10/7/86

54A:6-9

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54A:6-9

(Income tax--increase amount of one-time exclusion for sale of principal residence)

LAWS OF: 1986

CHAPTER 66

BILL NO: A646/1062

Sponsor(s): Frelinghuysen

Date Introduced: Pre-filed

Committee: Assembly: Senior Citizens; Appropriations

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes — Assembly Committee substitute enacted.

Date of Passage: Assembly: May 5, 1986

Senate: June 12, 1986

Date of Approval: July 30, 1986

Fellowing statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes 3-13-86 & 2-10-86

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Fiscal note to A444, mentioned in committee statement--attached.

36 86

1-30-86

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 646 and 1062

STATE OF NEW JERSEY

ADOPTED FEBRUARY 10, 1986

AN ACT concerning the exclusion from gross income of gain derived from the sale of a principal residence and amending N. J. S. 54A:6-9.

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

1. N. J. S. 54A:6-9 is amended to read as follows:

54A:6-9. Exemption for Gains Derived from the Sale or Exchange of Principal Residence.

a. Rollover of gain on sale of principal residence. (1) If a taxpayer realizes a gain from the sale or exchange of his principal residence, the gain shall be excludable from gross income if the taxpayer purchased or received in exchange another principal residence to replace the residence sold, provided that such new residence had been acquired **[**either 18 months**]** *within a period beginning two years* before **[**or 18 months after**]** the date of the sale of the original residence **[**except that where the taxpayer has constructed a new residence, the period prior to and after the date of sale shall be 24 months**]** *and ending two years after such date.* Where the adjusted sales price of the residence sold exceeds the purchase price of the new residence, the taxpayer shall be required to include in his gross income that portion of the gain which is represented by the amount that the adjusted sales price of the old residence exceeds the cost of the new residence. To the extent that any gain shall be excludable under this section, the basis of the new residence shall be reduced.

(2) Limitation.

(a) This subsection a. shall not apply with respect to the sale of the taxpayer's residence if within **[**18 months**]** *two years* before the date of such sale the taxpayer sold at a gain other property

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 printed in italics *thus* is new matter.

used by him as his principal residence, and any part of such gain was not recognized by reason of this subsection.

(b) Subsequent sale connected with commencing work at new place. Subparagraph (a) shall not apply with respect to the sale of the taxpayer's residence if

(i) Such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

(ii) If the residence so sold is treated as the former residence for federal moving expense purposes, the taxpayer would satisfy the distance and period of employment conditions prescribed for qualifying the federal moving expense deduction.

b. One-time exclusion of gain from sale of principal residence by individual who has attained age 55. (1) General. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if

(a) The taxpayer has attained the age of 55 before the date of such sale or exchange, and

(b) During the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

(2) Limitations.

(a) Dollar Limitation. The amount of the gain excluded from gross income under subparagraph (1) shall not exceed **[$100,000.00]** *$125,000.00* (**[$50,000.00]** *$62,500.00* in the case of a separate return by a married individual).

(b) Application to only one sale or exchange. Subparagraph (1) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subparagraph (1) with respect to any other sale or exchange is in effect.

(c) Additional election if prior sale was made on or before January 1, 1979. In the case of any sale or exchange after January 1, 1979, this subsection shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

(3) Property held jointly by husband and wife. For purposes of this subsection, if

(a) Property is held by a husband and wife as joint tenants or tenants by the entirety,

(b) The husband and wife make a joint return for the taxable year of the sale or exchange, and

(c) One spouse satisfies the age, holding, and use requirements of subparagraph (1) with respect to the property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of subparagraph (1) with respect to the property.

(4) Property of deceased spouse. For purposes of this subsection, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if

(a) The deceased spouse, during the five-year period ending on the date of the sale or exchange, satisfied the holding and use requirements of subparagraph (1) (b) with respect to the property, and

(b) No election by the deceased spouse under this subsection is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of subpargraph (1) (b) with respect to the property.

c. Property used in part as a residence. In case of property only a portion of which has been owned and used by the taxpayer as his principal residence, this section shall apply with respect to so much of the sale or exchange of such property as is determined, under regulations prescribed by the director, to be attributable to the portion of the property so owned and used by the taxpayer.

d. The provisions of this section shall also be applicable with respect to qualified tenant-shareholders in cooperatives.

e. For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

2. This act shall take effect immediately and shall be applicable to sales and exchanges of residences on and after January 1, 1986.

SENIOR CITIZENS

Increases the exclusion from gross income from the sale of a principal residence from $100,000.00 to $125,000.00 by an individual 55 years of age or older.

ASSEMBLY, No. 646

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Assemblyman FRELINGHUYSEN

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 444

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblyman FRELINGHUYSEN

AN ACT concerning the exclusion from gross income of gain derived from the sale of a principal residence and amending N. J. S. 54A:6-9.

BE IT ENACTED _by the Senate and General Assembly of the State of New Jersey:_

1. N. J. S. 54A:6-9 is amended to read as follows:

54A:6-9. Exemption for Gains Derived from the Sale or Exchange of Principal Residence.

a. Rollover of gain on sale of principal residence. (1) If a taxpayer realizes a gain from the sale or exchange of his principal residence, the gain shall be excludable from gross income if the taxpayer purchased or received in exchange another principal residence to replace the residence sold, provided that such new residence had been acquired *[either 18 months]* *_within a period beginning two years_* before *[or 18 months after]* the date of the sale of the original residence *[except that where the taxpayer has constructed a new residence, the period prior to and after the date of sale shall be 24 months]* *_and ending two years after such date._* Where the adjusted sales price of the residence sold exceeds the purchase price of the new residence, the taxpayer shall be required to include in his gross income that portion of the gain which is represented by the amount that the adjusted sales price of the old residence exceeds the cost of the new residence. To the extent that any gain shall be excludable under this section, the basis of the new residence shall be reduced.

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 printed in italics _thus_ is new matter.
Matter enclosed in asterisks or stars has been adopted as follows:
***—Assembly committee amendments adopted June 18, 1984.**

(2) Limitation.

(a) This subsection a. shall not apply with respect to the sale of the taxpayer's residence if within *[18 months]* *two years* before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of this subsection.

(b) Subsequent sale connected with commencing work at new place. Subparagraph (a) shall not apply with respect to the sale of the taxpayer's residence if

(i) Such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

(ii) If the residence so sold is treated as the former residence for federal moving expense purposes, the taxpayer would satisfy the distance and period of employment conditions prescribed for qualifying the federal moving expense deduction.

b. One-time exclusion of gain from sale of principal residence by individual who has attained age 55. (1) General. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if

(a) The taxpayer has attained the age of 55 before the date of such sale or exchange, and

(b) During the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

(2) Limitations.

(a) Dollar Limitation. The amount of the gain excluded from gross income under subparagraph (1) shall not exceed [$100,000.00] *$125,000.00* ([$50,000.00] *$62,500.00* in the case of a separate return by a married individual).

(b) Application to only one sale or exchange. Subparagraph (1) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subparagraph (1) with respect to any other sale or exchange is in effect.

(c) Additional election if prior sale was made on or before January 1, 1979. In the case of any sale or exchange after January 1, 1979, this subsection shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

(3) Property held jointly by husband and wife. For purposes of this subsection, if

(a) Property is held by a husband and wife as joint tenants or tenants by the entirety,

(b) The husband and wife make a joint return for the taxable year of the sale or exchange, and

(c) One spouse satisfies the age, holding, and use requirements of subparagraph (1) with respect to the property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of subparagraph (1) with respect to the property.

(4) Property of deceased spouse. For purposes of this subsection, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if

(a) The deceased spouse, during the five-year period ending on the date of the sale or exchange, satisfied the holding and use requirements of subparagraph (1) (b) with respect to the property, and

(b) No election by the deceased spouse under this subsection is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of subparagraph (1) (b) with respect to the property.

c. Property used in part as a residence. In case of property only a portion of which has been owned and used by the taxpayer as his principal residence, this section shall apply with respect to so much of the sale or exchange of such property as is determined, under regulations prescribed by the director, to be attributable to the portion of the property so owned and used by the taxpayer.

d. The provisions of this section shall also be applicable with respect to qualified tenant-shareholders in cooperatives.

e. For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

2. This act shall take effect immediately and shall be applicable to sales and exchanges of residences on and after January 1, 1984.

STATEMENT

This bill increases from $100,000.00 to $125,000.00 the exclusion from gross income from the sale of a principal residence by an individual who has attained the age of 55. In the case of a separate return by a married individual, the exclusion is increased to $62,500.00 from $50,000.00. This proposal will conform the N. J. Gross Income Tax Act to the current federal Internal Revenue Code.

ASSEMBLY, No. 1062

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman PATERNITI

ASSEMBLY, No. 3624

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1985

By Assemblymen PATERNITI, PELLECCHIA, RILEY, MAZUR, MARSELLA, PATERO and DEVERIN

An Act concerning the exclusion, in certain cases, from New Jersey gross income of gains from the sale of a principal residence and amending N. J. S. 54A:6-9.

Be it enacted *by the Senate and General Assembly of the State of New Jersey:*

1. N. J. S. 54A:6-9 is amended to read as follows:

54A:6-9. Exemption for Gains Derived from the Sale or Exchange of Principal Residence.

a. Rollover of gain on sale of principal residence. (1) If a taxpayer realizes a gain from the sale or exchange of his principal residence, the gain shall be excludable from gross income if the taxpayer purchased or received in exchange another principal residence to replace the residence sold, provided that such new residence had been acquired either 18 months before or 18 months after the date of the sale of the original residence except that where the taxpayer has constructed a new residence, the period prior to and after the date of sale shall be 24 months. Where the adjusted sales price of the residence sold exceeds the purchase price of the new residence, the taxpayer shall be required to include in his gross income that portion of the gain which is represented by the amount that the adjusted sales price of the old residence exceeds the cost of the new residence. To the extent that any gain shall be excludable under this section, the basis of the new residence shall be reduced.

(2) Limitation.

(a) This subsection a. shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him

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 printed in italics *thus* is new matter.

as his principal residence, and any part of such gain was not recognized by reason of this subsection.

(b) Subsequent sale connected with commencing work at new place. Subparagraph (a) shall not apply with respect to the sale of the taxpayer's residence if

(i) Such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

(ii) If the residence so sold is treated as the former residence for federal moving expense purposes, the taxpayer would satisfy the distance and period of employment conditions prescribed for qualifying the federal moving expense deduction.

b. One-time exclusion of gain from sale of principal residence by individual who has attained age 55. (1) General. At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if

(a) The taxpayer has attained the age of 55 before the date of such sale or exchange, and

(b) During the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

(2) Limitations.

(a) Dollar Limitation. The amount of the gain excluded from gross income under subparagraph (1) shall not exceed **[**$100,000.00**]** *$125,000.00* (**[**$50,000.00**]** *$62,500.00* in the case of a separate return by a married individual).

(b) Application to only one sale or exchange. Subparagraph (1) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subparagraph (1) with respect to any other sale or exchange is in effect.

(c) Additional election if prior sale was made on or before January 1, 1979. In the case of any sale or exchange after January 1, 1979, this subsection shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

(3) Property held jointly by husband and wife. For purposes of this subsection, if

(a) Property is held by a husband and wife as joint tenants or tenants by the entirety.

(b) The husband and wife make a joint return for the taxable year of the sale or exchange, and

(c) One spouse satisfies the age, holding, and use requirements of subparagraph (1) with respect to the property, then both husband and wife shall be treated as satisfying the age, holding, and use requirements of subparagraph (1) with respect to the property.

(4) Property of deceased spouse. For purposes of this subsection, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, if

(a) The deceased spouse, during the five-year period ending on the date of the sale or exchange, satisfied the holding and use requirements of subparagraph (1) (b) with respect to the property, and

(b) No election by the deceased spouse under this subsection is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of subparagraph (1) (b) with respect to the property.

c. Property used in part as a residence. In case of property only a portion of which has been owned and used by the taxpayer as his principal residence, this section shall apply with respect to so much of the sale or exchange of such property as is determined, under regulations prescribed by the director, to be attributable to the portion of the property so owned and used by the taxpayer.

d. The provisions of this section shall also be applicable with respect to qualified tenant-shareholders in cooperatives.

e. For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

2. This act shall take effect immediately and shall be applicable to sales and exchanges of residences during taxable years ending on or after December 31, 1985.

STATEMENT

This bill liberalizes the provision, under the "New Jersey Gross Income Tax Act" for a one-time exclusion from gross income of gains which a taxpayer over 55 years of age has realized on the sale of his principal residence. At present, the maximum amount of that gain which may be excluded is $100,000.00, or $50,000.00 in the case of a married individual filing a separate return; under the bill, these limits would be increased to $125,000.00 and $62,500.00, respectively.

Similar increases in the corresponding exclusion under the federal income tax code, 26 U. S. C. § 121(b), became effective July 20, 1981.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 646 and 1062

STATE OF NEW JERSEY

DATED: MARCH 13, 1986

The committee favorably reported this bill.

This bill increases from $100,000.00 to $125,000.00 the exclusion from gross income from the sale of a principal residence by an individual who has attained the age of 55. In the case of a separate return by a married individual, the exclusion is increased from $50,000.00 to $62,500.00.

In addition, this bill increases the time period from 18 to 24 months during which a taxpayer may change his principal residence and exclude the gain on the sale or exchange of the principal residence from his gross income.

These changes will conform the New Jersey Gross Income Tax Act to the current federal Internal Revenue Code.

FISCAL IMPACT:

A fiscal note prepared in March, 1985, on Assembly Bill No. 444 of 1984, which is similar to this substitute, estimates the revenue loss from this bill to be $2.4 million for fiscal year 1987.

ASSEMBLY SENIOR CITIZENS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 646 and 1062

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 1986

The Assembly Senior Citizens Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 646 and 1062.

This substitute increases from $100,000.00 to $125,000.00 the exclusion from gross income from the sale of a principal residence by an individual who has attained the age of 55. In the case of a separate return by a married individual, the exclusion is increased to $62,500.00 from $50,000.00. The substitute also increases the time period from 18 to 24 months during which a taxpayer may change his principal residence and exclude the gain on the sale or exchange of the principal residence from his gross income. These changes will conform the New Jersey Gross Income Tax Act to the current federal Internal Revenue Code.

A fiscal note prepared in March 1985, on Assembly Bill No. 444 of 1984 which is identical to this substitute, estimates the revenue loss from the bill to be $2.4 million for fiscal year 1987.

SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 646 and 1062

STATE OF NEW JERSEY

DATED: JUNE 2, 1986

The Senate Revenue, Finance and Appropriations Committee reported this Assembly Committee Substitute favorably.

This substitute increases from $100,000.00 to $125,000.00 the exclusion from gross income of gains on the sale of a principal residence by an individual who has attained the age of 55. In the case of a separate return by a married individual, the exclusion is increased from $50,000.00 to $62,500.00. This proposal will conform the New Jersey Gross Income Tax Act to the current federal Internal Revenue Code. The federal tax law has allowed the $125,000.00 joint exclusion since July 1981. In addition, the substitute provides that the period during which any taxpayer may defer gains from the sale of a principal residence (the "rollover" period) is extended to two years, again to conform with federal policy.

This substitute is identical to Senate Bill No. 246 Sca of 1986.

FISCAL IMPACT:

A fiscal note is not available; however, the Division of Taxation estimated an annual revenue loss of approximately $1,400,000.00 on a similar bill in the previous legislative session (Senate No. 3287 of 1985).

FISCAL NOTE TO

ASSEMBLY, No. 444

STATE OF NEW JERSEY

DATED: MARCH 19, 1985

Assembly Bill No. 444 of 1984 increases from $100,000.00 to $125,000.00 the exclusion from taxable gross income of a gain derived from the sale of a principal residence by an individual who has attained the age of 55. The bill also increases the same exclusion from $50,000.00 to $62,500.00 for a married person filing a separate return.

The Division of Taxation estimates the revenue loss to be $2.0 million, $2.2 million, and $2.4 million, respectively for fiscal years 1985, 1986, and 1987.

The Office of Legislative Services concurs.

This fiscal note has been prepared pursuant to P. L. 1980, c. 67.