

None of these changes affect the Social, Economic, Jobs, or Agriculture Industry Impacts; the Federal Standards Statement; the Regulatory Flexibility Statement; or the Housing Affordability or Smart Growth Development Impact Analyses as published in the original proposal.

Full text of the proposed substantial changes to the proposed new rules follows (additions to proposal indicated in boldface **thus**; deletions from proposal indicated in brackets [thus]):

CHAPTER 17
OFFICE OF THE PUBLIC DEFENDER

SUBCHAPTER 1.-2. (RESERVED)

SUBCHAPTER 3. FEES FOR SERVICE

17:39-3.1 Office of the Public Defender fees

- (a) (No change from proposal.)
- (b) In all cases, the Office of the Public Defender will charge its clients a flat fee based on the case type and/or degree of crime. These rates will apply to all attorney and investigator services, including any litigation (experts and transcripts) expenses, provided by the OPD to provide representation to its clients pursuant to N.J.S.A. 2A:158A-7(d). As used in this subsection, “day” shall mean any court day during which any portion of the trial takes place to include jury selection at the front end and deliberations at the back end. The billing rates used in criminal cases are as follows:
 - 1. Criminal Court (Adult):
 - i. [For] **Clients charged with** 1st and 2nd degree crimes:
 - (1) Pre-indictment [plea] **disposition:** \$250.00;
 - (2) Post-indictment [plea] **disposition:** \$500.00;
 - (3)-(4) (No change from proposal.)
 - ii. [For] **Clients charged with** 3rd and 4th degree crimes:
 - (1) Pre-indictment [plea] **disposition:** \$150.00;
 - (2) Post-indictment [plea] **disposition:** \$250.00;
 - (3)-(4) (No change from proposal.)
 - 2. Family Court (Juvenile Delinquency):
 - i. [For] **Clients charged with** 1st and 2nd degree crimes:
 - (1) [Plea] **Disposition:** \$250.00;
 - (2)-(3) (No change from proposal.)
 - ii. [For] **Clients charged with** 3rd and 4th degree crimes:
 - (1) [Plea] **Disposition:** \$150.00;
 - (2)-(3) (No change from proposal.)
 - 3. Drug Court:
 - i. [Plea] **Disposition:** \$250.00;
 - ii. (No change from proposal.)
 - 4.-7. (No change from proposal.)
 - (c)-(g) (No change from proposal.)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

\$250.00 Property Tax Deduction for Veterans, Surviving Spouses of Veterans, Surviving Spouses of Servicepersons, Surviving Registered Domestic Partners of Veterans, and Surviving Registered Domestic Partners of Servicepersons Proposed Readoption with Amendments: N.J.A.C. 18:27

Proposed Repeal: N.J.A.C. 18:27-3.6

Authorized By: Michael Bryan, Director, Division of Taxation.
 Authority: N.J.S.A. 54:4-8.10 et seq., specifically 54:4-8.19.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2014-125.

Submit comments by October 3, 2014, to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1.d(1), N.J.A.C. 18:27 expires on November 1, 2014. The Division of Taxation (Division) has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purposes for which they have been proposed. The rules proposed for readoption with amendments to take into account judicial interpretations and statutory changes affecting the veterans’ property tax deduction law, N.J.S.A. 54:4-8.10 et seq.

Existing Rules

- The rules proposed for readoption are summarized as follows:
 - N.J.A.C. 18:27-1.1 sets forth definitions of the words and phrases needed for eligibility determinations.
 - N.J.A.C. 18:27-2.1 provides that veterans or the unmarried surviving spouses or domestic partners of such veterans are granted a property tax deduction on their real and personal property in which they have a legal interest.
 - N.J.A.C. 18:27-2.2 sets forth the conditions by which a veteran, surviving spouse, or domestic partner may qualify for the property tax deduction.
 - N.J.A.C. 18:27-2.3 provides that if the surviving spouse remarries or domestic partner enters a new registered domestic partnership, they lose the deduction.
 - N.J.A.C. 18:27-2.4 provides that the claimant veteran, surviving spouse, or domestic partner must all be residents of New Jersey to qualify for the deduction.
 - N.J.A.C. 18:27-2.5 reiterates that eligibility for the deduction is predicated on the veteran having been honorably discharged or released from full-time active duty under honorable circumstances. The rule further provides that a veteran who remains in the armed forces cannot qualify for the deduction, but a veteran who once received the requisite discharge and later re-enters the armed forces, does not lose a deduction previously granted.
 - N.J.A.C. 18:27-2.6 provides that a disenrollment certificate or a form of release terminating temporary service or deferring military induction, or a clemency discharge, does not meet the qualifications for an honorable discharge for exemption eligibility.
 - N.J.A.C. 18:27-2.7 lists the branches of the Armed Forces of the United States to which a qualifying veteran must have belonged, based on information provided by the New Jersey Department of Military and Veterans’ Affairs.
 - N.J.A.C. 18:27-2.8 lists those organizations and individuals that are not considered part of the Armed Forces based on information provided by the New Jersey Department of Military and Veterans’ Affairs.
 - N.J.A.C. 18:27-2.9 sets forth the terms by which real property ownership is eligible for deduction status by a claimant. A claimant may be entitled to a proportionate share of the deduction as a tenant in common.
 - N.J.A.C. 18:27-2.10 provides that a vested life estate in real property meets the prerequisite of a qualifying ownership interest.
 - N.J.A.C. 18:27-2.11 provides the deduction to an otherwise qualified claimant who is a purchaser under an executory contract of sale who is in possession of land to which the deduction is to apply.
 - N.J.A.C. 18:27-2.12 provides that certain tenant shareholders in cooperatives (co-ops) or mutual housing corporations may be entitled to the deduction based on their proportionate share of taxes.
 - N.J.A.C. 18:27-2.13 provides for eligibility for the deduction to apply to real property where title is held by a partnership to the extent of the eligible claimant’s interest in the partnership.

N.J.A.C. 18:27-2.14 provides for eligibility to a guardian, trustee, committee, conservator, or other fiduciary for any persons otherwise qualified for the tax deduction.

N.J.A.C. 18:27-2.15 states that real property held by a corporation is not eligible for the deduction, except for tenants who are shareholders of stock in cooperatives or mutual housing corporations.

N.J.A.C. 18:27-2.16 provides that the deduction may be applied in any proportion to the real and/or personal property of the claimant.

N.J.A.C. 18:27-2.17 provides that once a deduction is granted, it remains in effect from year-to-year without the need for claimant's refilling, subject to the municipal tax assessor requesting additional information.

N.J.A.C. 18:27-2.18 provides that the deduction may be applied to taxes due on added or omitted assessments.

N.J.A.C. 18:27-2.19 makes clear that there is no provision in statutory law for apportionment of the veterans' deduction upon sale of a property, although the individual parties to the real estate transaction are not prohibited from negotiating an adjustment of the deduction at the closing settlement.

N.J.A.C. 18:27-2.20 provides that there may be only one full deduction of \$250.00 for a claimant, except where the claimant is also eligible for a deduction as a qualified surviving spouse or surviving domestic partner of a veteran or serviceperson. In that case, two deductions of \$250.00 each for a total of \$500.00 may be allowed.

N.J.A.C. 18:27-2.21 provides that a claimant who is also age 65 years or over and/or permanently and totally disabled or a surviving spouse or domestic partner, age 55 years or over, may receive deductions for both categories.

N.J.A.C. 18:27-2.22 provides that the deduction shall be in addition to any other veterans' deduction or exemption to which the claimant may also be eligible.

N.J.A.C. 18:27-2.23 requires that an untimely filing with the assessor of a claim for the deduction will result in the loss of eligibility for the particular year. Retroactivity is not allowed.

N.J.A.C. 18:27-2.24 provides that where an approved deduction exceeds taxes already paid, the municipal governing body may permit a refund, without interest upon request by the claimant, but no refund may be granted for any prior tax year in the absence of a prior completed application on file.

N.J.A.C. 18:27-2.25 provides an appeal from the disposition of a claim for the veterans' deduction in the same manner as is provided for appeals from assessments generally.

N.J.A.C. 18:27-3.1 requires that all claims for exemption be submitted in writing to the assessor on forms V.S.S., and supplemental V.S.S., if applicable, as approved by the Director, Division of Taxation, and supported by attached photo static copies of documents necessary to the proof of all conditions prerequisite to entitlement for deduction.

N.J.A.C. 18:27-3.2 requires the claimant to submit sufficient documentation, more fully described in N.J.A.C. 18:27-3.3, to support the claim for the deduction, which should be attached to each claim and retained by the assessor. The rule further sets out the filing time requirements and refund procedures where the deduction exceeds the property taxes already paid.

N.J.A.C. 18:27-3.3 sets forth the documentation that the claimant needs to show residency and eligibility for the deduction.

N.J.A.C. 18:27-3.4 sets forth the documentation that the claimant needs to show that the veteran received an honorable discharge or release under honorable circumstances, from active duty during a time of war or from a peacekeeping mission after serving the requisite amount of time. In the event that a surviving domestic partner is not able to obtain a DD-214 form from the United States Department of Veterans' Affairs, other documentation showing the above facts may be acceptable, including a notarized affidavit establishing the requisite facts called for in the rule.

N.J.A.C. 18:27-3.5 reiterates that only an "honorable discharge" or "release under honorable circumstances" will qualify in support of all claims for the deduction.

N.J.A.C. 18:27-3.6 provides that a surviving registered domestic partner may seek the assistance of the New Jersey Department of Military and Veterans' Affairs in obtaining any necessary documentation from the

United States Department of Veterans' Affairs, so as to qualify for the veterans' deduction, where necessary.

N.J.A.C. 18:27-3.7 provides that a claim for deduction must include documentation, such as a deed, executory contract for property purchase, probated will, or trust document, showing that the applicant owned a freehold interest to the property for which the deduction is requested.

N.J.A.C. 18:27-3.8 requires that a surviving spouse/domestic partner must prove marriage or a registered domestic partnership to the deceased veteran or serviceperson, through whom the claim is made.

N.J.A.C. 18:27-3.9 provides that a deduction, once granted, remains in effect indefinitely, although an assessor, at any time, may require any veteran deduction claimant to file a new application to determine whether any change has taken place with regard to residency, property ownership, or marital/domestic partnership status in the case of claims by the surviving spouses/domestic partners of servicepersons or veterans.

N.J.A.C. 18:27-3.10 requires the State to annually reimburse each taxing district in an amount equal to 102 percent of the amount of any veteran's property tax deductions granted in that taxing district, provided, however, that any deduction erroneously granted by the municipal district must be reimbursed to the State in full.

N.J.A.C. 18:27-3.11 permits the Director to dispense with a sworn oath in the signing of applications for deduction, although each assessor or collector and his or her duly assigned assistants are authorized to take and administer the oath on any claim for the veterans' property tax deduction on which there is to be no charge.

Proposed Amendments and Repeal

The rules are proposed for amendment and with a repeal, which are all summarized as follows:

N.J.A.C. 18:27-1.1 is amended to include "civil union partner" and "territorial waters," which were previously not defined in the chapter. While N.J.S.A. 54:4-8.10 uses the term "territorial waters" in defining the scope of certain military operations, the statute does not define the term. As such, at the request of tax assessors, the Division proposes to define the term in order to add clarity to the rules. The term "territorial waters" is referenced in all of the military operations defined in the statute. As a result, proof that a military operation occurred within "territorial waters" is only required for certain military operations where N.J.S.A. 54:4-8.10 references the term. The definitions of "assessor" and "collector" are proposed for amendment to reference the statutory definition, but also continue to clarify that the terms include "deputy assessor" and "deputy collector or receiver," respectively. The proposed amendments also clarify several terms that had been previously defined in order to reduce confusion. The term "domestic partner" is amended to delete the final clause and unnecessary language. The term "honorably discharged or released under honorable circumstances from active service in time of war" is amended to add a reference to Armed Forces Form DD-214 as a form proof. The term "surviving civil union partner" is added. Furthermore, a proposed amendment to the definition of "active service in time of war" deletes the list of active service missions and periods that the veterans' deduction applies to and replaces the list with a reference to N.J.S.A. 54:4-8.10(a), which sets forth the definition of "active service in time of war" and contains the requirements for the various periods and as such may be expanded or changed in the future, the rule will always reflect the statutory periods. Peacekeeping missions and operations continue to require a 14-day minimum service in the actual combat zone, however, the proposed amendment removes the 14-day requirement as it pertains to Bosnia and Herzegovina, as the requirement is discussed in detail in the statutory definition at N.J.S.A. 54:4-8.10(a). The amendment to the definition of "citizenship" to include references to the court cases *R.J. Wellington v. Township of Hillsborough*, 27 N.J. Tax 37 (1983) and *Wolff v. Baldwin*, 9 N.J. Tax 11 (1986), which define the term citizenship for the purposes of the deduction. Finally, the definition of "active service in time of war" and N.J.A.C. 18:27-3.4 are amended to change "peacekeeping missions" to "peacekeeping missions and operations" pursuant to N.J.S.A. 54:4-8.10(a).

Throughout the chapter, the rules are amended to include references to civil union partners pursuant to the requirements of the Civil Union Act, P.L. 2006, c. 103, section 92. Specifically, N.J.S.A. 37:1-33 states that "Whenever in any law, rule, regulation, judicial or administrative

proceeding or otherwise, reference is made to ‘marriage,’ ‘husband,’ ‘wife,’ ‘spouse,’ ‘family,’ ‘immediate family,’ ‘dependent,’ ‘next of kin,’ ‘widow,’ ‘widower,’ ‘widowed,’ or another word which in a specific context denotes a marital or spousal relationship, the same shall include a civil union pursuant to the provisions of this act.” Similarly, throughout the chapter, the proposed amendments add the term “domestic partnership,” where appropriate, in accordance with the Domestic Partnership Act, N.J.S.A. 26:8A-1 et seq. The applicable rules are expressly proposed for amendment to include civil union partners and domestic partners to achieve uniformity and equality of treatment in applying the veterans’ deduction law in the context of assessing real and personal property for the purpose of general local property taxation. While the chapter has included references to domestic partners and domestic partnerships after the enactment of the Domestic Partnership Act, the references were not included at recodified N.J.A.C. 18:27-3.8.

N.J.A.C. 18:27-2.1 is amended to delete the word “unmarried” prior to “surviving spouse” because the definition of surviving spouse includes the prerequisite that the surviving spouse remain unmarried after the death of the veteran or servicemember in order to qualify for the deduction.

Proposed new N.J.A.C. 18:27-2.2(d) states that training in the reserves during the pendency of a conflict is not active service for the purposes of the deduction. (See *Twp. Of Dover v. Scuzorzo*, 392 N.J. Super 466, 477 (App.Div. 2007))

N.J.A.C. 18:27-2.3(a) and (b) are proposed for amendment for grammatical purposes.

N.J.A.C. 18:27-2.4(c) is proposed for amendment to include “servicemember” after the second usage of “veteran” to be consistent with the usage throughout the chapter.

N.J.A.C. 18:27-2.5(b) is proposed for amendment to capitalize the term Armed Forces.

N.J.A.C. 18:27-2.9 is proposed for amendment to correctly reflect partial ownership for domestic partners, as per the Domestic Partnership Act, N.J.S.A. 26:8A-1 et seq.

N.J.A.C. 18:27-2.21 is proposed for amendment to reference the applicable statute, N.J.S.A. 54:4-8.40, rather than list the categories of eligibility and N.J.A.C. 18:27-2.22 is amended to include the statutory reference for the disabled veterans’ exemption, N.J.S.A. 54:4-3.30.

N.J.A.C. 18:27-2.25 is proposed for amendment to clarify which forms are to be used by assessors in disallowing the deduction.

N.J.A.C. 18:27-3.1 is proposed for amendment to correct a grammatical error, update the names of the forms, and add where the forms can be found.

N.J.A.C. 18:27-3.2 is proposed for amendment to clarify that supporting documentation may be submitted to a tax collector for the district where the property is located. The rule, as amended, makes the documentation requirements uniform and less burdensome.

N.J.A.C. 18:27-3.3 is proposed for amendment to make the documentation requirements for surviving spouses, surviving civil union partners, and surviving domestic partners consistent with each other and with the documentation requirements for veterans.

N.J.A.C. 18:27-3.4 is proposed for amendment to correct the name of a medal.

N.J.A.C. 18:27-3.6 is proposed for repeal as this section is not necessary in this chapter.

Because the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for re adoption with amendments and a repeal assure uniform processing veterans’ property tax deduction claims in accordance with existing statutory and case law. The rules assure that the property tax deduction may be requested by way of accurate, uniform procedures that apply equally to qualified veterans and their surviving spouses, surviving civil union partners, and surviving registered domestic partners, in keeping with New Jersey’s broad public policy initiatives.

Economic Impact

The rules proposed for re adoption with amendments and a repeal should have no adverse economic impact, because the proposed amendments primarily incorporate existing statutory law and case law

that construe the requirements to be met for veterans to qualify. With the expansion of the categories of coverage, the economic impact will be positive on the classes of individuals affected. While the State reimburses taxing districts 102 percent of the amount of the deductions granted, any economic impact on taxing districts due to the expansion of the benefit to civil union and domestic partners and the court’s interpretation of the “active service in time of war” requirement in *Twp. Of Dover v. Scuzorzo*, *supra* at 477, likely will be minimal because of the relatively small percentage of the general population to which the benefit applies. It is not expected that the Division will require a staff increase or other resources to carry out its responsibilities.

Federal Standards Statement

The rules proposed for re adoption with amendments and a repeal do not contain requirements that exceed any requirements imposed by Federal law. The rules codify case law and statutory amendments under New Jersey State law, regarding the application of N.J.S.A. 54:4-8.10 et seq., that are independent of Federal requirements or standards. Accordingly, a Federal standards analysis is not required because the rulemaking authority is pursuant to N.J.S.A. 54:50-1 et seq., and is not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for re adoption with amendments and a repeal will have no impact on jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for re adoption with amendments and a repeal will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for re adoption with amendments do not impact small businesses as defined in N.J.S.A. 52:4B-16 et seq., because they relate only to real and certain personal property owned by an eligible veteran claimant. Further, the rules are directed to local property tax officials for instructional purposes. The rules proposed for re adoption with amendments do not impose any reporting or recordkeeping requirements, or any compliance requirements on small businesses.

Housing Affordability Impact Analysis

The rules proposed for re adoption with amendments and a repeal would not result in a change in the average costs associated with housing. The rules proposed for re adoption with amendments and a repeal have no impact on any aspect of housing because the rules deal with a property tax deduction.

Smart Growth Development Impact Analysis

The rules proposed for re adoption with amendments and a repeal would not result in a change in housing production within the Planning Areas 1 or 2, or within designated centers, under the State’s urban or suburban areas with regard to existing or proposed land use, protection of open space, or transportation systems. Therefore, the rules proposed for re adoption with amendments and a repeal will not impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for re adoption with amendments and a repeal have nothing to do with housing production, either within Planning Area 1 or 2, within designated centers, or anywhere in the State of New Jersey. The rules deal with a property tax deduction.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:27.

Full text of the proposed amendments and repeal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 27

\$250.00 PROPERTY TAX DEDUCTION FOR VETERANS, SURVIVING SPOUSES OF VETERANS, SURVIVING SPOUSES OF SERVICEPERSONS, SURVIVING CIVIL UNION PARTNERS OF VETERANS, SURVIVING CIVIL UNION PARTNERS OF SERVICEPERSONS, SURVIVING REGISTERED DOMESTIC PARTNERS OF VETERANS, AND SURVIVING REGISTERED DOMESTIC PARTNERS OF SERVICEPERSONS

SUBCHAPTER 1. DEFINITIONS

18:27-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Active service in time of war” means active service at some time during one of the [following] periods [(“peacekeeping missions” are noted with an asterisk):

<u>Mission</u>	<u>Inception</u>	<u>Termination</u>
Operation Northern/Southern Watch*	August 27, 1992	March 17, 2003
Operation Iraqi Freedom*	March 19, 2003	Ongoing
Operation Enduring Freedom*	September 11, 2001	Ongoing
“Joint Endeavor/ Joint Guard”		
Bosnia and Herzegovina* “Restore Hope” Mission Somalia*	November 20, 1995	June 20, 1998
December 5, 1992	March 31, 1994	
Operation “Desert Shield/ Desert Storm” Mission* Panama Peacekeeping Mission*	August 2, 1990	February 28, 1991
December 20, 1989	January 31, 1990	
Grenada Peacekeeping Mission*	October 23, 1983	November 21, 1983
Lebanon Peacekeeping Mission*	September 26, 1982	December 1, 1987
December 31, 1960	May 7, 1975	
Vietnam Conflict Lebanon Crisis of 1958*	July 1, 1958	November 1, 1958
June 23, 1950	January 31, 1955	
Korean Conflict World War II	September 16, 1940	December 31, 1946
April 6, 1917	November 11, 1918]	

defined in N.J.S.A. 54:4-8.10(a). [1.] Peacekeeping missions and operations require a minimum of 14 days service in the actual combat zone. [except where] **Where** a service-incurred injury or disability occurs in the combat zone, then actual time served though less than 14 days, [is sufficient] **satisfies the duration requirement** for purposes of the **veterans’** property tax deduction. [The 14-day requirement for Bosnia and Herzegovina may be met by services in one or both operations for 14 days continuously or in the aggregate. For Bosnia and Herzegovina combat zone also includes the airspace above those nations.]

“Armed forces” means the land, air, and sea **military** forces [established by State or Federal laws as applicable] **of the United States.**

“Assessor” means [the assessor or] **as defined in N.J.S.A. 54:4-8.10(b) and includes** a deputy assessor of a taxing district charged with the duty of assessing real and personal property for the purpose of general taxation.

“Citizenship,” [for purposes of this Chapter,] means New Jersey State citizenship, while United States citizenship is not required **pursuant to Roxbury Township v. Heydt, 6 N.J. Tax 73 (Tax 1983) and Wolff v. Baldwin, 9 N.J. Tax 11 (Tax 1986).**

“Civil union partner” means or refers to the **only lawful civil union partner under N.J.S.A. 37:1-29 et seq., of a veteran or deceased serviceperson.**

“Collector” means [the collector or] **as defined in N.J.S.A. 54:4-8.10(c) and includes** a deputy collector or receiver [on his behalf] of taxes of a taxing district charged with the duty of collecting real property taxes for the purpose of general taxation.

“Domestic partner” means the lawful domestic partner registered under N.J.S.A. 26:8A-1 et seq., of a veteran or serviceperson [defined

elsewhere in this subsection where the property ownership is as joint tenants with right of survivorship].

“Honorably discharged or released under honorable circumstances from active service in time of war” means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked “dishonorable,” “undesirable,” “bad conduct,” “by sentence of general court martial,” “by sentence of summary court martial,” or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the [armed forces] **Armed Forces** rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be honorably discharged. **Armed Forces Form DD-214 is the most common form used by assessors to determine if a veteran has had active wartime service and has been honorably discharged.**

“Surviving civil union partner” means the lawful surviving civil union partner of a veteran or deceased service person.

“Territorial waters” as used in N.J.S.A. 54:4-8.10 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.

“Veteran’s deduction” means [the deduction against the taxes payable by any person allowable pursuant to P.L. 1963, c. 171, as amended] **as defined in N.J.S.A. 54:4-8.10(i).**

SUBCHAPTER 2. CONDITIONS OF ELIGIBILITY AND QUALIFICATIONS

18:27-2.1 Character of the veteran’s property tax deduction

Veterans honorably discharged or released under honorable circumstances from active service in time of war, or the [unmarried] surviving spouses, **surviving civil union partners**, or surviving domestic partners of such veterans, are granted a tax deduction on the real or personal property, or both, in which they have a legal interest.

18:27-2.2 Conditions of eligibility for the veteran’s property tax deduction

(a) (No change.)

(b) A surviving spouse, **surviving civil union partner**, or surviving domestic partner of a deceased veteran claiming deduction must meet the following conditions as of October 1 of the pretax year:

1. Be the surviving lawful wife, husband, **surviving civil union partner**, or **surviving** domestic partner of a veteran who was honorably discharged from active service in time of war in the United States Armed Forces and who was, at the time of death, a citizen and resident of New Jersey;

2. Remain unmarried or not enter into a new **civil union** or registered domestic partnership;

3.-4. (No change.)

(c) A surviving spouse, **surviving civil union partner**, or surviving domestic partner of a deceased serviceperson claiming deduction must meet the following conditions as of October 1 of the pretax year:

1. Be the surviving lawful wife[,] or husband, **surviving civil union partner**, or **surviving** domestic partner of a serviceperson who dies while in active service in a branch of the United States Armed Forces in time of war and who at the time of death was a citizen and resident of New Jersey;

2. Remain unmarried or not enter into a new **civil union** or registered domestic partnership;

3.-4. (No change.)

(d) Ineligible service. Active duty is defined in N.J.S.A. 38:1-1(i) as full-time duty in the active military services of the United States, other than active duty for training. Active duty training or field training as a member of a reserve component of the Armed Forces of the United States during the pendency of a conflict does not

constitute active duty or active service in the time of war. Such military service is not eligible military service for the purposes of qualifying for the veterans' tax deduction.

(e) N.J.S.A. 54:4-8.11 requires that the veteran have had "active service in time of war." A claimant must clearly establish that the service performed was during one of the periods specified in [N.J.A.C. 18:27-1.1] N.J.S.A. 54:4-8.10(a). Assessors and collectors should carefully examine the service record (Form DD-214) to verify that service was performed in a statutory specified period and in a qualifying branch of the United States Armed Forces.

18:27-2.3 Remarriage; new **civil union** or domestic partnership

(a) A veteran's widow/widower loses the deduction on remarriage. [Divorce of the second spouse does not restore the deduction, but an annulment does.] **An annulment restores the deduction, but divorce of the second spouse does not.**

(b) A veteran's **civil union partner** or domestic partner loses the deduction on entering into a new **civil union** or registered domestic partnership. [Termination of the new domestic partnership does not restore the deduction.] **An annulment of the new civil union or domestic partnership restores the deduction, but termination of the new civil union or domestic partnership does not.**

18:27-2.4 Citizenship and residency in New Jersey

(a)-(b) (No change.)

(c) The surviving spouse, **surviving civil union partner**, or **surviving domestic partner** of a veteran or serviceperson[, though himself or herself] **who is a New Jersey resident**, is not entitled to the deduction if the veteran **or serviceperson**, at the time of death, was not a legal resident of New Jersey.

18:27-2.5 Honorable discharge

(a) (No change.)

(b) Military personnel in the [armed forces] **Armed Forces** of the United States who remain in continuous military service do not qualify for the property tax deduction.

(c) (No change.)

18:27-2.9 Ownership of legal title; fractional interests

(a) A claimant must hold legal title to the property for which the deduction is claimed or a fractional, that is, partial ownership interest in the property. Where property title is held by a claimant and another, or others, as joint tenants or tenants in common, the interest of each tenant is treated as equal to that of the other, unless the deed specifically provides for unequal interests[, except that where]. **Where** the claimant and other owner are registered domestic partners and own the real property as joint tenants with right of survivorship[, and each partner [owns a full] has an ownership interest, [so that] **then** either may qualify for the [full] property tax deduction **for their proportionate share of the property taxes**, if otherwise eligible. Where property title is held by husband and wife, **or civil union partners**, as tenants by the entirety, each spouse **or civil union partner** owns a full ownership interest, so that either may qualify for the full property tax deduction, if otherwise eligible. Each joint tenant[, or tenant-in-common [or tenant by the entirety] may claim a deduction on his or her proportionate share of property taxes.

(b) (No change.)

18:27-2.20 Aggregate [veteran's] **veterans'** deduction

One full deduction of \$250.00 is the maximum amount allowed any property tax deduction claimant, except where a qualified veteran claimant is also eligible for a deduction as a qualified surviving spouse, **surviving civil union partner**, or surviving domestic partner of a veteran or serviceperson. In such cases, two deductions of \$250.00 each for a total of \$500.00 may be allowed.

18:27-2.21 [Veteran's] **Veterans'** deduction and senior/disabled deduction

Where a veteran's deduction is granted to a claimant who also [qualified] **qualifies** for the [\$250.00] **property tax** deduction [for senior citizens, age 65 years or over, permanently and totally disabled persons or their surviving spouses or surviving domestic partners, age 55 years or

over], **pursuant to N.J.S.A. 54:4-8.40**, the \$250.00 [veteran's] **veterans'** deduction shall apply in addition to this other benefit.

18:27-2.22 [Veteran's] **Veterans'** deduction and disabled veteran exemption

A deduction claimant receiving a full exemption on his or her principal residence as a totally and permanently totally disabled veteran, **pursuant to N.J.S.A. 54:4-3.30**, may apply the \$250.00 deduction to other property he or she owns in New Jersey.

18:27-2.25 Appeals

An aggrieved taxpayer may appeal from the disposition of a claim for the [veteran's] **veterans'** property tax deduction in the same manner as is provided for appeals from **local property tax** assessments generally, pursuant to N.J.S.A. 54:3-21 et seq., and 54:4-8.21. [Disallowance of] **If a claim is disallowed** at a time too late to permit an appeal by April 1 of the tax year [entitles], an applicant [to] **may file an appeal** with the county [tax] board of taxation [anytime] **any time** on or before April 1 of the ensuing tax year. **A Notice of Disallowance of Claim for Veteran's Property Tax Deduction/Disabled Veteran's Exemption, Form V.N.D.A., must be used by an assessor when denying the claim.**

SUBCHAPTER 3. APPLICATION FOR DEDUCTION

18:27-3.1 Written claims for deductions

All claims for deductions must be submitted in writing to the assessor **or collector** on [forms] **Property Tax Deduction Claim by Veteran or Surviving Spouse/Surviving Civil Union Partner & Surviving Domestic Partner of a Veteran or Serviceperson Form V.S.S.**, and [supplemental] **Supplemental Form for Peacekeeping Missioner/Operations (Supplemental D.V.S.S.E./V.S.S.)**, if applicable, as approved by the Director, Division of Taxation, and supported by attached photostatic copies of documents necessary to [the proof of] **prove** all conditions prerequisite to entitlement for deduction. Application forms should be available in the assessor's office. **Forms are also available online at the Division of Taxation website.**

18:27-3.2 Application procedures

(a) The [veteran's] **veterans'** property tax deduction [should] **is not [be] allowed** unless the claimant submits sufficient documentation to support the application. Copies of supporting documentation should be attached to each claim and retained by the assessor **or collector (see (d) below)**.

(b)-(e) (No change.)

18:27-3.3 Documentation in support of citizenship and residency

(a) For the veteran, New Jersey residency may be established by a valid New Jersey motor vehicle [drivers] **driver's** license or registration, voter registration card, State tax return filing, post office verification, local memberships, children's school attendance, or other means satisfactory to the assessor **or collector**[;].

(b) Surviving spouses of veterans[, disabled veterans] or servicepersons who died on active duty may establish their residency and that of the deceased spouse, **deceased civil union partner, or deceased domestic partner**, when applicable, by submission of [the certificate of eligibility rendered by the U.S. Veteran's Administration to qualified surviving spouses.]: **a valid New Jersey motor vehicle driver's license or registration, voter registration card, State tax return filing, post office verification, local memberships, children's school attendance, or other means satisfactory to the assessor or collector of the veteran or serviceperson who died on active duty and the surviving spouse, surviving civil union partner, or surviving domestic partner.**

(c) Surviving domestic partners of disabled veterans or servicepersons who died on active duty shall not be required to provide a certificate of eligibility, but the domestic partner must provide certificate of domestic partnership.]

18:27-3.4 Documentation in support of active service in a branch of the Armed Forces in time of war

(a) A photostatic copy of an honorable discharge or release under honorable circumstances must be attached to every application and made a permanent part of the assessor's file. A copy of claimant's service

record (Form DD-214) is usually also needed to determine whether the character of service was in fact “active service,” the assigned unit was a branch of the United States Armed Forces and the period served was in “a time of war.” This form can also aid in determining questionable cases in that it sets forth notations regarding “travel pay allowances,” “duty for training” and other factors helpful to **make** a correct eligibility decision. In the event that a surviving **spouse, surviving civil union partner, or surviving** domestic partner is not able to obtain a DD-214 form, other documentation showing the above facts may be acceptable, including a notarized affidavit establishing the existence of the above facts.

(b) For service in the peacekeeping missions **and operations**, a claimant must have served in the aggregate for at least 14 days in the pertinent combat zone, except that where the claimant suffered a service-connected injury or disability in the combat zone, then active time served, though less than 14 days, is sufficient for **determining eligibility for the** property tax deduction [purposes. Part of the prerequisite time may be shown by the following:]. **The following may be accepted to demonstrate the prerequisite time:**

1. (No change.)

2. To verify the required 14 days of service in a combat zone for Lebanon, Grenada, or Panama, a key indice would be **proof of an award of** “the Overseas [Department] **Deployment Medal,**” which would appear in item [#13] **No. 13** of claimant’s Form DD-214 entitled “Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized”;

3.-4. (No change.)

[18:27-3.6 Assistance to obtain certain documentation

Where necessary, a surviving registered domestic partner may seek the assistance of the New Jersey Department of Military and Veteran’s Affairs in obtaining any necessary documentation from the United States Department of Veterans Affairs so as to qualify for the veteran’s deduction.]

18:27-[3.7]3.6 (No change in text.)

18:27-[3.8]3.7 Documentation in support of a [surviving spouse/ domestic partner] **surviving spouse/civil union partner/domestic partner**

[Surviving spouse/domestic partner] **Surviving spouse/civil union partner/domestic partner** must prove marriage, **civil union**, or a registered domestic partnership to the deceased veteran or serviceperson, through whom the claim is made. A copy of the marriage certificate, **civil union certificate under N.J.S.A. 37:1-1 et seq.**, or domestic partnership registration certificate under N.J.S.A. 26:8A-1 et seq., and the veteran’s death certificate is necessary. [The fact that a] **A surviving spouse must support the fact that she or he** has not remarried [must be supported] by the certification of the U.S. Department of Veteran’s Affairs verifying claimant’s status as a surviving spouse and other factors, such as residency and wartime service related information. In the case of a **civil union or** registered domestic partnership, [the fact that] a surviving **civil union partner or** domestic partner **must support by certification that she or he** has not entered into a new **civil union or** registered domestic partnership [must be supported by a certification from the]. **An acceptable agency [issuing] is one that issues** certificates of **civil union or** domestic partnership that **show** the surviving **civil union partner or surviving** domestic partner has not entered into a new **civil union or** registered domestic partnership.

18:27-[3.9]3.8 Refiling or updating application

A deduction, once granted under this chapter, remains in effect indefinitely. However, an assessor, at any time, may require any veteran deduction claimant to file a new application. Annually, as of October 1, the assessor should examine all deductions to determine whether any change has taken place with regard to residency, property ownership, and marital status in the case of claims by the surviving spouses, **surviving civil union partners, or surviving domestic partners** of servicepersons or veterans.

Recodify existing 18:27-3.10 and 3.11 as **18:27-3.9 and 3.10**

(No change in text.)