:15-7.8; 18:15-10.14

616.30 Further Appeals of Roll-back Taxes.

Tax appeals from County Board of Taxation judgments concerning roll-back taxes follow the same procedure used for appeals of Omitted Assessments. A complaint would be filed with the Tax Court within 45 days of the date of the County Tax Board judgment.

REFERENCES:
Rules of the Tax Court, 8:4-1 (a) (2).
N.J.S.A. 54:4-23.8; 54:4-23.9
N.J.A.C. 18:15-7.1; 18:15-7.9; 18:15-8.1

616.31 Change in use between October 1 and December 31 with Application Pending.

If land assessed under the Farmland Assessment Act changes from agricultural or horticultural use to some other use between October 1 and December 31, while an application is pending, the assessor should deny the application and enter the property on the Assessment List on January 10 of the tax year in the same manner as any other property. If the assessor fails to deny the application, the County Board of Taxation should correct the Assessment List before it is certified on or before May 20 of the tax year. If the application is not denied by either the assessor or the County Tax Board, and the land is assessed under the Farmland Assessment Act, the assessor must include the land on the Added Assessment List, filed with the County Board of Taxation on October 1. The Added Assessment should be the difference between the assessment actually made under the Farmland Assessment Act and the assessment which would have been made if the application had been properly denied. The Added Assessment is applicable for the full tax year, and is not subject to proration. The Added Assessment procedure does not affect the property's roll-back tax liability for prior years during which it was assessed under the Act.

EXAMPLE:

A parcel of land is assessed under the Farmland Assessment Act for the tax years 2008, 2009 and 2010 and an application is filed on July 20, 2010 for a continuation of such assessment for the tax year 2011. On November 23, 2010, the use of the land changes, but this does not become known to the assessor or County Board of Taxation until June 15, 2011. An Added Assessment should be made for the tax year 2011, and the Omitted Assessment procedure should be used to recapture the roll-back taxes for the tax years 2008, 2009 and 2010.

REFERENCES:
N.J.S.A. 54:4-23.13
N.J.A.C. 18:15-8.2; 18:15-8.3
Rossi v. Upper Pittsgrove Township, 12 N.J. Tax 235 (Tax Court 1992).
Letter To County Tax Boards, from Deputy Attorney General Harry Haushalter, June 7, 1989.

616.32 Roll-back and Growing Seasons.

Farming is not a continuous 365 day activity but a seasonal undertaking. Time frame when considering land's use is calendar year, January 1 – December 31 of year in which use is alleged to have occurred rather than 12 month fiscal year or for period less than full calendar year. When land, previously granted Farmland Assessment, remains unimproved with no clear visible change in use, assessors should wait until after December 31 to initiate rollback.

REFERENCES:
Rossi v. Upper Pittsgrove Township, 12 N.J. Tax 235 (Tax Court 1992).

616.33 Woodland.

With agricultural operations such as crop and livestock farms there is a management or operational activity which an assessor ordinarily can see taking place over the course of a year. This does not apply with many

woodland tracts. Much litigation has taken place over the qualification of woodland for Farmland Assessment. As a result, two groups of woodland emerge:

1. *Non-appurtenant Woodland* means woodland which is neither supportive nor subordinate to other farmland and which qualifies for Farmland Assessment when in compliance with a Woodland Management Plan and meeting all statutory requirements as to income, acreage, years in agriculture, etc.
2. *Appurtenant Woodland* means a wooded piece of property contiguous to, part of, or beneficial to a tract of land having at least 5 acres devoted to agricultural/horticultural uses, other than trees or forest products, and to which the wooded property is supportive and subordinate.

The extent of the appurtenant woodland reasonably required to maintain adjoining acreage in agricultural or horticultural use and thereby qualify for Farmland Assessment would require a judgment on the applicant's part subject to review and approval or revision by the assessor. Woodland is presumed to be supportive and subordinate when its area is equal to or less than the area of farmland qualifying for other agricultural/horticultural uses (The woodlands may or may not contribute income to a crop or livestock farm, but do contribute benefits to the farm such as lumber for fencing for on farm use, protection from wind, soil erosion, or by creating a buffer area for the farm from neighbors. Incidental income from the occasional sale of woodland or forest products is not sufficiently qualifying for Farmland Assessment purposes). A Management Plan drawn up by a professional forester gives weight to the intent of the landowner to meet the statutory requirements for Farmland Assessment. A Woodland Data Form WD-1

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/wd1.pdf. must also be filled with the Management Plan.

REFERENCES:
Alexandria Township v. Orban, 21 N.J. Tax 298 (Tax Court 2004).
Estelle Manor City v. Stern, 14 N.J. Tax 394 (Tax Court 1995).
N.J.S.A. 54:4-23.3; 54:4-23.4
N.J.A.C. 18:15-6.2(6)
***The Woodland Issue In Farmland Assessment Appeals*, John M. Hunter, Cook College, December, 1977.**

616.34 Woodland Management Plan.

To show Farmland Assessment prerequisites are being met on a continual basis, owners of non-appurtenant woodland are required to develop a Management Plan approved by the NJ Division of Parks and Forestry having:

I. Cover page of plan providing:
   1. Owner's name and mailing address;
   2. Municipality and county where woodland is located;
   3. Block(s) and lot(s) of woodland;
   4. Acreage of woodland;
   5. Name and address of approved forester who prepared Plan, if not prepared by owner;
   6. Date Plan was prepared and time period plan covers.

II. Clear, concise statement of owner's objectives in managing the woodland.

III. Description of how property boundaries are or will be marked and delineated relative to the surrounding area.

IV. Brief description of past activities that have affected the woodland including, but not limited to, wildfire, insect and disease outbreaks, timber sales, plantings, thinnings and weedings.

V. Description of each defined forest stand in some combination of the following:

1. Number of acres;
2. Species composition including overstory and understory;
3. General condition and quality;
4. Structure including age classes, DBH classes, and crown classes;
5. Overall site quality;
6. Condition and species composition of advanced regeneration when applicable;
7. Stocking levels, growth rates and volumes.

VI. Description of woodland owner's forest management goals, management recommendations, activities and practices specified and planned for each forest stand, an explanation of how these sequences of treatment are integrated into the overall coordinated plan and time frame to meet management objectives. Such management recommendations and practices must be prepared for a period of not less than 10 years.

VII. Average overall productivity capabilities of woodland.

VIII. Scaled Map – Woodland Activity.

A map of the property including, but not limited to;

1. Owner's name, address, and map's preparation date;
2. Arrow designating north direction;
3. Scale no smaller than 1:1320 or larger than 1:400;
4. Legend defining the map's symbols;
5. Location of property lines;
6. Identification of forest stands keyed to written management goals;
7. Delineation of physical features such as roads, streams, structures, etc.;
8. Identification of soil types (A separate map can be used for this); and;
9. Brief description or map inset of the land identifying the property location.

REFERENCES:
N.J.A.C. 18:15-1.1; 18:15-2.10
Estelle Manor City v. Stern, 14 N.J. Tax 394 (Tax Court 1995).

616.35 Required Continuing Education for Assessors with Farmland.

On or before January 1, 2018 and at least once every three years thereafter, all municipal and county assessors with farmland assessed property in their district are required to have completed a continuing education course on Farmland Assessment prior to the renewal of the CTA certificate. Courses will be free and offered at least biennially.

REFERENCES:
N.J.S.A. 54:1-35.25b, 54:4-23.3d

616.36 Renewable Energy Installations on Farmland Assessed Agricultural/Horticultural Property.

Public Law 2009, chapter 213 amending and supplementing the Farmland Assessment Act was approved on January 16, 2010. The amendments provide that land used for construction, installation, and operation of biomass, solar or wind generation facilities, structures, and equipment on agricultural/horticultural land eligible for preferential reduced Farmland Assessment shall be considered actively devoted to qualifying agricultural/horticultural use where all of the following apply:

- The renewable energy facilities, structures, and equipment are constructed, installed, or operated on agricultural/horticultural land that was in the preceding year and is currently part of an operating farm;
- The power or heat generated by the biomass, solar, wind energy facilities, structures and equipment provides, wholly or in part, either directly or indirectly, power or heat to the farm or agricultural/horticultural operation supporting the farm's viability;

- The property owner files a conservation plan with the soil conversation district for aesthetic, impervious coverage, and environmental impacts of construction, installation and operation of the biomass, solar, or wind energy generation facilities, structures and equipment, including water recapture and filtration and receives conservation district approval;
- The ratio of acreage devoted to biomass, solar, or wind renewable energy generation facilities, structures and equipment vs. agricultural/horticultural operations does not exceed 1 to 5 i.e., 1 part renewable energy to 5 parts devoted to agriculture =1/6 or .167 rounded to .17;
- The biomass, solar, or wind energy generation facilities, structures and equipment are constructed or installed on no more than 10 acres of land eligible for Farmland Assessment and no more than 2 megawatts of power are generated on the 10 or fewer acres;
- No income from the sale of power or heat from biomass, solar, or wind energy may be considered income toward gross sales criteria for Farmland Assessment but with respect to renewable energy property there is no income requirement;
- The property under the solar panels, if the renewable energy system is solar, is used for shade or similar crops or grazing pasture, when practical;
- The property owner obtains approval from Agriculture Department, if energy is biomass;
- The construction, installation, or operation of any biomass, solar, wind energy generation facility, structure or equipment in the pinelands area is subject to the "Pinelands Protection Act," Public Law 1979, chapter II c. 11.

Acreage Used for Renewable Energy on Farmland Assessment Acreage		
Total Acres	*Maximum acres in Solar/Wind/Biomass	Minimum acres in Agriculture/ Horticulture
5.25	0.25	5.00
5.60	0.60	5.00
6.00	1.00	5.00
7.00	1.19	5.81
8.00	1.36	6.64
9.00	1.53	7.47
10.00	1.70	8.30
15.00	2.55	12.45
25.00	4.25	20.75
50.00	8.50	41.50
59.00	10.00	49.00
60.00	10.00	50.00
100.00	10.00	90.00
*Ratio to calculate assessments: 1 part renewable energy to 5 parts of land devoted to agricultural or horticultural operations = 1/6 or .167 rounded to .17.		
Must have greater than 5 acres to invest in renewable energy sources		

i. Example (1): A landowner devotes 60 acres to agricultural or horticultural production that qualifies for farmland assessment. He converts 10 of those acres for use as a solar energy facility, which generates no more than two megawatts of power. The landowner is entitled to have all 60 acres receive farmland assessment.

ii. Example (2): A landowner devotes 120 acres to agricultural or horticultural production which qualifies for farmland assessment. He converts 20 of those acres for use as a solar energy facility. Because the landowner is entitled to have only 10 of those acres used for a solar energy facility under farmland assessment, he no longer qualifies for this assessment on the 10 additional acres that have been converted to the solar energy facility and these 10 acres are subject to roll-back taxes. The landowner, however, continues to qualify for farmland assessment on the remaining 110 acres.

iii. Example (3): A landowner devotes 60 acres to agricultural or horticultural production that qualifies for farmland assessment. He converts 10 of those acres for use as a solar power energy facility that generates three megawatts power. None of the 10 acres qualifies for farmland assessment. Only remaining 50 acres that is in agricultural or horticultural production qualifies for farmland assessment because the two megawatt power limit is exceeded.

REFERENCES:
N.J.A.C. 18:15- 6.1(d)

616.37 Gross Sales.

Annually and for each of the two years immediately prior to the tax year for which Farmland Assessment is claimed, the first five acres of land use must result in $1,000 (or $500 for land in an approved Woodland Management Plan) average gross sales of: agricultural or horticultural products; payments under a soil conservation program; fees for breeding, raising or grazing livestock; income imputed to grazing land determined by Farmland Evaluation Committee (F.E.C.) and fees for boarding, rehabilitating or training livestock, where the land under the boarding, rehabilitating or training facilities is contiguous to land otherwise farm qualified. Acreage over five must show average sales of at least $5 per acre per year and for two years immediately preceding the tax year from agricultural/horticultural products and soil conservation payments, breeding fees, etc. and average $0.50 cents per acre over the first five acres from woodland or wetland.

Or there must be clear evidence of an anticipated $1,000 yearly gross income (or $500 yearly gross income for land in an approved Woodland Management Plan) from the sale of such products for the first five acres and $5 per acre on acreage over five and $0.50 cents yearly gross sales per acre over the first five on woodland or wetland within a reasonable time.

Anticipated gross sales are to be based on the nature and characteristics of the land and productively plans of the owner or occupant. Crops grown for on-farm use may be considered at retail sales value in determining whether average gross sales requirement has been met, not including fruits and vegetables for personal consumption.

***NOTE*:** Regarding gross sales income requirement "Statute does not mandate that a specified five acre parcel generates [$1,000, or $500 for properties under an approved Woodland Management Plan,] in gross sales. Rather, the statute establishes a minimum income requirement which must be viewed in the aggregate taking the total acreage into consideration…" This interpretation appears reasonable in light of the variations in techniques utilized by farmers, such as crop rotation and other forms of soil enrichment programs." Therefore, where a farm consists of more than five acres, the minimum income for active devotion may be produced from the whole of the property. A specific five-acre section of the farm does not need to be designated to produce $1,000 ($500 for woodlands under and approved Woodland Management Plan), with the additional acres needing only to produce either $5 each for agricultural/horticultural use or $0.50 for woodlands/wetlands. Instead, the minimum income as calculated from the acreage and nature of those acres must come from the property as a whole without regard to which acre produces what amount of income, as long as the total produced on the property exceeds the minimum as calculated. **However, appurtenant woodlands and wetlands cannot produce income to meet the gross sales requirement of active devotion.**

Examples:

1. On a 15-acre parcel, with one acre reserved for the homestead. Six acres are devoted to growing tomatoes, which generate annual gross sales of $700. Six acres are devoted to growing hay and generate annual gross sales of $500. One acre is left fallow, and the remaining acre is appurtenant woodland. Since the total gross sales for the property equal $1,200, the farm exceeds the gross sales requirement for active devotion of $1,040.50 despite not having any particular five acres produce $1,000.

2. On a 10-acre parcel of land, two acres are used for boarding horses, which produces fees of $3,200. The remaining eight acres are utilized for grazing the boarded horses at an imputed grazing value of $145 per acre. Income imputed to grazing is determined to be $1,160. Since the eight acres used for grazing have an imputed value for such use that exceeds the gross sales requirement for active devotion of $1,040 for those eight acres, it would qualify for Farmland Assessment, despite the income imputed to grazing on five acres being less than $1,000. The two-acre portion used for boarding and training is also eligible because it is contiguous to land that otherwise qualifies for Farmland Assessment.

3. On an eight-acre parcel, one-half acre is used as a residence, seven acres are fenced for pasturing three boarded horses and one-half acre is used as equine facilities. Upon request from the municipal assessor for proof of agricultural or horticultural production for sale, the landowner provides the names of the owners of the horses as well as the $800 per horse boarding fee and uses the imputed grazing values of $142 per acre as provided in the Report of the State Farmland Evaluation Committee. Since seven acres of pasture being utilized by three boarded horses has an imputed grazing value of $1,001, the agricultural income criteria for Farmland Assessment have not been met on those seven acres, since the minimum gross sales for active devotion on seven acres would be $1,010. The income from boarding horses cannot be counted since it is not contiguous to land which otherwise qualifies for Farmland Assessment. The entire parcel is ineligible for Farmland Assessment.

REFERENCE:
N.J.S.A. 54:4-23.5
N.J.A.C. 18:15-6.1; 18:15-6.3; 18:14-6.4

Pio Costa v. Riverdale Borough, 20 N.J. Tax 169 (Tax Ct. 2002).
Cheyenne Corp. v. Byram Township, 14 N.J. Tax 167 (App. Div. 1993).
Checchio v. Scotch Plains Township, 2 N.J. Tax 450 (Tax Ct. 1981).
Gottdiener v. Roxbury Township, 2 N.J. Tax 206 (Tax Ct. 1981).
Informal Attorney General Opinion (Haushalter) 8/8/79.

616.38 Woodland Gross Sales.

Incidental income from the occasional sale of woodland or forest products from appurtenant woodland does not qualify toward the gross sales requirement. However, income anticipated or derived from Woodland Management Plans is not considered incidental income. Timber sale agreements and cutting contracts may help establish anticipated gross sales. Longer growing seasons required for trees does not relieve Farmland Assessment claimants from meeting gross sales requirements.

REFERENCES:
N.J.S.A. 54:4-23.5
Spiotta Brothers v. Mine Hill Township, 1 NJ. Tax 42 (Tax Court 1980).
Green Pond Corp. v. Rockaway Twp., 2 NJ. Tax 273 (Tax Court 1981) affirmed in part and appeal dismissed in part by 4 N.J. Tax 534 (App. Div. 1982).
Mt. Hope Mining Co. v. Rockaway Township, 8 NJ. Tax 570 (Tax Court 1986).
L and Z Realty Co. v. Ringwood Borough, 6 NJ. Tax 450 (Tax Court 1984).
***The Woodland Issue In Farmland Assessment Appeals*, John M. Hunter, Cook College, December, 1977.**

616.39 Gross Sales Minimum for Mixed-Use Properties under Farmland Assessment.

P.L. 2013, c. 43 amended the Farmland Assessment Act, increasing the minimum gross sales requirement for the first five acres of agricultural/horticultural use (not under an approved Woodland Management Plan, "WMP") to $1,000, while retaining the $500 requirement for the first five acres for properties under an approved WMP. The $5.00 per acre requirement for agricultural/horticultural use (not

under an approved WMP) and $0.50 per acre requirement for land under an approved WMP beyond the first five acres remained the same. The following applies to non-appurtenant woodland under an approved WMP only, not to appurtenant woodlands. Appurtenant woodland acres can only be valued under Farmland Assessment if the property first has five acres that otherwise qualify for Farmland Assessment, i.e., the minimum five acres necessary to qualify for Farmland Assessment cannot include appurtenant woodlands.

For mixed-use properties containing both non-appurtenant woodlands and land in other agricultural/horticultural use, the law is silent to which gross sales minimum would apply.

The policies to be observed are:

- Any mixed-use property that has **at least five acres** in agricultural/horticultural use(not non-appurtenant woodlands under an approved WMP) is required to produce a minimum of $1,000 in annual gross sales for the first five acres.

- Mixed-use properties that have **less than five acres** in agricultural/horticultural use(not non-appurtenant woodlands under an approved WMP) and the remaining acreage is non-appurtenant woodland under an approved WMP are required to produce a minimum of $500 in annual gross sales for the first five acres.

With respect to dominant versus incidental use, current case law concerns farm versus non-farm use and, therefore, is not a reliable indicator of usage to determine the minimum income pursuant to Chapter 43.

EXAMPLES:

1. On a 15 acre parcel of land, 6 acres are devoted to the raising of livestock and 9 acres are woodlands under an approved WMP. The

minimum gross sales for the property would be $1,009.50 ($1,000 for the first 5 acres of agriculture, $5.00 for the additional acre of agriculture, and 9 x $0.50 for the woodland acres).

2. On a 20 acre parcel of land, 3 acres are devoted to growing crops and 17 acres are woodlands under an approved WMP. The minimum gross sales for the property would be $521.00 ($500 for the first 5 acres of woodlands, 3 x $5.00 for the agricultural acres, and 12 x $0.50 for the additional woodland acres).

3. On a 7 acre parcel of land, 4 acres are devoted to growing ornamental plants and 3 acres are woodlands under an approved WMP. Since the property does not have 5 acres devoted to non-woodlands agricultural/horticultural use, it does not trigger the $1,000 income threshold. The gross sales minimum for the first five acres should be $500, despite there being more acres devoted to growing ornamental plants than to non-appurtenant woodlands. Since there are neither 5 acres devoted to non-woodlands agriculture nor 5 acres devoted to non-appurtenant woodlands, the first five acres necessary to qualify for Farmland Assessment must be a composite of the two. It is recommended including all woodland acres under an approved WMP as part of the first five acres needed for qualification. Thus, the minimum gross sales for the property would be $510.00 ($500 for the first 5 acres: i.e., 3 acres of woodlands and 2 acres of agriculture, plus 2 x $5.00 for the additional acres of agriculture).

617. Applying for Farmland Assessment.

617.01 Application.

The application for Farmland Assessment, Form FA-1, http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/Form_FA-1_2011.pdf, must

be completed and filed annually as of August 1 of the pretax year with the municipal assessor.

For non-appurtenant woodland, the Woodland Data Form WD-1 http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/wd1.pdf must also be completed and timely filed with copies of the completed FA-1 Form, Management Plan, maps and other information to both the assessor and Division of Parks and Forestry, Department of Environmental Protection. Only one FA-1 form in triplicate is to be filed for each farm made up of contiguous land. With respect to first-time filers, no application need be filed for either of the two pre-qualifying years. However, Farmland Assessment eligibility criteria must have been met for the two pre-tax years.

Proofs of Gross Sales must be submitted with each Farmland Assessment application on the Supplemental Farmland Assessment Gross Sales Form, Form FA-1 G.S.
http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/fa1-gs.pdf

Proofs of Gross Sales must be submitted with each Farmland Assessment application on the Supplemental Farmland Assessment Gross Sales Form, Form FA-1 G.S. The assessor may request further documentation of gross sales from the taxpayer if he or she has reason to believe the gross sales income requirement has not been met, e.g., if a farmer reports five acres of wheat crop and the assessor observes no wheat growing and weeds throughout the field when viewing the property.

REFERENCES:
N.J.S.A. 54:4-23.14
Saddle Mountain, LP v. Ringwood Borough, 20 N.J. Tax 29 (Tax Court 2002).

617.02 Application-Issued by Assessor; FA-1 Not Received by Applicant.

On or before July 1 of each year the assessor is required to mail each property owner whose land is currently receiving Farmland Assessment an application form, FA-1 in order that he may file for Farmland Assessment for the succeeding tax year. The FA-1 Form must be accompanied by a notice that the completed application is required to be filed with the assessor on or before August 1 of the pretax year. The failure of a property owner to receive an FA-1 Form does not relieve him of his responsibility to apply timely.

The Director, Division of Taxation has promulgated a standard form for farmers to verify their gross sales to the tax assessor. This form, Supplemental Farmland Assessment Gross Sales Form, Form FA-1 G.S., should be mailed to applicants with the FA-1 Forms in July, and will also be required to be filed with the assessor on or before August 1 of the pretax year.

617.03 Application-Filing Deadline Extended.

An assessor may grant an extension of time for filing an application for Farmland Assessment to September 1 of the pretax year where it appears that the applicant failed to file by August 1 due to illness, or the owner's death or the death of an immediate member of the owner's family. A physician's certification stating that the owner was physically incapacitated and unable to file by August 1 or a certified copy of the death certificate must be submitted by the owner or the individual legally responsible for the owner's estate to the assessor. Form FA-X Farmland Assessment Application Filing Deadline Extension Form has been promulgated by the Division of Taxation to standardize and formulize this procedure. Where a revaluation or reassessment is to be placed on the Tax

List for the year Farmland Assessment is applied for assessors may accept FA-1 applications up to December 1 of the pretax year.

617.04 Certification, Signatures and Proofs.

The FA-1 application includes a certification that all information contained in it is true and has the effect of a sworn statement. Applications should be signed by the owner. Multiple ownership applications can be signed by any one of the individual co-owners. Corporate ownership applications must show the full name of the corporation, and the signature and title of a corporate officer authorized to sign for the corporation. The foregoing also applies to the WD-1 Form and the Supplemental FA-1 G.S.. Assessors may require proof of ownership, property description, land area, land use and gross sales of agricultural or horticultural products.

REFERENCES:

N.J.S.A. 54: 4-23.13; 4-23.13A; 4-23.14; 4-23.15; 4-23.15a; 4-23.6
N.J.A.C. 18:15-2.2; 15-2.3; 15-2.4; 15-2.6; 15-2.9
Wishnick v. Upper Freehold Township, 15 N.J. Tax 597 (Tax Court 1996).
Rubenstein v. Upper Pittsgrove Township, 12 N.J. Tax 494 (Tax Court 1991).
All Monmouth Landscaping and Design, Inc. v. Manalapan Township, 23 N.J. Tax 250 (Tax Court 2006).
Saddle Mt. L.P. v. Ringwood Borough, 20 N.J. Tax 29 (Tax Court 2002).
CES Assoc. v. Cranbury Township, 15 N.J. Tax 677 (Tax Court 1995) certification denied by 143 N.J. 520 (1996).
Hovbilt v. Township of Howell, 138 N.J. 598 (1994).
Cherry Hill Industrial Properties v. Voorhees Township, 186 N.J. Super. 307, (App. Div. 1982).
Belmont v. Wayne Township, 3 N.J. Tax 382 (Tax Court 1981).
Galloway Township v. Petkevis, 2 N.J. Tax 85 (Tax Court 1980).
Hashomer Hatzair Inc. v. East Windsor, 176 N.J. Super. 250, 1 N.J. Tax 115 (Tax Court 1980).
Annette B. Morris v. Stillwater Township, Division of Tax Appeals, July 27, 1979.
Adolphus Busch and Key Dynamics v. Washington Township, Division of Tax Appeals, February 1, 1979.

Elizabeth Singer v. Stillwater Township, Division of Tax Appeals, January 4, 1979.
Delran Township v. Herman Starke, Division of Tax Appeals, July 6, 1978.

617.05 Disposition of Forms – Assessor, County Tax Board, Property Administration and Commissioner of Department of Environmental Protection.

The Farmland Assessment Application, Form FA-1, is the official source document for land qualifying under the Farmland Assessment Act of 1964. As such, assessors should review the forms for completeness and accuracy prior to approval. Assessors should maintain complete files of all approved and disapproved applications, together with any documentary proofs. Complete records ensure that rollback taxes can be calculated correctly.

Original FA-1 applications are to be retained in the assessor's office. Each application must be signed and dated by the assessor and "approved" or disapproved". N.J.A.C 18:15-2.6 requires one copy of each application must be forwarded by the assessor to the County Tax Administrator on or before January 1st of the tax year. County Tax Administrators should review the applications and forward them to Property Administration/Local Property Tax Policy and Planning Section in district order no later than February 15 of the tax year. On March 1, Property Administration/Local Property sends reminders to County Tax Administrators so they can contact assessors whose FA- 1s are still outstanding. Local Property enters data and FA-1s are sent to Department of Agriculture in installments throughout the year.

The Commissioner of Department of Environmental Protection is to notify applicants and assessors of receipt of any woodland claims, review

them for compliance and advise the assessor in writing of his decision. Reviews may include on site property inspections. If the DEP Commissioner decides the woodland prerequisites have not been met, the assessor must disapprove the claim for Farmland Assessment. If the Commissioner approves the woodland data, the assessor may approve or disallow the farmland claim in terms of the other eligibility requirements.

REFERENCES:
N.J.S.A. 54:4-23.2 and 23.3a; 54:4-23.3; 54:4-23.6; 54:4-23.13; 54:4-23.13a; 54:4-23.14; 54:4-23.21
N.J.A.C. 18:15-2.1; 18:15-2.2; 18-15-2.4.; 18:15-2.5; 18:15-2.6; 18:15-2.7; 18:15-2.9; 18:15-3.2
Local Property Branch News – May-June, 1986
Inter State 78 Office Park v. Tewksbury Township, 11 N.J. Tax 172 (Tax Court 1990).
Wishnick v. Upper Freehold, 15 N.J. Tax 597 (Tax Court 1996).

617.06 Continuance of Eligibility.

Assessment under the Farmland Assessment Act does not continue automatically; a new application must be filed every year. If property ownership changes in any year, the land may be continued under the Act for that year, as long as the use of the land does not change. Farmland Assessment may be continued in a subsequent year for the sold tract provided the new owner files an application and meets all other eligibility requirements.

REFERENCES:
N.J.S.A. 54:4-23.15; 54:4-23.15a
N.J.A.C. 18:15-2.4; 18:15-2.6

617.07 Withdrawal of Application.

An application, once filed, may not be withdrawn after August 1 pretax year or where an extension of time for filing is granted by the assessor after September 1 pretax year.

REFERENCES:
N.J.S.A. 54:4-23.13
N.J.A.C. 18:15-3.3

617.08 Notice of Disallowance.

When the assessor denies an application for Farmland Assessment, the assessor shall, on or before November 1 of the pretax year, notify the landowner of the disallowance.

617.09 Notification.

The Notice of Disallowance may be sent to the applicant by regular mail. The Disallowance Notice must set forth the reason or reasons for the assessor's denial, and inform the applicant of his right to appeal the denial of his application to the County Board of Taxation on or before April 1 of the tax year.

REFERENCES:
N.J.S.A. 54:4-23.13b
N.J.A.C. 18:15-3.6
Anthony T. Araneo v. Washington Township, Division of Tax Appeals, November 4, 1976.
Stonegate Properties, Inc. v. Califon Borough, Division of Tax Appeals, December 5, 1974.

617.10 New Penalties under P.L. 2013, Ch. 43.

Civil penalties of up to $5,000 may be imposed for gross, intentional misrepresentation on Farmland Applications. Penalties collected are to be used in the administration of the Farmland Assessment Act.

REFERENCES:
N.J.S.A. 54:4-23.14

618. Valuation Information.

618.01 Sources of Valuation Information.

In arriving at a Farmland Assessment value, the assessor must consider the following:

1. evidence of agricultural and horticultural capabilities derived from soil survey data at Rutgers – The State University;
2. evidence of agricultural and horticultural capabilities derived from the National Co-operative Soil Survey
3. recommendations of land value made by any county or state-wide committee, such as the State Farmland Evaluation Committee, (F.E.C.) which may be established to assist the assessor. The Director of the Division of Taxation recommends an assessor utilize the valuation standards established by the State Farmland Evaluation Committee in valuing qualified farmland.

Other contact agencies include:

NJ Department of Agriculture (609) 633-2549
http://www.state.nj.us/agriculture/index.shtml.

NJ Forest Service (609) 292-2531
http://www.state.nj.us/dep/parksandforests/forest/.

Rutgers Cooperative Extension
http://njaes.rutgers.edu/extension/.

REFERENCES:
N.J.S.A. 54:4-46; 54:4-23.7
N.J.A.C. 18:15-4.2; 8:15-4.3; 18:15-14.5; and 18:15-14.6(a-d)
Van Vugt v. Pequannock Township, 20 N.J. Tax 129 (Tax Court 2002).

618.02 State Farmland Evaluation Committee.

The Farmland Assessment Act created a State Farmland Evaluation Advisory Committee (F.E.A.C.), renamed under P.L. 2013, C. 43 to the State Farmland Evaluation Committee (F.E.C.) consisting of the Director of the Division of Taxation; the Dean of the College of Agriculture, Rutgers, The State University; the Secretary of Agriculture; a municipal tax assessor, county assessor, or county tax administrator, who is appointed by the Governor with the advice and consent of the Senate; and a farmer who is a current or former member of the State Board of

Agriculture, who is appointed by the Governor with the advice and consent of the Senate. Each appointed member is to serve for a term of three years and may be appointed to successive terms. The Committee is required to determine and publish each year, on or before October 1, a range of values for agricultural or horticultural land use, for each of the several land classifications, and for each area of the State. The first Report of the State Farmland Evaluation Advisory Committee, issued on October 1, 1964, recommended land values ranging from $6 per acre for woodland on poor quality soil in Warren County to $552 per acre for high quality harvested cropland in Passaic County.

The committee will meet to review the minimum Gross Sales amount and adjust as needed. Increases are not enforced until the third tax year following adoption of an increase. Every five years the F.E.C. will review Farmland Assessment application forms and make recommendations to the Director, Division of Taxation.

REFERENCES:
N.J.S.A. 54:4-23.20
N.J.A.C. 18:15-14.1 to 18:15-14.5
***Report of the State Farmland Evaluation Advisory Committee*, October, 1964.**

618.03 Alternate Values.

Assessors who do not utilize the standards established by the State Farmland Evaluation Committee in valuing qualified farmland, must submit their alternate standards to the Director, Division of Taxation by November 1 of the pretax year, and the reasons for not following F.E.C. recommendations. The assessor must also submit a detailed explanation of the procedure and valuation standards to be applied. The Director will then inform the assessor and the respective County Tax Board by December 10 of the pretax year as to using the alternate standard. If the Director advises against the alternate standard and the assessor chooses to

rely on it, he must give written notice to the Director and the County Tax Board no later than pretax year December 31. The County Board of Taxation, after its review as provided under N.J.S.A. 54:4-46, can direct the assessor to make any changes it considers necessary.

REFERENCES:
N.J.A.C. 18:15-14.6
N.J.S.A. 54:3-16
Van Vuat v.. Pepuannock Twp., 20N.J. Tax 129(2002).

618.04 Preferential Valuation of Farmland Under Farmland Assessment Act.

Land qualified under the Farmland Assessment Act must be valued for property tax purposes on the basis of its productivity value for agricultural or horticultural use and its soil class rather than its value for other purposes.

REFERENCES:
N.J.S.A. 54:4-23.2
N.J.A.C. 18:15-4.1

618.05 Soil Productivity Groups.

The assessor must have a soil map of each farm to properly apply F.E.C. values to the land and compute the Farmland Assessment. Soil groups are:

Group A – Very productive farmland – Most desirable soil because of high yields and ease of cultivation.

Group B – Good farmland – Desirable soil because yields are generally high and land can be cultivated on a permanent basis.

Group C - Fair farmland – Yields are lower than in soil Group B because of shallowness, droughtiness, or excessive moisture. Land can be cultivated on a permanent basis.

Group D - Poor farmland – Soil is usually too wet, stony, droughty, or otherwise unsuitable for permanent cultivation. Yields are low when cultivated.

Group E – Very poor farmland – Land is often found in pasture or woodlands, yields are very low because of excessive water, shallowness, stoniness, or droughtiness.

618.06 Taxable Value of Land under the Farmland Assessment Act.

The taxable or assessed value of land qualifying under the Farmland Assessment Act is determined by multiplying the land's agricultural or horticultural value by the percentage of true value set by the County Tax Board for assessing real property generally. All 21 counties in New Jersey are currently at a level of 100% of true value. (Number of acres multiplied by Agricultural/Horticultural value then multiplied by the Director's Ratio.)

REFERENCES:
N.J.A.C. 18:15-5.1
Division of Taxation Annual Reports, 1973 to 1988.

618.07 Valuation of Land and Buildings Not Under the Farmland Assessment Act.

All land which is not under the Farmland Assessment Act must be valued, assessed, and taxed by the same standards, methods, and procedures as other taxable land in the taxing district. All buildings except for single-use agricultural/horticultural facilities are also to be valued in this manner.

REFERENCES:
N.J.S.A. 54:4-23.12
N.J.A.C. 18:15-4.4; 18:15-5.2

618.08 Entry on the Assessment List.

Land which is eligible under the Farmland Assessment Act is entered on the Assessment List in the same manner as any other taxable property. However, when only a portion of a parcel is eligible and the remaining portion is not eligible, each portion is shown on the Assessment List on a separate line with the code 3A farm regular or 3B, farmland qualified.

REFERENCES:
N.J.S.A. 54:4-23.15; 54:4-23.19
N.J.A.C. 18:15-5.3; 18:15-7.2; 18:15-10.1
Handbook for New Jersey Assessors.

619. Manufactured or Mobile Homes.

619.01 Manufactured or Mobile Homes.

Public Law 1983, Chapter 400, provides manufactured homes situated in mobile home parks are exempt from taxation as real property, subject to payment of municipal service fees as imposed by local ordinances.

REFERENCES:
N.J.S.A. 54:4-1.2 et seq.

619.02 Manufactured Home.

"Manufactured Home" means a unit housing:

1. of one or more transportable sections which are substantially constructed off site and joined together on site;
2. built on a permanent chassis;
3. designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and
4. Manufactured in accordance with standards established in the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub. L. 93- 383 (42 U.S.C. 5401 et seq.) and the "State Uniform Construction Code Act," P.L. 1975, c.217 (N.J.S.A. 52:27D-119 et seq).

Manufactured home also means a housing unit manufactured before the effective date of the promulgated standards but which otherwise meets the criteria.

619.03 Mobile Home Park.

"Mobile Home Park" means a parcel, or two or more contiguous parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured homes, where the sites are under common ownership and control, except cooperatives, for leasing to manufactured homeowners, and where the owner or owners offer services, which are provided by the municipality where the park is located for property owners outside the park.

Parcel, or any contiguous parcels of land which contain no fewer than three sites equipped for the installation of manufactured homes, and which otherwise conform to the provisions of this subsection, shall qualify as a mobile home park for the purposes of this act.

619.04 "Municipal Service Fee".

"Municipal Service Fee" means a fee imposed on manufactured homes installed in a mobile home park for services rendered the manufactured homeowners by the municipality or any other local taxing authority established pursuant to a municipal ordinance, and for reimbursement of the municipality for payments to the school district in which the mobile home park is located for educational costs for pupils residing in that park; may include but shall not be limited to:

1. Construction and maintenance of streets;
2. Lighting of streets and other common areas;
3. Garbage removal;
4. Snow removal; and

5. Drainage of surface water from home sites and common areas.

619.05 Certain Mobile Homes and Added Assessments Are Taxable.

Although manufactured homes in mobile home parks are property tax exempt, improvements such as patios, garages, porches, added rooms, etc. are taxable as real property when affixed to the land on a permanent foundation.

REFERENCES:
N.J.S.A. 54:4-1.6
Bayshore Woods Inc. v. Lower Township, 8 N.J. Tax 546 (Tax Court 1986).

Manufactured homes outside of mobile parks are subject to real property taxation when affixed to the land on a permanent foundation or a nonpermanent foundation but connected to utility systems in a manner which would make the homes habitable as permanent dwellings.

619.06 Nonpermanent Foundation.

"Nonpermanent foundation" means any foundation of non-mortared blocks, wheels, a concrete slab, runners, or any combination thereof, or any other system approved by Commissioner, Department of Community Affairs for the installation and anchorage of a manufactured home on other than permanent foundation.

619.07 Permanent Foundation.

"Permanent foundation" means a support system installed partially or entirely below grade and capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure; at an adequate depth below grade to prevent frost damage; construction material approved by Commissioner, Department of Community Affairs.

REFERENCES:
N.J.S.A. 54:4-1.4
McDougall v. Vernon Township, 6 N.J. Tax 488 (Tax Court 1984).

620. Public Utility Property.

Certain public utility companies pay taxes on their gross receipts for specified portions of their property in lieu of local property taxes. But some property is locally assessable.

When the Franchise & Gross Receipts Tax Act was amended in 1997 the tax's structure changed. The 1997 amendments eliminated street railway, gas, electric light, heat, and power corporations from taxation under N.J.S.A.54:30A-49 et seq. Gas, electric light, heat and power corporations became subject to Corporation Business Taxes, Sales and Use Taxes, the Uniform Transitional Utility Assessment, and the temporary Transitional Energy Facility Assessment (TEFA) which expired in December 2013.

Public water and sewerage utility companies remain as the only utilities taxable under the Franchise & Gross Receipts Act. Therefore, some formerly local property tax exempted property which had been subject to gross receipts tax may be returned to the assessment rolls.

REFERENCES:
N.J. American Water Co., Inc. v. Borough of Jamesburg, 20 N.J. Tax 637 (Tax Ct. 2003)
N.J.S.A.54:30A-49 et seq. as amended by P.L. 1997, C.162

620.01 Property Assessed Locally.

The following public utility property should be valued by the assessor and taxed locally for the benefit of the taxing district.

1. All property, real and personal, exclusive of inventories, of telephone and telegraph companies and messenger system companies. A "local

exchange telephone company" as defined in N.J.S.A.54:4-1 means a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange.

2. The land and buildings of all privately owned public water and sewerage utility companies.

3. All real property of public utilities other than water and sewerage, including transmission pipelines.

REFERENCES:
N.J.S.A. 54:4-1; 54:30A-16 et seq.; 54:30A-49 et seq.
Verizon N.J. Inc. v. Hopewell Boro, 26 N.J. Tax 400(2012).

620.02 Property Not Assessed Locally.

The following public utility property should not be assessed locally since it is exempted in return for payment of a tax on gross receipts.

1. All property of water and sewerage companies, except land and buildings. Such items as pipes, conduits, bridges, viaducts, dams and reservoirs, machinery, apparatus and equipment, despite any attachment thereof to the lands or buildings are not assessable by the local assessor. However, lands under dams and reservoirs are assessable real property.

REFERENCES:
N.J.S.A. 54:30A-49 et seq.

620.03 Taxation.

Public utility property which is assessable locally is taxed at the General Tax Rate of the taxing district for the benefit of the taxing district.

Public Utility Franchise Tax applies to all water and sewerage companies having lines and mains along, in, on, or over any public thoroughfare. The Public Utility Gross Receipts Tax is in addition to the Franchise Tax and is in lieu of the local taxation of certain water and sewerage companies. Both taxes are payable to the State in three installments in May, August and November. Revenues are deposited into the Energy Tax Receipts

Property Tax Relief Fund and distributed to municipalities subject to State Budget considerations.

REFERENCES:
N.J.S.A. 54:30A-16 et seq.; 54:30A-49 et seq.
2012 Annual Report of Division of Taxation
N.J.S.A.52:27D-438 et seq. as per P.L.1997, C.167

620.04 Appeals.

All proceedings for appeal of real estate, as herein defined, and assessed and taxed at the local rate, and for the review and collection available to municipalities and other corporations or individuals with respect to similar property are applicable.

REFERENCES:
N.J.S.A.54:30A-52, L.1940,c.5 as amended by P.L. 1997, C.162.

620.05 Private Water Companies.

Prior to the tax year 1962, all real and tangible personal property of privately-owned water companies was assessed locally. After 1962 land and buildings remained assessable while other property was subject to a tax on gross receipts. However, each water company in existence during 1961 is required to pay to the municipality where its property is located a sum of money each year equal to the difference between what the municipality receives in gross receipts taxes from the water company and the total amount of property taxes paid by that company in 1961 on its scheduled property.

REFERENCES:
N.J.S.A. 54:30A-51.1 through 30A-52.
Jersey City Division of Water v. Parsippany-Troy Hills Township, 16 N.J. Tax 504 (Tax Court 1997).

621. Railroad Property.

621.01 Assessor's Responsibility.

Municipal assessors do not assess property used for railroad purposes. However, real property owned by railroad companies but not used for

railroad purposes is assessed by the local assessor as of October 1 of the pretax year in the same manner as the property of any other owner. The State of New Jersey, Property Administration annually levies and assesses railroad property for both property tax and franchise tax.

621.02 Historical.

The first general New Jersey Railroad Tax Law dates back to 1948 when railroad property was assessed by the State and local government. In 1941, the basic structure for the present tax law was adopted and provided for both a property tax based on market value and a franchise tax on net railway operating income allocated to New Jersey using a trackage formula. Under the Railroad Tax Law of 1948 as amended, railroad property is subject to tax annually where the property is used for the transportation of persons or freight by a railroad that is in railroad use, regardless of the ownership or possession of the real property.

REFERENCES:
N.J.S.A. 54:29A-1 et seq., 54:29A-7.1
N.J.A.C. 18:23-1.1 et seq.

621.03 Railroad Property Tax - Property Classified.

The Railroad Tax Law currently provides for the division of railroad property into three classes for taxation purposes:

CLASS I – Main Stem is the roadbed not exceeding 100 feet in width…together with all tracks, appurtenances, ballast, ballast gravel or broken stone laid in a railroad bed, and structures erected on it and used in connection with it but not including passenger or freight buildings.

CLASS II – is **other real estate used for railroad purposes**…including the roadbed (other than main stem and facilities used in passenger

service), tracks, buildings, water tanks, riparian rights, docks, wharves and piers, etc. used for freight except lands not used for railroad purposes.

CLASS III – is **facilities used in passenger services**; land, stations, terminals, roadbeds, track appurtenances, ballast and all other structures used in railroad passenger service, including signal systems, power systems, equipment storage, repair and service facilities.

Tangible Personal Property – is the rolling stock, cars, locomotives, ferryboats, all machinery and tools.

REFERENCES:
N.J.A.C. 54:29A-17; 54:29A-2
Consolidated Rail Corp. v. Director, Division of Taxation, 18 NJ. Tax 291 (Tax Court 1999).

621.04 Assessment.

The Railroad Property Tax is a State tax on Class II property. Other than Class I mainstem, tangible personal property and Class III facilities used in passenger service, which are exempt, Class II property is taxable and assessed at true value annually as of January 1 of the pretax year by the Director, Division of Taxation.

REFERENCES:
N.J.S.A. 54:29A-17; 54:29A-12
Consolidated Rail Corp. v. Director, Division of Taxation, 18 NJ. Tax 291 (Tax Court 1999).

621.05 Exemptions.

Main stem (Class 1), tangible personal property and facilities used in passenger service (Class III) are exempt from tax.

621.06 Annual Railroad Property Tax Rate.

The annual property tax rate is $4.75 per $100 of true value for Class II Property.

REFERENCES:
N.J.S.A. 54:29A-7

621.07 Disposition of Revenues.

Since 1995, payments to municipalities have been paid on Class II railroad properties owned by New Jersey Transit Corporation through the Consolidated Municipal Tax Relief Aid Program administered by the Department of Community Affairs.

621.08 Replacement Revenue.

Prior to 1967, the Director of the Division of Taxation certified to municipalities the value of Class II railroad property located in their boundaries for inclusion on their tax rolls. As a result of legislation enacted in 1966, municipalities no longer receive certified values from the Director. Each municipality affected by the elimination of taxes assessed on railroad purpose property receives replacement revenue from the State in an amount not less than the revenue which was derived by the municipality from Class II railroad property in tax year 1966. If additional facilities used in passenger service are put into service by a railroad company, the amount of in lieu of tax payment is increased in accordance with a legislative formula. Where real property is withdrawn from railroad use the in lieu of property tax payment is reduced. No State aid has been paid since calendar year 1982, except for 1984-1994 payments to those municipalities in which class II railroad property owned by New Jersey Transit Corporation is located (P.L. 1984, c.58).

621.09 Taxes Are In Lieu of Other Property Taxes.

All taxes collected from property used for railroad purposes as described above are in lieu of all other state or local taxes, other than special assessments for improvements benefits.

REFERENCES:
N.J.S.A. 54:29A-11

621.10 Limitation on In Lieu of Property Tax Payment.

State payments are to be paid annually to each municipality having qualified real property in railroad use. However no State payment is made to any municipality where payment as adjusted is less than $1,000.

REFERENCES:
N.J.S.A. 54:29A-24.1; 54:29A-24.2; 54:29A-24.3

622. Railroad Franchise Tax.

622.01 Description.

The Railroad Franchise Tax is levied upon railroad (or systems of railroad) operating within New Jersey. The tax base is that portion of the road's (or system's) net railway operating income of the preceding year allocated to New Jersey. The allocating factor is the ratio of the number of miles of all track in this State to the total number of miles of all track over which the railroad or system operates.

622.02 Annual Railroad Franchise Tax Rate.

The annual franchise tax is assessed at a rate of 10% of the net operating income of the railroad system for the preceding calendar year allocated in proportion to the number of miles of all track over which the railroad system operates in this State bears to the total number of miles of track over which it operates. A minimum tax of $100 is assessed where total or gross operating revenues are less than $1 million and $4000 tax where gross revenues are more than $1 million in the preceding year.

REFERENCES:
N.J.S.A. 54:29A-13; 54:20A-14

622.03 Disposition of Revenues.

Revenues are deposited in the State Treasury for general State use.

622.04 Appeals.

Any taxpayer desiring to contest the validity or amount of any assessment or reassessment of property or franchise tax made by the Director of the Division of Taxation may appeal to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law N.J.S.A. 54:48-1 et seq. as amended by Public Law 1999, chapter 208.

REFERENCES:
N.J.S.A. 54:29A-31
N.J.S.A. 54:48-1 et seq.

Chapter 7 Personal Property Assessment

701. What is Personal Property?

As a general rule, personal property is property which is not attached to the land or to a building, structure, or improvement in a permanent manner. It includes movable machinery or equipment which is not constructed as an integral part of a building, structure, or super-structure, and which is removable without material injury. The line of demarcation between real and personal property is not always clear. For example, a fixture is a tangible thing, which previously was personal property, and which has been attached to or installed in land or a structure on the land in such a way as to become a part of the real property. The legal interpretation of what constitutes a fixture varies among states. In doubtful cases, assessors should consult their municipal attorneys for guidance. (See Chapter II HANDBOOK for N.J. ASSESSORS for Three-Pronged Test: Real v. Personal.)

REFERENCES:
N.J.S.A. 54:4-1
Mobil Oil Corp. v. Twp. of Greenwich, 22 N.J. Tax 1 (Tax Court 2004).
International Flavors v. Union Beach, 21 N.J. Tax 403, (Tax Court 2004).
New Jersey American. v. Bor. of Jamesburg, 20 N.J. Tax 637 (Tax Court 2003).
NBCP Urban Renewal Partners v. Newark, 17 N.J. Tax 59 (Tax Court 1997).
B.F. Goodrich Co. v. Oldmans Twp., 17 N.J. Tax 114 (Tax Court 1997).
Emmis Broadcasting v. E. Rutherford Boro., 14 N.J.Tax 524 (Tax Court 1995).
(Radio Broadcast Tower); 16 N.J. Tax 29 (App. Div. 1996).
Taylor v. Lower Township, 13 N.J. Tax 371 (Tax Court 1993).
(floating docks)

702. Constitutional and Statutory History.

The Constitution of New Jersey provides that all property must be assessed under general laws and by uniform rules, but it does not hold personal property to the "same standard of value" requirement applicable to real property. Historically, the Legislature provided for differing treatment for several categories of tangible personal property. Prior to 1966, almost all tangible personal property such as household personal property and personal effects; personal property not used in business other than household personal property; personal property, except inventories, used in the business of local exchange telephone, telegraph and messenger systems companies; and personal property used in all other types of business, except inventories, motor vehicles and farm personal property was taxable locally. With the exception of local exchange telephone property which remains taxable, local assessment was entirely eliminated by 1967 and this type of personalty continues to be non-taxable.

In 1966, the Legislature enacted a State-Assessed Business Personal Property Tax. This tax was repealed in 1993 by P.L. 1993, c. 174. "Intangible personal property" such as cash, accounts receivable, and securities has not been taxable under the property tax laws of this State since 1945.

In 1992, the Business Retention Act (P.L. 1992, c. 24) subjected certain personal property of petroleum refineries to tax as personalty.

REFERENCES:
Constitution of New Jersey, Article VIII, Section 1, Paragraph 1.
Exemption of Intangible Personal Property, P.L. 1945, c. 163; P.L. 1989, c. 2.
N.J.S.A. 54:4-1; 54:4-2.31
N.J.A.C. 18:12-10.2

At the present time, there are two types of personal property assessed by the municipal assessor. The first is machinery and equipment, exclusive of inventories, used in the business of "local exchange telephone companies." "Local exchange telephone companies" are defined as telecommunications carriers providing dial tone and access to 51% of a local telephone exchange. Personal property of this type, except for inventories, is assessed at the local level, placed on the Tax List and becomes part of the taxable ratables of the municipality in which it is situated.

In a recent constitutional challenge to N.J.S.A. 54:4-1, the State Tax Court in Verizon New Jersey, Inc. v. Hopewell Borough, decided June 26, 2012, upheld the statute's constitutionality. The Court also ruled that determination of the percentage test (51% of a local telephone exchange) which defines subjectivity to the personal property tax is annual as of the assessment date, rather than as of the fixed date in 1997 when the statute was amended. However, the matter is under further appeal.

REFERENCES:

Verizon New Jersey Inc. v. Hopewell Borough, 26 N.J. Tax 400 (Tax Court 2012).

New York SMSA Ltd. v. East Hanover Twp., 13 N.J. Tax 564 (Tax Court 1994).

The second is the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products. But, machinery, apparatus or equipment which are located in the grounds of a petroleum refinery which are not directly used to refine crude oil into petroleum products are not assessable.

703. Local Assessment.

703.01 Taxable Situs.

Personal property is to be taxed in the taxing district where it is permanently located. This is a question of fact which must be resolved based on the specific circumstances in each case. Situs for tax purposes does not include property found temporarily, casually or in mere transition in the community.

703.02 Value Standard.

True value is the standard at which certain telephone and petroleum refinery personal property is to be assessed. True value is the original cost of the personal property, less depreciation as of the assessment date, i.e., January 1 pretax year, as shown on the books of the personal property owner. The true value of the personal property to be reported by the taxpayer may not be less than 20% of its original cost as long as it remains in use.

REFERENCES:
N.J.S.A. 54:4-2.44, 54:4-2.45 and 2.46

703.03 Assessment Date.

True value or net book value of personal property is to be determined annually as of January 1. This date is the date as of which assessment is to be made with respect to the taxes payable in the succeeding year.

EXAMPLE:

Assessment date is January 1, 2010 for personal property taxes to be put on the 2011 Tax List.

REFERENCES:
N.J.S.A. 54:4-2.45-46 and 2.46

703.04 Reportable Value.

The value of depreciable personal property for federal income tax purposes for the year immediately prior to the tax year for which the PT-10 or PT-10.1 Return Form is filed is the value which must be reported. This value is the basis for calculation of the taxable value of this property. (See line 8 of these forms).

REFERENCES:
N.J.S.A. 54:4-2.45
Form PT-10, Instructions to Taxpayer, 3.
Form PT-10.1, Instructions to Taxpayer, 3.

703.05 Property depreciated below 80% of original cost but not fully depreciated.

The difference between 20% of the original cost of the personal property and the amount reported with the original total of depreciated personal property but depreciated below 80% of its original cost, must be reported on the PT-10 and PT-10.1 Return Form (See line 6).

REFERENCES:
N.J.S.A. 54:4-2.45
Form PT-10, Instructions to Taxpayer, 5.
Form PT- 10.1, Instructions to Taxpayer, 5.

703.06 Property Fully Depreciated.

Taxable personal property which has been fully depreciated on the taxpayer's books but which was in use or being held for use must be reported at not less than 20% of original cost to the taxpayer (See line 7).

REFERENCES:
N.J.S.A. 54:4-2.44, 54:4-2.45
Form PT-10, Instructions to Taxpayer, 5.
Form PT-10.1, Instructions to Taxpayers, 5.
N.J.S.A. 54:4-2.49

703.07 Tax Calculation and Tax Date to be Applied.

The method of calculating the taxable value differs depending on whether or not a revaluation or reassessment was implemented for the year.

Where no revaluation or reassessment has been implemented, the lower of the county percentage level (100%) or the Director's Ratio promulgated October 1 of the pretax year must be multiplied times the net book value (line 8, Form PT-10 or PT-10.1) reported by the taxpayer.

Where a revaluation or reassessment has been implemented, the percentage level (100%) must be multiplied times the net book value (line 8, Form PT-10 and PT-10.1) reported by the taxpayer.

The taxable value of personal property is to be multiplied by and taxed at the general tax rate of the taxing district in which such personal property is found.

REFERENCES:
N.J.S.A. 54:4-2.47 and 54:4-2.48
Forms PT-10 and PT-10.1 Instructions to Assessor, A and B

703.08 Filing Returns.

Return forms PT-10.1, Return of Machinery Apparatus or Equipment of a Petroleum Refinery, and PT-10, Return of Tangible Personal Property used in Business by Local Exchange Telephone Company, are required to be filed with the municipal assessor annually. The forms are promulgated by the Director of the Division of Taxation and furnished to taxpayers by the Local Property Branch. Separate returns must be filled with each municipal assessor where tangible personal property is "found." Found means situated in a taxing district where it has acquired a permanent location.

REFERENCES:
N.J.S.A. 54:4-2.48

703.09 Filing Due Date, Late Filing and Penalties.

The return Forms PT-10 and/or PT-10.1 must be filed by the taxpayer on or before September 1 of the pretax year with the assessor of the taxing district in which personal property is located.

When returns are not timely filed by pretax year September 1, penalties are to be assessed at $100 for each day the form remains unfiled. However, the total penalty may not exceed 25% of the amount of the tax, or $100 whichever is greater. Penalties are to be assessed by the assessor and become a part of the tax which is payable to and recoverable by the tax collector.

REFERENCES:
N.J.S.A. 54:4-2.48

703.10 Extended Filing Deadline.

The assessor may, upon request made on or before September 1 of the pretax year, provided good cause is shown, extend the time to file a Form PT-10 or PT.10.1 for a 2-month period.

703.11 Non - filing.

Where a taxpayer refuses or neglects to file return Form PT-10 or PT-10.1, the assessor should value the taxable personal property using any information available to him to reasonably determine the property's value. The assessor and County Tax Board have the power to subpoena any person or corporate officer to appear and produce any books and papers concerning the taxable property. If a person refuses to comply with the subpoena, the assessor may apply to the Superior Court or County Court

for an order compelling appearance. The person subpoenaed may be examined under oath by the assessor.

REFERENCES:
N.J.S.A. 54:4-16, 17
N.J.S.A. 54:4-2.49

703.12 Assessor Review and Placement on Tax List.

Assessors must review and audit the figures on Forms PT-10 and PT-10.1 by January 10 of the tax year at which time the taxable value of personal property is placed on the Tax List and Duplicate filed with the County Board of Taxation and becomes part of the ratables of the municipality.

REFERENCES:
N.J.S.A. 54:4-2.48

Chapter 8 Partial, Added and Omitted Assessments

801. Partial and Added Assessments.

All real property must be valued as of October 1 of the pretax year for the next calendar tax year. For structures under construction on pretax year October 1, the assessment is a "partial assessment" based on the portion of final value present on that date. The Added Assessment is based on the value added between October 1 and the date the structure is completed.

REFERENCES:
N.J.S.A. 54:4-23 and 54:4-35

801.01 Purpose.

The Added Assessment Law permits the valuation of real property which becomes taxable during the year after the regular assessment date of pretax year October 1. If there were no Added Assessment Law, many properties would escape taxation until the next regular assessment date.

REFERENCES:
N.J.S.A. 54:4-63.1 et seq.

801.02 Property Taxable.

Two types of property are affected by the Added Assessment Law.

1. Structural Changes. New structures, additions to existing structures, and improvements of existing structures are subject to the Added Assessment Law if they are completed after the statutory annual October 1 assessment date. A structure is "completed" when it is substantially ready for the purpose for which it was intended. The structure need not actually be in use; it is taxable when it is ready for use.

2a. Exempt Properties becoming Taxable. Real property which ceases to be exempt because of changes in use, ownership, nonprofit status or anything which alters the basis for exemption, may make the property subject to the Added Assessment Law.

2b. Real Property Sold by a Municipality. Exempt real property sold by a municipality to a non-exempt owner is treated as an Added Assessment in the same manner as structures completed during the year.

Disallowance/Appeal Notice. Upon reinstating formerly exempt property to the tax rolls, the assessor is required to give notice to the owner. The court has held that failure to provide notice is a violation of due process and any resulting Added or Omitted Assessment is invalid.

Declining Markets. In a declining market, it is possible that a structural change that "normally" would have increased the assessed value and generated an Added Assessment may not. If this is the case, the property's structural changes must be recorded on the Property Record Card.

REFERENCES:

N.J.S.A. 54:4-63.26 through 4-63.29
City of Camden v. Camden Masonic Association, 9 N.J. Tax 331 (Tax Court 1987).
Beranto Towers v. City of Passaic, 1 N.J. Tax 344 (Tax Court 1980).
Snyder v. Borough of South Plainfield, 1 N.J. Tax 3 (Tax Court 1980).
Howell Township v. Monmouth County Board of Taxation, 18 N.J. Tax 149 (Tax Court 1999).
Harrison Realty Corp. v. Harrison Town, 16 N.J. Tax 375 (Tax Court 1997) affirmed by 17 N.J. Tax 174 (App. Div. 1997) cert. denied by 153 N.J. 213 (1998).
Litton Business Systems, Inc. v. Morris Plains Borough, 8 N.J. Tax 520 (Tax Court 1986) affirmed by 9 N.J. Tax 651 (App. Div. 1988).
Otelsberg v. Bloomfield Township, 18 N.J. Tax 243 (Tax Court 1999).

801.03 Taxable Properties Becoming Exempt.

In *Schizophrenia Foundation of New Jersey v. Montgomery Township*, the Superior Court, Appellate Division held that a nonprofit corporation organized for charitable purposes was entitled to property tax exemption for new construction and invalidated the Added Assessment even though the building was not qualified for exemption on October 1 of the pretax year. The Appellate Court ruled that the tax status of property which would have been subject to the Added Assessment Law but that would be exempt upon completion should be ascertained as of the date of the final assessment. This means that the use of the property as of completion determines when an exemption claim is made regarding an Added Assessment. If exempt, an Added Assessment is not permitted. However, partial assessments prior to completion are permitted.

REFERENCES:
Schizophrenia Foundation of New Jersey v. Montgomery Township, 6 N.J.Tax 439 (App. Div. 1984) on remand at 6 N.J.Tax 594 (Tax Court 1984).
Hillcrest Health Service System, Inc. v. Hackensack City, 18 N.J. Tax 38 (Tax Court 1998).

802. Omitted – Added Assessments.

802.01 Purpose.

The courts have held that Added Assessments which, through error, are not made at the proper time may be placed on the tax rolls using the Omitted Assessment procedure.

N.J.S.A. 54:4-63.3 does not permit added assessments for the year in which an improvement is discovered. Rather, added assessments are made for the tax year in which an improvement is completed. When an assessor fails to discover an improvement in the year in which it is completed, he or she may, in the following year, make an omitted added assessment.

REFERENCES:
Schizophrenia Foundation of New Jersey v. Montgomery Township, 6 N.J.Tax 439 (App. Div. 1984) on remand at 6 N.J.Tax 594 (Tax Court 1984).
Freehold Boro v. Nestle, USA, 21 N.J. Tax 138(2003).

803. Omitted Assessments.

803.01 Purpose.

The Omitted Assessment Law permits the valuation of real property for tax purposes which, through error, is omitted from assessment during the current tax year and the year immediately prior to the current tax year. The Omitted Assessment procedure is also used for valuation and tax collection rollback procedures under the Farmland Assessment Act. Two methods are available: the regular or original method and the alternate method. For purposes of rollback tax under Farmland Assessment the regular / original method must be used.

REFERENCES:
N.J.S.A. 54:4-63.12 et seq.
N.J.S.A. 54:4-63.31 et seq.
N.J.S.A. 54:4-23.8
Snyder v. South Plainfield, 1 N.J. Tax 3 (Tax Court 1980).
Appeal of N.Y. State Realty & Terminal Co., 21 N.J. 90 (1956).
SLR Associates of Millville v. Millville City, 11 N.J. Tax 1 (Tax Court 1989).
Coastal Eagle Point Oil Co. v. West Deptford Township, 19 N.J. Tax 123 (Tax Court 1999).
Chevron U.S.A., Inc. v. Perth Amboy, 9 N.J. Tax 571 (Tax Court 1988).

803.02 Original, Regular Method vs. Alternate Method for Omitted Assessments.

The Alternate Method does not supersede the Original, Regular Method. Under the "Original Method" for Omitted Assessments, written application is made to the County Tax Board, with notice to the taxpayer,

and the Board renders a judgment at hearing as to whether the assessor's valuation is correct. If the County Board of Taxation judgment indicates that a property was omitted from assessment for a particular year, the assessor must enter the property and the assessment as per the judgment on the Omitted Assessment List which is filed, with a Duplicate, with the County Board of Taxation on the next October 1. Under the "Alternate Method" the assessor first levies the Omitted Assessment, and then sends notice to the taxpayer and the County Tax Board with no hearing, unless the taxpayer files a timely appeal. Regardless of the method used Omitted Assessments always cover a full calendar year.

REFERENCES:
N.J.S.A. 54:4-63.5; 54: 4-63.15, 54: 4-63.17; 54: 4-63.31; 54:4-63.32; 54:4-63.40.
L.P.T.B. Bulletin 2
Local Property Tax Bureau News, March, 1954, p. 1 and August, 1968.
New Jersey Transit Corp. v. Newark City, 16 N.J. Tax 1 (Tax Court 1996).

803.03 Assessor's Action.

As soon as the assessor receives the certified copy of the Assessor's Omitted Property List from the County Board of Taxation, he must send notice by certified mail to the owners of the property affected stating that property taxes are due as a result of an Omitted Assessment having been levied, and that the amount of the tax payable may be ascertained from the tax collector.

REFERENCES:
N.J.S.A. 54:4-63.35
Local Property Tax Bureau News, August 1968.

803.04 Farmland Assessment Rollbacks.

The Original, Regular Omitted Assessment procedure must be used for valuation and collection of rollback taxes due under the Farmland

Assessment Act where the land use changes from a qualifying agricultural/horticultural use to a nonfarm use.

REFERENCES:
N.J.S.A. 54:4-9.3; 54:4-23.9; 54:4-63.12
N.J.A.C. 18:15-7.6; 18:15-7.7; 18:15-7.10
Braemar at Chester, LLC. v. Chester Borough, 21 N.J. Tax 16 (Tax Court 2003).
Atlantic City Development Corp. v. Hamilton Township, 3 N.J. Tax 363 (Tax Court 1981).

804. Determining Added and Omitted Assessments

804.01 Limited Opportunity to Apply Added and Omitted Assessments, Untimely Added and Omitted Assessments May be Lost.

In a 2005, New Jersey Tax Court decision concerning belated valuation, *Van Orden v. Township of Wyckoff*, the court referenced an earlier decision, *Glen Pointe Associates v.Township of Teaneck*. In *Glen Pointe*, the Tax Court concluded that a three-month prorated assessment for 1984 for improvements completed in 1984 could be imposed as an Omitted - Added Assessment in 1985. The court found, however, that a full-year assessment for 1985 could not be sustained as an Added Assessment "because it was not imposed for a year in which the property was substantially completed within the purview of N.J.S.A. 54:4-63.3." The court further found that the 1985 assessment could not be sustained as an Omitted Assessment. Judge Crabtree reasoned: (paraphrasing)

> While an addition was in fact constructed and was properly the subject of an Added Assessment for the last three months of 1984, because the entire structure was completed and ready for its intended use prior to October 1, 1984, and the property was not omitted as a taxable line item, the assessor simply failed to consider the full value of the subject as of the assessing date for the 1985 tax year. The situation is an erroneous determination of value on the

assessing date which the assessor inappropriately attempts to correct using Added and Omitted procedures.

In the foregoing scenario, a full regular assessment should have been made as of pretax year October 1, 1984 for calendar tax year 1985. No Added or Omitted Assessment procedure should have been employed.

Again, timing is everything. In *American Hydro Power Partners v. Clifton*, the Tax Court held "Neither city, county board, nor Director of Taxation properly complied with Added Assessment statutes, and thus, Added Assessment for property leased by operator of dam and hydroelectric plant was invalid, where Added Assessment was made six to seven weeks after date prescribed by statute, county board failed to deliver certified duplicate of Added Assessment List to tax collector until after date mandated, tax collector was unable to deliver tax bill one week prior to deadline as required, and property owner did not receive tax bill until ten days after expiration of time for appeal to county board."

REFERENCES:

N.J.S.A. 54:4-63.3; 54:4-63.5; 54:4-63.7; 54:4-63.8; 54:4-63.11
Van Orden v. Twp. of Wyckoff, 22 N.J. Tax 31 (Tax Court 2005).
Glen Pointe Associates. v. Township of Teaneck, 10 N.J. Tax 288 (Tax Court 1988) later proceeding at 10 N.J. Tax 506 (Tax Court 1989) reconsideration denied by 10 N.J. Tax 598 (Tax Court 1989) and affirmed by 12 N.J. Tax 127 (App. Div. 1991).
American Hydro Power Partners v. Clifton, 9 N.J.Tax 259 (Tax Court 1987) affirmed by 239 N.J. Super. 130 (App. Div. 1989) cert. denied by 117 N.J. 75 (1989) affirmed in part and remanded in part by 12 N.J. Tax 264 (App. Div. 1991) and superseded by statute in R.C. Maxwell Co. v. Galloway Township, 145 N.J. 547 (1996).
New Rock Inv. Partners v. Elizabeth City, 18 N.J. Tax 207 (Tax Court 1999).
U.S. Postal Service v. Kearny Town, 17 N.J. Tax 397 (Tax Court 1998).
Rockaway 80 Associates v. Rockaway Township, 15 N.J. 326 (Tax Court 1996).

804.02 Missed Added Assessments.

Where taxing district failed to comply with statutory requirements concerning Added Assessments, failure may be corrected by proper, timely use of Omitted Assessment statutes.

804.03 Added & Omitted Assessments Not to Be Used to Correct Inaccurate Valuation.

In *Freehold Borough v. Nestle USA*, the Tax Court ruled that Omitted-Added Assessments and Added Assessments in fictitious amounts of $1, predicated on the fact that assessor had not made a determination as to completion dates of underlying improvements on taxpayer's property, were invalid; assessments were made contrary to statutory scheme for Added Assessments.

In *200 43rd Street, LLC v. City of Union City*, the Tax Court held that the assessor's deliberate decision to assign zero value to partly completed improvements because of prior sewer ban on new development represented a deliberate judgment that could not be corrected under the Omitted Assessment law upon discovery that the ban no longer existed.

REFERENCES:
Freehold Borough v. Nestle USA, 21 N.J. Tax 138 (Tax Court 2003).
200 43rd Street, LLC v. City of Union City, 16 N.J. Tax 138 (Tax Court 1996).
City of South Amboy v. Karpavicz, etal., 28 N.J. Tax 324 (Tax Court 2015)

804.04 Value to be Used when Exempt Property Becomes Taxable.

Real property which ceases to be exempt is not revalued by the assessor at the time exemption is lost. The property value on the annual January 10 Exempt Property List must be continued for the balance of the tax year. Therefore, a realistic value must be determined for all exempt property so

that the correct taxes will be calculated on the assessment should the property become taxable.

804.05 Locating Added and Omitted Assessments-Information Sources. Assessors should check:

- **Building permits**. Building permits usually indicate the creation of new property values. Assessors and building inspectors should work together to keep the assessor informed of all new permits issued. Assessors should follow-up on every building permit. However, assessors should remember that the dollar value listed on the permit may not accurately reflect the value of the construction underway. For each construction job for which a building permit is issued the following should be obtained:
  1. location of the property by block and lot number.
  2. name and address of the owner.
  3. name of the contractor.
  4. nature of the job.
  5. diagram of the structure with dimensions.
  6. type of construction and other specifications.
  7. reported estimate of cost.
  8. amount of the present assessment.
  9. date of completion.
  10. Added Assessment made upon completion and new total assessment.

- **Abstracts of Deeds and Further Statements, Forms F.S.** Abstracts of deeds and Further Statements help the assessor identify properties which have lost their exempt status.

- **Other Information Sources.**
  - Subdivisions- Deeds or Plots, Property Conversions- Condominiums, Cooperatives (Co-Ops).
  - Changes in the use of exempt property may be indicated in newspaper articles.
  - Realtors (MLS) and other persons familiar with property use in the community are sources of information.
  - The Certificate of Occupancy (CO), required by ordinance in many municipalities, may give the assessor a convenient check on the date on which a property is completed and ready for use. However, failure to qualify for CO does not, per se, mean a building is not ready for occupancy for tax assessment purposes.

REFERENCES:
Beranto Towers v. City of Passaic, 1 N.J. Tax 344 (Tax Court 1980).

804.06 Calculation.

New Jersey Foreign Trade Zone Venture v. Mt. Olive Township, confirms the calculation of Added Assessments as:

1. Determine the taxable value of the entire property including the improvement which triggered the Added Assessment, that is, as completed (land and improvements combined);
2. Then subtract the prior existing October 1 assessment;
3. The difference is the Added Assessment;
4. The Added Assessment may then need to be prorated for the balance of the year.

Van Orden v. Wyckoff, 22 N.J. Tax 31(Tax Court 2005) upholds the *Foreign Trade Zone* decision in that the entire property value is used, not an incremental value for an addition or improvement.

Calculating an Added Assessment

New Assessment – Original Assessment = Added Assessment

(IMPROVEMENT ONLY)

$182,000 – $150,000 = $32,000

Prorated for the months completed

Completed April 17

Taxed on 8 months (May 1 – Dec. 31)

8 months divided by 12 months times assessment = prorated value

$32,000 X 8/12 = $21,333 (prorated added assessment)

REFERENCES:
New Jersey Foreign Trade Zone Venture v. Mt. Olive Township, 10 N.J. Tax 330 (Tax Court 1989) affirmed by 242 N.J. Super. 170 (App. Div. 1990).
Van Orden v. Wyckoff, 22 N.J. Tax 31 (Tax Court 2005).
1125-1127 Clinton Avenue Associates v. Town of Irvington, 2 N.J. Tax 386 (Tax Court 1981).

804.07 Structures completed after October 1 and before January 1 and/or Structures completed between January 1 and October 1 following.

A new structure, or an addition to, or an alteration of an old structure, completed after October 1 and before January 1 or between January 1 and October 1, is valued as of the first day of the month following the date of completion. If the value on the first of the month is greater than the partial assessed value placed on the structure on October 1 of the pretax year, an Added Assessment for the value difference must be made.

REFERENCES:
N.J.S.A. 54:4-63.2
N.J.S.A. 54:4-63.3

Three tax bills possible. Additions and alterations completed in this period require separate Added Assessments. A prorated Added Assessment would be determined for November and December of the year completed (or December only if the addition/alteration was completed in November) and/or for the number of full months in the next year following. The tax rate for the year of completion is applied against this Added Assessment. Another Added Assessment would be levied for the full 12 months beginning with January 1 following the date of completion of the addition/alteration. The tax rate for the year following the year of completion is applied to the 12-month Added Assessment.

Structures completed after October 1 and before January 1

EXAMPLE 1

A $ 245,000 structure started March 1, 2010, is 80% complete on October 1, 2010. The remaining 20% is completed on October 25, 2010. A partial assessment would be made as of October 1, 2010 and placed on the 2011 Tax List as follows:

Land		Partial Improvement 80% completed		Total
$ 100,000	+	$ 196,000	=	$ 296,000

2011 Added Assessment will be levied in the amount of $49,000 for the full twelve months of 2011, and will be placed on the Added Assessment List for 2011. The $49,000 figure is the difference between the full taxable value of the structure completed ($ 245,000) and the partial assessment of ($ 196,000) as of October 1 of the pretax year.

2010 Added Assessment filed in 2011 for the full value of the completed structure prorated for the remaining two months November and December of 2010 would be levied as:

Land	Partial Added Improvement		Prorated Assessment
-------	$245,000	($245,000 x 2/12 = $40,833)	$40,833

To reflect the assessment of the value added between October 1, 2010 and October 25, 2010, two separate Added Assessments are required, both of which will be filed with the County Board of Taxation on October 1, 2011.

The property owner would receive (3) tax bills during 2011 as follows:

a. a tax bill based on the partial $ 296,000 assessment ($100,000 for Land; $ 196,000 - Building, partial) computed by applying the 2011 tax rate;
b. a second tax bill based on the Added Assessment of $49,000 for the full twelve months of 2011 computed by applying the 2011 rate.
c. a third tax bill based on the 2010 prorated Added Assessment of $40,833, computed by applying the 2010 tax rate.

EXAMPLE 2

A fully completed property is originally assessed as of October 1, 2010 and placed on the 2011 Tax List as follows:

Land	Improvement	Total
$ 50,000	$150,000	$ 200,000

An improvement to this structure is completed on October 20, 2010, on which there is an Added Assessment of $40,000 before proration.

Land	Improvement	Total
------	$40,000	$40,000

To reflect the assessment of the improvement completed October 20, 2010, two separate Added Assessments will be required, both of which will be filed with the County Board of Taxation on October 1, 2011. A prorated Added Assessment will be determined for November and December, 2010, in the amount of $6,667 — ($40,000 X 2/12=$6,667*) - covering the two-month period remaining in Tax Year 2010, and will be placed on a list known as the "Added Assessment List, 2010". Another Added Assessment will be levied in the amount of $40,000 for the full twelve months of 2011, and will be placed on the Added Assessment List for 2011.

The owner of the property will receive three (3) tax bills during 2011 as follows:

1. a tax bill based on the original $200,000 assessment computed by applying the 2011 tax rate;
2. a second tax bill based on the Added Assessment of $40,000 for the full twelve months of 2011 computed by applying the 2011 rate;
3. a third tax bill based on the 2010 prorated Added Assessment of $6,667. The amount of the tax is computed by applying the 2010 tax rate.

***NOTE*:** Due to computerization the prorated Added Assessment is rounded to the nearest dollar.

Structures Completed During The Tax Year- After January 1 and before October 1

EXAMPLE 1

A $400,000 structure started on April 3, 2010, is 90% complete on October 1, 2010. The remaining 10% is completed on June 16, 2011. The partial assessment of $360,000 is made as of October 1, 2010. An Added Assessment of $20,000 ($40,000 x 6/12) should be made as of July 1, 2011, and placed on the 2011 Added Assessment List filed with the County Board of Taxation on October 1, 2011.

EXAMPLE 2

A $200,000 structure, started August 1, 2010, is 60% complete on October 1, 2010. The remaining 40% is completed on March 22, 2011. The 2011 partial assessment on the structure is $120,000. An Added Assessment of $60,000 ($80,000 x 9/12) would be made as of April 1, 2011 and entered on the 2011 Added Assessment List to be filed on October 1, 2011. The regular taxes due on the improvement for 2011 would be the 2011 tax rate times the partial assessment, $120,000. The added taxes, due on November 1, 2011, would be the 2011 tax rate times the prorated Added Assessment, $60,000.

***NOTE*:** Additional Examples are provided at the end of the chapter.

804.08 Added Assessments.

Added Assessments should be determined throughout the year as new properties become taxable. If assessors continually check all construction and property transfers, the compilation of data for the Added Assessment List will be more manageable. Assessments subsequent to October 1 and prior to December 1 of the tax year are to be prorated for the remaining whole months in that year and placed on a separate Added Assessment

List for that year, to be filed with the County Board of Taxation on October 1 of the following year. Property becoming taxable in this time period is subject also to Added Assessment for the full 12 months of the following year.

804.09 Omitted- Added Assessment.

The omission of this Added Assessment may be brought to the attention of the County Board of Taxation by the filing of an omitted property complaint. The County Board must follow the Original Regular Method of notice, hearing, and judgment. If the judgment is issued prior to December 31, sustaining the validity of the complaint, the Added Assessment should be placed on the Omitted Property Assessment List filed with the County Board on the next October 1 following rendering of the judgment by the County Tax Board. The taxes due on the following November 1 are calculated by multiplying the Omitted /Added Assessment by the tax rate for the year in which the Added Assessment should have been filed. It is possible that the taxes for a 2010 Omitted-Added Assessment might not be due until November 1, 2012.

REFERENCES:

Appeal of the New York State Realty & Terminal Co., 21 N.J. 90 (1956).
Inwood Owners, Inc. v. Little Falls, 216 N.J. Super. 485 (App. Div. 1987) cert. denied 108 N.J. 184 (1987).
Rockaway 80 Associates v. Rockaway Township, 15 N.J. Tax 326 (Tax Court 1996).
Boardwalk Properties v. City of Atlantic City, 5 N.J. Tax 192 (Tax Court 1983).
Local Property Tax Bureau News, August-September, 1953, p.1; March, 1956, p. 1.

805. Added and Omitted Tax List and Appeals.

805.01 Contents.

The bound Added Assessment List contains several individual listings: added assessments, omitted assessments, omitted added assessments and rollback assessments.

805.02 Added and Omitted Assessment Lists-Assessor.

Generally, the assessor must enter all Added and Omitted Assessments on an Added Assessment List and an Omitted Assessment List, filed with a Duplicate, with the County Board of Taxation annually on October 1 of the calendar tax year.

805.03 Added and Omitted Assessment Lists- County Tax Board.

Generally, the County Board of Taxation reviews and makes any necessary corrections to the Added and Omitted Assessment Lists and Duplicates submitted by the assessor, and on or before October 10, must deliver the corrected Duplicate to the assessor and tax collector.

REFERENCES:
N.J.S.A. 54:4-63.32
Local Property Tax Bureau News, August, 1968.

805.04 Record Retention.

All Added and Omitted Assessment Lists are permanent public records at the County Boards of Taxation and are bound into a book called the Added Assessment List.

REFERENCES:
N.J.S.A. 54:4-63.39
New Jersey Court Rules, R. 8: 4-1 (a) (2).

805.05 Tax Rates for Added and Omitted Assessments.

The tax rate used to calculate the Added or Omitted Assessment should be the rate applicable to the valuation year, not the year in which the Added or Omitted Assessment was filed. The collector must issue bills to the taxpayers at least one week prior to November 1 of the tax year. Bills are payable on November 1, and are delinquent if not paid by that date. Estimated tax rates may not be used to calculate Added and Omitted Assessments. Municipalities must have an actual tax rate to file an Added or Omitted Assessment List.

REFERENCES:
N.J.S.A. 54:4-63.17 to 54:4-63.20

805.06 Notice to Taxpayers.

Because of the short time between the issuance of Added and Omitted Assessment tax bills and the tax payment date, in the interests of good public relations and transparency, assessors should make every effort to notify taxpayers of any Added or Omitted Assessments and the probable tax due as soon as the amount can be estimated. Although the County Tax Board must send a copy of its judgment to the owner of an omitted property, the assessor will improve public relations if he makes sure that the owner understands that taxes will be due on November 1, only a few days after he receives his tax bill.

REFERENCES:
N.J.S.A. 54:4-55
Local Property Tax Bureau News, August-September, 1959, p .2.

805.07 Appeals of Added and Omitted Assessments Alternate Method.

Added and Omitted Assessments may be appealed to the County Board of Taxation on or before December 1 of the tax year or 30 days from the date the tax collector completes the bulk mailing of the tax bills, whichever is later. The County Tax Board must hear appeals and render judgments within one month after the last day for filing such appeals. If the taxpayer

is dissatisfied with the judgment of the Board, he may file a further appeal to the State Tax Court of New Jersey within 45 days. An appeal may be made directly to the Tax Court within that time if the assessed value exceeds $750,000. Except for the filing dates, all appeals of Added Assessments and Omitted Assessments Alternate Method follow the same procedures for regular appeals from real property assessments, as outlined in Tax Appeals chapter of this Handbook.

REFERENCES:
N.J.S.A. 54:4-63.11 as amended by P.L. 1999, c. 208.
New Jersey Court Rules, R. 8:4-1(a) (2).
BDB Enterprises, LLC. v. Brick Township, 16 N.J. Tax 22 (Tax Court 1996).
Venture 17 v. Hasbrouck Heights Borough, 12 N.J. Tax 152 (Tax Court 1991).

805.08 Complaint Under Original, Regular Omitted Assessment Procedure.

An Omitted Assessment may be initiated by the municipal assessor, County Board of Taxation through a resolution, or a complaint filed with the Board by the tax collector, municipal governing body, or a taxpayer. The complaint or resolution must specify the property and the year in which it is alleged to have been omitted from assessment. The collector presents the complaints and appears before the County Tax Board. The assessor should take the initiative in notifying the governing body which may then file the complaint of any omitted properties he discovers. When the assessor files a complaint, the Board must provide notice of the complaint to the tax collector.

REFERENCES:
N.J.S.A. 54:4-63.13; P.L. 1991, c. 439 eff. Jan. 18, 1992.
L.P.T.B. Bulletin 2.
Eastampton Township v. Maimon and Smith, 9 N.J. Tax 602 (Tax Court 1988).

805.09 County Tax Board Action for Omitted Assessments Original, Regular Method.

Upon receiving an Omitted Assessment complaint, the County Board of Taxation schedules a hearing. At least 15 days notice of the hearing must be given in writing to the owner of the property alleged to have been omitted. The notice must indicate the time and place of the hearing and identify the property and year of assessment. Notice must be sent by certified mail. After hearing the complaint, the County Tax Board renders judgment as to the validity of the complaint, sets the amount of the assessment, and forwards copies of the judgment to the assessor and the property owner. The amount of the Omitted Assessment is then entered on the Omitted Assessment List by the assessor.

REFERENCES:
N.J.S.A. 54:4-63.13, 54:4-63.14
L.P.T.B. Bulletin 2.

805.10 Judgments Rendered after October 1.

It has been held that for an Omitted Assessment to be effective for the year it is discovered and reported, and for the year prior to the year it is reported, a judgment of the County Board of Taxation establishing the Omitted Assessment must be rendered during the year of discovery of the omission. Merely filing a complaint with the County Board of Taxation prior to the end of the year of discovery will not suffice for a full two-year pick-up of property omitted from assessment. The time limitation for pick-up of an omitted property is computed from the time of the judgment of the County Board of Taxation. If a judgment for an Omitted Assessment is not rendered by the County Board of Taxation until after October 1, the Omitted Assessment is entered on the Omitted Assessment List filed the following October 1, and taxes are not due until November 1 subsequent to that date.

REFERENCES:
N.J.S.A. 54:4-63.20.
Township of East Brunswick v. Raritan River Railroad Company, Division of Tax Appeals, 1966.

805.11 Tax Search - Informational Requests.

The New Jersey Tax Court held that where a municipal tax search fails to advise of potential Added or Omitted Assessments or rollback taxes, a municipality is precluded from imposing liens. Assessors should comply with requests of municipal tax search officials regarding any prospective liens, using form MTS-1 (1986).

REFERENCES:
Belles v. East Amwell Township, 2 N.J. Tax 103 (Tax Court 1981).

806. Examples.

Current Year Added Assessment

A new office building was started in July 2010. On the October 1 assessing date, it was 60% complete. An assessment of $1,200,000 for the partially completed structure was placed on the 2011 Tax List.

On April 15, 2011, the structure was completed and the assessor determines the final improvement value on this date to be $2,000,000. The remaining 40% of the $2,000,000 will be placed on the 2011 Added Assessment List.

	New Assessment	2011 Tax List Assessment	2011 Current Year Added Assessment
Land	$ 500,000	$ 500,000	$-------
Building	$2,000,000	$1,200,000	$ 800,000
Total	$2,500,000	$1,700,000	$ 800,000

Description	New Office Building
Completion Date	4/15/2011
Months Assessed	8 months
Prorated Amount	$800,000 x 8/12 = $533,333
2011 Tax Rate	$4.25
Taxes Due	$ 22,666.65 ($533,333 x .0425) on Current Year Added Assessment

In this example, the taxpayer will receive 2 tax bills in 2011.

The first bill will be for the Tax List total of $1,700,000 computed with the 2011 tax rate.

The second bill will be for the 2011 current year prorated assessment of $533,333 computed with the 2011 tax rate.

Prior Year Added Assessment

A new garage was completed on November 28, 2010.

	New Assessment with garage	2010 Tax List Assessment	2010 Prior Year Added Assessment
Land	$ 30,000	$ 30,000	$-------
Building	$ 87,000	$ 80,000	$ 7,000
Total	$117,000	$110,000	$ 7,000

Since it is after the October 1 assessing date, the $7,000 assessment difference will be put on the 2011 Added Assessment List as both a 1 month prior year added assessment for the month of December and a 12 month current year Added Assessment.

This is split out so that taxes are paid on the correct year's rate.

Description	New Garage
Completion Date	11/28/2010
Months Assessed	1 month prior year and 12 month current year
Prorated Amount	$ 7,000 x 1/12 = $583
2010 Tax Rate	$ 3.75
Taxes Due	$ 21.86 ($583 x .0375) on Prior Year Added Assessment
2011 Tax Rate	$ 4.25
Taxes Due	$ 297.50 ($ 7,000 x .0425) on Current Year Added Assessment

In this example, the taxpayer will receive 3 tax bills in 2011.

The first bill will be for the Tax List total of $110,000 computed with the 2011 tax rate.

The second bill will be for the 12 months current year prorated assessment of $7,000 computed with the 2011 tax rate.

The third will be for the 1 month prior year prorated assessment of $583 computed with the 2010 tax rate.

Exempt to Ratable

On the 2011 Tax List an exempt property has a $ 235,000 assessment. The property sells and ceases to be exempt on May 23, 2011. Since there is a change in the taxable status, a current year Added Assessment will be placed on the 2011 Added Assessment List for 7 months. There is not an assessment change; the value on the Tax List is used as is.

	New Assessment	2011 Tax List Exempt Assessment	2011 Current Year Added Assessment
Land	$ 55,000	$ 55,000	$ 55,000
Building	$180,000	$180,000	$180,000
Total	$235,000	$235,000	$235,000

Description	Exempt to Ratable
Completion Date	5/23/2011
Months Assessed	7 months
Prorated Amount	$235,000 x 7/12 = $137,083
2011 Tax Rate	$4.25
Taxes Due	$ 5,826.03 ($137,083 x .0425) on Current Year Added Assessment

In this example, the tax payer will only receive 1 tax bill in 2011 for the 7 month current year Added Assessment computed with the 2011 tax rate. Since they were exempt on January 10, 2011, they did not receive an original tax bill.

Two (2) Added Assessments in 1 year

1st Added Assessment

On June 5, 2011 a new pool was completed.

	June 5, 2011 Assessment	2011 Tax List Assessment	2011 Current Year Added Assessment
Land	$ 80,000	$ 80,000	$-------
Building	$235,000	$220,000	$ 15,000
Total	$315,000	$300,000	$ 15,000

Description	Pool
Completion Date	6/5/2011
Months Assessed	6 months
Prorated Amount	$15,000 x 6/12 = $7,500
2011 Tax Rate	$4.25
Taxes Due	$ 318.75 ($7,500 x .0425) on Current Year Added Assessment

2nd Added Assessment

On August 17, 2011 the same property completed a patio.

	August 17, 2011 Assessment	June 5, 2011 Assessment	2011 Current Year Added Assessment
Land	$ 80,000	$ 80,000	$-------
Building	$240,000	$235,000	$ 5,000
Total	$320,000	$315,000	$ 5,000

Description	Patio
Completion Date	8/17/2011
Months Assessed	4 months
Prorated Amount	$5,000 x 4/12 = $1,667
2011 Tax Rate	$4.25
Taxes Due	$ 70.85 ($1,667 x .0425) on Current Year Added Assessment

In this example, the tax payer will receive 3 tax bills in 2011.

The first bill will be for the Tax List total of $300,000 computed with the 2011 tax rate.

The second bill will be for the 1st current year prorated assessment of $7,500 computed with the 2011 tax rate(pool).

The third bill will be for the 2nd current year prorated assessment of $1,667 computed with the 2011 tax rate(patio).

Omitted Added Assessment

A new addition was completed on May 21, 2010 creating an Added Assessment of $ 75,000.

However, the assessment difference of $75,000 was missed on the 2010 Added Assessment List. In October 2011 this difference will be put on the

2011 Omitted - Added Assessment List as a 7 month Omitted Added Assessment and taxed at the 2010 tax rate.

	New Assessment	2010 Tax List Assessment	2011 Omitted Added Assessment for 2010
Land	$ 45,000	$ 45,000	$-------
Building	$425,000	$350,000	$ 75,000
Total	$470,000	$395,000	$ 75,000

Description	Addition
Completion Date	5/21/2010
Months Assessed	7 months
Prorated Amount	$75,000 x 7/12 = $43,750
2010 Tax Rate	$ 3.75
Taxes Due	$ 1,640.63 ($43,750 x .0375) on Omitted Added Assessment

Since the new addition was completed by the October 1, 2010 assessing date, the total updated 2011 assessment must be placed on the 2011 Tax List.

In this example, the taxpayer will receive a tax bill in 2010 and 2 tax bills in 2011.

The 2010 tax bill will be for the 2010 Tax List total of $395,000 computed with the 2010 tax rate.

The first bill in 2011 will be for the 2011 Tax List total of $470,000 computed with the 2011 tax rate.

The second bill in 2011 will be for the 2011 omitted added prorated assessment of $43,750 computed with the 2010 tax rate.

Omitted Assessment

In January 2011 there's a new subdivision placed on the Tax List. In April 2011 the assessor discovers that one of the lots was left off the Tax List completely. In October 2011 a 12 month current year Omitted Assessment will be placed on the 2011 Omitted Assessment List to create that new lot.

	New Assessment	2011 Tax List Assessment	2011 Omitted Assessment
Land	$ 25,000	$-------	$ 25,000
Building	$-------	$-------	$-------
Total	$ 25,000	$-------	$ 25,000

Description	Lot omitted from taxation
Months Assessed	12 months
Prorated Amount	$25,000 x 12/12 = $25,000
2011 Tax Rate	$ 4.25
Taxes Due	$ 1,062.50 ($25,000 x .0425) on Current Year Omitted Assessment

In this example, the taxpayer will only receive 1 tax bill in 2011 for the 12 month current year Omitted Assessment computed with the 2011 tax rate.

***NOTE*:** In other cases an Omitted Assessment can be picked up for 2 years. If a parcel was missed in 2010 and 2011, then a 12 month current year and 12 month prior year omitted would be placed on the 2011 Omitted Assessment List.

Chapter 9 Assessment Maintenance, Compliance Plans, Reassessments and Revaluations

Real property must be assessed at the same standard of value to ensure that every property owner is paying his or her fair share of the property tax. Two properties in the same municipality having essentially the same market value should be paying essentially the same amount in property taxes.

901. Assessment Maintenance.

901.01 Identification and Effect of Trends.

If trends in property value were uniform throughout taxing districts, assessments would be on an equitable basis. However, this is almost never the case. Assessors must recognize national, regional or other forces that influence property value. Important trends affecting property value are:

- Economic
- Physical (environmental)
- Governmental
- Social

All these trends influence in varying degrees the values of real property. The assessor's task is to identify and measure these property value trends.

Trends and factors affecting property value which an assessor or appraiser considers are: the economy-fiscal policies at the national and state level, price controls, business cycles, purchasing power, wage levels, employment rates, inflation, recession, housing shortages/surpluses,

construction costs for material and labor, interest/mortgage rates; government-especially public services such as police and fire protection, trash collection, transportation networks, zoning ordinances, building codes, taxes assessed; environment, geography, and location-weather conditions and patterns, soil types, waterways, the surrounding neighborhood, proximity to schools, churches, stores and transportation; physical characteristics of the surrounding properties, of comparable properties and of the property in question in terms of age, appearance, nuisances, hazards, damages, maintenance level, depreciation, contamination, construction quality, architectural style, lot size or acreage. This is best done through a continuing analysis of sales and rentals. Finally, social trends affect real property such as population characteristics and shifts; crime; neighborhood cohesiveness. For commercial property, factors include the shoppers' standard of living, level of income, and attitude towards spendable income. To keep assessments equitable, assessors must be aware of changing conditions.

NOTE: the terms "municipality" and "taxing district" are used interchangeably throughout this chapter and throughout the Handbook.

REFERENCES:

PROPERTY ASSESSMENT VALUATION, (3rd Ed., International Association of Assessing Officers, 2010).

901.02 Sales Analysis.

The ratio between the taxable assessed value and the sale price for sold properties should be examined for that which is substantially above or below the norm for the municipality. Since property appraisal is not an exact science, some margin of error is to be expected. Where a substantial divergence is found, all facts concerning the property should be reviewed. There may be special circumstances involved in the sale which explain the unexpected price. If no ready explanation is found, the sale should be recognized as a possible indicator of a trend in property value. Where there is a concentration of high or low ratios, the assessor is alerted to a

developing changing area. Sales information can be obtained from SR-1A forms, deed abstracts and physical inspections.

901.03 Rent Analysis

Rents may also be analyzed to detect property value trends, particularly in commercial areas where sales may not be frequent. The lease and owner's operating expenses should be examined to ensure that the rental figure is not covering new services, rather than a change in owner income.

901.04 Subdivisions.

N.J.S.A. 40:55D-1 et seq., known as the "Municipal Land Use Law," authorizes municipalities to develop local zoning rules and regulations to govern the process of granting subdivision approval. State agencies, such as the Department of Community Affairs, the Department of Environmental Protection, and the Department of Transportation assist in implementing these laws. Most municipalities establish their own ordinances which set forth the procedures necessary to create a subdivision.

Subdivision approvals have expiration dates. For various reasons, a developer may need additional time to fulfill the requirements of a preliminary approval. A developer may file for a time extension with municipal planning and zoning officials. Again, local governments each have their own ordinances which outline this process.

Most New Jersey communities have ordinances which restrict the subdivision of large tracts into smaller building plots. Assessors can change a property's value based upon a subdivision approval, if market evidence warrants. A subdivision may increase the land value, although no new land is created physically. However, the subdivision is not perfected

until there is a recorded deed. Once a developer gets the deeds recorded or files the plan with the County Clerk's Office, the assessor must be notified. Only at that time should an assessor assign new block and lot numbers for these newly created lots and include them on the tax map and other property records.

REFERENCES:
N.J.S.A. 40:55D-1 et seq.

901.05 Newly-Created Land.

The land area of a taxing district seldom changes. However, for assessors in coastal areas, newly created land may be added to the Tax List, where lagoon lots are created along a waterway. Upon grant of a riparian right from the New Jersey Department of Environmental Protection, a developer may bulkhead or dike an area covered by water, fill it in with dredged material, and create new dry land where none existed. The newly created land value may be estimated based on its development cost, as confirmed by area sales.

REFERENCES:
Robert E. Fritsch, "Lagoon Lots and Newly Made Land," Proceedings of the Fourth Annual Institute for Assessing Officers, op. cit., pp. 45-46.

901.06 New Improvements-Location and Appraisal.

New taxable improvements may be located through building permits, abstracts of deeds, newspapers, certificates of occupancy, and realtors. It is essential that the same procedures be used in the new appraisal as were used to value older properties in the taxing district. If the Real Property Appraisal Manual For New Jersey Assessors was used in the original appraisals, it should be used to appraise new improvements.

901.07 Annual Assessment vs. Base Year.

A literal interpretation of State law requires that every property be reappraised/reassessed every year. In practice, this would tremendously increase the cost of administering the property tax. As a practical compromise, most assessors use a base year for assessments. Each new structure or improvement is appraised at its current value, which is then converted to the equivalent value at the time of the base year using an appropriate cost conversion factor.

901.08 Formerly Exempt Property.

Exempt properties which cease to be exempt should be placed on the Added Assessment List at the value which was assigned to them while exempt. Therefore, a realistic value must be placed on exempt property. In the year after the loss of exempt status, such properties may be reappraised/reassessed by the assessor if necessary.

901.09 Adjustment of Assessments.

Once the assessor determines that assessments do not equitably reflect property values throughout the taxing district, he or she must decide what to do about it. If variations are substantial or with no obvious value pattern, the assessor may recommend that the municipal governing body authorize a complete revaluation of the taxing district. If the assessments in one portion of the taxing district are generally too high or too low, the assessor may be able to make adjustments to bring them into line. Assessments may be revised outside of municipal-wide revaluation or reassessment for legitimate reasons, such as when a particular neighborhood changes; when value for a specific property type changes, such as commercial/industrial properties; when apartment properties are converted to condominiums; or when property is upgraded through new buildings or structures, additions or improvements. This is called

assessment maintenance. It is important that the adjustments be applied on an area-wide basis. It is a mistake to adjust assessments only on properties which have sold. This is called "spot assessing" and is discriminatory.

REFERENCES:

Township of West Milford v. Van Decker, 120 N.J. 354 (1990).
Brunetti v. Cherry Hill Township, 21 N.J. Tax 80 (Tax Court 2002) cert. denied by 175 N.J. 547 (2003).
Mountain View Crossing Investors LLC v. Township of Wayne, 20 N.J. Tax 612 (Tax Court 2003) affirmed by 21 N.J. Tax 481 (App. Div. 2004).
Orban v. Alexandria Township, 21 N.J. Tax 1 (Tax Court 2003).
Freehold Borough v. WNY Properties, L.P., 20 N.J. Tax 588 (Tax Court 2003).
Schumar v. Borough of Bernardsville, 21 N.J. Tax 619 (Tax Court 2004).
Centorino v. Tewksbury Township, 347 N.J. Super. 256 (App. Div. 2001) cert. denied by 172 N.J. 175 (2002).
Corrado v. Township of Montclair, 18 N.J. Tax 200 (Tax Court 1999).
Regent Care Center, Inc. v. City of Hackensack, 19 N.J. Tax 455 (Tax Court 2001) reconsideration denied by 20 N.J. Tax 181 (Tax Court 2001) affirmed by 362 N.J. Super. 403 (App. Div. 2003) cert. denied by 178 N.J. 373 (2003).
Shippee v. Brick Township, 20 N.J. Tax 427 (Tax Court 2002).
Chadwick 99 Associations v. Director, Division of Taxation, 23 N.J. Tax 290 (2007).

902. Compliance Plans-Neighborhood Valuation.

In addition to annual valuation on October 1 of the pretax year, New Jersey law provides that "when the assessor has reason to believe that property comprising all or part of a taxing district has been assessed at a value lower or higher than is consistent with the purpose of securing uniform taxable valuation of property according to law for the purpose of taxation, or that the assessment of property comprising all or part of a taxing district is not in substantial compliance with the law and that the interests of the public will be promoted by a reassessment of such

property, the assessor shall after due investigation, make a reassessment of the property in the taxing district that is not in substantial compliance." Therefore, assessments may be revised outside of municipal-wide reassessment/revaluation. The Superior Court, Appellate Division in *Regent Care Center, Inc. v. City of Hackensack*, decided July 2003, addressed the question of assessment maintenance and affirmed its legitimacy when properly applied.

REFERENCES:
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251
N.J.A.C. 18:12A-1.14 (i)
Corrado v. Twp. of Montclair, 18 N.J. Tax 200 (Tax Ct. 1999).
Regent Care Center, Inc. v. City of Hackensack, 362 N.J. Super. 403 (App. Div. 2003) cert. denied by 178 N.J. 373 (2003).

902.01 Assessors Performing Compliance Plans.

Assessors Performing Compliance Plans must:

1. first notify in writing, the mayor, the municipal governing body, the County Board of Taxation and the County Tax Administrator of the reasons why reassessing certain property in the taxing district is warranted and;
2. submit a copy of a Compliance Plan, Form CP, to the County Board of Taxation for approval by November 1 of the pretax year.

REFERENCES:
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251
N.J.A.C. 18:12A-1.14 (i) 1-2
City of Elizabeth v. 264 First Street, LLC, etals., 28 N.J. Tax 408 (Tax Court 2015)

902.02 Neighborhood Defined.

The term neighborhood is not always easily defined. A neighborhood is a segment of a city, a town, a village; or an entire community. Within a community there are marked tendencies toward groupings of land uses. The areas devoted to these varied uses are physical neighborhoods. A neighborhood may be more specifically defined as a homogeneous

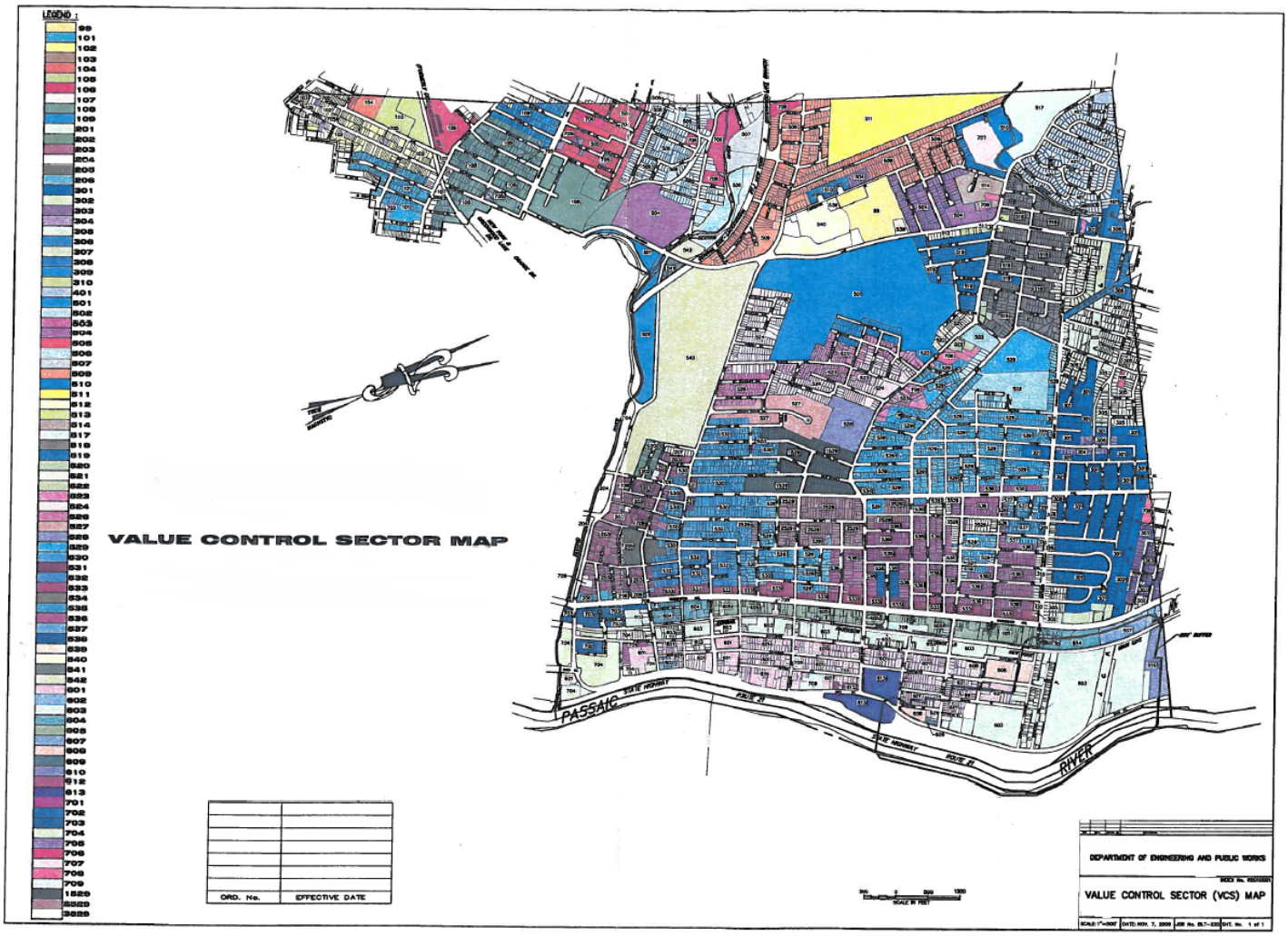
grouping of individuals, buildings, or business enterprises within, or as part of, a larger community. These groupings may be devoted to residential use, trade and service activities, industrial activities, or cultural and civic activities. Neighborhoods are not fixed in characteristics and change over time.

902.03 Neighborhood Boundaries.

Neighborhoods vary in size but generally are homogeneous in some aspects. Sometimes neighborhood boundaries are clearly defined (for instance, by a distinct change in type of land use or in the characteristics of buildings). Boundaries may be natural barriers, such as topographical features, lakes, rivers, or streams; or man-made barriers, such as canals, railroad rights of way, or traffic arteries. In defining neighborhood boundaries, a unified area is characterized by similar or related land uses. In such an area, the character of one property affects the character of all others. Consequently, neighborhoods are not isolated sections. Each district is dependent on all the other districts, and its entire economic area.

REFERENCES:

The Appraisal of Real Estate, 6th Ed., American Institute of Real Estate Appraisers, Chicago Illinois (1977).



902.04 Guidelines for Compliance Plans.

Guidelines for Compliance Plans are:

- Any and all neighborhoods that fall outside of the common level range must be included in the compliance plan.
- Ordinary neighborhoods with average weighted ratios within the common level range should not be reassessed unless that neighborhood's general coefficient of deviation is over 15 percent
- The same standard for selecting areas to be included in the compliance plan must be uniformly applied.

- Assessment maintenance cannot be used to perform a piecemeal district-wide reassessment or revaluation.
- No part of a municipality can be arbitrarily selected for adjustment pursuant to assessment maintenance.
- When using a compliance plan **less than** 50% of the line items should be changed.
- **Sales Other Than Current Two-Year Sampling Period** must be justified and documented. Supporting documents should be part of the compliance plan file.
- **REMINDER: Page 8 Formula is not applicable for Compliance Plan use. There is no recognition of valuation change (positive or negative) in the ratio used for the equalization process.**

For additional information see the NJ regulation N.J.A.C. 18:12A-1.14.

Percent of Proposed Change in Total Valuation by Neighborhood

Example:

Neighborhood #1

Assessed Value	Proposed Assessed Value		
Prior to compliance	*After compliance*		
$20,000,000	$22,000,000	=	$2,000,000

Difference	(divided by)	Assessed valuation prior to compliance		
$2,000,000		$20,000,000	=	10% is the proposed change in total valuation for neighborhood #1

REFERENCES:

Form CP, Rev. 2010

903. Reassessment/Revaluation Programs.

903.01 The Need for and Purpose of Reassessment/ Revaluation.

Reassessment/revaluation may be needed when properties in a taxing district are not being assessed at the same rate of true value and/or are being assessed substantially below or above true market value.

Inequitable assessments may result from outside economic forces such as:

a. changes in characteristics in areas or neighborhoods in the municipality and in individual properties;
b. fluctuations in the economy (inflation, recession);
c. changes in style and custom (architectural desirability, property size);
d. changes in zoning which enhance or adversely affect value.

Unfortunately, assessors can also be the cause of inequality if they fail to:

a. analyze and make use of sales data to validate assessments;
b. fail to process or delay processing building permits for new construction;
c. keep poor records which causes difficulty in arriving at sound, accurate assessments;
d. make incorrect assessments or fail to keep values up-to-date.

903.02 Reassessment or Revaluation-What's the Difference?

The terms "revaluation" and "reassessment" are sometimes confused with one another and at one time were used interchangeably. Both a revaluation program and a proper reassessment program seek to spread the tax burden equitably throughout a taxing district. Both are an adjustment or updating of previous values. A revaluation is performed by an outside professional appraisal firm hired by the municipality. A reassessment is done by the municipal assessor and staff. Some reassessments are called "hybrids" because both the assessor and staff, as well as an outside appraisal company performs the duties of assessment adjustment.

903.03 When to Reassess/Revalue.

A Taxing District's Average Assessed Value to True Value Ratio; Coefficients of Deviation; Year Last Revalued; Neighborhood/Zoning Changes; Accuracy of Property Records; Revenues Lost through Appeals and any other pertinent evidence would be reviewed when considering the need for reassessment/revaluation.

903.04 Ratios and Coefficients-Assessment-Sales Ratio.

An individual Assessment-Sales Ratio is found by dividing the taxable assessed value of a property by the amount for which the property sold and expressing the result as a percentage. The Sales Ratio Program is a two-year averaging study conducted annually by the Division of Taxation's Property Administration personnel. The Sales Ratio Program compares the sale prices with the assessed values of properties sold in "arms length" transactions during a specific time period based on deed recordings. The assumption is that the assessed values of sold properties are representative of the assessment practice in the taxing district. For example, if the assessed values of the properties sold average 90% of the sales prices, it is assumed that all similar properties in the taxing district are assessed at 90% of their true value. A ratio is developed for each taxing district in the State, known as the Director's Ratio. A Director's Ratio of 85% or less denotes noncompliance. A continual decline of Assessment-Sales Ratios in a district from the 100% level of taxable value established by the County Tax Board shows a lack of assessment maintenance and may indicate a need for reassessment/revaluation. Also, if individual Assessment-Sales Ratios vary widely, a reassessment/revaluation program is probably needed. If most Assessment-Sales Ratios fall within a narrow range, substantial equality may exist and the need for reassessment/revaluation may not be so urgent.

903.05 Coefficients of Deviation.

One method of statistically analyzing a group of Assessment-Sales Ratios is through Coefficients of Deviation. A higher Coefficient of Deviation indicates a poorer degree of assessment uniformity in a taxing district and a likely need for reassessment/revaluation. A lower Coefficient of Deviation indicates a better degree of assessment uniformity. Each year the Division of Taxation publishes three Coefficients of Deviation for each municipality:

1. a General Coefficient of Deviation;
2. a Stratified Coefficient of Deviation;
3. a Segmented Coefficient of Deviation.

The current acceptable figure for Coefficients of Deviation is 15%, although some authorities advocate 10% in light of improved assessment practices, computerization, and increased valuations. Properly and cautiously applied, these Coefficients are useful tools for measuring assessment uniformity, but they should never be used as the sole measure of assessment practice in a taxing district.

1. General Coefficient –Measures variation in Assessment-Sales Ratios for all properties sampled without regard to property class, property size or other property characteristic. It is the average deviation of individual Assessment-Sales Ratios from the overall Average Assessment-Sales Ratio of all sales occurring in a taxing district, expressed as a percentage of that Average Assessment-Sales Ratio for that taxing district. It is calculated from all usable sales occurring in a particular taxing district.

GENERAL COEFFICIENT OF DEVIATION

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
1	80,000	78,000	102.56	11.96
1	160,000	127,000	125.98	11.46
2	308,600	322,500	95.69	18.84
2	466,100	425,000	109.67	4.86
2	237,700	207,500	114.55	0.03
2	305,300	260,000	117.42	2.89
2	226,800	190,000	119.37	4.84
2	148,200	124,000	119.52	4.99
2	212,200	127,000	167.09	52.56
4A	150,000	155,000	96.77	17.75
4A	450,000	435,000	103.45	11.08
4A	598,200	585,000	102.26	12.27
Number of Sales -	12	Total	1,374.34	153.52

Average Ratio (Col. 3) 114.53

(1,374.34/12=114.53)

Average Deviation (Col. 4) 12.79

(153.52/12=12.79)

$$\frac{\text{Average Deviation (Col. 4)} \quad 12.79}{\text{Average Ratio (Col. 3)} \quad 114.53} = 11.17$$

General Coefficient of Deviation

2. Stratified Coefficient of Deviation–Measures assessment uniformity within each class of property, e.g., class 1-vacant land, class 2-residential, class 3-farm, class 4-commercial, industrial and apartments, for a taxing district. Stratified Coefficients provide no insight into comparability of assessment levels among property classes. Therefore, it is possible that two classes of property in a taxing district may be assessed at different average ratios but show similar Stratified Coefficients of Deviation. The Stratified Coefficient of Deviation is the average deviation of individual Assessment-Sales Ratios for all usable sales occurring in a particular property class from the Average Assessment-Sales Ratio for that property class, expressed as a percentage of the Average Assessment-Sales Ratio for that class. It is calculated from sales occurring in each class of property.

STRATIFIED COEFFICIENT OF DEVIATION

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
1	80,000	78,000	102.56	11.71
1	160,000	127,000	125.98	11.71
Number of Sales	2	Total	228.55	23.42
			(228.55/2=114.27)	(23.42/2=11.71)

Average Deviation (Col. 4) 11.71 / Average Ratio (Col. 3) 114.27 = 10.25 Class 1 Stratified Coefficient of Deviation

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
2	308,600	322,500	95.69	24.78
2	466,100	425,000	109.67	10.80
2	237,700	207,500	114.55	5.92
2	305,300	260,000	117.42	3.05
2	226,800	190,000	119.37	1.10
2	148,200	124,000	119.52	0.96
2	212,200	127,000	167.09	46.61
Number of Sales	7	Total	843.31	93.23
			(843.31/7=120.47)	(93.23/7=13.32)

Average Deviation (Col. 4) 13.32 / Average Ratio (Col. 3) 120.47 = 11.06 Class 2 Stratified Coefficient of Deviation

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
4A	150,000	155,000	96.77	5.71
4A	598,200	585,000	102.26	0.23
4A	450,000	415,000	108.43	5.95
Number of Sales	3	Total	307.46	11.89
			(307.46/3=102.49)	(11.89/3=3.96)

Average Deviation (Col. 4) 3.96 / Average Ratio (Col. 3) 102.49 = 3.87 Class 4 Stratified Coefficient of Deviation

3. Segmented Coefficient of Deviation–Measures the degree of uniformity of one property class against all property classes combined. It is the average deviation of all Assessment-Sales Ratios in a particular class of property from the Average Assessment-Sales Ratio for all sales of properties occurring in a taxing district, expressed as a percentage of the Average Assessment-Sales Ratio for all sales occurring in the taxing district.

SEGMENTED COEFFICIENT OF DEVIATION

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
1	80,000	78,000	102.56	12.38
1	160,000	127,000	125.98	11.04
Number of Sales	2	Total	228.55	23.42

Class 1 Average Deviation = 11.71

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
2	308,600	322,500	95.69	19.25
2	466,100	425,000	109.67	5.27
2	237,700	207,500	114.55	0.39
2	305,300	260,000	117.42	2.48
2	226,800	190,000	119.37	4.42
2	148,200	124,000	119.52	4.57
2	212,200	127,000	167.09	52.14
Number of Sales	7	Total	843.31	88.54

Class 2 Average Deviation = 12.65

Class	(1) Assessed Value	(2) Sale Price	(3) Assessment to Sales Ratio (Col. 1/Col. 2)	(4) Deviation From Average Assessment to Sales Ratio (Col. 3 - Average of Col. 3)
4A	150,000	155,000	96.77	18.17
4A	598,200	585,000	102.26	12.69
4A	450,000	415,000	108.43	6.51
Number of Sales	3	Total	307.46	37.37

Class 4 Average Deviation = 12.46

Total Sales Ratio 1,379.32 / Total Number of Sales 12 = 114.94 Sales Ratio

(228.55+843.31+307.46=1,379.32)

Class 1 Average Deviation 11.71 / Sales Ratio 114.94 = 10.19 Class 1 Segmented Coefficient of Deviation

Class 2 Average Deviation 12.65 / Sales Ratio 114.94 = 11.00 Class 2 Segmented Coefficient of Deviation

Class 4 Average Deviation 12.46 / Sales Ratio 114.94 = 10.84 Class 4 Segmented Coefficient of Deviation

REFERENCES:

Local Property Tax Bureau News, November, 1956, p. 1 Division of Taxation, March, 1979.

903.06 Neighborhood and Zoning Changes.

The need for reassessment/revaluation may be indicated by neighborhood and zoning changes which affect value in part or all of a taxing district. Changes in uses permitted by zoning may substantially increase or decrease the value of property. A reassessment/revaluation order citing zoning changes as its basis must show the impact of zoning changes as they relate to assessments.

N.J.S.A. 54:4-23.24, provides that property in a designated residential zone which has been valued as residential for at least 3 years and because of a revised zoning ordinance finds itself in a zone reclassified as commercial/industrial must continue to be valued and assessed as residential, as long as the owner at the time of the zoning ordinance change continues to occupy the property as his principal residence. The purpose of this statute is to prevent a municipality's zoning change from inflating the assessment of a residence to a nonresidential value.

903.07 Lack of Adequate Records.

Inadequate records, such as property record cards, may indicate the need for a reassessment/revaluation. The absence of essential information is detrimental to the valuation process and impedes the maintenance of an Assessment List. The absence of information relating to changes to improvements such as property owners' failure to secure building permits or to provide copies of building permits to assessors, contributes to a non-uniform assessment.

903.08 Year of Last Revaluation or Reassessment.

A revaluation or reassessment that has not taken place in a municipality for 10 years or more may be a factor in ordering a revaluation/reassessment.

903.09 Revenue Lost Due to Appeals.

The extent of the revenue lost by a municipality due to adjustments in the assessed values as a result of appeals may indicate a need for a reassessment/revaluation.

903.10 Reassessment with Phased-in Annual Inspections, Form AFR-A v. Reassessment with Full Annual Inspection, Form AFR.

- Phased-in Annual Inspections: the municipality must conduct interior inspections for 25% of its properties each year for four years so that at the end of that time the municipality will have inspected 100% of its properties' interiors. For municipalities participating in Real Property Demonstration Program reassessments, the percentage of interior inspections required is 20% each year for 5 years for 100% at the end of that time.

  Approval of phased-in annual inspections reassessment must be obtained on Form AFR-A.
- Full Annual Inspection: the municipality must conduct both exterior and interior inspections for 100% of its properties within one annual period from the onset of the reassessment program.

  Approval of full annual reassessment must be obtained on revised Form AFR.

903.11 Reassessment Approval Process.

A reassessment plan of the municipal assessor must be submitted to and approved by the County Board of Taxation. After approval by the County Board, it is then forwarded to the Assistant Director of the Division of Taxation for review and approval or disapproval. The plan must set forth methods to be used, the date of the reassessment's completion and the year it is to take effect. Application for district-wide reassessment must be

completed on form AFR, Application for Full Reassessment or AFR-A Application for Annual Reassessment as appropriate, as prescribed by the Director, Division of Taxation. The County Board must advise the assessor of approval or disapproval of the reassessment plan within 45 days of its submission date. If the plan is disapproved, the Board must inform the assessor of the reasons for disapproval. If the reassessment plan is approved, the Board must:

1. forward a complete copy to the Assistant Director, Division of Taxation for review, approval or disapproval;
2. require a written monthly progress report from the assessor.

The assessor of a municipality which receives approval from both the Director and County Board of Taxation to perform a municipal-wide reassessment, must submit a Plan of Work (POW) to the County Tax Administrator within 30 days of such approval. Thereafter, a report on the status of the reassessment must be filed with the County Tax Administrator every 30 days until the program is completed and the Tax List filed with the County Board of Taxation. The Status Report must include:

- Listing of all major activities and functions to be performed during the course of the reassessment;
- Overall anticipated starting and completion date of each listed activity or function;
- Breakdown of units, portion or percentage of work activities or functions that are targeted to be started and completed during each month of the reassessment program;

904. Elements of a Good Reassessment Program.

To avoid discriminatory treatment reassessments should cover the entire municipality in scope. A good reassessment program includes:

- analysis of all recent real property sales, including a comparison of sales prices with assessed values of sold properties; identification of real property value trends;
- a parcel by parcel review of all real property values;
- review, revision and mapping of all unit land values,
- entry of data into Computer Assisted Mass Appraisal System (CAMA)
- gathering and utilization of pertinent income data; development and application of local cost conversion factors to improvements with adjustments to individual Property Record Cards;
- review and adjustment of depreciation and obsolescence factors with changes to individual property records;
- reconciliation and revised true value for each property;
- placing revised taxable values on the Tax List for the year in which the reassessment becomes effective;
- taxpayer notification of revised property values, with an opportunity for taxpayer review.

905. Revaluation Standards and Procedures.

905.01 Assessor's Role in Revaluation.

Assessors should be in frequent contact with revaluation activities throughout the course of the project. The assessor and governing body should work together in drawing up specifications, writing the contract, and selecting the appraisal firm. During revaluation proceedings, assessors should understand the appraisal firm's procedures in order to better maintain the program after its completion. Assessors should

participate in all review meetings and be present when representatives of the appraisal firm meet with individual taxpayers.

905.02 Revaluation Approval Process.

By law, the Director of the Division of Taxation establishes standards for use in valuation and revaluation of real property and prescribes minimum qualifications for firms and individuals in the business of revaluing real property. A governing body intending to endorse a municipal revaluation must submit proposed contracts to the Director, Taxation Division for approval. Approval is conditioned upon the proposed contract terms, and contractor and staff meeting established revaluation standards and prescribed professional qualifications. The Director is required to take action on contracts within 30 days of submission.

A municipality, firm or individual displeased by the Director's determination may request a formal hearing before the Director, who must then render his decision within 30 days. The hearing must be conducted pursuant to the Administrative Procedure Act. If the municipality, firm or individual is still dissatisfied with the Director's determination, further appeal may be made within 45 days to the Appellate Division as per the Rules of the Court.

REFERENCES:
N.J.S.A. 54:1-35.35; 54:1-35.36; 54:1-35.37
N.J.A.C. 18:12-4.1 et seq.
Michael J. Bryan Directive, "Unapproved Revaluations and Reassessment," April 20, 2012.

905.03 Appraisal/Revaluation Firms.

Any appraisal firm and individuals contracting for and carrying out revaluation work must meet certain minimum qualifications established by the Director, Division of Taxation. A municipal governing body considering contracting with an appraisal firm should examine the

qualifications of the firm and its staff and the results of other revaluation programs conducted by the firm. A list of active appraisal firms may be obtained at the Division of Taxation's Local Property Tax website: http://www.state.nj.us/treasury/taxation/lpt/localtax.shtml.

REFERENCES:
N.J.S.A. 54:1-35.35

905.04 Qualification of the Appraisal/Revaluation Firm.

To operate in New Jersey, a revaluation firm must demonstrate that it is in sound fiscal condition and has adequate financial resources. A financial statement including balance sheets and income statements for the latest 3 years must be submitted to the Director, Division of Taxation and for each year thereafter that it is in business in New Jersey. The Director may require an appraisal firm to submit a financial statement other than on an annual basis if deemed necessary. The firm must also submit to the Director a list of municipalities in New Jersey or elsewhere for which it has performed revaluation projects during the past 5 years. A list of the firm's officers must be submitted with their addresses and the number of years each officer has been engaged in appraisal work. The firm is required to report whether it has been or is currently involved in any litigation concerning appraisal projects. The name and address of the firm's parent corporation and subsidiaries, if applicable, must also be submitted. A written statement that the firm will meet state and federal Equal Opportunity laws and minimum wage rates is required as well.

REFERENCES:
N.J.A.C. 18:12-4.4

905.05 Surety and Insurance.

Before beginning contracted work, the revaluation firm must provide assurance that the municipality will be protected, saved harmless, from

any lawsuit, litigation, demand, or claim arising out of the revaluation. To assure such protection, the firm must provide certain insurance coverage:

1. Workers compensation insurance coverage as per the standards at N.J.S.A. 34:15-1 et seq.
2. Public liability and automobile liability in amounts not less than those required by law for any one person and any one occurrence respecting property damage;
3. A performance surety bond in the amount of the contract, executed by a reputable bonding company authorized to conduct business in New Jersey, subject to reduction to 10% of the contract amount upon acceptance of the completed revaluation by the assessor. This reduced amount must remain in effect until the revaluation firm discharges all its obligations respecting defense of the contract.
4. The terms and conditions of all above coverages may be in greater amounts if required by the municipality. Copies of all policies must be provided to the municipality prior to the commencement of any portion of the contract.

REFERENCES:
N.J.A.C. 18:12-4.10(a)

905.06 Qualification of Employees.

The experience and qualifications of various employees in a revaluation program must meet minimum requirements:

1. Principals of the revaluation firm must have 5 years of practical, extensive appraisal experience involving commercial, industrial, apartment, farm, residential properties and vacant land.
2. Supervisors in direct charge of field work must have 4 years of practical, extensive appraisal experience in appraising the particular type of properties for which they are responsible. Two years of this experience must be in mass appraisal and have occurred in the past 5 years.

3. Field personnel, building enumerators and listers must have 150 hours of in-service training for their particular phase of work and be generally aware of all other phases of the revaluation project before performing actual field work.
4. Personnel determining final land values must meet qualifications prescribed for supervisors in direct charge of the work.
5. Resumes must be submitted for principals and supervisors.

REFERENCES:
N.J.A.C. 18:12-4.6(a) 1, 2, 3, 4, and 5

905.07 Conflict of Interest.

Revaluation contracts submitted to the Director, Division of Taxation must provide with respect to officers, stockholders and employees of the firm that:

1. No commissioner or employee of the County Board of Taxation in the county has any interest, directly or indirectly, as an officer, stockholder, employee or in any other capacity in the firm.
2. No parent company or subsidiary will represent any property owner or taxpayer filing a tax appeal with respect to a revaluation completed by the firm.

REFERENCES:
N.J.A.C. 18:12-4.5

906. Conditions to be met by the Revaluing Municipality.

906.01 Cost of Revaluation.

It is difficult to give precise cost estimates for revaluation programs. For example, taxing districts containing complicated industrial properties may have to pay more per line item, but where a large number of similar properties are present, as in a housing development, the cost may be lower.

906.02 Financing the Revaluation.

The cost of a revaluation program may be spread over a five-year period through the issuance of special emergency notes, with one-fifth of the sum falling due at the end of each fiscal year. The Division of Local Government Services has prepared both a model ordinance and resolution for this purpose.

REFERENCES:
N.J.S.A. 40A:4-53 as amended by P.L. 2010, c. 46
N.J.S.A. 40A:4-54 as amended by P.L. 1999, c. 366
N.J.S.A. 40A:4-55
Local Property Tax Bureau News, May, 1956, p.1.

906.03 Supplies, Equipment, Office Space.

A municipality contracting with a professional revaluation firm should provide items for the firm's use so that the program may move ahead. However, the revaluation firm must provide office space, furniture, equipment, machines and other items required in connection with the revaluation program, unless the contract terms provide otherwise.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 16

906.04 Tax Map.

Prior to a municipality's execution of a revaluation contract, the municipal tax map is to be submitted to the Division of Taxation, Local Property Valuation and Mapping Section to determine its usability. Division approval must be received prior to any work being performed by the revaluation company. A letter from a licensed land surveyor must be submitted with the tax map certifying that the map is up-to-date.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 14
N.J.A.C. 18:12-4.7(a) 1 (i) (ii)

906.05 Letters of Introduction.

Letters of introduction should be supplied by the municipality to the revaluation firm's representatives to facilitate access to properties for inspection purposes.

REFERENCES:
N.J.A.C. 18:12-4.7(a) 3

906.06 Property Owners' Addresses.

Mailing addresses of all property owners should be supplied by the municipality to the revaluation firm.

REFERENCES:
N.J.A.C. 187:12-4.7(a) 4

906.07 Official Records.

The municipality should make official records available to the revaluation firm and provide assistance as required.

REFERENCES:
N.J.A.C. 18:12-4.7(a) 2

907. Conditions to be met by the Revaluation Firm.

907.01 Real Property to be Valued.

The revaluation firm, in effect, is an agent of the municipal assessor. All determinations made by the firm must be submitted to the assessor. Real property is to be valued in accordance with New Jersey property tax laws (see Chapter 6).

- With regard to real property being constructed or altered, the revaluation firm must determine the percentage of completion (partial assessments), as well as the appraised value of such property as of October 1 of the pretax year.
- Land assessed under the Farmland Assessment Act (N.J.S.A. 54:4-23.1 et seq Chapter 48, Laws of 1964) must be valued according to its

qualified farm value, and also its full and fair value at its "highest and best use."

- A Land Value Map must be prepared by the revaluation firm showing all unit values and underlying data used to derive the unit values and is to be reviewed by the assessor.

REFERENCES:
N.J.S.A. 54:4-1 as amended by P.L. 2004, c. 42
N.J.S.A. 54:4-23 as amended by P.L. 2009, c. 251
N.J.S.A. 54:4-35; 54:1-35.35; 54:4-23.1; 54:4-23.12; 54:4-23.20
N.J.A.C. 18:12-4.8(a) 1, 2, 4, and 13

907.02 Exempt Property.

The revaluation firm must describe and value each exempt property as if it were taxable.

REFERENCES:
N.J.S.A. 54:4-27
N.J.A.C. 18:12-4.8(a) 3

907.03 Determination of Taxable Values.

The revaluation firm must employ the three recognized Approaches to Value where applicable. Where used, the capitalization procedure must be included with the Property Record Card and reconciled with the other value approaches. The Real Property Appraisal Manual for New Jersey Assessors is to be used in revaluation programs for residential properties. The use of any other appraisal manual for residential properties requires the approval of the Director, Division of Taxation.

REFERENCES:
N.J.A.C. 18:12-4.8 (a) 5, 6

907.04 Property Record Cards.

The revaluation firm must include real property identification information on every Property Record Card for each individual parcel of real property. Electronic property record cards must be similar in form and content to

those illustrated in the Real Property Appraisal Manual For New Jersey Assessors. Property record cards for each of the four classes of property must be easily distinguishable from each other.

Individual Property Record Cards must be updated in the following areas:

1. A scaled sketch of the exterior building dimensions;
2. Digital photograph(s) of each property;
3. Notations of significant building components from interior and exterior inspections;
4. Values of each lot and building including age, construction, condition, depreciation, obsolescence, additions and deductions, appraisal value, recent sales prices, rental data and other pertinent value information;
5. Where more than one Property Record Card is required for a property, all cards must be retained in a standard file folder and properly labeled;
6. Each Data Collection card must identify the individual property inspector, and the date of the interior inspection, or why this inspection did not occur.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 7, 8

907.05 Property Inspection.

Physical inspection must be made by the revaluation firm of each parcel of property (Revaluation firms must provide employees with photographic identification cards).

Regarding individual property inspections:

1. No less than three (3) attempts must be made to gain entry to inspect each property;
2. If entry is not made at the first attempt, a card must be left at the property indicating when a second inspection attempt will be made;

3. The card must include the intended date of inspection and the firm's telephone number and address to permit property owners to make other arrangements if necessary;
4. If entry is not gained at the second attempt, a written statement must be left that an assessment will be estimated, unless future arrangements are made for an interior inspection;
5. Revaluation firms must schedule property inspections during reasonable hours, including evenings and Saturdays;
6. Revaluation firms must notify assessors of failures to gain entry. A list of and reasons for all non-entries must be provided to the assessors prior to mailing values to property owners.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 9, 12

907.06 Controlling Progress of Revaluation-Contract Elements.

Revaluation contracts must contain provisions to monitor the progress of the revaluation as:

1. A commencement and a completion date of no later than November 1. Assessment Notices are not to be sent prior to November 10. Taxpayer review of values placed against their properties by the revaluation firm must be completed by December 15;
2. Submission to the assessor of a work schedule or plan of operations;
3. Written monthly progress reports to the assessor for review. The assessor must forward progress reports to the County Board of Taxation; if a report is not received, the Board must notify the Director, Division of Taxation in writing immediately.
4. Progress reports must indicate the revaluation's status or work progress which serves as a basis for proportional payments by the municipality to the revaluation firm. No more than 90% of the total contract price is to be paid until full completion and performance of the contract, except for requirements for defense of tax appeals. If the

work is not satisfactory to the County Tax Board after 2 consecutive months, the Board shall also notify the Director, Division of Taxation as soon as possible in writing of the lack of satisfactory progress.

5. Changes in personnel must be submitted in writing to the assessor and County Board of Taxation.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 10

907.07 Taxpayer Orientation and Education.

Contracts for municipal revaluation must contain provisions committing the firm to conduct or assist the municipality with a taxpayer orientation and education program including but not limited to:

1. Press releases describing the purpose and nature of the revaluation program;
2. Meetings with public groups in the community; and
3. Mailings approved by the assessor, at the firm's expense, to all property owners explaining the nature and purpose of the revaluation, setting a proposed date for property inspections.

907.08 Taxpayer Review Procedure.

Each taxpayer must be afforded an opportunity to review and confer with the firm concerning the proposed value to be placed against his property.

REFERENCES:
N.J.A.C. 18:12-4.9(a)

907.09 Revaluation Firm to Mail Notice.

Revaluation firms must mail, at their expense, written notices to taxpayers, approved by the assessor, showing the appraised value of properties and advising taxpayers of their right to attend an informal value review with the firm.

REFERENCES:
N.J.A.C. 18:12-4.9(b)

907.10 Conducting Informal Taxpayer Reviews.

Guidelines for informal taxpayer reviews:

1. Each taxpayer attending a review must be afforded an individual meeting with a qualified employee of the revaluation firm;
2. Sufficient time must be allotted to hear and conclude reviews by December 15;
3. Written record of each review is to be provided the assessor in an approved format;
4. Suggested revisions by the firm are to be made with the consent of the assessor;
5. Taxpayers must be informed, by the firm, in writing, of their review results within 4 weeks of the conclusion of all reviews.

REFERENCES:
N.J.A.C. 18:12-4.9(c)

907.11 Defense of Appeals.

Revaluation firms must assist in defending their valuations at appeal by providing expert witnesses. The firm's obligation is limited to the initial appeal of an assessment filed during the year in which the revaluation is implemented or during the following year. Assistance includes a qualified expert from the firm who is knowledgeable with regard to challenged assessments. Should the municipality elect to utilize the defense services of the firm beyond the County Board of Taxation level, an hourly rate for such service is to be set by the firm. The hourly rate is to apply to services rendered by the firm for preparation, re-inspections, consultations and actual appearances at appeal proceedings.

REFERENCES:
N.J.A.C. 18:12-4.8(a) 15

907.12 Maintenance of the Revaluation.

A revaluation program is an expensive undertaking for any municipality. The resulting assessment upgrades should not be allowed to deteriorate during the years after the revaluation's completion. Adequate provisions should be made to keep the revaluation up-to-date. Unless values are annually maintained, within a few years a subsequent revaluation may have to be undertaken, at a higher cost to the community.

REFERENCES:
Local Property Tax Bureau News, February, 1957, p. 1.
February, 1959, p. 1, November, 1958, p. 2.

908. Will A Revaluation Increase Taxes?

Although revaluation often results in increases to every individual assessment, it does not mean that all property taxes will increase. Assessments are the base used to apportion the tax burden. The tax burden is the amount that the municipality must raise for the operation of county and local government and the school system.

To illustrate, assume the amount that a municipality must raise from property taxes is $15 million. The total of all assessments in the municipality is $600 million. In this example, a municipality would have a tax rate of $2.50 for each $100 of assessed value.

Amount to be raised from property taxes	÷	Total of Assessments	=	Tax Rate
$15 Million	÷	$600 Million	=	.025 or $2.50 per $100 of assessed value

If the $600 million total of all assessments represents 50% of the true value of all real property in the municipality, property owners assessed above this level would be paying an unfair share of the tax burden. For example, a property with a true value of $396,800 and an assessment of $277,760 would have its taxes calculated as:

Assessed Value	X	Tax Rate	=	Taxes
$277,760	X	.025	=	$6,944.00

In this example, the property is overassessed, even though the assessment is $119,040 less than the property's true value. The ratio of aggregate assessments to the aggregate true value of all real property in the municipality is 50%. The ratio of the individual property is 70% ($277,760 ÷ $396,800).

Assume that in this same tax year, a revaluation was put into effect and the aggregate assessed value is $1.2 billion. Although the ratable base (aggregate assessments) doubles, the revaluation would not mean an increase in total taxes to be collected by the municipality, since the tax rate would decrease proportionately, as follows:

Amount to be raised from property taxes	÷	Total of Assessments	=	Tax Rate
$15 Million	÷	$1.2 Billion	=	.0125 or $1.25 per $100 of assessed value

Applying the .0125 ($1.25 per $100 of assessed value) tax rate to the property, now assessed at its true value of $396,800, would mean a decrease in taxes as a result of all assessments based on the true value standard.

True Value Assessment	X	Tax Rate	=	Taxes
$396,800	X	.0125	=	$4,960.00

True value assessments, the goal of a revaluation program, would decrease the taxes for the property owner by $1,984 based on assumptions in the same tax year ($6,944-$4,960=$1,984). However, an actual tax rate cannot be determined until the new assessments are filed and operating costs for schools, county and local government are fixed. (Budgets are not completed until several months after the date for filing a Tax List). A tax rate cannot be calculated until budget requirements are determined. The taxpayer in this example will continue to pay more than his fair share of the property tax burden if a revaluation is not undertaken.

Generally, taxpayers of the most severely underassessed properties before a revaluation pay a greater share of the tax burden after revaluation. This means that their property taxes will increase even if operating costs remain the same. Likewise, taxpayers of overvalued properties pay a smaller share of the tax burden after revaluation. This means their property taxes will decrease if the total amount to be raised from taxes remains the same. In reality, municipal, county and school budgets costs generally increase each year. This example shows an increase in the amount to be raised from property taxes:

Amount to be raised from property taxes	÷	Total of Assessments	=	Tax Rate
$21 Million	÷	$1.2 Billion	=	.0175 or $1.75 per $100 of assessed value

True Value Assessment	X	Tax Rate	=	Taxes

$396,800	X	.0175	=	$6,944.00

An increased budget amount from $15 million to $21 million, coupled with true value assessments, results in no tax increase for the property owner.

Amount to be raised from property taxes	÷	Total of Assessments	=	Tax Rate
$23 million	÷	$1.2 Billion	=	.0192 or $1.92 per $100 of assessed value

True Value Assessment	X	Tax Rate	=	Taxes Due
396,800	X	0.0192	=	$7,618.56

An increased budget amount from $15 million to $23 million, coupled with true value assessments results in a tax increase for the property owner.

Chapter 10 Assessment-Sales Ratio Program and Equalization

1001. Definition and History.

1001.01 Equalization - Definition and Purpose.

Equalization: "The adjustment of assessed valuations of real property in a particular area to establish a more equitable division of the total tax burden within the area."

Equalization: "The process by which an appropriate governmental body attempts to ensure that property under its jurisdiction is appraised equitably at market value or as otherwise required by law."

Equalization is the leveling process by which aggregate assessed values of real property in a taxing district are brought to true value.

Equalization ensures that all properties within a district and all districts within their counties and the State bear the same relationship to market value for purposes of State School Aid distribution and county tax apportionment.

REFERENCES:

Definition as quoted from Real Estate Appraisal Terminology, compiled and edited by Byrl N. Boyce, Ph. D., Center for Real Estate and Urban Economic Studies, University of Connecticut, sponsored by the American Institute of Real Estate Appraisers and Society of Real Estate Appraisers, Ballinger Publishing Company, Cambridge, MA.

As quoted from Property Appraisal and Assessment Administration, editor Joseph K. Eckert, Ph.D., International Association of Assessing Officers, Chicago, IL.

1001.02 History and Background.

As early as 1799, all township assessors were directed by law to equalize assessments at an annual meeting in order to spread the cost of county government fairly. Other administrative means were tried during the nineteenth century, but with little success. In 1906, County Boards of Taxation were established, having equalization as one of their principal responsibilities. But real equalization was seldom obtained. Local assessors were under pressure to keep assessments low, so that their taxing districts' proportionate share of county government costs would be less. This became known as competitive under-assessment. In most cases, assessments dropped far below the legal true value level. In the twentieth century greater competitive under-assessment resulted from the formula used to distribute State financial aid to school districts which granted more State aid to districts with low assessed valuations. Although equalization has been a feature of New Jersey tax laws since 1799, it did not become standardized practice in any real sense until the mid-1950s. At that time, the State Legislature authorized the Director, Division of Taxation to determine the ratio of aggregate assessed to aggregate true value of real estate in every taxing district in New Jersey. The Director then implemented the Assessment-Sales Ratio Program to measure the level of assessment in every municipality. In subsequent equalization challenges, the New Jersey Supreme Court instructed County Boards of Taxation to take official notice of the Director's aggregate assessed to true value ratios in their equalization functions. The Court noted that any reasonable and efficient method could be adopted by County Boards of Taxation in fulfilling their responsibility of equalizing aggregate ratables of municipalities. The objective of a County Board of Taxation is to seek all information which assists in the determination of correct assessment-sales ratios for county equalization. This permits a fair apportionment of county taxes and other shared budgets among participating municipalities. The

objective of the State is to ascertain the relationship of taxable assessed values to market values and develop a Table of Equalized Valuations to be used in the distribution of State School Aid. All three levels of New Jersey government are responsible for the collection and warehousing of assessment and sales data recorded, analyzed and calculated for the Director's Table of Equalized Valuations.

REFERENCES:

N.J.S.A. 54:3-11
N.J.S.A. 54:3-16 and 3-17
N.J.S.A. 54:4-46 and 47
N.J.A.C. 18:12A-1.14(g)
City of Passaic v. Passaic County Board of Taxation, 18 N.J. 371 (1955).
Borough of Little Ferry v. Bergen County Board of Taxation, 18 N.J. 400 (1955).
Township of Jefferson, et. al v. Director, Division of Taxation; Township of Mendham, et. al v. Director, Division of Taxation; Borough of Mendham, et al v. Director, Division of Taxation; Township of Mount Olive, et. al v. Direction, Division of Taxation, 26 N.J. Tax 1 (Tax Court 2011).
The General Property Tax in New Jersey, A Century of Inequities, Sixth Report of the Commission on State Tax Policy (Trenton, 1953).
John F. Lotz, The Assessment of Real Estate in Representative Counties of New Jersey, (Temple University: Philadelphia, 1951).
Fred C. McCoy, "Equalization in the County and the State," Proceedings of the First Annual Institute for Assessing Officers (1954) pp. 11-16.
E. Rowland Major, "Equalization Throughout the State," Proceedings of the First Annual Institute for Assessing Officers (1954), pp. 17-24.
Aaron K. Neeld, "Equalization - Its Effect on State School Aid," New Jersey Municipalities, January, 1955, pp. 6-9.
Aaron K. Neeld, "The Role of the State of New Jersey in the Equalization Process," Proceedings of the Second Annual Institute for Assessing Officers (1955), pp. 56-61.
A. E. Weiler, "The Assessor in the Equalization Process," Proceedings of the Second Annual Institute for Assessing Officers (1955), pp. 62-70.
Archibald S. Alexander, "Just Taxation Through Assessment Equalization," New Jersey Municipalities, January, 1956, pp. 5-7.

Michael V. Donovan, "The Role of a County Tax Board in the Equalization Program," New Jersey Municipalities, January 1956, pp. 9-11.
A. E. Weiler, "The Role of the Local Assessor in the Equalization Program," New Jersey Municipalities, January, 1956, p. 13.
Aaron K. Neeld, "Equalization for State School Aid Purposes," Proceedings of the Third Annual Institute for Assessing Officers (1956), pp. 1-6.
Fred C. McCoy, "Equalization for County Purposes," Proceedings of the Third Annual Institute for Assessing Officers (1956), pp. 7-9.
Alfred N. Beadleston, "Equalization and Revaluation at the Local Level," New Jersey Municipalities, January, 1957, pp. 5-10.
Thomas A. Breen, Sr., "Your Sales-Assessment Ratio for State and County Equalization," New Jersey Municipalities, January, 1957, pp. 19-20.
Robert S. Johnston, "The Mechanics Employed in the Development of the State Table of Equalized Valuations," Proceedings of the Fourth Annual Institute for Assessing Officers (1957), pp. 24-28.
Robert S. Johnston, "Is Sales Ratio an Enigma?" New Jersey Municipalities, June, 1959, pp. 31-36.
Local Property Tax Bureau News, May, 1955, p. 1; February, 1956, p. 1; January, 1959, p. 1; March, 1959, p. 2; August-September, 1959, p. 1.

***NOTE*:** The above articles will provide valuable background on the purposes and procedures of equalization. Be aware, however, that some procedures have been changed since the equalization program first went into effect. Articles appearing in earlier years may not describe the procedures exactly as they are now carried out.

1002. Equalization.

1002.01 Uses of Inter-municipal Equalization or Equalization in the Aggregate.

- Equitable apportionment of State School Aid
- Equitable distribution of the cost of county government and regional school districts and shared budgets
- To measure debt limits of local governments

Equalization between municipalities in a county or between counties in a state is "equalization in the aggregate." The purpose of "equalization in the aggregate" is to distribute funds or aid or to apportion shared budgets equitably based upon the overall true or equalized value of taxable ratables of individual municipalities. The Director's Table of Equalized Valuations and the County Equalization Table are developed for inter-equalization. The ratios developed for inter-equalization are based on the Assessment Sales Ratio Study.

REFERENCES:
N.J.S.A. 54:3-11 and 3-13

1002.02 Uses of Intra-municipal Equalization.

Equalization in property taxation is also when a proper assessed value is placed on an individual property as compared to other properties within a taxing district.

Equalization between properties within a municipality is an ongoing process to ensure that each individual parcel bears its just share of the property tax burden. The assessor reviews taxable assessed values in the context of sales ratios and statistics developed from the Assessment Sales Ratio Study to validate and correct assessments. After the assessor determines property value, the County Board of Taxation is authorized to "review, revise and correct assessments" in many ways, including the study and analysis of Assessment/Sales Ratios and Coefficients of Deviation calculated from sales occurring in each municipality. County Tax Boards may order municipalities to implement revaluation programs based on the results of these statistical analyses. A municipality may choose to implement a voluntary reassessment of the whole taxing district or the assessor may change only part of a municipality through a compliance plan using these statistics.

Inter-equalization is primarily the responsibility of the assessor who works under the supervision of the County Board of Taxation.

See the chapter in this Handbook: *Assessment Maintenance, Compliance Plans, Reassessment, and Revaluation* for additional information on Intra-Equalization.

REFERENCES:
N.J.S.A. 54:1-35.1
N.J.S.A. 54:1-35.3
N.J.S.A. 54:4-2.25
N.J.S.A. 54:4-23
N.J.A.C. 18:12-1.1

1002.03 Uses of the Director's Table of Equalized Valuations.

- The statutory uses of the Director's Table of Equalized Valuations include:
- Measurement of the wealth of a municipality for the distribution of State School Aid
- Measurement for the upper limit of municipal bonded indebtedness
- Measurement for the upper limit of school district bonded indebtedness
- Calculation of the taxable value of certain locally assessed personal property
- Calculation of State Replacement Revenues for Class II railroad property
- Component of the formula for apportionment of the Municipal Purposes Tax Assistance Fund
- Component of the formula for distribution of State Library Aid
- Component of the New Jersey Urban Aid to Municipalities calculation
- Development of the Common Level for discrimination tax appeals

Non-statutory uses of the Director's Table of Equalized Valuations and the data base include, but are not limited to:

- A basis for the apportionment of county operating budgets
- A basis for apportionment of county library budgets
- A basis for apportionment of joint school district budgets
- A basis for apportionment of local health service budgets
- Component in the calculation of effective tax rates which serve as a basis for comparison of property taxes from municipality to municipality
- Director's Ratio, i.e., Average Assessment-Sales Ratio is one of the criteria for determining the need for revaluation
- A basis for calculation of Coefficients of Deviation. COD's are a criterion for evaluating uniformity of assessments in a municipality and for determining the need for revaluation
- A basis for analyzing equity of assessed values on a sector by sector or neighborhood by neighborhood basis in a taxing district.

REFERENCES:
Kearny Town v. Director, Division of Taxation, 11 N.J. Tax 232 (Tax Court 1990).
Township of Jefferson, et. Al v. Director, Division of Taxation; Township of Mendham, et. Al v. Director, Division of Taxation; Borough of Mendham, et al v. Director, Division of Taxation; Township of Mount Olive, et. Al v. Direction, Division of Taxation, 26 N.J. Tax 1 (Tax Court 2011).

1003. The Assessment-Sales Ratio Program.

1003.01 Why Assessment-Sales Analysis is Necessary.

Enabling legislation, N.J.S.A. 54:1-35.1, provides for the Director, Division of Taxation to promulgate a Table of Equalized Valuations to be used in the calculation and apportionment of distributions pursuant to the State School Aid Act of 1954. The statute is silent on the methodology

used to develop the equalized valuations. The Director, Division of Taxation is empowered to set the criteria and implement methodology for the development of the Table. The program includes classification of real property, collection and analysis of sales and assessment information, and calculation of the aggregate true value of real property to determine the aggregate true value of all real property in each of the State's taxing districts. Discussed further in this chapter are the existing terms, criteria and calculations employed by the Director that have been upheld and validated as revised by the courts through challenges that have been adjudicated.

REFERENCES:
N.J.S.A. 54:1-35.1
N.J.S.A. 54:3-17

1003.02 What is the Assessment-Sales Ratio Program?

The Assessment-Sales Ratio Program is based on a comparison of the sales prices with the taxable assessed values of real property which has sold and for which deeds have been recorded. It is assumed that values on the sold properties are representative of the assessment practice in the taxing district. For example, if the assessed values of properties sold average 90% of the sales prices, it is assumed that all similar properties in the taxing district are being assessed at an average of 90% of their true value.

The assessor and County Board of Taxation gather sales information and forward it to the Division of Taxation. The sales are collected from a fiscal year, July 1 to June 30, based on deed recording dates. From the usable sales in the sampling, a ratio of assessed to true value is determined. The aggregate taxable value of real property in a municipality is raised to true value through use of the ratio determined. The process is completed by

averaging the adjusted prior year true value and the current true value to calculate the average ratio.

REFERENCES:
N.J.S.A. 54:3-17 and 3-18
N.J.A.C. 18:12A-1.17
City of Passaic v. Passaic County Board of Taxation, 18 N.J. 371 (1955).
East Windsor Township v. Mercer County Board of Taxation, 89 N.J. Super. 282 (App. Div. 1965).

1003.03 Standards for the Assessment-Sales Ratio Study.

An understanding of certain terms and criteria is critical in determining if a sale is "Usable" for the Assessment Sales Ratio Study.

- Value must be set by constitutional and statutory standards. The New Jersey Constitution refers to the "same standard of value." New Jersey statutes and court decisions equate the standard of real property value with market value, true value, and full and fair value. The courts have held these terms to be synonymous. Determining market value, i.e., true value is key for the Ratio Study. Statutes give County Boards of Taxation the authority to set the level of assessment at some percentage of true value. All 21 counties have set their level of assessment at 100% for purposes of local property taxation.
- Real property means all lands and improvements thereon and includes certain personal property permanently attached to real property(fixtures).
- All assessments reflect conditions as of October 1 of the pretax year for the next calendar tax year.
- Market value means the most probable price in cash, terms equivalent to cash, or in other precise terms, at which the appraised property will sell in a competitive open market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest assuming neither is under duress.

- “Willing buyer-willing seller” concept presupposes an informed buyer and informed seller as part of the definition of market value.
- Selling Price=Market Value=True Value stated in dollars. The sales price must represent the true value of the property for the sale to be ”Usable” for the Assessment Sales Ratio Study.
- Relative characteristics of property assessed to property sold are critical. The bases for the assessed value and the sales price, i.e., the numerator and denominator of the fraction which make up the ratio, must measure the same property.
- The Ratio Study conducted for a fiscal year, July 1 to June 30, is based on deed recording dates filed with each County Clerk. Assessments are developed on a calendar year, January 1 to December 31. One fiscal year includes six months each of two separate calendar years. The additional criterion, the time element, is the deed date or the Agreement of Sale date. Only deeds and Agreements of Sale drawn in the six months prior to the beginning of the fiscal year may be considered timely for the Ratio Study(within 18 months of the end date of the fiscal year).
- The assessed value, sale price, deed date, and assessment year must be in the same time frame; that is, must be the same calendar year.
- New Jersey courts have ruled that one sale is considered a sample for the purpose of developing the Director’s Table of Equalized Valuation.

REFERENCES:

1947 Constitution of New Jersey, Article VIII, Section 1, Paragraph 1
N.J.S.A. 54:4-23
N.J.S.A. 54:1-35.1 and 35.3
N.J.S.A. 54:4-2.26
N.J.A.C. 18:12-10.2
Presidential Towers v. City of Passaic, 6 N.J. Tax 406 (Tax Court 1984).

1004. Non-Usable Sales for Assessment-Sales Ratio Study.

The Director has set forth in the New Jersey Administrative Code 18:12-1(a) and 12-1(b) specific categories defining reasons sales are considered Non-Usable. The general areas that suggest a sale may be Non-Usable include, but are not limited to:

- Not within the time frame set for the Ratio Study;
- Not between a willing seller and willing buyer;
- Lacking comparability between the assessed value and sales price (market value); and
- Lacking the transfer of the entire bundle of rights of ownership.

An annotated publication which provides information on the Non-Usable Categories may be found in the Local Property area of the Division of Taxation's website at:www.state.nj.us/treasury/taxation/lpt/referencematerials.shtml; choose Guidelines for use of 33 Non-Usable categories-Sales Ratio. A plain listing of the Non-Usable categories is provided in this Handbook.

REFERENCES:
N.J.A.C. 18:12-1.1

1004.01 New Jersey Statutes Annotated Title 18 Chapter 12 Subchapter 1. Categories of Non-Usable Deed Transactions:

N.J.S.A. 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;

LPT News. SR1A form…….June-July 1995:1

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 the 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 non-usable;

   LPT News. Nonusable Deed Transaction…...……Sept-Oct 1980:2

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;

   LPT News. Non-usable Deed Transaction……...April 1965:2

7. Sales of property substantially improved subsequent to assessment and prior to the sale thereof;

   LPT News. General Use……April 1960:4

LPT News. Non-Usable Deed Transaction……May-June 1964:2

LPT News. Non-Usable Deed Transaction…….Sept-Oct 1973:2

LPT News. Non-Usable Deed Transaction……May-June 1981:2

LPT News. Non-Usable Category 7 (reprint)……May-June 1990:2

LPT News. SR6 Be Thorough……July-Aug 1990:3

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;

    LPT News. Non-usable deed transaction……...July-August 1974:2

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;

LPT News. Assessment of Property in Two Taxing Districts
…….March 1954:1

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 indeterminable;

LPT News. Non-usable Deed Transactions…….June-July 1965:2

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

    LPT News. General Use……April 1960:4

    LPT News. Non-Usable Deed Transaction…….May1965:2

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

    LPT News. General Use……..Revenue Stamps* April 1960:4

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;

    LPT News. General Use……April 1960:4

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;

    LPT News……..SR1A Accuracy Jan-Feb 1987:2

    LPT News……...SR1A Accuracy March-April 1988:2

    LPT News……...Grantor Listings March-April 1989:2

    LPT News……...Grantor Listings March-April 1987:2

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."

State Tax News……..Volume 23, Number 2 Summer 1994

Consent Judgment Letter from DAG Leon Wilson to Robert Johnston August 22, 1996

Memo to Robert Johnston from Albert Rees – Legal Analyst Reprint November 2005

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

33. Sales of qualified farmland or currently exempt property.

LPT News. Qualified farmland……...…February 1965:2

(b) Transfers falling within the foregoing categories numbers 1, 3, 9, 10, 13, 15, 17, 26, and 28 (under section (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.

1005. Phases of Sales Ratio Program.

1005.01 Classification of Real Property for Purposes of the Sales Ratio Program.

Real property is classified by the assessor into one of four broad property classes according to its use as of October 1 of the pretax year, the statutory assessment date for the next calendar tax year. Exempt property is separately classified largely according to its ownership and use as of October 1 of the pretax year. Proper classification and valuation are critical to the accurate development of Assessment Sales Ratio statistics. Analysis of assessment-sales data is based on assessed values for each of the four property classifications as shown by the SR-3A information. If the property class assigned is incorrect, the resulting calculations will be inaccurate and the taxing district could lose a substantial amount of State School Aid, or pay more than its fair share of county costs. Class ratios are calculated from the aggregate assessed value of each of the following four classes of taxable property:

Class 1: "Vacant Land" means land above and under water in its original, indestructible, immobile state. It is idle land, not actively used for agriculture or any other purposes. It is unused acreage, approved subdivided land, on the market or held for sale.

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

Class 3A: "Farm Property (Regular)" means land used for agricultural or horticultural purposes including breeding, pasturing, and production of livestock and animal products. Farm property also includes land, together with improvements, where the use of the land and the buildings on the

land are for agricultural or horticultural purposes as well as farm houses and the lots or parcels of land on which they are situated.

Class 3B: "Farmland Property (Qualified)" means land qualified and assessed under the Farmland Assessment Act, P.L. 1964, c. 48 so that its value is determined by its agricultural productivity rather than market value.

Class 4: "Other" is an aggregate of the subcategories of:

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

Class 4B: "Industrial Property" means land or land and improvements adaptable for industrial use; ideally a combination of land, improvements and machinery which are integrated into a functioning unit intended for assembling, processing, manufacturing or producing 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.

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

All exempt property is designated Class 15. However, Class 15 is further classified as follows:

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

Class 15B: "Other School Property" means real property owned by a non-governmental, nonprofit corporation used for education purposes.

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

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

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

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

When exempt property sells, the assessor must determine if the sale is a market transaction. If the sale is not representative of a market transaction, the sale is recorded as Class 15. The assessment is placed on the Exempt List with the appropriate Class 15 Non-Usable category. The net total assessed value for taxable property is the basis for the calculations used to develop the Director's Table of Equalized Valuations.

REFERENCES:
N.J.A.C. 18:12A-1.17
N.J.A.C. 18:12-2.2
Form – SR-3A

1005.02 Reporting the Net Total of Taxable Property on the SR-3A.

The net total taxable assessed value of each property class, exclusive of limited exemptions and abatements, is reported to the County Board of Taxation by January 10 of the tax year. Limited exemptions and abatements deducted from the gross taxable value include:

Code	Type	Statutory Reference: N.J.S.A.
E	Fire Suppression System	54:4-3.130
F	Fallout Shelter	54:4-3.48
P	Pollution Control	54:4-3.56
W	Water Sewerage Control	54:4-3.59
Y	Renewable Energy	54:4-3.113
G	Commercial/Industrial Exemption	40A:21-7

I	Dwelling Exemption	40A:21-5
J	Dwelling Abatement	40A:21-5
K	New Dwelling/Conversion Exempt	40A:21-5
L	New Dwelling/Conversion Abatement	40A:21-5
N	Multiple Dwelling Exemption	40A:21-6
O	Multiple Dwelling Abatement	40A:21-6
U	Urban Enterprise Zone Abatement	54:4-3.139

The summary of taxable property is extracted from the Tax List District Summary and reported to the County Board of Taxation on SR-3A forms. After review, the County Tax Board retains an informational copy and forwards a copy to the Property Administration Branch by April 15 of the tax year. SR-3A information must agree with the net total assessment for land and buildings shown on the Tax List District Summary submitted to the County Tax Board by the assessor on January 10, or as revised by the County Tax Board on the County Equalization Table. Should the County Board revise a taxing district's real property assessed values prior to adoption and promulgation of the County Equalization Table, both the Tax List and SR-3A information submitted to the State must be revised to agree with the aggregate value shown on the County Equalization Table.

1005.03 Reporting Assessment Sales Information on the SR-1A.

Information on sales price, assessed value, and other pertinent facts concerning sales transactions are collected by County Boards of Taxation, local assessors, and the Division of Taxation and reported in electronic format prescribed by the Division of Taxation. Hard copy is referred to as an SR-1A, and electronic transfers are in SR-1A format.

When sales of real property are recorded at each County Clerk or register of deeds office, copies or abstracts of deeds are forwarded to the County

Board of Taxation in either hard copy or electronic format. Within ten days of receipt of the deed information, the County Tax Board initiates action on the SR-1A form/format by completing Section One (deed information) for each sale, showing:

- Date the form is initiated;
- Name of the county, numeric county code, name of the taxing district, and numeric taxing district code indicating property location;
- Deed book and page numbers;
- Deed date and deed recording date;
- Realty Transfer Fee, and any Realty Transfer Fee Code shown and the imputed sale price. Sale price may be stated in the deed, abstract, or Affidavit of Consideration recorded with the deed;
- Name and address of grantor (seller);
- Name and address of grantee (purchaser);
- Upon completing Section One (deed information), the form is transmitted to the assessor who completes Section Two (assessment information). Section Two requires the following from the Tax List:
    - Property Identification – block, lot, qualifier
    - Property Classification – Class 1, 2, 3A, 3B, 4A, 4B, 4C, and 15**
    - Condo – Yes or No
    - Class 4 Use Code, if applicable
    - Year of Assessment – same as year of transfer (deed date)
    - Assessed Value – Land/Buildings/Total
    - Property Location
    - If Residential, Square Foot of Living Area and Year Built
    - Usable or Non-Usable for Assessment Sales Ratio and remarks – to clarify a Non-Usable code
    - Additional Blocks and Lots - 4 additional property identifications assessments – land, improvements and complete total may be included if part of the transfer.

**For sales which are Class 15 at time of sale – If the sale represents a market transaction, the assessor must determine what the property class would be if it were taxable. The sale would then be recorded with the property class it would be if it were not exempt, along with the comment "Usable" and a statement that the sale is classified exempt for tax year 2XXX.

REFERENCES:
N.J.S.A. 54:4-31
N.J.A.C. 18:12-1.1
N.J.A.C. 18:12A-1.17

1005.04 Reviewing a Sale to Determine Usable or Non-Usable.

The base information on the deed and the assessment record of the sold property are completed in the SR-1A format to be returned to the County Board of Taxation and forwarded to the State. Further review of the deed and Affidavit of Consideration for Use by Seller (RTF-1) may provide additional information that is relevant for the analysis of the sale to determine if it should be in the usable or nonusable sales ratio data base.

The reading of the "delineation of title" will show how and when the current grantor took title to the property. The "Affidavit of Consideration for Use by Seller" will show if there is an exemption or partial exemption from the Realty Transfer Fee that is paid at the time of a deed recording following property transfer. An exemption or a partial exemption of the fee may indicate a reason for the sale to be considered nonusable. Some of the common reasons for an exemption or partial exemption include the following types of transfers:

- Between, husband and wife or civil union partners, or parent and child;
- To correct a deficiency in title ("Corrective Deed") or re-recording of a deed; or

- Court ordered transfers, including "In specific performance of a final judgment"

If additional information is needed, the assessor can contact the individuals that were a party to the sale. Grantor, grantee, real estate sales people, brokers, and the attorney who prepared the deed may be able to provide additional information as to influences on the sale price or buyer/seller motivation.

Finally, the assessor needs to determine if the characteristics of the property at the time of sale, and the assessment as of the assessing date applicable to the time of sale, represent the same property. For example, if the property is assessed as vacant land and sells with a new improvement, the sale may not be usable. The assessor will need to make that determination within the time line to see if the improvement occurred after the assessing date and before the sale date.

A sales investigation should include a review of all the non-usable categories against all the information applicable to the sale of a property.

REFERENCES:
N.J.A.C. 18:12-1.1

1005.05 Return of the Assessment-Sales Information.

Within three weeks of receiving sales information, the assessor must complete and return the SR-1A form with a determination of Usability/Non-Usability for the Sales Ratio Study. Each sale is assigned a unique identifying number before the information is transmitted to the Division of Taxation. The Usable or Non-Usable determination and related information may be reviewed and changed until the sampling period closes. The final determination of Usable or Non-Usable for each sale lies with the Division of Taxation. The assessor may further

investigate the circumstances surrounding a sale, and challenge the Division of Taxation's determination of Usability or Non-Usability.

REFERENCES:
N.J.A.C. 18:12A-1.17(a)1 ii
Township of Howell v. Division of Tax Appeals, 99 N.J. Super. 11 (App. Div. 1968) cert. denied, 51 N.J. 394 (1968).

1005.06 Distribution of Assessment-Sales Information.

The Assessment-Sales Ratio file received by the Division of Taxation is posted on the web before the data is screened and reviewed. After the sales data is reviewed and edited by Local Property, the final accumulative sales listings are also posted. This sales data is included in the data base developed for the calculation of the Director's Table of Equalized Valuations. www.state.nj.us/treasury/taxation/lpt/grantors_listing.shtml.

County Boards of Taxation are also responsible for providing the completed SR-1A information to the taxing district and maintaining the information as public records.

REFERENCES:
N.J.S.A. 54:1-35.6
N.J.A.C. 18:12A-1.17(a) 1 iii

1005.07 Tracking and Maintaining a Log of SR-1As.

The County Board of Taxation initiates the SR-1A and supervises the assessor. Each Board tracks the SR-1As conveyed to each municipality, the SR-1As as they are completed and returned to the Board, and as they are finally transmitted to the Division. The Division of Taxation assigns each county a block of serial numbers to be used in a fiscal sampling period. Each SR-1A is assigned a serial number from the block of numbers. Once a month, the County Board of Taxation provides the Division with a report showing:

- Number of SR-1As created
- Number of SR-1As returned by the assessor

- Number of SR-1As held by the assessor

An "aging" report showing the length of time an assessor retains individual SR-1As may also be requested.

REFERENCES:
N.J.S.A. 54:1-35.1 through 35.6
N.J.A.C. 18:12A-1.17

1005.08 Assessment-Sales Information Reviewed Accumulative Sales Listings - Grantor Listings.

The Division of Taxation periodically provides assessors and County Boards of Taxation listings of sales also known as Grantor Listings processed by the State. Review of the lists allows the assessor and County Tax Board to see which "Usable/Non-Usable" sales were processed and the determinations made by the Division. The Listings are labeled "Usable" and "Non-Usable" and are the preliminary input to the final Assessment-Sales Ratios promulgated in the Director's Table of Equalized Valuations. The Grantor Listings are posted on the "My NJ Portal" for assessors to access through their personal logon and password. The final Listings are posted on the Division of Taxation's website as public information.www.state.nj.us/treasury/taxation/lpt/grantors_listing.shtml

REFERENCES:
N.J.A.C. 18:12A-1.17

1005.09 Data Fields on the Accumulative Sales Listing.

A Grantor List is posted for each county in municipality sequence. Sales information is provided from each sales record in summary form with only the following fields appearing:

Grantor Listing Usable:

1. Property Class 1, 2, 3A, 3B, 4A, 4B, 4C

Grantor Listing Non-Usable:

1. Property Class 1, 2, 3A, 3B, 4A, 4B, 4C, and 15
2. Non-Usable (NU) Code – numeric code of 01 to 33 from the Non-Usable Codes explaining the reason a sale is not used in the Sales Ratio data base for equalization calculations.

These fields appear in both the Grantor Listing Usable and Non-Usable Lists:

- Serial Number assigned when sales record is created
- Deed Recording Date
- Grantor/Seller Name on deed
- Deed Date
- Location of Property by Property Identifier: Block - Lot – Qualifier – from assessment records of year of transfer
- Sales Ratio calculated from assessed value divided by sales price
- Assessed Value total of land and improvement from the tax record of year of transfer – if more than one record is included in the transfer then assessed values are totaled
- Sales Price total consideration shown on deed on which Realty Transfer Fee was paid.

REFERENCES:
N.J.A.C. 18:12A-1.17

1005.10 SR-6 Requests for Changes to a Sale on Accumulative Sales Listing. Request for change may be made anytime after a sale is included on a Grantor Listing by either a municipal assessor or the State via Division Field Representative. Changes may be to correct information shown in the sale record or revise the Usable/Non-Usable status of the sale. Both types of request are transmitted to the State on the SR-6E form. All requests for

change of Usable/Non-Usable status must be accompanied by supporting documentation transmitted in electronic or hard copy format.

REFERENCES:
N.J.A.C. 18:12A-1.17

1006. Calculating the Director's Table of Equalized Valuations.

1006.01 Procedure for Calculations.

In 1970, the procedure for calculating the Director's Table of Equalized Valuations was set forth in a Memorandum to all County Boards of Taxation, municipal assessors, and municipal clerks. From 1970 forward, the current fiscal year sales database developed from all properties sold during that time was used to calculate the class ratios and the One Year Weighted Ratio. The averaging process was employed to develop the Average Weighted Ratio and used to calculate the Equalized Value of real property for each municipality. The Equalized Value of real property, the value of business personal property, and the value of Class II railroad property were combined to calculate the Equalized Value for each municipality.

Calculations of the Director's Table of Equalized Valuations

After the database of sales is developed and the final determinations of usable sales for the sales ratio study, the calculations to create the Director's Table are as follows:

Step 1 ONE YEAR WEIGHTED RATIO

The usable sales for each taxing district are categorized by property class and the ratios for each class are calculated. To illustrate:

Classification	Number of Sales	Total Assessed Value		Total Sales Price	equals	Class Ratio
Vacant	2	67,300	÷	64,325		104.62
Residential	13	952,600	÷	1,124,750		84.69
Farm						*84.69
Qualified						*84.69
Other	1	144,400	÷	195,000		74.05

* If there are no sales for a particular class, the ratio for Class 2 is substituted for the calculation of the true value for that class. The Class 2 ratio is always used for the calculation of Class 3B, qualified farmland.

The class ratios are developed by dividing the total of the assessments for all usable sales in the class by the total of those usable sales prices. The class ratios are then applied to the aggregate assessed values for all properties in the class to develop class true values as follows:

Classification	SR-3A Valuation		Weighted Ratio	True Value
Vacant	3,638,950	÷	104.62	3,478,255
Residential	54,321,100	÷	84.69	64,141,103
Farm	658,600	÷	84.69**	777,660
Qualified	197,400	÷	84.69**	233,085
Other	15,400,400	÷	74.05	20,797,299
	74,216,450			89,427,402

**The residential ratio is used if any class of property does not have sales from which to develop a ratio. The residential ratio is always used for Qualified Farm assessed value.

Then, the total of the SR3A Valuation is divided by the Total True Value to develop the one year weighted ratio.

SR3A valuation	divided by	Total True Value	equals	One-Year Weighted Ratio
74,216,450	÷	89,427,402	=	82.99

Step 2 PRIOR YEAR ADJUSTED TRUE VALUE

To reduce fluctuations in the Equalized Valuation the formula uses an averaging process using a prior year adjusted true value.

Prior Year Aggregate True Value of Real Property				
From the Director's Table prior year column 3			=	91,187,377
PLUS the equalized Added and Omitted Assessments				
From the Prior Year;				
736,100	Divided by	81.52	=	+ 902,969
Added and Omitted		Prior Year Average		
Assessments	÷	Weighted Ratio		
	EQUALS: Prior Year Adjusted True Value			92,090,346

Step 3 AVERAGE WEIGHTED RATIO

The SR-3A Value is then divided by the One Year Weighted Ratio to calculate Current Year True Value

SR3A Value	divided by	One Year Weighted Ratio	equals	Current Year True Value
74,216,450	÷	82.99	=	89,428,184

The Current Year True Value is then averaged with the Prior Year Adjusted True Value to obtain the Average True Value.

(89,428,184	+	92,090,346)	=	90,759,265
Current Year True Value		Adjusted Prior Year True Value		Average True Value
2				

The final Average Weighted Ratio to be developed in the Director's Table of Equalized Valuations is computed by dividing the Current Year Aggregate Assessed Value (SR3A Value) by the developed Average True Value:

74,216,450	÷	90,759,265	=	81.77
Current Year Aggregate SR3A Value	divided by	Average True Value		Average Assessed Value Weighted Ratio

Step 4 CALCULATION OF EQUALIZED VALUATION

The final Average Ratio for each taxing district appears in column 2 of the Director's Table of Equalized Valuation. The aggregate assessed values form Column 1. The Aggregate Assessed Value (SR3A) divided by the Average Weighed Ratio equals the Aggregate True Value of Real Property appearing in Column 3. The Assessed Value of Class II Railroad Property in Column 4 and the Assessed Value of Personal Property used in Business in Column 5 are added to the True Value of Real Property in Column 3 to arrive at the Equalized Value of the taxing district.

(1)(SR3A)		(2)	(3)		(4)		(5)		(6)
Aggregate Assessed Real Property		Average Ratio to True Value	Aggregate True Value Real Property		Assessed Value Class II Railroad Property		Assessed Value of Personal Property		Equalized Value
74,216,450	÷	81.77	90,762,443	+	0	+	578,666	=	91,341,109

1006.02 Steps 1 through 4 Explained.

All sales in the current fiscal year database are categorized by the Division of Taxation as either Usable or Non-usable. Usable sales are further stratified by property class. In Step 1, Class Ratios are calculated

and the True Value for each class is developed. The One Year Weighted Ratio is calculated by dividing the Total SR-3A Value by the Total True Value.

Step 1 ONE YEAR WEIGHTED RATIO

The ratios for each class are calculated. Calculation: The class ratios are developed by dividing the total of the assessments for all usable sales in the class by the total of the sales prices of the usable sales. The resulting ratio is actually a percent.

The class SR-3A Valuation is divided by the weighted ratio developed for each property class to develop the true value for the property class.
The total true value of the property classes are divided by the Total SR-3A Value to calculate the District Weighted Ratio also called the One-Year Weighted Ratio.

** The residential ratio is used if any class of property does not have sales from which to develop a ratio and the residential ratio is always used for Qualified Farm assessed value.

Step 2 CALCULATING PRIOR YEAR ADJUSTED TRUE VALUE

The Prior Year Adjusted True Value is determined by calculating the True Value of the Prior Year Added and Omitted Assessments and adding the Prior Year Aggregate True Value to it.

Step 3 CALCULATING THE AVERAGE WEIGHTED RATIO

First the Current Year True Value is calculated by dividing the SR-3A value by the One Year Weighted Ratio calculated in Step 1. The Current Year True Value and the Prior Year Adjusted True Value are added and divided by 2 to find the Average True Value. Then the Current Year SR-

3A value is divided by the Average True Value to calculate the Average Weighted Ratio.

The Average Weighted Ratio developed in the Director's Table of Equalized Valuations is computed by dividing the current Year Aggregate Assessed Value (SR-3A Value) by the developed Average True Value:

Step 4 Calculating the Equalized Valuation
A conformed Table of Equalized Valuations is six columns. Column 1 (Aggregate Assessed Value – SR-3A) is divided by Column 2 (Average Weighted Ratio) to arrive at Column 3 (Aggregate True Value of Real Property). The Assessed Value of Class II Railroad Property in Column 4 and the Assessed Value of Personal Property used in Business in Column 5 are added to the True Value of Real Property in Column 3 to arrive at the Equalized Value of the taxing district.

* At this time the State does not dedicate revenue as Railroad Replacement Revenue, therefore, Class II Railroad Property is not currently part of the equalization process.

REFERENCE:
N.J.S.A. 54:1-35.2
Kearny Town v. Director, Division of Taxation, 11 N.J. Tax 232 (Tax Court 1990).

1006.03 Conformed Copy of The Director's Table of Equalized Valuations.

The Director's Table of Equalized Valuations is prepared in columnar form and shows:

- Aggregate assessed value of real property, exclusive of Class II Railroad property
- Average ratio of assessed to true value of real property
- Aggregate true value of real property

- Assessed value of Class II Railroad property*
- Assessed value of all personal property
- Equalized valuation

*At this time, the State does not dedicate Railroad Replacement Revenue; therefore Class II Railroad Property is not currently part of the equalization process. (See Calculations Step IV Director's Table of Equalized Valuations)

REFERENCES:
N.J.S.A. 54:1-35.2

1006.04 Promulgation of the Director's Table of Equalized Valuations.

The Director's Table of Equalized Valuations is promulgated on or before October 1 of each tax year. Promulgation is deemed complete upon delivery of a certified copy of the Table to the Commissioner of Education, the mailing of a certified copy to each Municipal Clerk, each County Tax Board, and if applicable, the certified mailing of a notice of a 10% increase in Equalized Valuation to the mayor or chief executive of any affected municipality. The conformed Table is posted on the Division's website: www.state.nj.us/treasury/taxation/lpt/lptvalue.shtml
The County Board of Taxation also receives a copy of the Table of Equalized Valuations showing the full computations upon which the Table is based.

REFERENCES:
N.J.S.A. 54:1-35.1

1006.05 Informal Review.

The assessor has a number of opportunities to affect the make-up of the Table of Equalized Valuations before promulgation on October 1 of each year:

1. When the assessor first receives an SR-1A Form from the County Board of Taxation, he may voice his opinion as to whether the sale is suitable for use in the Assessment Sales Ratio Program.
2. The monthly lists of sales provide another opportunity for the assessor to request revision of the proposed use or non-use of a sale using the SR-6.

Despite these occasions for change, the assessor or municipal governing body if dissatisfied with the Table, may make more formal appeal.

1006.06 Appeals from the Director's Table of Equalized Valuations.

Appeals must be filed with the State Tax Court of New Jersey within 45 days of the Table's promulgation. Although the County Board of Taxation is a participant in the preparation of the Table, it is subject to review upon a complaint filed by a municipality. The complaints are filed against:

- The formula used to develop the Table
- The sales database used to develop the class ratios

In recent years, most complaints have been based on the inclusion or exclusion of sales used to develop class ratios. Should a municipality be successful at an appeal both the Table and the Common Level Range used for determining relief for tax appeals filed would be adjusted. (See Chapter 11 in this Handbook *Tax Appeals* for the use of Chapter 123 Common Level Range.)

Forms for filing a complaint may be obtained from the New Jersey Tax Court website:
http://www.judiciary.state.nj.us/taxcourt/forms/10327_school_aid_cmplt.pdf.
Choose State Equalization Table – School Aid Complaint. Following promulgation of the Director's Table of Equalized Valuations on October

1, the jurisdiction of the Division of Taxation over the Table ceases. Appeals by taxing districts from the Table must be filed timely within forty-five(45) days of its promulgation with the State Tax Court of New Jersey. Hearings must be concluded and judgments be rendered by the State Tax Court by the next January 30. The State Tax Court may revise the equalized valuation of a taxing district if warranted. Only sales occurring during the "current" sampling period may be appealed. The courts have held that the usability or nonusability for assessment-sales ratio purposes of sales in any prior sampling period may not be appealed. Once the annual deadline for appeals has passed, the question of the usability or nonusability of sales in the Table is foreclosed.

REFERENCES:
New Jersey Court Rules R. 8:4-1(a) (1)
N.J.S.A. 54:1-35.4
N.J.S.A. 54:51A-4 & -5
City of Bayonne v. Division of Tax Appeals, 49 N.J. Super. 230 (App. Div. 1958).
Township of Jefferson, et. Al v. Director, Division of Taxation; Township of Mendham, et. Al v. Director, Division of Taxation; Borough of Mendham, et al v. Director, Division of Taxation; Township of Mount Olive, et. Al v. Direction, Division of Taxation, 26 N.J. Tax 1 (Tax Court 2011).

1006.07 Authority of the Director's Table.

The Director is a neutral party in the equalization process, a fact that allows local governments and taxpayers to rely on the accuracy and integrity of the Director's Table of Equalized Valuations. The authority and importance of the Table is recognized by the reliance on and use of the Table to complete property tax procedures even when its use is not required by statute.

REFERENCES:
N.J.S.A. 54:1-35.1
Kearny Town v. Director, Division of Taxation, 11 N.J. Tax 232 (Tax Court 1990).

1007. County Equalization.

1007.01 Purpose of County Equalization.

The purpose of County Equalization is to develop the True Value of real property in each municipality. The assessor is responsible for providing certain data to the County Tax Administrator and the County Tax Board for inclusion in the equalization process. The assessor is not responsible for "equalization in the aggregate," but should understand the process and review the base data used by the County Tax Administrator. The assessor reports the value of taxable property to the county through the SR-3A form and the District Summary filed with the Tax List. Additional data is provided by the assessor through an Assessor's Report and the E/A 4 Form – Report of In-Lieu Tax Payments under P.L. 1991, c. 441. The County Tax Board Administrator develops the County Equalization Table and the County Board of Taxation adopts the Table. The County Tax Administrator develops the county ratios unless the county uses the Director's Ratio. Most County Tax Administrators use the ratios promulgated by the Director, Division of Taxation each October 1 for county equalization. However, the statute permits a County Tax Administrator to arrive at an equalization ratio employing a reasonable method. All methods of "equalization in the aggregate" use sales of real property as a basis for developing a ratio to calculate the True Value of each taxing district.

REFERENCES:
N.J.S.A. 54:3-19
N.J.S.A. 54:3-17
N.J.A.C. 18:12A-1.3(j)
Borough of Little Ferry v. Bergen County Board of Taxation, 18 N.J. 400 (1955).
City of Passaic v. Passaic County Board of Taxation, 18 N.J. 371 (1955).
Township of Jefferson v. Morris County Board of Taxation, 26 N.J. Tax 129 (Tax Court 2011).

1007.02 Development of the County Equalization Table.

Developing a County Equalization Table is essentially a five step operation for each municipality:

1. Calculate the Aggregate True Value of real property for each municipality in the county, and record the difference between the Aggregate True Value and the Aggregate Assessed Value of real property in Column 1 (d) of the Equalization Table;
2. Calculate the equalized value of locally assessable business personal property, and record the difference between the Aggregate Equalized Value and the Aggregate Assessed Value in Column 2 (e). Because of the method prescribed in the statutes, this difference is invariably zero;
3. Calculate the assumed equalized value of Business Personal Property Replacement Revenues (The dollar amount of such revenues is frozen for each municipality at those amounts first appearing in a correctly completed 1977 County Equalization Table);
4. Calculate Aggregate True Value of railroad property, exclusive of Class II Railroad Property, where the taxes are in default and liens are unenforceable by reason of an order of a state or federal court;
5. Amounts calculated in Steps (1), (2), and (3) for each municipality are totaled, and the amount calculated in Step (4) is deducted from the total, with the result entered for each municipality in Column 5 of the County Equalization Table. Amounts for each municipality in Column 5 are later transferred to Column 6 of the County Abstract of Ratables.

Column headings of the County Equalization Table contain basic calculation instructions for proper completion.

1007.03 Form and Content of the County Equalization Table.

The content of the County Equalization Table is statutory and the format of the Table is determined by the Director, Division of Taxation. The prescribed format is a component of the New Jersey Property Tax System.

REFERENCES:
N.J.S.A. 40A:21-11
N.J.S.A. 54:3-14 and 3-17
New Jersey Property Tax System (MOD IV) Documentation

1007.04 Responsibility for Preparation, Notification and Distribution.

The County Tax Administrator prepares and submits an Equalization Table to the County Board of Taxation for review on or before March 1 yearly. The Equalization Table is referred to as the Preliminary Equalization Table until it is adopted by the County Tax Board. Not later than March 1 annually, a copy of the Preliminary Equalization Table is mailed to each municipal assessor, the Director, Division of Taxation, and is posted in the courthouse.

REFERENCES:
N.J.S.A. 54:3-17
N.J.A.C. 12A:1.3(j)

1007.05 County Equalization Table-Hearings and Adoption of Table.

County Boards of Taxation are required to hold hearings between March 1 and March 9 of the tax year, where municipal assessors and municipal governing bodies may present their views regarding the data in the County Equalization Table. The data used by the County Tax Administrator to develop municipal ratios must be made available to local assessors and representatives of municipal governing bodies so that they may refute the data or offer data of their own. At the first hearing, any taxing district may object to the ratio or valuation fixed for any other district, but said valuation may not be raised by the County Tax Board until after such taxing district is heard. After three days notice and following the hearings,

the County Tax Board may revise the Equalization Table. The County Equalization Table must be completed before March 10, when certified copies must be filed with every taxing district in the county, the Director, Division of Taxation, the State Tax Court of New Jersey and two copies to the Director, Division of Local Government Services. The court has held that a County Board may properly utilize the Table of Equalized Valuations developed by the Director, Division of Taxation in the promulgation of its Table.

REFERENCES:
N.J.S.A. 54:3-18
N.J.A.C. 18:12A-1.3(j) 2 and 1.3(j) 4
West Deptford Township v. Gloucester County Board of Taxation, 6 N.J. Tax 79 (Tax Court 1983).

1007.07 Equalization and the Tax Assessor.

Equalization is the responsibility of the County Tax Administrator, the County Board of Taxation and the Division of Taxation. Equalization is performed on a calendar year basis and the "ratable base" used for the equalization processes should be the same. The assessor should review the equalization tables to ensure that the ratable base, as summarized on the filed Tax List (or adjusted by the County Tax Board under their authority to "review, revise and correct"), is the basis for equalization. The same real property ratable base should be used for county equalization, calculation of Page 8 or county ratios, and the Director's Table of Equalized valuations calculated within the same calendar year. Additionally, the assessor should review the value for business personal property, the ratios, and tax rates for replacement revenue and the final calculations for the assessed value calculated for the relationship of the "in lieu" tax payments included in the equalization process. The assessor is copied on meeting notices, preliminary and final equalization tables.

REFERENCES:
N.J.S.A. 54:3-17, 18, 19
N.J.S.A. 54:1-35.4

1007.08 Appeals of the County Equalization Table.

Complaints for review of a County Equalization Table must be filed with the Tax Court of New Jersey within 45 days after the Table is promulgated. Because the municipality is a corporation, an appeal must be filed by the municipal attorney or special tax counsel. The form used to file a county equalization complaint is available on the Tax Court website.
www.judiciary.state.nj.us/taxcourt/forms/10339_cnty_equal_complt.pdf

REFERENCES:
N.J.S.A. 54:1-35.4
N.J.S.A. 54:51A-4
New Jersey Court Rules R. 8:4-1(a) (1)

1007.09 County Equalization Applied.

The final step for county equalization occurs on the Abstract of Ratables when the equalized amounts are transferred to column 10. The equalized valuation of each taxing district, consisting of the assessed value of all real and personal property, plus the adjustments for equalization purposes in Columns 1 through 5 and shown in Column 6 on the County Equalization Table are then included in the basis for apportionment of property taxes for county purposes.

1008. Revaluation or Reassessment Impact on Municipal Ratio For County Equalization.

1008.01 Ratios and the Impact of Revaluation/Reassessment.

County Tax Administrators are encouraged to use the Director's Ratio. However, when a municipality's assessments undergo substantial revision due to implementation of an approved revaluation or reassessment, and

new taxable values are placed on the Tax List, the Director's Ratio promulgated on the preceding October 1 no longer applies. The County Tax Administrator must determine a new assessment ratio to reflect that district's new ratable base.

The two months or less between the filing of the Tax List and the finalization of county equalization does not contain sufficient sales data necessary for a County Tax Administrator to develop a new ratio using sales transactions. To overcome this difficulty the Division of Taxation developed a methodology known as the "Page 8 Formula" for use by County Tax Administrators. Utilization of the Page 8 Formula has been approved and encouraged by the courts of New Jersey. The calculations prescribed in the Page 8 Formula provide a County Equalization Ratio to be used in the first year of the implementation of an approved revaluation or reassessment.

REFERENCES:
Township of Willingboro v. Burlington County Board of Taxation, 62 N.J. 203 (1973).
Township of Bloomfield, et al v. Essex County Board of Taxation, Division of Tax Appeals, May 6, 1957.

1008.02 Page 8 and the Assessor's Report.

Page 8 Formula is based on the assumption that the Equalized Value of a municipality established on October 1 each year by the Director, Division of Taxation will continue to be the Equalized Value of that municipality at the commencement of the following year, except for:

- Value of new construction during the prior year
- Value of property mistakenly omitted from the prior year's Tax List
- Loss in ratables value from fire, demolition, natural disasters
- Value of ratables transferred from taxable to exempt status

The foregoing information is usually provided to the County Tax Administrator by the municipal assessor on an Assessor's Report filed with the Tax List.

REFERENCES:
Township of Willingboro v. Burlington County Board of Taxation, 62 N.J. 203 (1973).

1008.03 Calculating a Ratio Using Page 8 Formula.

The base data needed to calculate a Page 8 ratio include:

- True Value of the municipality for the preceding year as per the Director's Table of Equalized Valuations promulgated the preceding October 1
- Current Year Added and Omitted Assessments as per the Abstract of Added and Omitted Assessments from the preceding October 1 (they may be adjusted for appeals)
- New construction not on the Added Assessment List from the preceding October 1 but recorded on the Certification of New Construction Form (Form CNC-1) filed for the current tax year
- Demolitions from the preceding tax year*
- Loss in ratables from the preceding tax year*
- Transfers of property from taxable in the preceding tax year to exempt in the current tax year*
- Current True Value is the total ratable base submitted on the Tax List on January 10

Dividing the Current True Value by the Adjusted True Value from the prior year establishes a County Equalization Ratio with the same properties as the Director's Ratio.

If the method adopted by the County Tax Administrator, and later by the County Board of Taxation, produces a ratio that is greater than or less than 100%, that ratio is to be used for the equalization of real property.

- The County Board of Taxation may request this information annually on an "Assessor's Report" filed January 10 with the Tax List. There is no promulgated form; however, a suggested format is provided in the Handbook for County Boards of Taxation.

See Sample – Page 8 next.

REFERENCES:
Township of Willingboro v. Burlington County Board of Taxation, 62 N.J. 203 (1973).

Sample Completed Page 8 Formula for Pine Borough, Winterberry County

District Pine Boro 03 County Winterberry 22 Date January 15, 2003

1) Total or aggregate real property assessments for the new year after the revaluation as shown in Column 1, County Equalization Table. $ 93,617,700 (A)

2) True value of real property for preceding year from Column 3, Table of Equalized Valuations (School Aid) October 1st. $ 91,277,857

ADDITIONS

3) True value of assessed ratables on Added* and Omitted Assessment Lists of October 1st, computed as follows:

835,400	÷	42.00%	=	1,989,048
Total Added and Omitted Assessments		Ratio from Table October 1st		

4) True value of additional assessed ratables other than reported on Added and Omitted Lists (see Paragraph B, Page 6) computed as follows:

	÷	(100%) 1.00	=	0
Assessed ratables of new construction, improvements & exempt transferred to taxable		"Claimed" ratio used by assessor		

5) Enter total of True Values (2) + (3) + (4) = $ 93,266,905

DEDUCTIONS

6) True Value of loss of assessed ratables (see paragraph C, page 6) Computed as follows:

105,000	÷	42.00%	=	$	250,000
Total loss in assessed ratables from fire, demolition and taxable transferred to exempt		Ratio from Table October 1st.			

7) Net True Value at beginning of new year: Amount on Line (5) minus (6) $ 93,016,905 (B)

8) New average ratio from lines (1) and (7)

93,617,700	÷	93,016,905	=	100.65%
(A)		(B)		Ratio

* Before proration

1009. Equalization of In-Lieu of Tax for County Equalization.

1009.01 In-Lieu Tax Payments Under Five Year Tax Agreements.

"In lieu tax payments" made pursuant to five year tax agreements authorized under N.J.S.A. 40A:21-1 (C 441, Laws 1991) are required to be included in the County Equalization Table. No other "in lieu" tax payments are part of the county equalization process.

REFERENCES:
N.J.S.A. 40A:21-1.

1009.02 Reporting Municipal Limited Exemptions/Abatements.

Each qualified municipality granting limited exemptions must have a valid authorizing ordinance, and each in lieu tax payment shall be authorized by separate agreement in ordinance form. The properties with approved exemptions and "in lieu" tax payments are recorded in the NJ Property Tax System with the taxable portion shown on the Real Property Tax List, and the exempt portion on the Real Property Exempt List with a specific code. Properties subject to "in lieu" tax payments are extracted from the Exempt Property List with a program identifying them by the specific exempt property list code:

Part 1	Owner	Code -24
Part 2	General use	Code -17
Part 3	Specific use	Code -994

The Exempt List for these properties provides the assessor and the County Tax Administrator with the property identification and assessed value of those properties paying "in lieu taxes" authorized by ordinances for each individual limited exemption/abatement agreement. Upon receipt of the Exempt List for Chapter 441, the County Tax Administrator mails Form E/A 4 to the assessor of the municipality. Completed E/A 4 forms must be returned to the County Tax Administrator prior to February 1.

REFERENCES:
N.J.S.A. 40A:21-11

1009.03 Report "In Lieu" Tax Payments on the E/A 4 Form.

The E/A 4 form is divided into two sections, Part A and Part B. Part A is completed by the assessor and filed with the County Tax Administrator by February 1 of the tax year. Recorded in Part A are:

- Property identification – block, – lot, - qualifier
- Basis of in lieu tax payment – cost, – gross revenue, – tax phase – in (in the first year of tax phase – in, the amount to be paid is zero percent)
- Payment per agreement – to be paid this current tax year
- Current year assessment from the Exempt List
- Revaluation/reassessment – yes – no

Example of E/A – 4 (1-96) Part A

Form E/A-4 (1-96) -promulgated
Local Property
Division of Taxation

REPORT OF PROPERTY SUBJECT TO
TAX AGREEMENT PURSUANT TO
CHAPTER 441, P.L. 1991(N.J.S.A. 40A:21-1 et seq.)

MUNICIPALITY: SPRUCE CITY COUNTY: WINTERBERRY

Part A (To be completed by assessor and filed with county tax administrator by February 1st of tax year)

1. Property Identification ___2____ _____6____ _X_
   Block Lot Qual.
2. In-lieu of tax payment based on: __Cost___Gross Revenue _X_ Tax Phase-In
3. Payment, per agreement, to be paid this current tax year $__2, 028___
4. Current year assessment from Exempt Tax List $_300,000___
5. Does filed Tax List reflect revaluation or reassessment? ___Yes _X_No

Date 01/10/12 Tax Assessor *Bob Smith*

REFERENCES:
N.J.S.A. 40A-21-11

1009.04 Calculating the Aggregate Assessed Value to be Equalized.

Part B of the E/A 4 form provides the formula to calculate an assumed assessed value based on the percentage relationship of the "in- lieu" tax payment to the actual tax payment had the limited exemption/abatement not been granted. The County Tax Administrator completes Part B of the E/A 4 form. The steps include the following:

- Calculate the Current True Value = current year assessment from the Exempt List divided by the Director's Ratio (if ratio exceeds 100% use 100%) or the ratio developed for a revalued or reassessed district.
- Calculate the Effective Tax Rate - Prior year general tax rate times the Director's Ratio and express the result as a decimal.
- Calculate the tax without the agreement = adjusted True Value times adjusted tax rate.
- Determine the percentage of in-lieu of payments to tax that would otherwise be due starting with the current year payment and divided by calculated tax that would otherwise be due.
- Calculate the Aggregate Assessed Value to be included in County Equalization. Multiply the current year assessment from the Exempt List by the percentage relationship of in-lieu of payments to tax that would otherwise be due.

The Final Step is not completed on the E/A 4 form. The aggregate assessed value to be included in the County Equalization process is divided by the municipality's County Equalization Ratio and the result is recorded in Column 5 of the County Equalization Table.

Example of E/A – 4 (1-96) Part B

Form E/A-4 (1-96)

Part B (To be completed by County Tax Administrator)

6a. If ***yes*** is indicated on line 5, enter 100% ____%

6b. If ***no*** is indicated, enter Director's 10/1 ratio

73.85%

(Use 100% for ratio above 100)

7. Adjust true value: (line 4 ÷ line 6a 0r 6b) 406,229

8. Adjusted tax rate:

Prior year general tax rate 1.690 per hundred

Director's 10/1 ratio × 73.85 .01248 Express as Decimal

9. Calculated tax without tax agreement (line 7 x line 8) 5,070

Percentage of in-lieu of payments to tax that would otherwise be due 40%

(Line 3 $ 2,028 ÷ line 9 $ 5,070)

11. Amount to be included in municipality's Aggregate Assessed Value on County Equalization Table $120,000 *

(Line 4 $ 300,000 x Line 10 .40 = 120,000 Agg AV)

Date 01/31/12 County Tax Administrator *Sue Scott*

****NOTE***: The Aggregate Assessed Value must be equalized before it is entered in column 5 of the Equalization Table. The amount to be included in the municipality's Aggregate Assessed Value is calculated on line 11 of the E/A-4 Form. That amount is then equalized and recorded in column 5 of the County Equalization Table.

For example:

Line 11 shows the assessed value	$120,000
And the County Equalization Ratio is	73.85
Equalized Value Included in Column 5	$162,492

REFERENCES:

N.J.S.A. 40A:21-11

For more information on County Equalization please see the Handbook for County Board of Taxation.

Chapter 11 Tax Appeals

1101. The Right of Appeal.

Taxpayers and taxing districts have the right to appeal disputed property valuations. An appellant may not bypass steps in the appeal process, such as filing with the N.J. Superior Court before bringing the appeal to the County Board of Taxation and/or the Tax Court of New Jersey. In unusual cases, the courts have relaxed this rule. An appeal may stop at any level in the process, if both parties are satisfied with the judgment.

REFERENCES:
N.J.S.A. 54:3-21 et seq.
N.J.S.A. 54:51A-1 et seq.
N.J.A.C. 18:12A-1.6 et seq.
F.M.C. Stores Co. v. Morris Plains, 195 N.J. Super. 373 (App. Div. 1984) superseded by statute as stated in Majestic Construction Co. v. Deptford Township, 14 N.J. Tax 332 (Tax Court 1994).
County of Bergen v. Paramus, 79 N.J. 302 (1979).
Pleasantville Taxpayers v. City of Pleasantville, 115 N.J. Super. 85 (App. Div. 1971); cert. denied by 59 N.J. 268 (1971).
Switz v. Middletown Township, 40 N.J. Super. 217 (App. Div. 1956) cert. granted by 22 N.J. 222 (1956) modified by 23 N.J. 580 (1957).
University Cottage Club of Princeton v. Princeton Borough, 26 N.J. Tax 185 (Tax Court 2011).

1101.01 Timeline for Property Valuation by Municipal Assessor and for Revision of Assessor's Property Value Determinations.

N.J.S.A. 54:4-23 provides, "All real property shall be assessed to the person owning the same on October 1 in each year. The assessor shall ascertain the names of the owners of all real property situate in his taxing district, and, after examination and inquiry, determine the full and fair value of each parcel of real property situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract on October 1 next preceding the date on which the assessor shall complete his assessments, …."

N.J.S.A. 54:4-35 requires that, "The assessor shall determine his taxable valuations of real property as of October 1 in each year and shall complete the preparation of his assessment list by January 10 following, on which

date he shall attend before the County Board of Taxation and file with the board his complete assessment list,…"

N.J.S.A. 54:4-38 further requires that, "Every assessor, at least ten days before filing the complete assessment list and duplicate with the County Board of Taxation,…shall notify each taxpayer of the current assessment and preceding year's taxes and give public notice by advertisement in at least one newspaper circulating within his taxing district of a time and place when and where the assessment list may be inspected by any taxpayer for the purpose of enabling the taxpayer to ascertain what assessments have been made against him or his property and to confer informally with the assessor as to the correctness of the assessments, so that any errors may be corrected before the filing of assessment list and duplicate…"

N.J.S.A. 54:4-38.1 directs, "Every assessor, prior to February 1**, shall notify by mail each taxpayer of the current assessment and preceding year's taxes. Thereafter, the assessor or County Board of Taxation shall notify each taxpayer by mail within 30 days of any change to the assessment. This notification of change of assessment shall contain the prior assessment and the current assessment. The director shall establish the form of notice of assessment and change of assessment. Any notice issued by the assessor or County Board of Taxation shall contain information instructing taxpayers on how to appeal their assessments."

Once the assessment list is filed with the County Tax Board on or before January 10, the assessor no longer has the authority to make any changes. The assessor can, however, informally apply to the tax board any time prior to its final certification of the list to request that an assessment be amended. If an error is discovered after the list has been certified, a formal tax appeal would be necessary to obtain a change in assessment for the year at issue.

As per N.J.S.A. 54:3-21, an appeal to the county board must be filed by April 1** or 45 days from the date the Notification of Assessment is mailed by the taxing district, whichever is later.* Taxpayers who receive a Notification of Change in Assessment must appeal within 45 days of issue date of the notice. Often the process of stipulation can eliminate the need for a formal appeal hearing. After an appeal is filed with the County Board of Taxation and before judgment is rendered, the assessor may offer a taxpayer a settlement stipulation if he agrees that the assessment should be other than that listed. The assessor may not finalize a stipulation of settlement of tax appeal. Stipulation agreements must be approved by the

municipal attorney and the County Tax Board. If the board approves the stipulation, a judgment is issued in accordance with the terms of the agreement. If the board disapproves the stipulation, the taxpayer is advised of the disallowance and a formal appeal hearing is scheduled.
*For districts where a district-wide revaluation or reassessment has been implemented the appeal deadline is on or before May 1.

As prescribed by N.J.S.A. 54:3-27, "A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the total of all taxes and municipal charges due, up to and including the first quarter of the taxes and municipal charges assessed against him for the current tax year…" Under the statute, as amended by Chapter 208, Public Law 1999, the County Tax Board may relax the tax payment requirement and fix the terms for payment of the tax.

Where a taxpayer is successful in appealing the assessment on his property, the municipality must refund any excess taxes paid with interest from the date of payment at a rate of 5% per annum, less any amount of taxes and interest applied against delinquencies, within 60 days of the date of final judgment as per N.J.S.A. 54:3-27.2.
****NOTE:** For Assessment Demonstration Program counties see section 105.04 for calendar dates.

1101.02 Types of Appeals.

There are different types of appeals. This chapter deals with appeals of regular property valuations. Here the property's assessed valuation as it appears on the Tax List for the year is at issue. At appeal, proof of the property's market value is required. Other types of appeals, such as those of Added or Omitted Assessments and of equalization, are discussed in their respective chapters.

REFERENCES:
N.J.S.A. 54:3-21 et seq.
N.J.S.A. 54:1-34
N.J.S.A. 54:4-63.11 et seq.
N.J.S.A. 54:4-63.13 et seq.
N.J.S.A. 54:4-63.39 et seq.

1101.03 Appeals of Regular Valuation Assessments.

A taxpayer may file an appeal:

1. if he is aggrieved by the assessed value on his own property,
2. if he believes that he is discriminated against by the assessed value on any other property in the same county.

A taxing district may file an appeal:

1. if it believes that it is discriminated against by an assessed value of any property in the taxing district,
2. if it believes that it is discriminated against by an assessment in any other taxing district in the county.

REFERENCES:
N.J.S.A. 54:3-21

1101.04 Appeals of Added Assessments.

Taxpayers and taxing districts may file appeals from Added Assessments.

REFERENCES:
N.J.S.A. 54:4-63.11

1101.05 Appeals of Omitted Assessments.

Taxpayers and taxing districts may file appeals from Omitted Assessments.

REFERENCES:
N.J.S.A. 54:4-63.13
N.J.S.A. 54:4-63.39

1101.06 Appeals of Denied Property Tax Benefits.

Taxpayers may file appeals from denials of veterans, surviving spouses/civil union and domestic partners of veterans/or servicepersons deductions; senior citizen/disabled persons/ surviving spouses/civil union partners deductions; disabled veterans/surviving spouses/surviving civil union and domestic partners of disabled veterans/servicepersons property tax exemptions; educational, religious, charitable exemptions and others; certain abatements and partial exemptions.

REFERENCES:
N.J.S.A. 54:4-8.21 and 4-8.49

1101.07 Appeals of the County Equalization Table.

Taxpayers and taxing districts may file appeals from the County Equalization Table with the Tax Court.

REFERENCES:
N.J.S.A. 54:3-18 and 54:1-34

1101.08 Appeals of the Table of Equalized Valuations.

Taxing districts may file appeals from the Director's Table of Equalized Valuations with the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq**.**

REFERENCES:
N.J.S.A. 54:1-35.4
N.J.S.A. 54:51A-4 et seq.

1102. Municipal Assessor as an Informal Appeal Agency

The municipal assessor is an informal appeal agency. It is recommended that assessors encourage taxpayers who are not satisfied with their assessments to consult with them before filing a formal appeal. It is possible that an error was made. Sometimes, the method of assessment can be explained satisfactorily. Many potential tax appeals can be settled through informal consultation with offer of and entry into a stipulation without a formal hearing before the County Board of Taxation.

1102.01 Informal Review before filing Assessment/Tax List.

Ten days before filing the complete Tax List and Duplicate on January 10 of the tax year, the assessor is required to give notice by newspaper advertisement when and where taxpayers may inspect assessments for the coming year. If a taxpayer discovers an error in the Tax List, the assessor can correct it before the List is filed with the County Board of Taxation on

January 10. This eliminates filing a formal tax appeal, and saves the taxpayer and the assessor considerable time and effort later. Assessors should regard this period of taxpayer review as an opportunity to eliminate errors and to promote good public relations.

REFERENCES:
N.J.S.A. 54:4-38

1102.02 Assessor Requests after filing the Assessment/Tax List.

After the Tax List and Duplicate are filed with the County Board of Taxation, the assessor no longer has the authority to change the List. However, the assessor may informally request the County Board change the Tax List prior to its formal certification by the Board. The County Board of Taxation is authorized to make changes to the Tax List it deems appropriate, prior to certification. If an error is discovered after the Tax List is certified, the filing of a formal appeal to correct the error is needed.

REFERENCES:
N.J.S.A. 54:4-55 and 54:3-15
Local Property Tax Bureau News, June-July, 1959, p.1.

1102.03 Forms.

No formal request form is prescribed by law for taxpayers who request that the assessor change their assessed values. Some assessors develop their own forms for this purpose. Such local request forms are used in gathering information for reviewing the assessment, and provide a standardized record for later reference. However, if the result of the conference is a change in assessment the assessor should keep a written record of facts in the municipal file as to why the assessment was modified.

1103. The Municipal Assessor's Role In an Appeal.

1103.01 Before the Hearing.

Before the hearing assessors should, review the taxpayer's basis for a complaint and determine if it is a valuation issue or an eligibility issue related to deductions, exemptions or farmland.

For valuation issues, is the information submitted by taxpayer accurate? Are the comparables or income and expenses representative of the market and truly comparable? Is taxpayer's request reasonable and does the taxpayer have a valid argument?

For eligibility issues, has the taxpayer provided supplemental information to support eligibility related to deductions, exemptions or farmland? Is taxpayer's request reasonable and does the taxpayer have a valid argument?

In every appeal, the assessor should be prepared to present documents of the facts and be prepared to defend his decisions. The assessor should:

- Review the Property Record Card for accuracy and completeness;
- Gather comparable sales for a Sales Comparison Approach;
- For rental properties gather income and expense data of similar use properties;
- Inspect and photograph the subject property and comparables;
- Establish the "Fair Market Value" to be presented at the appeal;
- Obtain any additional evidence needed to successfully defend the assessor's position;
- Determine if the assessment is within the common level limits after establishing the market value of the property;

- Is a settlement stipulation justified? Is the assessment above the upper limit or are there other reasons?
- If so, request municipal attorney to prepare stipulation documents and obtain all required signatures.

1103.02 If the Appeal Goes to a Hearing.

If appeal is going to a hearing, seven days prior to the hearing date, the assessor must provide the taxpayer all evidence to be presented. In advance of the hearing, assessors should meet with the municipal attorney to discuss strategy and develop questions to be asked of the appellant and/or their experts. At the hearing, the assessor should:

- Follow the advice of municipal attorney;
- Request that municipal attorney stand on the assessment if the taxpayer has not provided evidence or failed to prove lower value;
- Encourage the municipal attorney to make motions for dismissal for failure to pay municipal charges, failure to provide Chapter 91 income statements, etc.;
- Present oral testimony, give statement of Market Value, speak clearly, concisely and with sufficient volume;
- Present a comparable sales adjustment grid or income approach and provide pictures of subject and comparables;
- Commercial Properties as Investments typically require reliance on the Income Approach to Value and should be presented accordingly. The Income Approach is the primary method accepted by the courts to establish market value for commercial properties The assessor should:
    - Estimate potential gross income using market (economic) rents.
    - Deduct for vacancy and rent loss estimated from surveys of similar use properties.

- Add any other miscellaneous income to get effective gross income.
- Determine allowable expenses from those supplied by the owner and deduct from the effective gross income to get net operating income. Allowable expenses include management, salaries, utilities, supplies, repairs and maintenance, reserves for replacement and property taxes if not included in the cap rate.
- Select the proper capitalization rate using the Band of Investment method comprised of a mortgage component and an anticipated yield component. Or if enough information is available one derived from the market.
- Capitalize the net operating income into an estimate of value.

Always be professional in your demeanor and courteous to taxpayers. Avoid emotion, stick to the facts and remember that the appeal process is not personal, it is strictly business.

1104. Assessor to Defend Appeals.

Although the legal burden of proof is upon an appellant, assessors should provide a vigorous defense of their assessments assuming they are valid. A valid assessment should be defended even where the dollar amount is insignificant. If valid assessments are defaulted through lack of defense, the uniformity of the Tax List is jeopardized and the appeal may become precedent. Where the assessor is convinced that an incorrect judgment has been rendered by an appellate agency, he should take the initiative to recommend to the municipal governing body that a further appeal be made. The estimated chances for a favorable judgment must be considered.

1104.01 Review of Assessments in Preparing Defense.

As soon as the assessor is notified that an appeal was filed, he should review the appraisal and the assessment on the subject property and on any comparable properties which are cited in a discrimination appeal. This should include an inspection of the property in order to make sure that the Property Record Card is accurate and that the property is classified and appraised correctly. Some County Boards encourage the assessor to prepare a written summary of his defense, particularly the property's statistical information. The preparation of such a report is good practice; assembling and presenting all information helps the assessor make a logical defense of value. The assessor should bring to the hearing all pertinent records concerning the subject and any comparable properties cited for discrimination appeals. The use of photographs, charts, and records is particularly effective. Copies of Property Record Cards should be provided for the appellate agency. A written report concerning the value of each property under appeal may be presented by the assessor to the hearing body. The assessor should be prepared to give testimony to substantiate his assessment, and to assist with cross examination of opposing witnesses, both as to the accuracy of their testimony and to its completeness and adequacy.

1104.02 Legal Counsel.

The municipal attorney can help the assessor with his own testimony and can cross-examine opposing witnesses. However, unless the assessor does his own work well, no attorney will be able to provide an adequate defense of the assessments. The assessor should make sure that his attorney is aware of all the facts before the hearing. In complicated cases, or where the valuation is significant the municipal governing body may retain special legal counsel having a wider experience or particular expertise such as with commercial property appeals.

1104.03 Expert Witnesses.

The assessor, by virtue of his office, is considered an expert witness. However at times, appraisal experts are needed to substantiate the assessor's opinion. Usually, if a case is important enough to bring before Tax Court the expense of retaining expert witnesses can be justified. An "expert witness" should prepare himself by actually inspecting and appraising the property.

1105. The County Board of Taxation.

All 21 County Boards of Taxation, established in 1906 by State law, have the hearing of appeals as one of their principal duties.

REFERENCES:
N.J.S.A. 54:3-1 et seq.

1105.01 Filing Deadline for Petitions of Appeal.

The word "filed" has been interpreted by the courts to mean received in the office of the County Board of Taxation by April 1. A postmark of a mailed petition is not sufficient. Appeals by taxpayers or taxing districts to the County Board of Taxation must be filed by April 1 of the tax year, or 45 days from the date the bulk mailing of Notification of Assessment is completed in the taxing district, whichever is later, on petition forms promulgated by the Director, Division of Taxation. (See, http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/petappl.pdf.) If the last day for filing falls on a Saturday, Sunday, or legal holiday, then the filing deadline is the first business day thereafter. The deadline for filing a tax appeal is extended beyond April 1 whenever a municipality has not completed the bulk mailing of Notices of Assessment at least 45 days prior to April 1. The extension is based on the date of the certification of the bulk mailing of Notices filed with the County Board of Taxation. The deadline for that municipality, and only that municipality, is to be

extended as much as is needed to provide a 45-day period in which to file a tax appeal. If the assessed valuation of the property being appealed exceeds $1,000,000, the taxpayer or taxing district may file a petition of appeal directly with the Tax Court. An appeal to the Tax Court must also be filed by April 1* of the year in question or within 45 days of the taxing district's bulk mailing of the Assessment Notices. For taxpayers and taxing district's where a municipal wide reassessment or revaluation was implemented the filing deadline for appeals is May 1.

*For residents of Monmouth County the appeal filing deadline is January 15.

REFERENCES:
N.J.S.A. 54:3-21

1105.02 Procedures for Appeal Petition, Proof of Service.

Individual petitions of appeal must be filed for each assessed property. Where an appeal involves more than one property, separate petitions of appeal must be filed for each individual property separately assessed, unless permission from the County Board of Taxation is obtained to use a Multiple Appeal Schedule. Commercial , industrial property or multi-unit dwelling (more than 4-family) appeals must include, an itemized statement showing all sources of income and all expenses for the most recently completed accounting year and for any additional tax years requested by the County Tax Board.

A. Discrimination appeals. Where a taxpayer alleges discrimination other than the Common Level in his assessment it must indicate so on the petition of appeal. Comparable sales of other properties used to establish value must be affixed by a schedule to the petition of appeal and to the copy, giving the block and lot number, the assessed valuation as shown in the current Tax List and the sale price of each comparable property.

B. Proof of Service - A copy of each petition must also be filed with the Clerk of the taxing district, who is then required to notify the assessor, tax collector and such other municipal officials as the governing body directs. Proof of service upon the Municipal Clerk must be verified by an affidavit of the taxpayer or his representative. If the taxpayer is a corporation, the petition of appeal must be prepared and filed by a New Jersey attorney-at-law. Proof of filing may be by receipt stamp of the taxing district or affidavit of service. In *O'Rourke v Fredon*, the Tax Court denied the Township of Fredon's motion to dismiss twenty-six separate complaints filed by various plaintiffs for failure to comply with the provisions of N.J.S.A. 54:3-21, N.J.A.C. 18:12A-1.6(j), and the rules and regulations of the Sussex County Board of Taxation. The Court held that neither N.J.S.A. 54:3-21 nor N.J.A.C. 18:12A-1.6 (j) imposes a strict April 1 deadline for service of a petition of appeal upon the assessor or Municipal Clerk; to hold otherwise would in effect require the Court to add language to N.J.S.A. 54:3-21 and N.J.A.C. 18:12A-1.6 (j). The Court found that the County Board overstepped its authority when it promulgated its own rule requiring an April 1 postmark deadline for service upon the Municipal Clerk and assessor.

REFERENCES:

N.J.S.A. 54:3-21
N.J.A.C. 18:12A-1.6 and 12A-1.7(d)
O'Rourke v. Township of Fredon, 25 N.J. Tax 443 (Tax Court 2010).
Mayfair Holding Corp. v. North Bergen, 4 N.J. Tax 38 (Tax Court 1982).
Stack v. P.G. Garage, 7 N.J. 118 (1951).
Hackensack v. Rubinstein, 37 N.J. 39 (1962).
Danis v. Middlesex County Board of Taxation, 113 N.J. Super. 6 (App. Div. 1971).
Brott Realty, Inc. v. Monmouth County Board of Taxation, N.J. Superior Court, App. Div., 1972 (unreported opinion).

1105.03 Petition of Appeal Form.

There is a standard Petition of Appeal approved by the Director of the Division of Taxation, Form A-1. A Comparable Sales Analysis Form, A-1 Comp. Sale, has also been developed to assist appellants in organizing comparable property sales as proof of value.

http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/a1compsales.pdf

REFERENCES:
N.J.S.A. 54:4-34 as amended by P.L. 1979, c. 91
N.J.A.C. 18:12A-1.7(d) and 12A:1-8
Lucent Technologies, Inc. v. Township of Berkeley Heights, 405 N.J. Super. 257 (App. Div. 2009), appeal granted by 199 N.J. 126 (2009) reversed by, in part, remanded by 201 N.J. 237 (2010).
Ocean Pines, Ltd. v. Point Pleasant, 112 N.J. 1 (1988).

1105.04 Filing Fees.

Upon a taxpayer's filing a Petition of Appeal a fee must be paid. The amount of fee depends upon the assessed valuation of the property. The fees to be charged are:

Less than $150,000	$ 5.00
$150,000 or more but less than $500,000	$ 25.00
$500,000 or more but less than $1,000,000	$100.00
$1,000,000 or more	$150.00

1. For appeals of only the property's classification, $25 is charged for each reclassification.
2. For appeals of both the property's assessed valuation and the classification, the fee applies in accordance with the assessed valuation of the property, plus a fee of $25 for reclassification.
3. For appeals other than assessed valuation, property classification, or a combination of these two, the full filing fee is $25.
4. For Added Assessment appeals the fee is based upon the apportioned valuation on the Added Assessment List (i.e. the prorated assessment).

5. No filing fee is charged for appeals from a denial of a veteran's property tax deduction; a veteran's surviving spouse/civil union partner/domestic partner deduction, a senior/disabled person, surviving spouse/civil union partner/domestic partner, property tax deduction, a property tax exemption for a disabled veteran or a surviving spouse/civil union and domestic partner of a disabled veteran.
6. Where the County Board of Taxation permits the filing of one petition of appeal for more than one property, the fee is the amount which would have been payable had individual petitions of appeal been filed separately for each parcel.

The County Tax Administrator is responsible for all fees paid and transmits all fees to the County Treasurer.

The filing fees are fixed by law and are to be used exclusively to modernize County Tax Boards' record retention capabilities, for costs in recording and transcribing appeal proceedings, for setting forth Memorandums of Judgment and copies, and for paying by the county any salary which is increased by Chapter 499, Laws of 1979.

REFERENCES:
N.J.S.A. 54:3-21.3
N.J.A.C. 18:12A-1.6(d) and 1.7
In re Appeals of Kents, Inc., 34 N.J. 21 (1961) superseded by statute as stated in Murnick v. Asbury Park, 95 N.J. 452 (1984).
Borough of Matawan v. Tree Haven Apartments Inc., 108 N.J. Super. 111 (App. Div. 1969) superseded by statute as stated in Newton Town v. Newton Medical Building, 13 N.J. Tax 462 (Tax Court 1993).
Anaconda Co. v. Perth Amboy, 157 N.J. Super. 42 (App. Div. 1978) vacated by, in part, remanded by 81 N.J. 55 (1979).
Attorney General Opinion, 95-0146: Use of Filing Fees per N.J.S.A. 54:3-21a, August 11, 1995.
Attorney General Opinion: Tax Appeal Filing Fee Account, March 29, 1990.
Attorney General Opinion: Tax Appeal Filing Fee Account, May 23, 1988.

Attorney General Opinion, M83-5867: Interest from Filing Fees, June 4, 1984.
Attorney General Opinion: Appeal Filing Fees, May 7, 1984.
Attorney General Opinion: Use of Filing Fees, November 24, 1981.
Attorney General Opinion: Use of Filing Fees, October 28, 1981.

1105.05 Settlement Stipulations.

After an appeal is filed with the County Board of Taxation but before judgment is rendered, if appellant and municipality reach an understanding as to the property's assessed valuation, they may enter into a Settlement Stipulation. Any proposed Settlement is required to be in writing, to include the basis for the Settlement, and to be signed by the parties or their attorneys. Stipulation Agreements must also be signed by the municipal attorney. The assessor is not permitted on his own authority to sign a Stipulated Settlement of an assessment appeal. It is to be submitted to the County Board of Taxation for its approval. The Board, in its discretion, may require the parties (appellant or taxing district) or their attorneys to appear before it. If the County Tax Board approves the Stipulation, a judgment will be issued in accordance with the terms agreed upon. The Stipulation certifies to the County Board of Taxation the assessment amount and avoids the formalities of a regular hearing and judgment by the Board. No standardized Stipulation form is prescribed for all counties. However, if the County Board of Taxation disapproves the Stipulation, the parties must be notified of the disapproval and advised of a new hearing date for appeal.

REFERENCES:
N.J.A.C. 18:12A-1.9(i).

1105.06 Appeal Discontinued.

An appellant may withdraw his appeal at any time before a judgment is rendered by the County Board of Taxation. No standardized withdrawal form is prescribed for all counties.

1105.07 Hearing Notices.

The County Board of Taxation must give at least 10 days notice to both the appellant and the taxing district as to the time and place of a hearing. Notification by mail is sufficient. Some Boards maintain a practice of notifying taxing districts immediately after the April 1 filing deadline of all appeals received for their taxing districts. This allows the taxing district time to obtain copies of petitions and prepare a defense.

REFERENCES:
N.J.S.A. 54:3-21 and 3-22
N.J.A.C. 18:12A-1.9 (b)
Jersey City v. Division of Tax Appeals in the State Department of Taxation and Finance, 5 N.J. Super. 375 (App. Div. 1949) affirmed by 5 N.J. 433 (1950).
Local Property Tax Bureau News, June-July, 1959, p.1.

1105.08 Hearings.

The procedures for County Tax Board hearings are set forth in N.J. Administrative Code Rules for County Boards of Taxation promulgated by the Director of the Division of Taxation. The Board has the right to compel the attendance of witnesses, to require books and records to be produced, and to examine witnesses under oath. An individual may be subject to contempt proceedings should he fail to comply with County Board directives. An individual making a false statement under oath before the Board may be guilty of perjury.

REFERENCES:
N.J.S.A. 54:3-22 to 3-25
N.J.A.C. 18:12A-1.9 and 12A-1.10

TAX APPEAL WORKSHEET

	DISTRICT
Tax payer name	BLOCK / LOT
Tax payer address	QUAL / CLASS
Tax payer city, state zip	LOCATION
	APPEAL #

ON: AT:

ASSESSMENT	$		DIR RATIO		%
L.L. RATIO		%	U.L. RATIO		%
L.L. ALLOW		%	U.L. ALLOW		%
VALUE RANGE	$	<==========>			$

LAST SALE DATE AND AMOUNT $

TAX MAP	YEAR BUILT	ZONING	LAND DESC.	BLDG DESC.	BLDG CLASS

Enter the date of the disposition

TAXPAYER'S OPINION OF TRUE VALUE: _____

HEARING NOTES: TAXPAYER * * * * * MUNICIPALITY

* * * * *

* * * * *

* * * * *

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* * * * *

COMMISSIONER'S TRUE VALUE DETERMINATION: _____

DOES THE TRUE VALUE FALL WITHIN THE ALLOWABLE VALUE RANGE? YES NO

IF THE ANSWER IS YES, NO CHANGE IS REQUIRED.

IF THE ANSWER IS NO, CALCULATE THE NEW ASSESSMENT:

_____	X	% 100	=	_____
(TRUE VALUE DETERMINATION)	X	(RATIO / 100)	=	JUDGMENT

	ASSESSMENT	NEW ASSESSMENT
LAND	$	$ _____
IMPROVEMENT	$	$ _____
ABATEMENT	$	$ _____
TOTAL	$	$ _____
PRORATED MO	$	$ _____

CIRCLE ONE: REDUCTION INCREASE NO CHANGE

DISPOSITION / JUDGMENT CODE: _____

DATE OF DISPOSITION: _____

COMMISSIONER'S VOTES: XX XX XX XX XX

	Instructions for the Tax Appeal Worksheet
-	Enter the taxpayer's name and address in the upper left corner
-	Enter the District, Block/Lot, Qual/Class, Location and Appeal Number in the upper right corner
-	Enter where and what time the hearing will be held
-	Enter the current assessment, the Director's Ratio, the upper and lower level ratios and the upper and lower level allowed
-	Using the upper and lower level allowed, you can enter the value range
-	Enter the last sale date and amount
-	Enter the tax map, year built, zoning, land description, building description, and building class
-	Enter the taxpayer's opinion of true value
-	Enter hearing notes for the taxpayer and municipality
-	Enter the commissioner's true value determination
-	Enter whether or not the commissioner's true value determination falls within the value range described above
-	If the commissioner's true value determination does not fall within the value range described above, calculate the new assessment
-	To calculate the new assessment, multiple the commissioner's true value determination by the director's ratio divided by 100.
-	This will give you the new judgment.
-	Enter the old assessment followed by the new assessment
-	Circle whether this appeal resulted in a reduction, increase or no change in the assessment.
-	Enter the disposition judgment code
-	Enter the date of the disposition
-	Enter the initials of the commissioner's that voted on this appeal

1105.09 Payment of Taxes Pending Appeal.

A taxpayer who files an appeal from his property's assessed value is required to pay the tax collector of the taxing district all taxes and municipal charges due up to and including the first quarter of the taxes and municipal charges assessed for the current tax year. If at the time of the hearing taxes are not paid, the taxing district may move before the County Board of Taxation for a dismissal of the appeal. However, the County Tax Board may relax the tax payment requirement and fix the terms for tax payment in the "interest of justice." The tax payment requirement does not apply where qualification for exemption is the subject for appeal, for

Farmland Qualified (3B), and other exemptions designated as Class 15D, E and F (see N.J.S.A. 54:4-52).

REFERENCES:
N.J.S.A. 54:3-27 as amended by P.L. 1999, c 208
N.J.S.A. 54:4-52 as amended by P.L. 1995, c. 345
N.J.S.A. 54:4-66 as amended by P.L. 1997, c. 99
N.J.A.C. 18:12A-1.6(d)
Morris-Sussex Area Co., Boy Scouts v. Hopatcong Borough, 15 N.J. Tax 438 (Tax Court 1996).
LeCross Associates v. City Partners, 168 N.J. Super. 96 (App. Div. 1979), cert. denied by 81 N.J. 294 (1979).
Memorandum to All County Boards of Taxation from Sidney Glaser, Director, Division of Taxation: August 30, 1978.

1105.10 Representation before the County Tax Board.

A taxpayer may represent himself at the hearing (pro se). Otherwise the taxpayer must be represented by a member of the bar of the State of New Jersey. This requirement may be waived by the County Board of Taxation in cases of extreme hardship such as old age, illiteracy, etc. If the taxpayer is a corporation, it must be represented by a New Jersey attorney-at-law, unless an attorney from another state is permitted to appear by the Board. The municipal assessor is required to attend any hearings, together with counsel for the taxing district, unless the County Tax Board rules to the contrary. No assessor is permitted to appear before a County Board of Taxation as an expert witness against another assessor or taxing district, except to defend an assessment of his own taxing district. No person may testify as to an assessment at a hearing of the Board unless he has inspected the property.

REFERENCES:
N.J.A.C. 18:12A-1.9(d); 12A-1.9(f); and 12A-1.9(l)
Stack v. P.G. Garage, 7 N.J. 118 (1951).
Attorney General to all County Boards of Taxation: May 17, 1951.

1105.11 Burden of Proof.

The courts have held that in appeal proceedings before a County Board of Taxation, the valuation is presumed to be correct and the burden of proving differently is the appellant's. Absent some evidence to the contrary, the County Board of Taxation may dismiss the appeal. A taxpayer's nonappearance at the hearing may result in his appeal being dismissed by the Board. The fact that the burden of proof is the appellant's does not release the taxing district from the responsibility of preparing a good defense of a property's valuation. The assessor or taxing district's representative should be prepared to justify the assessment as though the burden of proof were on the municipality. If the appellant presents sufficient evidence to overcome the burden, the taxing district must rebut such evidence through competent proofs. Where the assessed valuation was determined by the Income Approach, at the hearing the taxing district is required to produce a copy of the Property Record Card for the property under appeal, showing the value computation based on the capitalization of income. If an appellant relies on expert testimony in attempting to prosecute his appeal, three copies of the appraisal must be filed with the County Board of Taxation and one copy served upon the taxing district at least one week prior to the hearing. The appellant has the right to inspect the Property Record Card of the property under appeal at least one week prior to the hearing. The County Tax Board may waive the requirement of a written appraisal.

REFERENCES:

N.J.A.C. 18:12A-1.9(e); 12A-1.9(g); 12A-1.9(h); and 12A-1.9(k)
City of Passaic v. Gera Mills, 55 N.J. Super. 73 (App. Div. 1959) cert. denied by 30 N.J. 153 (1959).
Texas Eastern Transmission Corp. v. Carteret, 116 N.J. Super. 9 (App. Div. 1970) cert. granted by 58 N.J. 19 (1971) affirmed by Transcontinental Gas Pipe Line Corp. v. Bernards, 58 N.J. 585 (1971).
West Colonial Enterprises, LLC v. City of East Orange, 20 N.J. Tax 576 (Tax Court 2003) affirmed by 21 N.J. 590 (App. Div. 2004).

1105.12 Hearings Completed.

All assessed value appeal hearings before the County Board of Taxation must be completed within 3 months of the last day for filing appeals. However, in the event the Board is unable to hear and determine any appeals within 3 months, the Board may apply to the Director, Division of Taxation to extend the time for hearing and determining appeals. The Director may grant extensions of time where it is shown by the County Board of Taxation that the number of appeals before it is disproportionate to the number of members hearing the appeals, or the number of appeals has increased sufficiently to warrant granting an extension of time. For appeals where an extension is granted, Director, Division of Taxation is to indicate the amount of tax, if any, the taxpayer must pay during the period of extension.

REFERENCES:
N.J.S.A. 54:3-26.1

1105.13 Judgments.

Judgments of the County Boards of Taxation must be entered on all appeals and kept by the Board as permanent records. N.J.A.C. 18:12A-1.12(6) reads as follows: "The County Board of Taxation should endeavor to send out judgments at the time decided or as soon thereafter as practical, and not hold them until the time for hearing and determining appeals has expired pursuant to N.J.S.A. 54:3-26, as extended by N.J.S.A. 54:3-26.1. Earlier disposition will assist the Tax Court in the processing of its caseload." The Division of Taxation recommends, despite increases in appeal filings and staff downsizing, that County Boards transmit written judgments to taxpayers, assessors and collectors in a thirty-day timeframe to assist taxpayers gaining more immediate tax relief and to streamline and make uniform the process of issuing written judgments. A written Memorandum of Judgment must be sent to the assessor and the taxpayer setting forth the basis for the judgment. Where the judgment results in a

change in the taxes to be paid a written Memorandum of Judgment is also to be sent to the tax collector. If any party to the appeal believes that the judgment of the County Tax Board is incorrect, it may carry a further appeal to the State Tax Court of New Jersey.

REFERENCES:
N.J.S.A. 54:3-25; 3-26; and 3-26.1
N.J.A.C. 18:12A-1.12
Memo to County Tax Administrators Re: Timely Issuance of Judgments: Nov 19, 2010.

1105.14 Certain Judgments Forwarded to Division of Taxation.

When any judgment is rendered involving the appeal of a veteran's deduction or a senior/disabled person/surviving spouse/civil union partner's deduction, the County Board of Taxation must, within 10 days of the date of the entry of the judgment, forward a copy to the Division of Taxation, Local Property Tax.

REFERENCES:
N.J.A.C. 18:12A-1.12 (c)

1105.15 Binding Effect of Judgment (Freeze Act).

If no further appeal is made from the judgment of the County Board of Taxation, the assessed value set by the Board is "frozen" for the assessment year and for the next two years. The purpose of this law is to prevent a taxing district from harassing a taxpayer by forcing him to appeal his assessment every year, to receive equitable treatment.

Exception to this "Freeze Act" may be made:

1. if the assessor demonstrates, at appeal to the County Board, that the property value changed since the assessment date; or
2. if a complete revaluation or reassessment of all real property in the taxing district is put into effect.

REFERENCES:
Entenmann's Inc. v. Totowa Borough, 18 N.J. Tax 540 (Tax Court 2000) motion granted by, motion denied by 19 N.J. Tax 505 (Tax Court 2001) affirmed by 2 N.J. Tax 182 (App. Div. 2003).

1105.16 Freeze Act- Settlements

The N.J. Supreme Court held that the Freeze Act is triggered not only by judgments on the merits, but by judgments based on settlements. The High Court noted that upon a settlement of an appeal, the Freeze Act may be invoked at the exclusive option of the taxpayer, but not at the option of the municipality. Although the municipality has no authority to waive application of the Freeze Act, it can negotiate with the taxpayer who would agree to waive the Freeze Act as a condition for settlement.

1. Stipulated Settlement of County Board Appeal.
   In accordance with the *Kentile* decision, the County Board, at the option of the taxpayer, may enter a stipulated judgment for that particular tax year. The stipulated judgment would have an effect for that year only and would not trigger the Freeze Act for any of the two subsequent tax years. After entry of said judgment, the assessor would be free to reflect a different property value in subsequent year's Tax Lists.

2. County Board Judgments Which Are Further Appealed = No Freeze Act.
   A County Board judgment that is further appealed by a municipality or a taxpayer, is not a **"**judgment final**"** and cannot be the basis for application of the Freeze Act for two (2) subsequent tax years. Where the County Board enters its judgment in year 1 and that judgment is further appealed, the Freeze Act does not apply. The municipal assessor is not required to apply the judgment value in year 2 and can reflect on the Tax List the assessed value he deems proper.

3. County Board Judgments Which Are Not Further Appealed = "Judgment Final."

   When the County Board enters a judgment reducing an assessment which is not further appealed by either party, it becomes a "judgment final" for purposes of the Freeze Act statute. The County Board, in reviewing and revising the Tax Lists (N.J.S.A. 54:4-46 and 47), should adjust any assessment where a "judgment final" entered by the Board is not appropriately reflected. Where a change in value occurs after the previous year's assessing date so as to negate the Freeze Act, then the municipality, at the behest of the assessor, should file a conventional tax appeal with the County Board as per N.J.S.A. 54:3-21 to prove change in value.

4. Exempt/Taxable Status or Farmland Assessment = No Freeze Act.

   The Freeze Act applies to final judgments which are based upon valuation. It does not apply to the exempt/taxable status of a property, nor judgments granting farmland assessment.

   "…The evil which the 'freeze' statute sought to remedy was repeated yearly increases in the assessed value of property, not related to or justified by any changes increasing its market value, and resulting in harassment of the taxpayer, subjecting him to the trouble and expense of annual appeals to the county tax board. It has no application, either by its phraseology or its obvious intent, to determinations of the tax exempt status…" Newark v. Fischer, 8 N.J. 19 (1951).

REFERENCES:

N.J.S.A. 54:3-26
N.S.J.A. 54:51A-8
Township of Wayne v. Robbie's, Inc., 118 N.J. Super. 129 (App. Div. 1972) cert. denied by 60 N.J. 351 (1972).
South Plainfield Borough v. Kentile Floors, Inc., 92 N.J. 483 (1993).
Letter to County Tax Board Administrators and County Tax Commissioners from Deputy Attorney General Harry Haushalter: April 11, 1983.

Boys' Club of Clifton, Inc. v. Township of Jefferson, 72 N.J. 389 (1977).
Hackensack City v. Bergen County, 405 N.J. Super. 963 (App. Div. 2009).
Rainhold Holding Co., v. Freehold Township, 15 N.J. Tax 420 (Tax Ct. 1996).
New Jersey Turnpike Authority v. Township of Monroe, 2 N.J. Tax 371 (Tax Ct. 1981).
Blair Academy v. Township of Blairstown, 95 N.J. Super. 583 (App. Div. 1967).
Belmont v. Wayne Township, 5 N.J. Tax 110 (Tax Ct. 1983).
(Farmland Assessment)

1105.17 Chapter 123, Method of Relief Available to Appellants.

Chapter 123, Laws of 1973 provides a systematic method of determining whether an appellant in a discrimination tax appeal is entitled to and the amount of property tax relief.

Chapter 123, Laws of 1973 is a procedure for use by tax appeal hearing bodies, (County Boards of Taxation, the Tax Court, and the Appellate Division of the Superior Court) where the relief to be granted may be calculated, once the true value of the property under appeal is determined by the hearing body.

1105.18 True Value.

"True value" for purposes of the appeal process is that value deemed to be the "price a willing buyer would pay a willing seller at private contract on October 1 of the pretax year, i.e., year prior to the year at issue," as determined by the hearing body.

REFERENCE:
N.J.S.A. 54:1-35a; 1-35b; and 4-23

1105.19 Average Ratio and Common Level Range.

On April 1 each year the Director, Division of Taxation publishes an "Average Ratio" and a "Common Level Range" for each municipality.

1. The "Average Ratio" for a taxing district corresponds to the Average Ratio promulgated by the Director on the preceding October 1 for State School Aid purposes, subject to change as the result of appeal and judgment of the Tax Court(Average Ratio also known as Director's Ratio).
2. The "Common Level Range" for a taxing district is that range which is calculated to be 15% plus and minus the Average Ratio. For example, where the average ratio is found to be 78.00%, the Common Level Range would be: Lower Limit- 66.30%, Upper Limit- 89.70%.

Additional examples in calculating the Common Level Range can be found at: http://www.state.nj.us/treasury/taxation/pdf/lpt/chap123/2016/chap123-2016cert.pdf

REFERENCES:
N.J.S.A. 54:10-35.a
Current Common Level Ranges (Chapter 123) are available at:
http://www.state.nj.us/treasury/taxation/lpt/chapter123.shtml

1105.20 Calculation of Chapter Relief.

A ratio is struck by dividing the assessed value of the property under appeal by the true value of the property as determined by the hearing body. This ratio is called "Subject Property Ratio."

1. If the Subject Property Ratio falls within the Common Level Range, no reduction is to be made in the assessed value of the appealed property, subject to (3) and (4) below.
2. If the Subject Property Ratio exceeds the Upper Limit of the Common Level range, or falls below the Lower Limit of the Common Level Range, the assessment is to be determined by multiplying the Average Ratio for the taxing district, also known as the Director's Ratio, times

the true value for the subject property as determined by the hearing body, subject to (3) and (4) below.

3. If the Subject Property Ratio exceeds the County Percentage Level (100%) and the district's Average Ratio (Director's Ratio) is below the County Percentage Level (100%), the assessment is determined by multiplying the Average Ratio for the taxing district times the true value for the Subject Property as determined by the hearing body.
4. If the Subject Property Ratio exceeds the County Percentage Level (100%) and if the district Average Ratio (Director's Ratio) also exceeds the County Percentage Level (100%), the assessment is determined by multiplying the County Percentage Level times the true value of the Subject Property as determined by the hearing body.

In a recent New Jersey Tax Court decision, North Brunswick Township v. Gochal, Gary and Nancy, 27 N.J. Tax 31(Tax Ct. 2012), the Court held, "While Chapter 123 is not the exclusive remedy for discrimination in assessment, 'a taxpayer's right to relief should be determined in accordance with Chapter 123 in all but the most extreme or severe circumstances'…In other words, N.J.S.A. 54:3-22(c) limits the relief that may be granted by the County Board of Taxation. The Tax Court is similarly limited by N.J.S.A. 54:51A-6a…[I]f the ratio of the assessment to true value is within the common level range, there is no provision for revision of the assessment: no adjustment of the assessment is required or permitted. A revaluation year is virtually the only instance in which a board of taxation (or the Tax Court) may revise an assessment without regard to whether the ratio of the assessment to true value falls outside of a common level range."

REFERENCES:
N.J.S.A. 54:1-35a et seq.
N.J.S.A. 54:3-22
N.J.S.A. 54:4-52

Letter to Assessor of Each Municipality, Sidney Glaser, Director, Division of Taxation, April 9, 1979.
North Brunswick Township v. Gochal, 27 N.J. Tax 31(Tax Ct. 2012).

Chapter 123, Laws of 1973

EXAMPLE 1

Situation

*Whenever the County Board of Taxation, Tax Court of New Jersey or Superior Court is satisfied by the proofs that the ratio of the assessed valuation of the subject property to its true value exceeds the Upper Limit or falls below the Lower Limit of the Common Level Range, it shall revise the taxable value of the property by applying the Average Ratio to the True Value of the property.

Assumption

County Percentage Level	100.00%
Average Ratio	95.41%
15% Common Level Range	109.72 Upper limit
15% Common Level Range	81.10 Lower limit

Example

Subject Property-true value	$100,000
Assessment	$120,000
Ratio of assessment	120% (exceeds Upper Limit)
Reduce taxable value	$100,000 x 95.41% = $95,410
	(Applying average ratio – 95.41%)

Property – same subject – true value	$100,000
Assessment	$70,000
Ratio of assessment	70.00% (below Lower Limit)
Increase taxable value	$100,000 x 95.41% = $95,410

(Applying Average Ratio – 95.41%)

REFERENCES:
County Board of Taxation N.J.S.A. 54:3-22
Tax Court of New Jersey N.J.S.A. 54:51A-6
Superior Court N.J.S.A. 54:4-62

EXAMPLE 2

Situation

*If the Average Ratio is below the County Percentage Level and the ratio of the assessed value of the subject property to its true value exceeds the County Percentage Level, the County Board of Taxation, Tax Court of New Jersey or Superior Court shall reduce the taxable value of the property by applying the Average Ratio to the True Value of the property.

Assumption

County Percentage Level	100.00%	
Average Ratio	95.41% (below County Level)	
15% Common Level Range	109.72%	Upper limit
15 % Common Level Range	81.10%	Lower Limit

Example

Subject property – true value	$100,000
Assessment	$110,000
Ratio of Assessment	110.00% (exceeds County Level)
Taxable value reduced	$100,000 x 95.41% = $95,410

In this example, Average Ratio is below County Level – 95.41%
Assessment ratio exceeds County Level – 110.00%
Therefore, taxable value is reduced by applying Average Ratio – 95.41%

REFERENCES:
County Board of Taxation N.J.S.A. 54:3-22

Tax Court of New Jersey N.J.S.A. 54:51A-6
Superior Court N.J.S.A. 54:4-62

EXAMPLE 3

Situation

*If both the Average Ratio and the ratio of assessed value of the subject property to its true value exceed the County Percentage Level, the County Board of Taxation, Tax Court of New Jersey or Superior Court shall revise the taxable value of the property by applying the County Percentage Level to the True Value of the property.

Assumption

County percentage level	100.00%	
Average ratio	110.41%	(exceeds County Level)
15% Common level range	126.97%	Upper limit
15% Common level range	93.85%	Lower limit

Example

Subject property – true value	$100,000
Assessment	$120,000
Ratio of assessment	120.00% (exceeds County Level)

Taxable value decreased to County Level $100,000 x 100.00% = $100,000
In this example, both the Average Ratio and the assessment ratio exceed the County Percentage Level.

Average ratio	110.41%
Assessment ratio	120.00%

REFERENCES:
County Board of Taxation N.J.S.A. 54:3-22
Tax Court of New Jersey N.J.S.A. 54:51A-6
Superior Court N.J.S.A. 54:4-62

1105.21 Chapter 123 Not Applicable in Revalued or Reassessed Municipalities.

Although district Average Ratio and Common Level Ranges will be published for all municipalities, taxpayers appealing assessments in those municipalities which implement approved revaluations or reassessments may not utilize Chapter 123 calculations. Appellants in revalued or reassessed municipalities must prove the elements of discrimination in the traditional manner.

REFERENCES:
N.J.S.A. 54:3-22(f)
N.J.A.C. 18:12A-1.19
Letter to Assessor of Each Municipality, Sidney Glaser, Director, Division of Taxation, April 9, 1979.

1106. Chapter 91 Reasonableness Hearings.

1106.01 N.J.S.A. 54:4-34

N.J.S.A. 54:4-34 provides, in part, "No appeal shall be heard from the assessor's valuation and assessment with respect to income-producing property where the owner has failed or refused to respond to such written request for information within 45 days of such request or to testify on oath when required, or shall have rendered a false or fraudulent account. The County Board of Taxation may impose such terms and conditions for furnishing the requested information where it appears that the owner, for good cause shown, could not furnish the information within the required period of time." See also NJ Administrative Code regulation at N.J.A.C.18:12A-1.8.

REFERENCES:
Town of Phillipsburg v. ME Realty, LLC., 26 N.J. Tax 57, (Tax Court 2011).

1106.02 Legislative Intent of Chapter 91

Amended May 16, 1979. The amendment added the provision denying appeal rights to owners of income-producing property who fail to respond to notice as a sanction.

The premise of Chapter 91 is that the taxpayer controls the income information. The income information is a good measure of value, and if the taxpayer withholds that information, the municipality has no choice but to set the property's assessment without benefit of income information. Further, the 45-day response period fixed in the statute was deemed "necessary to provide for an orderly procedure," Senate Revenue Finance and Appropriations Committee.

The New Jersey Supreme Court in *Ocean Pines Ltd*. sustained the statute. The Court held this is not a violation of due process nor in any way a violation of the taxpayer's rights. Statute is reasonably related to State's legitimate interest and timely receipt of economic information necessary for accurate valuation of property. Taxpayer does have right to a "reasonableness" hearing. *Ocean Pines, Ltd v. Borough of Pt. Pleasant, 112 N.J. 1 (1988).*

REFERENCES:
Noam (ETAL), Yeshivat v. Borough of Paramus, 26 N.J. Tax 335 (Tax Court 2012).

1106.03 Role of County Tax Board re: Chapter 91 Request.

If a chapter 91 dismissal is granted, the County Tax Board should conduct a reasonableness hearing. The taxpayer should have the opportunity to

establish that the assessor was not reasonable in determining the assessed value.

If taxpayer is successful, appeal is re-scheduled for a full valuation hearing. If taxpayer is unsuccessful, appeal is dismissed. Reasonableness hearings should be determined on a case by case basis and are generally limited to what is reasonable under the specific circumstances. Essentially, what information does the assessor need which is inaccessible without the cooperation of the taxpayer in order to determine the assessment? Information requested should be pertinent to setting assessment for tax year under appeal.

REFERENCES:
Town of Phillipsburg v. ME Realty, LLC., 26 N.J. Tax 57, (Tax Court 2011).

1106.04 Timing of Hearing.

Reasonableness hearings can take place immediately or can be separately scheduled.

1106.05 Burden of Proof.

The taxpayer has the burden to prove that the assessor's method of valuation is unreasonable. The taxpayer can only use the information available to the assessor at the time the assessed valuation was made. The hearing is not "de novo" and interrogatories cannot be used.

REFERENCES:
Terrace View Gardens v. Dover Township, 5 N.J. Tax 469 (Tax Court 1982), affirmed by 5 N.J. Tax 475 (App. Div. 1983), cert. denied by 94 N.J. 559 (1983).
Cassini v. City of Orange, 16 N.J. Tax 438 (Tax Court 1997).
Green v. East Orange, 21 N.J. Tax 324 (Tax Court 2004).
Delran Holding Corp. v. Delran Township, 8 N.J. Tax 80 (Tax Court 1985).
Monsanto Co. v. Kearny, 8 N.J. Tax 109 (Tax Court 1985).
Ocean Pines Ltd. v. Borough of Point Pleasant, 112 N.J. (1988).

Pierce Davidson v. Township of Franklin, 15 N.J. Tax 709 (App. Div. 1996).
SAIJ Realty, Inc. v. Kearny, 8 N.J. Tax 191 (Tax Court 1986).
SKJ Realty Corp. v. Wall Township, 8 N.J. Tax 209 (App. Div. 1985).
Great Adventure, Inc. v. Jackson Township, 10 N.J. Tax 230 (App. Div. 1988).
Tower Center v. Township of East Brunswick, 15 N.J. Tax 692 (App. Div. 1996).
Pisani v. Wayne Township, 13 N.J. Tax 412 (Tax Court 1993).
TMC Properties v. Wharton Borough, 15 N.J. Tax 455 (Tax Court 1996).
Carriage Four Assocs. v. Teaneck Township, 13 N.J. Tax 172 (Tax Court 1993).
Rolling Hills of Hunterdon v. Clinton, 15 N.J. Tax 364 (Tax Court 1995).
Westmark Partners v. West Deptford Township, 12 N.J. Tax 591 (Tax Court 1992).
ML Plainsboro Ltd. v. Plainsboro Township, 16 N.J. Tax 250 (App. Div. 1996).
Clinton Fountain Motel v. Clinton Township, 18 N.J. Tax 486 (App. Div. 1999).
Two Brighton Ave. Assoc. v. Passaic, 18 N.J. Tax 480 (App. Div. 1999).
Southeast Mall v. Berkeley Township, 18 N.J. Tax 326 (App. Div. 1999).
Morey v. Borough of Wildwood Crest, 18 N.J. Tax 335 (App. Div. 1999).
John Hancock Mutual Life v. Wayne Township, 13 N.J. Tax 417 (Tax Court 1993).
Alfred Conhagen v. South Plainfield, 16 N.J. Tax 470 (App. Div. 1996).
Summerton Plaza v. Manalapan Township, 15 N.J. Tax 173 (App. Div. 1995).
ADP of New Jersey v. Parsippany-Troy Hills Township, 14 N.J. Tax 372 (Tax Court 1994).
Hastings Plaza v. Washington Township, 17 N.J. Tax 165 Tax Court 1998).
Fimbel Door Corp. v. Readington Township, 17 N.J. Tax 525 (Tax Court 1998).
Paulison Ave. Assoc. v. Passaic City, 18 N.J. Tax 101 (Tax Court 1999).
Southland Corp. v. Dover Township, 21 N.J. Tax 573 (Tax Court 2004).
J and J Realty v. Township of Wayne, 22 N.J. Tax 157 (Tax Court 2005).

New Plan Realty Trust v. Brick Township, 23 N.J. Tax 224 (Tax Court 2006).
Southgate Realty Associates v. Bordentown Township, 246 N.J. Super. 149 (App. Div. 1991).
Davanne Realty v. Edison Township, 408 N.J. Super. 16 (App. Div. 2009), cert. granted by 200 N.J. 371 (2009) affirmed by 201 N.J. 280 (2010).
Tri-Martin Associates v. City of Newark, 21 N.J. Tax 253 (Tax Court 2004).
Thirty Mazel, LLC. v. City of East Orange, 24 N.J. Tax 357 (Tax Court 2009).
1717 Realty Associates, LLC. v. Borough of Fair Lawn, 201 N.J. 275 (2010).
Lucent Technologies, Inc. v. Township of Berkeley Heights, 405 N.J. Super. 257 (App. Div. 2009) appeal granted by 199 N.J. 126 (2009) reversed by, in part, remanded by 201 N.J. 237 (2010).
James-Dale Enterprises, Inc. v. Township of Berkeley Heights, 26 N.J. Tax 117 (Tax Court 2011).
Fairfield Dev. c/o 46 Auto Imports v. Totowa Borough, 27 N.J. Tax 306 (Tax Court 2013).
Paramus Associates, LLP/Home Depot, USA, Inc. v. Borough of Paramus, 27 N.J. Tax 274 (Tax Court 2013).

1107. Tax Court of New Jersey.

The Tax Court of New Jersey was established by the Legislature as an inferior court of limited jurisdiction involving tax matters pursuant to the State Constitution. (Article VI, Section I, paragraph 1). The New Jersey Tax Court is the successor to the N.J. Division of Tax Appeals.

REFERENCE:
New Jersey Court Rules R. 8:3

1107.01 Appeal Petition/Complaint Form.

Petitions of Appeal (Forms of Complaint) are accepted by the Tax Court from judgments, orders or determinations of a County Board of Taxation, the Director of the Division of Taxation, another State agency, or of a county recording officer in the case of Realty Transfer Fee matters.

REFERENCE:
New Jersey Court Rules R. 8:3-4(b), (c) and (d).

1107.02 Commencement of Action.

Complaints are filed with the Office of the Clerk of the Tax Court. However, no complaint may be filed with the Tax Court to review a local assessment unless an appeal was previously instituted before a County Board of Taxation. The Court will not receive a local assessment appeal even when an action against the assessment was instituted before the County Tax Board if:

1. the appeal to the County Board of Taxation was withdrawn;
2. the appeal to the County Tax Board was dismissed by the Board because the appellant failed to prosecute the appeal;
3. the appeal to the Board was settled by mutual consent of the taxpayer and assessor.

EXCEPTION:

A petition of appeal bypassing the County Board of Taxation may be filed directly with the Tax Court by a taxpayer or taxing district where the assessed value of the property under appeal exceeds $1,000,000.

REFERENCES:
New Jersey Court Rules R. 8:3-1(a); 8:3-1(b)
N.J.S.A. 54:3-21 as amended by P.L. 2009, c. 251
N.J.S.A. 54:51A-1 through 51A-12, as amended by P.L. 1991, c. 208

1107.03 Filing Deadlines for Appeal Complaints.

Tax Court complaints must be filed:

1.a. within 45 days following promulgation of the Director's Table of Equalized Valuations.

b. within 45 days following promulgation of a county equalization table;

2. within 45 days after the date of other actions of a County Board to be reviewed;

3. within 90 days after the date of actions of the Director of the Division of Taxation, any other state agency, or a county recording officer with respect to Realty Transfer Fee.

REFERENCES:
N.J.S.A. 54:1-35.4.
New Jersey Court Rules R. 8:4-1(a) and R. 8:4-1(b)
City of East Orange, et al v. Township of Livingston, 27 N.J. Tax 161 (Tax Court 2013).

1107.04 Service of Complaint.

The Rules of the Tax Court specify that service may be made either personally or by certified or registered mail return receipt requested upon the necessary parties.

A. Appeals from County Board Actions. Copies of the complaint must be served as:
   1. Complaint by taxpayer must be served on the County Board of Taxation, the assessor and the Clerk of the taxing district in which the property is located.
   2. Complaint by a taxpayer with respect to the property of another must be served on the County Board of Taxation, the assessor, the Clerk of the taxing district and the taxpayer whose property assessment is at issue.
   3. Complaint by a taxing district must be served on the County Board of Taxation, the assessor and the property owner whose assessment is to be reviewed.
   4. Complaint with respect to a County Equalization Table, an Abstract of Ratables, or any other action concerning equalization or apportionment of county taxes must be served on a County Board of Taxation, the Director or Clerk of the Board of Chosen Freeholders, and on the Clerk of every municipality in the county, and the State Attorney General.

5. A complaint to correct an error in assessment pursuant to N.J.S.A. 54:51A-7 (Correction of Errors) must be served as:
   i. If by a taxpayer, on the County Board of Taxation and the Clerk of the taxing district;
   ii. If by a municipality, on the County Board of Taxation and the taxpayer;
   iii. If by a County Board of Taxation, on the assessor, the Clerk of the taxing district and the taxpayer.
6. A complaint to review a revaluation order of the County Board of Taxation must be served on the Clerk of the taxing district (unless the complaint is filed by the taxing district), the Director of the Division of Taxation and the State Attorney General.

B. Appeals from State Tax Action
   1. A complaint by a taxpayer to review an action of the Director, Division of Taxation or another State agency concerning a tax matter, or a county recording officer with respect to the Realty Transfer Fee must be served upon the Director, Division of Taxation and the State Attorney General.
   2. A complaint to review apportionment valuations for distribution of public utility franchise and gross receipts taxes established by the Director, Division of Taxation must be served upon the Director, the State Attorney General and the Clerk of every municipality which shares in the apportionment.
   3. A complaint to contest the validity or assessment amount by the Director, Division of Taxation of railroad property or franchise taxes must be served on the State Attorney General and the Clerk of the taxing district in which the property in located. If the complaint is filed by the Attorney General or a taxing district, the complaint is served on the taxpayer.

REFERENCE:
New Jersey Court Rules R. 8:5-4

1107.05 Complaint Forms.

Complaint forms have been prepared by the State Court, including two complaint forms to be used by taxpayers and taxing districts for local property tax appeals. The complaint must state whether or not it is a Small Claims Case, so that the Clerk of the Tax Court can assign those cases to the Small Claims Division. A case is a Small Claims Case if each separately assessed parcel of property included in the complaint is either a Class 2 residential property (1-4 family residence) or a Class 3A farm residence or the prior assessment year's property taxes were less than $25,000. Each are described below:

- Class 2 residential property – a lot or parcel of land on which a house designed for use by not more than four families is situated.
- Class 3A farm residence- farm property not assessed under the Farmland Assessment Act.
- Prior year's tax – the property tax paid on the subject property for the year before the assessment year being appealed must have been less than $25,000.

A brief statement of the factual basis of the claim and the relief sought must be contained in the complaint. The wording of the form of complaint may be modified to adapt the form to the facts, allegations and the relief sought in a particular case. A copy of the County Board of Taxation judgment or order must be attached to the complaint. The complaint may be signed by the attorney of record and served by an attorney or signed by a party to the proceeding and served by a party to the complaint if there was a hearing at the County Board of Taxation.

REFERENCES:
New Jersey Court Rules R. 8:3-4(b); R. 8:3-5; R. 8:3-9; and R. 8:11

Tax Court of New Jersey, Small Claims Case Handbook, Local Property Tax http://www.judiciary.state.nj.us/taxcourt/small_claims_%20booklet.pdf

1107.06 Discrimination Complaints.

If a complainant alleges that the property in question is not assessed at the Common Level or Average Ratio of assessment applicable in the taxing district, the complaint must set forth the Common Level or ratio of true value alleged to be applicable.

REFERENCE:
New Jersey Court Rules R. 8:3-7

1107.07 Filing Fees for Tax Court.

The filing fee must be received with the complaint. For regular Tax Court complaints contesting local property assessments, a general filing fee of $200 is charged for the first parcel and $50 for an additional parcel. Complaints in the Small Claims Division of the Tax Court are charged a filing fee of $35 for one property. Multiple property complaints are charged $35 for the first property and $10 for each additional property which is contiguous and in common ownership.

In cases of multiple causes of action contained in a single complaint or counter claim the following schedule of fees applies:

1. Condominiums – If a complaint includes more than one parcel of real property separately assessed under either the Horizontal Property Act or the Condominium Property Act, the filing fee is $200 for the first separately assessed parcel, and $50 for each additional separately assessed parcel of property of the owner included in the complaint. A Small Claims case is $35 for the first separately assessed parcel of the property owner and $10 for each additional separately assessed parcel of the owner included in the complaint.

Where the question at issue is eligibility for a veteran, or senior/disabled property tax deduction no filing fee is charged. Checks or money orders for fee payments should be made out to Treasurer, State of New Jersey.

REFERENCES:
N.J.S.A. 46:8B-2 and 46:8B-19
New Jersey Court Rules R. 8:12(a) through 8:12(d)

1107.08 Amendments to Pleadings.

Complaints may be amended or supplemented upon motion and notice to all involved parties at any time prior to hearing before the Tax Court. However, the amendment may not substitute or add any new or different cause of action.

REFERENCE:
New Jersey Court Rules R. 8:3-8

1107.09 Withdrawal of Complaint.

A complaint may be withdrawn at any time prior to the conclusion of the hearing before the Tax Court with the Court's permission. A complaint may be withdrawn by forwarding a letter of withdrawal or stipulation of dismissal to the Court.

REFERENCE:
New Jersey Court Rules R. 8:3-9

1107.10 Prior to the Hearing.

Certain prehearing proceedings, i.e., discovery, exchange of appraisals or prehearing conferences may take place before the Tax Court calls the matter for hearing.

1107.11 Discovery.

Tax Court rules permit parties to use discovery, the parties request factual information from each through interrogatories, depositions or demands for

admission to ascertain the factual basis for the opposing party's case. Tax Court rules provide that interrogatories must be answered within 30 days, except in the case of actions to review State School Aid and County Equalization Tables where interrogatories must be answered within 20 days.

REFERENCE:
New Jersey Court Rules R. 8:6-1(a)

1107.12 Exchange of Appraisals.

Where the value of property is an issue, a party using the testimony of a valuation expert must furnish each opposing party a copy of the expert's written appraisal report.

1. At or prior to the prehearing (pretrial) conferences; or
2. 20 days prior to trial date, if there is no prehearing (pretrial) conference.

REFERENCE:
New Jersey Court Rules R. 8:6-1(b)

1107.13 Prehearing (Pretrial) Conference.

Prehearing conferences may be conducted by the Tax Court to eliminate extraneous issues, contentions or arguments that any party to the proceeding might seek to introduce, and to "streamline" the case. At prehearing (pretrial) conference, the judge orders the issues that are to be heard (tried).

REFERENCE:
New Jersey Court Rules R. 8:6-2

1107.14 Tax Court Hearings.

All matters in the Tax Court are heard by a single judge sitting without a jury. A record is kept of all proceedings, and all testimony is required to be given under oath.

1107.15 Submission without a Hearing (on the papers).

A party to a proceeding before the Tax Court, after notice to all parties, may move to submit the case to the court without a trial. This might be done where sufficient facts have been established, stipulated and admitted into the record and a hearing is not required. Such a procedure must be agreed to by the Tax Court, which may still require further information.

REFERENCE:
New Jersey Court Rules R. 8:8-1(b).

1107.16 Assignment for Hearing.

The presiding judge assigns cases for hearing to a Tax Court location and judge considering the convenience of the participants and the location of the property.

REFERENCE:
New Jersey Court Rules R. 8:8-2.

1107.17 Hearing in the Small Claims Division.

The general rules of procedure in the Tax Court apply to the Small Claims Division, except that the prehearing conference may be held at the same time the case is scheduled for hearing. Both the prehearing conference and the hearing are informal and the judge may hear such testimony and receive such evidence as he deems necessary, but all testimony must be given under oath. All proceedings in the Tax Court, including Small Claims matters, must be recorded.

REFERENCES:
N.J.S.A. 2B:13-1 et seq.
New Jersey Court Rules R. 8:11

1107.18 Burden of Proof.

The courts have held in past appeal proceedings before the Division of Tax Appeals and currently before the Tax Court, findings of the County Board of Taxation must be presumed correct. The burden of proving

otherwise falls on the party carrying the appeal to the Tax Court level. An appeal from the judgment of a County Board of Taxation brings within the jurisdiction of the Tax Court the entire assessment, not just the aspects argued before the County Board and is a "trial de novo."

REFERENCES:
City of Passaic v. Passaic Pioneer Properties Co., 35 N.J. Super. 94 (App. Div. 1959) cert. denied by 30 N.J. 153 (1959).
Veeder v. Township of Berkeley, 109 N.J. Super. 540 (App. Div. 1970).

1107.19 Judgments.

The Tax Court is required to put its findings of fact and law in writing and file copies with the parties to the appeal, the County Tax Administrator, the assessor, Clerk and collector of the taxing district. If any party to the appeal believes the judgment of the Tax Court is inadequate, it may carry a further appeal to the Appellate Division, Superior Court.

REFERENCE:
N.J.S.A. 54:51A-1

1107.20 Freeze Act at Tax Court.

The purpose of the Freeze Act is to prevent a taxing district from harassing a taxpayer by forcing him to appeal his assessment every year, in order to receive equitable treatment.

1107.21 Binding Effect of Final Judgments.

The assessed value set by final judgment of the Tax Court must remain in effect for the assessment year and for the next two years. Exceptions to this "Freeze Act" may be made only:

1. if the assessor can demonstrate at appeal, that the value of the property has changed since the assessment date, or
2. if a complete revaluation or district-wide reassessment of all real property in the taxing district was put into effect.

As a result of court decisions, the Attorney General set forth guidelines for applying the Freeze Act to a Tax Court or an appellate court "judgment final" (a judgment not further appealed) as follows:

- Normally, these judgments are entered when one or both Freeze Act years have already passed. Unlike the County Boards which can prospectively apply the Freeze Act to their own judgments when not further appealed, the judgments entered by Tax Court and higher courts may involve adjustments of Tax Lists and county apportionments which were already adopted. For example, the Tax Court judgment may state that the assessed valuation applies only for a particular year. This statement would likely appear on a stipulated judgment where the taxpayer waived application of the Freeze Act for two years subsequent to the year under appeal.

- In other instances, the Tax Court may issue a judgment establishing a fixed assessment for the tax year or years in question and further note that the Freeze Act applies. In circumstances where judgments state that the Freeze Act applies, County Boards have authority to reflect changes on Assessment Lists for tax years in question and to accord the affected municipality a credit toward its county taxes based on reductions in assessed valuations. County Boards should insist on written confirmation from municipal tax collectors that tax refunds for Freeze years were made so Boards can reflect the credits toward county apportionment on Tables of Aggregates.

- Where Tax Court or Appellate Court judgment is silent as to the Freeze Act, County Boards should not assume the Freeze Act applies. Unless the judgment explicitly establishes application of the Freeze

Act, County Boards have no authority to automatically apply the Act. A taxpayer, seeking the Freeze Act at Tax Court/ Appellate Court should obtain a further order clarifying the application of the Freeze Act. Only upon the entry of a clarifying order can the County Boards make Freeze Act adjustments.

http://www.judiciary.state.nj.us/taxcourt/forms/11016_freezeact.pdf

REFERENCES:

N.J.S.A. 54:51A-1
South Plainfield Borough v. Kentile Floors, Inc. 92 N.J. 483 (1983).
City of Atlantic City v. California Ave. Ventures, LLC., 21 N.J. Tax 511 (Tax Court 2004) affirmed by 23 N.J. Tax 62 (App. Div. 2006).
Northvale Borough v. Director, Division of Taxation, 17 N.J. Tax 204 (Tax Court 1998).
Brae Associates v. Park Ridge Borough, 21 N.J. Tax 88 (Tax Court 2003).
U.S. Postal Service v. Township of Kearny, 19 N.J. Tax 282 (Tax Court 2001).
Bonsanque v. Little Egg Harbor Township, 17 N.J. Tax 439 (Tax Court 1998).
2nd Roc-Jersey Assoc. v. Morristown, 11 N.J. Tax 45 (Tax Court 1990).
Jack Nissim and Sons v. Bordentown Township, 10 N.J. Tax 464 (Tax Court 1989).
Cumberland Arms v. Burlington Township, 10 N.J. Tax 255 (Tax Court 1988).
Fifth Roc Jersey Associate, LLC. v. Town of Morristown, 26 N.J. Tax 212 (Tax Court 2011).
Letter to County Tax Board Commissioners and County Tax Administrators from Deputy Attorney General Harry Haushalter: April 11, 1983.

1107.22 Correction of Errors by Tax Court.

The Tax Court, upon the filing of a complaint by a property owner, a municipality or a County Board of Taxation, is permitted, upon written application, to correct typographical errors, errors in transposing and mistakes in tax assessments either during the tax year at issue or within the next three years. Tax Court has stated the Correction of Errors statute is to be applied to administrative, clerical or ministerial actions only, and not to

complaints involving an assessor's opinion of value. The complaint should state the facts concerning the error, and be verified by affidavits submitted by the applicant. Copies of complaints must be served upon the County Board of Taxation, and upon the property owner or municipality as appropriate. Any party receiving a copy of a Correction of Errors complaint may file an objection or other response with the Tax Court in accordance with the Rules of the Court.

REFERENCES:
N.J.S.A. 54:51A -7
Hovbilt, Inc. v. Howell Township 263 N.J. Super. 567 (App. Div. 1993) affirmed by 138 N.J. 598 (1994).
Manczak v. Township of Dover, 2 N.J. Tax 529 (Tax Court 1981).
Flint v. Lawrence Township, 6 N.J. Tax 97 (Tax Court 1983).
McElwee v. Ocean City, 7 N.J. Tax 355 (Tax Court 1985).
American Dispenser Co. v. Carlstadt, 8 N.J. Tax 70 (Tax Court 1985).
Neptune Corp. v. Wall Township, 9 N.J. Tax 80 (Tax Court 1987).

1107.23 Administrative Corrections of Errors by Governing Body or County Tax Board

Where by mistake property, real or personal, has been twice entered and assessed on the Tax Duplicate, the governing body of the taxing district or County Board of Taxation may correct the record and refund the excess payment without interest. This has been interpreted to apply to current year adjustments.

REFERENCES:
N.J.S.A. 54:4-54
Farmingdale Realty Co. v. Borough of Farmingdale, 55 N.J. 103 (1969).
Cerame v. Township Committee of Township of Middletown in County of Monmouth, 349 N.J. Super. 486 (App. Div. 2002).

1108. The Appellate Courts.

Appeals from Tax Court judgments may be carried to Superior Court, Appellate Division within 45 days. Appellate Division forms and

instructions are available on-line. Appellate Division judgments are subject to further review by the Supreme Court of New Jersey. Filing procedures are governed by Appellate Division Rules. However, a copy of the appeal should be sent to the opposing party, the assigned trial judge and the Tax Court Clerk/Administrator. Copies of case transcripts may be obtained for a fee by contacting the assigned judge's chambers.

1108.01 Historical Precedents- Traditional Relief Available to Appellants.

Prior to enactment of legislation in 1973 which became effective in 1978 (c.123, P. L. 1973) appeals were divided into two types: (1) non-discrimination, and (2) discrimination. Other than in a year in which a revaluation is implemented, a number of court decisions broadened the relief that an appellate agency can grant in such cases.

(***NOTE*:** These cases are presented for historical background – and are not the rule of law at this time.)

1108.02 The Royal Case.

The *Royal* case, decided in 1909, established that the only way relief could be granted to a taxpayer in a discrimination appeal was to raise the assessments on all other properties in the taxing district to full market value. Since this was almost impossible to accomplish, relief was almost nonexistent.

REFERENCES:

Royal Manufacturing Company v. Board of Equalization of Taxes, 76 N.J.L. 402 (Sup. Ct. 1908) affirmed by 78 N.J.L. 337 (E. and A. 1909).
Sidney Glaser, "Legal Aspects of Assessing," Proceedings of the Third Annual Institute for Assessing Officers (New Brunswick: Bureau of Government Research, Rutgers, The State University, March 1957), pp. 10-13.

1108.03 The Gibraltar Case.

In 1955, the *Gibraltar* case established that the guiding principle should be equality of treatment. The Court affirmed the right of appellate agencies,

such as the County Board of Taxation and Division of Tax Appeals, to set the assessment of any property at the "Common Level" of other properties in the taxing district. However, the case did little to indicate how the Common Level should be proved.

REFERENCES:
Gibraltar Corrugated Paper Co. v. North Bergen Township, 20 N.J. 213 (1955).
Aaron K. Neeld, "The Gibraltar Case – Full True Value Assessments," New Jersey Municipalities, January, 1956, pp. 16-23.

1108.04 The Lackawanna Case.

In the 1957 *Lackawanna* case, the court ruled that a taxing district's Average Assessment-Sales Ratio, determined by the Director, Division of Taxation for State School Aid purposes, could not be used by an appellant for establishing the Common Level of assessments in the district. This decision restricted the rule laid down in the Gibraltar case, by making proof of the Common Level a difficult and expensive procedure.

REFERENCES:
Delaware, Lackawanna and Western Railroad Company v. Neeld, 23 N.J. 561 (1957).
William Miller, "Recent Developments in Legislation and Case Law," Proceedings of the Seventh Annual Conference for Assessing Officers, 1960 (New Brunswick: Bureau of Government Research, Rutgers, The State University, May, 1961), p. 14-20.

1108.05 The Kents Case.

In 1961, the Court ruled that, in the absence of other information to prove the Common Level of assessments, a "constructed" Common Level, such as the Average Assessment-Sales Ratio determined by the Director of the Division of Taxation, could be used as the Common Level. An appellant who proved that an assessment was at a different level of true value than the Average Ratio may have the assessment adjusted to the Average Ratio.

NOTE: The Court also ruled that aggregate assessment of property, including land and building(s) as a parcel, is the controlling factor in a discrimination appeal. In other words, the land assessment and building

assessment cannot be considered separately for appeal purposes. This is still the ruling – appeals must be of the total property value.

REFERENCES:

In re Appeals of Kents, Inc. 34 N.J. 21 (1961)

William Kingsley, "The Kents Case – A Remedy for Assessment Inequality," New Jersey Municipalities, February, 1961, pp. 4-8.

1108.06 The Siegal Case.

In the 1962 Siegal case, the Court clarified the *Kents* case in that individual class assessment-sales ratios, (Residential, Farm, Commercial, Vacant Land Classes) as an intermediate step in establishing the Average Assessment-Sales Ratio for all properties, cannot be used as a basis for claiming a reduction to the level for a given class of property. The Average Ratio for all classes remains as evidence of a Common Level.

REFERENCE:

Siegal v. City of Newark, 38 N.J. 57 (1962).

1108.07 The Tri-Terminal Case.

In 1975, an appellant sought relief by invoking the *Kents* doctrine and the Court held that a taxpayer in a discrimination appeal must show that relative to other property, generally, in the taxing district, his property is assessed on a less favorable basis. The Court said if in a time of generally rising real estate prices his property sustained the same enhancement of true value as other properties generally, and if assessments remained unchanged, this would leave the taxpayer in a position of relative uniformity for property tax treatment as was fixed by a fair and accurate revaluation carried out two or three years previously. The Court noted that while it could find no discrimination in this case, it did not necessarily approve of the practice of holding assessments the same year after year, since the law calls for separate assessment of each parcel annually at its true value on the assessing date. The Court went on to say while practicalities preclude most assessors from reviewing every line item each

year, there should nevertheless be alertness to changed valuation factors affecting individual properties in the years between revaluations.

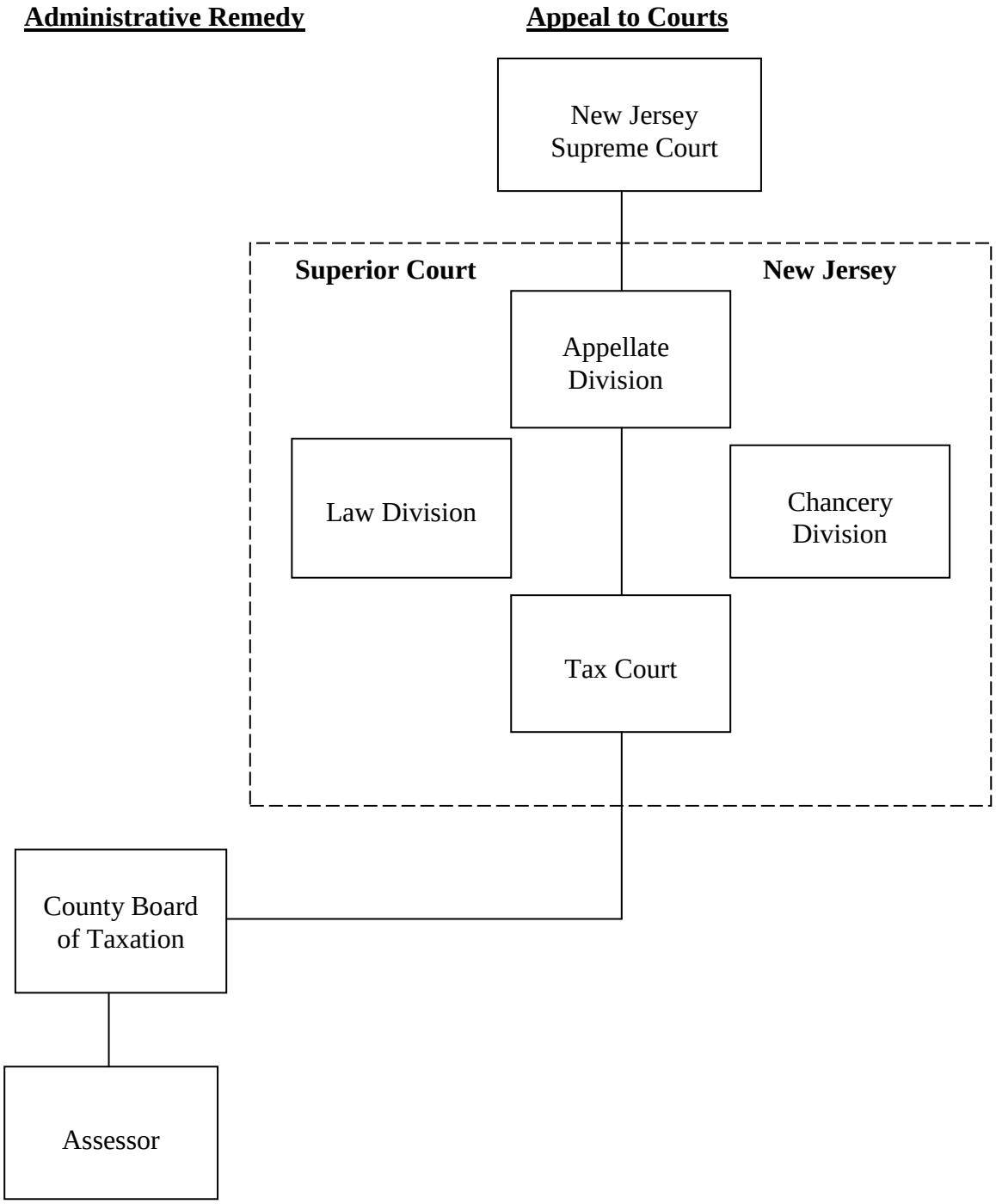
REFERENCES:
Tri-Terminal Corporation v. Borough of Edgewater, 68 N.J. 405 (1975).
Local Property and Public Utility Branch News, January-February, 1976, p. 1, May-June, 1976, p.2.

1108.08 The Piscataway Associates Case.

In this 1976 case the Court, held that *Kents* case type of tax relief was applicable, and that although a fair and accurate revaluation established a Common Level at the time it was implemented, the carrying of the same assessments for nine years substantially undercut the presumption that values of all properties rose at the same or similar rate. The Court felt property values in a municipality as large as Piscataway Township would probably not increase at the same rate in all neighborhoods over such a period of time. The Court recognized that while *Tri-Terminal Corp v. Borough of Edgewater* accepted a general revaluation which was effective for 1969 as remaining valid for 1971 and 1972, the correctness of this assumption dissipates with the passage of time.

REFERENCES:
Piscataway Associates, Inc. v. Piscataway, 73 N.J. 546 (1977) superseded by statute as stated in Weyerhauser Co. v. Closter, 190 N.J. Super. 528 (App. Div. 1983).

1109. The Route or Levels of a Tax Appeal.



1110. How to Reference Court Decisions.

Case: Morristown v. Woman's Club of Morristown

Cite Number	Court Level	Volume Number	Page Number	Year
10 N.J. Tax 309 (1989)	Tax Court	10	309	1989
242 N.J. Super. 654 (1990)	NJ Superior Court	242	654	1990
122 N.J. 392 (1990)	NJ Supreme Court	122	392	1990
124 N.J. 605 (1991)	NJ Supreme Court	124	605	1991

When a reviewing court strives to determine the legislative intent of any statute, the court looks to the language of the statute, the policy underlying the statute, the concept of reasonableness and the legislative history.

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