

## CHAPTER 31

AN ACT concerning the estate tax imposed under chapter 38 of Title 54 of the Revised Statutes, amending R.S.54:38-1, R.S.54:38-6 and R.S.54:38-7, and repealing R.S.54:38-8 and R.S.54:38-9.

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

1. R.S.54:38-1 is amended to read as follows:

Imposition of tax; amount.

54:38-1. a. In addition to the inheritance, succession or legacy taxes imposed by this State under authority of chapters 33 to 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under authority of any subsequent enactment, there is hereby imposed an estate or transfer tax:

(1) Upon the transfer of the estate of every resident decedent dying before January 1, 2002 which is subject to an estate tax payable to the United States under the provisions of the federal revenue act of one thousand nine hundred and twenty-six and the amendments thereof and supplements thereto or any other federal revenue act in effect as of the date of death of the decedent, the amount of which tax shall be the sum by which the maximum credit allowable against any federal estate tax payable to the United States under any federal revenue act on account of taxes paid to any state or territory of the United States or the District of Columbia, shall exceed the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; and

(2) (a) 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. s.1 et seq.), in effect on December 31, 2001, the amount of which tax shall be, at the election of the person or corporation liable for the payment of the tax under this chapter, either

(i) the maximum credit that would have been allowable under the provisions of that federal Internal Revenue Code in effect on that date against the federal estate tax that would have been payable under the provisions of that federal Internal Revenue Code in effect on that date on account of taxes paid to any state or territory of the United States or the District of Columbia, or

(ii) determined pursuant to the simplified tax system as may be prescribed by the Director of the Division of Taxation in the Department of the Treasury to produce a liability similar to the liability determined pursuant to clause (i) of this paragraph reduced pursuant to paragraph (b) of this subsection.

(b) The amount of tax liability determined pursuant to subparagraph (a) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estates's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

b. (1) In the case of the estate of a decedent dying before January 1, 2002 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, but an estate tax is due the United States under the provisions of any federal revenue act in effect as of the date of death, wherein provision is made for a credit on account of taxes paid the several states or territories of the United States, or the District of Columbia, the tax imposed by this chapter shall be the maximum amount of such credit less the aggregate amount of such estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

(2) In the case of the estate of a decedent dying after December 31, 2001 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature,

the tax imposed by this chapter shall be determined pursuant to paragraph (2) of subsection a. of this section.

c. For the purposes of this section, a "simplified tax system" to produce a liability similar to the liability determined pursuant to clause (i) of subparagraph (a) of paragraph (2) of subsection a. of this section is a tax system that is based upon the \$675,000 unified estate and gift tax applicable exclusion amount in effect 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, and results in general in the determination of a similar amount of tax but which will enable the person or corporation liable for the payment of the tax to calculate an amount of tax notwithstanding the lack or paucity of information for compliance due to such factors as the absence of an estate valuation made for federal estate tax purposes, the absence of a measure of the impact of gifts made during the lifetime of the decedent in the absence of federal gift tax information, and any other information compliance problems as the director determines are the result of the phased repeal of the federal estate tax.

2. R.S.54:38-6 is amended to read as follows:

Assessment and collection; disposition of proceeds; executors personally liable; liens.

54:38-6. The Director of the Division of Taxation in the Department of the Treasury shall assess and collect all taxes imposed by this chapter. Such taxes when and as collected by the director shall be paid forthwith into the State Treasury for the exclusive use of the State, and all administrators, executors, trustees, grantees, donees and vendees, shall be personally liable for any and all such taxes until paid, for which an action at law shall lie in the name of the State. Notwithstanding the provisions of any other law to the contrary, taxes imposed under this chapter shall remain a lien on all property of the decedent as of the date of the decedent's death until paid. No property owned by the decedent as of the date of the decedent's death may be transferred without the written consent of the director, or pursuant to such rules as the director may prescribe.

3. R.S.54:38-7 is amended to read as follows:

Copy of federal estate tax; alternate forms.

54:38-7. The executor, administrator, trustee or other person or corporation liable for the payment of the tax hereunder shall file with the Director of the Division of Taxation in the Department of the Treasury a copy of the federal estate tax return within thirty 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 thirty days after receipt thereof. In the case of any decedent dying after December 31, 2001 the executor, administrator, trustee or other person or corporation liable for the payment of such tax shall prepare and file with the director, in addition to a copy of such return, if any, as shall have been filed with the federal government, a federal estate tax return in the form in which such return would have been required to be filed with the federal government 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, within 30 days after the date on which such a filing would have been due under those provisions for a decedent dying on that date; provided however, that a person or corporation liable for the payment of the tax under this chapter that elects to determine tax pursuant to clause (ii) of subparagraph (a) of paragraph (2) of subsection a. of R.S.54:38-1 shall file such alternate New Jersey estate tax forms as may be prescribed by the director pursuant to the requirements of that clause.

In addition to the copy or copies of the federal estate tax return, or alternate tax forms, the executor, administrator, trustee or other person or corporation shall file any other evidence, information or data that the Director of the Division of Taxation shall in the director's discretion deem necessary. For the purposes of this chapter the Director of the Division of Taxation is hereby authorized and empowered to promulgate such rules and regulations, not inconsistent with the provisions hereof, as the director shall deem necessary.

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Repealer.

4. R.S.54:38-8 and R.S.54:38-9 are repealed.

5. This act shall take effect immediately and shall apply to the estate of any resident decedent dying after December 31, 2001.

Approved July 1, 2002.