

[First Reprint]
SENATE, No. 1982

STATE OF NEW JERSEY

INTRODUCED APRIL 17, 1997

By Senator INVERSO

1 AN ACT concerning certain Tax Court procedures, amending various
2 sections of the statutory law, and supplementing Title 54 of the
3 Revised Statutes.

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

7
8 1. R.S.54:1-35 is amended to read as follows:

9 54:1-35. The [commissioner] Director of the Division of Taxation
10 shall prepare an abstract of the total ratables of the State, as returned
11 by the county boards of taxation and corrected or confirmed by him in
12 accordance with the State equalization table, and transmit a certified
13 copy thereof to the [State Board of Tax Appeals] Tax Court, the
14 county boards of taxation and the State Comptroller, who shall
15 apportion the State school tax, State tax or State moneys, as provided
16 by law, upon the ratables as shown in such abstract, which shall take
17 the place for all such purposes of the annual abstracts heretofore filed
18 by county boards of taxation in the office of the Comptroller under the
19 provisions of section 54:4-52 of this Title.
20 (cf: P.L.1938, c.279, s.1.)

21

22 2. R.S.54:3-21 is amended to read as follows:

23 54:3-21. A taxpayer feeling aggrieved by the assessed valuation of
24 [his] the taxpayer's property, or feeling [that he is] discriminated
25 against by the assessed valuation of other property in the county, or a
26 taxing district which may feel discriminated against by the assessed
27 valuation of property in the taxing district, or by the assessed valuation
28 of property in another taxing district in the county, may on or before
29 April 1, or 45 days from the date the bulk mailing of notification of
30 assessment is completed in the taxing district, whichever is later,
31 appeal to the county board of taxation by filing with it a petition of

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SJU committee amendments adopted May 8, 1997.

1 appeal; provided, however, that any such taxpayer or taxing district
2 may on or before April 1, or 45 days from the date the bulk mailing of
3 notification of assessment is completed in the taxing district,
4 whichever is later, file a complaint directly with the [tax court] Tax
5 Court, if the assessed valuation of the property subject to the appeal
6 exceeds \$750,000.00. Within ten days of the completion of the bulk
7 mailing of notification of assessment, the assessor of the taxing district
8 shall file with the county board of taxation a certification setting forth
9 the date on which the bulk mailing was completed. If a county board
10 of taxation completes the bulk mailing of notifications of assessment,
11 the tax administrator of the county board of taxation shall within ten
12 days of the completion of the bulk mailing prepare and keep on file a
13 certification setting forth the date on which the bulk mailing was
14 completed. A taxpayer shall have 45 days to file an appeal upon the
15 issuance of a notification of a change in assessment. An appeal to the
16 Tax Court by one party in a case in which the Tax Court has
17 jurisdiction shall establish jurisdiction over the entire matter in the Tax
18 Court. All appeals to the [tax court] Tax Court hereunder shall be in
19 accordance with the provisions of the State [Tax] Uniform Tax
20 Procedure Law, R.S.54:48-1 et seq.

21 If a petition of appeal or a complaint is filed on April 1 or during
22 the 19 days next preceding April 1, a taxpayer or a taxing district shall
23 have 20 days from the date of service of the petition or complaint to
24 file a cross-petition of appeal with a county board of taxation or a
25 counterclaim with the [clerk of the tax court] Tax Court, as
26 appropriate.

27 (cf: P.L.1991, c.75, s.28.)

28

29 3. R.S.54:3-26 is amended to read as follows:

30 54:3-26. The county board of taxation shall hear and determine all
31 such appeals within 3 months after the last day for filing such appeals,
32 and shall keep a record of its judgments thereon in permanent form,
33 and shall transmit a written memorandum of its judgments to the
34 assessor of the taxing district and to the taxpayer, setting forth the
35 reasons on which such judgment was based, and in all cases where the
36 amount of tax to be paid shall be changed as the result of an appeal,
37 to the collector of the taxing district. The Director of the Division of
38 Taxation shall prescribe such procedures and forms for the setting
39 forth of such written memorandums of judgments as may be necessary.

40 Whenever any review is sought of the determination of the county
41 board of taxation, the complaint shall contain a copy of the
42 memorandum of judgment of the county board.

43 Where no request for review is taken to the Tax Court to review
44 the action or determination of the county board involving real property
45 the judgment of the county board shall be conclusive and binding upon
46 the municipal assessor and the taxing district for the assessment year,

1 and for the 2 assessment years succeeding the assessment year,
2 covered by the judgment, except as to changes in value of the property
3 occurring after the assessment date. [Where such changes are alleged
4 the petition of appeal shall specifically set forth the nature of the
5 changes relied upon as the basis for such appeal. However, the] The
6 conclusive and binding effect of such judgment shall terminate with the
7 tax year immediately preceding the year in which a program for a
8 complete revaluation or complete reassessment of all real property
9 within the district has been put into effect. If as of October 1 of the
10 pretax year, the property in question has been the subject of an
11 addition qualifying as an added assessment, a condominium or
12 cooperative conversion, a subdivision or a zoning change, the
13 conclusive and binding effect of such judgment shall terminate with
14 said pretax year.

15 If the assessor increases the assessment or fails to reflect on the tax
16 duplicate a county board of taxation or Tax Court judgment issued
17 prior to the final preparation of the tax duplicate in either of the two
18 years following the year for which the judgment of the county board
19 was rendered, and if said judgment is a final judgment not further
20 appealed, ¹[and] ¹ the burden of proof shall be on the taxing district to
21 establish that the assessor acted ¹[reasonable] reasonably¹ in increasing
22 the assessment. If the county board finds that the assessor did not act
23 reasonably in increasing the assessment or failed to reflect said
24 judgment on the tax duplicate, the county board shall award to the
25 taxpayer reasonable counsel fee, appraisal costs and other costs which
26 shall be paid by the taxing district.

27 (cf: P.L.1979, c.499, s.13)

28

29 4. Section 1 of P.L.1976, c.114 (C.54:3-26.1) is amended to read
30 as follows:

31 1. In the event a county board of taxation cannot hear and
32 determine any one or more appeals within the time prescribed in
33 R.S.54:3-26, it may at any time apply to the [tax court] Director of the
34 Division of Taxation for [an order to extend] extension of the time
35 within which the appeal or appeals may be heard and determined. The
36 application shall be granted upon a showing by the board that the
37 number of appeals before it is disproportionate to the number of
38 members hearing said appeals[,] or that the number of appeals has
39 increased sufficiently to warrant an extension of time or for other
40 good cause shown. [The court shall include in its order] If the
41 application is granted, the Director of the Division of Taxation shall
42 indicate the amount of tax, if any, a taxpayer shall pay during the
43 period of such extension.

44 (cf: P.L.1983, c.36, s.14)

45

46 5. R.S. 54:3-27 is amended to read as follows:

1 54:3-27. A taxpayer who shall file an appeal from an assessment
2 against him shall pay to the collector of the taxing district no less than
3 the total of all taxes and municipal charges due, up to and including
4 the first quarter of the taxes and municipal charges assessed against
5 him for the current tax year in the manner prescribed in R.S.54:4-66.

6 A taxpayer who shall file an appeal from an added or omitted
7 assessment shall, in order to maintain an action contesting the added
8 or omitted assessment, pay to the collector of the taxing district all
9 unpaid prior years' taxes and all of the taxes for the current year as
10 said taxes become due and payable, exclusive of the taxes imposed
11 under the added or omitted assessment.

12 If an appeal involves Class 3B (Farm Qualified) or Classes 15A, B,
13 C, D, E and F (Exempt Property as defined in R.S.54:4-52) and the
14 subject of the appeal is statutory qualification, the taxpayer shall not
15 be required to meet the payment requirements specified herein.

16 The collector shall accept such amount, when tendered, give a
17 receipt therefor and credit the taxpayer therewith, and the taxpayer
18 shall have the benefit of the same rate of discount on the amount paid
19 as he would have on the whole amount.

20 Notwithstanding the foregoing, the county board of taxation may
21 relax the tax payment requirement and fix such terms for payment of
22 the tax as the interests of justice may require.

23 The payment of part or all of the taxes upon any property, due for
24 the year for which an appeal from an assessment upon such property
25 has been or shall hereafter be taken, or of taxes for subsequent years,
26 shall in nowise prejudice the status of the appeal or the rights of the
27 appellant to prosecute such appeal, before the county board of
28 taxation, the [tax court] Tax Court, or in any court to which the
29 judgment arising out of such appeal shall be taken, except as may be
30 provided for in R.S.54:51A-1.

31 (cf: P.L.1991, c.75, s.30.)

32
33 6. Section 5 of P.L.1971, c.370 (C.54:4-3.3e) is amended to read
34 as follows:

35 5. In the event of any dispute between the owner and the State or
36 State agency, or such authority, as the case may be, in respect to the
37 apportionment and payment of the said taxes or proportion thereof,
38 the [Superior Court] Tax Court shall have jurisdiction to determine
39 the matter in a summary manner on the application of either the owner
40 or of the State, State agency, or authority, as the case may be, and
41 make any order as may be required and appropriate to carry out the
42 court's determination.

43 (cf: P.L.1971, c.370, s.5)

44
45 7. Section 11 of P.L.1941, c.397 (C.54:4-63.11) is amended to
46 read as follows:

1 11. Appeals from added assessments [shall] may be made to the
2 county board of taxation on or before December 1 of the year of levy,
3 or 30 days from the date the collector of the taxing district completes
4 the bulk mailing of tax bills for added assessments, whichever is later,
5 and the county board of taxation shall hear and determine all such
6 appeals within 1 month after the last day for filing such appeals;
7 provided, however, that appeals from added assessments may be made
8 directly to the Tax Court on or before December 1 of the year of levy,
9 or 30 days from the date the collector of the taxing district completes
10 the bulk mailing of tax bills for added assessments, whichever is later,
11 if the aggregate assessed valuation of the property exceeds
12 \$750,000.00. Within ten days of the completion of the bulk mailing
13 of tax bills for added assessments, the collector of the taxing district
14 shall file with the county board of taxation a certification setting forth
15 the date on which the bulk mailing was completed. Appeals to the
16 [tax court] Tax Court from the judgment of the county board of
17 taxation shall be made within 45 days from the date fixed for final
18 decisions by the county board of taxation on appeals from added
19 assessments. In all other respects such appeals shall be governed by
20 the laws concerning appeals from real property assessments.
21 (cf: P.L.1983, c.36, s.18.)

22

23 8. (New section) In the event a county board of taxation cannot
24 hear and determine any one or more appeals from assessor's added
25 assessments within the time prescribed in section 11 of P.L.1941,
26 c.397 (C.54:4-63.11), it may at any time apply to the Director of the
27 Division of Taxation for an extension of the time within which the
28 appeal or appeals may be heard and determined. The application shall
29 be granted upon a showing by the board that the number of appeals
30 before it is disproportionate to the number of members hearing said
31 appeals or that the number of appeals has increased sufficiently to
32 warrant an extension of time or for other good cause shown.

33

34 9. Section 9 of P.L.1968, c.184 (C.54:4-63.39) is amended to read
35 as follows:

36 9. Section 9 of P.L.1968, c.184 (C.54:4-63.39) is amended to read
37 as follows:

38 9. Appeals from assessor's omitted assessments [shall] may be
39 made to the county board of taxation on or before December 1 of the
40 year of levy or 30 days from the date the collector of the taxing district
41 completes the bulk mailing of tax bills for omitted assessments,
42 whichever is later, and the county board shall hear and determine all
43 such appeals within 1 month after the last day for filing such appeals,
44 provided, however, that appeals from assessor's omitted assessments
45 may be made directly to the Tax Court on or before December 1 of the
46 year of levy, or 30 days from the date the collector of the taxing

1 district completes the bulk mailing of tax bills for omitted assessments,
2 whichever is later, if the aggregate assessed valuation of the property
3 exceeds ¹[\$75,000.00] \$750,000.00¹. Within ten days of completion
4 of the bulk mailing of tax bills for omitted assessments, the collector
5 of the taxing district shall file with the county board of taxation a
6 certification setting forth the date on which the bulk mailing was
7 completed. Appeals to the [tax court] Tax Court from the judgment
8 of the county board of taxation shall be made within 45 days from the
9 date fixed for final decisions by the county board of taxation on
10 appeals from assessor's omitted assessments. In all other respects such
11 appeals shall be governed by the laws concerning appeals from real
12 and personal property assessments.

13 (cf: P.L.1983, c.36, s.20)

14

15 10. (New section) In the event a county board of taxation cannot
16 hear and determine any one or more appeals from assessor's omitted
17 assessments within the time prescribed in section 9 of P.L.1968, c.184
18 (C.54:4-63.39), it may at any time apply to the Director of the
19 Division of Taxation for an extension of the time within which the
20 appeal or appeals may be heard and determined. The application shall
21 be granted upon a showing by the board that the number of appeals
22 before it is disproportionate to the number of members hearing said
23 appeals or that the number of appeals has increased sufficiently to
24 warrant an extension of time or for other good cause shown.

25

26 11. 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
31 make a similar claim with respect to their State or States, and
32 investigation discloses a reasonable doubt regarding domicile, the
33 [State Tax Commissioner] Director may, in his discretion, enter into
34 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 tax imposable under chapters
37 thirty-three to thirty-six, inclusive, of Title 54 of the Revised Statutes;
38 provided, that said agreement also fixes the sum acceptable to such
39 other State or States in full settlement of the death taxes imposable by
40 such State or States; and provided further, that said agreement has the
41 approval of [the ordinary of this State] a judge of the Tax Court of
42 New Jersey. If the aggregate amount payable under such agreement
43 to the States involved is less than the maximum sum allowable as a
44 credit to the estate against the Federal estate tax imposed thereon,
45 then the executor, administrator or trustee shall also pay to the [State
46 Tax Commissioner] Director so much of the difference between such

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

11 (cf: P.L.1944, c.220, s.1)

12

13 12. R.S.54:48-1 is amended to read as follows:

14 54:48-1. This subtitle may be cited as the State [Tax] Uniform Tax
15 Procedure Law.

16 (cf: P.L.1983, c.36, s.46)

17

18 13. R.S.54:51A-1 is amended to read as follows.

19 54:51A-1. Review of judgment, action or determination of county
20 board of taxation. a. Any party who is dissatisfied with the judgment,
21 action or determination of the county board of taxation may seek
22 review of that judgment, action or determination in the [tax court]
23 Tax Court by filing a complaint in the [tax court] Tax Court, pursuant
24 to rules of court.

25 b. At the time that a complaint has been filed with the [tax court]
26 Tax Court seeking review of judgment of county tax boards, all taxes
27 or any installments thereof then due and payable for the year for which
28 review is sought must have been paid. [No interest shall be due and
29 payable by the appellant for the period from November 1 of the
30 current tax year to the date of filing the complaint.] Notwithstanding
31 the foregoing, the Tax Court may relax the tax payment requirement
32 and fix such terms of payments as the interests of justice may require.

33 c. If the [tax court] Tax Court shall determine that the appeal to
34 the county board of taxation has been (1) withdrawn at the hearing,
35 or previously thereto in writing by the appellant or his agent; (2)
36 dismissed because of appellant's failure to prosecute the appeal at a
37 hearing called by the county tax board; (3) settled by mutual consent
38 of the taxpayer and assessor of the taxing district, there shall be no
39 review. This provision shall not preclude a review by the [tax court]
40 Tax Court in the event that the appeal was "dismissed without
41 prejudice" by the county board of taxation.

42 (R.S.54:51A-1)

43

44 14. R.S.54:51A-2 is amended to read as follows:

45 54:51A-2. Direct appeal to tax court in certain cases. Where any
46 taxpayer or taxing district shall file a direct appeal to the [tax court]

1 Tax Court pursuant to R.S.54:3-21, a copy of the complaint shall also
2 be filed with the assessor and the clerk of the taxing district, who shall
3 forthwith notify the collector and all other municipal officials as the
4 governing body shall direct of the content thereof. [The tax court
5 may, on or after April 1 next following the filing of the complaint,
6 proceed to hear and determine all issues raised therein.]
7 (cf: R.S.54:51A-2)

8

9 15. R.S.54:51A-3 is amended to read as follows:

10 54:51A-3. Exemption of Class 3B (Farm Qualified) and ¹[Calss]
11 Class¹ 15D, E and F (Exempt Property) from provisions of subsection
12 b. of R.S.54:51A-1. Class 3B (Farm Qualified) and [Class 15] Classes
13 15A, B, C, D, E and F (Exempt Property as defined in R.S.54:4-52)
14 in appeal where a statutory qualification is the subject of the appeal are
15 exempt from those provisions contained in subsection b. of
16 R.S.54:51A-1.

17 (cf: R.S.54:51A-3)

18

19 16. R.S.54:51A-8 is amended to read as follows:

20 54:51A-8. Conclusiveness of judgment; changes in value; effect of
21 revaluation program. Where a [final] judgment not subject to further
22 appeal has been rendered by the [tax court] Tax Court involving real
23 property, the judgment shall be conclusive and binding upon the
24 municipal assessor and the taxing district, parties to the proceeding,
25 for the assessment year and for the 2 assessment years succeeding the
26 assessment year covered by the final judgment, except as to changes
27 in the value of the property occurring after the assessment date.
28 [Where those changes are alleged, the complaint shall specifically set
29 forth the nature of the changes relied upon as the basis for the appeal.
30 However, the] The conclusive and binding effect of the judgment shall
31 terminate with the tax year immediately preceding the year in which a
32 program for a complete revaluation or complete reassessment of all
33 real property within the district has been put into effect. If as of
34 October 1 of the pretax year, the property in question has been the
35 subject of an addition qualifying as an added assessment, a
36 condominium or cooperative conversion, a subdivision or a zoning
37 change, the conclusive and binding effect of such judgment shall
38 terminate with said pretax year.

39 If the assessor increases the assessment or fails to reflect on the tax
40 duplicate a county board of taxation or Tax Court judgment issued
41 prior to the final preparation of the tax duplicate in either of the two
42 years following the year for which the judgment of the Tax Court was
43 rendered and if said judgment is a final judgment not subject to further
44 appeal, the burden of proof is on the taxing district to establish that
45 the assessor acted reasonably in increasing the assessment. If the Tax
46 Court finds that the assessor did not act reasonably in increasing the

1 assessment or failed to reflect said judgment on the tax duplicate, the
2 Tax Court shall award to the taxpayer reasonable counsel fees,
3 appraisal costs and other costs which shall be paid by the taxing
4 district.

5 (cf: R.S.54:51A-8)

6

7 17. R.S.54:51A-9 is amended to read as follows:

8 54:51A-9. Time for taking real property tax cases to tax court.

9 a. Except as otherwise provided in this section, a complaint
10 seeking review of adjudication or judgment of the county board of
11 taxation shall be filed within 45 days of the service of the judgment.

12 b. Direct appeals to the [tax court] Tax Court of assessments of
13 property with an assessed valuation [of property] in excess of
14 \$750,000.00 as provided in R.S.54:3-21 shall be filed on or before
15 [August 15] April 1 of the tax year or 45 days from the date the bulk
16 mailing of notifications of assessment is completed for the taxing
17 district, whichever is later, or with regard to added or omitted
18 assessments, on or before December 1 of the year of levy, or 30 days
19 from the date the collector of the taxing district completes the bulk
20 mailing of tax bills for added assessment or omitted assessments,
21 whichever is later.

22 c. All real property tax cases not provided for herein shall be taken
23 in the manner and time prescribed for such appeals by the rules of the
24 tax court.

25 (cf: R.S.54:51A-9)

26

27 18. The Director of the Division of Taxation is authorized to
28 promulgate any rules or regulations necessary to implement the
29 provisions of P.L. , c. (now pending before the Legislature as this
30 bill.)

31

32 19. Sections 1 and 2 of P.L.1973, c.69 (C.54:3-21.4 and C.54:3-
33 21.5) are repealed.

34

35 20. This act shall take effect immediately.

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38

39

40 Adopts series of amendments dealing with Tax Court proceedings.