

SENATE, No. 1375

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 24, 1998

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

SYNOPSIS

Exempts from transfer inheritance tax certain transfers of interest in a family farm.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT exempting certain transfers of an interest in a family farm
2 from New Jersey transfer inheritance tax, amending R.S.54:34-4.

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

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7 1. R.S.54:34-4 is amended to read as follows:

8 54:34-4. The following transfers of property shall be exempt from
9 taxation:

10 a. Property passing to or for the use of the State of New Jersey, or
11 to or for the use of a municipal corporation within the State or other
12 political subdivision thereof, for exclusively public purposes.

13 b. Property passing to a beneficiary or beneficiaries having any
14 present or future, vested, contingent or defeasible interest under any
15 trust deed or agreement heretofore or hereafter executed by a resident
16 or nonresident decedent, to the extent that the trust fund results from
17 the proceeds of contracts of insurance heretofore or hereafter in force,
18 insuring the life of such decedent, and paid or payable, at or after the
19 death of such decedent, to the trustee or trustees under such trust deed
20 or agreement.

21 c. Property passing to (i) a trustee or trustees of any trust deed or
22 agreement heretofore or hereafter executed or (ii) to a trustee or
23 trustees of a trust created by the will of a decedent, by virtue of any
24 contract of insurance heretofore or hereafter in force insuring the life
25 of a resident or nonresident decedent and the proceeds of which are
26 paid or payable at or after the death of such decedent to such trustee
27 or trustees for the benefit of a beneficiary or beneficiaries having any
28 present or future, vested, contingent or defeasible interest under such
29 trust deed, agreement or will.

30 d. That part of the estate of any decedent which passes to, for the
31 use of or in trust for any educational institution, church, hospital,
32 orphan asylum, public library or Bible and tract society or to, for the
33 use of or in trust for any institution or organization organized and
34 operated exclusively for religious, charitable, benevolent, scientific,
35 literary or educational purposes, including any institution instructing
36 the blind in the use of dogs as guides, no part of the net earnings of
37 which inures to the benefit of any private stockholder or other
38 individual or corporation; provided, that this exemption shall not
39 extend to transfers of property to such educational institutions and
40 organizations of other states, the District of Columbia, territories and
41 foreign countries which do not grant an equal, and like exemption of
42 transfers of property for the benefit of such institutions and
43 organizations of this State.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 e. That part of the estate of any decedent who has heretofore died,
2 or may hereafter die, received, either heretofore or hereafter, by the
3 legal representatives of such decedent, whether directly from the
4 United States, or through any intervening estate or estates, by reason
5 of any war risk insurance certificate or policy, either term or
6 converted, or any adjusted service certificate, issued by the United
7 States. Nothing contained in this subsection e. shall entitle any person
8 to a refund of any tax heretofore paid on the transfer of property of
9 the nature aforementioned; and provided further, that the exemption
10 provided for in this subsection e. shall not extend to that part of the
11 estate of any decedent composed of property of the nature
12 aforementioned, when such property was received by the decedent
13 before death.

14 f. The proceeds of any contract of insurance heretofore or
15 hereafter in force insuring the life of a resident or nonresident decedent
16 paid or payable at or after the death of such decedent to any
17 beneficiary or beneficiaries other than the estate or the executor or
18 administrator of such decedent.

19 g. Any transfer, relinquishment, surrender or exercise at any time
20 or times by a resident or nonresident of any right to nominate or
21 change the beneficiary or beneficiaries of any contract of insurance
22 heretofore or hereafter in force insuring the life of such resident or
23 nonresident irrespective of whether such transfer, relinquishment,
24 surrender or exercise of such right took place or whether the proceeds
25 of such policy were paid or payable, before or after the taking effect
26 of this act.

27 h. The value of any pension, annuity, retirement allowance, return
28 of contributions, or benefit payable by the Government of the United
29 States pursuant to the Civil Service Retirement Act to a beneficiary or
30 beneficiaries other than the estate or the executor or administrator of
31 a decedent.

32 i. The value of any annuity payable by the Government of the
33 United States pursuant to the Retired Serviceman's Family Protection
34 Plan or the Survivor Benefit Plan to a beneficiary or beneficiaries
35 other than the estate or the executor or administrator of a decedent.

36 j. The value of any pension, annuity, retirement allowance or return
37 of contributions, regardless of the source, which is a direct result of
38 the decedent's employment under a qualified plan as defined by section
39 401(a), (b) and (c) or 2039(c) of the Internal Revenue Code, payable
40 to a surviving spouse, and not otherwise exempted pursuant to this
41 section or other law of the State of New Jersey.

42 k. The transfer to a brother, sister, nephew or niece of a decedent,
43 or to the wife or widow of a son of a decedent or the husband or
44 widower of a daughter of a decedent, of an interest of the decedent in
45 real property that, at the time of the decedent's death, was used solely
46 for farming purposes and was wholly owned by the decedent alone or

1 by the decedent and members of the decedent's immediate family,
2 provided that (1) the pertinent real property continues to be used
3 solely for farming purposes for a period of not less than eight years
4 following the date of the decedent's death, and (2) each such
5 transferee, in every taxable year beginning on or after that date and
6 ending on or before the date on which that eight-year period expires,
7 or on or before any earlier date on which the transferee dies, attains
8 the age of 65 years, or becomes disabled for participation in the
9 operation of the farm business, derives from the operation of the farm
10 business at least 25% of the transferee's New Jersey gross income. If
11 the pertinent real property fails to be so used during the eight-year
12 period, or a transferee fails in a taxable year to derive at least 25% of
13 the transferee's New Jersey gross income from the operation of the
14 farm business in accordance with the requirements of paragraph (2) of
15 this subsection, or if a transferee transfers all or a part of the interest
16 received from the decedent, unless that transfer is made to another
17 member of the decedent's immediate family who, beginning with the
18 taxable year in which the transfer occurs and thereafter in accordance
19 with the provisions of paragraph (2) of this subsection, derives at least
20 25% of that other family member's New Jersey gross income from the
21 operation of the farm business, then the exemption provided under this
22 subsection shall be void, and all transfers from the decedent's estate
23 theretofore exempt under this subsection shall be subject to taxation
24 pursuant to R.S.54:33-1 et seq.

25 As used in this subsection:

26 "Farming purposes" means cultivating the soil or raising or
27 harvesting any agricultural or horticultural commodity on a farm,
28 including, but not limited to, the raising, shearing, feeding, caring for,
29 training, and management of animals; handling, drying, packing,
30 grading, or storing on a farm any agricultural or horticultural
31 commodity in its unmanufactured state, but only if the owner or
32 operator of the farm regularly produces more than one-half of the
33 commodity so treated; or planting, cultivating, caring for, or cutting
34 of trees, or the preparation, other than milling, of trees for market. A
35 dwelling house that is situated on land used for farming purposes shall
36 itself be deemed to be used for farming purposes if it is used as a
37 principal residence by one or more persons who acquire from the
38 decedent an interest in real property as the result of a transfer to which
39 this subsection applies.

40 "Member of the decedent's immediate family" means the spouse,
41 father, mother, grandparent, aunt, uncle, brother, sister, nephew or
42 niece of the decedent; a child of the decedent, including a child
43 adopted by the decedent in conformity with the laws of this State or
44 of any of the United States or of a foreign country, or the issue of such
45 a child; or the wife or widow of a son of the decedent or the husband
46 or widower of a daughter of the decedent.

"Taxable year" shall have the meaning prescribed for that term by
subsection k. of N.J.S.54A:2-1.

(cf: P.L.1981, c.152, s.1)

2. This act shall take effect immediately and shall be applicable to transfers from the estates of persons dying on or after January 1, 1999.

STATEMENT

This bill amends the transfer inheritance tax to exempt from tax the transfer of an interest in a family farm to certain members of a decedent's immediate family who operate the farm after the death of the decedent.

Under the bill, the exemption would apply to the transfer of the decedent's interest in real property used solely for farming purposes and owned by the decedent alone or together with members of the decedent's immediate family to certain persons for whom the transfer might otherwise be taxable. Transferees eligible for the exemption are the brother, sister, nephew or niece of the decedent; the wife or widow of a son of the decedent; and the husband or widower of a daughter of the decedent; provided that (1) the pertinent real property continues to be used solely for farming purposes for at least eight years following the decedent's death, and (2) each such transferee derives at least 25% of the transferee's New Jersey gross income from the operation of the farm business in each taxable year until the expiration of that eight-year period or until the transferee dies, attains the age of 65 years, or becomes disabled for participation in the operation of the farm business. The bill provides that if, during the eight-year period, the property fails to be used as a farm or a transferee fails to derive the required proportion of annual taxable income from the operation of the farm business, or if the transferee transfers all or a part of the interest received (other than to another member of the decedent's immediate family who thereafter derives the required proportion of annual taxable income from operation of the farm business), then the exemption would be void, and tax would be imposed on all transfers from the decedent's estate previously exempt under the bill.

For purposes of the legislation, "immediate family member" of a decedent means the spouse, father, mother, grandparent, aunt, uncle, brother, sister, nephew or niece of the decedent; a child of the decedent, including a child legally adopted by the decedent, or the

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- 1 issue of such a child; or the wife or widow of a son of the decedent or
- 2 the husband or widower of a daughter of the decedent.