

Look Back Period

Q Is there a “look back” period for transfers by title holders made prior to their death?

A Yes – 3 years.

NJSA 54:34-1(c) states, “...A transfer by deed, grant, bargain, sale or gift made without adequate valuable consideration and within three years prior to the death of the grantor, vendor or donor of a material part of his estate or in the nature of a final disposition or distribution thereof, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death ...”

The Internal Revenue Code has a similar provision (26 USC 2035).

Such transfers are treated as taxable for purposes of New Jersey Transfer Inheritance and New Jersey Estate taxes and Federal Estate Taxes and the value of the property transferred included in the decedent’s taxable estate.

Thus whenever title derives through a deed for nominal consideration in the last 15 years and the grantor in that deed died within 3 years of the conveyance, an Inheritance Tax Waiver or proof that the estate was exempt from Transfer Inheritance Taxes, Estate Taxes and/or Federal Estate Taxes must be obtained.

OR April 2014