

ASSEMBLY, No. 420

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

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District 21 (Essex and Union)

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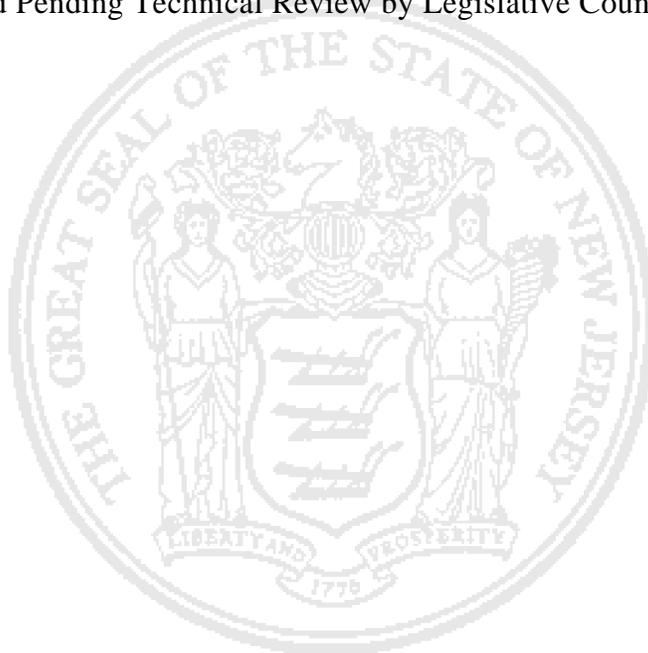
Assemblymen Carroll, LeFevre, Blee and Barnes

SYNOPSIS

The Death Tax Elimination Act; repeals the transfer inheritance tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/23/2001)

1 AN ACT eliminating the transfer inheritance tax and designated the
2 Death Tax Elimination Act, repealing various parts of the statutory
3 law and amending R.S.54:38-1 and P.L.1944, c.220.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The following are repealed:
9 R.S.54:33-1 through R.S.54:36-7;
10 Section 1 of P.L.1940, c.220 (C.54:33-9.1);
11 Section 2 of P.L.1985, c.57 (C.54:33-14);
12 Section 1 of P.L.1955, c.135 (C.54:34-1.1);
13 Section 4 of P.L.1978, c.172 (C.54:35-4.1);
14 Sections 1 and 2 of P.L.1947, c.369 (C.54:35-5.1 and 54:35-5.2)
15 Section 2 of P.L.1956, c.54 (C.54:35-10.1);
16 Section 1 of P.L.1939, c.122 (C.54:35-23);
17 R.S.54:38-4; and
18 Sections 1 through 4 of P.L.1945, c.127 (C.54:38A-3 through
19 54:38A-6);

20 provided, however, that this repeal shall not affect any obligation, lien
21 or duty to pay taxes, interest or penalties which have accrued or may
22 accrue by virtue of any taxes imposed pursuant to the provisions of the
23 law repealed by this act, or which may be imposed with respect to any
24 redetermination, correction, recomputation or deficiency assessment;
25 and provided that all taxes and returns which would have been due and
26 payable under the provisions of the law repealed shall be due and
27 payable as if the law were in effect; and provided that this repeal shall
28 not affect the legal authority of the State to audit records and assess
29 and collect taxes due or which may be due, together with such interest
30 and penalties as have accrued or would have accrued thereon under
31 the provisions of the law repealed; and provided that this repeal shall
32 not affect any determination of, or affect any proceeding for, the
33 enforcement thereof.

34
35 2. R.S.54:38-1 is amended to read as follows:

36 54:38-1. Imposition of tax; amount. **[In addition to the**
37 inheritance, succession or legacy taxes imposed by this state under
38 authority of chapters 33 to 36 of this title (s. 54:33-1 et seq.), or
39 hereafter imposed under authority of any subsequent enactment, there]
40 There is hereby imposed an estate or transfer tax upon the transfer of
41 the estate of every resident decedent which is subject to an estate tax
42 payable to the United States under the provisions of the federal
43 revenue act of one thousand nine hundred and twenty-six and the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 amendments thereof and supplements thereto or any other federal
2 revenue act in effect as of the date of death of the decedent, the
3 amount of which tax shall be the sum by which the maximum credit
4 allowable against any federal estate tax payable to the United States
5 under any federal revenue act on account of taxes paid to any state or
6 territory of the United States or the District of Columbia, shall exceed
7 the aggregate amount of all estate, inheritance, succession or legacy
8 taxes actually paid to any state or territory of the United States or the
9 District of Columbia, including inheritance, succession or legacy taxes
10 actually paid this state, in respect to any property owned by such
11 decedent or subject to such taxes as a part of or in connection with his
12 estate.

13 In any estate where [no inheritance, succession or legacy tax is due
14 this state under the provisions of said chapters 33 to 36 or under
15 authority of any subsequent enactment imposing taxes of a similar
16 nature, but] an estate tax is due the United States under the provisions
17 of any federal revenue act in effect as of the date of death, wherein
18 provision is made for a credit on account of taxes paid the several
19 states or territories of the United States, or the District of Columbia,
20 the tax imposed by this chapter shall be the maximum amount of such
21 credit less the aggregate amount of such estate, inheritance,
22 succession or legacy taxes actually paid to any state or territory of the
23 United States or the District of Columbia.

24 (cf: R.S.54:38-1)

25

26 3. Section 1 of P.L.1944, c.220 (C.54:38A-1) is amended to read
27 as follows:

28 1. Where the [State Tax Commissioner] Director of the Division
29 of Taxation claims that a decedent was domiciled in this State at the
30 time of death and the taxing authorities of another state or states make
31 a similar claim with respect to their state or states, and investigation
32 discloses a reasonable doubt regarding domicile, the [State Tax
33 Commissioner] director may, in [his] the director's discretion, enter
34 into a written agreement with such taxing authorities and the executor,
35 administrator or trustee, fixing the sum acceptable to this State in full
36 settlement of the [transfer inheritance]estate tax imposable under
37 [chapters thirty-three to thirty-six, inclusive,]chapter 38 of Title 54 of
38 the Revised Statutes; provided, that said agreement also fixes the sum
39 acceptable to such other state or states in full settlement of the death
40 taxes imposable by such state or states; and provided further, that said
41 agreement has the approval of the ordinary of this State. [If the
42 aggregate amount payable under such agreement to the States involved
43 is less than the maximum sum allowable as a credit to the estate
44 against the Federal estate tax imposed thereon, then the executor,
45 administrator or trustee shall also pay to the State Tax Commissioner
46 so much of the difference between such aggregate amount and the

1 amount of such credit as the amount payable to the State Tax
2 Commissioner under the agreement bears to such aggregate amount,
3 and the agreement aforesaid shall so provide.] Payment of the sum or
4 sums fixed by said agreement shall be accepted by the [State Tax
5 Commissioner] director in full satisfaction of this State's claim for
6 [transfer inheritance and] estate taxes which would otherwise be
7 chargeable under [subtitle five] chapter 38 of Title 54 of the Revised
8 Statutes, and the executor, administrator or trustee is hereby
9 empowered to enter into the agreement provided for herein.
10 (cf: P.L.1944, c.220, s.1)

11

12 4. This act shall take effect immediately, and apply to estates of
13 decedents who die on or after the first day of first month following
14 enactment.

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STATEMENT

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19 This bill enacts a Death Tax Elimination Act, repealing the New
20 Jersey transfer inheritance tax.

21 The New Jersey transfer inheritance tax is one of the State's oldest
22 taxes, originating in 1892 and imposed in roughly its present form
23 since 1909. The tax is imposed on the transfer of all personal and real
24 property in the estates of New Jersey resident decedents and of all
25 tangible and real property located in New Jersey in the estates of
26 nonresident decedents. The tax was extensively revised in 1985 to
27 exempt from taxation transfers to spouses, ancestors and descendants
28 of the decedent, but "lateral" transfers, bequests to brothers and sisters
29 of the decedent or their children, and to nonrelatives are taxed at rates
30 up to 16%.

31 The bill does not eliminate the New Jersey "estate tax." The federal
32 government imposes an estate tax, but allows a credit, calculated as a
33 percentage of the federal liability, for any state estate taxes paid. New
34 Jersey imposes a tax on the estates of resident decedents in the amount
35 of the available federal credit. That New Jersey tax does not increase
36 the liability of taxpayers, it just allows some taxes to be paid to New
37 Jersey, for New Jersey use, instead of to the federal government for
38 federal use.