

2A:3A-1 thru 2A:3A-29

LEGISLATIVE HISTORY CHECKLIST

(Establishes Tax Court;  
Abolishes Division of  
Tax Appeals)

NJSA 2A:3A-1 thru 2A:3A-29; Repeals 54:2-45

LAWS OF 1978 CHAPTER 33

Bill No. S115

Sponsor(s) Perskie

Date Introduced Pre-filed

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage Yes ~~x~~ Amendments during passage denoted by asterisks  
Date of Passage: Assembly June 8, 1978  
Senate April 24, 1978  
Date of approval June 13, 1978

Following statements are attached if available:

Sponsor statement Yes ~~x~~ Below  
Committee Statement: Assembly ~~x~~ No  
Senate Yes ~~x~~  
Fiscal Note ~~x~~ No  
Veto Message ~~x~~ No  
Message on signing Yes ~~x~~

Following were printed:

Reports Yes ~~x~~  
Hearings Yes ~~x~~

Sponsor's statement:  
This bill proposes to establish a tax court and to abolish the Division of Tax Appeals. Tax appeals merit a full-time professional body in the judicial branch of government to insure both equity and speed in resolving cases.

EJ (over)  
9/1/78

MAY 1979

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974.90 NJ. Legislature. Senate.  
T235 Special Committee on Tax  
1977b Appeals Procedure.  
Public hearing. Held  
3-15-77. Trenton, NJ.

974.90 NJ. Legislature. Senate.  
T235 Special Committee on Tax  
1977c Appeals Procedure.  
Tax appeals in New Jersey:  
a critique and a program for Legislative  
action.  
June 26, 1977.

Attached:

Dietz, Morton, "The Need for Court Merger: New  
Tax Court Created," 102 NJLJ. 329,336.

Report on earlier proposal for tax court:

974.90 NJ. Legislature. Assembly. Taxation  
T235 Committee.  
1974k Public hearing on ACR No. 130  
(Amends Constitution to provide  
for setting up a Tax Division in  
the Superior Court), May 9, 1974.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 115

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Senator PERSKIE

AN ACT to establish a tax court and to provide for its powers, functions, judges and personnel and for certain transfers of jurisdiction and officers of the Division of Tax Appeals in the Treasury Department and **\*[providing for the transfer thereto of jurisdiction of the Superior Court with respect to condemnation matters]\*** *\*repealing R. S. 54:2-45\**.

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

1 1. A tax court is hereby established as an inferior court of limited  
2 jurisdiction, pursuant to Article VI, Section I, paragraph 1 of the  
3 New Jersey Constitution.

1 2. The tax court shall consist of no less than **\*[five]\*** *\*six\**, nor  
2 more than 12 judges, each of whom shall exercise the powers of the  
3 court, subject to rules of the Supreme Court. The tax court shall  
4 maintain permanent locations in Trenton and Newark and may meet  
5 and hold sessions at such other locations throughout the State as  
6 may be necessary to accommodate taxpayers or the calendar of the  
7 court.

8 *\*The State shall provide courtrooms, chambers and offices for*  
9 *the tax court on a shared basis with the Superior Court as to the*  
10 *required permanent locations in Trenton and Newark and by*  
11 *arranging for shared use of existing courtrooms, chambers and*  
12 *offices or other appropriate facilities at such other locations*  
13 *throughout the State as may be from time to time necessary to*  
14 *accommodate taxpayers or the calendar of the tax court.\**

1 3. The tax court shall be a court of record, having a seal, and  
2 shall have jurisdiction to hear and determine all tax appeals of  
3 such character as now are taken to, and heard and determined by,  
4 the Division of Tax Appeals in the Department of the Treasury.

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

5 \*\*\*Practice and procedure in the tax court shall be as provided by  
 6 rules of the Supreme Court.\*\*\* \*The jurisdiction with respect to  
 7 all matters in condemnation conferred upon the Superior Court by  
 8 section 5 of the Eminent Domain Act of 1971 (P. L. 1971, c. 361,  
 9 C. 20:3-5) is hereby transferred to the tax court.]\*

1 4. a. The tax court, in all causes within its jurisdiction, and  
 2 subject to law, may grant legal and equitable relief so that all  
 3 matters in controversy between the parties may be completely  
 4 determined.

5 \*b. The tax court shall include a division therein known as the  
 6 Small Claims Division which shall have the powers and duties  
 7 prescribed in sections 5 to 8, inclusive.]\*

8 \*b. The tax court shall hear and determine all issues of fact and  
 9 of law de novo.

10 c. Decisions of the tax court shall be published in such manner  
 11 as \*\*\*[are decisions of]\*\*\* shall be directed by\*\*\* the \*\*\*[Su-  
 12 perior]\*\*\* Supreme Court.\*

1 5. \*The]\* \*There is hereby established within the tax court a\*  
 1A Small Claims Division \*which\* shall have jurisdiction of the fol-  
 2 lowing classes of cases:

3 a. A proceeding for refund with respect to any year for which  
 4 the amount of refund claimed does not exceed \*\$1,000.00\*  
 5 \*\$2,000.00\*, exclusive of interest and penalties.

6 b. A proceeding to set aside additional taxes assessed or taxes  
 7 assessed with respect to any year for which the amount in contro-  
 8 versy does not exceed \*\$1,000.00\* \*\$2,000.00\*, exclusive of  
 8A interest and penalties.

9 \*c. A proceeding by a taxpayer from a determination of a  
 10 county board of taxation where said board has determined that  
 11 either the parcel of land or the total improvements thereon, has a  
 12 true value not in excess of \$25,000.00 or that personal property  
 13 has a true value not in excess of \$10,000.00.]\*

1 6. The clerk of the tax court shall assign cases to the Small  
 2 Claims Division when he finds from an examination of the petition  
 3 that jurisdiction exists under section 5 hereof.

1 7. The hearing in the Small Claims Division shall be informal,  
 2 and the judge may hear such testimony and receive such evidence  
 3 as he deems necessary or desirable for a just and equitable deter-  
 4 mination of the case, except that all testimony shall be given under  
 5 oath. A party may appear on his own behalf or may be repre-  
 6 sented or accompanied by an attorney\*\*\*[, certified public account-  
 7 ant\*, public accountant\*]\*\*\* or such other person as \*\*\*[the court

8 may permit to be present and participate in the proceeding before  
 8A the Small Claims Division]\*\*\* *may be provided by rules of the*  
 8B *Supreme Court*\*\*\*.

1 8. The judgment in the Small Claims Division \*[shall be conclu-  
 2 sive upon all parties and]\* may include orders to correct an assess-  
 3 ment roll or a tax roll, or both, modify or cancel an assessment,  
 4 pay or allow a refund, to take such other action as may be neces-  
 5 sary to effectuate the judgment.

1 9. The jurisdiction, powers and functions of the tax court may  
 2 be altered by law as the public good may require.

1 10. Appeals may be taken to the Appellate Division of the  
 2 Superior Court.

1 11. The Governor shall nominate and appoint, with the advice  
 2 and consent of the Senate, the judges of the tax court.

1 12. All appointments to such judgeships shall \*[me]\* *be* made  
 2 in such manner that the appointees shall be, as nearly as possible,  
 3 in equal numbers, members of different political parties so as to  
 4 constitute the tax court bipartisan in character.

5 The words "political parties" mean such political parties as  
 6 shall have cast the largest and next to the largest number of votes,  
 7 respectively, for members of the General Assembly at the last  
 8 preceding general election held for the election of all the members  
 9 of the General Assembly prior to the making of any such ap-  
 10 pointments.

1 13. The judges of the tax court shall each, prior to his appoint-  
 2 ment, have been admitted to the practice of law in this State for  
 3 at least 10 years, and shall be chosen for their special qualifications,  
 4 knowledge and experience in matters of taxation.

1 14. The Chief Justice shall appoint one of the judges of the tax  
 2 court to be the presiding judge of the tax court. *\*\*\*The presiding*  
 3 *judge shall, subject to the supervision of the Chief Justice and the*  
 4 *Administrative Director of the Courts, be responsible for the*  
 5 *administration of the tax court.\*\*\**

1 15. The judges of the tax court who shall be hereafter appointed  
 2 shall hold their offices for initial terms of 7 years and until their  
 3 successors are appointed and qualified, and upon reappointment  
 4 shall hold their offices during good behavior\*; *provided, however,*  
 5 *that the judges of the tax court first appointed shall serve for*  
 6 *terms of from 3 to 7 years, as shall be specified upon nomination,*  
 7 *so to provide for staggered expiration of terms*\*. Such judges shall  
 8 be retired upon attaining the age of 70 years\*\*\*, *upon the same*  
 9 *terms and conditions as a judge of the Superior Court*\*\*\*.

1 16. The judges of the tax court shall be subject to impeachment,  
 2 and any judicial officer impeached shall not exercise his office until  
 3 acquitted. They shall also be subject to removal from office by the  
 4 Supreme Court for such causes and in such manner as **\*\*\*[shall be**  
 5 **provided by law]**\*\*\* *\*\*\*is provided by law for the removal of*  
 6 *judges of the Superior Court\*\*\*.*

1 17. Whenever the Supreme Court shall certify to the Governor  
 2 that it appears that any judge of the tax court is so incapacitated  
 3 as substantially to prevent him from performing his judicial duties,  
 4 the Governor shall appoint a commission of three persons to  
 5 inquire into the circumstances and, on their recommendation the  
 6 Governor may retire the judge from office, on pension, as may be  
 7 provided by law.

1 18. Each judge of the tax court shall receive for his services an  
 2 annual salary in the same amount as is payable to a judge of the  
 3 superior court and which shall not be diminished during the term  
 4 of his appointment. No judge, while in office, shall engage in the  
 5 practice of law or other gainful pursuit.

1 19. Each judge of the tax court shall be entitled to the same  
 2 pension rights and privileges of judges of the superior court.

1 20. The judges of the tax court shall hold no other office or  
 2 position of profit under this State or the United States. Any such  
 3 judge who shall become a candidate for an elective public office shall  
 4 thereby forfeit his judicial office.

1 *\*\*\*21. The Chief Justice of the Supreme Court may from time to*  
 2 *time assign judges of the Superior Court to the tax court, as need*  
 3 *appears, and may from time to time assign judges of the tax court*  
 4 *to the Superior Court or to any other court as the need appears,*  
 5 *and any judge so assigned shall have all the powers and jurisdiction*  
 6 *vested in or exercised by a judge of the court to which he is*  
 7 *assigned.\*\*\**

1 **\*[21. The Chief Justice of the Supreme Court may from time to**  
 2 **time assign judges of the superior court to the tax court, as**  
 3 **need appears, and may from time to time assign judges of the tax**  
 4 **court to the Superior Court or to any other court as the need**  
 5 **appears, and any judge so assigned shall have all the powers and**  
 6 **jurisdiction vested in or exercised by a judge of the court to which**  
 7 **he is assigned.]\***

1 **\*[22.]\* \*\*\*[\*21.\*]\*\*\* **\*\*\*22.\*\*\*** The tax court may compel obedi-  
 2 ence to its process, orders, judgments and sentences in contempt,  
 3 as fully and amply as the Superior Court.**

1 **\*[23.]\* \*\*\*[\*22.\*]\*\*\* **\*\*\*23.\*\*\*** The clerk of the tax court shall  
 2 be appointed by the Supreme Court.**

1   \*\*\*[23.]\*\*\* \*\*24.\*\* The presiding judge shall annually cause  
 2 a report to be written and submitted to the \*\*\*[Governor and  
 2A Legislature]\*\*\* \*\*Chief Justice of the Supreme Court. Such  
 2B report shall be published as part of the Annual Report of the  
 2C Administrative Director of the Courts\*\*\*. Such report shall  
 3 contain such information and statistics as may be appropriate  
 4 to demonstrate for the previous fiscal year the total number  
 5 of appeals pending before the tax court, the disposition of the  
 6 various appeals disposed of during that fiscal year the character  
 7 of appeals filed during that fiscal year with regard to the tax from  
 8 which they are appealed, the total amount of assessment involved  
 9 in those appeals, the number of appeals filed in each filing fee  
 10 category during that fiscal year, and the classification of properties  
 11 for which appeals were filed during that fiscal year. Such report  
 12 shall also set forth the total amount of reductions or increases of  
 13 assessed valuation granted during that fiscal year, and a brief  
 14 description of the standards of assessment and of legal principle  
 15 utilized by the tax court in making judgments on cases during that  
 16 fiscal year. Such report may also contain such recommendations  
 17 as the presiding judge may wish to make \*\*\*\*[to the]\*\*\*\* \*\*\*[Gov-  
 18 ernor and Legislature for their consideration]\*\*\* regarding the  
 19 clarification or revision of legislation \*\*\*[or]\*\*\* \*\*,\*\* rules and  
 20 regulations relating to taxation\*\*\*\*, \*\*\*\* \*\*or the practice and  
 21 procedures in the tax court\*\*\*.\*

1   \*\*\*[24.]\*\*\* \*\*25.\*\* \*\*a.\*\* All present employees of the Divi-  
 2 sion of Tax Appeals \*\*except anyone holding an appointment as a  
 2A judge\*\* shall be transferred to the office of the clerk of the tax  
 3 court, and all of such employees shall retain their present civil  
 4 service status. All future appointments of assistants to the office of  
 5 the clerk shall be made by the clerk of the tax court in accordance  
 6 with the provisions of the Civil Service Law.

7-8   \*\*b. The transfer of present employees at the Division of Tax  
 9 Appeals shall be effected in such a manner as to avoid interruption  
 10 or delay of hearings provided for \*\*\*\*[in section 26]\*\*\*\* hereunder  
 11 except that all such employees shall be employees of the office of  
 12 the clerk of the tax court.

13   c. Nothing herein shall be construed as effecting a transfer of  
 14 any person holding on appointment as a judge of the Division of  
 15 Tax Appeals to the office of the clerk of the tax court or to any  
 16 office or position in the tax court.\*\*

1   \*\*\*[25.]\*\*\* \*\*26.\*\* All causes and proceedings pending in the  
 2 Division of Tax Appeals, shall be transferred to the tax court,  
 3 together with all existing files and records \*except as provided in  
 4 section \*\*\*\*[26]\*\*\*\* \* \*\*\*\*27\*\*\*\*.

1 \***[26.]** On the effective date of this act, the terms of office of the  
 2 judges of the Division of Tax Appeals in the Department of the  
 3 Treasury, then in office, shall terminate and the said Division of  
 4 Tax Appeals shall be abolished.\*

1 \*\*\***[26.]**\*\*\* \*\*27.\*\* On the effective date of this act the judges  
 2 of the Division of Tax Appeals shall not initiate any additional  
 3 hearings, \*\*\*but they\*\*\* shall complete any hearing in progress  
 4 and shall render a final decision within 6 months. On December 31,  
 5 1979 or upon rendering such final decision, whichever is earlier, the  
 6 terms of office of such judges shall terminate and the Division of  
 7 Tax Appeals shall be abolished.

1 \*\*\***[27.]**\*\*\* \*\*28.\*\* Whenever in any law, rule, regulation,  
 2 order, contract, document, judicial or administrative proceedings,  
 3 or otherwise, reference is made to the Division of Tax Appeals in  
 4 the Department of the Treasury, the same shall be considered to  
 5 mean and refer to the tax court established under this act.

1 \*\*\***[28.]**\*\*\* \*\*29.\*\* a. Whenever any appeal shall be taken to  
 2 the tax court pursuant to any law in which provision is or shall be  
 3 made for such appeal, the petitioner shall pay such fee or fees as  
 4 may be established by \*\*\***[the court]**\*\*\* \*\*law\*\*\*.

5 b. The \*\*\***[tax court shall establish a]**\*\*\* fee or fees to be paid  
 6 upon the filing of an appeal\*\*\***[.]**\*\*\* and for other purposes  
 7 \*\*\*shall be established\*\*\* \*\***[.]**\*\*\* in the same manner as such  
 8 are established by the Superior Court, provided however such fees  
 9 as may be established shall be designed to reasonably offset the  
 9A costs of the tax court.

10 c. No appeal shall be heard by the tax court unless the fee or  
 11 fees as may be established are paid in full. All fees shall be pay-  
 12 able to the clerk of the tax court, and shall be reported and  
 13 accounted for by him as provided by law for moneys collected by  
 14 the Superior Court. All such fees shall be for the use of the State  
 15 and shall not be refundable except as specifically provided for by  
 16 rules of the court.

1 \*\*\***[29.]**\*\*\* \*\*30.\*\* This act shall be liberally construed to  
 2 effectuate the purpose and intent thereof. If any section, subsection,  
 3 paragraph, sentence or other part of this act is adjudged unconsti-  
 4 tutional or invalid, such judgment shall not affect, impair or invali-  
 5 date the remainder of this act, but shall be confined in its effect  
 6 to the section, subsection, paragraph, sentence or other part of this  
 7 act directly involved in the controversy in which said judgment  
 8 shall have been rendered.

1 \*\*\***[30.]**\*\*\* \*\*31.\*\* R. S. 54:2-45 is repealed.\*



1    \*~~[27.]~~ \* ~~\*\*\*[31.]\*\*\*~~ \*\*\*32.\*\*\* This act shall take effect July 1  
2    \*~~[next following its enactment]~~ \* ~~\*\*\*[1979]\*\*\*~~ \*\*\**next following*  
3    *adoption of the constitutional amendment presently pending*  
4    ~~\*\*\*[before the Legislature]~~\*\*\* *as Assembly Concurrent Resolu-*  
5    *tion No. 38*\*\*\*, except any appointment, any confirmation of any  
6    appointment, and any action permitted or required by this act and  
7    necessary to effectuate this act as of such date may be made or  
8    undertaken prior to such date.

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SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO

**SENATE, No. 115**

with committee amendments

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**STATE OF NEW JERSEY**

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DATED: MARCH 2, 1978

It is the purpose of this bill to establish a tax court as an inferior court of limited jurisdiction. The court will consist of no less than six, nor more than twelve judges, separately exercising the powers of the court subject to rules of the Supreme Court, with the Chief Justice of the Supreme Court to appoint one of the judges as presiding judge.

Judges of the tax court are to be nominated and appointed by the Governor with advice and consent of the Senate for a term of 7 years and if reappointed to hold office during good behavior. Appointments are to be such that the court will be bipartisan in character. Specific qualifications are required for appointment. The judges of the tax court will receive the same annual salary as a judge of the Superior Court, and no judge is to practice law or engage in other gainful pursuit.

The tax court will have jurisdiction to hear and determine all tax appeals now heard and determined by the Division of Tax Appeals.

A Small Claims Division is specifically established within the tax court to have jurisdiction of tax refund claims or tax assessment appeals where the amount in controversy does not exceed \$2,000.00. All hearings of the division are to be informal except that testimony shall be given under oath. A party may appear on his own behalf, or represented by or accompanied by an attorney, public accountant, or other person as the court may permit to be present and participate in the proceeding.

In all matters of judgment of the Tax Court, appeals may be taken to the Appellate Division of the Superior Court.

All employees of the Division of Tax Appeals are transferred to the office of the clerk of the tax court, and will retain their civil service status. Future appointments are to be by the clerk of the tax court in accordance with the Civil Service Law.

The current terms of the judges of the Division of Tax Appeals terminate within 6 months of the effective date of this act, and the Division of Tax Appeals will be abolished at that time.

The bill is effective July 1, 1979.

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FOR FURTHER INFORMATION

JUNE 13, 1978

JUL 7 1978

JOE SANTANCELO

185 W. State Street  
Trenton, N. J.

Governor Brendan Byrne today signed Senate Bill No. 115, sponsored by Senator Steven Perskie (D-Atlantic), which creates a tax court to replace the State Division of Tax Appeals. The Governor also signed Senate Bill No. 114, also sponsored by Senator Perskie, which gives the tax court jurisdiction over appeals regarding transfer inheritance and estate taxes.

The Governor said, "The creation of a tax court has been a major tax reform proposal in New Jersey at least since 1972 when it was recommended by the Governor's Tax Policy Commission.

"It is also one of the major priorities of this Administration towards making government more efficient and responsive.

"This measure is especially significant in that it will help to streamline and speed up the process of tax appeals. It is one of a series of Administration bills that the Legislature has approved in this very productive legislative session."

The legislation provides that the tax court will consist of no less than six and no more than twelve judges. The judges will be nominated and appointed by the Governor with the advice and consent of the Senate for a term of seven years. Appointments will be bipartisan, and judges will receive the same annual salary as superior court judges.

S-115 specifically establishes a Small Claims Division within the tax court which will have jurisdiction over tax refund claims or tax assessment appeals where the amount in question does not exceed \$2,000.

All employees of the Division of Tax Appeals will be transferred to the Office of the Clerk of the Tax Court. The current terms of the Division of Tax Appeals terminate within six months of July 1, 1979, the effective date of this bill, and the Division of Tax Appeals will be abolished at that date.

This legislation takes effect July 1, 1979, providing that the constitutional amendment before the Legislature, ACR-38, is adopted.

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