

# ASSEMBLY, No. 3786

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED APRIL 5, 2018

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Assemblyman **JOE HOWARTH**  
District 8 (Atlantic, Burlington and Camden)  
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District 37 (Bergen)

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**SYNOPSIS**

Provides gross income tax deduction to certain surviving spouses of veterans.

**CURRENT VERSION OF TEXT**

As introduced.

1 AN ACT allowing certain surviving spouses of veterans a deduction  
2 against gross income and amending N.J.S.54A:3-1.

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

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7 1. N.J.S.54A:3-1 is amended to read as follows:

8 54A:3-1. Personal exemptions and deductions. Each taxpayer  
9 shall be allowed personal exemptions and deductions against his  
10 gross income as follows:

11 (a) Taxpayer. Each taxpayer shall be allowed a personal  
12 exemption of \$1,000.00 which may be taken as a deduction from his  
13 New Jersey gross income.

14 (b) Additional exemptions. In addition to the personal  
15 exemptions allowed in (a), the following additional personal  
16 exemptions shall be allowed as a deduction from gross income:

17 1. For the taxpayer's spouse, or domestic partner as defined in  
18 section 3 of P.L.2003, c.246 (C.26:8A-3), who does not file  
19 separately - \$1,000.00.

20 2. For each dependent who qualifies as a dependent of the  
21 taxpayer during the taxable year for federal income tax purposes -  
22 \$1,500.00.

23 3. Taxpayer 65 years of age or over at the close of the taxable  
24 year - \$1,000.00.

25 4. Taxpayer's spouse 65 years of age or over at the close of the  
26 taxable year - \$1,000.00.

27 5. Blind or disabled taxpayer - \$1,000.00.

28 6. Blind or disabled spouse - \$1,000.00.

29 7. Taxpayer who is a veteran honorably discharged or released  
30 under honorable circumstances from active duty in the Armed  
31 Forces of the United States, a reserve component thereof, or the  
32 National Guard of New Jersey in a federal active duty status, as  
33 those terms are used in N.J.S.38A:1-1 - \$3,000.

34 8. (A) Taxpayer who is the surviving spouse of a qualifying  
35 veteran - \$3,000.

36 (B) For purposes of this paragraph:

37 “Qualifying veteran” means an individual who dies while on,  
38 was honorably discharged from, or was released under honorable  
39 circumstances from active duty in the Armed Forces of the United  
40 States, a reserve component thereof, or the National Guard of New  
41 Jersey in a federal active duty status, as those terms are used in  
42 N.J.S.38A:1-1.

43 “Surviving spouse” means the person to whom a qualifying  
44 veteran was married, or a domestic partner as defined in section 3

**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.**

1 of P.L.2003, c.246 (C.26:8A-3), on the date of the death of the  
2 qualifying veteran and:

3 (i) who lived with the qualifying veteran continuously from the  
4 date of marriage to the date of the qualifying veteran's death, except  
5 where there was a separation that was due to the misconduct of, or  
6 caused by, the qualifying veteran without the fault of the spouse;  
7 and

8 (ii) except as provided in paragraph (C) of this subsection, has  
9 not remarried or has not since the death of the qualifying veteran  
10 lived with another person and held himself out openly to the public  
11 to be the spouse of that other person.

12 (C) A surviving spouse who remarries shall be eligible for the  
13 personal exemption allowed under this paragraph if the remarriage:

14 (i) was void;

15 (ii) has been annulled by a court having basic authority to render  
16 annulment decrees, unless the director determines that the  
17 annulment was obtained through fraud by either party or by  
18 collusion; or

19 (iii) occurred after the surviving spouse attained the age of 57.

20 (c) Special Rule. The personal exemptions allowed under this  
21 section shall be limited to that percentage which the total number of  
22 months within a taxpayer's taxable year under this act bears to 12.  
23 For this purpose 15 days or more shall constitute a month.

24 (d) (Deleted by amendment, P.L.1993, c.178).

25 (e) Nonresidents. For taxable years to which a certification  
26 pursuant to section 3 of P.L.1993, c.320 (C.54A:2-1.2) applies, a  
27 nonresident taxpayer shall be allowed the same deduction for  
28 personal exemptions as a resident taxpayer. However, if (1) the  
29 nonresident taxpayer's gross income which is subject to tax under  
30 this act is exceeded by (2) the gross income which the nonresident  
31 taxpayer would be required to report under this act if the taxpayer  
32 were a resident by more than \$100.00, the taxpayer's deduction for  
33 personal exemptions shall be limited by the percentage which (1) is  
34 to (2).

35 (cf: P.L.2016, c.57, s.8)

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37 2. This act shall take effect immediately and apply to taxable  
38 years beginning on or after January 1 next following the date of  
39 enactment.

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#### STATEMENT

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44 This bill provides an annual exemption under the New Jersey  
45 gross income tax, in the amount of \$3,000, to a taxpayer who is the  
46 surviving spouse of a qualifying veteran of active duty military  
47 service. Under current law, a taxpayer who is a veteran honorably  
48 discharged or released under honorable circumstances from active

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1 duty in the United States Armed Forces or a reserve component  
2 thereof, or the National Guard of New Jersey in a federal active  
3 duty status, may be eligible to receive a gross income tax exemption  
4 in the amount of \$3,000 for each taxable year in which the veteran  
5 qualifies.

6 This bill extends the a gross income tax exemption to the  
7 surviving spouse of a veteran who has died while on active duty;  
8 was honorably discharged from active duty; or was released from  
9 active duty under honorable circumstances. If a surviving spouse  
10 remarries or cohabitates with another person and holds that person  
11 out to be his spouse, he becomes no longer eligible to receive the  
12 exemption. A surviving spouse who remarries remains eligible for  
13 the personal exemption if the remarriage was void or has been  
14 annulled, unless it is determined that the annulment was obtained  
15 through fraud or collusion, or if the surviving spouse remarries after  
16 the age of 57.

17 The eligibility of a surviving spouse to receive the benefit  
18 allowed by this bill is modeled on federal regulations governing the  
19 eligibility of a surviving spouse to receive Death (Survivor's)  
20 Pension benefits from the federal Department of Veterans' Affairs.