

54A:6-9

LEGISLATIVE HISTORY CHECKLIST

WJA 54A:6-9 (Gross Income Tax - Sale of principal residence --exclusion of certain capital gains)

LAWS OF 1979 CHAPTER 218

Bill No. S3098

Sponsor(s) Vreeland and others

Date Introduced Feb. 20, 1979

Committee: Assembly Taxation

Senate Revenue, Finance and Appropriations

Amended during passage Yes xix Amendments during passage denoted by asterisks.

Date of Passage: Assembly July 19, 1979 Substituted for A3349 (2nd OCR attached)

Senate June 25, 1979

Date of approval Oct. 11, 1979

Following statements are attached if available:

Sponsor statement	Yes	xix (Below)
Committee Statement: Assembly	Yes	no
Senate	Yes	xix
Fiscal Note	Yes	no
Veto message	Yes	no
Message on signing	Yes	xix

Following were printed:

Reports	Yes	no
Hearings	Yes	no

Sponsor's statement:

This amendment to the New Jersey Gross Income Tax Act conforms the State act to the provisions of the Federal Revenue Act of 1978 with respect to the taxability of gains on the sale or exchange of a taxpayer's principal residence, including the new one-time exemption of the first \$100,000.00 of gain on the sale of a principal residence by a taxpayer 55 years of age or older.

9/1/79

(over)

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SENATE, No. 3098

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1979

By Senators VREELAND, HAGEDORN, WALLWORK, LASKIN,
DUMONT, WEISS, HERBERT, SKEVIN, A. RUSSO, BEDELL,
FORAN, GAGLIANO, KENNEDY and EWING

Referred to Committee on Revenue, Finance and Appropriations

AN ACT concerning certain exclusions from gross income under the
"New Jersey Gross Income Tax Act," and amending N. J. S.
54A:6-9 with respect to the gain derived from the sale of a
principal residence.

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

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

2 54A:6-9. Exemption for Gains Derived from the Sale or
3 Exchange of Principal Residence.

4 a. *Rollover of gain on sale of principal residence.* (1) If a
5 taxpayer realizes a gain from the sale or exchange of his principal
6 residence, the gain shall be excludable from gross income if the
7 taxpayer purchased or received in exchange another principal
8 residence to replace the residence sold, provided that such new
9 residence had been acquired either 18 months before or 18 months
10 after the date of the sale of the original residence except that
11 where the taxpayer has constructed a new residence, the period
12 prior to and after the date of sale shall be 24 months. Where the
13 adjusted sales price of the residence sold exceeds the purchase
14 price of the new residence, the taxpayer shall be required to include
15 in his gross income that portion of the gain which is represented
16 by the amount that the adjusted sales price of the old residence
16a exceeds the cost of the new residence. To the extent that any gain
17 shall be excludable under this section, the basis of the new residence
18 shall be reduced.

19 (2) *Limitation.*

20 (a) *This subsection a. shall not apply with respect to the sale*
21 *of the taxpayer's residence if within 18 months before the date of*
22 *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.

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

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

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

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

35 [b. In lieu of the exemption allowed under subsection a. of this
36 section, a taxpayer who has attained the age of 65 on or before
37 the date of the sale of a property which has been used by him as
38 a principal residence for at least 5 years of the 8 years immediately
39 preceding the date of such sale, may elect to avail himself of the
40 exemption allowed under this subsection. If the exemption
41 provided for in this subsection is availed of by a taxpayer in or
42 for any taxable year, no such exemption shall be allowed with
43 respect to such taxpayer or spouse thereof in any subsequent
44 taxable year. If the adjusted sales price of the property sold or
45 exchanged exceeds \$35,000.00, this subsection shall apply to that
46 portion of the gain which bears the same ratio to the total amount
47 of such gain as \$35,000.00 bears to such adjusted sales price. For
48 the purpose of this section, the word "sale" means a "sale,"
49 "exchange," "transaction," or "event" through which the tax-
50 payer is divested of all interest in his residence.

51 c. Subsection a. shall not apply to any sale or exchange by the
52 taxpayer with respect to more than one property during any 18-
53 month period.

54 d. Subsection b. shall not apply to any sale or exchange by the
55 taxpayer with respect to more than one property.]

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

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

62 (b) During the 5-year period ending on the date of the sale or
63 exchange, such property has been owned and used by the taxpayer
64 as his principal residence for periods aggregating 3 years or more.

65 (2) Limitations.

66 (a) *Dollar Limitation.* The amount of the gain excluded from
 67 gross income under subparagraph (1) shall not exceed \$100,000.00
 68 (\$50,000.00 in the case of a separate return by a married indi-
 69 vidual).

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

74-75 (c) *Additional election if prior sale was made on or before*
 76 **[July 26, 1978]* *January 1, 1979*.* In the case of any sale or
 77 exchange after **[July 26, 1978]* *January 1, 1979**, this subsection
 78 shall be applied by not taking into account any election made with
 79 respect to a sale or exchange on or before such date.

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

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

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

86 (c) *One spouse satisfies the age, holding, and use requirements*
 87 *of subparagraph (1) with respect to the property, then both hus-*
 88 *band and wife shall be treated as satisfying the age, holding, and*
 89 *use requirements of subparagraph (1) with respect to the property.*

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

93 (a) *The deceased spouse, during the 5-year period ending on the*
 94 *date of the sale or exchange, satisfied the holding and use require-*
 95 *ments of subparagraph (1) (b) with respect to the property, and*

96 (b) *No election by the deceased spouse under this subsection is*
 97 *in effect with respect to a prior sale or exchange, then such indi-*
 98 *vidual shall be treated as satisfying the holding and use require-*
 99 *ments of subparagraph (1) (b) with respect to the property.**

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

106 **[f.]** d. The provisions of this section shall also be applicable with
 107 respect to qualified tenant-shareholders in cooperatives.

108 [g.] e. For purposes of this section, the destruction, theft, seiz-
109 ure, requisition, or condemnation of property shall be treated as
110 the sale of such property.

1 2. This act shall take effect immediately and shall be applicable
2 to sales and exchanges of residences **on and** after **[July 26, 1978,**
3 in taxable years ending after such date]***** **January 1, 1979**.

SENATE, No. 3098

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1979

By Senators VREELAND, HAGEDORN, WALLWORK, LASKIN,
DUMONT, WEISS, HERBERT, SKEVIN, A. RUSSO, BEDELL,
FORAN, GAGLIANO, KENNEDY and EWING

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26 place. Subparagraph (a) shall not apply with respect to the sale
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30 at a new principal place of work, and

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32 for Federal moving expense purposes, the taxpayer would satisfy
33 the distance and period of employment conditions prescribed for
34 qualifying the Federal moving expense deduction.

35 [b. In lieu of the exemption allowed under subsection a. of this
36 section, a taxpayer who has attained the age of 65 on or before
37 the date of the sale of a property which has been used by him as
38 a principal residence for at least 5 years of the 8 years immediately
39 preceding the date of such sale, may elect to avail himself of the
40 exemption allowed under this subsection. If the exemption
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44 taxable year. If the adjusted sales price of the property sold or
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76 *July 26, 1978.* In the case of any sale or exchange after July 26,
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87 respect to qualified tenant-shareholders in cooperatives.

88 [g.] e. For purposes of this section, the destruction, theft, seiz-
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90 the sale of such property.

1 2. This act shall take effect immediately and shall be applicable
2 to sales and exchanges of residences after July 26, 1978, in taxable
3 years ending after such date.

STATEMENT

This amendment to the New Jersey Gross Income Tax Act conforms the State act to the provisions of the Federal Revenue Act of 1978 with respect to the taxability of gains on the sale or exchange of a taxpayer's principal residence, including the new one-time exemption of the first \$100,000.00 of gain on the sale of a principal residence by a taxpayer 55 years of age or older.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 3098

STATE OF NEW JERSEY

DATED: JUNE 14, 1979

This amendment to the New Jersey Gross Income Tax Act conforms the State act to the provisions of the Federal Revenue Act of 1978 with respect to the taxability of gains on the sale or exchange of a taxpayer's principal residence, including the new one-time exemption of the first \$100,000.00 of gain on the sale of a principal residence by a taxpayer 55 years of age or older.

COMMITTEE AMENDMENTS

Committee amendments establish the effective date of the act to January 1, 1979 so as not to be retroactive. Further, the Bar Association suggested amendments are incorporated, prescribing the conditions under which the new exemption would apply in the case of property held by husband and wife, and property of a deceased spouse.

It is anticipated that a revenue loss will be experienced of substantial proportion but not determinable.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 3098

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1979

Amend page 3, section 1, line 76, omit "July 26, 1978.", insert "January 1, 1979."

Amend page 3, section 1, lines 76-77, omit "July 26, 1978", insert "January 1, 1979".

Amend page 3, section 1, after line 79, insert the following:

"(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 5-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."

Amend page 3, section 2, lines 2-3, after "residences", insert "on and"; omit "July 26, 1978, in taxable years ending after such date" and insert "January 1, 1979".

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

OCTOBER 15, 1979

KATHYRN FORSYTH

Governor Brendan Byrne signed 15 bills prior to departing for Italy.

S-3098, sponsored by Senator James P. Vreeland, Jr. (R-Morris), which amends the New Jersey Gross Income Tax Act to provide a new one-time exemption of the first \$100,000 of gain on the sale of a principal residence by a person 55 years or older.

Prior law limited the exemption to the first \$35,000 of the sale price only for persons age 65 or older.

The bill brings the New Jersey Income Tax law into conformity with the Federal Revenue Act of 1978.

A-3370, sponsored by Assemblyman Karl Weidel (R-Mercer), which exempts any minor between the ages of 16 and 18 from the hour restriction and record keeping under the Child Labor Laws while the person is employed by a summer resident camp, conference or retreat operated by a non-profit or religious corporation or association.

A-1039, sponsored by Assemblyman James J. Barry, Jr. (R-Morris), which clarifies existing law to say that autocabs, limousines or livery services are not subject to the jurisdiction of the Board of Public Utilities unless the service is held to be a regular service between stated terminals.

The bill also clarifies the definition of the word "autocab" to include limousine or livery services and increases the amount of insurance that each autocab must carry against damages for bodily injury or death from \$5000 to \$50,000.

In addition, it authorizes the Director of the Division of Motor Vehicles to issue special registration plates marked "livery" for a \$10 additional fee to owners or autocabs who apply for the plates.

S-3029, sponsored by Senator James S. Cafiero (D-Cape May), which increases the amount of money that a bank may transfer from a deceased person's account to that of his or her surviving spouse without a waiver from the Division of Taxation from \$1500 to \$5000.

The bank must still file an affidavit detailing the transaction with the Director of the Division within 30 days of the transfer.

A-1365, sponsored by Assemblyman Richard Van Wagner (D-Monmouth) which supplements the current statutes fixing fees to be imposed upon the recording of deeds.

The bill requires that the amount of all outstanding prior mortgages or liens be included, along with the amount bid at a sheriff's sale, as consideration in computing the fee due upon the filing of the sheriff's deed.

It also requires that the person requesting the sale furnish the sheriff, under oath, with the names of all mortgagees or encumbrance holders and the amounts of the mortgages or encumbrances.

A-1526, sponsored by Assemblyman H. Donald Stewart (D-Salem) which requires that a commercial eel fishing license be obtained by anyone wishing to take more than 25 eels per day from the waters of the Delaware Bay and its tributaries within New Jersey.

The fee for the license, which will be issued by the Division of Fish, Game and Shellfisheries, would be \$100 for New Jersey residents. The fee for out-of-State residents would be the same as the non-resident's state would charge a New Jersey resident, but in no case will it be less than \$100.

The bill also authorizes the Director of the Division to adopt rules and regulations for the management of the eel resources.

A-1670, sponsored by Assemblyman Walter J. Kozloski (D-Monmouth), which amends the current statutes concerning semi-wild and commercial shooting preserves.

The amendments will:

-- delete wild turkeys from the list of species which may be bred on the preserves. This makes the law compatible with goals of the Wild Turkey Restoration Project, currently being conducted by the Department of Environmental Protection, which is to return the wild turkey to New Jersey and produce a stronger strain of the species.

-- move the release date for the pre-season liberation of game birds closer to the opening of the hunting season.