

SENATE, No. 1633

STATE OF NEW JERSEY

INTRODUCED OCTOBER 28, 1996

By Senators CARDINALE and INVERSO

1 AN ACT providing that certain settlement agreements determine  
2 decedent transfers under the transfer inheritance tax, amending  
3 R.S.54:34-1.

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

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8 1. R.S.54:34-1 is amended to read as follows:

9 54:34-1. Except as provided in section 54:34-4 of this Title, a tax  
10 shall be and is hereby imposed at the rates set forth in section 54:34-2  
11 of this Title upon the transfer of property, real or personal, of the  
12 value of \$500.00 or over, or of any interest therein or income  
13 therefrom, in trust or otherwise, to or for the use of any transferee,  
14 distributee or beneficiary in the following cases:

15 a. Where real or tangible personal property situated in this State  
16 or intangible personal property wherever situated is transferred by will  
17 or by the intestate laws of this State from a resident of this State dying  
18 seized or possessed thereof.

19 b. Where real or tangible personal property within this State of a  
20 decedent not a resident of this State at the time of his death is  
21 transferred by will or intestate law.

22 c. Where real or tangible personal property within this State of a  
23 resident of this State or intangible personal property wherever situate  
24 of a resident of this State or real or tangible personal property within  
25 this State of a nonresident, is transferred by deed, grant, bargain, sale  
26 or gift made in contemplation of the death of the grantor, vendor or  
27 donor, or intended to take effect in possession or enjoyment at or after  
28 such death.

29 A transfer by deed, grant, bargain, sale or gift made without  
30 adequate valuable consideration and within three years prior to the  
31 death of the grantor, vendor or donor of a material part of his estate  
32 or in the nature of a final disposition or distribution thereof, shall, in  
33 the absence of proof to the contrary, be deemed to have been made in  
34 contemplation of death within the meaning of subsection c. of this

**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 section; but no such transfer made prior to such three-year period shall  
2 be deemed or held to have been made in contemplation of death.

3 d. Where by transfer of a resident decedent of real or tangible  
4 personal property within this State or intangible property wherever  
5 situate, or by transfer of a nonresident decedent of real or tangible  
6 personal property within this State, a transferee, distributee or  
7 beneficiary comes into the possession or enjoyment therein of:

8 (1) An estate in expectancy of any kind or character which is  
9 contingent or defeasible, transferred by an instrument taking effect on  
10 or after July 4, 1909; or

11 (2) Property transferred pursuant to a power of appointment  
12 contained in an instrument taking effect on or after July 4, 1909.

13 e. When a decedent appoints or names one or more executors or  
14 trustees and bequeaths or devises property to him or them in lieu of  
15 commissions or allowances, the transfer of which property would  
16 otherwise be taxable, or appoints him or them his residuary legatee or  
17 legatees, and the bequest, devise or residuary legacy exceeds what  
18 would be reasonable compensation for his or their services, such  
19 excess shall be deemed a transfer liable to tax. The Superior Court  
20 having jurisdiction in the case, shall determine what is a reasonable  
21 compensation.

22 f. The right of the surviving joint tenant or joint tenants, person or  
23 persons, to the immediate ownership or possession and enjoyment of  
24 real or personal property held in the joint names of two or more  
25 persons, or deposited in banks or other institutions or depositories in  
26 the joint names of two or more persons and payable to either or the  
27 survivor, excluding, however, the right of a spouse, as a surviving  
28 joint tenant with his or her deceased spouse, to the immediate  
29 ownership or possession and enjoyment of a membership certificate or  
30 stock in a cooperative housing corporation, the ownership of which  
31 entitles such member or stockholder to occupy real estate for dwelling  
32 purposes as the principal residence of the decedent and spouse, shall  
33 upon the death of one of such persons, be deemed a transfer taxable  
34 in the same manner as though such property had belonged absolutely  
35 to the deceased joint tenant or joint depositor and had been devised or  
36 bequeathed by his will to the surviving joint tenant or joint tenants,  
37 person or persons, excepting therefrom such part of the property as  
38 such survivor or survivors may prove to the satisfaction of the  
39 Director of the Division of Taxation to have originally belonged to him  
40 or them and never to have belonged to the decedent.

41 In the case of a nonresident decedent, this subsection [f. of this  
42 section] shall apply only to real or tangible personal property within  
43 this State.

