

[First Reprint]

**ASSEMBLY, No. 2650**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

INTRODUCED FEBRUARY 1, 2018

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywomen B.DeCroce, Jasey and Lampitt**

**SYNOPSIS**

Recognizes residential property tax advance payments for gross income tax homestead property tax deduction.

**CURRENT VERSION OF TEXT**

As reported by the Assembly State and Local Government Committee on February 12, 2018, with amendments.



**(Sponsorship Updated As Of: 3/27/2018)**

1 AN ACT concerning the gross income tax deduction for residential  
2 property tax advance payments by homeowners, amending and  
3 supplementing P.L.1996, c.60.

4

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

7

8 1. Section 2 of P.L.1996, c.60 (C.54A:3A-16) is amended to  
9 read as follows:

10 2. As used in this act:

11 "Condominium" means the form of real property ownership  
12 provided for under the "Condominium Act," P.L.1969, c.257  
13 (C.46:8B-1 et seq.).

14 "Continuing care retirement community" means a residential  
15 facility primarily for retired persons where lodging and nursing,  
16 medical or other health related services at the same or another  
17 location are provided as continuing care to an individual pursuant to  
18 an agreement effective for the life of the individual or for a period  
19 greater than one year, including mutually terminable contracts, and  
20 in consideration of the payment of an entrance fee with or without  
21 other periodic charges.

22 "Cooperative" means a housing corporation or association which  
23 entitles the holder of a share or membership interest thereof to  
24 possess and occupy for dwelling purposes a house, apartment,  
25 manufactured or mobile home or other unit of housing owned or  
26 leased by the corporation or association, or to lease or purchase a  
27 unit of housing constructed or to be constructed by the corporation  
28 or association.

29 "Dwelling house" means any residential property assessed as real  
30 property which consists of not more than four units, of which not  
31 more than one may be used for commercial purposes, but shall not  
32 include a unit in a condominium, cooperative, horizontal property  
33 regime or mutual housing corporation.

34 "Homestead" means:

35 a. a dwelling house and the land on which that dwelling house  
36 is located which constitutes the place of the taxpayer's domicile and  
37 is owned and used by the taxpayer as the taxpayer's principal  
38 residence;

39 b. a dwelling house situated on land owned by a person other  
40 than the taxpayer which constitutes the place of the taxpayer's  
41 domicile and is owned and used by the taxpayer as the taxpayer's  
42 principal residence;

43 c. a condominium unit or a unit in a horizontal property regime  
44 or a continuing care retirement community which constitutes 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.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ASL committee amendments adopted February 12, 2018.

1 place of the taxpayer's domicile and is owned and used by the  
2 taxpayer as the taxpayer's principal residence.

3 In addition to the generally accepted meaning of owned or  
4 ownership, a homestead shall be deemed to be owned by a person if  
5 that person is a tenant for life or a tenant under a lease for 99 years  
6 or more, is entitled to and actually takes possession of the  
7 homestead under an executory contract for the sale thereof or under  
8 an agreement with a lending institution which holds title as security  
9 for a loan, or is a resident of a continuing care retirement  
10 community pursuant to a contract for continuing care for the life of  
11 that person which requires the resident to bear, separately from any  
12 other charges, the proportionate share of property taxes attributable  
13 to the unit that the resident occupies;

14 d. a unit in a cooperative or mutual housing corporation which  
15 constitutes the place of domicile of a residential shareholder or  
16 lessee therein, or of a lessee or shareholder who is not a residential  
17 shareholder therein, which is used by the taxpayer as the taxpayer's  
18 principal residence; and

19 e. a unit of residential rental property, which unit constitutes  
20 the place of the taxpayer's domicile and is used by the taxpayer as  
21 the taxpayer's principal residence.

22 "Horizontal property regime" means the form of real property  
23 ownership provided for under the "Horizontal Property Act,"  
24 P.L.1963, c.168 (C.46:8A-1 et seq.).

25 "Mutual housing corporation" means a corporation not-for-profit,  
26 incorporated under the laws of this State on a mutual or cooperative  
27 basis within the scope of section 607 of the Lanham Act (National  
28 Defense Housing), Pub.L.849, 76th Congress (42 U.S.C.1521 et  
29 seq.), as amended, which acquired a National Defense Housing  
30 Project pursuant to that act.

31 "Principal residence" means a homestead actually and  
32 continually occupied by a taxpayer as the taxpayer's permanent  
33 residence, as distinguished from a vacation home, property owned  
34 and rented or offered for rent by the taxpayer, and other secondary  
35 real property holdings.

36 "Property taxes" means payments to municipalities for which an  
37 assessment by a municipality is to be prepared or has been made on  
38 an ad valorem basis on both land and improvements, and shall not  
39 include payments made in lieu of taxes.

40 "Rent constituting property taxes" means 18% of the rent paid by  
41 the taxpayer for occupancy during the taxable year of a unit of  
42 residential rental property which the taxpayer occupies as a  
43 principal residence; notwithstanding the definition of "property  
44 taxes" herein, rent constituting property taxes includes the rent paid  
45 for the occupancy of a manufactured home installed in a mobile  
46 home park.

47 "Residential rental property" means:

1 a. any building or structure or complex of buildings or  
2 structures in which dwelling units are rented or leased or offered for  
3 rental or lease for residential purposes;

4 b. a rooming house, hotel or motel, if the rooms constituting  
5 the homestead are equipped with kitchen and bathroom facilities;  
6 and

7 c. any building or structure or complex of buildings or  
8 structures constructed under the following sections of the National  
9 Housing Act (Pub.L.73-479) as amended and supplemented:  
10 section 202, Housing Act of 1959 (Pub.L.86-372) and as  
11 subsequently amended, section 231, Housing Act of 1959.

12 "Residential shareholder in a cooperative or mutual housing  
13 corporation" means a tenant or holder of a membership interest in  
14 that cooperative or corporation, whose residential unit therein  
15 constitutes the tenant's or holder's domicile and principal residence,  
16 and who may deduct real property taxes for purposes of federal  
17 income tax pursuant to section 216 of the federal Internal Revenue  
18 Code of 1986, 26 U.S.C.216.

19 (cf: P.L.1996, c.60, s.2)

20

21 2. Section 3 of P.L.1996, c.60 (C.54A:3A-17) is amended to  
22 read as follows:

23 3. a. A resident taxpayer under the "New Jersey Gross Income  
24 Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from  
25 gross income for property taxes <sup>1</sup>due and paid on the taxpayer's  
26 homestead for the calendar year in which the taxes are due and  
27 payable<sup>1</sup> not in excess of \$10,000, <sup>1</sup>and a one-time additional  
28 deduction, at the election of the taxpayer, in an amount not in  
29 excess of \$10,000 for property taxes paid in advance in the 2017  
30 calendar year for the calendar year 2018 property taxes that are due  
31 and payable during calendar year 2018, which amounts shall be<sup>1</sup>  
32 subject to the limitations of subsection f. of this section <sup>1</sup>【, due and  
33 paid for the calendar year in which the taxes are due and payable,  
34 and paid in advance in the 2017 calendar year for the 2018 calendar  
35 year in which the taxes are due and payable, on the taxpayer's  
36 homestead】 as may apply<sup>1</sup>.

37 b. A deduction for property taxes shall be allowed pursuant to  
38 this section in relation to the amount of the property taxes actually  
39 paid by or allocable to a resident taxpayer who has more than one  
40 homestead, but the aggregate amount of the property taxes claimed  
41 shall not exceed the total of the proportionate amounts of property  
42 taxes assessed and levied against or allocable to each homestead for  
43 the portion of the taxable year for which the taxpayer occupied it as  
44 the taxpayer's principal residence.

45 c. If title to a homestead is held by more than one individual as  
46 joint tenants or tenants in common, each individual shall be allowed  
47 a deduction pursuant to this section only in relation to the

1 individual's proportionate share of the property taxes assessed and  
2 levied against the homestead. The proportionate share shall be  
3 equal to that of all other individuals who hold the title, but if the  
4 conveyance under which the title is held provides for unequal  
5 interests therein, a taxpayer's share of the property taxes shall be in  
6 proportion to the taxpayer's interest in the title.

7 d. If title to a homestead is held by a husband and wife who  
8 own the homestead as tenants by the entirety, or if that husband and  
9 wife are both residential shareholders of a cooperative or mutual  
10 housing corporation and occupy the same homestead therein, and  
11 who elect to file separate income tax returns pursuant to the "New  
12 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband  
13 and wife shall each be entitled to one-half of the deduction for  
14 property taxes for which they may be jointly eligible pursuant to  
15 this section.

16 e. If the homestead is a dwelling house consisting of more than  
17 one unit, that taxpayer shall be allowed a deduction for property  
18 taxes only in relation to the proportionate share of the property  
19 taxes assessed and levied against the residential unit occupied by  
20 the taxpayer, as determined by the local tax assessor.

21 f. Notwithstanding the provisions of subsection a. of this  
22 section to the contrary: (1) a resident taxpayer shall be allowed a  
23 deduction for a taxpayer's taxable year beginning during 1996 based  
24 on 50% of the property taxes not in excess of \$5,000 paid on the  
25 taxpayer's homestead; ~~and~~ <sup>1</sup>and<sup>1</sup> (2) a resident taxpayer shall be  
26 allowed a deduction for a taxpayer's taxable year beginning during  
27 1997 based on 75% of the property taxes not in excess of \$7,500  
28 paid on the taxpayer's homestead <sup>1</sup>; and (3) a resident taxpayer  
29 shall be allowed a deduction for a taxpayer's taxable year beginning  
30 during 2017 for property taxes not in excess of \$20,000 paid on the  
31 taxpayer's homestead<sup>1</sup>.

32 g. Notwithstanding any other provision of this section, the  
33 deduction allowed under this section to a resident taxpayer eligible  
34 to receive a homestead property tax reimbursement pursuant to  
35 P.L.1997, c.348 (C.54:4-8.67 et al.) shall not exceed that resident  
36 taxpayer's base year property tax liability as determined pursuant to  
37 P.L.1997, c.348 (C.54:4-8.67 et al.).

38 h. Notwithstanding any other provision of this section, for the  
39 taxable year beginning January 1, 2009, a taxpayer who has gross  
40 income for the taxable year of more than \$250,000 and is not:

41 (1) 65 years of age or older at the close of the taxable year; or  
42 (2) allowed to claim a personal deduction as a blind or disabled  
43 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1,  
44 shall not be allowed a deduction pursuant to this section;

45 provided however, the deduction for a taxpayer who has gross  
46 income for the taxable year of more than \$150,000 but not  
47 exceeding \$250,000 and is not:

48 (1) 65 years of age or older at the close of the taxable year; or

1 (2) allowed to claim a personal deduction as a blind or disabled  
2 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1,  
3 shall not exceed \$5,000.  
4 (cf: P.L.2009, c.69, s.2)

5  
6 3. Section 5 of P.L.1996, c.60 (C.54A:3A-19) is amended to  
7 read as follows:

8 5. a. If a taxpayer who is eligible for a deduction for property  
9 taxes under section 3 of this act for a part of the taxable year is also  
10 eligible for a deduction for rent constituting property taxes under  
11 section 4 of this act for a part of the taxable year, the taxpayer shall  
12 be allowed a deduction, <sup>1</sup>~~not in excess of \$10,000,~~<sup>1</sup> subject to the  
13 limitations of subsection b. of this section, the amount of which  
14 shall be equal to the sum of <sup>1</sup>:

15 (1)<sup>1</sup> the amount of property taxes due and paid for the calendar  
16 year in which the property taxes are due and payable, <sup>1</sup>not in  
17 excess of \$10,000, on a homestead that is not a unit of residential  
18 rental property;<sup>1</sup> and

19 <sup>1</sup>(2) a one-time additional deduction, at the election of the  
20 taxpayer, in an amount not in excess of \$10,000 for property taxes<sup>1</sup>  
21 paid in advance in the 2017 calendar year for the calendar year  
22 2018 in which the taxes are due and payable, on a homestead that is  
23 not a unit of residential rental property <sup>1</sup>;<sup>1</sup> and

24 <sup>1</sup>(3)<sup>1</sup> the amount of rent constituting property taxes due and paid  
25 for the calendar year in which the rent constituting property taxes is  
26 due and payable for the occupancy of a homestead that is a unit of  
27 residential rental property,

28 provided however, that the amount of property taxes <sup>1</sup>and the  
29 one-time additional deduction for property taxes paid in advance in  
30 the 2017 calendar year<sup>1</sup> shall be subject to the limitations set forth  
31 in subsections b. through ~~[e.]~~ f. of section 3 and the amount of rent  
32 constituting property taxes shall be subject to the limitations set  
33 forth in subsections b. and c. of section 4 as may be applicable.

34 b. Notwithstanding the provisions of subsection a. of this  
35 section to the contrary: (1) a taxpayer who is eligible for a  
36 deduction for property taxes under section 3 of this act for a part of  
37 the taxable year and is also eligible for a deduction for rent  
38 constituting property taxes under section 4 of this act for a part of  
39 the taxable year, shall be allowed a deduction for the taxpayer's  
40 taxable year beginning during 1996 based on 50% of an amount not  
41 in excess of \$5,000, the amount of which shall be equal to the sum  
42 of the amount of property taxes paid on a homestead that is not a  
43 unit of residential rental property and the amount of rent  
44 constituting property taxes paid for the occupancy of a homestead  
45 that is a unit of residential rental property; ~~[and]~~ (2) a taxpayer  
46 who is eligible for a deduction for property taxes under section 3 of  
47 this act for a part of the taxable year and is also eligible for a

1 deduction for rent constituting property taxes under section 4 of this  
2 act for a part of the taxable year, shall be allowed a deduction for  
3 the taxpayer's taxable year beginning during 1997 based on 75% of  
4 an amount not in excess of \$7,500, the amount of which shall be  
5 equal to the sum of the amount of property taxes paid on a  
6 homestead that is not a unit of residential rental property and the  
7 amount of rent constituting property taxes paid for the occupancy of  
8 a homestead that is a unit of residential rental property; and (3) a  
9 taxpayer who is eligible for a deduction <sup>1</sup>not in excess of \$10,000<sup>1</sup>  
10 for property taxes under section 3 of this act for a part of the 2017  
11 taxable year <sup>1</sup>and for a taxpayer who elects to take a deduction in an  
12 amount not in excess of \$10,000 for property taxes paid in advance  
13 in the 2017 calendar year for the calendar year 2018 property taxes  
14 that are due and payable during calendar year 2018,<sup>1</sup> and is also  
15 eligible for a deduction for rent constituting property taxes under  
16 section 4 of this act for a part of the 2017 taxable year, shall be  
17 allowed a deduction for the taxpayer's taxable year beginning  
18 during 2017 based on the amount equal to the sum of the amount of  
19 property taxes <sup>1</sup>and the amount of the advance payment of property  
20 taxes<sup>1</sup> paid on a homestead that is not a unit of residential rental  
21 property <sup>1</sup>[paid for the calendar year in which the property taxes are  
22 due and payable, and paid in advance in the 2017 calendar year for  
23 the 2018 calendar year in which the taxes are due and payable,]<sup>1</sup>  
24 and the amount of rent constituting property taxes paid for the  
25 occupancy of a homestead for a part of the taxable year that is a unit  
26 of residential rental property.

27 (cf: P.L.1996, c.60, s.5)

28

29 4. (New section) <sup>1</sup>a. A taxpayer who paid property taxes in  
30 advance in the 2017 calendar year for the 2018 calendar year may  
31 elect to claim: (1) an additional deduction for taxable year 2017 as  
32 provided in P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
33 Legislature as this bill) that includes the advance payment; or (2)  
34 claim a deduction for taxable year 2018 that is the sum of the  
35 payment of property taxes made in the 2018 calendar year that are  
36 due and payable in the 2018 calendar year, and the amount of the  
37 advance payment made in the 2017 calendar year, the sum of which  
38 shall be subject to the annual taxable year deduction limit of  
39 \$10,000. The Director of the Division of Taxation shall promptly  
40 provide public notice in an expedited manner of the election  
41 afforded to taxpayers pursuant to P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
42 (pending before the Legislature as this bill).

43 b.<sup>1</sup> No deduction shall be claimed by a taxpayer pursuant to the  
44 “Property Tax Deduction Act,” P.L.1996, c.60 (C.54A:3A-15 et  
45 seq.) for property taxes paid in advance in the 2017 calendar year  
46 for the 2018 calendar year if the taxpayer requests, after that  
47 advance payment is made, that the advance payment be refunded to

1 the taxpayer from the municipality to which the advance payment  
2 was made.

3

4 5. This act shall take effect immediately and be retroactive to  
5 December 22, 2017.