

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2650

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: APRIL 5, 2018

SUMMARY

- Synopsis:** Recognizes residential property tax advance payments for gross income tax homestead property tax deduction.
- Type of Impact:** Indeterminate net impact on State Property Tax Relief Fund revenues in Fiscal Years 2018 and 2019. No impact in Fiscal Year 2020.
- Agencies Affected:** Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2018</u>	<u>Fiscal Year 2019</u>	<u>Fiscal Year 2020</u>
State Revenue	Indeterminate Net Revenue Loss over Fiscal Years 2018 and 2019		No Impact

- The Office of Legislative Services (OLS) concludes that the bill will likely result in an indeterminate net State revenue loss over Fiscal Years 2018 and 2019, and have no impact in Fiscal Year 2020 and thereafter. The OLS cannot predict how many resident taxpayers will choose to deduct 2018 property tax prepayments from their 2017 gross income.
- The State will experience a Fiscal Year 2018 revenue loss if resident taxpayers choose to take a 2017 gross income tax deduction for 2018 property tax prepayments. The additional deduction will reduce the amount of 2017 gross income subject to taxation and a taxpayer's 2017 gross income tax liability.
- If a resident taxpayer takes an additional 2017 gross income tax deduction for 2018 property tax prepayments, the taxpayer will be limited to a 2018 gross income tax deduction only for property taxes paid in 2018. Because a taxpayer is permitted a smaller property tax deduction, more of the taxpayer's gross income will be subject to taxation and State Fiscal Year 2019 revenue will be higher than otherwise.
- The OLS notes that the aggregate property tax deduction allowable over the two-year period addressed by the bill may exceed \$20,000, which is the current maximum deduction permitted over a two-year period, for certain taxpayers with annual property tax bills in excess of \$10,000.

BILL DESCRIPTION

The bill requires the State to recognize an election of a taxpayer to claim an additional Tax Year 2017 homestead property tax deduction of up to \$10,000 for the prepayment of homestead property taxes during 2017 for Calendar Year 2018. Under the “Property Tax Deduction Act,” (N.J.S.A.54A:3A-15 et seq.) taxpayers are entitled to a deduction of up to \$10,000 from gross income for property taxes, or the rental equivalent thereof paid by tenants, due and paid for that calendar year on a taxpayer’s homestead.

Enacted on December 22, 2017, the federal “Tax Cuts and Jobs Act” limits itemized deductions for state and local income, sales, and property taxes to \$10,000 beginning in Calendar Year 2018. In order to maximize their federal gross income tax deduction for state and local taxes before the \$10,000 cap took effect, many New Jersey homestead property taxpayers prepaid all, or a portion of, their Calendar Year 2018 property taxes during the final week of Calendar Year 2017. However, the Division of Taxation in the Department of the Treasury has advised taxpayers that they cannot take a *State* gross income tax deduction or credit for 2018 property tax prepayments made in 2017 because taxpayers are permitted to take a property tax deduction or credit only in the year in which property taxes are due.

The bill allows a taxpayer to take an additional 2017 New Jersey gross income tax deduction for 2018 property tax prepayments. The additional deduction is capped at \$10,000, which is the maximum property taxes or rent that may be deducted from gross income under the current homestead property tax deduction. Calendar Year 2018 property tax prepayments cannot be claimed as part of an additional gross income tax deduction if a taxpayer requests a refund of the prepayment from the municipality to which the prepayment was made. The bill also allows a taxpayer to treat the property tax prepayments as if they were made in 2018 and therefore part of the maximum \$10,000 deduction to be claimed on the gross income tax return for 2018.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes the bill will likely result in an indeterminate net State revenue loss over Fiscal Years 2018 and 2019, and have no impact in Fiscal Year 2020 and thereafter. Comprehensive information on the number of resident taxpayers who prepaid 2018 property taxes in 2017 and the total amount of 2018 property taxes paid in 2017 is not available. The OLS cannot predict how many resident taxpayers will take a 2017 gross income tax deduction for 2018 property tax prepayments.

The bill will result in a loss of Fiscal Year 2018 gross income tax revenues, deposited in the Property Tax Relief Fund, if resident taxpayers choose to deduct 2018 property tax prepayments made in 2017 from their 2017 gross income, thereby decreasing the amount of income subject to the New Jersey gross income tax. A taxpayer who elects to take an additional 2017 New Jersey gross income tax deduction for 2018 property tax payments will be permitted to deduct up to \$20,000 from their 2017 gross income - \$10,000 for property taxes paid in 2017 and \$10,000 for 2018 property taxes prepaid 2017. Under the bill 2018 property tax prepayments may be

deducted from gross income only once. If taxpayers choose to take an additional 2017 gross income tax deduction for 2018 property tax prepayments, they may claim a 2018 gross income tax deduction only for 2018 property tax payments made in that calendar year. Consequently, any Fiscal Year 2018 revenue losses may be recovered in Fiscal Year 2019.

The OLS notes that the aggregate property tax deduction allowable over the two-year period addressed by the bill may exceed \$20,000, which is the current maximum deduction permitted over a two-year period, for certain taxpayers with annual property tax bills in excess of \$10,000. For illustrative purposes, consider the following scenario for a resident taxpayer with an annual property tax bill of \$12,000 in Calendar Years 2017 and 2018 who prepaid the first and second quarter 2018 property tax bills (total \$6,000) in 2017. The taxpayer would be permitted to take a \$10,000 gross income deduction for 2017 property taxes and an additional deduction of \$6,000 for 2018 property taxes prepaid in 2017 for a total 2017 gross income tax deduction of \$16,000. The taxpayer would also be allowed gross income taxation for the third and fourth quarter 2018 property tax payments (total \$6,000) in Tax Year 2018. Over the two tax years, the total deductions allowable in this scenario from gross income for property tax payments totals \$22,000 (\$16,000 in Tax Year 2017 and \$6,000 in Tax Year 2018).

Section: Revenue, Finance, and Appropriations

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).