

LOCAL PROPERTY TAX

1998 DRAFT with added sections

ARTICLE 1. WHAT IS THE TAX

Chapter 1 What is taxable

Tax:1-1. Tax on real property

Real property within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. The tax is assessed and collected at the municipal level and the proceeds are distributed for use by the taxing district, the school district and the county

Source: 54:4-1

Comment

The first sentence of the section is substantially identical to the first sentence of the source statute. The second sentence was added to further define the tax on real property.

Tax:1-2. Real property, definition

Taxable real property consists of land and improvements on land and includes personal property affixed to the real property or an appurtenance to real property, unless:

a. (1) The personal property so affixed can be removed without material injury to the real property, and (2) The personal property so affixed can be removed without material injury to the personal property itself, and (3) The personal property so affixed is not ordinarily intended to be affixed permanently to real property, or

b. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property. For purposes of this subsection, real property shall include pipe racks, and piping and electrical wiring up to the point of connections with the machinery, apparatus, or equipment of a production process as defined in this section.

c. As used in this section:

(1) "Machinery, apparatus or equipment" means any machine, device, mechanism, instrument, tool, tank or item of tangible personal property used or held for use in business.

(2) "Production process" means the process commencing with the introduction of raw materials or components into a systematic series of manufacturing, assembling, refining or processing operations and ceasing when the product is in the form in which it will be sold to the ultimate consumer.

(3) "Structure" means any assemblage of building or construction materials fixed in place for the primary purpose of supporting, sheltering, containing, enclosing or housing persons or property.

(4) "Used or held for use in business" means any item of machinery, apparatus or equipment used or held for use in a business transaction, activity, or occupation conducted for profit in New Jersey.

Source: 54:4-1; 54:4-1.15.

Comment

This section along with Section 1-3 is derived from the "Business Retention Act." Subsections (a) and (b) are substantially identical to subsections (a) and (b) of 54:4-1. The subsections are lettered and numbered the same as the source to simplify transition. Subsection (c) is substantially identical to 54:4-1.15.

Tax:1-3. Property taxable as real property.

The following are taxable as real property:

a. The machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, but not including items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into petroleum products.

b. A storage tank having a capacity of more than 30,000 gallons is deemed to be real property. The fact that products are mixed, blended, heated or subjected to a similar non-production process within a storage tank shall not in itself render that tank personal property.

Source: 54:4-1; 54:4-1.12.

Comment

Subsection (a) is substantially identical to language added to the first paragraph of 54:4-1 by the "Business Retention Act," L.1994 c.24, §3. Subsection (b) is substantially identical to 54:4-1.12. The property described in the section is made taxable as real property, but it is not classified as either real or personal property.

Discussion of cases from *Teaf v. Hewitt* (1853) to *General Motors v. Linden* (1997) dealing with the distinction between real and personal property (fixtures). Include conclusion re phase out (obsolete or not).*

NOTE-The provision that treated an executory contract as a mortgage has been moved to the section dealing with who may contest a tax. *

Tax:1-4. General provisions.

a. Classification of property as real property for purposes of taxation shall not be construed to affect any transaction or security interest provided for under the provisions of chapter 9 of the Uniform Commercial Code, Title 12A of the New Jersey Statutes.

b. The provisions of this section shall not be construed to repeal or in any way alter any exception to, real property taxation or any definition of personal property otherwise provided by statutory law.

c. The Director of the Division of Taxation in the Department of the Treasury *may* adopt regulations pursuant to the provisions of the "Administrative Procedure Act," (C.52:14B-1 et seq.) necessary to implement and administer the provisions of this act. The director shall make and enforce uniform regulations for ascertaining whether property is real or personal and for classifying personal property.

Source: 54:4-1

Comment

This section is derived from the last two paragraphs of 54:4-1. The section makes no substantive change from its source except that the Director is given the explicit power to make regulations distinguishing classes of property.

Chapter 2 -What is tax exempt

Tax:2-1 Exempt public property

The following public property is exempt from real property taxation:

- a. The property of the State of New Jersey;
- b. The property of the counties, municipalities, taxing districts and school districts
 - (1) used for public purposes,
 - (2) used for the preservation or exhibit of historical data, records or property,
 - (3) leased to a nonprofit organization for use that would make the property exempt from taxation if owned by the organization or ;
 - (4) leased to a board of education or governmental agency and used for public purposes.
- c. The property of the Passaic Valley Sewerage Authority used in connection with a main intercepting or trunk sewer, its branches or appurtenances, constructed for two or more of the municipalities within the Passaic valley sewerage district.

Source: 54:4-3.3; 54:4-3.4.

Comment

Subsections (a) and (b) are based on 54:4-3.3. However, the language of the subsections has been completely reorganized. Subsection (b) has been drafted to include all local public property. In present law separate and apparently differing provisions achieve the same substantive result as to county, municipal and school board property. The provision in 54:4-3.3 exempting property of the Morris Canal and Banking Company has been deleted since that property is now property of the state. Subsection (c) is substantially identical to 54:4-3.4.

Tax:2-2. Exceptions to exemption for public property

a. Real property acquired by the State or by a State agency, or by an authority created by the State, shall not be exempt from taxation during the period following acquisition, as follows:

- (1) Property acquired shall become tax exempt on January 1 of the calendar year following the date of acquisition, provided that the tax assessor of the municipality in which such property is located is given written notice of the acquisition by certified mail on or before January 10 of that year. If property is acquired between January 1 and

January 10 inclusive and the notice is given on or before January 10, the real property shall become tax exempt as of the date of acquisition.

(2) For the purposes of this subsection, the right of possession as provided by 20:1-3.11 (eminent domain), or vesting of title, whichever occurs first, shall be deemed to be acquisition with respect to the property.

(3) When, at the time of acquisition, the owner has paid the taxes for beyond the date of the acquisition, the owner shall be entitled to reimbursement for the taxes paid for the portion of the calendar year beyond the date of acquisition. If the taxes for the remaining portion of the year have not been paid by the owner, they shall be paid by the State or by the authority acquiring the property.

(4) In the event of a dispute between the owner and the State or authority, in respect to the apportionment and payment of the taxes, the Superior and the Tax Court shall have jurisdiction to determine the matter in a summary manner on the application of either the owner or of the State, or authority, and make any appropriate order to carry out the court's determination.

b. Lands of counties, municipalities, and other municipal and public agencies of this State used for the purpose and for the protection of a public water supply shall be subject to taxation by the taxing district where it is situated, at the taxable value of the land without regard to any buildings or other improvements which shall be exempt from taxation.

c. If a portion of the property of a county, municipality, taxing district or school district is leased to an organization for use that would make the property taxable if owned by the organization, that portion shall be subject to taxation.

Source: 54:4-3.3; 54:4-3.3b; 54:4-3.3d; 54:4-3.3e; 54:4-3.6e.

Comment

Subsection (a) is substantially identical to 54:4-3.3b; 54:4-3.3d and 54:4-3.3e. The definition of acquisition, 54:4-3.3c, was deleted as unnecessary; caselaw has established that if property is taken by eminent domain, title passes when the declaration of taking is filed.

Subsection (b) is substantially identical to a provision in 54:4-3.3. Subsection (c) is a generalization of 54:4-3.6e which, by its terms applies only to school board property. However, as noted in the comment to Section 2-1, property of other local public entities is treated similarly.

Tax:2-3. Inapplicability of act to taxes or payments in lieu of taxes; priority of conflicting laws

a. Nothing contained in this chapter shall grant a tax exemption for real property owned by the State, or by a State agency, or by an authority created by the State, where payment is required by the provisions of any law, nor shall an exemption under this chapter prohibit payment or agreements for payment of fair and reasonable sums in lieu of taxes as provided by law.

b. In the event of any conflict between this chapter and the provisions of an act providing for the acquisition of real property by the State or by a State agency, or by an authority created by the State for specific purposes, as to the payment of taxes to a municipality or for the prorating of taxes as between the owner and the State or a State agency, or an authority created by the State, the provisions of this chapter shall not supersede the provisions of the other act.

Source: 54:4-3.3f.

Comment

This section is substantially identical to its source.

Tax:2-4. Tax liability of private party using exempt real property in activity conducted for profit;

When real property that is exempt from taxation is used by a private party in connection with an activity conducted for profit, and the use does not render the real property taxable pursuant to section 1 of P.L.1949, c. 177 (C. 54:4-2.3) or otherwise, the real property shall be assessed and taxed as real property of the private party. The private party is subject to liability for taxation to the same extent as though he owned the property or any portion thereof, unless the owner consents to the taxation thereof. For purposes of this act, "use" means the right or license, express or implied, to possess and enjoy the benefits from any real property, whether or not that right or license is actually exercised.

Source: 54:4-1.10; 54:4-2.3

Comment

Tax:2-4½. Taxation of leases by state and federal governments.

a. When real property owned by the state or federal government is leased to another whose property is not exempt from taxation [and the leasing does not make the property taxable] the leasehold estate and appurtenances shall be listed as the real property of the lessee.

b. If the term of the lease in any calendar year is less than the whole year, the tax assessment for the year shall be the same proportion of the full assessment of the leased property as the number of days of the lease is of 365 days. If the lessee presents proof to the governing body of the municipality that the leasehold was terminated before the end of the term, the lessee shall be entitled to proportionate cancellation of the assessment and to the refund of taxes paid on the portion of the assessment canceled.

c. Assessments for leaseholds commencing between January 1 and October 1 of a year shall be entered in the Added Assessment List for that year; assessments for leaseholds commencing after October 1 of a year shall be entered in the Added Assessment List for the subsequent year.

d. Taxes on leaseholds shall be administered in the same way as other taxes on real estate entered on the Added Assessment List.

e. Unpaid taxes on a leasehold shall be a lien on the leasehold and the lessee or assignee shall be personally liable for them.

Source: 54:4-2.3; 54:4-2.4; 54:4-2.5; 54:4-2.6; 54:4-2.7; 54:4-2.8; 54:4-2.9; 54:4-2.10.

Comment

Subsection (a) is derived from 54:4-2.3. While the explicit limitation to State and Federal property is new, as a practical matter, the current provision applies only to that property. Subsection (b) is substantially identical to 54:4-2.4 and 54:4-2.9. Subsection (c) is substantially identical to 54:4-2.5. Subsection (d) is a generalization of 54:4-2.6; 54:4-2.7 and 54:4-2.10. Subsection (e) is substantially identical to 54:4-2.8.

Tax:2-5. Exempt private property

a. The following property owned by nonprofit organizations is exempt from real property taxation:

(1) Conservation or recreational land. Land and the improvements on it exclusively used for conservation or recreation purposes, owned and maintained for the benefit of the public by a nonprofit corporation or organization authorized to carry out the purposes for which the exemption is claimed and which is qualified for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code shall be exempt from taxation; if the Commissioner of the Department of Environmental Protection certifies that the real property and the property owner are qualified for this exemption.

(2) Educational Institutions. Buildings used for a college, school, academy or seminary, or buildings owned by an educational institution and leased to a historical society or association or a non-profit corporation organized for such purposes. If any portion of the buildings is leased to a profit-making organization or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt. However, the exemption from taxation shall not be affected if a college, school, academy, or seminary leases a portion of its property which is regularly used for tax exempt purposes, to an organization or business during seasonal periods when the property is not being used by the college, school, academy or seminary in furtherance of tax exempt purposes, provided that:

(A) the income derived from the lease of the property is expended in furtherance of the organization's exempt purpose or purposes;

(B) the income received from the lease transaction is not primarily a profit seeking transaction, but remains a "de minimis" operation not materially affecting the overall pursuit of the tax exempt organization's principal purpose; and

(C) any lease is for a period of more than 4 consecutive months or less.

(3) Educational television and radio. Buildings and structures and used exclusively by a nonprofit association or corporation organized under the laws of this or another state for the production and broadcasting of educational television or educational radio programs; the land on which the buildings and structures are erected which is necessary for their fair enjoyment, is devoted to that use and no other, and does not exceed 30 acres. The foregoing exemption shall apply only where the association or corporation owns the property in question and is authorized to carry out the purpose for which the exemption is claimed.

(4) Fraternal organizations. Buildings used in the work and for the purposes of fraternal organizations or lodges, or any association or society organized on the lodge plan, or affiliated associations, whether incorporated or unincorporated, if the legal or beneficial ownership of the property is in one or more of the organizations, lodges, associations or societies, and no part of the property is used for profit, provided that each organization, lodge, association or society is also organized and operated in substantial

part for charitable or educational purposes and demonstrates these aims in its programs and activities.

(5) Hospitals and Health Care Facilities. Buildings used in the work of associations and corporations organized exclusively for hospital purposes, provided that if any portion of a building used for hospital purposes is leased to profit-making organizations or otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt. As used in this section "hospital purposes" includes health care facilities for the elderly, such as nursing homes; residential health care facilities; assisted living residences; facilities with a Class C license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the "Rooming and Boarding House Act of 1979"; similar facilities that provide medical, nursing or personal care services to their residents; and that portion of the central administrative or service facility of a continuing care retirement community that is reasonably allocable as a health care facility for the elderly.

(6) Historic sites. Buildings and the land on which they are erected and which is necessary for their fair enjoyment owned by a nonprofit corporation and which has been certified to be an historic site to the Director of the Division of Taxation by the Commissioner of The Department of Environmental Protection. After consultation with the Historic Preservation Office, the Commissioner of the Department of Environmental Protection shall certify a building to be a historic site if the building has material relevancy to the history of the State and its government warranting its preservation as an historical site and that any restoration of the building is of substantially the same kind, character and description as the original. If any substantial change is made in the building or the premises, certification may be canceled by the commissioner, but cancellation shall preclude the issuance of a new certification.

(7) Historical Societies. Buildings actually used for historical societies, associations or exhibitions, when owned by the State, county or any political subdivision thereof or when located on land owned by an educational institution which derives its primary support from State revenue;

(8) Homes or Schools for the Mentally Disabled. Buildings exclusively used as homes or schools for mentally disabled persons or in connection with the work of care, treatment, and study of mentally disabled men, women and children, provided that the corporation conducts and maintains research or professional training facilities for the care and training of mentally disabled men, women and children.

(9) Moral and Mental Improvement. Buildings used in the work of associations and corporations organized exclusively for the moral and mental improvement of men, women and children, provided that if any portion of a building used for that purpose is leased to profit-making organizations or is otherwise used for purposes which are not themselves exempt from taxation, that portion shall be subject to taxation and the remaining portion only shall be exempt. Buildings owned by an association or corporation created for the purpose of holding title to buildings that are exclusively used in the work of two or more associations or corporations organized exclusively for the moral and mental improvement of men, women and children.

(10) Parsonages. Buildings, not exceeding two, occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located

(11) Prevention of Cruelty To Animals. Buildings used exclusively by any association or corporation formed for the purpose and actually engaged in the work of preventing cruelty to animals.

(12) Public Libraries. Buildings exclusively used for public libraries.

(13) Religious or Charitable Uses. Buildings owned by a corporation created under or otherwise subject to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes exclusively used in the work of associations and corporations organized exclusively for religious or charitable purposes, which associations or corporations may or may not pay rent for the use of the premises or the portions of the premises used by them.

(14) Residences of supervising clergymen.. Buildings, belonging to any religious association or corporation occupied as a residence by a clergyman of the association or corporation, occupied as a dwelling house of a clergymen who is an officiating clergymen or a district superintendent of the religious association or corporation together with the accessory buildings located on the same premises.

(15) Volunteer First Aid Squads. Buildings exclusively owned and used by volunteer first-aid squads, incorporated as associations not for profit.

b. Limitation on exemption for land. If a provision of subsection (a) of this section exempts buildings from taxation and does not include a specific provision for the land on which they are located, the land on which any of the buildings mentioned is erected, and which is necessary for the fair enjoyment of a building, and which is devoted exclusively to the purposes mentioned and does not exceed five acres in extent.

c. Nonprofit entity defined. An association, corporation or institution shall not be deemed to be conducted for profit and the exemption of the buildings and lands owned by it and used for charitable, benevolent or religious purposes denied because the charitable, benevolent or religious work carried on is supported partly by fees and charges received from or on behalf of beneficiaries using or occupying the buildings; provided the building is wholly controlled by and the entire income therefrom is used for the specified charitable, benevolent or religious purposes.

d. Continuation on transfer from one nonprofit organization to another. Wherever an owner of real property, who has been granted an exemption from taxation pursuant to this section transfers the property, a subsequent application for an exemption from taxation by the organization to which the property was transferred shall be deemed timely notwithstanding that the application was made subsequent to October 1 of the pretax year, and the exemption shall be extended, provided that the applicant and the property meet all other requirements for exemption; and

e. Charitable or religious associations or corporations; failure to file timely claim; refund. (54:4-3.6c.). The governing body of a municipality, by ordinance, upon a showing of good cause as to why a timely claim was not filed, may return all taxes collected on property owned by one or more associations or corporations organized exclusively for charitable or religious purposes, which would have been exempt pursuant to this section if a claim been made for exemption;

provided, however, that no refund shall be made if more than 3 years have passed since the last date for filing a timely application. No interest shall be paid by the municipality on any refund made pursuant to this provision.

Source: 54:4-3.6; 54:4-3.6d; 54:4-3.35; 54:4-3.52.) (54:4-3.53.) 54:4-3.54

Comment

Most of subsection (a) is derived from 54:4-3.6. Specifically, subsections (a)(2), (a)(5), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12) and (a)(13) are from this source. While the section has been reorganized, the language has been simplified, clarified and modernized and superfluous provisions have been eliminated, the exemptions have not been expanded or contracted. Subsection (a)(1) is derived from 54:4-3.64. The portion of subsection (a)(2) that allows leases is a continuation of 54:4-3.6d. Subsection (a)(3) is derived from 54:4-3.6a. Subsection (a)(4) is derived from 54:4-3.26. Subsection (a)(6) is derived from 54:4-3.52 and 54:4-3.53. Subsection (a)(11) is derived from 54:4-3.35. Subsection (a)(13) is derived from 54:4-3.26. Subsection (a)(14) is derived from 54:4-3.35. Subsection (a)(14) is derived from 54:4-3.52; 54:4-3.53; 54:4-3.54. Subsection (a)(15) is derived from 54:4-3.64. Subsection (a)(15) is derived from Subsection (a)(15) is derived from

Subsection (d)

Tax. 2-6. Exemptions not limited to non-profit entities

The following property is exempt from real property taxation:

- a. Cemeteries [54:4-3.9.] Property dedicated to cemetery purposes;
- b. Fire associations [54:4-3.10.] Property of any exempt firemen's association, firemen's relief association and volunteer fire company incorporated under the laws of this state and which is used exclusively for the purpose of the corporation shall be exempt from taxation under this chapter.
- c. Fire patrol or salvage corps [54:4-3.13.] Property of an association or corporation organized under the laws of this state to maintain, and actually maintaining a public fire patrol or salvage corps for the public purpose of saving life and property from destruction by fire, used exclusively for the purpose of the association or corporation.
- d. *Property used by crippled soldiers [54:4-3.15.] Property not exceeding two hundred and fifty acres in extent, owned and actually and exclusively used by any corporation organized under the laws of New Jersey to provide instruction in agricultural pursuits for soldiers and sailors of the United States who have been permanently crippled while in active service in time of war, provided all income derived from the property in excess of the expense of its maintenance and operation, shall be used exclusively for the benefit of such crippled soldiers and sailors.*
- e. *Railroad property. Property used for railroad purposes by a railroad company subject to property tax under [cite].*
- f. *Utility property. Property used for utility purposes by a utility company subject to property tax under [cite].*
- g. Veterans' associations. (54:4-3.25). Property used in the work, for the support and for the purposes of bona fide national war veterans' organizations or posts, or affiliated associations, whether incorporated or unincorporated, existing and established on June 18, 1936, shall be exempt from taxation under this chapter if the legal or beneficial ownership of the property is in one or more of the organizations, or posts, or affiliated associations. Property shall not be denied an exemption from taxation under this section because of the use of the property for an income-

producing activity that is not the organization's primary purpose so long as all net proceeds from that activity are used in furtherance of the primary purpose of the organization or for other charitable purposes.

h. Volunteer aid and relief associations or organizations (54:4-3.27.) Property used in the work and for the purposes of any association or organization, whether incorporated or unincorporated, organized for the purpose of furnishing volunteer aid to the sick and wounded of armies in time of war or for the purpose of continuing and carrying on a national and international system of relief in peacetime to mitigate the sufferings caused by pestilence, famine, fire, floods, or other great national calamities, if the legal or beneficial ownership of the property is in the association or organization, and no part of the property is used for profit.

i. Young people's associations [54:4-3.24.] Property used for the purposes and in the work of the associations known as Young Men's Christian Associations, Young Women's Christian Associations, Young Men's and Young Women's Christian Associations, Young Men's Hebrew Associations, Young Women's Hebrew Associations or Young Men's and Young Women's Hebrew Associations or of the Boy Scouts of America or Girl Scouts of the United States of America in this State, whether incorporated or unincorporated, if the legal or equitable ownership of such property is in one or more of the associations using the property and the land exempt does not exceed 5 acres. Any real property upon which construction of a building or other improvement has been begun for the purpose of putting it to use for the work of such association shall be within the exemption. The foregoing exemption shall not apply to any part of the property used for profit.

Source:

Comment

The exemption for property dedicated to cemetery purposes in this section deletes the ten acre limitation found in 54:4-3.9 because 8A:5-10 exempts cemetery property without limitation.

Tax. 2-7. Exemptions for individuals

1. Disabled veteran's exemption (54:4-3.30.) SEE ABOUT FED CERTIF

a. The dwelling house and the lot or curtilage whereon the same is erected, of any citizen and resident of this State, now or hereafter honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability from paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs, or permanent paralysis of both legs and lower parts of the body, or from hemiplegia and has permanent paralysis of one leg and one arm or either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain or from disease of the spinal cord not resulting from any form of syphilis; or from total blindness; or from amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and a foot; or from other service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100% permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sustained through enemy action, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation, on proper claim made therefor, and such exemption shall be in addition to any other exemption of such person's real and personal property which now is or hereafter shall

be prescribed or allowed by the Constitution or by law but no taxpayer shall be allowed more than one exemption under this act.

b. The surviving spouse of any such citizen and resident of this State, who at the time of death was entitled to the exemption provided under this act, shall be entitled, on proper claim made therefor, to the same exemption as the deceased had, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling house or any other dwelling house thereafter acquired.

c. The surviving spouse of any citizen and resident of this State, who died in active service in time of war in any branch of the Armed Forces of the United States, shall be entitled, on proper claim made therefor, to an exemption from taxation on the dwelling house and lot or curtilage whereon the same is erected, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling or any other dwelling house thereafter acquired.

d. The surviving spouse of any citizen and resident of this State who died prior to January 10, 1972, that being the effective date of P.L. 1971, c. 398, and whose circumstances were such that, had said law become effective during the deceased's lifetime, the deceased would have become eligible for the exemption granted under this section as amended by said law, shall be entitled, on proper claim made therefor, to the same exemption as the deceased would have become eligible for upon the dwelling house and lot or curtilage occupied by the deceased at the time of death, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling house on the premises to be exempted.

e. Nothing in this subsection shall be intended to include paraplegia or hemiplegia resulting from locomotor ataxia or other forms of syphilis of the central nervous system, or from chronic alcoholism, or to include other forms of disease resulting from the veteran's own misconduct which may produce signs and symptoms similar to those resulting from paraplegia, osteochondritis, or hemiplegia.

e. Refund of taxes collected on property as to which exemption claim subsequently allowed (54:4-3.32.) The governing body of each municipality, by appropriate resolution, may return all taxes collected on property which would have been exempt had proper claim in writing been made therefor in the manner provided by this act; provided, however, that such refunds shall not be made for any year or portion thereof prior to the effective date of this act.

f. "Dwelling house" defined (54:4-3.33.) "Dwelling house," as used in this act, shall mean any one-family building or structure or any unit of a horizontal property regime established pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C. 46:8A-1 et seq.) or any unit of a condominium property established pursuant to the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.) owned and occupied by a claimant as his legal residence in this State, or where a multiple-family building or structure is owned by a claimant, then that portion thereof which is occupied by the claimant as his legal residence in this State, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith.

g. Active service in time of war defined (54:4-3.33a.) For the purposes of this act and the act hereby amended and supplemented "active service in time of war" means the periods of time set forth in section 1(a) of chapter 171 of the laws of 1963, and chapter 165 of the laws of 1965, except that "active service in time of war" for World War II means active service at some time during December 7, 1941 to December 31, 1946.

h. "Total blindness" defined (54:4-3.34.) A person shall be deemed to have "total blindness," as used in this act, when the vision in his better eye with proper correction does not exceed 20/200 as measured by Snellen chart or when there is a field defect in his better eye with proper correction in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees.

Source:

Tax. 2-9. Portions of property exempt

a. Exemption of blast or radiation fallout shelters (54:4-3.48.).

(1) The value of any blast or radiation fallout shelter erected upon real property occupied for residential purposes by not more than 2 families, to the extent that it has enhanced the value of such property, shall be exempt from taxation, provided, however, that such exemption shall not exceed \$1,000.00 of the assessed value of such property based at 100% of true value.

(2) Definition (54:4-3.49.) For the purposes of this act a "blast or radiation fallout shelter" is a structure erected within or without another building and designed and equipped, in compliance with standards to be established by the State Department of Defense, for temporary occupancy by human beings to minimize exposure to nuclear explosion or radioactive fallout resulting from nuclear explosion.

b. Equipment for abating or preventing pollution; exemption (54:4-3.56.)

(1) Any equipment, facility or device constructed or installed either prior to or subsequent to the effective date of this act and used primarily for the purpose of abating or preventing pollution of the atmosphere or the waters of this State and which has been certified to be an air or water pollution abatement facility by the State Commissioner of Health, as hereinafter in this act provided, shall be exempt from taxation under this chapter to which this act is a supplement.

c. Exemption of improvement to water supply or sewerage disposal system (54:4-3.59.) The value of any structure, machinery, equipment, device or facility necessary to the installation or maintenance of a potable water supply system or a water-carried sewerage disposal system in accordance with the provisions of sections 26, 27 or 28 of chapter 71 of the laws of 1945, as amended and supplemented, to the extent that it has enhanced the value of the property, shall be exempt from general property taxation.

2-10. Application for exemption, deduction or abatement.

a. Regulations and forms. The Director of the Division of Taxation shall adopt regulations and forms necessary for the application and certification of any local property tax exemption, deduction or abatement. If certification by a state agency is a requirement for the

exemption, deduction or abatement, the Director shall adopt any regulations or forms jointly with the certifying agency.

b. Contents of initial application. The initial application form shall state the name and address of the owner of the property, the location of the property, the use of the property, the user of the property if different from the owner, a citation of the statute under which exemption, deduction or abatement is claimed and facts necessary to establish entitlement to the exemption, deduction or abatement. The initial application shall be under oath. The facts upon which the exemption, deduction or abatement is based shall be as of November 1 of the pre-tax year.

c. Filing application. An initial application for a exemption, deduction or abatement shall be filed with the tax assessor of the taxing district in which the property is located on or before November 1 of the pre-tax year. If an initial application is not filed by November 1, the exemption, deduction or abatement shall not be granted. If certification by a state agency is a requirement of for the exemption, deduction or abatement, a copy of the of the initial application shall be filed with the certifying state agency.

d. Continuation of exemption, deduction or abatement. When a tax exemption, deduction or abatement has been granted, the assessor may inquire as to the right of the applicant to continuation of the exemption, deduction or abatement, and may require the filing of a subsequent application or the submission of proof of continued entitlement.

e. Copy to County Board of Taxation. The assessor of the taxing district shall file a copy of the initial and any subsequent application for exemption, deduction or abatement with the County Board of Taxation with a list of property affected on or before January 10 of the tax year.

f. Filing proofs in subsequent years. Where an application for a tax deduction requires the filing of proof of income or other facts with the tax collector for subsequent years, the proof shall be filed on the prescribed form on or before March 1 of the tax year. The Tax Collector may grant reasonable extensions of time, but not beyond May 1 of the tax year.

Tax: 2-11 Renewable Energy Systems; Definitions

As used in this act:

a. “Board of appeals” means the board of appeals established under section 9 of P.L.1975, c. 217 (C.52:27D-127), having jurisdiction in the municipality in which the property is located.

b. “Commissioner” means the Commissioner of Community Affairs.

c. “Director” means the Director of the Division of Taxation in the Department of the Treasury.

d. “Local enforcing agency” means the enforcing agency in any municipality provided for under the “State Uniform Construction Code Act,” P.L.1975, c. 217 (C.52:27D-119 et seq.) and rules and regulations adopted pursuant thereto.

e. “Renewable energy” means: electric energy produced from any solar technologies, solar thermal or geothermal technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills, a resource recovery facility, a hydropower facility or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner, and provided further that the Commissioner of Environmental

Protection has determined that the resource recovery facility, hydropower facility or biomass facility, meets the highest environmental standards and minimizes any impacts to the environment and local communities.

f. “Renewable energy system” means any equipment that is part of, or added to, a building as an accessory use, and that produces renewable energy to provide all or a portion of the electrical, heating, cooling, or general energy needs of that building.

Source: 54:4-3.113a

Comment

This section is substantially identical to the source statute.

Tax: 2-12 Renewable Energy System; Exemption; Amount

a. Property that has been certified by a local enforcing agency as a renewable energy system shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes.

b. The owner of that property may have exempted from the assessed valuation of the property, annually, a sum that is equal to: the assessed valuation of the property with the renewable energy system included, minus the assessed valuation of the property without the renewable energy system included.

Source: 54:4-3.113b

Comment

Subsection (a) is identical to the source statute. Subsection (b) is substantially identical to the source statute.

Tax: 2-13 Municipal Tax Exemption

a. A municipality that has a Health Enterprise Zone as described in N.J.S. 54A:3-7 may adopt a resolution that provides for an exemption of taxation as real property for a portion of a building that is used to house a medical or dental primary care practice as defined in N.J.S.18A:71C-32.

b. The exemption shall be in effect for tax years that are within the period of designation as a State designated underserved area.

c. The exemption shall be contingent upon an annual application filed by the property owner and approved by the local tax assessor.

Source: 54:4-3.160

Comment

This section is substantially similar to the source statute. However, it has been broken into subsections for purposes of clarification and ease of understanding.

Tax: 2-14 Tenant Tax Rebate

a. An owner of the building granted an exemption from taxation as real property pursuant to section 4 of N.J.S 54:4-3.160 shall rebate to a tenant, who is engaged in the medical or dental practice, an amount equal to the exemption.

b. The rebate may be a lump sum or rebated through discounted rental payments.

c. The tenant engaged in the medical or dental practice or the owner of the building granted the exemption shall annually submit proof to the local tax assessor that the amount of the exemption was rebated to the eligible tenant.

d. If satisfactory proof is not provided in the manner that the tax assessor shall establish,

(1) The exemption shall not be allowed for the tax year and;

(2) The owner of the property shall refund the amount of the exemption for that tax year to the municipal tax collector.

Source: 54:4-3.161

Comment

This section is substantially identical to the source statute but is broken into sections and subsections.

Tax: 2-15 Certification of a building as a historic site; status reports; annual certification

a. The Director of the Division of Taxation in the Department of the Treasury shall certify a building to be a historic site that is qualified for a real property tax exemption whenever the director finds the following characteristics:

(1) Relevance to the history of the State and its government warranting its preservation as an historical site;

(2) The building is listed in the New Jersey Register of Historic Places;

(3) That restoration or rehabilitation, or both, shall be done in accordance with the United States Secretary of the Interior's Standards for the Treatment of Historic Properties;

(4) The building is open, under reasonable terms and conditions, to the general public and available to all people, without discrimination as to race, creed, color or religion.

(5) The building is open, under reasonable terms and conditions, including but not limited to a nominal fee that would ensure the preservation and maintenance of the site, for a minimum of 96 days per year.

(6) The building can be open to the public for less than 96 days per year if the building meets the following three qualifications:

(a) The nonprofit corporation that owns the building applies to the Director of the Division of Taxation for approval of fewer days;

(b) The municipality where the building is located passes a resolution in support of the nonprofit corporation's application for fewer days; and

(c) The director determines, based upon the financial resources of the nonprofit corporation, that 96 days is not feasible. In making this determination, the director shall consider at least, but not limited to, the following criteria:

(I) The financial condition and resources of the nonprofit corporate owner;

(II) Whether the request is temporary due to a short-term constraint regarding the public's physical access to the building;

(III) Whether the property relies on volunteers to manage public access;

and

(IV) The impact upon the public interest in restricting access to the historic site.

Source: 54:4-3.54b

Comment

This section is substantially identical to the source statute but has been rearranged and broken into subsections for the ease of understanding.

Tax: 2-16 Status reports

a. On or before January 30 annually, a nonprofit corporation that owns the building certified as a historic site shall submit a status report to the:

- (1)Municipal tax assessor,
- (2)The Historic Preservation Office in the Department of Environmental Protection, and
- (3)The Director of the Division of Taxation

b. The status report shall contain the following information:

(1)Evidence that the property was open to the public during the preceding calendar year, including proof of public notification or advertisement and a brief summary of visitation statistics;

(2)A copy of any amendments or modifications to the current corporation bylaws;

(3)Evidence that the nonprofit corporation that owns the building certified as a historic site has current nonprofit status pursuant to N.J.S15A:1-1 et seq. and is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c);

(4)A brief description of any physical restoration or rehabilitation undertaken in the preceding calendar year, with photographs documenting the current condition of the building; and

(5)A description of any physical restoration or rehabilitation anticipated in the subsequent calendar year.

Source: 54:4-3.54b

Comment

This section is substantially identical to the source statute but has been rearranged and broken into subsections for the ease of understanding.

Tax: 2-17 Annual certifications

a. The Director of the Division of Taxation shall, on or before September 15 of each year, certify that the property for which an exemption is claimed pursuant to N.J.S 54:4-3.54a have met all of the qualifications for a historic site real property tax exemption.

b. If the property is not qualified for exemption, because the site was not open to the public for more than 96 days by August 31, but is otherwise qualified, the director shall certify the number of days the property was open by August 31, and that the owner and property will be qualified for such exemption if the property is open to the public for at least the required number of days by December 31.

c. The director shall deliver such certification to the property owner and the tax assessor in which the property is located.

d. In addition to the report required pursuant to section 12-2 subsection b. on or before August 31 annually, the nonprofit corporation that owns the building certified as a historic site shall submit an interim status report that contains current calendar year information to the:

- (a) Historic Preservation Office in the Department of Environmental Protection,
- (b) The municipal tax assessor, and
- (c) The Director of the Division of Taxation

d. No later than the first day of the third month following the effective date of N.J.S 54:4-3.54a1 et al. the Director of the Division of Taxation shall promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” (N.J.S 52:14B-1 et seq.), to effectuate the purposes of this section and section 1 of N.J.S 54:4-3.54a.

Source: 54:4-3.54b

Comment

This section is substantially identical to the source statute but has been rearranged and broken into subsections for the ease of understanding.

Tax: 2-18 Cancellation of certification of a historic site

a. Upon the cancellation of a certification of a historic site pursuant to section 3 of N.J.S 54:4-3.54, the commissioner shall, no later than the next business day, give notice of the cancellation to:

- (1) The Director of the Division of Taxation in the Department of the Treasury and;
- (2) The municipal tax assessor where the historic site is located

Source: 54:4-3.54c

Comment

This section is substantially identical to the source statute but has been rearranged and broken into subsections for the ease of understanding.

Tax: 2-19 Historic Sites; Exemption from Taxation

a. Historic Sites shall be exempt from taxation upon application to, and certification by, the Director of the Division of Taxation in the Department of the Treasury. If:

(1) Any building, its related contents and the land on which it is located, is owned by a nonprofit corporation organized under N.J.S 15A:1-1 and is qualified for tax exempt status under the Internal revenue Code of 1986, 26 U.S.C.s.501(c)

(2) Has a primary mission as a historical organization to research, preserve and interpret history and architectural history and;

(3) Has been certified to be a historic site by the Commissioner of Environmental Protection

Source: 54:4-3.54a

Comment

This section is substantially identical to the source statute but has been rearranged and broken into subsections for the ease of understanding.

Tax: 2-20 Historic Sites; Tax exemption deemed null and void for non-compliant sites

a. Tax exemption granted after July 1, 1999 on a historic site that is not in compliance with the provisions of section 2 of N.J.S 54:4-3.54b shall be deemed null and void.

b. The owner of the historic site shall be liable for the payment of real property taxes to the taxing district for each tax year during the historic site property was not in compliance with N.J.S 54:4-3.54a et seq.

Source: 54:4-3.54a2

Comment

This section is substantially identical to the source statute.

Tax: 2-21 Exemption from property taxation, special assessments for certain sports and entertainment projects.

a. A sports and entertainment project constructed under a redevelopment plan adopted by an eligible city to provide sports and entertainment events, shows, public meetings or events, exhibitions, or other expositions shall be deemed to be devoted to an essential public and governmental use and purpose, and the property and any leasehold estate in it, shall be exempt from property taxation and special assessments of the State or any of its political subdivisions imposed under chapter 4 of Title 54 of the Statutes provided:

(1) it is owned used and operated by the eligible city, or an agency or instrumentality or a lessee of the eligible city, and

(2) the agency or instrumentality of the eligible city complies with the requirements of subsections (b) and (c).

b. The agency or instrumentality of the eligible city shall pay over to the city all net rents and other revenues received from its ownership, operation, or leasing of the sports and entertainment project, after providing for payment of all costs, and other obligations payable the rents or other revenues, including any amounts payable under any lease of the sports and entertainment project.

c. Prior to the funds being paid over to the eligible city, the agency or instrumentality of the eligible city shall cause independent audits to be conducted of: 1) all funds received and all costs, expenses, and obligations incurred that are part of the calculation of the amount being paid over to the city; and 2) the financial records of any primary lessee of the sports and entertainment project that pertain to the amounts payable to the agency or instrumentality under a lease agreement. A report of each audit shall be filed with the governing body of the eligible city and with the Director of the Division of Local Government Services in the Department of Community Affairs. An individual or firm shall not be engaged to conduct audits without the prior written approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

d. So long as the eligible city, or agency or instrumentality of the eligible city, is the owner of the sports and entertainment project, the powers and rights, granted under law to the eligible city, or agency or instrumentality of the eligible city, for any of its purposes, may be exercised by it for the purposes of the sports and entertainment project.

e. As used in this section, the following terms are defined as follows:

(1) "Sports and entertainment project" means a non-open air arena, stadium, pavilion, stands or playing fields, together with the buildings, structures, infrastructure, facilities, properties, and amenities related to or necessary for the operation, leasing, or use thereof; and

(2) "Eligible city" means a city of the first class within the State.

Source: 54:4-3.6f 54:4-3.6g, 54:4-3.6h, and 54:4-3.6i.

Comment

Subsection (a) is substantively identical to 54:4-3.6f. Subsections (b) and (c) are substantively identical to 54:4-3.6g. Subsection (d) is substantively identical to 54:4-3.6h. Subsection (e) is substantively identical to 54:4-3.6i.