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3. An "exemption" from property taxes is usually regarded as a reduction in the real property assessment. For instance, the original constitutional amendment in Art.VIII, §1, par. 4 adopted in 1960 permitted an \$800 "exemption" from the property tax assessment of senior citizens. This "exemption" was eventually changed to the present \$160 "deduction" from the tax bill of senior citizens.
4. Sec. 14 of A-1330 specifically refers to the satisfaction of the homeowner's tax liability as a "credit". After the Director of Taxation certifies the amount due each taxing district for homestead exemptions, and the State Treasurer distributes to each taxing district the amount so certified, Sec. 14 provides that the local tax collector "shall *credit* the November 1 property tax payment in the amount due under the homestead exemption."
5. Legislation implementing the senior citizen deduction is set forth in N.J.S.A. 54:4-80.40, *et seq.*

May 17, 1976

CHRISTOPHER DIETZ, *Chairman*
MARIO R. RODRIGUEZ, *Associate Member*
VERNER V. HENRY, *Associate Member*
New Jersey State Parole Board
135 West Hanover Street
Trenton, New Jersey 08625

FORMAL OPINION NO. 16-1976

Gentlemen:

You have requested an opinion concerning the administrative implementation of the commutation credits provided in N.J.S.A. 30:4-140 for purposes of determining the parole eligibility date of an inmate under the jurisdiction of the Parole Board. Specifically, you have inquired as to whether the present administrative practice by which the entire statutory entitlement is credited to an inmate on his incarceration and subject to divestment only for flagrant misconduct is consistent with the language and intent of the governing legislation. It is our opinion that this method for the application of good time credits is entirely in conformity with N.J.S.A. 30:4-140 since the statute requires that the prescribed credits are to be deducted from the minimum and maximum term of a sentence and fully accrued to the benefit of an inmate as of the date of the commencement of incarceration.

N.J.S.A. 30:4-140, as amended by Laws of 1957, c. 27, governs the allowance of time credits on account of continuous orderly deportment of inmates in our state correctional institutions. This statutory section provides as follows:

"For every year or fractional part of a year of sentence imposed upon any person committed to any State correctional institution for a minimum-maximum term *there shall be remitted to him* from both the maximum and minimum term of his sentence, for continuous orderly deportment, the progressive time credits indicated in the schedule herein. When a sentence contains a fractional part of a year in either the minimum or maxi-

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num thereof, then time credits in reduction of such fractional part of a year shall be calculated at the rate set out in the schedule for each full month of such fractional part of a year of sentence. No time credits shall be calculated as provided for herein on time served by any person in custody between his arrest and the imposition of sentence. In case of any flagrant misconduct the board of managers may declare a forfeiture of *the time previously remitted*, either in whole or in part, as to them shall seem just.

SCHEDULE

A	B	C
Minimum and Maximum Sentences in Years	Progressive Credits for Minimum and Maximum Sentences in Years	Credits for Each Full Month or Fractional Part of a Year in Excess of Column A
	(days)	(days)
1	72	7
2	156	8
3	252	8
4	348	8
5	444	8
6	540	8
7	636	10
8	756	10
9	876	10
10	996	10
11	1,116	10
12	1,236	11
13	1,368	11
14	1,500	11
15	1,632	11
16	1,764	11
17	1,896	11
18	2,040	12
19	2,184	12
20	2,328	12
21	2,472	12
22	2,616	13
23	2,772	13
24	2,928	13
25	3,084	15
26	3,264	15
27	3,444	15
28	3,624	15
29	3,804	15
30	3,984	16

Any sentence in excess of 30 years shall be reduced by time credits for continuous orderly deportment at the rate of 192 days for each such addi-

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tional year or 16 days for each full month of any fractional part of a year. Nothing herein contained shall be deemed to limit or affect a convict's eligibility for parole consideration as provided for in section 10, chapter 84, P.L. 1948, as amended, in any situation where the sentence or consecutive sentences imposed upon a convict shall exceed 25 years." (Emphasis supplied.)

It is clear from the literal terms of the statute that the Legislature has directed prison officials to remit to any person committed to a state correctional institution the progressive time credits from both the minimum and maximum of the sentence imposed by the court. The statutory language can admit of no construction other than an express legislative command to deduct the prescribed allowance immediately on the imposition of a sentence to a state correctional institution. Only in a case of flagrant misconduct may the time already "*previously remitted*" be forfeited in the discretion of the board of managers of the institution.

A comparison with previous versions of this statute (Laws of 1876, c. 155, and Laws of 1918, c. 147) sheds additional light on the presumed legislative purpose behind the enactment of the law in its present form. Prior to 1957, this section provided as follows:

"For every month of faithful performance of assigned labor by any convict committed to the state prison there shall be remitted to him from the maximum and minimum term of his sentence two days, and in addition, for every month of continuous orderly deportment, two days, and for every month of manifest effort of self-improvement and control, two days. In any month in which a convict shall have merited and received punishment no remission of sentence shall be made, and in case of any flagrant misconduct the board of managers may declare a forfeiture of the time previously remitted, either in whole or in part, as to them shall seem just. On the recommendation of the principal keeper and moral instructor, there shall be remitted two additional days per month to every convict who for twelve months preceding shall have merited the same by continuous good conduct, and for each succeeding year of uninterrupted good conduct the remittance shall be progressively increased at the rate of one day per month for that year." L. 1918, c. 147, sec. 306.

That statute was plainly founded on the concept that the inmate would accumulate the statutory credits by his good behavior periodically certified to by prison officials. The personal qualities deemed essential to the monthly rate of remission were expressed as "faithful performance of assigned labor" (two days), "continuous orderly deportment" (two days), and "manifest effort at intellectual improvement and self-control" (two days). In addition, on the recommendation of the principal keeper and moral instructor at the prison two additional days would be remitted for continuous good conduct for the preceding 12 month period. Thus, these legislative standards guided prison officials in granting, withholding and forfeiting commutation credits. There was a clear legislative purpose to authorize the periodic accumulation of the statutory credits in accordance with the sole discretion of the appropriate prison officials.

The enactment of the statute in its present form by Laws of 1957, c. 27, reflects

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a significant change in legislative policy from the periodic evaluation of inmate behavior and accumulation of good time credits to an automatic award of credit subject to divestment only in cases of obvious and flagrant misconduct. Instead of focusing upon certain attributes of commendable deportment in specified time periods during service of the term, the statutory scheme refers to the boundary of the sentence, the minimum and maximum term, as the integral factor in the computation of the credit. The credit is fixed and mandatory. It increases in direct proportion to the length of the sentence.

The legislative purpose behind the enactment of Laws of 1957, c. 27, is expressed in the Statement on Assembly Bill 177 as follows:

“This bill is designed to provide for more uniformity in the application of the principle of reducing the sentence of prisoners in confinement for good behavior. The statute as presently drawn results in considerable inequity and it is deemed desirable and necessary to make provision in the statute for the exact credits that may be anticipated on each individual sentence or series of consecutive sentences.

It is felt that this information will be beneficial to the courts that impose the sentences for it facilitates and simplifies the method of calculating good behavior credits so that each court will be informed of the maximum time credits in reduction of sentence and thus may impose a term of years of confinement consistent with the offense in light of such reduction of sentence.

The proposed statute should eliminate much tension and discontent among the inmates resulting from the lack of uniformity in the present schedule. . . .”

Thus, the 1957 amendment which brought the statute to its present form indicates a strong legislative intention to insure uniformity in sentencing procedures, to avoid inequities among the prison population and to eliminate the enormous administrative burden attendant upon periodic individual evaluation of inmates.

Moreover, it appears that prior to the 1957 amendment and at least since 1951, prison officials have administratively remitted progressive time credits on a projected basis from the minimum and maximum term immediately on the incarceration of an inmate. The 1957 amendment represented an apparent legislative purpose to conform the governing statute in this area to the then existing administrative practice. This is a significant indication of specific legislative acquiescence and support for this method for the remission of good time credits. An administrative interpretation of a relevant statute is entitled to great weight, especially when such construction is substantially contemporaneous with the enactment of the statute and is followed for many years. *Essex County, etc., Stores Ass'n. v. Newark, etc. Bev. Cont.*, 64 N.J. Super. 314, 322 (App. Div. 1960).

In summary, the literal terms and historical development of the statute require that commutation credits be remitted to the inmate on a projected basis. The computation of the extent of the credit is linked directly by the law to the length of the sentence in years or fractional part thereof and not to time actually served in the appropriate behavioral mode. Thus, the credit functions as an allowance against the

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sentence imposed for the purposes of delineating an adjusted minimum and maximum sentence and establishing a parole eligibility date.

Very truly yours,
WILLIAM F. HYLAND
Attorney General

By: THEODORE A. WINARD
Assistant Attorney General

June 8, 1976

GEORGE E. DAVIS, *President*
Hudson County Board of Taxation
595 Newark Avenue
Jersey City, New Jersey 07306

FORMAL OPINION NO. 17-1976

Dear Mr. Davis:

The Hudson County Board of Taxation has requested an opinion concerning the effect of certain provisions of the Administrative Code recently adopted by the Hudson County Board of Chosen Freeholders. The Code has been adopted as a consequence of the change in form of government effected in Hudson County under the provisions of the Optional County Charter Law (N.J.S.A. 40:41A-1 *et seq.*). The particular provisions purport to transfer all but several enumerated responsibilities of the existing County Board of Taxation to a newly-created Division of Tax Assessments. For the reasons expressed below, we are of the opinion that this action is not within the authority conferred upon a county government by the Optional County Charter Law.

Article 5 of the Hudson County Administrative Code contains the provisions in question. The article establishes a Department of Finance and prescribes its organization and functions. Among the Divisions of the Department of Finance, the Code includes a Division of Tax Assessments, Section 5.2(d). The Code subsequently describes the relationship between this Division and the existing County Board of Taxation as follows:

“Section 5.7 *Division of Tax Assessments* The head of the Division of Tax Assessments shall be the Division Chief. Under the direction and supervision of the Director, the division shall:

- (a) have, exercise and discharge all of the functions, powers and duties of a County Board of Taxation under State statutes, except the functions of hearing appeals from municipal assessments and relating to the County equalization tables;
- (b) in cooperation with the Division of Data Processing, develop, install