

CHAPTER 60

AN ACT providing a gross income tax deduction for residential property taxes paid by homeowners and tenants, providing a refundable tax credit for property tax payers, and supplementing Title 54A of the New Jersey Statutes.

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

C.54A:3A-15 Short title.

1. This act shall be known and may be cited as the "Property Tax Deduction Act."

C.54A:3A-16 Definitions relative to residential property taxes.

2. As used in this act:

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

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

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

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

"Homestead" means:

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

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

c. a condominium unit or a unit in a horizontal property regime or a continuing care retirement community which constitutes the place of the taxpayer's domicile and is owned and used by the taxpayer as the taxpayer's principal residence.

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

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

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

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

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

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

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

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

"Residential rental property" means:

- a. any building or structure or complex of buildings or structures in which dwelling units are rented or leased or offered for rental or lease for residential purposes;
- b. a rooming house, hotel or motel, if the rooms constituting the homestead are equipped with kitchen and bathroom facilities; and
- c. any building or structure or complex of buildings or structures constructed under the following sections of the National Housing Act (Pub.L.73-479) as amended and supplemented: section 202, Housing Act of 1959 (Pub.L.86-372) and as subsequently amended, section 231, Housing Act of 1959.

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

C.54A:3A-17 Resident taxpayer allowed deduction from gross income for property taxes; limitations.

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

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

c. If title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a deduction pursuant to this section only in relation to the individual's proportionate share of the property taxes assessed and levied against the homestead. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a taxpayer's share of the property taxes shall be in proportion to the taxpayer's interest in the title.

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

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

f. Notwithstanding the provisions of subsection a. of this section to the contrary: (1) a resident taxpayer shall be allowed a deduction for a taxpayer's taxable year beginning during

1996 based on 50% of the property taxes not in excess of \$5,000 paid on the taxpayer's homestead; and (2) a resident taxpayer shall be allowed a deduction for a taxpayer's taxable year beginning during 1997 based on 75% of the property taxes not in excess of \$7,500 paid on the taxpayer's homestead.

C.54A:3A-18 Deduction allowed resident taxpayer whose homestead is a unit of residential rental property; limitations.

4. a. A resident taxpayer whose homestead is a unit of residential rental property shall be allowed a deduction from gross income for that portion of the rent constituting property taxes not in excess of \$10,000, subject to the limitations of subsection d. of this section, due and paid for the calendar year in which the rent constituting taxes is due and payable, for occupancy of that homestead.

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

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

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

C.54A:3A-19 Deduction for property taxes; limitations.

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

b. Notwithstanding the provisions of subsection a. of this section to the contrary: (1) a taxpayer who is eligible for a deduction for property taxes under section 3 of this act for a part of the taxable year and is also eligible for a deduction for rent constituting property taxes under section 4 of this act for a part of the taxable year, shall be allowed a deduction for the taxpayer's taxable year beginning during 1996 based on 50% of an amount not in excess of \$5,000, the amount of which shall be equal to the sum of the amount of property taxes paid on a homestead that is not a unit of residential rental property and the amount of rent constituting property taxes paid for the occupancy of a homestead that is a unit of residential rental property; and (2) a taxpayer who is eligible for a deduction for property taxes under section 3 of this act for a part of the taxable year and is also eligible for a deduction for rent constituting property taxes under section 4 of this act for a part of the taxable year, shall be allowed a deduction for the taxpayer's taxable year beginning during 1997 based on 75% of an amount not in excess of \$7,500, the amount of which shall be equal to the sum of the amount of property taxes paid on a homestead that is not a unit of residential rental property and the amount of rent constituting property taxes paid for the occupancy of a homestead that is a unit of residential rental property.

C.54A:3A-20 Credit instead of deduction; limitations; annual application.

6. a. (1) Notwithstanding any provision of this act to the contrary, commencing with the taxpayer's taxable year beginning on or after January 1, 1996:

(a) a taxpayer; or

(b) a resident of this State who is 65 years of age or older at the close of the taxable year or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1 but who, pursuant to N.J.S.54A:2-4, is not subject to tax; and, who paid property taxes or rent constituting property taxes on a homestead during the calendar year may elect to take a credit instead of the deduction provided pursuant to section 3, 4, or 5 in the amount of \$50, subject to the provisions of paragraph (2) of this subsection.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1996 shall be \$25 and the amount of tax liability reduction or credit allowed for the taxpayer's taxable year beginning during 1997 shall be \$37.50.

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

c. The credit shall be paid to the taxpayer as a refund of overpayment pursuant to N.J.S.54A:9-7, provided however, that subsection (f) of that section shall not apply. The credit for a claimant qualified under subsection a. of this section who, pursuant to N.J.S.54A:2-4, is not subject to tax, shall be applied for annually on an application as shall be made available by the director, to be filed with the director on or before the date for filing annual gross income tax returns. The director shall determine the form and manner by which a qualified applicant shall apply for a refund of an overpayment pursuant to this section, and the time of the refund of the overpayment. For the purposes of this section, refunds of overpayments may be combined with payments of rebates pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.).

C.54A:3A-21 Benefits not subject to garnishment, attachment, other legal process.

7. The benefits provided for in P.L.1996, c.60 (C.54A:3A-5 et al.) shall not be subject to garnishment, attachment or other legal process, except as provided in section 1 of P.L.1981, c.239 (C.54A:9-8.1) or except for an income withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.7 et seq.), and the payment of the benefits shall not be anticipated.

C.54A:3A-22 Determination of form, manner of application for benefits; regulations.

8. The director shall determine the form and manner of a qualified applicant's application for the benefits provided for in P.L.1996, c.60 (C.54A:3A-15 et al.). The director may prescribe such regulations as the director may deem necessary to administer and enforce the provisions of P.L.1996, c.60 (C.54A:3A-15 et al.), including but not limited to the method for determining an applicant's benefits as provided pursuant to sections 3, 4, 5 and 6 of P.L.1996, c.60 (C.54A:3A-17, C.54A:3A-18, C.54A:3A-19 and C.54A:3A-20), due dates, and the form of payment.

C.54A:9-26 Property Tax Relief Fund saved harmless.

9. An amount equal to the revenue that would be available to the Property Tax Relief Fund but for the amount estimated to be foregone and due to be refunded during a fiscal year due to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et al.), shall be made available to the Property Tax Relief Fund from State General Fund revenue sources during that fiscal year without a reduction in the level of State aid appropriated to municipalities, school districts and counties from the General Fund during that fiscal year.

10. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 1996.

Approved July 4, 1996.