

# **BASIC ESTATE ADMINISTRATION**

PRACTICAL SKILLS SERIES

**2011 Edition Written by**

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Both Mr. Vito and the Institute wish to thank the following for their cooperation in facilitating the use of their forms in this handbook:

All-State Legal Supply Company, Cranford  
Bache Halsey Stuart Shields Incorporated, New York City  
Alfred C. Clapp, Esq. \*, Newark  
First National State Bank, Newark  
Internal Revenue Service, Newark  
Midlantic National Bank, Newark  
J. Seymour Montgomery, Esq., Monmouth Junction  
New Jersey Law Journal Publishing Co.  
Allen Pearl, Esq., Livingston  
Surrogate's Office of Essex County  
Surrogate's Office of Union County  
Transfer Inheritance Tax Bureau, Trenton  
Usher Publishing Company, Inc., Trenton  
West Publishing Company, St. Paul, Minnesota

Mr. Vito wishes to thank the following individuals for their time and effort in making this version of the handbook possible:

Kay Klahre Aprea, Esq.  
Karen A. Evans, Esq.  
Ms. Jane McGee  
Ms. Shirley Parrott

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\* deceased

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## **I. Overview of the Estate Administration Process**

The loss of a loved one can be an emotional and sometimes frightening time in a client's life. As attorneys, we help our clients navigate the sometimes complex processes and procedures that come into play when administering a decedent's estate.

Generally speaking, administering a decedent's estate involves the following tasks:

- Obtaining (and possibly correcting) the decedent's death certificate;
- Probating the decedent's will, obtaining Letters Testamentary for the executor and giving notice to heirs;
- Determining what the decedent's assets are, where they are located and what their value was as of the decedent's date of death;
- Opening an account in the name of the decedent's Estate;
- Gathering the assets so that they can be distributed to the decedent's heirs;
- Safeguarding and investing the decedent's assets until the assets can be distributed to the decedent's creditors or heirs;
- Determining the debts and liabilities of the decedent and satisfying these debts;
- Determining if any taxes are owed, preparing and filing tax returns and paying the tax due;
- Providing liquidity in the estate to facilitate the payment of taxes and other liabilities of the estate;
- Determining which assets should be distributed to which heirs (to the extent the decedent did not specifically bequeath his or her assets); and
- Making final distribution of the decedent's assets, obtaining tax clearance from the state and possibly federal taxing authorities, obtaining releases from the beneficiaries and closing the estate.

Depending on the size and complexity of the decedent's estate, each of the above tasks can range from straight forward to incredibly complex and time consuming.

### **A. The Initial Call from the Client**

Everyone handles the loss of a loved one or family member in a different way. Some clients are unable to cope with very basic tasks such as paying bills or making relatively simple decisions. Other clients focus on the various tasks that need to be accomplished when someone dies as a way of coping with their grief. They plan the funeral, write the obituary, clean out the decedent's closet and donate the clothes, remove the decedent's name from the joint checking account, etc. Some clients call the attorney before calling the members of the decedent's extended family. Some clients do not call the attorney for weeks or even months.

Whether the client called you a few days after the decedent's death or several

weeks later, it is important to remember that this is an emotional, confusing and sometimes frightening time for the client. Therefore one of the main goals of the initial meeting should be to put the client at ease and let them know that you are there to help them through this difficult time.

Of course you will also need to gather some information so that you can prepare the documents necessary to probate the will and establish the estate account, as well as prepare the notices to the heirs (for starters). If you handled the decedent's estate planning, then you probably have much of the basic information about the decedent and his or her family that you need to start the process of administering the estate, such as the decedent's legal name, date of birth, social security number, address, names of his or her spouse or civil union partner, and children, etc. However, whether or not the decedent was an estate planning client of yours, there will be additional information that you require.

In order to have a productive initial meeting, it is often a good idea for the client to prepare a schedule of assets in advance to make sure nothing is missed. An estate administration questionnaire or checklist (such as the checklist that can be found in Exhibit 1) is also helpful (depending on the sophistication of the client and/or estate). This checklist helps the client to gather much (but not all) of the information that will be needed throughout the estate administration process. The first 4 pages ask for information that the client can provide. The last 5 pages (beginning with "Agenda and Reminder") are designed as a checklist to help the attorney through the administration of the estate.

Remember, however, that many times a client at this point in the process may quickly become overwhelmed with too much paperwork. Some attorneys do not like to send the checklist to the client ahead of the initial meeting, but rather prefer to go through the checklist at the initial meeting with the client. Others prefer not to use a checklist; an attorney or a paralegal will go through each asset with the client individually. This arrangement allows for the most attention to detail, though it can be expensive (a skilled paralegal can provide considerable value to the client in this regard).

Just as everyone grieves in a different way, clients have different views as to what they are and are not willing to pay for. Some clients would not be happy to pay an attorney or a paralegal to perform "non-legal" tasks that they view themselves as perfectly capable of performing. Other clients may not be so concerned with the amount of the legal bill, but rather value the peace of mind that comes from knowing that someone is handling every detail. The best course of action is to let the client decide how to proceed.

When the client calls to inform you of the decedent's death and schedule the initial meeting, he or she should bring an original death certificate, as well as the original will with them to the meeting (assuming the original will is not being stored in your firm's vault). The initial meeting will probably take about 2 hours (it could easily be longer, but you don't want to overwhelm the client with a 3 to 4 hour initial meeting). It is a good idea to offer to send a checklist or other organizer ahead of the meeting that will

help them begin to compile the information in advance.

## **B. The Initial Meeting**

At the initial meeting, your task will be to obtain the information required to:

- Prepare the probate documents;
- Prepare the notices of probate;
- Determine if there are any corrections that need to be made to the death certificate;
- Obtain a tax identification number for the Estate;
- Prepare the documents necessary to open an estate account;
- Estimate the size of the decedent's estate and thereby determine (1) if a New Jersey or federal estate tax return is required to be filed and (2) estimate the amount of New Jersey and federal estate tax, if any, will be due;
- Determine whether, due to the character of the decedent's assets, there is likely to be a liquidity problem (i.e. the estate may not have enough liquid assets to pay any tax liability); and
- Begin to outline other potential issues that may come up during the course of the estate administration.

After you have gathered the information you will need to begin the estate administration process, you will also want to give the client an idea of what to expect. Administering an estate can take from several years depending on the size and nature of the assets and the complexity of the decedent's affairs.

For example, if the estate is \$500,000 and is comprised of the decedent's house, an investment account, the decedent's car and household furnishings and other items of tangible personal property, and the decedent did not make taxable gifts during his or her lifetime, then the estate should be relatively straight forward as (1) a New Jersey estate tax return is not required (an inheritance return may or may not be required depending on who the decedent's assets pass to under his or her will), (2) a federal estate tax return is not required, (3) there is no New Jersey or federal estate tax due, and (4) the decedent's assets are few in number and relatively common.

However, if the decedent's estate is \$7,000,000 and consists of the decedent's house, several investment accounts, the decedent's car and an extensive collection of beer cans, a closely held business and a promissory note, then the estate will take longer to administer as New Jersey and federal estate tax returns will be required (and possibly a New Jersey inheritance return), New Jersey and federal estate tax may be due, and there may be potentially complex issue regarding the date of death values for the beer can collection, promissory note and closely held business.

### **C. The Three Phases of Estate Administration**

The estate administration can be broken down into three “phases.”

#### **1. Phase One: Probating the Will, Valuing the Assets and Making a Plan**

The first part of the estate administration process consists of gathering information, probating the will, notifying the heirs, qualifying the executor, determining and valuing the decedent’s assets, estimating the tax liability, and formulating a plan for providing enough liquidity to pay any taxes due. This process usually occurs in the first 3 to 7 months after the decedent’s death.

#### **2. Phase Two: Preparing the Tax Returns**

The second part of the estate administration process consists of preparing and filing the death tax returns. The New Jersey inheritance tax return is due 8 months after the decedent’s date of death. The New Jersey estate tax return, as well as the federal estate tax return, is due 9 months after date of death. Once the will has been probated, the executor has been appointed and the estate account has been opened, your focus will turn to gather the information necessary to preparer the tax returns that will be due. This will generally be where you spend the bulk of your time during months 6 to 9.

#### **3. Phase Three: Distributing and Closing the Estate**

Once the death tax returns have been filed and the inheritance and estate taxes have been paid, it may be time to make a partial distribution to the beneficiaries. After you have received the closing letters from the taxing authorities, it will be time to prepare an accounting for the estate (formal or informal), have the beneficiaries release the executor, distribute the remaining assets and close the estate. It can take 6 months to a year for the taxing authorities to issue a closing letter (assuming they do not audit the estate) and, therefore, there is likely to be a period of relative inactivity until the closing letter is received. Once the closing letters have been received, the estate can begin the wind-up process.

### **D. Terms and Definitions**

There are many terms that are unique to estate administration. Therefore, I will set forth some of those terms (and their definitions) here as they will be used throughout the text. It will be worthwhile for you to take a few minutes and read through these terms.

#### **1. Administration**

The process of marshalling all the decedent’s assets, paying all of the decedent’s debt and distributing the remaining assets to the decedent’s heirs or next-of-kin.

**2. Administrator / Administratrix**

The Administrator is the person who has the responsibility of administering the decedent's estate when the decedent dies without a will. Sometimes if the administrator is a woman, she is referred to as the Administratrix; however, the term Administrator can be used for either a man or woman.

**3. Alternate Valuation Date**

The executor may, by an election duly made, have property included in the gross estate valued as of the date six months after the date of the decedent's death. This date is known as the alternate valuation date.

**4. Beneficiary**

A beneficiary is someone who inherits assets from the decedent upon the decedent's death, whether under the terms of the decedent's will, through intestacy, through operation of law or under the terms of a contract.

**5. Civil Union**

A civil union is a legal union between two persons of the same sex, who are both over the age of 18 (except in limited circumstances) where neither of the parties to the union is a party to another civil union, domestic partnership or marriage in the state of New Jersey. N.J. Stat. Ann. §37:1-30

**6. Civil Union Partner**

A person who is in a relationship that satisfies the definition of a civil union under N.J. Stat. Ann. §37:1-30. Under New Jersey law civil union partners are afforded the same rights and benefits as spouses.

**7. Codicil**

A codicil is a will that does not provide for a complete disposition of the decedent's estate. Codicils are almost always used to amend to an existing will. To be valid, a codicil must be executed with the same formalities as a will.

**8. Domestic Partner**

A person who is in a relationship that satisfies the definition of a domestic partnership under the Domestic Partnership Act N.J. Stat. Ann. §26:8A-1 et al.

## **9. Domestic Partnership**

After July 10, 2004, but prior to February 19, 2007, a Domestic Partnership could be entered into by two persons of the same sex (in addition to persons who were each 62 years of age). After February 19, 2007, (date the civil union act became effective) a Domestic Partnership is limited to two people who are each 62 years of age.

For a Domestic Partnership to be created (1) both persons have a common residence and are otherwise jointly responsible for each other's common welfare as evidenced by joint financial arrangements or joint ownership of real or personal property, (2) both persons agree to be jointly responsible for each other's basic living expenses during the domestic partnership; (3) neither person is in a marriage recognized by New Jersey law or a member of another domestic partnership; (4) neither person is related to the other by blood or affinity up to and including the fourth degree of consanguinity; (5) both persons have chosen to share each other's lives in a committed relationship of mutual caring; (6) both persons are at least 18 years of age; (7) both persons file jointly an Affidavit of Domestic Partnership; and (8) neither person has been a partner in a domestic partnership that was terminated less than 180 days prior to the filing of the current Affidavit of Domestic Partnership (except in the case where one of the partners died).

## **10. Executor / Executrix**

The executor is the person who is named by the decedent (in the decedent's will) who has the responsibility of administering the decedent's estate according to the term of the decedent's will. Sometimes if the executor is a woman, she is referred to as the executrix; however, the term executor can be used for either a man or woman. The term "personal representative" can also be used to refer to an executor.

## **11. Heirs at Law**

These are the persons who inherit the decedent's probate assets if the decedent died without executing a valid will.

## **12. Intestate**

The decedent died without executing a valid will.

## **13. Letters Administration**

The Letters Administration are issued by the court to the person who is entitled to administer the decedent's estate when the decedent died without executing a valid will.

## **14. Letters Testamentary**

The Letters Testamentary are issued by the court and provide the executor with the authority to administer the decedent's estate, as well as transfer title to the decedent's assets. The executor will usually be required to provide a copy of the Letters Testamentary before a third party (such as a bank or brokerage house) will recognize the

executor's authority over the decedent's assets. The copy provide by the court for this purpose is referred to as a "Short Certificate" or a "Certified Copy of Letters Testamentary" depending on the county. Many practitioners simply refer to either as "Surrogate's certificates."

### **15. Next of Kin**

Another name for the persons who inherit the decedent's probate assets if the decedent died without executing a valid will.

### **16. Per Capita**

If the will requires property to be distributed "per capita," the property is divided to provide equal shares for each of the takers, without regard to their shares or the right of representation. For example, "to my descendants, per capita" would mean each living child and grandchild (or more remote descendant) would receive an equal share.

### **17. Per Stirpes**

If a will requires property to be distributed "per stirpes," the property is divided into as many equal shares as there are: (1) surviving children of the designated ancestor; and (2) deceased children who left surviving descendants. Each surviving child is allocated one share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants. For example if the decedent had 3 living children (each with one child) and 1 deceased child (with 2 living children) then "to my descendants, per stirpes" would mean that the decedent's estate would be divided into four shares and each living child would receive one share (25%) and the children of the deceased child would share one share (i.e. 1/2 share each or 12.5% each).

### **18. Probate versus Non-Probate Assets**

Probate assets are assets that pass under the terms of the decedent's will and are therefore subject to the probate process. Assets that are held in the decedent's name alone are usually (though not always) probate assets. Non-probate assets are assets that pass either by operation of law or contract and are therefore not subject to the probate process. Examples of non-probate assets include assets that are titled jointly with rights of survivorship (i.e. the asset passes to the joint tenant immediately upon the decedent's death) and assets that are governed by a beneficiary designation form that names someone other than the decedent's estate as the beneficiary (such as life insurance and individual retirement accounts).

## **19. Representation**

If a will requires property to be distributed "by representation" or "per capita at each generation," the property is divided into as many equal shares as there are: (1) surviving descendants in the generation nearest to the designated ancestor which contains one or more surviving descendants; and (2) deceased descendants in the same generation who left surviving descendants, if any. Each surviving descendant in the nearest generation is allocated one share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants, as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the designated ancestor. For example if the decedent had 3 living children (each with one child) and 1 deceased child (with 2 living children) then "to my descendants, by representation" would mean that the decedent's estate would be divided into five shares and each living child would receive one share (20%) and the children of the deceased child would each receive one share (20%).

## **20. Tangible Personal Property**

Tangible personal property is property other than real property, cash or securities (i.e. stocks and bonds). Generally speaking, tangible personal property includes automobiles, clothing, jewelry, furniture and other household items, art, stamp collections, etc.

## **21. Tax Returns**

Generally, there are 5 tax returns that may be due with respect to an estate:\*

1. the decedent's last personal income tax return (i.e. the decedent's final 1040)
2. the estate's income tax return (form 1041)
3. the New Jersey estate tax return
4. the New Jersey Inheritance tax return
5. the federal estate tax return (form 706)

If the decedent owned property in a state other than New Jersey, it is possible that an estate or inheritance tax return may need to be filed in that state as well.

## **22. Testator / Testatrix**

The testator is the person who executed the will. Sometimes if the person is a woman, she is referred to as the testatrix; however, the term testator can be used for either a man or woman.

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\* Special rules apply for decedents dying in 2010, and these estates may require additional returns and/or elections.



## **II. Pre-Probate Procedures**

The first portion of work on an estate will be to get the will probated, have Letters Testamentary issued to the executor and send notices of probate to the beneficiaries and heirs at law. However there are several other practical matters that also take place during the “per-probate” period – i.e. before the will is probated and Letters Testamentary have been issued to the executor.

### **A. Safe Deposit Box**

If the decedent had a safe deposit box, it will be important for the executor to have access to the contents of the box as it is likely that the original will may be located in the safe deposit box, as well as other important documents that will be necessary for the estate administration process.

If a box contains a will, the individual named as executor under that will, can remove the will from the box. This will allow the will to be probated so that Letters Testamentary can be issued to the executor; however, getting access to the box in these circumstances requires a court filing. To avoid this expense and delay, a testator should never keep his or her will in a safe deposit box unless a trusted relative or friend also has access to that box.

If a safe deposit box is in the sole name of a decedent, the executor of the estate has immediate access to the box once they provide Letters Testamentary. If the box is in joint names, the executor and the joint registrant on the box would have access to it.

### **B. Death Certificate**

The death certificate should be obtained from the municipality in which the decedent died (and not from the municipality of the decedent’s last place of residence). Usually the undertaker will forward several copies of the death certificate to the surviving spouse or other family member with the funeral bill. Exhibit 3 is a sample death certificate.

The attorney will need one copy of the death certificate to probate the will. It is also necessary to have a copy for every joint asset in the name of the decedent and another for each policy of insurance on the life of the decedent.

The death certificate should be reviewed by the client and the attorney for the estate. More often than you would think, clerical errors are made regarding the date of death, the date of decedent’s birth, decedent’s social security number, etc. If there are errors in the death certificate, they can be corrected. In order to correct a death certificate, the municipality will usually require that the person who originally furnished the information (this is often the funeral home director) to fill out a new form. The municipality will then issue an amended death certificate.

### **C. Life Insurance Policies**

Life insurance is a non-probate asset (i.e. it passes to the beneficiary outside of the probate process). Therefore, it is not technically the executor's responsibility to notify the life insurance company of the decedent's death (unless the policy is made payable to the decedent's estate), rather this is the beneficiary of the policy's responsibility as the proceeds of a life insurance policy are paid directly to the named beneficiary upon the death of the insured.

Generally, insurance policies payable to a beneficiary other than the estate are not taxable under the New Jersey Transfer Inheritance Tax Law. However, because the proceeds of the life insurance policy will be includible in the decedent's estate for estate tax purposes, the executor will need certain information about the policy in order to prepare the estate tax returns. This information is found on an IRS Form 712 which is produced by the company that issued the policy. The Form 712 must be attached as an Exhibit to the estate tax return. Exhibit 2 is a sample Form 712 where the decedent is the insured in the policy.

Because the executor will need to contact the life insurance company in order to procure a Form 712, it is not unusual for the executor to also coordinate the payment of the life insurance policy proceeds to the beneficiary.

### **D. Non-Probate Estates**

Certain estates do not require probate. For example, all of the decedent's assets may have been titled jointly with rights of survivorship (real estate, bank accounts, etc.) or may have been governed by a beneficiary designation form (life insurance, IRAs, etc.). In that type of situation, there would be no assets requiring administration as all of the assets are non-probate assets.

Generally, though, there will be some assets that require appointment of either an executor (in situations where the decedent left a will) or an administrator (in situations where the decedent died without a will). There may be, for example, a car in the name of the decedent or an uncashed Social Security check or a checking account in the sole name of the decedent. At the very least the decedent most likely owned some clothing, furniture or other tangible personal property in his or her individual name.

### **III. Probate**

It is necessary at the outset to attend to certain items which are prerequisites for probating the will.

1. Determining the requirements of the Surrogate Court;
2. Check the death certificate and determine if it must be amended or supplemented;
3. Check as to sufficiency of execution of the will and if necessary, arrange for a witness to the will to be present;
4. List all next-of-kin of the decedent with names and addresses and ages; and
5. List all assets of the decedent (this will help determine the number of certificates to request from the probate clerk).

This section of the text will discuss the above in detail.

#### **A. The Surrogate's Court**

The Surrogate's Court is a court of limited jurisdiction. It deals with wills, administration, guardianships, and trusteeships. N.J.Ct.R. 4:80 and N.J.Ct.R. 4:81 deal with the routine matters typically handled by the Surrogate's Court. A will is submitted to probate with the Surrogate's Court of the county where the decedent resided at the time of his death.

Each county has its own particular procedures regarding the probate of a will and issuance of Letters Testamentary, although most are similar. Most of the Surrogate courts now have websites that provide a lot of useful information, including forms. As procedures vary in certain instances, it is advisable to check with the Surrogate in advance. For example, some counties accept a simple fact sheet which lists the names, addresses, etc. of the next of kin, approximate value of decedent's assets, etc. Other counties require pleadings be submitted before they will issue Letters Testamentary. N.J.Ct.R. 4:80-1.

#### **B. Probate of a Will**

Probate of a will cannot occur until ten days after the death of the Testator, but the application to probate the will may be filed at any time after death. N.J. Stat. Ann. §3B:3-22.

Probate of a will may be accomplished in one of two ways: (1) the executor appears in Surrogate's Court without notice to anyone (wills are generally admitted to probate through this method); or (2) by the Superior Court on notice being given to all parties beneficially interested in the probate. Upon application, a date is fixed for a hearing to receive testimony and other evidence with respect to whether the will should be admitted to probate.

Generally speaking, the probate of a will and the issuance of Letters Testamentary

is rather straight forward; however, there are certain circumstances that can complicate the matter. For example, if the will was not validly executed or if the person named in the will as executor is unable to serve (for example, he predeceased the testator). Below are the steps necessary to probate a will and have Letters Testamentary issued by the Surrogate Court. Some of the complications that may arise during this process will be addressed elsewhere in the text.

## **1. Documents Necessary for Probate**

The following items will be necessary in order to probate the will and have Letters Testamentary issued to the executor:

1. Death Certificate
2. Original will
3. Probate Information Sheet or probate application
4. Surrogate's fee and, if necessary, bond

### **a. Death Certificate**

As noted above, the death certificate should be reviewed to make sure it is accurate. If the decedent lived in a nursing home, assisted living facility or rehabilitative facility, care should be taken to determine exactly where the decedent's residence was at the time of death, (i.e. whether he still resided at his personal residence or if he was actually living full time at the nursing facility). This is especially important if the nursing or assisted living facility is located in a county (or state) different from the county (or state) in which decedent's personal residence is located as a will is submitted to probate with the Surrogate's Court of the county where the decedent resided at the time of his death.

## **2. Is the Will valid and self proving?**

The will must be reviewed to make sure it actually is a valid will before it can be submitted to probate. In order for a document to qualify as a will, it must be (1) in writing; (2) signed by the testator or by another individual in the testator's conscious presence and at the testator's direction; and (3) signed by at least two individuals within a reasonable time after each witnessed the signing of the will (or the testator's acknowledgement of the will). N.J. Stat. Ann. §3B:3-2.

If a document does not comply with the formal execution requirements of a will, perhaps because it was only witnessed by one person and not two, the document will still serve to govern the disposition of the decedent's assets if it is a "writing intended as a will," however the Surrogate court will no longer have jurisdiction. N.J. Stat. Ann. §3B:3-2(b); §3B:3-3; §3B:3-9; N.J.Ct.R. 4:84-2. Instead a complaint must be filed with the Superior Court.

Under N.J. Stat. Ann. §3B:3-4, a will can be "self-proved" at the time of

execution. If this is the case, the witnesses will not have to appear at the probate of the will. When probating a self-proving will, the Surrogate will issue a Certificate as to Self Proof will upon his or her determination that the will is valid. See Exhibit 11 for a sample.

In order for a will to be self-proving, it must be executed on or after September 1, 1978 and must include a self-proving affidavit clause. The testator and the witnesses must sign the document stating that the testator declares the document to be his Last Will and Testament, that he signed it willingly, that he executed as his free and voluntary act for purposes expressed therein, that he was 18 years of age or older of sound mind and under no constraint or undue influence. N.J. Stat. Ann. §3B:3-4.

In addition to the testator signing a statement to that effect, the witnesses must sign a statement saying that they have signed their name to the will and acknowledge that the testator signed and executed the instrument in their presence as his Last Will and Testament, that he signed it willingly and that while in the presence and hearing of testator, other witnesses saw the testator signing and to the best of their knowledge the testator was over 18 years of age, of sound mind and under no constraint or undue influence. The testator and the witnesses (at least two) will sign such a statement in front of a notary and the notary will notarize same. N.J. Stat. Ann. §3B:3-4.

A will may also be self-proved subsequent to the time of execution. If the will is otherwise validly executed, subsequent to the execution of the will, the testator may appear before two witnesses and a notary and state that he signed and executed the instrument as his Last Will and Testament, that he signed it willingly, that he executed it as his free and voluntary act for the purposes expressed therein and that he is 18 years of age or older, of sound mind and under no constraint or undue influence at the time he signed the will. If the will is made self-proving after the execution of same, the witnesses will then sign the document stating that the testator appeared before them and in their sight and hearing, made the above statements and that to the best of their knowledge the testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence. Again, the testator and the witnesses would sign the self-proving affidavit in front of a notary and the notary will notarize same. N.J. Stat. Ann. §3B:3-5.

If the will is not self-proved in the above manner, at least one of the witnesses to the will must appear at the probate of the will to “prove the will.” County practice varies, but generally at least one of the witnesses must execute a “witness proof” attesting to his or her signature as a witness to the testator’s signature. See Exhibit 10 for a sample.

### **3. Probate Information Sheet or Probate Application**

N.J.Ct.R. 4:80-1(a) sets forth the following items which must be included in a probate action which is filed with the Surrogate's Court:

1. Applicant's residence;

2. Name and date of death of decedent, domicile at time of death, and date of will, if any;
3. Names and address of the decedent's spouse, if any, of the decedent's heir's, next-of-kin and other persons entitled to letters and their relationships to the decedent; and
4. Ages of any minor heirs or minor next-of-kin and, in an application for probate of a will, whether the testator had issue living when the will was made, whether he left any child born thereafter or any issue of such after-born child, whether he left any child adopted thereafter, or any issue of such adopted child, and the names of after-born children and children adopted since the date of the will or their issue, if any.

Depending on the procedures of the particular Surrogate's court, the above information will be set forth in a probate information sheet (Exhibit 4) or in a probate application (i.e. a complaint filed with the Surrogate's court – Exhibit 5). In all applications where a bond is required of the person applying for letters, an affidavit of the value of the estate must also be filed with the Application.

The executor must make a diligent inquiry to identify and locate the decedent's heirs at law and next-of-kin. The actions taken in connection with this "diligent inquiry" must have some reasonable likelihood of finding the individuals and must be reasonable in cost with the amount of the distribution involved. N.J. Stat. Ann. §3B:5-5.1.

#### **4. Surrogate's Fee and Bond**

In order to determine the bond associated with probating the will, it is necessary to calculate the value of assets coming into the hands of the executor. This includes assets titled in the decedent's name alone (i.e. not jointly held assets) and does not include non-probate assets such as assets titled in the decedent's name alone that are governed by a beneficiary designation form such as life insurance retirement plans, etc. Additionally, this excludes real property that is located outside the State of New Jersey.

Depending on the type of administration that is being applied for, the fees will vary. You should consult the statutes to determine the total amount of the fees that will be required to be submitted to the Surrogate with your application. N.J. Stat. Ann. §22A:2-30. Additionally, the Surrogate might have a current fee schedule available online. In either case, once you have calculated the fee, it is a good idea to call the Surrogate and confirm that there are not additional fees that are required.

Generally a surety bond is required to ensure the executor properly administers the estate unless such requirement is waived by the provisions of the will. N.J. Stat. Ann. §3B:15-1. If a bond is required it is only required on the value of the estate that comes into the hands of the executor (see above).

## **5. Letters Testamentary**

When the will is probated, the Surrogate's Court will issue Letters Testamentary to the named executor.

### **a. Power of Attorney**

Before an executor can perform his duties, he must execute a Power of Attorney in favor of the Surrogate empowering the Surrogate to accept service of process in any cause in which the executor, in his capacity as such, is a party. If someone sues the estate and personal service upon the executor cannot be effected, service of process may be made upon the Surrogate. The Surrogate then mails a copy of the process to the executor at the address given in the Power of Attorney. Exhibit 6 and 7 are sample powers of attorney when the executor is an individual and corporate entity, respectively.

### **b. Affidavit of Qualification**

The executor, whether an individual or a corporation, must sign an affidavit of qualification to the effect that he/she or it will administer the estate according to law. Exhibits 8 and 9 are sample affidavits of qualification for individual and corporate executors, respectively.

### **c. Fees**

Generally, a certified copy of Letters Testamentary as provided by the Surrogate's Court will be required to be submitted in connection with transferring title to each of the decedent's assets. Therefore, the number of Letters Testamentary required should be determined and the appropriate number should be requested at the time the will is submitted for probate. The fee for duplicate Letters Testamentary is \$5.00 per certificate. N.J. Stat. Ann. §22A:2-30. Since it is a nominal fee, it is simpler to request a sufficient number of short certificates or certified copies of Letters Testamentary (even perhaps a few extra) at the outset of the administration as opposed to having to request duplicates at a later date. As a rule of thumb, it is a good idea to order 10 to 15 copies.

## **C. Unusual Circumstances**

### **1. Will is Not Self-Proving**

If the will is not self-proved (as described above), at least one of the witnesses to the will must appear at the probate. N.J. Stat. Ann. §3B:3-19.

If the only witness available to prove such will is a non-resident of New Jersey, then the witness's deposition may be taken instead of the witness appearing before the Surrogate Court in person. The Surrogate's Court should be contacted to ascertain their procedure. Many Surrogate's Courts have satellite offices throughout the State of New Jersey. If the witness resides in a neighboring state, it may be convenient for the witness

to appear at one of the satellite offices to prove the will. It should be noted that many of these satellite offices only are available one day per month and usually for a limited time, perhaps a window of two to four hours. If the witness cannot appear at a satellite office or the Surrogate's Court at issue does not have satellite offices, it may be possible for the witnesses to appear at a Surrogate's Court of another county.

However, it may be not possible for the witness to appear in the State of New Jersey at all. If this is the case, again the Surrogate's Court should be contacted to determine their procedure. Generally, all the probate papers should be compiled and submitted to the Surrogate at which time the Surrogate will forward the necessary paper work to the witness in order to self-prove the will. Such paper work would contain instructions for how the witness's deposition must be taken. For example, it might be sufficient for the witness to appear before a notary; however, some Surrogates will require that the witness appear before a Surrogate's Court of their state of residence in order for their deposition to be taken. A deposition in this case simply refers to a sworn statement by the witness that he was present at the signing of testator's will and an acknowledgment that the signature on the will is actually his signature and that he did witness the testator's execution of same.

If both witnesses to the will are deceased, cannot be located or cannot be ascertained (usually because his or her name has not been typewritten on the will), then it is necessary to prove the will in some other way. If the identity of the witnesses can be determined (but perhaps not found), then it may be possible to find someone who can acknowledge that that signature is in fact the signature of the witness. For example, if the witness is deceased but is survived by children, the children may be able to testify that the signature on the will is in fact the signature of their deceased parent and may even be able to offer another sample of the signature as further proof of same. See Exhibits 12 and 13 for samples.

Additionally, oftentimes there may be more than the necessary persons at the signing of the will. For example, in order to have a will validly executed you need the testator, two witnesses and a notary. It is not unusual for an attorney to be part of a will execution and yet simply oversee the process. Therefore, at the time that the testator signed his will, the persons present would have been the testator, two witnesses, a notary and the attorney. If the two witnesses cannot be located or are deceased, the attorney might be able to attest as to the witnesses' signature, especially if the witnesses are former employees of the attorney (perhaps a secretary or paralegal). It is also possible that the notary might be able to attest to the signature of the witnesses. Again, this would most likely be the case if the notary was an employee of the attorney as was at least one of the witnesses.

If the witnesses have died, it would be necessary to submit a certified copy of the witness's death certificate to prove same. However, there may be circumstances in which a certified copy of the witness's death certificate is not available. For example, the witness may have died outside of the country and the process for obtaining a certified copy of said death certificate would perhaps be restricted only to family members or



would just simply be too lengthy of a process. If this is the case, then an affidavit should be submitted by someone who can testify that the witnesses are in fact dead.

As stated above, oftentimes wills are executed in the attorney's office and therefore the witnesses and the notary are all employees of the attorney. If this is the case, the attorney or someone else in the office may be able to testify as to whether or not the witnesses have indeed passed away. Similarly, if the will was executed at the client's home oftentimes neighbors or family members (generally those who do not take under the will) will serve as witnesses and the attorney may have served as the notary. If this is the case, the decedent's children might know whether or not the witnesses are alive and can testify to same. It would be even better if you could get a member of the witness's family to testify, perhaps their children are still in contact with the decedent's children and therefore their affidavits can be procured regarding same. If this is the case, they may even have a copy of their parents' death certificate available.

## **2. Determining and Locating Next-of-Kin is Difficult**

The particular steps that should be taken when trying to ascertain who the decedent's next-of-kin are will vary with each case. However, some of the following steps should be attempted:

1. Review death certificate for helpful clues - mother's maiden name, the name and relationship of the informant, the residence of the decedent's place of residence at the time of his death, his place of birth, etc.
2. Write letters to cemeteries near where the decedent lived or the decedent's parents lived informing them of the decedent's passing and inquiring if they have any information regarding the decedent's family;
3. Call funeral directors in the area and ask similar information;
4. Call or write letters to people listed in the phone book with the same or similar names as the decedent;
5. Put an add or notice in local papers;
6. Call consulates;
7. Look through decedent's phone book or address book for clues;
8. Look at holiday or birthday cards that arrive for decedent either just prior to or after this death;
9. Search through decedent's papers and correspondence to see if any information can be obtained;
10. If decedent's high school or college or even grade school yearbooks are available you can look through those to see if there is any information regarding decedent's friends or family and then they can be contacted to see if they have information; and/or
11. Call decedent's former schools and/or employers to determine if they have any information regarding decedent's family such as contact in case of emergency persons, etc.

Additionally the internet is a great source of information. You may try googling

decedent's name at [www.google.com](http://www.google.com), and try similar searches on other internet search engines such as yahoo ([www.yahoo.com](http://www.yahoo.com)). Additionally, you can check the Social Security Administration website at [www.socialsecurity.gov](http://www.socialsecurity.gov) for records of death. You can try the next-of-kin registry which lists emergency information in the hopes that some of the decedent's relatives have listed themselves. The registry is located at [www.nokr.org/nok/restricted/home.htm](http://www.nokr.org/nok/restricted/home.htm). Finally, there are companies that specialize in finding heirs for a fee.

### **3. Named Executor Cannot or Does Not Wish to Serve**

If a will is properly drafted, the document will appoint at least one person to serve as the executor of the decedent's estate, and more often than not will also appoint at least one successor executor. If the named executor does not wish to serve, then a renunciation must be filed with the court and the successor executor, if any, must apply for Letters Testamentary.

The renunciation should be captioned In the Matter of the Estate of \_\_\_\_\_ (name of decedent) and should set forth general information such as decedent's name, date of decedent's death, date of will, the fact that a particular person was named as the executor, the fact that that person does not wish to serve and who is named as substituted executor under the terms of the will. The document should be signed and notarized and submitted to the Surrogate with the other probate papers. See Exhibit 64A for a sample renunciation.

#### **D. Judgment of Probate**

Once the Surrogate's Court has reviewed all the information submitted with the application for probate, it will enter a judgment of probate and issue Letters Testamentary to the executor if it is satisfied that the will submitted is the will of the decedent. See Exhibits 14 and 15 for samples. If the court is not satisfied, it will either enter a judgment denying probate (Exhibit 16) or enter a judgment stating there are doubts on the face of the will (Exhibit 17). If there are doubts on the face of the will, the Surrogate's Court no longer has jurisdiction and an application must be made to the Superior Court.

#### **E. Notice of Probate**

Once the will has been probated, notices of probate must be mailed to all the beneficiaries under the will as well as next-of-kin, spouse or civil union partner and heirs. N.J.Ct.R. 4:80-6, N.J.Ct.R. 4:80-1(a)(3). See Exhibit 74 for a sample. The notice of probate must be filed within sixty (60) days after the date of the probate of the will. N.J.Ct.R. 4:80-6. It should be mailed to the beneficiaries, spouse or civil union partner, next-of-kin and heirs at their last known address and shall include the following information:

1. A statement that the will has been probated;
2. The place (i.e. Surrogate Court ) where the will was probated;

3. The date of probate;
4. The name and addresses of the executor(s); and
5. A statement that a copy of the will shall be furnished upon request.

The notice need not enclose the will but must contain a statement that a copy of the will shall be furnished upon request. Consider sending an excerpted copy from the will containing the relevant bequest with each notice while stating that a full copy is available upon request.

Once the notice of probate is mailed, proof of mailing must be filed with the Surrogate within 10 days. N.J.Ct.R. 4:80-6. See Exhibit 75 for a sample. Furthermore, if the names or addresses of any parties are not known, or cannot be determined then a notice of probate of the will is to be published in a newspaper in the county identifying those persons having a possible interest in the probate estate. If, under the will, property is given to a charity, a similar notice and a copy of the will should be sent to the Attorney General's Office.

#### **F. When the Surrogate's Court May Not Act**

The Surrogate may not act when (1) a caveat is filed before entry of judgment; (2) a doubt arises on the face of the will (erasures, etc.) or a copy (as opposed to the original) of the will is presented; (3) the application is to admit to probate a writing intended as a will defined in N.J. Stat. Ann. §3B:3-2(b) or 3B:3-3; (4) the application is to appoint an administrator pendente lite or other limited administrator; (5) a dispute arises as to any matter; or (6) the Surrogate certifies the case to be one of doubt or difficulty. N.J.Ct.R. 4:82. When the Surrogate determines that the face of the will causes doubts, the Surrogate would enter a Judgment to that effect (see Exhibit 17 for a sample).

When the Surrogate may not act, any party in interest may apply to the court for issuance of an order directing all other persons in interest to show cause why the relief sought should not be granted. All such matters are heard de novo and if a will is involved it must be proved.

Unless otherwise specified, all actions in the Superior Court, Chancery Division, Probate Part are brought by Complaint and Order to Show Cause. N.J.Ct.R. 4:83. All papers are filed with the Surrogate in the county of venue. In such an instance, the Surrogate acts as the deputy clerk of the Superior Court, Chancery Division, Probate Part.

#### **1. Caveat**

There are two ways to attack a will: (1) a caveat entered before a judgment of probate or (2) an Order to Show Cause obtained after a judgment of probate has been granted.

If a caveat is filed, the Surrogate may not proceed with the probate of a will. A caveat is simply a notice which serves to preclude the entry of a judgment of probate until a hearing has been held regarding the validity of the instrument. See Exhibit 66 for an

example. The caveat does not commence the proceeding nor does it state the grounds for the attack. It is not even served. The caveator simply files the caveat with the Surrogate and by doing so, prevents the Surrogate from admitting the instrument in question to probate.

Only persons injured financially by a judgment granting probate can file a caveat. Thus, anyone who would inherit in the event of intestacy can file a caveat to a will. Similarly, a beneficiary under a prior will would have standing to file a caveat.

Before filing a caveat to a will, it might be wise to check the terms of the instrument to see whether there is a "forfeiture" provision in the will. Exhibit 67 is a sample clause which could be included in a will to prevent will contests. Under prior law, such forfeiture provisions were generally enforceable. N.J. Stat. Ann. §3B:3-47, however, provides that such provisions are unenforceable if "probable cause" exists for instituting proceedings.

Once the caveat is on file, the Surrogate can no longer act and one of the parties must bring the matter to a head by seeking relief from the Superior Court, Chancery Division, Probate Part. Either the caveator or the proponent of the will should then file a Complaint and obtain an Order to Show Cause why probate should or should not be granted for the instrument. This Order to Show cause is obtained ex parte. Exhibit 68 is a sample order to show cause directing a caveator to show cause why a will should not be probated and Exhibit 69 is an order to show cause directing the proponent of the will to show cause why a judgment admitting a will to probate should not be set aside. The caveator and the proponent of the will are the only indispensable parties to the action but all interested parties have a right to intervene.

On the return date of the Order to Show Cause, the proponent of the will may challenge the standing of the caveator. If the caveator has standing, the matter is generally placed on the contested probate list.

## **2. Doubt on Face of Will**

A will can be revoked by several methods, including "revocatory acts" such as burning, tearing, cancelling, obliterating or destroying the will (or a part thereof). N.J. Stat. Ann. §3B:3-13. Therefore, it is important to review the will to make sure there are not marks that could be construed as a revocatory act. If there are such marks on the original will and therefore there is doubt on the face of the will as to whether or not the testator meant to revoke the will in whole or in part, then the Surrogate can no longer act.

When the Surrogate determines that the face of the will causes doubts, the Surrogate would enter a Judgment to that effect (see Exhibit 17 for a sample) and the matter must be submitted to the Superior Court, Chancery Division, Probate Part.

## **3. Writing Intended as a Will**

If a document does not comply with the formal execution requirements of a will,

perhaps because it was only witnessed by one person and not two, the document will still serve to govern the disposition of the decedent's assets if it is a "writing intended as a will." N.J. Stat. Ann. §3B:3-2(b); §3B:3-3.

A writing intended as a will is an instrument that, whether or not witnessed, is signed by the testator and the material portions of the document are in the testator's handwriting. N.J. Stat. Ann. §3B:3-2(b). A "writing intended as a will" also exists if it can be established by clear and convincing evidence that the decedent intended the document to be "(1) the decedent's will; (2) a partial or complete revocation of the will; (3) an addition to or an alteration of the will; or (4) a partial or complete revival of [the decedent's] formerly revoked will or formerly revoked portion of the will." N.J. Stat. Ann. §3B:3-3.

#### **4. Application for Administration with the Will Annexed (Administration C.T.A.)**

If the decedent has a will (or a writing intended to be a will), usually the decedent will have named a person to serve as an executor. However, it is possible that the decedent neglected to name executor, or perhaps the decedent did name an executor but the named executor has renounced or otherwise fails to serve as executor and there are no substitute or alternate executors named under the will. In this situation, a person wishing to serve as executor must apply for Letters of Administration C.T.A.

##### **a. Determine if Executor is Available**

Prior to an application for Letters of Administration C.T.A., it should be ascertained whether any of the persons who are actually named in the will as executors are available to serve. N.J. Stat. Ann. §3B:10-16. If such persons have predeceased the decedent, copies of their death certificates should be obtained. If such persons have refused to serve or renounce, a copy of their Renunciation should be obtained. Finally, if such persons simply cannot be located, the steps taken in an attempt to locate such persons should be documented.

##### **b. Determine Who has Right to Serve**

If it is finally determined that no one named under the will is able or willing to serve as executor, then the residuary legatee (i.e. beneficiary) has the first right to serve as executor. If there is more than one residuary beneficiary then each would have equal entitlement to serve. If there is no residuary clause then any of the next of kin may apply in the order of priority as set forth in the Intestacy Statute.

If no heir submits an application for Letters of Administration C.T.A. to the Surrogate within 40 days after the decedent's death, any person may apply for Letters of Administration C.T.A. Again, notice must be given to all the parties in interest, i.e. the heirs, and Renunciation forms from them must be submitted. N.J. Stat. Ann. §3B:10-2.

**c. Application to Court**

Application for Letters of Administration C.T.A. should be made to the Surrogate's Court in the county where the decedent resided at the time of his death. N.J. Stat. Ann. §3B:10-17. The application is in the form ordinarily required in probate proceedings and recites the reason why such administration is sought and the value of the assets comprising the estate. Both the death certificate and the will must be presented to the Surrogate. Exhibit 34 is a sample of an application for administration C.T.A.

If the Surrogate does not have a fact sheet or other informal filing procedures the application for Letters of Administration C.T.A. should state the following information:

1. The applicant's residence;
2. Name and date of death of decedent;
3. Decedent's domicile at date of death;
4. Date of last will, if any;
5. Names and addresses of persons entitled to Letters Administration C.T.A. (spouse, heirs, next-of-kin, etc.);
6. The relationship to the decedent of persons entitled to Letters Administration C.T.A.;
7. Statement identifying to the best of the applicant's ability whether there are any persons entitled to Letters Administration C.T.A. whose names and addresses are unknown;
8. Statement stating that there are no other heirs or next-of-kin other than those listed in the application; and
9. The ages of any minor heirs or minor next-of-kin.

The above information is submitted in pleading form and the applicant must verify under oath that the statements are true to the best of the applicant's knowledge and belief. N.J. Ct.R. 4:80-1(a).

**d. Notice**

As mentioned above, if a person wishing to administer the estate of the decedent is not the first in line to be appointed as the administrator, he or she can obtain Letters of Renunciation from all persons who have a superior right to serve. However, if he or she is not able to obtain these renunciations, then the person making the application to administer the estate must provide proof of notice to all persons having a superior right. This notice must be sent at least ten (10) days prior to an application to be appointed as administrator if the persons with the superior right reside within the State of New Jersey and sixty (60) days prior to such applications if they reside outside of the State. The Surrogate may reduce this time period. N.J.Ct.R. 4:80-3(b).

The notice of application should be certified mail, return receipt requested, and the proof of mailings should be filed with the Surrogate along with copies of the notices sent. N.J.Ct.R. 4:80-3(b).

**e. Bond**

An administrator with the will annexed must file a bond (see Exhibit 36). In most other respects, the procedure in actions for administration with the annexed is substantially identical with that in ordinary testate proceedings (proving the will, qualification of the Administrator C.T.A., Exhibit 37, execution and filing of power of attorney, Exhibit 38, and form of judgment, Exhibit 39).

**5. Application for Substitutionary Administration**

An application for substitutionary administration with the will annexed is filed when (1) the will has been admitted to probate and the appointed executor thereafter ceases to serve and (2) the will names no substitute executor or the named substitute will not or cannot serve. This application does not constitute the commencement of an original proceeding but is still accomplished by filing the customary application with an additional recital setting forth the facts of the appointment of the original executor and the reason for the discontinuance of service of such executor. It is not necessary to file a death certificate with this proceeding as one was filed with the original application. For samples of an application for substitutionary administration c.t.a., qualification of substituted administrator c.t.a., substituted administrator c.t.a. power of attorney, subadministration c.t.a. bond, judgment appointing substituted administrator c.t.a. and substituted administration c.t.a. Letters Testamentary. See Exhibits 40 through 45, respectively.

**6. After Discovered Will**

If, after a will has been probated, another will with a later date is found, or if, after letters of administration have been granted, the existence of a will is discovered, an application is filed with the Surrogate for the probate of the after-discovered will. The application should state the date of probate of the prior will or of the grant of administration, the fact that the will offered for probate was discovered thereafter, and, in the case where probate has been previously granted, the dates of both the will admitted to probate and the after-discovered will. Exhibit 18 is a sample Complaint to admit an after discovered will.

After the application is filed, there is issued to all persons in interest an Order to Show Cause why probate of the after-discovered will should not be granted. See Exhibit 19 for an example. If on the return date, any person in interest contests the admission to probate of the after-discovered will, the procedure followed is like that of any other will-contest case. If no contest is lodged, however, the Surrogate may enter an Order that the after-discovered will be lodged for probate and thereafter proceed with probate unless a caveat has been filed or doubts appear from the face of the will.

Once the after-discovered will is admitted to probate, the court will require the administrator or executor of the prior will to make final settlement of his accounts. In

passing upon such an accounting, the court will make whatever order relating to commissions as it deems just and equitable. The estate will then proceed to be administered and distributed according to the terms of the after-discovered will. Exhibit 20 is the Model Order to Show Cause to be used in probate actions. Use of the Model Order to Show Cause is not mandatory, but modification must conform to requirements of the Rules.



#### **IV. Administration**

When a decedent dies without a validly executed will, he is said to die Intestate. As there is no will to govern the appointment of an executor or the disposition of the decedent's assets, state statute sets forth the rules for both. N.J. Stat. Ann. §3B:5-2 through §3B:5-14.

##### **A. Application**

The form of application in an intestacy proceeding is similar to that filed in a testate matter as is the necessity for filing a power of attorney for service of process and the administrator is also required to execute an affidavit that he will faithfully perform the duties of his office. See Exhibits 24, 25, and 26 respectively.

##### **B. Appointment of Administrator**

An application for administration of an intestate estate may be made at any time after the death of the intestate (i.e. the decedent who died without a will), but the judgment will not be entered until after the five day period. The party having the prior right to apply for letters of administration is the surviving spouse, domestic partner (after July 10, 2004) or civil union partner (after February 19, 2007).

Renunciations from other next-of-kin are not required in such a case. If there is no spouse, domestic partner or civil union partner surviving or if the spouse, domestic partner or civil union partner renounces the right to serve, then the next-of-kin in order of degree may apply for letters. A person making such an application must present renunciations (Exhibit 21) from all competent adults whose right to letters is prior or equal to his or, in lieu thereof, must produce proof that sufficient notice of such application has been given to all such persons.

The notice, to be sufficient, may not be less than 10 days for residents of New Jersey and 60 days for persons residing outside of New Jersey. The Surrogate may, on application, reduce the time period for out-of-state residents, but such period cannot be less than ten days. The notices (Exhibit 22) may be served in accordance with a N.J.Ct.R. 4:4-4 or are sent certified or registered mail, return receipt requested, and proof of mailing must be filed with the Surrogate (Exhibit 23).

N.J. Stat. Ann. §3B:5-1 provides that, for the purposes of intestate succession, an individual who has not established by clear and convincing evidence to have survived the decedent by 120 hours is deemed to have predeceased the decedent.

If no application for letters of administration is made within 40 days after decedent's death, a creditor may thereafter apply for letters. The Application in such a case follows the usual form, is generally accompanied by affidavits of inquiry, and recites the interests of the party making the application. Notice must be given to all parties in interest or renunciations from them must be submitted. As a rule the creditor is not

appointed the administrator because his interests would be adverse to those of the next-of-kin. Instead the Surrogate usually appoints a disinterested person.

Substitutionary administration occurs when a prior administrator of an intestate has died, resigned, been discharged or failed to serve for some other reason. The person seeking substitutionary administration must file an application in the Surrogate's Court, indicating who had been previously granted letters of administration and the reason why substituted administration is being sought. See Exhibit 30 for a sample Application. The substituted administrator must qualify by executing an affidavit that he or she will perform the duties faithfully and file a sub-administration bond. See Exhibit 31 and 32 respectively. After the substituted administrator files the proper papers and qualifies, the Surrogate will enter a Judgment of substituted administration. Exhibit 33 is a sample Judgment.

### **C. Bond**

In addition, an administrator is required to give bond unless the spouse or civil union partner of the decedent is the administrator and will receive the entire estate. N.J. Stat. Ann. §3B:15-1. The Surrogate cannot waive this requirement although the Surrogate may reduce the amount of the bond required by the administrator. The bond must be signed by the applicant as principal and his signature must be witnessed. See Exhibit 27 for a sample of an administration bond. The bond must provide inter alia that the surety submits to the jurisdiction of the Superior Court and appoints the Clerk of the Court as agent upon whom papers affecting liability on the bond may be served. A judgment of administration may thereafter be entered. Exhibit 28 is a sample judgment when the next of kin receives letters of administration and Exhibit 29 is a sample judgment when renunciations have been filed.

### **D. Disposition of Estate**

The spouse, domestic partner or civil union partner<sup>1</sup> will receive the entire intestate estate if:

1. no descendant or parent of decedent survives the decedent; or
2. all of decedent's surviving descendants are also descendants of the surviving spouse, domestic partner or civil union partner and there are no other descendants of the surviving spouse, domestic partner or civil union partner who survive the decedent.

If no descendants of the decedent survives the decedent but a parent of the decedent survives the decedent, the surviving spouse, domestic partner or civil union partner receives the first 25% of the intestate estate (but not less than \$50,000 nor more than

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<sup>1</sup> Under New Jersey law, civil union partners are afforded all of the same rights and benefits as spouses. N.J. Stat. Ann. §37:1-31. For this reason, when the word "spouse" appears in the New Jersey statutes, it can be read as "spouse and civil union partner."

\$200,000) plus three-fourths of the balance of the estate. N.J. Stat. Ann. §3B:5-3.

The surviving spouse, domestic partner or civil union partner would receive the first 25% of the intestate estate (but not less than \$50,000 nor more than \$200,000) plus one-half of the balance of the estate if:

1. all of the decedent's surviving descendants are descendants of the surviving spouse, domestic partner or civil union partner and the surviving spouse, domestic partner or civil union partner has one or more surviving descendants who are not descendants of the decedent; or
2. one or more of the decedent's surviving descendants is not a descendent of the surviving spouse, domestic partner or civil union partner.

Any portion of the intestate estate not passing to the surviving spouse, domestic partner or civil union partner (or the entire intestate estate if there is no surviving spouse, domestic partner or civil union partner) passes in the following order:

1. to the decedent's descendants by representation;
2. if no surviving descendants, to the decedent's parents equally if both survive or to the surviving parent; or
3. if there is no surviving descendant, parent or descendant of a parent, but the decedent is survived by one or more grandparents, half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, the descendants taking by representation; and the other half passes to the decedent's maternal relatives in the same manner; but if there is no surviving grandparent, or descendant of a grandparent on either the paternal or the maternal side, the entire estate passes to the decedent's relatives on the other side in the same manner as the half; or
4. if there is no surviving descendant, parent, descendant of a parent, or grandparent, but the decedent is survived by one or more descendants of grandparents, the descendants take equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation; or
5. if there are no surviving descendants of grandparents, then the decedent's step-children or their descendants by representation.

N.J. Stat. Ann. §3B:5-4.

#### **E. Affidavit in Lieu of Administration**

If the aggregate of all the real and personal assets of an intestate do not exceed

\$20,000, the surviving spouse, domestic partner or civil union partner of the intestate may receive assets without administration. In lieu of administration, an affidavit is filed setting forth that the affiant is the surviving spouse, domestic partner or civil union partner of the intestate, and that the aggregate value of the intestate's estate will not exceed \$20,000. The affidavit must also specifically list the individual assets, their nature, location and value, and set forth the residence of the intestate at the time of his/her death. See Exhibit 46 for an example. The spouse, domestic partner or civil union partner is entitled to take and deal with only those assets which are listed. If additional assets are discovered later, and if the aggregate of the assets exceeds \$20,000, an application for general administration must be made. If additional assets are discovered, but the total value of the assets still does not exceed \$20,000, the spouse, domestic partner or civil union partner must amend the affidavit in order to cover all assets. If the surviving spouse, domestic partner or civil union partner renounces or is unable to act, a general administrator must be appointed.

If the intestate leaves no spouse, domestic partner or civil union partner and the aggregate value of the estate does not exceed \$10,000, one of the next-of-kin, with consents in writing from other next-of-kin in equal degrees (Exhibit 47), may file an affidavit in lieu of administration. See Exhibit 48 for a sample affidavit. Here again all assets comprising the estate must be listed. The affiant can transfer only those assets which are specified in the affidavit.

#### **F. Administration Ad Prosequendum**

If a suit for wrongful death is to be brought on behalf of the estate of an intestate, an administrator for such purposes (ad prosequendum) must be named. The Surrogate's Court of the county in which the interstate resided, or if he lived outside the state, the Surrogate's Court of the county wherein the accident resulting in death occurred, or the Superior Court may grant letters of administration ad prosequendum to the person entitled to general administration. N.J. Stat. Ann. §3B:10-11.

Administration ad prosequendum is sought upon an application similar to those filed in other proceedings. The application must recite additionally the name and address of the defendant in the suit for which administration ad prosequendum is being sought. See Exhibit 49 for an example. The application must be accompanied by appropriate renunciations and requests from persons in superior or equal degree of kinship or, in lieu thereof, proofs of notice filed by the individual making the application. An administrator's qualification must be also be filed (Exhibit 50). The matter then proceeds to judgment (Exhibit 51), pursuant to which letters of administration ad prosequendum are issued (Exhibit 52). As might be expected, because such letters are granted for a limited purpose, no certificates are issued and no bond is required.

Once letters of administration ad prosequendum are issued, the civil litigation may be pursued. Any recovery which is obtained accrues to the estate and must be administered accordingly. If letters of general administration have not previously been obtained, application must be made therefor so that such funds may ultimately be

distributed. Where general administration has been granted previously, it is very likely that the bond on file will not be sufficient to cover the newly enlarged estate. In such an event, an additional bond must be filed, together with an affidavit entitled "On Application for Surrogate's Certificate in Connection with Payment to an Administrator of Monies Due Under the Death Act". This affidavit sets forth the circumstances of the recovery (Exhibit 53). Upon satisfactory compliance with the foregoing requirements, the Surrogate will issue "A Certificate as to Adequate Security". See Exhibit 54 for an example.

## **V. Guardian**

### **A. Testamentary Guardian**

A parent may leave all or part of his or her estate to an infant child. A testamentary guardian other than the sole surviving parent cannot be named unless the surviving parent indicated his or her willingness to have another person act as testamentary guardian for the infant. Such a "consent" must be witnessed by two persons.

The application for the appointment of a testamentary guardian sets forth the age and residence of the minor, the names and residences of his/her next-of-kin, and all persons standing in loco parentis as well as the person with whom the minor resides. The applicant must also include an affidavit setting forth the value of the infant's property. Exhibit 55 is a sample of an application for the appointment of a testamentary guardian. If the will provides, the guardian need not post a bond. Upon execution of acceptance and Power of Attorney (Exhibit 56) a judgment may be entered (Exhibit 57).

### **B. Non-Testamentary Guardianship**

If application to be appointed guardian is made by the only living parent of an infant child, then no notice or renunciation is required. See Exhibit 58 for a sample. If made by any other person, then that person must file (a) the renunciation of all competent persons whose right to letter is prior or equal to that of the applicant or (b) proof of notice of application or (c) affidavit of inquiry in lieu of proof of notice.

The guardian generally must post bond before assuming office. Exhibit 59 is a sample acceptance of guardianship and power of attorney which must be filed before the Surrogate may enter judgment. Exhibit 60 is a sample judgment appointing a guardian with bond. If there is judgment in favor of an infant, and the court in the judgment so provides, then a guardian can be appointed without bond. In such event, the money is impounded with a bank or deposited with the Surrogate under an order which provides that no withdrawal may be made except on special order of the Court. Exhibit 61 is a sample judgment appointing a guardian without bond, but impounding funds. In cases where there is no Court order, a reduction of the bond can be obtained by filing a petition and an order with the Surrogate whereby the proceeds to be received by the infant will be deposited in a particular bank with joint control of the Surrogate and the guardian. In such a case the Surrogate would generally require a nominal bond. It is important to attempt to reduce the amount of bonds in guardianships because of the period of time they last. The premium is a yearly charge and can be very expensive.

N.J. Stat. Ann. §3B:12-6 through §3B:12-11 provides that any person may pay or deliver money or personal property to a minor in amounts not exceeding \$5,000 per annum by paying or delivering the money or property to (a) the minor, if he/she is married; (b) a parent or parents of the minor; (c) a person having the care and custody of the minor with whom the minor resides; (d) a guardian of the person of the minor; or (e) a

financial institution incident to a deposit in a federally insured savings account in the sole name of the minor and giving notice of the deposit to the minor.

The statute provides that the person making payments or delivery must obtain from the recipient an affidavit in writing acknowledging the receipt of the money or personal property and setting forth the recipient's status in relation to the minor and the purpose for which the money or personal property is being used. See Exhibit 62. This affidavit is to be filed in the Office of the Surrogate of the county where the minor resides.

## **VI. Contested Probate Procedures**

### **A. Contesting a Will**

As described above, there are two ways to attack a will: (1) a caveat entered before a judgment of probate or (2) an Order to Show Cause obtained after a judgment of probate has been granted. If a caveat is filed, the Surrogate may not proceed with the probate of a will. A caveat is simply a notice which serves to preclude the entry of a judgment of probate until a hearing has been held regarding the validity of the instrument.

#### **1. Complaint**

After a will has been probated by the Surrogate or letters of administration, guardianship or trusteeship have been issued, an aggrieved party may seek to set aside such action by filing a Complaint in the Superior Court setting forth the basis for the relief sought and obtaining an Order to Show Cause requiring the executor, guardian or trustee to show cause why the action taken by the Surrogate should not be set aside. N.J.Ct.R. 4:85. This Complaint should be filed within four months after probate or of the grant of letters of appointment. If the plaintiff resided outside of New Jersey at the time of the grant of probate or grant of letters the complaint may be filed within six months thereafter. These time periods may be extended for a period not exceeding 30 days by Court Order.

Contested probate matters are usually determined within 6 months. As soon as discovery proceedings have been completed, the matter can be scheduled for a hearing. The court determines the matter without a jury. If a will involves a charitable bequest, the Attorney General should be notified of the action. If a party in interest is an infant, a guardian ad litem should be appointed to protect the interests of the infant. On the day of the hearing, the proponent of the will need only prove initially that the will was executed properly. The burden of then showing why probate of the instrument should not be granted is upon the caveator or the person who obtained the Order to Show Cause to set aside the judgment admitting the will to probate.

#### **2. Grounds for Will Contest**

The usual grounds asserted in the attack upon a will are (1) the will was not executed in accordance with the formality required by the Statute of wills, (2) the testator lacked sufficient mental capacity to execute a will, and (3) the will was a product of undue influence exerted upon a Testator.

##### **a. Invalid execution**

There are three formalities for a will to comply with N.J. Stat. Ann. §3B:3-2(a).



The will must be in writing and signed by the testator (a person signing for the testator must do so at his direction and in his "conscious presence") and at least two witnesses must sign the will. Each witness must have witnessed one of the following: (a) the signing of the will or (b) the testator's acknowledgment of his signature or (c) the testator's acknowledgment of the will. The witness must sign within a reasonable period of time after having witnessed the signature or the acknowledgment.

There is no requirement that the testator publish the document as his will or request the witnesses to sign or that the witnesses sign in the presence of the testator or each other.

N.J. Stat. Ann. §3B:3-2(b) provides that an instrument that does not comply with N.J. Stat. Ann. §3B:3-2(a) will be valid as a will if the signature and material portions are in the handwriting of the testator. Testamentary intent can be shown by extraneous evidence including portions of the document that are not in the handwriting of the testator.

N.J. Stat. Ann. §3B:3-3 provides that even if a document or writing added on a document has not been executed in accordance with N.J. Stat. Ann. §3B:3-2 it is treated as properly executed if the proponent shows by clear and convincing evidence the decedent intended the writing to constitute (1) his will; (2) a partial or complete revocation of his will; (3) an addition to or alteration of his will; or (4) a partial or complete revival of his formally revoked will or formally revoked portion of his will.

An instrument executed in accordance with N.J. Stat. Ann. §3B:3-2(a) may, upon proof of execution, be admitted to probate by the Surrogate. A writing intended as a will, and not executed in accordance with N.J. Stat. Ann. §3B:3-2(a) can be admitted to probate only by the Superior Court on notice to all interested parties.

### **b. Testator was incompetent**

A person is presumed to be competent to make a will. The burden of proving incapacity is on the contestant. The contestant must meet that burden by a preponderance of proof. If the contestant can show the testator was incompetent prior to executing the will, then the burden would shift back to the proponent to prove proper capacity at the time of execution. Statements made by the testator prior to, during and shortly after execution of the will can be admitted as evidence relative to capacity. Lay and expert testimonies are both admissible on this issue.

### **c. Undue Influence**

Undue influence is difficult to prove by way of direct testimony. If a contestant can show a confidential relationship and suspicious circumstances, then the burden of proving lack of undue influence would shift back to the proponent of the will. A confidential relationship would be found in situations where the testator would naturally repose confidence on a particular person. A variety of situations can lead a court to find

suspicious circumstances. (Beneficiaries engages attorney to prepare a will, beneficiary has been heard to make slanderous remarks about natural objects of testator's bounty, etc.)

N.J.Ct.R. 4:42-9(a)(3) governs the granting of counsel fees following a contested probate procedure. This rule provides "[i]f probate is refused, the court may make an allowance to be paid out of the estate of the decedent. If probate is granted, and it shall appear that the contestant had reasonable cause for contesting the validity of the will or codicil, the court may make an allowance to the proponent and the contestant, to be paid out of the estate." Exhibit 70 is a sample judgment admitting a will to probate after a contested will hearing and providing for attorney's fees to both the proponent's and caveator's attorneys.

## **B. Contesting Administration**

If a decedent died intestate, administration may be granted to the surviving spouse, domestic partner or civil union partner of the intestate but if he or she will not accept it then to the next-of-kin of the intestate and if none of them will accept it, then to such person as will accept it. The spouse, domestic partner or civil union partner and next-of-kin have the sole right to apply for letters of administration for the first 40 days after the death of the intestate. If the next-of-kin do not claim administration within 40 days, the Surrogate may grant letters to any fit person applying therefor.

The right to administration is a personal right and a majority of the next-of-kin may not select one unless all persons equally entitled consent to the appointment. However, when all persons who might be entitled renounce in favor of a stranger, the Surrogate will abide by their selection. If a party is unable to obtain a renunciation from another party equally entitled to administration, notice must be given to the other party of the intention to apply for administration.

Any party in interest may contest the granting of administration to an individual. The contestant may file a Complaint with the Superior Court, Chancery Division, Probate Part and obtain an Order to Show Cause directed to all parties requiring them to show cause why the relief sought should not be granted or file a caveat with the Surrogate's office. Exhibit 71 is a sample caveat against granting administration. Generally the Surrogate will request the disputing party who himself does not apply for letters to reduce his dispute to a caveat. However, a dispute may also arise where two persons each apply for the issuance of letters and each files an application. Such applications are called cross applications.

The dispute is then brought before the Superior Court by Complaint and an Order to Show Cause (Exhibit 72). When the matter does come before the Superior Court, it will consider the moral fitness and business competence of the applicant or applicants. N.J.Ct.R. 4:80-5 requires preference be given to residents over non-residents. The Court then will enter an order granting administration to one of the parties or to a neutral third party. See Exhibit 73 for a sample order. The Court, generally, will not appoint both parties as co-administrators because that will serve only to continue the dispute.

## **VII. Post-Probate Procedures**

### **A. In General**

Executors and administrators act of behalf of the creditors, beneficiaries and next-of-kin of the decedent. They must act within the scope of their powers (as granted under the terms of the will of statute), exercise the care of reasonably prudent persons, and avoid any conflict of interest. The duties of an executor or an administrator are to safe guard the assets of the estate, pay debts (including any estate or inheritance tax due) and to distribute the estate. As mentioned previously, the executor is the client in an estate administration. It is important to keep this in mind when rendering advice.

Once the will has been probated, the executor has qualified, and notices of probate have been mailed to the beneficiaries and next-of-kin (and proof thereof is mailed to the court), the bulk of the administration of the estate begins. This will encompass the next 3 to 9 months, basically until the estate and inheritance tax returns (if any) are filed. The main tasks during “part two” of the estate administration will be:

- Obtaining a tax identification number
- Opening an estate account
- Reviewing the will with an eye towards administration and distribution
- Preparing and filing the decedent’s final income tax return
- Marshalling the assets
- Investing the assets
- Paying the debts
- Preparing and filing the tax returns

#### **1. Tax Identification Number**

The estate of the decedent is a legal entity separate and distinct from the decedent, and the executor will need to obtain a tax identification number for the estate. This can be accomplished by filling out a Form SS-4 (Exhibit 83). The Form SS-4 is available 4 on the IRS’ website ([www.irs.gov](http://www.irs.gov)). The tax identification number can be obtained online, by phone or by fax.

#### **2. Estate Account**

Once the executor has been granted Letters Testamentary, a checking account for the estate should be opened. The executor can open the estate checking account by going to the bank with a Surrogate's certificate and the estate’s tax identification number.

It is important to pay all bills and deposit all checks and cash into the estate account. This will allow the executor to keep accurate records of the bills that were paid (and assets received).

The executor may be tempted to pay the estate bills from his personal checking

account and then have the estate reimburse him or her at a later time. While this may be necessary for the early debts of the estate (i.e. the funeral bills, probate filing fees, etc.), it is important that this practice is kept to a minimum to avoid an appearance of impropriety. Using the estate's checking account also helps create the record necessary to prepare an accounting and eliminates the need to sort through the executor's personal accounts.

### **3. Reviewing the Will**

The will is your guide throughout the administration of the estate. It contains direction on distribution of assets, powers of the executor, payment of taxes and other debts, allocation of expenses, investment of assets, etc. When you first begin the estate administration process you should read the will thoroughly and develop an outline of how the administration will proceed. For example:

- Are there specific bequests in the will?
- Does the will set forth a survivorship period?
- Is there a will contest clause?
- Does the will speak to the allocation of taxes?
- Is guidance or direction provided regarding the investment of the assets during the estate administration?
- Are there any "unusual" provisions - for example do any of the beneficiaries have the option to buy certain estate assets? Are any of the decedent's children specifically cut out of the will?
- Does the will define certain terms such as children, issue, etc? Are adopted children or issue included or excluded?

Many different issues can arise during an estate administration. It is important to review the will each time a new or unusual issue presents itself. This is true even if you drafted the will. It is not uncommon for an attorney's estate planning documents to evolve over time. As the attorney deals with new issues and circumstances or as the tax law changes, the attorney will revise the language of his or her documents to address a variety of issues. It is easy to forget exactly when certain provisions first appeared in the attorney's documents. Therefore it is important never to assume that the document contains certain provisions (i.e. waiver of bond or allocation of taxes). You must always refer back to the will for guidance and direction. If the will does not address the issue, state law should be consulted as you administer the estate.

### **4. Preparing the Decedent's Final Income Tax Return**

It is the obligation of the executor of the estate to prepare and file the last income tax return for the decedent. This return is due at the same time as the decedent would have filed the return had he/she lived. A joint return may be filed in the case of a married decedent for the year of death (if the decedent and his or her spouse were otherwise permitted to file jointly).

## **5. Marshalling the Assets**

Once the estate account has been opened, it will be important for the executor to gather all of the decedent's assets together and either deposit them into the estate account or retitle them into the name of the estate (assuming that the assets are not specifically bequeathed to a beneficiary). It is a good idea to obtain copies of the decedent's most recent income tax return. This will provide clues regarding what assets the decedent owned. For example, if the decedent owned interest bearing savings or checking accounts, then this interest would have been claimed as income on the decedent's tax return. Likewise, if the decedent owned real property, it is possible the decedent took deductions for the expenses associated with the real property (i.e. mortgage interest or property taxes) on his income tax return.

It is not unusual to discover assets throughout the estate administration process. For example, the decedent's parents may have bought an insurance policy on the decedent's life when the decedent was just a child and eventually gifted the paid up policy to the decedent at some point over the years. If the policy was very small, it would not be uncommon for the decedent to have forgotten about it all together. Similarly, the decedent may have received savings bonds as a child that he never cashed in and may have forgotten about all together. Items such as these sometimes do not surface until the executor has a chance to go through all of the decedent's possessions and boxes, which can sometimes take several months.

### **a. Bank Accounts**

If the decedent owned New Jersey bank accounts, then the bank will freeze one-half of the assets in the account until the New Jersey inheritance (or estate tax) is paid. If the estate (plus adjusted taxable gifts) is under \$675,000 (i.e. no New Jersey estate tax will be due) and if the decedent owned the account jointly with a class A beneficiary (i.e. no inheritance estate will be due) or the decedent owned the account individually but his estate is passing to only class A beneficiaries (spouse, parents, domestic partner, partner in a civil union or lineal descendants), then the bank will release 100% of the account to the surviving co-tenant or the executor, whichever is applicable, if a Form L-8 is filed with the bank. See Exhibit 96 for an example.

When dealing with out-of-state accounts, the surviving co-tenants can obtain the entire amount without waiver by producing a death certificate and an affidavit of domicile. In the case of out-of-state accounts in the name of a decedent alone, the executor can obtain the entire proceeds of such accounts by producing a Surrogate's certificate and an affidavit of domicile (Exhibit 77). While out of state bank accounts are not subject to being frozen, the proceeds of such out-of-state accounts are, of course, subject to the New Jersey inheritance and estate tax.

### **b. Insurance Policies Payable to the Estate**

If an insurance policy is made payable to an estate, the application to get the

proceeds should be made by the executor. These proceeds can be obtained by presenting a Surrogate's certificate, the death certificate, and a claim form to the insurance company together with the insurance policy.

### **c. Transfer of Motor Vehicles**

To transfer a motor vehicle, the executor of the estate should take the certificate of ownership to a Motor Vehicle Agency and endorse the certificate of ownership to the person who is to receive the car. The only thing required to effectuate such a transfer would be the certificate of ownership and a Surrogate's certificate which would evidence the fact that the executor is the person entitled to transfer title to the vehicle in question.

### **d. Transfer of Stocks and Bonds**

These days most stocks and bonds are held in a brokerage account, as opposed to certificate form. Changing the title on a brokerage account is relatively simple. The executor forwards a death certificate and Letters Testamentary to the broker.

If the decedent owned stocks and bonds in certificate form – i.e. the decedent did not own them through a brokerage account but rather owned them directly – then these items are sent to the appropriate transfer agent (i.e. the company's secretary or other officer) together with the stock certificates and a stock power (Exhibit 76) and perhaps an affidavit of domicile (Exhibit 77) if required.

In the case of stocks held in joint names, the surviving tenant can transfer or sell stocks simply by signing a stock power and producing a death certificate and affidavit of domicile. A Surrogate's Certificate is unnecessary in the case of stocks in joint names because such stocks are not probate assets.

Out-of-state stocks can generally be disposed of immediately. Stock in New Jersey corporations can be transferred only after a tax waiver has been obtained from the State for the stock in question (unless a Form L-8 may be used).

### **e. Real Estate**

Real estate that is specifically bequeathed passes to the beneficiary automatically upon the death of the decedent. Changing the deed to reflect the name of the new owner is just a formality, albeit an important one.

Generally speaking, it is not necessary to deed the real estate into the name of the decedent's estate. The real estate is usually only retitled into the name of the beneficiary who inherits it at the time the assets are distributed from the estate.

The L-9 (Exhibit 97) is used where real estate passes to a class "A" beneficiary either by contract, the decedent's will or the intestate laws (assuming there is no estate tax due). In this case, the L-9 is filed by the beneficiary with the Branch.

## **6. Right to Discovery**

If third parties refuse to cooperate in turning over assets to the executor, the executor can compel these third parties to appear before the court to give discovery as to the assets of the decedent which they are allegedly holding. Exhibit 78 is a verified complaint requesting the court to order a third party to submit to discovery and Exhibit 79 is a judgment on discovery. Orders compelling third parties to turn over property to the estate are obtainable rather quickly where it is apparent that the estate has title to the property. Where the question of title has to be determined, then a plenary trial will be ordered.

### **B. Investing the Estate's Assets**

The New Jersey Prudent Investor Act states that the executor shall invest and manage trust assets as a "prudent investor would." Generally speaking, this means that the executor must invest and manage the assets solely in the interest of beneficiaries and must diversify the investments unless he or she reasonably determines that, due to special circumstances, the purposes of the estate are better served without diversification. N.J. Stat. Ann. §3B:20-11. It is important to note that within six months after accepting assets, the executor must review the assets and make decisions concerning the retention and disposition of assets in order to bring the portfolio into compliance with the provisions of the New Jersey Prudent Investors Act. N.J. Stat. Ann. §3B:20-11.7. Therefore, it is necessary to review the investment of the decedent's assets and make any necessary changes or adjustments.

Remember that an estate administration can take 2 or more years. In many circumstances it will not be prudent for the executor to allow the assets of the estate to remain as they were invested while the decedent was alive. For example, the decedent may have invested 80% of his net worth in one stock. This is common if the decedent worked for a large company and had received stock in the company as part of his compensation over many years. Conversely, the decedent may have kept most of his net worth in real estate or cash.

You will need to review terms of will to determine whether it contains investment standards. Generally speaking, a will typically provides the executor with broad powers to invest the assets of the estate during the administration of the estate. For example, the will may contain provisions such as the following:

- Power to retain investments or property held at the time of death without liability for loss incurred by retention;
- Power to invest in property (real or personal), foreign or domestic, including bonds, notes, mortgages, common and preferred stock business interests, etc.;
- Power to invest in investment companies or mutual funds, money markets and the like;

- Power to make loans and set interest rates for said loans;
- Power to buy and sell securities; and
- Power to delegate such powers to financial and/or investment advisors.

Additionally, sometimes the will may contain provisions limiting the executor's powers of investment. For example, the testator may have provided that the executor is not allowed to invest in highly risky investments such as hedge funds. On the flip side, although unusual, the testator may have specified that the executor may only invest in highly conservative investments, such as U.S. Treasury Bonds. If the will is silent as to the investment standard to be used by the executor, the New Jersey Prudent Investors Statute would govern. N.J. Stat. Ann. §3B:20-11.10.

Sometimes the will directs the sale or retention of certain assets. For example, it is not uncommon for the sale of the principal residence to be required on the death of the surviving spouse. This direction is often placed in wills for the purpose of qualifying expenses associated with the sale of said real estate as a deduction for estate or income tax purposes. Alternatively, where a testator owns a closely held business, oftentimes the testator will direct that the stock of such closely held business not be sold, or perhaps only be sold to a family member who is involved in the management of the business. In either case, the provisions of the will must be reviewed so that the executor is sure to comply with the testator's direction.

If the will does not provide direction on the investment of the estates assets, then the executor must invest and manage the estate assets as a "prudent investor would." N.J. Stat. Ann. §3B:20-11.3. When considering how the estate assets should be invested and managed, the executor must consider any of the following factors that are relevant to the estate and its beneficiaries:

- Time horizon of the estate (9 months, 2 years, longer?);
- Beneficiaries of the estate (is one beneficiary inheriting 100% of the estate? A charity? Multiple beneficiaries of differing ages and financial circumstances?);
- Need for liquidity for debts and expenses;
- General economic conditions; and / or
- Tax consequences of investment decisions or strategies.

As the attorney for the estate you should not be giving investment advice to the executor. Your job is to make the executor aware of his obligations (either under the will or under the prudent investor statute).

If the executor does not have any special investment experience, then depending on the size of the estate, it may be wise for the executor to hire a financial advisor to help invest the assets of the estate. An executor may delegate their investment and management functions. N.J. Stat. Ann. §3B:20-11.10. In delegating the investment and management duties, the executor must exercise reasonable care, skill and caution when:



- Selecting an agent with special investment skills, expertise and sound financial standing;
- Establishing the scope and terms of the delegation; and
- Periodically reviewing the agent's actions for purposes of monitoring, performance and compliance with the terms of the delegation.

Executors should exercise caution when delegating management and investment duties to a party that is connected to the estate and/or its beneficiaries. For example, the executor should not employ a member of their family (or a member of a beneficiary's family) unless, based on objective and impartial standards, such person is qualified to serve in such capacity. While appointing a family member, relative or friend to such a position is not prohibited such an appointment may be subject to higher scrutiny if the investments do not perform as expected.

It must also be noted that an executor who has special skills or expertise has a duty to use those skills or expertise. N.J. Stat. Ann. §3B:20-11.3(e)(f). Therefore, if the executor is a financial advisor, he or she will likely be held to a higher standard when it comes to the investment of the estate's assets.

### **C. Liabilities of the Estate**

Just as the executors must prepare a list of all of decedent's assets, they must also prepare a list of all known debts including contingent and unliquidated claims against the estate. The executor should review the decedent's checking account for the last 6 months to determine if the decedent had recurring payments such as car loan, mortgages, credit card debts, etc. While it will make sense to pay smaller recurring bills such as utilities, the executor should not pay any larger debts (such as mortgages, car loans and credit cards) until it is determined if the estate will be able to satisfy all of the decedent's debts.

#### **1. Satisfaction of Mortgage**

When the decedent owned real property at the time of his death, it should be determined if such real property was subject to an outstanding mortgage. Unless it is specifically indicated in the will, a mortgage on real property is not satisfied out of the other assets of the estate prior to distribution of the real property. Instead the beneficiary takes the real property subject to any existing mortgage. N.J. Stat. Ann. §3B:25-1. In order to override the statute, the terms of the will must make specific direction to that effect. A general direction in the will to pay all debts does not constitute this specific direction to pay mortgage liens. N.J. Stat. Ann. §3B:25-1. The beneficiary entitled to inherit real property subject to a mortgage should be so informed to avoid any confusion or disappointment when the asset is distributed from the estate.

#### **2. Time for Presentation of Claims**

Reviewing the decedent's checking account and mail may not uncover all of the

decedent's debts. Under law, creditors of the decedent must present their claims to the executor of the decedent's estate within nine (9) months of the date of decedent's death. Such claims must be presented in writing and under oath, must specify the amount claimed and must state the particulars of the claim (such as how the claim arose). N.J. Stat. Ann. §3B:22-4. See Exhibit 80 for a sample proof of claim.

As creditors have nine (9) months to present valid claims to the executor, the executor should not make distributions to the beneficiaries prior to nine (9) months after the date of death in order to avoid personal liability for payments of the estate's debts. If the claim is not timely presented, the executor is not liable to the creditors with respect to any assets which the executor may have already delivered or paid in satisfaction of lawful claims or bequests before presentation of the claim by the creditor.

### **3. Acceptance or Denial of Claims**

Once a claim has been presented to the estate in a timely manner, the executor must either allow or dispute the claim in whole or in part within three (3) months after the presentation of the claim. N.J. Stat. Ann. §3B:22-7. The executor must give notice in writing to the creditor of the acceptance and/or denial of the claim, or to the creditor's agent or attorney.

If the claim is disputed, then the claimant must commence an action on the claim within 3 months after receiving notice of dispute. See Exhibit 81 for a sample dispute of claim. If the creditor does not commence an action within that time, the executor would not be liable to him with respect to assets delivered or paid over before the commencement of any action. Note the claimant still has rights against beneficiaries of the estate even though the claimant did not file a claim. The claimant will also have rights against the executor to the extent of the assets remaining in the hands of the executor after the claim is presented.

### **4. Insufficient Funds**

If the assets of the estate are insufficient to pay all claims in full, the executor is obliged to make payment in the following order: (1) reasonable funeral expenses; (2) costs and expenses of administration; (3) debts for the reasonable value of services rendered to decedent by the Office of the Public Guardian for Elderly Adults; (4) debts and taxes with preference under federal law or the laws of New Jersey; (5) reasonable medical and hospital expenses of the last illness of the decedent including compensation of persons attending him; (6) judgments entered against the decedent; and (7) all other claims. Commencement of an action against the executor for the recovery of a debt or claim or entry of a judgment against the executor does not entitle such debt or claim to preference over others of the same class. N.J. Stat. Ann. §3B:22-2.

### **5. Contingent Claims**

Contingent claims or unliquidated claims exist when the amount of damages has

not yet been determined or where the estate's liability, if any, for said damages has not yet been established. For example, if the decedent died in a car accident where he was driving the car and the passenger of the car files a lawsuit against the decedent's estate, the executor should determine an appropriate reserve of assets that should be set aside to pay these contingent and unliquidated claims. The amount of reserve would vary depending on the facts and circumstances of each case and an expert should be consulted to determine the amount of the reserve required.

#### **D. Preparation of the Tax Returns**

Once the assets and liabilities have been identified it is time to prepare the various tax returns that may be required. Every estate with more than \$600 taxable income must file an income tax return. If the estate passes to persons other than Class A beneficiaries and charities, then a New Jersey inheritance tax return must be filed. If the estate (adjusted taxable gifts made after December 31, 1976) is \$675,000 or greater, then a New Jersey estate tax return must be filed. If the estate is greater than \$5,000,000<sup>2</sup>, then a federal estate tax return must be filed.

There are several issues that must be addressed in connection with preparing the various tax returns. Four of the most important of these issues are (1) determination of beneficiary's rights to estate assets, (2) the valuation of the estate's assets, (3) the determination of valid deductions and (4) the allocation of principal and income.

##### **1. Preliminary Issues**

###### **a. Determining Beneficiary's Rights**

As will be discussed, the amount of tax due will often depend on the relationship of the beneficiary to the decedent. For example, there is a marital deduction permitted for any assets passing from the decedent to his or her spouse, and, the imposition of the inheritance tax is directly related to the familial relationship (if any) between the decedent and each beneficiary. Understanding the identities of the beneficiaries who will inherit the estate is of paramount importance when preparing the death tax returns.

###### **i. Dower and curtesy**

A right of dower or curtesy (i.e. a life estate) may exist for the surviving spouse if the decedent owned property at the time of his death that was acquired prior to May 28, 1980. N.J. Stat. Ann. §3B:28-1. A surviving spouse may waive his or her rights to dower and curtesy.

If a right to dower or curtesy is found to exist, the value of this right (i.e. life

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<sup>2</sup> In 2009 the federal exemption amount was \$3,500,000. In 2010 the federal estate tax was repealed. In late 2010 a bill was signed placing the federal exemption at \$5,000,000 for two years. It is not clear how the situation will be resolved at the end of that period.

estate) must be calculated. N.J.Ct.R. 4:63-3. If the real property is to be sold to satisfy the right, the court shall determine the value of the right upon the basis of the net proceeds of the sale, above costs and expenses, applying the principle of life annuities (using tables provided in the Court rules). N.J.Ct.R. 4:63-3(a). Finally, the court shall make inquiry as to the health of the person entitled to the dower or curtesy and shall reduce the value of such right if such person does not have an average life expectancy. N.J.Ct.R. 4:63-3(d).

## **ii. Elective Share**

A surviving spouse, domestic partner or civil union partner (collectively referred to as “spouse” in this section) may have the right to an elective share of the decedent’s estate under N.J. Stat. Ann. §3B:8-1 et seq. The elective share is equal to one-third the augmented estate (as defined below). The right to an elective share depends on several factors including the decedent’s total assets (probate and non-probate) at the time of the decedent’s death, the assets of the surviving spouse and the assets inherited from the decedent by the surviving spouse. For this reason a detailed list of decedent’s assets and the assets of the surviving spouse should be compiled. Additionally, the terms of the decedent’s will must be reviewed to determine which assets, if any, the surviving spouse will inherit from the decedent.

So long as the surviving spouse was (1) married to (or in a domestic partnership or civil union with) the decedent at the time of decedent’s death, (2) not living separate and apart from the decedent, and (3) had not ceased living as man and wife (or as domestic or civil union partners), then the surviving spouse may be entitled to an elective share. N.J. Stat. Ann. §3B:8-1.

The augmented estate is comprised of the following assets:

- Decedent’s estate (reduced by funeral expenses, administration expenses, and enforceable claims);
- Plus the value of property transferred by decedent after May 28, 1980 (during marriage or civil union to someone other than the surviving spouse or civil union partner (for less than full and adequate consideration) if the decedent retained (a) the possession or enjoyment of or the right to the income from the property, (b) the power to revoke, consume, invade or dispose of the principal of the property, (c) ownership with the other person with rights to survivorship; or (d) gifts to any person made within 2 years of decedent’s death that exceed \$3,000 per year (per person));
- Plus property owned by the surviving spouse or civil union partner at the time of decedent’s death if such property was transferred (for less than full and adequate consideration) to the surviving spouse or civil union partner by the decedent;
- Plus property passing (for less than full and adequate consideration) to the surviving spouse or civil union partner from the decedent (other than by testate or intestate succession) at the time of decedent’s death;

- Plus property transferred by surviving spouse or civil union partner if such property was received from the decedent and would have been included in the surviving spouse's or civil partner's estate had the surviving spouse or civil union partner predeceased the decedent; and
- Minus excluded property.

N.J. Stat. Ann. §3B:8-1, §3B:8-5, §3B:8-6. Transfers that were consented to by the surviving spouse are excluded from the augmented estate. N.J. Stat. Ann. §3B:8-5. Additionally, life insurance, accident insurance, joint annuities or pensions payable to a person other than the surviving spouse are excluded from the augmented estate.

The surviving spouse may waive the right to an elective share. N.J. Stat. Ann. §3B:8-10. The right can only be waived in writing and after fair disclosure. Most commonly the right to an elective share is waived in a pre or post nuptial agreement.

## **2. Valuing assets**

When filing out the tax returns, the date of death value for each asset owned by the decedent must be determined. For many assets, this is a rather straight forward exercise. To value publically traded stocks, for example, you take the average of the high and the low on the decedent's date of death. If the decedent died on a day the stock exchange was closed, then you take the average of the high and the low on the first day previous to the decedent's date of death that the stock exchange was opened and the average of the high and the low on the first day after the decedent's date of death that the stock exchange was opened and you average those two numbers to determine the stocks fair market value on the decedent's date of death.

### **a. Fair Market Value**

For other assets it is more difficult to determine the fair market value. If there is not a ready market for the asset, then the fair market value is the price at which the asset would change hands between a buyer and a seller both being comprised of all the facts and circumstances. Absent an actual sale of the asset to a third party, setting the fair market value is somewhat a matter of opinion and therefore for hard to value items (such as real estate and closely held businesses) it is often necessary to hire an appraiser to opine on the fair market value of the asset.

Finally, if there is not ready market for the asset (for example restricted stock in a closely held company), then the fair market value may be reach by applying discounts such as lack of marketability or lack of control.

### **b. Alternate Valuation Date**

Instead of using the date of death value, the executor may, by an election duly made, have property included in the gross estate valued as of the date six months after the date of the decedent's death i.e. the alternate valuation date). In order to use the alternate

valuation date (1) every asset must be valued as of the alternate valuation date - i.e. the executor cannot pick and choose which assets to value as of date of death and which to value as of the alternate valuation date, (2) the value of the gross estate must decrease in comparison to the value of the gross estate as of the decedent's date of death and (3) the tax due must decrease as well. Additionally, assets sold between date of death and the alternate valuation date must be valued at their sale price.

### **3. Determining Deductions**

Another important factor in preparing the tax returns is determining the deductions that are available to the estate as this will reduce the gross value of the estate, thereby potentially reducing any tax due. Some examples of deductions include debts, the marital and charitable deduction, reasonable attorney's fees and executor's commissions.

#### **a. Marital Deduction**

There is a marital deduction on the federal estate tax return for any assets passing from the decedent to his or her spouse. Therefore, any assets inherited by the spouse will not give rise to a federal estate tax. Likewise, spouses, domestic partners and civil union partners are class "A" beneficiaries and are exempt from New Jersey inheritance tax and assets passing from the decedent to his or her spouse, domestic partner or civil union partner will not give rise to a New Jersey estate tax due to the marital deduction.

#### **b. Charitable Deductions**

Testamentary gifts to organizations recognized as tax-exempt under Internal Revenue Code section 501(c)(3) qualify for a charitable deduction for purposes of the federal and New Jersey estate taxes.

#### **c. Attorney's Fees**

Attorney's fees are a valid deduction on the estate's income or estate tax return so long as they are reasonable. Therefore the attorney should be careful to document what work was performed on the estate, even if the attorney is not sending detailed periodic bills to the client.

#### **d. Executor's commissions**

##### **i. Direction Under the Will**

The terms of the will may set forth the commission to be paid to the executors. Absent such a provision, New Jersey Statute sets forth the amount of commission executors will be paid. For example, corporate executors (i.e. banks, trust companies, etc.), as well as professionals who are serving in the capacity as executor (attorneys, accountants, etc.) will oftentimes require compensation different than that set forth under New Jersey law and therefore the will make direct that professionals serving as executors

be paid their normal hourly rates. Likewise banks usually require that their commissions be paid in accordance with the rates that they periodically publish and not the statutory rates.

## **ii. Statutory Principal Commissions**

In order to calculate the statutory compensation provided for executors, it is necessary to determine assets that are “in the hands of the executor.” This is because commissions are paid based upon assets actually received by the executor. N.J. Stat. Ann. §3B:18-13, -14. For example, if there is a life insurance policy paid to the surviving spouse’s beneficiary, the executor is not entitled to commissions based upon this asset. However, if the life insurance policy was paid to the estate, the executor would be entitled to receive commissions based upon this asset even though the proceeds eventually end up in the same place, i.e. the hands of the surviving spouse. Therefore, it is necessary to determine the list of probate assets (assets that come into the hands of the executor) and non-probate assets in order to determine the corpus of the estate that the executor will be entitled to receive compensation upon.

Once the amount of assets upon which commissions can be paid has been determined, commissions will be calculated as follows:

- 5% on the first \$200,000 of estate assets; plus
- 5% on the excess over \$200,000 and up to \$1,000,000; plus
- 2% on the excess over \$1,000,000; and 1% over \$1,000,000.

## **iii. Statutory Income Commissions**

In addition to corpus commissions executors are entitled to income commissions. N.J. Stat. Ann. §3B-18-13. Therefore, it is necessary to determine income items so that the income commission can be calculated. An income commission of 6% of all income earned (not 6% on the principal of the estate) may be taken without court allowance. Additionally, when determining what items of income are to be calculated for purposes of determining the income commission, the full amount of items of income charged to the decedent’s estate is the number that the executor’s income commission is calculated on. It does not matter if decedent’s estate actually received the full amount. For example, suppose decedent’s estate was to receive \$20,000 in income, but 30% of this was withheld for income tax purposes. The executor’s income commission would be calculated on the \$20,000 as opposed to the \$14,000 actually received by the estate.

## **iv. Unusual or extraordinary services**

In addition to the commission provided under the will or under the statute, an executor may request additional compensation if they have performed unusual or extraordinary services to the estate, or for assets not coming into the executor’s hands, but which are taxable as part of the decedent’s estate. N.J. Stat. Ann. §3B:18-9, -16. If the recipient of the property (i.e. the life insurance policy mentioned above) is within the

jurisdiction of the court, the additional commission shall be paid by the recipient of the property. N.J. Stat. Ann. §3B:18-11. The court may also order that the additional compensation be paid out of the probate assets if it is not paid by the recipient of the property.

#### **v. Commissions and fees**

Additionally, if the executor is an attorney in the State of New Jersey, and in addition to his executor's duties (i.e. gathering the assets, determining the values, notifying the beneficiaries of the probate of the will, etc.), the executor also performs legal services (defending a will contest, researching whether or not a particular beneficiary is entitled to a distribution, etc.), the attorney will also be entitled to legal fees in addition to his executor's commission. N.J. Stat. Ann. §3B:18-6.

If the executor is an attorney (or other professional, such as an accountant) it is important ahead of time to set forth what role the person the executor will serve, i.e. will they serve in a fiduciary capacity only or will they also serve as counsel the estate. Additionally, it should be set forth up front how they will be compensated so as to avoid any confusion or unexpected consequences after the administration of the estate has begun or concluded.

#### **vi. Multiple Executors**

In addition to the commissions set forth above, an additional 1% of all corpus is allotted for each additional executor provided, however, that no one executor shall be entitled to greater commission than they would have been if they served alone.

The fact that this additional 1% is available does not mean that all executors must be paid commissions on an equal basis. Normally assuming all executors have performed their duties on a somewhat equal basis the commissions would be split equally. However, executors may be compensated on an unequal basis. The only caveat is that one executor does not receive more than the amount that a single executor would be entitled to receive.

If the fiduciaries cannot decide how commissions should be allocated, the court shall so decided after reviewing services provided to the estate by each executor.

### **4. Allocating to Principal and Income**

The terms of the will can set forth direction on how to allocate items of income and principal. Therefore the terms of the will must be reviewed to determine how these items should allocated. If the will is silent regarding the allocation of principal and income, then the Uniform and Principal and Income Act of 2001 (the "Act") will govern. N.J. Stat. Ann. §3B:19B-3. Under the provisions of the Act, items of income attributable to specific bequests are allocated to the specific legatee who is to receive the specific bequest. N.J. Stat. Ann. §3B:19B-5(a).



## **5. Income tax return for the estate**

In addition to the final income tax return for the decedent, the executor also files a fiduciary income tax return setting forth the income of the estate after the death of the decedent. Any estate with gross taxable income for the taxable year of \$600 or more must file a return. Exhibits 84 through 88. A New Jersey fiduciary return should also be filed. See Exhibit 86. The return must be filed before the 15th day of the 4th month following the close of the taxable year. Income tax paid by the executor can be paid in 4 equal installments.

There are several decisions to make before filing the estate income tax return. For example, there are some deductions that can be taken either on the federal estate tax return or the estate's income tax return. Depending on the size and makeup of the estate, the deductions may provide more benefit to the estate if they are taken on one return vs. the other. Therefore, the federal estate tax return and the estate's income tax return should be prepared with an eye towards maximizing the tax benefit to the estate.

## **6. New Jersey Inheritance Tax**

The New Jersey Inheritance tax is a tax determined by who inherits the property from the decedent. The rate of tax depends on the status of the beneficiary in relation to the decedent. Exhibit 90 shows the beneficiary classes and the rates applicable for estates of decedents dying after July 1, 1988. For example, the decedent's spouse is a "class A" beneficiary and therefore any property that passes from the decedent to the spouse is exempt from the New Jersey Inheritance Tax. As of July 10, 2004 domestic partners are also class "A" beneficiaries. On February 16, 2007 the state of New Jersey began recognizing civil unions between persons of the same sex and now affords civil union partners the same rights and privileges as spouses. See Exhibit 88A for a copy of the Attorney General's letter.

Assets passing to charities that are recognized by the New Jersey Division of Taxation are exempt from New Jersey Inheritance tax (class "E"). It would be rare for the Division to deny an exemption from the inheritance tax for charitable entities organized outside of New Jersey, the but possibility does exist.

The New Jersey Inheritance Tax is due 8 months after the death of the decedent, at which time interest begins to run at 10% per annum on the unpaid portion of any such tax. The executor may estimate the tax and send a payment together with an IT-EP (Exhibit 89) to the New Jersey Individual Audit Branch (Inheritance and Estate Tax Section) before the return is filed. In the event of an estimated payment, any overpayment would be refunded and any underpayment will be subject to interest.

An application for extension of time to file Inheritance and Estate tax returns may be filed (Exhibit 91). An IT-R (Resident Inheritance Tax return) is required for residents who died on or after January 1, 1991. The first page of the return contains a summary of the assets of the estate and requires the executor to compute and pay the tax due. In the

event the tax is not paid when the IR-T is filed, or the amount submitted is incorrect, the Branch will send a Tax Bill and a Breakdown of the Tax Bill (Exhibit 92).

Upon acceptance of this return and any required estate tax return by the Branch, waivers will be forwarded. Exhibits 93 and 94 are sample waivers for personal property and real property respectively. If a waiver is required in advance of the filing of the Inheritance Tax and Estate Tax returns, a L-4 (Exhibit 95) should be utilized.

**a. New Jersey Inheritance Tax Return (Exhibit 98)**

The New Jersey Inheritance Tax return is comprised of various schedules. The decedent's assets and liabilities are listed on the various schedules and then the totals from the schedules carry forward to the first page of the return, where the tax due is calculated.

**i. Schedule A (Real Estate)**

This schedule refers to the real estate of the decedent. Property held by husband and wife as tenants by the entirety is not taxable and should not be listed. However, all other New Jersey real property owned by the decedent either individually or jointly, should be included. There should be a description of the property so that appropriate waivers can be drafted. The property may be described by Lot and Block or by general description with a reference to the Deed by which title was acquired. If decedent owned a fractional interest in the property, there should be information supplied as to the names in which the property is held, whether it is joint tenants with right of survivorship or as tenants in common, and how the interest of the decedent was acquired.

The value of real estate is an opinion. Being an opinion it can be proven in court by an expert. In residential properties and in vacant lots, it may not be necessary for the executor to have a formal appraisal of the value of the real estate in question. It might be possible to use a "market valuation" instead, especially if the property is passing to a surviving spouse, domestic partner or civil union partner. However, with apartment houses or industrial properties of all kinds, the executor of the estate should and generally will be required by the Inheritance Tax Bureau to submit a formal appraisal in support of the valuation placed on the real estate. The return requires that the tax assessment of the property be set forth. In many cases where the valuation placed on the property by the executor is substantially less than the assessment, the Division on Taxation will inquire of the attorney for the estate relative to the reason for the discrepancy and whether a tax appeal had ever been taken from the tax assessment.

**ii. Schedule B (Businesses)**

The instructions indicate that this Schedule should indicate any interest held by the decedent in a closely held corporation, partnership, joint venture, or sole proprietorship. The information required to be supplied to establish the value of this type of asset is set forth in the instructions.

Schedule B (1) should set forth all of the personal property in the name of the decedent or in the name of the decedent and another person (except for closely held businesses which are listed on Schedule B and tangible personal property which is physically outside of the State for a permanent purpose). In the event that it will be maintained that a part or all of the property in joint names belongs to one other than the decedent, appropriate proof of that fact should be submitted with the return. It is also a good idea to have the executor prepare and sign a statement that lists all of the decedent's tangible personal property as well as the value thereof. This need not be filed with the return, but should be retained in your files.

With bank accounts, it is customary to write to each bank and request a written statement regarding the balance on deposit in the name of the decedent as of the date of death (Exhibit 99). A copy of the reply is attached to the return. The bank, however, may not be aware of outstanding checks and it is safest to double-check this amount by reviewing of the statements before and after the date of death to look for outstanding checks as well as income accruals.

The value of stocks and bonds is arrived at on the basis of the average price between the low and the high on the date of death. With tangible personal property such as automobiles, jewelry and the like, there should be an appraisal of the market value of these items as of the date of the decedent's death.

### **iii. Schedule C (Transfers During Life)**

This schedule relates primarily to inter vivos transfers which are includable as part of a decedent's estate for New Jersey inheritance tax purposes. Transfers within three years of death without a valuable consideration being paid are deemed to have been made in contemplation of death and subject to taxation. Accordingly, for such a transfer to escape taxation, the burden of proof is upon the executor to establish that the transfer in question was not made in contemplation of death.

Transfers of property made by a decedent where the decedent reserves, in whole or in part, the use, possession, income or enjoyment of such property, are also taxable. In addition, the proceeds of a refund annuity contract are also considered a transfer intended to take effect at death and therefore taxable.

Proceeds of life insurance contracts payable by reason of the death of the decedent to a beneficiary other than the estate would generally be exempt from the tax. All accumulated dividends, post mortem dividends, and premium refunds would, however, be taxable.

### **iv. Schedule D (Deductions)**

This schedule relates to the deductions which are allowed. The first item mentioned on this schedule is funeral expenses. A deduction is also allowed for the

expense of administering an estate, including counsel fees and executors' commissions taken, if any. The executors' commissions should not be claimed unless the amount has or will be reported by them for Federal Income Tax purposes. Attorney fees will be allowed if they are determined to be reasonable. Fees paid to appraisers in connection with the appraisal of personal or real property owned by the decedent and listed on the return will be allowed as administration expenses. In addition, accountants' fees incurred in connection with the preparation of financial statements needed to evidence the value of any interest which decedent may have had in a business at the time of his death would also be allowed as an administration expense.

Debts of the decedent which are due and owing as of the date of death are also deductible. However, no debt should be listed unless it is due and owing as of the date of death and unless it will be paid by the executor out of the assets of the estate. Deductions are not allowed for debts which are secured by or owing on property which would be exempt or not subject to the inheritance tax (an example would be a mortgage covering property held by decedent and the surviving spouse as tenants by the entirety). Debts of the decedent could also include unpaid Federal Income Taxes and gift taxes. However, taxes should not be listed which are chargeable for any period subsequent to the date of death. Thus, taxes on real estate included in the return and of which the decedent dies seized should be prorated to the date of death and not claimed for the full calendar year.

Costs of the last illness are not deductible where they are paid during the lifetime of the decedent unless the person who paid them has advanced the funds and the estate would be obligated to reimburse such person. If any claims listed are secured by collateral, the collateral should be described with its value as of the date of death of the decedent and whether or not the collateral is included among the assets disclosed in the return. If collateral is not pledged for any loan, then after the notation of the loan there should be a statement "no collateral pledged."

#### **v. Schedule E (Beneficiaries)**

This schedule should contain the names and addresses of the beneficiaries of the estate, their relationship to the decedent, and their interest in the estate. In addition the names of all beneficiaries who died before or after the decedent should be set forth. If the decedent died testate, a copy of the Last Will and Testament and any Codicils must be submitted with the return. In addition, a copy of the decedent's most recent Federal Income Tax return is required. Other documents required to be filed would depend upon the nature of the assets to be included in the estate (to amend a return - see Exhibit 100).

### **7. New Jersey Estate Tax**

Unlike the New Jersey Inheritance Tax, the New Jersey estate tax is levied based upon the value of the decedent's estate, not based upon the "status" of the beneficiary receiving the assets.

With respect to the estates of residents dying after December 31, 2001, the New

Jersey Estate Tax may be computed in one of two ways: (1) calculate the maximum credit for state death taxes that would have been allowed under federal law in effect on December 31, 2001, (when the "exclusion" was \$675,000) and deduct any inheritance taxes paid to New Jersey or any other jurisdiction or, if a federal estate tax return is not required to be filed, (2) utilize the "simplified" form devised by the Division which permits the New Jersey Estate Tax to be calculated without reference to federal tax law. A "simplified" form cannot be used where a federal estate tax return is filed or required to be filed (Exhibit 105). Note that the simplified method uses the tax base from the inheritance tax, which has notable differences from the New Jersey estate tax, such as the inclusion of gifts made within three years of death.

#### **a. New Jersey Estate Tax Return**

A New Jersey Estate Tax Return must be filed whenever the decedent's gross estate, determined under the provisions of the Internal Revenue Code in effect on December 31, 2001, exceeds \$675,000 (Exhibit 106 is page 1 of the 2001 Federal Estate Tax Return). A New Jersey Estate Tax Return is not required if the decedent's taxable estate plus adjusted gifts under federal law in effect on December 31, 2001, do not exceed \$675,000.

The New Jersey Estate tax return should be filed and tax paid within nine months after the death of the decedent. A copy of the Federal Estate tax return should also be filed with the Division within 30 days after the filing of the original with the federal government. In addition a copy of any communication received from the federal government making any changes in the federal return should be filed with the Division within thirty days after receipt.

The Estate shown on Exhibit 101 and Exhibit 105 is an example of an estate of a decedent dying in 2006 where there is no federal estate tax but there is a New Jersey Estate Tax equal to the amount of credit for state death taxes which would have been allowed under Federal law in 2001 (to compute this amount see table B of Exhibit 102). A federal return had to be filed as the gross estate exceeded \$2,000,000. Exhibit 107 is a New Jersey Estate Tax return for another estate using the "Simplified" method. Exhibit 104 is an example of a New Jersey estate tax return for a decedent dying prior to December 31, 2001.

### **8. The Federal Estate Tax**

Like the New Jersey estate tax, the federal tax is imposed upon the transfer of the entire taxable estate. A Form 706 (United States Estate Tax Return) must be filed for the estate of every citizen or resident of the United States dying in 2011 where the gross estate exceeds the sum of \$5,000,000.<sup>3</sup>

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<sup>3</sup> In late 2010, President Obama signed a law that set the federal estate tax exemption at \$5,000,000 for decedent's dying in 2011 and 2012.

**a. Federal Estate Tax Return**

The Federal Estate Tax Return (Exhibit 101) is filed with the Internal Revenue Service Center for the state in which the decedent had his domicile at the time of his death. The return should be filed and the tax paid within nine months after the date of decedent's death unless an extension of time for filing has been granted.

To determine the amount of the tax, the total value of the decedent's gross estate must first be ascertained. Schedules A through I list the various items which would be included in the estate for estate tax purposes. A decedent's gross estate for Federal Estate Tax purposes may be completely different from his estate for New Jersey Inheritance Tax purposes.

To arrive at the gross estate add together the totals of Schedules A through I. However, the executor has the right to adopt an alternative valuation. Such an election should be made on the return within the time specified. The executor may, by an election duly made, have property included in the gross estate valued as of the date six months after the date of the decedent's death. However, in such a case property sold, distributed or otherwise disposed of within six months after death must be valued as of the date of such distribution or sale. Accordingly, whenever the election to use the alternate valuation is taken, the return should include the value of the estate as of the date of death, a disclosure of all distributions and sales made within the six-month period after death, and the value of all property not so distributed or sold as of six months after the date of the death of the decedent.

**i. Schedule A (Real Estate)**

Schedule A relates to the real estate of the decedent. The real estate should be so described that it can be readily located by the Internal Revenue Service for the purpose of valuation.

**ii. Schedule B (Stocks and Bonds)**

Schedule B relates to stocks and bonds. Here again there should be an adequate description for purposes for identification. In the case of stocks or bonds listed on the exchange, the mean between the highest and lowest quoted selling prices on the valuation date should be considered as the fair market value. In the case of the valuation of inactive stock or stock in closely held corporations, there is the requirement of submitting documentation supporting any valuation placed upon such property by the estate.

**iii. Schedule C (Mortgages, Notes and Cash)**

Schedule C relates to mortgages, notes and cash of the decedent.

**iv. Schedule D (Insurance)**

Schedule D relates to insurance on the decedent's life. Proceeds of all insurance on the life of a decedent not receivable by or for the benefit of his/her estate, are still includable in the gross estate if the decedent possessed at his/her death any of the incidents of ownership exercisable either alone or in conjunction with any other person. A Form 712 should be filed for each insurance policy listed.

**v. Schedule E (Jointly Owned Property)**

Schedule E relates to jointly owned property. If an interest in property is held by a decedent and his/her spouse as tenants by the entirety or as joint tenants with right of survivorship (provided decedent and his/her spouse are the only joint tenants), one-half of the value of the jointly owned interest is included in the estate of the decedent spouse regardless of which spouse furnished the consideration.

With respect to all other jointly held property, the full value of such property would be included in the gross estate unless it can be shown that a part of the property belonged to the surviving tenant and was never received or acquired by the other tenant from the decedent for less than adequate consideration, or unless it can be shown that any part of the property was acquired by consideration originally belonging to the surviving tenant. If it is to be contended that less than the value of the entire property should be included in the gross estate, the burden is upon the executor to show the lesser value and submit proof of the nature of the decedent's interest and the interest of the co-tenant.

**vi. Schedules F, G, H, I and U (Miscellaneous Property)**

Schedule F refers to miscellaneous property of the decedent, including property not reportable under any other schedule. Schedule G refers to certain types of lifetimes transfers made by the decedent which must be included in the gross estate. Also includable in the gross estate is the value of property over which decedent possessed a general power of appointment at the time of his/her death (Schedule H) and certain annuities receivable by beneficiaries following the death of a decedent (Schedule I). The executor may also elect to exclude from the gross estate a portion of the value of land that is subject to a qualified conservation easement (Schedule U).

**vii. Schedules J, K, L, M and O (Deductions)**

After the total gross estate has been determined, subtract therefrom the allowable deductions. These deductions are set forth on Schedules J, K, L, M and O of the return.

Schedule J refers to funeral expenses and expenses incurred in administering property subject to claims. With funeral expenses, there should be deducted from the allowable funeral expense any moneys received from death benefits payable such as by the Veterans Administration. The administration expenses would, of course, include

attorney's fees and executor's commissions. The executor, when filing his return, may deduct commissions in such amount as will be paid. If the commissions are not fixed by a court, then a deduction will be allowed if they are found to be reasonable. In addition, reasonable attorney's fees will also be deducted. Certain miscellaneous fees will also be listed on this schedule of the return, such as probate costs, fees for appraisers, and other similar types of expenses which would be incurred in connection with the administration of the estate. Note that certain administration expenses (i.e. appraisal fees) appearing on Schedule J must reduce the marital deduction if paid from the marital share.

Schedule K relates to debts of the decedent and mortgages and liens. The first section in Schedule K relates to unsecured debts of the decedent and there should be set forth therein all such debts owing at the time of the death of the decedent.

Schedule L relates to losses during the administration and expenses incurred in administering property not subject to claims.

Schedule M is the marital deduction. Unlimited amounts of property can now be transferred between spouses without estate or gift tax. Generally, terminable interests do not qualify for the marital deduction. An executor, however, may elect to have "qualified terminable interest property" included in the marital deduction.

While the state of New Jersey recognizes domestic partnerships and civil unions, the federal government does not. Therefore, any property passing to a domestic partner or a civil union partner of the decedent will not be taxed for purposes of New Jersey Inheritance or Estate tax but such property will not qualify for the federal marital deduction and therefore may be subject (depending on the size of the decedent's estate) to federal estate tax.

Charitable transfers made may be deductible (Schedule O).

#### **viii. Calculating the Federal Estate Tax Due**

The tentative taxable estate is currently determined by subtracting the above deductions from the gross estate. The state death tax is deducted and the amount obtained is the taxable estate. The total of adjusted taxable gifts made after December 31, 1976 and not includable in decedent's gross estate is then added, and the tentative tax computed from the unified rate schedule (Exhibit 102). Aggregate gift taxes payable with respect to gifts by the decedent after December 31, 1976 are subtracted. Then the unified credit against estate taxes for the year of the decedent's death is deducted. The resulting amount would be the net estate tax payable unless credit is claimed for Federal gift taxes on pre-1977 gifts, foreign death taxes (Schedule P), or taxes on prior transfers (Schedule Q).

#### **ix. Attachments to the Return**

After the return has been completed, there should be attached a certified copy of the death certificate as well as a copy of evidence of payment of state death taxes. If the



decedent died testate, a copy of his will (and any codicils) should also be annexed. In addition, depending upon the circumstances, other documents would have to be attached to the return. Some examples would be as follows: For every policy of life insurance listed, the executor must procure a statement on Form 712 by the insurance company which issued the policy and attach it to the return. Statements from banks indicating amounts on deposit as of the dates in question should be included. Statements from brokers regarding the value of stocks as of the date or dates in question should also be included. Where the decedent owned real estate, there should be submitted some explanation as to the manner in which the value of such real estate has been determined by the executor. If it is contended that the full value of jointly owned property (other than property owned by a husband and wife) should not be included in the gross estate, then affidavits showing why a lesser value should be included must be attached to the return.

After the return is completed and the documents have been attached, a check in the amount of the tax made payable to the United States Treasury is generally annexed to the front page of the return. The return is then dated and signed by the executor and by the preparer (if one other than the executor) and by the attorney. It is then forwarded to the appropriate Internal Revenue Service Office. If the return is approved by the IRS it will send an executed Estate Tax Closing Document. See Exhibit 103.

## **VIII. Distributing and Closing the Estate**

The estate is near completion once the tax returns have been filed and the tax paid. All that remains now is to:

- Apportion taxes
- Finalize the plan of distribution
- Consider making a partial distribution
- Prepare final income tax return for the estate
- Prepare an accounting (formal or informal)
- Receive the tax closing letters
- Obtain releases and refunding bonds from beneficiaries and execute settlement agreement
- Distribute the assets and fund any trusts established under the will

### **A. Apportioning Taxes**

The will should be reviewed to determine the appropriate allocation of federal and state estate tax and New Jersey inheritance tax. It is not uncommon for a will to charge all death taxes, whether attributable to probate or non-probate assets, to the estate. If the will is silent, then the taxes are apportioned among the beneficiaries according to state law. N.J. Stat. Ann. §3B:24-2.

Under New Jersey law the portion of the total tax due (i.e. Federal estate tax, New Jersey estate tax or New Jersey inheritance tax) that bears the same ratio as the total tax due bears to the total property in the estate (for purposes of calculating that tax) shall be apportioned to each beneficiary. N.J. Stat. Ann. §3B:24-4 (a). This includes beneficiaries of probate and nonprobate assets. For example, if the decedent's estate is \$1 million dollars and consists of \$600,000.00 in a individual checking account (probate asset) and a \$400,000.00 life insurance policy which is payable to the decedent's son (non-probate asset), the beneficiaries of decedent's probate estate (i.e. the beneficiaries under decedent's will) will bear 60% of the New Jersey estate tax. Hence, decedent's son will bear the other 40%.

Additionally, any benefit of a deduction will inure to the benefit of the beneficiary whose relationship to the decedent gives rise to the deduction. For example, in the above situation assume the decedent's spouse is the beneficiary under decedent's will. Due to the marital deduction, the 60% of decedent's estate that passes to his spouse will not be subject to New Jersey estate tax. Therefore, decedent's spouse will not bear any of the New Jersey estate tax even though she is entitled to inherit 60% of decedent's estate. If decedent's estate gives rise to New Jersey estate tax (and federal estate tax for that matter), decedent's son will bear 100% on the tax. N.J. Stat. Ann. §3B:24-4(b). The same is true for a deduction for property previously taxed and for credit for gift taxes paid by the decedent. N.J. Stat. Ann. §3B:24-4(c).

When the decedent owned real property outside of New Jersey, such real property

may generate an estate and/or inheritance tax under the laws of the state where said real property is located. For this reason it is necessary to review the apportionments statutes of that state to determine the effect of this additional tax on the apportionment of tax among decedent's beneficiaries.

If the unlimited marital deduction is taken by the estate for all assets that pass to the surviving spouse, such assets shall not bear any federal or New Jersey estate tax liability. N.J. Stat. Ann. §3B:24-4(b). Likewise, if a charitable deduction is taken by the estate for all assets that pass to a qualifying charity, such assets shall not bear any federal or New Jersey estate tax liability.

## **B. Plan of distribution**

Once the apportionment of taxes is determined, then a plan of distribution should be formulated. Basically, a plan of distribution sets forth what the beneficiaries of the estate are entitled to and how each beneficiary's share of the estate will be satisfied. For example, if the spouse is entitled to 50% of the estate and the estate (totaling \$500,000) is comprised of (1) a house valued at \$250,000, (2) an investment account valued at \$125,000 and (3) a closely held business valued at \$125,000, will the spouse receive the house or the investment account and the business?

### **1. Types of Bequests**

In order to map out a plan of distribution, a list of the different bequests made under the will should be compiled. A will does often set forth different types of bequests, such as general bequests, specific bequests, pecuniary bequests, fractional bequests, etc. For example, the will may leave "15% of the residuary" or "\$15,000 cash" to a particular beneficiary. The bequest of 15% of the residuary is a fractional general bequest and the bequest of \$15,000 cash is a specific bequest. The will should also be reviewed to see if it sets forth priority of distribution among beneficiaries (i.e. "my spouse is to receive the first \$100,000 and my children are to share the next \$100,000 thereof.").

#### **a. Specific Bequests**

Specific bequests entitle the beneficiary to the actual item devised to them. For example – "I leave my blue 1964 convertible to my son." If there is a specific bequest made, those items must be distributed to the beneficiary so long as the remainder of the estate is sufficient to satisfy all debts and obligations of the decedent. To the extent the residuary estate is not adequate to pay all debts and the obligations of the decedent, specific bequests are the last bequest to be responsible for payment of such debts. N.J. Stat. Ann. §3B:23-12.

A specific bequest is subject to market fluctuations. For example, the 1964 convertible may be valued at \$10,000 as of the date of death. If the value of the car decreases between date of death and date of distribution (say to \$8,000), the beneficiary still gets the car – he does not get the car plus \$2,000 to make up for the loss in value.

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If a specific bequest of real estate is made, title to the real property devolves to the beneficiary upon the death of the decedent. N.J. Stat. Ann. §3B:1-3. The same holds true for specific gifts of personal property such as cars, clothing, furniture, etc. This is also the case if the gift of the tangible personal property is a “general” bequest of “all my tangible personal property to my daughter.”

### **b. Pecuniary Bequests**

Generally, a pecuniary bequest is a bequest that is not a specific bequest. A pecuniary bequest is a bequest (but not a specific bequest) for which a dollar amount may be determined as of the date of death. For example, “I give Joe 20% of my residuary estate.” This is a pecuniary bequest. No matter the size of decedent’s residuary estate, Joe is entitled to 20% of that number. Therefore, the dollar amount of Joe’s bequest can be determined as of the date of death. This is true even though the expenses of administration may not be known until after the decedent’s death. Once the residuary estate is calculated Joe’s bequest will have a specific dollar amount, i.e. 20% of whatever the residuary estate amounts to.

The beneficiary of a pecuniary bequest is not entitled to specific assets from the estate. Generally, the executor has discretion regarding which specific assets will be used to fund a pecuniary bequest. The value of the assets as of the date of distribution is the value used to determine the amount of assets that are needed to fund a pecuniary bequest. Therefore, the value of a pecuniary bequest is not subject to market fluctuations as is the case with a specific bequest.

If the general pecuniary bequest (i.e. “I give my neighbor \$5,000”) has not been satisfied as of the first anniversary of the appointment of the executors, interest must be paid on said bequest. The annual rate of interest must be equal to the average rate of return (to the nearest whole or half percent) for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund as reported by the Division of Investment in the Department of the Treasury. N.J. Stat. Ann. §3B:23-11.

### **c. Intestacy**

If the will does not set forth provisions for distribution of the decedent’s entire estate, then some of the decedent’s estate may pass by intestacy. See pages 26 and 27 for the intestacy statutes.

not be large enough to satisfy all of the bequests provided for under the terms of decedent's will . In this situation, some of the decedent's bequests must abate (i.e. not be satisfied in full).

If there are not enough assets to satisfy all of the decedent's bequests, some bequests must abate. Shares of various beneficiaries abate in the following order:

- Property passing by intestacy
- Residuary beneficiaries
- General beneficiaries
- Beneficiaries entitled to specific bequests

Within each of the above classifications, abatement is in proportion to the amount of property the beneficiary would have received if full distribution had been made. N.J. Stat. Ann. §3B:23-12.

### **3. Whether or Not to Consult with the Beneficiaries**

When determining how the residuary of the estate will be distributed (i.e. which assets will be distributed to which beneficiaries), it might make sense in certain circumstances to contact the beneficiaries of the estate to determine if they would prefer distribution in kind or in cash.

Unless the will states otherwise, distributions are to be made in kind to the extent reasonably possible, so long as the devise has not demanded payment in cash and no other beneficiary has requested the item to be distributed. N.J. Stat. Ann. §3B:23-1. If no beneficiary demands cash or distribution of a particular item in satisfaction of their bequest, then the executor should distribute the assets of the estate in kind (i.e. the executor should not convert them to cash prior to distribution). For purposes of determining the value of the assets to be distributed, securities are generally valued as of the day before distribution and other assets must be valued not more than 30 days prior to distribution. N.J. Stat. Ann. §3B:23-2.

### **4. Partial Distribution**

Full distribution beneficiaries should not be made until all debts of the decedent have been paid and the closing letters from the taxing authorities have been received. However, as many beneficiaries do not wish to wait until the estate is closed or fully administered to receive their distributions, executors are often asked to make partial distributions during the administration of the estate. Partial distributions can be made, so long as the executor reasonably believes that all obligations have been paid and maintains assets in the estate that would be able to make that sufficient to cover any unanticipated increases in liabilities (such as an increase in the estate tax due).

Prior to distributing estate assets to the beneficiaries in satisfaction of their inheritance, the executor must obtain certain basic information from said beneficiaries,

including legal name, address, date of birth and social security number. This information will be required in order to perform a judgment search which is necessary in certain cases and to prepare refunding bonds and releases (see below).

If all or a portion of the estate is governed by the intestate statutes, then distribution from the intestate estate cannot be made until one year after the grant of Letters of Administration unless an Order to Limit Creditors is entered. If an Order to Limit Creditors is entered then distribution made be made after six months of the date of the Order. N.J. Stat. Ann. §3B:23-18.

It might be advisable to make partial distributions to the heirs prior to the one year period running only if the administrator is certain that such assets can be returned to the estate if such assets are necessary to pay expenses, taxes and debts. If such a partial distribution is made, the administrator should be sure to have the heir execute a Refunding Bond and Release.

Under the terms of a refunding bond and release, the beneficiary is acknowledging the distribution from the estate and also acknowledging their obligation to return assets to the estate should there arise legitimate liabilities of the estate for which the assets remaining in the estate are insufficient. In such circumstances, the beneficiary has promised to return a pro rata share of their partial distribution such that it will be enough to cover their pro rata share of the liabilities owed.

**a. Child support judgments**

If the net distribution to any particular beneficiary is in excess of \$2,000, a child support judgment search must be performed before the distribution can be made. N.J. Stat. Ann. §2A:17-56.23b. Such search must be made within thirty (30) days of the distribution. N.J. Stat. Ann. §2A:17-56.23b. When performing child support judgment searches such as Charles Jones, the search cost cannot exceed \$10 per name. N.J. Stat. Ann. §2A:17-56.23b.

If the child's support judgment comes back as clear, the funds may be distributed to the beneficiary. If the child support judgment search shows that the beneficiary is in arrears in child support payments, the Probate Division of the Superior Court must be contacted. N.J. Stat. Ann. §2A:17-56.23b. The Probate Division of the Superior Court will give the executor instructions regarding payment of the distribution in circumstances where the child support judgment came back showing child support payments in arrears. N.J. Stat. Ann. §2A:17-56.23b. Note that a judgment for child support entered in accordance with N.J. Stat. Ann. §2A:17-56.23(a) and docketed with the Clerk of the Superior Court is a lien against any inheritance and distribution to the beneficiary should not be made until the child support judgment is satisfied. N.J. Stat. Ann. §2A:17-56.23(b).

Whether the Probate Division of the Superior Court indicated that the executor should distribute funds to the court or to a particular person in satisfaction of the child

support judgment, the executor should obtain a warrant of satisfaction for such payments from the Probate Division of the Superior Court. Once the warrant for satisfaction for child support judgment has been obtained from the Probate Division of the Superior Court, the executor is free to release funds in excess of the child support judgment to the beneficiary.

**b. Refunding bonds**

Whenever a distribution is made to a beneficiary, refunding bonds and releases should be prepared for their signature. Generally, these refunding bonds and release would release the executor of any liabilities and allow the estate to require contribution from the beneficiaries should any liabilities of the estate arise or remain after full distribution. Otherwise, the executor could be personally liable for such amounts.

The refunding bond and release will set forth the name and address of the beneficiary and describe the property received by the beneficiary. The property received should be described in detail, for example the amount of cash received or a description of the particular asset (if it is not cash) that is going to be received. See Exhibit 119.

The refunding bond should also contain language that the beneficiary will remain obligated to the estate to return money distributed to them if it is needed to discharge any debt or devise under the terms of the will. This is the refunding portion of the refunding bond and release. The refunding bond and release should also contain language where the beneficiary releases and discharges the executors of the estate to the extent of the distribution received from all claims and demands whatsoever in law or in equity on account of or in respect to the estate of the decedent. This is the release section of the refunding bond and release.

The beneficiary should sign and date the refunding bond and release in the presence of a witness and a notary. Additionally, at the top of the refunding bond and release the name of the Surrogate Court to which the refunding bonds and releases will eventually be filed should be designated as well as the title of the action “in the Matter of the Estate of \_\_\_\_\_, deceased”. Additionally, as discussed below, proof of filing of the refunding bonds and releases should also be provided by to the surety bond company if appropriate. N.J. Stat. Ann. §3B:23-24, -25, -26, and -27.

Once the refunding bonds and releases have been obtained from the beneficiaries they should be filed with the Surrogate Court. N.J. Stat. Ann. §3B:23-24.

**C. Preparing the Final Estate Income Tax Return**

Depending on the length of the estate administration, it is not uncommon for an estate to file more than one income tax return. As the estate draws to a close, it is important to prepare the final income tax return for the estate so that the executor can make sure that any tax liability is paid.

## **D. Accounting**

Generally, when an estate has been wound up and just prior to distribution being made, the executors must submit a formal accounting to the court. N.J.Ct.R. 4:87-1(a). However, a formal accounting is not necessary if all beneficiaries who are of age consent to an informal accounting. N.J. Stat. Ann. §3B:17-1. Additionally, it is common for the terms of the will to excuse the executor from the requirement of preparing a formal accounting. Therefore, the terms of the will should be reviewed to determine if (and on what terms) an informal accounting is allowed.

### **1. Informal Accounting**

In practice today, the vast majority of estates are settled without the necessity of any formal court approval. The executor will submit a form of informal accounting to the parties in interest and if same is satisfactory to them, will obtain their approval and consent to the accounting and their release. See Exhibit 108.

An informal accounting can be as informal as listing all the assets that the decedent owned at the time of his death (including the date of death value of same), setting forth a list of expenses paid by the estate and showing the remaining assets of the decedent's estate including the value thereof as of the time of the informal accounting. See also N.J.Ct.R. 4:87-9.

The informal accounting can also be part of the estate closing agreement (see below).

### **2. Waiver of Formal Accounting**

If a formal accounting is required, beneficiaries who are of age and competent may waive the need for a formal accounting. N.J. Stat. Ann. §3B:17-1. Therefore, a waiver to accounting should be prepared and submitted to the beneficiaries, especially when the beneficiaries have been involved in the administration of the estate or the estate has been relatively straightforward.

It may be wise to disclose certain facts to the beneficiaries when forwarding a request for waiver of accounting to the beneficiaries. For example, the following situations should be disclosed: when beneficiaries or executors of the estate have been involved in the management and investment of the estate assets during the administration, where loans were made to or from said persons, or where beneficiaries and/or executors of the estate have rented assets of the estate (for example, have been living in the decedent's residence since his time of death) with or without payment for the use of such assets.



### **3. Formal Accounting**

An executor may, however, choose to settle his account in Superior Court. An interested party also may compel the executor to settle the account in Superior Court.

The Formal Accounting Complaint is prepared in accordance with the requirements of N.J.Ct.R. 4:87-1 et seq. Exhibit 109 is a sample complaint by the executor voluntarily settling the account in Superior Court and Exhibit 114 is a sample complaint compelling the account to be settled in Superior Court. A Complaint for Settlement of an Account must contain the names and addresses of all parties interested in the account. The complaint also sets forth the period of time covered by the account and a summary of the account. The summary sets forth the amount for which the accountant is chargeable as well as the amount of allowances claimed and the balance in the hands of the accountant. The account itself is annexed to the complaint (Exhibit 110). Charges and allowances sought on account of corpus and income are stated separately both in the summary and in the account. There is annexed to the account a statement setting forth the various items specified in N.J.Ct.R. 4:87-3.

The Complaint asks for the allowance of the account and also for the allowance of commissions and attorney's fees if the accountant intends to apply therefor.

The original Complaint and Account are filed with the Surrogate. Accounts of all fiduciaries are settled on Order to Show Cause issued pursuant to N.J.Ct.R. 4:83. See Exhibits 111 and 115 for sample orders to show cause and Exhibit 112 for a sample order directing payment of claim. Some counties may have additional requirements, so it is always a good idea to call the Surrogate Court prior to filing to determine if there are any additional requirements.

If the names and addresses of all persons interested in the account are known, the papers are mailed by certified or registered mail return receipt requested as follows: to all persons who live in New Jersey at least 20 days prior to the return date; to all persons who live in the United States but outside of New Jersey at least 30 days prior to the return date; and to all persons who reside outside the United States at least 60 days prior to the return date.

Proofs of mailing and publication, if required, must be filed before the account will be allowed. In the case of persons in interest whose addresses are unknown, notice of the accounting must be given to the Attorney General at least 45 days prior to the return date and an Affidavit of Inquiry made pursuant to the requirement of N.J.Ct.R. 4:4-5(c)(2) must be filed.

An audit is conducted by the Surrogate, and a report upon the audit is made to the Court on the date fixed for settlement. The Surrogate's Court changes a statutory fee for this audit.

Any interested person may serve upon the accountant exceptions to any items in

or omissions from the account, including commissions and counsel fees. Exceptions must be in writing and signed by the objector or his attorney (Exhibit 116).

Generally, the function of an exception is to challenge an account either on the ground that the accountant is not entitled to an allowance claimed or on the ground that the accountant failed to charge himself with an asset. An exception should state particularly the item or omission objected to and the modification sought in the account. Exceptions should be filed at least 5 days prior to the return date of the Order to Show Cause but the Court, in its discretion, may let them be filed at any time.

An exception may be filed only by a person interested in the account. A person's interest is sufficient to qualify if he will benefit by the sustaining of the exception. If the exceptions are filed by a person without interest, the accountant may move to strike them. The exceptant and the accountant are the only necessary parties to the proceeding but other parties in interest may join on their own motion. If infants are involved, then guardians ad litem should be appointed for all infants having an interest. The guardian ad litem should file his/her report at least 7 days prior to the date on which the account is settled. See Exhibit 117 for a sample report of a Guardian ad litem. If the guardian ad litem applies for a fee in excess of \$1,000, then the report also includes an affidavit of services (Exhibit 118). Notice of all applications for allowances is given to all parties in interest.

If the exceptions can be disposed of summarily, then the matter will be heard on the date fixed in the notice of the settlement of the account. If testimony is required, then the matter is placed on the contested list and proceeds in a manner similar to will contest cases.

The rules relating to discovery proceedings are applicable. The exceptant or any interested party to the cause may examine the accountant at the hearing regarding the matters excepted to or, in the discretion of the Court, any other matters connected with the administration of the estate.

The practice is for the exceptant to call the accountant to the stand and examine him regarding the item excepted to. If the account is found to be correct, the Court allows the account as stated and the judgment allowing the account is conclusive on all parties who were given notice of the action as to all matters which could or might have been objected to on the account. The judgment discharges the executor from all liability except as to assets stated to be in his hands on the date of the account and as to assets which thereafter come into his hands. See Exhibit 113 for a sample judgment allowing the accounting and adjudicating upon exceptions.

#### **E. Final Distribution**

It is the duty of the executor of the estate to pay the legacies and distributive shares. N.J. Stat. Ann. §3B:23-24 provides that the executor shall, on paying such a legacy or distributive share, take a Refunding Bond from the person entitled thereto. See

Exhibit 119.

**1. Closing letter**

After the State of New Jersey (and the IRS if a federal estate tax return was necessary) has had a chance to review the estate and inheritance tax returns, it will issue a closing letter if it agrees that all tax due has been paid in full. Once the closing letter has been received final distribution can be made to the beneficiaries.

**2. Child support judgments**

As stated previously, if the net distribution to any particular beneficiary is in excess of \$2,000, a child support judgment search must be performed before the distribution can be made. As the child support judgment search must be made within 30 days prior to the distribution to the beneficiary, it may be necessary to conduct a search in connection with the final distribution of the estate even if a partial distribution was already made.

**3. Closing agreement**

A closing agreement should be signed by the beneficiaries in connection with the final distribution of the estate. This agreement would:

- Set forth the beneficiaries distributions
- Provide an informal accounting of the estate (if a formal accounting was not received)
- Release the executor from liability

**4. Distribute the Assets and Fund Any Trusts Established Under the Will**

Once the closing agreement has been signed, the assets can be delivered to the beneficiaries in accordance with the plan of distribution. If a trust is a beneficiary, then the assets would be delivered to the trustee of the trust. The executor should obtain a copy of the trustee's letters of trusteeship for the executor's records.

If the trust was established under the terms of the will, then the trustee must qualify before the assets can be delivered to him or her. In order to qualify a trustee under New Jersey law it is not necessary to file a complaint or otherwise seek a judgment or order for the issuance of letters granting authority to act. The named Trustee need only file a written declaration under oath of his acceptance of the trusteeship (Exhibit 64) and a Power of Attorney (Exhibit 63). The declaration contains the names and addresses of the Trustees and all persons interested in the trust. It also identifies the interest of the latter. Upon filing the acceptance and the Power of Attorney, appropriate certificates and

letters of Trusteeship are issued by the Surrogate's Court. See Exhibit 65 for a sample.

If a person with prior right does not wish to serve as trustee, then a renunciation must be filed with the court along with the successor trustee's written declaration under oath of his acceptance of the trusteeship and a Power of Attorney. See Exhibit 67 for a sample renunciation.



**APPENDIX A**  
**SAMPLE FORMS**

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**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

Names, ages and addresses of specific and residuary legatees not listed above:

Name                      Age                      Address                      Nature of Interest

Preliminary Financial and Property Analysis:

ASSETS

	<u>Approximate Value</u>
(a) Real estate in State Held by entirety? _____ Real Estate out of State Held by entirety? _____	_____ _____ _____ _____
(b) Cash in State Cash out of State	_____ _____
(c) Securities in State Securities out of State	_____ _____
(d) Life insurance and annuities for survivors, including employee's group insurance	_____
(e) Tangible personal property, in and out of State	_____
(f) Powers of appointment	_____
(g) Accrued income from, other interests in other estates and trusts	_____
(h) Interests under retirement or pension or deferred compensation plans or contracts	_____
(i) Inter vivos transfers by decedent in trust or otherwise	_____
(j) Assets in foreign countries (any foreign will?)	_____
(k) Other misc. assets, e.g., interest in partnerships, businesses, royalty contracts copyrights, inventions, patents, oil and mineral rights, etc.	_____
(l) Jointly held personal property	_____
(m) Social Security and Veterans benefits	_____



**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

<u>AGENDA AND REMINDER</u>	<u>DUE</u>	<u>DONE</u>
Probate Will, obtain letters testamentary and of trusteeship (where appropriate)      Court: _____	_____	_____
Administration, obtain letters      Court: _____	_____	_____
Apply for US Identification No. (I.R.S.)	_____	_____
Advise survivors of possible claims under Social Security and assist in pursuing if requested	_____	_____
Same as above as to Veterans Administration	_____	_____
Advise beneficiaries of life insurance to file proofs of death and claims promptly; assist if requested	_____	_____
Write insurance companies for Form 712	_____	_____
If any foreign Wills, consider whether to probate same and impact on American Will and American assets (including securities and cash of American citizens held abroad); also consider problems of alien decedent with property in United States; residence.	_____	_____
Send to Execut written resume of Will provisions	_____	_____
Transfer cash, securities, cars and other property into name of:		
Execut      _____		
Administrat      _____		
Nominee      _____		
Other      _____		
Check with survivors of decedent re changing their Wills or making trusts	_____	_____
Check advisability of renunciation or disclaimer by any beneficiary	_____	_____

**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

	<u>DUE</u>	<u>DONE</u>
Estimate cash requirements for legacies, debts, administration expenses, taxes	_____	_____
Determine fiscal year for estate income taxes	_____	_____
Appraise:		
Real Property	_____	_____
Securities	_____	_____
Furniture, jewelry, etc.	_____	_____
Car	_____	_____
Furs	_____	_____
Antiques	_____	_____
Works of Art	_____	_____
Other	_____	_____
Obtain data and fill out general information pages of Federal Estate Tax Return (early in administration)	_____	_____
Preserve decedent's and spouse's income tax returns, cancelled checks and bank statements for 3 years prior to death	_____	_____
Obtain tax waivers and release of cash and securities in and out of State	_____	_____
Compute income tax impact on estate and beneficiaries depending on whether income during administration is retained by fiduciary or paid to beneficiaries	_____	_____
Consider early setting up of trust or trusts in part or in full after computing income tax consequences and consider any apportionment of Estate taxes, if required by Will or by law	_____	_____
Investigate possible tax savings by deducting administration expenses under Federal income tax rather than estate tax	_____	_____
Consider special problems concerning real estate, including obtaining Federal and State tax waivers. Sell, lease or retain? Also special items of property—works of art, etc.	_____	_____



**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

	<u>DUE</u>	<u>DONE</u>
Mail Notice of Probate (60 days after letters) (R. 4:80-6)	_____	_____
File inventory—(optional—90 days after letters granted) (N.J.S.A. 3B: 16-1 <i>et seq.</i> )	_____	_____
Appointment and qualification of Trustees (If not done at time of probate)	_____	_____
Decedent’s final income tax return (consult with surviving spouse)	_____	_____
Decedents final gift tax return	_____	_____
First income tax return of estate (Special fiscal year?) _____	_____	_____
File Notice of Fiduciary Relationship (after filing decedent’s last income tax return) (26 U.S.C.A. (1954 I.R.C.) 6903; Reg. 301.6903-1)	_____	_____
Consider with discretion request for prompt audit of income and gift tax returns of decedent	_____	_____
Any property "previously taxed"—for credit vs. Federal Estate Tax? (26 U.S.C.A. (1954 I.R.C.) 2013)	_____	_____
Apportion estate’s first income tax between principal and income, if appropriate	_____	_____
File out-of-state, estate tax and income tax returns, if any, and pay taxes	_____	_____
File N.J. Transfer Inheritance Tax return and pay tax 8 months after date on which it became due and payable pursuant to R.S. 54:35-1 (N.J.S.A. 54:35-3)	_____	_____
Revalue property for Federal Estate Tax return (6 months after date of death) (26 U.S.C.A. (1954 I.R.C.) 2032)	_____	_____

**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

	<u>DUE</u>	<u>DONE</u>
File Federal Estate Tax return and pay tax (9 months after date of death)	_____	_____
File copy of Federal Estate Tax return with N.J. tax authorities (30 days after filing Federal return) (N.J.S.A. 54:38-7)	_____	_____
Consider with discretion advisability of filing request for prompt audit of Federal Estate Tax (after filing Estate Tax return)	_____	_____
File N.J. Estate Tax Return and pay N.J. Estate Tax within 9 mos. of death	_____	_____
Pay or deliver legacies	_____	_____
File estate income tax returns	_____	_____
Consider with discretion request for prompt audit of estate income tax returns (immediately after filing last return for estate)	_____	_____
File claims for refund on estate's first income tax return under I.R.C. 691 (c) (within 3 years after filing return)—for deduction a/c accrued income, if any (26 U.S.C.A. (1954 I.R.C.) 6511)	_____	_____
Obtain Federal Estate Tax Closing Agreement or letter (26 U.S.C.A. (1954 I.R.C.) 7121)	_____	_____

**Exhibit 1 – Information Checklist and Administration Agenda – Continued**

	<u>DUE</u>	<u>DONE</u>
Obtain release from personal liability in income tax, gift taxes and estate taxes (26 U.S.C.A. (1954 I.R.C.) 6905, 2204 (a))	_____	_____
Prepare and file Execut /Administrat accounting	_____	_____
Settle Account in Court or by Agreement	_____	_____
Obtain Refunding Bonds and Releases from Beneficiaries	_____	_____
Final Distribution	_____	_____
If there is a Fiduciary Bond, arrange to cancel	_____	_____
Send beneficiaries income tax bases for securities and other property distributed	_____	_____

Exhibit 2 - Life Insurance Statement

Form 712 (Rev. April 2006) Department of the Treasury Internal Revenue Service

Life Insurance Statement

OMB No. 1545-0022

Part I Decedent-Insured (To be filed by the executor with Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.)

1 Decedent's first name and middle initial Melinda 2 Decedent's last name Gonnella 3 Decedent's social security number (if known) 123-45-6789 4 Date of death January 3, 2006

5 Name and address of insurance company Longevity Assurance Company of America

6 Type of policy Ten-Year Payment 7 Policy number 111-010-101

8 Owner's name. If decedent is not owner, attach copy of application. 9 Date issued 3/3 10 Assignor's name. Attach copy of assignment. 11 Date assigned

12 Value of the policy at the time of assignment 13 Amount of premium (see instructions) 14 Name of beneficiaries Fred Gonnella or on predecease Mel Gonnella and Linda Gonnella Arnold

Table with 2 columns: Description (15-25) and Amount (\$). Includes Face amount of policy (500.00), Accumulated dividends (147.00), and Proceeds if payable in one sum (647.00).

26 Policy provisions concerning deferred payments or installments. Note: If other than lump-sum settlement is authorized for a surviving spouse, attach a copy of the insurance policy.

27 Amount of installments

28 Date of birth, sex, and name of any person the duration of whose life may measure the number of payments.

29 Amount applied by the insurance company as a single premium representing the purchase of installment benefits

30 Basis (mortality table and rate of interest) used by insurer in valuing installment benefits.

31 Were there any transfers of the policy within the three years prior to the death of the decedent? [ ] Yes [X] No

32 Date of assignment or transfer: / /

33 Was the insured the annuitant or beneficiary of any annuity contract issued by the company? [ ] Yes [X] No


34 Did the decedent have any incidents of ownership on any policies on his/her life, but not owned by him/her at the date of death? [ ] Yes [X] No

35 Names of companies with which decedent carried other policies and amount of such policies if this information is disclosed by your records.

The undersigned officer of the above-named insurance company (or appropriate federal agency or retirement system official) hereby certifies that this statement sets forth true and correct information.

Signature: David Doe Title: Secretary Date of Certification: 8/5/06 For Paperwork Reduction Act Notice, see page 3. Cat. No. 10170V Form 712 (Rev. 4-2006)

Exhibit 3 – Death Certificate

STATE OF NEW JERSEY							
		City of Newark, New Jersey Bureau of Vital Statistics			VOID		
DO NOT ACCEPT THIS CERTIFICATE UNLESS THE RAISED SEAL OF THE BUREAU IS AFFIXED HEREON.							
1 NAME OF DECEASED (First, Middle, Last) <b>Melinda Connella</b>							
2 DATE OF DEATH <b>1/3/2010</b>		3 SEX <b>F</b>	4 DATE OF BIRTH <b>2/13/1930</b>	5a AGE - Last Birth day (yrs.) <b>79</b>	5b UNDER 1 YEAR (Months) (Days)	5c UNDER 1 DAY (Hours) (Minutes)	
6 SOCIAL SEC NO <b>123-45-6789</b>		7a PLACE OF DEATH <b>Residence</b>					
7b FACILITY NAME (if not institution, give street and no.) <b>10 Maple Drive</b>				7c CITY/TOWN OR LOCATION <b>Maplewood</b>	7d COUNTY <b>Essex</b>		
8a RESIDENCE (State) <b>NJ</b>	8b COUNTY <b>Essex</b>	8c CITY OR TOWN <b>Maplewood</b>	8d STREET AND NUMBER <b>10 Maple Drive</b>		8e INSIDE CITY LIMITS? <b>Yes</b>	8f ZIP CODE <b>07040</b>	
9 BIRTHPLACE (City & State, or Foreign Country) <b>Newark, NJ</b>		10a OF CITIZENSHIP IN U.S. ARMED FORCES? <b>No</b>		10b IF YES, WAR DATES (From/To):		11 MARITAL STATUS <b>Widowed</b>	
12 SURVIVING SPOUSE (if Wife, Maiden Name) <b>Teacher</b>				14 KIND OF BUSINESS OR INDUSTRY <b>Education</b>			
15 NAME AND ADDRESS OF LAST EMPLOYER <b>Newark Public Schools</b>							
16 RACE <b>White</b>		17 OF HISPANIC ORIGIN? IF YES, SPECIFY <b>No</b>				18 DECEASED'S EDUCATION Highest Grade Completed <b>20</b>	
19 NAME OF FATHER (First, Middle, Last) <b>John Gentle</b>		20 MAIDEN NAME OF MOTHER (First, Middle, Last) <b>Mary Deo</b>					
21a NAME OF INFORMANT <b>Fred Connella</b>			21b RELATIONSHIP <b>Son</b>		22a DISPOSITION <b>Cremation</b>		
22b NAME OF CEMETERY OR CREMATORY <b>Evergreen Crematory</b>				22c CITY OR TOWN <b>Hillside</b>		22d STATE <b>NJ</b>	
23a NAME AND ADDRESS OF FUNERAL HOME <b>Berardinelli Forest Hill Mem. 253 Mt. Prospect Ave., Newark, NJ 07104</b>							

January 6, 2010  
Date Original Certificate Filed

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Bureau of Vital Statistics, Newark, N.J.,

this 10th day of May A.D. 2010

This is to certify that the above is correctly copied from a record on file in my office.

Certified copy not valid unless the raised Great Seal of the State of New Jersey or the seal of the issuing municipality or county, is affixed hereon.

*Joseph A. Komoroski*  
**VOID**  
 Joseph A. Komoroski, State Registrar  
 Bureau of Vital Statistics

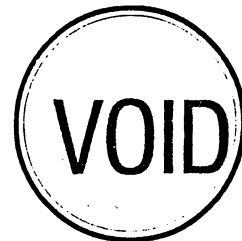


Exhibit 4 – Information Sheet

James S. LaCorte  
Surrogate of Union County

A Death Certificate is need to prepare paperwork

Information Sheet

**PLEASE PRINT OR TYPE** This information to be used to:

Probate Will \_\_\_\_\_ Administration \_\_\_\_\_ (Asset page needed) Guardianship \_\_\_\_\_

ESTATE OF: \_\_\_\_\_ SOCIAL SECURITY # \_\_\_\_\_

Deceased/Minor

ADDRESS: \_\_\_\_\_ CITY/TOWN: \_\_\_\_\_

Age at Death \_\_\_\_\_ Date of Will or Codicil \_\_\_\_\_ Date of Death \_\_\_\_\_

Marital Status	<input type="checkbox"/> Married	<input type="checkbox"/> Married ___ times	<input type="checkbox"/> Widowed	<input type="checkbox"/> Never Married
	<input type="checkbox"/> Divorced	<input type="checkbox"/> Certified Domestic Partnership		

# of Children	<input type="checkbox"/> Son(s)	<input type="checkbox"/> Daughter(s)	<input type="checkbox"/> None
<input type="checkbox"/> Children from previous marriage	<input type="checkbox"/> Children of Deceased Children		

Value of Estate \_\_\_\_\_ (In decedents name alone)

Name(s) & Address(es) of Executor, Administrator or Guardian: List Relationship

<u>Name</u>	<u>Address</u>	<u>City/State</u>	<u>Phone # (mandatory)</u>
-------------	----------------	-------------------	----------------------------

Next of Kin: Begin with spouse and children (mother of minor children). If none, include parents and/or siblings. Indicate if they will be renouncing (use reverse side if necessary) Use additional sheet if necessary.

<u>Name</u>	<u>Relationship</u>	<u>Address</u>	<u>Age if Minor</u>	<u>Check if Renouncing</u>
-------------	---------------------	----------------	---------------------	----------------------------

Self Proving Will: Yes No If NO, Names(s) and Addresses of Witenesse(s) who will proof:

# of Certificates Needed \_\_\_\_\_ Method of Payment: Cash, check / Attorney Charge # \_\_\_\_\_

Name, Address & Phone # of Attorney: \_\_\_\_\_

Exhibit 4 – Information Sheet – Continued

IF TRUSTS ARE ESTABLISHED (by the will): THEY MUST CONTAIN THE NAMES OF THE TRUST(S) AND ALL BENEFICIARY INFORMATION. USED ADDITIONAL SHEETS IF NECESSARY

Name(s) of Trusts:  
\_\_\_\_\_

Trustee Info:	Names	Addresses	Phone #

Beneficiary Info:	Names	Addresses	Beneficiary Interest

Additional Next of Kin: Continued from 1 <sup>st</sup> page.		Age if	
Name	Relationship Address	Minor	Renunciation

**A FULL 48 HOUR NOTICE MUST BE GIVEN TO PREPARE PAPERS**

Additional Correspondence may be addressed to:  
James S. LaCorte, Surrogate of Union County  
Union County Court House  
2 Broad Street, Elizabeth, New Jersey 07207  
Phone - 908-527-4280 Fax - 908-351-9212  
[www.unioncountynj.org/surrogate](http://www.unioncountynj.org/surrogate)

**ALL INFORMATION SHEETS MUST BE ACCOMPANIED BY A COPY OF THE WILL AND DEATH CERTIFICATE.**  
**ALL ADMINISTRATIONS MUST BE ACCOMPANIED BY AN ASSET PAGE**

Exhibit 4 – Information Sheet – Continued

**FOR ADMINISTRATIONS**  
PLEASE FILL OUT AND RETURN

**Affidavit of Assets**

Docket # \_\_\_\_\_  
Filed: \_\_\_\_\_

State of New Jersey }  
Count of Union } ss.

Class "A" Beneficiary YES [ ] NO [ ]  
Class "C" or "D" Beneficiary YES [ ] NO [ ]

In the Matter of the Estate of: \_\_\_\_\_ deceased

Applicant: \_\_\_\_\_ of full age, being duly sworn,  
deposes and says:

Status: Single { } Married { } Married \_\_\_ times Divorced { } Widowed { } Separated { }

Living Relations: Mother { } Father { } Sister { } Brother { }

Children ( ) Children from previous marriage ( ) Grandchild { } of deceased child

Children of Deceased Brothers & Sisters ( ) List relationship on information sheet

The following is a brief descriptive list and valuation of all the assets constituting the personal property of decedent

ITEMS			
Personal	Cash in hand and Banks belonging to the Estate (bank names & acct. #'s)		
Estate	Pension & death benefits reverting to the estate		
without	Corporate Stocks & Bonds, Notes, Etc.		
deduction	Real Estate (List property below)		
for debts	Insurance taken out by Decedent becoming payable to the Estate		
	Household effects, jewelry, automobiles, other chattels (Vin#s)		
	All other personal property of significant value, belonging to the estate.		
	Vehicles include Identification Numbers, Make & Model on info sheet		

Remarks: \_\_\_\_\_

**List ALL Real Estate Holdings:**

Total valuation of all personal property as near as can now be ascertained.

Debts of Estate	NATURE OF DEBTS		
	* The law will not permit the distribution of a decedent's property to the exclusion of his creditors.	Funeral expenses	
* The estate assets must be first applied to the payment of all just claims against it in legal priority.	Debts of last sickness, doctor, nurse, hospital, Etc.		
* In the event of uncertainty in procedure it is wiser to employ counsel.	Taxes due, if any, at time of death		
	Other incumbrances		
	Any debt due from personal representative		
	Specify any other debts of a particular nature		
	Total amount of debts		

That deponent is familiar with the circumstances of the estate and that the personal estate and effects of the said deceased, of which he died possessed or is in any way entitled to and for and in respect of which letters of administration are to be granted, and without deducting anything on account of the debts due and owing from the said deceased, are of the value above stated or under, and that the debts of the estate are not likely to exceed the amount above shown, to the best of deponent's knowledge, information and belief.

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2005

Special Probate Clerk  
Notary w/stamp seal

Applicant



**Exhibit 5 – Probate Application**

Lawrence Lawyer, Esq.  
 131 Broad Street  
 Newark, New Jersey 07102  
 (111) 222-3333  
 Attorney for Fred Gonnella

In the Matter of the Estate of : ESSEX COUNTY  
 : SURROGATE’S COURT  
 MELINDA GONNELLA, :  
 : APPLICATION ON  
 DECEASED. : PROBATE OF WILL

FRED GONNELLA, residing at 456 Sycamore Lane, Livingston, New Jersey, respectfully shows that:

1. On January 3, 20 , MELINDA GONNELLA died leaving a Will dated January 16, 19 , wherein applicant was appointed executor.
2. The said decedent was domiciled in the Township of Livingston, Essex County, New Jersey, at the time of her death, having her residence at 456 Sycamore Lane, Livingston, New Jersey.
3. The said decedent left surviving as spouse, heirs at law and next of kin, the following persons:

	NAME	RESIDENCE	RELATIONSHIP	AGES OF ALL CHILDREN AND ALL OTHERS UNDER AGE
	Fred Gonnella	456 Sycamore Lane, Livingston	Husband	
Children of	Linda Arnold	112 Peach Terrace, Madison, NJ	Granddaughter	
deceased	Harry I. Arnold	161 Chestnut St., Cambridge, Mass.	Grandson	
daughter Linda	Martin Arnold	415 Maple Road, Newton, NJ	Grandson	17
Gonnella Arnold	Agnes A. Arnold	415 Maple Road, Newton, NJ	Granddaughter	14

4. There are no other heirs or next of kin known to the applicant.

Wherefore, the applicant requests judgment, admitting to probate the said Will and directing that letters testamentary be granted to applicant.

s/ \_\_\_\_\_  
 Fred Gonnella

**Exhibit 5 – Probate Application – Continued**

STATE OF NEW JERSEY )  
  )ss:  
COUNTY OF ESSEX        )

FRED GONNELLA, of full age, being duly sworn according to law upon his oath, deposes and says that he is the applicant in the foregoing application named, and that the matters and things therein contained are true to the best of his knowledge and belief.

s/\_\_\_\_\_  
Fred Gonnella

Sworn and Subscribed to before me this 23rd  
day of January, 20

s/\_\_\_\_\_  
John Jones  
Notary Public of New Jersey  
My Commission expires January 1, 20

**Exhibit 6 – Power of Attorney—One Name**

In the Matter of the Estate of : ESSEX COUNTY  
 : SURROGATE'S COURT  
 MELINDA GONNELLA, :  
 : POWER OF ATTORNEY  
 DECEASED. :

KNOW ALL MEN BY THESE PRESENTS, THAT I FRED GONNELLA, residing at 456 Sycamore Lane, Livingston, New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint RICHARD R. ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the Executor.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of January, 20 .

Signed, sealed and delivered  
 in the presence of: \_\_\_\_\_ (L.S.)  
 Fred Gonnella

s/ \_\_\_\_\_  
 John Jones

STATE OF NEW JERSEY )  
 )ss:  
 COUNTY OF ESSEX )

BE IT REMEMBERED, that on this 23rd day of January, 20 , before me, the subscriber, a Notary Public of New Jersey, personally appeared FRED GONNELLA who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the said power of attorney as his voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
 Norma Not  
 Notary Public of New Jersey  
 My Commission expires January 1, 20

**Exhibit 7 – Probate – Corporate Power of Attorney**

In the Matter of the Estate of       :     ESSEX COUNTY  
  :     SURROGATE’S COURT  
  :     MELINDA GONNELLA,  
  :     DECEASED.  
  :     POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that THE BANK OF BANKS, a corporation of the State of New Jersey, having its principal office at 131 Broad Street, in the City of Newark, in the County of Essex and State of New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 does hereby make, constitute and appoint RICHARD R. ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, its true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof it is one of the Executors.

And it does further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon it within this State.

IN WITNESS WHEREOF, it has caused these presents to be signed by its Vice President and its corporate seal to be hereunto affixed, this 23rd day of January, 20 .

THE BANK OF BANKS

s/ \_\_\_\_\_  
By Kevin King  
Vice-President

Signed, sealed and delivered  
in the presence of:

s/ \_\_\_\_\_  
John Jones

(SEAL)

**Exhibit 7 – Probate – Corporate Power of Attorney – Continued**

STATE OF NEW JERSEY )  
  )ss:  
COUNTY OF ESSEX      )

BE IT REMEMBERED, that on this 23rd day of January, 20    , before me, the subscriber, a Notary Public of New Jersey, personally appeared KEVIN KING, Vice President, of THE BANK OF BANKS who I am satisfied is the person who has signed the foregoing power of attorney; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed with the corporate seal, and delivered the same as such officer aforesaid; and that the foregoing power of attorney is the voluntary act and deed of such corporation, made by virtue of authority from its Board of Directors.

s/\_\_\_\_\_  
Norma Not  
Notary Public of New Jersey  
My Commission expires January 1, 20

**Exhibit 8 – Qualification of Individual Executor**

In the Matter of the Estate of : ESSEX COUNTY  
: SURROGATE’S COURT  
MELINDA GONNELLA, :  
: QUALIFICATION OF EXECUTOR  
DECEASED. :

STATE OF NEW JERSEY )  
)ss:  
COUNTY OF ESSEX )

FRED GONNELLA, the Executor in the annexed writing named, being of full age and duly sworn upon his oath according to law, deposes and says that the annexed writing contains the true last Will and Testament of MELINDA GONNELLA, the testatrix therein named, deceased, as far as he knows and verily believes; that he will, as the Executor thereof, well and truly administer the estate of MELINDA GONNELLA, first by paying the debts of said deceased, and then the legacies therein specified, as far as the goods, chattels and credits of said deceased will thereunto extend, and the law charges him; that he will when lawfully required make and exhibit unto the Surrogate’s Office of the County of Essex a true and perfect inventory of all and singular the said goods, chattels and credits as far as the same have or shall come to his possession or knowledge, or to the possession of any other person or persons for his use, with his knowledge; and that he will well and truly account when thereunto lawfully required; and that said testatrix died January 3, 20 .

s/ \_\_\_\_\_  
Fred Gonnella

Sworn and Subscribed to before me this 23rd  
day of January, 20

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 9 – Probate – Qualification of Corporate Executor**

In the Matter of the Estate of           :       ESSEX COUNTY  
   :       SURROGATE’S COURT  
                   MELINDA GONNELLA,         :         
   :       QUALIFICATION OF EXECUTOR  
                   DECEASED.                    :       

STATE OF NEW JERSEY    )  
   )ss:  
 COUNTY OF ESSEX         )

JOHN JAMES, of full age, being duly sworn upon his oath according to law, deposes and says that he is Vice President of The Bank of Banks, a corporation of the State of New Jersey, and is its agent for the purpose of making this affidavit; that the said The Bank of Banks is one of the Executors of the last Will and Testament of MELINDA GONNELLA, late of Essex County, deceased; that the annexed writing contains the true last Will and Testament of MELINDA GONNELLA, the testatrix therein named, so far as this deponent knows and as he verily believes; that said The Bank of Banks will, as one of the Executors thereof, well and truly administer the estate of MELINDA GONNELLA first by paying the debts of said deceased and then the legacies therein specified, so far as the goods, chattels and credits of said deceased will thereunto extend. and the law charges it; that it will, when lawfully required, make and exhibit unto the Surrogate’s Office of the County of Essex, a true and perfect inventory of all and singular the said goods, chattels and credits so far as the same have or shall come to its possession or knowledge, or to the possession of any other person or persons for its use, with its knowledge; that it will well and truly account when thereunto lawfully required; and that said testatrix died January 3, 20 .

s/ \_\_\_\_\_  
   John James

Sworn and Subscribed to before me this 23rd  
                   day of January, 20  
 s/ \_\_\_\_\_  
 John Jones  
 Special Probate Clerk

**Exhibit 10 – Probate – Witness Proof**

In the Matter of the Estate of	:	ESSEX COUNTY
	:	SURROGATE'S COURT
MELINDA GONNELLA,	:	
	:	WITNESS PROOF
DECEASED.	:	

STATE OF NEW JERSEY )  
 )ss:  
 COUNTY OF ESSEX )

MARY HILL, one of the witnesses to the annexed writing purporting to be the last Will and Testament of MELINDA GONNELLA, the testatrix therein named, deceased, being of full age and duly sworn upon her oath according to law, deposes and says that she saw the testatrix sign and seal the said annexed writing, and heard her publish, pronounce and declare the same as and for her last Will and Testament.

That at the time of the doing thereof the said testatrix was of sound and disposing mind, memory and understanding, as far as this deponent knows and verily believes; that THOMAS HILL, the other subscribing witness thereto, was present at the same time with this deponent when this said Will was signed by the said testatrix and by her published and declared as and for her last Will and Testament as aforesaid; and that the said THOMAS HILL and deponent subscribed their names to said Will as witnesses in the presence of said testatrix and of each other, at the request of said testatrix.

s/ \_\_\_\_\_  
 Mary Hill

Sworn and Subscribed to before me this 23rd  
 day of January, 20

s/ \_\_\_\_\_  
 John Jones  
 Special Probate Clerk



**Exhibit 11 – Certificate as to Self Proof Will**

Cert. as to Self Proof Will  
Pursuant to R.S. 3B:3-4 or R.S. 3B:3-5  
and as amended

**ESSEX COUNTY SURROGATE'S COURT**

The Last Will and Testament and Codicil\* of  
deceased having been duly presented to the Essex County Surrogate's County for  
Probate and upon an examination of same, it is hereby determined that the  
signature thereon purporting to be that of the testator was duly attested by at least  
two subscribing witnesses and, the said Will having been made self-proving by  
the acknowledgment thereof by the affidavits of the testator and the affidavits of  
the witnesses, each made before an officer authorized pursuant to R.S. 46:14-6,  
46:14-7 or 46:14-8 to take acknowledgments and proof of instruments entitled to  
be recorded under the laws of this State, attached or annexed to the Last Will and  
Testament and Codicil\*, all pursuant to R.S. 3B:3-4 and R.S. 3B:3-5 and as  
amended.

Said Last Will and Testament and Codicil\* having been properly executed  
as self-proving and no further proof being necessary as to its proper execution.

s/ \_\_\_\_\_  
Special Probate Clerk

\_\_\_\_\_  
Dated

\*Cross out if not applicable

**Exhibit 12 – Probate – Proof of Testator’s Signature**

In the Matter of the Estate of : ESSEX COUNTY  
: SURROGATE’S COURT  
MELINDA GONNELLA, :  
: PROOF OF TESTATOR’S SIGNATURE  
DECEASED. :

STATE OF NEW JERSEY )  
)ss:  
COUNTY OF ESSEX )

KENNETH KING, of full age, being duly sworn upon his oath according to law, deposes and says that he has examined the annexed writing purporting to be the last Will and Testament of MELINDA GONNELLA deceased and particularly the signature of MELINDA GONNELLA appended thereto, that deponent was well acquainted with said decedent, is familiar with her handwriting, having often seen her write, and is of the opinion and verily believes that said signature is in the proper handwriting of said decedent with whom deponent was so acquainted and was written by said testatrix.

s/ \_\_\_\_\_  
Kenneth King

Sworn and Subscribed to before me this 23rd  
day of January, 20

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk



**Exhibit 14 – Judgment Admitting Will to Probate**

		ESSEX COUNTY
		SURROGATE'S COURT
In the Matter of the Estate of	:	
	:	
MELINDA GONNELLA,	:	JUDGMENT FOR PROBATE
	:	
DECEASED	:	

On reading and filing the application of FRED GONNELLA for the probate of the last Will and Testament of MELINDA GONNELLA, deceased, and for Letters Testamentary thereon, and the Surrogate having inquired into the circumstances and taken proof, and being satisfied of the genuineness of the Will produced, the validity of its execution and competency of the testatrix, and it further appearing that the said testatrix died on the 3rd day of January, , and more than ten days ago, and that no caveat has been filed against the probate of said Will;

It is thereupon on this 23rd day of January, , adjudged that the instrument offered for probate in this matter be as the same hereby is established as the last Will and Testament of the said MELINDA GONNELLA deceased, and that the same be and hereby is admitted to probate.

It is further adjudged that Letters Testamentary thereon be issued to FRED GONNELLA the Executor named in said Will upon his qualifying as such Executor.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

Exhibit 15 – Judgment Admitting Will to Probate (Self Proof)

CERTIFICATION OF SELF-PROOF

Receipt No. \_\_\_\_\_ Docket No. \_\_\_\_\_

Date \_\_\_\_\_, \_\_\_\_\_ LAST WILL AND TESTAMENT

Certificates \_\_\_\_\_ and JUDGMENT FOR PROBATE

Copy mailed \_\_\_\_\_ to: Died \_\_\_\_\_  
Filed \_\_\_\_\_, 20\_\_\_\_

Recorded Will Book \_\_\_\_\_ Page \_\_\_\_\_

\_\_\_\_\_  
Surrogate of Essex County, NJ

In the Matter of the Probate of : ESSEX COUNTY SURROGATE’S COURT  
the alleged Will of :  
: MELINDA GONNELLA, : JUDGMENT FOR PROBATE  
: DECEASED. :

On reading and filing the application of FRED GONNELLA for the probate of the Last Will and Testament of MELINDA GONNELLA, deceased, and for Letters Testamentary thereon, and the Surrogate having inquired into the circumstances and certification having been made as to self-proof of the Will and being satisfied of the genuineness of the Will produced the validity of its execution and competency of the testatrix and it further appearing that the said testatrix died on the 3rd day of January, \_\_\_\_\_, and more than ten days ago, and that no caveat has been filed against the probate of said Will;

It is thereupon on this 23rd day of January, \_\_\_\_\_, adjudged that the instrument offered for probate in this matter be and the same hereby is established as the Last Will and Testament of the said MELINDA GONNELLA. deceased, and that the same be and hereby is admitted to probate.

It is further adjudged that Letters Testamentary thereon be issued to FRED GONNELLA the Executor named in said Will, upon his qualifying as such Executor.

\_\_\_\_\_  
Surrogate

**Exhibit 16 – Judgment Denying Probate**

In the Matter of the Estate of           :       ESSEX COUNTY  
  :       SURROGATE’S COURT  
  :         
  :       On Application of Probate  
  :       JUDGMENT DENYING PROBATE  
  :       

On reading and filing the petition of FRED GONNELLA for probate of a paper writing purporting to be the last Will and Testament of MELINDA GONNELLA, deceased, and for Letters Testamentary thereon, and the Surrogate having inquired into the circumstances and being satisfied that the said paper was not executed in the manner and form required by law, in that the Will was not witnessed and not in the handwriting of the decedent, it is thereupon on this 23rd day of January,       ;

ORDERED, ADJUDGED AND DECREED that the instrument offered for probate in this matter is not the last Will and Testament of the said MELINDA GONNELLA, deceased, and that the probate of the same be and the same hereby is denied.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

Exhibit 17 – Judgment Re Doubts on Face of Will

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of	:	
	:	
MELINDA GONNELLA,	:	ADJUDICATION THAT DOUBT’S ARISE
	:	ON THE FACE OF THE WILL
DECEASED	:	

FRED GONNELLA the Executor named in a certain paper writing bearing date of the 16th day of January, 20 , and purporting to be the last Will and Testament of MELINDA GONNELLA late of the County of Essex and State of New Jersey, deceased, having filed an application herein demanding judgment that the said paper writing be admitted to probate as the last Will and Testament of the said MELINDA GONNELLA deceased, and it appearing upon an inspection of said paper writing that

certain interlineations and additions thereto having been made in paragraph V and Paragraph VI

and there being no note or memorandum in said paper writing to show whether or not the aforesaid changes in said Will were made by the said testatrix, or by another at her request, before the execution of said paper writing;

It is thereupon on this 23rd day of January, , pursuant to the statute in such case made and provided, adjudged that doubts arise upon the face of the aforesaid Will.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 18 – Complaint to Probate After Discovered Will**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111)222-3333  
Attorney for Plaintiff

In the Matter of the Probate : SUPERIOR COURT OF NEW JERSEY  
of the Alleged Will : CHANCERY DIVISION  
of : PROBATE PART, ESSEX COUNTY  
JOHN JONES, Deceased : DOCKET NO.  
: COMPLAINT

The plaintiff, William Jones, residing at 9 10th Street in the City of Newark, County of Essex and State of New Jersey, says:

1. On March 1, 20\_\_, the said John Jones died domiciled at 19 South Street, in the City of Orange and said County of Essex.

2. On April 1, 20\_\_, the Essex County Surrogate's Court granted letters of administration to Mary Jones upon the estate of the said John Jones on the ground that he left no will at his death.

3. Since the grant of administration, the plaintiff has discovered a will of the decedent dated February 1, 1999, appointing the plaintiff executor.

4. The said decedent left surviving as spouse, heirs at law and next of kin, the following persons:

<b>Names</b>	<b>Address</b>	<b>Relationship</b>	<b>Ages children/all others under age</b>
Mary Jones	1 Main Street, Newark, NJ	Spouse	
Alice Jones	1 Main Street, Newark, NJ	Daughter	

5. There are no other heirs or next of kin known to the plaintiff.





**Exhibit 19 – Order to Show Cause for Probate of After Discovered Will**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111)222-3333  
Attorney for Plaintiff

In the Matter of the Probate : SUPERIOR COURT OF NEW JERSEY  
of the Alleged Will : CHANCERY DIVISION  
of : PROBATE PART, ESSEX COUNTY  
JOHN JONES, Deceased : DOCKET NO.  
: ORDER TO SHOW CAUSE

Upon application of WILLIAM JONES, the plaintiff herein:

It is on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, ordered that Mary Jones, Alice Jones, the two next of kin of the said John Jones, and X. Y. Charity, the sole beneficiary under the will propounded herein, dated \_\_\_\_\_, \_\_\_\_\_, show cause before this court on Friday, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at 9 o'clock in the forenoon, in the Essex County Court House, Newark, NJ why the said will should not be admitted to probate and letters testamentary thereon issued to him.

AND IT FURTHER ORDERED that a copy of this Order and Verified Complaint certified by the plaintiff's attorney to be a true copy, be served upon the said Mary Jones, Alice Jones and X. Y. Charity by mailing the same to them certified mail, return receipt requested and regular mail, at least \_\_\_\_\_ days before the return date hereof; and

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Essex County not later than \_\_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

---

J.S.C.

Exhibit 20 – Model Order to Show Cause

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION \_\_\_\_\_ COUNTY  
PROBATE PART

[Caption: See Rule 4:83-3 for Probate Part Actions]

IN THE MATTER OF

Docket No.:

CIVIL ACTION

ORDER TO SHOW CAUSE  
SUMMARY ACTION

THIS MATTER being brought before the Court by \_\_\_\_\_, attorney for plaintiff, *[insert the plaintiff's name]*, seeking relief by way of summary action based upon the facts set forth in the verified complaint filed herewith; and the Court having determined that this matter may be commenced by order to show cause as a summary proceeding pursuant to R.4:83-1 and for good cause shown.

IT IS on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ORDERED that the parties in interest named in paragraph \_\_ of the verified complaint appear and show cause on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before the Superior Court, Chancery Division, Probate Part *[and fill in, or leave an appropriate blank to be filled in by the Court or Surrogate, if the matter is to be heard by a specified Judge]* at the \_\_\_\_\_ County Courthouse *[provide the address]* in \_\_\_\_\_, New Jersey at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, or as soon thereafter as counsel can be heard, why judgment should not be entered for:

- A. *[Set forth with specificity the return date relief that the plaintiff is seeking.]*

**Exhibit 20 – Model Order to Show Cause - Continued**

B. \_\_\_\_\_;

C. \_\_\_\_\_;

D. Granting such other relief as the court deems equitable and just.

And it is further *ORDERED* that:

1. Any party in interest who wishes to be heard with respect to any of the relief requested in the verified complaint served with this order to show cause shall file with the Surrogate of \_\_\_\_\_ County and serve upon the attorney for the plaintiff at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard, or other response to this order to show cause and to the relief requested in the verified complaint by \_\_\_\_\_ 20\_\_\_\_. Filing shall be made with the Surrogate of \_\_\_\_\_ County at [*insert address of Surrogate in the County where action is being brought*]. Such responding party in interest shall also file with such Surrogate by the foregoing date a proof of service upon the plaintiff. [A copy of such response shall also be filed directly with the chambers of Judge \_\_\_\_\_ at the following address: \_\_\_\_\_.]

2. Any party in interest who fails to timely file and serve a response in the manner provided in paragraph 1 of this order to show cause shall be deemed in default, the matter may proceed to judgment without any further notice to or participation by such defaulting party in interest, and the judgment shall be binding upon such defaulting party in interest.

3. Parties in interest are hereby advised that a telephone call to the plaintiff, to the plaintiff's attorney, to the Surrogate, or to the Court will not protect your rights; you must file and serve your answer, answering affidavit, motion or other response with the filing fee required by statute. The check or money order for the filing fee shall be made payable to the Surrogate of the County where this matter is being heard. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided. If you do not have an attorney or are not eligible for

**Exhibit 20 – Model Order to Show Cause - Continued**

free legal assistance through the Legal Services office (or such office does not provide services for this particular type of proceeding), you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these office numbers is also provided.

4. If no party in interest timely files and serves a response to this order to show cause as provided for above, the application may be decided by the Court on or after the date this matter is scheduled to be heard, and may be decided on the papers without a hearing, provided that the plaintiff has filed a proof of service and a proposed form of judgment as required by paragraphs 7 and 9 of this order to show cause.

5. If a party in interest timely files a response as provided for above, the court may entertain argument [*add if appropriate: "and may take testimony" or "but will not take testimony"*] on the date this matter is scheduled to be heard.

6. The plaintiff must file and serve any written reply to the response of a party in interest by \_\_\_\_\_, 20\_\_. The reply papers together with a proof of service must be filed with the Surrogate in the county listed above [and a copy of the reply papers must be sent directly to the chambers of Judge \_\_\_\_\_].

7. Plaintiff shall submit to the Surrogate an original and two copies of a proposed form of judgment addressing the relief sought on the date this matter is scheduled to be heard (along with a postage-paid return envelope) no later than \_\_\_\_ (\_\_) days before the date this matter is scheduled to be heard.

8. A copy of this order to show cause, the verified complaint, and [*insert a description of any other filed papers, such as an accounting*], and all affidavits submitted in support of this application, all of which shall be certified thereon by plaintiff's attorney to be true copies, shall be served upon the parties in interest listed in paragraph \_\_ of the complaint, by certified mail, return receipt requested (or by registered mail, return receipt requested with respect to any party in interest who resides outside the United States) [, and by regular mail] [*or alternatively: shall be personally served upon the parties in interest listed in paragraph \_\_ of the complaint*] within \_\_ days of the date hereof, in accordance

**Exhibit 20 – Model Order to Show Cause - Continued**

with R. 4:67-3, R. 4:4-3 and R. 4:4-4, this order to show cause being original process.

9. The plaintiff shall file with the Surrogate of \_\_\_\_\_ County a proof of service of the documents required by paragraph 8 above to be served on the parties in interest no later than \_\_\_\_ ( ) days before the date this matter is scheduled to be heard.

10. The Court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than \_\_\_\_ days before the return date.

11. *[In many proceedings in the probate part, an interested party will be a minor or incapacitated, which will require that a guardian ad litem be appointed, and/or an attorney be appointed as counsel to represent the minor or incapacitated person. See generally R.4:26-2. In such matters, it may be appropriate to add an additional paragraph or paragraphs to this order to show cause to appoint, or provide for the procedure to appoint, such counsel or guardian ad litem.]*

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J.S.C.

Exhibit 20 – Model Order to Show Cause - Continued

<p><b>Atlantic County Surrogate</b> Atlantic County Civil Courthouse 1201 Bacharach Blvd. Atlantic City, NJ 08401</p>	<p><b>ATLANTIC COUNTY:</b> LAWYER REFERRAL: (609) 345-3444 LEGAL SERVICES: (609) 348-4200</p>
<p><b>Bergen County Surrogate</b> Bergen County Justice Center 10 Main Street, Room 211, P.O. Box 600, Hackensack, NJ 07601-7691</p>	<p><b>BERGEN COUNTY:</b> LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166</p>
<p><b>Burlington County Surrogate</b> Burlington County Court Complex 49 Rancocas Road, 1st floor PO Box 6000, Mt. Holly, NJ 08060-1827</p>	<p><b>BURLINGTON COUNTY:</b> LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (800) 496-4570</p>
<p><b>Camden County Surrogate</b> Camden County Surrogate Office 415 Federal Street, Camden, NJ 08103-1122</p>	<p><b>CAMDEN COUNTY:</b> LAWYER REFERRAL: (856) 964-4520 LEGAL SERVICES: (856) 964-2010</p>
<p><b>Cape May County Surrogate</b> 4 Moore Rd., POB 207 Cape May Court House, NJ 08210</p>	<p><b>CAPE MAY COUNTY:</b> LAWYER REFERRAL: (609) 463-0313 LEGAL SERVICES : (609) 465-3001</p>
<p><b>Cumberland County Surrogate</b> Cumberland County Courthouse 60 West Broad Street, Suite A111 Bridgeton, NJ 08302</p>	<p><b>CUMBERLAND COUNTY:</b> LAWYER REFERRAL: (856) 692-6207 LEGAL SERVICES: (856) 451-0003</p>
<p><b>Essex County Surrogate</b> 206 Hall of Records 465 Dr. Martin Luther King, Jr. Blvd., Newark, NJ 07102</p>	<p><b>ESSEX COUNTY:</b> LAWYER REFERRAL: (973) 622-6207 LEGAL SERVICES: (973) 624-4500</p>
<p><b>Gloucester County Surrogate</b> Surrogate Building 17 North Broad Street, 1st flr. P.O. Box 177, Woodbury, NJ 08096-7177</p>	<p><b>GLOUCESTER COUNTY:</b> LAWYER REFERRAL: (856) 848-4589 LEGAL SERVICES: (856) 848-5360</p>
<p><b>Hudson County Surrogate</b> Administration Bldg. 595 Newark Ave., Room 107 Jersey City, NJ 07306</p>	<p><b>HUDSON COUNTY:</b> LAWYER REFERRAL: (201) 798-2727 LEGAL SERVICES: (201) 792-6363</p>
<p><b>Hunterdon County Surrogate</b> Hunterdon County Justice Center 65 Park Avenue P.O. Box 2900, Flemington, NJ 08822-2900</p>	<p><b>HUNTERDON COUNTY:</b> LAWYER REFERRAL: (908) 263-6109 LEGAL SERVICES: (908) 782-7979</p>
<p><b>Mercer County Surrogate</b> Mercer County Courthouse 175 So. Broad Street P.O. Box 8068, Trenton, NJ 08650-0068</p>	<p><b>MERCER COUNTY:</b> LAWYER REFERRAL: (609) 585-6200 LEGAL SERVICES: (609) 695-6249</p>
<p><b>Middlesex County Surrogate</b> Administration Building 75 Bayard Street, PO Box 790 New Brunswick, NJ 08903-0790</p>	<p><b>MIDDLESEX COUNTY:</b> LAWYER REFERRAL: (732) 828-0053 LEGAL SERVICES: (732) 249-7600</p>
<p><b>Monmouth County Surrogate</b> Hall of Records 1 East Main Street P.O. Box 1265, Freehold, NJ 07728-1265</p>	<p><b>MONMOUTH COUNTY:</b> LAWYER REFERRAL: (732) 431-5544 LEGAL SERVICES: (732) 866-0020</p>
<p><b>Morris County Surrogate</b> Administrative &amp; Records Bldg, 5th Fl. Court Street P.O. Box 900 Morristown, NJ 07963-0900</p>	<p><b>MORRIS COUNTY:</b> LAWYER REFERRAL: (973) 267-5882 LEGAL SERVICES: (973) 285-6911</p>

Exhibit 20 – Model Order to Show Cause - Continued

<p>Ocean County Surrogate Ocean County Courthouse 118 Washington Street P.O. Box 2191, Toms River, NJ 08754-2191</p> <p>Passaic County Surrogate Passaic County Courthouse 77 Hamilton Street Paterson, NJ 07505</p> <p>Salem County Surrogate Salem County Surrogate's Court 92 Market Street Salem, NJ 08079</p> <p>Somerset County Surrogate Somerset Co. Surrogate's Office 20 Grove Street P.O. Box 3000, Somerville, NJ 08876</p> <p>Sussex County Surrogate Sussex County Surrogate's Court 4 Park Place, 2nd fl., Newton, NJ 07860</p> <p>Union County Surrogate Union County Courthouse 2 Broad Street, 2nd fl. Elizabeth, NJ 07207-6001</p> <p>Warren County Surrogate Warren County Courthouse 413 Second Street Belvidere, NJ 07823-1500</p>	<p>OCEAN COUNTY: LAWYER REFERRAL: (732) 240-3666 LEGAL SERVICES: (732) 341-2727</p> <p>PASSAIC COUNTY: LAWYER REFERRAL: (973) 278-9223 LEGAL SERVICES: (973) 523-2900</p> <p>SALEM COUNTY: LAWYER REFERRAL: (856) 678-8363 LEGAL SERVICES: (856) 451-0003</p> <p>SOMERSET COUNTY: LAWYER REFERRAL: (908) 685-2323 LEGAL SERVICES: (908) 231-0840</p> <p>SUSSEX COUNTY: LAWYER REFERRAL: (973) 267-5882 LEGAL SERVICES: (973) 383-7400</p> <p>UNION COUNTY: LAWYER REFERRAL: (908) 353-4715 LEGAL SERVICES: (908) 354-4340</p> <p>WARREN COUNTY: LAWYER REFERRAL: (908) 387-1835 LEGAL SERVICES: (908) 475-2010</p>
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**Exhibit 22 – Administration – Notice of Application**

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Linda Arnold

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of           :  
  :  
          MELINDA GONNELLA,               :  
  :  
          DECEASED.                           :  
  :

NOTICE OF APPLICATION

To: Harry I. Arnold  
161 Chestnut Street  
Cambridge, Mass. 02138

YOU ARE HEREBY NOTIFIED THAT ON Monday, the 15th day of March, 20\_\_\_\_, at 10:00 A.M. I shall apply to the Surrogate of the County of Essex at his office in the Hall of Records, Room 206, in the City of Newark, for the granting of letters of administration to myself, or some other fit person, of the goods and chattels and credits of MELINDA GONNELLA, deceased, late of the Township of Livingston, in the County of Essex and State of New Jersey, who died on or about the 3rd day of January, \_\_\_\_\_, intestate.

s/\_\_\_\_\_  
Linda Arnold

Dated: February 21, \_\_\_\_\_.

**Exhibit 23 – Administration – Affidavit of Mailing**

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Edward A. Knight

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
:   
MELINDA GONNELLA, : AFFIDAVIT OF MAILING  
:   
DECEASED :

I, EDWARD A. KNIGHT, of full age, being duly sworn according to law upon my oath, depose and say:

1. I am in the employ of LAWRENCE LAWYER, attorney for the plaintiff in the above entitled matter.

2. On Tuesday, February 21, , I mailed to each of the party parties listed below, by Certified Mail, Return Receipt Requested, a true copy of the attached Notice of Application by depositing same in the Post Office, Midtown Station, Newark, New Jersey, each copy of said Notice of Application so mailed being enclosed in a sealed envelope with postage fully prepaid thereon and addressed to each of the said party parties at the addresses set down opposite their his her respective names as follows:

HARRY I. ARNOLD, 161 Chestnut Street, Cambridge, Mass.

3. A copy of the return receipt obtained by me is attached hereto and made a part hereof.

s/ \_\_\_\_\_  
Edward A. Knight

Sworn and Subscribed to before me this 21st day  
of February, .

s/ \_\_\_\_\_  
Nancy New  
Notary Public of New Jersey  
My Commission expires May 1, .

**Exhibit 24 – Administration Application**

Due

Docket No. \_\_\_\_\_

Fee Ren.  
Bond Info.  
D.C.

Receipt No. \_\_\_\_\_

Date \_\_\_\_\_

Certificates \_\_\_\_\_

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, NJ 07102  
(111) 222-3333  
Attorney for Linda Arnold

Filed \_\_\_\_\_, 20\_\_

Recorded in Administration

Book \_\_\_\_\_ Page \_\_\_\_\_

\_\_\_\_\_  
Surrogate of Essex County, N.J.

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, :  
 :  
 DECEASED. :

APPLICATION FOR ADMINISTRATION

LINDA ARNOLD, Social Security No. 123-45-6789, residing at 112 Peach Terrace, Madison, N.J. respectfully shows that:

1. On January 3, \_\_\_\_\_, MELINDA GONNELLA died intestate and at the time of death was residing at 456 Sycamore Lane, Livingston in Essex County, New Jersey.

Exhibit 24 – Administration Application - Continued

2. The said decedent left surviving as spouse, heirs at law and next of kin the following persons:

	NAME	RELATIONSHIP	RESIDENCE	AGE OF ALL MINORS
Decedent was a widow				
Children of deceased daughter Linda Gonnella Arnold				
	Applicant	Granddaughter		
	Harry I. Arnold	Grandson	161 Chestnut St., Cambridge, Mass.	
	Martin Arnold	Grandson	415 Maple Road, Newton, NJ	17
	Agnes A. Arnold	Granddaughter	415 Maple Road, Newton, NJ	14

3. There are no other heirs or next of kin known to the applicant.

4. All of the next of kin of said deceased entitled to administration upon this estate have renounced in writing their right of administration and requested that same be granted to the applicant.

WHEREFORE, the applicant requests judgment that letters of administration upon the estate of the aforesaid intestate be granted to applicant.

s/ \_\_\_\_\_  
Linda Arnold

STATE OF NEW JERSEY    )  
  ) ss:  
COUNTY OF ESSEX        )

LINDA ARNOLD, of full age, being duly sworn according to law, upon her oath, deposes and says that she is the applicant in the foregoing application named and that the matters and things therein contained are true to the best of her knowledge and belief. Applicant further says that the value of the entire estate, for the administration of which this application is made, will not exceed the sum of \_\_\_\_\_ dollars.

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to before me this 20th day of February, .

s/ \_\_\_\_\_  
Norma Not  
Notary Public of New Jersey  
My Commission expires January 1,

Exhibit 25 – Administration – Power of Attorney

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
:  
MELINDA GONNELLA, : POWER OF ATTORNEY  
:  
DECEASED. :

KNOW ALL MEN BY THESE PRESENTS, THAT I, LINDA ARNOLD, residing at 112 Peach Terrace, Madison, N.J. pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint RICHARD R. ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the Administratrix.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of February, \_\_\_\_\_.

Signed, sealed and delivered  
in the presence of:

s/ \_\_\_\_\_ (L.S.)  
Linda Arnold

s/ \_\_\_\_\_  
John Jones

STATE OF NEW JERSEY )  
) ss:  
COUNTY OF ESSEX )

BE IT REMEMBERED, that on this 20th day of February \_\_\_\_\_, before me, the subscriber, a Notary Public of New Jersey, personally appeared LINDA ARNOLD who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to her the contents thereof, she did thereupon acknowledge that she signed, sealed and delivered the said power of attorney as her voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
Norma Not  
Notary Public of New Jersey  
My Commission expires January 1,

Exhibit 26 – Administration – Qualification of Individual Administrator

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
:  
MELINDA GONNELLA, :  
:  
DECEASED. :

QUALIFICATION OF  
ADMINISTRATOR

STATE OF NEW JERSEY )  
) ss:  
COUNTY OF ESSEX )

LINDA ARNOLD, the administratrix within named, being duly sworn upon her oath according to law, deposes and says that MELINDA GONNELLA within named died without a Will so far as she knows and verily believes; that she will well and truly administer all and singular the goods, chattels, rights and credits which were of the said deceased at the time of her death, that have or shall come to her possession or knowledge, or to the possession of any other person or persons for her use, with her knowledge; and that she will make and exhibit unto the Surrogate’s Office in the County of Essex, a true and perfect inventory of all and singular, the said goods and chattels, rights and credits, and render a just and true account of her administration; and that the said intestate died January 3, .

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to before me this 20th  
day of February, .

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 27 – Administration Bond**

KNOW ALL MEN BY THESE PRESENTS, THAT WE, LINDA ARNOLD, Administrator/rix of the Estate of MELINDA GONNELLA deceased, (hereinafter referred to as “Administrator/rix”) as Principal, and The Bonding Company of Newark, NJ a corporation of the State of New Jersey, as Surety, are held and firmly bound unto the Superior Court of the State of New Jersey in the sum of ten thousand (\$10,000) DOLLARS, lawful money of the United States of America, to be paid to the said Superior Court, its successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents. Sealed with our seals and dated the 15th day of March, \_\_\_\_\_.

THE CONDITION OF THIS OBLIGATION IS SUCH (N.J.S.A. 3B:15-5) that if the above bounden Administrator/rix shall perform every one of the duties described in the six numbered paragraphs which immediately follow this paragraph, then the above obligation shall be void and of no effect, or else shall remain in full force and virtue.

1. If required by the Court or if an exemption is to be set off as required in N.J.S.A. 3B:16-1, et seq., to make a true and perfect inventory of the real and personal property of the deceased, which has or shall come into his/her hands, possession or knowledge or into the hands of any other person for him/her, and to cause an appraisal to be made of the real and personal property and to file the inventory and appraisal in the Office of the Clerk of the Superior Court of this State or in the Surrogate’s Court of the County of Essex as the case may be within the time so required.

2. To faithfully discharge all of the duties imposed upon him/her according to law.

3. To make a just and true account of his/her administration of the estate, and, if required by the Court, to settle his/her account therein within the time so required.

4. To deliver and pay to the distributees entitled thereto by law the surplus property of the deceased as may remain pursuant to the account.

5. To deliver his/her letters of administration to the proper court when required so to do, if a will of the deceased is found and exhibited to it and by it admitted to probate.

6. To comply in all respects with the Statutes pertaining thereto.

The Principal and Surety hereby submit themselves to the jurisdiction of the Superior Court and do hereby irrevocably appoint the Clerk of the Superior Court/ Surrogate of Essex County as their agent upon whom papers affecting their liability on the bond may be served. The Principal and Surety waive any right to a jury trial in an action to enforce liability on the bond. Liability on the bond may be enforced by motion in the action, if one is pending, without the necessity of any independent action and said motion may be served upon the Principal and Surety by mailing it, by ordinary mail, to the Clerk of the Superior Court/Surrogate of Essex County,



**Exhibit 27 – Administration Bond – Continued**

as named above, who shall forthwith mail copies thereof to the Principal at 112 Peach Terrace, Madison, N.J. and the Surety at 20 Broad St., Newark, N.J. in accordance with R.1:13-3(b).

Sealed and delivered  
in the presence of

s/ \_\_\_\_\_  
Witness as to Principal

(Seal)

Dated: \_\_\_\_\_

s/ \_\_\_\_\_  
Principal Linda Arnold

The Bonding Company of Newark, NJ.

By \_\_\_\_\_  
Surety

The within bond is hereby  
approved as to form and  
sufficiency.

s/ \_\_\_\_\_  
J.S.C. or Surrogate

**Exhibit 28 – Judgment of Administration (Next of Kin)**

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Estate of :  
: On Application for Letter of  
MELINDA GONNELLA, : Administration  
: JUDGMENT  
DECEASED. :

It appearing by the application of FRED GONNELLA that MELINDA GONNELLA late of the County of Essex and State of New Jersey, died on the 3rd day of January, two thousand and \_\_\_\_\_, intestate and it further appearing that the said FRED GONNELLA is the party first entitled to administration upon the estate of the said intestate, and that said intestate died possessed of goods, chattels, rights and credits of the value of Seventy-five Hundred dollars;

It is thereupon on this 9th day of February two thousand and \_\_\_\_\_, adjudged that letters of administration upon the goods, chattels, rights and credits of the said MELINDA GONNELLA be granted to the said FRED GONNELLA upon his giving bond to the Superior Court according to law in the sum of Ten Thousand dollars; with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 29 – Judgment of Administration  
(Where Renunciations have been filed)**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
: On Application for Letter of  
MELINDA GONNELLA, : Administration  
: JUDGMENT  
DECEASED. :

It appearing by the application of LINDA ARNOLD that MELINDA GONNELLA late of the County of Essex and State of New Jersey, died on the 3rd day of January, two thousand and \_\_\_\_\_, intestate, and it further appearing that the said intestate died possessed of goods, chattels, rights and credits of the value of Seventy-five Hundred dollars, and that all of the next of kin and parties first entitled to administration upon the estate of the said intestate have duly renounced their said right of administration and have requested that letters of administration upon said estate be granted to the said plaintiff;

It is thereupon on this 9th day of February two thousand and \_\_\_\_\_, adjudged that letters of administration upon the goods, chattels, rights and credits of the said MELINDA GONNELLA be granted to the said LINDA ARNOLD upon her giving bond to the Superior Court according to law in the sum of Fifteen Thousand dollars with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 30 – Substitutionary Administration - Application**

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Harry I. Arnold

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Estate of : On Application for  
: Substitutionary  
MELINDA GONNELLA, : Administration  
: :  
DECEASED. : APPLICATION

HARRY I. ARNOLD, residing at 161 Chestnut Street, Cambridge Street, Massachusetts, respectfully shows that:

1. On January 3, , MELINDA GONNELLA died intestate and LINDA ARNOLD was duly appointed administratrix of the goods, chattels, tights and credits of the said intestate on February 9, .

2. That said administratrix as aforesaid, after taking upon herself the burden of said administration, departed this life leaving certain property and assets of the estate of the said intestate unadministered, the value whereof does not, as nearly as your applicant can ascertain, exceed the sum of Five Hundred dollars.

3. The said decedent left surviving as spouse, heirs at law and next of kin the following persons:

NAME	RELATIONSHIP	RESIDENCE	AGE OF ALL MINORS
Husband of decedent is deceased			
Children of deceased	Applicant	Grandson	
daughter Linda Gonnella Arnold	Martin Arnold	Grandson	415 Maple Road, Newton, NJ 17
	Agnes A. Arnold	Granddaughter	415 Maple Road, Newton, NJ 14

**Exhibit 30 – Substitutionary Administration - Application - Continued**

- 4. There are no other heirs or next of kin known to the applicant.
- 5. Applicant is the person first entitled to letters of substitutionary administration and no other competent adult person is entitled thereto.

Wherefore, the applicant requests judgment that letters of substitutionary administration upon the estate of the aforesaid intestate be granted to the applicant.

s/ \_\_\_\_\_  
Harry I. Arnold

STATE OF NEW JERSEY )  
  )ss:  
COUNTY OF ESSEX     )

HARRY I. ARNOLD, of full age, being duly sworn upon his oath according to law, deposes and says:

- 1. I am the applicant in the foregoing application named. The allegations thereof are true to the best of my knowledge and belief.
- 2. The value of the entire estate, for the administration of which this application is made, will not exceed the sum of \$500.00.

s/ \_\_\_\_\_  
Harry I. Arnold

Sworn and Subscribed to before me this 19th  
day of August, .

s/ \_\_\_\_\_  
John Jones  
Notary Public of New Jersey  
My Commission expires January 1, .

**Exhibit 31 – Qualification of Substituted Administrator**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : QUALIFICATION OF  
 : SUBSTITUTED ADMINISTRATOR  
 DECEASED. :

STATE OF NEW JERSEY )  
 ) ss:  
 COUNTY OF ESSEX )

HARRY I. ARNOLD, the substituted administrator within named, being of full age and duly sworn upon his oath according to law, deposes and says that MELINDA GONNELLA within named died without a Will so far as he knows and verily believes that he will well and truly administer all and singular the goods, chattels, rights and credits which were of the said deceased at the time of her death, that have or shall come to his possession or knowledge; or to the possession of any other person or persons for his use, with his knowledge, and that he will make and exhibit unto the Surrogate’s Office of the County of Essex, a true and perfect inventory of all and singular, the said goods, and chattels, rights and credits, and render a just and true account of his administration; and that the said intestate died January 3, .

s/ \_\_\_\_\_  
Harry I. Arnold

Sworn and Subscribed to before me this 19th  
day of August, .

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 32 – Subadministration Bond**

KNOW ALL MEN BY THESE PRESENTS, THAT WE, HARRY I. ARNOLD, Sub-administrator/rix of the Estate of MELINDA GONNELLA deceased, (hereinafter referred to as “Sub-administrator/rix”) as Principal, and Bank Insurance Company of Newark a corporation of the State of New Jersey, as Surety, are held and firmly bound unto the Superior Court of the State of New Jersey in the sum of One Thousand (\$1,000.00) DOLLARS, lawful money of the United States of America, to be paid to the said Superior Court, its successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents. Sealed with our seals and dated the 19th day of August, \_\_\_\_\_.

THE CONDITION OF THIS OBLIGATION IS SUCH (N.J.S.A. 3B:15-5) that if the above bounden Subadministrator/rix shall perform every one of the duties described in the six numbered paragraphs which immediately follow this paragraph, then the above obligation shall be void and of no effect, or else shall remain in full force and virtue.

1. If required by the Court or if an exemption is to be set off as required in N.J.S.A. 3B:16-1, *et seq.*, to make a true and perfect inventory of the real and personal property of the deceased, which has or shall come into his/her hands, possession or knowledge or into the hands of any other person for him/her, and to cause an appraisal to be made of the real and personal property and to file the inventory and appraisal in the Office of the Clerk of the Superior Court of this State or in the Surrogate’s Court of the County of Essex as the case may be within the time so required.

2. To faithfully discharge all of the duties imposed upon him/her according to law.

3. To make a just and true account of his/her administration of the estate, and, if required by the Court, to settle his/her account therein within the time so required.

4. To deliver and pay to the distributees entitled thereto by law the surplus property of the deceased as may remain pursuant to the account.

5. To deliver his/her letters of administration to the proper court when required so to do, if a will of the deceased is found and exhibited to it and by it admitted to probate.

6. To comply in all respects with the Statutes pertaining thereto.

The Principal and Surety hereby submit themselves to the jurisdiction of the Superior Court and do hereby irrevocably appoint the Clerk of the Superior Court/ Surrogate of Essex County as their agent upon whom papers affecting their liability on the bond may be served. The Principal and Surety waive any right to a jury trial in an action to enforce liability on the bond. Liability on the bond may be enforced by motion in the action, if one is pending, without the necessity of any independent action and said motion may be served upon the Principal and Surety by mailing it, by ordinary mail, to the Clerk of the Superior Court/Surrogate of Essex County,

**Exhibit 32 – Subadministration Bond - Continued**

as named above, who shall forthwith mail copies thereof to the Principal at 161 Chestnut St., Cambridge, Mass. and the Surety at 20 Broad St., Newark, N.J. in accordance with R.1:13-3(b).

Sealed and delivered  
in the presence of

s/ \_\_\_\_\_  
Witness as to Principal

s/ \_\_\_\_\_  
Principal Harry I. Arnold

(Seal)

s/ \_\_\_\_\_  
Surety

The Within bond is hereby  
approved as to form and  
sufficiency.

Dated: \_\_\_\_\_

s/ \_\_\_\_\_  
J.S.C. or Surrogate



**Exhibit 33 – Substitutionary Administration - Judgment**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of	:	
	:	
MELINDA GONNELLA,	:	JUDGMENT APPOINTING
	:	SUBSTITUTED ADMINISTRATOR
DECEASED.	:	

It appearing by the application of HARRY I. ARNOLD that MELINDA GONNELLA, late of the County of Essex and State of New Jersey, died on the 3rd day of January, , intestate; that on February 9, , LINDA ARNOLD was duly appointed by the Surrogate of Essex County, administratrix of the goods and chattels, rights and credits of the said intestate; that the said administratrix so appointed as aforesaid after taking upon herself the burden of administering the said estate, departed this life leaving property and assets of the said estate of the value of Five Hundred dollars unadministered; that plaintiff is the person first entitled to Letters of Substitutionary Administration and no other competent adult person is entitled thereto.

It is thereupon on this 19th day of August, , adjudged that letters of substitutionary administration upon the estate of the said MELINDA GONNELLA, deceased, be granted to the said HARRY I. ARNOLD upon his giving bond to the Superior Court according to law in the sum of One Thousand dollars, with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 34 – Administration C.T.A. - Application**

Lawrence Lawyer, Esq.  
 131 Broad Street  
 Newark, New Jersey 07102  
 (111) 222-3333  
 Attorney for Linda Arnold

ESSEX COUNTY  
 SURROGATE’S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : APPLICATION FOR LETTERS  
 : OF ADMINISTRATION  
 : C.T.A.  
 DECEASED. :

LINDA ARNOLD, residing at 112 Peach Terrace, Madison, New Jersey, respectfully shows that:

1. On January 3, , MELINDA GONNELLA died leaving a Will dated January 16, , wherein she appointed FRED GONNELLA as the sole executor. The said Executor, FRED GONNELLA, predeceased the decedent, dying on August 18, .

2. The said decedent was domiciled in the Township of Livingston, Essex County, New Jersey, at the time of her death, having her residence at 456 Sycamore Lane, Livingston, New Jersey.

3. The said decedent left surviving as spouse, heirs at law and next of kin, the following persons:

	NAME	RELATIONSHIP	RESIDENCE	AGE OF ALL CHILDREN & OF ALL OTHERS UNDER AGE
	Decedent was a widow			
Children of	Applicant	Granddaughter		
deceased	Harry I. Arnold	Grandson	161 Chestnut St., Cambridge, Mass.	22
daughter Linda	Martin Arnold	Grandson	415 Maple Road, Newton, NJ	17
Gonnella Arnold	Agnes A. Arnold	Granddaughter	415 Maple Road, Newton, NJ	14

**Exhibit 34 – Administration C.T.A. - Application – Continued**

4. There are no other heirs or next of kin known to the applicant.
5. All of the said next of kin of said deceased entitled to Administration C.T.A. upon this estate have renounced in writing their right of Administration C.T.A. and requested that the same be granted to applicant.
6. The residuary legatees or persons first entitled to Administration C.T.A. upon the said estate are as follows:

Name	Residence	Interest in Estate
Applicant	As above	1/4
Harry I. Arnold	As above	1/4
Martin Arnold	As above	1/4
Agnes A. Arnold	As above	1/4

Wherefore, the applicant requests judgment admitting to probate the said Will and directing the letters of Administration C.T.A. be granted to applicant.

s/ \_\_\_\_\_  
Linda Arnold

STATE OF NEW JERSEY )  
  )ss:  
COUNTY OF ESSEX        )

LINDA ARNOLD, being duly sworn, according to law, upon her oath deposes and says that she is the applicant in the foregoing application named, and that the matters and things therein contained are true to the best of her knowledge and belief.

That the value of the entire estate, for the administration of which this application is made, will not exceed the sum of \$1,700.00.

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to before me this 2nd day  
of March, .

s/ \_\_\_\_\_  
John Jones  
Notary Public of New Jersey  
My Commission expires January 1,

**Exhibit 35 – Administration C.T.A. – Renunciation and Request**

**ESSEX COUNTY  
SURROGATE’S COURT**

**TO THE SURROGATE OF THE COUNTY OF ESSEX,  
STATE OF NEW JERSEY:**

BE IT KNOWN, THAT HARRY I. ARNOLD next of kin (or residuary legatee) of MELINDA GONNELLA late of 456 Sycamore Lane, Livingston, in said County of Essex, deceased, does hereby renounce all right and claim to Administration C.T.A. of goods, chattels and credits, and request that Administration C.T.A. be granted to LINDA ARNOLD.

s/ \_\_\_\_\_  
Harry I. Arnold

Dated: March 2, .  
Signed, sealed and delivered  
in the presence of

s/ \_\_\_\_\_  
John Jones

STATE OF NEW JERSEY     )  
  )ss:  
COUNTY OF ESSEX         )

BE IT REMEMBERED, that on March 2, , before me, the subscriber, NORMA NOT, personally appeared HARRY I. ARNOLD who, I am satisfied is the person named in and who executed the within Instrument, and thereupon he acknowledged that he signed, sealed and delivered the same as his act and deed, for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
Norma Not  
Notary Public of New Jersey  
My Commission Expires on January 1,

**Exhibit 36 – Administration C.T.A. - Bond**

KNOW ALL MEN BY THESE PRESENTS, THAT WE, LINDA ARNOLD, Administrator/rix C.T.A. of the Estate of MELINDA GONNELLA deceased, (hereinafter referred to as “Administrator/rix” C.T.A.) as Principal, and The Bonding Company of Newark, a corporation of the State of New Jersey, as Surety, are held and firmly bound unto the Superior Court of the State of New Jersey in the sum of Three Thousand Four Hundred (\$3,400.00) DOLLARS, lawful money of the United States of America, to be paid to the said Superior Court, its successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents, sealed with our seals and dated the 17th day of March, \_\_\_\_\_.

THE CONDITION OF THIS OBLIGATION IS SUCH (N.J.S.A. 3B:15-6) that if the above bounden Administrator/rix C.T.A. with the Will annexed shall perform every one of the duties described in the numbered paragraphs which immediately follow this paragraph, then the above obligation shall be void and of no effect, or else shall remain in full force and virtue.

1. If required by the Court or if an exemption is to be set off as required in N.J.S.A. 3B:16-1, *et seq.*, to make a true and perfect inventory of the real and personal property of the decedent, which has or shall come into his/her hands, possession or knowledge or into the hands of any other person for him/her, and to cause an appraisal to be made of the real and personal property and to file the inventory and appraisal in the Office of the Clerk of the Superior Court or of the Surrogate of Essex County, as the case may be, within the time so required;

2. To faithfully discharge all of the duties imposed upon him/her according to law;

3. To make a just and true account of his/her administration of the estate, and, if required by the Court, to settle his/her account therein within the time so required;

4. To deliver and pay to the distributees entitled thereto by law the surplus property of the deceased as may remain pursuant to the account; and

5. To comply in all respects with the Statutes pertaining thereto.

The Principal and Surety hereby submit themselves to the jurisdiction of the Superior Court and do hereby irrevocably appoint the Clerk of the Superior Court/Surrogate of Essex County as their agent upon whom papers affecting their liability on the bond may be served. The Principal and Surety waive any right to a jury trial in an action to enforce liability on the bond. Liability on the bond may be enforced by motion in the action, if one is pending, without the necessity of any independent action and said motion may be served upon the Principal and Surety by mailing it, by ordinary mail, to the Clerk of the Superior Court/Surrogate of Essex County,

**Exhibit 36 – Administration C.T.A. - Bond – Continued**

as named above, who shall forthwith mail copies thereof to the Principal at 112 Peach Terrace, Madison, N.J. and the Surety at 20 Broad St., Newark, N.J. in accordance with R.1:13-3(b).

Sealed and delivered  
in the presence of

s/ \_\_\_\_\_  
Witness as to Principal

(Seal)

Dated: \_\_\_\_\_

s/ \_\_\_\_\_  
Principal Linda Arnold

By \_\_\_\_\_  
Surety

The within bond is hereby  
approved as to form and  
sufficiency.

s/ \_\_\_\_\_  
J.S.C. or Surrogate

Exhibit 37 – Qualification of Administrator C.T.A.

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :

MELINDA GONNELLA, :  
: QUALIFICATION OF  
: ADMINISTRATOR C.T.A.  
DECEASED. :

STATE OF NEW JERSEY )  
)ss:  
COUNTY OF ESSEX )

LINDA ARNOLD, of full age, being duly sworn upon her oath according to law, deposes and says that the foregoing writing contains the true last Will and Testament of MELINDA GONNELLA, the Testatrix therein named, deceased, as far as she knows and verily believes; that she will, as the administratrix C.T.A. thereof well and truly perform the same, first by paying the debts of said deceased and then the legacies therein specified as far as the goods, chattels and credits of said deceased will thereunto extend and the law charges her; that she will make and exhibit unto the Surrogate’s Office of the County of Essex a true and perfect inventory of all and singular the said goods, chattels and credits as far as the same have or shall come to her possession or knowledge; or to the possession of any, other person or persons for her use with her knowledge; and that she will well and truly account when thereunto lawfully required; and that Testatrix died January 3, .

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to before me this 2nd day  
of March, .

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 38 – Administration C.T.A. – Power of Attorney**

**ESSEX COUNTY  
SURROGATE’S COURT**

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : **POWER OF ATTORNEY**  
 :  
 DECEASED. :

KNOW ALL MEN BY THESE PRESENTS, THAT I, LINDA ARNOLD residing at 112 Peach Terrace, Madison, New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint RICHARD R. ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the Administratrix C.T.A.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 2nd day of March,  
 \_\_\_\_\_.

Signed, sealed and delivered  
 in the presence of: \_\_\_\_\_ (L.S.)  
 Linda Arnold

s/ \_\_\_\_\_  
 John Jones

STATE OF NEW JERSEY )  
 )ss:  
 COUNTY OF ESSEX )

BE IT REMEMBERED, that on this 2nd day of March, , before me, the subscriber, a Notary Public of New Jersey, personally appeared LINDA ARNOLD who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to her the contents thereof, she did thereupon acknowledge that she signed, sealed and delivered the said power of attorney as her voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
 Norma Not  
 Notary Public of New Jersey  
 My Commission expires January 1,



**Exhibit 39 – Administration C.T.A. - Judgment**

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Estate of :  
: MELINDA GONNELLA, : JUDGMENT APPOINTING  
: : ADMINISTRATOR C.T.A.  
DECEASED. :

On reading and filing the application of LINDA ARNOLD for the probate of the last Will and Testament of MELINDA GONNELLA deceased, and for Letters of Administration C.T.A., and the Surrogate having inquired into the circumstances and taken proof and being satisfied of the genuineness of the Will produced, the validity of its execution and the competency of the testatrix and it further appearing that the said testatrix died on January 3, , more than ten days ago, and that no caveat has been filed against the probate of said Will;

And it further appearing that FRED GONNELLA the Executor named in said Will has duly renounced and that said testatrix died possessed of goods, chattels, rights and credits of the value of \$1700 and that all of the next of kin and parties equally entitled to administration upon the estate of the testatrix have duly renounced their right to administration and have requested that Letters of Administration C.T.A. upon said estate be granted to said applicant.

It is thereupon on this 18th day of March, , adjudged that the instrument offered for probate in this matter be and the same hereby is established as the last Will and Testament of

**Exhibit 39 – Administration C.T.A. - Judgment – Continued**

the said MELINDA GONNELLA deceased, and that the same be and hereby is admitted to probate.

It is further adjudged that Letters of Administration with said Will annexed be issued to LINDA ARNOLD upon qualifying and giving bond to the Superior Court in the sum of \$3400 with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 40 – Substitutionary Administration C.T.A. - Application**

Lawrence Lawyer, Esq.  
 131 Broad Street  
 Newark, New Jersey 07102  
 (111) 222-3333  
 Attorney for Linda Arnold

ESSEX COUNTY  
 SURROGATE'S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : APPLICATION FOR LETTERS OF  
 : SUBSTITUTIONARY  
 : ADMINISTRATION WITH THE  
 DECEASED. : WILL ANNEXED

The applicant, LINDA ARNOLD, residing at 112 Peach Terrace, Madison, New Jersey, says:

1. On January 3, , MELINDA GONNELLA died leaving a last Will and Testament wherein she appointed FRED GONNELLA Executor.
2. On January 15, , the said Will was duly probated by the Essex County Surrogate's Court and Letters Testamentary thereon were issued by it to the said FRED GONNELLA..
3. The said Executor after qualifying and entering upon the duties of said office, but before completing the same, departed this life on February 20, leaving unadministered certain assets of the estate of the said deceased of a value not exceeding the sum of \$1000.00.

4. The following are the spouse, heirs and next of kin of the decedent:

	NAME	ADDRESS	RELATIONSHIP	AGE OF ALL MINORS
Children of	Husband of Decedent is deceased			
Linda Gonnella	Applicant		Granddaughter	
Arnold deceased	Harry I. Arnold	161 Chestnut St., Cambridge, Mass.	Grandson	
daughter of	Martin Arnold	415 Maple Road, Newton, NJ	Grandson	17
decedent	Agnes A. Arnold	415 Maple Road, Newton, NJ	Granddaughter	14

**Exhibit 40 – Substitutionary Administration C.T.A. - Application – Continued**

5. There are no other heirs or next of kin.

6. The competent adult persons whose right to Substitutionary Administration with the Will annexed upon the said estate is prior or equal to that of the applicant, with their addresses and the manner and degree in which they severally stand related to the decedent, are as follows:

Name	Address	Interest in Estate
Applicant	As above	1/4
Harry I. Arnold	As above	1/4
Martin Arnold	As above	1/4
Agnes A. Arnold	As above	1/4

7. The persons entitled to Letters of Substitutionary Administration with the Will annexed have renounced in writing their right to such administration and request that the same be granted to the applicant.

Wherefore, the applicant requests judgment granting to her Letters of Substitutionary Administration with the Will annexed.

s/ \_\_\_\_\_  
Linda Arnold

STATE OF NEW JERSEY )  
  ) ss:  
COUNTY OF ESSEX     )

LINDA ARNOLD, of full age, being duly sworn upon her oath, according to law, deposes and says:

1. I am the applicant in the foregoing application named. The allegations thereof are true to the best of my knowledge and belief.

2. The value of the entire estate, for the administration of which this application made, will not exceed the sum of \$1000.00.

s/ \_\_\_\_\_  
Linda Arnold

Subscribed and Sworn to before me this 19th  
day of March, .

s/ \_\_\_\_\_  
John Jones  
Notary Public of New Jersey  
My Commission expires January 1,

**Exhibit 41 – Qualification of Substituted Administrator C.T.A.**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : QUALIFICATION OF  
 : SUBSTITUTED ADMINISTRATOR  
 DECEASED. : C.T.A.

STATE OF NEW JERSEY )  
 ) ss:  
 COUNTY OF ESSEX )

LINDA ARNOLD, substituted administratrix with the Will annexed of MELINDA GONNELLA, deceased, being of full age and duly sworn upon her oath, deposes and says:

1. I will well and truly administer the personal estate of the said decedent remaining unadministered, which has or shall come to my possession or knowledge or to the possession of any other person or persons for my use with my knowledge, first by paying the debts of the said decedent and then the legacies specified in said Will, as far as the estate of the said decedent will thereunto extend and the law charges me.

2. I will make and exhibit unto the Surrogate’s Court of the County of Essex a true and perfect inventory of the said personal estate, and render a just and true account of administration, when required by law.

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to before me this 19th  
day of March,

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 42 – Substitutionary Administration C.T.A. – Power of Attorney**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
:  
MELINDA GONNELLA, :  
:  
DECEASED. :

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT I, LINDA ARNOLD, residing at 112 Peach Terrace, Madison, New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint RICHARD R. ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the Sub-Administratrix C.T.A.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.

IN WITNESS WHEREOF, I have hereunto set my band and seal this 2nd day of March,

\_\_\_\_\_.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_(L.S.)  
Linda Arnold

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

STATE OF NEW JERSEY     )  
  )ss:  
COUNTY OF ESSEX         )

BE IT REMEMBERED, that on this 2nd day of March, \_\_\_\_\_, before me, the subscriber, a Notary Public of New Jersey, personally appeared LINDA ARNOLD who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to her the contents thereof, she did thereupon acknowledge that she signed, sealed and delivered the said power of attorney as her voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
Norma Not  
Notary Public of New Jersey  
My Commission expires January 1,

Exhibit 43 – Subadministration C.T.A. – Bond

**KNOW ALL MEN BY THESE PRESENTS, THAT WE, LINDA ARNOLD, Sub-administrator/rix C.T.A. of the Estate of MELINDA GONNELLA deceased, (hereinafter referred to as "Sub-administrator/rix C.T.A.") as Principal, and Insurance Bonding Company a corporation of the State of New Jersey, as Surety, are held and firmly bound unto the Superior Court of the State of New Jersey in the sum of Two Thousand (\$2,000.00) DOLLARS, lawful money of the United States of America, to be paid to the said Superior Court, its successors or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents, sealed with our seals and dated the 18th day of March,**

**THE CONDITION OF THIS OBLIGATION IS SUCH (N.J.S.A. 3B:15-6) that if the above bounden Subadministrator/rix C.T.A. with the Will annexed shall perform every one of the duties described in the numbered paragraphs which immediately follow this paragraph, then the above obligation shall be void and of no effect, or else shall remain in full force and virtue.**

- 1. If required by the Court or if an exemption is to be set off as required in N.J.S.A. 3B:16-1, *et seq.*, to make a true and perfect inventory of the real and personal property of the decedent, which has or shall come into his/her hands, possession or knowledge or into the hands of any other person for him/her, and to cause an appraisal to be made of the real and personal property and to file the inventory and appraisal in the Office of the Clerk of the Superior Court or of the Surrogate of Essex County, as the case may be, within the time so required;**
- 2. To faithfully discharge all of the duties imposed upon him/her according to law;**
- 3. To make a just and true account of his/her administration of the estate, and, if required by the Court, to settle his/her account therein within the time so required;**
- 4. To deliver and pay to the distributees entitled thereto by law the surplus property of the deceased as may remain pursuant to the account; and**
- 5. To comply in all respects with the Statutes pertaining thereto.**

**The Principal and Surety hereby submit themselves to the jurisdiction of the Superior Court and do hereby irrevocably appoint the Clerk of the Superior Court/Surrogate of Essex County as their agent upon whom papers affecting their liability on the bond may be served. The Principal and Surety waive any right to a jury trial in an action to enforce liability on the bond. Liability on the bond may be enforced by motion in the action, if one is pending, without the necessity of any independent action and said motion may be served upon the Principal and Surety by mailing it, by ordinary mail, to the Clerk of the Superior Court/Surrogate of Essex County; as**

**Exhibit 43 – Subadministration C.T.A. – Bond – Continued**

named above, who shall forthwith mail copies thereof to the Principal at 112 Peach Terrace, Madison, N.J. and the Surety at 20 Broad St., Newark, N.J. in accordance with R1:13-3(b).

**Sealed and delivered  
in the presence of**

s/ \_\_\_\_\_  
**Witness as to Principal**

(Seal)

s/ \_\_\_\_\_  
**Principal Linda Arnold**

s/ \_\_\_\_\_  
**Surety**

The within bond is hereby  
approved as to form and  
sufficiency.

Dated: \_\_\_\_\_

s/ \_\_\_\_\_  
**J.S.C. or Surrogate**



Exhibit 44 – Substitutionary Administration C.T.A. – Judgment

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of	:	
	:	
MELINDA GONNELLA,	:	JUDGMENT APPOINTING
	:	SUBSTITUTED ADMINISTRATOR
DECEASED.	:	C.T.A.

It appearing from the application of LINDA ARNOLD that MELINDA GONNELLA late of the County of Essex and State of New Jersey, died leaving a Will wherein decedent appointed FRED GONNELLA Executor, that said Will was admitted to probate by the Essex County Surrogate’s Court and Letters Testamentary thereon were issued to the said Executor, who, after qualifying and entering upon the duties of said office but before completing the same departed this life on February 20, , that he left certain assets of the estate of the said decedent unadministered of a value not exceeding the sum of \$1000 and it further appearing that all persons whose right to Substitutionary Administration with the Will annexed is equal to that of plaintiff have renounced their right thereto and requested that the Letters be issued to the plaintiff.

It is thereupon on this 21st day of March, , adjudged that Letters of Substitutionary Administration with the Will annexed of the said MELINDA GONNELLA, deceased, be issued to the said LINDA ARNOLD upon her entering into bond to the Superior Court of New Jersey according to law in the sum of \$2000 with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 45 – Substitutionary Administration C.T.A. – Letters Testamentary**

**STATE OF NEW JERSEY  
Essex County Surrogate's Court**

**WHEREAS, MELINDA GONNELLA,**  
late of the County of Essex, and State of New Jersey, died leaving a Will which was admitted to probate by the Essex County Surrogate's Court; and whereas the decedent appointed

**FRED GONNELLA**  
Executor; and the latter after qualifying and entering upon the duties of said office but before completing the same departed this life:

**THEREFORE, I, RICHARD R. ROE,** Surrogate of the County of Essex, do, in the place and stead of the said

**FRED GONNELLA**  
hereby appoint

**LINDA ARNOLD**  
Substituted Administratrix with the Will annexed of the estate of the said

**MELINDA GONNELLA**  
who is duly authorized as such Substituted Administratrix to administer the same agreeably to said Will.

(SEAL)

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 21st day of March, two thousand and

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 46 – Affidavit of Surviving Spouse in Lieu of Administration  
Where Real and Personal Estate Does Not Exceed \$20,000**

ESSEX COUNTY  
SURROGATE’S COURT

In the Matter of the Estate of :  
 :  
 MELINDA GONNELLA, : AFFIDAVIT OF  
 : SURVIVING SPOUSE  
 : PURSUANT TO  
 DECEASED. : N.J. REV. STAT. 3B:10-3

STATE OF NEW JERSEY )  
 )ss:  
 COUNTY OF ESSEX )

I, FRED GONNELLA, of full age being duly sworn upon my oath according to law, depose and say that I reside at 456 Sycamore Lane, Livingston, New Jersey; that I am the surviving spouse of MELINDA GONNELLA who departed this life on or about January 3, \_\_\_\_\_, without leaving a Will, having her residence at 456 Sycamore Lane, in the Township of Livingston, County of Essex, State of New Jersey; that the entire estate, both real and personal, of said decedent does not exceed Twenty Thousand dollars (\$20,000.00) and consists of: \_\_\_\_\_ Buick Sedan Model 1054 - serial #587 968 that I am therefore entitled to same without Letters of Administration in accordance with R.S. 3B:10-3.

s/ \_\_\_\_\_  
Fred Gonnella

Subscribed and Sworn to before me this 20th  
day of August, \_\_\_\_\_.

s/ \_\_\_\_\_  
John Jones  
Special Probate Clerk

**Exhibit 47 – Consent to Filing of Affidavit in Lieu of Administration**

	ESSEX COUNTY
	SURROGATE'S COURT
In the Matter of the Estate of	:
	:
MELINDA GONNELLA,	:
	:
DECEASED.	:
	:

ESSEX COUNTY  
SURROGATE'S COURT  
  
CONSENT TO FILING OF  
AFFIDAVIT IN LIEU OF  
ADMINISTRATION

TO THE SURROGATE OF THE COUNTY OF ESSEX,  
STATE OF NEW JERSEY:

BE IT KNOWN, that the undersigned, next of kin of MELINDA GONNELLA, deceased, late of the Township of Livingston, in said County of Essex, do hereby consent to have LINDA ARNOLD, one of the next of kin, receive the personal assets of the deceased pursuant to R.S. 3B:10-4 for the use and benefit of all the next of kin and creditors without Letters of Administration or entering into bond.

s/ \_\_\_\_\_  
Harry I. Arnold

Dated: January 15, \_\_\_\_\_  
Signed in the presence of:

s/ \_\_\_\_\_  
Evelyn Quinn

**Exhibit 48 – Affidavit of Next of Kin in Lieu of Administration Where  
Real and Personal Estate Does Not Exceed \$10,000**

\_\_\_\_\_  
\_\_\_\_\_

Receipt No. \_\_\_\_\_ Docket No. 1234

Date \_\_\_\_\_, \_\_\_\_\_ Filed \_\_\_\_\_, \_\_\_\_\_

Copy mailed to: \_\_\_\_\_

ESTATE OF MELINDA GONNELLA

\_\_\_\_\_  
Surrogate of Essex County, NJ

ESSEX COUNTY SURROGATE’S COURT

STATE OF NEW JERSEY )  
COUNTY OF ESSEX )ss:

I, LINDA ARNOLD, residing at 112 Peach Terrace, Madison, NJ being duly sworn according to law, on oath, depose and say that said deceased departed this life on or about January 3, \_\_\_\_\_, without leaving a Will; that said deceased resided at her death at 456 Sycamore Lane in the Township of Livingston, County of Essex and State of New Jersey; that the names, residences and relationship of all the next of kin of said deceased are as follows:

Decedent was a widow.

Children of deceased daughter Linda Gonnella Arnold:

Plaintiff, Granddaughter

Harry I. Arnold, Grandson, 161 Chestnut St., Cambridge Mass.

Martin Arnold, Grandson, 415 Maple Road, Newton, NJ (minor aged 17)

Agnes A. Arnold, Granddaughter, 415 Maple Road, Newton, NJ (minor aged 14)

**Exhibit 48 – Affidavit of Next of Kin in Lieu of Administration Where  
Real and Personal Estate Does Not Exceed \$10,000 – Continued**

There are no other next of kin known to me. Deceased left no surviving spouse. The real and personal estate of said deceased does not exceed in value the sum of \$10,000.00 consisting of assets of the following nature, value and location:

Due from Pennsylvania Railroad  
employees Death and Sick Benefit  
Relief Fund                      \$500

The other next of kin entitled to this affidavit under R.S. 3B:10-4 have signed a consent which is on file in this Court.

s/ \_\_\_\_\_  
Linda Arnold

Sworn and Subscribed to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

s/ \_\_\_\_\_  
Special Probate Clerk

**Exhibit 49 – Administration Ad Prosequendum – Application**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Mary Doe

ESSEX COUNTY  
SURROGATE'S COURT  
DOCKET NO.

In the Matter of the Estate of :  
:   
JOHN DOE, : APPLICATION FOR ADMINISTRATION  
: *AD PROSEQUENDUM*  
DECEASED :

Applicant, MARY DOE, residing at 10 Main Street, Newark, New Jersey, says:

1. On January 1, \_\_\_\_, JOHN DOE died intestate domiciled at 10 Main Street, Newark, New Jersey.

2. The spouse and next of kin of the decedent, with their respective addresses, and the manner and degree in which they severally stand related to deceased, are as follows:

<b>Names</b>	<b>Address</b>	<b>Relationship</b>
Applicant	As above	Widow
Sally Doe	10 Main Street, Newark, NJ	Daughter
Raymond Doe	As above	Son

3. There are no other next of kin, and all of the foregoing are of full age with the exception of Raymond Doe, age 13 years.

4. Applicant is the person first entitled to administration *ad prosequendum* and no other competent adult person is equally entitled thereto.

5. The death of the said JOHN DOE was caused by the wrongful act, neglect or default of Right-Way Trucking Company whose address is 1000 Broad Street, Newark, NJ or some other person or persons.

**Exhibit 49 – Administration Ad Prosequendum – Application – Continued**

Wherefore, the applicant requests that she be appointed administratrix *ad prosequendum* of the said JOHN DOE to prosecute any action, proceeding or claim for his death brought or made under the Statute in such case provided.

s/ \_\_\_\_\_  
Mary Doe

STATE OF NEW JERSEY     )  
   ) ss:  
COUNTY OF ESSEX         )

Mary Doe, of full age, being duly sworn according to law upon her oath, deposes and says that she is the applicant in the foregoing application named, and that the matters and things therein contained are true to the best of her knowledge and belief.

s/ \_\_\_\_\_

Subscribed and Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

s/ \_\_\_\_\_  
John Jones

notary Public of New Jersey  
My Commission expires January 1, \_\_\_\_\_.



**Exhibit 50 – Qualification of Administrator Ad Prosequendum**

ESSEX COUNTY  
SURROGATE'S COURT  
DOCKET NO.

In the Matter of the Estate of :  
JOHN DOE, :  
DECEASED. :  
: **QUALIFICATION OF**  
: **ADMINISTRATOR**  
: **AD PROSEQUENDUM**  
:

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

MARY DOE of full age, being duly sworn upon her oath according to law, deposes and says:

1. JOHN DOE died on or about January 1, , without a Will so far as I know and verily believe.

2. I will well and truly perform the duties of Administratrix *Ad Prosequendum* of the said deceased.

s/\_\_\_\_\_  
Mary Doe

Sworn and Subscribed to before me this 18th day of January,

s/\_\_\_\_\_  
John Jones  
Notary Public of New Jersey  
My Commission expires May 27,

Exhibit 51 – Administration Ad Prosequendum Judgment

ESSEX COUNTY  
SURROGATE'S COURT  
DOCKET NO.

In the Matter of the Estate of :  
JOHN DOE, : JUDGMENT GRANTING  
DECEASED. : ADMINISTRATION AD  
PROSEQUENDUM

It appearing from the application of MARY DOE that JOHN DOE, late of the County of Essex and State of New Jersey, died on January 1, , intestate; and it being alleged in said application that the death of the intestate was caused by the wrongful act, neglect or default of Right-Way Trucking Company, or some other person or persons; and the plaintiff being the person first entitled to administration *ad prosequendum* and no other competent adult person being equally entitled thereto

It is thereupon on this 18th day of January, , adjudged that Letters of Administration *Ad Prosequendum* be granted to the said MARY DOE upon her duly qualifying as such Administratrix.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

Exhibit 52 – Letters of Administration Ad Prosequendum

STATE OF NEW JERSEY  
Essex County Surrogate's Court

I, RICHARD R. ROE, Surrogate of the County of Essex, State of New Jersey, do certify that on the 18th day of January, *Administration Ad Prosequendum* of JOHN DOE who died intestate, late of the County of Essex and State of New Jersey, was granted by me to MARY DOE of said County of Essex, who is duly authorized to bring an action, institute a proceeding or make a claim in her name as such *Administratrix Ad Prosequendum*, as in the statute in such case provided.

WITNESS my hand and seal of office this  
18th day of January,

(SEAL)

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

Exhibit 53 – Administration Generally – Application for Surrogate’s  
Certificate Re Payment to Administrator of Monies Due

In the Matter of the Estate of       :    ON APPLICATION FOR SURROGATE’S  
  :    CERTIFICATE IN CONNECTION WITH  
      JOHN DOE,                             :    PAYMENT TO AN ADMINISTRATOR  
  :    OF MONEYS DUE UNDER THE DEATH  
  :    ACT, etc.

STATE OF NEW JERSEY        )    ss:  
COUNTY OF ESSEX            )

MARY DOE, of full age, being duly sworn upon her oath according to law, deposes and says:

1. I have received from this Court letters of administration (administration with the Will annexed—substituted administration—substituted administration with the Will annexed) on the estate of the above-named deceased.

2. I am informed that the sum of \$15,000.00 is to be paid to me for damages due under N.J. Rev. Stat. 2A:31-1 to 2A:31-6 (relating to death by wrongful act), or for damages sustained by the deceased prior to death, or for both.

WHEREFORE, application is made for the issuance by the Surrogate of his certificate that the bond filed by me with this Court will constitute adequate security in the premises.

s/ \_\_\_\_\_  
Mary Doe

Sworn and Subscribed to before me this 18th  
day of January,

s/ \_\_\_\_\_  
John Woods  
Notary Public of New Jersey  
My Commission expires January 1,

**Exhibit 54 – Certificate as to Adequate Security**

**STATE OF NEW JERSEY  
ESSEX COUNTY  
SURROGATE'S COURT**

**SURROGATE  
Newark, New Jersey  
07102**

Docket No. \_\_\_\_\_

---

In the Matter of the Estate of     :  
   :  
   :  
   :  
   :  
   :  
**JOHN DOE,**                                 :  
   :  
   :  
   :  
**DECEASED.**                               :

**CERTIFICATE AS TO  
ADEQUATE SECURITY**

It appearing to this Court from the affidavit of the administrator—administrator with the Will annexed—substituted administrator—substituted administrator with the Will annexed—of the estate of JOHN DOE deceased, that she is informed that a payment in the sum of \$15,000 is to be made to her for damages due under N.J.S. 2A:31-1 to 2A:31-6 (relating to death by wrongful act) or for damages sustained by the deceased prior to death, or for both,

And it further appearing that she has filed with this Court her bond, with sufficient surety, in the sum of \$30,000,

NOW, THEREFORE, I, RICHARD R. ROE, Surrogate of the County of Essex, do hereby certify that the said Administratrix has furnished adequate security with respect to the payment stated and the entire personal estate of the deceased, of which I have been advised.

WITNESS MY HAND AND SEAL OF OF-  
FICE, this 19 day of January,

s/ \_\_\_\_\_  
  
Richard R. Roe  
Surrogate

**Exhibit 55 – Testamentary Guardianship - Application**

**TESTAMENTARY GUARDIANSHIP  
APPLICATION**

Receipt No. \_\_\_\_\_ Docket No. \_\_\_\_\_

Date \_\_\_\_\_ Due: \_\_\_\_\_

Certificates to: \_\_\_\_\_ Fee Info.

Lawrence Lawyer, Esq. Ren. Bond  
131 Broad Street  
Newark, NJ 07102  
(111) 222-3333  
Attorney for Rose McCann

-----  
In the Matter of the Guardianship of ESSEX COUNTY  
: SURROGATE'S COURT  
MARTIN McCANN, :  
: APPLICATION FOR LETTERS OF  
MINOR . : TESTAMENTARY GUARDIANSHIP

The application of ROSE McCANN, who resides at 987 Robin Lane, West Orange, NEW Jersey respectfully shows that:

1. JOHN McCANN, late of the Town of West Orange, in the County of Essex and State of New Jersey, departed this life leaving a last Will and Testament, which is herewith presented for probate, wherein and whereby your applicant was appointed guardian of the aforesaid minor child of said deceased. The age of said minor is 13 years of age.

2. JANE McCANN the other parent of said minor is deceased.

3. The entire estate to which said minor is entitled to under the Will does not exceed \$15,000.00.

4. The said deceased in and by said last Will and Testament did expressly provide that applicant should serve as the guardian aforesaid without bond.

**Exhibit 55 – Testamentary Guardianship – Application – Continued**

Applicant therefore requests judgment that letters of testamentary guardianship of the person and estate of the said minor as aforesaid be issued to applicant.

s/ \_\_\_\_\_  
Rose McCann

STATE OF NEW JERSEY)

)ss:

COUNTY OF ESSEX )

The undersigned, of full age, being duly sworn on oath according to law, deposes and says that she is the applicant in the foregoing application named and that the matters and things therein contained are true to the best of her knowledge and belief. Deponent further says that the assets of said minor as stated in the application are true to the best of her knowledge and belief.

s/ \_\_\_\_\_  
Rose McCann

Sworn and Subscribed to before me this 1st day  
of October, \_\_\_\_\_

s/ \_\_\_\_\_  
Alan Ames  
Notary Public of New Jersey  
My Commission expires Dec. 4, \_\_\_\_

**Exhibit 56 – Acceptance and Power of Attorney (Testamentary Guardian)**

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Guardianship of:

MARTIN McCANN,

ACCEPTANCE AND POWER  
OF ATTORNEY

MINOR.

I, ROSE McCANN, having been appointed in and by the Last Will and Testament of JOHN McCANN deceased, guardian of the person and property of the above-named minor do hereby declare my acceptance of said guardianship.

Dated:

Signed in the presence of:

s/\_\_\_\_\_

Rose McCann

\_\_\_\_\_  
Special Probate Clerk

KNOW ALL MEN BY THESE PRESENTS, THAT I, ROSE McCANN, residing at 987 Robin Lane, West Orange, New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint Richard Roe, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the guardian.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.



Exhibit 56 – Acceptance and Power of Attorney (Testamentary Guardian) -  
Continued

In Witness Whereof, I have hereunto set my hand and seal this  
day of \_\_\_\_\_, in the year of Our Lord, two thousand and

s/ \_\_\_\_\_ (L.S.)  
Rose McCann

Signed, sealed and delivered  
in the presence of:

s/ \_\_\_\_\_  
Special Probate Clerk

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_  
before me, the subscriber, a Notary Public of New Jersey, personally appeared \_\_\_\_\_  
who I am satisfied is the person in the foregoing power of attorney  
named, and I having first made known to her the contents thereof, she did thereupon  
acknowledge that she signed, sealed and delivered the said power of attorney as her  
voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
Jane Q. Notary  
Notary Public of New Jersey

**Exhibit 57 – Testamentary Guardianship – Judgment**

Receipt No. \_\_\_\_\_ Docket No. \_\_\_\_\_

Date \_\_\_\_\_ Filed: \_\_\_\_\_

Certificates \_\_\_\_\_ Recorded in Will

Book \_\_\_\_\_ Page \_\_\_\_\_

-----

In the Matter of the Guardianship of:	ESSEX COUNTY
	: SURROGATE’S COURT
MARTIN McCANN,	:
	: JUDGMENT GRANTING LETTERS OF
MINOR	: TESTAMENTARY GUARDIANSHIP

JOHN McCANN, deceased, late of the Town of West Orange, in the County of Essex and State of New Jersey, having in and by his last Will and Testament, which has been duly admitted to probate by the Surrogate of the County of Essex, appointed ROSE McCANN, as Guardian of a minor child MARTIN McCANN and it having been duly proved at the time of the probate of the said Will that JANE McCANN, the other parent of the said child, is deceased-and the said ROSE McCANN having appeared before the Surrogate and declared her acceptance of the said guardianship; and it appearing that the said decedent in and by said Will did expressly provide that the said ROSE McCANN should serve as guardian without bond, and that the value of the entire estate to which the said minor is entitled, is as alleged in the application filed herein:

It is thereupon on this 2nd day of October, \_\_\_\_\_, adjudged that letters of guardianship of the person and property of the said MARTIN McCANN be granted without bond.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

Exhibit 58 – Guardianship Application

Due \_\_\_\_\_ Docket No. \_\_\_\_\_  
 Fee Ren. \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Bond Info. \_\_\_\_\_ Date \_\_\_\_\_  
 Copy S.C. Judgment \_\_\_\_\_ Certificates \_\_\_\_\_  
 Lawrence Lawyer, Esq. \_\_\_\_\_ Filed \_\_\_\_\_  
 131 Broad Street \_\_\_\_\_  
 Newark, NJ 07102 \_\_\_\_\_  
 (111) 222-3333 \_\_\_\_\_  
 Attorney for Helen Smith \_\_\_\_\_  
 Book \_\_\_\_\_ Page \_\_\_\_\_  
 \_\_\_\_\_  
 Surrogate of Essex County, New Jersey

-----

In the Matter of the Guardianship of: ESSEX COUNTY  
 : SURROGATE’S COURT  
 JOE SMITH, :  
 : APPLICATION  
 MINOR : Guardian’s SS# \_\_\_\_\_

HELEN SMITH, residing at 234 Essex Street, West Orange, New Jersey respectfully shows that:

1. JOE SMITH is a minor age 13, birth date, Sept. 11, \_\_\_\_\_ and resides t 234 Essex Street, West Orange, New Jersey.

2. The names and residences of his nearest next of kin, of the persons with whom he resides and of those standing in *loco parentis* are as follows:

(a) Nearest next of kin

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>ADDRESS</u>
Helen Smith	Mother	As above
Pete Smith	Father	Deceased

**Exhibit 58 – Guardianship Application – Continued**

(b) Persons with whom he resides

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>ADDRESS</u>
Helen Smith	Mother	As above

3. Said minor is the owner of property having an approximate value of \$15,000.00 as appears from the affidavit of the applicant attached hereto.

4. Applicant is the party first entitled to guardianship.

WHEREFORE, applicant requests judgment granting letters of guardianship of the person and property of JOE SMITH, a minor, to HELEN SMITH.

s/ \_\_\_\_\_  
Helen Smith

STATE OF NEW JERSEY        )  
  ) ss:  
COUNTY OF ESSEX         )

HELEN SMITH, being duly sworn upon her oath according to law, deposes and says that she is the applicant in the foregoing application named, and that the matters and things therein contained are true to the best of her knowledge and belief. Deponent further says that the value of the estate of said minor is \$15,000.00.

s/ \_\_\_\_\_  
Helen Smith

Sworn and Subscribed to before me this 1st  
day of February,       , at Newark, NJ, before me..

s/ \_\_\_\_\_  
Alan Ames  
Notary Public of New Jersey  
My Commission expires January 1,

Exhibit 59 – Acceptance and Power of Attorney (Non-Testamentary Guardianship)

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Guardianship of:

MARTIN McCANN,  
MINOR.

:  
: ACCEPTANCE AND POWER  
: OF ATTORNEY  
:

I, ROSE McCANN, about to be appointed by a judgment of the Surrogate of the County of Essex, guardian of the person and property of the above-named minor do hereby declare my acceptance of said guardianship.

Dated:

Signed in the presence of:

s/ \_\_\_\_\_  
Rose McCann

\_\_\_\_\_  
Special Probate Clerk

KNOW ALL MEN BY THESE PRESENTS, THAT I, ROSE McCANN, residing at 987 Robin Lane, West Orange, New Jersey, pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint RICHARD ROE, Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the guardian.

**Exhibit 59 – Acceptance and Power of Attorney (Non-Testamentary Guardianship) –  
Continued**

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within this State.

IN WITNESS WHEREOF, I have herewith set my hand, and seal this  
day of \_\_\_\_\_, in the year of Our Lord, two thousand and

s/ \_\_\_\_\_ (L.S.)  
Rose McCann

Signed, sealed and delivered  
in the presence of:

s/ \_\_\_\_\_  
Special Probate Clerk

STATE OF NEW JERSEY     )  
COUNTY OF ESSEX        ) ss:

**BE IT REMEMBERED**, that on this \_\_\_\_\_ day of \_\_\_\_\_, before me, the subscriber, a Notary Public of New Jersey, personally appeared ROSE McCANN who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to her the contents thereof, she did thereupon acknowledge that she signed, sealed and delivered the said power of attorney as her voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
Jane Q. Notary  
Notary Public of New Jersey

Exhibit 60 – Judgment Appointing Guardian (With Bond)

Receipt No. \_\_\_\_\_ Docket No. \_\_\_\_\_  
 Date \_\_\_\_\_, \_\_\_\_\_ Filed \_\_\_\_\_, \_\_\_\_\_  
 Certificates \_\_\_\_\_ Recorded in Guardianship \_\_\_\_\_  
 Copy mailed \_\_\_\_\_ to: Book \_\_\_\_\_ Page \_\_\_\_\_

ESSEX COUNTY SURROGATE'S COURT

In the Matter of the Guardianship of:

MARTIN McCANN,

MINOR.

:  
:  
:  
:

JUDGMENT APPOINTING GUARDIAN

MINOR'S S.S.#

It appearing from the application of ROSE McCANN that MARTIN McCANN, a minor, residing within the County of Essex, aforesaid, has property within this County of the value of Fifteen Thousand Dollars, requiring the care and attention of a guardian;

And it further appearing that plaintiff has requested that she be appointed guardian of the person and property;

And the Surrogate having made inquiry into the circumstances of the case and being satisfied that ROSE McCANN is a suitable person to be appointed

It is thereupon on this 2nd day of October Two thousand and ADJUDGED that Letters of Guardianship of the person and property of the aforesaid minor be granted to ROSE McCANN upon her entering into bond to the Superior Court according to law in the sum of Thirty Thousand dollars, with sureties to be approved by the Surrogate.

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 61 – Judgment Appointing Guardian**

**JUDGMENT APPOINTING GUARDIAN**

No Bonds - Funds Impounded

Receipt No. \_\_\_\_\_

Docket No. \_\_\_\_\_

Date \_\_\_\_\_, \_\_\_\_\_

Filed \_\_\_\_\_, \_\_\_\_\_

Certificates \_\_\_\_\_

Recorded in Guardianship  
Book \_\_\_\_\_ Page \_\_\_\_\_

In the Matter of the Probate of	:	ESSEX COUNTY SURROGATE'S COURT
the alleged Will of	:	
	:	
MARTIN McCANN,	:	JUDGMENT APPOINTING GUARDIAN
	:	
A MINOR.	:	

It appearing from the application of ROSE McCANN that MARTIN McCANN, a minor, residing within the County of Essex, State of New Jersey, has property within this County of the value of Ten Thousand dollars (\$10,000.00) requiring the care and attention of a guardian;

And it further appearing that applicant has requested that she be appointed guardian of said person and property;

And the Surrogate having made inquiry into the circumstances of the case and being satisfied that ROSE McCANN is a suitable person to be appointed:

IT IS THEREUPON, on this 2nd day of October, \_\_\_\_\_, ADJUDGED that Letters of Guardianship of the person and property of the aforesaid minor be granted to ROSE McCANN, residing at 987 Robin Lane, West Orange, New Jersey.

It is further ORDERED that the sum of \$10,000 be deposited with the Surrogate of Essex County Guardianship-Trust Account, pursuant to Superior Court Order dated January 1, \_\_\_\_\_.

That any withdrawal therefrom be made only on special order of the Superior Court.

That the said depository shall validate the deposit ticket setting forth the amount of money deposited and return same to the Surrogate's Court.

That as ordered by the Superior Court, no bond be required by said guardian.

s/ \_\_\_\_\_  
Surrogate



**Exhibit 62 – Affidavit of Spouse, Father or Mother or Person  
Having the Care and Custody of the Minor and With Whom the  
Minor Resides to Accept Money or Personal Property of the  
Minor Not Exceeding \$5,000 Per Annum Pursuant to 3B:12-6**

Receipt No. \_\_\_\_\_

Docket No. \_\_\_\_\_

Date \_\_\_\_\_, \_\_\_\_\_

Filed \_\_\_\_\_, \_\_\_\_\_

Copy mailed to: \_\_\_\_\_

Recorded in Guardianship  
Book \_\_\_\_\_ Page \_\_\_\_\_

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, NJ 07102  
(111) 222-3333  
Attorney for John J. Jones

Surrogate of Essex County, New Jersey  
Joseph Jones  
Minor

---

ESSEX COUNTY SURROGATE'S COURT  
Docket No.

STATE OF NEW JERSEY:

:SS

COUNTY OF ESSEX :

JOHN J. JONES being duly sworn, says that this deponent resides at 212 Jackson Street in the City of Newark, County of Essex and State of New Jersey, that he is the father with whom the minor resides and said minor, JOSEPH JONES is 9 years old; that the personal estate of said minor does not exceed the sum of Five Thousand dollars (\$5,000) per annum and consists of: 75 shares of Newark Bancorporation valued at \$4,800.00 that this deponent is therefore entitled to receive the same without Letters of Guardianship in accordance with RS 3B:12-6 and FURTHER same will be used for support and general use and benefit of the minor.

s/ \_\_\_\_\_  
John J. Jones

Sworn and Subscribed to before me this 15th  
day of January, \_\_\_\_\_, before me

s/ \_\_\_\_\_  
Special Probate Clerk

**Exhibit 63 – Trustee Qualification and Power of Attorney**

Trustee Qual.

Receipt No. \_\_\_\_\_

Docket No. \_\_\_\_\_

Date \_\_\_\_\_

Filed and Recorded in

Certificates \_\_\_\_\_

Will Book \_\_\_\_\_ Page \_\_\_\_\_

Issued \_\_\_\_\_

Lawrence Lawyer, Esq.

131 Broad Street

Newark, New Jersey 07102  
Attorney

Joseph P. Brennan, Jr.  
Surrogate

STATE OF NEW JERSEY     )  
  )  
  ) SS:  
COUNTY OF ESSEX        )

ESSEX COUNTY SURROGATE’S COURT

MARY FINE, residing at 1 Main Street, Newark, N.J., the trustee of the Credit Shelter Trust described in Article FIFTH of the last Will and Testament and Codicils of JOHN FINE admitted to probate in the County of Essex, State of New Jersey, says that the beneficiaries of the Credit Shelter Trust created under said will and codicils with their respective residences or post office addresses, so far as the same are known, and their interest in said trust are as follows:

<u>Names</u>	<u>Residences</u>	<u>Interest</u>
Mary Fine	As above	LIFE TENANT
John Fine, Jr.	1 Broad Street Newark, N.J.	One-Third of Residue
Carol Wise	2 Broad Street Newark N.J.	One-Third of Residue
Joseph Wise	3 Broad Street Newark, N.J.	One-Third of Residue

and that she declares her acceptance of such trusteeship, and that she will, as the trustee therein named, well and truly perform the duties of said trusteeship, as the law charges; that she will, when lawfully required, make and exhibit an accounting of the assets coming to her possession or knowledge, or to the possession of any other person or persons for her use, with her

**Exhibit 63 – Trustee Qualification and Power of Attorney – Continued**

knowledge; and she will distribute the income and the corpus as provided by said Will and Codicils and the laws of the State of New Jersey.

Sworn \_\_\_\_\_, 2010 )  
before me )

s/ \_\_\_\_\_  
Mary Fine

---

Notary Public of New Jersey

Exhibit 63 – Trustee Qualification and Power of Attorney – Continued

Power of Attorney

ESSEX COUNTY SURROGATE’S COURT

In the Matter of the Estate of )  
JOHN FINE, )  
Deceased )

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, MARY FINE, residing at 1 Main Street, Newark, N.J., pursuant to the provisions of Revised Statutes 3B:14-47 do hereby make, constitute and appoint Joseph P. Brennan, Jr., Surrogate of the County of Essex, in the State of New Jersey, and his successors in office, my true and lawful attorney upon whom may be served any and all process affecting the aforesaid estate, or any interest therein, whereof I am the trustee of the Credit Shelter Trust under Article FIFTH of the will of John Fine.

And I do further agree that any process against the aforesaid estate, so served, shall be of the same force and effect as if duly served upon me within the State of New Jersey.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20th day of January, 2010.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Mary Fine (L.S.)

STATE OF NEW JERSEY )  
  ) SS:  
COUNTY OF ESSEX )

BE IT REMEMBERED, that on this 20th day of January, 2010, before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared Mary Fine, who I am satisfied is the person in the foregoing power of attorney named, and I having first made known to her the contents thereof, she did thereupon acknowledge that she signed, sealed and delivered the said power of attorney as her voluntary act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
Notary Public of New Jersey

**Exhibit 64 – Renunciation of Trustee**

Renunciation of Trustee

ESSEX COUNTY SURROGATE’S COURT

TO THE SURROGATE OF THE COUNTY OF ESSEX,

STATE OF NEW JERSEY

BE IT KNOWN, THAT John Fine, late of the County of Essex, died on the 2<sup>nd</sup> day of January, 2010, leaving a Last Will and Testament and Codicils wherein and whereby he appointed me as a Co-Trustee thereof; now be it known that I hereby renounce my said appointment and refuse to take upon myself the burden of the same.

Dated: January 10, 2010

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
James Fine

\_\_\_\_\_

STATE OF NEW JERSEY    )  
  ) SS:  
COUNTY OF ESSEX        )

BE IT RESOLVED, that on this 10<sup>th</sup> day of January, 2010 before me, the subscriber, a Notary Public of the State of New Jersey, personally appeared James Fine who I am satisfied is the person in the foregoing instrument named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the aforesaid instrument as his voluntary act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
Notary Public of New Jersey

**Exhibit 64A – Renunciation of Executor**

**State of New Jersey  
Ocean County  
Surrogate's Court**

**In the Matter of the Estate of**

**Renunciation of Executorship**

**, deceased**

**To the Surrogate of the County of Ocean:**

Whereas, Deceased, late of \_\_\_\_\_ in the County of Ocean died on \_\_\_\_\_, leaving a Last Will dated \_\_\_\_\_, and naming \_\_\_\_\_ the Executor/rix thereof.

Now be it known that \_\_\_\_\_ hereby renounces the said executorship and refuses to take upon himself/herself the burden of the same.

Signed in the presence of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF NEW JERSEY  
COUNTY OF \_\_\_\_\_ ss:

Be it Remembered, that on \_\_\_\_\_ before me, the undersigned authority personally appeared \_\_\_\_\_ who I am satisfied is the person in the foregoing instrument named, to whom I first made known the contents thereof, he/she did thereupon acknowledge that he/she signed, sealed and delivered the same as his/her act and deed, for the uses and purposes therein expressed.

AFFIX SEAL

\_\_\_\_\_  
Notary Public

Exhibit 65 – Letters of Trusteeship

STATE OF NEW JERSEY  
Essex County Surrogate's Court

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, JOHN FINE

late of the County of Essex in the State of New Jersey, in and by his last Will and Testament, duly proved before the Surrogate of the County of Essex, did appoint

MARY FINE

as trustee; and whereas the said

MARY FINE

has accepted the duties of trustee as therein provided;

THEREFORE, I, RICHARD R. ROE, surrogate of the County of Essex, do hereby certify that the said

MARY FINE

is duly authorized to execute the said trust according to law and the terms of the said last Will and Testament.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 23rd day of January in the year of Our Lord, Two thousand and

(SEAL)

s/ \_\_\_\_\_  
Richard R. Roe  
Surrogate

**Exhibit 66 – Will Contest – Caveat**

Abel Barrister, Esq.  
1800 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for David Jones

ESSEX COUNTY  
SURROGATE'S COURT  
DOCKET NO.

In the Matter of the Probate	:	
of the Alleged Will of	:	
	:	CAVEAT AGAINST THE
JOHN JONES,	:	PROBATE OF WILL
	:	
DECEASED.	:	

I, DAVID JONES, son of JOHN JONES, late of the City of Newark, County of Essex and State of New Jersey, who died on January 3, \_\_\_\_\_, do hereby caveat and protest against admitting to probate any paper writing purporting to be the Will of JOHN JONES.

s/ \_\_\_\_\_  
David Jones

Dated: January 12, \_\_\_\_\_  
Newark, New Jersey



**Exhibit 67 – No Contest or Forfeiture Provision**

If any beneficiary hereunder shall contest the probate or validity of this will or any provision thereof, or shall institute or join in (except as a party defendant) any proceeding to contest the validity of this will or to determine the effect of its terms (regardless of whether or not such proceedings are instituted in good faith and with probable cause), then all benefits provided for such beneficiary are revoked and such benefits shall pass to the residuary beneficiaries of this will (other than such beneficiary) in the proportion that the share of each such residuary beneficiary bears to the aggregate of the effective shares of the residuary. If all of the residuary beneficiaries join in such contest or proceeding, then such benefits shall pass to those persons (other than the persons joining in such contest) who are living at my death and who would have been my distributees had I died intestate a resident of the State of New Jersey and had the person or persons contesting my will or instituting any such proceeding died immediately before me. Each benefit conferred herein is made on the condition precedent that the beneficiary shall accept and agree to all of the provisions of this will and the provisions of this Article are an essential part of each and every benefit.

---

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Midlantic National Bank.

**Exhibit 68 – Will Contest – Order to show Cause to Admit Will to Probate**

Abel Barrister, Esq.  
1800 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for William Jones

SUPERIOR COURT - CHANCERY DIVISION  
PROBATE PART - ESSEX COUNTY  
DOCKET NO.

In the Matter of the Probate :  
of the Alleged Will of :  
 :  
JOHN JONES, : On Complaint for Probate  
 :  
 : ORDER TO SHOW CAUSE  
DECEASED. :

Upon application of WILLIAM JONES, the plaintiff herein, it is on this 2nd day of February, \_\_\_\_\_:

ORDERED, that DAVID JONES the caveator herein show cause before this court on Tuesday, the 23rd day of February, \_\_\_\_\_, at 9:30 o'clock in the forenoon, in the Essex County Court House, Newark, New Jersey why the Will of JOHN JONES, deceased, filed with the Surrogate of Essex County should not be admitted to probate and letters testamentary thereon issued to WILLIAM JONES; and

IT IS FURTHER ORDERED, that a copy of this Order and Verified Complaint, certified by the plaintiff's attorney to be a true copy be served upon the said DAVID JONES, by mailing the same to him certified mail return receipt requested and regular mail at least \_\_\_\_ days before the return date hereof.

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Essex County not later than \_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

s/ \_\_\_\_\_  
Roger White, J.S.C.

**Exhibit 69 – Order to Show Cause to  
Set Aside Admission of Will to Probate**

Barbara Barrister, Esq.  
192 Market Street  
Newark, New Jersey 07102  
(111) 444-5555  
Attorney for New Jersey Law School

SUPERIOR COURT - CHANCERY DIVISION  
PROBATE PART - ESSEX COUNTY  
DOCKET NO.

In the Matter of the Probate :  
of the Alleged Will of :  
 :  
JOHN JONES, :  
 :  
 :  
DECEASED. :

ORDER TO SHOW CAUSE

Upon application of New Jersey Law School, the plaintiff herein:

It is this 4th day of February, \_\_\_\_\_, ORDERED that WILLIAM JONES, the executor named in the alleged Will of JOHN JONES, admitted to probate by the Essex County Surrogate’s Court by its judgment made January 3, \_\_\_\_\_, show cause before this court on Wednesday, the 16th day of March, \_\_\_\_\_ at 10:00 A.M. in the forenoon in the Essex County Court House, Newark, New Jersey, why the said judgment of the Essex County Surrogate’s Court should not be set aside.

AND IT IS FURTHER ORDERED that a copy of this Order and Verified Complaint, certified to be a true copy by the attorney for the said New Jersey Law School, be served upon said WILLIAM JONES, by mailing a copy of the same to him by Certified Mail, Return Receipt Requested and regular mail at least \_\_\_\_\_ days before the return date hereof.

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Essex County not later than \_\_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

s/ \_\_\_\_\_  
Solomon Jurist, J.S.C. t/a

**Exhibit 70 – Will Contest – Judgment Admitting Will to Probate  
(Allowing Attorney Fees to Proponent and Caveator)**

**SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY  
DOCKET NO.**

In the Matter of the Probate :  
of the Alleged Will of :  
 :  
 :  
**JOHN JONES,** :  
 :  
 :  
**DECEASED.** :

This matter being opened to the court by A.B., attorney for the plaintiff, WILLIAM JONES, and in the presence of C.D., attorney for the defendant, DAVID JONES; and it appearing that the plaintiff, the executor named in the last Will of JOHN JONES, deceased, late of the County of Essex and State of New Jersey, duly presented the said instrument to the Surrogate of that county for probate; and that a caveat against the probate of any Will of the said JOHN JONES has been filed with the said Surrogate by the said DAVID JONES; and an order to show cause having been issued by this court to the said DAVID JONES and proof of the service of the said order having been filed herein; and an answer having been served by him;

And the matter coming on to be heard, and the court having stated its conclusions orally and having filed the same herein and being of the opinion that the said instrument was duly executed by the said JOHN JONES in the manner prescribed by the statute for the execution of Wills, and that he at the time he made the said Will was of sound mind, and was not under any undue influence:

It is thereupon on this            day of            ,            , on motion of the said A.B., adjudged that the said instrument be and it is hereby established as the Will of the said JOHN JONES, deceased, and the same be and it is hereby admitted to probate;

And it is further adjudged that letters testamentary thereon be issued to WILLIAM JONES, the executor named in the said Will, upon his duly qualifying as such;

**Exhibit 70 – Will Contest – Judgment Admitting Will to Probate  
(Allowing Attorney Fees to Proponent and Caveator) - Continued**

And it is ordered that an attorney's fee of \$                    be allowed to A.B., attorney for the proponent; and the court being satisfied that DAVID JONES, the caveator herein, had reasonable cause for contesting the validity of the said Will, it is further ordered that an attorney's fee of \$                    be allowed to C.D., attorney for the caveator, the afresaid attorney's fees to be paid by the said WILLIAM JONES, the executor, out of the estate of the said deceased.

s/ \_\_\_\_\_  
J.S.C.

Exhibit 71 – Caveat Against Granting Administration

Barbara Barrister, Esq.  
192 Market Street  
Newark, New Jersey 07102  
(201) 642-9166  
Attorney for Caveator

ESSEX COUNTY  
SURROGATE'S COURT

In the Matter of the Estate of :  
  : :  
  : : CAVEAT AGAINST GRANTING  
  : : ADMINISTRATION  
  : :  
  : :

I, DAVID JONES, a child and one of the next of kin of JOHN JONES, late of the City of Newark, County of Essex and State of New Jersey, who died intestate on \_\_\_\_\_, \_\_\_\_\_, do hereby caveat and protest against the grant of letters of administration upon the estate of the said JOHN JONES to MARY JONES who claims to be his widow.

Dated: Newark, N.J.

s/ \_\_\_\_\_  
David Jones

**Exhibit 72 – Order to Show Cause Where  
Caveat (or Cross-complaint) is Filed**

Barbara Barrister, Esq.  
192 Market Street  
Newark, New Jersey 07102  
(111) 444-5555  
Attorney for Mary Jones

SUPERIOR COURT - CHANCERY DIVISION  
PROBATE PART - ESSEX COUNTY  
DOCKET NO.

In the Matter of the Probate :  
of the Alleged Will of :  
 :  
JOHN JONES, :  
 :  
 :  
DECEASED. :

ORDER TO SHOW CAUSE

Upon application of MARY JONES, the plaintiff herein:

It is this 4th day of February, \_\_\_\_\_, ORDERED that DAVID JONES, show cause before this court on Tuesday, the 16th day of March, \_\_\_\_\_ at 10:00 A.M. in the forenoon, at the Essex County Court House, Newark, New Jersey, why administration upon the estate of JOHN JONES, deceased, should not be granted to the said MARY JONES.

AND IT IS FURTHER ORDERED that a copy of this Order and Verified Complaint, certified by the attorney for the said MARY JONES to be a true copy, be served upon said DAVID JONES, by mailing a copy of the same to him by Certified Mail, Return Receipt Requested and regular mail at least \_\_\_\_ days before the return date hereof.

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Essex County not later than \_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

s/ \_\_\_\_\_, J.S.C. t/a

Exhibit 73 – Judgment Granting Administration  
in an Action on Caveat (or Cross-Application)

Barbara Barrister, Esq.  
192 Market Street  
Newark, New Jersey 07102  
(201) 642-9166  
Attorney for Caveator

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of :  
:   
JOHN JONES, : JUDGMENT GRANTING  
: ADMINISTRATION  
DECEASED. :

This matter being opened to the court by A.B., attorney for MARY JONES, and in the presence of C.D., attorney for DAVID JONES; and it appearing that the said MARY JONES and DAVID JONES each, as plaintiff, filed an application in the Essex County Surrogate’s Court applying for the grant of administration to herself and himself respectively, upon the estate of the said JOHN JONES [or, it appearing that the said MARY JONES has filed an application with the Essex County Surrogate’s Court applying for the issuance to herself of letters of administration upon the estate of the said JOHN JONES, and that DAVID JONES has filed a caveat in that court protesting against the issuance thereof to her]; and an order to show cause having been made by this court directed to the said DAVID JONES, and proof of service of the said order having been filed herein; and an answer having been served and filed by him;

And the matter coming on to be heard and the court having filed its opinion herein, holding that the said MARY JONES is the lawful widow of the said JOHN JONES and as such has a prior right to administration upon his estate;

It is thereupon on this            day of            ,            , adjudged that letters of administration upon the estate of the said JOHN JONES be granted to the said MARY JONES upon her entering into bond to the Superior Court of New Jersey in



**Exhibit 73 – Judgment Granting Administration  
in an Action on Caveat (or Cross-Application) - Continued**

the sum of \$ \_\_\_\_\_, conditioned according to law, with sureties to be approved  
by this court.

s/ \_\_\_\_\_  
J.S.C.

**Exhibit 74 – Notice of Probate**

PASSAIC COUNTY SURROGATE'S COURT  
DOCKET NO. \_\_\_\_\_

In the Matter of the Estate  
of JOHN JONES,  
  
Deceased.

**NOTICE OF PROBATE**

**PLEASE TAKE NOTICE** that the will dated January 2, 2001 of John Jones has been admitted to probate by Judgment dated September 22, 2010 of the Passaic County Surrogate's Court, Paterson, New Jersey. A copy of the will shall be furnished upon request. The name and address of the executor of the estate of John Jones is Mary Jones, 15 Main Street, Paterson, New Jersey 07505.

Estate of John Jones

Dated: September 24, 2010

By: \_\_\_\_\_  
Mary Jones, Executor

**Exhibit 75 – Proof of Mailing**

PASSAIC COUNTY SURROGATE'S COURT  
DOCKET NO. \_\_\_\_\_

In the Matter of the Estate  
of JOHN JONES,  
  
Deceased.

**PROOF OF MAILING  
OF  
NOTICE OF PROBATE**

Pursuant to Rule 4:80-6, on September 24, 2010 I mailed a Notice of Probate stating that the will of John Jones was admitted to probate on September 22, 2010 by Judgment of the Passaic County Surrogate's Court, Paterson, New Jersey. The Notice of Probate furnished the name and address of the executor, stated that a copy of the will shall be furnished upon request and was mailed to the following persons, who (other than the executrix herself) are the beneficiaries under the will and the decedent's next of kin and heirs, at the addresses set forth below:

<u>Names</u>	<u>Addresses</u>
James Brown	15 Commerce Place Newark, NJ 07102
David Jones	12 Main Street Newark, NJ 07102

I hereby certify that the foregoing statements are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment by law.

Dated: September 25, 2010

\_\_\_\_\_  
Mary Jones, Executrix

Exhibit 76 – Irrevocable Stock/Bond Power

Assignment

Transfer of Stock or Bond Power

For Value Received, the undersigned does (do) hereby sell, assign and transfer unto, as assignee:

Social Security or other taxpayer identifying number of assignee \_\_\_\_\_

IF STOCK, COMPLETE THIS PORTION

100 shares of the common stock of American Tel & Tel represented by certificate(s) Number(s) 135796 inclusive, standing in the name of the undersigned on the books of said corporation.

IF BOND, COMPLETE THIS PORTION

\_\_\_\_\_ bonds of \_\_\_\_\_ in the principal amount of \$ \_\_\_\_\_ Number(s) \_\_\_\_\_ inclusive, standing in the name of the undersigned on the books of said Company.

The undersigned does (do) hereby irrevocably constitute and appoint \_\_\_\_\_ Attorney to transfer the said stock(s) or bond(s), as the case may be, on the books of the named Company, with full power of substitution in the premises.

ESTATE OF MELINDA GONNELLA

Dated: \_\_\_\_\_

FRED GONNELLA, EXECUTOR

In Presence of: FIRST NATION BANK (SEAL)

by: JOHN JONES, VICE PRESIDENT

NOTE: The signature(s) of the assignor(s) must correspond exactly with the name(s) appearing on the certificate. Transfer Agents may require that the signature(s) of the Assignor(s) must be guaranteed by a commercial bank, trust company or National Association of Securities Dealers member firm.

**Exhibit 77 – Affidavit of Domicile**

STATE OF NEW JERSEY :

ss:

COUNTY OF ESSEX :

I, Linda Arnold, of full age, being duly sworn according to law upon my oath depose and say that:

1. I am executor of the estate of Melinda Gonnella, who died on January 3, 2010.
2. At the time of the decedent's death and for more than twenty (20) years prior thereto, the decedent's domicile and legal residence was at 456 Sycamore Lane, Livingston, New Jersey.
3. Any and all debts, taxes and claims against the decedent's estate have been paid or provided for.
4. This affidavit is made for the purpose of securing the transfer or delivery of property owned by the decedent at the time of her death to the persons legally entitled thereto under the decedent's will and the laws of the decedent's domicile.

---

Linda Arnold, Executor

Sworn to and Subscribed  
before me this \_\_\_\_ day of  
\_\_\_\_\_, 2010

---

Exhibit 78 – Complaint for Discovery

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Plaintiff

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY

In the Matter of the Estate of :  
:   
MELINDA GONNELLA, : VERIFIED COMPLAINT  
:   
DECEASED. :

The Plaintiff, FRED GONNELLA, residing at 456 Sycamore Lane, Township of Livingston, County of Essex, State of New Jersey, says that:

1. He is the Executor of the Estate of MELINDA GONNELLA, having been appointed as such by Judgment of the Essex County Surrogate's Court.

2. The decedent, prior to her death, had turned over to MEL S. GONNELLA, her son, certain bank books, notes, mortgages, and other valuable instruments, but so far as the Plaintiff has been able to ascertain, did not receive any receipt from the said MEL S. GONNELLA for the said documents.

3. The Plaintiff is advised that the said MEL S. GONNELLA has the said documents in his possession and in addition has been collecting money which belongs to the Estate of MELINDA GONNELLA.

4. The Plaintiff has demanded that the said MEL S. GONNELLA turn over all such documents, as well as all assets belonging to the Estate to the Plaintiff, but said MEL S. GONNELLA has refused to do so.

WHEREFORE, Plaintiff, FRED GONNELLA, demands Judgment requiring that the said MEL S. GONNELLA appear before this Court and make discovery as to his possession of the various instruments belonging to the said MELINDA GONNELLA, as well as accounting for the various monies which the said MEL S. GONNELLA has

Exhibit 78 – Complaint for Discovery – Continued

heretofore received and which rightfully belongs to the Estate of MELINDA GONNELLA.

s/ \_\_\_\_\_  
Larry Lawyer

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

FRED GONNELLA, of full age, being duly sworn according to law, upon his oath, deposes and says:

I am the plaintiff in the attached Complaint and the allegations therein are true to the best of my knowledge, information and belief.

s/ \_\_\_\_\_  
Fred Gonnella

Sworn and Subscribed to before me this 22nd day of August,

s/ \_\_\_\_\_  
Ursula Unquent  
Notary Public of New Jersey  
My Commission expires January 31,

Exhibit 79 – Judgment on Discovery

Lawrence Lawyer, Esq.  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Plaintiff

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY

In the Matter of the Estate of :  
MELINDA GONNELLA, : JUDGMENT  
DECEASED: :

Upon reading and filing the Complaint of FRED GONNELLA, it is on this 24th day of August, , ADJUDGED that MEL S. GONNELLA appear before this Court on Tuesday, the 19th day of September, , 9:30 a.m., at the Essex County Court House, Newark, New Jersey and make discovery as to his possession of property belonging to the Estate of MELINDA GONNELLA and it is FURTHER ORDERED that a copy of this Judgment and of the Complaint upon which it is based, certified to be true copy by the attorney for the plaintiff, be served upon the said MEL S. GONNELLA personally or by mailing the same Certified Mail, Return Receipt Requested, at least 10 days before the return date hereof.

s/\_\_\_\_\_  
Victor Veritas, J.S.C.



Exhibit 80 – Proof of Claim

Barbara Barrister, Esq.  
789 First Street  
Newark, New Jersey 07199  
(201) 123-4567  
Attorney for Mel Gonnella

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY

In the Matter of the Estate of :  
:   
MELINDA GONNELLA, : PROOF OF CLAIM  
:   
DECEASED. :

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

MEL GONNELLA, of full age, being duly sworn according to law, upon his oath deposes and says:

1. Decedent is indebted to me in the amount of \$6,400.00 for money loaned by me to the decedent.
2. Attached hereto are photocopies of cancelled checks dated 1/22/98 in the amount of \$2,400.00, 2/14/98 in the amount of \$4,000.00.
3. No part of said amount has been repaid to me and said sum of \$6,400.00 is justly due and owing to me by the Estate of MELINDA GONNELLA.

s/ \_\_\_\_\_  
Mel Gonnella

Sworn and Subscribed to before me this 8th day  
of August,

s/ \_\_\_\_\_  
Theresa Thomas  
Notary Public of New Jersey  
My Commission expires June 17,

**Exhibit 81 – Notice that Claim Presented is Disputed**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Fred Gonnella,  
Executor of the Estate of  
Melinda Gonnella

**SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY**

In the Matter of the Estate of :  
: :  
MELINDA GONNELLA, : DISPUTE OF CLAIM  
: :  
DECEASED. : :

TO: BARBARA BARRISTER  
Attorney for Mel S. Gonnella  
108 Broad Street, Newark, New Jersey 07102

You are hereby notified that the claim of MEL S. GONNELLA for \$6,400.00 against the estate of MELINDA GONNELLA is disputed and you should proceed forthwith to establish this claim by judgment.

Dated: August 17,

s/ \_\_\_\_\_  
Lawrence Lawyer

**Exhibit 82 – Application for Employer Identification Number**

Form <b>SS-4</b> (Rev. January 2010) Department of the Treasury Internal Revenue Service	<b>Application for Employer Identification Number</b> (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) ▶ See separate instructions for each line. ▶ Keep a copy for your records.	OMB No. 1545-0003 EIN _____
Type or print clearly.	1 Legal name of entity (or individual) for whom the EIN is being requested <b>Estate Administration Book</b>	
	2 Trade name of business (if different from name on line 1)	3 Executor, administrator, trustee, "care of" name <b>Ben Jones, Executor</b>
	4a Mailing address (room, apt., suite no. and street, or P.O. box) <b>c/o Lawrence Lawyer, Esq.</b>	5a Street address (if different) (Do not enter a P.O. box.)
	4b City, state, and ZIP code (if foreign, see instructions) <b>131 Broad Street, Newark, NJ 07102</b>	5b City, state, and ZIP code (if foreign, see instructions)
	6 County and state where principal business is located	
	7a Name of responsible party	7b SSN, ITIN, or EIN
	8a Is this application for a limited liability company (LLC) (or a foreign equivalent)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	8b If 8a is "Yes," enter the number of LLC members ▶	
	8c If 8a is "Yes," was the LLC organized in the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No	
	9a Type of entity (check only one box). Caution. If 8a is "Yes," see the instructions for the correct box to check.	
<input type="checkbox"/> Sole proprietor (SSN) _____ <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____ <input type="checkbox"/> Personal service corporation <input type="checkbox"/> Church or church-controlled organization <input type="checkbox"/> Other nonprofit organization (specify) ▶ _____ <input type="checkbox"/> Other (specify) ▶ _____		
<input checked="" type="checkbox"/> Estate (SSN of decedent) <b>123-45-6789</b> <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises Group Exemption Number (GEN) if any ▶ _____		
9b If a corporation, name the state or foreign country (if applicable) where incorporated	State _____ Foreign country _____	
10 Reason for applying (check only one box)		
<input type="checkbox"/> Started new business (specify type) ▶ _____ <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Compliance with IRS withholding regulations <input checked="" type="checkbox"/> Other (specify) ▶ <b>New Estate</b>		
<input type="checkbox"/> Banking purpose (specify purpose) ▶ _____ <input type="checkbox"/> Changed type of organization (specify new type) ▶ _____ <input type="checkbox"/> Purchased going business <input type="checkbox"/> Created a trust (specify type) ▶ _____ <input type="checkbox"/> Created a pension plan (specify type) ▶ _____		
11 Date business started or acquired (month, day, year). See instructions. <b>June 6, 2010</b>	12 Closing month of accounting year <b>December 31</b>	
13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.		
Agricultural <b>0</b>	Household <b>0</b>	
Other <b>0</b>		
14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be \$1,000 or less if you expect to pay \$4,000 or less in total wages.) If you do not check this box, you must file Form 941 for every quarter. <input type="checkbox"/>		
15 First date wages or annuities were paid (month, day, year). Note. If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) . . . . . ▶ <b>N/A</b>		
16 Check one box that best describes the principal activity of your business.		
<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Health care & social assistance <input type="checkbox"/> Wholesale-agent/broker <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input checked="" type="checkbox"/> Other (specify) <b>Estate</b>		
17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided. <b>N/A</b>		
18 Has the applicant entity shown on line 1 ever applied for and received an EIN? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," write previous EIN here ▶		
Third Party Designee	Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.	
	Designee's name	Designee's telephone number (include area code)
Address and ZIP code	Designee's fax number (include area code)	
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.		Applicant's telephone number (include area code)
Name and title (type or print clearly) ▶ <b>Ben Jones, Executor</b>		<b>(973) 928-0455</b>
Signature ▶ _____ Date ▶ _____		Applicant's fax number (include area code) <b>(973) 928-0454</b>

Exhibit 83 – Instructions for Form SS-4

**Instructions for Form SS-4**  
 (Rev. January 2010)  
**Application for Employer Identification Number**



Section references are to the Internal Revenue Code unless otherwise noted.

**What's New**

**Name of responsible party.** The instructions for Line 7a–b have been changed to request the name of the responsible party. See *Lines 7a–b, Name of responsible party* on page 3 for details.


**Election to file Form 944.** Eligible employers may now elect to file Form 944 annually instead of Forms 941 quarterly. See *Line 14. Do you want to file Form 944?* on page 5 for details.

**General Instructions**

Use these instructions to complete Form SS-4, Application for Employer Identification Number. Also see *Do I Need an EIN?* on page 2 of Form SS-4.


**Purpose of Form**

Use Form SS-4 to apply for an employer identification number (EIN). An EIN is a nine-digit number (for example, 12-3456789) assigned to sole proprietors, corporations, partnerships, estates, trusts, and other entities for tax filing and reporting purposes. The information you provide on this form will establish your business tax account.

 *An EIN is for use in connection with your business activities only. Do not use your EIN in place of your social security number (SSN).*

**Reminders**

**Apply online.** Generally, you can apply for and receive an EIN online using the Internet. See *How To Apply* later.

 *This is a free service offered by the Internal Revenue Service at [www.irs.gov](http://www.irs.gov). Beware of websites on the Internet that charge for this free service.*

**File only one Form SS-4.** Generally, a sole proprietor should file only one Form SS-4 and needs only one EIN, regardless of the number of businesses operated as a sole proprietorship or trade names under which a business operates. However, if the proprietorship incorporates or enters into a partnership, a new EIN is required. Also, each corporation in an affiliated group must have its own EIN.

**EIN applied for, but not received.** If you do not have an EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number. Do not show your SSN as an EIN on returns.

If you do not have an EIN by the time a tax deposit is due, send your payment to the Internal Revenue Service Center for your filing area as shown in the instructions for the form that you are filing. Make your check or money order payable to the "United States Treasury" and show your name (as shown on Form SS-4), address, type of tax, period covered, and date you applied for an EIN.

**Electronic filing and payment.** Now, more than ever before, businesses can enjoy the benefits of filing and

paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, IRS offers you convenient programs to make filing and paying easier. Spend less time and worry on taxes and more time running your business. Use e-file and the Electronic Federal Tax Payment System (EFTPS) to your benefit.

- For e-file, visit [www.irs.gov](http://www.irs.gov) for additional information.
- For EFTPS, visit [www.eftps.gov](http://www.eftps.gov) or call EFTPS Customer Service at 1-800-555-4477, 1-800-733-4829 (TDD), or 1-800-244-4829 (Spanish).


**Federal tax deposits.** New employers that have a federal tax obligation will be pre-enrolled in the Electronic Federal Tax Payment System (EFTPS). EFTPS allows you to make all of your federal tax payments online at [www.eftps.gov](http://www.eftps.gov) or by telephone. Shortly after we have assigned you your EIN, you will receive instructions by mail for activating your EFTPS enrollment. You will also receive an EFTPS Personal Identification Number (PIN) that you will use to make your payments, as well as instructions for obtaining an Internet password you will need to make payments online.


If you are not required to make deposits by EFTPS, you can use Form 8109, Federal Tax Deposit (FTD) Coupon, to make deposits at an authorized depository. If you would like to receive Form 8109, call 1-800-829-4933. Allow 5 to 6 weeks for delivery. For more information on federal tax deposits, see Pub. 15 (Circular E), Employer's Tax Guide.

**How To Apply**

You can apply for an EIN online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. Use only one method for each entity so you do not receive more than one EIN for an entity.

**Online.** Taxpayers and authorized third party designees located within the United States and U.S. possessions can receive an EIN online and use it immediately to file a return or make a payment. Go to the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and click on *Employer ID Numbers*.

 *Taxpayers who apply online have an option to view, print, and save their EIN assignment notice at the end of the session. (Authorized third party designees will receive the EIN but the notice will be mailed to the applicant.)*

 *Applicants who are not located within the United States or U.S. possessions cannot use the online application to obtain an EIN. Please use one of the other methods to apply.*

**Telephone.** You can receive your EIN by telephone and use it immediately to file a return or make a payment. Call the IRS at 1-800-829-4933. The hours of operation are 7:00 a.m. to 10:00 p.m. local time (Pacific time for Alaska and Hawaii). The person making the call must be authorized to sign the form or be an authorized designee. See *Third Party Designee and Signature* on page 6. Also see the *TIP* on page 2.

**Note.** International applicants must call 215-516-6999.

If you are applying by telephone, it will be helpful to complete Form SS-4 before contacting the IRS. An IRS representative will use the information from the Form SS-4 to establish your account and assign you an EIN. Write the

## Exhibit 83 – Instructions for Form SS-4 - Continued

number you are given on the upper right corner of the form and sign and date it. Keep this copy for your records.

If requested by an IRS representative, mail or fax the signed Form SS-4 (including any Third Party Designee authorization) within 24 hours to the IRS address provided by the IRS representative.

**TIP** Taxpayer representatives can apply for an EIN on behalf of their client and request that the EIN be faxed to their client on the same day. **Note.** By using this procedure, you are authorizing the IRS to fax the EIN without a cover sheet.

**Fax.** Under the Fax-TIN program, you can receive your EIN by fax within 4 business days. Complete and fax Form SS-4 to the IRS using the appropriate Fax-TIN number listed below. A long-distance charge to callers outside of the local calling area will apply. Fax-TIN numbers can only be used to apply for an EIN. The numbers may change without notice. Fax-TIN is available 24 hours a day, 7 days a week.

Be sure to provide your fax number so the IRS can fax the EIN back to you.

**Note.** By using this procedure, you are authorizing the IRS to fax the EIN without a cover sheet.

**Mail.** Complete Form SS-4 at least 4 to 5 weeks before you will need an EIN. Sign and date the application and mail it to the service center address for your state. You will receive your EIN in the mail in approximately 4 weeks. See also *Third Party Designee* on page 6.

Call 1-800-829-4933 to verify a number or to ask about the status of an application by mail.

information about workshops in your area, call 1-800-829-4933.

### Related Forms and Publications

The following forms and instructions may be useful to filers of Form SS-4.

- Form 990-T, Exempt Organization Business Income Tax Return.
- Instructions for Form 990-T.
- Schedule C (Form 1040), Profit or Loss From Business.
- Schedule F (Form 1040), Profit or Loss From Farming.
- Instructions for Form 1041 and Schedules A, B, D, G, I, J, and K-1, U.S. Income Tax Return for Estates and Trusts.
- Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.
- Instructions for Form 1065, U.S. Return of Partnership Income.
- Instructions for Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return.
- Instructions for Forms 1120.
- Form 2553, Election by a Small Business Corporation.
- Form 2848, Power of Attorney and Declaration of Representative.
- Form 8821, Tax Information Authorization.
- Form 8832, Entity Classification Election.

For more information about filing Form SS-4 and related issues, see:

- Pub. 51 (Circular A), Agricultural Employer's Tax Guide;
- Pub. 15 (Circular E), Employer's Tax Guide;
- Pub. 538, Accounting Periods and Methods;
- Pub. 542, Corporations;
- Pub. 557, Tax-Exempt Status for Your Organization;
- Pub. 583, Starting a Business and Keeping Records;
- Pub. 966, The Secure Way to Pay Your Federal Taxes for Business and Individual Taxpayers;
- Pub. 1635, Understanding Your EIN;
- Package 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code; and
- Package 1024, Application for Recognition of Exemption Under Section 501(a).

#### Where to File or Fax

If your principal business, office, or agency, or legal residence in the case of an individual, is located in:	File or fax with the "Internal Revenue Service Center" at:
One of the 50 states or the District of Columbia	Attn: EIN Operation Cincinnati, OH 45999  Fax-TIN: 859-669-5760
If you have no legal residence, principal place of business, or principal office or agency in any state:	Attn: EIN Operation Philadelphia, PA 19255  Fax-TIN: 215-516-1040

### How To Get Forms and Publications

**Internet.** You can access the IRS website 24 hours a day, 7 days a week at [www.irs.gov](http://www.irs.gov) to download forms, instructions, and publications.

**Phone.** Call 1-800-TAX-FORM (1-800-829-3676) to order forms, instructions, and publications. You should receive your order or notification of its status within 10 workdays.

**DVD for Tax Products.** For small businesses, return preparers, or others who may frequently need tax forms or publications, a DVD containing over 2,000 tax products (including many prior year forms) can be purchased from the National Technical Information Service (NTIS).

To order Pub.1796, IRS Tax Products CD, call 1-877-233-8767 or connect to [www.irs.gov/cdorders](http://www.irs.gov/cdorders).

### Tax Help for Your Business

IRS-sponsored Small Business Workshops provide information about your federal and state tax obligations. For

### Specific Instructions

Print or type all entries on Form SS-4. Follow the instructions for each line to expedite processing and to avoid unnecessary IRS requests for additional information. Enter "N/A" (nonapplicable) on the lines that do not apply.

**Line 1. Legal name of entity (or individual) for whom the EIN is being requested.** Enter the legal name of the entity (or individual) applying for the EIN exactly as it appears on the social security card, charter, or other applicable legal document. An entry is required.

**Individuals.** Enter your first name, middle initial, and last name. If you are a sole proprietor, enter your individual name, not your business name. Enter your business name on line 2. Do not use abbreviations or nicknames on line 1.

**Trusts.** Enter the name of the trust as it appears on the trust instrument.

**Estate of a decedent.** Enter the name of the estate. For an estate that has no legal name, enter the name of the decedent followed by "Estate."

**Partnerships.** Enter the legal name of the partnership as it appears in the partnership agreement.

**Corporations.** Enter the corporate name as it appears in the corporate charter or other legal document creating it.

**Plan administrators.** Enter the name of the plan administrator. A plan administrator who already has an EIN should use that number.

## Exhibit 83 – Instructions for Form SS-4 - Continued

**Line 2. Trade name of business.** Enter the trade name of the business if different from the legal name. The trade name is the "doing business as" (DBA) name.



*Use the full legal name shown on line 1 on all tax returns filed for the entity. (However, if you enter a trade name on line 2 and choose to use the trade name instead of the legal name, enter the trade name on all returns you file.) To prevent processing delays and errors, always use the legal name only (or the trade name only) on all tax returns.*

**Line 3. Executor, administrator, trustee, "care of" name.** Trusts enter the name of the trustee. Estates enter the name of the executor, administrator, or other fiduciary. If the entity applying has a designated person to receive tax information, enter that person's name as the "care of" person. Enter the individual's first name, middle initial, and last name.

**Lines 4a–b. Mailing address.** Enter the mailing address for the entity's correspondence. If the entity's address is outside the United States or its possessions, you must enter the city, province or state, postal code, and the name of the country. Do not abbreviate the country name. If line 3 is completed, enter the address for the executor, trustee or "care of" person. Generally, this address will be used on all tax returns.

If the entity is filing the Form SS-4 only to obtain an EIN for the Form 8832, use the same address where you would like to have the acceptance or nonacceptance letter sent.



*File Form 8822, Change of Address, to report any subsequent changes to the entity's mailing address.*

**Lines 5a–b. Street address.** Provide the entity's physical address only if different from its mailing address shown in lines 4a–b. Do not enter a P.O. box number here. If the entity's address is outside the United States or its possessions, you must enter the city, province or state, postal code, and the name of the country. Do not abbreviate the country name.

**Line 6. County and state where principal business is located.** Enter the entity's primary physical location.

**Lines 7a–b. Name of responsible party.** Enter the full name (first name, middle initial, last name, if applicable) and SSN, ITIN, or EIN of the entity's responsible party as defined below.

**Responsible party defined.** For entities with shares or interests traded on a public exchange, or which are registered with the Securities and Exchange Commission, "responsible party" is (a) the principal officer, if the business is a corporation, (b) a general partner, if a partnership, (c) the owner of an entity that is disregarded as separate from its owner (disregarded entities owned by a corporation enter the corporation's name and EIN), or (d) a grantor, owner, or trustor, if a trust.

For all other entities, "responsible party" is the person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets. The ability to fund the entity or the entitlement to the property of the entity alone, however, without any corresponding authority to control, manage, or direct the entity (such as in the case of a minor child beneficiary), does not cause the individual to be a responsible party.

If the person in question is an alien individual with a previously assigned individual taxpayer identification number (ITIN), enter the ITIN in the space provided and submit a copy of an official identifying document. If necessary, complete Form W-7, Application for IRS Individual Taxpayer Identification Number, to obtain an ITIN.

You must enter an SSN, ITIN, or EIN on line 7b unless the only reason you are applying for an EIN is to make an entity classification election (see Regulations sections 301.7701-1 through 301.7701-3) and you are a nonresident alien or other foreign entity with no effectively connected income from sources within the United States.

**Lines 8a–c. Limited liability company (LLC) information.** An LLC is an entity organized under the laws of a state or foreign country as a limited liability company. For federal tax purposes, an LLC may be treated as a partnership or corporation or be disregarded as an entity separate from its owner.

By default, a domestic LLC with only one member is disregarded as an entity separate from its owner and must include all of its income and expenses on the owner's tax return (for example, Schedule C (Form 1040)). Also by default, a domestic LLC with two or more members is treated as a partnership. A domestic LLC may file Form 8832 to avoid either default classification and elect to be classified as an association taxable as a corporation. For more information on entity classifications (including the rules for foreign entities), see the instructions for Form 8832.

If the answer to line 8a is "Yes," enter the number of LLC members. If the LLC is owned solely by a husband and wife in a community property state and the husband and wife choose to treat the entity as a disregarded entity, enter "1" on line 8b.



*Do not file Form 8832 if the LLC accepts the default classifications above. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832. See the Instructions for Form 2553.*

**Line 9a. Type of entity.** Check the box that best describes the type of entity applying for the EIN. If you are an alien individual with an ITIN previously assigned to you, enter the ITIN in place of a requested SSN.



*This is not an election for a tax classification of an entity. See Disregarded entities on page 4.*

**Sole proprietor.** Check this box if you file Schedule C, C-EZ, or F (Form 1040) and have a qualified plan, or are required to file excise, employment, alcohol, tobacco, or firearms returns, or are a payer of gambling winnings. Enter your SSN (or ITIN) in the space provided. If you are a nonresident alien with no effectively connected income from sources within the United States, you do not need to enter an SSN or ITIN.

**Corporation.** This box is for any corporation other than a personal service corporation. If you check this box, enter the income tax form number to be filed by the entity in the space provided.



*If you entered "1120S" after the "Corporation" checkbox, the corporation must file Form 2553 no later than the 15th day of the 3rd month of the tax year the election is to take effect. Until Form 2553 has been received and approved, you will be considered a Form 1120 filer. See the Instructions for Form 2553.*

**Personal service corporation.** Check this box if the entity is a personal service corporation. An entity is a personal service corporation for a tax year only if:

- The principal activity of the entity during the testing period (prior tax year) for the tax year is the performance of personal services substantially by employee-owners, and
- The employee-owners own at least 10% of the fair market value of the outstanding stock in the entity on the last day of the testing period.

## Exhibit 83 – Instructions for Form SS-4 - Continued

Personal services include performance of services in such fields as health, law, accounting, or consulting. For more information about personal service corporations, see the Instructions for Form 1120 and Pub. 542.



*If the corporation is recently formed, the testing period begins on the first day of its tax year and ends on the earlier of the last day of its tax year, or the last day of the calendar year in which its tax year begins.*

**Other nonprofit organization.** Check this box if the nonprofit organization is other than a church or church-controlled organization and specify the type of nonprofit organization (for example, an educational organization).



*If the organization also seeks tax-exempt status, you must file either Package 1023 or Package 1024. See Pub. 557 for more information.*

If the organization is covered by a group exemption letter, enter the four-digit group exemption number (GEN) in the last entry. (Do not confuse the GEN with the nine-digit EIN.) If you do not know the GEN, contact the parent organization. Get Pub. 557 for more information about group exemption numbers.

If the organization is a section 527 political organization, check the box for *Other nonprofit organization* and specify "section 527 organization" in the space to the right. To be recognized as exempt from tax, a section 527 political organization must electronically file Form 8871, Political Organization Notice of Section 527 Status, within 24 hours of the date on which the organization was established. The organization may also have to file Form 8872, Political Organization Report of Contributions and Expenditures. See [www.irs.gov/polorgs](http://www.irs.gov/polorgs) for more information.

**Plan administrator.** If the plan administrator is an individual, enter the plan administrator's taxpayer identification number (TIN) in the space provided.

**REMIC.** Check this box if the entity has elected to be treated as a real estate mortgage investment conduit (REMIC). See the Instructions for Form 1066 for more information.

**State/local government.** If you are a government employer and you are not sure of your social security and Medicare coverage options, go to [www.ncsssa.org/ssafames.html](http://www.ncsssa.org/ssafames.html) to obtain the contact information for your state's Social Security Administrator.

**Other.** If not specifically listed, check the "Other" box, enter the type of entity and the type of return, if any, that will be filed (for example, "Common Trust Fund, Form 1065" or "Created a Pension Plan"). Do not enter "N/A." If you are an alien individual applying for an EIN, see the *Lines 7a–b* instructions on page 3.

- **Household employer.** If you are an individual that will employ someone to provide services in your household, check the "Other" box and enter "Household Employer" and your SSN. If you are a trust that qualifies as a household employer, you do not need a separate EIN for reporting tax information relating to household employees; use the EIN of the trust.

- **Household employer agent.** If you are an agent of a household employer that is a disabled individual or other welfare recipient receiving home care services through a state or local program, check the "Other" box and enter "Household Employer Agent." (See Rev. Proc. 80-4, 1980-1 C.B. 581 and Notice 2003-70, 2003-43 I.R.B. 916.) If you are a state or local government also check the box for state/local government.

- **QSub.** For a qualified subchapter S subsidiary (QSub) check the "Other" box and specify "QSub."

- **Withholding agent.** If you are a withholding agent required to file Form 1042, check the "Other" box and enter "Withholding Agent."

**Disregarded entities.** A disregarded entity is an eligible entity that is disregarded as separate from its owner for federal income tax purposes. Disregarded entities include single-member limited liability companies (LLCs) that are disregarded as separate from their owners, qualified subchapter S subsidiaries (qualified subsidiaries of an S corporation), and certain qualified foreign entities. See the instructions for Form 8832 and Regulations section 301.7701-3 for more information on domestic and foreign disregarded entities.

A disregarded entity must have an EIN if it is subject to employment taxes or certain excise taxes. For wages paid during 2008 and in prior years, the reporting and payment of employment taxes for employees could be made using the name and EIN of either the owner or the disregarded entity (as explained in Notice 99-6, 1999-3 I.R.B. 12).

For wages paid on or after January 1, 2009, the disregarded entity is required to use its name and EIN for reporting and payment of employment taxes. A disregarded entity is also required to use its name and EIN to register for excise tax activities on Form 637, pay and report excise taxes reported on Forms 720, 730, 2290, and 11-C, and claim any refunds, credits, and payments on Form 8849. This requirement for reporting and paying excise taxes became effective after December 31, 2007. See the instructions for the employment and excise tax returns for more information.

Complete Form SS-4 for disregarded entities as follows.

- If a disregarded entity is filing Form SS-4 to obtain an EIN because it is required to report and pay employment and excise taxes (see above) or for non-federal purposes such as a state requirement, check the "Other" box for line 9a and write "disregarded entity" (or "disregarded entity-sole proprietorship" if the owner of the disregarded entity is an individual).
- If the disregarded entity is requesting an EIN for purposes of filing Form 8832 to elect classification as an association taxable as a corporation, or Form 2553 to elect S corporation status, check the "Corporation" box for line 9a and write "single-member" and the form number of the return that will be filed (Form 1120 or 1120S).
- If the disregarded entity is requesting an EIN because it has acquired one or more additional owners and its classification has changed to partnership under the default rules of Regulations section 301.7701-3(f), check the "Partnership" box for line 9a.

**Line 10. Reason for applying.** Check only one box. Do not enter "N/A." A selection is required.

**Started new business.** Check this box if you are starting a new business that requires an EIN. If you check this box, enter the type of business being started. Do not apply if you already have an EIN and are only adding another place of business.

**Hired employees.** Check this box if the existing business is requesting an EIN because it has hired or is hiring employees and is therefore required to file employment tax returns. Do not apply if you already have an EIN and are only hiring employees. For information on employment taxes (for example, for family members), see Pub. 15 (Circular E).



*You may have to make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS). See Federal tax deposits on page 1; section 11, Depositing Taxes, of Pub. 15 (Circular E); and Pub. 966.*

Exhibit 83 – Instructions for Form SS-4 - Continued

**Banking purpose.** Check this box if you are requesting an EIN for banking purposes only, and enter the banking purpose (for example, a bowling league for depositing dues or an investment club for dividend and interest reporting).

**Changed type of organization.** Check this box if the business is changing its type of organization. For example, the business was a sole proprietorship and has been incorporated or has become a partnership. If you check this box, specify in the space provided (including available space immediately below) the type of change made. For example, "From Sole Proprietorship to Partnership."

**Purchased going business.** Check this box if you purchased an existing business. Do not use the former owner's EIN unless you became the "owner" of a corporation by acquiring its stock.

**Created a trust.** Check this box if you created a trust, and enter the type of trust created. For example, indicate if the trust is a nonexempt charitable trust or a split-interest trust.

**Exception.** Do not file this form for certain grantor-type trusts. The trustee does not need an EIN for the trust if the trustee furnishes the name and TIN of the grantor/owner and the address of the trust to all payers. However, grantor trusts that do not file using Optional Method 1 and IRA trusts that are required to file Form 990-T, Exempt Organization Business Income Tax Return, must have an EIN. For more information on grantor trusts, see the Instructions for Form 1041.

**TIP** Do not check this box if you are applying for a trust EIN when a new pension plan is established. Check "Created a pension plan."

**Created a pension plan.** Check this box if you have created a pension plan and need an EIN for reporting purposes. Also, enter the type of plan in the space provided.

**TIP** Check this box if you are applying for a trust EIN when a new pension plan is established. In addition, check the "Other" box on line 9a and write "Created a Pension Plan" in the space provided.

**Other.** Check this box if you are requesting an EIN for any other reason; and enter the reason. For example, a newly-formed state government entity should enter "Newly-Formed State Government Entity" in the space provided.

**Line 11. Date business started or acquired.** If you are starting a new business, enter the starting date of the business. If the business you acquired is already operating, enter the date you acquired the business. If you are changing the form of ownership of your business, enter the date the new ownership entity began. Trusts should enter the date the trust was funded. Estates should enter the date of death of the decedent whose name appears on line 1 or the date when the estate was legally funded.

**Line 12. Closing month of accounting year.** Enter the last month of your accounting year or tax year. An accounting or tax year is usually 12 consecutive months, either a calendar year or a fiscal year (including a period of 52 or 53 weeks). A calendar year is 12 consecutive months ending on December 31. A fiscal year is either 12 consecutive months ending on the last day of any month other than December or a 52-53 week year. For more information on accounting periods, see Pub. 538.

**Individuals.** Your tax year generally will be a calendar year.

**Partnerships.** Partnerships must adopt one of the following tax years.

- The tax year of the majority of its partners.
- The tax year common to all of its principal partners.

- The tax year that results in the least aggregate deferral of income.
- In certain cases, some other tax year.

See the Instructions for Form 1065 for more information.

**REMICs.** REMICs must have a calendar year as their tax year.

**Personal service corporations.** A personal service corporation generally must adopt a calendar year unless it meets one of the following requirements.

- It can establish a business purpose for having a different tax year.
- It elects under section 444 to have a tax year other than a calendar year.

**Trusts.** Generally, a trust must adopt a calendar year except for the following trusts.

- Tax-exempt trusts.
- Charitable trusts.
- Grantor-owned trusts.

**Line 13. Highest number of employees expected in the next 12 months.** Complete each box by entering the number (including zero ("0-0-")) of "Agricultural," "Household," or "Other" employees expected by the applicant in the next 12 months.

If no employees are expected, skip line 14.

**Line 14. Do you want to file Form 944?** If you expect your employment tax liability to be \$1,000 or less in a full calendar year, you are eligible to file Form 944 annually (once each year) instead of filing Form 941 quarterly (every three months). Your employment tax liability generally will be \$1,000 or less if you expect to pay \$4,000 or less in total wages subject to social security and Medicare taxes and federal income tax withholding. If you qualify and want to file Form 944 instead of Forms 941, check the box on line 14. If you do not check the box, then you must file Form 941 for every quarter.

**TIP** For employers in the U.S: possessions, generally, if you pay \$6,536 or less in wages subject to social security and Medicare taxes, you are likely to pay \$1,000 or less in employment taxes.

For more information on employment taxes, see Pub. 15 (Circular E); or Pub. 51 (Circular A) if you have agricultural employees (farmworkers).

**Line 15. First date wages or annuities were paid.** If the business has employees, enter the date on which the business began to pay wages. If the business does not plan to have employees, enter "N/A."

**Withholding agent.** Enter the date you began or will begin to pay income (including annuities) to a nonresident alien. This also applies to individuals who are required to file Form 1042 to report alimony paid to a nonresident alien.

**Line 16.** Check the one box on line 16 that best describes the principal activity of the applicant's business. Check the "Other" box (and specify the applicant's principal activity) if none of the listed boxes applies. You must check a box.

**Construction.** Check this box if the applicant is engaged in erecting buildings or engineering projects (for example, streets, highways, bridges, tunnels). The term "Construction" also includes special trade contractors (for example, plumbing, HVAC, electrical, carpentry, concrete, excavation, etc. contractors).

**Real estate.** Check this box if the applicant is engaged in renting or leasing real estate to others; managing, selling, buying, or renting real estate for others; or providing related real estate services (for example, appraisal services). Also check this box for mortgage real estate investment trusts (REITs). Mortgage REITs are engaged in issuing shares of funds consisting primarily of portfolios of real estate



**Exhibit 83 – Instructions for Form SS-4 - Continued**

mortgage assets with gross income of the trust solely derived from interest earned.

**Rental and leasing.** Check this box if the applicant is engaged in providing tangible goods such as autos, computers, consumer goods, or industrial machinery and equipment to customers in return for a periodic rental or lease payment. Also check this box for equity real estate investment trusts (REITS). Equity REITS are engaged in issuing shares of funds consisting primarily of portfolios of real estate assets with gross income of the trust derived from renting real property.

**Manufacturing.** Check this box if the applicant is engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is also considered to be manufacturing.

**Transportation & warehousing.** Check this box if the applicant provides transportation of passengers or cargo; warehousing or storage of goods; scenic or sight-seeing transportation; or support activities related to transportation.

**Finance & insurance.** Check this box if the applicant is engaged in transactions involving the creation, liquidation, or change of ownership of financial assets and/or facilitating such financial transactions; underwriting annuities/insurance policies; facilitating such underwriting by selling insurance policies; or by providing other insurance or employee-benefit related services.

**Health care & social assistance.** Check this box if the applicant is engaged in providing physical, medical, or psychiatric care or providing social assistance activities such as youth centers, adoption agencies, individual/family services, temporary shelters, daycare, etc.

**Accommodation & food services.** Check this box if the applicant is engaged in providing customers with lodging; meal preparation, snacks, or beverages for immediate consumption.

**Wholesale—agent/broker.** Check this box if the applicant is engaged in arranging for the purchase or sale of goods owned by others or purchasing goods on a commission basis for goods traded in the wholesale market, usually between businesses.

**Wholesale—other.** Check this box if the applicant is engaged in selling goods in the wholesale market generally to other businesses for resale on their own account, goods used in production, or capital or durable nonconsumer goods.

**Retail.** Check this box if the applicant is engaged in selling merchandise to the general public from a fixed store; by direct, mail-order, or electronic sales; or by using vending machines.

**Other.** Check this box if the applicant is engaged in an activity not described above. Describe the applicant's principal business activity in the space provided.

**Line 17.** Use line 17 to describe the applicant's principal line of business in more detail. For example, if you checked the "Construction" box on line 16, enter additional detail such as "General contractor for residential buildings" on line 17. An entry is required. For mortgage REITS indicate mortgage REIT and for equity REITS indicate what type of real property is the principal type (residential REIT, nonresidential REIT, miniwarehouse REIT).

**Line 18.** Check the applicable box to indicate whether or not the applicant entity applying for an EIN was issued one previously.

**Third Party Designee.** Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of Form

SS-4. The designee's authority terminates at the time the EIN is assigned and released to the designee. You must complete the signature area for the authorization to be valid.

**Signature.** When required, the application must be signed by (a) the individual, if the applicant is an individual, (b) the president, vice president, or other principal officer, if the applicant is a corporation, (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership, government entity, or other unincorporated organization, or (d) the fiduciary, if the applicant is a trust or an estate. Foreign applicants may have any duly-authorized person (for example, division manager) sign Form SS-4.

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to comply with section 6109 and the regulations thereunder, which generally require the inclusion of an employer identification number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. If your entity is required to obtain an EIN, you are required to provide all of the information requested on this form. Information on this form may be used to determine which federal tax returns you are required to file and to provide you with related forms and publications.

We disclose this form to the Social Security Administration (SSA) for their use in determining compliance with applicable laws. We may give this information to the Department of Justice for use in civil and/or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, and to federal law enforcement and intelligence agencies to combat terrorism.

We will be unable to issue an EIN to you unless you provide all of the requested information that applies to your entity. Providing false information could subject you to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. Section 6109 requires paid preparers to provide their identifying number.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . .	8 hrs., 36 min.
Learning about the law or the form . . . . .	42 min.
Preparing, copying, assembling, and sending the form to the IRS . . . . .	52 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, IR-6526, 1111 Constitution Avenue, NW, Washington, DC 20224. Do not send the form to this address. Instead, see *Where to File or Fax* on page 2.

**Exhibit 84 – Income Tax Rates for Trusts and Estates**

<b>Income Taxes for Estates and Trusts</b>			
<b>In 2010</b>			
<b>If taxable Income is:</b>			
<b>Over</b>	<b>But Not &gt;</b>	<b>The tax is</b>	<b>Of the amount &gt;</b>
\$0	\$2,300	\$0 + 15%	\$0
\$2,300	\$5,350	\$345 + 25%	\$2,300
\$5,350	\$8,200	\$1,108 + 28%	\$5,350
\$8,200	\$11,200	\$1,906 + 33%	\$8,200
\$11,200	-----	\$2,896 + 35%	\$11,200
<b>In 2011</b>			
<b>If taxable income is:</b>			
<b>Over</b>	<b>But Not &gt;</b>	<b>The tax is</b>	<b>Of the amount &gt;</b>
\$0	\$2,300	\$0 + 15%	\$0
\$2,300	\$5,450	\$345 + 25%	\$2,300
\$5,450	\$8,300	\$1,133 + 28%	\$5,450
\$8,300	\$11,350	\$1,931 + 33%	\$8,300
\$11,350	-----	\$2,937 + 35%	\$11,350

Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year

<b>Form 1041</b> Department of the Treasury Internal Revenue Service		<b>U.S. Income Tax Return for Estates and Trusts</b>		<b>2009</b>	
For calendar year 2009 or fiscal year beginning _____, 2009 and ending _____			OMB No. 1545-0092		
<b>A</b> Type of entity: <input checked="" type="checkbox"/> Decedent's estate <input type="checkbox"/> Simple trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Qualified disability trust <input type="checkbox"/> ESBT (S portion only) <input type="checkbox"/> Grantor type trust <input type="checkbox"/> Bankruptcy estate-Ch. 7 <input type="checkbox"/> Bankruptcy estate-Ch. 11 <input type="checkbox"/> Pooled income fund	Name of estate or trust (if a grantor type trust, see page 14 of the instructions.) <b>ESTATE OF EDWARD CROW</b>		<b>C</b> Employer identification number <b>22-2334334</b>		
	Name and title of fiduciary <b>THOMAS CROW, ADMINISTRATOR</b>		<b>D</b> Date entity created <b>02/03/2009</b>		
	Number, street, and room or suite no. (if a P.O. box, see page 15 of the instructions.) <b>3 EISENHOWER PARKWAY</b>		<b>E</b> Nonexempt charitable and split-interest trusts, check applicable boxes (see pg 16 of the instr.): <input type="checkbox"/> Described in section 4947(e)(1) <input type="checkbox"/> Not a private foundation <input type="checkbox"/> Described in section 4947(e)(2)		
	City or town, state, and ZIP code <b>ROSELAND NJ 07068</b>				
<b>B</b> No. of Schedules K-1 attached <b>0</b>	<b>F</b> Check applicable boxes: <input checked="" type="checkbox"/> Initial return <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Change in fiduciary <input type="checkbox"/> Change in fiduciary's name <input type="checkbox"/> Change in fiduciary's address				
<b>G</b> Check here if the estate or filing trust made a section 645 election <input type="checkbox"/>					
<b>Income</b>	1	Interest Income	SEE STATEMENT 1	1	158,586.
	2 a	Total ordinary dividends		2a	
	b	Qualified dividends allocable to: (1) Beneficiaries _____ (2) Estate or trust _____			
	3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)		3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)		4	
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)		5	
	6	Farm income or (loss). Attach Schedule F (Form 1040)		6	
	7	Ordinary gain or (loss). Attach Form 4797		7	
	8	Other income. List type and amount		8	
9	<b>Total Income.</b> Combine lines 1, 2a, and 3 through 8		9	158,586.	
<b>Deductions</b>	10	Interest. Check if Form 4952 is attached <input type="checkbox"/>		10	
	11	Taxes		11	17,690.
	12	Fiduciary fees		12	
	13	Charitable deduction (from Schedule A, line 7)		13	
	14	Attorney, accountant, and return preparer fees		14	17,532.
	15 a	Other deductions not subject to the 2% floor (attach schedule)		15a	
	b	Allowable miscellaneous itemized deductions subject to the 2% floor		15b	
	16	Add lines 10 through 15b		16	35,222.
	17	Adjusted total income or (loss). Subtract line 16 from line 9	17	123,364.	
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)		18	
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)		19	
20	Exemption		20	600.	
21	Add lines 18 through 20		21	600.	
<b>Tax and Payments</b>	22	Taxable income. Subtract line 21 from line 17. If a loss, see page 23 of the instructions		22	122,764.
	23	Total tax (from Schedule G, line 7)		23	41,944.
	24 a	Payments: a 2009 estimated tax payments and amount applied from 2008 return		24a	
	b	Estimated tax payments allocated to beneficiaries (from Form 1041-T)		24b	
	c	Subtract line 24b from line 24a		24c	
	d	Tax paid with Form 7004 (see page 24 of the instructions)		24d	
	e	Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>		24e	
		Other payments: f Form 2439 _____ ; g Form 4136 _____ ; Total		24h	
	25	Total payments. Add lines 24c through 24e, and 24h		25	
	26	Estimated tax penalty (see page 24 of the instructions)		26	
27	Tax due. If line 25 is smaller than the total of lines 23 and 26, enter amount owed		27	41,944.	
28	Overpayment. If line 25 is larger than the total of lines 23 and 26, enter amount overpaid		28		
29	Amount of line 28 to be: a Credited to 2010 estimated tax _____ ; b Refunded _____		29		
Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			May the IRS discuss this return with the preparer shown below (see instr.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	Signature of fiduciary or officer representing fiduciary _____		Date _____	EIN of fiduciary if a financial institution _____	
Paid	Preparer's signature _____		Date _____	Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN _____	
Preparer's Use Only	Firm's name (or yours if self-employed), address, and ZIP code <b>D. LAWYER 3 EISENHOWER PARKWAY ROSELAND, NEW JERSEY 07068</b>		EIN <b>22-5656556</b>		Phone no. <b>973-200-0000</b>

**Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year - Continued**

Form 1041 (2009)	<b>ESTATE OF EDWARD CROW</b>	22-2334334	Page 2
<b>Schedule A Charitable Deduction.</b> Do not complete for a simple trust or a pooled income fund.			
1	Amounts paid or permanently set aside for charitable purposes from gross income (see page 25 of the instructions)	1	
2	Tax-exempt income allocable to charitable contributions (see page 25 of the instructions)	2	
3	Subtract line 2 from line 1	3	
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes	4	
5	Add lines 3 and 4	5	
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes (see instructions)	6	
7	<b>Charitable deduction.</b> Subtract line 6 from line 5. Enter here and on page 1, line 13	7	
<b>Schedule B Income Distribution Deduction</b>			
1	Adjusted total income (see page 26 of the instructions)	1	123,364.
2	Adjusted tax-exempt interest	2	
3	Total net gain from Schedule D (Form 1041), line 15, column (1) (see page 26 of the instructions)	3	
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion)	4	
5	Capital gains for the tax year included on Schedule A, line 1 (see page 26 of the instructions)	5	
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number	6	
7	<b>Distributable net income.</b> Combine lines 1 through 6. If zero or less, enter -0-	7	123,364.
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law	8	
9	Income required to be distributed currently	9	
10	Other amounts paid, credited, or otherwise required to be distributed	10	
11	<b>Total distributions.</b> Add lines 9 and 10. If greater than line 8, see page 27 of the instructions	11	
12	Enter the amount of tax-exempt income included on line 11	12	
13	<b>Tentative income distribution deduction.</b> Subtract line 12 from line 11	13	
14	<b>Tentative income distribution deduction.</b> Subtract line 2 from line 7. If zero or less, enter -0-	14	
15	<b>Income distribution deduction.</b> Enter the smaller of line 13 or line 14 here and on page 1, line 18	15	
<b>Schedule C Tax Computation</b> (see page 27 of the instructions)			
1	<b>Tax:</b> a Tax on taxable income (see page 27 of the instructions)	1a	41,944.
	b Tax on lump-sum distributions. Attach Form 4972	1b	
	c Alternative minimum tax (from Schedule I (Form 1041), line 56)	1c	
	d <b>Total.</b> Add lines 1a through 1c	1d	41,944.
2a	Foreign tax credit. Attach Form 1116	2a	
	b Other nonbusiness credits (attach schedule)	2b	
	c General business credit. Attach Form 3800	2c	
	d Credit for prior year minimum tax. Attach Form 8801	2d	
3	<b>Total credits.</b> Add lines 2a through 2d	3	
4	Subtract line 3 from line 1d. If zero or less, enter -0-	4	41,944.
5	Recapture taxes. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611	5	
6	Household employment taxes. Attach Schedule H (Form 1040)	6	
7	<b>Total tax.</b> Add lines 4 through 6. Enter here and on page 1, line 23	7	41,944.
<b>Other Information</b>			Yes No
1	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses Enter the amount of tax-exempt interest income and exempt-interest dividends ▶ \$ _____		X
2	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?		X
3	At any time during calendar year 2009, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See page 30 of the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country ▶ _____		X
4	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See page 30 of the instructions		X
5	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see page 30 for required attachment		X
6	If this is an estate or a complex trust making the section 663(b) election, check here (see page 30 of the instructions) ▶ <input type="checkbox"/>		
7	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here (see page 30 of the instructions) ▶ <input type="checkbox"/>		
8	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here ▶ <input type="checkbox"/>		
9	Are any present or future trust beneficiaries skip persons? See page 30 of the instructions		X

**Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year - Continued**

**SCHEDULE I  
(Form 1041)**

Department of the Treasury  
Internal Revenue Service

**Alternative Minimum Tax - Estates and Trusts**

▶ Attach to Form 1041. See the separate instructions  
for Schedule I (Form 1041).

OMB No. 1545-0092

**2009**

Name of estate or trust  
**ESTATE OF EDWARD CROW**

Employer identification number  
**22-2334334**

**Part I Estate's or Trust's Share of Alternative Minimum Taxable Income**

1	Adjusted total income or (loss) (from Form 1041, line 17)	1	123,364.
2	Interest	2	
3	Taxes	3	17,690.
4	Miscellaneous itemized deductions (from Form 1041, line 15b)	4	
5	Refund of taxes	5	( )
6	Depletion (difference between regular tax and AMT)	6	
7	Net operating loss deduction. Enter as a positive amount	7	
8	Interest from specified private activity bonds exempt from the regular tax	8	
9	Qualified small business stock (see page 2 of the instructions)	9	
10	Exercise of incentive stock options (excess of AMT income over regular tax income)	10	
11	Other estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	11	
12	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	12	
13	Disposition of property (difference between AMT and regular tax gain or loss)	13	
14	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	14	
15	Passive activities (difference between AMT and regular tax income or loss)	15	
16	Loss limitations (difference between AMT and regular tax income or loss)	16	
17	Circulation costs (difference between regular tax and AMT)	17	
18	Long-term contracts (difference between AMT and regular tax income)	18	
19	Mining costs (difference between regular tax and AMT)	19	
20	Research and experimental costs (difference between regular tax and AMT)	20	
21	Income from certain installment sales before January 1, 1987	21	( )
22	Intangible drilling costs preference	22	
23	Other adjustments, including income-based related adjustments	23	
24	Alternative tax net operating loss deduction (See the instructions for the limitation that applies.)	24	( )
25	Adjusted alternative minimum taxable income. Combine lines 1 through 24	25	141,054.
Note: Complete Part II below before going to line 26.			
26	Income distribution deduction from Part II, line 44	26	0.
27	Estate tax deduction (from Form 1041, line 19)	27	
28	Add lines 26 and 27	28	
29	Estate's or trust's share of alternative minimum taxable income. Subtract line 28 from line 25	29	141,054.

If line 29 is:

- \$22,500 or less, stop here and enter -0- on Form 1041, Schedule G, line 1c. The estate or trust is not liable for the alternative minimum tax.
- Over \$22,500, but less than \$165,000, go to line 45.
- \$165,000 or more, enter the amount from line 29 on line 51 and go to line 52.

**Part II Income Distribution Deduction on a Minimum Tax Basis**

30	Adjusted alternative minimum taxable income (see page 6 of the instructions)	30	141,054.
31	Adjusted tax-exempt interest (other than amounts included on line 8)	31	
32	Total net gain from Schedule D (Form 1041), line 15, column (1). If a loss, enter -0-	32	
33	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes (from Form 1041, Schedule A, line 4)	33	
34	Capital gains paid or permanently set aside for charitable purposes from gross income (see page 6 of the instructions)	34	
35	Capital gains computed on a minimum tax basis included on line 25	35	( )
36	Capital losses computed on a minimum tax basis included on line 25. Enter as a positive amount	36	
37	Distributable net alternative minimum taxable income (DNAMTI). Combine lines 30 through 36. If zero or less, enter -0-	37	141,054.
38	Income required to be distributed currently (from Form 1041, Schedule B, line 9)	38	
39	Other amounts paid, credited, or otherwise required to be distributed (from Form 1041, Schedule B, line 10)	39	0.
40	Total distributions. Add lines 38 and 39	40	0.
41	Tax-exempt income included on line 40 (other than amounts included on line 8)	41	
42	Tentative income distribution deduction on a minimum tax basis. Subtract line 41 from line 40	42	0.

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 1041.

Schedule I (Form 1041) (2009)

**Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year - Continued**

Schedule I (Form 1041) (2009) **ESTATE OF EDWARD CROW** 22-2334334 Page 2

<b>Part II Income Distribution Deduction on a Minimum Tax Basis (continued)</b>	
43 Tentative income distribution deduction on a minimum tax basis. Subtract line 31 from line 37. If zero or less, enter -0-	43 141,054.
44 Income distribution deduction on a minimum tax basis. Enter the smaller of line 42 or line 43. Enter here and on line 26	44 0.

<b>Part III Alternative Minimum Tax</b>	
45 Exemption amount	45 \$22,500
46 Enter the amount from line 29	46 141,054.
47 Phase-out of exemption amount	47 \$75,000
48 Subtract line 47 from line 46. If zero or less, enter -0-	48 66,054.
49 Multiply line 48 by 25% (.25)	49 16,514.
50 Subtract line 49 from line 45. If zero or less, enter -0-	50 5,986.
51 Subtract line 50 from line 46	51 135,068.
52 Go to Part IV of Schedule I to figure line 52 if the estate or trust has qualified dividends or has a gain on lines 14a and 15 of column (2) of Schedule D (Form 1041) (as refigured for the AMT, if necessary). Otherwise, if line 51 is - • \$175,000 or less, multiply line 51 by 26% (.26). • Over \$175,000, multiply line 51 by 28% (.28) and subtract \$3,500 from the result	52 35,118.
53 Alternative minimum foreign tax credit (see page 7 of the instructions)	53
54 Tentative minimum tax. Subtract line 53 from line 52	54 35,118.
55 Enter the tax from Form 1041, Schedule G, line 1a (minus any foreign tax credit from Schedule G, line 2a)	55 41,944.
56 Alternative minimum tax. Subtract line 55 from line 54. If zero or less, enter -0-. Enter here and on Form 1041, Schedule G, line 1c	56 0.

<b>Part IV Line 52 Computation Using Maximum Capital Gains Rates</b>	
Caution: If you did not complete Part V of Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet, see page 8 of the instructions before completing this part.	
57 Enter the amount from line 51	57
58 Enter the amount from Schedule D (Form 1041), line 22, line 13 of the Schedule D Tax Worksheet, or line 4 of the Qualified Dividends Tax Worksheet, whichever applies (as refigured for the AMT, if necessary)	58
59 Enter the amount from Schedule D (Form 1041), line 14b, column (2) (as refigured for the AMT, if necessary). If you did not complete Schedule D for the regular tax or the AMT, enter -0-	59
60 If you did not complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 58. Otherwise, add lines 58 and 59 and enter the smaller of that result or the amount from line 10 of the Schedule D Tax Worksheet (as refigured for the AMT, if necessary)	60
61 Enter the smaller of line 57 or line 60	61
62 Subtract line 61 from line 57	62
63 If line 62 is \$175,000 or less, multiply line 62 by 26% (.26). Otherwise, multiply line 62 by 28% (.28) and subtract \$3,500 from the result	63
64 Maximum amount subject to the 0% rate	64 \$2,300
65 Enter the amount from line 23 of Schedule D (Form 1041), line 14 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet on page 27 of the Instructions for Form 1041, whichever applies (as figured for the regular tax). If you did not complete Schedule D or either worksheet for the regular tax, enter -0-	65
66 Subtract line 65 from line 64. If zero or less, enter -0-	66
67 Enter the smaller of line 57 or line 58	67
68 Enter the smaller of line 66 or line 67	68
69 Subtract line 68 from line 67	69
70 Multiply line 69 by 15% (.15) If line 59 is zero or blank, skip lines 71 and 72 and go to line 73. Otherwise, go to line 71.	70
71 Subtract line 67 from line 61	71
72 Multiply line 71 by 25% (.25)	72
73 Add lines 63, 70, and 72	73
74 If line 57 is \$175,000 or less, multiply line 57 by 26% (.26). Otherwise, multiply line 57 by 28% (.28) and subtract \$3,500 from the result	74
75 Enter the smaller of line 73 or line 74 here and on line 52	75

Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year - Continued

ESTATE OF EDWARD CROW

22-2334334

FORM 1041 INTEREST INCOME STATEMENT 1

DESCRIPTION	U. S. INTEREST	OTHER TAXABLE INTEREST
PNC BANK		141,075.
UNION COUNTY SAVINGS BANK		7,354.
HOWARD SAVINGS BANK		3,452.
WELLS FARGO		4,801.
ESTATE OF ANDREW CROW		1,904.
SUBTOTALS		158,586.
TOTAL TO FORM 1041, LINE 1		158,586.

**Exhibit 85 – U.S. Fiduciary Income Tax Return – First Year - Continued**

ESTATE OF EDWARD CROW  
EIN: 22-2334334  
2009 FORM 1041

PURSUANT TO TREASURY REGULATION 1-642(G) - 1, TAXPAYER ELECTS TO CLAIM ATTORNEYS FEES AND DISBURSEMENTS OF \$17,532 AS AN INCOME TAX DEDUCTION. THE ABOVE ITEM HAS NOT BEEN CLAIMED AS A DEDUCTION FROM THE GROSS ESTATE OF EDWARD CROW UNDER SECTION 2053 OR SECTION 2054 OF THE INTERNAL REVENUE CODE, AND THE ESTATE HEREBY WAIVES THE RIGHT TO HAVE THE ABOVE ITEM ALLOWED AT ANY TIME AS A DEDUCTION UNDER SECTION 2503 OR SECTION 2504 OF THE INTERNAL REVENUE CODE.

THOMAS CROW, ADMINISTRATOR

(TO BE FILED IN DUPLICATE WITH TAX RETURN)



Exhibit 86 – NJ Gross Income Tax Fiduciary Return

**NJ-1041**  
**2009**  
**INITIAL RETURN**

Federal Employer Identification Number  
**22-2334334**

STATE OF NEW JERSEY INCOME TAX  
**FIDUCIARY RETURN**  
For Tax Year Jan. - Dec. 31, 2009 or  
Other Tax Year Beginning **,2009 1019**  
Ending **,20**  
Check block  if application for Federal extension is  
attached or enter confirmation number \_\_\_\_\_

Name of Estate or Trust  
**ESTATE OF EDWARD CROW**

Name and Title of Fiduciary  
**THOMAS CROW, ADMINISTRATOR**

Address of Fiduciary (Number and Street or Rural Route)  
**3 EISENHOWER PARKWAY**

City, Town, Post Office  
**ROSELAND**

State  
**NJ**

ZIP Code  
**07068**

**FILING STATUS (Check only one box)**

1.  Resident Estate  
Date of decedent's death **02/03/09**

2. Resident Trust  
Date trust created \_\_\_\_\_ Type of Trust **ESTATE**

3. Nonresident Estate  
Date of decedent's death and State \_\_\_\_\_ Name of State \_\_\_\_\_

4. Nonresident Trust  
Date trust created and State \_\_\_\_\_

5. If estate closed or trust terminated check box \_\_\_\_\_  
Also, state the date \_\_\_\_\_

**GUBERNATORIAL ELECTIONS FUND** Do you wish to designate \$1 of your taxes for this fund? Yes  No

**NOTE: Nonresident estates and trusts, see instructions**

6	Interest	STATEMENT 1	6	158,586 .
6a	Tax Exempt Interest	6a	.	
7	Dividends		7	.
7a	Tax Exempt Dividend	7a	.	
8	Net profits from business (From Sch. A, Line 38)		8	.
9	Net gains or income from disposition of property (From Sch. B, Line 42)		9	.
10	Net gains or income from rents, royalties, patents and copyrights (From Sch. C, Line 45)		10	.
11	Distributive Share of Partnership Income (Attach Sch. NJK-1)		11	.
12	Net pro rata share of S Corporation Income (Attach Sch. NJK-1)		12	.
13	Other income - State nature		13	.
14	Gross Income (Add Lines 6 through 13) If \$10,000 or less, see instructions		14	158,586 .
15	Distributions (From Sch. D, Line 47A)		15	.
16	Total Income (Line 14 minus Line 15)		16	158,586 .
16a	NONRESIDENTS: NJ Income (From Sch. G, Line 11)	16a	.	
17	Income Commissions	17	.	
18	Exemption - Enter \$1,000 (part-year taxpayers - see instr.)	18	1,000 .	
19	Health Enterprise Zone Deduction	19	.	
20	Total deductions and exemption (Add Lines 17, 18 and 19)	20	1,000 .	
21	Taxable Income (Line 16 less Line 20)	21	157,586 .	

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11-02-09

Exhibit 86 – NJ Gross Income Tax Fiduciary Return - Continued



2009 NJ-1041, PAGE 2

1019

22	Taxable Income (from Page 1, Line 21)	22	157,586 .
<b>NONRESIDENTS ONLY</b>			
23	Tax on amount on Line 22 (From Tax Table, Page 15)	23	.
24	Income Percentage $\frac{\text{(Line 16a)}}{\text{(Line 16)}} =$ %		
25	TAX: Residents (From Tax Table, Page 15)	25	7,912 .
	Nonresidents (Multiply amount from Line 23 X % from Line 24)		
26	Credit for income or wage taxes paid by NJ estates or trusts to other jurisdictions (From Sch. E, Line 52)	26	.
27	Balance of Tax (Subtract Line 26 from Line 25)	27	7,912 .
28	Sheltered Workshop Tax Credit	28	.
29	Balance of Tax after credit (Subtract Line 28 from Line 27)	29	7,912 .
30	New Jersey Income Tax previously paid	30	.
31a	Tax paid on your behalf by partnership(s) From NJK-1s	31a	.
31b	Tax paid on your behalf by partnership(s) and Distributed From Line 47c	31b	.
31c	Net tax paid on your behalf by partnership(s) (Line 31a minus 31b)	31c	.
32	Total payments and credits (Add Lines 30 and 31c)	32	.
33	Balance of Tax Due (Line 29 less Line 32)	33	7,912 .
34	Overpayment (Line 32 less Line 29)	34	.
35	Credit to 2010 tax	35	.
36	Refund (Line 34 less Line 35)	36	.



Under the penalties of perjury, I declare that I have examined this Income tax return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. If prepared by a person other than taxpayer, this declaration is based on all information of which the preparer has any knowledge.

Pay amount on Line 33 in full. Write social security number(s) on check or money order and make payable to:

Signature of Fiduciary or Officer Representing Fiduciary	Date
I authorize the Division of Taxation to discuss my return and enclosures with my preparer <input checked="" type="checkbox"/>	
Paid Preparer's Signature, Address, Date	Federal Identification Number
D. LAWYER 3 EISENHOWER PARKWAY ROSELAND, NEW JERSEY 22-5656556	

STATE OF NEW JERSEY - TGI  
Division of Taxation  
Revenue Processing Center  
PO Box 888  
Trenton, NJ 08646-0888

You may also pay by e-check or credit card.

986302  
11-02-09

Division Use: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_ 6 \_\_\_\_\_ 7 \_\_\_\_\_

Exhibit 86 – NJ Gross Income Tax Fiduciary Return - Continued

NJ-1041 2009		Page 3					
Federal Employer Identification Number 22-2334334		Name of Estate or Trust ESTATE OF EDWARD CROW					
		Name and Title of Fiduciary THOMAS CROW, ADMINISTRA					
<b>SCHEDULE A NET PROFITS FROM BUSINESS</b> List below the type of business, address, and net profit (loss) from each business carried on individually by the taxpayer. Enclose Federal Schedule C or F.							
TYPE OF BUSINESS		ADDRESS					
NET PROFIT (LOSS)							
37.							
38. TOTAL (Enter here and on Page 1, Line 8) (If loss enter ZERO)		38					
<b>SCHEDULE B NET GAINS OR INCOME FROM DISPOSITION OF PROPERTY</b> List the net gains or income, less net loss, derived from the sale, exchange, or other disposition of property including real or personal whether tangible or intangible. Enclose Federal Schedule D.							
(a) Kind of property and description	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Gross sales price				
(e) Cost or other basis as adjusted (see instructions) and expense of sale	(f) Gain or (loss) (d less e)						
39.							
40. Capital Gains Distributions			40				
41. Other Net Gains			41				
42. Net Gains (Add Lines 39, 40, and 41) (Enter here and on Page 1, Line 9) (If loss enter ZERO)			42				
<b>SCHEDULE C NET GAINS OR INCOME FROM RENTS, ROYALTIES, PATENTS, AND COPYRIGHTS</b> List the net gains or net income, less net loss, derived from or in the form of rents, royalties, patents, and copyrights as reported on your Federal Income Tax Return. If you have passive losses for Federal purposes, see instructions. Enclose Federal Schedule E.							
(a) Kind of Property	(b) Net Rental Income (loss)	(c) Net Income From Royalties	(d) Net Income From Patents				
(e) Net Income From Copyrights							
43.							
44. TOTALS	(b)	(c)	(d)				
45. Net Income (Combine Columns b, c, d, and e) (Enter here and on Page 1, Line 10) (If loss enter ZERO)			45				
<b>SCHEDULE D BENEFICIARIES' SHARES OF INCOME</b> Enclose New Jersey Schedule NJK-1							
Name and Address of Each Beneficiary	Indicate Residency Status	Social Security Number	DISTRIBUTIONS				
			Column A Total Income	Column B NJ Source Income	Column C Tax Paid by Partnerships		
46.							
47. TOTAL (Enter amount from Line 47A on Page 1, Line 15) (Enter amount from Line 47B on Schedule G, Line 10) (Enter amount from Line 47C on Page 2, Line 31b)			47A	0	47B	0	47C
<b>SCHEDULE E CREDIT FOR INCOME OR WAGE TAXES PAID TO OTHER JURISDICTION</b> A copy of other state or political subdivision tax return must be retained with your records.							
48. Income actually taxed by other jurisdiction during tax year (indicate name)			48				
(Do not combine the same income taxed by more than one jurisdiction.) Amount on Ln 48 cannot exceed amount on Ln 49							
49. Income Subject to Tax by New Jersey. (From Page 1, Line 16)			49				
50. Maximum Allowable Credit (48) x (49) (Divide Line 49 into Line 48)	(New Jersey Tax, Line 25, Page 2) =		50				
51. Income tax paid to other jurisdiction			51				
52. Credit Allowed. (Enter lesser of Line 50 or Line 51 here and on Page 2, Line 26)			52				
<b>SCHEDULE F ALLOCATION OF BUSINESS INCOME TO NEW JERSEY</b> See instructions if other than Formula Basis of allocation is used. Enclose Form NJ-NR-A to Form NJ-1041.							
<b>BUSINESS ALLOCATION PERCENTAGE (From Form NJ-NR-A)</b>							
Enter below, the line number and amount of each item of business income reported on Form NJ-1041 which is required to be allocated and multiply by allocation percentage to determine amount of income from New Jersey sources.							
From Line No.	\$	x	% = \$				
From Line No.	\$	x	% = \$				

**Exhibit 86 – NJ Gross Income Tax Fiduciary Return - Continued**

**SCHEDULE G**  
(FORM NJ-1041)

**2009**

**NEW JERSEY GROSS INCOME TAX**  
**NEW JERSEY INCOME OF NONRESIDENT ESTATES AND TRUSTS**

All nonresident estates and trusts must complete this schedule and file it with the New Jersey Gross Income Tax Fiduciary Return (Form NJ-1041)

Enter name, address, and Federal Employer Identification Number as shown on Form NJ-1041

Name of Estate or Trust			Federal Employer Identification Number
Name and Title of Fiduciary			
Address of Fiduciary (Number and Street or Rural Route)			For the Taxable Year Ended (Month, Day, Year)
City, Town, Post Office	State	Zip Code	

INCOME FROM NEW JERSEY SOURCES:	Net losses in one category cannot be applied against income in another. In case of a net loss in any category, enter "zero" for that category.	New Jersey Income	
1. Interest .....		1.	
2. Dividends .....		2.	
3. Net profits from business .....		3.	
4. Net gains or income from disposition of property .....		4.	
5. Net gains or income from rents, royalties, patents, and copyrights .....		5.	
6. Distributive share of partnership income .....		6.	
7. Net pro rata share of S corporation income .....		7.	
8. Other Income - State Nature .....		8.	
9. TOTAL INCOME FROM NEW JERSEY SOURCES (Add Lines 1 through 8) .....		9.	0 00
10. New Jersey source income distributed to beneficiaries (From Schedule D Line 47B) .		10.	
11. New Jersey income (Line 9 less Line 10). (Enter here and on Line 16a) .....		11.	0 00

**Exhibit 86 – NJ Gross Income Tax Fiduciary Return - Continued**

**SCHEDULE  
NJK-1**  
(Form NJ-1041)  
2009

**STATE OF NEW JERSEY**  
Division of Taxation

**Beneficiary's or Grantor's Share of Income**

For Calendar Year 2009, or Fiscal Year Beginning \_\_\_\_\_, 2009 and ending \_\_\_\_\_

<b>PART I</b>				General Information			
Beneficiary or Grantor Information				Estate or Trust Information			
Federal Identification Number 333-44-5555				Federal Identification Number 22-2334334			
Name BARBARA CROW				Name of Estate or Trust ESTATE OF EDWARD CROW			
Street Address 5 MAIN STREET				Name of Fiduciary THOMAS CROW, ADMINISTRATOR			
				Street Address C/O D. LAWYER			
City NEWTOWN, NJ		State NJ		ZIP Code 08600			
City 3 EISENHOWER PARKWAY				State		ZIP Code	
Check Applicable Box				Check Applicable Box			
Individual		Resident <input checked="" type="checkbox"/>		Nonresident <input type="checkbox"/>		Estate	
Trust		<input type="checkbox"/>		<input type="checkbox"/>		Trust <input type="checkbox"/>	
Tax-Exempt Entity		<input type="checkbox"/>		<input type="checkbox"/>		Grantor Trust <input type="checkbox"/>	
Grantor		<input type="checkbox"/>		<input type="checkbox"/>			
<input checked="" type="checkbox"/> Final NJK-1		<input type="checkbox"/> Member of Composite Return		<input type="checkbox"/> Amended NJK-1			
<b>PART II</b> Beneficiary's Share of Income							
				Total Distribution		New Jersey Source Income Distributed	
				4,011.		Tax Paid by Partnerships and Distributed	
Net Income From Estate or Trust							
<b>PART III</b>							
Grantor's Share of Income				Everywhere Income		NJ Source Income	
Interest NJ Exempt _____							
Dividends NJ Exempt _____							
Net profits or loss from business .....							
Net gains, income or loss from disposition of property .....							
Net gains, income or loss from rents, royalties, patents and copyrights .....							
Distributive share of partnership income or loss .....							
Net pro rata share of S corporation income or loss .....							
Other Income - state nature .....							
Tax paid by partnership(s) on behalf of trust .....							

THIS FORM MAY BE REPRODUCED

## **Exhibit 86 – NJ Gross Income Tax Fiduciary Return - Continued**

### **Beneficiary and Grantor Reporting of Income**

For gross income tax reporting purposes, the net income earned by an estate or trust does not retain its character, i.e., interest, partnership income; rather it is a specified income category - Net Gains or Income Derived Through Estates or Trusts.

The net income from an estate or trust actually distributed or required to be distributed during the taxable year is taxable to the beneficiary in the income category, Net Income From Estates and Trusts. In completing New Jersey Form NJ-1040, NJ-1040NR or NJ-1041 the income is included on the line Other Income.

#### **Beneficiary Reporting of NJK-1 Income and Tax Paid by Partnerships and Distributed**

Resident Individual, Estate or Trust - Include the Total Distribution on Form NJ-1040 or Form NJ-1041, Other Income.

Nonresident Individual - Include the Total Distribution on Form NJ-1040NR, in Column A, Other Income. Include the New Jersey Source Income Distributed in Column B, Other Income. Include the Tax Paid by Partnerships and Distributed on Form NJ-1040NR, Line 46.

Nonresident Estate or Trust - Include the Total Distribution on Form NJ-1041, Other Income. Include the New Jersey Source Income Distributed on Schedule G, Other Income. Include the Tax Paid by Partnerships and Distributed on Form NJ-1041, Line 31a.

#### **Grantor Reporting of NJK-1 Share of Income and Tax Paid by Partnerships on Behalf of Trust**

Resident Grantor - Include the Everywhere Income amounts in each category of income on Form NJ-1040.

Nonresident Grantor - Include the Everywhere Income amounts in each category of income on Form NJ-1040NR, Column A. Include the New Jersey Source Income amounts in each category of income in Column B. Include Tax Paid by Partnerships on Behalf of Trust on Line 46.

Exhibit 87 – U.S. Fiduciary Income Tax Return – Second Year

Form <b>1041</b> Department of the Treasury Internal Revenue Service		<b>U.S. Income Tax Return for Estates and Trusts</b>		2009	
For calendar year 2009 or fiscal year beginning		2009 and ending		OMB No. 1545-0082	
<b>A</b> Type of entity: <input checked="" type="checkbox"/> Decedent's estate <input type="checkbox"/> Simple trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Qualified disability trust <input type="checkbox"/> ESBT (S portion only) <input type="checkbox"/> Grantor type trust <input type="checkbox"/> Bankruptcy estate-Ch. 7 <input type="checkbox"/> Bankruptcy estate-Ch. 11 <input type="checkbox"/> Pooled income fund	Name of estate or trust (If a grantor type trust, see page 14 of the instructions.) <b>ESTATE OF EDWARD CROW</b>		<b>C</b> Employer identification number 22 2334334		
	Name and title of fiduciary <b>THOMAS CROW, ADMINISTRATOR</b> <b>C/O D. LAWYER</b>		<b>D</b> Date entity created 02/03/2009		
Number, street, and room or suite no. (If a P.O. box, see page 15 of the instructions.) <b>3 EISENHOWER PARKWAY</b>		City or town, state, and ZIP code <b>ROSELAND NJ 07068</b>		<b>E</b> Nonexempt charitable and split-interest trusts, check applicable boxes (see pg 16 of the instr.): <input type="checkbox"/> Described in section 4947(a)(1) <input type="checkbox"/> Not a private foundation <input type="checkbox"/> Described in section 4947(a)(2)	
<b>B</b> No. of Schedules K-1 attached <b>1</b>	<b>F</b> Check applicable boxes: <input type="checkbox"/> Initial return <input checked="" type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Change in fiduciary <input type="checkbox"/> Change in fiduciary's name <input type="checkbox"/> Change in fiduciary's address				
<b>G</b> Check here if the estate or filing trust made a section 645 election <input type="checkbox"/>					
<b>Income</b>	1	Interest income	SEE STATEMENT 1	1	4,011.
	2 a	Total ordinary dividends		2a	
	b	Qualified dividends allocable to: (1) Beneficiaries (2) Estate or trust			
	3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)		3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)		4	
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)		5	
	6	Farm income or (loss). Attach Schedule F (Form 1040)		6	
	7	Ordinary gain or (loss). Attach Form 4797		7	
	8	Other income. List type and amount		8	
9	Total income. Combine lines 1, 2a, and 3 through 8		9	4,011.	
<b>Deductions</b>	10	Interest. Check if Form 4952 is attached <input type="checkbox"/>		10	
	11	Taxes		11	
	12	Fiduciary fees		12	
	13	Charitable deduction (from Schedule A, line 7)		13	
	14	Attorney, accountant, and return preparer fees		14	
	15 a	Other deductions not subject to the 2% floor (attach schedule)		15a	
	b	Allowable miscellaneous itemized deductions subject to the 2% floor		15b	
	16	Add lines 10 through 15b		16	
	17	Adjusted total income or (loss). Subtract line 16 from line 9	4,011.	17	4,011.
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)		18	4,011.
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)		19	
20	Exemption		20	600.	
21	Add lines 18 through 20		21	4,611.	
<b>Tax and Payments</b>	22	Taxable income. Subtract line 21 from line 17. If a loss, see page 23 of the instructions		22	-600.
	23	Total tax (from Schedule G, line 7)		23	0.
	24 a	Payments: a 2009 estimated tax payments and amount applied from 2008 return		24a	
	b	Estimated tax payments allocated to beneficiaries (from Form 1041-T)		24b	
	c	Subtract line 24b from line 24a		24c	
	d	Tax paid with Form 7004 (see page 24 of the instructions)		24d	
	e	Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>		24e	
		Other payments: f Form 2439 ; g Form 4136 ; Total		24h	
	25	Total payments. Add lines 24c through 24e, and 24h		25	
26	Estimated tax penalty (see page 24 of the instructions)		26		
27	Tax due. If line 25 is smaller than the total of lines 23 and 26, enter amount owed		27		
28	Overpayment. If line 25 is larger than the total of lines 23 and 26, enter amount overpaid		28		
29	Amount of line 28 to be: a Credited to 2010 estimated tax ; b Refunded		29		
<b>Sign Here</b>	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			May the IRS discuss this return with the preparer shown below (see instr.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	Signature of fiduciary or officer representing fiduciary			Date	EIN of fiduciary if a financial institution
<b>Paid Preparer's Use Only</b>	Preparer's signature		Date	Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN	
	Firm's name (or yours if self-employed), address, and ZIP code <b>D. LAWYER</b> <b>3 EISENHOWER PARKWAY</b> <b>ROSELAND, NEW JERSEY 07068</b>		EIN		22 5656556
LHA			Phone no.		973-200-0000

Exhibit 87 – U.S. Fiduciary Income Tax Return – Second Year -Continued

<b>Schedule A Charitable Deduction.</b> Do not complete for a simple trust or a pooled income fund.	
1	Amounts paid or permanently set aside for charitable purposes from gross income (see page 25 of the instructions) .....
2	Tax-exempt income allocable to charitable contributions (see page 25 of the instructions) .....
3	Subtract line 2 from line 1 .....
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes .....
5	Add lines 3 and 4 .....
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes (see instructions) .....
7	<b>Charitable deduction.</b> Subtract line 6 from line 5. Enter here and on page 1, line 13 .....

<b>Schedule B Income Distribution Deduction</b>		
1	Adjusted total income (see page 26 of the instructions) .....	4,011.
2	Adjusted tax-exempt interest .....	
3	Total net gain from Schedule D (Form 1041), line 15, column (1) (see page 26 of the instructions) .....	
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion) .....	
5	Capital gains for the tax year included on Schedule A, line 1 (see page 26 of the instructions) .....	
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number .....	
7	<b>Distributable net income.</b> Combine lines 1 through 6. If zero or less, enter -0- .....	4,011.
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law .....	
9	Income required to be distributed currently .....	4,011.
10	Other amounts paid, credited, or otherwise required to be distributed .....	
11	<b>Total distributions.</b> Add lines 9 and 10. If greater than line 8, see page 27 of the instructions .....	4,011.
12	Enter the amount of tax-exempt income included on line 11 .....	
13	<b>Tentative income distribution deduction.</b> Subtract line 12 from line 11 .....	4,011.
14	<b>Tentative income distribution deduction.</b> Subtract line 2 from line 7. If zero or less, enter -0- .....	4,011.
15	<b>Income distribution deduction.</b> Enter the smaller of line 13 or line 14 here and on page 1, line 18 .....	4,011.

<b>Schedule C Tax Computation</b> (see page 27 of the instructions)			
1	<b>Tax:</b> a Tax on taxable income (see page 27 of the instructions) .....	1a	0.
	b Tax on lump-sum distributions. Attach Form 4972 .....	1b	
	c Alternative minimum tax (from Schedule I (Form 1041), line 56) .....	1c	
	d <b>Total.</b> Add lines 1a through 1c .....	1d	0.
2a	Foreign tax credit. Attach Form 1116 .....	2a	
b	Other nonbusiness credits (attach schedule) .....	2b	
c	General business credit. Attach Form 3800 .....	2c	
d	Credit for prior year minimum tax. Attach Form 8801 .....	2d	
3	<b>Total credits.</b> Add lines 2a through 2d .....	3	0.
4	Subtract line 3 from line 1d. If zero or less, enter -0- .....	4	0.
5	Recapture taxes. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611 .....	5	
6	Household employment taxes. Attach Schedule H (Form 1040) .....	6	
7	<b>Total tax.</b> Add lines 4 through 6. Enter here and on page 1, line 23 .....	7	0.

<b>Other Information</b>		Yes	No
1	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses Enter the amount of tax-exempt interest income and exempt-interest dividends ▶ \$ .....		X
2	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement? .....		X
3	At any time during calendar year 2009, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? .....		X
	See page 30 of the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country ▶ .....		
4	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See page 30 of the instructions .....		X
5	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see page 30 for required attachment .....		X
6	If this is an estate or a complex trust making the section 663(b) election, check here (see page 30 of the instructions) .....	<input type="checkbox"/>	
7	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here (see page 30 of the instructions) .....	<input type="checkbox"/>	
8	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here .....	<input type="checkbox"/>	
9	Are any present or future trust beneficiaries skip persons? See page 30 of the instructions .....		X



Exhibit 87 – U.S. Fiduciary Income Tax Return – Second Year -Continued

**SCHEDULE I  
(Form 1041)**  
Department of the Treasury  
Internal Revenue Service

**Alternative Minimum Tax - Estates and Trusts**

OMB No. 1545-0082  
**2009**

▶ Attach to Form 1041. See the separate instructions for Schedule I (Form 1041).

Name of estate or trust  
**ESTATE OF EDWARD CROW**

Employer identification number  
**22-2334334**

**Part I Estate's or Trust's Share of Alternative Minimum Taxable Income**

1	Adjusted total income or (loss) (from Form 1041, line 17)	1	4,011.
2	Interest	2	
3	Taxes	3	
4	Miscellaneous itemized deductions (from Form 1041, line 15b)	4	
5	Refund of taxes	5	( )
6	Depletion (difference between regular tax and AMT)	6	
7	Net operating loss deduction. Enter as a positive amount	7	
8	Interest from specified private activity bonds exempt from the regular tax	8	
9	Qualified small business stock (see page 2 of the instructions)	9	
10	Exercise of incentive stock options (excess of AMT income over regular tax income)	10	
11	Other estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	11	
12	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	12	
13	Disposition of property (difference between AMT and regular tax gain or loss)	13	
14	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	14	
15	Passive activities (difference between AMT and regular tax income or loss)	15	
16	Loss limitations (difference between AMT and regular tax income or loss)	16	
17	Circulation costs (difference between regular tax and AMT)	17	
18	Long-term contracts (difference between AMT and regular tax income)	18	
19	Mining costs (difference between regular tax and AMT)	19	
20	Research and experimental costs (difference between regular tax and AMT)	20	
21	Income from certain installment sales before January 1, 1987	21	( )
22	Intangible drilling costs preference	22	
23	Other adjustments, including income-based related adjustments	23	
24	Alternative tax net operating loss deduction (See the instructions for the limitation that applies.)	24	( )
25	Adjusted alternative minimum taxable income. Combine lines 1 through 24	25	4,011.
Note: Complete Part II below before going to line 26.			
26	Income distribution deduction from Part II, line 44	26	4,011.
27	Estate tax deduction (from Form 1041, line 19)	27	
28	Add lines 26 and 27	28	4,011.
29	Estate's or trust's share of alternative minimum taxable income. Subtract line 28 from line 25	29	0.

If line 29 is:

- \$22,500 or less, stop here and enter -0- on Form 1041, Schedule G, line 1c. The estate or trust is not liable for the alternative minimum tax.
- Over \$22,500, but less than \$165,000, go to line 45.
- \$165,000 or more, enter the amount from line 29 on line 51 and go to line 52.

**Part II Income Distribution Deduction on a Minimum Tax Basis**

30	Adjusted alternative minimum taxable income (see page 6 of the instructions)	30	4,011.
31	Adjusted tax-exempt interest (other than amounts included on line 8)	31	
32	Total net gain from Schedule D (Form 1041), line 15, column (1). If a loss, enter -0-	32	
33	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes (from Form 1041, Schedule A, line 4)	33	
34	Capital gains paid or permanently set aside for charitable purposes from gross income (see page 6 of the instructions)	34	
35	Capital gains computed on a minimum tax basis included on line 25	35	( )
36	Capital losses computed on a minimum tax basis included on line 25. Enter as a positive amount	36	
37	Distributable net alternative minimum taxable income (DNAMTI). Combine lines 30 through 36. If zero or less, enter -0-	37	4,011.
38	Income required to be distributed currently (from Form 1041, Schedule B, line 9)	38	4,011.
39	Other amounts paid, credited, or otherwise required to be distributed (from Form 1041, Schedule B, line 10)	39	0.
40	Total distributions. Add lines 38 and 39	40	4,011.
41	Tax-exempt income included on line 40 (other than amounts included on line 8)	41	
42	Tentative income distribution deduction on a minimum tax basis. Subtract line 41 from line 40	42	4,011.

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 1041.

Schedule I (Form 1041) (2009)

**Exhibit 87 – U.S. Fiduciary Income Tax Return – Second Year -Continued**

Schedule I (Form 1041) (2009) **ESTATE OF EDWARD CROW** 22-2334334 Page 2

<b>Part II Income Distribution Deduction on a Minimum Tax Basis (continued)</b>		
43	Tentative income distribution deduction on a minimum tax basis. Subtract line 31 from line 37. If zero or less, enter -0-	43 4,011.
44	Income distribution deduction on a minimum tax basis. Enter the smaller of line 42 or line 43. Enter here and on line 26	44 4,011.
<b>Part III Alternative Minimum Tax</b>		
45	Exemption amount	45 \$22,500
46	Enter the amount from line 29	46
47	Phase-out of exemption amount	47 \$75,000
48	Subtract line 47 from line 46. If zero or less, enter -0-	48
49	Multiply line 48 by 25% (.25)	49
50	Subtract line 49 from line 45. If zero or less, enter -0-	50
51	Subtract line 50 from line 46	51
52	Go to Part IV of Schedule I to figure line 52 if the estate or trust has qualified dividends or has a gain on lines 14a and 15 of column (2) of Schedule D (Form 1041) (as figured for the AMT, if necessary). Otherwise, if line 51 is - • \$175,000 or less, multiply line 51 by 26% (.26). • Over \$175,000, multiply line 51 by 28% (.28) and subtract \$3,500 from the result	52
53	Alternative minimum foreign tax credit (see page 7 of the Instructions)	53
54	Tentative minimum tax. Subtract line 53 from line 52	54
55	Enter the tax from Form 1041, Schedule G, line 1a (minus any foreign tax credit from Schedule G, line 2a)	55
56	Alternative minimum tax. Subtract line 55 from line 54. If zero or less, enter -0-. Enter here and on Form 1041, Schedule G, line 1c	56
<b>Part IV Line 52 Computation Using Maximum Capital Gains Rates</b>		
Caution: If you did not complete Part V of Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet, see page 8 of the Instructions before completing this part.		
57	Enter the amount from line 51	57
58	Enter the amount from Schedule D (Form 1041), line 22, line 13 of the Schedule D Tax Worksheet, or line 4 of the Qualified Dividends Tax Worksheet, whichever applies (as figured for the AMT, if necessary)	58
59	Enter the amount from Schedule D (Form 1041), line 14b, column (2) (as figured for the AMT, if necessary). If you did not complete Schedule D for the regular tax or the AMT, enter -0-	59
60	If you did not complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 58. Otherwise, add lines 58 and 59 and enter the smaller of that result or the amount from line 10 of the Schedule D Tax Worksheet (as figured for the AMT, if necessary)	60
61	Enter the smaller of line 57 or line 60	61
62	Subtract line 61 from line 57	62
63	If line 62 is \$175,000 or less, multiply line 62 by 26% (.26). Otherwise, multiply line 62 by 28% (.28) and subtract \$3,500 from the result	63
64	Maximum amount subject to the 0% rate	64 \$2,300
65	Enter the amount from line 23 of Schedule D (Form 1041), line 14 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet on page 27 of the Instructions for Form 1041, whichever applies (as figured for the regular tax). If you did not complete Schedule D or either worksheet for the regular tax, enter -0-	65
66	Subtract line 65 from line 64. If zero or less, enter -0-	66
67	Enter the smaller of line 57 or line 58	67
68	Enter the smaller of line 66 or line 67	68
69	Subtract line 68 from line 67	69
70	Multiply line 69 by 15% (.15) If line 59 is zero or blank, skip lines 71 and 72 and go to line 73. Otherwise, go to line 71.	70
71	Subtract line 67 from line 61	71
72	Multiply line 71 by 25% (.25)	72
73	Add lines 63, 70, and 72	73
74	If line 57 is \$175,000 or less, multiply line 57 by 26% (.26). Otherwise, multiply line 57 by 28% (.28) and subtract \$3,500 from the result	74
75	Enter the smaller of line 73 or line 74 here and on line 52	75

**Exhibit 88 – Beneficiary’s Share of Income, Deductions, Credits, Etc.**

661109

Schedule K-1  
(Form 1041)

**2009**

Final K-1  Amended K-1 OMB No. 1545-0092

Department of the Treasury or tax year beginning \_\_\_\_\_  
Internal Revenue Service and ending \_\_\_\_\_

**Beneficiary’s Share of Income, Deductions, Credits, etc.**  
▶ See separate instructions.

<b>Part I Information About the Estate or Trust</b>		<b>Part II Beneficiary’s Share of Current Year Income, Deductions, Credits, and Other Items</b>	
<b>A</b> Estate’s or trust’s employer identification number 22-2334334		1	Interest income 4,011.
<b>B</b> Estate’s or trust’s name  ESTATE OF EDWARD CROW		11	Final year deductions
<b>C</b> Fiduciary’s name, address, city, state, and ZIP code THOMAS CROW, ADMINISTRATOR C/O D. LAWYER 3 EISENHOWER PARKWAY ROSELAND, NJ 07068		2a	Ordinary dividends
<b>D</b> <input type="checkbox"/> Check if Form 1041-T was filed and enter the date it was filed _____		2b	Qualified dividends
<b>E</b> <input checked="" type="checkbox"/> Check if this is the final Form 1041 for the estate or trust		3	Net short-term capital gain
<b>Part III Information About the Beneficiary</b>		4a	Net long-term capital gain
<b>F</b> Beneficiary’s identifying number 333-44-5555		4b	28% rate gain 12 Alternative min tax adjustment
<b>G</b> Beneficiary’s name, address, city, state, and ZIP code BARBARA CROW 5 MAIN STREET NEWTOWN, NJ 08600		4c	Unrecaptured section 1250 gain
<b>H</b> <input checked="" type="checkbox"/> Domestic beneficiary <input type="checkbox"/> Foreign beneficiary		5	Other portfolio and nonbusiness income
		6	Ordinary business income
		7	Net rental real estate income
		8	Other rental income 13 Credits and credit recapture
		9	Directly apportioned deductions
		10	Estate tax deduction
		14	Other information E 4,011.
		*See attached statement for additional information.  <b>Note.</b> A statement must be attached showing the beneficiary’s share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.	
		For IRS Use Only	

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 1041.

Schedule K-1 (Form 1041) 2009

**Exhibit 88 – Beneficiary’s Share of Income, Deductions, Credits, Etc. - Continued**

Schedule K-1 (Form 1041) 2009

Page 2

This list identifies the codes used on Schedule K-1 for beneficiaries and provides summarized reporting information for beneficiaries who file Form 1040. For detailed reporting and filing information, see the instructions for Beneficiary Filing Form 1040 and the instructions for your income tax return.

	Report on
1. Interest income	Form 1040, line 8a
2a. Ordinary dividends	Form 1040, line 9a
2b. Qualified dividends	Form 1040, line 9b
3. Net short-term capital gain	Schedule D, line 5
4a. Net long-term capital gain	Schedule D, line 12
4b. 28% rate gain	Line 4 of the worksheet for Schedule D, line 18
4c. Unrecaptured section 1250 gain	Line 11 of the worksheet for Schedule D, line 19
5. Other portfolio and nonbusiness income	Schedule E, line 33, column (f)
6. Ordinary business income	Schedule E, line 33, column (d) or (f)
7. Net rental real estate income	Schedule E, line 33, column (d) or (f)
8. Other rental income	Schedule E, line 33, column (d) or (f)
9. Directly apportioned deductions	
Code	
A Depreciation	Form 8582 or Schedule E, line 33, column (c) or (e)
B Depletion	Form 8582 or Schedule E, line 33, column (c) or (e)
C Amortization	Form 8582 or Schedule E, line 33, column (c) or (e)
10. Estate tax deduction	Schedule A, line 28
11. Final year deductions	
A Excess deductions	Schedule A, line 23
B Short-term capital loss carryover	Schedule D, line 5
C Long-term capital loss carryover	Schedule D, line 12; line 5 of the wksht. for Sch. D, line 18; and line 16 of the wksht. for Sch. D, line 19
D Net operating loss carryover — regular tax	Form 1040, line 21
E Net operating loss carryover — minimum tax	Form 8251, line 12

Code	Report on
A Adjustment for minimum tax purposes	Form 6251, line 16
B AMT adjustment attributable to qualified dividends	See the beneficiary's instructions and the Instructions for Form 6251
C AMT adjustment attributable to net short-term capital gain	
D AMT adjustment attributable to net long-term capital gain	
E AMT adjustment attributable to unrecaptured section 1250 gain	
F AMT adjustment attributable to 28% rate gain	
G Accelerated depreciation	
H Depletion	
I Amortization	
J Exclusion items	2010 Form 8801
13. Credits and credit recapture	
A Credit for estimated taxes	Form 1040, line 62
B Credit for backup withholding	Form 1040, line 61
C Low-income housing credit	Form 8586 (also see the beneficiary's instructions)
D Rehabilitation credit and energy credit	See the beneficiary's instructions
E Other qualifying investment credit	See the beneficiary's instructions
F Work opportunity credit	Form 5884, line 3
G Welfare-to-work credit	Form 3800, line 1b
H Alcohol and cellulosic biofuel fuels credit	Form 6478, line 7 (also see the beneficiary's instructions)
I Credit for increasing research activities	Form 3800, line 1c
J Renewable electricity, refined coal, and Indian coal production credit	See the beneficiary's instructions
K Empowerment zone and renewal community employment credit	Form 8844, line 3
L Indian employment credit	Form 3800, line 1g
M Orphan drug credit	Form 3800, line 1h
N Credit for employer-provided child care and facilities	Form 3800, line 1k
O Biodiesel and renewable diesel fuels credit	Form 8864, line 9 (also see the beneficiary's instructions)
P Nonconventional source fuel credit	Form 3800, line 1o
Q Credit to holders of tax credit bonds	Form 8912, line 8
R Agricultural chemicals security credit	Form 3800, line 1v
S Energy efficient appliance credit	Form 3800, line 1q
T Credit for employer differential wage payments	Form 3800, line 1w
U Recapture of credits	See the beneficiary's instructions
14. Other information	
A Tax-exempt interest	Form 1040, line 8b
B Foreign taxes	Form 1040, line 47 or Sch. A, line 8
C Qualified production activities income	Form 8903, line 7
D Form W-2 wages	Form 8903, line 15
E Net investment income	Form 4952, line 4a
F Gross farm and fishing income	Schedule E, line 42
G Foreign trading gross receipts (IRC 942(a))	See the instructions for Form 8873
H Other information	See the beneficiary's instructions

Note. If you are a beneficiary who does not file a Form 1040, see instructions for the type of income tax return you are filing.

## Exhibit 88 – Beneficiary's Share of Income, Deductions, Credits, Etc. - Continued

Schedule K-1 (Form 1041) 2009

Page 3

## Instructions for Beneficiary Filing Form 1040

**Note.** The fiduciary's instructions for completing Schedule K-1 are in the Instructions for Form 1041.

## General Instructions

## Purpose of Form

Use Schedule K-1 to report your share of the estate's or trust's income, credits, deductions, etc. Keep it for your records. Do not file it with your tax return. A copy has been filed with the IRS.

## Inconsistent Treatment of Items

Generally, you must report items shown on your Schedule K-1 (and any attached schedules) the same way that the estate or trust treated the items on its return.

If the treatment on your original or amended return is inconsistent with the estate's or trust's treatment, or if the estate or trust was required to but has not filed a return, you must file Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), with your original or amended return to identify and explain any inconsistency (or to note that an estate or trust return has not been filed).

If you are required to file Form 8082 but fail to do so, you may be subject to the accuracy-related penalty. This penalty is in addition to any tax that results from making your amount or treatment of the item consistent with that shown on the estate's or trust's return. Any deficiency that results from making the amounts consistent may be assessed immediately.

## Errors

If you believe the fiduciary has made an error on your Schedule K-1, notify the fiduciary and ask for an amended or a corrected Schedule K-1. Do not change any items on your copy. Be sure that the fiduciary sends a copy of the amended Schedule K-1 to the IRS. If you are unable to reach an agreement with the fiduciary regarding the inconsistency, you must file Form 8082.

## Beneficiaries of Generation-Skipping Trusts

If you received Form 706-GS(D-1), Notification of Distribution From a Generation-Skipping Trust, and paid a generation-skipping transfer (GST) tax on Form 706-GS(D), Generation-Skipping Transfer Tax Return for Distributions, you can deduct the GST tax paid on income distributions on Schedule A (Form 1040), line 8. To figure the deduction, see the Instructions for Form 706-GS(D).

## Specific Instructions

## Part I—Information About the Estate or Trust

## Item E

If the item E box is checked, this is the final year of the estate or trust.

**Note.** If the "Final K-1" box at the top of Schedule K-1 is checked, this is the final return for the beneficiary.

## Part III—Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

The amounts shown in boxes 1 through 14 reflect your share of income, loss, deductions, credits, etc., from an estate or trust. For Form 1040 filers, page 2 of Schedule K-1 provides summarized reporting information. The summarized reporting information reflects references to forms in use for calendar year 2009.

If you are not an individual, report the amounts in each box as instructed on your tax return.

**Codes.** In box 9 and boxes 11 through 14, the fiduciary will identify each item by entering a code in the column to the left of the dollar amount entry space. These codes are identified on page 2 of Schedule K-1.

**Attached statements.** The fiduciary will enter an asterisk (\*) after the code, if any, in the column to the left of the dollar amount entry space for each item for which it has attached a statement providing additional information. For those informational items that cannot be reported as a single dollar amount, the estate or trust will enter an asterisk in the left column and write "STMT" in the dollar amount entry space to indicate the information is provided on an attached statement.

## Boxes 3 and 4a—Net Short-Term and Net Long-Term Capital Gain

If there is an attachment to this Schedule K-1 reporting a disposition of a passive activity, see the Instructions for Form 8582, Passive Activity Loss Limitations, for information on the treatment of dispositions of interests in a passive activity.

## Box 5—Other Portfolio and Nonbusiness Income

The amount reported in this box is your distributive share of royalties, annuities, and other income that is not subject to the passive activity rules. It also includes income in respect of a decedent (IRD), which is not included in boxes 1, 2a, 3, 4a, 6, 7, or 8.

## Boxes 6 through 8—Ordinary Business Income, Net Rental Real Estate Income, and Other Rental Income

The deductions in boxes 6 through 8 may be subject to the passive loss limitations of Internal Revenue Code section 469, which generally limits deductions from passive activities to the income from those activities. The fiduciary will provide you with a separate schedule showing your distributive share of income from each trade or business, net rental real estate, or other rental activity. The rules for applying these limitations to beneficiaries have not yet been issued. For more details, see Pub. 925, Passive Activity and At-Risk Rules.

**Exhibit 88 – Beneficiary’s Share of Income, Deductions, Credits, Etc. - Continued**

Schedule K-1 (Form 1041) 2009

Page 4

**Box 9—Directly Apportioned Deductions**

The fiduciary must attach a statement showing depreciation, depletion, and amortization directly apportioned to you, if any, for each activity reported in boxes 5 through 8.

**Box 12—Alternative Minimum Tax Items**

The information reported in box 12, codes A through I is used to prepare your Form 6251, Alternative Minimum Tax—Individuals. Code A, Adjustment for minimum tax purposes, is the total amount reported on Form 6251, line 16. Codes B through F represent the portion, if any, of the amount included in code A.

**Codes B through F.** If you have an amount in box 12 with code B, C, D, E, or F, see the instructions for lines 38, 39, and 40 of Form 6251.

**Codes G through I.** Include the amount with any of these codes on the applicable line of Form 6251.

**Code J. Exclusion items.** If you pay alternative minimum tax in 2009, the amount in box 12, code J will help you figure any minimum tax credit for 2010. See the 2010 Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts, for more information.

**Box 13—Credits and Credit Recapture**

Codes A through T list all the credits that may be allocated to you as a beneficiary. The corresponding line shows you what form to use when reporting the amount.

**Code A. Credit for estimated taxes.** The beneficiary treats this amount as a payment of estimated tax. To figure any underpayment and penalty on Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, treat the amount entered on box 13, code A, as an estimated tax payment made on January 15, 2010.

**Note.** Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, must be timely filed by the fiduciary for the beneficiary to get the credit for an estimated tax payment.

**Code C. Low-income housing credit.** The fiduciary will provide you with a statement showing the amount to report on line 4 and 11 of Form 8586, Low-Income Housing Credit. If you only have an amount to report on line 4 of Form 8586 and your only source for the credit is a pass-through entity, such as an estate or trust, then you can report the amount on line 1d of Form 3800, General Business Credit, and you do not have to complete Form 8586.

**Code D. Rehabilitation credit and energy credit.** The fiduciary must provide you with a statement that shows the information you will need and where to enter it on Form 3468, Investment Credit, so that you can figure the amount of any rehabilitation credit and energy credit that you may claim.

**Code E. Other qualifying investment credit.** This code is used to report the qualified investment for figuring the qualifying advanced coal project credit, the qualifying gasification project credit, and the qualifying advanced energy project credit. The fiduciary must provide you with a statement that shows the information you will need and where to report it on Form 3468 so that you can figure the amount of the previously listed credits that you may claim.

**Code H. Alcohol and cellulosic biofuel fuels credit.** If this credit includes the small ethanol producer credit, the fiduciary will provide additional information on an attached statement. If a statement is attached, see the instructions for line 15 of Form 6478, Alcohol and Cellulosic Biofuel Fuels Credit.

If no statement is attached, report this amount on Form 6478, line 7.

**Code J. Renewable electricity, refined coal, and Indian coal production credit.** Complete Form 8835, Renewable Electricity, Refined Coal, and Indian Coal Production Credit, to figure the amount of your credit. The fiduciary must provide a statement showing the amount of credit to report on line 9 in Part I, and how much to report on line 29 in Part II of Form 8835.

**Code O. Biodiesel and renewable diesel fuels credit.** If this credit includes the small agri-biodiesel producer credit, the fiduciary will provide additional information on an attached statement. If no statement is attached, report this amount on line 9 of Form 8864, Biodiesel and Renewable Diesel Fuels Credit. If a statement is attached, see the instructions for Form 8864, line 11.

**Code U. Recapture of credits.** If you are required to recapture any credits, the fiduciary will provide a statement with the information you need to figure your credit recapture.

**Box 14—Other Information**

**Code F. Gross farming and fishing income.** The amount of farming and fishing income is included in box 6. This income is separately stated to help you determine if you are subject to a penalty for underpayment of estimated tax. Report the amount of gross farming and fishing income on Schedule E (Form 1040), line 42.

**Code H. Other income.** If this code is used, the fiduciary will provide you with any additional information you may need to file your return that is not shown elsewhere on this Schedule K-1.

**Exhibit 88A – Attorney General’s Opinion Letter Re Recognition  
In New Jersey of Same-Sex Marriages, Civil Unions, Domestic  
Partnerships and Other Government-Sanctioned Same-Sex  
Relationships**



JON S. CORZINE  
*Governor*

*State of New Jersey*  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF LAW  
25 MARKET STREET  
PO Box 112  
TRENTON, NJ 08625-0112

STUART RABNER  
*Attorney General*

ROBERT J. GILSON  
*Director*

February 16, 2007

Joseph Komosinski  
State Registrar of Vital Statistics  
Health and Agriculture Building  
P.O. Box 360  
Trenton, New Jersey 08625-0360

Formal Opinion No. 3-2007

Re: Recognition in New Jersey of Same-Sex  
Marriages, Civil Unions, Domestic Partnerships  
and Other Government-Sanctioned, Same-Sex  
Relationships Established Pursuant to the Laws  
of Other States and Foreign Nations.

Dear Mr. Komosinski:

Questions have been raised whether, once L. 2006, c. 103, the statute authorizing civil unions in our State, becomes effective, New Jersey will recognize as valid same-sex relationships formed under the laws of other States and foreign nations. You are advised that government-sanctioned, same-sex relationships validly established under the laws of other States and foreign nations will be valid in New Jersey beginning on February 19, 2007, either as civil unions or domestic partnerships. The name of the relationship selected by other jurisdictions, however, will not control its treatment under New Jersey law. Rather, it is the nature of the rights conferred by another jurisdiction that will determine how a relationship will be treated under New Jersey law. This requires both a comparison of the rights granted by the other jurisdiction to those afforded under New Jersey's civil union statute and domestic partnership law, as well as fidelity to the intent of the New Jersey Legislature.



**Exhibit 88A – Attorney General’s Opinion Letter Re Recognition  
In New Jersey of Same-Sex Marriages, Civil Unions, Domestic  
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As a result, those same-sex relationships from other jurisdictions that most closely approximate a New Jersey civil union - that is, relationships that provide substantially all of the rights and benefits of marriage - will be treated as civil unions under our law. Those same-sex relationships from other jurisdictions that most closely approximate New Jersey domestic partnerships - that is, relationships that provide some, but not all of the rights and obligations of marriage - will be treated as domestic partnerships under our law. Treatment of government-sanctioned, same-sex relationships from other jurisdictions in this fashion is consistent with the Legislature’s decision to provide all of the rights and obligations of marriage, to same-sex couples through civil unions rather than marriage and to maintain domestic partnerships as a distinct government-sanctioned relationship after civil unions become effective.

Under this analysis, same-sex civil unions established under the current laws of Vermont and Connecticut, as well as same-sex domestic partnerships established under the laws of California, which provide rights that closely approximate those of New Jersey civil unions, will be valid in New Jersey and treated as civil unions in our State. In addition, same-sex marriages established under the current laws of Massachusetts, Canada, the Netherlands, Belgium, South Africa and Spain will be valid in New Jersey and treated as civil unions in our State. Great Britain, New Zealand, Iceland, and Sweden provide government-sanctioned, same-sex relationships that provide rights and obligations that closely approximate those offered to married couples. These relationships, which have a variety of names, will also be valid in New Jersey and treated as civil unions in New Jersey.

Couples in these relationships need not secure a New Jersey civil union license or solemnize their relationships in this State in order to enjoy all of the rights and obligations of a New Jersey civil union. However, pursuant to N.J.S.A. 37:1-7, a same-sex couple in a civil union or comparable relationship as noted above established under the laws of another jurisdiction may reaffirm their relationship under New Jersey law. Couples who reaffirm their relationships under this provision will receive a New Jersey civil union license and certificate of reaffirmation of civil union and will be registered as being in a civil union in this State. Ibid.

Same-sex couples in other government-sanctioned, same-sex relationships, such as the domestic partnerships recognized by



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Maine and the District of Columbia, the reciprocal beneficiary relationships authorized under the laws of Hawaii, and the various same-sex relationships recognized by foreign nations that provide a set of rights and obligations fewer in number and scope than those afforded to married couples will be valid in New Jersey and treated as domestic partnerships in our State.

Couples in these relationship also need not register as domestic partners in New Jersey to enjoy the rights and obligations of domestic partnership in our State. However, same-sex couples in government-sanctioned relationships from other jurisdictions that approximate domestic partnerships, and who otherwise meet the requirements of New Jersey law, may enter into a New Jersey civil union with each other and secure all of the rights and obligations of a civil union in this State.

1. Background: Government-Sanctioned, Same-Sex Relationships.

Massachusetts is the only State that permits same-sex couples to marry. Marriage is available to same-sex couples in that State on the same terms as it is available to mixed-gender couples. See Opinion of the Justices to the Senate, 802 N.E.2d 565 (Mass. 2004); Goodridge v. Department of Public Health, 798 N.E.2d 941 (Mass. 2003). In addition, marriage is available to same-sex couples on the same terms that it is available to mixed-gender couples in five countries: Canada, the Netherlands, Belgium, South Africa and Spain. See Netherlands Legal Code, Art. 1:30; Moniteur Belge, 28.02.2003 Ed. 3 9880-9883; S.C. 2005, c. 33, s.2 and s.4; Laws of South Africa 2006, No. 17; Boletin Oficial De Las Cortes Generales, No. 18-1, 21 June 2005, 121/000018.

Civil unions, which provide all of the legal rights and obligations of marriage, are distinct legal relationships available to same-sex couples in Vermont and Connecticut. See Vt. Stat. Ann. tit. 15, §1204(a); Conn. Gen. Stat. Ann. §46b-38nn. New Jersey’s civil union statute, L. 2006, c. 103, which will offer all of the rights and obligations of marriage to same-sex couples, will become effective on February 19, 2007.

Domestic partnerships, which generally provide same-sex couples some, but not all, of the rights and obligations of marriage, are recognized in several States and foreign nations. An exception in this category is California, which provides domestic partners with a host of rights approximating those afforded to married couples. Cal. Fam. Code §297.5(a). The majority of

**Exhibit 88A – Attorney General’s Opinion Letter Re Recognition  
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jurisdictions that recognize domestic partners, including Maine, the District of Columbia and Hawaii (where the unions are called “reciprocal beneficiary relationships”) provide notably fewer rights to domestic partners than to married couples. See 2003 Me. Laws c. 672; D.C. Code §32-702; Haw. Rev. Stat. §572C-2, et seq.

New Jersey’s domestic partnership statute, which provides some, but not all, of the rights and obligations of marriage, took effect on July 10, 2004, L. 2003, c. 246, and will remain in place when the law authorizing civil unions takes effect. The rights and responsibilities of domestic partnerships existing before the effective date of L. 2006, c. 103 will not be altered. N.J.S.A. 26:8A-4.1. However, all same-sex couples in domestic partnerships will be provided with notice and an opportunity to enter into a civil union with each other. Ibid. If they elect to do so, their domestic partnerships will be dissolved automatically when their civil union comes into being. Ibid. In addition, once the law authorizing civil unions becomes effective, the only new domestic partnerships that will be authorized are for couples, either same-sex or mixed-gender, both of whom are over 62 years of age. Ibid.

Government-sanctioned, same-sex relationships other than marriage exist in, among other nations, Andorra, Colombia, Croatia, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Hungary, Iceland, Israel, Luxembourg, New Zealand, Norway, Portugal, Slovenia, Sweden, Switzerland, and parts of Argentina, Brazil, Italy, Mexico, and in all Australian States. The terminology for these unions is not standardized and the names given to these relationships translate into, among other things, life partnerships, stable unions, civil pacts, registered partnerships, domestic partnerships, civil partnerships, reciprocal beneficiary relationships, and significant relationships. The recognized relationships in Great Britain, New Zealand, Iceland, and Sweden offer rights that match those offered to married couples. See Laws of Great Britain 2004, c. 33; Laws of New Zealand 2004, No. 102; Laws of Iceland No. 87 12 June 1996; Laws of Sweden 1994.1117, c. 3, §1.

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2. Recognition of Civil Unions, Domestic Partnerships, Reciprocal Beneficiary Relationships, and other Same-Sex Relationships Established Under the Laws of Other States and Foreign Nations.

New Jersey law expressly mandates recognition of same-sex relationships other than marriage validly established under the laws of other jurisdictions. The Domestic Partnership Act provides that a “domestic partnership, civil union or reciprocal beneficiary relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the partnership was created, shall be valid in this State.” N.J.S.A. 26:8A-6c. In addition, the law authorizing civil unions provides that a “civil union relationship entered into outside of this State, which is valid under the laws of the jurisdiction under which the civil union relationship was created, shall be valid in this State.” N.J.S.A. 37:1-34; L. 2006, c. 103, §95.

Current Vermont and Connecticut civil unions, like their New Jersey counterpart, provide all of the rights and obligations of marriage to the civil union partners. See Vt. Stat. Ann. tit. 15 §1204(a); Conn. Gen. Stat. Ann. §46b-38nn. These unions, therefore, are valid in New Jersey and should be accorded all of the rights and obligations of a New Jersey civil union. The current California domestic partnership, despite its name, has been expanded to include rights and benefits indistinguishable from marriage. Cal. Fam. Code §297.5(a). Given the scope of California’s domestic partnership, this relationship more closely approximates a New Jersey civil union than a New Jersey domestic partnership and should be treated as the equivalent of a New Jersey civil union. The same is true for the civil partnerships authorized by Great Britain, Sweden, New Zealand and Iceland, where same-sex couples are afforded rights and benefits identical to civil marriage. See Laws of Great Britain 2004, c. 33; Laws of New Zealand 2004, No. 102; Laws of Iceland No. 87 12 June 1996; Laws of Sweden 1994.1117, c. 3, §1.

Domestic partnerships, reciprocal beneficiary relationships and other government-sanctioned, same-sex relationships that afford rights and obligations less expansive than the rights and benefits of marriage are valid in New Jersey and will provide all of the rights and obligations of a New Jersey domestic partnership. The domestic partnerships authorized by the current laws of Maine and the District of Columbia fall into this category. See Me. Pub. L. 2003, c. 672; D.C. Pub. L. 9-114. These

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relationships, like New Jersey’s domestic partnerships, provide for limited health care, inheritance, property rights, and other rights and obligations, but do not approach the broad array of rights and obligations afforded to married couples. Government-sanctioned, same-sex relationships provided by other jurisdictions that approximate New Jersey domestic partnerships are valid in this State and should provide all of the rights and obligations of a New Jersey domestic partnership.

Government-sanctioned, same-sex relationships other than marriage authorized by foreign nations not addressed in this Formal Opinion should be examined under the analysis set forth herein. Those that approximate a New Jersey domestic partnerships are valid in New Jersey and provide all of the rights and obligations of a New Jersey domestic partnership. Any that more closely approximate a civil union also are valid in New Jersey and provide all of the rights and obligations of a New Jersey civil union.

3. Recognition of Same-Sex Marriages Established under the  
Laws of Massachusetts and Foreign Nations.

In Lewis v. Harris, 188 N.J. 415 (2006), our Supreme Court held that the State Constitution requires that same-sex couples be afforded access to a government-sanctioned relationship that provides all of the rights and obligations of marriage. The Court held that this mandate could be satisfied either by extending the ability to marry to same-sex couples or by providing a distinct, government-sanctioned relationship that would provide same-sex couples with all of the rights and obligations of marriage. The Legislature decided not to authorize same-sex marriages, but to create civil unions as the vehicle for providing the rights and obligations of marriage to same-sex couples.

This history is instructive in deciding how to treat same-sex marriages established in Massachusetts and foreign nations under New Jersey law: Consistent with Lewis v. Harris, such marriages could be called either marriages or civil unions, so long as all of the rights and obligations of marriage were provided. It is reasonable to conclude that the Legislature intended that these same-sex relationships be considered civil unions in view of the Legislature’s response to the holding in Lewis v. Harris. The Legislature’s lawful policy judgment should be respected and followed.

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Accordingly, same-sex marriages established under the laws of Massachusetts and foreign nations are valid in New Jersey and should be treated as civil unions in our State.<sup>1</sup>

4. Conclusion

In light of your authority to supervise local registrars of vital statistics who will have authority to issue marriage licenses and civil union licenses, see N.J.S.A. 26:8-24, and in the interest of uniform Statewide practices, it would be appropriate to inform local registrars of the advice provided in this letter.

Sincerely yours,



STUART RABNER

ATTORNEY GENERAL OF NEW JERSEY

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<sup>1</sup> Although the Full Faith and Credit Clause of the United States Constitution mandates that States recognize the "public Acts, Records, and judicial Proceedings of every other State," U.S. Const. art. IV, §1, that requirement is not absolute. The Clause does not require "a state to substitute the statutes of other states for its own statutes dealing with a subject matter concerning which it is competent to legislate." Baker v. General Motors Corp., 522 U.S. 222, 232 (1998) (quoting Pacific Employers Ins. Co. v. Industrial Accident Comm'n, 306 U.S. 493, 501 (1939)); see Franchise Tax Bd. v. Hyatt, 538 U.S. 488 (2003) (Full Faith and Credit Clause does not require a State to adopt another State's sovereign immunity statutes). Recognizing same-sex marriages established under Massachusetts law as civil unions in New Jersey both gives substantial effect to the Massachusetts relationships by providing all of the rights and obligations of marriage and comports with the intent of the New Jersey Legislature to provide those rights to same-sex couples through a civil union. Similarly, with respect to same-sex marriages formed under the laws of foreign nations, as "a general matter, the laws of one nation do not have force or effect beyond its borders." Hennefeld v. Township of Montclair, 22 N.J. Tax 166, 178 (Tax 2005) (quoting In re: Kandu, 315 B.R. 123, 133 (Bankr. W.D. Wash. 2004)). Comity, however, permits States to give effect to foreign laws. Recognizing same-sex marriages established in foreign nations respects foreign laws and comports with New Jersey's legislative decisions regarding the provision of rights and obligations to same-sex couples.

Exhibit 89 – Inheritance and Estate Tax (NJ) Estimated Payment

IT-EP (04-09)  
Transfer Inheritance Tax  
PO Box 249  
Trenton, NJ 08695-0249

STATE OF NEW JERSEY  
DIVISION OF TAXATION  
INHERITANCE AND ESTATE TAX  
Payment on Account (Estimated Payment)

For Division Use Only

Decedent's Name SMITH JOHN Decedent's S.S. No. 123-45-6789  
(Last) (First) (Middle)  
Date of Death (mm/dd/yy) 01/03/2010 County of Residence ESSEX Testate  Intestate   
Mailing Address Name DARREN LAWYER Daytime Phone 973-111-2222  
to send all Street 1 MAIN STREET  
correspondence City NEWARK State NJ Zip Code 07102

PAYMENT ON ACCOUNT (Estimated Payment)

The amount remitted with this form is a payment on account (estimated payment) to be applied as indicated below.  
(Please check ONE box only.)

- (Code 67) 1a.  Inheritance Tax Only ..... \$ 15,000.00
- (Code 68) 1b.  Estate Tax Only ..... \$ \_\_\_\_\_
- 1c.  Combined Inheritance and Estate Taxes to be applied as follows:  
Inheritance Tax Payment ..... \$ \_\_\_\_\_  
Estate Tax Payment ..... \$ \_\_\_\_\_
- 2. Total Amount Remitted with this Form ..... \$ 15,000.00

Payments on account may be made at any time to avoid further accrual of interest on the amount so paid. All applications for the refund of an overpayment must be made in writing within the three year statutory period in accordance with and in the manner set forth in N.J.A.C. 18:26-3A.12 (Estate Tax) and N.J.A.C. 18:26-10.12 (Inheritance Tax).

Make checks payable to "NJ Inheritance Tax", PO Box 249, Trenton, NJ 08695-0249.

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Official form is smaller than full page. Please cut to size along dashed line before filing.

## Exhibit 90 – NJ Transfer Inheritance – Estate Tax – General

### INTRODUCTION

#### NEW JERSEY TRANSFER INHERITANCE TAX - ESTATE TAX

##### GENERAL

New Jersey has had a Transfer Inheritance Tax since 1892 when a 5% tax was imposed on property transferred from a decedent to a beneficiary. Currently, the law imposes a graduated Transfer Inheritance Tax ranging from 11% to 16% on the transfer of real and personal property with a value of \$500.00 or more to certain beneficiaries.

The Transfer Inheritance Tax recognizes five beneficiary classes, as follows:

**Class "A"** - Father, mother, grandparents, spouse/civil union partner (after 2/19/07), domestic partner (after 7/10/04), child or children of the decedent, adopted child or children of the decedent, issue of any child or legally adopted child of the decedent and step-child of the decedent.

**Class "B"** - Eliminated by statute effective July 1, 1963.

**Class "C"** - Brother or sister of the decedent, including half brother and half sister, wife/civil union partner (after 2/19/07) or widow/surviving civil union partner (after 2/19/07) of a son of the decedent, or husband/civil union partner (after 2/19/07) or widow/surviving civil union partner (after 2/19/07) of a daughter of the decedent.

**Class "D"** - Every other transferee, distributee or beneficiary who is not included in Classes "A", "C" or "E".

**Class "E"** - The State of New Jersey or any political subdivision thereof, or any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to, for the use of or in trust for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that the exemption does not extend to transfers of property to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption on transfers of property for the benefit of such institutions and organizations of this State.

**NOTES:** If any beneficiary is claimed to be the mutually acknowledged child of the decedent, said claim should be set forth in the detailed manner prescribed under N.J.A.C. 18:26-2.6.

For the purposes of the New Jersey Transfer Inheritance Tax an adopted child is accorded the same status as a natural child and, therefore, his relations are treated in the same manner as those of a natural child. (i.e. if the decedent's adopted son marries/enters into a civil union, his spouse/civil union partner is "the wife/civil union partner of a son of the decedent" and therefore a class "C" beneficiary).

The offspring of a biological parent conceived by the artificial insemination of that parent who is a partner in a civil union is presumed to be the child of the non-biological partner. In the Matter of the Parentage of the Child of Kimberly Robinson, 383 N.J. Super. 165; 890 A.2d 1036 (Ch. Div. 2005) (Non-biological parent of New York registered domestic partnership recognized in New Jersey, presumed to be the biological parent of child conceived by the other partner through artificial insemination where the non-biological partner has "show[n] indicia of commitment to be a spouse and to be a parent to the child.").

A devise of real property to a husband and wife/civil union partner as "tenants by the entirety" provides each with a vested life estate, the remainder being contingent. See N.J.A.C. 18:26-8.12.

The issue of stepchildren ARE Class "D" (NOT Class "A") beneficiaries.

The following ARE Class "D" (NOT Class "C") beneficiaries: stepbrother or stepsister of the decedent, husband/wife/civil union partner/domestic partner or widow/widower/surviving civil union partner/surviving domestic partner of a stepchild or mutually acknowledged child of the decedent.

The fact that a beneficiary may be considered "nonprofit" by the Internal Revenue Service does not necessarily mean that it qualifies for exemption as a Class "E" beneficiary since the criteria are different.

##### TAX RATES

Each class of beneficiary has its own separate tax rate. See the Rate Schedule on Page 4.

##### EXEMPTIONS

1. The transfer of real and personal property in this State held by a husband and wife/civil union couple as "tenants by the entirety" to the surviving spouse/civil union partner is not taxable for New Jersey Inheritance Tax purposes.
2. The transfer of intangible personal property such as stocks, bonds, corporate securities, bank deposits and mortgages owned by a nonresident decedent is not subject to the New Jersey Inheritance Tax.
3. Any sum recovered under the New Jersey Death Act as compensation for wrongful death of a decedent is not subject to the New Jersey Inheritance Tax except as provided below:
  - a. Any sum recovered under the New Jersey Death Act representing damages sustained by a decedent between the date of injury and date of death, such as the expenses of care, nursing, medical attendance, hospital and other charges incident to the injury, including loss of earnings and pain and suffering are to be included in the decedent's estate.
  - b. Where an action is instituted under the New Jersey Death Act and terminates through the settlement by a compromise payment without designating the amount to be paid under each count, the amount which must be included in the inheritance tax return is an amount, to the extent recovered, which is equal to specific expenses related to the injury. These expenses are similar to those mentioned in sections a. above and include funeral expenses, hospitalization and medical expenses, and other expenses incident to the injury. Any amount which is recovered in excess of these expenses is considered to be exempt from the tax.
4. The proceeds of any contract of insurance insuring the life of a resident or nonresident decedent paid or payable, by reason of the death of such decedent, to one or more named beneficiaries other than the estate, executor or administrator of such decedent are exempt for New Jersey Inheritance Tax purposes.

## Exhibit 90 – NJ Transfer Inheritance – Estate Tax – General - Continued

5. The transfer of property to a beneficiary or beneficiaries of a trust created during the lifetime of a resident or nonresident decedent, to the extent such property results from the proceeds of any contract of insurance, insuring the life of such decedent and paid or payable to a trustee or trustees of such decedent by reason of the death of such decedent, is exempt from the New Jersey Inheritance Tax irrespective of whether such beneficiary or beneficiaries have a present, future, vested, contingent or defeasible interest in such trust.
6. The transfer of life insurance proceeds insuring the life of a resident or nonresident decedent, paid or payable by reason of the death of such decedent to a trustee or trustees of a trust created by such decedent during his lifetime for the benefit of one or more beneficiaries irrespective of whether such beneficiaries have a present, future, vested, contingent or defeasible interest in such trust, is exempt from the New Jersey Inheritance Tax.
7. The transfer, relinquishment, surrender or exercise at any time or times by a resident or nonresident of this State, of any right to nominate or change the beneficiary or beneficiaries of any contract of insurance insuring the life of such resident or nonresident, regardless of when such transfer, relinquishment, surrender or exercise of such right occurred, is exempt from the tax.
8. Any amount recovered (under the Federal Liability for Injuries to Employees Act) for injuries to a decedent by the personal representative for the benefit of the classes of beneficiaries designated in that Statute, whether for the pecuniary loss sustained by such beneficiaries as a result of the wrongful death of the decedent or for the loss and suffering by the decedent while he lived, or both is not subject to the Inheritance Tax.

Any amount recovered by the legal representatives of any decedent by reason of any war risk insurance certificate or policy, either term or converted, or any adjusted service certificate issued by the United States, whether received directly from the United States or through any intervening estate or estates, is exempt from the New Jersey Inheritance Tax.

This exemption does not entitle any person to a refund of any tax heretofore paid on the transfer of property of the nature aforementioned; and does not extend to that part of the estate of any decedent composed of property, when such property was received by the decedent before death.
9. The proceeds of any pension, annuity, retirement allowance, return of contributions or benefit payable by the Government of the United States pursuant to the Civil Service Retirement Act, Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent are exempt.
10. All payments at death under the Teachers Pension and Annuity Fund, the Public Employees' Retirement System for New Jersey, and the Police and Firemen's Retirement System of New Jersey, and such other State, county and municipal systems as may have a tax exemption clause as broad as that of the three major State systems aforementioned, whether such payments either before or after retirement are made on death to the employee's estate or to his specifically designated beneficiary, are exempt from the New Jersey Inheritance Tax.

The benefit payable under the supplementary annuity plan of the State of New Jersey is not considered a benefit of the Public Employee's Retirement System and is taxable whether paid to a designated beneficiary or to the estate.

The death benefits paid by the Social Security Administration or railroad Retirement Board to the spouse of a decedent are also exempt. For purposes of filing a return these amounts need not be reported nor are they to be deducted from the amount claimed as a deduction for funeral expenses.

In all other cases the death benefit involved should either be reported as an asset of the estate or deducted from the amount claimed for funeral expenses.
11. Other pensions. An exemption is provided for payments from any pension, annuity, retirement allowance or return of contributions, which is a direct result of the decedent's employment under a qualified plan as defined by section 401(a), (b), and (c) or 2039(c) of the Internal Revenue Code, which is payable to a surviving spouse or domestic partner.
12. No Fault Insurance. The amount payable by reason of medical expenses incurred as a result of personal injury to the decedent should be reflected by reducing the amount claimed for medical expenses as a result of the accident.

The amount payable at the death of an income producer as a result of injuries sustained in an accident, which are paid to the estate of the income producer, is reportable for taxation. In all other instances this amount is exempt.

The amount paid at death to any person under the essential services benefits section is exempt from taxation.

The claim for funeral expense is to be reduced by the amount paid under the funeral expenses benefits section of the law.

### SAFE DEPOSIT BOXES

Safe deposit boxes are no longer inventoried by the New Jersey Division of Taxation. On September 30, 1992, the Division issued a blanket release in the form of a letter from the Director, Division of Taxation, to all banking institutions, safe deposit companies, trust companies, and other institutions which serve as custodians of safe deposit boxes. The contents of the boxes may be released without inspection by the Division.

### WHERE TO FILE

All returns except the L-8 are to be filed with the New Jersey Division of Taxation, Individual Tax Audit Branch, Transfer Inheritance and Estate Tax, 50 Barrack Street, PO Box 249, Trenton, New Jersey 08695-0249.

### WHEN TAX RETURNS ARE DUE

A Transfer Inheritance Tax Return must be filed and the tax paid on the transfer of real and personal property within eight months after the death of either:

A RESIDENT decedent for the transfer of real or tangible personal property located in New Jersey or intangible personal property wherever situated, or

A NONRESIDENT decedent for the transfer of real or tangible personal property located in New Jersey. No tax is imposed on nonresident decedents for real property located outside of New Jersey and intangible personal property wherever situated.



## Exhibit 90 – NJ Transfer Inheritance – Estate Tax – General - Continued

The return must be filed whenever any tax is due or a waiver is needed. The tax is a lien on all property for fifteen years unless paid sooner or secured by an acceptable bond. Interest accrues on unpaid taxes at the rate of 10% per annum.

For EXEMPTIONS see the heading "EXCEPTIONS" below. AMENDMENTS TO AN ORIGINAL RETURN

In the case of both resident and non-resident estates, any assets and/or liabilities not disclosed in the original return and all supplemental data requested by the Division is to be filed in affidavit form and attested to by the duly authorized statutory representative of the estate, next of kin, or beneficiary certifying in detail a description of the asset, real or personal and/or the liability and the reasons for failure to disclose same in the original return and filed directly with the NJ Transfer Inheritance.

### ESTATE TAX

In addition to the inheritance tax, the State of New Jersey imposes an estate tax on the estate of certain resident decedents. Even estates that are partially or fully exempt from the inheritance tax may be subject to the New Jersey Estate Tax.

A New Jersey Estate Tax Return must be filed when the gross estate plus adjusted taxable gifts as determined in accordance with the provisions of the Internal Revenue Code in effect on December 31, 2001, exceeds \$675,000.

The law requires that a copy of the Federal Estate Tax return be filed with the Division within thirty days after the filing of the original with the Federal Government. Also, the Division must be supplied with copies of all communications from the Federal Government making final changes or confirming, increasing or decreasing the tax shown to be due. Instructions are contained in form IT-Estate.

### WAIVERS

Bank accounts, certificates of deposit etc., in the name of, or belonging to a RESIDENT decedent, in financial institutions located in this state, cannot be transferred without the written consent of the Division of Taxation. This consent is referred to as a WAIVER.

Stocks and bonds etc., in the name of, or belonging to a RESIDENT decedent, of corporations organized under the laws of this state are subject to the same waiver requirements.

Real property, located in New Jersey, in the name of, or belonging to a RESIDENT or a NON-RESIDENT decedent is subject to the same waiver requirements, however, real property held by a husband and wife/civil union couple as "tenants by the

entirety" in the estate of the spouse/civil union partner dying first need not be reported, regardless of the date of death and waivers are not required.

A membership certificate or stock in a cooperative housing corporation held in the name of the decedent and a surviving spouse/civil union partner or domestic partner as joint tenants with the right of survivorship is exempt, if it entitled them to use it as their principal residence. However a waiver is required for this transfer in the estate of a RESIDENT decedent.

Waivers are not required for automobiles, household goods, personal effects, accrued wages or mortgages, but these items must be reported in the return filed.

### EXCEPTIONS

Notwithstanding the waiver provisions above any financial institution may release up to 50% of any bank account, certificate of deposit etc. to the survivor, in the case of a joint account, the executor, administrator or other legal representative of a RESIDENT decedent's estate. This procedure is referred to as a BLANKET WAIVER. This procedure is not available for the transfer of stocks and bonds. For a detailed explanation see N.J.A.C. 18:26-11.16.

A SELF EXECUTING WAIVER, FORM L-8, has been created for Class "A" beneficiaries in the estates of RESIDENT decedents.

Use of this form MAY eliminate the need to file a formal Inheritance Tax return. Your attention is directed to the instructions contained in the body of the L-8, a copy of which is included in this booklet. (Not included in IT-R Schedule Booklet.)

This form is to be filed with the financial institution which will then be authorized to release the subject asset without the necessity of receiving a waiver from the Division. DO NOT file this form with the Division.

A REQUEST FOR A REAL PROPERTY TAX WAIVER, FORM L-9, has been created for Class "A" beneficiaries in the estates of RESIDENT decedents. This form may be used in two instances where property passes to class "A" beneficiaries.

Use of this form MAY eliminate the need to file a formal Inheritance Tax Return. Your attention is directed to the instructions contained in the body of the L-9.

This form is to be filed directly with the Branch. If the form is in order the necessary waiver/waivers will be promptly issued.

NEITHER THE L-8 NOR THE L-9 may be used where it is claimed that a relationship of mutually acknowledged child exists.

---

### IMPORTANT REMINDERS

- If the decedent died TESTATE you must supply a legible copy of the LAST WILL AND TESTAMENT, all CODICILS thereto and any SEPARATE WRITINGS.
- A copy of the decedent's last full year's FEDERAL INCOME TAX RETURN is required.
- All returns, forms and correspondence must contain the decedent's SOCIAL SECURITY NUMBER.
- PAYMENTS ON ACCOUNT may be made to avoid the accrual of interest. (Form IT-EP)
- If PAYMENTS are not made by CERTIFIED CHECK the issuance of waivers may be delayed.
- All CHECKS should be made payable to NJ INHERITANCE AND ESTATE TAX and sent to the New Jersey Division of Taxation, Individual Tax Audit Branch, Transfer Inheritance and Estate Tax, 50 Barrack Street, PO Box 249, Trenton, NJ 08695-0249.

**Exhibit 90 – NJ Transfer Inheritance – Estate Tax – General - Continued**

**CLASS "A" TRANSFEREES ARE ENTIRELY EXEMPT  
IN ESTATES OF DECEDENTS DYING ON OR AFTER JULY 1, 1988**

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**Class "C" TRANSFEREES IN ESTATES OF DECEDENTS  
DYING ON OR AFTER 7/1/88**

First	\$ 25,000	Exempt
Next	1,075,000	11%
Next	300,000	13%
Next	300,000	14%
Over	1,700,000	16%

---

**CLASS "D" TRANSFEREES IN ESTATES OF DECEDENTS  
DYING ON OR AFTER 3-29-62**

If less than \$500: no tax If \$500 or more: no exemption		
First	\$700,000	15%
Over	\$700,000	16%

Exhibit 91 - Application to Extend Time to File Inheritance and Estate Tax Returns (NJ)

IT-EXT (3-07)

NJ Division of Taxation - Inheritance and Estate Tax Application for Extension of Time to File A Return

Decedent's Name (Last) (First) (Middle) Decedent's S.S. No.

Date of Death (mm/dd/yy) County of Residence Testate Intestate

Name of Executor/Administrator/Heir-at-Law Social Security Number

Address Daytime Phone

Mailing Address to send all correspondence:

Name Daytime Phone

Street

City State Zip Code

Extension of time to file:

Inheritance Tax Return Extension Requested for months

Estate Tax Return Extension Requested for months

(Both requests may be made on one form)

Inheritance Tax returns are due 8 months following the death of the decedent. An extension may be initially requested for a period of up to 4 months beyond the original due date. If it is not possible to file the return within the 4 month extension periods, an additional 2 month extension may be requested. Extensions beyond 6 months from the original due date of the return will be granted only in cases where the Director determines that exceptional circumstances exist.

Estate Tax returns (except returns filed using the Form 706 method which are due 9 months plus 30 days following the death of the decedent) are due 9 months following the death of the decedent. An extension may be requested for a period up to 6 months beyond the original due date. Extensions beyond 6 months from the original due date of the return will be granted only in cases where the Director determines that exceptional circumstances exist.

IMPORTANT: An extension of time to file does not extend the time to pay. Interest accrues on any unpaid Inheritance Tax ultimately determined to be due from eight months after the decedent's date of death and on any unpaid Estate Tax ultimately determined to be due from 9 months after the decedent's date of death in accordance with the applicable statutes. An extension will not prevent the estate from receiving computer generated delinquent notices.

Certification:

Under penalties of perjury, I declare that to the best of my knowledge and belief, the statements made herein are true and correct.

Executor / Administrator / Heir-at-Law / Estate Representative

Date

Mail completed form to: State of New Jersey, Division of Taxation, Individual Tax Audit Branch - Inheritance & Estate Tax, PO Box 249, Trenton, NJ 08695-0249 Phone: (609) 292-5033

EXTENSION REQUESTS WILL NOT RECEIVE A REPLY UNLESS THE REQUEST IS DENIED

Division Use Only

The application for the extension of time to file is: [ ] Approved for the period to: [ ] Not Approved [ ] Other

For the Division:

Exhibit 92 - Breakdown of Bill from Inheritance Tax Bureau

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
TRANSFER INHERITANCE TAX BUREAU

ASSIGNMENT IN RE.

Estate of DORRA DAVIS of Essex County  
Last Resident of Newark Date of Death January 2, 1990

Assessment Detail	Estimated	
AMOUNT OF ESTATE	REAL \$ <u>77,000.00</u>	
	PERSONAL \$ <u>116,854.93</u>	
	TRANSFERS \$ _____	TOTAL \$ <u>193,854.93</u>
DEBTS, EXPENSES ETC.		<u>18,867.76</u>
NET ESTATE		<u>174,987.17</u>
EXEMPT AND CONTINGENT INTERESTS		<u>-</u>
TAXABLE INTERESTS		<u>174,987.17</u>

WILL OR INTESTATE ANALYSIS OF TAX 11-150 DIRECT TAX \$ 12,750.00

PROPERTY PASSING TO FOLLOWERS	VALUE OF PROPERTY	RELATION TO DECEDENT	EXEMPT AND CONTINGENT	TAXABLE	✓	TAX
The following persons						
1/4 of the Estate each:						
Alma Allen	43,746.79	Sister	-	43,746.79		2,062.15
Bernice Baker	43,746.79	"	-	43,746.79		2,062.15
Constance Coyle	43,746.79	"	-	43,746.79		2,062.15
The following persons						
1/12 of the Estate each:						
David Doe	14,582.27	Nephew		14,582.27		2,187.95
Elmer Doe	14,582.27	"		14,582.27		2,187.95
Francine Doe	14,582.27	Niece		14,582.27		2,187.95
	174,987.18			174,987.18		12,750.00
CHANGES: Schedule D						
Public Service reduced to \$223.21 in accordance with						
N.J.A.C. 18:26-7.1 & 7.23						

Exhibit 93 – Inheritance and Estate Tax Waiver

FORM 0-1  
(09-02)

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
TRANSFER INHERITANCE TAX  
NEW JERSEY ESTATE TAX

ISSUED: May 6, 2003

File No:

IN THE MATTER OF THE ESTATE OF:

DATE OF DEATH

THIS WAIVER SHOULD BE  
IMMEDIATELY FORWARDED TO:

\_\_\_\_\_

\_\_\_\_\_

The Director, Division of Taxation, hereby waives the requirements of Revised Statutes 54:35-19 and 21 and 54:38-6, and the amendments thereof and supplements thereto, with respect to the property herein described: consents to the transfer of said property and releases said property from the lien of the State of New Jersey. **TO AVOID PENALTY PROVISIONS OF N.J.S.A. 54:35-20, THE FULL AMOUNT OF DEPOSITS ON DATE OF DEATH MUST BE SHOWN.**

*This document may NOT be reproduced, and MUST be printed on State of New Jersey watermarked paper.*

1) VOID



*If corrected waiver is needed, write to: NJ Inheritance Tax, PO Box 249, Trenton, NJ 08695-0249 and enclose original or copy thereof.*

[

Exhibit 94 – Inheritance and Estate Tax Waiver for Real Estate

FORM 0-1R  
(09-02)

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
TRANSFER INHERITANCE TAX  
NEW JERSEY ESTATE TAX

ISSUED: May 06, 2003

File No:

IN THE MATTER OF THE ESTATE OF:

Date of Death: Jan 00, 1900

This Waiver should be immediately filed with:

**With filing fee of \$15.00**

The Director, Division of Taxation, hereby waives the requirements of Revised Statutes 54:35-19 and 21 and 54:38-6, and the amendments thereof and supplements thereto, with respect to the property herein described: consents to the transfer of said property and releases said property from the lien of the State of New Jersey.

**This document may NOT be reproduced, and MUST be printed on State of New Jersey watermarked paper.**

**VOID**

**If corrected waiver is needed, write to: NJ Inheritance Tax, PO Box 249, Trenton, NJ 08695-0249 and enclose original or copy thereof.**

**Exhibit 95 – Transfer Inheritance and Estate Tax Form L-4**

Form L-4  
(7-08)

(Resident-Decedent)  
(Form of preliminary report to secure consents to transfer where final return cannot be presently completed)

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
Individual Tax Audit Branch  
Transfer Inheritance and Estate Tax  
PO Box 249  
Trenton, New Jersey 08695-0249  
(609) 292-5033

**Failure to fully complete this form will result in no waivers being issued**

IN THE MATTER OF THE ESTATE OF

Helen Jones  
\_\_\_\_\_  
(State Full Name of Decedent)

987 / 65 / 4,321  
\_\_\_\_\_  
Decedent's Social Security Number

Late of Maplewood, Essex  
(City) (County)  
COUNTY OF Essex  
STATE OF New Jersey } S.S.

Affidavit of:  
 Executor       Administrator  
 Heir-at-Law and Next of Kin  
*(Indicate above with an X)*

Ben Jones (Executor), (~~Administrator~~), (~~Heir-at-Law and Next of Kin~~) of above named decedent say that the following declarations are true and that this affidavit is submitted for the purpose of securing consents to transfer certain assets indicated below in advance of the filing of the regular detailed inheritance tax return.

Decedent died { Testate }  
~~Intestate~~  
\_\_\_\_\_  
(Month) (Day) (Year) June 2, 2008

Letters of { ~~Administration~~ } were issued by the Surrogate of the County of Essex  
Testamentary State of New Jersey

Address to which all correspondence should be mailed. {  
\_\_\_\_\_  
Lawrence Lawyer (Name) (973) 402-2222 (Phone Number)  
1 Main Street Newark NJ 07102  
(Street) (City) (State) (Zip)

1. Following is the status of decedent's estate as presently established:

<b>GROSS ESTATE - INHERITANCE TAX</b> .....	\$	600,000.00
(Real and tangible personal property located in New Jersey and intangible personal property wherever located held individually, jointly or otherwise.)		
<b>DEDUCTIONS</b> .....	\$	75,000.00
(Debts, funeral, legal services, etc.)		
<b>NET ESTATE</b> .....	\$	525,000.00
<b>FOR DECEDENTS DYING AFTER DECEMBER 31, 2001, GROSS ESTATE (\$ 600,000.00) LESS DEDUCTIONS* (\$ 75,000.00) PLUS ADJUSTED TAXABLE GIFTS (\$ 0.00) FOR FEDERAL ESTATE TAX PURPOSES UNDER THE PROVISIONS OF THE INTERNAL REVENUE CODE IN EFFECT ON DECEMBER 31, 2001</b> .....		
	\$	525,000.00

\*(If the decedent died on or after 2/19/07 survived by a civil union partner, a marital deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code in effect on 12/31/01 may be included here).

It is not possible at this time to complete an Inheritance  and/or Estate Tax  return for the following reasons: (Recite the facts with reference to the unavoidable cause of delay. If more space is required, attach rider): Decedent had a minority interest in partnerships which own real estate and its value cannot be determined at this time.

**Exhibit 95 – Transfer Inheritance and Estate Tax Form L-4 - Continued**

2. The decedent in his lifetime made the following transfers of a material amount of his estate without receiving as consideration the full financial value of the property transferred:

(List facts as to any such transfers, including dates, amounts, names and relationship of transferees to decedent. If made by deed of trust, include copy thereof.) (Give ages of life tenants or annuitants.) (If decedent made no such transfers, state "NONE".)

None

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3. Decedent owned the following New Jersey real estate:

DESCRIPTION	FULL ASSESSED VALUE	FULL MARKET VALUE
1/2 interest in 1 Broad Street, Newark, NJ (block 5 lot 4 on tax map)	\$ 50,000.00	\$ 200,000.00
Being same premises conveyed to decedent and Roger Jones by deed recorded in the Register's Office of Essex County in Deed Book 235 page 12		
1 Maple Avenue, Maplewood, NJ (block 4 lot 3 on tax map)	150,000.00	175,000.00
Being same premises conveyed to decedent by deed recorded in the Register's Office of Essex County in Deed Book 123 page 45		

(Indicate amount of any encumbrances on above parcels.)

4. All stocks and bonds of NEW JERSEY corporations or of banking institutions located in this State and brokerage accounts, which are registered in the decedent's name, are listed below. If held jointly, set forth exactly in whose names.

NAME OF COMPANY, NUMBER AND KIND OF SHARES	MARKET VALUE
None	\$

(If any New Jersey securities are pledged as collateral, indicate the facts.)



**Exhibit 95 – Transfer Inheritance and Estate Tax Form L-4 - Continued**

5. The following funds were on deposit in State and National Banks in New Jersey to credit of decedent as an individual, co-depositor or otherwise:

NAME OF BANK	DATE OF DEATH BALANCE	CURRENT BALANCE	TO CREDIT OF:
U.S. Savings Bank Acct. 45729	25,000.00	25,000.00	Decedent

NOTE: Banks have permission to release fifty percent of all funds on deposit, upon application. (N.J.A.C. 18:26-11.16)

6. Relationship to decedent of those who survived decedent and are entitled to share in the estate.

NAMES AND ADDRESSES	RELATIONSHIP	AGES OF LIFE TENANTS
Ben Jones 1 Maple Avenue, Maplewood, NJ	son	
Roger Jones 2 Elm Street, South Orange, NJ	nephew	

7. Tax waivers are requested at this time for the following items:

Interest of Decedent in 1 Broad Street, Newark, New Jersey (see item #3)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If release of assets in a custodial account is desired, state the name and location of the bank or trust company and attach a list (in duplicate) of the assets held as agent for the decedent.)

**Exhibit 95 – Transfer Inheritance and Estate Tax Form L-4 - Continued**

- 8. Deponent is willing to make such payment on account as may be determined to be necessary by the Inheritance Tax Branch in order to safeguard issuance of consents to transfer in absence of a detailed return.
  
- 9. Deponent certifies that the usual detailed resident return in connection with this estate will be filed with the Division of Taxation at the earliest possible date.

\_\_\_\_\_  
(Executor) Ben Jones

My Home Address is 1 Maple Avenue  
Street and Street Number

Maplewood, New Jersey  
City or Town and State

SWORN AND SUBSCRIBED TO

BEFORE ME THIS \_\_\_\_\_

DAY OF \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The Branch will retain in every case control over a sufficient portion of the assets to assure collection of the tax even though a payment on account may have been made. The Branch will not issue consents to transfer all personal property and rely upon real property as security for the tax (N.J.A.C. 18:26-9.4).

Exhibit 96 – Transfer Inheritance and Estate Tax Form L-8

Form L-8  
(3-07)

STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION  
Individual Tax Audit Branch  
Transfer Inheritance and Estate Tax  
50 Barrack Street - PO Box 249  
Trenton, New Jersey 08645-0249  
(609) 292-5033

AFFIDAVIT AND SELF-EXECUTING WAIVER  
(Bank Accounts, Stocks, Bonds, and Brokerage Accounts)

Decedent's Name Jones Helen Decedent's S.S. No. 987 / 65 / 4321  
(Last) (First) (Middle)  
Date of Death (mm/dd/yy) 06 / 02 / 05 County of Residence Essex Testate  Intestate

THE FOLLOWING QUESTIONS MUST BE ANSWERED

I. Did the assets listed on the reverse side pass to a member of one of the following groups:

1. Surviving spouse,
2. Surviving civil union partner where a decedent's death is on or after February 19, 2007,
3. Surviving domestic partner where a decedent's death is on or after July 10, 2004,
4. Child, stepchild, legally adopted child, or issue of any child or legally adopted child (includes a grandchild and a great grandchild but not a step-grandchild or a step great-grandchild),
5. Parent and/or grandparent, **AND**
  - Did the beneficiary succeed to the assets by contract or survivorship, or
  - Was the property specifically bequeathed to the beneficiary, or
  - Was the property not specifically bequeathed but ALL intestate heirs at law or beneficiaries under the decedent's will are described in numbers 1 thru 5 above.

Yes  No If no, this form may not be used

If there are ANY assets passing to ANY beneficiary other than a member of the groups listed above, a complete Transfer Inheritance Tax Return must still be filed in the normal manner. It must list all assets in the estate including any which were acquired by means of this form or otherwise.

II. Does any portion of the assets listed on the reverse side pass into a trust or pass pursuant to a disclaimer?

Yes  No If yes, this form may not be used

III. • Was the decedent's date of death on or before December 31, 2001, OR

- Was the decedent's date of death after December 31, 2001 and his/her taxable estate plus adjusted taxable gifts as determined pursuant to the provisions of the Internal Revenue Code in effect on December 31, 2001 (Line 3 plus Line 4 on 2001 Federal Estate Tax Form 706) \$675,000 or less?

Yes  No If no, this form may not be used

Although this form may be used if the decedent died after December 31, 2001 and his/her taxable estate plus adjusted taxable gifts does not exceed \$675,000, a New Jersey Estate Tax Return must be filed if the gross estate plus adjusted taxable gifts as determined pursuant to the provisions of the Internal Revenue Code in effect on December 31, 2001 (Line 1 plus Line 4 on 2001 Federal Estate Tax Form 706) exceeds \$675,000.

The decedent's gross estate under the provisions of the Internal Revenue Code includes but is not limited to real estate wherever located, stocks, bonds, bank accounts whether held in the name of the decedent individually or jointly, individual retirement accounts, pensions, annuities, life insurance policies whether paid to a beneficiary or the estate and transfers intended to take effect in possession or enjoyment at or after death. The decedent's taxable estate is determined under the provisions of the Internal Revenue Code by subtracting allowable deductions (includes property passing to a surviving spouse or charity) from the gross estate. Adjusted taxable gifts under the provisions of the Internal Revenue Code includes certain transfers made prior to the decedent's death which are not included in the taxable estate. If the decedent died on or after 2/19/07 survived by a civil union partner, a marital deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code in effect on 12/31/01 may be used in determining the taxable estate for New Jersey estate tax purposes.

TO BE VALID THIS FORM MUST BE FULLY COMPLETED ON BOTH SIDES

Exhibit 96 – Transfer Inheritance and Estate Tax Form L-8 – Continued

IV. Property Requested To Be Released

Description of Asset	Manner Registered/Held	Date of Death Value
US Savings Bank	Name of Decedent	25,000.00
2 Broad Street, Newark, NJ		
Acct. 45729		

V. Beneficiaries of Property Listed in IV Above

Name of Beneficiary	Relation to Decedent
Ben Jones	son

If the decedent died testate, and the assets listed above do not pass by contract or survivorship, a complete copy of the last will and testament, separate writings and all codicils thereto must be submitted.

In the case of bank accounts be sure to list the name of the institution, title of the account and BALANCE as of the DATE OF DEATH.

In the case of stocks be sure to include the name of the company, manner of registration and the number of shares. Bonds should include the name of the issuer, manner of registration, date and face value.

A separate affidavit is required for each institution releasing assets.

I hereby request the release of the property listed in Part IV above. I certify that the beneficiaries of said property are listed in Part V above and that this form is completed in accordance with its filing requirements.

State of New Jersey  
County of Essex ss.

Ben Jones being duly sworn, deposes and says that the foregoing statements are true to the best of his/her information or belief.

Subscribed and sworn before me this

\_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
148-24-1685  
Executor / Administrator / Joint Tenant

\_\_\_\_\_  
Social Security or Federal Identification Number

1 Maple Avenue

Maplewood	Street Address	NJ	07040
Town/City		State	Zip

To Be Completed by Releasing Institution

A bank, trust company, association, other depository, transfer agent, or organization may release the assets herein set forth only if the first and third boxes (Parts I and III) on the front of this form are checked YES, the second box (Part II) is checked NO and Part V includes only those relationships permitted in Part I, items 1 through 5. Also, if the decedent died testate and the assets do not pass by contract or survivorship, a complete copy of the will, separate writing and all codicils must be attached.

The original of this affidavit must be filed by the releasing institution within five business days of execution with the Division of Taxation, Individual Tax Audit Branch - Transfer Inheritance and Estate Tax, 50 Barrack Street, PO Box 249, Trenton, NJ 08695-0249. The affiant should be given a copy.

\_\_\_\_\_  
Name of Institution Accepting Affidavit Address

By \_\_\_\_\_  
Phone Number

Riders May be Attached - This Form May Be Reproduced

**TO BE VALID THIS FORM MUST BE FULLY COMPLETED ON BOTH SIDES**

Exhibit 97 – Transfer Inheritance and Estate Tax Form L-9

1/07

L-9

**AFFIDAVIT OF RESIDENT DECEDENT REQUESTING  
REAL PROPERTY TAX WAIVER(S)**

**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
INDIVIDUAL TAX AUDIT BRANCH  
TRANSFER INHERITANCE & ESTATE TAX  
PO BOX 249  
TRENTON, NEW JERSEY 08695-0249**

**(609) 292-5033**

**Forward this form to the Division of Taxation at the address listed above.  
This form is not a waiver and is not to be filed with the County Clerk.**

Exhibit 97 – Transfer Inheritance and Estate Tax Form L-9 – Continued

**L-9 RESIDENT DECEDENTS ONLY L-9**  
1/07

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Decedent's Name: Jones Helen  
(Last) (First) (MI)

Decedent's SS No. 987-85-4321 Date of Death (mm/dd/yy) 06/02/08 County of Residence Essex

---

This form may be used only when all beneficiaries are Class "A", there is no New Jersey Inheritance or Estate Tax and there is no requirement to file a tax return.

---

For decedents dying after December 31, 2001 this form may be used only if the decedent's gross estate plus adjusted taxable gifts for Federal estate tax purposes under the provisions of the Internal Revenue Code in effect on December 31, 2001 does not exceed \$875,000. The decedent's gross estate plus adjusted taxable gifts consisted of the following:

A. Real estate wherever located (Full Market Value) .....	\$ 175,000.00
B. Stocks and bonds whether held individually or jointly .....	\$ 250,000.00
C. Bank accounts whether held individually or jointly .....	\$ 100,000.00
D. Individual Retirement Accounts .....	\$
E. Pensions and Annuities .....	\$
F. Life insurance policies whether paid to a beneficiary or to the estate .....	\$
G. Transfers intended to take effect in possession or enjoyment at or after death .....	\$
H. Other .....	\$
I. Gross Estate (Total A thru H) (Line 1 of 2001 Federal Estate Tax Form 706) .....	\$
J. Adjusted Taxable Gifts (Line 4 of 2001 Federal Estate Tax Form 706) .....	\$
M. Total (I plus J) .....	\$ 525,000.00

**IF THE TOTAL (LINE M) IS GREATER THAN \$875,000, DO NOT PROCEED. THIS FORM MAY NOT BE USED. A NEW JERSEY ESTATE TAX RETURN MUST BE FILED.**

List all transfers made by the decedent within three years of date of death:

Date	Transferee/Beneficiary	Relationship	Property Transferred	Value
	N/A			

Description of New Jersey Real Estate	Full Assessed Value for Year of Death	Full Market Value at Date of Death
Street and Number 1 Maple Avenue Municipality Maplewood, NJ Lot 2 County Essex Block 5 Owner(s) of Record: (If decedent owned a fractional interest state how held and fractional value thereof). Helen Jones Amount of Mortgage Balance (if any)      \$ 0      *	150,000.00	175,000.00
Street and Number Municipality Lot County Block Owner(s) of Record: (If decedent owned a fractional interest state how held and fractional value thereof). Amount of Mortgage Balance (if any)      \$		

Exhibit 97 – Transfer Inheritance and Estate Tax Form L-9 – Continued

Beneficiaries State Full names of all who have an interest in the Estate (vested, contingent, operation of law, transfer, etc.)	Relationship to the Decedent	Interest of Beneficiary in the Estate
Ben Jones	Son	100%

Deponent further states the following schedule contains the names of all beneficiaries who predeceased the decedent.

Name	Date of Death	Domicile at Death
None		

If this form is not fully and properly completed and/or it does not have the required attachments, it will be returned. Did you remember to:

- Use the current version of this form.
- Answer all questions.
- Fill in the decedent's date of death and social security number.
- Attach a copy of letters testamentary or letters of administration AND a copy of the death certificate.
- Attach a copy of the decedent's will, codicils, and any trust agreements.
- Attach a copy of the decedent's last full year's Federal income tax return including Schedule A, B, and D.
- Fully describe the realty to include the owner of record and the street number, municipality, lot, block, county, and the assessed and market values on the decedent's date of death. If an appraisal was made of the realty, attach a copy. If the realty was held by multiple owners, state the names of the joint owners, their relationship to the decedent and whether the realty was held as tenants in common or as joint tenants with right of survivorship. A tax waiver is not necessary and will not be issued for real property held by a husband and wife/civil union couple as tenants by the entirety in the estate of the spouse/civil union partner dying first.
- List all beneficiaries who shared in the estate whether by will, intestacy, trust, operation of the law, transfer intended to take effect in possession or enjoyment at or after death or by transfer within three years of death. Indicate the relationship of each to the decedent and their interest in the estate.

Complete and Notarize

Mailing Address      Name Lawrence Lawyer      Phone (973) 111-2222

To Send      Street 1 Main Street

All Correspondence      City Newark      State NJ      Zip 07102

State of: New Jersey      County of: Essex

That Ben Jones being duly sworn, has reviewed the information contained in this form and declares to the best of his/her knowledge it is true, correct, and complete. Deponent authorizes the party listed above to act as the estate's representative and to receive the waiver(s) requested herein.

Subscribed and sworn before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ Affidavit of:  Executor     Administrator     Joint Tenant

\_\_\_\_\_  
(Signature of Notary Public or Attesting Officer)      Signature of Deponent

**Exhibit 98 – Inheritance Tax Return – Resident Decedent**

IT-R (8-10)  
 Transfer Inheritance Tax  
 PO Box 249  
 Trenton, NJ 08695-0249

**STATE OF NEW JERSEY  
 Inheritance Tax Return  
 RESIDENT DECEDENT**  
 (Instructions on reverse side)

(67) For Division Use Only

Decedent's Name Jones, Helen Decedent's S.S. No. 987-65-4321  
(Last) (First) (Middle)

Date of Death (mm/dd/yy) 01/02/10 County of Residence Essex Testate  Intestate

Authorized Representative Name Lawrence Lawyer Daytime Phone 973-111-2222  
 to receive all Street 1 Main Street  
 correspondence City Newark State NJ Zip Code 07102

1. Real Property	Total carried forward from - Schedule A	1.	275,000	00
2. Closely Held "Businesses"	Total carried forward from - Schedule B	2.	300,000	00
3. All Other Personal Property	Total carried forward from - Schedule B(1) Recapitulation	3.	25,000	00
4. Transfers	Total carried forward from - Schedule C	4.		
5. Gross Estate	Total Lines 1 thru 4	5.	600,000	00
6. Deductions	Total carried forward from - Schedule D	6.	75,000	00
7. Net Estate	Total - Line 5, minus Line 6 (If less than zero enter "0")	7.	525,000	00
8. Contingent Amount Included in Line 7	(See explanation on reverse side)	8.		
9. Balance of Estate	(Line 7, minus Line 8)	9.	525,000	00
		TAX		
10. A (Spouse/Civil Union Partner)	Class: <u>A</u> Number of Beneficiaries: <u>1</u> Total: \$ <u>425,000</u> / Exempt: \$ <u>425,000</u> / Taxable: \$ <u>0</u> / 00	10.		
11. A (Other)	Class: <u>A</u> Number of Beneficiaries: <u>1</u> Total: \$ <u>425,000</u> / Exempt: \$ <u>425,000</u> / Taxable: \$ <u>0</u> / 00	11.	0	
12. C	Class: <u>C</u> Number of Beneficiaries: <u>1</u> Total: \$ <u>100,000</u> / Exempt: \$ <u>-</u> / Taxable: \$ <u>100,000</u> / 00	12.		
13. D	Class: <u>D</u> Number of Beneficiaries: <u>1</u> Total: \$ <u>100,000</u> / Exempt: \$ <u>-</u> / Taxable: \$ <u>100,000</u> / 00	13.	15,000	
14. E	Class: <u>E</u> Number of Beneficiaries: <u>1</u> Total: \$ <u>100,000</u> / Exempt: \$ <u>-</u> / Taxable: \$ <u>100,000</u> / 00	14.		
15. Compromise Tax Due on Line 8 Amount	(See explanation on reverse side)	15.		
16. Contingent Tax	(See explanation on reverse side)	16.		
17. Total Tax Due	(Total - Line 10 thru Line 16)	17.	15,000	00
18. Interest Due	(If applicable) (See explanation on reverse side)	18.		
19. Total Amount Due	(Line 17, Plus Line 18)	19.	15,000	00
20. Payment on Account	(If applicable)	20.		
21. If Line 20 (Payments) is LESS THAN Line 19, Enter BALANCE DUE - PAY THIS AMOUNT WITH FORM IT-PMT		21.	15,000	00
22. If Line 20 (Payments) is MORE THAN Line 19, Enter REFUND AMOUNT		22.	0	00

23. Are any questions in Schedule "C" answered yes? 23. Yes  No   
 24. Have or will you file or are you required to file a Federal Estate Tax Return? 24. Yes  No   
 25. Has or will any disclaimer been filed? If so, attach copy 25. Yes  No   
 26. If the decedent died after December 31, 2001, did the decedent's taxable estate plus adjusted taxable gifts for Federal estate tax purposes under the provision of the Internal Revenue Code in effect on December 31, 2001 exceed \$675,000? 26. Yes  No   
 If yes, by how much \$ \_\_\_\_\_  
 Indicate which letters were issued and where issued:  
 Letters of Administration  Letters Testamentary  State of NJ County of Essex

**SUBMIT A FULL COPY OF THE DECEDENT'S WILL, CODICILS, TRUSTS, AND A COPY OF THE LAST FULL YEAR'S FEDERAL INCOME TAX RETURN.**

Affiant says, under penalty of perjury, "I declare that I have examined this return and all accompanying schedules and to the best of my knowledge and belief, it is true, correct and complete." I hereby authorize the party(s) set forth above to act as the estate's representative, to receive confidential information, and to make presentations on behalf of the estate.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.  
 Signature: \_\_\_\_\_ (Executor - 2010-03-26 10:43:33 AM)  
 Print Name: Ben Jones  
 Address: 1 Maple Avenue  
Maplewood, NJ 07040  
 Official Title (Notarized) \_\_\_\_\_



**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**INSTRUCTIONS FOR RECITAL PAGE**

**Lines 8, 15 and 16**

In the case of a transfer or transfers made subject to a contingency or condition which renders a definite determination of the Transfer Inheritance Tax due impossible, the Division will suggest a compromise of the tax based upon immediate payment and final disposition of the tax. N.J.A.C. 18:26-2.14, N.J.S.A. 54:36-5 AND 54:36-6.

Therefore, enter on Line 8, the amount of the estate that is "Contingent."

In the event you wish to compute a compromise for the Division's review, you should include a rider setting forth full computations and details and enter the proposed amount on Line 15. Following this procedure may speed the auditing of the decedent's return.

Be advised that where all or any portion of the contingent amount has vested in a beneficiary by reason of the happening of any contingency event, full details should be set forth on a rider, the tax computed on a rider and entered on Line 16.

**Line 18**

Interest accrues at the rate of 10% per annum on any direct tax or portion thereof not paid within eight months of the decedent's death.

With respect to the payment of the tax due on an executory devise, or a transfer subject to a contingency or power of

appointment, any payment on such a transfer after the expiration of two months from the date the contingency occurs or the property vests, shall bear interest at the rate of 10% per annum from the date the contingency occurs or the property vests, until the date of actual payment.

In any case where a contingent remainder vests in beneficial possession and enjoyment subsequent to the death of the original decedent, but prior to the expiration of the statutory interest period, interest on the contingent tax does not start to accrue until eight months from the date of death of the original decedent.

**Line 20**

Payments on account may be made at any time to avoid further accrual of interest on the amount paid. In any case where the amount paid on account for New Jersey inheritance taxes exceeds the amount of such tax due after final assessment has been made, the amount so overpaid shall be refunded by the State Treasurer in the due course of business, provided, however, that all applications for a full or partial refund of the payment of the transfer inheritance tax shall be made within three years from the date of such payment. Make checks payable to: NJ Inheritance and Estate Tax, P.O. Box 249, Trenton, New Jersey 08695-0249.

**Line 21**

When making a payment with the return, complete form IT-PMT and attach check

**Examples of Interest Computations**

Date of Death .....	5-28-90	
Interest Date (eight months) .....	1-28-91	
Tax Assessed .....		\$7,120.48
Interest @ 10% per annum from 1-28-91 to 9-19-91 (\$7,120.48 x 10% x 234/365) .....		456.49
Total .....		7,576.97
Payment on Account (9-19-91) .....		(7,120.48)
Balance Due (plus interest @ 10% per annum from 9-19-91 to date of final payment) .....		456.49

Date of Death .....	8-29-90	
Interest Date (eight months) .....	4-29-91	
Tax Assessed .....		\$68,389.70
Payment of Account (4-19-91) .....		(16,974.56)
Balance .....		51,415.14
Payment on Account (4-28-91) .....		(31,927.02)
Balance .....		19,488.12
Interest @ 10% per annum from 4-29-91 to 5-10-91 (\$19,488.12 x 10% x 11/365) .....		58.73
Total .....		19,546.85
Payment on Account (5-10-91) .....		(27,048.67)
Overpayment (to be refunded) .....		7,501.82

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE "A" REAL PROPERTY  
RESIDENT DECEDENT  
(See Instructions on reverse side)**

Jones, Helen		987-65-4321		
Decedent's Name		Decedent's Social Security Number		
Description of New Jersey Real Estate	Full Assessed Value for Year of Death	Full Market Value at Date of Death	Value of Decedent's Equity and (How Determined)	This Column for Division Use
1. Street and Number 1 Broad Street Municipality: Newark Lot:                      Block: 4                              5 County: Essex Title/Owner of Record: Helen Jones & Roger Jones Mortgage Balance: \$                      0.00	100,000	200,000	100,000 1/2 interest	
2. Street and Number 1 Maple Avenue Municipality: Maplewood Lot:                      Block: 5                              4 County: Essex Title/Owner of Record: Helen Jones Mortgage Balance: \$                      0.00	150,000	175,000	175,000	
3. Street and Number  Municipality:  Lot:                      Block:  County:  Title/Owner of Record:  Mortgage Balance: \$				
4. Street and Number  Municipality:  Lot:                      Block:  County:  Title/Owner of Record:  Mortgage Balance: \$				
Insert this total on page 1, line 1 .....			275,000.00	

(If additional space is required, attach riders of the same size)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**INSTRUCTIONS FOR SCHEDULE "A"**

Only list real property situated in New Jersey

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**DESCRIPTION:** The real property should, wherever possible, be described by lot and block number, or street and street number, or by a general description, with a reference to a record of the deed by which title was conveyed.

**MORTGAGES:** State the amount of mortgage encumbrances upon any parcel at date of decedent's death. State whether there was any mortgage insurance and, if so, submit verification as to the amount of same. If decedent died without a will, state date of acquisition of each parcel of real property.

**FRACTIONAL INTEREST:** If the decedent owned a fractional interest, state the names in which the realty was held, whether as joint tenants with right of survivorship or as tenants in common, and set forth in detail how the interest was acquired. Submit a copy of the deed.

**TENANTS BY THE ENTIRETY:** Real property held by husband and wife/civil union partners, as "tenants by the entirety" in the estate of the spouse/civil union partner dying first need not be reported.

**OTHER LIENS:** Taxes, assessments, accrued interest on mortgages, etc. must not be claimed in this schedule but are to be listed on Schedule "D" of this return.

**WAIVERS:** Unpaid inheritance taxes constitute a lien on real property and waivers are therefore required to transfer said real property, with the exception of real property held by husband and wife/civil union partners as "tenants by the entirety" in the estate of the spouse/civil union partner dying first.

**CO-OPS:** A membership certificate or stock in a New Jersey cooperative housing corporation held in the name of the decedent and a surviving spouse/civil union partner or domestic partner as joint tenants with the right of survivorship is exempt, if it entitled them to use it as their principal residence. However a waiver is required for this transfer in the estate of a resident decedent. (This should be reported on Schedule "B(1)-Stock").

**CONDOMINIUMS:** An interest in a condominium is an interest in Real Property and therefore reportable on Schedule "A".

**APPRAISALS:** Submit a copy of any appraisal, contract of sale and/or closing statement. Only recital or valuation page of appraisals are initially required. Additional supporting documentation will be requested if needed.

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE "B" CLOSELY HELD "BUSINESSES"**  
**RESIDENT DECEDENT**  
 (See Instructions on reverse side)

<u>Jones, Helen</u> Decedent's Name		<u>987-65-4321</u> Decedent's Social Security Number
Name and Federal Identification Number of Any Sole Proprietorship, Partnership, Joint Venture and/or Closely Held Corporation in Which the Decedent Held Any Interest	Market Value at Date of Death	This Column for Division Use
1. Interest in XYZ partnership (see attached affidavits, partnership agreement and appraisals)	225,000	
2. Interest in ABC partnership (see attached affidavits, partnership agreement and appraisals)	75,000	
3.		
4.		
Insert this total on page 1, line 2 .....	300,000.00	

(If additional space is required, attach riders of the same size)

## Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued

### INSTRUCTIONS FOR SCHEDULE "B"

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If the taxpayer had any interest in a closely held corporation, partnership, joint venture or sole proprietorship, the following information is required (in each instance):

1. A detailed balance sheet and profit and loss statement, revised to reflect the market value of the assets thereof as distinguished from the net book value, as of the decedent's date of death, or as near thereto as the Director may deem acceptable.
2. For the five year period preceding the decedent's date of death;
  - A. Detailed balance sheets.
  - B. Detailed profit and loss statements.
3. The nature of the business.
4. Describe and state the assessed and market value of any real property.
5. Set forth your basis for determining the clear market value as reported.

#### CLOSELY HELD CORPORATIONS

If the decedent had any interest in a closely held corporation, submit (in addition to the general information required above):

1. For the five year period preceding the decedent's date of death:
  - A. A listing of salaries paid to officers.
  - B. A listing of dividends paid, together with the name(s) of the payees.
2. Copy/copies of any stock purchase or option agreement to which the decedent was a party as of the date of death.
3. Copy/copies of any insurance policy/policies on the decedent's life payable to the corporation as beneficiary together with a statement of the benefits payable thereunder.
4. The number of shares of stock of all classes issued and outstanding and the par value thereof.
5. List of stockholders setting forth the number of shares held by each.

#### PARTNERSHIPS OR JOINT VENTURES

If the decedent had any interest in a partnership or joint venture, submit (in addition to the general information required above):

1. Copy of the partnership agreement.
2. Copy/copies of any mutual purchase agreement(s) to which the decedent was a party at the date of death.
3. Copy/copies of any insurance policy/policies on the decedent's life payable to the surviving partners as beneficiary together with a statement of the benefits payable thereunder.

#### SOLE PROPRIETORSHIPS

If the decedent had any interest in a sole proprietorship, submit (in addition to the general information required above):

1. If any of the sole proprietorship's assets are listed elsewhere on this return, (i.e. Schedule "A"), make full disclosure.

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE “B (1)” RECAPITULATION - ALL OTHER PERSONAL PROPERTY  
RESIDENT DECEDENT  
(See Instructions Below)**

Jones, Helen	987-65-4321
Decedent's Name	Decedent's Social Security Number

• BRING FORWARD TOTALS FROM EACH OF THE FOLLOWING SCHEDULES:

1) SCHEDULE B-1: BANK ACCOUNTS/BROKERAGE ACCOUNTS	25,000.00
2) SCHEDULE B-1: STOCK	
3) SCHEDULE B-1: INVESTMENT BONDS	
4) SCHEDULE B-1: ALL OTHER PROPERTY	
<b>TOTAL LINES 1-4</b> Insert this total on Page 1, Line 3 “All Other Personal Property”	<b>25,000.00</b>

**GENERAL INSTRUCTIONS FOR SCHEDULE “B (1)”**

List all other personal property (excluding that on Schedule B) including all tangible personal property located permanently in New Jersey.

These schedules must disclose not only all other personal property owned individually by the decedent but also all other personal property standing in joint names (such as United States Savings Bonds, bank accounts, shares of stock, etc.) which may be claimed by another or others as survivors.

Unless the surviving joint tenant is also a Class A beneficiary (see General Instructions), the transfer of ownership to a surviving joint tenant or tenants pursuant to a joint tenancy with the right of survivorship is a transfer subject to tax. The deceased joint tenant is deemed to have been the absolute owner of the property and the survivor/survivors are presumed to have received a devise or bequest of the whole and not a part of the property. This presumption can be rebutted to the extent that the survivor can prove contributions out of funds separate and apart from those that originated in the decedent. All joint assets including those passing to exempt beneficiaries and those claimed not to have belonged to the decedent must be listed, with full market value as of date of death.

These schedules must list all other intangible personal property such as, but not limited to, United States Savings Bonds; treasury certificates; cash on hand; cash in the bank; deposits in Federal or State Credit Unions; mutual funds; bonds and mortgages; promissory notes; claims; accounts receivables; corporate bonds; corporate stocks; accrued interest; dividends; salaries or wages; insurance payable to the estate or its representatives; interest in any undistributed estate or income from any property held in trust under the will or agreement of another, even though physically located outside the state at the time of death.

Waivers are not required for automobiles, household goods, accrued wages or mortgages, but these items must be reported on Schedule B-1 “All Other Property”.

A membership certificate or stock in a New Jersey housing corporation held in the name of the decedent and a surviving spouse/civil union partner or domestic partner as joint tenants with the right of survivorship is exempt, if it entitled them to use it as their principal residence; however, a waiver is required for this transfer in the estate of a resident decedent.

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE B (1) - BANK ACCOUNTS/BROKERAGE ACCOUNTS  
RESIDENT DECEDENT**

Jones, Helen  
Decedent's Name

987-65-4321  
Decedent's Social Security Number

This schedule may include checking accounts, savings accounts, money markets, credit unions, CD's, brokerage accounts, mutual funds, and IRA's.

- (A) **Include the name of each bank or institution** on which decedent's name appears.
  - 1) State all names registered on each account, along with account number of each.
  - 2) *Multiple accounts in one bank may be grouped together, but each account must be listed separately.*
- (B) Report the **full date of death balance** of each account in "Date of Death Value" column.
  - 1) Report **account totals only** for brokerage accounts on this schedule (*asset breakdowns must be provided in supporting documentation*).
- (C) List decedent's equity in account (If 100% , amount will be the same as (b).)
  - 1) *Claims for partial ownership must be supported in supplemental affidavits.*

(A) Bank Accounts - Individually or Jointly Owned	(B) Date of Death Value	(C) Decedent's Equity	Division Use Only
U.S. Savings Bank, 2 Broad Street Newark, NJ, Acct. #543221 in name of the Decedent	25,000	25,000	
Insert this total on SCHEDULE B-1 Recapitulation, Line 1 .....		25,000.00	

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE B (1) - STOCK  
RESIDENT DECEDENT**

Jones, Helen  
Decedent's Name

987-65-4321  
Decedent's Social Security Number

- (A) Report the number of shares owned of each stock.
- (B) List the name of the company and all names registered on each stock.
- (C) List the state of registration for each corporation (ie., NJ, DE, MD, etc.), if known.
- (D) Report the per-share market value of each stock as of the date of death.
- (E) Full market value of all shares (number of shares x per share value).
- (F) Total value of decedent's equity (*Claims for partial ownership must be supported in supplemental affidavits.*)  
(List accrued dividends as of date of death along with each item.)

(A) Number of Shares	(B) Name of Stock - Registered Owner(s)	(C) State of Inc.	(D) Date of Death Per Share Value	(E) Total Market Value	(F) Decedent's Equity	Division Use Only
Insert this total on SCHEDULE B-1 Recapitulation, Line 2 .....						

(If additional space is required, attach riders of the same size. All forms may be reproduced)



**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE B (I) - INVESTMENT BONDS  
RESIDENT DECEDENT**

Jones, Helen

Decedent's Name

987-65-4321

Decedent's Social Security Number

(A) Provide name of company or entity holding bond and all terms of bond.  
 1) List all names registered on each bond.

(B) Report full date of death value of bonds.  
 1) Include accrued dividends as of date of death.

(C) List decedent's equity in bond (If 100%, amount will be the same as (b)).

*Note: U.S. Savings Bonds should be listed on Schedule B-1 "All Other Property".*

(A) Bonds - Individually or Jointly Owned	(B) Date of Death Value	(C) Decedent's Equity	Division Use Only
Insert this total on SCHEDULE B-1 Recapitulation, Line 3 .....			

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE B (1) - ALL OTHER PROPERTY  
RESIDENT DECEDENT**

Jones, Helen  
Decedent's Name

987-65-4321  
Decedent's Social Security Number

List all other property owned by the decedent, including (but not limited to):

- U.S. Obligations (Savings Bonds or Treasury Certificates)
- Automobiles or other vehicles
- Personal property, collections, furniture, etc.
- Mortgages and notes owned by decedent
- Cash and uncashed checks
- Interest in a prior estate
- Accounts receivable

Other Property - Individually or Jointly Owned	Date of Death Value	Division Use Only
Insert this total on SCHEDULE B-1 Recapitulation, Line 4 .....		

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE "C" TRANSFERS  
RESIDENT DECEDENT**

Jones, Helen	987-65-4321
Decedent's Name	Decedent's Social Security Number

(ALL QUESTIONS MUST BE ANSWERED)

1. Did decedent, within three years of death, transfer property, valued at \$500.00 or more, without receiving full financial consideration therefor? .....  Yes  No
2. Did decedent, at any time, transfer property, reserving (in whole or in part) the use, possession, income, or enjoyment of such property? .....  Yes  No
3. Did decedent, at any time, transfer property on terms requiring payment of income to decedent from a source other than such property? .....  Yes  No
4. Did decedent, at any time, transfer property, the beneficial enjoyment of which was subject to change because of a reserved power to alter, amend, or revoke, or which could revert to decedent under terms of transfer or by operation of law? .....  Yes  No  
 If answer to any of the above questions is "Yes", set forth a description of property transferred, the fair market value at date of death, dates of transfers, and to whom transferred. Submit copy of trust deed or, agreement, if any. (If transfers are claimed to be untaxable, also submit detailed statement of facts on which such claim is based, proof as to decedent's physical condition and copy of death certificate.)
5. Was decedent a participant in any pension plan that provided for payment of an annuity or lump sum on or after death to another? .....  Yes  No
6. Did decedent purchase or in any manner participate in any contract or plan providing for payment of an annuity or lump sum on or after death to another, *except life insurance contracts* payable to a designated beneficiary? .....  Yes  No  
 (Matured endowment policies, claim settlement certificates, supplementary contracts, annuity contracts and refunds thereunder and interest income certificates even though issued by an insurance company are not considered life insurance contracts.)
7. Was a single premium life insurance policy issued on decedent's life in conjunction with an annuity contract? .....  Yes  No  
 If answer to questions 5, 6 or 7 is "Yes" attach photostatic copies of all such contracts, plans, and policies.
8. Were any accumulated dividends due on any contract of insurance? (If yes, list below) .....  Yes  No

Date of Transfer; Description of Property, Both Real and Personal: Actual Consideration if Any; Names and Relationship to Decedent of Donees, Assignees, Transferees, etc	Market Value at Date of Death	This Column for Division Use
1.		
Insert this total on page 1, line 4 .....		

(If additional space is required, attach riders of the same size)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued**

**SCHEDULE "D" DEDUCTIONS CLAIMED  
RESIDENT DECEDENT  
(See Instructions on reverse side)**

Jones, Helen Decedent's Name		987-65-4321 Decedent's Social Security Number	
Debt or Claim of	Nature of Same	Amount	This Column for Division Use
Name: <u>Rest Funeral Home</u> <u>Kenilworth Cemetery</u>	Estimated Expenses for: <input checked="" type="checkbox"/> Funeral ..... <input type="checkbox"/> Administration .....	9,000	
Name: <u>Lawrence Lawyer</u>	Counsel Fees: <input type="checkbox"/> Agreed Upon ..... <input checked="" type="checkbox"/> Estimated .....	20,000	
Names: <u>Ben Jones (fee waived)</u>  SS# <u>111-22-3333</u>  SS# _____	Executor's or Administrator's Commissions (Must not be claimed unless reported for Income Tax purposes.)	0	
	Other Deductions (list individually)  <u>Summit Hospital</u> <u>Medical Services</u>  <u>Dr. George Well</u> <u>Medical Services</u>  <u>American Trade Co.</u> <u>Personal Loan</u>	12,500  3,500  30,000	
Insert this total on page 1, line 6 .....		75,000.00	

(If additional space is required, attach riders of the same size)

**Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued****INSTRUCTIONS FOR SCHEDULE "D"**

If any notes, brokerage accounts or other claims are secured by collateral, describe the collateral pledged, with its value as of the date of death of the decedent and state whether or not said collateral is included among the assets disclosed in Schedule B or B(1). If collateral is not pledged, state after each loan "No collateral pledged".

NOTE: No debt or claim is to be listed in this schedule unless still owing and unpaid at the time of death and unless such debt or claim is to be paid out of the assets of the estate.

(EXAMPLE: That portion of medical bills paid or reimbursed by Medicare or other medical insurance should not be claimed on this schedule).

Contested claims must be explained in detail. Do not list any taxes, either real, personal or income, chargeable for any period subsequent to date of death; nor any claim against property located outside of New Jersey, unless such property is subject to tax in this state.

The estate agrees to advise the Division if the amount actually paid in settlement of any fee, commission or debt is greater or less than the estimated amount allowed and further agrees to the correction of the assessment, if necessary.

For mortgages see instructions for Schedule "A".

**Examples of Allowable Deductions****FUNERAL EXPENSES:**

Cemetery Plot (immediate family)  
Funeral Luncheon  
Flowers  
Minister/Rabbi/Priest/Imam  
Monument/Lettering  
Funeral Costs  
Acknowledgments

Cost on recovery and/or discovery of assets  
Realty commissions in accordance with  
N.J.A.C. 18:26-7.12  
Storage of property if delivery to legatee not possible  
within reasonable time

**ADMINISTRATION EXPENSES:**

Appraisal of real estate  
Appraisal of personal effects  
Surrogate's fees  
Probate expenses  
Fee to notify creditors  
Death certificates  
Telephone tolls  
Cost of Executor's or Administrator's Bond  
Collection costs  
Court costs

**DEBTS OF DECEDENT OWING and  
UNPAID AT TIME OF DEATH:**

Personal accounts  
Judgments  
Federal income and gift taxes generally  
Real estate mortgage:  
(a) Interest accrued before death, deducted in  
Schedule D  
(b) Principal offset in Schedule A  
Charitable pledges  
State, county and local taxes accrued before death  
Unpaid Inheritance Tax on interrelated estate

**Examples of Non-Allowable Deductions**

Contingent liabilities  
Mortgage, taxes and accrued interest on tenants by entirety  
property  
Debts paid by insurance  
Medical expenses paid prior to death  
Liabilities of corporation of which decedent was a  
shareholder  
Real estate and property maintenance costs

Storage expense  
State, county and local taxes accruing after date of death  
Transfer Inheritance Tax  
Real estate brokers commissions, except if real property sold  
during administration of estate  
Debts on property located outside of New Jersey  
Federal Estate Tax

Exhibit 98 – Inheritance Tax Return – Resident Decedent - Continued

SCHEDULE "E" BENEFICIARIES
RESIDENT DECEDENT
ATTACH COPY OF WILL AND CODICILS HERE

Jones, Helen
Decedent's Name

987-65-4321
Decedent's Social Security Number

In case of Intestacy, the parentage of all collateral heirs (such as nieces, nephews, cousins, etc.) must be set forth. The relationship of step-parent, step-child, step-brother or step-sister must be so stated.

Table with 6 columns: BENEFICIARIES AND ADDRESSES, Relationship, Class, Survived Decedent State Yes or No, Age At Death of Decedent, Interest of Beneficiary In Estate. Rows include Roger Jones (Nephew) and Ben Jones (Son).

Deponent further says the following schedule contains the names of all beneficiaries who died before or after decedent's death:

Table with 3 columns: NAME, DATE OF DEATH, DOMICILE AT DEATH. Row 1 contains 'None'.

Under authority of Federal law, the Division of Taxation of the Department of the Treasury of the State of New Jersey and the Internal Revenue Service have entered into a Federal/State Agreement for the mutual exchange of tax information for purpose of tax administration.



**Exhibit 99 – Request for Bank Account Statement**

Law Offices  
Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102

January 21,

Eighth National Bank  
1 Broad Street  
Newark, New Jersey 07102

RE: ESTATE OF MELINDA GONNELLA  
Account # 1964  
Date of Death: January 3,

To Whom It May Concern:

The undersigned represents the executor of the above estate. At the time of her death the decedent had the above numbered account with your bank. Will you kindly send me a statement indicating the balance in said account as of the date of death.

Your prompt reply will be appreciated.

Very truly yours,

Lawrence Lawyer

LL:mg



Exhibit 100 – Affidavit Amending Inheritance Tax Return

In the Matter of the Estate of :  
MELINDA GONNELLA, : AFFIDAVIT AMENDING RETURN  
DECEASED. :

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

CAMILLE GONNELLA, of full age, being duly sworn according to law, upon her oath deposes and says:

1. I am the Executor of the estate of my late mother, MELINDA GONNELLA.

2. Since filing the Inheritance Tax Return for my mother's estate, I ascertained that she had an account with Jones, Smith, Poe, Roe, & Doe, Inc. She had on deposit with the aforementioned broker the sum of \$46.76. In addition, she had the following stock: 15 shares of Chrysler Corp., 10 shares of Gerber Products, 10 shares of Gino's, Inc., 10 shares of Mountain States T&T, and 12 shares of Public Service Electric and Gas. The total value of the aforementioned stock at the time of my mother's death was \$1,047.87 (See Exhibit A). Accordingly there should be added the total sum of \$1,094.63 to Schedule B(1) of the Inheritance Tax Return.

3. I also ascertained since filing the report that I failed to include three bills for medical services rendered to my mother prior to her death as follows:

Founder's Hospital, New York, New York (unreimbursed portion) .....	\$159.50
Dr. John Johanssen, 27 Chestnut St., Morristown, NJ (unreimbursed portion) .....	\$ 75.00
Dr. Richard W. Ward, 2270 York Ave., New York, NY (unreimbursed portion) .....	\$ 80.00

Accordingly, there should be added to Schedule D of the return the additional sum of \$314.50.

**Exhibit 100 – Affidavit Amending Inheritance Tax Return – Continued**

4. I make this affidavit knowing that the Inheritance Tax Bureau of the State of New Jersey will rely upon same in determining the amount of the inheritance tax to be paid.

s/ \_\_\_\_\_  
Camille Gonnella

Sworn and subscribed to before me this 16th day  
of October,

s/ \_\_\_\_\_  
Carol Carter  
Notary Public of New Jersey  
My Commission expires Dec. 22,

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return**

Form **706**  
(Rev. September 2009)

**United States Estate (and Generation-Skipping Transfer) Tax Return**

Estate of a citizen or resident of the United States (see separate instructions).  
To be filed for decedents dying after December 31, 2008, and before January 1, 2010.

OMB No. 1545-0015

Department of the Treasury  
Internal Revenue Service

<b>Part 1 — Decedent and Executor</b>	<b>1a</b> Decedent's first name and middle initial (and maiden name, if any) <b>Robert</b>	<b>1b</b> Decedent's last name <b>Tune</b>	<b>2</b> Decedent's Social Security No. <b>063-08-0012</b>	
	<b>3a</b> County, state, and ZIP code, or foreign country, of legal residence (domicile) at time of death <b>Essex County, New Jersey 07102</b>	<b>3b</b> Year domicile established <b>1986</b>	<b>4</b> Date of birth <b>09/14/35</b>	<b>5</b> Date of death <b>06/03/09</b>
	<b>6a</b> Name of executor (see page 5 of the instructions) <b>James Tune</b>	<b>6b</b> Executor's address (number and street including apartment or suite no; city, town, or post office; state; and ZIP code) and phone no. <b>117 Lock Street Bloomfield, New Jersey 07603 Phone no. 973-689-7543</b>		
	<b>6c</b> Executor's social security number (see page 5 of the instructions) <b>123-45-6789</b>	<b>7b</b> Case number <b>12,0961</b>		
<b>7a</b> Name and location of court where will was probated or estate administered <b>Essex County Surrogate's Court, Newark, New Jersey</b>				
<b>8</b> If decedent died testate, check here <input checked="" type="checkbox"/> and attach a certified copy of the will. <b>9</b> If you extended the time to file this Form 706, check here <input type="checkbox"/>				
<b>10</b> If Schedule R-1 is attached, check here <input type="checkbox"/>				

<b>Part 2 — Tax Computation</b>	<b>1</b> Total gross estate less exclusion (from Part 5 — Recapitulation, page 3, item 12) .....	<b>1</b>	<b>2,248,069.00</b>
	<b>2</b> Tentative total allowable deductions (from Part 5 — Recapitulation, page 3, item 22) .....	<b>2</b>	<b>1,013,737.00</b>
	<b>3a</b> Tentative taxable estate (before state death tax deduction) (subtract line 2 from line 1) .....	<b>3a</b>	<b>1,234,332.00</b>
	<b>b</b> State death tax deduction .....	<b>3b</b>	<b>47,397.00</b>
	<b>c</b> Taxable estate (subtract line 3b from line 3a) .....	<b>3c</b>	<b>1,186,935.00</b>
	<b>4</b> Adjusted taxable gifts (total taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts that are includible in decedent's gross estate (section 2001(b))) .....	<b>4</b>	<b>292,000.00</b>
	<b>5</b> Add lines 3c and 4 .....	<b>5</b>	<b>1,478,935.00</b>
	<b>6</b> Tentative tax on the amount on line 5 from Table A on page 4 of the instructions .....	<b>6</b>	<b>546,742.00</b>
	<b>7</b> Total gift tax paid or payable with respect to gifts made by the decedent after December 31, 1976. Include gift taxes by the decedent's spouse for such spouse's share of split gifts (section 2513) only if the decedent was the donor of these gifts and they are includible in the decedent's gross estate (see instructions) .....	<b>7</b>	<b>0.00</b>
	<b>8</b> Gross estate tax (subtract line 7 from line 6) .....	<b>8</b>	<b>546,742.00</b>
	<b>9</b> Maximum unified credit (applicable credit amount) against estate tax .....	<b>9</b>	<b>1,455,800.00</b>
	<b>10</b> Adjustment to unified credit (applicable credit amount). (This adjustment may not exceed \$6,000. See page 6 of the instructions.) .....	<b>10</b>	
	<b>11</b> Allowable unified credit (applicable credit amount) (subtract line 10 from line 9) .....	<b>11</b>	<b>1,455,800.00</b>
	<b>12</b> Subtract line 11 from line 8 (but do not enter less than zero) .....	<b>12</b>	<b>0.00</b>
	<b>13</b> Credit for foreign death taxes (from Schedule(s) P). (Attach Form(s) 706-CE.) .....	<b>13</b>	<b>0.00</b>
	<b>14</b> Credit for tax on prior transfers (from Schedule Q) .....	<b>14</b>	<b>0.00</b>
	<b>15</b> Total credits (add lines 13 and 14) .....	<b>15</b>	<b>0.00</b>
	<b>16</b> Net estate tax (subtract line 15 from line 12) .....	<b>16</b>	<b>0.00</b>
	<b>17</b> Generation-skipping transfer (GST) taxes payable (from Schedule R, Part 2, line 10) .....	<b>17</b>	<b>0.00</b>
	<b>18</b> Total transfer taxes (add lines 16 and 17) .....	<b>18</b>	<b>0.00</b>
<b>19</b> Prior payments. Explain in an attached statement .....	<b>19</b>		
<b>20</b> Balance due (or overpayment) (subtract line 19 from line 18) .....	<b>20</b>	<b>0.00</b>	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer other than the executor is based on all information of which preparer has any knowledge.

<b>Sign Here</b>	Signature of executor _____	Date _____	
	Signature of executor _____	Date _____	
<b>Paid Preparer's Use Only</b>	Preparer's signature <b>Lawrence Lawyer</b>	Date _____	Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN <b>233-44-5566</b>
	Firm's name (or yours if self-employed), address, and ZIP code <b>1 Main Street, Newark, NJ 07102</b>	EIN <b>11-2220222</b>	Phone no. <b>973-111-2222</b>

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

<b>Estate of: Robert Tune</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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### Part 3 — Elections by the Executor

Please check the "Yes" or "No" box for each question (see instructions beginning on page 7).

Question	Yes	No
1 Do you elect alternate valuation? .....	1	X
2 Do you elect special-use valuation? .....		X
If "Yes," you must complete and attach Schedule A-1.	2	
3 Do you elect to pay the taxes in installments as described in section 6166? .....		X
If "Yes," you must attach the additional information described on pages 10 through 12 of the instructions. Note. By electing section 6166, you may be required to provide security for estate tax deferred under section 6166 and interest in the form of a surety bond or a section 6324A lien.	3	
4 Do you elect to postpone the part of the taxes attributable to a reversionary or remainder interest as described in section 6163? .....	4	X

### Part 4 — General Information (Note. Please attach the necessary supplemental documents. You must attach the death certificate.) (see instructions on page 12)

Authorization to receive confidential tax information under Regs. sec. 601.504(b)(2)(i); to act as the estate's representative before the IRS; and to make written or oral presentations on behalf of the estate if return prepared by an attorney, accountant, or enrolled agent for the executor:

Name of representative (print or type) <b>Lawrence Lawyer</b>	State <b>NJ</b>	Address (number, street, and room or suite no., city, state, and ZIP code) <b>1 Main Steet, Newark, New Jersey 07102</b>
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I declare that I am the  attorney/  certified public accountant/  enrolled agent (you must check the applicable box) for the executor and prepared this return for the executor. I am not under suspension or disbarment from practice before the Internal Revenue Service and am qualified to practice in the state shown above.

Signature	CAF number <b>P1111011</b>	Date	Telephone number <b>973-642-4321</b>
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1 Death certificate number and issuing authority (attach a copy of the death certificate to this return).  
**Roseland, New Jersey (see attached)**

2 Decedent's business or occupation. If retired, check here  and state decedent's former business or occupation.

#### Accountant

3 Marital status of the decedent at time of death:

Married  
 Widow or widower — Name, SSN, and date of death of deceased spouse ▶ \_\_\_\_\_

Single  
 Legally separated  
 Divorced — Date divorce decree became final ▶ \_\_\_\_\_

4a Surviving spouse's name <b>Judy Tune</b>	4b Social security number <b>124-35-6789</b>	4c Amount received (see page 12 of the instructions) <b>481,589.00</b>
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5 Individuals (other than the surviving spouse), trusts, or other estates who receive benefits from the estate (do not include charitable beneficiaries shown in Schedule O) (see instructions).

Name of individual, trust, or estate receiving \$5,000 or more	Identifying number	Relationship to decedent	Amount (see instructions)
<b>Lawrence Tune</b>	<b>135-34-6879</b>	<b>Son</b>	<b>395,858.00</b>
<b>Lauren Tune</b>	<b>128-76-6543</b>	<b>Daughter</b>	<b>825,050.00</b>
All unascertainable beneficiaries and those who receive less than \$5,000 .....			<b>13,424.00</b>
<b>Total</b> .....			<b>1,234,332.00</b>

Please check the "Yes" or "No" box for each question.

Question	Yes	No
6 Does the gross estate contain any section 2044 property (qualified terminable interest property (QTIP) from a prior gift or estate) (see page 12 of the instructions)? .....		X
7a Have federal gift tax returns ever been filed? .....	X	
If "Yes," please attach copies of the returns, if available, and furnish the following information:		
7b Period(s) covered <b>2003</b>	7c Internal Revenue office(s) where filed <b>Cincinnati, Ohio</b>	
8a Was there any insurance on the decedent's life that is not included on the return as part of the gross estate? .....		X
b Did the decedent own any insurance on the life of another that is not included in the gross estate? .....		X

(continued on next page)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued**

Form 708 (Rev. 9-2009)

**Part 4 — General Information (continued)**

If you answer "Yes" to any of questions 9 - 16, you must attach additional information as described in the instructions.		Yes	No
9	Did the decedent at the time of death, own any property as a joint tenant with right of survivorship in which (a) one or more of the other joint tenants was someone other than the decedent's spouse, and (b) less than the full value of the property is included on the return as part of the gross estate? If "Yes," you must complete and attach Schedule E . . . . .		X
10a	Did the decedent, at the time of death, own any interest in a partnership (for example, a family limited partnership), an unincorporated business, or a limited liability company; or own any stock in an inactive or closely held corporation?		X
b	If "Yes," was the value of any interest owned (from above) discounted on this estate tax return? If "Yes," see the instructions for Schedule F on page 20 for reporting the total accumulated or effective discounts taken on Schedule F, or G. . . . .		X
11	Did the decedent make any transfer described in section 2035, 2036, 2037, or 2038 (see the instructions for Schedule G beginning on page 15 of the separate instructions)? If "Yes," you must complete and attach Schedule G . . . . .		X
12a	Were there in existence at the time of the decedent's death any trusts created by the decedent during his or her lifetime? . . . . .		X
b	Were there in existence at the time of the decedent's death any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship? . . . . .		X
c	Was the decedent receiving income from a trust created after October 22, 1986 by a parent or grandparent? . . . . .		X
	If "Yes," was there a GST taxable termination (under section 2612) upon the death of the decedent? . . . . .		X
d	If there was a GST taxable termination (under section 2612), attach a statement to explain. Provide a copy of the trust or will creating the trust, and give the name, address, and phone number of the current trustee(s).		
e	Did the decedent at any time during his or her lifetime transfer or sell an interest in a partnership, limited liability company, or closely held corporation to a trust described in question 12a or 12b? . . . . .		X
	If "Yes," provide the EIN number to this transferred/sold item. ▶		
13	Did the decedent ever possess, exercise, or release any general power of appointment? If "Yes," you must complete and attach Schedule H . . . . .		X
14	Did the decedent have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? . . . . .		X
15	Was the decedent, immediately before death, receiving an annuity described in the "General" paragraph of the Instructions for Schedule I or a private annuity? If "Yes," you must complete and attach Schedule I . . . . .		X
16	Was the decedent ever the beneficiary of a trust for which a deduction was claimed by the estate of a pre-deceased spouse under section 2056(b)(7) and which is not reported on this return? If "Yes," attach an explanation . . . . .		X

**Part 5 — Recapitulation**

Item number	Gross estate	Alternate value	Value at date of death
1	Schedule A — Real Estate . . . . .	1 0.00	0.00
2	Schedule B — Stocks and Bonds . . . . .	2 0.00	1,958,737.00
3	Schedule C — Mortgages, Notes, and Cash . . . . .	3 0.00	70,808.00
4	Schedule D — Insurance on the Decedent's Life (attach Form(s) 712) . . . . .	4 0.00	0.00
5	Schedule E — Jointly Owned Property (attach Form(s) 712 for life insurance) . . . . .	5 0.00	205,000.00
6	Schedule F — Other Miscellaneous Property (attach Form(s) 712 for life insurance) . . . . .	6 0.00	100.00
7	Schedule G — Transfers During Decedent's Life (att. Form(s) 712 for life insurance) . . . . .	7 0.00	0.00
8	Schedule H — Powers of Appointment . . . . .	8 0.00	0.00
9	Schedule I — Annuities . . . . .	9 0.00	13,424.00
10	Total gross estate (add items 1 through 9) . . . . .	10 0.00	2,248,069.00
11	Schedule U — Qualified Conservation Easement Exclusion . . . . .	11	
12	Total gross estate less exclusion (subtract item 11 from item 10). Enter here and on line 1 of Part 2 — Tax Computation . . . . .	12 0.00	2,248,069.00
Item number	Deductions	Amount	
13	Schedule J — Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims . . . . .	13	32,148.00
14	Schedule K — Debts of the Decedent . . . . .	14	500,000.00
15	Schedule K — Mortgages and Liens . . . . .	15	0.00
16	Total of items 13 through 15. . . . .	16	532,148.00
17	Allowable amount of deductions from item 16 (see the instructions for item 17 of the Recapitulation) . . . . .	17	532,148.00
18	Schedule L — Net Losses During Administration . . . . .	18	0.00
19	Schedule L — Expenses Incurred in Administering Property Not Subject to Claims . . . . .	19	0.00
20	Schedule M — Bequests, etc., to Surviving Spouse . . . . .	20	481,589.00
21	Schedule O — Charitable, Public, and Similar Gifts and Bequests . . . . .	21	0.00
22	Tentative total allowable deductions (add items 17 through 21). Enter here and on line 2 of the Tax Computation . . . . .	22	1,013,737.00

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

**Estate of: Robert Tune**

**Decedent's Social Security Number**  
**063-08-0012**

### SCHEDULE A — Real Estate

- For jointly owned property that must be disclosed on Schedule E, see the instructions on the reverse side of Schedule E.
- Real estate that is part of a sole proprietorship should be shown on Schedule F.
- Real estate that is included in the gross estate under section 2035, 2036, 2037, or 2038 should be shown on Schedule G.
- Real estate that is included in the gross estate under section 2041 should be shown on Schedule H.
- If you elect section 2032A valuation, you must complete Schedule A and Schedule A-1.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	None			
Total from continuation schedules or additional sheets attached to this schedule.....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 1.) .....			0.00	0.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued**

Form 706 (Rev. 9-2009)

**Instructions for Schedule A — Real Estate**

If the total gross estate contains any real estate, you must complete Schedule A and file it with the return. On Schedule A, list real estate the decedent owned or had contracted to purchase. Number each parcel in the left-hand column.

Describe the real estate in enough detail so that the IRS can easily locate it for inspection and valuation. For each parcel of real estate, report the area and, if the parcel is improved, describe the improvements. For city or town property, report the street and number, ward, subdivision, block and lot, etc. For rural property, report the township, range, landmarks, etc.

If any item of real estate is subject to a mortgage for which the decedent's estate is liable, that is, if the indebtedness may be charged against other property of the estate that is not subject to that mortgage, or if the decedent was personally liable for that mortgage, you must report the full value of the property in the value

column. Enter the amount of the mortgage under "Description" on this schedule. The unpaid amount of the mortgage may be deducted on Schedule K.

If the decedent's estate is not liable for the amount of the mortgage, report only the value of the equity of redemption (or value of the property less the indebtedness) in the value column as part of the gross estate. Do not enter any amount less than zero. Do not deduct the amount of indebtedness on Schedule K.

Also list on Schedule A real property the decedent contracted to purchase. Report the full value of the property and not the equity in the value column. Deduct the unpaid part of the purchase price on Schedule K.

Report the value of real estate without reducing it for homestead or other exemption, or the value of dower, curtesy, or a statutory estate created instead of dower or curtesy.

Explain how the reported values were determined and attach copies of any appraisals.

**Schedule A Examples**

In this example, alternate valuation is not adopted; the date of death is January 1, 2009.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	House and lot, 1921 William Street NW, Washington, DC (lot 6, square 481). Rent of \$8,100 due at end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached .....			\$550,000
	Rent due on item 1 for quarter ending November 1, 2008, but not collected at date of death .....			8,100
	Rent accrued on item 1 for November and December 2008 .....			5,400
2	House and lot, 304 Jefferson Street, Alexandria, VA (lot 18, square 40). Rent of \$1,800 payable monthly. Value based on appraisal, copy of which is attached .....			375,000
	Rent due on item 2 for December 2008, but not collected at date of death .....			1,800

In this example, alternate valuation is adopted; the date of death is January 1, 2009.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	House and lot, 1921 William Street NW, Washington, DC (lot 6, square 481). Rent of \$8,100 due at end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached. Not disposed of within 6 months following death .....	7/1/09	\$535,000	\$550,000
	Rent due on item 1 for quarter ending November 1, 2008, but not collected until February 1, 2009 .....	2/1/09	8,100	8,100
	Rent accrued on item 1 for November and December 2008, collected on February 1, 2009 .....	2/1/09	5,400	5,400
2	House and lot, 304 Jefferson Street, Alexandria, VA (lot 18, square 40). Rent of \$1,800 payable monthly. Value based on appraisal, copy of which is attached. Property exchanged for farm on May 1, 2009 .....	5/1/09	369,000	375,000
	Rent due on item 2 for December 2008, but not collected until February 1, 2009 .....	2/1/09	1,800	1,800

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule A-1. Section 2032A Valuation

The election to value certain farm and closely held business property at its special-use value is made by checking "Yes" on Form 706, Part 3 — Elections by the Executor, line 2. Schedule A-1 is used to report the additional information that must be submitted to support this election. In order to make a valid election, you must complete Schedule A-1 and attach all of the required statements and appraisals.

For definitions and additional information concerning special-use valuation, see section 2032A and the related regulations.

#### Part 1. Type of Election

**Estate and GST tax elections.** If you elect special-use valuation for the estate tax, you must also elect special-use valuation for the GST tax and *vice versa*.

You must value each specific property interest at the same value for GST tax purposes that you value it at for estate tax purposes.

**Protective election.** To make the protective election described in the separate instructions for Part 3 — Elections by the Executor, line 2, you must check this box, enter the decedent's name and social security number in the spaces provided at the top of Schedule A-1, and complete *Part 2. Notice of Election*, line 1 and lines 3 and 4, column A. For purposes of the protective election, list on line 3 all of the real property that passes to the qualified heirs even though some of the property will be shown on line 2 when the additional notice of election is subsequently filed. You need not complete columns B through D of lines 3 and 4. You need not complete any other line entries on Schedule A-1. Completing Schedule A-1 as described above constitutes a Notice of Protective Election as described in Regulations section 20.2032A-8(b).

#### Part 2. Notice of Election

**Line 10.** Because the special-use valuation election creates a potential tax liability for the recapture tax of section 2032A(c), you must list each person who receives an interest in the specially valued property on Schedule A-1. If there are more than eight persons who receive interests, use an additional sheet that follows the format of line 10. In the columns "Fair market value" and "Special-use value," you should enter the total respective values of all the specially valued property interests received by each person.

#### GST Tax Savings

To compute the additional GST tax due upon disposition (or cessation of qualified use) of the property, each "skip person" (as defined in the instructions to Schedule R) who receives an interest in the specially valued property must know the total GST tax savings on all of the interests in specially valued property received. This GST tax savings is the difference between the total GST tax that was imposed on all of the interests in specially valued property received by the skip person valued at their special-use value and the total GST tax that would have been imposed on the same interests received by the skip person had they been valued at their fair market value (FMV).

Because the GST tax depends on the executor's allocation of the GST exemption and the grandchild exclusion, the skip person who receives the interests is unable to compute this GST tax savings. Therefore, for each skip person who receives an interest in specially valued property, you must attach worksheets showing the total GST tax savings attributable to all of that person's interests in specially valued property.

**How to compute the GST tax savings.** Before computing each skip person's GST tax savings, you must complete Schedules R and R-1 for the entire estate (using the special-use values).

For each skip person, you must complete two Schedules R (Parts 2 and 3 only) as worksheets, one showing the interests in

specially valued property received by the skip person at their special-use value and one showing the same interests at their FMV.

If the skip person received interests in specially valued property that were shown on Schedule R-1, show these interests on the Schedule R, Parts 2 and 3 worksheets, as appropriate. Do not use Schedule R-1 as a worksheet.

**Completing the special-use value worksheets.** On Schedule R, Parts 2 and 3, lines 2 through 4 and 6, enter -0-.

#### Completing the fair market value worksheets.

- **Schedule R, Parts 2 and 3, lines 2 and 3, fixed taxes and other charges.** If valuing the interests at their FMV (instead of special-use value) causes any of these taxes and charges to increase, enter the increased amount (only) on these lines and attach an explanation of the increase. Otherwise, enter -0-.

- **Schedule R, Parts 2 and 3, line 6 — GST exemption allocation.** If you completed Schedule R, Part 1, line 10, enter on line 6 the amount shown for the skip person on the line 10 special-use allocation schedule you attached to Schedule R. If you did not complete Schedule R, Part 1, line 10, enter -0- on line 6.

**Total GST tax savings.** For each skip person, subtract the tax amount on line 10, Part 2 of the special-use value worksheet from the tax amount on line 10, Part 2 of the fair market value worksheet. This difference is the skip person's total GST tax savings.

#### Part 3. Agreement to Special Valuation Under Section 2032A

The agreement to special valuation by persons with an interest in property is required under section 2032A(a)(1)(B) and (d)(2) and must be signed by all parties who have any interest in the property being valued based on its qualified use as of the date of the decedent's death.

An interest in property is an interest that, as of the date of the decedent's death, can be asserted under applicable local law so as to affect the disposition of the specially valued property by the estate. Any person who at the decedent's death has any such interest in the property, whether present or future, or vested or contingent, must enter into the agreement. Included are owners of remainder and executory interests; the holders of general or special powers of appointment; beneficiaries of a gift over in default of exercise of any such power; joint tenants and holders of similar undivided interests when the decedent held only a joint or undivided interest in the property or when only an undivided interest is specially valued; and trustees of trusts and representatives of other entities holding title to, or holding any interests in the property. An heir who has the power under local law to caveat (challenge) a will and thereby affect disposition of the property is not, however, considered to be a person with an interest in property under section 2032A solely by reason of that right. Likewise, creditors of an estate are not such persons solely by reason of their status as creditors.

If any person required to enter into the agreement either desires that an agent act for him or her or cannot legally bind himself or herself due to infancy or other incompetency, or due to death before the election under section 2032A is timely exercised, a representative authorized by local law to bind the person in an agreement of this nature may sign the agreement on his or her behalf.

The Internal Revenue Service will contact the agent designated in the agreement on all matters relating to continued qualification under section 2032A of the specially valued real property and on all matters relating to the special lien arising under section 6324B. It is the duty of the agent as attorney-in-fact for the parties with interests in the specially valued property to furnish the IRS with any requested information and to notify the IRS of any disposition or cessation of qualified use of any part of the property.



## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

**Checklist for Section 2032A Election.**

*If you are going to make the special-use valuation election on Schedule A-1, please use this checklist to ensure that you are providing everything necessary to make a valid election.*

To have a valid special-use valuation election under section 2032A, you must file, in addition to the federal estate tax return, (a) a notice of election (Schedule A-1, Part 2), and (b) a fully executed agreement (Schedule A-1, Part 3). You must include certain information in the notice of election. To ensure that the notice of election includes all of the information required for a valid election, use the following checklist. The checklist is for your use only. Do not file it with the return.

1. Does the notice of election include the decedent's name and social security number as they appear on the estate tax return?
  2. Does the notice of election include the relevant qualified use of the property to be specially valued?
  3. Does the notice of election describe the items of real property shown on the estate tax return that are to be specially valued and identify the property by the Form 706 schedule and item number?
  4. Does the notice of election include the FMV of the real property to be specially valued and also include its value based on the qualified use (determined without the adjustments provided in section 2032A(b)(3)(B))?
  5. Does the notice of election include the adjusted value (as defined in section 2032A(b)(3)(B)) of (a) all real property that both passes from the decedent and is used in a qualified use, without regard to whether it is to be specially valued, and (b) all real property to be specially valued?
  6. Does the notice of election include (a) the items of personal property shown on the estate tax return that pass from the decedent to a qualified heir and that are used in qualified use and (b) the total value of such personal property adjusted under section 2032A(b)(3)(B)?
  7. Does the notice of election include the adjusted value of the gross estate? (See section 2032A(b)(3)(A).)
  8. Does the notice of election include the method used to determine the special-use value?
  9. Does the notice of election include copies of written appraisals of the FMV of the real property?
  10. Does the notice of election include a statement that the decedent and/or a member of his or her family has owned all of the specially valued property for at least 5 years of the 8 years immediately preceding the date of the decedent's death?
  11. Does the notice of election include a statement as to whether there were any periods during the 8-year period preceding the decedent's date of death during which the decedent or a member of his or her family did not (a) own the property to be specially valued, (b) use it in a qualified use, or (c) materially participate in the operation of the farm or other business? (See section 2032A(e)(6).)
  12. Does the notice of election include, for each item of specially valued property, the name of every person taking an interest in that item of specially valued property and the following information about each such person: (a) the person's address, (b) the person's taxpayer identification number, (c) the person's relationship to the decedent, and (d) the value of the property interest passing to that person based on both FMV and qualified use?
  13. Does the notice of election include affidavits describing the activities constituting material participation and the identity of the material participants?
  14. Does the notice of election include a legal description of each item of specially valued property? (In the case of an election made for qualified woodlands, the information included in the notice of election must include the reason for entitlement to the Woodlands election.)
- Any election made under section 2032A will not be valid unless a properly executed agreement (Schedule A-1, Part 3) is filed with the estate tax return. To ensure that the agreement satisfies the requirements for a valid election, use the following checklist.
1. Has the agreement been signed by each qualified heir having an interest in the property being specially valued?
  2. Has every qualified heir expressed consent to personal liability under section 2032A(c) in the event of an early disposition or early cessation of qualified use?
  3. Is the agreement that is actually signed by the qualified heirs in a form that is binding on all of the qualified heirs having an interest in the specially valued property?
  4. Does the agreement designate an agent to act for the parties to the agreement in all dealings with the IRS on matters arising under section 2032A?
  5. Has the agreement been signed by the designated agent and does it give the address of the agent?

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

<b>Estate of:</b> Robert Tune	<b>Decedent's Social Security Number</b> 063-08-0012
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### SCHEDULE A-1 — Section 2032A Valuation

**Part 1. Type of Election** (Before making an election, see the checklist on page 7.):

- Protective election (Regulations section 20.2032A-8(b)). Complete Part 2, line 1, and column A of lines 3 and 4. (see instructions)
- Regular election. Complete all of Part 2 (including line 11, if applicable) and Part 3. (see instructions)

Before completing Schedule A-1, see the checklist on page 7 for the information and documents that must be included to make a valid election.

The election is not valid unless the agreement (that is, *Part 3. Agreement to Special Valuation Under Section 2032A*):

- Is signed by each qualified heir with an interest in the specially valued property and
- Is attached to this return when it is filed.

**Part 2. Notice of Election** (Regulations section 20.2032A-8(a)(3))

**Note.** All real property entered on lines 2 and 3 must also be entered on Schedules A, E, F, G, or H, as applicable.

- 1 Qualified use — check one  Farm used for farming, or  
 Trade or business other than farming
- 2 Real property used in a qualified use, passing to qualified heirs, and to be specially valued on this Form 706.

A Schedule and item number from Form 706	B Full value (without section 2032A(b)(3)(B) adjustment)	C Adjusted value (with section 2032A(b)(3)(B) adjustment)	D Value based on qualified use (without section 2032A(b)(3)(B) adjustment)
<b>Totals</b> .....	0.00	0.00	0.00

Attach a legal description of all property listed on line 2.

Attach copies of appraisals showing the column B values for all property listed on line 2.

3 Real property used in a qualified use, passing to qualified heirs, but not specially valued on this Form 706.

A Schedule and item number from Form 706	B Full value (without section 2032A(b)(3)(B) adjustment)	C Adjusted value (with section 2032A(b)(3)(B) adjustment)	D Value based on qualified use (without section 2032A(b)(3)(B) adjustment)
<b>Totals</b> .....	0.00	0.00	0.00

If you checked "Regular election," you must attach copies of appraisals showing the column B values for all property listed on line 3.

(continued on next page)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued**

Form 706 (Rev. 9-2009)

**4 Personal property used in a qualified use and passing to qualified heirs.**

A Schedule and item number from Form 706	B Adjusted value (with section 2032A(b)(3)(B) adjustment)	A (continued) Schedule and item number from Form 706	B (continued) Adjusted value (with section 2032A(b)(3)(B) adjustment)
		"Subtotal" from Col. B, below left	0.00
Subtotal . . . . .		Total adjusted value . . . . .	
	0.00		0.00

**5** Enter the value of the total gross estate as adjusted under section 2032A(b)(3)(A). ▶ \_\_\_\_\_

**6** Attach a description of the method used to determine the special value based on qualified use.

**7** Did the decedent and/or a member of his or her family own all property listed on line 2 for at least 5 of the 8 years immediately preceding the date of the decedent's death?  Yes  No

**8** Were there any periods during the 8-year period preceding the date of the decedent's death during which the decedent or a member of his or her family:

	Yes	No
<b>a</b> Did not own the property listed on line 2? . . . . .		
<b>b</b> Did not use the property listed on line 2 in a qualified use? . . . . .		
<b>c</b> Did not materially participate in the operation of the farm or other business within the meaning of section 2032A(e)(6)? . . . . .		

If "Yes" to any of the above, you must attach a statement listing the periods. If applicable, describe whether the exceptions of sections 2032A(b)(4) or (5) are met.

**9** Attach affidavits describing the activities constituting material participation and the identity and relationship to the decedent of the material participants.

**10** Persons holding interests. Enter the requested information for each party who received any interest in the specially valued property. (Each of the qualified heirs receiving an interest in the property must sign the agreement, and the agreement must be filed with this return.)

	Name	Address		
A				
B				
C				
D				
E				
F				
G				
H				
	Identifying number	Relationship to decedent	Fair market value	Special-use value
A				
B				
C				
D				
E				
F				
G				
H				

You must attach a computation of the GST tax savings attributable to direct skips for each person listed above who is a skip person. (see instructions)

**11** Woodlands election. Check here  if you wish to make a Woodlands election as described in section 2032A(e)(13). Enter the schedule and item numbers from Form 706 of the property for which you are making this election ▶ \_\_\_\_\_

You must attach a statement explaining why you are entitled to make this election. The IRS may issue regulations that require more information to substantiate this election. You will be notified by the IRS if you must supply further information.

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

**Part 3. Agreement to Special Valuation Under Section 2032A**

Estate of: **Robert Tune**

Decedent's Social Security Number  
**063-08-0012**

There cannot be a valid election unless:

- The agreement is executed by each one of the qualified heirs and
- The agreement is included with the estate tax return when the estate tax return is filed.

We (list all qualified heirs and other persons having an interest in the property required to sign this agreement)

\_\_\_\_\_ ,  
being all the qualified heirs and \_\_\_\_\_ ,

\_\_\_\_\_ ,  
being all other parties having interests in the property which is qualified real property and which is valued under section 2032A of the Internal Revenue Code, do hereby approve of the election made by \_\_\_\_\_ ,  
Executor/Administrator of the estate of \_\_\_\_\_ ,  
pursuant to section 2032A to value said property on the basis of the qualified use to which the property is devoted and do hereby enter into this agreement pursuant to section 2032A(d).

The undersigned agree and consent to the application of subsection (c) of section 2032A of the Code with respect to all the property described on Form 706, Schedule A-1, Part 2, line 2, attached to this agreement. More specifically, the undersigned heirs expressly agree and consent to personal liability under subsection (c) of 2032A for the additional estate and GST taxes imposed by that subsection with respect to their respective interests in the above-described property in the event of certain early dispositions of the property or early cessation of the qualified use of the property. It is understood that if a qualified heir disposes of any interest in qualified real property to any member of his or her family, such member may thereafter be treated as the qualified heir with respect to such interest upon filing a Form 706-A, United States Additional Estate Tax Return, and a new agreement.

The undersigned interested parties who are not qualified heirs consent to the collection of any additional estate and GST taxes imposed under section 2032A(c) of the Code from the specially valued property.

If there is a disposition of any interest which passes, or has passed to him or her, or if there is a cessation of the qualified use of any specially valued property which passes or passed to him or her, each of the undersigned heirs agrees to file a Form 706-A, and pay any additional estate and GST taxes due within 6 months of the disposition or cessation.

It is understood by all interested parties that this agreement is a condition precedent to the election of special-use valuation under section 2032A of the Code and must be executed by every interested party even though that person may not have received the estate (or GST) tax benefits or be in possession of such property.

Each of the undersigned understands that by making this election, a lien will be created and recorded pursuant to section 6324B of the Code on the property referred to in this agreement for the adjusted tax differences with respect to the estate as defined in section 2032A(c)(2)(C).

As the interested parties, the undersigned designate the following individual as their agent for all dealings with the Internal Revenue Service concerning the continued qualification of the specially valued property under section 2032A of the Code and on all issues regarding the special lien under section 6324B. The agent is authorized to act for the parties with respect to all dealings with the Service on matters affecting the qualified real property described earlier. This includes the authorization:

- To receive confidential information on all matters relating to continued qualification under section 2032A of the specially valued real property and on all matters relating to the special lien arising under section 6324B;
- To furnish the Internal Revenue Service with any requested information concerning the property;
- To notify the Internal Revenue Service of any disposition or cessation of qualified use of any part of the property;
- To receive, but not to endorse and collect, checks in payment of any refund of Internal Revenue taxes, penalties, or interest;
- To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund; and
- To execute closing agreements under section 7121.

(continued on next page)

Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

Part 3. Agreement to Special Valuation Under Section 2032A (continued)

Estate of: Robert Tune

Decedent's Social Security Number 063-08-0012

• Other acts (specify) ▶

By signing this agreement, the agent agrees to provide the Internal Revenue Service with any requested information concerning this property and to notify the Internal Revenue Service of any disposition or cessation of the qualified use of any part of this property.

Name of Agent Signature Address

The property to which this agreement relates is listed in Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, and in the Notice of Election, along with its fair market value according to section 2031 of the Code and its special-use value according to section 2032A. The name, address, social security number, and interest (including the value) of each of the undersigned in this property are as set forth in the attached Notice of Election.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at

this day of

SIGNATURES OF EACH OF THE QUALIFIED HEIRS:

Signature of qualified heir Signature of qualified heir

Signature of qualified heir Signature of qualified heir

Signature of qualified heir Signature of qualified heir

Signature of qualified heir Signature of qualified heir

Signature of qualified heir Signature of qualified heir

Signature of qualified heir Signature of qualified heir

Signatures of other interested parties

Signatures of other interested parties

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2008)

<b>Estate of: Robert Tune</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE B — Stocks and Bonds**

(For jointly owned property that must be disclosed on Schedule E, see the instructions for Schedule E.)

Item number	Description, including face amount of bonds or number of shares and par value for identification. Give CUSIP number. If trust, partnership, or closely held entity, give EIN	Unit value	Alternate valuation date	Alternate value	Value at date of death
1	1,958,737 shares of ABC Corp. <small>CUSIP number or EIN, where applicable</small> 987654431	1.00			1,958,737.00
Total from continuation schedules (or additional sheets) attached to this schedule .....					
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 2.) .....					0.00    1,958,737.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedule B are in the separate instructions.)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 708 (Rev. 9-2009)

Estate of: Robert Tune

Decedent's Social Security Number  
063-08-0012

**SCHEDULE C — Mortgages, Notes, and Cash**

(For jointly owned property that must be disclosed on Schedule E, see the instructions for Schedule E.)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	Pilgrim Savings Bank Roseland, New Jersey Certificate of Deposit #CD54321 P.O.D. Lawrence Tune			70,808.00
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 3.) .....				<b>0.00</b> <b>70,808.00</b>

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

**Instructions for Schedule C —  
Mortgages, Notes, and Cash**

Complete Schedule C and file it with your return if the total gross estate contains any:

- Mortgages,
- Notes, or
- Cash.

List on Schedule C:

- Mortgages and notes payable to the decedent at the time of death.
- Cash the decedent had at the date of death.

Do not list on Schedule C:

- Mortgages and notes payable by the decedent. (If these are deductible, list them on Schedule K.)

List the items on Schedule C in the following order:

1. Mortgages;
2. Promissory notes;
3. Contracts by decedent to sell land;
4. Cash in possession; and
5. Cash in banks, savings and loan associations, and other types of financial organizations.

**What to enter in the "Description" column:**

For mortgages, list:

- Face value,
- Unpaid balance,
- Date of mortgage,
- Name of maker,
- Property mortgaged,
- Date of maturity,
- Interest rate, and
- Interest date.

**Example to enter in "Description" column:**

"Bond and mortgage of \$50,000, unpaid balance: \$17,000; dated: January 1, 1992; John Doe to Richard Roe; premises: 22 Clinton Street, Newark, NJ; due: January 1, 2012; interest payable at 10% a year — January 1 and July 1."

For promissory notes, list in the same way as mortgages.

For contracts by the decedent to sell land, list:

- Name of purchaser,
- Contract date,
- Property description,
- Sale price,
- Initial payment,
- Amounts of installment payment,
- Unpaid balance of principal, and
- Interest rate.

For cash in possession, list such cash separately from bank deposits.

For cash in banks, savings and loan associations, and other types of financial organizations, list:

- Name and address of each financial organization,
- Amount in each account,
- Serial or account number,
- Nature of account — checking, savings, time deposit, etc., and
- Unpaid interest accrued from date of last interest payment to the date of death.

**Note.** If you obtain statements from the financial organizations, keep them for IRS inspection.



**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

Estate of: Robert Tune

Decedent's Social Security Number  
063-08-0012

**SCHEDULE D — Insurance on the Decedent's Life**

You must list all policies on the life of the decedent and attach a Form 712 for each policy.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1	None			
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 4.) .....			0.00	0.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule D — Insurance on the Decedent's Life

If you are required to file Form 706 and there was any insurance on the decedent's life, whether or not included in the gross estate, you must complete Schedule D and file it with the return.

**Insurance you must include on Schedule D.** Under section 2042, you must include in the gross estate:

- Insurance on the decedent's life receivable by or for the benefit of the estate; and
- Insurance on the decedent's life receivable by beneficiaries other than the estate, as described below.

The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficiary societies operating under the lodge system, and death benefits paid under no-fault automobile insurance policies if the no-fault insurer was unconditionally bound to pay the benefit in the event of the insured's death.

**Insurance in favor of the estate.** Include on Schedule D the full amount of the proceeds of insurance on the life of the decedent receivable by the executor or otherwise payable to or for the benefit of the estate. Insurance in favor of the estate includes insurance used to pay the estate tax, and any other taxes, debts, or charges that are enforceable against the estate. The manner in which the policy is drawn is immaterial as long as there is an obligation, legally binding on the beneficiary, to use the proceeds to pay taxes, debts, or charges. You must include the full amount even though the premiums or other consideration may have been paid by a person other than the decedent.

**Insurance receivable by beneficiaries other than the estate.** Include on Schedule D the proceeds of all insurance on the life of the decedent not receivable by or for the benefit of the decedent's estate if the decedent possessed at death any of the incidents of ownership, exercisable either alone or in conjunction with any person.

Incidents of ownership in a policy include:

- The right of the insured or estate to its economic benefits;
- The power to change the beneficiary;

- The power to surrender or cancel the policy;
- The power to assign the policy or to revoke an assignment;
- The power to pledge the policy for a loan;
- The power to obtain from the insurer a loan against the surrender value of the policy; and
- A reversionary interest if the value of the reversionary interest was more than 5% of the value of the policy immediately before the decedent died. (An interest in an insurance policy is considered a reversionary interest if, for example, the proceeds become payable to the insured's estate or payable as the insured directs if the beneficiary dies before the insured.)

Life insurance not includible in the gross estate under section 2042 may be includible under some other section of the Code. For example, a life insurance policy could be transferred by the decedent in such a way that it would be includible in the gross estate under section 2036, 2037, or 2038. See the instructions to Schedule G for a description of these sections.

### Completing the Schedule

You must list every policy of insurance on the life of the decedent, whether or not it is included in the gross estate.

Under "Description," list:

- The name of the insurance company, and
- The number of the policy.

For every policy of life insurance listed on the schedule, you must request a statement on Form 712, Life Insurance Statement, from the company that issued the policy. Attach the Form 712 to the back of Schedule D.

If the policy proceeds are paid in one sum, enter the net proceeds received (from Form 712, line 24) in the value (and alternate value) columns of Schedule D. If the policy proceeds are not paid in one sum, enter the value of the proceeds as of the date of the decedent's death (from Form 712, line 25).

If part or all of the policy proceeds are not included in the gross estate, you must explain why they were not included.

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of: Robert Tune</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE E — Jointly Owned Property**

(If you elect section 2032A valuation, you must complete Schedule E and Schedule A-1.)

**PART 1. Qualified Joint Interests — Interests Held by the Decedent and His or Her Spouse as the Only Joint Tenants (Section 2040(b)(2))**

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate value	Value at date of death
1	Personal Residence 103 Main Street Roseland, New Jersey (see attached appraisal)			410,000.00
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>1a Totals .....</b>			<b>0.00</b>	<b>410,000.00</b>
<b>1b Amounts included in gross estate (one-half of line 1a) .....</b>			<b>0.00</b>	<b>205,000.00</b>

**PART 2. All Other Joint Interests**

**2a** State the name and address of each surviving co-tenant. If there are more than three surviving co-tenants, list the additional co-tenants on an attached sheet.

Name	Address (number and street, city, state, and ZIP code)
<b>A.</b>	
<b>B.</b>	
<b>C.</b>	

Item number	Enter letter for co-tenant	Description (including alternate valuation date if any). For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Percentage includible	Includible alternate value	Includible value at date of death
1					
Total from continuation schedules (or additional sheets) attached to this schedule .....					
<b>2b Total other joint interests .....</b>				<b>0.00</b>	<b>0.00</b>
<b>3 Total includible joint interests (add lines 1b and 2b). Also enter on Part 5 — Recapitulation, page 3, at item 5 .....</b>				<b>0.00</b>	<b>205,000.00</b>

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule E — Jointly Owned Property

If you are required to file Form 706, you must complete Schedule E and file it with the return if the decedent owned any joint property at the time of death, whether or not the decedent's interest is includible in the gross estate.

Enter on this schedule all property of whatever kind or character, whether real estate, personal property, or bank accounts, in which the decedent held at the time of death an interest either as a joint tenant with right to survivorship or as a tenant by the entirety.

Do not list on this schedule property that the decedent held as a tenant in common, but report the value of the interest on Schedule A if real estate, or on the appropriate schedule if personal property. Similarly, community property held by the decedent and spouse should be reported on the appropriate Schedules A through I. The decedent's interest in a partnership should not be entered on this schedule unless the partnership interest itself is jointly owned. Solely owned partnership interests should be reported on Schedule F, "Other Miscellaneous Property Not Reportable Under Any Other Schedule."

**Part 1. Qualified joint interests held by decedent and spouse.** Under section 2040(b)(2), a joint interest is a qualified joint interest if the decedent and the surviving spouse held the interest as:

- Tenants by the entirety, or
- Joint tenants with right of survivorship if the decedent and the decedent's spouse are the only joint tenants.

Interests that meet either of the two requirements above should be entered in Part 1. Joint interests that do not meet either of the two requirements above should be entered in Part 2.

Under "Description," describe the property as required in the instructions for Schedules A, B, C, and F for the type of property involved. For example, jointly held stocks and bonds should be described using the rules given in the instructions to Schedule B.

Under "Alternate value" and "Value at date of death," enter the full value of the property.

**Note.** You cannot claim the special treatment under section 2040(b) for property held jointly by a decedent and a surviving spouse who is not a U.S. citizen. You must report these joint interests on Part 2 of Schedule E, not Part 1.

**Part 2. Other joint interests.** All joint interests that were not entered in Part 1 must be entered in Part 2.

For each item of property, enter the appropriate letter A, B, C, etc., from line 2a to indicate the name and address of the surviving co-tenant.

Under "Description," describe the property as required in the instructions for Schedules A, B, C, and F for the type of property involved.

In the "Percentage includible" column, enter the percentage of the total value of the property that you intend to include in the gross estate.

Generally, you must include the full value of the jointly owned property in the gross estate. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant or tenants and was never received or acquired by the other tenant or tenants from the decedent for less than adequate and full consideration in money or money's worth, or unless you can show that any part of the property was acquired with consideration originally belonging to the surviving joint tenant or tenants. In this case, you may exclude from the value of the property an amount proportionate to the consideration furnished by the other tenant or tenants. Relinquishing or promising to relinquish dower, curtesy, or statutory estate created instead of dower or curtesy, or other marital rights in the decedent's property or estate is not consideration in money or money's worth. See the Schedule A instructions for the value to show for real property that is subject to a mortgage.

If the property was acquired by the decedent and another person or persons by gift, bequest, devise, or inheritance as joint tenants, and their interests are not otherwise specified by law, include only that part of the value of the property that is figured by dividing the full value of the property by the number of joint tenants.

If you believe that less than the full value of the entire property is includible in the gross estate for tax purposes, you must establish the right to include the smaller value by attaching proof of the extent, origin, and nature of the decedent's interest and the interest(s) of the decedent's co-tenant or co-tenants.

In the "Includible alternate value" and "Includible value at date of death" columns, you should enter only the values that you believe are includible in the gross estate.

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of: Robert Tunc</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE F — Other Miscellaneous Property Not Reportable Under Any Other Schedule**

(For jointly owned property that must be disclosed on Schedule E, see the instructions for Schedule E.)  
(If you elect section 2032A valuation, you must complete Schedule F and Schedule A-1.)

		Yes	No
1 Did the decedent at the time of death own any works of art or items with collectible value in excess of \$3,000 or any collections whose artistic or collectible value combined at date of death exceeded \$10,000? . . . . . If "Yes," submit full details on this schedule and attach appraisals.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2 Has the decedent's estate, spouse, or any other person received (or will receive) any bonus or award as a result of the decedent's employment or death? . . . . . If "Yes," submit full details on this schedule.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Did the decedent at the time of death have, or have access to, a safe deposit box? . . . . . If "Yes," state location, and if held in joint names of decedent and another, state name and relationship of joint depositor.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If any of the contents of the safe deposit box are omitted from the schedules in this return, explain fully why omitted.

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate value	Value at date of death
1	Personal Effects			100.00
Total from continuation schedules (or additional sheets) attached to this schedule . . . . .				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 6.) . . . . .				<b>100.00</b>

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule F — Other Miscellaneous Property

**You must complete Schedule F and file it with the return.**

On Schedule F, list all items that must be included in the gross estate that are not reported on any other schedule, including:

- Debts due the decedent (other than notes and mortgages included on Schedule C);
- Interests in business;
- Any interest in an Archer medical savings account (MSA) or health savings account (HSA), unless such interest passes to the surviving spouse; and
- Insurance on the life of another (obtain and attach Form 712, Life Insurance Statement, for each policy).

**Note (for single premium or paid-up policies).** In certain situations, for example, where the surrender value of the policy exceeds its replacement cost, the true economic value of the policy will be greater than the amount shown on line 59 of Form 712. In these situations, you should report the full economic value of the policy on Schedule F. See Rev. Rul. 78-137, 1978-1 C.B. 280 for details.

- Section 2044 property (see *Decedent Who Was a Surviving Spouse* below);
- Claims (including the value of the decedent's interest in a claim for refund of income taxes or the amount of the refund actually received);
- Rights;
- Royalties;
- Leaseholds;
- Judgments;
- Reversionary or remainder interests;
- Shares in trust funds (attach a copy of the trust instrument);
- Household goods and personal effects, including wearing apparel;
- Farm products and growing crops;
- Livestock;
- Farm machinery; and
- Automobiles.

**Interests.** If the decedent owned any interest in a partnership or unincorporated business, attach a statement of assets and liabilities for the valuation date and for the 5 years before the valuation date. Also, attach statements of the net earnings for the same 5 years. Be sure to include the EIN of the entity. You must account for goodwill in the valuation. In general, furnish the same information and follow the methods used to value close corporations. See the instructions for Schedule B.

All partnership interests should be reported on Schedule F unless the partnership interest, itself, is jointly owned. Jointly owned partnership interests should be reported on Schedule E.

If real estate is owned by the sole proprietorship, it should be reported on Schedule F and not on Schedule A. Describe the real estate with the same detail required for Schedule A.

**Valuation discounts.** If you answered "Yes" to Part 4 — General Information, line 10b for any interest in miscellaneous property not reportable under any other schedule owned by the

decedent at the time of death, attach a statement that lists the item number from Schedule F and identifies the total accumulated discount taken (that is, XX.XX%) on such interest.

If you answered "Yes" to line 10b for an interest in a limited liability company owned by the decedent at the time of death, attach a statement that lists the item number from Schedule F and identifies the effective discount taken on such interest.

**Example of effective discount:**

a	Pro-rata value of limited liability company (before any discounts)	\$100.00
b	Minus: 10% discounts for lack of control	(10.00)
c	Marketable minority interest value (as if freely traded minority interest value)	\$90.00
d	Minus: 15% discount for lack of marketability	(13.50)
e	Non-marketable minority interest value	\$76.50

Calculation of effective discount:

(a minus e) divided by a = effective discount
(\$100.00 – \$76.50) ÷ \$100.00 = 23.50%

**Note.** The amount of discounts are based on the factors pertaining to a specific interest and those discounts shown in the example are for demonstration purposes only.

If you answered "Yes" to line 10b for any transfer(s) described in (1) through (5) on pages 15 and 16 of the separate Form 706 instructions (and made by the decedent), attach a statement to Schedule G which lists the item number from that schedule and identifies the total accumulated discount taken (that is, XX.XX%) on such transfer(s).

**Line 1.** If the decedent owned at the date of death works of art or items with collectible value (for example, jewelry, furs, silverware, books, statuary, vases, oriental rugs, coin or stamp collections), check the "Yes" box on line 1 and provide full details. If any one work of art or item with collectible value is valued at more than \$3,000, or any collection of similar articles is valued at more than \$10,000, attach an appraisal by an expert under oath and the required statement regarding the appraiser's qualifications (see Regulations section 20.2031-6(b)).

### Decedent Who Was a Surviving Spouse

If the decedent was a surviving spouse, he or she may have received qualified terminable interest property (QTIP) from the predeceased spouse for which the marital deduction was elected either on the predeceased spouse's estate tax return or on a gift tax return, Form 709. The election was available for gifts made and decedents dying after December 31, 1981. List such property on Schedule F.

If this election was made and the surviving spouse retained his or her interest in the QTIP property at death, the full value of the QTIP property is includible in his or her estate, even though the qualifying income interest terminated at death. It is valued as of the date of the surviving spouse's death, or alternate valuation date, if applicable. Do not reduce the value by any annual exclusion that may have applied to the transfer creating the interest.

The value of such property included in the surviving spouse's gross estate is treated as passing from the surviving spouse. It therefore qualifies for the charitable and marital deductions on the surviving spouse's estate tax return if it meets the other requirements for those deductions.

For additional details, see Regulations section 20.2044-1.

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of:</b> Robert Tune	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE G — Transfers During Decedent's Life**  
(If you elect section 2032A valuation, you must complete Schedule G and Schedule A-1.)

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate value	Value at date of death
A.	Gift tax paid or payable by the decedent or the estate for all gifts made by the decedent or his or her spouse within 3 years before the decedent's death (section 2035(b)) .....	X X X X X		
B.	Transfers includible under section 2035(a), 2036, 2037, or 2038:			
1				
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 7.) .....			0.00	0.00

**SCHEDULE H — Powers of Appointment**  
(Include "5 and 5 lapsing" powers (section 2041(b)(2)) held by the decedent.)  
(If you elect section 2032A valuation, you must complete Schedule H and Schedule A-1.)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1				
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 8.) .....			0.00	0.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedules G and H are in the separate instructions.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

Estate of: Robert Tune	Decedent's Social Security Number 063-08-0012
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### SCHEDULE I — Annuities

Note. Generally, no exclusion is allowed for the estates of decedents dying after December 31, 1984 (see page 17 of the instructions).

A Are you excluding from the decedent's gross estate the value of a lump-sum distribution described in section 2039(f)(2) (as in effect before its repeal by the Deficit Reduction Act of 1984)? .....	Yes	No
If "Yes," you must attach the information required by the instructions.		x

Item number	Description. Show the entire value of the annuity before any exclusions	Alternate valuation date	Includible alternate value	Includible value at date of death
1	Death Benefit under Prudential contract 978,654,321 payable to grandchildren - See attached letter			13,424.00
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 9.) .....			0.00	13,424.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedule I are in the separate instructions.)



**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of: Robert Tune</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE J — Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims**

**Note.** Do not list on this schedule expenses of administering property not subject to claims. For those expenses, see the instructions for Schedule L.

If executors' commissions, attorney fees, etc., are claimed and allowed as a deduction for estate tax purposes, they are not allowable as a deduction in computing the taxable income of the estate for federal income tax purposes. They are allowable as an income tax deduction on Form 1041 if a waiver is filed to waive the deduction on Form 706 (see the Form 1041 instructions).

Item number	Description	Expense amount	Total amount
<b>A. Funeral expenses:</b>			
1	R.I.P. Funeral Home	14,648.00	14,648.00
	Rabbi Rebecca F. Levin	500.00	500.00
	Total funeral expenses .....	▶	15,148.00
<b>B. Administration expenses:</b>			
	1 Executors' commissions — amount estimated/agreed upon/paid. (Strike out the words that do not apply.) .....		0.00
	2 Attorney fees — amount estimated/agreed upon/paid. (Strike out the words that do not apply.) ....		15,000.00
	3 Accountant fees — amount estimated/agreed upon/paid. (Strike out the words that do not apply.) ..		-----
<b>4 Miscellaneous expenses:</b>			
	Joshua & Alyssa Fagel (appraisal fee)	1,000.00	
	Ilana & Ari Drake (accounting services)	1,000.00	
	Total miscellaneous expenses from continuation schedules (or additional sheets) attached to this schedule .....		
	Total miscellaneous expenses .....	▶	2,000.00
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 13.) .....			▶ 32,148.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule J — Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims

**General.** You must complete and file Schedule J if you claim a deduction on item 13 of Part 5 — Recapitulation.

On Schedule J, itemize funeral expenses and expenses incurred in administering property subject to claims. List the names and addresses of persons to whom the expenses are payable and describe the nature of the expense. **Do not list expenses incurred in administering property not subject to claims on this schedule. List them on Schedule L instead.**

The deduction is limited to the amount paid for these expenses that is allowable under local law but may not exceed:

1. The value of property subject to claims included in the gross estate, plus
2. The amount paid out of property included in the gross estate but not subject to claims. This amount must actually be paid by the due date of the estate tax return.

The applicable local law under which the estate is being administered determines which property is and is not subject to claims. If under local law a particular property interest included in the gross estate would bear the burden for the payment of the expenses, then the property is considered property subject to claims.

Unlike certain claims against the estate for debts of the decedent (see the instructions for Schedule K in the separate instructions), you cannot deduct expenses incurred in administering property subject to claims on both the estate tax return and the estate's income tax return. If you choose to deduct them on the estate tax return, you cannot deduct them on a Form 1041 filed for the estate. Funeral expenses are only deductible on the estate tax return.

**Funeral expenses.** Itemize funeral expenses on line A. Deduct from the expenses any amounts that were reimbursed, such as death benefits payable by the Social Security Administration and the Veterans Administration.

**Executors' commissions.** When you file the return, you may deduct commissions that have actually been paid to you or that you expect will be paid. You may not deduct commissions if none will be collected. If the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the final examination of the return, provided that:

- The Estate and Gift Tax Territory Manager is reasonably satisfied that the commissions claimed will be paid;
- The amount entered as a deduction is within the amount allowable by the laws of the jurisdiction where the estate is being administered; and
- It is in accordance with the usually accepted practice in that jurisdiction for estates of similar size and character.

If you have not been paid the commissions claimed at the time of the final examination of the return, you must support the

amount you deducted with an affidavit or statement signed under the penalties of perjury that the amount has been agreed upon and will be paid.

You may not deduct a bequest or devise made to you instead of commissions. If, however, the decedent fixed by will the compensation payable to you for services to be rendered in the administration of the estate, you may deduct this amount to the extent it is not more than the compensation allowable by the local law or practice.

Do not deduct on this schedule amounts paid as trustees' commissions whether received by you acting in the capacity of a trustee or by a separate trustee. If such amounts were paid in administering property not subject to claims, deduct them on Schedule L.

**Note.** Executors' commissions are taxable income to the executors. Therefore, be sure to include them as income on your individual income tax return.

**Attorney fees.** Enter the amount of attorney fees that have actually been paid or that you reasonably expect to be paid. If on the final examination of the return, the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed provided the Estate and Gift Tax Territory Manager is reasonably satisfied that the amount claimed will be paid and that it does not exceed a reasonable payment for the services performed, taking into account the size and character of the estate and the local law and practice. If the fees claimed have not been paid at the time of final examination of the return, the amount deducted must be supported by an affidavit, or statement signed under the penalties of perjury, by the executor or the attorney stating that the amount has been agreed upon and will be paid.

Do not deduct attorney fees incidental to litigation incurred by the beneficiaries. These expenses are charged against the beneficiaries personally and are not administration expenses authorized by the Code.

**Interest expense.** Interest expenses incurred after the decedent's death are generally allowed as a deduction if they are reasonable, necessary to the administration of the estate, and allowable under local law.

Interest incurred as the result of a federal estate tax deficiency is a deductible administrative expense. Penalties are not deductible even if they are allowable under local law.

**Note.** If you elect to pay the tax in installments under section 6166, you may not deduct the interest payable on the installments.

**Miscellaneous expenses.** Miscellaneous administration expenses necessarily incurred in preserving and distributing the estate are deductible. These expenses include appraiser's and accountant's fees, certain court costs, and costs of storing or maintaining assets of the estate.

The expenses of selling assets are deductible only if the sale is necessary to pay the decedent's debts, the expenses of administration, or taxes, or to preserve the estate or carry out distribution.

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of: Robert Tune</b>	<b>Decedent's Social Security Number</b> 063-08-0012
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**SCHEDULE K — Debts of the Decedent, and Mortgages and Liens**

Item number	Debts of the Decedent — Creditor and nature of claim, and allowable death taxes	Amount unpaid to date	Amount in contest	Amount claimed as a deduction
1	ABC Bank, Broad Street, Newark, New Jersey Loan to Decedent	500,000.00		500,000.00
Total from continuation schedules (or additional sheets) attached to this schedule .....				
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 14.) .....				<b>500,000.00</b>

Item number	Mortgages and Liens — Description	Amount
1		
Total from continuation schedules (or additional sheets) attached to this schedule .....		
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 15.) .....		<b>0.00</b>

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedule K are in the separate instructions.)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

Estate of: Robert Tune

Decedent's Social Security Number  
063-08-0012

**SCHEDULE L — Net Losses During Administration and  
Expenses Incurred in Administering Property Not Subject to Claims**

Item number	Net losses during administration (Note. Do not deduct losses claimed on a federal income tax return.)	Amount
1		
Total from continuation schedules (or additional sheets) attached to this schedule .....		
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 18.) .....		<b>0.00</b>

Item number	Expenses incurred in administering property not subject to claims. (Indicate whether estimated, agreed upon, or paid.)	Amount
1		
Total from continuation schedules (or additional sheets) attached to this schedule .....		
<b>TOTAL.</b> (Also enter on Part 5 — Recapitulation, page 3, at item 19.) .....		<b>0.00</b>

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedule L are in the separate instructions.)

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued**

Form 706 (Rev. 9-2009)

Estate of: Robert Tune

Decedent's Social Security Number  
063-08-0012

**SCHEDULE M — Bequests, etc., to Surviving Spouse**

**Election To Deduct Qualified Terminable Interest Property Under Section 2056(b)(7).** If a trust (or other property) meets the requirements of qualified terminable interest property under section 2056(b)(7), and

- a. The trust or other property is listed on Schedule M and
- b. The value of the trust (or other property) is entered in whole or in part as a deduction on Schedule M, then unless the executor specifically identifies the trust (all or a fractional portion or percentage) or other property to be excluded from the election, the executor shall be deemed to have made an election to have such trust (or other property) treated as qualified terminable interest property under section 2056(b)(7).

If less than the entire value of the trust (or other property) that the executor has included in the gross estate is entered as a deduction on Schedule M, the executor shall be considered to have made an election only as to a fraction of the trust (or other property). The numerator of this fraction is equal to the amount of the trust (or other property) deducted on Schedule M. The denominator is equal to the total value of the trust (or other property).

**Election To Deduct Qualified Domestic Trust Property Under Section 2056A.** If a trust meets the requirements of a qualified domestic trust under section 2056A(a) and this return is filed no later than 1 year after the time prescribed by law (including extensions) for filing the return, and

- a. The entire value of a trust or trust property is listed on Schedule M and
- b. The entire value of the trust or trust property is entered as a deduction on Schedule M, then unless the executor specifically identifies the trust to be excluded from the election, the executor shall be deemed to have made an election to have the entire trust treated as qualified domestic trust property.

	Yes	No
<b>1</b> Did any property pass to the surviving spouse as a result of a qualified disclaimer? . . . . . If "Yes," attach a copy of the written disclaimer required by section 2518(b).		X
<b>2a</b> In what country was the surviving spouse born? _____		
<b>b</b> What is the surviving spouse's date of birth? _____		
<b>c</b> Is the surviving spouse a U.S. citizen? . . . . .	X	
<b>d</b> If the surviving spouse is a naturalized citizen, when did the surviving spouse acquire citizenship? _____		
<b>e</b> If the surviving spouse is not a U.S. citizen, of what country is the surviving spouse a citizen? _____		
<b>3</b> Election Out of QTIP Treatment of Annuities. Do you elect under section 2056(b)(7)(C)(ii) not to treat as qualified terminable interest property any joint and survivor annuities that are included in the gross estate and would otherwise be treated as qualified terminable interest property under section 2056(b)(7)(C)? (see instructions) . . . . .		X

Item number	Description of property interests passing to surviving spouse. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Amount
A1	QTIP property:	0.00
B1	All other property: Schedule E - Jointly owned property Schedule F - Tangible personal property Residuary Estate	205,000.00 100.00 276,489.00

Total from continuation schedules (or additional sheets) attached to this schedule . . . . .			
<b>4</b>	Total amount of property interests listed on Schedule M . . . . .	<b>4</b>	481,589.00
<b>5a</b>	Federal estate taxes payable out of property interests listed on Schedule M . . . . .	<b>5a</b>	
<b>b</b>	Other death taxes payable out of property interests listed on Schedule M . . . . .	<b>5b</b>	
<b>c</b>	Federal and state GST taxes payable out of property interests listed on Schedule M . . . . .	<b>5c</b>	
<b>d</b>	Add items 5a, 5b, and 5c . . . . .	<b>5d</b>	0.00
<b>6</b>	Net amount of property interests listed on Schedule M (subtract 5d from 4). Also enter on Part 5 — Recapitulation, page 3, at item 20 . . . . .	<b>6</b>	481,589.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(See the instructions on the reverse side.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Schedule M — Bequests, etc., to Surviving Spouse (Marital Deduction)

#### General

You must complete Schedule M and file it with the return if you claim a deduction on Part 5 — Recapitulation, item 20.

The marital deduction is authorized by section 2056 for certain property interests that pass from the decedent to the surviving spouse. You may claim the deduction only for property interests that are included in the decedent's gross estate (Schedules A through I).

**Note.** The marital deduction is generally not allowed if the surviving spouse is not a U.S. citizen. The marital deduction is allowed for property passing to such a surviving spouse in a *qualified domestic trust (QDOT)* or if such property is transferred or irrevocably assigned to such a trust before the estate tax return is filed. The executor must elect QDOT status on this return. See the instructions that follow, on pages 29 and 30, for details on the election.

#### Property Interests That You May List on Schedule M

Generally, you may list on Schedule M all property interests that pass from the decedent to the surviving spouse and are included in the gross estate. However, you should not list any *nondeductible terminable interests* (described below) on Schedule M unless you are making a QTIP election. The property for which you make this election must be included on Schedule M. See *Qualified terminable interest property* on the following page.

For the rules on common disaster and survival for a limited period, see section 2056(b)(3).

You may list on Schedule M only those interests that the surviving spouse takes:

1. As the decedent's legatee, devisee, heir, or donee;
2. As the decedent's surviving tenant by the entirety or joint tenant;
3. As an appointee under the decedent's exercise of a power or as a taker in default at the decedent's nonexercise of a power;
4. As a beneficiary of insurance on the decedent's life;
5. As the surviving spouse taking under dower or curtesy (or similar statutory interest); and
6. As a transferee of a transfer made by the decedent at any time.

#### Property Interests That You May Not List on Schedule M

You should not list on Schedule M:

1. The value of any property that does not pass from the decedent to the surviving spouse;
2. Property interests that are not included in the decedent's gross estate;

3. The full value of a property interest for which a deduction was claimed on Schedules J through L. The value of the property interest should be reduced by the deductions claimed with respect to it;

4. The full value of a property interest that passes to the surviving spouse subject to a mortgage or other encumbrance or an obligation of the surviving spouse. Include on Schedule M only the net value of the interest after reducing it by the amount of the mortgage or other debt;

5. Nondeductible terminable interests (described below); or

6. Any property interest disclaimed by the surviving spouse.

#### Terminable Interests

Certain interests in property passing from a decedent to a surviving spouse are referred to as *terminable interests*. These are interests that will terminate or fail after the passage of time, or on the occurrence or nonoccurrence of some contingency. Examples are: life estates, annuities, estates for terms of years, and patents.

The ownership of a bond, note, or other contractual obligation, which when discharged would not have the effect of an annuity for life or for a term, is not considered a terminable interest.

**Nondeductible terminable interests.** A terminable interest is nondeductible. Unless you are making a QTIP election, a terminable interest should not be entered on Schedule M if:

1. Another interest in the same property passed from the decedent to some other person for less than adequate and full consideration in money or money's worth; and
2. By reason of its passing, the other person or that person's heirs may enjoy part of the property after the termination of the surviving spouse's interest.

This rule applies even though the interest that passes from the decedent to a person other than the surviving spouse is not included in the gross estate, and regardless of when the interest passes. The rule also applies regardless of whether the surviving spouse's interest and the other person's interest pass from the decedent at the same time.

Property interests that are considered to pass to a person other than the surviving spouse are any property interest that: (a) passes under a decedent's will or intestacy; (b) was transferred by a decedent during life; or (c) is held by or passed on to any person as a decedent's joint tenant, as appointee under a decedent's exercise of a power, as taker in default at a decedent's release or nonexercise of a power, or as a beneficiary of insurance on the decedent's life.

For example, a decedent devised real property to his wife for life, with remainder to his children. The life interest that passed to the wife does not qualify for the marital deduction because it will terminate at her death and the children will thereafter possess or enjoy the property.

However, if the decedent purchased a joint and survivor annuity for himself and his wife who survived him, the value of the survivor's annuity, to the extent that it is included in the gross estate, qualifies for the marital deduction because

#### Examples of Listing of Property Interests on Schedule M

Item number	Description of property interests passing to surviving spouse. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN.	Amount
	All other property:	
B1	One-half the value of a house and lot, 256 South West Street, held by decedent and surviving spouse as joint tenants with right of survivorship under deed dated July 15, 1975 (Schedule E, Part I, item 1) .....	\$182,500
B2	Proceeds of Metropolitan Life Insurance Company policy No. 104729, payable in one sum to surviving spouse (Schedule D, item 3) .....	200,000
B3	Cash bequest under Paragraph Six of will .....	100,000

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

even though the interest will terminate on the wife's death, no one else will possess or enjoy any part of the property.

The marital deduction is not allowed for an interest that the decedent directed the executor or a trustee to convert, after death, into a terminable interest for the surviving spouse. The marital deduction is not allowed for such an interest even if there was no interest in the property passing to another person and even if the terminable interest would otherwise have been deductible under the exceptions described below for life estate and life insurance and annuity payments with powers of appointment. For more information, see Regulations sections 20.2056(b)-1(f) and 20.2056(b)-1(g), Example (7).

If any property interest passing from the decedent to the surviving spouse may be paid or otherwise satisfied out of any of a group of assets, the value of the property interest is, for the entry on Schedule M, reduced by the value of any asset or assets that, if passing from the decedent to the surviving spouse, would be nondeductible terminable interests. Examples of property interests that may be paid or otherwise satisfied out of any of a group of assets are a bequest of the residue of the decedent's estate, or of a share of the residue, and a cash legacy payable out of the general estate.

**Example.** A decedent bequeathed \$100,000 to the surviving spouse. The general estate includes a term for years (valued at \$10,000 in determining the value of the gross estate) in an office building, which interest was retained by the decedent under a deed of the building by gift to a son. Accordingly, the value of the specific bequest entered on Schedule M is \$90,000.

**Life estate with power of appointment in the surviving spouse.** A property interest, whether or not in trust, will be treated as passing to the surviving spouse, and will not be treated as a nondeductible terminable interest if: (a) the surviving spouse is entitled for life to all of the income from the entire interest; (b) the income is payable annually or at more frequent intervals; (c) the surviving spouse has the power, exercisable in favor of the surviving spouse or the estate of the surviving spouse, to appoint the entire interest; (d) the power is exercisable by the surviving spouse alone and (whether exercisable by will or during life) is exercisable by the surviving spouse in all events; and (e) no part of the entire interest is subject to a power in any other person to appoint any part to any person other than the surviving spouse (or the surviving spouse's legal representative or relative if the surviving spouse is disabled. See Rev. Rul. 85-35, 1985-1 C.B. 328). If these five conditions are satisfied only for a specific portion of the entire interest, see the section 2056(b) regulations to determine the amount of the marital deduction.

**Life insurance, endowment, or annuity payments, with power of appointment in surviving spouse.** A property interest consisting of the entire proceeds under a life insurance, endowment, or annuity contract is treated as passing from the decedent to the surviving spouse, and will not be treated as a nondeductible terminable interest if: (a) the surviving spouse is entitled to receive the proceeds in installments, or is entitled to interest on them, with all amounts payable during the life of the spouse, payable only to the surviving spouse; (b) the installment or interest payments are payable annually, or more frequently, beginning not later than 13 months after the decedent's death; (c) the surviving spouse has the power, exercisable in favor of the surviving spouse or of the estate of the surviving spouse, to appoint all amounts payable under the contract; (d) the power is exercisable by the surviving spouse alone and (whether exercisable by will or during life) is exercisable by the surviving spouse in all events; and (e) no part of the amount payable under the contract is subject to a power in any other person to appoint any part to any person other than the surviving spouse. If these

five conditions are satisfied only for a specific portion of the proceeds, see the section 2056(b) regulations to determine the amount of the marital deduction.

**Charitable remainder trusts.** An interest in a charitable remainder trust will not be treated as a nondeductible terminable interest if:

1. The interest in the trust passes from the decedent to the surviving spouse, and
2. The surviving spouse is the only beneficiary of the trust other than charitable organizations described in section 170(c).

A *charitable remainder trust* is either a charitable remainder annuity trust or a charitable remainder unitrust. (See section 664 for descriptions of these trusts.)

### Election To Deduct Qualified Terminable Interests (QTIP)

You may elect to claim a marital deduction for qualified terminable interest property or property interests. You make the QTIP election simply by listing the qualified terminable interest property on Schedule M and deducting its value. You are presumed to have made the QTIP election if you list the property and deduct its value on Schedule M. If you make this election, the surviving spouse's gross estate will include the value of the qualified terminable interest property. See the instructions for Part 4 — General Information, line 6, for more details. The election is irrevocable.

If you file a Form 706 in which you do not make this election, you may not file an amended return to make the election unless you file the amended return on or before the due date for filing the original Form 706.

The effect of the election is that the property (interest) will be treated as passing to the surviving spouse and will not be treated as a nondeductible terminable interest. All of the other marital deduction requirements must still be satisfied before you may make this election. For example, you may not make this election for property or property interests that are not included in the decedent's gross estate.

**Qualified terminable interest property.** *Qualified terminable interest property* is property (a) that passes from the decedent, and (b) in which the surviving spouse has a qualifying income interest for life.

The surviving spouse has a *qualifying income interest for life* if the surviving spouse is entitled to all of the income from the property payable annually or at more frequent intervals, or has a usufruct interest for life in the property, and during the surviving spouse's lifetime no person has a power to appoint any part of the property to any person other than the surviving spouse. An annuity is treated as an income interest regardless of whether the property from which the annuity is payable can be separately identified.

Amendments to Regulations sections 20.2044-1, 20.2056(b)-7 and 20.2056(b)-10 clarify that an interest in property is eligible for QTIP treatment if the income interest is contingent upon the executor's election even if that portion of the property for which no election is made will pass to or for the benefit of beneficiaries other than the surviving spouse.

The QTIP election may be made for all or any part of qualified terminable interest property. A partial election must relate to a fractional or percentile share of the property so that the elective part will reflect its proportionate share of the increase or decline in the whole of the property when applying section 2044 or 2519. Thus, if the interest of the surviving spouse in a trust (or other property in which the spouse has a qualified life estate) is qualified terminable

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

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interest property, you may make an election for a part of the trust (or other property) only if the election relates to a defined fraction or percentage of the entire trust (or other property). The fraction or percentage may be defined by means of a formula.

### Qualified Domestic Trust Election (QDOT)

The marital deduction is allowed for transfers to a surviving spouse who is not a U.S. citizen only if the property passes to the surviving spouse in a qualified domestic trust (QDOT) or if such property is transferred or irrevocably assigned to a QDOT before the decedent's estate tax return is filed.

A QDOT is any trust:

1. That requires at least one trustee to be either an individual who is a citizen of the United States or a domestic corporation;
2. That requires that no distribution of corpus from the trust can be made unless such a trustee has the right to withhold from the distribution the tax imposed on the QDOT;
3. That meets the requirements of any applicable regulations; and
4. For which the executor has made an election on the estate tax return of the decedent.

**Note.** For trusts created by an instrument executed before November 5, 1990, paragraphs 1 and 2 above will be treated as met if the trust instrument requires that all trustees be individuals who are citizens of the United States or domestic corporations.

You make the QDOT election simply by listing the qualified domestic trust or the entire value of the trust property on Schedule M and deducting its value. You are presumed to have made the QDOT election if you list the trust or trust property and deduct its value on Schedule M. Once made, the election is irrevocable.

If an election is made to deduct qualified domestic trust property under section 2056A(d), provide the following information for each qualified domestic trust on an attachment to this schedule:

1. The name and address of every trustee;
2. A description of each transfer passing from the decedent that is the source of the property to be placed in trust; and
3. The employer identification number (EIN) for the trust.

The election must be made for an entire QDOT trust. In listing a trust for which you are making a QDOT election, unless you specifically identify the trust as not subject to the election, the election will be considered made for the entire trust.

The determination of whether a trust qualifies as a QDOT will be made as of the date the decedent's Form 706 is filed. If, however, judicial proceedings are brought before the Form 706's due date (including extensions) to have the trust revised to meet the QDOT requirements, then the determination will not be made until the court-ordered changes to the trust are made.

### Line 1

If property passes to the surviving spouse as the result of a qualified disclaimer, check "Yes" and attach a copy of the written disclaimer required by section 2518(b).

### Line 3

Section 2056(b)(7) creates an automatic QTIP election for certain joint and survivor annuities that are includible in the estate under section 2039. To qualify, only the surviving spouse can have the right to receive payments before the death of the surviving spouse.

The executor can elect out of QTIP treatment, however, by checking the "Yes" box on line 3. Once made, the election is irrevocable. If there is more than one such joint and survivor annuity, you are not required to make the election for all of them.

If you make the election out of QTIP treatment by checking "Yes" on line 3, you cannot deduct the amount of the annuity on Schedule M. If you do not make the election out, you must list the joint and survivor annuities on Schedule M.

### Listing Property Interests on Schedule M

List each property interest included in the gross estate that passes from the decedent to the surviving spouse and for which a marital deduction is claimed. This includes otherwise nondeductible terminable interest property for which you are making a QTIP election. Number each item in sequence and describe each item in detail. Describe the instrument (including any clause or paragraph number) or provision of law under which each item passed to the surviving spouse. If possible, show where each item appears (number and schedule) on Schedules A through I.

In listing otherwise nondeductible property for which you are making a QTIP election, unless you specifically identify a fractional portion of the trust or other property as not subject to the election, the election will be considered made for all of the trust or other property.

Enter the value of each interest before taking into account the federal estate tax or any other death tax. The valuation dates used in determining the value of the gross estate apply also on Schedule M.

If Schedule M includes a bequest of the residue or a part of the residue of the decedent's estate, attach a copy of the computation showing how the value of the residue was determined. Include a statement showing:

- The value of all property that is included in the decedent's gross estate (Schedules A through I) but is not a part of the decedent's probate estate, such as lifetime transfers, jointly owned property that passed to the survivor on decedent's death, and the insurance payable to specific beneficiaries;
- The values of all specific and general legacies or devises, with reference to the applicable clause or paragraph of the decedent's will or codicil. (If legacies are made to each member of a class, for example, \$1,000 to each of decedent's employees, only the number in each class and the total value of property received by them need be furnished);
- The date of birth of all persons, the length of whose lives may affect the value of the residuary interest passing to the surviving spouse; and
- Any other important information such as that relating to any claim to any part of the estate not arising under the will.

**Lines 5a, 5b, and 5c.** The total of the values listed on Schedule M must be reduced by the amount of the federal estate tax, the federal GST tax, and the amount of state or other death and GST taxes paid out of the property interest involved. If you enter an amount for state or other death or GST taxes on line 5b or 5c, identify the taxes and attach your computation of them.

**Attachments.** If you list property interests passing by the decedent's will on Schedule M, attach a certified copy of the order admitting the will to probate. If, when you file the return, the court of probate jurisdiction has entered any decree interpreting the will or any of its provisions affecting any of the interests listed on Schedule M, or has entered any order of distribution, attach a copy of the decree or order. In addition, the IRS may request other evidence to support the marital deduction claimed.



**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

Estate of: Robert Tune	Decedent's Social Security Number 063-08-0012
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**SCHEDULE O — Charitable, Public, and Similar Gifts and Bequests**

	Yes	No
<b>1 a</b> If the transfer was made by will, has any action been instituted to have interpreted or to contest the will or any of its provisions affecting the charitable deductions claimed in this schedule? ..... If "Yes," full details must be submitted with this schedule.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>b</b> According to the information and belief of the person or persons filing this return, is any such action planned? ..... If "Yes," full details must be submitted with this schedule.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>2</b> Did any property pass to charity as the result of a qualified disclaimer? ..... If "Yes," attach a copy of the written disclaimer required by section 2518(b).	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Item number	Name and address of beneficiary	Character of institution	Amount
1			

Total from continuation schedules (or additional sheets) attached to this schedule .....

<b>3</b> Total .....		<b>3</b>	0.00
<b>4a</b> Federal estate tax payable out of property interests listed above .....	<b>4a</b>		
<b>b</b> Other death taxes payable out of property interests listed above .....	<b>4b</b>		
<b>c</b> Federal and state GST taxes payable out of property interests listed above .....	<b>4c</b>		
<b>d</b> Add items 4a, 4b, and 4c .....		<b>4d</b>	0.00
<b>5</b> Net value of property interests listed above (subtract 4d from 3). Also enter on Part 5 — Recapitulation, page 3, at item 21 .....		<b>5</b>	0.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)  
(The instructions to Schedule O are in the separate instructions.)

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

Estate of: Robert Tune	Decedent's Social Security Number 063-08-0012
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### SCHEDULE P — Credit for Foreign Death Taxes

List all foreign countries to which death taxes have been paid and for which a credit is claimed on this return.

If a credit is claimed for death taxes paid to more than one foreign country, compute the credit for taxes paid to one country on this sheet and attach a separate copy of Schedule P for each of the other countries.

The credit computed on this sheet is for the \_\_\_\_\_  
(Name of death tax or taxes)  
\_\_\_\_\_ imposed in \_\_\_\_\_  
(Name of country)

Credit is computed under the \_\_\_\_\_  
(Insert title of treaty or "statute")

Citizenship (nationality) of decedent at time of death

*(All amounts and values must be entered in United States money.)*

1 Total of estate, inheritance, legacy, and succession taxes imposed in the country named above attributable to property situated in that country, subjected to these taxes, and included in the gross estate (as defined by statute) . . . . .	1	
2 Value of the gross estate (adjusted, if necessary, according to the instructions for Item 2) . . . . .	2	
3 Value of property situated in that country, subjected to death taxes imposed in that country, and included in the gross estate (adjusted, if necessary, according to the instructions for Item 3) . . . . .	3	
4 Tax imposed by section 2001 reduced by the total credits claimed under sections 2010 and 2012 (see instructions) . . . . .	4	
5 Amount of federal estate tax attributable to property specified at item 3. (Divide item 3 by item 2 and multiply the result by item 4.) . . . . .	5	0.00
6 Credit for death taxes imposed in the country named above (the smaller of item 1 or item 5). Also enter on line 13 of Part 2 — Tax Computation . . . . .	6	0.00

### SCHEDULE Q — Credit for Tax on Prior Transfers

#### Part 1. Transferor Information

	Name of transferor	Social security number	IRS office where estate tax return was filed	Date of death
A				
B				
C				

Check here  if section 2013(f) (special valuation of farm, etc., real property) adjustments to the computation of the credit were made (see page 23 of the instructions).

#### Part 2. Computation of Credit (see instructions beginning on page 23)

Item	Transferor			Total A, B, & C
	A	B	C	
1 Transferee's tax as apportioned (from worksheet, (line 7 + line 8) x line 35 for each column) . . . . .				
2 Transferor's tax (from each column of worksheet, line 20) . . . . .				
3 Maximum amount before percentage requirement (for each column, enter amount from line 1 or 2, whichever is smaller) . . . . .				
4 Percentage allowed (each column) (see instructions) . . . . .	%	%	%	
5 Credit allowable (line 3 x line 4 for each column) . . . . .				
6 TOTAL credit allowable (add columns A, B, and C of line 5). Enter here and on line 14 of Part 2 — Tax Computation . . . . .				0.00

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

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### SCHEDULE R — Generation-Skipping Transfer Tax

**Note.** To avoid application of the deemed allocation rules, Form 706 and Schedule R should be filed to allocate the GST exemption to trusts that may later have taxable terminations or distributions under section 2612 even if the form is not required to be filed to report estate or GST tax.  
The GST tax is imposed on taxable transfers of interests in property located outside the United States as well as property located inside the United States. (see the separate instructions beginning on page 24.)

#### Part 1. GST Exemption Reconciliation (Section 2631) and Section 2652(a)(3) (Special QTIP) Election

You no longer need to check a box to make a section 2652(a)(3) (special QTIP) election. If you list qualifying property in Part 1, line 9 below, you will be considered to have made this election. See page 26 of the separate instructions for details.

1 Maximum allowable GST exemption .....	1	3,500,000.00
2 Total GST exemption allocated by the decedent against decedent's lifetime transfers .....	2	
3 Total GST exemption allocated by the executor, using Form 709, against decedent's lifetime transfers .....	3	
4 GST exemption allocated on line 6 of Schedule R, Part 2 .....	4	13,424.00
5 GST exemption allocated on line 6 of Schedule R, Part 3 .....	5	
6 Total GST exemption allocated on line 4 of Schedule(s) R-1 .....	6	
7 Total GST exemption allocated to <i>inter vivos</i> transfers and direct skips (add lines 2 - 6) .....	7	13,424.00
8 GST exemption available to allocate to trusts and section 2032A interests (subtract line 7 from line 1) .....	8	3,486,576.00
9 Allocation of GST exemption to trusts (as defined for GST tax purposes):		

A Name of trust	B Trust's EIN (if any)	C GST exemption allocated on lines 2 - 6, above (see Instructions)	D Additional GST exemption allocated (see Instructions)	E Trust's inclusion ratio (optional — see Instructions)

9D Total. May not exceed line 8, above .....	9D	0.00
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10 GST exemption available to allocate to section 2032A interests received by individual beneficiaries (subtract line 9D from line 8). You must attach special-use allocation schedule (see instructions) ...	10	3,486,576.00
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### Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

Estate of: Robert Tune

Decedent's Social Security Number  
063-08-0012

#### Part 2. Direct Skips Where the Property Interests Transferred Bear the GST Tax on the Direct Skips

Name of skip person	Description of property interest transferred	Estate tax value
Jill Tune	1/3 interest in Prudential contract	4,475.00
Jan Tune	1/3 interest in Prudential contract	4,475.00
Joan Tune	1/3 interest in Prudential contract	4,474.00

1 Total estate tax values of all property interests listed above	1	13,424.00
2 Estate taxes, state death taxes, and other charges borne by the property interests listed above	2	
3 GST taxes borne by the property interests listed above but imposed on direct skips other than those shown on this Part 2 (see instructions)	3	
4 Total fixed taxes and other charges (add lines 2 and 3)	4	0.00
5 Total tentative maximum direct skips (subtract line 4 from line 1)	5	13,424.00
6 GST exemption allocated	6	13,424.00
7 Subtract line 6 from line 5	7	0.00
8 GST tax due (divide line 7 by 3.222222)	8	0.00
9 Enter the amount from line 8 of Schedule R, Part 3	9	0.00
10 Total GST taxes payable by the estate (add lines 8 and 9). Enter here and on line 17 of Part 2 — Tax Computation, on page 1	10	0.00

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

<b>Estate of:</b> Robert Tune	<b>Decedent's Social Security Number</b> 063-08-0012
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**Part 3. Direct Skips Where the Property Interests Transferred Do Not Bear the GST Tax on the Direct Skips**

Name of skip person	Description of property interest transferred	Estate tax value

1 Total estate tax values of all property interests listed above .....	1	0.00
2 Estate taxes, state death taxes, and other charges borne by the property interests listed above .....	2	
3 GST taxes borne by the property interests listed above but imposed on direct skips other than those shown on this Part 3 (see instructions) .....	3	
4 Total fixed taxes and other charges (add lines 2 and 3) .....	4	0.00
5 Total tentative maximum direct skips (subtract line 4 from line 1) .....	5	0.00
6 GST exemption allocated .....	6	
7 Subtract line 6 from line 5 .....	7	0.00
8 GST tax due (multiply line 7 by .45). Enter here and on Schedule R, Part 2, line 9 .....	8	0.00

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

**SCHEDULE R-1**  
**(Form 706)**  
(Rev. September 2009)  
Department of the Treasury  
Internal Revenue Service

### Generation-Skipping Transfer Tax

Direct Skips From a Trust  
Payment Voucher

OMB No. 1545-0015

**Executor:** File one copy with Form 706 and send two copies to the fiduciary. Do not pay the tax shown. See the separate instructions.  
**Fiduciary:** See instructions on the following page. Pay the tax shown on line 6.

Name of trust		Trust's EIN
Name and title of fiduciary	Name of decedent <b>Robert Tune</b>	
Address of fiduciary (number and street)	Decedent's SSN <b>063-08-0012</b>	Service Center where Form 706 was filed
City, state, and ZIP code	Name of executor <b>James Tune</b>	
Address of executor (number and street) <b>117 Lock Street</b>	City, state, and ZIP code <b>Bloomfield, New Jersey 07603</b>	
Date of decedent's death <b>06/03/09</b>	Filing due date of Schedule R, Form 706 (with extensions)	

**Part 1. Computation of the GST Tax on the Direct Skip**

Description of property interests subject to the direct skip		Estate tax value
<b>1</b> Total estate tax value of all property interests listed above .....	<b>1</b>	<b>0.00</b>
<b>2</b> Estate taxes, state death taxes, and other charges borne by the property interests listed above .....	<b>2</b>	
<b>3</b> Tentative maximum direct skip from trust (subtract line 2 from line 1) .....	<b>3</b>	<b>0.00</b>
<b>4</b> GST exemption allocated .....	<b>4</b>	
<b>5</b> Subtract line 4 from line 3 .....	<b>5</b>	<b>0.00</b>
<b>6</b> GST tax due from fiduciary (divide line 5 by 3.222222) (See instructions if property will not bear the GST tax.) .....	<b>6</b>	<b>0.00</b>

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature(s) of executor(s)	Date
	Date
Signature of fiduciary or officer representing fiduciary	Date

**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

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**Instructions for the Trustee**

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<b>Introduction</b>	Schedule R-1 (Form 706) serves as a payment voucher for the Generation-Skipping Transfer (GST) tax imposed on a direct skip from a trust, which you, the trustee of the trust, must pay. The executor completes the Schedule R-1 (Form 706) and gives you two copies. File one copy and keep one for your records.
<b>How to pay</b>	You can pay by check or money order. <ul style="list-style-type: none"><li>• Make it payable to the "United States Treasury."</li><li>• Make the check or money order for the amount on line 6 of Schedule R-1.</li><li>• Write "GST Tax" and the trust's EIN on the check or money order.</li></ul>
<b>Signature</b>	You must sign the Schedule R-1 in the space provided.
<b>What to mail</b>	Mail your check or money order and the copy of Schedule R-1 that you signed.
<b>Where to mail</b>	Mail to the Department of the Treasury, Internal Revenue Service Center, Cincinnati, OH 45999.
<b>When to pay</b>	The GST tax is due and payable 9 months after the decedent's date of death (shown on the Schedule R-1). You will owe interest on any GST tax not paid by that date.
<b>Automatic extension</b>	You have an automatic extension of time to file Schedule R-1 and pay the GST tax. The automatic extension allows you to file and pay by 2 months after the due date (with extensions) for filing the decedent's Schedule R (shown on the Schedule R-1). If you pay the GST tax under the automatic extension, you will be charged interest (but no penalties).
<b>Additional information</b>	For more information, see section 2603(a)(2) and the Instructions for Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.

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## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

Estate of: Robert Tune	Decedent's Social Security Number 063-08-0012
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### SCHEDULE U — Qualified Conservation Easement Exclusion

**Part 1. Election**

**Note.** The executor is deemed to have made the election under section 2031(c)(6) if he or she files Schedule U and excludes any qualifying conservation easements from the gross estate.

**Part 2. General Qualifications**

- 1 Describe the land subject to the qualified conservation easement (see separate instructions) \_\_\_\_\_
- 2 Did the decedent or a member of the decedent's family own the land described above during the 3-year period ending on the date of the decedent's death?  Yes  No
- 3 Describe the conservation easement with regard to which the exclusion is being claimed (see separate instructions). \_\_\_\_\_

**Part 3. Computation of Exclusion**

4 Estate tax value of the land subject to the qualified conservation easement (see separate instructions) .....	<b>4</b>		
5 Date of death value of any easements granted prior to decedent's death and included on line 10 below (see instructions) .....	5		
6 Add lines 4 and 5 .....	6	0.00	
7 Value of retained development rights on the land (see instructions) ..	7		
8 Subtract line 7 from line 6 .....	8	0.00	
9 Multiply line 8 by 30% (.30) .....	9	0.00	
10 Value of qualified conservation easement for which the exclusion is being claimed (see instructions) .....	10		
<small><b>Note.</b> If line 10 is less than line 9, continue with line 11. If line 10 is equal to or more than line 9, skip lines 11 through 13, enter ".40" on line 14, and complete the schedule.</small>			
11 Divide line 10 by line 8. Figure to 3 decimal places (for example, ".123") .....	11		
<small><b>Note.</b> If line 11 is equal to or less than .100, stop here; the estate does not qualify for the conservation easement exclusion.</small>			
12 Subtract line 11 from .300. Enter the answer in hundredths by rounding any thousandths up to the next higher hundredth (that is, .030 = .03, but .031 = .04) .....	12		
13 Multiply line 12 by 2 .....	13		
14 Subtract line 13 from .40 .....	14	0.40	
15 Deduction under section 2055(f) for the conservation easement (see separate instructions) .....	15		
16 Amount of indebtedness on the land (see separate instructions) .....	16		
17 Total reductions in value (add lines 7, 15, and 16) .....	17	0.00	
18 Net value of land (subtract line 17 from line 4) .....	18	0.00	
19 Multiply line 18 by line 14 .....	19	0.00	
20 Enter the smaller of line 19 or the exclusion limitation (see instructions). Also enter this amount on item 11, Part 5 — Recapitulation, page 3 .....	20		



**Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return -  
Continued**

Form 706 (Rev. 9-2009)

(Make copies of this schedule before completing it if you will need more than one schedule.)

**Estate of: Robert Tune**

**Decedent's Social Security Number  
063-08-0012**

**CONTINUATION SCHEDULE**

Continuation of Schedule \_\_\_\_\_

(Enter letter of schedule you are continuing.)

Item number	Description For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN.	Unit value (Sch. B, E, or G only)	Alternate valuation date	Alternate value	Value at date of death or amount deductible
<b>TOTAL. (Carry forward to main schedule.)</b> .....				0.00	0.00

See the instructions on the reverse side.

## Exhibit 101 – U.S. Estate (and Generation-Skipping Transfer) Tax Return - Continued

Form 706 (Rev. 9-2009)

### Instructions for Continuation Schedule

When you need to list more assets or deductions than you have room for on one of the main schedules, use the Continuation Schedule on page 39. It provides a uniform format for listing additional assets from Schedules A through I and additional deductions from Schedules J, K, L, M, and O.

Please keep the following points in mind:

- Use a separate Continuation Schedule for each main schedule you are continuing. Do not combine assets or deductions from different schedules on one Continuation Schedule.
- Make copies of the blank schedule before completing it if you expect to need more than one.
- Use as many Continuation Schedules as needed to list all the assets or deductions.
- Enter the letter of the schedule you are continuing in the space at the top of the Continuation Schedule.
- Use the *Unit value* column **only** if continuing Schedule B, E, or G. For all other schedules, use this space to continue the description.
- Carry the total from the Continuation Schedules forward to the appropriate line on the main schedule.

If continuing	Report	Where on Continuation Schedule
Schedule E, Pt. 2	<i>Percentage includible</i>	<i>Alternate valuation date</i>
Schedule K	<i>Amount unpaid to date</i>	<i>Alternate valuation date</i>
Schedule K	<i>Amount in contest</i>	<i>Alternate value</i>
Schedules J, L, M	<i>Description of deduction continuation</i>	<i>Alternate valuation date and Alternate value</i>
Schedule O	<i>Character of institution</i>	<i>Alternate valuation date and Alternate value</i>
Schedule O	<i>Amount of each deduction</i>	<i>Amount deductible</i>

**Exhibit 102 – Federal Estate and Gift Tax Rate Schedule**

<b>United States Estate &amp; Gift Taxes</b>			
<b>For Deaths / Gifts Occurring in 2010</b>			
<p>For 2010, the Lifetime Gift Tax Exclusion amount was \$1,000,000. The Annual Gift Tax Exclusion was \$13,000.</p> <p>The executor of an estate of a decedent who died in 2010 has the following two options:</p> <ol style="list-style-type: none"> <li>1. Leave the estate untaxed AND carry-over the decedent’s basis in the inherited property. However, the executor can allocate up to \$1,300,000 in additional basis to the inherited property, plus \$3,000,000 more to property inherited by the surviving spouse; or</li> <li>2. Tax the estate using the 2011 estate tax rates, giving the estate a \$5,000,000 applicable exclusion and the top tax rate would be 35%. The inherited property would have a stepped-up basis equal to the fair market value of the date of the decedent’s death or 6 month later alternative valuation date.</li> </ol>			
<b>For Deaths / Gifts Occurring in 2011 and 2012</b>			
<b>If Taxable Income Is:</b>			
Over	But Not >	The Tax Is:	Of The Amount >
\$0	\$10,000	\$0 + 18%	\$0
\$10,000	\$20,000	\$1,800 + 20%	\$10,000
\$20,000	\$40,000	\$3,800 + 22%	\$20,000
\$40,000	\$60,000	\$8,200 + 24%	\$40,000
\$60,000	\$80,000	\$13,000 + 26%	\$60,000
\$80,000	\$100,000	\$18,200 + 28 %	\$80,000
\$100,000	\$150,000	\$23,800 + 30%	\$100,000
\$150,000	\$250,000	\$38,800 + 32%	\$150,000
\$250,000	\$500,000	\$70,800 + 34 %	\$250,000
\$500,000	-----	\$155,800 + 35%	\$500,000
Subtract applicable credit below from calculated tax:			
		<u>Exclusion Amount</u>	<u>Applicable Credit</u>
	2010	\$5,000,000	\$1,730,800
	2011-2012	\$5,000,000	\$1,730,800
<p>For 2011 and 2012, an executor can elect to allocate the unused portion of a decedent’s exclusion amount to the surviving spouse.</p> <p>For 2011, the Annual Gift Tax Exclusion is \$13,000.</p> <p>After 2011, the exclusion amount is indexed for inflation.</p>			

**Exhibit 103 – Acceptance of Return by Internal Revenue Service**



**Internal Revenue Service**  
Cincinnati, OH 45999

**Department of the Treasury**

Date: 12/24/2008

D. Lawyer  
1 Academy Street  
Newark, New Jersey 07102

Person to Contact:  
Mary Smith  
Employee Identification Number:  
17-03500  
Contact Telephone Number (Toll Free):  
1-866-699-4083  
Estate Name:  
Robert Tune  
Social Security Number:  
063-008-0013  
Date of Death:  
11/4/2007

**Estate Tax Closing Document**

(Not a bill for tax due)

We have made the following determination on the estate tax return referenced above.

Net Estate Tax	* \$	0.00
State Death Tax Credit/Deduction **	* \$	0.00
Generation-Skipping Tax	* \$	0.00

\*These figures do not include any interest and penalties that may be charged.

\*\*For dates of death after 12/31/04, this amount represents the State Death Tax Deduction.

This letter is evidence that the Federal Estate Tax Return has either been accepted as filed or has been accepted after an adjustment to which you have agreed. You should keep this letter as a permanent record. You may need it to close probate proceedings, transfer title to property and/or settle state taxes.

If the estate elects and qualifies to pay the estate tax in installments under Internal Revenue Code section 6166 and the IRS has not contacted you, the IRS will contact you to determine whether the estate is required to provide a bond, or alternatively a special extended lien under section 6324A, and may request additional financial information to make this determination. The IRS will continue to monitor whether the government's interest is at risk throughout the section 6166 installment payment period.

This letter is not proof that any amount of tax due has been paid. If you have requested a discharge from personal liability under section 2204, proof of full payment of the amounts shown above (plus applicable interest and penalties) releases you of personal liability. If payment is not made or the time for payment is extended under sections 6161, 6163, or 6166, there is a lien on all estate property for the federal estate tax due for 10 years from the date of death or until the entire balance is paid, whichever is earlier.

We will not reopen or examine this return unless you notify us of changes to the return or there is: (1) evidence of fraud, malfeasance, collusion, concealment, or misrepresentation of a material fact; (2) a clearly defined substantial error based upon established Internal Revenue Service position; or (3) a serious administrative error. (See Revenue Procedure 2005-32, 2005-1 Cumulative Bulletin 1206.)

Sincerely,

Director, Campus Compliance Operations

Exhibit 104 – Estate Tax Return (NJ) Death On or Prior to 12/31/01

IT-Estate (10-99)  
Transfer Inheritance Tax  
PO Box 249  
Trenton, NJ 08695-0249

STATE OF NEW JERSEY  
Resident Decedent  
ESTATE TAX RETURN  
(Instructions on reverse side)

(68) For Division Use Only

Decedent's Name Doe John Decedent's S.S. No. 222 / 33 / 4444  
(Last) (First) (Middle)

Date of Death (mm/dd/yy) 01 / 03 / 01 County of Residence Essex Testate  Intestate

Mailing Address to send all correspondence Name Lawrence Lawyer Daytime Phone (973) 111-2222  
Street 1 Main Street  
City Newark State NJ Zip Code 07102

1. Credit ALLOWABLE under Federal Estate Tax Law (N.J.S.A. 54:38-1) ..... 1. \$ 18,000 / 00

2a. List the death taxes ACTUALLY PAID to New Jersey and other states, territories or the District of Columbia. (Attach proof of payment for other than New Jersey) Attach rider if additional space is required.

Taxing Authority to Whom Paid	Description of Property Taxed	Tax Paid
New Jersey	Inheritance Tax Return	\$ _____ / _____
_____	_____	\$ _____ / _____
_____	_____	\$ _____ / _____

2b. Enter Total Amount of Taxes Paid to All States (from Line 2a) ..... 2b. \$ 0 / 00

3. Estate Tax Due (Line 1, minus Line 2b) ..... 3. \$ 18,000 / 00

4. Interest Due (if applicable) (See instructions on reverse side) ..... 4. \$ --- / 00

5. Total Amount Due (Line 3, Plus Line 4) ..... 5. \$ 18,000 / 00

6. Payment on Account (if applicable) ..... 6. \$ --- / 00

7. If Line 6 (Payments) is LESS THAN Line 5, Enter BALANCE DUE - PAY THIS AMOUNT .... 7. \$ 18,000 / 00

8. If Line 6 (Payments) is MORE THAN Line 5, Enter REFUND AMOUNT ..... 8. \$ --- / 00

Affiant declares, under penalty of perjury:

A copy of the Federal Estate Tax return in the above-named estate as filed with the Internal Revenue Service is attached.  
(Note: These copies will NOT be returned.)

Copies of all notices of determinations and amount of Federal Estate Tax Due under the Internal Revenue Code are attached.  
(Note: These copies will NOT be returned)

Important: See instructions on reverse side as to necessity for copy of FINAL NOTICE in addition to notices of tentative or preliminary audits.

No refund of any death taxes paid to other jurisdictions has been made nor is there now pending or contemplated any application for a refund of all or any portion thereof.

I have examined this return and all accompanying documents and to the best of my knowledge and belief, it is true, correct and complete. I hereby authorize the party(s) set forth above to act as the estate's representative, to receive confidential information, and to make presentations on behalf of the estate.

Subscribed and sworn before me  
this \_\_\_\_\_ day of \_\_\_\_\_,

s/ Sam Doe  
(Executor - Administrator - Heir at Law)

Address: 1 Market Street  
Newark, NJ 07102

\_\_\_\_\_  
(Official Title)



Exhibit 104 – Estate Tax Return (NJ) Death On or Prior to 12/31/01 – Continued

**INSTRUCTIONS**

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The Estate Tax, when applicable, is in addition to the Inheritance Tax. It is designed to absorb any portion of the "State Death Tax" credit **ALLOWABLE** under the Federal Estate Tax Law that is not fully used up by the aggregate amount of all death taxes paid to any state, U.S. Territory, or the District of Columbia. Estates that are totally exempt from Inheritance Tax may be subject to Estate Tax. N.J.S.A. 54:38-1.

The New Jersey Estate Tax obligation is in no way discretionary on the part of the taxpayer. It *may not* be satisfied by payment of the appropriate amount to the Federal government in lieu of claiming the credit allowable for Federal Estate Tax purposes.

The law requires that a copy of the Federal Estate Tax return be filed with the New Jersey Inheritance Tax Branch within 30 days after the original is filed with the Federal Government. In addition, a copy of any communication from the Federal Government that makes any final changes in the return, or confirms, increases, or diminishes the tax due must also be filed within 30 days of receiving such notification. N.J.S.A 54:38-7.

**INTEREST RATES**

***For Estates of Decedents dying prior to March 1, 1992:***

Interest accrues at the rate of 6% per annum on any New Jersey Estate Tax not paid within eighteen months of the decedent's date of death.

If the Federal Government fails to finally determine the amount of Federal Estate Tax due within said eighteen month period or subsequently assesses additional or increased estate taxes, interest will not accrue until the expiration of sixty days after the receipt of final notification from the Federal Government.

***For Estates of Decedents dying on or after March 1, 1992:***

Interest accrues at the rate of 10% per annum on any New Jersey Estate Tax not paid within nine months of the decedent's death, unless an extension of time to file the Federal Estate Tax return is granted. The Director of the Division of Taxation may then reduce the interest rate to 6% per annum until the expiration of the Federal extension.

**PAYMENTS ON ACCOUNT**

Payments on account may be made at any time to avoid further accrual of interest on the amount so paid. Any overpayment will be promptly refunded upon determination of the actual amount payable. Make checks payable to N.J. Inheritance Tax, PO Box 249, Trenton, New Jersey 08695-0249.

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01**

IT-Estate (10-09)  
 Transfer Inheritance Tax  
 PO Box 249  
 Trenton, NJ 08695-0249

**STATE OF NEW JERSEY  
 Resident Decedent  
 ESTATE TAX RETURN**  
 (Instructions on reverse side)

(68) For Division Use Only

Decedent's Name TUNE ROBERT Decedent's S.S. No. 063-08-0012  
(Last) (First) (Middle)

Date of Death (mm/dd/yy) 06/03/2009 County of Residence ESSEX Testate  Intestate

**Mailing Address** Name JAMES TUNE Daytime Phone 973-689-7543  
 to send all Street 117 LOCK STREET  
 correspondence City BLOOMFIELD State NJ Zip Code 07003

FOR DIVISION USE ONLY  Column A Simplified Form Column B Form 706 (2001)

Check Tax Method Selected and Complete Column A or Column B

ATTACH CHECK FOR BALANCE DUE HERE

1. Enter the Gross Estate from line 5 of the New Jersey Form IT-R on line 1(a) OR the Gross Estate from page 1 line 1 of the 2001 Form 706 on line 1(b) .....	1(a)	1(b) 2,248,069.00
2. Enter Deductions from line 6 of the New Jersey Form IT-R on line 2(a) OR Deductions from page 1 line 2 of the 2001 Form 706 on line 2(b) .....	2(a)	2(b) 1,013,747.00
3. Enter the Net Estate from line 7 of the New Jersey Form IT-R on line 3(a) OR the Taxable Estate from page 1 line 3 of the 2001 Form 706 on line 3(b) .....	3(a)	3(b) 1,234,332.00
4. Enter Taxable assets not included as part of New Jersey inheritance tax Net Estate from line 3 Part C of Schedule E-1 attached .....	4(a)	
5. Enter Deductions from line 12 of Schedule E-2 attached .....	5(a)	
6. Enter Adjusted Taxable Gifts from page 1 Line 4 of the 2001 Form 706 .....		6(b) 292,000.00
7. Taxable Value - Add lines 3(a) and 4(a) and subtract line 5(a) .....	7(a)	
8. Enter Total Gift Taxes payable from page 1 line 9 of the 2001 Form 706 .....		8(b) 0.00
9. Enter the Allowable Unified Credit from page 1 line 13 of the 2001 Form 706 .....		9(b) 220,550.00
10. Tentative New Jersey Estate Tax - If taxable value is reported on line 7(a), use the attached worksheet to determine the tax and enter the tax so determined on line 10(a). If taxable estate is reported on line 3(b), enter the amount from page 1 line 15 of the 2001 Form 706 on line 10(b) ...	10(a)	10(b) 47,397.00
11. Credit for New Jersey Inheritance Tax Paid (DO NOT INCLUDE INTEREST OR PENALTY) .....	11(a)	11(b)
12. Enter the portion of the tax attributable to property located outside of New Jersey from line 4 of Schedule E-3 attached. ....	12(a)	12(b)
13. Net New Jersey Estate Tax Due - line 10(a) minus lines 11(a) and 12(a) OR line 10(b) minus lines 11(b) and 12(b) .....	13(a)	13(b) 47,397.00
14. Interest and Penalty Due (See instructions) .....	14(a)	14(b)
15. Total Amount Due - Add lines 13(a) and 14(a) OR lines 13(b) and 14(b) .....	15(a)	15(b) 47,397.00
16. Payment on Account (if any) .....	16(a)	16(b)
17. If line 16(a) is LESS THAN line 15(a) OR line 16(b) is LESS THAN line 15(b), Enter BALANCE DUE - PAY THIS AMOUNT .....	17(a)	17(b) 47,397.00
18. If line 16(a) is MORE THAN line 15(a) OR line 16(b) is MORE THAN line 15(b), ENTER REFUND AMOUNT .....	18(a)	18(b) 0.00

Affiant declares, under penalty of perjury:  
 I have examined this return and all accompanying documents and to the best of my knowledge and belief, it is true, correct and complete. I hereby authorize the party(s) set forth above to act as the estate's representative, to receive confidential information, and to make presentations on behalf of the estate.  
 Subscribed and sworn before me

this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Signature: \_\_\_\_\_  
(Executor - Admistrator or Heir at Law)

Print Name: JAMES TUNE

Official Title: \_\_\_\_\_ Address: 117 LOCK STREET  
BLOOMFIELD, NJ 07003



**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

DECEDENT'S NAME <b>TUNE ROBERT</b>	SOCIAL SECURITY NUMBER <b>063-08-0012</b>
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**SCHEDULE E-1** Assets not included as part of Line 3(a) of the IT-Estate Return including real and tangible personal property located outside New Jersey, proceeds of any contract of insurance on the life of the decedent either owned by the decedent at death or transferred by the decedent within three years of death, and transfers made within three years of the decedent's death. The full value of QTIP property for which a marital deduction was elected for New Jersey or Federal purposes in the estate of a predeceased spouse/civil union partner, and any other property includable in the federal gross estate under the provision of the Internal Revenue Code in effect on 12/31/01.

<b>PART A NON-NJ REAL PROPERTY</b>	<b>Full Assessed Value For Year of Death</b>	<b>Full Market Value For Year of Death</b>	<b>Value of Decedent's Equity and How Determined</b>	<b>This Column For Division Use Only</b>
1. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
2. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
3. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
4. If additional realty, attach separate sheet and insert total here .....				
5. Total equity in non-New Jersey real property .....				



**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

<b>DECEDENT'S NAME</b> TUNE ROBERT	<b>SOCIAL SECURITY NUMBER</b> 063-08-0012
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<b>PART B</b> Non-New Jersey tangible personal property, proceeds of insurance, QTIP property, transfers within three years of death not included as part of Line 3(a) of the IT-Estate Return, and any other property includable in the federal gross estate under the provisions of the IRC in effect on 12/31/2001	Market Value at Date of Death	This Column For Division Use Only
1.	1.	
2.	2.	
3.	3.	
4.	4.	
5.	5.	
6.	6.	
7.	7.	
8.	8.	
9.	9.	
10.	10.	
11. If additional assets, attach separate sheet and insert total here .....	11.	
12. Total market value of PART B assets .....	12.	

<b>PART C</b> Totals		
1. Total from PART A, Line 5 .....	1.	
2. Total from PART B, Line 12 .....	2.	
3. Add Lines 1 and 2, insert here and on Line 4(a) of IT-Estate Tax Return .....	3.	

**SCHEDULE E-2 (DEDUCTIONS)** Allowable deductions include **ONLY** property passing outright to the decedents surviving spouse/civil union partner after 2/19/07 provided he/she was a U.S. citizen on the decedent's date of death and property which passes to, for the use of, or in trust for, any educational institution, church, hospital, orphan asylum, public library or bible and tract society or to any institution or organization organized and operating exclusively for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that this exemption shall not extend to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption to such institutions and organizations of this state. This exemption does not apply if any portion of the property can be used by, for the benefit of, or paid to any private stockholder, individual or corporation.

	<b>AMOUNT</b>	
1. Value of property passing outright to the decedent's surviving spouse or civil union partner after 2/19/07 (U.S. Citizen) .....	1.	
2. Charitable Deduction (Name of Charity _____) .....	2.	
3. Charitable Deduction (Name of Charity _____) .....	3.	
4. Charitable Deduction (Name of Charity _____) .....	4.	
5. Charitable Deduction (Name of Charity _____) .....	5.	
6. Charitable Deduction (Name of Charity _____) .....	6.	
7. Charitable Deduction (Name of Charity _____) .....	7.	
8. Charitable Deduction (Name of Charity _____) .....	8.	
9. Charitable Deduction (Name of Charity _____) .....	9.	
10. Charitable Deduction (Name of Charity _____) .....	10.	
11. If more charities, attach list and enter total here. ....	11.	
12. Add Lines 1 through 11. Enter here and on Line 5(a) of IT-Estate Return .....	12.	

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

DECEDENT'S NAME <b>TUNE            ROBERT</b>	SOCIAL SECURITY NUMBER <b>063-08-0012</b>
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**SCHEDULE E-3      Credit for portion of tax attributable to property located outside New Jersey.**

In general for purposes of this calculation, intangible personal property is considered to be located in New Jersey regardless of where it may actually be located.

1. Gross Value of property located outside New Jersey included on line 1(a) and line 4(a) or on line 1(b) of the first page of this return .....		1.
Property	Value	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
Use separate sheet if necessary		
2. New Jersey Gross estate wherever located (total of amounts listed on lines 1(a) and line 4(a) or amount listed on line 1(b) of the first page of this return) .....		2.
3. Tentative New Jersey estate tax (amount listed on line 10(a) or 10(b) of the first page of this return .....		3.
4. Allowable Credit (divide line 1 by line 2 and multiply by line 3). Enter on line 12(a) or line 12(b) of the first page of this return. ....		4.

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

**Worksheet For New Jersey Simplified Form - Column A - Line 10(a)**

1. Taxable Value from Line 7(a) of Return .....	1.	
2. Exemption Amount .....	2.	\$60,000.00
3. Line 1 minus Line 2 .....	3.	
4. From table below, determine tax on Line 3 above and enter here and on Line 10(a) of IT-Estate Return .....	4.	

TAX TABLE					
AMOUNT FROM LINE 3 ABOVE					
AT LEAST	BUT LESS THAN	TAX ON AMOUNT IN FIRST COLUMN	+	%	OF EXCESS OVER
\$ 0	\$ 615,000	\$ 0		0	\$ 0
615,000	667,175	0		37.0	615,000
667,175	840,000	19,304		4.8	667,175
840,000	1,040,000	27,600		5.6	840,000
1,040,000	1,540,000	38,800		6.4	1,040,000
1,540,000	2,040,000	70,800		7.2	1,540,000
2,040,000	2,540,000	106,800		8.0	2,040,000
2,540,000	3,040,000	146,800		8.8	2,540,000
3,040,000	3,540,000	190,800		9.6	3,040,000
3,540,000	4,040,000	238,800		10.4	3,540,000
4,040,000	5,040,000	290,800		11.2	4,040,000
5,040,000	6,040,000	402,800		12	5,040,000
6,040,000	7,040,000	522,800		12.8	6,040,000
7,040,000	8,040,000	650,800		13.6	7,040,000
8,040,000	9,040,000	786,800		14.4	8,040,000
9,040,000	10,040,000	930,800		15.2	9,040,000
10,040,000	-----	1,082,800		16.0	10,040,000

Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued

DECEDENT'S NAME TUNE ROBERT	DECEDENT'S SOCIAL SECURITY NUMBER 063-08-0012
--------------------------------	--

SCHEDULE E-4 Must be completed with Column "B" Return

WAIVER REQUEST SCHEDULE  
NEW JERSEY REAL PROPERTY

Note: All items on this schedule must be reported on the 2001 Form 706

List all NEW JERSEY REAL PROPERTY in which the decedent held an interest.

- Report fractional shares *only* if the property was held as tenants-in-common.
- Do not report property held as tenants-by-the-entirety if spouse/civil union partner is surviving
- Tax waivers will not be issued for assets not listed on this schedule.

1. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

---

2. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

---

3. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

DECEDENT'S NAME <b>TUNE ROBERT</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>063-08-0012</b>
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**SCHEDULE E-5** Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY BANK ACCOUNTS/CREDIT UNIONS/BROKERAGE ACCOUNTS**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List all assets held in New Jersey banking institutions on which decedent's name is listed. (This may include checking accounts, savings accounts, money markets, CD's, and IRA's).

- (A) Include the name of each bank or institution and account number(s). (Multiple accounts in one bank may be grouped together, but each account must be listed separately).
- (B) State all names registered on each account.
- (C) List only the full date of death balance of each account on this schedule.
- Tax waivers will not be issued for assets not listed on this schedule.

(A) New Jersey Accounts	(B) Registered Name(s)	(C) Full Date of Death Value
PILGRIM SAVINGS BANK ROSELAND, NEW JERSEY CERTIFICATE OF DEPOSIT #54321	ROBERT TUNE P.O.D. LAWRENCE TUNE	70,808.00

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

DECEDENT'S NAME <b>TUNE            ROBERT</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>063-08-0012</b>
--	---

**SCHEDULE E-6** Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY STOCK**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List only stock incorporated in the State of New Jersey on which decedent's name is listed.

- (A) Report the number of shares owned of each stock.
- (B) List the name of the company and (C) all names registered on each stock.
- Tax waivers will not be issued for assets not listed on this schedule.

<b>(A) Number of Shares</b>	<b>(B) Name of Stock</b>	<b>(C) Registered Names</b>

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued**

DECEDENT'S NAME TUNE            ROBERT	DECEDENT'S SOCIAL SECURITY NUMBER 063-08-0012
---	--

SCHEDULE E-7 Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY INVESTMENT BONDS**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List all NEW JERSEY investment bonds on which decedent's name is registered.

- Provide name of company or entity holding bond and all terms of bond.
- List all names registered on bond.
- Tax waivers will not be issued for assets not listed on this schedule.

(A) Par Value	(B) Investment Bonds - Individually or Jointly Owned	(C) Registered Name(s)

(If additional space is required, attach riders of the same size. All forms may be reproduced)

## Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued

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### IT-Estate Instructions

Form IT-Estate (10-99) is to be used for all decedents having a date of death before January 1, 2002.

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The NJ Estate Tax is in addition to the NJ Inheritance Tax. A tax is imposed upon the estate of every resident decedent having a date of death after December 31, 2001 which would have been subject to an estate tax payable to the United States under the provisions of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.1 et seq, in effect on December 31, 2001.

#### Who Must File

A New Jersey estate tax return must be filed if the decedent's Gross Estate plus adjusted taxable gifts determined in accordance with the provisions of the Internal Revenue Code in effect on December 31, 2001 exceeds \$675,000.

#### Filing Method

The Form 706 method (Column B) must be used if the taxpayer files or is required to file a Federal Form 706. If the taxpayer does not file or is not required to file a Federal Form 706, then, in addition to the Form 706 method the simplified form method (Column A) may be used providing that it produces a tax liability similar to the Form 706 method. In those cases where a taxpayer makes an election to treat an asset in a particular manner for Federal estate tax purposes, a like election must be made for New Jersey estate tax purposes. Assets and deductions must be treated in the same manner for both Federal and New Jersey estate tax purposes.

#### 1. Simplified Form Method

- (a) Submit a completed NJ Inheritance Tax Return (Form IT-R), a copy of the decedent's Last Will and Testament, a copy of the decedent's last Federal Income Tax Return filed prior to death, and the NJ Estate Tax Return with Schedules E-1 through Schedule E-7.
- (b) Complete Column A Lines 1(a) through Line 18(a) of the NJ Estate Tax Return. The Tax on Line 10(a) of the NJ Estate Tax Return is computed using the attached worksheet.
- (c) In the event that the decedent was a surviving spouse and received Qualified Terminable Interest Property (QTIP) from the predeceased spouse for which a marital deduction was elected for Federal and/or New Jersey estate tax purposes, the full value of the QTIP property must be included in Schedule E-1.  

In the event that decedent was a surviving civil union partner on or after February 19, 2007 and received Qualified Terminable Interest Property (QTIP) from the predeceased civil union partner for which a deduction was elected for New Jersey estate tax purposes, the full value of the QTIP property must be included in Schedule E-1.
- (d) The simplified tax system is not intended for use in all estates. It may not be used in situations where it does not produce a tax liability similar to the Form 706 method.

#### 2. Form 706 Method

- (a) Submit a completed 2001 Form 706, a copy of any Federal Estate Tax Return filed or required to be filed with the Internal Revenue Service, supporting documentation, a copy of any communication from the Federal Government, a NJ Estate Tax Return, a copy of the decedent's Last Will and Testament and a copy of the last Federal Income Tax Return filed prior to death.
- (b) Complete Column B Lines 1(b) through Line 18(b) of the NJ Estate Tax Return.
- (c) If the decedent died on or after 2/19/07 survived by a civil union partner, a marital deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code in effect on 12/31/01 is permitted for New Jersey estate tax purposes. In these cases, the 2001 Form 706 should be completed as though the Internal Revenue Code treated a surviving civil union partner and a surviving spouse in the same manner. A surviving civil union partner is treated the same as a surviving spouse for New Jersey estate tax purposes.

#### Interest Rates

Interest accrues at the rate of 10% per annum on any NJ Estate Tax not paid within nine months of the decedent's death. If an extension of time to file the Federal Estate Tax Return is granted, the Director of the Division of Taxation may reduce interest to 6% per annum until the earlier of the expiration of the Federal Extension or the date of the filing of the Federal Return with the Internal Revenue Service.

Requests for an interest reduction must be accompanied by a copy of the request made to the Internal Revenue Service for an Extension of Time in which to file the Federal Estate Tax Return along with a copy of any required approval and verification as to the date on which the Federal Estate Tax Return was actually filed.

Payments are first applied to the interest, if any, which has accrued to the date of payment.

#### Waivers

Tax waivers will only be issued for assets listed on Schedules E-4 thru E-7.

#### Payments on Account

Payments on account may be made at any time to avoid further accrual of interest on the amount paid. In any case where the amount paid on account for New Jersey estate taxes exceeds the amount of such tax due after final assessment has been made, the amount so overpaid shall be refunded by the State Treasurer in the due course of business, provided, however, that all applications for a full or partial refund of the payment of the transfer inheritance tax shall be made within three years from the date of such payment. Make checks payable to NJ Inheritance and Estate Tax and mail to PO Box 249, Trenton, New Jersey 08695-0249

#### Lien

For resident decedents dying after December 31, 2001, the NJ Estate Tax remains a lien on all property of the decedent as of the date of death until paid. No property may be transferred without the written consent of the Director.



Exhibit 105 – Estate Tax Return (NJ) After 12/31/01 – Continued

**NEW JERSEY INHERITANCE AND ESTATE TAX:  
RETURN PROCESSING INSTRUCTIONS**

**Follow these procedures to avoid delays in processing returns, waivers, and refunds:**

- DO NOT enclose returns in any kind of BINDER, SEALED FOLDER or NOTEBOOK.
- DO NOT use STAPLES (especially extra-long staples) on the return.
  - It is OK to use rubber bands or clips to keep the file together.
  - Two-hole ATCO fasteners, along the TOP of the return, are also acceptable.
- DO NOT enclose DUPLICATE COPIES of returns or duplicates of other documents.
  - When filing both Inheritance and Estate Tax, include only ONE copy of the will, trusts, income tax return, 706, appraisals, and any other attachments.

➔ **A few things to DO :**

- STAPLE checks to the completed payment voucher, and put voucher on TOP.
  - *Make sure checks are signed, and made payable to “New Jersey Inheritance and Estate Tax”*
  - *Include the Decedent’s name and SS# on the check.*
- Place the return and schedules on top (if no payment), with the will and other supporting documents beneath.
- Check that returns are SIGNED by the legal representative of the estate and NOTARIZED.
  - *The representative’s name should be printed clearly beneath the signature*
- VERIFY the decedent’s social security number and date of death.
- Make sure the MAILING ADDRESS on the return is correct – and indicates the person who you want to receive ALL correspondence (letters, bills, waivers, etc).
  - The Division cannot correspond with your attorney or CPA unless they are listed on the front page of the return.
- Clearly mark amended returns as “Amended” along the BOTTOM of the return.
- File Inheritance Tax and Estate Tax returns together when possible.
  - Keep the two returns separate within the same envelope or box.
  - Keep in mind the two taxes have separate due dates for payment of the tax.
  - Include separate checks and vouchers for each tax.

Exhibit 106 – Page 1 of 2001 Federal Estate Tax Return

Form <b>706</b> (Rev. November 2001)	<b>United States Estate (and Generation-Skipping Transfer) Tax Return</b> Estate of a citizen or resident of the United States (see separate instructions). To be filed for decedents dying after December 31, 2000, and before January 1, 2002. For Paperwork Reduction Act Notice, see page 25 of the separate instructions.	OMB No. 1545-0015
Department of the Treasury Internal Revenue Service		

Part 1. — Decedent and Executor	1a Decedent's first name and middle initial (and maiden name, if any) <b>ROBERT</b>	1b Decedent's last name <b>TUNE</b>	2 Decedent's Social Security No. <b>063-08-0012</b>	
	3a Legal residence (domicile) at time of death (county, state, and ZIP code, or foreign country) <b>ESSEX COUNTY, NJ 07068</b>	3b Year domicile established <b>1986</b>	4 Date of birth <b>09/14/35</b>	5 Date of death <b>06/03/2006</b>
	6a Name of executor (see page 4 of the instructions) <b>JAMES TUNE</b>	6b Executor's address (number and street including apartment or suite no. or rural route; city, town, or post office; state; and ZIP code) <b>117 LOCK STREET BLOOMFIELD, NJ 07063</b>		
	6c Executor's social security number (see page 4 of the instructions) <b>123-45-6789</b>			
	7a Name and location of court where will was probated or estate administered <b>ESSEX COUNTY SURROGATE'S COURT, NEWARK, NEW JERSEY</b>	7b Case number <b>12,0691</b>		
8 If decedent died testate, check here <input checked="" type="checkbox"/> and attach a certified copy of the will.		9 If Form 4768 is attached, check here <input type="checkbox"/>		
10 If Schedule R-1 is attached, check here <input type="checkbox"/>				

Part 2. — Tax Computation	1 Total gross estate less exclusion (from Part 5, Recaptulation, page 3, item 12) .....	1	2,248,069
	2 Total allowable deductions (from Part 5, Recaptulation, page 3, item 23) .....	2	1,013,737
	3 Taxable estate (subtract line 2 from line 1) .....	3	1,234,332
	4 Adjusted taxable gifts (total taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts that are includible in decedent's gross estate (section 2001(b))) .....	4	292,000
	5 Add lines 3 and 4 .....	5	1,526,332
	6 Tentative tax on the amount on line 5 from Table A on page 12 of the instructions .....	6	567,649
	7a If line 5 exceeds \$10,000,000, enter the lesser of line 5 or \$17,184,000. If line 5 is \$10,000,000 or less, skip lines 7a and 7b and enter -0- on line 7c .....	7a	
	b Subtract \$10,000,000 from line 7a .....	7b	
	c Enter 5% (.05) of line 7b .....	7c	0
	8 Total tentative tax (add lines 6 and 7c) .....	8	567,649
	9 Total gift tax payable with respect to gifts made by the decedent after December 31, 1976. Include gift taxes by the decedent's spouse for such spouse's share of split gifts (section 2513) only if the decedent was the donor of these gifts and they are includible in the decedent's gross estate (see instructions) .....	9	0
	10 Gross estate tax (subtract line 9 from line 8) .....	10	567,649
	11 Maximum unified credit (applicable credit amount) against estate tax .....	11	220,550
	12 Adjustment to unified credit (applicable credit amount). (This adjustment may not exceed \$6,000. See page 4 of the instructions.) .....	12	
	13 Allowable unified credit (applicable credit amount) (subtract line 12 from line 11) .....	13	220,550
	14 Subtract line 13 from line 10 (but do not enter less than zero) .....	14	347,099
	15 Credit for state death taxes. Do not enter more than line 14. Figure the credit by using the amount on line 3 less \$60,000. See Table B in the instructions and attach credit evidence (see instructions) .....	15	47,397
	16 Subtract line 15 from line 14 .....	16	299,702
	17 Credit for Federal gift taxes on pre-1977 gifts (section 2012) (attach computation) .....	17	
	18 Credit for foreign death taxes (from Schedule(s) P). (Attach Form(s) 706-CE.) ..	18	
	19 Credit for tax on prior transfers (from Schedule Q) .....	19	
	20 Total (add lines 17, 18, and 19) .....	20	0
	21 Net estate tax (subtract line 20 from line 16) .....	21	299,702
	22 Generation-skipping transfer taxes (from Schedule R, Part 2, line 10) .....	22	
	23 Total transfer taxes (add lines 21 and 22) .....	23	299,702
	24 Prior payments. Explain in an attached statement .....	24	
	25 United States Treasury bonds redeemed in payment of estate tax .....	25	
26 Total (add lines 24 and 25) .....	26	0	
27 Balance due (or overpayment) (subtract line 26 from line 23) .....	27	299,702	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer other than the executor is based on all information of which preparer has any knowledge.

Signature(s) of executor(s) \_\_\_\_\_ Date \_\_\_\_\_

Signature of preparer other than executor \_\_\_\_\_ Address (and ZIP code) \_\_\_\_\_ Date \_\_\_\_\_

**Exhibit 107 – NJ Estate Tax Return – Simplified Form**

IT-Estate (10-09)  
 Transfer Inheritance Tax  
 PO Box 249  
 Trenton, NJ 08695-0249

**STATE OF NEW JERSEY  
 Resident Decedent  
 ESTATE TAX RETURN**  
 (Instructions on reverse side)

(68) For Division Use Only

Decedent's Name SMITH JOHN Decedent's S.S. No. 148-64-9876  
(Last) (First) (Middle)

Date of Death (mm/dd/yy) 06/02/2009 County of Residence ESSEX Testate  Intestate

**Mailing Address to send all correspondence** Name DARREN LAWYER Daytime Phone 973-111-2222  
 Street 1 ACADEMY STREET  
 City NEWARK State NJ Zip Code 07102

FOR DIVISION USE ONLY	Column A Simplified Form	Column B Form 706 (2001)
<b>Check Tax Method Selected and Complete Column A or Column B</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1. Enter the Gross Estate from line 5 of the New Jersey Form IT-R on line 1(a) OR the Gross Estate from page 1 line 1 of the 2001 Form 706 on line 1(b) .....	1(a) 1,300,000.00	1(b)
2. Enter Deductions from line 6 of the New Jersey Form IT-R on line 2(a) OR Deductions from page 1 line 2 of the 2001 Form 706 on line 2(b) .....	2(a) 100,000.00	2(b)
3. Enter the Net Estate from line 7 of the New Jersey Form IT-R on line 3(a) OR the Taxable Estate from page 1 line 3 of the 2001 Form 706 on line 3(b) .....	3(a) 1,200,000.00	3(b)
4. Enter Taxable assets not included as part of New Jersey inheritance tax Net Estate from line 3 Part C of Schedule E-1 attached .....	4(a) 100,000.00	
5. Enter Deductions from line 12 of Schedule E-2 attached .....	5(a) 400,000.00	
6. Enter Adjusted Taxable Gifts from page 1 Line 4 of the 2001 Form 706 .....		6(b)
7. Taxable Value - Add lines 3(a) and 4(a) and subtract line 5(a) .....	7(a) 900,000.00	
8. Enter Total Gift Taxes payable from page 1 line 9 of the 2001 Form 706 .....		8(b)
9. Enter the Allowable Unified Credit from page 1 line 13 of the 2001 Form 706 .....		9(b)
10. Tentative New Jersey Estate Tax - If taxable value is reported on line 7(a), use the attached worksheet to determine the tax and enter the tax so determined on line 10(a). If taxable estate is reported on line 3(b), enter the amount from page 1 line 15 of the 2001 Form 706 on line 10(b) ..	10(a) 27,600.00	10(b)
11. Credit for New Jersey Inheritance Tax Paid (DO NOT INCLUDE INTEREST OR PENALTY) .....	11(a)	11(b)
12. Enter the portion of the tax attributable to property located outside of New Jersey from line 4 of Schedule E-3 attached .....	12(a)	12(b)
13. Net New Jersey Estate Tax Due - line 10(a) minus lines 11(a) and 12(a) OR line 10(b) minus lines 11(b) and 12(b) .....	13(a) 27,600.00	13(b)
14. Interest and Penalty Due (See instructions) .....	14(a)	14(b)
15. Total Amount Due - Add lines 13(a) and 14(a) OR lines 13(b) and 14(b) .....	15(a) 27,600.00	15(b)
16. Payment on Account (if any) .....	16(a)	16(b)
17. If line 16(a) is LESS THAN line 15(a) OR line 16(b) is LESS THAN line 15(b), Enter BALANCE DUE - PAY THIS AMOUNT .....	17(a) 27,600.00	17(b)
18. If line 16(a) is MORE THAN line 15(a) OR line 16(b) is MORE THAN line 15(b), ENTER REFUND AMOUNT .....	18(a) 0.00	18(b)

ATTACH CHECK FOR BALANCE DUE HERE

Affiant declares, under penalty of perjury:  
 I have examined this return and all accompanying documents and to the best of my knowledge and belief, it is true, correct and complete. I hereby authorize the party(s) set forth above to act as the estate's representative, to receive confidential information, and to make presentations on behalf of the estate.

Subscribed and sworn before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Signature: \_\_\_\_\_  
(Executor - ~~ADD SIGNATURE AND PRINT NAME~~)

Print Name: MARY SMITH  
 Address: 16 MAPLE AVENUE  
MAPLEWOOD, NJ 07040  
 Official Title: \_\_\_\_\_

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH JOHN</b>	SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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**SCHEDULE E-1** Assets not included as part of Line 3(a) of the IT-Estate Return including real and tangible personal property located outside New Jersey, proceeds of any contract of insurance on the life of the decedent either owned by the decedent at death or transferred by the decedent within three years of death, and transfers made within three years of the decedent's death. The full value of QTIP property for which a marital deduction was elected for New Jersey or Federal purposes in the estate of a predeceased spouse/civil union partner, and any other property includable in the federal gross estate under the provision of the Internal Revenue Code in effect on 12/31/01.

<b>PART A NON-NJ REAL PROPERTY</b>	<b>Full Assessed Value For Year of Death</b>	<b>Full Market Value For Year of Death</b>	<b>Value of Decedent's Equity and How Determined</b>	<b>This Column For Division Use Only</b>
1. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
2. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
3. Street and Number  Municipality:  Lot:Block:  County:  Title/Owner of Record:  Mortgage Balance:				
4. If additional realty, attach separate sheet and insert total here .....				
5. Total equity in non-New Jersey real property .....				

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH JOHN</b>		SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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PART B Non-New Jersey tangible personal property, proceeds of insurance, QTIP property, transfers within three years of death not included as part of Line 3(a) of the IT-Estate Return, and any other property includable in the federal gross estate under the provisions of the IRC in effect on 12/31/2001		Market Value at Date of Death	This Column For Division Use Only
1. Prudential Life Policy #123987 payable to Bill Smith (brother	1.	100,000.00	
2. of the decedent)	2.		
3.	3.		
4.	4.		
5.	5.		
6.	6.		
7.	7.		
8.	8.		
9.	9.		
10.	10.		
11. If additional assets, attach separate sheet and insert total here	11.		
12. Total market value of PART B assets	12.	100,000.00	

**PART C**

**Totals**

1. Total from PART A, Line 5	1.		
2. Total from PART B, Line 12	2.	100,000.00	
3. Add Lines 1 and 2, insert here and on Line 4(a) of IT-Estate Tax Return	3.	100,000.00	

**SCHEDULE E-2 (DEDUCTIONS)** Allowable deductions include **ONLY** property passing outright to the decedents surviving spouse/civil union partner after 2/19/07 provided he/she was a U.S. citizen on the decedent's date of death and property which passes to, for the use of, or in trust for, any educational institution, church, hospital, orphan asylum, public library or bible and tract society or to any institution or organization organized and operating exclusively for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that this exemption shall not extend to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption to such institutions and organizations of this state. This exemption does not apply if any portion of the property can be used by, for the benefit of, or paid to any private stockholder, individual or corporation.

	AMOUNT	
1. Value of property passing outright to the decedent's surviving spouse or civil union partner after 2/19/07 (U.S. Citizen)	1.	400,000.00
2. Charitable Deduction (Name of Charity _____)	2.	
3. Charitable Deduction (Name of Charity _____)	3.	
4. Charitable Deduction (Name of Charity _____)	4.	
5. Charitable Deduction (Name of Charity _____)	5.	
6. Charitable Deduction (Name of Charity _____)	6.	
7. Charitable Deduction (Name of Charity _____)	7.	
8. Charitable Deduction (Name of Charity _____)	8.	
9. Charitable Deduction (Name of Charity _____)	9.	
10. Charitable Deduction (Name of Charity _____)	10.	
11. If more charities, attach list and enter total here	11.	
12. Add Lines 1 through 11. Enter here and on Line 5(a) of IT-Estate Return	12.	400,000.00

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH                      JOHN</b>	SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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**SCHEDULE E-3**      Credit for portion of tax attributable to property located outside New Jersey.

In general for purposes of this calculation, intangible personal property is considered to be located in New Jersey regardless of where it may actually be located.

1. Gross Value of property located outside New Jersey included on line 1(a) and line 4(a) or on line 1(b) of the first page of this return .....		1.
Property	Value	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
_____	_____	
Use separate sheet if necessary		
2. New Jersey Gross estate wherever located (total of amounts listed on lines 1(a) and line 4(a) or amount listed on line 1(b) of the first page of this return). .....		2.
3. Tentative New Jersey estate tax (amount listed on line 10(a) or 10(b) of the first page of this return .....		3.
4. Allowable Credit (divide line 1 by line 2 and multiply by line 3). Enter on line 12(a) or line 12(b) of the first page of this return. ....		4.

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

**Worksheet For New Jersey Simplified Form - Column A - Line 10(a)**

1. Taxable Value from Line 7(a) of Return .....	1.	900,000.00
2. Exemption Amount .....	2.	\$60,000.00
3. Line 1 minus Line 2 .....	3.	840,000.00
4. From table below, determine tax on Line 3 above and enter here and on Line 10(a) of IT-Estate Return .....	4.	27,600.00

TAX TABLE					
AMOUNT FROM LINE 3 ABOVE					
AT LEAST	BUT LESS THAN	TAX ON AMOUNT IN FIRST COLUMN	+	%	OF EXCESS OVER
\$ 0	\$ 615,000	\$ 0		0	\$ 0
615,000	667,175	0		37.0	615,000
667,175	840,000	19,304		4.8	667,175
840,000	1,040,000	27,600		5.6	840,000
1,040,000	1,540,000	38,800		6.4	1,040,000
1,540,000	2,040,000	70,800		7.2	1,540,000
2,040,000	2,540,000	106,800		8.0	2,040,000
2,540,000	3,040,000	146,800		8.8	2,540,000
3,040,000	3,540,000	190,800		9.6	3,040,000
3,540,000	4,040,000	238,800		10.4	3,540,000
4,040,000	5,040,000	290,800		11.2	4,040,000
5,040,000	6,040,000	402,800		12	5,040,000
6,040,000	7,040,000	522,800		12.8	6,040,000
7,040,000	8,040,000	650,800		13.6	7,040,000
8,040,000	9,040,000	786,800		14.4	8,040,000
9,040,000	10,040,000	930,800		15.2	9,040,000
10,040,000	-----	1,082,800		16.0	10,040,000

Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued

DECEDENT'S NAME <b>SMITH                      JOHN</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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SCHEDULE E-4 Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY REAL PROPERTY**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List all NEW JERSEY REAL PROPERTY in which the decedent held an interest.

- Report fractional shares *only* if the property was held as tenants-in-common.
- Do not report property held as tenants-by-the-entirety if spouse/civil union partner is surviving
- Tax waivers will not be issued for assets not listed on this schedule.

1. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

2. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

3. Decedent's Share .....

County .....

Street and Number .....

Municipality: .....

Lot: .....

Block: .....

Title/Owner(s) of Record: .....

(If additional space is required, attach riders of the same size. All forms may be reproduced)



**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH                      JOHN</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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**SCHEDULE E-5** Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY BANK ACCOUNTS/CREDIT UNIONS/BROKERAGE ACCOUNTS**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List all assets held in **New Jersey** banking institutions on which decedent's name is listed. (This may include checking accounts, savings accounts, money markets, CD's, and IRA's).

- (A) Include the name of each bank or institution and account number(s). (Multiple accounts in one bank may be grouped together, but each account must be listed separately).
- (B) State all names registered on each account.
- (C) List only the full date of death balance of each account on this schedule.
- Tax waivers will not be issued for assets not listed on this schedule.

(A) New Jersey Accounts	(B) Registered Name(s)	(C) Full Date of Death Value

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH JOHN</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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SCHEDULE E-6 Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY STOCK**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List only stock incorporated in the State of New Jersey on which decedent's name is listed.

- (A) Report the number of shares owned of each stock.
- (B) List the name of the company and (C) all names registered on each stock.
- Tax waivers will not be issued for assets not listed on this schedule.

(A) Number of Shares	(B) Name of Stock	(C) Registered Names

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

DECEDENT'S NAME <b>SMITH JOHN</b>	DECEDENT'S SOCIAL SECURITY NUMBER <b>148-64-9876</b>
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**SCHEDULE E-7** Must be completed with Column "B" Return

**WAIVER REQUEST SCHEDULE  
NEW JERSEY INVESTMENT BONDS**

**Note: All items on this schedule must be reported on the 2001 Form 706**

List all NEW JERSEY investment bonds on which decedent's name is registered.

- Provide name of company or entity holding bond and all terms of bond.
- List all names registered on bond.
- Tax waivers will not be issued for assets not listed on this schedule.

(A) Par Value	(B) Investment Bonds - Individually or Jointly Owned	(C) Registered Name(s)

(If additional space is required, attach riders of the same size. All forms may be reproduced)

**Exhibit 107 – NJ Estate Tax Return – Simplified Form – Continued**

**Worksheet For New Jersey Simplified Form - Column A - Line 10(a)**

1. Taxable Value from Line 7(a) of Return .....	1.	900,000.00
2. Exemption Amount .....	2.	\$60,000.00
3. Line 1 minus Line 2 .....	3.	840,000.00
4. From table below, determine tax on Line 3 above and enter here and on Line 10(a) of IT-Estate Return .....	4.	27,600.00

TAX TABLE					
AMOUNT FROM LINE 3 ABOVE					
AT LEAST	BUT LESS THAN	TAX ON AMOUNT IN FIRST COLUMN	+	%	OF EXCESS OVER
\$ 0	\$ 615,000	\$ 0		0	\$ 0
615,000	667,175	0		37.0	615,000
667,175	840,000	19,304		4.8	667,175
840,000	1,040,000	27,600		5.6	840,000
1,040,000	1,540,000	38,800		6.4	1,040,000
1,540,000	2,040,000	70,800		7.2	1,540,000
2,040,000	2,540,000	106,800		8.0	2,040,000
2,540,000	3,040,000	146,800		8.8	2,540,000
3,040,000	3,540,000	190,800		9.6	3,040,000
3,540,000	4,040,000	238,800		10.4	3,540,000
4,040,000	5,040,000	290,800		11.2	4,040,000
5,040,000	6,040,000	402,800		12	5,040,000
6,040,000	7,040,000	522,800		12.8	6,040,000
7,040,000	8,040,000	650,800		13.6	7,040,000
8,040,000	9,040,000	786,800		14.4	8,040,000
9,040,000	10,040,000	930,800		15.2	9,040,000
10,040,000	-----	1,082,800		16.0	10,040,000

Exhibit 108 – Informal Accounting – Consent and Release of Executor

ESSEX COUNTY  
SURROGATE'S COURT  
DOCKET NO.

In the Matter of the Estate of	:	Approval of Executor's Account
	:	
JOHN SMITH,	:	CONSENT AND RELEASE
	:	OF EXECUTOR
DECEASED.	:	
Died 1/3/		—probate 1/14/

We the undersigned, being all of the residuary beneficiaries under the Will of JOHN SMITH, deceased, do each hereby acknowledge that we have each received from JAMES THOMAS as executor of his Will, a correct, full, fair and proper account of his administration of the estate of said decedent, as to both the principal thereof and the income therefrom, with respect to the entire period from the date of said decedent's death on January 3, , down through September 27, . We have each carefully examined said account and have each found it to be correct, full, fair and proper in every particular. We do each hereby consent to and approve said account, and all schedules and statements contained therein, in all respects.

Without limiting the foregoing in any way, we do each hereby expressly consent to and approve the retention of the decedent's investments and other assets for the respective periods during which the same respectively were retained, and all investments made and retained by the executor, all as shown in said account; and do each hereby consent to and approve the payment to said executor of his commissions on principal in the amount of \$7,500, and the payment to Lawyer & Barrister of \$7,500 as their fee for their services as attorneys for said estate, (of which amount \$1,500 has heretofore been received by said attorneys), and also consent to and approve the payment to said executor of \$360.34, as the unpaid balance of his commissions on income at the statutory rate of 6 per cent all as shown in said account.

We do each hereby expressly consent to and approve the utilization of said \$7,500 of executor's commissions on principal and of said \$7,500 of attorneys' fee, as deductions

**Exhibit 108 – Informal Accounting – Consent and Release of Executor – Continued**

for the decedent's estate and for the undersigned beneficiaries thereof; for Federal income tax purposes, rather than for Federal estate tax purposes. We do each hereby expressly approve all the adjustments shown in Schedule J of said Account which are to be made by said executor in the amounts that, (but for said use of said deductions), would have been distributable to the undersigned, respectively, as their respective shares of the final distribution of said decedent's estate; and we do each hereby expressly admit and acknowledge that said adjustments constitute fair and equitable apportionments, among the undersigned, of the several tax benefits and tax detriments which resulted to the undersigned, respectively, from the use of said \$15,000 of corpus commissions and counsel fees as income tax, rather than as estate tax, deductions.

We do each, for ourselves respectively and for our respective executors, administrators, successors, successors in office and assigns, hereby release, exonerate and discharge said executor and his executors, administrators, successors, successors in office and assigns, fully, completely and finally with respect to all of his duties as executor and with respect to his entire administration of said decedent's estate except for only his duty to make the final payments of executor's commissions and attorneys' fee, and to make final distribution of the balances of principal and income in the manner and to the persons shown in Schedules J (Schedule of Proposed Distribution) and K of said account.

We do each hereby also consent and request that no public or further accounting be made as to either the principal of or the income from said decedent's estate for any part of the period down through said closing date of said account.

Witness:  
s/ \_\_\_\_\_ (L.S.)  
Alma Arthur \* Frank Smith

Witness:  
s/ \_\_\_\_\_ (L.S.)  
Benjamin Bote Charles Thomas

Witness:  
s/ \_\_\_\_\_ (L.S.)  
Carla Coe James Thomas

Exhibit 108 – Informal Accounting – Consent and Release of Executor – Continued

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

BE IT REMEMBERED, that on this 27th day of September, , before me, the subscriber, a Notary Public of New Jersey, personally appeared FRANK SMITH who I am satisfied is the person in the foregoing Consent and Release named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the said power of attorney as his voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
George Greene  
Notary Public of New Jersey  
My Commission expires Jan. 1,

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

BE IT REMEMBERED, that on this 28th day of September, , before me, the subscriber, a Notary Public of New Jersey, personally appeared CHARLES THOMAS who I am satisfied is the person in the attached Consent and Release named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the said Consent and Release as his voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
William White  
Notary Public of New Jersey  
My Commission expires Jan. 1,

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

BE IT REMEMBERED, that on this 29th day of September, , before me, the subscriber, a Notary Public of New Jersey, personally appeared JAMES THOMAS who I am satisfied is the person in the attached Consent and Release named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the said Consent and Release as his voluntary act and deed for the uses and purposes therein expressed.

s/ \_\_\_\_\_  
\* Benjamin Black  
Notary Public of New Jersey  
My Commission expires Jan. 1,

\*

Exhibit 109 – Formal Accounting - Complaint

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Executrix

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—PASSAIC COUNTY  
DOCKET NO.

In the Matter of the Estate of : CIVIL ACTION  
: COMPLAINT FOR THE SETTLEMENT  
HELEN HART (also known : OF FIRST & FINAL ACCOUNT  
as Helen Knowles), : OF EXECUTRIX AND FOR  
DECEASED. : INSTRUCTIONS

Plaintiff BARBARA BROWN, residing at 601 Fountain Street, Newark, New Jersey, says:

FIRST COUNT

1. Hereto annexed is the first and final account of plaintiff as executrix of said estate for the period from July 1, to September 30,

2. The names and addresses of all persons interested in said accounting who are of full age are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Kenneth Knowles (husband)	831 Jackson Street, Paterson, N.J.
Louise Harper (daughter)	261 Sixtieth Ave., Paterson, N.J.
Last Way Funeral Home, Inc.	826 Main Street, Paterson, N.J.

3. The names and addresses of all minors interested in said accounting, together with the name and address of his or her guardian, or if there be no guardian, the name and address of the parents or other persons standing in *loco parentis* to said minor, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
None	



Exhibit 109 – Formal Accounting – Complaint – Continued

4. The following is a summary of plaintiff's account:

AS TO CORPUS		
	) (a) Amount chargeable as of the date of the trust or obligation devolved, or the amount of the Inventory on file .....	\$ 23,791.97
FOR FIRST ACCOUNT	) (b) Additional amount or increase chargeable .....	\$
	) (c) Balance on hand 1st Accounting .....	\$
FOR SECOND OR LATER ACCOUNT	) (d) Additional amount or increase chargeable .....	\$
TOTAL CORPUS CHARGES		\$ 23,791.97
	(e) Accountant prays allowances of .....	\$ 6,572.09
	Balance of corpus in hands of Accountant .....	\$ 17,119.88
AS TO INCOME		
	(f) Balance on previous account, if any .....	\$
	(g) Receipts during period of account .....	\$ 413.89
TOTAL INCOME CHARGES		\$ 413.89
	(h) Accountant prays allowance of disbursements of .....	\$
	Balance of income in hands of Accountant .....	\$ 413.89
SUMMARY		
	Balance of corpus in hands as of this Account .....	\$ 17,119.88
	Balance of income in hands as of this Account .....	\$ 413.89
	* TOTAL ON HAND	\$ 17,533.77

Exhibit 109 – Formal Accounting – Complaint – Continued

SECOND COUNT

1. Plaintiff repeats the allegations of the First Count of the Complaint and makes same a part hereof.

2. A bill in the amount of \$15,050.00 has been submitted by Last Way Funeral Home, Inc. for funeral costs and interment expenses incurred on behalf of decedent.

3. Plaintiff has been advised that the said funeral costs and interment expenses were requested and in fact performed, but because of the amount of this bill requests a direction from the Court relative to the payment of the same.

WHEREFORE, plaintiff (a) respectfully asks that the account be allowed as stated and that the commission and counsel fees be granted; and (b) that the Court direct plaintiff relative to payment of the bill of the said Last Way Funeral Home, Inc.

Dated: October 5,

s/\_\_\_\_\_  
Lawrence Lawyer  
Attorney for Plaintiff

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

BARBARA BROWN, being duly sworn according to law upon her oath, deposes and says that she is the plaintiff in the foregoing complaint, and that the matters and things therein contained are true to the best of her knowledge and belief.

s/\_\_\_\_\_  
Barbara Brown

Sworn and Subscribed to before me this 5th day of October,

s/\_\_\_\_\_  
Myra Master  
Notary Public of New Jersey  
My Commission expires July 7,

\*

Exhibit 110 - Formal Accounting – Account (Without Schedules)

SUPERIOR COURT—CHANCERY DIVISION  
 PROBATE PART—ESSEX COUNTY  
 DOCKET NO. \_\_\_\_\_

In the Matter of the Estate of :  
 :  
 JOHN SMITH, : Civil Action  
 : EXECUTOR'S ACCOUNT  
 :  
 DECEASED. :

The account of JOSEPH JONES as executor of the Will of JOHN SMITH, deceased, for the period from April 1, , the date of death, to August 5, , the date of this account is as follows:

*First as to Principal*

*Said executor charges himself as to principal as follows:*

Sched. A.	Personal property owned by decedent	\$183,881.47
Sched. B.	Gains realized on disposition of assets (including distributions to beneficiaries in kind)	19,291.66
	Gross charges as to principal	\$203,173.13

*Said executor asks allowance as to principal as follows:*

Sched. B.	Losses realized on dispositions of assets (including distributions to beneficiaries in kind)	\$ 3,291.66
Sched. C.	Payments of debts, and last illness and funeral expenses	2,775.27
Sched. D.	Payments of death taxes	37,536.94
Sched. E.	Payments of other administration expenses	2,028.41
Sched. F.	Distributions of cash legacies	8,000.00
Sched. G.	Distributions in kind of specific legacies	1,417.33
Sched. H.	Distributions on account of residuary estate	120,591.50
	Total allowances as to principal	\$175,641.11
Sched. I.	Balance of principal on hand August 5, (market value on said date \$28,420.83) at book value	\$ 27,532.02

Exhibit 110 - Formal Accounting – Account (Without Schedules) - Continued

Sched. J. Schedule of Proposed Distribution of Principal

*Second as to Income*

*Said executor charges himself as to income as follows:*

Sched. K.	Income collected during period covered by account	\$ 7,600.49
	Total charges as to income	\$ 7,600.49

*Said executor asks allowance as to income as follows:*

Sched. L.	Payments of income expenses, and executor's commissions as to income	\$ 466.42
Sched. M.	Distributions of income to beneficiaries	6,500.00
	Total allowances as to income	6,966.42
Sched. N.	<i>Balance of income on hand on August 5, 19 .</i>	\$ 634.07

Attached hereto as Schedule "I" is a statement showing the securities, investments and assets constituting the foregoing balances of principal and income in the hands of the accountant, which statement sets forth the value of the securities, investments and assets as of the date on which they were acquired and the market values thereof on the closing date of the account. The statement also sets forth where the securities, investments and assets are deposited or kept and in what name. Annexed also hereto is a complete statement of all changes made in the securities, investments and assets during the period covered by the account, together with the dates when such changes were made.

DATED: August 5,

s/ \_\_\_\_\_  
Joseph Jones, Executor

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

JOSEPH JONES, being duly sworn, says:

1. I am the accountant in the foregoing account named.
2. The account including all schedules thereto are just and true to the best of my knowledge and belief.

\*

s/ \_\_\_\_\_  
Joseph Jones

Sworn to and Subscribed before me this 5th day of August,

s/ \_\_\_\_\_  
George Grant  
Notary Public of New Jersey

**Exhibit 111 – Formal Accounting – Order to Show Cause**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111)222-3333  
Attorney for Executrix, Barbara Brown

In the Matter of the Estate of	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION
HELEN HART (also known	:	PROBATE PART, PASSAIC COUNTY
as Helen Knowles),	:	
	:	ORDER TO SHOW CAUSE
DECEASED	:	

Upon reading and filing the Complaint of BARBARA BROWN, executrix under the Will of HELEN HART (also known as HELEN KNOWLES), deceased, in which application is made for the settlement of the plaintiff's account and for directions as to the payment of a bill received by an undertaker for funeral costs and interment expenses.

It is on this 13th day of OCTOBER, \_\_\_\_\_, on motion of the plaintiff's attorney, ORDERED that Louise Harper, Kenneth Knowles, and Last Way Funeral Home, Inc., stated to be the persons in interest herein, show cause before this Court, at the Court House, Paterson, New Jersey, on November 20th, \_\_\_\_\_, at 9 o'clock in the forenoon or as soon thereafter as counsel can be heard, why a judgment should not be entered:

- (a) Allowing plaintiff's account as stated.
- (b) Allowing plaintiff's corpus commissions of \$1,150.00
- (c) Allowing plaintiff's attorney a fee of \$2,000.00 and costs in the amount of \$80.76.
- (d) Directing relative to the payment of the aforementioned bill received for funeral costs and interment expenses.

**Exhibit 111 – Formal Accounting – Order to Show Cause - Continued**

AND IT FURTHER ORDERED that a copy of this Order and Verified Complaint certified by the plaintiff's attorney to be a true copy, be served upon each of the above named persons personally or by mailing the same to his last known address, certified mail, return receipt requested and regular mail, at least \_\_\_\_ days before the return date hereof; and

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Passaic County not later than \_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

s/ \_\_\_\_\_  
Victor Veritas, J.S.C. t/a

Exhibit 112 – Formal Accounting – Order Directing Payment of Claim

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Executrix,  
Barbara Brown

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—PASSAIC COUNTY

In the Matter of the Estate of :  
 :  
HELEN HART (also known : ORDER  
as Helen Knowles); : PAYMENT OF CLAIM  
 :  
DECEASED. :

This matter being opened to the Court by Lawrence Lawyer, Attorney for the Executrix, BARBARA BROWN, on notice to all parties in interest, and it appearing that Last Way Funeral Homes, Inc. has submitted a bill for \$15,050.00 representing the cost of funeral and interment expenses on behalf of the decedent, and no one appearing in opposition to the payment of this bill, and it appearing that the aforementioned bill should be paid by the estate.

It is on this 13th day of December, , ORDERED that the executrix is hereby authorized to pay the bill aforementioned from the assets of the estate.

s/\_\_\_\_\_  
Victor Veritas J.S.C. t/a

Exhibit 113 – Judgment Allowing Account and Adjudicating Upon Exceptions

Abel Barrister, Esq.  
1800 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Plaintiff

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
PROBATE PART: ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of :  
HELEN JONES, : JUDGMENT ALLOWING ACCOUNT  
DECEASED. : AND ADJUDICATING UPON  
EXCEPTIONS

This matter being opened to the Court by Lawrence Lawyer, attorney for BEN JONES, executor under the will of HELEN JONES, deceased; and exceptions having been filed by JOHN SMITH to the account of the said executor; and the matter having been heard by the Court and the Court having filed its opinion herein:

It is on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, adjudged;

1. Exception No. 1 is allowed, and the accountant is hereby surcharged as to corpus with the sum of \$2,500.00.
2. Exception No. 2 is hereby overruled.
3. Except for the surcharge aforesaid, the said account is hereby allowed.
4. The executor is allowed the sum of \$300.00 as commissions on the income earned by him during the period covered by the account.
5. The executor is hereby allowed the sum of \$3,000.00 as commissions on the corpus of the said estate.
6. An attorney's fee of \$1,500.00 is hereby allowed to LAWRENCE LAWYER, attorney for the accountant, and an attorney's fee of \$750.00 is hereby allowed to CHARLES DUKE, attorney for the exceptant, the same to be paid by the said BEN JONES out of the estate.

s/ \_\_\_\_\_  
J.S.C.



Exhibit 114 – Complaint in Action to Compel an Executor to Account and for Discovery

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Plaintiff

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of :  
 :  
 :  
 SAMUEL SMITH, : COMPLAINT IN ACTION TO  
 : COMPEL AN EXECUTOR TO  
 : ACCOUNT AND FOR DISCOVERY  
 DECEASED. :

Plaintiff, JEAN JENNINGS, residing at 5 Arbor Drive, Budd Lake, in the Township of Mount Olive, County of Morris and State of New Jersey, complaining of the defendant herein says that:

FIRST COUNT

1. She is the residuary beneficiary of the Last Will and Testament of SAMUEL SMITH, who died testate on June 6,

2. On June 17, , the said Will of the decedent was admitted to probate by the Essex County Surrogate’s Court and letters testamentary thereon were issued to LEONARD SMITH, the executor therein named.

3. A period of more than one (1) year has expired since his appointment and the said LEONARD SMITH has failed to settle his account as executor aforesaid.

WHEREFORE, plaintiff demands judgment on this count requiring the said LEONARD SMITH to settle his account.

SECOND COUNT

1. Plaintiff repeats each and every allegation of the First Count of this Complaint.

2. Under the terms of his Last Will and Testament, the tavern business owned by the decedent was given to the executor who has operated same since that time.

3. The real estate of the decedent was left to the executor and the two sisters of the decedent. The widow of the decedent asserted her claim to dower and, by

**Exhibit 114 – Complaint in Action to Compel an Executor to Account  
and for Discovery - Continued**

agreement entered into between LEONARD SMITH (the executor) and HELEN HOLT (one of the sisters of the decedent), it was agreed that the widow would relinquish and release her right of dower in the real estate owned by the decedent at the time of his death for the sum of \$28,000.

4. Plaintiff has recently received a copy of the Inheritance Tax Return filed by the executor for the estate. In said return there appears the following: (a) An allegation by the executor that the decedent authorized him, on May 28, , to withdraw and retain for his own use all of the money which the decedent had on deposit in various banks; (b) There is set forth as debts of the estate certain bills incurred to liquor and beer distributors for merchandise delivered to the tavern business which is now being operated by the executor; (c) There is set forth as a debt of the estate the sum of \$28,000 paid to the widow of the decedent for her release of dower in the real estate of the decedent.

5. It is apparent that the executor may have wasted and misapplied the estate entrusted to him and discovery proceedings should be held at this time relative to the condition of the estate.

WHEREFORE, plaintiff demands judgment on this count directing the said LEONARD SMITH to make discovery as to the condition of the estate, and directing such proceedings to be taken for the protection of the estate as the court shall seem to be for its best interest.

s/ \_\_\_\_\_  
Lawrence Lawyer, Attorney  
for Plaintiff, Jean Jennings

\*

\*

**Exhibit 114 – Complaint in Action to Compel an Executor to Account  
and for Discovery - Continued**

**VERIFICATION**

STATE OF NEW JERSEY    )  
COUNTY OF MORRIS    ) ss:

JEAN JENNINGS, of full age, being duly sworn according to law upon her oath,  
deposes and says:

I am the plaintiff in the foregoing Complaint. The allegations thereof are true to  
my personal knowledge except the allegations of Paragraph #5 of the Second Count  
thereof and as to them I desire discovery at this time.

s/ \_\_\_\_\_  
Jean Jennings

Sworn and Subscribed to before me this 29th  
day of December,

s/ \_\_\_\_\_  
Paul Poe  
Notary Public of New Jersey  
My Commission expires October 9,

**Exhibit 115 – Order to Show Cause in Action to Compel  
an Account and for Discovery**

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111)222-3333  
Attorney for Plaintiff

SUPERIOR COURT-CHANCERY DIVISION  
PROBATE PART-ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of	:	
	:	
SAMUEL SMITH,	:	ORDER TO SHOW CAUSE IN
	:	ACTION TO COMPEL AN
DECEASED	:	ACCOUNT AND FOR DISCOVERY
	:	

Upon reading and filing the Complaint of JEAN JENNINGS: It is on this 4th day of January, \_\_\_\_, ORDERED that LEONARD SMITH, Executor of SAMUEL SMITH, deceased, show cause before this court on Monday, the 24th day of January, \_\_\_\_, at 9:00 A.M. in the forenoon at the Essex County Courts Building, Newark, New Jersey, why he should not settle his account and why he should not make discovery at this time of the condition of the Estate of SAMUEL SMITH, deceased.

AND IT FURTHER ORDERED that a copy of this Order and Verified Complaint on which it is based, certified to be a true copy by the attorney for the plaintiff, be served upon the said LEONARD SMITH by mailing the same to him and his attorney by Certified Mail, Return Receipt Requested and regular mail, at least \_\_\_\_ days before the return date hereof; and

IT IS FURTHER ORDERED that any person who is served with copies of this Order and the Verified Complaint and who desires to oppose the relief sought shall do so by filing (a) an Answer, (b) an Affidavit, or (c) a Notice of Motion accompanied by an Affidavit returnable on the return date of this Order. Any such Answer, Affidavit, or Notice of Motion and accompanying Affidavit shall be served upon the attorney for plaintiff and filed with the Surrogate of Essex County not later than \_\_\_\_ days before the return date of this Order. If any person fails to file and serve as set forth hereinabove, the matter may on that date proceed as to that person as if the action were unopposed.

---

John J. Jurist, J.S.C. t/a

Exhibit 116 – Exceptions to Account

Lawrence Lawyer  
131 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Attorney for Barbara Brown  
Executrix of the estate of  
Helen Hart

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—PASSAIC COUNTY

In the Matter of the Estate of :  
 :  
HELEN HART (also known : EXCEPTIONS TO ACCOUNT  
as Helen Knowles), :  
DECEASED. :  
 :

BARBARA BROWN, executrix named in the Last Will and Testament of the decedent, HELEN HART, hereby excepts to the account of KENNETH KNOWLES, formerly the administrator of the estate of HELEN HART, as follows:

1. The said accountant seeks commissions in the amount of \$1,000.00. There is no affidavit on file indicating the work, if any, done by the accountant in the administration of the estate. From the affidavit submitted by the attorney for the accountant, however, it would seem that any work done in connection with the estate was done by the attorney for the accountant and that such services as may have been rendered by the accountant were of no value to the estate. Accordingly, it is respectfully requested that the application for commissions be denied.

2. The attorney for the accountant seeks counsel fees in the amount of \$3,750.00. Although not specifically set forth, it is apparent that counsel seeks to be paid at this time for services to the estate and for work performed in the contest over the Will.

In connection with the administration of the estate, the attention of the Court is directed to the following—the total gross estate as indicated in the accounting filed is \$24,595.12. The assets of the estate apparently consist solely of money on deposit in three bank accounts. From a reading of the affidavit, it appears that the only work done by counsel in connection with the administration of the estate was to have Mr. Knowles appointed administrator, verify the amounts on deposit in the aforementioned

Exhibit 116 – Exceptions to Account - Continued

bank accounts, and open the safe deposit box of the decedent. There is also a statement in the affidavit that counsel “gathered” the debts of the estate but the only creditor listed was the Passaic County Welfare Board, which was apparently paid by the accountant after a judgment was entered setting aside the Order of the Surrogate appointing the accountant as administrator of the estate. It is submitted that considering the size of the estate, the nature of the services rendered and the time spent, that a counsel fee in the approximate amount of \$250.00 for services to the estate would be appropriate.

Relative to the work performed in the Will contest and considering (a) the nature and extent of the services rendered as per the affidavit on file; (b) the fact that the Will was admitted to probate; and (c) the fact that counsel will receive compensation for work done in connection with the administration of the estate to date, it is respectfully submitted that a fee in the approximate amount of \$500.00 would be appropriate.

For the foregoing reasons, it is respectfully requested that the Court disallow the requested fee sought by the attorney for the accountant and fix a fee for all services rendered in an amount no greater than \$750.00.

s/ \_\_\_\_\_  
Lawrence Lawyer  
Attorney for Barbara Brown,  
Executrix of the Estate of  
Helen Hart

Dated: September 11,

Exhibit 117 – Report of Guardian Ad Litem

Arnold Advocate  
607 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Guardian Ad Litem

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of :  
 :  
EMMA A. JONES, : REPORT OF GUARDIAN  
 : AD LITEM  
DECEASED. :

I, ARNOLD ADVOCATE, appointed by the Order of this Court made December 12, 19 , guardian *ad litem* of JENNIFER SAMUELS and ALLISON SAMUELS, infants, do hereby report to the Court as follows:

1. This account is brought for the settlement of the account of AVERY W. LANSOIT, executor under the Will and Codicil of EMMA A. JONES, deceased.

2. The Complaint for settlement of the account of the executor indicates that the said JENNIFER SAMUELS and ALLISON SAMUELS, are each entitled to receive .83% of the residuary estate of the decedent as issue of HELEN SIMPSON SAMUELS pursuant to the provisions of Article Third of the Will of the decedent.

3. I have studied the Will and Codicil, Complaint for Accounting, Accounting, Affidavit of Services by attorneys for executor, and Affidavit of Services of the executor.

4. Schedule J of the Account sets forth the assets of the estate as of July 14, 19 Schedule K of the Account indicates that all of the assets of the estate were at the Trust Department of Midlantic National Bank, 744 Broad Street, Newark, New Jersey, with the exception of an estate checking account and an estate savings account with Princeton Bank & Trust Company.\*

5. I personally made a physical examination of the securities on hand at the Midlantic National Bank. All of the securities set forth in the Account were in the custody of the bank except for the Ohio Bell Telephone Company bonds due 10/1/

Exhibit 117 – Report of Guardian Ad Litem - Continued

and the U.S. Treasury Bills due 9/21/ . The records of the bank indicated that these securities had been redeemed and the proceeds received from the redemption reinvested in U.S. Treasury Bills.

6. I thereafter confirmed the balances alleged to be on deposit in the name of the estate at the Princeton Bank & Trust Company, Princeton, New Jersey.

7. In addition to the assets shown on Schedule J of the Account, the Midlantic National Bank was also holding as custodian for the estate a \$600 Bond of Delaware Lackawanna & Western Railroad Company due 5/1/2042 and a \$600 note of Rockwood & Company due 12/31/ . In the accounting filed by the executor both of these items were listed as having no value. I checked with a broker regarding these securities and confirmed the fact that neither of the items in question had any value.

8. I reviewed all of the expenditures made by the executor as set forth in Schedules E, F and G of the Account, and confirmed same by copies of vouchers supplied to me by the executor.

9. I checked with the records of the Surrogate to further confirm the payment of the legacies and bequests as set forth in Schedule G of the Account.

10. The Will of the decedent directed that her residuary estate be divided into ten equal parts. After reviewing the Account I requested the executor to forward to me a statement indicating the manner in which he calculated the interest of each of the residuary beneficiaries. A copy of the statement received from the executor is annexed hereto.

11. Article Third of the Will of the decedent provides for the payment of four equal parts of the residuary to SALLY JONES ROGERS, a cousin of the decedent, "if she survives me, in equal shares, *per stirpes*." The said SALLY JONES ROGERS survived the decedent but filed a renunciation of her interest in the estate. A copy of the renunciation filed by the said SALLY JONES ROGERS is attached hereto.

12. The Complaint for settlement of the executor's Account, as well as the attached statement of the executor, indicate that the executor has taken the position that the interest in the estate of said SALLY JONES ROGERS should be paid to JOHN C. ROGERS and SUSAN R. SIMMS, the issue of the said SALLY JONES ROGERS.



**Exhibit 117 – Report of Guardian Ad Litem - Continued**

It is submitted, however, that this position may not be correct and that, in fact, the Court may determine that the interest of the said SALLY JONES ROGERS should be distributed pro rata among the other residuary beneficiaries.

13. In view of the foregoing, the undersigned excepts at this time to the following matters set forth in the Account filed by the executor:

A. The payment by the executor to SUSAN R. SIMMS of the sum of \$27,000 representing partial payment under Article Third of the decedent's Will as set forth in Schedule G of the Account.

B. The payment of the executor to JOHN C. ROGERS of the sum of \$27,000 representing partial payment under Article Third of the decedent's Will as set forth in Schedule G of the Account.

C. The proposed distribution of assets as set forth in Schedule L of the Account.

14. There will be submitted to the Court in advance of the return date a memorandum of law relative to the above.

15. I find no other grounds for exception to the Account filed by the executor.

Respectfully submitted,

s/ \_\_\_\_\_  
Arnold Advocate  
Guardian Ad Litem

Dated: January ,  
\* Newark, New Jersey \*

Exhibit 118 – Affidavit of Services of Guardian Ad Litem

Arnold Advocate  
607 Broad Street  
Newark, New Jersey 07102  
(111) 222-3333  
Guardian Ad Litem

SUPERIOR COURT—CHANCERY DIVISION  
PROBATE PART—ESSEX COUNTY  
DOCKET NO.

In the Matter of the Estate of

EMMA A. JONES,  
DECEASED.

AFFIDAVIT OF SERVICES OF  
GUARDIAN AD LITEM

STATE OF NEW JERSEY )  
COUNTY OF ESSEX ) ss:

ARNOLD ADVOCATE, of full age, being duly sworn according to law, upon his oath deposes and says:

1. By Order of this Court entered December 12, , I was appointed guardian *ad litem* for the infant defendants, JENNIFER SAMUELS and ALLISON SAMUELS.

2. This action has been brought in this Court for the settlement of the account of AVERY W. LANSON, executor under the Will of EMMA A. JONES for the period from March 18, , to and including July 14, ; and for the allowance of fees and commissions.

3. On December 17, , I reviewed the Appointment of Guardian *ad Litem* and Consent forms which had been forwarded to me by the executor. I contacted the executor and requested that additional documents be forwarded to me so that I could commence to work on the matter. (.5)

4. On December 21, , I reviewed the Complaint, Accounting, Will and Codicil of the decedent, and the Affidavit of Services submitted on behalf of the executor and the attorneys for the executor. (2)

5. On December 22, , I wrote to the Princeton Bank & Trust Company and asked them to verify for me the balance on hand in the estate checking and estate savings accounts.

Exhibit 118 – Affidavit of Services of Guardian Ad Litem – Continued

6. On December 26, , I went to the Midlantic National Bank. At that time I personally examined the securities being held by the bank for the estate. I further obtained at that time a statement from the bank setting forth all transactions made by the bank for the estate since July 14, . (2.5)

7. On December 28, , I wrote to a broker to ascertain the value, if any, of a bond and note being held by the Midlantic National Bank for the estate.

8. On December 28, , I reviewed the information obtained by me from Midlantic National Bank to compare same with the information contained in the executor's account.

9. I requested the executor of the estate to forward vouchers substantiating all expenditures made as set forth in the Account.

10. On January 2, , I reviewed all expenditures made by the executor as set forth in Schedules E, F and G of the Account and confirmed same by copies of vouchers supplied to me by the executor. (2)

11. On January 2, , I reviewed and checked all figures supplied in totals given on the Account filed by the executor. (1)

12. On January 3, , I checked the records of the Surrogate to confirm the payment of the legacies and bequests as set forth in Schedule G of the Account. At that time I further obtained a copy of the renunciation filed by one of the persons named as a residuary beneficiary of the Will. (2)

13. On January 4, , I reviewed the law applicable to the effect of a renunciation by a residuary beneficiary. I prepared a legal memorandum as well as my report to be filed with the Court. (3)

14. I anticipate that an additional two hours will be spent in connection with the hearing on the return date and I will have expended in excess of fifteen hours on this matter. My usual billing rate is \$150.00 per hour. Accordingly, I request a fee in the

**Exhibit 118 – Affidavit of Services of Guardian Ad Litem – Continued**

amount of \$2,250.00. In addition, I incurred expenditures in the amount of \$75.00 for Court costs and request reimbursement for same.

s/ \_\_\_\_\_  
Arnold Advocate

Sworn and Subscribed to before me this  
\_\_\_\_\_ day of January,

s/ \_\_\_\_\_

**Exhibit 119 – Release and Refunding Bond**

LAWRENCE LAWYER, ESQ.  
131 Broad Street  
Newark, NJ 07102  
973.111.2222

ESSEX COUNTY SURROGATE’S COURT  
DOCKET NO. \_\_\_\_\_

IN THE MATTER OF THE ESTATE  
OF ANDREW ADAMS,  
  
DECEASED.

RELEASE  
AND REFUNDING BOND

I, Arthur Adams, residing at 36 Garden Road, West Orange, New Jersey (the “Beneficiary”), am obligated to refund to Lawrence Lawyer, Administrator c.t.a. of the estate of Andrew Adams, deceased (the “Administrator”), or to the Administrator’s attorney, successors in office or assigns, up to the sum of ONE THOUSAND DOLLARS (\$1,000), on the conditions described in this Release and Refunding Bond. I bind myself, my heirs, executors and administrators to the terms of this instrument.

**THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:**

**WHEREAS**, the Beneficiary has received from the Administrator, in accordance with the will of Andrew Adams, duly probated before the Surrogate of Essex County, State of New Jersey, the sum of ONE THOUSAND DOLLARS (\$1,000) in cash, constituting the entire legacy given to the Beneficiary under the aforesaid will;

**AND IN CONSIDERATION THEREOF**, the Beneficiary has released and forever discharged and by these presents does release and forever discharge the Administrator from all claims and demands whatsoever on account of or in respect to the estate of said deceased and of the Beneficiary’s interest therein to the extent of such distribution.

**NOW, THEREFORE**, if any debt or debts truly owing by the said Andrew Adams or by the estate of Andrew Adams, including but not limited to a claim for federal or

**Exhibit 119 – Release and Refunding Bond - Continued**

state income taxes, federal or state estate and inheritance taxes, or any other taxes, together with interest, penalties, costs, expenses and counsel fees (if any), or if any legacy or legacies which shall not have been paid shall be hereafter sued for and recovered, or otherwise be duly made to appear, which the Administrator shall not have other assets to pay, the Beneficiary will refund and pay back to the Administrator the ratable part of such debt or debts out of the part and share so allotted to and received by the Beneficiary.

Thereafter, the above obligation will be void (if the Beneficiary has returned the entire devise or distribution), or else remain in full force and effect.

WITNESS:

DATE:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Arthur Adams

STATE OF NEW JERSEY :

ss:

COUNTY OF ESSEX :

**BE IT REMEMBERED**, that on \_\_\_\_\_, 2010, before me, a Notary Public of the State of New Jersey, personally appeared Arthur Adams, who I am satisfied is the Beneficiary in the within instrument of writing named, and thereupon he acknowledged that he executed the same as his voluntary act and deed for the uses and purposes therein expressed.

\_\_\_\_\_  
Notary Public

**APPENDIX B**

**NEW JERSEY ADMINISTRATIVE CODE  
TITLE 18. DEPARTMENT OF TREASURE—TAXATION  
CHAPTER 26. TRANSFER INHERITANCE AND ESTATE TAX**

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## **APPENDIX A. (RESERVED)**

**TITLE 18. TREASURY -- TAXATION  
CHAPTER 26. TRANSFER INHERITANCE  
AND ESTATE TAX**

**SUBCHAPTER 1. DEFINITIONS**

**§ 18:26-1.1 Definitions**

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

"The Act", "The Law" or "The Tax Act" means Chapters 33-38 of Title 54 of the Revised Statutes of New Jersey.

"Blanket waiver" means the general written consent of the Director issued by regulation permitting banks, trust companies, savings institutions, building and loan and savings and loan associations operating in this State, to transfer up to 50 percent of any shares held for or of the total funds on deposit to the credit of a deceased resident of this State, either individually as a co-depositor, trustee, agent, cestui que trust, or in any other capacity, prior to the final payment of the tax and in the absence of a formal waiver. The blanket waiver also authorizes the release of an amount in addition to the said 50 percent, called for by a check or checks made payable to New Jersey Inheritance and Estate Tax, in payment of transfer inheritance taxes chargeable.

"Civil union couple" means the legally recognized union of two eligible individuals of the same sex established pursuant to P.L. 2006, c. 103, partners of which shall receive the same benefits and protections and be subject to the same responsibilities as spouses in a marriage.

"Civil union partner" means a person who has established a civil union pursuant to the provisions of P.L. 2006, c. 103.

"Class A transferee" means any of the following:

1. A father, mother, grandparent, grandchildren, husband, wife, civil union partner or domestic partner;
2. A child or children of a decedent, including any stepchild of a decedent or child or children

adopted by a decedent in conformity with the laws of this State, or of any of the United States or of a foreign country. A Class A transferee shall also include a non-biological child of a decedent where the child was the offspring of a biological parent partner conceived by the artificial insemination of that parent during the term of a civil union or domestic partnership with the decedent unless it is otherwise shown that the non-biological parent had not intended to be the parent of the child;

3. The issue of any child or legally adopted child of a decedent; or

4. Any child to whom the decedent for not less than 10 years prior to the transfer stood in the mutually acknowledged relationship of a parent, provided the relationship began at or before the child's 15th birthday and was continuous for 10 years thereafter. This applies to persons who were taken into the household and reared as children of the decedent, but who were never legally adopted by the decedent.

"Class C transferee" means any of the following:

1. A brother or sister of a decedent;
2. A wife/civil union partner or widow/surviving civil union partner of a son of a decedent; or
3. A husband/civil union partner or widower/surviving civil union partner of a daughter of a decedent.

"Class D transferee" means any other transferee, distributee or beneficiary who is not a Class "A" or "C" or "E" transferee.

"Class E transferee" means any of the following:

1. The State of New Jersey or any political subdivision thereof;
2. Any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to, for the use of or in trust for any institution or organization organized and operated exclusively for religious, charitable, benevolent, scientific, literary or education purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any

private stockholder or other individual or corporation; provided, that the exemption does not extend to transfers of property to such education institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal and like exemption of transfers of property for the benefit of such institutions and organizations of this State.

"Clear Market Value" means the market value of any property included in any transfer, less any deductions allowable under the law.

"Director" means Director, Division of Taxation in the Department of the Treasury, State of New Jersey. (See, N.J.S.A. 52:27B-48, 49; 52:18A-25, 24.)

"Domestic partner" means an individual who is in a relationship that satisfies the definition of a domestic partnership as set forth in the Domestic Partnership Act, P.L. 2003, c. 246.

"Estate and Property" means the interest of the testator, intestate, grantor, bargainor or vendor, passing or transferred to the individual or specific legatee, devisee, heir, next of kin, grantee, donee or vendee, not exempt from the provisions of the Act, whether such property be situated within or without this State and includes family partnership interest or family limited partnership interest.

"Gross Estate" means the value, as of the date of a decedent's death of all property wherever situated, which is included in the decedent's estate for inheritance tax purposes.

"Market Value--Date Determined" means the value of property as of the date of death of the transferor, whether or not the transfer was made during the lifetime of the transferor.

"Person" means any individual, domestic partner, corporation, organization, association, partnership or any other entity.

"Proper representative of the estate" means the appropriate representative as determined under the estate administration statutes, N.J.S.A. 3B:1-1 et seq.

"Transfer" means and includes the passing of

property or any interest therein, in possession or enjoyment, present or future, by distribution by statute, descent, devise, bequest, grant, deed, bargain, sale or gift.

"Transferee" means any person to whom a transfer is made, and includes any legatee, devisee, heir, next of kin, grantee, donee, vendee, assignee, successor, or survivor or beneficiary.

"Waiver" means the written consent of the Director permitting the transfer of one or more assets held in the name of a decedent or a decedent and others.

#### HISTORY:

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Definition for "Proper representative of the estate" added.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 N.J.R. 609(a), 30 N.J.R. 1426(b).

In "Class A transferee", added a second sentence in 4.

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In the last sentence of definition "Blanket waiver", substituted "New Jersey Inheritance and Estate Tax" for "the New Jersey Inheritance Tax Branch"; in definition "Class A transferee" deleted "or" at the end of 3, in 4, substituted "15th" for "fifteenth" and "10" for "ten" in the first sentence and "; or" for the period at the end of the last sentence, and inserted 5; inserted definition "Domestic partner"; added the language "and includes ... limited partnership interest" in definition "Estate and Property"; and inserted "domestic partner," in definition "Person".

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Added definitions "Civil union couple" and "Civil union partner"; in definition "Class A transferee", in 1, substituted a comma for "or" following "husband" and inserted ", civil union partner or domestic partner", inserted the last sentence in 2, inserted "or" at the end of 3,

substituted a period for "; or" at the end of 4, and deleted 5; in 2 and 3 of definition "Class C transferee", inserted "/civil union partner" and "/surviving civil union partner".

## **SUBCHAPTER 2. IMPOSITION AND COMPUTATION OF TAX**

### **§ 18:26-2.1 Nature of tax**

(a) The Act imposes a tax upon transfers of the value of \$ 500.00 or over, or of any interest thereon or income therefrom, held in trust or otherwise, to or for the use of any transferee, as set forth under N.J.S.A. 54:34-1, including, but not limited to, the following:

1. In the case of a resident decedent, where such transfers consist of real or tangible property situated in this State or intangible personal property wherever situated, owned by such decedent; and
2. In the case of a nonresident decedent, where such transfers consist of real or tangible personal property owned by such decedent situated in this State at the time of death.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1.

### **§ 18:26-2.2 Law at the time of death controls**

The right of the State to the inheritance tax on transfers vests at the moment of a decedent's death so that the law prevailing at the time of death of a resident or nonresident controls the transfers subject to the tax and the rates thereon.

HISTORY:  
Amended by R.1994 d.627, effective December 19, 1994.  
See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:35-1.

### **§ 18:26-2.3 Computation of tax**

The New Jersey Inheritance Tax is computed upon the clear market value of the property transferred, but only upon that portion in excess

of the exemptions and deductions allowable under the law on the date of the transferor's death at the rates then in effect.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.

### **§ 18:26-2.4 Exclusion of exempt transfers**

In computing the tax the deductions allowed by N.J.S.A. 54:34-5 (see N.J.A.C. 18:26-7) are to be deducted from the clear market value of the property transferred, and the tax computed on the remainder of the transfer less any exemptions permitted under N.J.S.A. 54:34-4 (see subchapter 6 of this chapter) at the rates in effect at the date of death.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5, 54:34-4.

### **§ 18:26-2.5 Rates for Class "A" transferee**

- (a) Transfers to a spouse are totally exempt where the decedent dies on or after January 1, 1985.
- (b) Transfers to all Class "A" transferees, where decedent dies on or after July 1, 1988, are totally exempt, except that transfers to a domestic partner are totally exempt where the decedent dies on or after July 10, 2004, and transfers to a civil union partner are totally exempt where the decedent dies on or after February 19, 2007.

HISTORY:  
Amended by R.1978 d.31, effective January 27, 1978.  
See: 10 N.J.R. 43(a), 10 N.J.R. 128(a).  
Amended by R.1989 d.85, effective February 6, 1989.  
See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).  
Date changed in (b); added (c)-(g).  
Amended by R.1994 d.627, effective December 19, 1994.  
See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).  
Amended by R.2008 d.72, effective April 7, 2008.  
See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
Deleted former (a); recodified former (b) as (a); deleted (c) through (e); recodified former (f) as (b); and rewrote (b).



STATUTORY REFERENCES:

N.J.S.A. 54:34-2a.

**§ 18:26-2.6 Mutually acknowledged child or domestic partner**

(a) In the case of Class "A" transferee to whom the decedent stood in the mutually acknowledged relationship of a parent, as defined in N.J.A.C. 18:26-1.1, the claim on behalf of such a transferee must include the following information:

1. The date and age the child was first taken into the household and a mutually acknowledged child relationship assumed.
2. The period of time the relationship continued with the dates given.
3. A complete statement of circumstances whereby the child was taken into the household.
4. The source and cost of the child's support.
5. The child's parentage indicating whether such parents are alive and their address or if deceased, the dates of death and their legal domicile at death.
6. The person who was established as the parent of the child when the child registered at school. The person who signed the child's report cards and similar documents. The person who claimed the child as a dependent for Federal income tax purposes and the relationship claimed on the return of such individual.
7. The affidavits of two or three disinterested persons having knowledge of the relationship setting forth the facts as known to them.
8. Any other details which will support the claim that a mutually acknowledged relationship of parent and child existed.

(b) In the case of a Class "A" transferee to whom the decedent stood in the relationship of a spouse or civil union partner as defined in P.L. 2006, c. 103 or domestic partner as defined in section 3 of P.L. 2003, c. 246 (N.J.S.A. 26:8A-3), the claim on behalf of such a transferee must include such proof and supporting official documentation as may be required by the Director.

(c) If a marriage, civil union (or its equivalent), or a domestic partnership (or its equivalent) was entered into in another jurisdiction, the surviving spouse/partner is exempt for inheritance tax purposes.

(d) New Jersey treats out-of-State same sex marriages as civil unions (Attorney General Opinion, p.2, February 16, 2007). The surviving partner of a same sex or opposite sex couple registered as domestic partners prior to February 19, 2007, who continue to be so registered, remain eligible for the transfer inheritance tax exemption. An opposite or same sex couple aged 62 years and older, who wish to register as a domestic partnership, may do so in New Jersey in order for the surviving partner to be exempt from the inheritance tax, provided, however, that a domestic partnership-like relationship entered into outside of New Jersey, which is valid under the laws of the jurisdiction under which the partnership was created, need not be reaffirmed in New Jersey for the surviving partner to be exempt from the inheritance tax.

(e) Same sex couples may also enter into civil unions in New Jersey in order for the surviving partner to be exempt from the inheritance tax, provided, however, that a couple who has entered into a legally sanctioned civil union-like relationship in another jurisdiction is not required to reaffirm that relationship in New Jersey to be exempt from the tax.

HISTORY:

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 N.J.R. 609(a), 30 N.J.R. 1426(b).

In (a)6, inserted "claimed the child as a dependent for Federal income tax purposes" following "who" in the third sentence.

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Section heading was: "Mutually acknowledged child". Added (b) through (d).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Rewrote (b), (c) and (d); and added (e).

**§ 18:26-2.7 Rates of Class "C" transferee**

(a) In the case of a transfer to a Class "C" transferee, where the decedent dies on or after July 1, 1988, the rates are as follows:

1. On any amount in excess of--		
\$ 25,000	up to	1,100,000
1,100,000	up to	1,400,000
1,400,000	up to	1,700,000
1,700,000	.....	

**HISTORY:**

Amended by R.1989 d.85, effective February 6, 1989.  
See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).  
Substantially amended.  
Amended by R.2008 d.72, effective April 7, 2008.  
See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
Deleted former (a); and recodified former (b) as (a).

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-2c.

**§ 18:26-2.8 Rates of Class "D" transferee**

In the case of a transfer to a Class "D" transferee, the rates are as follows:  
On any amount up to \$ 700,000  
On any amount in excess of \$ 700,000

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-2d.

**§ 18:26-2.9 Escheat**

In the case of a decedent who dies intestate with no known heirs surviving, the rate of tax is assessed against the transfer at the highest rate permissible to the State.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).  
Repealed by R.1994 d.627, effective December 19, 1994.  
See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Section was "Escheat".  
New Rule, R.1997 d.205, effective May 19, 1997.  
See: 28 New Jersey Register 4755(a), 29 New Jersey Register 2467(b).

**§ 18:26-2.10 Multiple transfers**

..... 11%  
When more than one transfer subject to the tax  
..... 13%  
has been made by a decedent to the same  
..... 14%  
transferee; the tax is computed upon the  
..... 16%  
aggregate clear market value of all of the  
property so transferred in the same manner and to  
the same extent as if all of the property had  
actually been transferred by a single transfer at  
the date of the decedent's death.

**STATUTORY REFERENCES:**  
N.J.S.A. 54:33-1; 54:34-1.

**§ 18:26-2.11 Distribution by agreement**

If a transferee under a will agrees that the estate, or any part of it is to be distributed otherwise than as provided in the will, the tax is nevertheless computed in accordance with the terms of the will admitted to probate.

**HISTORY:**

Amended by R.1983 d.323, effective August 15, 1983.  
See: 15 New Jersey Register 798(a), 15 New Jersey Register 1384(b).  
Deleted old (b).  
Amended by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).  
Deleted old (b).

**§ 18:26-2.12 Renunciation or disclaimer**

(a) If a transferee under a will or by operation of law disclaims or renounces his rights thereunder, or any portion thereof, the disclaimer or renunciation is given effect in computing the tax against the estate; provided, the instrument of disclaimer or renunciation is properly filed, in accordance with the provisions of N.J.S.A. 3B:9-1 et seq.

(b) A copy of the disclaimer or renunciation should be filed with the Transfer Inheritance Tax Section.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 N.J.R. 1088(b), 15 N.J.R. 1488(b).

Deleted "a reasonable time" and added "nine months of death".

Amended by R.1990 d.73, effective February 5, 1990.

See: 21 N.J.R. 1822(a), 22 N.J.R. 366(a).

Reference to disclaimers added; as amended applies to both testate and intestate cases.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Amended by R.2007 d.206, effective July 2, 2007.

See: 39 N.J.R. 853(b), 39 N.J.R. 2545(a).

Rewrote (a); and in (b), substituted "Section" for "Branch".

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1a.

**§ 18:26-2.13 Possibility of divestment**

Notwithstanding that a transferee by his act or omission can divest himself of the property transferred to him, the tax on the transfer is computed as if there were no possibility of divestment.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1.

**§ 18:26-2.14 Composition of taxes on certain transfers**

(a) In the case of a transfer or transfers made subject to a contingency or condition which renders a definite determination of the transfer inheritance tax due impossible, the Transfer Inheritance Tax Branch may enter into a composition or compromise of the tax based upon the immediate payment and final disposition of the tax.

(b) The composition or compromise of the tax is determined after a consideration of the amount of taxes that may become due as a result of the various contingencies or conditions, the present values thereof and the probability of the contingencies or conditions to which the transfers

are subject occurring. The purpose of a composition is to permit an immediate, fair and equitable adjustment of the tax due, rather than holding the liability for taxes suspended for an indefinite period.

(c) The payment of the taxes provided for in such composition shall be conclusive in favor of the executor or trustee as against the interests of such cestuis que trustent as may possess present rights of enjoyment or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of a particular transfer.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-6; 54:36-5.

**§ 18:26-2.15 Bond in lieu of payment**

(a) If settlement through a compromise of the tax fails, a bond in double the highest amount of tax must be filed with the Inheritance Tax Branch, executed by the executor, administrator, trustee, or other proper representative, as principal, and a surety company licensed to operate in New Jersey as surety, until the contingency or condition occurs and the tax due becomes definite.

(b) Upon the happening of the contingency or condition to which a transfer is subject, the executor, administrator, trustee or other proper representative shall notify the Transfer Inheritance Tax Branch of the date the occurrence took place and a computation of the tax due shall then be made. (See N.J.A.C. 18:26-9.16).

(c) The composition or compromise permitted herein, refers only to the tax on transfers subject to contingencies or conditions and not to the value of the property included in the transfer.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

"Bureau" changed to "Branch".

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-6.

**§ 18:26-2.16 Ratio tax on transfer of nonresident's property**

(a) In the case of a nonresident decedent's estate containing real or tangible personal property located in this State which passes to a transferee wherever situated, except by means of a specific devise, the tax on such transfer shall be computed as follows:

The tax is first computed on the entire estate as if the decedent were a resident of New Jersey and all of his or her assets were located here and then prorated (multiplied) by the proportion (ratio) which the New Jersey real and tangible personal property bears to the entire estate.

(b) The following are illustrations of the provisions of (a) above:

**Example (1):**

Mr. "A" a California domiciliary, died intestate, on July 3, 1997 leaving as his sole heir a nephew, Mr. "B". Mr. "A's" estate consisted of the following: real property of the value of \$ 10,000 in New Jersey; \$ 20,000 in cash located in an Illinois bank; and \$ 70,000 in real and personal property located in California.

The New Jersey property is subject to the ratio tax and the tax on such transfer is computed as follows:

First, a tax is computed on the value of the entire estate as if such estate were located in New Jersey, (i.e., \$ 100,000 x 15%, the rate applicable for property passing to a Class "D" transferee or \$ 15,000).

Second, the tax so computed is then multiplied by a fraction whose numerator is the value of the real or tangible personal property located in this State and whose denominator is the value of all property, real or personal, tangible or intangible, wherever situated, in the estate (i.e.  $10/100 \times \$ 15,000 = \$ 1,500$ , which is the ratio tax on the property passing to Mr. "B").

If Mr. "A" had specifically devised the property in New Jersey to his nephew, said property would not be subject to the ratio tax, but rather, it would be taxed directly to the devisee at the resident rates.

**Example (2):**

Same facts as Example (1) except that Mr. "A" died testate and bequeathed \$ 10,000 held in a bank account to his nephew and the rest of his estate to his wife/civil union partner/domestic partner.

First, a tax is computed as if Mr. "A" had been a New Jersey domiciliary, i.e., as to "B",  $\$ 10,000 \times 15\% = \$ 1,500$ ; as to "A's" wife/civil union partner/domestic partner, \$ 90,000, all of which is exempt.

Second the total of tax, i.e., \$ 1,500 is multiplied by 1/10, the ratio of the property subject to tax to the entire estate, i.e.,  $1/10 \times \$ 1,500 = \$ 150.00$ , the amount of tax due.

**HISTORY:**

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 N.J.R. 609(a), 30 N.J.R. 1426(b).

Rewrote the section.

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In the first and second paragraphs of Example (2), inserted "/civil union partner/domestic partner".

**Statutory References:**

N.J.S.A. 54:34-3.

**§ 18:26-2.17 Direction in will as to payment of tax**

The direction of a decedent's will regarding the payment of inheritance or estate taxes out of a specific fund or the residuary estate, while binding on the executor and the beneficiaries, has no effect in the computation of tax due this State.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-12; 54:35-6; 3A:25 to 38.

**§ 18:26-2.18 through 18:26-2.19 (Reserved)**

**SUBCHAPTER 3. ADDITIONAL TAX  
(NEW JERSEY ESTATE TAX)**

**§ 18:26-3.1 Estates subject to tax**

(a) In addition to the inheritance tax imposed upon the transfer of property of a decedent in this State, the estates of the following are subject to an estate tax:

1. All New Jersey residents dying after June 22, 1934; and,
2. All New Jersey residents dying after February 26, 1926, which are still in the process of settlement and subject to the jurisdiction of the probate courts of this State, except those estates where the inheritance tax due this State has been fully paid and all proceedings closed, or where the Federal estate tax has been fully paid and the time within which to claim the benefit of the credit for taxes paid to the State provided for in the Federal Revenue Act of 1926 expired prior to June 22, 1934, where the inheritance taxes paid to New Jersey, and other states, territories or the District of Columbia are not sufficient to fully absorb the credit allowed for payment thereof against any Federal estate tax payable to the United States.

(b) In a case where the aggregate of taxes paid this and any other states, District of Columbia, territories and possessions exceeds the amount of the allowable credit for state taxes under the Federal Estate Tax Law, no estate tax is due this State.

(c) The estate tax is not imposed upon the estates of nonresidents of New Jersey.

**HISTORY:**

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

Added (c).

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38-14.

**§ 18:26-3.2 Amount and nature of tax**

(a) The New Jersey estate tax is that amount representing the difference between the gross amount of the inheritance, legacy and succession taxes actually paid this State and any other states, territories, possessions, or the District of Columbia and the amount of the credit allowable against the Federal estate tax due the United States.

**Example:**

Mr. "A", a New Jersey resident, died on July 16, 1992, having a taxable estate of \$ 700,000 for Federal estate tax purposes. The credit allowable for State taxes under the Federal **estate tax** law was \$ 18,000, the amount actually paid to New Jersey for inheritance taxes was \$ 6,000. The New Jersey estate tax due is \$ 12,000.

(b) The New Jersey estate tax does not in any way interfere with the operation of the inheritance tax so as to decrease any inheritance, succession or legacy tax due or to become due this State or any other state, territory, possession, or the District of Columbia or to impair the lien of this State for any tax. The determination of the inheritance tax chargeable need not be suspended until the estate tax, if any, payable to New Jersey, is assessed. Neither is it necessary to withhold the filing of the Federal estate tax return pending the determination of the amount of the New Jersey inheritance taxes chargeable. Where, however, the value of a bequest, in trust or otherwise, to a surviving spouse is made dependent upon the value of the decedent's adjusted gross estate, as finally fixed for Federal estate purposes, the New Jersey transfer inheritance tax chargeable cannot be determined

until the Federal estate tax proceedings have been finally completed.

(c) The estate tax due this State is payable out of the same funds as those from which the Federal estate taxes are payable.

(d) The tax imposed upon the estates of resident decedents in New Jersey, unlike the inheritance tax, does not constitute a lien on any of the property, real or personal, of the estate, and therefore waivers or consents to transfer are unnecessary.

(e) For estates with date of death on or after July 1, 1993, no assessment of additional estate tax shall be made after the expiration of more than four years from the date of filing of an estate tax return except in the following cases:

1. The return is false or fraudulent with the intent to evade tax;

2. If before the expiration of the four year period prescribed in this subsection for the assessment of additional tax a taxpayer consents in writing that such period may be extended, the amount of such additional tax may be determined at any time within such period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period;

3. An additional or increased estate tax becomes payable as a result of a redetermination, or additional or corrected assessment of estate, inheritance, succession, or legacy taxes by the United States government or any state or territory of the United States, including the District of Columbia. (See N.J.A.C. 18:26-3.4 for requirement to notify the Division of a redetermination of estate tax by the Internal Revenue Service.); or

4. The Federal estate tax chargeable on final assessment has not been definitely determined.

(f) The taxes assessed pursuant to (e)3 and 4 above shall be made within four years from the date the additional or increased estate tax becomes payable or the Federal estate tax chargeable on final assessment is definitely determined and the Branch is properly notified pursuant to N.J.A.C. 18:26-3.4.

**HISTORY:**

Amended by R.1989 d.210, effective March 27, 1989.

See: 21 New Jersey Register 285(a), 21 New Jersey Register 1021(a).

In (a), Example (1): Revises example to conform with current Federal estate tax tables. "1988" replaces "1968"; changes net taxable estate amount to "\$ 700,000" from "\$ 300,000"; changes state tax credit to "\$ 10,000" from "\$ 20,000"; and actual amount paid to "\$ 6,000" from "\$ 18,000"; changes estate tax due to "\$ 4,000" from "\$ 2,000.00".

Amended by R.1992 d.402, effective October 19, 1992.

See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).

Revised example in (a).

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38-1; 54:49-6(b).

**§ 18:26-3.3 Maximum estate tax where no inheritance tax imposed**

In an estate where no inheritance tax is due this State, but an estate tax is due the United States under the provisions of the Federal Estate Tax Law in effect at the date of a decedent's death, the estate tax due this State is that amount representing the difference between the gross amount of the inheritance, legacy and succession taxes actually paid any other states, territories, possessions or the District of Columbia, if any, and the maximum amount of credit allowable under the Federal Estate Tax Law.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38-1.

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**§ 18:26-3.4 Additions or reductions to estate tax**

(a) If subsequent to a determination of the estate tax due this State, an additional or increased estate tax shall become payable to the United States by reason of a redetermination, or additional or corrected assessment, as to a portion of which the estate is entitled to a credit for estate, inheritance, succession or legacy taxes paid to any state or territory of the United States, including the District of Columbia, then an additional estate tax shall be due and payable to this State which shall be computed in the same manner as stated in Section 3.2 of this Section.

(b) If subsequent to a determination of the estate tax due this State, the amount of the Federal estate tax shall be decreased and the amount allowed as a credit for inheritance, succession or legacy taxes paid to any state or territory of the United States, including the District of Columbia, correspondingly reduced, the estate tax due this State shall be reduced accordingly upon submitting satisfactory proof to the Director.

(c) The amount of the estate tax due New Jersey, if any, cannot be determined in any case until the Federal Government has definitely determined the amount of Federal estate tax chargeable on final assessment.

1. Notice to the estate of final assessment usually takes the form of a letter from the District Director, Internal Revenue Service, indicating the amount of Federal estate tax chargeable, and the amount of the allowable credit.

2. If any adjustments have been made, this letter is accompanied by a detailed statement of the changes made in each schedule of the Federal estate tax return. If an appeal from the Director's findings is taken, the final notice will be the order of the appellate court in this respect.

3. The New Jersey Inheritance Tax Branch requires a photostatic copy of all determinations, final and intermediate, of the Internal Revenue Service, with all supporting statements. Photostatic copies of receipts for payment of succession or estate taxes to any state, other than New Jersey, territory, possession, or the District of Columbia are also required.

4. Form of return for New Jersey **estate tax** purposes may be obtained from the Transfer Inheritance Tax Branch, PO Box 249, Trenton, N.J. 08646-0249.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

"Bureau" changed to "Branch"; address modified.

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38-2; 54:38-3.

**§ 18:26-3.5 Change in Federal estate tax**

In the event that the Federal Estate Tax Law is amended or changed with regard to the credit allowable for inheritance, succession or legacy taxes paid to any state or territory of the United States, including the District of Columbia, the estate tax due this State, shall be so computed as so to absorb the full amount of such changed credit.

**STATUTORY REFERENCES:**

As to Effect of Change in Federal estate tax, see N.J.S.A. 54:38-9.

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**§ 18:26-3.6 Taxation of future interests after estate tax paid; credit**

If after the payment of the New Jersey estate tax there shall become due and payable a tax upon any future interest in any property under an instrument creating an executory devise or an estate in expectancy of any kind or character which is contingent or defeasible, or if by reason of any additional or corrected assessment by the Director an additional inheritance, succession or

legacy tax shall become due and payable, the tax paid shall be credited against the tax arising therefrom, but the amount so credited shall not in any event exceed the amount of the tax so accruing.

STATUTORY REFERENCES:  
N.J.S.A. 54:38-4.

HISTORICAL NOTE:  
Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**§ 18:26-3.7 Payment; due date; interest; extension of time**

(a) The New Jersey estate tax is due at the date of a decedent's death. However, if payment is made within nine months from the date of death, no late penalty shall be imposed.

(b) All or any part of the estate tax due this State, if not paid within nine months from the date of the death, shall bear interest at the rate of 10 percent per annum from the expiration of the said nine months until the date of actual payment, unless an extension of time to file the Federal estate tax return is granted, in which case the Director may reduce the interest rate to six percent per annum until the expiration of the extension or the filing of the Federal estate tax return, whichever is earlier. If the decedent was a member of the United States armed forces, the estate tax will not bear interest until the expiration of nine months after receipt of official notification of the decedent's death by the decedent's husband, wife, father, mother, or next of kin. (For estates with date of death prior to March 1, 1992, the estate tax is payable within 18 months of the date of death, and estate tax not paid within 18 months from the date of death bears interest at the rate of six percent per annum from the expiration of the 18 months until the date of actual payment. If the Federal government has not determined the amount of estate tax due within such period of 18 months or there is a subsequent assessment of an additional or increased estate tax, the tax is payable within 60 days after receipt of notification from the Federal government stating the amount of the Federal estate tax and the credit for state death taxes allowable and the New Jersey estate tax shall bear interest at the rate of six percent per annum from the expiration of such 60 day period

to the date of payment.)

(c) All administrators, executors, trustees, grantees, donees and vendees, shall be personally liable for any and all estate taxes until paid, for which an action at law shall lie in the name of the State, but no lien shall attach to any property of an estate on account of the estate tax due this State.

(d) The executor, administrator, trustee or other person or corporation liable for the payment of the estate tax shall file with the Director a copy of the Federal **estate tax** return within 30 days after the filing of the original with the Federal Government, and a copy of any communication from the Federal Government, making any final change in said return, or confirming, increasing or diminishing the tax thereby shown to be due, which is to be filed within 30 days after receipt thereof, and shall file any other evidence, information or data that the Director shall in his discretion deem necessary.

(e) The Director may, for cause shown, extend the time for payment with interest at the rate of 10 percent per annum for such period as the circumstances, in his or her discretion, may require.

(f) All New Jersey estate tax returns must be filed within nine months following the death of the decedent. The Director may grant an extension of time in which the return may be filed. An estate representative may request an extension of time to file the New Jersey estate tax return for a period up to that allowed by the IRS by filing Form IT-EXT (Application for Extension of Time to File a Return.) A copy of the request for a Federal extension and, if Federal approval is not automatic, a copy of the Federal approval must be attached to the request.

1. This subsection provides the authority only for an extension of time to file the estate tax return, and does not extend the time to pay the tax. The tax liability is due on the decedent's date of death and must be paid in full within nine months. Any extension granted for the filing of the New Jersey estate tax return expires upon the filing of the Federal estate tax return.

HISTORY:  
Amended by R.1993 d.131, effective March 15,



1993.

See: 24 New Jersey Register 4240(b), 25 New Jersey Register 1229(a).

Revised (a) and (d).

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Amended by R.2002 d.135, effective May 6, 2002.

See: 34 New Jersey Register 16(a), 34 New Jersey Register 1725(b).

In (b), added "or the filing of the Federal estate tax return, whichever is earlier" at the end of the first sentence; added (f).

STATUTORY REFERENCES:  
N.J.S.A. 54:38-5.

#### § 18:26-3.8 Certificate of inheritance

(a) The Director shall not issue any certificate or other evidence of inheritance, succession or legacy tax paid this State in the estate of a resident decedent for use before the Internal Revenue Service in an estate tax proceeding until all inheritance, succession or legacy taxes have been paid or payment duly provided for, but the Director may, in his discretion pending final determination of all inheritance, succession, legacy, transfer or estate taxes due this State, issue temporary or preliminary certificates, so marked, showing payments in account of such taxes.

(b) Since the Director is precluded from issuing a certificate for payment of taxes to this State until the estate tax due this State has been paid or it has been established that there is no tax due, and since this cannot be done until the Internal Revenue Service has finally fixed the amount of Federal estate tax chargeable it follows that the certificate cannot be issued in time for filing simultaneously with the Federal estate tax return (Form 706). This fact, however, will not in any way jeopardize the estate's claim for a credit in the Federal estate tax proceedings for taxes paid this and other states.

(c) Proof of such payments can be submitted to the Internal Revenue Service after receipt by the estate of notice of final assessment, and allowance will be made at that time for credits properly established. The Transfer Inheritance

Tax Branch will use best efforts to expedite estate tax assessments.

HISTORY:

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:38-12.

#### § 18:26-3.9 Refunds

(a) All applications for the refund of estate taxes claimed to have been excessively or erroneously paid must be filed with the Director within three years from the date of payment. In the event it is determined that the tax was erroneously or excessively paid, the Director upon receipt of satisfactory proof of payment, shall certify the same to the Director, Division of Budget and Accounting, who, in turn shall draw his warrant on the State Treasurer in favor of the executor, administrator, trustee, person or corporation who has paid said tax, or who may be lawfully entitled to receive the same, for the amount of such tax excessively paid.

(b) Said warrant shall be paid by the State Treasurer out of any appropriation for the refund of transfer inheritance taxes the same as warrants for the refund of such taxes under the transfer inheritance tax statutes of this State are paid.

(c) For estate tax paid with respect to reports or returns due on or after January 1, 1994, interest will be paid on overpayments not refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return, or within six months after the return is filed, or payment of the tax due thereon, whichever is later. See N.J.A.C. 18:26-10.13 for calculation of the interest.

HISTORY:

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:38-3; 54:49-15.1.

**§ 18:26-3.10 Protests, hearings and appeals**

Any executor, administrator, trustee, person or corporation liable for the payment of the **estate tax** and aggrieved by any decision, order, finding or assessment of the Director, may appeal to the Tax Court of New Jersey for a review thereof within 90 days of the date of notice assessing the tax complained of, in accordance with pertinent provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:51A-13 et seq. For protest procedures see N.J.A.C. 18:26-12.9, 12.10 and 12.12.

**HISTORY:**

Amended by R.1980 d.287, effective June 27, 1980.

See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Conditions of appeal based on N.J.S.A. 54:51A-13.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:33-2 (P.L. 1978, c.32).

**SUBCHAPTER 3A. ESTATE TAX--  
DECEDENTS DYING AFTER DECEMBER  
31, 2001**

**§ 18:26-3A.1 Estate subject to tax--decendent's  
dying after December 31, 2001**

In addition to the inheritance tax imposed upon the transfer of property of a decedent in this State, an estate tax is imposed upon the transfer of the estate of every resident decedent dying after December 31, 2001 which would have been subject to an estate tax payable to the United States under the provisions of the Federal Internal Revenue Code of 1986, 26 U.S.C. §§ 1 et seq., in effect on December 31, 2001.

**§ 18:26-3A.2 Amount of the tax and certain  
valuations**

(a) The tax is, at the discretion of the person or corporation liable for its payment, either:

1. The maximum credit that would have been allowable under the provisions of that Federal Internal Revenue Code in effect on December 31, 2001 against the Federal estate tax that would have been payable under the provisions of the Federal Internal Revenue Code in effect on December 31, 2001 on account of taxes paid to any state or territory of the United States or the District of Columbia; or

2. An amount determined pursuant to the Simplified Tax System set forth in N.J.A.C. 18:26-3A.3. The Simplified Tax System may not be used in those cases where a Federal estate tax return is filed or required to be filed. The Simplified Tax System is not intended for use in all estates. It may not be used in situations where the tax liability produced is not similar to the tax liability determined pursuant to (a)1 above.

(b) The following principles are applicable in making valuations and calculating the tax where family limited partnerships are involved.

1. A family limited partnership is a limited partnership in which more than 50 percent of the partners are related by blood or marriage/civil union and which does not have a true business purpose. It may or may not hold an interest in another partnership or other asset which has a true business purpose. One indicia of a true business purpose is that the family limited partnership has and engages in business or commercial transactions with customers, clients, persons or entities other than the partners of the family limited partnership, their family members or other related individuals or entities.

2. In an estate where a Federal estate tax return is required to be filed and where the discounts for an interest in a family limited partnership claimed have a Federal estate tax consequence, the discounts, if any, permitted by the Internal Revenue Service will generally be permitted for New Jersey estate tax purposes unless deemed by the Director to be excessive.

3. In an estate where a Federal estate tax return is

not required to be filed and where the tax is computed in accordance with the provisions of (a)1 above (maximum credit) and in an estate where a Federal estate tax return is required to be filed but where the discount claimed for an interest in a family limited partnership has no Federal estate tax consequence:

i. If an interest in a family limited partnership was created or funded within one year of a decedent's death, it is presumed that the value of the interest is the value of the underlying assets on the date of death of the decedent unless conclusive proof to the contrary is submitted which clearly indicates a different value. Discounts are not permitted unless the Director determines that they are warranted by the interest in the partnership and/or the nature of and risk associated with the underlying assets. Discounts totaling more than 10 percent are not permitted unless the Director determines that a greater total discount is warranted by the nature and risk associated with the underlying assets.

ii. If an interest in a family limited partnership was created or funded more than one year prior to a decedent's death, the interest is valued based upon the interest in the partnership and the value of the underlying assets on the date of death of the decedent. Discounts totaling more than 10 percent are not permitted unless the Director determines that a greater total discount is warranted by the nature and risk associated with the underlying assets.

4. In an estate where a Federal estate tax return has not been filed and is not required to be filed and the tax is computed in accordance with (a)2 above (simplified tax system), an interest in a family limited partnership is valued at the value of the underlying assets on the date of the death of the decedent. Discounts are not permitted for an interest in a family limited partnership unless the Director determines that they are warranted by the nature of and risk associated with the underlying assets.

**HISTORY:**

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b). Section was named "Amount of the tax". In (a)2, substituted ". The Simplified Tax System" for ", Simplified Tax System,"; and added (b).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (a)2, inserted the second sentence; and in (b)1, inserted "/civil union".

**§ 18:26-3A.3 Simplified tax system**

(a) The taxable value of the estate is determined as follows:

1. Net estate determined for New Jersey inheritance tax purposes under the provisions of the statutes and regulations in effect on December 31, 2001 (line 7 of recital page of form IT-R); plus
2. Real and tangible personal property located outside New Jersey; plus
3. Proceeds of any contract of insurance on the life of the decedent owned by the decedent or transferred by the decedent within three years of death paid to any beneficiary other than the executor, administrator, or estate; plus
4. All transfers made within three years of the decedent's death not included in the inheritance tax net estate; plus
5. In the event that the decedent was a surviving spouse/civil union partner of a decedent who died on or after February 19, 2007 and received qualified terminable interest property (QTIP) from the predeceased spouse or civil union partner for which the marital deduction was elected for Federal and/or New Jersey, the full value of the QTIP property; plus
6. Any other property includable in the Federal gross estate under the provisions of the Internal Revenue Code in effect on December 31, 2001; less
7. Any property passing outright to the decedent's surviving spouse or to the surviving civil union partner of a decedent who died on or after February 19, 2007, provided the surviving spouse/civil union partner was a U.S. citizen on the decedent's date of death. This deduction does not include QTIP (Qualified Terminable Interest Property) or similar property. QTIP is property that passes from the decedent and in which the surviving spouse or civil union partner has a

qualifying income interest for life. The surviving spouse or civil union partner has a qualifying income interest for life if he or she is entitled to all or a specific portion of the income from the property payable annually or at more frequent intervals, or has a usufruct interest in the property (right to enjoy the property) for life and during the surviving spouse's or civil union partner's lifetime no person has a power to appoint any part of the property to any person other than the surviving spouse or civil union partner. Additionally, the surviving spouse or civil union partner must be a citizen of the United States on the decedent's date of death. If QTIP or the surviving spouse's or civil union partner's citizenship is a significant factor, consideration should be given to the use of the Form 706 method of filing; and

8. Any property which passes to, for the use of or in trust for any educational institution, church, hospital, orphan asylum, public library or Bible and tract society or to any institution or organization organized and exclusively for religious, charitable, benevolent, scientific, literary or educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation; provided, that this exemption shall not extend to such educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal, and like exemption to such institutions and organizations of this State. This exemption does not apply if any portion of the property can be used by, for the benefit of or paid to any private stockholder, individual or corporation.

(b) The taxable value of the estate is reduced by \$ 60,000 and taxed at the following rates:

1. On any amount less than \$ 615,000, no tax;
2. On any amount equal to or more than \$ 615,000 but less than \$ 667,174, 37.0 percent of the excess over \$ 615,000;
3. On any amount equal to or more than \$ 667,174 but less than \$ 840,000, 4.8 percent of the excess over \$ 667,174 plus \$ 19,304;
4. On any amount equal to or more than \$

840,000 but less than \$ 1,040,000, 5.6 percent of the excess over \$ 840,000 plus \$ 27,600;

5. On any amount equal to or more than \$ 1,040,000 but less than \$ 1,540,000, 6.4 percent of the excess over \$ 1,040,000 plus \$ 38,800;
6. On any amount equal to or more than \$ 1,540,000 but less than \$ 2,040,000, 7.2 percent of the excess over \$ 1,540,000 plus \$ 70,800;
7. On any amount equal to or more than \$ 2,040,000 but less than \$ 2,540,000, 8.0 percent of the excess over \$ 2,040,000 plus \$ 106,800;
8. On any amount equal to or more than \$ 2,540,000 but less than \$ 3,040,000, 8.8 percent of the excess over \$ 2,540,000 plus \$ 146,800;
9. On any amount equal to or more than \$ 3,040,000 but less than \$ 3,540,000, 9.6 percent of the excess over \$ 3,040,000 plus \$ 190,800;
10. On any amount equal to or more than \$ 3,540,000 but less than \$ 4,040,000, 10.4 percent of the excess over \$ 3,540,000 plus \$ 238,800;
11. On any amount equal to or more than \$ 4,040,000 but less than \$ 5,040,000, 11.2 percent of the excess over \$ 4,040,000 plus \$ 290,800;
12. On any amount equal to or more than \$ 5,040,000 but less than \$ 6,040,000, 12.0 percent of the excess over \$ 5,040,000 plus \$ 402,800;
13. On any amount equal to or more than \$ 6,040,000 but less than \$ 7,040,000, 12.8 percent of the excess over \$ 6,040,000 plus \$ 522,800;
14. On any amount equal to or more than \$ 7,040,000 but less than \$ 8,040,000, 13.6 percent of the excess over \$ 7,040,000 plus \$ 650,800;
15. On any amount equal to or more than \$ 8,040,000 but less than \$ 9,040,000, 14.4 percent of the excess over \$ 8,040,000 plus \$ 786,800;
16. On any amount equal to or more than \$ 9,040,000 but less than \$ 10,040,000, 15.2 percent of the excess over \$ 9,040,000 plus \$ 930,800; and
17. On any amount equal to or more than \$ 10,040,000, 16.0 percent of the excess over \$

10,040,000 plus \$ 1,082,800.

**HISTORY:**

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In (a)4, substituted "plus" for "less"; inserted present (a)5; and recodified former (a)5 and (a)6 as (a)6 and (a)7; and inserted "provided he or she was a U.S. citizen on the decedent's date of death" in new (a)6.

Amended by R.2008 d.12, effective January 7, 2008.

See: 39 N.J.R. 4106(a), 40 N.J.R. 193(b).

In (a)5, substituted "plus" for "less"; added new (a)6; and recodified former (a)6 and (a)7 as (a)7 and (a)8.

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Section was "Simplified Tax System". In (a)5, inserted "/civil union partner of a decedent who died on or after February 19, 2007" and "or civil union partner"; and rewrote (a)7.

**§ 18:26-3A.4 Reduction of tax; out-of-State property**

(a) The tax, as computed in N.J.A.C. 18:26-3A.2, shall be reduced by:

1. The portion of said tax that is attributable to property located outside New Jersey. The amount of the tax reduction is calculated by multiplying the tax due on the entire gross estate wherever located by a fraction, the numerator of which is the gross value of property located outside the State and the denominator of which is the New Jersey entire gross estate, wherever located. In general, for purposes of the calculation described in this paragraph, intangible personal property is considered to be located in New Jersey; and

2. The inheritance, succession or legacy taxes actually paid this State in respect to any property owned by such decedent or subject to such taxes as part of or in connection with the estate.

**HISTORY:**

Repeal and New Rule, R.2008 d.12, effective January 7, 2008.

See: 39 N.J.R. 4106(a), 40 N.J.R. 193(b).

Section was "Reduction of tax".

**§ 18:26-3A.5 Estate tax where no inheritance tax imposed**

In the case of a decedent where no inheritance, succession or legacy tax is due this State, the estate tax imposed shall be determined pursuant to N.J.A.C. 18:26-3A.2.

**§ 18:26-3A.6 Lien**

The estate tax imposed upon the estate of a resident decedent remains a lien on all property of a decedent as of the date of death of the decedent until paid. Except as otherwise provided in this chapter, no property owned by the decedent as of the decedent's date of death may be transferred without the written consent of the Director.

**§ 18:26-3A.7 Time limit for assessments**

(a) No assessment of additional **estate tax** shall be made after the expiration of more than four years from the date of filing of an estate tax return except in the following cases:

1. The return is false or fraudulent with the intent to evade tax;

2. If, before the expiration of the four-year period prescribed in this subsection for the assessment of additional tax, a taxpayer consents in writing that such period may be extended, the amount of such additional tax may be determined at any time within such period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period;

3. The taxpayer requests that the completion of the assessment be held in abeyance pending the final determination in the Federal estate tax proceeding;

4. The estate tax return is amended by the taxpayer to include additional property of a decedent.

i. The issues raised in an amended tax return may be assessed within four years from the date that the amended tax return is filed;

5. A decedent's interest in property, or the value thereof, as of the decedent's date of death, has

not been determined at the time of the filing of the estate tax return due to litigation or controversy.

i. A decedent's interest in property, or the value thereof, which is established after the estate tax return is filed may be assessed within four years from the date on which the interest or value is established, and the Division receives notification; or

6. A taxpayer or the Internal Revenue Service makes a change or changes to the Federal estate tax return filed subsequent to the filing of the New Jersey estate tax return.

i. A change or changes made by a taxpayer or the Internal Revenue Service to the Federal estate tax return filed subsequent to the filing of the New Jersey estate tax return may be assessed within four years from the date that such change or changes are made, and the Division receives notification.

(b) For the purposes of this section, an estate tax return filed before the last day prescribed for its filing shall be considered to have been filed on the last day prescribed.

**HISTORY:**

Amended by R.2006 d.154, effective May 1, 2006.

See: 38 N.J.R. 108(a), 38 N.J.R. 1859(a).

In (a)3, substituted a semicolon for a period at the end; and added (a)4 through (a)6 and (b).

**§ 18:26-3A.8 Filing of tax return and other information**

(a) The executor, administrator, trustee or other person or corporation liable for the payment of the estate tax shall file with the Director a copy of any Federal estate tax return filed or required to be filed within 30 days after the filing or required filing of the original with the Federal government and a copy of any communication from the Federal government, making any intermediate or final change in said return, or confirming, increasing or diminishing the tax thereby shown to be due, which is to be filed within 30 days after receipt thereof, and any other evidence, information or data that the Director shall in his or her discretion deem necessary.

(b) The executor, administrator, trustee or other person or corporation liable for the payment of the estate tax shall file with the Director a copy of the tax return filed and a copy of any receipts for payment of succession or estate taxes to other states or territories of the United States or the District of Columbia.

(c) A New Jersey estate tax return must be filed whenever the gross estate plus adjusted taxable gifts as determined in accordance with the provisions of the Internal Revenue Code in effect on December 31, 2001 exceeds \$ 675,000. The executor, administrator, trustee or other person or corporation liable for the payment of the estate tax shall prepare and file with the Director a New Jersey estate tax return form IT-ESTATE, and:

1. A Form 706 completed in accordance with the provisions of the Federal Internal Revenue Code of 1986, U.S.C. §§ 1 et seq., in effect on December 31, 2001 within 30 days after the date on which a Federal estate tax return would have been due under those provisions for decedent dying on that date; or

2. A New Jersey inheritance tax return completed in accordance with the provisions of the inheritance tax statutes and regulations in effect on December 31, 2001 within nine months of the date of death of the decedent.

(d) In those cases where a taxpayer makes an election for Federal estate tax purposes, a like election must be made for New Jersey estate tax purposes. Assets and deductions must be treated in the same manner for both Federal and New Jersey estate tax purposes.

(e) If the decedent was a partner in a civil union and died on or after February 19, 2007, survived by his or her partner, a marital deduction equal to that permitted a surviving spouse under the provisions of the Internal Revenue Code in effect on December 31, 2001, is permitted to the surviving civil union partner for New Jersey estate tax purposes. In these cases, a pro forma 2001 Form 706 should be completed as though the Internal Revenue Code treated a surviving civil union partner and a surviving spouse in the same manner.

(f) A Simplified Tax System method may also be

used, but only in those situations where a Federal estate tax return has not and will not be filed nor is a tax return required to be filed with the Internal Revenue Service. The Simplified Tax System requires that a Form IT- Estate be prepared and filed along with a New Jersey Inheritance Tax return Form IT-R completed in accordance with the provisions of the Inheritance Tax statute in effect on December 31, 2001.

**HISTORY:**

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In (c), inserted "plus adjusted taxable gifts" in the first sentence and substituted "IT-ESTATE" for "IT-ESTATE-2" in the second sentence; and added (d).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In the introductory paragraph of (d), substituted "with the following exceptions:" for a period at the end; and added (d)1, (d)2, (e) and (f).

Amended by R.2008 d.206, effective July 21, 2008.

See: 40 N.J.R. 872(a), 40 N.J.R. 4342(a).

In the introductory paragraph of (d), substituted a period for "with the following exceptions:" at the end; and deleted (d)1 and (d)2.

**§ 18:26-3A.9 Taxation of future interest after estate tax paid; credit**

If, after the payment of the New Jersey **estate tax**, there shall become due and payable a tax upon any future interest in any property under an instrument creating an executory device or an estate in expectancy of any kind or character which is contingent or defeasible, or if by reason of any additional or corrected assessment by the Director an additional inheritance, succession or legacy tax shall become due and payable, the tax paid shall be credited against the tax arising therefrom, but the amount so credited shall not in any event exceed the amount of the tax so accruing.

**§ 18:26-3A.10 Payment; due date; interest; extension of time**

(a) The New Jersey estate tax is due at the date of a decedent's death. However, if payment is made within nine months from the date of death,

no late penalty shall be imposed.

(b) All or any part of the estate tax due this State, if not paid within nine months from the date of death, shall bear interest at the rate of 10 percent per annum from the expiration of the said nine months until the date of actual payment, unless an extension of time to file the Federal estate tax return is granted, in which case the Director may reduce the interest rate to six percent per annum until the expiration of the extension. If the decedent was a member of the United States armed forces, the estate tax will not bear interest until the expiration of nine months after receipt of official notification of the decedent's death by the decedent's husband, wife, father, civil union partner, mother, or next of kin. The Director may, for cause shown, extend the time for payment with interest at the rate of 10 percent per annum, for such period as the circumstances, in his or her discretion, may require. In those cases where a Federal estate tax return is not required to be filed and where an extension of time to file the Federal estate tax return is not requested, the Director may reduce the interest rate to six percent per annum for the period until the expiration of any extension of time requested and granted for the filing of the New Jersey estate tax return. The request must be filed on or before the due date of the return.

(c) All administrators, executors, trustees, grantees, donees and vendees shall be personally liable for any and all estate taxes until paid, for which an action at law shall lie in the name of the State.

(d) New Jersey estate tax returns (except returns filed using the Form 706 method, which are due nine months plus 30 days following the death of the decedent) must be filed within nine months following the death of the decedent. The Director may grant an extension of time in which a return may be filed. The estate representative may request an extension of time to file the New Jersey estate tax return for a period of six months beyond the original due date. Extensions beyond six months from the original due date of the return will be granted only in cases where the Director determines that exceptional circumstances exist. This subsection provides the authority only for an extension of time to file the tax return, and does not extend the time to pay the tax. The tax liability is due on the decedent's

date of death and must be paid in full within nine months.

(e) Where interest has accrued at the time of any payment, such payment is first credited in satisfaction of the accrued interest, and the excess credited in payment of the tax chargeable. Interest shall continue to accrue on any remaining balance from the date of said payment to the date of final adjustment.

**HISTORY:**

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (b), inserted "civil union partner,".

Amended by R.2008 d.206, effective July 21, 2008.

See: 40 N.J.R. 872(a), 40 N.J.R. 4342(a).

In (b), inserted the fourth and fifth sentences.

**§ 18:26-3A.11 Certificate of inheritance**

The Director shall not issue any certificate or other evidence of inheritance, succession or legacy tax paid this State in the estate of a resident decedent for use before the Internal Revenue Service in an estate tax proceeding until all inheritance, succession or legacy taxes have been paid or payment duly provided for, but the Director may, in his or her discretion pending final determination of all inheritance, succession, legacy, transfer or estate taxes due this State, issue temporary or preliminary certificates, so marked, showing payments on account of such taxes.

**HISTORY:**

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Substituted "on" for "in" near the end.

**§ 18:26-3A.12 Refunds**

(a) All applications for the refund of estate taxes claimed to have been excessively or erroneously paid must be filed with the Director within three years from the date of payment. In the event it is determined that the tax was erroneously or excessively paid, the Director, upon receipt of satisfactory proof of payment, shall certify the same to the Director, Division of Budget and Accounting, who, in turn shall draw

his or her warrant on the State Treasurer in favor of the executor, administrator, trustee, person or corporation who has paid said tax, or who may be lawfully entitled to receive the same, for the amount of such tax excessively paid.

(b) Said warrant shall be paid by the State Treasurer out of any appropriation for the refund of transfer inheritance taxes the same as warrants for the refund of such taxes under the transfer inheritance tax statutes of this State are paid.

(c) Interest will be paid on overpayments of tax at a rate determined by the Director to be equal to the prime rate, determined for each month or fraction thereof, compounded annually at the end of each year, from the date that such interest commences to accrue to the date of refund. Interest shall commence to accrue on the later of the date of the filing by the taxpayer of a claim for refund, the date of the payment of the tax, or the due date of the return; but no interest will be paid on an overpayment of less than \$ 1.00, nor upon any overpayment refunded within six months after the last date prescribed, or permitted by extension of time, for filing the return or within six months after the return is filed, whichever is later.

(d) The date of payment is defined as the date the payment is actually received by the Division. It is not the date on which the tax return is filed, the date the Notice of Assessment is issued or the date on which the audit is completed and/or the file closed.

(e) Protective refund claims based on reasonably anticipated events may be filed within the time periods set forth in (a) above.

1. The refund claim must be made on the inheritance and estate tax "Protective Claim for Refund" form. The form must be fully completed and set forth the estimated refund amount and the basis for the claim.

2. The Director must be notified of the actual refund claimed within 90 days after occurrence of the anticipated event.

3. For the purpose of determining the interest, if any, payable on a protective refund claim, the refund claim shall be deemed to have been made on the date that the Director is notified of the



occurrence of the anticipated event.

**HISTORY:**

Amended by R.2009 d.144, effective May 4, 2009.

See: 41 N.J.R. 390(a), 41 N.J.R. 2051(a).

Added (d) and (e).

**§ 18:26-3A.13 Protests, hearings and appeals**

(a) Any executor, administrator, trustee, person or corporation liable for the payment of the estate tax and aggrieved by any decision, order, finding or assessment of the Director, may submit a written protest to the Individual Tax Audit Branch in accordance with N.J.A.C. 18:26-12.9 and 12.10.

(b) Any executor, administrator, trustee, person or corporation liable for the payment of the estate tax and aggrieved by any decision, order, finding or assessment of the Director, may appeal to the Tax Court of New Jersey for a review thereof within 90 days of the date of notice assessing the tax complained of, in accordance with pertinent provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:51A-13 et seq. (See N.J.A.C. 18:26-12.12.)

**SUBCHAPTER 4. COMPROMISES  
(INHERITANCE AND ESTATE TAXES)**

**§ 18:26-4.1 Domicile doubtful; terms of settlement**

(a) Where the Director claims that a decedent was domiciled in this State at the time of death and the taxing authorities of another state makes a similar claim with respect to their state or states and an investigation discloses a reasonable doubt regarding domicile, the Director may, in his discretion, enter into a written agreement with such taxing authorities and the executor, administrator, or trustee, fixing the sum acceptable to this State in full settlement of the transfer inheritance tax of this State; provided, that said agreement also fixes the sum acceptable to such other state or states in full settlement of the death taxes imposable by said state or states; and, provided further, that said agreement has the approval of the Superior Court of this State.

(b) If the aggregate amount payable under such

agreement to the states involved is less than the maximum sum allowable as a credit to the estate against the Federal estate tax imposed thereon, then the executor, administrator or trustee shall also pay to the Director so much of the difference between such aggregate amount and the amount of such credit as the amount payable to the Director under the agreement bears to such aggregate amount, and the agreement aforesaid shall so provide.

(c) Payment of the sum or sums fixed by said agreement shall be accepted by the Director in full satisfaction of this State's claim for transfer inheritance and estate taxes which would otherwise be chargeable under the law.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38A-1.

**§ 18:26-4.2 Compromise and settlement of certain tax claims or liens; waiver of defenses**

Where any lien or claim for any past due transfer inheritance taxes or estate or transfer taxes shall be brought into question, claimed to be invalid or impaired, or shall be in the course of litigation, or the Director, and the State Treasurer shall, after investigation, determine that there is reasonable doubt of the State's ability to enforce said lien or claim or to collect the taxes due, or claimed to be due, or that there is a reasonable doubt that said lien is valid or unimpaired, such officer shall enter into an agreement with the executor, administrator or trustee of any estate against whose assets said lien or claim shall be asserted, or the heirs, next of kin or beneficiaries succeeding to the property of any decedent against which such lien or claim is asserted, to alter, revise, compromise and settle all claims or liens for past due inheritance taxes or estate or transfer taxes, together with all interest or interest penalties thereon; provided, however, that the executor, administrator, trustee, heir or heirs, next of kin, beneficiary or beneficiaries, shall waive all defenses which might be set up against the claim or lien of the State and shall submit to such terms of payment and settlement as the Treasurer or Director shall deem to be equitable and just and in the best interest of the State.

**STATUTORY REFERENCES:**

N.J.S.A. 54:38A-3.

**§ 18:26-4.3 Payment pursuant to compromise**

(a) Any compromise or settlement shall be null and void unless the amount agreed to be paid shall be paid pursuant thereto within the time or times fixed in said agreement and in such event all payment made thereunder shall belong to the State and shall be credited upon the arrears of taxes and interest or interest penalties due. Upon payment in full of the amount agreed to be paid pursuant to the terms of such agreement of alteration, revision, compromise or settlement, the person or persons so paying shall be entitled to receive a receipt for such payment which shall be a proper voucher in the settlement of the account and the Treasurer or Director shall issue a statement of payment which may be recorded in the office of the county clerk of the county where any real property is situated.

(b) If a judgment or decree has been entered in favor of the State of New Jersey, the Treasurer or Director, upon payment of the amount agreed upon or upon determination that the assessment be cancelled, shall execute and record a proper satisfaction of the lien, claim, judgment or decree in accordance with the facts.

STATUTORY REFERENCES:  
N.J.S.A. 54:38A-4.

**§ 18:26-4.4 through 18:26-4.5 (Reserved)**

**SUBCHAPTER 5. TRANSFERS SUBJECT TO TAX**

**§ 18:26-5.1 Transfers generally**

(a) Any transfers of property real or personal of the value of \$ 500.00 or over, or any interest in a transfer or income from a transfer which interest or income is \$ 500.00 or over in value, whether such transfer, interest or income is held in trust or otherwise to or for the use of any transferee, distributee or beneficiary, is subject to the transfer inheritance tax at the rates designated in Sections 2.4, 2.7 and 2.8 of this Chapter.

(b) In any case where a transfer or any interest or income is less than \$ 500.00 in value, the transfer, interest or income is exempt from the tax; provided, however, if the transfer, interest or

income is valued at \$ 500.00 or more, then the entire transfer, interest or income is subject to tax.

Example:

Mr. "X" bequeaths his gold ring worth \$ 250.00 to "Y", this being the only transfer made to "Y", the transfer is not subject to the tax. If Mr. "X" had bequeathed not only the ring but a watch and chain worth \$ 300.00, then the transfer would be taxable and the tax would be based upon the entire amount, i.e., \$ 550.00.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1.

**§ 18:26-5.2 Transfers of residents and nonresidents**

(a) Residents. Transfers by will or by the intestate laws of this State of real or tangible personal property situated in this State and intangible personal property, such as stock, bonds, securities, and mortgages wherever located from the estate of a resident decedent who died seized or possessed of such property, are subject to the tax. Intangible personal property of a resident decedent is deemed situated in this State, regardless of where it is actually located, since by law personalty is deemed to follow the domicile of its owner.

(b) Nonresidents. In the case of a nonresident decedent, only real or tangible personal property located within this State of which the decedent was seized or possessed transferred by will or intestate law are subject to the tax.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1 a and c.

**§ 18:26-5.3 Property includible in estate of decedent**

(a) Moneys recovered under New Jersey Death Act (N.J.S.A. 2A:31-1 et seq.).

1. Any sum recovered under the New Jersey Death Act representing damages sustained by a decedent between the date of injury and date of death, such as the expenses of care, nursing, medical attendance, hospital and other charges incident to the injury, including loss of earnings

and pain and suffering are to be included in the decedent's estate.

2. Where an action is instituted under the New Jersey Death Act and terminates through settlement by a compromise payment without designating the amount to be paid under each count, the amount so recovered is first applied toward the payment of funeral expenses, the expenses of care, nursing, medical attendance, hospital and other proper charges incident to the injury and is includible in the estate of the decedent.

(b) Unpaid dividends--Stock, which on the date of death is quoted "exdividends" or "dividends" payable to the holder of record on the date prior to the date of death, constitute a part of the estate and are to be included in a decedent's estate.

(c) Accrued unpaid income--The amount of any accrued unpaid income on mineral and oil deeds or leases as of the date of death is considered an asset of the estate of a New Jersey decedent and includible in the estate.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1.a.

**§ 18:26-5.4 Classification of property as real or personal n1**

n1 This regulation is intended to conform the treatment of real property under contract of sale or purchase at the time of decedent's death with that of adjoining states (Cf. Estate of Paul, 303 Pa. 330, and In re DeSteur's Estate, 99 N.Y. Supp. (2d.39)), and to revoke previous regulations in conflict herewith.

(a) For purposes of the transfer inheritance tax laws of this State, the doctrine of equitable conversion will not be applied in estates of New Jersey decedents which involve realty situated in New Jersey.

(b) The doctrine of equitable conversion will not be applied in the case of those estates where a New Jersey decedent was a party to a contract of sale involving real estate situated in a foreign jurisdiction;

Example 1. The interest of a deceased resident vendor located in another state, which was under

contract of sale at the date of his death, shall be deemed to be an interest in real property, the transfer of which is not subject to tax under the inheritance tax laws of this State;

Example 2. The interest of a deceased resident vendee, under a contract in effect at the date of death to purchase real property located in another state, shall be deemed personal property and taxable to the extent of the sum paid on account of the contract price at the time of death.

Pursuant to the provisions of N.J.S.A. 54:34-5, as amended, the balance due under the contract shall not be allowed as a deduction in determining the clear market value of decedent's estate subject to tax under the inheritance tax laws of this State.

and, also, where a nonresident decedent was involved as a party to a contract of sale involving realty situated in New Jersey.

Example 1. The interest of a deceased nonresident vendor of real property located in New Jersey, which was under contract of sale at the date of such nonresident decedent's death, shall be deemed to be an interest in real property the transfer of which shall be taxable under the inheritance tax laws of this State. If such nonresident shall die intestate, his interest in the New Jersey real property shall, for the purposes of the inheritance tax laws of this State, be deemed to have descended under the intestate laws of this State to his heirs at law;

Example 2. The interest of a deceased nonresident vendee, under a contract in effect at the date of death to purchase real property located in New Jersey, shall be deemed personal property and not subject to tax under the inheritance tax laws of this State;

Note:--This rule will apply whether a decedent died testate or intestate, or where real property is specifically devised but is under contract of sale at the date of death.

(c) Concerning ground rents, or leasehold interests, ground rents or any leasehold interest in land for 99 years or more is deemed to be an interest in real property for the purpose of valuation only under the New Jersey inheritance tax laws; however, as to succession under the laws of descent and distribution of this State,

such an interest is personal property. Such an interest, when held by a husband and wife/civil union couple, is held as a tenancy in common, unless the conveyance expressly states they hold as joint tenants. There can be no tenancy by the entirety in such an interest. Unaccrued ground rent on property located outside this State and owned by a resident decedent is deemed to be foreign real property and, therefore, not subject to tax; however, ground rent accrued prior to the date of death on property located outside the State of New Jersey owned by a resident decedent is subject to tax as it is deemed to be personal property.

(d) Partnership real estate. Any real property held by a partnership of which a decedent is a partner even if held by the deceased partner and his wife/her husband/civil union partner as tenants by the entirety, is deemed to be a partnership asset and therefore is considered personal property.

**HISTORY:**

As amended, R.1973 d.224(b), effective August 13, 1973.

See: 5 New Jersey Register 244(b), 5 New Jersey Register 321(b).

As amended, R.1980 d.198, effective May 6, 1980.

See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (c), inserted "/civil union couple,"; and in (d), inserted "/her husband/civil union partner".

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau (Equitable Conversion) filed 1/6/53.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1(b).

**§ 18:26-5.5 Devises in lieu of commissions**

In any case where a decedent appoints or names one or more executors or trustees and makes a devise of property to such fiduciaries in his will in lieu of commissions or allowances or appoints him or them his residuary legatee or legatees, the transfer to such fiduciary or fiduciaries of that portion of the property in

excess of the reasonable compensation fixed by the Superior or County Court having jurisdiction in the matter, is subject to the New Jersey Inheritance Tax.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1.e.

**§ 18:26-5.6 Inter vivos transfers**

(a) Any transfer of real or tangible personal property situated in this state or intangible personal property wherever situated in the case of a resident decedent or of real or tangible personal property situated in this State in the case of a non-resident decedent made by such decedent during his lifetime, whether in contemplation of death or intended to take effect in possession or enjoyment at or after decedent's death, is subject to the New Jersey Inheritance Tax. Any such transfers will be taxed upon the clear market value of the transferred property on the date of death.

(b) In the case of a resident decedent, all intangible personal property is deemed to be situated in this State, even though it may be actually located anywhere outside the State.

**HISTORY:**

As amended, R.1980 d.198, effective May 6, 1980.

See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1.c.

**§ 18:26-5.7 Transfers made in contemplation of death**

(a) Any transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration within three years ending with the date of death of the grantor, vendor, or donor, in the absence of proof to the contrary, is deemed to have been made in contemplation of death. Any transfer made prior to such three-year period is not deemed to be in contemplation of death.

(b) The term "contemplation of death" includes that expectancy of death which actuates the mind of a person of the execution of his will and is therefore not restricted to that expectancy of

death which actuates the mind of a person making a gift causa mortis.

(c) The term "adequate valuable consideration" means the clear market value of property in money or money's worth on the date of transfer.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1.c.

**§ 18:26-5.8 Transfers taking effect in possession or enjoyment at or after death**

(a) Any transfer of property by deed, grant, bargain, sale, gift or in trust (except in the case of a bona fide sale for an adequate valuable consideration in money or money's worth) made by a decedent transferor or during his lifetime under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death:

1. The possession or enjoyment of the property so that possession or enjoyment of the property can be obtained only by surviving the transferor; or
2. The right to income from the property, is a transfer subject to the New Jersey inheritance tax.

(b) The transfer is taxable if by any means whatsoever the transferor has in form transferred property but has deferred the actual possession, use or enjoyment of the property until a time which can only be measured by reference to the transferor's death.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1(c).

**§ 18:26-5.9 Certain profit sharing and retirement plans**

The proceeds of a profit sharing or retirement plan payable at the date of death of a decedent to a beneficiary named by the decedent or in accordance with the preference schedule of beneficiaries is deemed to be a transfer which takes effect at or after death and is as such subject to the tax, except for the exemption provided by N.J.A.C. 18:26-6.16.

**HISTORY:**

As amended, R.1981 d.477, effective December 21, 1981.

See: 13 New Jersey Register 623(a), 13 New Jersey Register 948(d).

Added: "except ... N.J.A.C. 18:26-6.17".

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Substituted "16" for "17".

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1.c.

**§ 18:26-5.10 Transfers not deemed to take effect at or after death**

Any transfer of property by deed, grant, bargain, sale, gift or interest under which the transferor is entitled to some income, right, interest or power including the possession or enjoyment of the property, either expressly or by operation of law, is not deemed a transfer to take effect at or after the transferor's death if the transferor at any time more than three years prior to death completely and irrevocably disposes of all of his reserved income, rights, interests and powers in and over the transferred property, including any right to possession, use and enjoyment of the property.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1.1.

**§ 18:26-5.11 Jointly held property**

(a) Where, in the case of a resident decedent, real or tangible personal property situated in this State or intangible personal property wherever situated, or in the case of a nonresident decedent, real or tangible personal property located in this State, is held in the joint names of the decedent and one or more of such persons as joint tenants, the transfer of ownership, possession and enjoyment of such property to a surviving joint tenant or tenants is a transfer subject to the New Jersey Inheritance Tax.

(b) Such transfers are taxed in the same manner as if such property had belonged absolutely to the decedent joint tenant and had been devised or bequeathed by will to the surviving joint tenant or tenants. Only that part or interest in such

property which the surviving joint tenant or tenants prove, to the satisfaction of the Director, to have originally belonged to him or them and not the decedent, is exempt from the tax.

(c) The rule stated in this section applies to property deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor under N.J.S.A. 17:9A-218.

(d) The rule stated in this section applies only to property held by two or more persons as joint tenants, and not tenants by the entirety. For the rule applicable to property held by tenants by the entirety, see section 6.4 (Tenancy by the entirety) of this chapter.

(e) In the case of a nonresident decedent holding real property in this State as a joint tenant together with one or more other persons, the transfer of such property at death is deemed to pass to the surviving joint tenant or tenants as though specifically devised and as such is not subject to the ratio tax imposed upon the transfer of property of a nonresident under N.J.S.A. 54:34-3.

(f) The right of a spouse/civil union partner or the right of a domestic partner as defined in section 3 of P.L. 2003, c. 246 (N.J.S.A. 26:8A-3), as a surviving joint tenant with his or her deceased spouse/civil union partner or domestic partner, to the immediate ownership or possession and enjoyment of a membership certificate or stock in a cooperative housing corporation, the ownership of which entitles such member or stockholder to occupy real estate for dwelling purposes as the principal residence of the decedent and spouse/civil union partner or domestic partner is exempt from the Transfer Inheritance Tax.

**HISTORY:**

As amended, R.1980 d.198, effective May 6, 1980.

See: 12 N.J.R. 221(a), 12 N.J.R. 355(b).

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In (f), inserted the language "or the right of a . . . (N.J.S.A. 26:8A-3)," and twice inserted "or domestic partner".

Amended by R.2008 d.72, effective April 7,

2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (f), inserted "/civil union partner" three times.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1(f), Chapter 413, P.L. 1979.

**§ 18:26-5.12 Powers of appointment; estates in expectancy**

(a) Where by transfer of a resident decedent of real or tangible personal property within this State of intangible personal property wherever situated, or by transfer of a nonresident decedent of real or tangible personal property within this State, a transferee comes into the possession or enjoyment of:

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

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

3. Such transfers are subject to the New Jersey Inheritance Tax.

(b) Property which is transferred pursuant to a power of appointment whether general or special, is deemed to pass from the estate of the donor or creator of the power to the transferee.

(c) For purposes of the New Jersey Inheritance Tax, a general power of appointment is a power which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate; a special or limited power of appointment is a power which does not qualify as a general power of appointment.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1(d).

**§ 18:26-5.13 Insurance proceeds subject to New Jersey Inheritance Tax**

Proceeds of any contract of insurance insuring the life of a resident of this State paid or payable to the Estate or the executor or administrator of such decedent is subject to the New Jersey Inheritance Tax.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(f).

**§ 18:26-5.14 Proceeds payable to testamentary trustee**

Life insurance proceeds payable to a trustee or trustees of a testamentary trust created under the will of a decedent are not subject to inheritance tax, in estates of decedents dying on or after July 6, 1979.

HISTORY:  
As amended, R.1980 d.287, effective June 27, 1980.  
See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(c) as amended, P.L. 1979, c.137.

**§ 18:26-5.15 Proceeds under matured endowment policies**

(a) In the case of a decedent who dies subsequent to the maturity of an endowment policy, the proceeds are taxable whether payable to a designated beneficiary or beneficiaries or to the estate of such decedent.

(b) Endowment policies which have all the attributes of life insurance policies prior to maturity are exempt if payable to a specific beneficiary and if the decedent died prior to maturity, but are taxable if payable to the estate for distribution by will.

HISTORY:  
As amended, R.1980 d.287, effective June 27, 1980.  
See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1(c), P.L. 1979, c.137.

**§ 18:26-5.16 Proceeds under claim settlement certificates and supplementary contracts**

Payments made under a claim settlement certificate or a supplementary contract are subject to the New Jersey Inheritance Tax,

except when they represent a continuation of payments under an insurance policy on the life of a prior decedent, which life insurance policy provided for such payment at decedent insured specific directions.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1(c).

**§ 18:26-5.17 Proceeds of retirement contracts**

The proceeds of a retirement contract purchased on the installment plan are subject to the New Jersey Inheritance Tax when the decedent dies prior to the date of retirement and the payments are returned to either his estate or to a designated beneficiary, except for the exemption provided by N.J.A.C. 18:26-6.16.

HISTORY:  
As amended, R.1981 d.477, effective December 21, 1981.  
See: 13 New Jersey Register 623(a), 13 New Jersey Register 948(d).  
Added: "except ... N.J.A.C. 18:26-6.17".  
Amended by R.1989 d.85, effective February 6, 1989.  
See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).  
Changed "17" to "16".

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1(c).

**§ 18:26-5.18 Proceeds of single premium life insurance with annuity contracts**

(a) The proceeds of single premium life insurance contracts combining a life insurance feature and an annuity feature are subject to the New Jersey Inheritance Tax.

(b) The proceeds of life insurance contracts combining a life insurance feature and an annuity feature, are subject to the New Jersey Inheritance Tax.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-1(c).

**§ 18:26-5.19 Annuity contracts**

(a) Annuity contracts purchased by or vested in a decedent and made payable by him to another

at or after his death are subject to the New Jersey Inheritance Tax.

(b) Annuity payable under certain trusts and plans which are exempt under Section 2039(c) of the Internal Revenue Code of 1954 may not be exempt for New Jersey Inheritance Tax purposes. The treatment to be accorded payments made under such trusts and plans depends upon the facts and circumstances which exist in each case. (See N.J.A.C. 18:26-6.16.)

**HISTORY:**

As amended, R.1981 d.477, effective December 21, 1981.

See: 13 N.J.R. 623(a), 13 N.J.R. 948(d).

(b): "are" deleted after "1954" and "may" and "be" added. Added cross-reference to N.J.A.C. 18:26-6.17.

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Changed "17" to "16".

**STATUTORY REFERENCES**

N.J.S.A. 54:34-1(c).

**§ 18:26-5.20 Dividends and refunds on life insurance policies**

Dividend accumulations, post mortem dividends, terminal dividends and premium refunds on contracts of life insurance although payable at the same time are not considered part of the life insurance proceeds of the policy and are taxable to the beneficiary as transfers taking effect at or after the death of the insured.

**HISTORY:**

R.1971 d.2, effective January 4, 1971.

See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).

**§ 18:26-5.21 (Reserved)**

**SUBCHAPTER 6. EXEMPTIONS**

**§ 18:26-6.1 Class "A" transfers**

(a) Transfers to a spouse are totally exempt where the decedent dies on or after January 1, 1985.

(b) Transfers to all Class "A" transferees, where decedent dies on or after July 1, 1988, are totally exempt, except that transfers to a domestic partner are totally exempt where the decedent dies on or after July 10, 2004, and transfers to a civil union partner are totally exempt where the decedent dies on or after February 19, 2007.

**HISTORY:**

New Rule, R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Added (h).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Deleted former (a) and (b); recodified former (c) as (a); deleted (d) through (f); recodified former (g) as (b); rewrote (b); and deleted (h).

**§ 18:26-6.2 Class "C" transfers**

(a) In instances where the decedent dies on or after July 1, 1988, the transfer of property having an aggregate clear market value of \$ 25,000 or less which is transferred to a brother or sister of decedent, a wife or widow of a son of a decedent or a husband or widower of a daughter of a decedent is exempt from the New Jersey transfer inheritance tax.

(b) In instances where the decedent dies on or after February 19, 2007, the transfer of property having an aggregate clear market value of \$ 25,000 or less, which is transferred to a civil union partner or surviving civil union partner of a son or a daughter of a decedent is exempt from the New Jersey transfer inheritance tax.

**HISTORY:**

As amended, R.1978 d.31, effective January 27, 1978.

See: 10 N.J.R. 43(a), 10 N.J.R. 128(a).

New Rule, R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Repealed old rule: was Class "A" transfers.

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Inserted designation (a); and added (b).



**§ 18:26-6.3 Dower or curtesy**

In the case of a resident decedent dying on or after May 28, 1980, there is no exemption for the interest of the spouse in real property by way of dower or curtesy unless both the real estate was purchased and the marriage took place prior to May 28, 1980.

**HISTORY:**

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Changed 6.2 to 6.1.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Deleted (a) and (b); and deleted designation (c).

**STATUTORY REFERENCES:**

N.J.S.A. 3A:25-1; 3A:35-2; 3B:28-2

**§ 18:26-6.4 Tenancy by the entirety**

The transfer of real property or personal property in this State held by a husband and wife/civil union couple as tenants by the entirety to the surviving spouse/civil union partner is not taxable for New Jersey Inheritance Tax purposes. See N.J.S.A. 46:3-17.2, P.L. 1987 c. 357, except that where words such as "husband and wife" and "spouse/wife/husband" are used in the statute, the words "civil union couple" and "civil union partner" shall be given the same treatment as the former terms, respectively.

**HISTORY:**

Amended by R.1980 d.198, effective May 6, 1980.

See: 12 N.J.R. 221(a), 12 N.J.R. 355(a).

Amended by R.1992 d.402, effective October 19, 1992.

See: 24 N.J.R. 2533(a), 24 N.J.R. 3734(a).

Revised (a); deleted (b); added new (a)1.

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Deleted designation (a) and rewrote the section.

**§ 18:26-6.5 Intangible property of a nonresident**

The transfer of intangible personal property such as stocks, bonds, corporate securities, bank deposits and mortgages owned by a nonresident decedent is not subject to the New Jersey Inheritance Tax.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-1(b).

**§ 18:26-6.6 Wrongful death action**

Any sum recovered under Sections 1, 2, 3 and 4 of the New Jersey Death Act (N.J.S.A. 2A:31-1 et seq.) as compensation for wrongful death of a decedent is not subject to the New Jersey inheritance tax except as provided in N.J.A.C. 18:26-5.3(a).

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**§ 18:26-6.7 (Reserved)**

**§ 18:26-6.8 Life insurance proceeds**

The proceeds of any contract of insurance insuring the life of a resident or nonresident decedent paid or payable, by reason of the death of such decedent, to one or more named beneficiaries other than the estate, executor or administrator of such decedent are exempt for New Jersey Inheritance Tax purposes.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-4(f).

**§ 18:26-6.9 Beneficiary of insurance trust**

The transfer of property to a beneficiary or beneficiaries of a trust created during the lifetime of a resident or nonresident decedent, to the extent such property results from the proceeds of any contract of insurance, insuring the life of such decedent and paid or payable to a trustee or trustees of such trust by reason of the death of such decedent, is exempt from the New Jersey Inheritance Tax irrespective of whether such beneficiary or beneficiaries have a present,

future, vested, contingent or defeasible interest in such trust.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(b).

**§ 18:26-6.10 Trustee of insurance trust**

The transfer of life insurance proceeds insuring the life of a resident or nonresident decedent, paid or payable by reason of the death of such decedent to a trustee or trustees of a trust created by such decedent during his lifetime for the benefit of one or more beneficiaries irrespective of whether such beneficiaries have a present, future, vested, contingent or defeasible interest in such trust, is exempt from the New Jersey Inheritance Tax.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(c).

**§ 18:26-6.11 Surrender of right to change beneficiary of contract of insurance**

The transfer, relinquishment, surrender or exercise at any time or times by a resident or nonresident of this State, of any right to nominate or change the beneficiary or beneficiaries of any contract of insurance insuring the life of such resident or nonresident, regardless of when such transfer, relinquishment, surrender or exercise of such right occurred, is exempt from the tax.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(g).

**§ 18:26-6.12 Public educational, scientific and charitable institutions**

(a) Property passing to or for the use of the State of New Jersey, or to or for the use of a municipal corporation within the State or other political subdivision thereof, for exclusively public purposes is exempt.

(b) Any property of any decedent which passes on or after July 1, 1963, for the use of directly, or in trust for any educational institution, church, hospital, orphan asylum, public library or bible and tract society or to or for the use of directly or in trust for any institution or organization organized and operated exclusively for religious, charitable, benevolent, scientific, literary or

educational purposes, including any institution instructing the blind in the use of dogs as guides, no part of the net earnings of which inures to the benefit of any private stockholder or other individual or corporation is exempt, but such exemption does not extend to transfers of such property to educational institutions and organizations of other states, the District of Columbia, territories and foreign countries which do not grant an equal and like exemption of transfers of property for the benefit of such institutions and organizations of this State. Included within this exemption are transfers to Volunteer Fire Companies and First Aid Squads, provided such organizations meet all other tests of a charitable or benevolent group or association.

(c) Cemetery corporations are deemed to be charitable institutions within the meaning of the Act.

HISTORY:

As amended, R.1980 d.198, effective May 6, 1980.

Sec: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(d).

**§ 18:26-6.13 Property received from the Federal Government**

(a) Any amount recovered (under the Federal Liability for Injuries to Employees Act) for injuries to a decedent by the personal representative for the benefit of the classes of beneficiaries designated in that Statute, whether for the pecuniary loss sustained by such beneficiaries as a result of the wrongful death of the decedent or for the loss and suffering by the decedent while he lived, or both is not subject to the inheritance tax.

(b) Any amount recovered by the legal representatives of any decedent by reason of any war risk insurance certificate or policy, either term or converted, or any adjusted service certificate issued by the United States, whether received directly from the United States or through any intervening estate or estates, is exempt from the New Jersey Inheritance Tax.

(c) This exemption does not entitle any person to a refund of any tax heretofore paid on the transfer of property of the nature aforementioned; and does not extend to that part of the estate of any decedent composed of property, when such property was received by the decedent before death.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(e).

**§ 18:26-6.14 Federal pensions**

The proceeds of any pension, annuity, retirement allowance, return of contributions or benefit payable by the Government of the United States pursuant to the Civil Service Retirement Act, Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan to a beneficiary or beneficiaries other than the estate or the executor or administrator of a decedent are exempt.

HISTORY:  
As amended, R.1973 d.224, effective August 13, 1973.  
See: 5 New Jersey Register 244(b), 5 New Jersey Register 321(b).

**§ 18:26-6.15 State pensions**

(a) All payments at death under the Teachers Pension and Annuity Fund, the Public Employees' Retirement System of New Jersey, and the Police and Firemen's Retirement System of New Jersey, and such other State, county, and municipal systems as may have a tax exemption clause as broad as that of the three major State systems aforementioned, whether such payments either before or after retirement are made on death to the employee's estate or to his specifically designated beneficiary, are exempt from the New Jersey Inheritance Tax.

(b) The benefit payable under the supplementary annuity plan of the State of New Jersey is not considered a benefit of the Public Employees' Retirement System and is taxable whether paid to a designated beneficiary or to the estate.

(c) (Reserved)

(d) The death benefits paid by the Social Security Administration or Railroad Retirement Board to the spouse of a decedent are also exempt. For

purposes of filing a return these amounts need not be reported nor are they to be deducted from the amount claimed as a deduction for funeral expenses. In all other cases the death benefit involved should either be reported as an asset of the estate or deducted from the amount claimed for funeral expenses.

HISTORY:  
As amended, R.1973 d.224, effective August 13, 1973.  
See: 5 New Jersey Register 244(b), 5 New Jersey Register 321(b).  
Amended by R.2006 d.196, effective June 5, 2006.  
See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).  
Reserved (c), which exempted benefits paid to decedent's widow by the New Jersey Firemen's Association and New Jersey State Judges Pension Act.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-4(h).

**§ 18:26-6.16 Other pensions**

An exemption is provided for payments from any pension, annuity, retirement allowance or return of contributions, which is a direct result of the decedent's employment under a qualified plan as defined by section 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, which is payable to a surviving spouse/surviving civil union partner as defined in P.L. 2006, c. 103 or a surviving domestic partner as defined in section 3 of P.L. 2003, c. 246 (N.J.S.A. 26:8A-3).

HISTORY:  
R.1981 d.477, effective December 21, 1981.  
See: 13 N.J.R. 623(a), 13 N.J.R. 948(d).  
Amended by R.2006 d.196, effective June 5, 2006.  
See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).  
Added the language "or a domestic partner . . . (N.J.S.A. 26:8A-3)".  
Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
Inserted "/surviving civil union partner as defined in P.L. 2006, c. 103" and "surviving" preceding "domestic".

HISTORICAL NOTE:

A rule concerning no fault insurance was previously codified at this section, but was recodified as N.J.A.C. 18:26-6.17.

**§ 18:26-6.17 No fault insurance**

(a) The amount payable by reason of medical expenses incurred as a result of personal injury to the decedent should be reflected by reducing the amount claimed for medical expenses as a result of the accident.

(b) The amount payable at the death of an income producer as a result of injuries sustained in an accident, which are paid to the estate of the income producer, is reportable for taxation. In all other instances this amount is exempt.

(c) The amount paid at death to any person under the essential services benefits section is exempt from taxation.

(d) The claim for funeral expense is to be reduced by the amount paid under the funeral expenses benefits section of the law.

**HISTORY:**

R.1975 d.186, effective June 25, 1975.

See: 7 New Jersey Register 239(a), 7 New Jersey Register 350(a).

As amended, R.1981 d.477, effective December 21, 1981.

See: 13 New Jersey Register 623(a), 13 New Jersey Register 948(d).

**HISTORICAL NOTE:**

This section was recodified from N.J.A.C. 18:26-6.16.

**SUBCHAPTER 7. DEDUCTION**

**§ 18:26-7.1 Deductions generally permitted**

The New Jersey Transfer Inheritance Tax is imposed upon the transfer of property based upon the clear market value of such property. Clear market value is ascertained by deducting from the market value of any property, the debts, expenses and taxes which constitute an encumbrance upon the property of a decedent. No deductions are allowed, however, against any property which is exempt or not subject to the New Jersey Inheritance Tax.

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-5.

**§ 18:26-7.2 Decedent's debts**

All debts owing at the date of a decedent's death are deductible from the property comprising such decedent's estate unless the property for which the debt is owing or for which it is secured is not subject to the New Jersey Inheritance Tax.

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-5.a.

**§ 18:26-7.3 Debts secured by out-of-State real property**

The debts of a resident decedent owing for or secured by real property outside this State are not allowed as a deduction, unless such debt exceeds the value of the property securing it or for which it was contracted, in which event only that amount by which such debt exceeds the value of the out-of-State realty is permitted as a deduction.

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-5.a(2).

**§ 18:26-7.4 Mortgages**

The balance of a mortgage owing on the date of death is allowed as a deduction from the value of any real property securing such mortgage, except that in the case of realty held by a decedent and a surviving spouse/civil union partner as tenants by the entirety, the amount of any mortgage owing on such realty at the decedent's death is not allowable as a deduction since such property is exempt from the New Jersey Inheritance Tax.

**HISTORY:**  
Amended by R.2008 d.72, effective April 7, 2008.  
See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
Inserted "/civil union partner".

**STATUTORY REFERENCES:**  
N.J.S.A. 54:34-5.

**§ 18:26-7.5 Debts secured by life insurance**

Any debt of a decedent owing at the date of death and covered by the purchase of life insurance payable to a creditor of the decedent, in order to liquidate a debt arising from the acquisition of property for which the decedent was liable to such creditor, is not allowable as a deduction since the debt is regarded as extinguished at the date of death by payment to said creditor of the insurance proceeds and, therefore, the decedent's estate is not diminished by the amount of debt.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.

**§ 18:26-7.6 Debt for claim of county welfare boards or State institutions**

(a) A deduction is permitted in the case of a claim by a county welfare board or a State institution for money advanced to or on account of the care provided a decedent as an indigent person, provided that such claim is accompanied by the following data:

1. A letter signed by a representative of the welfare board or State institution stating the exact amount due from the decedent as of the date of death;
2. A supplemental affidavit of the executor, heir or administrator, as the case may be, stating whether or not he acknowledges the correctness of the amount of the claim and will pay the same in full out of the assets of the estate. If not, the supplemental affidavit should set forth the facts involved and if the matter has been settled, set forth the amount that has been paid or will be paid in settlement.

(b) An exception to the above is where the affidavit in which the claim is made is signed by a representative of the welfare board as executor, administrator, or otherwise, in which case no further investigation will be needed unless there is some other data in the record indicating that the amount claimed is possibly incorrect.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.

**§ 18:26-7.7 Estates subject to escheat**

Estates subject to escheat containing claims for services rendered to the decedent or advances made to the decedent are held in abeyance pending a final determination made with respect thereto by the Attorney General's Office, Escheat Section. The representatives of the estate will be so notified.

HISTORY:  
Amended by R.1994 d.627, effective December 19, 1994.  
See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.

**§ 18:26-7.8 Funeral and last illness expenses**

(a) A deduction is allowed for all reasonable funeral expenses and last illness expenses uncompensated for by insurance or otherwise, owing and unpaid at the decedent's death for which the decedent's estate is liable.

(b) Funeral expenses include any reasonable costs incurred on behalf of the decedent payable by the estate:

1. Any deduction for funeral expenses is to be reduced by the amount of any death benefit paid or payable under the Social Security or Railroad Retirement Acts of the United States where the same are paid or payable to any person or fiduciary other than the spouse of the decedent;
2. What constitutes a reasonable funeral cost or expense will depend upon the facts and circumstances in each case; however, primary consideration will be given to the size of the estate and the amount thereof claimed as a deduction for such expenses.

(c) The expenses of a decedent's last illness allowable as a deduction include the expenses of care, nursing, medical attendance, medicines, hospital and other charges incident to such illness unpaid and owing at decedent's death and not compensated for by insurance or other payments.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.b.

**§ 18:26-7.9 Administration expenses**

A deduction is allowed for all the reasonable and ordinary expenses of administering a decedent's estate including reasonable and ordinary executors, administrators and attorneys fees, and, in addition, the reasonable cost incurred on an appeal from a determination of the Inheritance Tax Bureau.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

**§ 18:26-7.10 Executor's and administrator's expenses**

(a) In the absence of a judgment of the court exercising jurisdiction over the probate of an estate, the deduction for executor's or administrator's commissions shall be determined in accordance with N.J.S.A. 3B:18-14 as of the date of death of decedent as follows:

First	\$ 200,000 of corpus
Next	800,000 of corpus
Excess over	1,000,000 of corpus

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 or administrator shall be entitled to any greater commission than that which would be allowed if there were but one executor or administrator.

1. Where the amount claimed by the executor or administrator or allowed by the court is less than that determined by the application of the rates set forth in (a) above, only such amount as claimed or allowed shall be permitted as a deduction.

(b) Where a formal account is filed in accordance with the Rules of the Court, with the court exercising jurisdiction over the probate of an estate and the amount allowed by the court for executor's or administrator's commissions is greater than the amount previously determined by the Branch, the fiduciary must forward a plain copy of the judgment allowing commissions and upon revision of the assessment there shall be applied the rate set forth by the court in its judgment to the value, as of the date of death as

determined by the Transfer Inheritance Tax Branch of the property on which the allowance of the court is based, but the value of any property excluded from the New Jersey Transfer Inheritance Tax shall be excluded from the computation. See N.J.A.C. 18:26-7.1. If the Branch makes an assessment denying executor's or administrator's commissions, a written protest must be submitted to the Branch within 90 days in accordance with N.J.S.A. 54:49-18 and N.J.A.C. 18:26-12.9 in order for the Branch to consider a subsequent court judgment allowing the commissions. In order for the Branch to reopen an assessment subsequent to a judgment, a copy of the account must be filed with the Branch at the time of the filing with the court and a copy of the judgment specifying the rates to be applied to corpus must be forwarded to the Branch.

(c) The value of property which is 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, in contemplation of, or to take effect in possession or enjoyment at or after death, is to be excluded from the amount on which an executor's or administrator's commissions is computed in the absence of the judicial allowance thereon.

(d) Executor's or administrator's commissions are allowed on real estate that is 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(s) in order to qualify.

(e) In the absence of a judgment of the court exercising probate jurisdiction over the estate, and the filing of a plain copy thereof with the Branch, the provisions of N.J.S.A. 3B:18-16 shall not be considered in the determination of the amount allowable as a deduction.

HISTORY:  
Amended by R.1989 d.85, effective February 6, 1989.  
See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).  
Substantially amended (a).  
Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

"Bureau" changed to "Branch"; real estate commissions allowed on sales by executor or administrator only, either actual or directed by will.

Amended by R.1996 d.15, effective January 2, 1996.

See: 27 New Jersey Register 3915(a), 28 New Jersey Register 176(a).

Substantially amended (a) and (b), and in (e) substituted N.J.S.A. 3B:18-15 and 3B:18-16 for 3A:10-2.

Amended by R.2001 d.259, effective August 6, 2001.

See: 33 New Jersey Register 1508(a), 33 New Jersey Register 2679(a).

Rewrote (a); and in (e), amended N.J.S.A. reference.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

#### § 18:26-7.11 Counsel fees

(a) The deduction allowable for counsel fees shall be determined on the basis of their reasonableness. The appraised value of the decedent's estate, for New Jersey Inheritance Tax and Federal Estate Tax purposes shall not be considered as the criterion for the determination of the amount allowable as a deduction for counsel fees.

(b) No deduction shall be allowed for counsel fees paid to an attorney who is not a member of the Bar of New Jersey, except in cases where the services rendered by such counsel relate to matters not involving the New Jersey Inheritance Tax proceedings.

(c) The Director may, in his discretion, require the submission of an affidavit of services by counsel for the personal representative of an estate where it appears that the amount claimed as a deduction for counsel fees is other than ordinary or reasonable.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

#### § 18:26-7.12 Real estate broker's commissions

(a) No deduction is allowed for commissions

paid or payable to a real estate broker or agent in connection with the sale of real estate of which a decedent dies seized except where:

1. The real estate was the subject of a contract of sale entered into by the decedent in his lifetime; or

2. The real estate is actually sold by the executor or administrator (the real estate must be sold by the representative of an estate and not the beneficiary(s) in order to qualify); or

3. It is necessary in the administration of the decedent's estate to effect a sale of said real estate for the purpose of liquidating debts, or the payment of the expenses of administration of the estate, or for the payment of legacies.

HISTORY:

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

#### § 18:26-7.13 Storage expense

(a) No deduction is allowed for expenses incurred by an executor or administrator for the storage or preservation of tangible personal property except where the nature of the property or the value thereof is such that delivery to the legatee thereof is not possible within a reasonable time subsequent to death.

(b) No deduction shall be allowed for expenses incurred for the preservation, maintenance or upkeep of real estate of which a decedent dies seized, either individually, jointly or as a tenant in common.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

#### § 18:26-7.14 Operating costs of business

No deduction is allowed for the cost of operating a business in which the decedent had an interest at death. These expenses are not deemed an ordinary expense of administration and should be charged as an expense of the

business.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.c.

**§ 18:26-7.15 State, county and local taxes**

(a) A deduction is permitted for any State, county and municipal taxes owing and unpaid at the date of death on any real property of a decedent which is subject to the New Jersey Inheritance Tax. The amount allowable as a deduction on such property for the current fiscal year, however, is limited to that sum representing unpaid taxes as the elapsed portion of said year bears to the full year. No deduction is allowed for State, county or municipal taxes assessed or accruing, subsequent to the death of the decedent.

(b) No deduction for unpaid State, county and municipal taxes is allowed where the realty owned by the decedent was held by such decedent and a surviving spouse/civil union partner as tenants by the entirety, unless it can be shown that during his lifetime, the decedent appropriated all of the income from such property without having paid any of the state, county and municipal taxes and other charges assessed against the realty.

HISTORY:  
Amended by R.2008 d.72, effective April 7, 2008.  
See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
In (b), inserted "/civil union partner".

**§ 18:26-7.16 Transfer taxes due other jurisdictions**

(a) A deduction is allowed for any transfer, succession or legacy taxes paid or payable to any state or territory of the United States, including the District of Columbia or any foreign country provided the property upon which such tax is paid or payable is subject to the New Jersey Transfer Inheritance Tax.

(b) The amount due or paid the United States Government as a Federal Estate Tax is not allowable as a deduction.

STATUTORY REFERENCES:  
N.J.S.A. 54:34-5.e.

**§ 18:26-7.17 Loans secured by life insurance policies**

(a) A loan made to a decedent as the insured by an insurance company against a life insurance policy is not considered a debt of the decedent but rather an advancement on the cash value of the policy and the deduction is not allowable.

(b) A loan made by a third party to a decedent secured by the assignment of a life insurance policy on the life of the decedent and satisfied from the proceeds of the policy is also not allowable. However, the right of the beneficiary to reimbursement from the estate for the amount of the loan is a proper claim by way of subrogation against the decedent's estate and is an allowable deduction unless a contrary intention is indicated.

HISTORY:  
New Rule, R.1971 d.2, effective January 4, 1971.  
See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).

**§ 18:26-7.18 (Reserved)**

**SUBCHAPTER 8. ASSESSMENT AND VALUATION**

**§ 18:26-8.1 (Reserved)**

HISTORY:  
Repealed by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).  
Repealed rules concerning assessments in general.  
New Rule, R.1989 d.85, effective February 6, 1989.  
See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).  
Repealed by R.1991 d.384, effective August 5, 1991.  
See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

**§ 18:26-8.2 Appointment of appraisers**

(a) All appraisals of real and tangible personal property are made by the Division of Taxation



Representative exercising jurisdiction where the decedent is a resident or nonresident.

(b) The appraisal of all intangible personal property is made by an auditor at the Inheritance Tax Branch.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).

Deleted "District Supervisor and appraiser" and added "Division of Taxation Representative". Also deleted "examiner and appraiser" and added "auditor".

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

"Bureau" changed to "Branch".

**§ 18:26-8.3 Notice of appraisal; evidence; report**

(a) An auditor, when it is deemed necessary, may give notice by mail to any person having knowledge of the assets of any estate, indicating the time and place when and where an appraisal of property is to be made, requesting the presence of such person if necessary as a witness to give evidence under oath concerning property and the value thereof.

(b) The auditor, should the witness fail or refuse to attend, may compel the attendance of a witness issuing a subpoena for that purpose.

(c) If an estate has filed a Federal estate tax return, for which a formal appraisal of any nature is required, an auditor may request that a copy of such appraisal be submitted for New Jersey Transfer Inheritance Tax purpose.

(d) Upon completion of the examination for any property and attainment of any information solicited from witnesses, the appraiser is required to make a report and file the same with the Inheritance Tax Branch.

(e) These powers are in addition to or supplement the power of the Director to examine records, conduct hearings, issue subpoenas, and compel witnesses to attend hearings and produce

records as provided in N.J.A.C. 18:26-12.4, 12.5, 12.6 and 12.7.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).

Deleted "appraiser" and added "auditor".

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

"Bureau" changed to "Branch".

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

Added (e).

**§ 18:26-8.4 Failure to testify before appraiser; false statements**

(a) Any person failing to attend before an appraiser after service of a subpoena, or refusing to give information concerning an estate, shall be liable for such penalty as prescribed by law.

**HISTORY:**

Amended by R.1988 d.407, effective September 6, 1988.

See: 19 New Jersey Register 2255(a), 20 New Jersey Register 2310(c).

Deleted (b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-10 and 11.

**§ 18:26-8.5 Additional assessment**

(a) In the absence of fraud or clerical error, after a final determination and assessment has been made and a notice thereof sent to the representatives of the estate, the bureau will not reverse its determination or reopen an assessment. This, however, does not bar an additional or corrected assessment being made upon the discovery of assets or liabilities after an original report has been filed and the taxes assessed thereon paid.

(b) Where an asset is the subject of litigation at the time of a decedent's death, the appraisal of such an asset is suspended until the suit is

terminated.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**§ 18:26-8.6 Final assessment**

N.J.S.A. 54:34-12 provides for an assessment of the tax by the Division. Upon receipt of the return and payment of any applicable tax, the Transfer Inheritance Tax Branch will advise the estate representative as to whether the return filed by the estate and the tax calculation are accepted, in which case the Branch's notification will be the assessment. In the event that the Branch decides to further examine the return, it will subsequently notify the estate representative as to the amount of tax assessed.

**HISTORY:**

Amended by R.1981 d.477, effective December 21, 1981.

See: 13 New Jersey Register 623(a), 13 New Jersey Register 948(d).

(a) Added "except ... applied". (c) and (d) deleted.

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).

Deleted old (c) and (d).

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Added text (a) "except when returns ..."

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

All text deleted; new text added.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**§ 18:26-8.7 Assessment notices; required statements**

(a) Any assessment notice changing the tax as reported by the taxpayer shall contain the

statements required pursuant to subsections a, b, and d of N.J.S.A. 54:48-6.

(b) An arbitrary assessment of tax made pursuant to the provisions of N.J.S.A. 54:49-5 shall include a statement of the reason for the assessment, the action or omissions of the taxpayer which require the assessment, or the nature of the documentary evidence, if any, which has prompted the assessment, including the following:

1. In the case of an underpayment or failure of payment, a statement of the corresponding alleged correct payment and the correct date of payment; and

2. In the case of a failure to file a return, a statement of the alleged filing date.

(c) The lack of any statement otherwise required to be included with a notice pursuant to (a) above, or the lack of any description otherwise required pursuant to (b) above, shall not invalidate such notice.

**HISTORY:**

Amended by R.1975 d.85, effective March 31, 1975.

See: 7 New Jersey Register 118(d), 7 New Jersey Register 240(c).

Amended by R.1975 d.348, effective November 18, 1975.

See: 7 New Jersey Register 488(b), 7 New Jersey Register 578(c).

Amended by R.1979 d.295, effective August 2, 1979.

See: 11 New Jersey Register 358(a), 11 New Jersey Register 475(a).

Amended by R.1983 d.445, effective December 20, 1982.

See: 14 New Jersey Register 1153(a), 14 New Jersey Register 1464(b).

Increased gross estate from \$ 200,000 to 250,000.

Deleted marital deduction and renumbered 2-4 as 1-3.

Amended by R.1986 d.441, effective November 3, 1986.

See: 18 New Jersey Register 1520(b), 18 New Jersey Register 2216(b).

Deleted text in (a) "Where the gross estate of a resident decedent is \$ 250,000 or less, the".

Amended by R.1989 d.85, effective February 6,

1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Substantially amended.

Repealed by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

New Rule, R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

### § 18:26-8.8 Time limit for assessment

(a) Upon the expiration of a period of 15 years after the date of death of a decedent, no proceeding may be instituted to assess or collect any tax, interest or penalties due this State for Inheritance Tax purposes against any estate, executor, administrator, trustee, grantee, donee, vendee, devisee, legatee, heir, next of kin or beneficiary. However, this does not affect any rights to collection which this State has by reason of filing with the Clerk of the Superior Court, a Certificate of Debt, Decree of Judgment for the New Jersey Inheritance Tax, including any interest and penalties; nor does the period of limitation affect the rights of this State to assess and collect the New Jersey Inheritance Tax including any interest and penalties under the terms of a bond or their agreement securing the payment of such tax, interest and penalties.

(b) For estates with date of death on or after July 1, 1993, no assessment of additional inheritance tax shall be made after the expiration of more than four years from the date of the filing of an inheritance tax return except in the following cases:

1. The return is false or fraudulent with the intent to evade tax;

2. If, before the expiration of the period prescribed in the subsection for the assessment of additional tax a taxpayer consents in writing that such period may be extended, the amount of such additional tax may be determined at any time within such period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period;

3. Tax on executory devises, contingent future interests and estates subject to a power of appointment is assessed pursuant to the provisions of N.J.A.C. 18:26-8.12, 8.21, 8.24 and 9.16;

4. If the inheritance tax return is amended by the taxpayer to include additional property of a decedent, the assessment of tax on the additional property shall not be made after four years from the date of the filing of the amended return;

5. The assessment of tax in an estate passing to a beneficiary discovered after the filing of an inheritance tax return shall not be made after four years from the date of the discovery of the beneficiary and receipt of notification by the Division; or

6. If a decedent's interest in property, or the value thereof as of the decedent's date of death, has not been determined at the time of the filing of an inheritance tax return due to litigation or controversy, the assessment of tax shall be made within four years after the decedent's interest in the property, or the value thereof on the decedent's date of death, has been definitely established and the Division receives notification.

(c) Returns not falling into the six categories in (b) above shall be subject to the provisions of (a) above.

(d) For the purposes of (b) above, an inheritance tax return filed before the corresponding day of the eighth month following the decedent's date of death shall be considered as filed on that day.

#### HISTORY:

Amended by R.1980 d.198, effective May 6, 1980.

See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Amended by R.2006 d.154, effective May 1,

2006.

See: 38 N.J.R. 108(a), 38 N.J.R. 1859(a).  
Rewrote the introductory paragraph of (b); in (b)5, substituted "Division" for "Inheritance Tax Branch"; and in (b)6, added "and the Division receives notification".

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-5.1, as amended by P.L. 1979, c.417; 54:49-6(b).

**§ 18:26-8.9 Appeals from assessment**

Any interested person dissatisfied with an appraisal or assessment made by the Inheritance Tax Branch may, before appealing to the Tax Court in accordance with N.J.A.C. 18:26-12.12, submit a written protest to the Branch in accordance with N.J.A.C. 18:26-12.9. Executors, administrators, trustees, or other interested parties should also avail themselves when appropriate of an informal hearing as provided under N.J.A.C. 18:26-10.

**HISTORY:**

Amended by R.1980 d.287, effective June 27, 1980.  
See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).  
Amended by R.1991 d.384, effective August 5, 1991.  
See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).  
Reference to N.J.S.A. 54:51A-13 et seq. added.  
Amended by R.1998 d.194, effective April 20, 1998.  
See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).  
Rewrote the section.

**§ 18:26-8.10 Valuations generally**

(a) All the real, personal property, tangible and intangible subject to the New Jersey Inheritance Tax is appraised according to its clear market value on the date of decedent's death.

(b) Any direction in a will regarding the payment of inheritance or estate taxes while binding on the executor and the beneficiaries has no effect in the computation of the tax due this State.

(c) The Director may, in his judgment and discretion, require that the appraisal of any

tangible assets subject to tax, be supported by an appraisal made by a broker, dealer, jobber or any other person having expert knowledge with respect to the market value of any such tangible property.

**HISTORY:**

Amended by R.1974 d.34, effective February 13, 1974.  
See: 6 New Jersey Register 35(b), 6 New Jersey Register 124(c).  
Amended by R.1976 d.246, effective August 3, 1976.  
See: 8 New Jersey Register 356(a), 8 New Jersey Register 445(b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-1 and 54:34-5.

**§ 18:26-8.11 Fractional interest in real property**

(a) The appraisal of real estate in which a decedent owned a fractional interest, in cases where the estate contends that a discounted value is in order, is conducted by a representative of the Inheritance Tax Branch.

(b) A determination shall then be made by a representative of the Inheritance Tax Branch as to whether a discount in value is warranted, and, if so, the amount of the discount to be allowed.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.  
See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).  
Organizational changes reflected.

**§ 18:26-8.12 Life estate in realty held by the entirety**

(a) When real property is devised or transferred to a husband and wife/civil union couple as tenants by the entirety each having a vested life estate in common with the other for their joint lives with a vested estate in fee in the entire remainder subject to defeasance, as to the one first dying, the value of such property for New Jersey Inheritance Tax purposes, is ascertained as follows:

1. A life estate is computed on the basis of the

lesser life expectancy of the devisees or grantees and the value so determined is considered as immediately vested in equal shares, and subject to tax accordingly.

2. The remainder is treated as contingent and a compounded (compromise) tax is suggested in accordance with N.J.S.A. 54:36-6, based upon the following alternatives:

i. The tax chargeable if the devisee or grantee against whom the lower rate of tax would apply survives;

ii. The tax chargeable if the devisee or grantee against whom the higher rate of tax would apply survives;

iii. The tax chargeable determined on the basis that the devisees or grantees will share the remainder equally as the result of a sale of the realty or the entry of a judgment of divorce.

**HISTORY:**

Amended by R.1980 d.198, eff. May 6, 1980.

See: 12 N.J.R. 221(a), 12 N.J.R. 355(b).

Amended by R.1981 d.477, eff. December 21, 1981.

See: 13 N.J.R. 623(a), 13 N.J.R. 948(d).

(a)1: "Lesser life expectancy" was "age of the older".

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 N.J.R. 2193(a), 21 N.J.R. 311(b).

Added text to (a) "or transferred".

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In the introductory paragraph of (a), inserted "/civil union couple".

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5; 54:35-1; 54:36-1 to 54:36-3 inclusive.

**§ 18:26-8.13 Bonds and mortgages**

It is presumed that the face value, or balance due, as of the date of death, plus any accrued interest as of such date, is the correct value of a bond and mortgage held as an investment unless conclusive proof to the contrary is submitted which clearly indicates a different value.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 & 54:35-1.

**§ 18:26-8.14 Partnerships**

(a) In the case of a decedent who was a member of one or more partnerships the partnership interest of such decedent is given a value as of the date of death, based upon the following information which is to be submitted with the return:

1. A detailed balance sheet, revised to reflect the market value of the assets as distinguished from the net book value, as of the date of death of the decedent, or as near thereto as may be deemed acceptable;

2. Detailed balance sheets (setting forth the partner's capital accounts) and establishing the net worth of the partnership for each of the five years preceding the date of death of the decedent;

3. Detailed profit and loss statements for the five years immediately preceding the date of death of the decedent;

4. A copy of partnership agreement if any;

5. The nature of the business in which the partnership is engaged;

6. A copy, or copies, if any of a mutual purchase agreement to which the decedent was a party at the time of his death; and,

7. A copy, or copies, of any insurance policies, on the life of the decedent, held by the surviving partners as beneficiaries.

(b) In cases where the decedent was a member of a partnership that constitutes a family limited partnership, special rules apply, including rules related to valuation of the partnership interest.

1. A family limited partnership is a limited partnership in which more than 50 percent of the partners are related by blood or marriage/civil union and which does not have a true business purpose. It may or may not hold an interest in another partnership or other asset which has a true business purpose. One indicia of a true business purpose is that the family limited

partnership has and engages in business or commercial transactions with customers, clients, persons or entities other than the partners of the family limited partnership, their family members or other related individuals or entities.

2. An interest in a family limited partnership is valued at the value of the underlying assets on the date of death of the decedent. Discounts for family limited partnership interests are not permitted unless the Director determines that they are warranted by the nature of and risk associated with the underlying assets.

**HISTORY:**

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Added (b).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (b)1, inserted "/civil union".

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5.

**§ 18:26-8.15 "Close" or "Family" corporation**

(a) The appraisal of any stock of a decedent in a "closely held" or "family" corporation, incapable of being valued on the basis of bona fide sales, is based on the following data to be submitted with the return:

1. A detailed balance sheet and profit and loss statement, revised to reflect the market value of the assets thereof as distinguished from the net book value, as of the date of death of the decedent, or as near thereto as the Director may deem acceptable;
2. Detailed balance sheets establishing the net worth of the corporation for each of the five years preceding the date of death of the decedent;
3. Detailed profit and loss statements for the five years immediately preceding the date of the death of the decedent;
4. A statement establishing the salaries paid to each officer of the corporation for the five years immediately prior to death;

5. The nature of the business in which the corporation is engaged;

6. A copy, or copies, of any stock purchase or option agreement to which the decedent was a party at the time of his death; and

7. A copy, or copies of any insurance policies, if any, held by the corporation as beneficiary on the life of the decedent. The proceeds of such insurance are included as an asset of the corporation on the date of death in arriving at the value of the stock;

8. The number of shares of stock of all classes issued and outstanding and the par value thereof;

9. Statement of dividends paid, if any, for a five year period prior to decedent's death;

10. List of stockholders and number of shares owned by each;

11. If corporation owned realty description of same, assessed and market value thereof should be shown;

12. Basis for determining that clear market value is the value reported in the return.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5.

**§ 18:26-8.16 Assets of close corporation or partnership of known market value**

(a) When the assets of a "closely held" corporation or "partnership" include stocks and bonds which have a definite, established and known daily market value and are readily reducible to cash at that value, no deduction thereon will be allowed in determining the book value of the stock of the corporation or interest in the partnership.

(b) In ascertaining the book value of the common stock of a "closely held" corporation, the preferred stock, issued and outstanding, must be deducted at par value even though it might be selling or it is claimed that it shall be valued for less.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 and 54:35-1.

**§ 18:26-8.17 Government bonds and securities**

(a) Treasury bonds and similar negotiable obligations issued by the United States Government are valued at:

1. The intermediate price between the low and high price prevailing on the date of death of the decedent if traded on an exchange or over the counter;
2. If there were no sales of bonds or similar negotiable obligations issued by the United States Government on the date of death, either the mean between the highest and lowest selling price for the previous day, or the nearest trading day prior to the date of death, or the prorated value used for Federal estate tax purposes reflecting the mean between the highest and lowest selling price on the nearest trading dates prior to and subsequent to the date of death may be used. The Alternative Valuation Date method of valuing bonds for Federal estate tax purposes is, however, not acceptable for New Jersey transfer inheritance tax purposes. All of the assets must be valued using the same method;
3. Interest accrued from last interest date to date of death is required to be added to the taxable estate in addition to the quoted value of bonds or similar obligations; except,

(b) Interest accrued from the last interest date to the date of death is not included in the appraisal of the United States Savings Bonds Series "H".

(c) Further, Government Securities acceptable in payment of Federal estate taxes at par will be valued for New Jersey Transfer Inheritance Tax purposes at their market value as of the date of a decedent's death in accordance with paragraph 1 of subsection (a) of this Section.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**HISTORICAL NOTE:**

Formerly Regulations 18 and 24 of Transfer Inheritance Tax Bureau filed on 9/7/55.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 and 54:35-1.

**§ 18:26-8.18 Stocks, bonds, mutual funds and securities**

(a) The value of stocks, bonds and securities listed on any stock exchange is appraised on the basis of the intermediate price between the low and high price prevailing on the date of death.

1. If there were no sales of stocks, bonds, and securities listed on a stock exchange on the date of death, either the mean between the highest and lowest selling price for the previous day, or the nearest trading day prior to the date of death, or the prorated value used for Federal estate tax purposes reflecting the mean between the highest and lowest selling price on the nearest trading dates prior to and subsequent to the date of death may be used. The Alternative Valuation Date method of valuing stocks and bonds for Federal estate tax purposes is, however, not applicable for New Jersey transfer inheritance tax purposes. All of the assets must be valued using the same method;

2. Where stock on the date of death or thereafter is selling "ex dividend", the dividend is required to be added to the taxable estate in addition to the quoted value of the stock.

(b) The value of stocks and bonds which are sold infrequently or in unconsequential numbers may not be ascertainable by reference to the sales price on an exchange since the stock exchange value reflected by quotations is nothing more than evidence of true value under ordinary and normal conditions. Therefore, in cases where stocks or bonds are infrequently traded or sold in small quantities it is necessary to resort to financial statements along with any other pertinent data to determine the value at date of death.

(c) Shares of mutual funds are appraised at the bid price prevailing on the date of death, and in the event there is no bid price if the date of death falls on holiday or Saturday or Sunday, the values shall be those provided in subsection (a) of this Section.

(d) The market value of rare or unlisted securities is established by information furnished by

brokers regularly dealing in such securities, officers of the corporations involved, or other documentary proof satisfactory to the Director.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**HISTORICAL NOTE:**

Formerly Regulations 21 and 22 of Transfer Inheritance Tax Bureau filed 2/21/51.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 and 54:35-1.

**§ 18:26-8.19 Patents, trade marks, copyrights, and other items**

The valuation of a "Patent", "Trade Mark", "Copyright", "License", "Franchise", is a question of fact in each instance, the burden of proof being on the representative of the estate to show the history of the item being valued, the state of the art or the monopoly created as of the date of death. The bookkeeping entries or its original costs are not regarded as a reliable gauge of value. In most cases, the date of death value is primarily based upon the probable earnings such items will bring its owner.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 and 54:35-1.

**§ 18:26-8.20 Discretionary and legal common trust funds**

(a) Since the admission and withdrawal to the funds are controlled by contract, the value of the fund, therefore, is to be determined as of the close of business on the last bank business days of January, April, July and October of each year. For inheritance tax purposes the valuation date shall be:

1. Where approval was obtained by the donor in his lifetime, then the valuation date so approved, will control the value of his interest in the fund.
2. If the donor dies more than five days prior to a contractual valuation date without having applied for approval, it shall be deemed that such a request was in fact made; then the valuation date

shall be the one next following his death.

3. If the donor dies five days or less prior to a valuation date, then the valuation date shall be the one next following the valuation date immediately after death.

4. If the donor dies one or more days subsequent to a valuation date, but more than five days prior to the next valuation date, the valuation date shall be the one following the date of death.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-5 and 54:35-1.

**§ 18:26-8.21 Contingent or defeasible estates**

(a) When an instrument creates an executory devise, or an estate in expectancy of any kind or character which is contingent or defeasible, the property which is the subject of such devise or in which such contingent or defeasible interest is created is appraised immediately at its clear market value. The value of the estate for life or term of years is then deducted from the appraised value of the property which is the subject of devise or limitation and the tax on such balance of the estate shall not be levied or assessed until the person or corporation entitled thereto comes into the beneficial enjoyment, seizing or possession thereof.

(b) Where the provisions of an inter vivos trust or decedent's last will and testament create a right in the beneficiary to request that a limited sum be paid to her or him annually and no right exists in the beneficiary to terminate the trust, the interest of said beneficiary will be construed as contingent in character for inheritance tax purpose.

(c) Where a number of years have elapsed between the date of death and the date of initial assessment, the Branch will inquire as to the amounts and dates of any payments to, or withdrawals by the beneficiary. If such payments or withdrawals have been made a contingent assessment, based upon the amount of corpus paid less any vested life estate value or discounted value will be completed.

(d) To secure contingent taxes, the bond of New Jersey Bank as principal or as one of the principals and as surety will be accepted,



provided such bond meets the requirements of form and content of the approved form of Bond, 0-54. In the case of a foreign fiduciary, however, a bond issued by a surety company licensed to operate in New Jersey as surety must be filed.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic change.

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-3 and 54:36-6.

**§ 18:26-8.22 Estates for life, estates for a term of years and annuities**

Life estates, estates for a term of years and annuities are valued using an interest rate assumption of six percent and the mortality data for persons of the relevant gender set forth in the tables of mortality contained in the United States Decennial Life Tables (Life Table for Males: United States and Life Table for Females: United States) most recently published by the United States Department of Health and Human Services as of the date of the decedent's death. This valuation methodology applies even in cases in which a holder of a life estate, estate for a term of years, or annuity survives the decedent by only a short period.

**HISTORY:**

Amended by R.1978 d.31, effective January 27, 1978.

See: 10 New Jersey Register 43(a), 10 New Jersey Register 128(a).

Amended by R.1978 d.118, effective April 6, 1978.

See: 10 New Jersey Register 127(c), 10 New Jersey Register 210(a).

Repeal and New Rule, R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(a), 26 New Jersey Register 5036(a).

Repeal and New Rule, R.1999 d.13, effective January 4, 1999.

See: 30 New Jersey Register 3612(b), 31 New Jersey Register 56(b).

Section was "Estates for life or years".

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-2.

**§ 18:26-8.23 Vested remainders after estate for life, estate for a term of years, or annuity**

When a vested remainder interest in any property subject to the New Jersey Inheritance Tax is bequeathed, devised, conveyed, granted, sold or given subject to one or more life estates, estates for a term of years, or annuities, such vested remainder is valued by first ascertaining the clear market value of the whole property and then deducting therefrom the value of each such life estate, estate for a term of years, or annuity as determined in accordance with the provisions of N.J.A.C. 18:26-8.22 (Estates for life, estates for a term of years and annuities).

**HISTORY:**

Amended by R.1999 d.13, effective January 4, 1999.

See: 30 New Jersey Register 3612(b), 31 New Jersey Register 56(b).

Rewrote the section.

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-1.

**§ 18:26-8.24 Estates subject to power of appointment**

When an instrument creates a power of appointment, the life estate or estate for years, to which such power is subject, is immediately appraised and taxed according to the provisions of N.J.A.C. 18:26-8.22; however, the appraisal and taxation of the remainder interest is suspended until the exercise of the power, at which time it is taxed at the clear market value as of date of death of the death of the creator of the power.

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-4

**§ 18:26-8.25 Certificates of deposit, savings certificates and special savings accounts**

Certificates of deposit, savings certificates, special savings accounts and other accounts with banking institutions which provide for a penalty for premature withdrawal are to be reported at face value at the death of the decedent, plus interest which may have been credited up to the

date of death, unless it is necessary to redeem any or all of the items so described in order to pay the debts of the estate, to carry out the provisions of the will, to effect distribution of the estate under the intestate law or for the payment of taxes. In those cases, the actual amount received on redemption is reportable for taxation.

**HISTORY:**

New Rule, R.1975 d.177, effective June 24, 1975.

See: 7 New Jersey Register 240(a), 7 New Jersey Register 349(c).

**§ 18:26-8.26 (Reserved)**

**SUBCHAPTER 9. RETURNS, PAYMENT AND PENALTIES**

**§ 18:26-9.1 Date return due**

(a) All inheritance tax returns must be filed, together with payment of the tax, within eight months following the death of the decedent. Failure of the personal representative, heir-at-law or next-of-kin, surviving joint tenant, trustee or transferee to file a return within the time prescribed subjects such party responsible for such filing to the penalties provided in N.J.S.A. 54:35-3.

(b) The Director may grant an extension in which the report may be filed. An estate representative may request an extension of time to file the New Jersey transfer inheritance tax return by filing Form IT-EXT (Application for Extension of Time to File a Return). An extension may be requested for a period of four months beyond the original due date. If it is not possible to file the return within the four month extension period, the estate representative may request an additional two month extension, or a total of six months. Extension beyond six months from the original due date of the return will be granted only in cases where the Director determines that exceptional circumstances exist.

1. This subsection provides the authority only for an extension of time to file the transfer inheritance tax return, and does not extend the time to pay the tax. The tax liability is due on the decedent's date of death and must be paid in full within eight months.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Tax payment required with return.

Amended by R.2002 d.135, effective May 6, 2002.

See: 34 New Jersey Register 16(a), 34 New Jersey Register 1725(b).

Rewrote (b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-2.

**§ 18:26-9.2 By whom filed**

(a) A return may be prepared, executed and filed by:

1. The personal representative of the estate; or,
2. Any beneficiary entitled to share in the estate where letters testamentary or of general administration are not applied for or not required; or,
3. A surviving joint tenant where the decedent dies intestate and his or her entire estate passes to a surviving joint tenant by operation of law; or,
4. The director of any county welfare board in cases where no executor or administrator has been appointed and an heir-at-law or next-of-kin is not available, or is unwilling to execute such returns, provided that such return is accompanied by a copy of the report of the board upon which the decision to grant assistance was based, and a copy of any document signed by the applicant (decedent) for assistance.

**HISTORICAL NOTE:**

Formerly regulation of Transfer Inheritance Tax Bureau filed on 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-2 and 54:35-3.

**§ 18:26-9.3 Form of returns**

Returns are required to be made on forms IT-R (Resident) and IT-NR (Non-Resident) approved by the Director which may be obtained by writing to the Transfer Inheritance Tax Branch,

PO Box 249, Trenton, New Jersey 08646-0249.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).

Deleted district supervisor of county.

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

**§ 18:26-9.4 Resident decedents' returns**

(a) In the case of a resident decedent, all returns must be filed and tax computed on one of the following forms and accompanied by payment of tax, a copy of the decedent's will, if such decedent died testate, as well as a copy of the decedent's income tax return (form 1040 or 1040A) filed with the Internal Revenue Service for the last full year preceding his or her date of death:

1. Form IT-R (Resident): Must be used in all resident estates.
2. Form L-4: Preliminary affidavit to be used in making application for consents to transfer prior to completion of the original return. The Branch will retain in every case control over a sufficient portion of the assets to assure collection of the tax, even though a payment on account may have been made. The Branch will not issue consents to transfer all the personal property and depends upon real property as security for the tax. The only exception to the procedure is where a bank, trust company, or similar institution has been named executor and guarantees in writing, payment of tax.
3. Form L-8: Self-executing waiver for use in permitting a transfer of assets to a Class "A" beneficiary.
4. Form L-9: Application by the representative of the estate of a resident decedent for issuance of a waiver permitting a transfer of real estate to a

Class "A" beneficiary.

5. Form L-10: Affidavit and self-executing waiver of County Welfare Director.

**HISTORY:**

Amended by R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).

Deleted filing with district supervisor where decedent dies.

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Added text to (a)2 "except when filed ..."

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Tax computation and payment required with return; Forms L-8 and -9 required.

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

In (a), added 5.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-3.

**§ 18:26-9.5 Nonresident returns**

(a) In the case of a nonresident decedent, a return must be filed and tax computed on Form IT-NR (Non-Resident) or, where the representative or beneficiary of such estate agrees to the use of a flat tax rate a flat tax rate affidavit, either of which must be accompanied by payment of tax, and a certified copy of the decedent's will, if such decedent dies testate.

(b) A flat tax may be paid in lieu of filing the information required in Form IT-NR, if the representative or beneficiary of a nonresident estate files an affidavit containing the following information:

1. The name of the decedent; date of death and legal domicile as of the date of death;
2. A description and fair market value if the New Jersey goods, wares and merchandise, describing

(by lot and block number and deed reference) the New Jersey real estate and giving the assessed and market values thereof for the year of decedent's death and explaining how any fractional ownership in real estate was derived if the decedent owned a fractional interest, as well as any liens or encumbrances outstanding at decedent's death;

3. A statement as to the value of gross estate of decedent both in and outside of New Jersey, certifying whether the decedent made any gifts or transfers in contemplation of death, or to take effect at or after death, or created any trust in his lifetime and giving the names and relationship to decedent of donees or transferees, and market value of gifts, transfers or trusts;

4. Where the decedent died testate, attach a certified copy of the will and give the ages as of the date of death of decedent of any life tenants or annuitants and stating whether all beneficiaries survived. In those cases where decedent died intestate, state the names of the heirs-at-law and the next-of-kin and their relationship to decedent, giving the parentage of any heirs and next-of-kin taking a deceased parent's share;

5. A recital to the effect that all right is waived for a refund of the payment of tax and interest found due.

(c) On the basis of the above data the flat tax will usually approximate the tax payable as if the detailed report were filed. Statutory rates and exemptions will be used in the flat rate computation.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Tax payment required with return.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-3.

**§ 18:26-9.6 Amendment to original return**

In the case of both resident and nonresident estates, any assets and liabilities not disclosed in the original return and all supplemental data requested by the Branch is to be filed in affidavit

form on legal size paper and attested to by the duly authorized statutory representative of the estate, next of kin, or beneficiary certifying in detail a description of the asset, real or personal and/or the liability and the reasons for failure to disclose same in the original return and filed directly with the Transfer Inheritance Tax Branch, PO Box 249, Trenton, New Jersey 08646-0249.

**HISTORY:**

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed on 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-3.

**§ 18:26-9.7 Confidential nature of returns**

(a) All transfer inheritance tax returns and data filed in connection therewith are considered privileged communications pursuant to N.J.S.A. 54:33-8 and 54:50-8 and are not to be inspected or copied by any person other than:

1. In the case of an intestate, the administrator duly appointed, or beneficiary entitled to share in the estate under the intestate laws or any duly authorized attorney for the foregoing persons; or

2. In the case of a testate decedent, those persons entitled to share under a probated will or the executor, or any duly authorized attorney for the aforementioned persons; or,

3. In the case of either an intestate or testate proceeding, a surviving joint tenant, or cestui que trust (trust beneficiary), or trustee or any duly authorized attorney for such persons, but only to the extent of such persons' legal or equitable interest in a decedent's estate.

4. Photostatic copies of records on file with the Transfer Inheritance Tax Branch may be obtained by authorized persons only upon proper application. Cost of photostatic copies shall be \$ .40 per page and check in payment thereof shall

be drawn to the order of Treasurer, State of New Jersey. Authentication will cost \$ 1.00 in addition to the charge per page.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Amended by R.1997 d.524, effective December 15, 1997.

See: 29 New Jersey Register 3779(a), 29 New Jersey Register 5312(b).

In (a)3, limited the right to inspect or copy returns to the extent of an authorized person's interest in a decedent's estate.

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:33-8.

**§ 18:26-9.8 (Reserved)**

**HISTORY:**

Repealed by R.1988 d.407, effective September 6, 1988.

See: 19 New Jersey Register 2255(b), 20 New Jersey Register 2310(c).

Provisions on failure to file return repealed.

Administrative Correction: Deleted text on failure to file return and reserved section.

See: 22 New Jersey Register 2752(a).

**§ 18:26-9.9 Payment**

(a) Due date of payment. The New Jersey Inheritance Tax is due at the date of a decedent's death; however, payment may be made at any time within eight months after the date of death. There is no extension of time permitted or granted for the payment of the tax.

(b) Due date, executory devise, contingent future estates, estates subject to power of appointment. The New Jersey Inheritance Tax on executory devise or the transfer of property subject to a contingency or a power of appointment is due and payable within two months after the person entitled to the property comes into enjoyment, seisin or possession of such property.

**HISTORY:**

Amended by R.1980 d.198, effective May 6, 1980.

See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-1, 54:36-5.

**§ 18:26-9.10 How tax is payable**

(a) A certified or cashiers check in full payment of the tax and interest, if any, must be filed together with the return directly with the Inheritance Tax Branch, PO Box 249, Trenton, New Jersey 08646-0249.

(b) Where interest has accrued at the time of any payment, such payment is first credited in satisfaction of the accrued interest, and the excess credited in payment of the tax chargeable. The interest shall continue to accrue on any remaining balance from the date of said payment to the date of final adjustment.

(c) Payment on account of any transfer inheritance tax to be assessed may be made in advance of the actual assessment. Any payment on account will also be accepted to cover any compounded, contingent or compromise assessment.

**HISTORY:**

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Zip code changed from 08625 to 08646.

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Payment method clarified.

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-2; 54:35-4.

**§ 18:26-9.11 Persons responsible**

Any administrator, executor, trustee to the extent of any estate funds in his possession, grantee, donee, cestui que trustent, beneficiary and vendee is personally liable for any and all New Jersey Inheritance Taxes until paid or provided for by bond in double the amount of the tax due to the extent of his or her interest in the estate and an action at law may be brought in the name of the State against any such person for payment of such tax. See N.J.A.C. 18:26-10.4 (Deduction or collection of tax before distribution).

STATUTORY REFERENCES:  
N.J.S.A. 54:35-2; 54:35-4.

**§ 18:26-9.12 Liability for nonpayment**

The tax on a gift in contemplation of death, or to take effect in possession or enjoyment at or after death, if not paid by the donee must be paid by executor or administrator to the extent of the assets within such fiduciary's possession or control.

HISTORICAL NOTE:  
Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-2.

**§ 18:26-9.13 Late payment; general provisions**

(a) Any payment of the New Jersey inheritance tax after the expiration of the corresponding day of the eighth month following the date on which it became due and payable shall bear interest at the rate of 10 percent per annum on any unpaid portion of the tax, from the expiration of eight months after the date on which it became due and payable until the date of actual payment, unless payment was tendered by the taxpayer within the eight month period and is evidenced by the postmark of the United States Postal Service on the letter conveying the payment, by a postmark made by other than the United States Postal Service (that is, metered mail) within the eight month period and the payment was received by the Inheritance Tax Branch within three days of the expiration of the eight month period, or by other acceptable proof, but was not credited

through no fault of the taxpayer, in which case no interest shall be charged, or unless by reason of any claims made upon the estate, necessary court litigation, or other unavoidable cause of delay, the decedent's estate or a part thereof, cannot be settled before the expiration of eight months from the date of death, in which event interest at the rate of only six percent per annum is to be charged from the expiration of eight months until the cause of delay is removed.

(b) In cases where there is no corresponding day in the eighth calendar month following the date of death, the first business day of the succeeding month shall be the effective date for purposes of determining interest penalties; for example where decedent died June 30, 1962, the tax payment will not bear interest if made on or before March 1, 1963.

(c) In cases where a decedent dies while a member of the Armed Forces of the United States, the tax due shall begin to bear interest at the rate of 10 percent per annum on any unpaid balance due after the expiration of eight months after receipt of official notification of the death of the decedent by the spouse/civil union partner, parent or next of kin of such decedent.

(d) Any person liable for the payment of the tax, may, in order to avoid a penalty, estimate and pay the tax believed to be owing prior to actual receipt of a tax bill. In the event of any overpayment of the tax, a refund will be made. In the event of an underpayment, interest will be charged on the balance due.

(e) Tax on any sum recovered as compensation for the death of a person caused by a wrongful act, neglect, or default must be paid within 30 days of the receipt of the award or settlement. Tax not paid within 30 days shall bear interest at the rate of 10 percent per annum from the expiration of eight months after the due date (the date of the award settlement) to the date of actual payment subject to the exceptions in (a) above.

(f) For returns due on or after July 1, 1993 the Director shall waive the payment of any part of any penalty or interest attributable to the executor's, administrator's, or trustee's reasonable reliance on erroneous advice furnished to the taxpayer in writing on or after July 1, 1993 by an employee of the Transfer Inheritance and Estate

Tax Branch acting in the employee's official capacity, provided that the penalty or interest did not result from the failure of the executor, administrator or trustee to provide adequate or accurate information. The executor, administrator, or trustee has the affirmative obligation to show that it was reasonable to rely on the written advice.

**HISTORY:**

Amended by R.1978 d.31, effective January 27, 1978.

See: 10 N.J.R. 43(a), 10 N.J.R. 128(a).

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a).

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (c), substituted "10 percent" for "ten per cent" and inserted "/civil union partner".

**STATUTORY REFERENCES:**

(a) N.J.S.A. 54:35-3; (e) N.J.S.A. 54:35-4.1; (f) N.J.S.A. 54:49-11(b).

**§ 18:26-9.14 Payment on executory devise or transfer subject to a contingency or power of appointment**

(a) With respect to the payment of the tax due on an executory devise, or a transfer subject to a contingency or power of appointment, any payment on such a transfer after the expiration of two months from the date the contingency occurs or the property vests, shall bear interest at the rate of 10 percent per annum from the expiration of the two-month period, until the date of actual payment.

(b) In any case where a contingent remainder vests in beneficial possession and enjoyment subsequent to the death of the original decedent, but prior to the expiration of the statutory interest period, interest on the contingent tax does not start to accrue until eight months from the date of death of the original decedent.

**HISTORY:**

Amended by R.1980 d.287, effective June 27, 1980.

See: 12 N.J.R. 352(b), 12 N.J.R. 497(a).

Amended by R.2007 d.206, effective July 2, 2007.

See: 39 N.J.R. 853(b), 39 N.J.R. 2545(a).

In (a), substituted "10" for "ten" and "expiration of the two-month period" for "date the contingency occurs or the property vests".

**STATUTORY REFERENCES:**

N.J.S.A. 54:36-5.

**§ 18:26-9.15 Bond for failure to pay tax**

(a) Where an executor, administrator, grantee, donee, vendee, or trustee fails to pay the tax due within eight months from the date of a decedent's death, such person is required to give a bond, on a form approved by the Director, to the State of New Jersey, in double the amount of the tax to secure payment of any tax and interest which may become due.

(b) In the case of tax due on any sum recovered as compensation for the death of a person caused by a wrongful act, neglect, or default, the bond shall be required within eight months of the due date (the date of the award or settlement) if the tax is not paid within 30 days of the receipt of the award or settlement.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-3, 54:35-4, 54:35-4.1, 54:35-5.

**§ 18:26-9.16 Composition of taxes, bond**

(a) Where an estate is so created that the remainders or expectant estates are of such a nature or are so disposed or circumstanced that the taxes thereon are held not to be presently payable, or where the interests of legatees or devisees are not ascertainable at the death of the testator, grantor, donor or vendor, the Director may enter into an agreement with the executors or trustees of such estate for the purpose of compounding the tax due upon such terms as are deemed equitable and expedient.

(b) The payment of the tax due pursuant to a composition or compromise are conclusive in favor of the executor or trustee as against any cestui que trust and who possess a present right of enjoyment, interest in, or fixed, absolute or

indefeasible right of future enjoyment in property and any cestui que trustents as would possess such rights in the event a particular estate would terminate.

(c) If the executor or trustee elects to defer the adjustment of the taxes due until the person or body politic or corporate beneficially interested in the property chargeable with the tax comes into actual possession or enjoyment of the property, such executor or trustee must execute a bond to the State of New Jersey in twice the amount of the tax imposed at the highest possible rate, with such surety or sureties as approved by the New Jersey Department of Banking and Insurance or by the Director, conditioned to pay the tax and interest at the time or period when such contingency occurs.

STATUTORY REFERENCES:  
N.J.S.A. 54:36-6.

**§ 18:26-9.17 (Reserved)**

**SUBCHAPTER 10. COLLECTION AND REFUND**

**§ 18:26-10.1 Levy of tax; resident and nonresident decedents**

Resident and nonresident decedents' returns must be filed together with a certified or cashier's check in full payment of the tax and interest, if any, directly with the Inheritance Tax Branch, PO Box 249, Trenton, New Jersey 08646-0249. Upon filing of a return and payment of the tax, the Branch will issue a notice of assessment showing the amount of tax due, the amount paid, and whether interest is due or a refund is to be issued (see N.J.A.C. 18:26-8.6, 9.4, 9.9 and 9.10).

HISTORY:  
Amended by R.1991 d.384, effective August 5, 1991.  
See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).  
Levy of tax clarified.  
Amended by R.1998 d.194, effective April 20, 1998.  
See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

STATUTORY REFERENCES:  
N.J.S.A. 54:34-12.

**§ 18:26-10.2 Lien of tax; duration**

(a) The New Jersey Inheritance Tax whether or not assessed or levied constitutes a lien on all the property owned by the decedent as of the date of death for a period of 15 years unless sooner paid or secured by a bond.

(b) After a period of 15 years from the date of a decedent's death has expired no proceeding may be instituted to assess and collect the New Jersey Inheritance Tax or any interest or penalties due thereon. No notice or consent to transfer is required for the transfer of any real or personal property and no personal liability remains on any executor, administrator, trustee, grantee, donee, vendee, devisee, legatee, heir, next of kin or beneficiary; however, this does not affect any right of the State under any certificate of debt, decree or judgment for taxes, interest and penalties duly recorded with the clerk of the Superior Court, or with any county clerk, or to assess and enforce the collection of any tax including any interest and penalties pursuant to the terms of any bond or other agreement securing the payment of the tax, interest and penalties.

HISTORY:  
Amended by R.1980 d.198, effective May 6, 1980.  
See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

STATUTORY REFERENCES:  
N.J.S.A. 54:35-5 and 54:35-5.1, as amended by P.L. 1979, c.417.

**§ 18:26-10.3 (Reserved)**

**§ 18:26-10.4 Deduction or collection of tax before distribution**

(a) An executor, administrator or trustee having charge or holding in trust any property subject to the New Jersey Inheritance Tax for distribution is to deduct from such property the Inheritance Tax assessed and levied on the transfer prior to distribution to the transferee. In the event the property to be transferred is not money, however, the executor, administrator or trustee is to collect



the Inheritance Tax assessed and levied from the person entitled to the property prior to delivering such property to the transferee, and unless such tax is collected, the executor, administrator or trustee may not deliver or be compelled to deliver any property to a transferee.

(b) In the case of a legacy charged upon or payable out of real property, the heir or devisee is to deduct the Inheritance Tax from the legacy and pay such tax over to the executor, administrator or trustee who may enforce the payment of such tax in the same manner as the payment of such legacy may be enforced.

(c) In the case of a legacy given to a person in money for a limited period, the executor, administrator or trustee is to retain the Inheritance Tax due for the entire amount of money transferred; however, if such legacy is charged upon or payable out of property, other than money, the executor, administrator or trustee, may, if he believes the same to be necessary, apply to the court having jurisdiction of his accounts to make an apportionment of the sum to be paid him by the legatee for the tax.

(d) An executor, administrator or trustee may, if necessary, sell so much of the property of a decedent as is necessary to pay the New Jersey Inheritance Tax due on the transfer of such property.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-6 and 54:35-7.

**§ 18:26-10.5 Payment of tax collected; receipt**

Within 30 days from the time an executor, administrator, or trustee has retained or received the amount due for inheritance taxes on the transfer of property, he is required to pay the same to the Director and may, upon written request, receive a receipt signed by the State Treasurer and countersigned by the Director, which represents a voucher in settlement of the account of the executor, administrator, or trustee.

**HISTORY:**

Amended by R.1980 d.287, effective June 27, 1980.

See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).

Amended by R.1994 d.627, effective December

19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

STATUTORY REFERENCES:  
N.J.S.A. 54:35-8.

**§ 18:26-10.6 Statement of payment or exemption**

When the tax and interest chargeable has been paid in full or secured by bond, or when an estate is determined by the Director to be exempt from any Inheritance Tax of this State, a statement of such fact, signed by the Director and including a description of any real property involved, is issued to the executor, administrator or other representative of the estate who may record such statement in the office of the county clerk of the county wherein the real property if any is situated.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-9.

**§ 18:26-10.7 Proceedings to compel payment of taxes; collection cost fees**

(a) In the event the New Jersey Transfer Inheritance Tax which has accrued is not paid within the time provided by law, the Director shall notify the Attorney General of this State who shall institute an action to compel the payment of such tax in the name of the Director in the Superior Court of this State and any judgment cited in such action will have the same effect as other judgments entered in the Superior Court so as to constitute a lien which may be executed on any property of a decedent.

(b) In the event the New Jersey inheritance tax is not paid within the time prescribed by law, fees for the cost of collection shall be imposed as follows:

1. If a certificate of debt is issued pursuant to N.J.S.A. 54:49-12, the fee shall be five percent of the tax or \$ 100.00, whichever is greater;

2. If the tax remains unpaid after the issuance of the certificate of debt and the matter is referred to the Attorney General, the fee shall be 10 percent of the tax or \$ 200.00, whichever is greater; and

3. If a suit is instituted for the collection of the tax, the fee shall be 20 percent of the tax or \$ 500.00, whichever is greater.

(c) The fees specified in (b) above shall be paid in addition to any interest or penalty, or both, otherwise provided by law.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-15, 54:49-12.1.

**§ 18:26-10.8 (Reserved)**

**§ 18:26-10.9 Refund for erroneous overpayment**

In any case where there has been an overpayment in error of the New Jersey Inheritance Tax, an application for a refund may be made in the manner provided in N.J.A.C. 8:26-10.12 (Time and manner of mailing application for refund) to the Director, who upon satisfactory proof of such erroneous payment, may certify such overpayment to the Director of the Division of Budget and Accounting who in turn draws his warrant on the State Treasurer for the amount overpaid in favor of the executor, administrator, person or persons who have paid the tax in error, or who are lawfully entitled to such refund.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-10.

**§ 18:26-10.10 Overpayment of account**

In any case where the amount paid on account for New Jersey inheritance taxes exceeds the amount of such tax due after final assessment has been made, the amount so overpaid shall be refunded by the State Treasurer in the due course of business, provided, however, that all applications for a full or partial refund of the payment of the transfer inheritance tax shall be made within three years from the date of such payment, or from the date of the final determination of a court of competent

jurisdiction, which establishes the fact that the decedent had no legal or equitable interest in the property on which the tax was assessed and erroneously paid, whichever is later; and provided, however, that no refund shall be made where such final determination occurs more than 20 years after the date of death of the decedent.

**HISTORY:**

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

Rewrote the section.

**§ 18:26-10.11 Refund when debt proved after legacy or distributive share paid**

In any case where a debt against the estate of a decedent is proved after a legacy has been paid or property has been distributed from which legacy or property the New Jersey Inheritance Tax has been deducted or paid, the legatee, devisee, heir or next of kin may make an application for a refund to pay such debt to the executor, administrator or trustee, who shall refund a proportion of the tax where the same has not been paid to the Director or who shall make application for a refund to the Director in the manner provided in N.J.A.C. 18:26-10.12 (Time and manner of mailing application for refund) and upon receipt of such refund, repay the legatee, devisee, heir or next of kin the proportion of the tax overpaid.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-11.

**§ 18:26-10.12 Time and manner of making application for refund**

(a) All applications for a refund are to be made within three years from the date of payment or from the date of any final determination of a court of competent jurisdiction which establishes the fact that the decedent had no legal or equitable interest in the property on which the tax was assessed, whichever is later, but in no event shall a refund be made where such final determination occurs more than 20 years after the date of decedent's death.

(b) Such application is to be made by means of an affidavit on legal size paper, setting forth in detail all of the facts upon which the claim for

refund is based, including a copy of a Court Order, if a court of competent jurisdiction has made a final determination upon which the refund is based, signed by the executor, administrator, trustee, heir-at-law, or surviving joint tenant and filed directly with the Transfer Inheritance Tax Branch, PO Box 249, Trenton, New Jersey 08646-0249.

(c) The date of payment is defined as the date the payment is actually received by the Division. It is not the date on which the tax return is filed, the date the Notice of Assessment is issued or the date on which the audit is completed and/or the file closed.

(d) Protective refund claims based on reasonably anticipated events may be filed within the time periods set forth in (a) above.

1. The refund claim must be made on the inheritance and estate tax "Protective Claim for Refund" form. The form must be fully completed and set forth the estimated refund amount and the basis for the claim.

2. The Director must be notified of the actual refund claimed within 90 days after occurrence of the anticipated event.

3. For the purpose of determining the interest, if any, payable on a protective refund claim, the refund claim shall be deemed to have been made on the date that the Director is notified of the occurrence of the anticipated event.

**HISTORY:**

Amended by R.1980 d.198, effective May 6, 1980.

See: 12 N.J.R. 221(a), 12 N.J.R. 355(b).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Stylistic changes.

Amended by R.2009 d.144, effective May 4, 2009.

See: 41 N.J.R. 390(a), 41 N.J.R. 2051(a).

In (a), substituted "20" for "15"; and added (c) and (d).

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-10 and 54:35-11.

**§ 18:26-10.13 Interest on refunds**

If the Inheritance Tax Branch takes more than six months to remit a valid refund after a refund application or written request is received by the Director, taxpayers have the right to receive interest on the refund. If interest must be paid, it will be calculated to accrue from the date of filing of a refund claim, the date of tax is paid in accordance with N.J.A.C. 18:26-8.6, or the due date of the return, whichever is later. Interest will be paid at a rate determined by the Director to be equal to the prime rate, determined for each month or fraction thereof, compounded annually at the end of each calendar year, from the date that such interest commences to accrue to the date of the refund. This rule becomes effective for returns due on and after January 1, 1994. No interest will be paid on an overpayment of less than one dollar (\$ 1.00), or on an overpayment refunded within six months after the last date prescribed or permitted by extension of time for filing the return, or within six months after the return is filed, whichever is later. No interest will be paid on an overpayment unless the taxpayer files a claim for refund.

**HISTORY:**

New Rule, R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:49-15.1.

**SUBCHAPTER 11. WAIVERS--CONSENT TO TRANSFER**

**§ 18:26-11.1 Consent to transfer; generally**

(a) Except as otherwise indicated in this chapter, no executor, administrator, trustee, individual, firm, association, partnership, organization or corporation including any banking institution, trust company or safe deposit company organized under the laws of New Jersey; National Bank operating in this State; Building and Loan or Savings and Loan Associations engaged in New Jersey; or credit

unions chartered by the United States operating in this State, may release or transfer any real property or any tangible or intangible personal property which is subject to the Transfer Inheritance Tax and if the decedent died after December 31, 2001 which is subject to the estate tax, all or any part of which belongs to a resident decedent, whether held in the name of the decedent or otherwise, without first obtaining the written consent to such transfer or release from the Director.

(b) No waivers are required in estates of nonresident decedents, except for an inheritance tax waiver for real property located in the State of New Jersey.

1. There is, however, the necessity of definitely establishing to the satisfaction of the trustee, individual, firm, association, partnership, organization or corporation (its transfer agent) including any banking institution, trust company or safe deposit company organized under the laws of New Jersey; National Bank operating in this State; Building and Loan or Savings and Loan Associations engaged in New Jersey; or credit unions chartered by the United States operating in this State that the decedent was legally domiciled in a jurisdiction other than New Jersey. The proper procedure is for the personal representative of the estate to file with the proper party as aforesaid an affidavit establishing in some detail the facts as to domicile;
2. These should include place of residence and voting; social and business affiliations, where the last five income tax returns were filed prior to death; date of commencement and length of actual residence in place claimed as legal domicile; whether decedent formerly resided in New Jersey and, if so, what facts are relied upon to establish abandonment of New Jersey and intention not to return;
3. If from the proofs submitted to him the proper party as aforesaid is convinced that decedent was legally domiciled outside of New Jersey he may transfer the stock or obligation of the corporation or any other tangible or intangible personal property without the written consent of the Director, Division of Taxation, keeping the affidavit in his permanent files as authority for the action taken.

(c) No inheritance tax waivers are required to be issued by the Director in the case of certain transfers to the surviving spouse of a New Jersey domiciled decedent who died on or after January 1, 1985, or a surviving civil union partner of a New Jersey domiciled decedent who died on or after February 19, 2007, or to a registered domestic partner of a New Jersey domiciled decedent who died on or after July 10, 2004. In order to satisfy a corporation (its transfer agent) including any banking institution, trust company organized under the laws of New Jersey, national bank operating in this State, building and loan or savings and loan association in New Jersey, or credit union chartered by the United States operating in this State that intangible assets may be released to the surviving spouse/civil union partner or domestic partner, an affidavit of waiver (Form L-8) can be executed by the surviving spouse/civil union partner or domestic partner or the personal representative of the decedent's estate.

1. If two or more executors or administrators qualify, the affidavit may be executed by one of them.
2. The decedent's surviving spouse/civil union partner can execute an affidavit (Form L-8) in all cases where under the terms of the account or instrument and applicable State law the spouse/civil union partner has the right of survivorship or is the named beneficiary. Letters testamentary or of administration are not required to be attached as part of the affidavit when executed by the surviving spouse/civil union partner, except as provided in (c)3 below.
3. Where the surviving spouse/civil union partner has qualified as executor or administrator of the decedent's estate, intangible assets which pass to the spouse/civil union partner under a will or the law of intestate distribution can be released by the affidavit together with other assets described in (c)2 above, provided that the spouse's/civil union partner's letters testamentary or of administration are attached and made a part of the affidavit as provided in (c)1 above. Where the spouse/civil union partner has not qualified as an executor or administrator of the decedent's estate, only intangible assets may be released by the affidavit in accordance with (c)2 above.
4. A separate affidavit is required for each

institution, organization or corporation releasing assets to a surviving spouse/civil union partner.

5. The affidavit of waiver by the surviving spouse/civil union partner cannot be used for real property and tangible personal property transfers from a decedent to a surviving spouse/civil union partner.

6. Estate tax waivers are required if the decedent died after December 31, 2001 except as provided in (e) below. Estate tax waivers are not required if a decedent died on or prior to December 31, 2001.

(d) No inheritance tax waivers are required to be issued by the Director in case of certain transfers to the following Class "A" transferees in the estate of New Jersey domiciled decedent who died on or after July 1, 1988: a father, mother, grandparent, grandchild, a child or children of a decedent, including any stepchild of a decedent or child or children adopted by a decedent or the issue of any child or legally adopted child of a decedent. In order to satisfy a corporation (its transfer agent) including any banking institution, trust company organized under the laws of New Jersey, national bank operating in this State, building and loan or savings and loan association in New Jersey, or credit union chartered by the United States operating in this State that intangible assets may be released to the Class "A" transferee, an affidavit of waiver can be executed by the Class "A" transferee or the personal representative of the decedent's estate.

1. If two or more executors or administrators qualify, the affidavit may be executed by one of them.

2. The Class "A" transferee can execute an affidavit in all cases where under the terms of the account or instrument and applicable State law the Class "A" transferee has the right of survivorship or is the named beneficiary. Letters testamentary or of administration are not required to be attached as part of the affidavit when executed by the Class "A" transferee, except as provided in (d)3 below.

3. Where the Class "A" transferee has qualified as executor or administrator of the decedent's estate, intangible assets which pass to the Class "A" transferee under a will or law of intestate

distribution can be released by the affidavit together with assets described in (d)2 above, provided that the Class "A" transferee's letters testamentary or of administration are attached and made a part of the affidavit as provided in (d)1 above. Where the Class "A" transferee has not qualified as an executor or administrator of the decedent's estate, only intangible assets may be released by the affidavit in accordance with (d)2 above.

4. A separate affidavit is required for each institution, organization or corporation releasing assets to a Class "A" transferee.

5. The affidavit of waiver by the Class "A" transferee cannot be used for real property and tangible personal property transfers from a decedent to a Class "A" transferee.

6. Estate tax waivers are required if the decedent died after December 31, 2001 except as provided in (e) below. Estate tax waivers are not required if a decedent died on or prior to December 31, 2001.

(e) An estate tax waiver is not required for decedents dying after December 31, 2001 if the decedent's taxable estate plus adjusted taxable gifts for Federal estate tax purposes under the provisions of the Internal Revenue Code in effect on December 31, 2001 does not exceed \$ 675,000.

(f) In the absence of the express approval of the Director, waivers are not issued until the passage of ten business days following the receipt of payment.

**HISTORY:**

Amended by R.1971 d.2, effective January 4, 1971.

See: 2 N.J.R. 102(g), 3 N.J.R. 30(c).

Amended by R.1985 d.650, effective January 6, 1986.

See: 17 N.J.R. 2241(b), 18 N.J.R. 94(d).

New (c) added; old (c) renumbered to (d).

Amended by R.1989 d.210, effective April 17, 1989.

See: 21 N.J.R. 285(a), 21 N.J.R. 1021(a).

(b): corrects rule regarding waiver requirement for real property. New (d) added to explain the use of a "spousal" or "self-executing" waiver that

allows for the release of certain assets to a surviving spouse. Old (d) recodified as (e). Amended by R.1994 d.627, effective December 19, 1994.  
See: 26 N.J.R. 4166(c), 26 N.J.R. 5036(a). Amended by R.2003 d.152, effective April 7, 2003.  
See: 34 N.J.R. 3935(a), 35 N.J.R. 1567(b).  
In (a), inserted "and if the decedent died after December 31, 2001 which is subject to the estate tax" following "Transfer Inheritance Tax"; in (b), inserted "an inheritance tax waiver for" preceding "real property" in the introductory paragraph; in (c) and (d), inserted "inheritance tax" preceding "waivers are required" in the introductory paragraph, substituted "of" for "or" following "The affidavit" in 5 and added 6; added a new (e); recodified former (e) as (f). Amended by R.2008 d.72, effective April 7, 2008.  
See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
In the introductory paragraph of (c), rewrote the first sentence, inserted "(Form L-8)" and inserted "/civil union partner or domestic partner" twice; in (c)2 through (c)5, inserted "/civil union partner" throughout; in (c)2, inserted "(Form L-8)"; and in (c)3, inserted "/civil union partner's".

**HISTORICAL NOTE:**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.2 Executors and trustees to pay tax**

(a) An executor, administrator or trustee is not permitted to turn over any property subject to an executory devise, an estate in expectancy of any kind or character which is contingent or defeasible, or a power of appointment unless the New Jersey Inheritance Tax and the New Jersey Estate Tax including any interest due has been first paid to the Director.

(b) Any executor, administrator or trustee who transfers such property prior to having paid the tax and interest, if any, chargeable, becomes personally liable to the extent of all the assets of the estate subject to his control, for the payment of the tax including interest which is due on such transfers.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

In (a), inserted "and the New Jersey Estate Tax" following "the New Jersey Inheritance Tax".

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-8.

**§ 18:26-11.3 Consent to transfer not issued**

(a) Before the Director issues any Inheritance Tax consents to transfer the assets of a person dying domiciled in this State, it is required that proof be submitted showing the will of such decedent was originally probated in New Jersey, or that letters of administration were originally granted in this State. If it appears that original probate or original administration was had in a foreign jurisdiction, all consents to transfer the decedent's assets will be withheld and a report made to the county court of the county in which a decedent died domiciled, or to the Superior Court until an order is issued from the court.

(b) The provisions of (a) above shall not apply in cases where it appears to the Director that neither the probate of a decedent's will nor the grant of letters of administration are required by the laws of this State. In any case, however, the Director may, at his discretion, issue any and all Inheritance Tax consents to transfer the assets of a decedent where in his judgment, the collection of the Transfer Inheritance Tax payable to New Jersey would be jeopardized by the withholding of such consent.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

Inserted "Inheritance Tax" preceding "consents to transfer" throughout.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-23.

**§ 18:26-11.4 Real and personal property of resident and nonresident decedents**

(a) Waivers consenting to the transfer of real

property located in New Jersey are necessary for estates of resident decedents or estates of decedents whereby guardians have been appointed for the deceased prior to his death; except, that real property held by a husband and wife/civil union couple as tenants by the entirety must be transferred without a waiver in the estate of the spouse dying first.

(b) An inheritance tax waiver is required for a period of 15 years from the date of such decedent's death and if the decedent died after December 31, 2001 an estate tax waiver is required for an unlimited period in order to effect the transfer or delivery of the real or personal tangible or intangible property specified in N.J.A.C. 18:26-11.1, Consent to transfer; generally, which the decedent owned or in which he had an interest at the date of death.

(c) Inheritance tax waivers are necessary to transfer any real property located in New Jersey belonging to a nonresident decedent. Such waivers are issued after the nonresident decedent return is filed with the Transfer Inheritance Tax Branch and the tax, if any, is adjusted and paid.

**HISTORY:**

Amended by R.1980 d.198, effective May 6, 1980.

See: 12 N.J.R. 221(a), 12 N.J.R. 355(b).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).

Stylistic changes.

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 N.J.R. 3935(a), 35 N.J.R. 1567(b).

Rewrote (b); in (c), substituted "Inheritance tax waivers" for "Waivers".

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (a), substituted "wife/civil union couple as" for "wife and".

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-5.

**§ 18:26-11.5 Leasehold interest**

The written consent of the Director is required to transfer any leasehold or chattels real, which a decedent owned or in which a decedent had an

interest.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.6 Mortgage participation certificates**

In order to effect the transfer of any mortgage participation certificates registered in the name of a decedent of which belong to a decedent even though held in the name of another, it is necessary to obtain a waiver.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.7 Share of a deceased beneficiary**

In any case where a beneficiary dies prior to the settlement of an estate in which such beneficiary is entitled to receive a share or interest, the executor or administrator of the first estate must first obtain a waiver before transferring such share or interest.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.8 Transfers to savings accounts without a waiver**

(a) Funds of a decedent on deposit in a checking account in any bank may be transferred to an interest bearing account in the same bank in the name of the decedent or his estate without obtaining a waiver.

(b) Funds of a decedent on deposit in an Individual Retirement Account (IRA) and/or Keogh retirement plan account may be transferred to another account in the same bank without obtaining a waiver.

(c) Any certificate of deposit or any type of a preferred account containing funds of a decedent may be transferred to another account in the same bank without obtaining a waiver.

(d) The transfers permitted in (a) through (c) above are subject to the requirement that the banking institution promptly file a notice with the Transfer Inheritance and Estate Tax Section of the Individual Tax Audit Branch, PO Box 249,

Trenton, New Jersey, 08646-0249, containing the following information:

1. Decedent's name;
2. Date of death and domicile;
3. Name and address of executor or administrator of estate;
4. The account number, or certificate number, sought to be transferred and the balance on deposit or the maturity value as of the date of death.

(e) In any event, the bank is required to retain the same control over the substituted account as the original account until the New Jersey Inheritance Tax and the New Jersey Estate Tax are provided for and paid.

**HISTORY:**

Amended by R.1978 d.286, effective August 15, 1978.

See: 10 New Jersey Register 300(b), 10 New Jersey Register 407(b).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

In (d), inserted "and Estate Tax Section of the Individual Tax Audit" following "Transfer Inheritance" in the introductory paragraph; in (e), substituted "and the New Jersey Estate Tax are" for "is" following "New Jersey Inheritance Tax".

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.9 From one fiduciary to another**

Bonds and/or stock of a New Jersey Corporation or a national bank located in New Jersey, or any money deposited in any trust company, bank or other institution in the name of

one court appointed fiduciary as executor, administrator or trustee or guardian, may, upon the death of such fiduciary, be transferred without a New Jersey Transfer Inheritance Tax and a New Jersey Estate Tax waiver to, or on the order of, the legally appointed substitute for the deceased fiduciary.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

Inserted "and a New Jersey Estate Tax" following "a New Jersey Transfer Inheritance Tax".

**§ 18:26-11.10 Transfer from joint fiduciaries to successors**

Bonds and/or stock of a New Jersey corporation or a national bank located in New Jersey or any money deposited in any trust company, bank or other institution in the names of two or more fiduciaries as executors, administrators, trustees or guardians, may, upon the death of one or more of such fiduciaries, be transferred without a New Jersey Transfer Inheritance Tax and a New Jersey Estate Tax waiver, to, or on the order of, the surviving fiduciary or fiduciaries.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

Inserted "and a New Jersey Estate Tax" following "a New Jersey Transfer Inheritance Tax".

**§ 18:26-11.11 Transfer of partnership interest**

The written consent of the Director is not required for the transfer of real or personal property, tangible or intangible, owned by a bona fide partnership in which a decedent had an interest.

**§ 18:26-11.12 Transfer of assets held by nonresident custodian**

A waiver is not required in order to transfer any assets held by a nonresident custodian on



behalf of a resident or nonresident decedent.

**§ 18:26-11.13 Transfer of tangible or intangible personal property**

(a) A waiver is not required in order to transfer all other tangible or intangible personal property, including but not limited to:

1. Wages;
2. Salaries;
3. Vacation and sick leave pay;
4. Payment under pension, profit sharing, bonus plans or stock purchase plans;
5. All automobiles;
6. Mortgages;
7. Accounts Receivable;
8. Household goods;
9. Personal effects;
10. Funds held in an account in the name of a funeral director in trust for a decedent in accordance with the provisions of N.J.S.A. 2A:102-13 (advance funeral payment);
11. Funds to a decedent's credit in a Credit Union plan organized under N.J.S.A. 17:13-26 et seq. in addition to any matching sums paid under any type of Credit Union plan in the form of a life insurance where said matching sum is directed to be paid to a decedent's estate or his executor or administrator. However, funds held under the Federal Credit Union Act must be reported and a waiver obtained.

(b) Any property, the transfer of which is not subject to first obtaining a waiver, must, nevertheless, be reported on a decedent's return.

(c) Transfer of property held by revocable and irrevocable trusts may be taxable pursuant to N.J.S.A. 54:34-1c either as transfers intended to take effect at or after death or as transfers made in contemplation of death. Waivers are not issued for these transfers, but property must be properly reported in accordance with subsection (b) of this

section.

**HISTORY:**

Amended by R.1971 d.2, effective January 4, 1971.

See: 2 N.J.R. 102(g), 3 N.J.R. 30(c).

Amended by R.2008 d.206, effective July 21, 2008.

See: 40 N.J.R. 872(a), 40 N.J.R. 4342(a).

Added (c).

**HISTORICAL NOTE:**

Formerly Regulation 23 of Transfer Inheritance Tax Bureau, filed 9/1/51; Formerly Regulation 9B of Transfer Inheritance Tax Bureau filed on 12/30/48; Formerly Regulation 9C of the Transfer Inheritance Tax Bureau filed on 2/24/59.

**STATUTORY REFERENCES**

N.J.S.A. 54:35-19.

**§ 18:26-11.14 Exempt property not subject to waiver**

The written consent of the Director is not required for the transfer of any property exempt or not includible for purposes of the New Jersey Transfer Inheritance Tax Act and the New Jersey Estate Tax Act. The property sought to be treated as exempt for purposes of the State death transfer tax statutes must not be includible in the gross estate of the decedent regardless of whether the tax at issue is the New Jersey Estate Tax or the New Jersey Inheritance Tax.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

Inserted "nor for any property not subject to the New Jersey Estate Tax" following the N.J.A.C. reference.

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

Rewrote the section.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.15 Certain small estates not subject to waiver**

(a) If the gross estate of a resident decedent which for tax purposes does not exceed \$ 5,000 where the applicant is the spouse/civil union partner of the decedent or \$ 200.00 where another person is the applicant, and the spouse/civil union partner or other applicant furnishes a bank, savings institution, or a savings and loan association with an affidavit in lieu of administration which has been obtained from the Surrogate of the County wherein the decedent died a resident, such bank, institution or association may release the funds on deposit to the credit of a resident decedent without the written consent of the Director upon the spouse/civil union partner or other applicant executing Form 0-80 or 0-83.

(b) Form 0-83, used by a spouse/civil union partner or Form 0-80, used by any other applicant, is to be obtained only from a bank, savings institution or savings and loan association and executed concurrently with the release of any funds. Every bank institution or association is required to obtain such forms directly from the Transfer Inheritance Tax Section of the Individual Tax Audit Branch, PO Box 249, Trenton, New Jersey 08695-0249, and is further required to obtain the following information from each applicant before the release of any funds to be assured that the total assets of the estate are less than \$ 5,000 or \$ 200.00 as the case may be:

1. The total amount on deposit in all bank accounts wherever situated, whether in the name of the decedent individually, jointly, or in trust for another;
2. The total redemption value of any United States Savings Bonds title to which is held in the name of the decedent either individually, jointly, or payable on death to another;
3. The total value of any tangible property owned by the decedent such as automobiles, jewelry and household goods;
4. The total value of any benefits paid or payable under a group annuity plan, retirement plan, or profit sharing plan of decedent's employer;

5. Whether the decedent was the lessee of a safe deposit box individually or jointly; but (see (c) below).

(c) The provisions of this section do not apply and therefore, except as provided under the Blanket Waiver, (see N.J.A.C. 18:25-11.16) a bank, savings institution, or savings and loan association is prohibited from releasing any funds of a resident decedent where:

1. Letters of testamentary or of general administration have been or are to be issued;
2. The decedent was the lessee, individually or jointly, of a safe deposit box;
3. There will be payable either to the estate of the decedent or to a beneficiary, any amount under a group annuity plan, retirement plan, or profit sharing plan;
4. The decedent has made a transfer of property within three years of the date of death without having received equal financial consideration therefor; and (see (d) below).

(d) In determining the value of a gross estate for tax purposes, under this section, the entire amount of any funds on deposit to the credit of a resident decedent in any bank, savings institution or savings and loan association, including the full value of any United States Savings Bonds must be included in the total value of such decedent's estate even though title to any such items is held jointly by the decedent and another; and (see (e) below).

(e) This section does not apply to the estate of any nonresident decedent or to the estate of a decedent which is administered under the provision of N.J.S.A. 3A:6-5, where the value thereof for tax purposes, exceeds \$ 5,000 or \$ 200.00 as the case may be.

**HISTORY:**

Amended R.1980 d.287, effective June 27, 1980.

See: 12 N.J.R. 352(b), 12 N.J.R. 497(a).  
Amended by R.1991 d.384, effective August 5, 1991.

See: 23 N.J.R. 188(b), 23 N.J.R. 2320(a).  
Stylistic changes.

Amended by R.1998 d.194, effective April 20,

1998.

See: 30 N.J.R. 609(a), 30 N.J.R. 1426(b).  
Amended by R.2003 d.152, effective April 7, 2003.

See: 34 N.J.R. 3935(a), 35 N.J.R. 1567(b).

In (b), inserted "Section of the Individual Tax Audit" following "Transfer Inheritance Tax" in the introductory paragraph; in (d), substituted "tax" for "Inheritance Tax"; in (e), deleted "inheritance" preceding "tax purposes".

Amended by R.2008 d.72, effective April 7, 2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).

In (a) and the introductory paragraph of (b), inserted "/civil union partner" throughout.

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19, P.L. 1979, Chapter 217.

**§ 18:26-11.16 Blanket waiver**

(a) Notwithstanding any other section contained in this chapter, regarding the release of funds; any banking institution, trust company or safe deposit company organized under the laws of this State; national bank operating in this State, building and loan or savings and loan association organized in this State; or credit union chartered by the United States and operating in this State; corporation or person may release any amount up to 50 percent of the entire amount of funds on hand held in deposit, which belong to or stand in the name of a resident decedent or in the joint names of such decedent and one or more other persons, to:

1. An executor;
2. Administrator;
3. Legal representative of the decedent;
4. Surviving joint tenant;
5. Cestui que trust; or
6. The estate of a minor where title to said funds are held in the name of a custodian for said minor, without the written consent of the Director, upon the application of such proper party to the institution, association, organization, corporation or person above mentioned.

(b) The provisions of this section apply to each

institution, association or organization, corporation or person listed above with whom a decedent has any funds on deposit, including Certificates of Deposit, and is limited to no more than 50 percent of the funds in the entire account whether such account is held in the decedent's name only or jointly with another so that where the decedent holds an account jointly, only one half of the funds may be released, not the half claimed by the joint owner and an additional half of the funds belonging to the decedent.

(c) In addition to the amount permitted to be released by an institution, association, organization, corporation or person mentioned in this section, institutions, associations, organizations, corporations, or persons may, without written consent of the Director:

1. Pay any and all checks drawn on any account owned by a decedent individually, jointly, or otherwise, when said checks are issued prior to death and presented for payment within 10 days following the decedent's date of death; except that in the event an executor, administrator, or other proper party above mentioned in this section shall apply for a release of 50 percent of the funds on deposit after 10 days from the decedent's death, the institution, association, organization, corporation, or person mentioned in this section holding the funds shall after having deducted the amount of any checks issued prior to and presented for payment within 10 days of the decedent's death, release 50 percent of the balance in a decedent's account to the proper party upon application and without the written consent of the Director;

2. Pay any checks in any amount for which there are sufficient funds held in deposit, drawn on any account owned by a decedent individually, jointly or otherwise, representing full or partial payment of any New Jersey Transfer Inheritance or Estate Taxes and made payable to New Jersey Inheritance and Estate Tax;

3. Liquidate the loan of any decedent who has pledged the pass book representing a savings account as collateral for a loan, where upon the death of such a decedent the loan is in default and then make 50 percent of the remaining funds available under the blanket waiver; but

(d) Securities of a New Jersey Corporation

registered in the name of a decedent and issued by any bank, or savings and loan association situated in this State, are not subject to the Blanket Waiver rule provided for in this section. Therefore, the written consent of the Director must be obtained in order to transfer or release such assets.

(e) The Director reserves the right to direct, at any time that any sum or sums not yet paid over shall be withheld by the informant pending further order of the Director where that course is deemed imperative to protect the interest of the State.

**HISTORY:**

Amended by R.1971 d.2, effective January 4, 1971.

See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).

Amended by R.1991 d.384, effective August 5, 1991.

See: 23 New Jersey Register 188(b), 23 New Jersey Register 2320(a).

Stylistic changes.

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

In (c)2, inserted "or Estate" following "New Jersey Transfer Inheritance" and substituted "payable to New Jersey Inheritance and Estate Tax" for "payable to the New Jersey Inheritance Tax Branch".

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.17 Funds held in a banking institution**

Except as otherwise indicated in this chapter, unless a waiver is first obtained, no banking institution, trust company or safe deposit company organized under the laws of the State of New Jersey; national bank operating in the State of New Jersey; building and loan or savings and loan association organized under the laws of the State of New Jersey; credit unions chartered by the United States operating in the State of New Jersey; or corporation, or person may release or transfer any funds, securities, deposits or other assets belonging to or on deposit to the credit of a decedent whether held:

1. In the name of the decedent individually, as co-depositor, jointly, trustee, agent, cestui que trust, or in any other capacity, excepting when held as custodian for a minor pursuant to N.J.S.A. 46:38-1 et seq.; or

2. As rental security deposits under the provisions of N.J.S.A. 47:8-19 [46:8-19] et seq.

**HISTORY:**

As amended, R.1971 d.2, effective January 4, 1971.

See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.18 Funds held in bank accounts**

(a) Bank accounts: Where funds are held on deposit in any bank to the credit of a person and payable on the death of such person to a named beneficiary, upon the death of the named beneficiary, no waiver is required to transfer or release the funds to such person, however, a waiver is required to transfer or release such funds to the beneficiary upon the death of the principal.

(b) Double dollar accounts: Where, upon the death of a decedent having funds on deposit to his credit, individually, in a joint account with right of survivorship or trustee account, in a banking institution located in New Jersey, there is credit to the account the proceeds of a life insurance contract, the consent of the director is required to release the amount on deposit after credited thereto the proceeds of the life insurance policy. In order to determine the taxability thereof, the type of account is to be indicated on the return.

**HISTORY:**

As amended, R.1971 d.2, effective January 4, 1971.

See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.19 Transfer of collateral**

(a) A State bank, State banking association, trust company, national bank, national banking association, safe deposit company or other institution, having in its possession, custody or control, securities or other assets pledged as collateral for a loan of a decedent, may, for the purpose of liquidating a loan or other debt due from a resident decedent:

1. Transfer such collateral from the name of the decedent to its own name upon receiving the written consent of the director; or
2. Sell such collateral to satisfy a loan of a decedent without the written consent of the director, except that where the collateral pledged consists of the stock of a New Jersey corporation, such stock cannot be transferred on the books of such corporation without the written consent of the director. Where any excess moneys are received from a sale, the written consent of the director must be obtained before delivery of such excess money to a proper party in interest; or
3. Deliver any collateral to the executor or administrator of a decedent upon full payment of the loan or debt without the written consent of the director.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-22.

**§ 18:26-11.20 Release of safe deposit box contents**

No safe deposit company, trust company, bank or other institution may deliver or transfer any securities, deposits or other assets contained in a safe deposit box within its control or possession which belongs to or stands in the name of a resident decedent, principal of a one person corporation or in the joint names of a resident decedent and one or more other persons, unless a release is obtained from the Transfer Inheritance Tax Branch. A blanket release will be issued to safe deposit companies, trust companies, banks and other institutions which will allow for release of the contents of all safe deposit boxes without inspection by the Division.

HISTORY:  
Amended by R.1975 d.247, effective August 15,

1975.  
See: 7 New Jersey Register 348(a), 7 New Jersey Register 447(a).  
Amended by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).  
Deleted district supervisor where safe deposit box is located.  
Amended by R.1991 d.242, effective May 6, 1991.  
See: 23 New Jersey Register 27(a), 23 New Jersey Register 1422(a).  
Requirement for inspection prior to release deleted.  
Amended by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Revised text.

**§ 18:26-11.21 (Reserved)**

HISTORY:  
Amended by R.1975 d.247, effective August 15, 1975.  
See: 7 New Jersey Register 348(a), 7 New Jersey Register 447(a).  
Amended by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New Jersey Register 1488(b).  
Deleted district supervisor and added Inheritance Tax Bureau.  
Amended by R.1991 d.242, effective May 6, 1991.  
See: 23 New Jersey Register 27(a), 23 New Jersey Register 1422(a).  
Requirement for inventory by the Inheritance Tax Bureau deleted; requirement for release added.  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Conditions for opening safe deposit box".

**§ 18:26-11.22 (Reserved)**

HISTORY:  
Amended by R.1983 d.356, effective September 6, 1983.  
See: 15 New Jersey Register 1088(b), 15 New

Jersey Register 1488(b).  
Deleted district supervisor.  
Amended by R.1991 d.242, effective May 6, 1991.  
See: 23 New Jersey Register 27(a), 23 New Jersey Register 1422(a).  
District supervisor deleted and replaced with Inheritance Tax Branch.  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Release of empty safe deposit box".

STATUTORY REFERENCES:  
N.J.S.A. 54:35-20.

**§ 18:26-11.23 (Reserved)**

HISTORY:  
Amended by R.1978 d.286, effective August 15, 1978.  
See: 10 New Jersey Register 300(b), 10 New Jersey Register 407(b).  
Amended by R.1991 d.242, effective May 6, 1991.  
See: 23 New Jersey Register 27(a), 23 New Jersey Register 1422(a).  
District supervisor deleted and replaced with Inheritance Tax Branch.  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Inventory of safe deposit box".

STATUTORY REFERENCES:  
N.J.S.A. 54:35-20.

**§ 18:26-11.24 (Reserved)**

HISTORY:  
Amended by R.1971 d.2, effective Jan. 4, 1971.  
See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Right of access by deputy".

**§ 18:26-11.25 (Reserved)**

HISTORY:  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Box rented in name of partnership".

**§ 18:26-11.26 (Reserved)**

HISTORY:  
Amended by R.1975 d.247, effective August 15, 1975.  
See: 7 New Jersey Register 348(a), 7 New Jersey Register 447(a).  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Box rented by corporation; exception".

**§ 18:26-11.27 (Reserved)**

HISTORY:  
Amended by R.1991 d.242, effective May 6, 1991.  
See: 23 New Jersey Register 27(a), 23 New Jersey Register 1422(a).  
Reference to district supervisor deleted.  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Box rented in name of fiduciary".

**§ 18:26-11.28 (Reserved)**

HISTORY:  
Amended by R.1971 d.2, effective January 4, 1971.  
See: 2 New Jersey Register 102(g), 3 New Jersey Register 30(c).  
Repealed by R.1992 d.402, effective October 19, 1992.  
See: 24 New Jersey Register 2533(a), 24 New Jersey Register 3734(a).  
Section was "Box rented by nonresident decedent".

HISTORICAL NOTE:  
Formerly Regulation or Transfer Inheritance Tax Bureau filed 12/31/47.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-20.

**§ 18:26-11.29 Transfer of stock of a New Jersey corporation**

(a) No corporation organized under the laws of this State may transfer any of its stock standing in the name of or belonging to a resident decedent or in the joint names of such a decedent and one or more persons, or in trust for a resident decedent, unless the written consent of the Director is first obtained.

(b) The written consent of the Director is required in connection with the transfer of stock of a corporation organized under the laws of New Jersey when such stock represents shares issued as a stock dividend where the holder of record date is the same date as that on which the decedent died, or a date prior thereto, and such stock is received by the decedent's personal representative.

(c) The corporation issuing or paying its shares in the form of a stock dividend is responsible for obtaining from the representative of the estate the written consent of the Director for the transfer of all stock standing in the name of the decedent on its books as of the date of death and such additional shares as are issued as stock dividends subsequent to death where the holder of record date is prior to, or the same as, the date of death of the decedent.

(d) The written consent of the Director is required where stock of a New Jersey Corporation owned by a resident decedent is to be surrendered in exchange for the stock of any corporation whether title to the new shares are registered in the decedent's name or in the name of the estate.

STATUTORY REFERENCES:  
N.J.S.A. 54:35-21

**§ 18:26-11.30 Life insurance companies**

(a) All corporations, associations, societies, or other organizations, incorporated, or organized under the laws of this State to transact the business of life insurance or to grant annuities, and all corporations, associations, societies or

other organizations, incorporated or organized elsewhere and authorized by the New Jersey Commissioner of Banking and Insurance to transact the business of life insurance or to grant annuities within this State must give notice to the Director, at the time and in the manner and form hereinafter prescribed, of all sums payable by them on or after April 7, 2003, as a result of the death of a resident of the State:

1. Under the terms of life insurance policies, endowment policies and annuity contracts owned by a decedent or paid to a partnership, firm or corporation entitled to receive payment in its own right in those instances where a decedent held an interest in the partnership, firm or corporation at death; and

2. Under the terms of a supplementary optional settlement or similar contract issued to effectuate the distribution of benefits under life insurance policies, endowment policies and annuity contracts except when the sums payable represent a continuation of payments under a policy or contract which provided for such payment at a prior decedent's specific direction.

(b) The written consent of the Director is not required to release any sums payable referenced in (a) above.

(c) Neither the written consent of the Director nor notice to the Director is required to release any sums payable referenced in (a) above when payment is made outright to the decedent's surviving spouse/civil union partner.

(d) Neither the written consent of the Director nor notice to the Director is required to release any sums payable under pension or retirement plans (including group annuity contracts) legally owned by an employer or qualified trust. See N.J.A.C. 18:26-11.13(a)4.

HISTORY:  
Amended by R.2003 d.152, effective April 7, 2003.  
See: 34 N.J.R. 3935(a), 35 N.J.R. 1567(b).  
Rewrote the section.  
Amended by R.2006 d.196, effective June 5, 2006.  
See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).  
Rewrote (a); and added (b) through (d).  
Amended by R.2008 d.72, effective April 7,

2008.

See: 39 N.J.R. 5185(a), 40 N.J.R. 1923(b).  
In (c), inserted "/civil union partner".

**§ 18:26-11.31 Notice**

(a) The notice required by N.J.A.C. 18:26-11.30 is to be given by mailing Form 0-71 to the Division of Taxation, Transfer Inheritance and Estate Tax Section, PO Box 249, Trenton, New Jersey 08695-0249 as soon as practicable after the death of the decedent, but in any event not later than 10 days after any part of the sum or sums required to be reported therein have been paid and by advertising each beneficiary listed on the form that information regarding death claim payments is being supplied to the State pursuant to the requirements of the Division of Taxation and that it is the position of the Division of Taxation that a beneficiary may, in the absence of State or Federal statutes to the contrary, be personally liable for any and all inheritance and/or estate taxes until paid.

(b) Completed Forms 0-71 may be mailed to the Division on a monthly basis. A completed Form 0-71 which is made part of a monthly mailing will be deemed to have been mailed in a timely manner provided that the monthly mailing is within one month of the date on which the form would otherwise be required to be mailed.

(c) Nothing herein may be taken to relieve an informant of any liability imposed by statute in any instance where it has failed to file notice as provided herein. The Director reserves the right to direct, at any time, that any sum or sums not yet paid over shall be withheld by the informant pending further order of the Director where that course is deemed imperative to protect the interest of the State.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New

Jersey Register 1567(b).

In (a), substituted "Transfer Inheritance and Estate Tax Section" for "Transfer Inheritance Tax Branch" and deleted "the whole or" preceding "any part of the sum"; in (b), deleted the former first sentence.

Amended by R.2006 d.196, effective June 5, 2006.

See: 37 N.J.R. 1694(a), 38 N.J.R. 2518(b).

In (a), substituted "08695-00249" for "08646-0249" and added the language "and by advertising each . . . estate taxes until paid"; added present (b); and recodified former (b) as (c).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-19.

**§ 18:26-11.32 Penalty for failure to obtain consent or give notice--Inheritance Tax**

(a) Any bank, banking institution, safe deposit company, trust company, other institution, association, organization, corporation or person who fails to obtain the written consent of the Director, allow an examination or give notice as provided in this Chapter is liable to pay the amount of the tax and interest due or which becomes due upon the securities, deposits, shares of stock or other assets transferred or delivered and in addition is liable to a penalty of \$ 1,000.00 which may be enforced in an action at law in the name of the State.

(b) A safe deposit company, trust company, bank, other institution, corporation or person is not liable to the tax and interest or penalty provided in subsection (a) of this Section, where it or he delivers securities, deposits shares of stock or other assets belonging to or standing in the names of two or more persons to one of such persons without knowledge or reasonable ground to believe that another one of such persons is dead.

**HISTORY:**

Amended by R.2003 d.152, effective April 7, 2003.

See: 34 New Jersey Register 3935(a), 35 New Jersey Register 1567(b).

**STATUTORY REFERENCES:**

N.J.S.A. 54:35-20.



## SUBCHAPTER 12. ADMINISTRATION AND FORMS

### § 18:26-12.1 General powers of Director

The Director, Division of Taxation, New Jersey Department of the Treasury, is authorized and empowered to carry the New Jersey Transfer Inheritance Tax and Estate Tax Laws into effect, and to make and enforce any rules and regulations he may in his discretion deem necessary.

STATUTORY REFERENCES:  
N.J.S.A. 54:50-1.

### § 18:26-12.2 Administration of Transfer Inheritance Tax and New Jersey Estate Tax

(a) The Act is administered by the Director through the Transfer Inheritance Tax Branch of the Division of Taxation in the Department of the Treasury.

1. No Inheritance Tax report on the estate of a resident decedent will be accepted nor negotiation entered into with regard to the estate matters of a resident decedent unless such estate is represented by:

- i. An attorney at law of the State of New Jersey;
- ii. The personal representative of an estate; or,
- iii. An heir-at-law, next-of-kin, grantee, transferee, legatee, or devisee of the decedent; or
- iv. A certified public accountant of the State of New Jersey, provided such accountant is designated for such purpose, in writing, by any of the persons enumerated in (a)ii or iii above subject to the condition that the client be notified, in writing, before the certified public accountant commences work on the return, that review of the return by a qualified attorney may be desirable because of the possible application of legal principles to the preparation of the tax return. A copy of the properly executed notification must be filed with the inheritance tax return.

2. Nothing herein is intended to preclude the

discussion of accounting problems which may arise in the course of an audit of a New Jersey Inheritance Tax report, with a Certified Public Accountant, provided, such accountant is designated for such purpose, in writing, by any of the persons enumerated in paragraph 1 of this subsection. Under no circumstances may a C.P.A. enter into discussion regarding any question of law;

3. The provision of this section may be waived by the director where, in his discretion, the strict adherence thereto would jeopardize the collection of any tax due or the closing of an inheritance tax proceeding.

#### HISTORY:

Amended by R.1987 d.225, effective May 18, 1987.

See: 18 New Jersey Register 2321(b), 19 New Jersey Register 885(a).

(a)iv added.

Amended by R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Added text to (a)Iiv "subject to the ..."

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

#### HISTORICAL NOTE::

Formerly Regulation 25 of Transfer Inheritance Tax Bureau filed 4/8/58.

#### STATUTORY REFERENCES:

N.J.S.A. 52:18A-24.

### § 18:26-12.3 Information from Transfer Inheritance Tax Branch

(a) After a return has been filed all communications regarding the New Jersey transfer inheritance or estate tax are to be addressed to the Transfer Inheritance Tax Branch, PO Box 249, Trenton, New Jersey 08646-0249 and should state the full name of the decedent, the date of death, and the name of the county where the decedent resided as of the date of death. See N.J.A.C. 18:26-9.7 for confidential nature of communications with the Transfer Inheritance Tax Branch.

(b) If a communication includes inquiries with respect to more than one decedent's estate, copies shall be furnished for each as mentioned in the communication.

(c) No employee of the Transfer Inheritance Tax Branch is permitted to pass upon, or decide, any question involving the taxability of a transfer of any property under the terms of a decedent's will, deed of trust, annuity contract, agreement, contract or any other instrument prior to the date of a decedent's death, nor may an employee compute any hypothetical tax on any set of facts submitted for consideration.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

**HISTORICAL NOTE::**

Formerly Regulation of Transfer Inheritance Tax Bureau filed 12/31/47.

**STATUTORY REFERENCES:**

N.J.S.A. 54:33-6-7-8.

**§ 18:26-12.4 Examination of records**

For the purpose of administering the New Jersey inheritance and estate tax, the Director, whenever he deems expedient, may make or cause to be made through the Transfer Inheritance Tax Branch or any employee thereof engaged in the administration of such taxes, an examination or investigation of any tangible personal property and any books, records, papers, vouchers, accounts, and documents of any taxpayer. See N.J.A.C. 18:26-12.6 for power of the Transfer Inheritance Tax Branch to issue subpoenas and interview witnesses.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-9 and 54:50-2.

**§ 18:26-12.5 Hearings**

The Director or his duly authorized employees in the Transfer Inheritance Tax Branch may conduct hearings, subpoena documents, administer oaths to, and examine under oath, any taxpayer as well as any directors, officers, agents and employees of a taxpayer in respect to any matter evident to the administration of the New Jersey Inheritance and Estate Tax.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**§ 18:26-12.6 Issuance of subpoenas**

The Director, or his duly authorized employees in the Transfer Inheritance Tax Branch, may by subpoena compel the attendance of witnesses and/or the production of any books, records, papers, vouchers, accounts or documents of any taxpayer or of any person who the Director has reason to believe has information pertinent to any matter under investigation by the Director or any such deputy at any hearing held pursuant to law. The fees of witnesses required to attend any such hearing are to be the same as those allowed to witnesses appearing in the Superior Court and shall be paid in the manner provided for the payment of other expenses incident to the administration of the New Jersey transfer inheritance tax or estate tax law.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**§ 18:26-12.7 Compelling witness to attend**

If a person subpoenaed to attend any hearing under this Subtitle fails to appear, be examined, answer any question, or produce any books, records, papers, vouchers, accounts or documents when subpoenaed so to do by the Director or any duly authorized employee, the Director or any such employee may apply to the Superior Court for an order to compel him to do so.

**§ 18:26-12.8 Notice; how given; presumption**

Any notice required to be given by the Director, may be served personally or by mailing the same to the person for whom it is intended, addressed to such person at the address given in the last report filed by him or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom it was addressed. See N.J.A.C. 18:26-8.7 for the required statements to be contained on assessment notices.

**HISTORY:**

Amended by R.1998 d.194, effective April 20, 1998.

See: 30 New Jersey Register 609(a), 30 New Jersey Register 1426(b).

Added a third sentence.

**§ 18:26-12.9 Review**

(a) In order to make a protest of a Transfer Inheritance and Estate Tax Branch assessment or finding within the 90 day period provided by N.J.S.A. 54:49-18, a written protest must be submitted to the Branch. The written protest must be signed by the estate representative, certified to be true, and contain the following data:

1. Whether a hearing or a review is requested;
2. The decedent's name, date of death, social security number, and county of residence;
3. The name, address, and telephone number of the estate representative the Branch should contact in connection with the protest;
4. A copy of the assessment or determination subject to the protest;
5. The specific amount of tax or interest under protest;
6. An explanation of the basis for the protest; and
7. The specific facts supporting the basis for the protest and a summary of evidence or documentation to be presented in support of the estate's position.

(b) A submission which does not include the information requested in (a)5 and 6 above will not be considered a valid protest and will not result in a hearing or review. In addition, the submission of an incomplete or invalid protest will not toll or otherwise extend the 90 day period for such protests to the Division of Taxation.

(c) The filing of any valid protest shall stay the right of the Director to collect the tax in any manner provided by law if the estate shall furnish security, within 90 days after the final determination, of the kind and in the amount determined as follows:

1. Security will not be required for amounts in controversy of less than \$ 10,000, except in cases of arbitrary assessments under N.J.S.A. 54:49-5 or 54:49-7. Security may be required in contested amounts of \$ 10,000 or more if it is determined that there is substantial risk that the estate will fail or be unable to pay a liability. In determining whether there is substantial risk of the estate's failure or inability to pay, the Division may consider the following:

- i. The taxpayer's record of compliance;
- ii. The estate's financial condition; and
- iii. Any other information which the Director reasonably believes to be relevant to this determination.

(d) Hearings are scheduled whenever possible by telephone on a mutually acceptable date for both the estate representative and the Branch.

(e) When an application for a refund is made within three years from the date of payment of the tax, the period in which a protest may be submitted is 90 days after a denial of the refund is made.

(f) After the hearing or review of a protest is completed, the Branch will make a final determination confirming, modifying, or vacating the assessment, finding, or denial of a refund request. The estate representative will be notified of the Branch's determination by registered or certified mail. The estate has 90 days after the issuance of the final determination to appeal therefrom to the Tax Court.

**HISTORY:**

As amended, R.1980 d.287, effective June 27, 1980.

See: 12 New Jersey Register 352(b), 12 New Jersey Register 497(a).

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:34-13, 54:38-10, 54:49-18.

**§ 18:26-12.10 Informal hearing**

(a) An executor, administrator, trustee, or other interested party may, at any time, request an informal conference with the Transfer Inheritance Tax Branch in order to present information or discuss any issues.

(b) A conference before the Transfer Inheritance Tax Branch may be conducted on an informal basis with or without representation on behalf of a taxpayer or other party in interest.

(c) An estate representative shall be provided, before or during a conference, an explanation of the audit process and the estate's rights under the audit process in the case of a conference relating to the determination of inheritance or estate tax, and shall be provided an explanation of the collection process and the estate's rights under the collection process in the case of a conference relating to the collection of inheritance or estate tax.

(d) Estate representatives have the right, upon giving 14 days advance notice to the Branch, to make a recording of any hearings or conferences with their own equipment and at their own expense; provided, however, that the Branch shall have the same right of recording.

**HISTORY:**

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:50-2.2, 54:50-3, 54:1-16, 54:1-17.

**§ 18:26-12.11 (Reserved)**

**HISTORY:**

Repealed by R.1989 d.210, effective April 17, 1989.

See: 21 New Jersey Register 285(a), 21 New Jersey Register 1021(a).

Deleted section "Formal hearing", to conform with statute exempting Division of Taxation inheritance tax cases from administrative hearings, pursuant to N.J.S.A. 52:14B-2(b), and reserves section.

**§ 18:26-12.12 Appeal to Tax Court**

(a) Any person aggrieved by any decision, order, finding or assessment of the Director or his deputies, through the Transfer Inheritance Tax Branch, may appeal therefrom to the Tax Court within 90 days from the date a final determination is made. No such appeal shall stay the collection of the tax or the enforcement of the same by entry of judgment unless security, if required pursuant to the standards and subject to the exception of subsection b of N.J.S.A. 54:49-18, approved by the Director of the Division of Taxation has been furnished to the Director of the Division of Taxation.

(b) A prevailing estate in a court proceeding in connection with the determination, collection, or refund of inheritance or estate tax, penalty, or interest may be awarded a judgment or settlement for reasonable litigation costs as set forth in N.J.S.A. 54:51A-22.

**HISTORY:**

As amended, R.1980 d.198, effective May 6, 1980.

See: 12 New Jersey Register 221(a), 12 New Jersey Register 355(b).

Amended by R.1994 d.627, effective December 19, 1994.

See: 26 New Jersey Register 4166(c), 26 New Jersey Register 5036(a).

**STATUTORY REFERENCES:**

N.J.S.A. 54:33-2, 54:51A-15, 54:51A-22.

**APPENDIX A. (RESERVED)**

**HISTORY:**

As amended, R.1972 d.133, effective June 21, 1972.

See: 4 New Jersey Register 168(a).

As amended, R.1973 d.298, effective October 18, 1973.

See: 5 New Jersey Register 393(e).

As amended, R.1975 d.270, effective September 12, 1975.

See: 7 N.J.R 489(b).

As amended, R.1983 d.356, effective September 6, 1983.

See: 15 New Jersey Register 1488(b).

Deleted Solomon Friss and John P. Scozzari, Esq. from Appendix A, Investigators.

New Rule, R.1989 d.85, effective February 6, 1989.

See: 20 New Jersey Register 2193(a), 21 New Jersey Register 311(b).

Repealed and inserted new rule.

Repealed by R.1996 d.15, effective January 2, 1996.

See: 27 New Jersey Register 3915(a), 28 New Jersey Register 176(a).

Appendix was "District Supervisors-Inheritance Tax".



