

New Jersey



Assessors



MEMBER
International Association
of Assessing Officers

Bulletin

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May 1985

PRESIDENT'S MESSAGE



The Rutgers Conference is upon us. The conference this year will be held on the Livingston Campus from June 4, 1985 to June 7, 1985. The highlight of the conference will be a meeting of the Local Property Tax Study Commission on Thursday morning. The conference again this year will be fully funded.

Rutgers has instituted a two-part farmland assessment course and an exemption and deduction course that is being offered in late April and early May. I have learned that as of this writing, the courses are attracting a lot of interest and should be filled. These courses will be offered at another location in the fall and are fully funded.

I have learned that the governor has vetoed A-2578, the payment of disabled veterans deduction by the state. The reason for the veto is not known at this time.

The proposals to have municipalities held "save harmless" because of the A.T. & T. divestiture has been held up in legislature.

The semi-annual meeting at the Rutgers Conference will be important to all assessor's future. The meeting will be held on Thursday, June 6, 1985 at 7 p.m. Please make every effort to attend.

Stephen Kessler, President

ASSESSOR WANTED

Full time assessor wanted for Warren Township, Somerset County. 4000 line items, mainly residential. Salary open. Depending on experience. Call Morris Schuster, Administrator, 201-753-8000.

TEWKSBURY FARMLAND ASSESSMENTS IN DOUBT

According to Hunterdon County Tax Assessor Robert Housedorf, hundreds of farmland exemptions could be in jeopardy.

Those property owners will have until July 1 to have their land reinspected and provide proof they qualify for the lower assessment.

The Farmland Assessment Act of 1964 says five or more acres must be actually devoted to Horticultural or agricultural use and earn a minimum of \$500 per year.

Last year 470 properties were similarly inspected when the township underwent a revaluation.

In Bethlehem Township, the County Board excluded 47 out of 90 properties receiving the exemption but the Township is appealing the decision.



REMEMBER?

STUDY SHOWS FOREST LANDS PAY MORE THAN SHARE OF TAXES

Taxes are never popular, but taxes on land cause the most grief because they are unrelated to real ability to pay. The complaint is also frequently made that land taxes are not related to services provided. The charges fly both ways: landowners say they're over taxed; assessors say they're under-taxed.

A recent study in three counties near Washington, D.C. shows that undeveloped land pays taxes far in excess of its service costs. For every \$1.00 collected in taxes, undeveloped lands only received from \$0.10 to \$0.20 worth of services. Residential development on the other hand received \$1.16 to \$1.33 worth of services for every \$1.00 paid in taxes.

Assessors tax land on the doctrine of setting values at "Highest and Best Use." Land taxes based on actual use are viewed (and fought) as hard-won exceptions to the rule.

SOUTH PLAINFIELD REPEALS C104

Chapter 104, in force two months in the Borough of South Plainfield, repealed by a 4-2 vote.

The program designed for urban areas, is an incentive for homeowners to repair their properties instead of letting them remain in a state of disrepair.

The amount of improvement, up to \$15,000 per unit, is abated for five years.

The Council majority said the ordinance would have cost the Borough between \$400,000 and \$800,000 over five years.

Gross Ignorance: 144 times worse than ordinary ignorance.

In most types of North American income property today, the factor that links cost to value is rent. Cost can be incurred or avoided in ways that add to value, but it can also be incurred or avoided in ways that reduce value. The only way to distinguish which is the actual result is an informed and thorough analysis of the impact of the choice being considered on the project's net operating income.

The improvement in telecommunications capabilities will have a significant effect on the size and location of buildings. There will be a strong trend to locate equipment and people not needed for direct customer contact away from high-profile areas in lower-cost facilities. New telecommunications equipment will provide the necessary link between the different locations of a company.

It is apparent that buildings will have to change to meet the needs of the future. Those that accommodate future needs will prosper; those that cling too tightly to the past will not.

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ASSEMBLY, NO. 3093

An act concerning homestead rebates, amending P.L. 1977, c. 242, amending and supplementing P.L. 1976, C. 72, and repealing sections 3 and 4 of P.L. 1976, c. 72.

STATEMENT

This bill provides that homeowners, cooperative members, and stockholders or shareholders in mutual housing corporations will no longer have to file annual applications in order to receive their homestead rebates. In place of the current system, the assessor will file a certified copy of the list of eligible residents with the assessment list to the county board of taxation, which will constitute a claim for a homestead or additional rebate on the part of each person on the list. Upon reviewing that list, the county board will forward it to the Director of the Division of Taxation. The filing of this list will be considered an application for a homestead rebate as provided in existing legislation.

The only remaining application in the rebate process is provided for those who become eligible for homestead or additional rebates after this bill has been enacted and who must demonstrate initial eligibility. After establishing eligibility, these people will only be required to report relevant changes in status to the assessor.

This bill modifies the current process wherein all homeowners and those eligible to receive additional rebates must file annual applications in order to receive those rebates.

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SENATE, NO. 2520

An act authorizing municipalities to enact ordinances requiring the payment of real property taxes prior to the approval or consideration of certain permits, development applications or certificates of occupancy, amending P.L. 1975, c. 217 and supplementing P.L. 1975, c. 291 (C. 40:55D-1 et seq.).

STATEMENT

This bill authorizes municipalities to enact ordinances providing that applicants for construction permits, development application approval, and certificates of occupancy, submit a certification from the municipal tax collector that there are no taxes or assessments for local improvements due or delinquent on the property which is the subject of the application. The requirement for the certification may be waived, in emergency circumstances, when a delay in issuing the permit, approving the development application, or issuing a certificate of occupancy would bring about a danger to the public health or safety.

We must first be fair. Then, if there's something left over, we may be clever.

SENATE, NO. 2527

An act concerning property tax exemptions, amending and supplementing P.L. 1977, c. 12.

STATEMENT

This bill would permit distressed municipalities to provide for temporary tax exemption for certain unused property, provided that the person claiming the exemption demonstrates a commitment to improve the property. The exemption would be granted under the authority of Article VIII, Section I, paragraph 6 of the State Constitution, for the purpose of encouraging commercial and industrial development in areas in need of rehabilitation. The exemption may be linked with certain other tax exemptions or abatements provided under the same Constitutional authority, but the resulting combination may not be granted for a total of more than five years.

FOUQUET RETIRES

Charles W. Fouquet, assessor for Parsippany-Troy Hills, has retired after 22 years in that position.

A testimonial dinner was given in his honor on April 12th, at the Aspen Hotel, Parsippany. About 200 friends and dignitaries attended.

When Charles first moved from zoning and housing officer to the assessor in 1964, the township had a net valuation of about \$129 million. Today it is more than \$2.3 billion.

Charles is a former president of the Morris County Assessors Association and vice president of the Association of Municipal Assessors of New Jersey.

Good Luck!

SENATE, NO. 1999

An act concerning the exemption of certain property from taxation and amending R.S. 54:4-3.6.

STATEMENT

This bill permits nonprofit corporations organized for the moral and mental improvement of men, women and children to lease, for profit, space within a building which the corporation owns and uses in its work and retain its tax-exempt status, or to form a real estate holding company to hold title to the property, so long as the entire income from its profit-making activities, less expenses, are used for the purposes of the nonprofit corporation.

ASSEMBLY, NO. 3370

STATEMENT

This bill removes the income limitations for property tax deductions for senior citizens, permanently and totally disabled citizens, and surviving spouses thereof. The bill is intended to implement the provisions of Assembly Concurrent Resolution No. 170 of 1985. Current procedures for proving income qualifications would be retained for 180 days following the effective date of the legislation, in order to clarify the transition from current law to the policy established in this bill.

SENATE, NO. 2384

An act to amend and supplement "An act concerning certain deductions from the taxes against the real and personal property for citizens and residents 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; and for certain widows, during widowhood and while residents of this State, of certain citizens and residents of this State who had active duty in time of war in any such service, supplementing chapter 4 of Title 54 of the Revised Statutes, repealing chapter 184 of the laws of 1951," approved December 16, 1963 (P.L. 1963, c. 171).

STATEMENT

This bill makes the veteran's property-tax deduction available to those veterans whose home-ownership is in the form of shares in cooperative housing. Existing legislation on the veteran's deductions does not contemplate this form of ownership, though it does allow the deduction in the analogous cases where the veteran holds title to property as a partner or joint tenant. Since in the cooperative form of ownership the actual title is held only by the cooperative corporation as an entity, the individual shareholders have been unable to qualify under the present law.

This bill allows the shareholder to qualify as an "owner" for the purpose of claiming the deduction, and establishes an administrative framework for passing the benefit of it to him through the cooperative to which he belongs. It follows the principle recognized in previous legislation (P.L. 1977, c. 241), which enabled these shareholders to qualify for homestead tax rebates.

Knowledge is of two kinds. We know a subject ourselves or we know where we can find information upon it.

ASSEMBLY, NO. 3074

An act concerning tax incentives for certain condominium construction, amending P.L. 1978, c. 93 and amending and supplementing P.L. 1961, c. 40.

STATEMENT

This bill would amend and supplement the "Urban Renewal Corporation and Association Law of 1961" to allow municipalities to grant tax abatements for certain new condominium construction in distressed urban centers. This would be a valuable redevelopment tool, providing a needed incentive to the development of new housing in such areas of the State which would, in turn, encourage the economic growth and the social progress of the municipalities.

TAX REBATE FOR TENANTS

A Nutley ordinance requiring landlords to share with their tenants, 75 percent of any tax reductions was upheld by a federal judge.

U.S. District Judge H. Lee Sarokin said that unless the refund was shared it would result in a windfall for the landlords.

The ruling was a result of similar appeals by landlords throughout the state.

Although the judge admitted that many of the ordinances were not perfect, they aimed to allow tenants who shared the cost of a tax increase, to benefit from a rebate if it occurs.

When a man imagines, even after years of striving, that he has reached perfection, his decline begins.

Local Property Tax—University Granted Tax Exemption on Land Necessary For The Fair Enjoyment of Its Buildings—The Tax Court granted tax exemption to Fairleigh Dickinson University's Florham Park-Madison Campus on land necessary for the fair enjoyment of its buildings. The municipality had granted exemption for 50 acres (10 buildings) on the Florham Park campus, assessing the remaining 98 acres. The Tax Court granted an exemption on 136 acres and found 37 buildings on the Florham Park Campus devoted to educational uses. Madison Borough had granted exemption for one acre and assessed the remaining 29.4 acres on the Madison Campus. The court found 18 of the 30.4 acres in Madison devoted to educational uses.

The court said that land of an educational institution meets the statutory test for exemption if it:

1. Is necessary for the fair enjoyment of the buildings,
2. Is actually and exclusively devoted to the purposes of the buildings, and
3. Is not in excess of five acres for each building (See N.J.S.A. 54:4-3.6).

The court held that "fair enjoyment" has consistently been equated with "use" and to be considered "necessary," land need not be absolutely indispensable to the exempt buildings as long as it is "reasonably necessary" to accomplish the purposes of the organization seeking exemption. It was held that FDU may hold up to five acres of exempt land for each of its buildings if the land is reasonably necessary for actual and exclusive university uses.

Judgment was entered assessing the Madison Borough Campus land at \$334,800 for 1980 and the Florham Park Campus land at \$180,000 for 1981. Fairleigh Dickinson University v. Florham Park Borough, Madison Borough v. Fairleigh Dickinson University—N.J. Tax—(Tax Court of New Jersey, May 3, 1983).

SENATE, NO. 1561

An act concerning the assessment for tax purposes of lands designated as "coastal wetlands" and supplementing chapter 4 to Title 54 of the Revised Statutes.

This act shall be known and may be cited as the "Wetlands Assessment Act."

For general property tax purposes, the value of land which has been mapped as and declared, by order of the Commissioner of Environmental Protection, to be coastal wetlands, on application of the owner and approval thereof as hereinafter provided, shall be that value which the land has in view of the restrictions and regulations of "The Wetlands Act of 1970," P.L. 1970, c. 272 (C. 13:9A-1 et seq.).

The assessor in valuing land which has been so declared as coastal wetlands, and as to which the owner thereof has made timely application for valuation, assessment and taxation hereunder for the tax year in issue, shall consider only those indicia of value which the land has in view of its being subject to the regulations and restrictions of "The Wetlands Act of 1970," P.L. 1970, c. 272 (C. 13:9A-1 et seq.).

When coastal wetlands land being valued, assessed and taxed under the provisions of this act ceases to qualify as such, it shall be subject to additional taxes, hereinafter referred to as rollback taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the land been valued, assessed and taxed as other land in the taxing district, in the current tax year, the year of change in use, and in such of the two tax years immediately preceding, in which the land was valued, assessed and taxed as herein provided.

If in the tax year in which a change in status of the land occurs, the land was not valued, assessed and taxed under this act, then such land shall be subject to rollback taxes for such of the two tax years, immediately preceding, in which the land was valued, assessed and taxed hereunder.


In determining the amounts of the rollback taxes chargeable on land which has undergone a change in status, the assessor shall for each of the rollback tax years involved, ascertain:

a. The full and fair value of the land under the valuation standard applicable to other land in the taxing district;

b. The amount of the land assessment for the particular tax year by multiplying the full and fair value by the county percentage level, as determined by the county board of taxation in accordance with section 3 of P.L. 1960, c. 51 (C. 54:4-2.27);

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c. The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under b. hereof; and

d. The amount of the rollback tax for that tax year by multiplying the amount of the additional assessment determined under c. hereof by the general property tax rate of the taxing district applicable for that tax year.

LOCAL PROPERTY TAX—Burden of Proof—The Appellate Division affirmed substantially for the reasons stated in the Tax Court's opinion reported at 6 N.J. Tax 24 (1983). The Tax Court had dismissed the taxpayer's complaint where building residual technique of the income approach to land value was rejected for use of unsupported land value, and no market data was presented for taxpayer's expert's "stabilized" rental income or capitalization rate.

The Appellate Division rejected as without merit appellant's additional argument that the Tax Court erred in failing "to consider the sale of the subject property only seven weeks after the critical assessing date as an alternative method of proving valuation." The appellant attempted to prove true value not by the sale price set out in the deed, but by opinion testimony of a substantially lower cash equivalency of the sale price in the light of favorable financing terms. *Glenn Wall Associates v. Township of Wall*—6 N.J. Tax 448 (App. Div. 1984).

BY-LAWS OF THE KENNETH BECK SCHOLARSHIP FUND OF THE ASSOCIATION OF MUNICIPAL ASSESSORS OF NEW JERSEY

ARTICLE 10—THE KENNETH H. BECK SCHOLARSHIP FOUNDATION

Section 1—Purpose and Function of Foundation

The purpose and function of the Foundation shall be to provide scholarships and to make such scholarships available in the form of a gift to the immediate family and grandchildren of regular members of the Association and retired or deceased members who were members in good standing at the time of death or retirement.

Section 2—Members of Foundation

The members of the Foundation shall consist of nine (9) members, one from each Tri-County area, appointed by the Association President with the consent of the Executive Board. The Association Secretary and Treasurer shall be standing members of the Foundation. The Association President will appoint one of the seven (7) Tri-County members as the Foundation's Chairman with the consent of the Executive Board. All of the aforementioned members will be voting members of the Foundation. All members must be regular members in good standing of the Association of Municipal Assessors of N.J.

Section 3—Foundation Meetings

The annual meeting for the transaction of such business as may be necessary or advisable shall be held during the annual Rutgers Conference. Notice of the time and place of the meeting will be given to the Foundation members not less than twenty (20) days prior to the meeting.

Special meetings may be held at any time on the call of the President of the Association or by the Foundation Chairman. All Foundation members must be notified of any special meetings.

Any meeting may be adjourned from time to time until its business is completed; and the members present at any meeting or any adjourned meeting, if less than a quorum, may adjourn from time to time until a quorum is present.

A quorum for the holding of any meeting shall be five (5) members, but all votes must have a minimum of four (4) votes to affirm.

Section 4—Term of Office and Responsibilities

The initial members term of office shall be: Chairman and two (2) members shall serve a three (3) year term; two (2) members, a two (2) year term; and two (2) members, a one (1) year term. All appointed or reappointed members after the initial appointment period shall serve a three (3) year term. The Association Secretary and Treasurer shall be standing members of the Foundation.

The Foundation Officers and members shall have the entire and complete control and management of the Foundation. All checks and drafts shall be signed by the Chairman and counter-signed by the Treasurer. All grants will be sent directly to the school. The Officers and members will have the responsibility of the selection of candidates and the final decision of who receives the scholarship grants and the amount of each grant.

In the event of a vacancy in the Foundation membership caused by death, resignation, disqualification or other reason, the Association President with the consent of the Executive Board shall appoint a replacement to fill the unexpired term at a regular Association meeting. The replacement member shall be from the same Tri-County area of the person they replace. The County Presidents of that Tri-County area shall recommend possible members to the Association President.

The Foundation Officers and members may appoint committees to carry on function of the Foundation.

Section 5—Dissolution

Should a dissolution of the Foundation become necessary for any reason, the procedure for such dissolution provided in Title 15 of the Revised Statutes of New Jersey as amended or supplemented shall be followed, and the assets of the Foundation remaining after payment of all liabilities shall be distributed to the Association of Municipal Assessors of New Jersey to be by it held in trust and used for educational purposes.

ARTICLE 11—AMENDMENTS

Section 1—

This Constitution and By-Laws may be amended by a two-thirds vote of the members present at either the Semi-Annual or Annual Meeting, but the proposed amendment must have been approved for submission at a regular Executive Meeting prior to the Semi-Annual or Annual Meeting. Amended

1985 CONSTITUTION AND BY-LAWS COMMITTEE

James Anderson, Chairman

William Bailey

Joseph Crane

Vicky Mickiewicz

Samuel Befarah

Anthony Leone

Robert Pastor

J. Stanley Smith

LOCAL PROPERTY TAX—Training Course
Extension for County Board Members—P.L. 1984, c. 188 (approved Nov. 15, 1984) amends C.54:3-2 and extends from 18 months to 24 months the period in which county tax board members must furnish proof that they have received certificates indicating satisfactory completion of the training courses or that they possess an assessor's certificate. The training course work is designated in P.L. 1967, c. 44, Sec. 4 (C.54:1-35.28).

EXECUTIVE BOARD MEETING APRIL 18, 1985

President Stephen Kessler called the Executive Board Meeting to order at 10:15 am, followed by the pledge of Allegiance. Roll call was taken with 32 members of the Executive Board present. Minutes of the November 11, 1984 and January 28, 1985 meetings were approved as mailed upon a motion made by Bob Pastor.

Treasurer, Joe Crane, submitted the treasurer's report and the dues paid report, as of February 25, 1985.

Ed Rosenblum reported on a couple of important cases. Chapter 220 which was declared unconstitutional about a year ago—The Attorney General has since appealed to the Appellate Division. We have filed briefs in opposition, however, a bill was introduced in the Legislature and was passed in both houses and is waiting for the Governor's signature which would include all forms of residential housing which is newly constructed. We are hopeful the Appellate Division will also rule in our favor.

A-1050—passed the Assembly—requires garden apartment property owners and multi-family dwelling property owners to provide information to the Assessors when they file an appeal at the County Board level. Even requires copies of income tax returns and copies of all bills and invoices, and cancelled checks. According to the State Bar Association, the bill is unconstitutional because it singles out a certain class of property owners who have multi-family properties consisting of 10 or more dwellings. If you have only a 9 family apartment building or a large shopping center, or any other income producing property, you are exempt from this. The Bar Association also objects to this bill because the County Board is permitted to set a fee of up to \$1500.00 as a condition of filing an appeal as a security for costs of the appeal. Ed emphasized the most important reason, in his opinion, that the Assessors should oppose this bill because the court tells the Assessors how to appraise an apartment property. The bill says that you have a management fee on every apartment property in N.J. starting at 5% and declining on a graduated basis to 2 or 3%; that vacancy allowances shall be at 3%. This could be only the start of other legislation being passed to tell the Assessors how to assess industrial properties or even residential property, where they take away your entire professionalism and you become little computers pushing buttons. Discussion followed. George Harraka stated that he did not think that A-1050 was bad or wrong because of the fact it required the appellant to give detailed information

whenever an appeal was filed. George urged everyone to read the entire bill and judge for themselves.

Jim Anderson made a motion that we take "no action" on A-1050 at this time. 16 voted in favor of the motion, 6 opposed the motion. Motion passed.

PROPERTY TAX STUDY COMMISSION & EQUITY 21—Chairman, John Murray

The Property Tax Study Commission is going to be at Rutgers Continuing Educational Conference on Thursday morning, June 6, 1985, and any Assessor who would be willing to testify before the Commission should send a brief outline of what they are going to speak on to John Murray.

CONSTITUTION & BY-LAWS COMMITTEE

Chairman, Jim Anderson

This committee will be meeting before the next State Executive Board meeting to review the Scholarship By-Laws. If anyone has any recommendations, they should give them to Jim Anderson

EDUCATION - Chairman, Joe Crane

Joe Crane announced that the June Conference will be held, Tuesday, June 4 through Friday, June 7 on the Livingston Campus. We will be housed in the South Towers dorm, which is an eight story building, with an elevator. There will be a swimming pool available to us plus other recreational facilities. The educational program is being finalized and notices will be sent out shortly by Rutgers.

FARMLAND COMMITTEE

Co-chairmen Walt Kosul & John Dykson

Walt Kosul discussed the new farmland forms that are out.

There will be a new two day Farmland seminar. The first session will be held on Tuesday, April 30 and the second session will be held on Tuesday, May 14. Both sessions will be held at the Somerset Marriott. Notices will be sent out by Rutgers. This seminar will be held again in the Fall, probably in a different location.

Walt reported that the Assessors have been approved as a qualified review appraiser on farmland appraisals with the Agricultural Retention Committee.

LEGISLATION—Chairman, George Harraka

George reported that the definition for a partial reassessment was 52% or more A-3224. There is an amendment in the mail and George will get copies to the legislative committee as soon as it is received.

PUBLIC RELATIONS & SPEAKERS

Chairman, Lou Schick

Anyone who is interested in volunteering to serve on this committee should give their name to Steve. This committee is being activated again.

Vicky Mickiewicz, CTA, SPA
Secretary

Association of Municipal Assessors of New Jersey

NEW JERSEY ASSESSORS BULLETIN

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LEGISLATIVE NEWS



The Joint Appropriations Committee is still conducting hearings on the proposed budget for the fiscal 1985-86 year. There have been a few committee meetings but none that involve assessing administration. You will recall in the last committee report certain

proposals were awaiting legislative action. These proposals are still pending with a couple more recently added to the long list. The proposals with a short synopsis are as follows:

S-1510: Submission of our appraisal report on each property during revaluation.

A-1050: Allows for pertinent information to be provided by appellant in filing of tax appeals.

S-2455, S-2478, S-2561 and now S-2790: Allows for "save harmless" provision to guarantee taxes paid municipality by public utilities.

A-3199: Extends filing date of post-year tax statement from March 1st to June 1st.

A-3224: Requires that assessor notify governing body whenever he undertakes partial reassessments.

A-2556: Allows time for cross-appeal by municipalities at County Board level.

A-2068: Requires that no converted apartment unit to condominium be assessed as condominium until sold.

A-2578: Payment of Disabled Veteran deduction by the State. (Passed both houses, awaiting Governor's signature)

A review of these pending bills will indicate much activity for the assessor's office. Especially concerning A-2068, the condo conversion bill. I recall since the passage of Ch. 2, P.L. 1975 which allows for the value of condos to be representative of the

market, scores of attempts by various legislators to revert the assessment procedure back under those provisions of the horizontal property act despite the many court judgments sustaining value as that which prevails in the market.

A-2068 is another camouflaged attempt to have the burden of certain converted condo taxes be shifted for others to pay. This is another attempt of by-passing the Constitution which mandates that all property be assessed under the same standard of value. This bill is scheduled to be reviewed by the Senate, County and Municipal Government Committee on Monday, April 22nd. I certainly hope that the Assessor's Association will be successful in pointing out to the committee the ramifications resulting from the enactment of this proposal. The Legislative Committee also hopes that at this reading, some resolution has taken place regarding the payment of taxes on personal property owned by Public Utilities.

George C. Harraka, Chairman
Legislative Committee

LOCAL PROPERTY TAX—Provides for Taxation of Exempt Real Property in Certain Cases—P.L. 1984, c. 176 (approved Nov. 2, 1984) provides for the assessment and taxation of real property that is now exempt if it is used by a private party in connection with an activity conducted for profit. Under the act, the real property is subject to taxation to the same extent as though the private party owned the property or any part of it.

Exempt property leased to another who does not have an exemption from real property taxation is currently taxable. However, when use of the real property is allowed under an agreement other than a lease, the property is not taxable. This act is effective immediately and applicable for assessments and taxes for 1984 and after.

ASSEMBLY, NO. 3068

An act to repeal R.S. 54:51A-8.

R.S. 54:51A-8, commonly known as the "Freeze Act," provides that judgment by the tax courts involving real property shall be conclusive and binding upon the municipal assessor and the taxing district for the assessment year covered by the final judgment and the following two assessment years.

During the three-year "freeze" period, a municipality may not apply for an increase, but the taxpayer may petition for a further reduction.

Consequently, a taxpayer can, by regularly appealing for a decrease, indefinitely limit ("freeze") his property tax liability—even if the tax court denies his appeal—since each decision would constitute a conclusive and binding judgment on the taxing district.

The inappropriate application and utilization of the "Freeze Act" deprives local taxing districts of substantial tax revenues and it should, therefore, be repealed.

CHAPTER 36, LAWS OF 1985

Assembly Bill No. 486, a supplement to Chapter 539, P.L. 1981, was signed into law on February 1, 1985 and becomes Chapter 36, Laws of 1985.

The new law states:

"Notwithstanding the provisions of P.L. 1981, c. 539 (C. 54:4-3.6c), during the 90-day period following the effective date of this act, the governing body of each municipality, by ordinance, may, upon a showing of good cause as to why a timely claim was not filed, 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 R.S. 54:4-3.6 had timely claim been made therefor; except that no refund shall be made if more than seven 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 section."

The new law takes effect immediately; it expires, however, on the ninety-first day after enactment.

ASSEMBLY, NO. 2824

An act concerning the assessment of residential units and amending P.L. 1982, c. 220.

STATEMENT

This bill provides a five-year exemption from real property taxation for an addition to a dwelling which is to be occupied by the senior citizen or disabled parents, grandparents, stepparents, or step-grandparents of the owner or owner's spouse, and also provides a credit against the gross income tax for the sales and use taxes paid on materials to construct the addition.

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**STATE MAY SEEK REIMBURSEMENT OF
IMPROPERLY GRANTED PROPERTY TAX
DEDUCTION PAYMENTS**

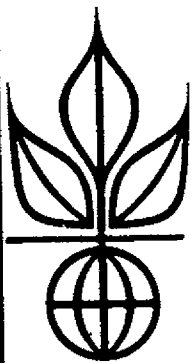
The Office of the Attorney General has ruled that the State of New Jersey may require municipalities to repay wrongfully-claimed senior citizens' and veterans' deductions. The Attorney General's opinion is in response to an inquiry by the Local Property Branch concerning remedies available to the State when it seeks to collect deductions granted by municipalities to ineligible recipients.

Payment by the State to the municipality under N.J.S.A. 54:4-8.53(a) is authorized only for valid property tax deductions. The ruling stated that payment by the State is unauthorized when claimed deductions are invalid.

The Attorney General has ruled that reimbursements may be effectuated annually by deducting such amounts from cash contributions made to municipalities by the State for the amount of senior citizens' and veterans' deductions previously granted to ineligible recipients.

Lastly, the Attorney General's opinion advises that there is no statute of limitations in the law hindering the State's right to collect improperly granted veterans' and senior citizens' deductions.

The Legislature has properly determined that the State would not be subject to a time limitation when seeking reimbursement from municipalities for improperly granted deductions.



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ASSEMBLY, NO. 2971

An act concerning exemption from taxation of certain manufactured residential homes for two families within residential neighborhoods in need of rehabilitation and supplementing chapter 4 of Title 54 of the Revised Statutes.

STATEMENT

This bill permits municipalities to grant a reduction in the assessed value of manufactured homes located in areas in need of rehabilitation. The reduction shall not exceed \$25,000 of assessed value and shall not be granted for more than five years. Only manufactured homes containing two or less separate dwelling units are eligible for a reduction on assessed value.

Local Property Tax—Township Appraiser Permitted to Inspect Premises But Not To Take Photographs—The Appellate Division affirmed the order of the Tax Court, but modified it to eliminate any reference to photographs. The court held that here, where the township's appraiser has sufficient information about plaintiff's property and is free to visit and conduct an extensive inspection, there is no showing of a need for the extraordinary relief of permitting him to take photographs, interior as well as exterior. Under the circumstances, including plaintiffs' desire to maintain the security of their premises, the order of the Tax Court permitting inspection of the subject is modified to eliminate any reference to photographs. *Johnson v. Princeton Township*—(App. Div. 1983) (currently unreported).

LOCAL PROPERTY TAX—Exempt Status—Foundation's property is not entitled to a tax exemption under N.J.S.A. 54:4-3.6 for the years in question because the property was not "exclusively used" for exempt purposes. *Schizophrenia Foundation of N.J. v. Montgomery Township*—N.J. Tax—(Tax Court of New Jersey, Sept. 26, 1984); *Montgomery Township v. Schizophrenia Foundation of N.J.*—N.J. Tax—(Tax Court of New Jersey, Sept. 26, 1984).

ATLANTIC CITY CONFERENCE
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Headquarters for the Assessors Conference will be Bally's Park Place Casino Hotel on the Boardwalk.

We have 69 rooms reserved at the hotel. Lodging is \$84.00 per night, parking included. Reservations will be given to Association members first, at the Rutgers Continuing Education Conference in June. After August 1st, we will accept requests from people outside the Association.

Details of the Conference will be available at Rutgers.

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Local Property Tax—Unsupported Expert Opinion Evidence Is No Basis For Finding of Value—The Tax Court dismissed the plaintiff's complaint for the reduction of the assessment of the plaintiff's property for the tax years 1976 through 1980. The court held that the taxpayer had not overcome the presumption of the correctness of the assessment on the basis of unsupported expert opinion. An expert's opinion is no higher than the data on which it is founded. Where an expert gives an opinion of value based on his general experience, without supporting such value by specific objective data, that opinion is not entitled to any probative value. In this case, the plaintiffs had the burden of overcoming the presumption of correctness in favor of the judgments of the Monmouth County Board of Taxation for the years 1976, 1977, 1978 and 1979 and the original assessment for the tax year 1980. The court, holding that the presumption of correctness had not been overcome and that there was no basis for a finding of value, entered judgment dismissing plaintiff's complaint. *Philip & Roslyn Cohen et al. v. Sea Bright Boro*—N.J. Tax—(Tax Court of New Jersey, May 4, 1983).

SR-1A PREPARATION INCLUDES PROPER LISTING OF DATES

Assessors are reminded that, when preparing Section Two of the SR-A, the assessment year must coincide with the year of the deed date listed in Section One.

For example, an SR-1A having a deed date of 11-1-84 should have an assessment year of 1984 and an assessed value for 1984.

The Local Property Branch has found many instances where the deed date and assessment date do not coincide. As a result of this oversight, the SR-1A must be returned to the Branch's field representatives solely for the purpose of determining the correct assessed value.

Rules for County Boards of Taxation

The Local Property Branch has completed the updating of the Rules For County Boards of Taxation.

In booklet form, the revised publication contains changes which have occurred since its first release in April 1974.

Current publication of the Rules is being provided for the convenience of county tax administrators, commissioners, assessing officials and taxpayers. The booklet is available on request to the Branch.

ASSEMBLY, NO. 2578

An act to amend the "State Revenue Sharing Act of 1976," approved August 30, 1976 (P.L. 1976, c. 73), and P.L. 1978, c. 66.

STATEMENT

This bill requires the State to make up the loss of property tax to municipalities containing real property under the veterans tax exemption. The bill amends certain sections of the State Revenue Sharing Act of 1976 to include the amount of lost property tax from the veterans exemption in the additional revenue sharing funds presently distributed by the State to municipalities. Present law only permits the reimbursement of the senior citizens and veterans property tax deductions to municipalities with properties so affected. Some municipalities having a number of qualified disabled veterans are suffering substantial losses in property tax revenues.

Local Property Tax—Exemption—Nursing Home/Retirement Center—A nursing home and retirement center operated by plaintiff's religious organization for the purpose of generating funds for its religious information projects was not actually and exclusively used for charitable or religious purposes and was not entitled to exemption under N.J.S.A. 54:4-3.6. *Christian Research Institute v. Town of Dover—N.J. Tax*—(Tax Court of New Jersey, May 26, 1983).

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ASSEMBLY, NO. 3237

An act to amend the "Farmland Assessment Act of 1964," approved May 11, 1964 (P.L. 1964, c. 48).

STATEMENT

This bill provides that only land the agricultural or horticultural use of which constitutes the principal source of income for the owner thereof, or the owner of the land has a gross income of \$50,000.00 or less, or the owner is a corporation with gross receipts of \$100,000.00 or less, shall be eligible for valuation, assessment, and taxation under the "Farmland Assessment Act of 1964," P.L. 1964, c. 48 (C. 54:4-23.1 et seq.). The bill also provides that woodland owned by a commercial or industrial enterprise which is deemed to be in agricultural or horticultural use, but whose use does not constitute the principal source of income for the owner, shall be assessed at 75% of its value under the valuation standard applicable to other land in the taxing district.


SENATE, NO. 2588

An act providing a deduction from taxable income under the gross income tax for certain property taxes, providing a refund of a portion of certain property taxes for persons not subject to the gross income tax, supplementing Title 54A of the New Jersey Statutes, and amending N.J.S. 54A:4-3.

STATEMENT

This bill provides for additional property tax relief for homeowners and tenants. If a homeowner or tenant is a taxpayer under the "New Jersey Gross Income Tax Act," provision is made for the deduction of property taxes from taxable income with guaranteed minimum deductions. For homeowners and tenants who are not taxpayers under the State income tax, a provision is made for a homestead tax refund for which those persons may apply.

The bill guarantees that every person, whether homeowner or tenant, will receive additional property tax relief.



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LOCAL PROPERTY TAX—County Equalization Table—Split Offs—Ratio of assessment to sale price of assessed parcel, only part of which was sold (split off), should not be included in sales-ratio study under N.J.S.A. 54:3-17 where portions sold were assessed under Farmland Assessment Act because there is no comparative relationship between the assessment and the sale price necessary for sales-ratio study purposes. Cranbury Township v. Middlesex County Board of Taxation—N.J. Tax—(Tax Court of New Jersey, July 13, 1984).

Local Property Tax—Freeze Act—Successor in title who was not a party is bound by settlement agreement between predecessor and taxing district, which provided that the Freeze Act (N.J.S.A. 54:51A-8) shall apply to taxpayer as well as to taxing district. Central Bergen Properties v. Borough of Elmwood Park and City of Garfield—N.J. Tax—(Tax Court of New Jersey, April 6, 1984).

SENATE, NO. 2607

An act concerning certain property tax deductions and amending P.L. 1964, c. 255.

STATEMENT

This bill changes the deadline for senior citizens and totally disabled persons to file their post-tax year statements of income from February 1 to March 1 for the purposes of qualifying for a property tax deduction. The bill also authorizes the local tax collector to extend the filing date to May 1 for senior citizens and disabled persons who can show that they were ill or physically unable to file their statements on time. Under current law, the extension deadline is March 1. Finally, the bill directs the local tax collector to mail post-tax year statements to each person who was allowed a deduction in the preceding year and notices of disallowance to those individuals who are not entitled to a deduction.

JUNE CONFERENCE AT LIVINSTON CAMPUS, RUTGERS UNIVERSITY JUNE 4-7

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