

ASSEMBLY, No. 1516

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1996

By Assemblymen COHEN, SULIGA, Assemblywoman Gill and
Assemblyman Wisniewski

1 AN ACT providing a deduction under the gross income tax for
2 property taxes paid by homeowners and tenants and providing for
3 a refund of a portion of certain property taxes paid by persons not
4 subject to the gross income tax, supplementing Title 54A of the
5 New Jersey Statutes.

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

9
10 1. This act shall be known and may be cited as the "Homeowners'
11 and Tenants' Property Tax Relief Act."

12
13 2. As used in this act:

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

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

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

30 "Director" means the Director of the Division of Taxation in the
31 Department of the Treasury.

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

1 mutual housing corporation.

2 "Domicile" means:

3 a. a dwelling house and the land on which that dwelling house is
4 located which constitutes the claimant's permanent place of abode and
5 is owned and used by the claimant as the claimant's principal residence;

6 b. a dwelling house situated on land owned by a person other than
7 the claimant which constitutes the claimant's permanent place of abode
8 and is owned and used by the claimant as the claimant's principal
9 residence;

10 c. a condominium unit or a unit in a horizontal property regime or
11 a continuing care retirement community which constitutes the
12 claimant's permanent place of abode and is owned and used by the
13 claimant as the claimant's principal residence.

14 In addition to the generally accepted meaning of owned or
15 ownership, a domicile shall be deemed to be owned by a person if that
16 person is a tenant for life or a tenant under a lease for 99 years or
17 more, is entitled to and actually takes possession of the domicile under
18 an executory contract for the sale thereof or under an agreement with
19 a lending institution which holds title as security for a loan, or is a
20 resident of a continuing care retirement community pursuant to a
21 contract for continuing care for the life of that person which requires
22 the resident to bear, separately from any other charges, the
23 proportionate share of property taxes attributable to the unit that the
24 resident occupies;

25 d. a unit in a cooperative or mutual housing corporation which
26 constitutes the permanent place of abode of a residential shareholder
27 or lessee therein, or of a lessee or shareholder who is not a residential
28 shareholder therein, which is used by the claimant as the claimant's
29 principal residence; and

30 e. a unit of residential rental property, which unit constitutes the
31 claimant's permanent place of abode and is used by the claimant as the
32 claimant's principal residence.

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

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

42 "Principal residence" means a domicile actually and continually
43 occupied by a claimant as the claimant's permanent residence, as
44 distinguished from a vacation home, property owned and rented or
45 offered for rent by the claimant, and other secondary real property
46 holdings.

1 "Rent constituting property taxes" means 18% of the rent paid by
 2 the claimant for occupancy during the taxable year of a unit of
 3 residential rental property which the claimant occupies as a principal
 4 residence.

5 "Residential rental property" means:

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

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

11 c. any building or structure or complex of buildings or structures
 12 constructed under the following sections of the National Housing Act
 13 (Pub.L.73-479) as amended and supplemented: section 202, Housing
 14 Act of 1959 (Pub.L.86-372) and as subsequently amended, section
 15 231, 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 that
 18 cooperative or corporation, whose residential unit therein constitutes
 19 the tenant's or holder's permanent place of abode and principal
 20 residence, and who may deduct real property taxes for purposes of
 21 federal income tax pursuant to section 216 of the federal Internal
 22 Revenue Code of 1986, 26 U.S.C. §216.

23

24 3. a. Each resident taxpayer under the "New Jersey Gross Income
 25 Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from
 26 taxable income for property taxes paid on the taxpayer's domicile
 27 which shall be determined as follows:

28

29 For married individuals filing a joint return
 30 and individuals filing as head of household
 31 or as surviving spouse:

32

33 If the taxable income is: The deduction is the greater
 34 of actual property taxes paid or:

35

36 Not over \$20,000.00..... \$4,643

37 Over \$20,000.00 but not

38 over \$50,000.00..... \$3,714

39 Over \$50,000.00 but not

40 over \$70,000.00..... \$2,653

41 Over \$70,000.00 but not

42 over \$80,000.00..... \$1,857

43 Over \$80,000.00 but not

44 over \$150,000.00..... \$1,176

45 Over \$150,000.00..... \$1,020

1 determined by the local tax assessor.

2

3 4. a. Each resident taxpayer whose domicile is a unit of residential
4 rental property shall be allowed a deduction from taxable income for
5 that portion of the rent constituting property taxes paid for occupancy
6 of that domicile which deduction shall be determined as follows:

7

8 For married individuals filing a joint return
9 and individuals filing as head of household
10 or as surviving spouse:

11

12 If the taxable income is: The deduction is the greater of
13 actual property taxes paid or:

14

15	Not over \$20,000.00.....	\$2,500
16	Over \$20,000.00 but not	
17	over \$50,000.00.....	\$2,000
18	Over \$50,000.00 but not	
19	over \$70,000.00.....	\$1,429
20	Over \$70,000.00 but not	
21	over \$80,000.00.....	\$1,000
22	Over \$80,000.00 but not	
23	over \$150,000.00.....	\$633
24	Over \$150,000.00.....	\$549

25

26 For married individuals filing separately
27 or unmarried individuals rather than individuals
28 filing as head of household
29 or as a surviving spouse for federal income tax purposes:

30

31 If the taxable income is: The deduction is the greater of
32 actual property taxes paid or:

33

34	Not over \$20,000.00.....	\$2,500
35	Over \$20,000.00 but not	
36	over \$35,000.00.....	\$2,000
37	Over \$35,000.00 but not	
38	over \$40,000.00.....	\$1,000
39	Over \$40,000.00 but not	
40	over \$75,000.00.....	\$633
41	Over \$75,000.00.....	\$549

42

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

1 c. If more than one taxpayer, other than husband and wife, qualify
2 to deduct rent constituting property taxes by reason of their having
3 occupied the same rented domicile, it shall be presumed that the
4 deduction shall be equally divided. A taxpayer may, however, deduct
5 an amount for rent constituting property taxes in the same proportion
6 that the rent paid by that taxpayer bears to the total rent paid by all
7 tenants of the same unit.

8
9 5. If a taxpayer who is eligible for a deduction for property taxes
10 under section 3 of this act has also had as a domicile a residential
11 rental property for any part of the tax year, the amount of the total
12 property tax deduction the taxpayer shall be allowed shall be the sum
13 of the actual amount of property taxes paid on a domicile that is not
14 a unit of residential rental property and the amount of rent constituting
15 property taxes paid for the occupancy of a domicile that is a unit of
16 residential rental property.

17
18 6. If the deduction for property taxes or rent constituting property
19 taxes allowed under section 3 or 4 of this act reduces taxable income
20 below zero, then the amount by which the deduction reduces taxable
21 income below zero shall be considered an overpayment of tax and a
22 refund on that amount shall be calculated by applying the tax rate for
23 taxable income of \$20,000 or less as provided in subsection a. or b. of
24 N.J.S.54A:2-1 to the amount of overpayment. The result of that
25 calculation shall constitute the amount of the refund which shall be
26 paid as in the case of other refunds under the "New Jersey Gross
27 Income Tax Act," N.J.S.54A:1-1 et seq.

28
29 7. a. A citizen and resident of this State who has paid property
30 taxes or whose domicile is a unit of residential rental property and who
31 is required to file a return under the "New Jersey Gross Income Tax
32 Act," N.J.S.54A:1-1 et seq., who has claimed a credit for income taxes
33 paid to other states and political subdivisions thereof pursuant to
34 N.J.S.54A:4-1, shall be entitled to claim either a domicile tax refund
35 as provided in section 8 of this act or a deduction for property taxes
36 or rent constituting property taxes under section 3 or 4 of this act.

37 b. The amount of the domicile tax refund allowed in subsection a.
38 of this section may be applied as a credit against any tax liability
39 otherwise due pursuant to N.J.S.54A:1-1 et seq., and any amount
40 remaining shall be considered an overpayment of the tax and shall be
41 refunded in the same manner as any other refund under the "New
42 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

43
44 8. a. Any citizen and resident of this State who has paid property
45 taxes on a domicile or whose domicile is a unit of residential rental
46 property but who is not required to file a return under the "New Jersey

1 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be entitled to
2 claim a domicile tax refund as provided in this section.

3 b. The amount of the domicile tax refund shall be calculated by
4 applying the tax rate for taxable income of \$20,000 or less as provided
5 in subsection a. or b. of N.J.S.54A:2-1 to the amount of property taxes
6 actually paid by the claimant on a domicile or the amount of rent
7 constituting property taxes paid by the claimant or the sum of both
8 amounts in the case of a claimant who has had as a domicile for part
9 of a tax year a unit of residential rental property and a domicile that is
10 not a unit of residential rental property for another part of the tax year.

11 c. No domicile tax refund shall be allowed under this section
12 except upon written application therefor to the Director of the
13 Division of Taxation in a form prescribed by the director. The director
14 may require proof and evidence of payment of property taxes or rent
15 constituting property taxes as the director determines to be necessary.

16 d. A domicile tax refund for property taxes shall be allowed
17 pursuant to this section in relation to the amount of the property taxes
18 actually paid by or allocable to an individual who is a qualified
19 claimant on more than one domicile during the tax year, but the
20 aggregate amount of the property taxes claimed shall not exceed the
21 total of the proportionate amounts of property taxes assessed and
22 levied against or allocable to each domicile for the portion of the tax
23 year for which the claimant occupied it as the claimant's domicile and
24 principal residence.

25 e. If title to a domicile is held by more than one individual as joint
26 tenants or tenants in common, each individual shall be allowed a
27 domicile tax refund pursuant to this section only in relation to the
28 individual's proportionate share of the property taxes assessed and
29 levied against the domicile. The proportionate share shall be equal to
30 that of all other individuals who hold the title, but if the conveyance
31 under which the title is held provides for unequal interests therein, a
32 claimant's share of the property taxes shall be in proportion to that
33 claimant's interest in the title.

34 f. If the domicile is a dwelling house consisting of more than one
35 unit, the claimant shall be allowed a domicile tax refund only in
36 relation to the proportionate share of the property taxes assessed and
37 levied against the residential unit occupied by the claimant, as
38 determined by the local tax assessor.

39 g. A husband and wife shall each be entitled to one-half of the
40 domicile tax refund allowed pursuant to this section.

41 h. If more than one taxpayer, other than husband and wife, qualify
42 to deduct rent constituting property taxes by reason of their having
43 occupied the same rented domicile, it shall be presumed that the
44 domicile tax refund shall be equally divided. A claimant may,
45 however, apply for a domicile tax refund for rent constituting property
46 taxes in the same proportion that the rent paid by that claimant bears

1 to the total rent paid by all tenants of the same unit.

2

3 9. An application for a domicile tax refund under section 8 of this
4 act shall be made on or before April 15 for property taxes paid or rent
5 constituting property taxes for the immediately preceding calendar
6 year.

7

8 10. The domicile tax refund allowed under section 8 of this act shall
9 be considered an overpayment of tax under the "New Jersey Gross
10 Income Tax Act," N.J.S.54A:1-1 et seq., and shall be paid as in the
11 case of refunds under that act.

12

13 11. a. No application for a domicile tax refund under section 8 of
14 this act shall be approved if a deduction for actual property taxes or
15 rent constituting property taxes has been taken pursuant to section 3
16 or 4 of this act.

17 b. No domicile tax refund allowed in section 8 shall be paid except
18 upon approval by the director of a written application required under
19 subsection c. of section 8 of this act.

20

21 12. a. The director shall provide a supplemental form to be filed
22 as a part of the form of return required under the "New Jersey Gross
23 Income Tax Act," N.J.S.54A:1-1 et seq., and shall not provide for a
24 separate application for any deduction or refund under section 3, 4 or
25 7 of this act.

26 b. The application for a domicile tax refund pursuant to section 8
27 of this act shall be in similar form to that prescribed in subsection a. of
28 this section and shall be filed on or before April 15; provided however,
29 that the applicant shall not be required to file the form of return under
30 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., as a
31 part of the application.

32

33 13. Any domicile tax deduction allowed under section 3 or 4 and
34 refundable under section 6, or any domicile tax refund allowed under
35 section 7 or 8, shall be paid as in the case of other refunds under the
36 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and shall
37 be added to any other refunds otherwise due and a single payment
38 made to the taxpayer or claimant.

39

40 14. The director shall promulgate rules and regulations in
41 accordance with the "Administrative Procedure Act," P.L.1968, c.410
42 (C.52:14B-1 et seq.) as the director deems necessary to administer the
43 provisions of this act.

44

45 15. This act shall take effect immediately and shall first be

1 applicable with respect to property taxes or rent constituting property
2 taxes paid for the tax year 1996.

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STATEMENT

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7 This bill will enable eligible resident taxpayers under the "New
8 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., to claim a
9 deduction against their taxable income equal to property taxes which
10 they paid as homeowners, or the rental equivalent thereof paid as
11 tenants. For tenants, the bill defines property taxes to be the
12 equivalent of 18% of rent. To ensure that the full value of the
13 property tax deduction is available to every homeowner and tenant the
14 bill provides for a refundable credit in the event that the deduction of
15 property taxes reduces the tax liability to zero or below. State
16 residents who are not required to file a gross income tax return may
17 file a separate application for a tax refund as prescribed in the bill.

18 In effect, this bill reinstates the major provisions of the former
19 "Homestead Tax Relief Act," P.L.1985, c.304 (C.54A:3A-1 et seq.),
20 with minimum standard deductions of \$65 for homeowners and \$35
21 for tenants. That law was repealed on July 12, 1990 by enactment of
22 P.L.1990, c.61, which significantly revised the gross income tax and
23 the State's homestead property tax relief programs.

24 This bill takes effect for property taxes paid in 1996, with the
25 returns or applications to be filed on or before April 15, 1997 along
26 with the filing of income tax returns. The refund for property taxes
27 would be paid as an income tax refund.

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32 "Homeowners' and Tenants' Property Tax Relief Act;" providing for
33 deductions or credits under the gross income tax.