

SENATE, No. 222

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Expands deduction allowed under gross income tax for property taxes paid by homeowners and tenants to increase maximum deduction from \$10,000 to \$35,000 and to include amounts paid on second homes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT expanding the homestead property tax deduction allowed
2 under the gross income tax for property taxes paid on certain
3 residences by homeowners and tenants, amending P.L.1996,
4 c.60.

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

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

11 2. As used in this act:

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

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

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

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

35 "Homestead" means:

36 a. a dwelling house and the land on which that dwelling house
37 is located which **【constitutes the place of the taxpayer's domicile**
38 **and】** is owned and used by the taxpayer as the taxpayer's principal
39 residence or as a second residence that is located in this State;

40 b. a dwelling house situated on land owned by a person other
41 than the taxpayer which **【constitutes the place of the taxpayer's**
42 **domicile and】** is owned and used by the taxpayer as the taxpayer's
43 principal residence or as a second residence that is located in this
44 State;

45 c. a condominium unit or a unit in a horizontal property regime
46 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.

1 place of the taxpayer's domicile and**】** is owned and used by the
2 taxpayer as the taxpayer's principal residence or as a second
3 residence that is located in this State.

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

15 d. a unit in a cooperative or mutual housing corporation which
16 **【**constitutes the place of domicile of a residential shareholder or
17 lessee therein, or of a lessee or shareholder who is not a residential
18 shareholder therein, which**】** is used by the taxpayer as the
19 taxpayer's principal residence or as a second residence that is
20 located in this State; and

21 e. a unit of residential rental property, which **【**unit constitutes
22 the place of the taxpayer's domicile and**】** is used by the taxpayer as
23 the taxpayer's principal residence or as a second residence that is
24 located in this State.

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

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

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

39 "Property taxes" means payments to municipalities for which an
40 assessment by a municipality has been made on an ad valorem basis
41 on both land and improvements, and shall not include payments
42 made in lieu of taxes.

43 "Rent constituting property taxes" means 18% of the rent paid by
44 the taxpayer for occupancy during the taxable year of a unit of
45 residential rental property which the taxpayer occupies as a
46 **【principal residence】** homestead; notwithstanding the definition of

1 "property taxes" herein, rent constituting property taxes includes the
2 rent paid for the occupancy of a manufactured home installed in a
3 mobile home park.

4 "Residential rental property" means:

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

8 b. a rooming house, hotel or motel, if the rooms constituting
9 the homestead are equipped with kitchen and bathroom facilities;
10 and

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

16 "Residential shareholder in a cooperative or mutual housing
17 corporation" means a tenant or holder of a membership interest in
18 that cooperative or corporation, whose residential unit therein
19 constitutes **the tenant's or holder's domicile and principal**
20 **residence,** a homestead of the tenant or holder and who may
21 deduct real property taxes for purposes of federal income tax
22 pursuant to section 216 of the federal Internal Revenue Code of
23 1986, 26 U.S.C. 216.

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

25
26 2. Section 3 of P.L.1996, c.60 (C.54A:3A-17) is amended to
27 read as follows:

28 3. a. A resident taxpayer under the "New Jersey Gross
29 Income Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a
30 deduction from gross income for property taxes not in excess of
31 **[\$10,000] \$35,000**, subject to the limitations of subsection f. of this
32 section, due and paid for the calendar year in which the taxes are
33 due and payable on **the taxpayer's** a homestead of the taxpayer.

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

43 c. If title to a homestead is held by more than one individual as
44 joint tenants or tenants in common, each individual shall be allowed
45 a deduction pursuant to this section only in relation to the
46 individual's proportionate share of the property taxes assessed and
47 levied against the homestead. The proportionate share shall be

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

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

14 e. (1) If ~~the~~ a homestead is a dwelling house consisting of
15 more than one unit, that taxpayer shall be allowed a deduction for
16 property taxes only in relation to the proportionate share of the
17 property taxes assessed and levied against the residential unit
18 occupied by the taxpayer, as determined by the local tax assessor.

19 (2) If a taxpayer transfers possession of a homestead, including
20 but not limited to a unit of residential rental property, to a tenant
21 pursuant to a written or verbal lease or rental agreement whose term
22 is not less than one month, then that taxpayer shall be allowed a
23 deduction pursuant to this section in the amount of property taxes
24 assessed and levied against that homestead in proportion to the part
25 of the taxable year that excludes the term of the lease or rental
26 agreement.

27 f. Notwithstanding the provisions of subsection a. of this
28 section to the contrary: (1) a resident taxpayer shall be allowed a
29 deduction for a taxpayer's taxable year beginning during 1996 based
30 on 50% of the property taxes not in excess of \$5,000 paid on the
31 taxpayer's homestead; and (2) a resident taxpayer shall be allowed a
32 deduction for a taxpayer's taxable year beginning during 1997 based
33 on 75% of the property taxes not in excess of \$7,500 paid on the
34 taxpayer's homestead.

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

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

44 (1) 65 years of age or older at the close of the taxable year; or

45 (2) allowed to claim a personal deduction as a blind or disabled
46 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1,

1 shall not be allowed a deduction pursuant to this section;
2 provided however, the deduction for a taxpayer who has gross
3 income for the taxable year of more than \$150,000 but not
4 exceeding \$250,000 and is not:

- 5 (1) 65 years of age or older at the close of the taxable year; or
6 (2) allowed to claim a personal deduction as a blind or disabled
7 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1,
8 shall not exceed \$5,000.
9 (cf: P.L.2009, c.69, s.2)

10

11 3. Section 4 of P.L.1996, c.60 (C.54A:3A-18) is amended to
12 read as follows:

13 4. a. A resident taxpayer **【whose】** who owns or rents a
14 homestead that is a unit of residential rental property shall be
15 allowed a deduction from gross income for that portion of the rent
16 constituting property taxes not in excess of **【\$10,000】** \$35,000,
17 subject to the limitations of subsection d. of this section, due and
18 paid for the calendar year in which the rent constituting taxes is due
19 and payable, for occupancy of that homestead.

20 b. A husband and wife who elect to file separate income tax
21 returns pursuant to the "New Jersey Gross Income Tax Act,"
22 N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the
23 property tax deduction allowed pursuant to this section.

24 c. If more than one taxpayer, other than husband and wife,
25 qualify to deduct rent constituting property taxes by reason of their
26 having occupied the same rented homestead, it shall be presumed
27 that the deduction shall be equally divided. A taxpayer may,
28 however, deduct an amount for rent constituting property taxes in
29 the same proportion that the rent paid by that taxpayer bears to the
30 total rent paid by all tenants of the same unit.

31 d. Notwithstanding the provisions of subsection a. of this
32 section to the contrary: (1) a resident taxpayer whose homestead is
33 a unit of residential rental property shall be allowed a deduction for
34 the taxpayer's taxable year beginning during 1996 based on 50% of
35 the rent constituting property taxes not in excess of \$5,000 paid for
36 the occupancy of that homestead; and (2) a resident taxpayer whose
37 homestead is a unit of residential rental property shall be allowed a
38 deduction for the taxpayer's taxable year beginning during 1997
39 based on 75% of the rent constituting property taxes not in excess
40 of \$7,500 paid for the occupancy of that homestead.

41 e. For each homestead, a deduction for rent constituting
42 property taxes shall be allowed pursuant to this section in relation to
43 the amount of the rent constituting property taxes actually paid or
44 allocable to a resident taxpayer who has more than one homestead.

45 (cf: P.L.1996, c.60, s.4)

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

3 5. a. If a taxpayer who is eligible for a deduction for property
4 taxes under section 3 of this act for a part of the taxable year is also
5 eligible for a deduction for rent constituting property taxes under
6 section 4 of this act for a part of the taxable year, the taxpayer shall
7 be allowed a deduction, not in excess of ~~【\$10,000】~~ \$35,000, subject
8 to the limitations of subsection b. of this section, the amount of
9 which shall be equal to the sum of the amount of property taxes due
10 and paid for the calendar year in which the property taxes are due
11 and payable on a homestead that is not a unit of residential rental
12 property and the amount of rent constituting property taxes due and
13 paid for the calendar year in which the rent constituting property
14 taxes is due and payable for the occupancy of a homestead that is a
15 unit of residential rental property, provided however, that the
16 amount of property taxes shall be subject to the limitations set forth
17 in subsections b. through e. of section 3 and the amount of rent
18 constituting property taxes shall be subject to the limitations set
19 forth in subsections b. and c. of section 4 as may be applicable.

20 b. Notwithstanding the provisions of subsection a. of this
21 section to the contrary: (1) a taxpayer who is eligible for a
22 deduction for property taxes under section 3 of this act for a part of
23 the taxable year and is also eligible for a deduction for rent
24 constituting property taxes under section 4 of this act for a part of
25 the taxable year, shall be allowed a deduction for the taxpayer's
26 taxable year beginning during 1996 based on 50% of an amount not
27 in excess of \$5,000, the amount of which shall be equal to the sum
28 of the amount of property taxes paid on a homestead that is not a
29 unit of residential rental property and the amount of rent
30 constituting property taxes paid for the occupancy of a homestead
31 that is a unit of residential rental property; and (2) a taxpayer who is
32 eligible for a deduction for property taxes under section 3 of this act
33 for a part of the taxable year and is also eligible for a deduction for
34 rent constituting property taxes under section 4 of this act for a part
35 of the taxable year, shall be allowed a deduction for the taxpayer's
36 taxable year beginning during 1997 based on 75% of an amount not
37 in excess of \$7,500, the amount of which shall be equal to the sum
38 of the amount of property taxes paid on a homestead that is not a
39 unit of residential rental property and the amount of rent
40 constituting property taxes paid for the occupancy of a homestead
41 that is a unit of residential rental property.

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

43

44 5. This act shall take effect immediately and apply to taxable
45 years beginning on or after the January 1 next following the date of
46 enactment.

STATEMENT

This bill increases, from \$10,000 to \$35,000, the maximum deduction that is allowed under the New Jersey gross income tax for homestead property taxes paid by homeowners and tenants, and furthermore permits taxpayers to claim this homestead property tax deduction for amounts of property taxes paid by the taxpayer on a second home located in this State.

Under current law, a taxpayer may deduct up to \$10,000 of property taxes due and paid for a calendar year on the taxpayer's principal residence from the taxpayer's gross income. If the taxpayer is a renter, the taxpayer may deduct up to \$10,000 of the amount of "rent constituting property tax," which is defined by law to mean 18 percent of rent due and paid for a calendar year from the taxpayer's gross income.

This bill expands the homestead property tax deduction in two ways. First, this bill permits a taxpayer to claim a homestead property tax deduction in the amount of property taxes paid on a second residence located in this State, in addition to the amount of property taxes paid on the taxpayer's primary residence. Second, this bill increases the maximum allowable deduction for homeowners and tenants, thereby permitting the taxpayer to deduct up to \$35,000 of property taxes, or rent constituting property taxes, due and paid by the taxpayer for a calendar year on the taxpayer's principal residence, second residence, or both.

The bill is scheduled to take effect immediately upon enactment and apply to taxable years beginning on or after the January 1 next following the date this bill is enacted.