

New Jersey Non-Resident Inheritance Tax

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General Information

1. Where should I send my completed forms?

Forms should be sent to:
New Jersey Division of Taxation
Inheritance and Estate Tax
PO Box 249
Trenton, New Jersey 08695-0249

2. I need to overnight a package, what is the street address?

Overnight mail should be sent to:
New Jersey Division of Taxation
Inheritance and Estate Tax
50 Barrack Street
Trenton, New Jersey 08695

3. I sent a non-resident return in but have not heard back regarding the status?

The Inheritance Tax section does not send out receipts or return acknowledgements. The time frame for processing returns and auditing returns varies.

4. How do I make a payment on account?

Payments on account can be made with Form IT-EP. The form is available on our website. Go to http://www.state.nj.us/treasury/taxation/pdf/other_forms/inheritance/itep.pdf.

5. How do I apply for an extension?

Extensions should be requested with Form IT-EXT. The form is available on our website. Go to http://www.state.nj.us/treasury/taxation/pdf/other_forms/inheritance/itext.pdf.

6. How much needs to be escrowed at closing for the sale of the decedent's New Jersey real estate?

The Branch does not determine the amount of funds held in escrow. This amount is usually determined by the title company.

7. We closed on a sale of the decedent's New Jersey real estate and a New Jersey non-resident gross withholding tax was withheld. Please explain what this was for?

A non-resident taxpayer is required to pay the gross income tax liability on the capital gain upon the sale of real estate within this state (per N.J.S.A. 54A:2.1).

When a non-resident taxpayer sells New Jersey real estate an amount equal to 2% of the sale price is withheld as an estimated payment of the tax and submitted to the New Jersey Division of Taxation. Call 609-292-6400 for more information.

Filing non-resident returns

8. What is the purpose of the Non-Resident Inheritance Tax Return (Form IT-NR)?

Form IT-NR is used when a non-resident of New Jersey dies with New Jersey real estate or tangible personal property (automobile, boat, furniture, jewelry, etc. located in New Jersey).

9. Can I file Form L-9 NR?

Form L-9 NR can be used if all beneficiaries of the decedent's entire estate, both in and outside of New Jersey, are Class "A" or Class "E". For a description of Class "A" & "E" beneficiaries, please see IT-NR Table of Contents. If all beneficiaries of the decedent's entire estate (both in and outside of New Jersey) are not Class "A", Form IT-NR must be used.

Filing non-resident returns (continued)

10. The decedent's estate is greater than \$675,000.00; can I file Form L-9 NR?

Yes, Form L-9 NR can be filed if the decedent's gross estate exceeds \$675,000.00. There is no dollar limit.

11. The decedent's estate passes pursuant to a trust agreement, can I file Form L-9 NR?

Yes, Form L-9NR can be used when a trust agreement exists, as long as there is no possibility that any portion of the trust assets will pass to other than Class "A" beneficiaries. (See IT-NR page 2 for the definition of Class "A" beneficiaries).

12. If the decedent was a non-resident, do I need to file a New Jersey Estate Tax Return?

No, there is no New Jersey Estate Tax for estates of non-resident decedents. Non-residents are subject to the New Jersey Inheritance Tax only. See N.J.A.C. 18:26-3.1(c).

13. Do I file both Form L9-NR and Form IT-NR for a non-resident?

No, file only one form.

14. When is Form IT-NR or Form L9-NR due?

Whichever form you use is due 8 months after the decedent's date of death per N.J.A.C. 18:26-9.1 (a).

15. The decedent held a partnership interest that owned New Jersey real estate, do I need to file?

If the partnership is a bonafied partnership you are not required to file. Partnership interest is considered intangible personal property. Intangible personal property is not subject to tax or waiver requirements. See N.J.A.C. 18:26-11.11.

16. The decedent held stock in a corporation which owns New Jersey real estate, do I need to file?

No, a return does not need to be filed. Stock in a corporation is considered intangible personal property. The property is an asset of the corporation. See N.J.A.C. 18:26-11.11.

17. What attachments should be included with the return?

If you are submitting Form IT-NR, refer to page 7 which list items to submit with the return. If you are submitting Form L9-NR, refer to page 2 which lists necessary attachments.

18. The New Jersey real estate is held as tenants by the entirety by the decedent and his/her surviving spouse or civil union partner, do I need to file a return?

No, a return is not required. Real estate held as tenants by the entirety is not taxable.

19. What happened to the Flat Tax Method of filing?

The flat tax method has been replaced by Method 3 – Ratio Tax using Gross Estate. A separate "Flat Tax Affidavit" is not required.

20. The beneficiaries of an estate are Non-New Jersey residents, do we need to file a non-resident return?

The filing of the non-resident return is not based on the beneficiary's residence. It is based on the decedent's residence.

21. How do I amend a return originally submitted?

Any assets and/or liabilities not originally disclosed in the original return may be reported by letter or on an amended return. Verification should be provided as to the value of an asset or amount of a deduction.

Valuation

22. My return is late, how is the interest calculated?

Interest is calculated on any portion of the tax not paid within 8 months of the decedent's death at a rate of 10% per annum. See IT-NR page 2 for examples of interest computations. See N.J.A.C. 18:26-9.13.

23. How should I value the New Jersey real estate or tangible personal property?

Property on the IT-NR or L9-NR is valued at its fair market value on the decedent's date of death. See N.J.A.C. 18:26-8.10. The assessed value of the New Jersey real estate must also be set forth on the form.

24. I'm preparing a Federal Estate Tax Return, can I use the alternate values to complete the Non-Resident Inheritance Tax Return?

No, you must use the date of death values. See N.J.A.C. 18:26-8.10.

25. What does the branch allow for executor commissions?

Executor commissions are allowed in accordance with N.J.A.C. 18:26-7.10 as follows:

First	200,000 of corpus	5 percent
Next	800,000 of corpus	3 1/2 percent
Excess over	1,000,000 of corpus	2 percent

Important: See next question before computing commissions.

26. What items are excluded from computing executor commission?

Property held by the decedent and another as joint tenants with right of survivorship, as trustee for or payable on death to another, or which has been the subject of an inter vivos transfer made in contemplation of death or to take effect in possession or enjoyment at or after death, is to be excluded from the amount on which executor's commissions is computed. Any items reported in Schedule "E" are to be excluded from the computation of executor's commissions. Commissions are allowed on real estate actually sold by the executor or administrator or which is expressly directed to be sold by the terms of the decedent's will. The real estate must be sold by the representative and not the beneficiary in order to qualify.

27. If there is more than one executor, are they entitled to additional commissions?

If more than one executor or administrator has been appointed, each additional executor or administrator may take an additional one percent of all corpus provided that no one executor shall be entitled to any greater commission than that which would be allowed if there were but one executor or administrator.

Waivers

28. If a non-resident decedent held a bank account at a New Jersey bank, what do I need to do?

Per N.J.A.C. 18:26-11.1, a waiver is not required for non New Jersey residents owning intangible personal property (bank accounts, stocks, etc).

However, the estate representatives are required to file an affidavit establishing the facts of the decedents domicile with the financial institution involved. The affidavit should include the following:

1. Place of residence
2. Voting
3. Social and business affiliations
4. Where the last five income tax returns were filed prior to death.
5. Date of commencement and length of actual residence in place claimed as legal domicile.
6. Whether the decedent formally resided in New Jersey and, if so, what facts are relied upon to establish abandonment of New Jersey and intention not to return?

If the financial institution upon receipt of the affidavit is convinced the decedent was legally domiciled outside of New Jersey, the property in question may be transferred without the written consent of the Director, Division of Taxation.

Waivers (continued)

29. How do I obtain a tax waiver for real estate?

A waiver can be obtained by filing the appropriate non-resident form, (IT-NR or L9-NR).

30. The decedent owned a membership certificate or stock in a cooperative housing corporation. Do I need to file a Non-Resident Inheritance Tax Return?

No. A waiver is not required. The decedent's interest is deemed to be intangible personal property.

31. Is a waiver required if the decedent has interest in a partnership or corporation that owns New Jersey real estate?

No, a waiver is not required in this case. The decedent's interest is deemed to be intangible personal property. See N.J.A.C. 18:26-11.11.

32. The New Jersey real estate is held as tenants by the entirety by the decedent and his/her surviving spouse or civil union partner, do I need a tax waiver?

No, tax waivers are not required for real estate owned by a husband and wife/civil union couple as "tenants by the entirety" in the estate of the first spouse or civil union partner to die. See N.J.A.C. 18:26-11.4 (a).