

54:2-41.5

DECEMBER 21, 1968

LEGISLATIVE NOTES ON R.S. 54:2 - 41.5  
(Tax appeals - payment during appeal)

Copy 2

(1968 amendment)

L. 1968 - Chapter 365 - S565.

March 14, Introduced by Dumont (and others).

No statement.

June 3 - Passed Senate.

June 13 - Passed Assembly, amended. (copy enclosed)

June 20 - Assembly amended. Passed Senate.

Sept. 10 - Governor's conditional veto (copy enclosed).

Sept. 13 - re-enacted in Senate

Nov. 15 - re-enacted in Assembly

Dec. 26 - Approved.

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SENATE, No. 565

STATE OF NEW JERSEY

INTRODUCED MARCH 14, 1968

By Senator DUMONT

Referred to Committee on Taxation

AN ACT relating to certain appeals to the Division of Tax Appeals, providing for the payment of taxes assessed and levied in certain cases, and supplementing chapter 2 of Title 54 of the Revised Statutes.

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

1 1. In any appeal to the Division of Tax Appeals in the Depart-  
2 ment of the Treasury from a judgment of a county board of taxa-  
3 tion heretofore instituted and pending on the effective date of this  
4 act or hereafter instituted \*\***[in which a final judgment has not been**  
5 or shall not have been rendered within 6 months from the date of  
6 the filing of the petition of appeal to the division]\*\*, the taxpayer,  
7 notwithstanding the provisions of any other law, shall\*\*, upon  
8 order of the Division of Tax Appeals,\*\* be required to pay to the  
9 collector of the taxing district wherein the property subject to the  
10 appeal is located, not less than 75% of the full amount of the taxes  
11 that would have been payable had the said appeal to the division  
12 not been instituted. Such payment shall be subject to a refund  
13 of any excess taxes paid together with interest thereon at a rate  
14 equal to \***[1/2 of]**\* the rate charged by the taxing district on  
15 delinquent taxes, in the event the judgment of the division in any  
16 such appeal is entered in favor of the taxpayer. \***[If]**\* \*Any such  
17 refund shall be paid by the taxing district within 50 days from  
18 the date of the judgment; provided, however, that if\* agreeable to  
19 taxpayer, any such refund may be paid by the taxing district over  
20 a period not to exceed 3 years.

1 \*\*2. An order of the Division of Tax Appeals providing for pay-  
2 ment of 75% of the tax pending appeal shall issue upon the motion  
3 of any taxing district supported by affidavit or other reliable  
4 evidence that (a) no final judgment has been rendered by the

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 *Division of Tax Appeals; (b) that more than 6 months has elapsed*  
6 *from the date upon which the petition of appeal was filed; (c) that*  
7 *less than 75% of the taxes that would have been payable had the*  
8 *said appeal to the division not been instituted have been paid; and*  
9 *(d) that failure to require payment of funds prior to disposition*  
10 *of the appeal may work hardship upon the taxing district. Such*  
11 *motion may be heard and determined by the Division of Tax*  
12 *Appeals upon summary proceedings pursuant to such rules as may*  
13 *be provided by the division for such purpose. Financial distress*  
14 *of an appellant taxpayer shall not constitute grounds for denial of*  
15 *such order.\*\**

1     \*\***[2.]**\*\* \*\*3.\*\* This act shall take effect immediately.

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3 tion heretofore instituted and pending on the effective date of this  
4 act or hereafter instituted in which a final judgment has not been  
5 or shall not have been rendered within 6 months from the date of  
6 the filing of the petition of appeal to the division, the taxpayer,  
7 notwithstanding the provisions of any other law, shall be required  
8 to pay to the collector of the taxing district wherein the property  
9 subject to the appeal is located, not less than 75% of the full amount  
10 of the taxes that would have been payable had the said appeal to the  
11 division not been instituted. Such payment shall be subject to a  
12 refund of any excess taxes paid together with interest thereon at a  
13 rate equal to  $\frac{1}{2}$  of the rate charged by the taxing district on  
14 delinquent taxes, in the event the judgment of the division in any  
15 such appeal is entered in favor of the taxpayer. If agreeable to the  
16 taxpayer, any such refund may be paid by the taxing district over a  
17 period not to exceed 3 years.

1 2. This act shall take effect immediately.

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ASSEMBLY COMMITTEE AMENDMENTS TO  
**SENATE, No. 565**

—•—  
**STATE OF NEW JERSEY**  
—•—

ADOPTED JUNE 10, 1968

Amend page 1, section 1, line 13, delete "1/2 of".

Amend page 1, section 1, line 15, delete "If" and insert in lieu thereof  
"Any such refund shall be paid by the taxing district within 50 days  
from the date of the judgment; provided, however, that if".

SENATE AMENDMENTS TO  
SENATE, No. 565

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 10, 1968

Amend page 1, section 1, lines 4, 5 and 6, delete "in which a final judgment has not been or shall not have been rendered within 6 months from the date of the filing of the petition of appeal to the division".

Amend page 1, section 1, line 7, following "shall", insert ", upon order of the Division of Tax Appeals,".

Amend page 1, following line 17, insert a new section as follows:

"2. An order of the Division of Tax Appeals providing for payment of 75% of the tax pending appeal shall issue upon the motion of any taxing district supported by affidavit or other reliable evidence that (a) no final judgment has been rendered by the Division of Tax Appeals; (b) that more than 6 months has elapsed from the date upon which the petition of appeal was filed; (c) that less than 75% of the taxes that would have been payable had the said appeal to the division not been instituted have been paid; and (d) that failure to require payment of funds prior to disposition of the appeal may work hardship upon the taxing district. Such motion may be heard and determined by the Division of Tax Appeals upon summary proceedings pursuant to such rules as may be provided by the division for such purpose. Financial distress of an appellant taxpayer shall not constitute grounds for denial of such order."

Amend page 1, section 2, line 1, delete "2.", and insert in lieu thereof "3."

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

September 10, 1968

SENATE BILL NO. 565

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 565, with my objections, for reconsideration.

This bill would require payment by any taxpayer of 75% of a tax assessed against him prior to disposition of his appeal to the Division of Tax Appeals provided that six months has elapsed from institution of his appeal. The bill is designed to save from financial embarrassment those taxing districts which are deprived of substantial revenue pending the judgment of the Division of Tax Appeals on review of local property tax assessments. In some cases a single taxpayer contributes a substantial proportion of the entire revenue to the taxing district; thus, where issues regarding evaluation and taxability are vigorously contested, where amounts in controversy are great and where final resolution of these issues by the Division of Tax Appeals is delayed, some municipalities are made to suffer potentially disastrous financial hardship for substantial periods of time.

Unfortunately, the bill as adopted by the Legislature applies equally to the modest home owner as well as to the mammoth corporate property owner. In this respect, a mandatory and automatic early payment of a contested tax, triggered merely by the passage of time, could work an inequity upon a taxpayer even where a taxing district could suffer no hardship by further delay.

More equitable, and indeed more responsive to the dangers of the current situation would be a provision designed to permit, initially, each taxing district to itself assess the necessity for an early payment of controverted taxes and to require such taxing districts to establish, in a summary manner, objective facts indicating a necessity for such extraordinary relief. Such a procedure should invest the Division of Tax Appeals with little discretion in

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

Senate Bill No. 565

2.

responding to the need of the community as evaluated by its representatives, and should deny to the taxpayer claim of financial distress in defense of the order to pay pending appeal. Finally, such order should be enforceable as is any other procedural order of the Division of Tax Appeals.

Accordingly, I herewith return Senate Bill No. 565 for reconsideration and recommend that it should be amended as follows:

On Page 1, Section 1, Lines 4, 5 and 6, delete "in which a final judgment has not been or shall not have been rendered within six months from the date of the filing of the petition of appeal to the Division".

On Page 1, Section 1, Line 7, following "shall", insert ", upon order of the Division of Tax Appeals,".

On Page 1, following Line 17 insert a new section as follows:

"2. An order of the Division of Tax Appeals providing for payment of 75% of the tax pending appeal shall issue upon the motion of any taxing district supported by affidavit or other reliable evidence that a) no final judgment has been rendered by the Division of Tax Appeals; b) that more than six months has elapsed from the date upon which the petition of appeal was filed; c) that less than 75% of the taxes that would have been payable had the said appeal to the Division not been instituted have been paid; and d) that failure to require payment of funds prior to disposition of the appeal may work hardship upon the taxing district. Such motion may be heard and determined by the Division of Tax Appeals upon summary proceedings pursuant to such rules as may be provided by the Division for such purpose. Financial distress of an appellant taxpayer shall not constitute grounds for denial of such order."

On Page 1, Section 2, Line 1 delete "2." and insert in lieu thereof "3."

[seal]

Respectfully,

/S/ RICHARD J. HUGHES

GOVERNOR

Attest:

/S/ ALAN J. KARCHER