

***LEGISLATIVE HISTORY CHECKLIST***

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**LAWS OF:** 1998

**CHAPTER:** 3

**NJSA:** 54A:6-9.1 to 54A:6-9.2  
"Gross Income Tax -- exclusion"

**BILL NO:** A1296 (Substituted for S374)

**SPONSOR(S):** Carroll and Garrett

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**

*ASSEMBLY:* Appropriations

*SENATE:* ~~~~

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**

*ASSEMBLY:* February 19, 1998

*SENATE:* February 26, 1998

**DATE OF APPROVAL:** March 20, 1998

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**THE FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL:** 1<sup>st</sup> reprint  
(Amendments during passage denoted by superscript numbers)

**A1296**

**SPONSORS STATEMENT:** Yes (Begins on page 4 of original bill)

**COMMITTEE STATEMENT:**

*ASSEMBLY:* Yes

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *Yes*

**S374**

**SPONSORS STATEMENT:** *Yes* (Begins on page 4 of original bill)  
(Bill and Sponsors Statement identical to A1296)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *Yes*

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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**THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

[First Reprint]

**ASSEMBLY, No. 1296**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris)**

**Assemblyman E. SCOTT GARRETT**

**District 24 (Sussex, Hunterdon and Morris)**

**Co-Sponsored by:**

**Assemblymen Gregg, Merkt, Luongo, Assemblywoman Murphy,**

**Assemblyman LeFevre, Senators Kenny, Adler, Bucco and Baer**

**SYNOPSIS**

Increases the exclusion from gross income of gain derived from the sale or exchange of a principal residence to conform to similar federal income tax exemption.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on January 29, 1998, with amendments.

(Sponsorship Updated As Of: 2/27/1998)

1 AN ACT concerning the exclusion from gross income of gain derived  
2 from the sale or exchange of a principal residence, supplementing  
3 Title 54A of the New Jersey Statutes and repealing N.J.S.54A:6-9.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) a. The gain realized from the sale or exchange  
9 of property by a taxpayer shall be excludable from the gross income of  
10 the taxpayer <sup>1</sup>at the election of the taxpayer, which shall be in  
11 conformity with the election of the taxpayer made for federal income  
12 tax purposes pursuant to section 121 of the federal Internal Revenue  
13 Code of 1986, 26 U.S.C. s.121,<sup>1</sup> if, during the 5-year period ending on  
14 the date of the sale or exchange, that property has been owned and  
15 used by the taxpayer as the taxpayer's principal residence for periods  
16 aggregating 2 years or more.

17 b. The amount of gain excludable from gross income under  
18 subsection a. of this section with respect to any sale or exchange shall  
19 not exceed:

20 (1) \$250,000; or

21 (2) \$500,000, in the case of a husband and wife filing jointly for the  
22 taxable year of the sale or exchange of the property, if:

23 (i) either spouse meets the ownership requirements of subsection  
24 a. with respect to the property;

25 (ii) both spouses meet use requirements of subsection a. of this  
26 section with respect to the property; and

27 (iii) neither spouse is ineligible for the exclusion provided in  
28 subsection a. of this section with respect to the property by reason of  
29 the limitations of subsection c. of this section.

30 c. The exclusion provided in subsection a. shall not apply to any  
31 sale or exchange by the taxpayer if, during the 2-year period ending on  
32 the date of sale or exchange, there was another sale or exchange after  
33 May 6, 1997 by the taxpayer to which <sup>1</sup>an election made pursuant to<sup>1</sup>  
34 subsection a. applied, except that this limitation shall not prevent a  
35 husband and wife filing jointly from each excluding up to \$250,000 of  
36 gain from the sale or exchange of each spouse's principal residence  
37 provided that each spouse would be allowed to exclude up to  
38 \$250,000 of gain if each spouse had filed separately.

39 d. If a sale or exchange to which this section would apply but for  
40 the failure to meet the aggregate 2-year period of ownership and use  
41 by the taxpayer as the taxpayer's principal residence during the 5-year  
42 period ending on the date of the sale or exchange, and the sale or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAP committee amendments adopted January 29, 1998.

1 exchange is by reason of a change in place of employment, health, or  
2 unforeseen circumstances, to the extent provided for a similar  
3 exemption for federal income tax purposes pursuant to section 121 of  
4 the federal Internal Revenue Code of 1986, 26 U.S.C. s.121, then  
5 notwithstanding the amount of excludable gain allowed under  
6 subsection b. of this section, the amount of gain excludable from gross  
7 income with respect to such sale or exchange shall not exceed the  
8 amount which bears the same ratio to the amount which would be so  
9 excluded under this section if such requirements had been met as the  
10 shorter of

11 (1) the aggregate periods, during the 5-year period ending on the  
12 date of such sale or exchange, the property has been owned and used  
13 by the taxpayer as the taxpayer's principal residence, or

14 (2) the period after the date of the most recent prior sale or  
15 exchange by the taxpayer to which subsection a. of this section applied  
16 and before the date of such sale or exchange  
17 bears to two years.

18 e. (1) An exclusion allowed pursuant to this section shall be  
19 available if a husband and wife file jointly for the taxable year of the  
20 sale or exchange and either spouse meets the ownership and use  
21 requirements of subsection a. of this section with respect to the  
22 property.

23 (2) For the purposes of this section, in the case of an unmarried  
24 individual whose spouse is deceased on the date of sale or exchange  
25 of property, the period the unmarried individual owned and used the  
26 property shall include the period the deceased spouse owned and used  
27 the property before the deceased spouse's death.

28 (3) For the purposes of this section, in the case of an individual  
29 holding property transferred to the individual in a transaction  
30 described in subsection (a) of section 1041 of the federal Internal  
31 Revenue Code of 1986, 26 U.S.C. s.1041, the period the individual  
32 owns the property shall include the period the transferor owned the  
33 property. An individual shall be treated as using the property as the  
34 individual's principal residence during any period of ownership while  
35 the individual's spouse or former spouse is granted use of the property  
36 under a divorce or separation instrument as defined in paragraph (2)  
37 of subsection (b) of section 71 of the federal Internal Revenue Code  
38 of 1986, 26 U.S.C. s.71.

39 f. The provisions of this section shall apply with respect to  
40 qualified tenant-shareholders in cooperatives.

41 <sup>1</sup>g. The exclusion of gain allowed pursuant to this section shall not  
42 apply to so much of the gain from the sale of any property as does not  
43 exceed the portion of the depreciation adjustments (as deemed in  
44 paragraph (3) of subsection (b) of section 1250 of the federal Internal  
45 Revenue Code of 1986) attributable to periods after May 6, 1997, in  
46 respect of that property.<sup>1</sup>

1       <sup>1</sup>[g.] h.<sup>1</sup> For the purposes of this section, the destruction, theft,  
2 seizure, requisition, or condemnation of property shall be treated as  
3 the sale of the property.

4       <sup>1</sup>[h.] i.<sup>1</sup> In the case of a taxpayer who

5       (1) becomes physically or mentally incapable of self-care, and

6       (2) owns property and uses that property as the taxpayer's  
7 principal residence for periods aggregating at least one year during the  
8 5-year period described in subsection a. of this section;

9 that taxpayer shall be treated as using that property as the taxpayer's  
10 principal residence during any time during such 5-year period in which  
11 the taxpayer owns the property and resides in any facility (including a  
12 nursing home) licensed by the State or political subdivision to care for  
13 an individual in the taxpayer's condition.

14       <sup>1</sup>[i.] j.<sup>1</sup> At the election of the taxpayer, the exclusion provided  
15 pursuant to this section shall apply to the sale or exchange of an  
16 interest in a principal residence by reason of that interest being a  
17 remainder interest in that residence, but this section shall not apply to  
18 any other interest in such residence which is sold or exchanged  
19 separately. However, this subsection shall not apply to any sale to, or  
20 exchange with, any person who bears a relationship to the taxpayer  
21 which is described in subsection (b) of section 267 or subsection (b)  
22 of section 707 of the federal Internal Revenue Code of 1986, 26  
23 U.S.C. s.267 or 26 U.S.C. s.707.

24       <sup>1</sup>[j.] k.<sup>1</sup> This section shall not apply to any sale or exchange by an  
25 individual if the treatment provided by section paragraph (1) of  
26 subsection (a) of section 877 of the federal Internal Revenue Code of  
27 1986, 26 U.S.C. s.877, applies to that individual for federal income tax  
28 purposes.

29       <sup>1</sup>[k.] l.<sup>1</sup> In the case of property the acquisition of which by the  
30 taxpayer resulted under N.J.S.54A:6-9 in the exclusion of any part of  
31 the gain realized on the sale or exchange of another residence, there  
32 shall be included in determining the period for which the taxpayer has  
33 owned and used such property as the taxpayer's personal residence, the  
34 aggregate periods for which such other residence had been so owned  
35 and used.

36

37       2. N.J.S.54A:6-9 is repealed.

38

39       3. (New section) <sup>1</sup>a.<sup>1</sup> Notwithstanding the provisions of any law  
40 to the contrary, a taxpayer <sup>1</sup>[may elect to apply the provisions of  
41 N.J.S.54A:6-9 instead of section 1 of P.L.     , c. (C.     )](now  
42 pending before the Legislature as this bill), to a sale or exchange

43       a. made on or before May 7, 1997;

44       b. made after May 7, 1997 pursuant to a binding contract in effect  
45 on that date; or

46       c. if the replacement residence was acquired on or before May 7,

1 1997, or pursuant to a binding contract in effect on that date, and the  
2 provisions of subsection a. of N.J.S.54A:6-9 would apply] who elects  
3 to apply the provisions of paragraph (2) or (4) of subsection (d) of  
4 section 312 of the federal "Taxpayer Relief Act of 1997" (Pub. L.105-  
5 34), for federal income tax purposes shall be subject to the same  
6 provisions for New Jersey gross income tax purposes.

7 b. Notwithstanding the provision of any law to the contrary, the  
8 exclusion of gain realized from the sale or exchange of property by a  
9 taxpayer that has been owned and used by the taxpayer as the  
10 taxpayer's principal residence shall be excludable from the gross  
11 income of the taxpayer, upon the election of the taxpayer made  
12 pursuant to paragraph (3) of subsection (d) of section 312 of the  
13 federal "Taxpayer Relief Act of 1997" (Pub. L.105-34), for federal  
14 income tax purposes, and shall be determined pursuant to the proration  
15 method allowed pursuant to subsection d. of section 1 of P.L. , c.  
16 (C. ) (now pending before the Legislature as this bill),  
17 notwithstanding that the sale or exchange is not by reason of a change  
18 in place of employment, health, or unforeseen circumstances, and  
19 notwithstanding that the taxpayer does not meet the use and ownership  
20 requirement for periods aggregating two years, if the sale or exchange  
21 takes place during the two-year period beginning on August 5, 1997  
22 and the taxpayer held the property on August 5, 1997<sup>1</sup>.

23

24 4. This act shall take effect immediately and section 1 shall apply  
25 to sales and exchanges occurring after May 6, 1997.

# ASSEMBLY, No. 1296

## STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman MICHAEL PATRICK CARROLL**

**District 25 (Morris)**

**Assemblyman E. SCOTT GARRETT**

**District 24 (Sussex, Hunterdon and Morris)**

**Co-Sponsored by:**

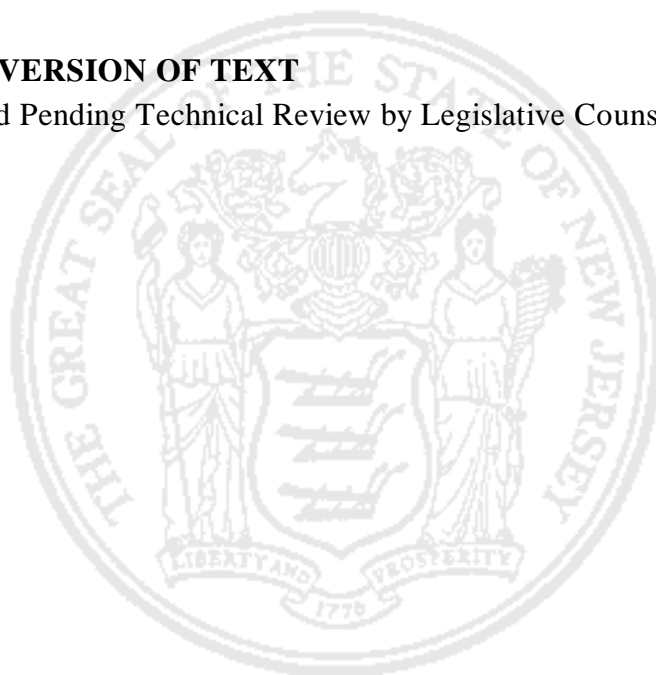
**Assemblymen Gregg and Merkt**

**SYNOPSIS**

Increases the exclusion from gross income of gain derived from the sale or exchange of a principal residence to conform to similar federal income tax exemption.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/30/1998)



1 AN ACT concerning the exclusion from gross income of gain derived  
2 from the sale or exchange of a principal residence, supplementing  
3 Title 54A of the New Jersey Statutes and repealing N.J.S.54A:6-9.  
4

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

7  
8 1. (New section) a. The gain realized from the sale or exchange  
9 of property by a taxpayer shall be excludable from the gross income of  
10 the taxpayer if, during the 5-year period ending on the date of the sale  
11 or exchange, that property has been owned and used by the taxpayer  
12 as the taxpayer's principal residence for periods aggregating 2 years or  
13 more.

14 b. The amount of gain excludable from gross income under  
15 subsection a. of this section with respect to any sale or exchange shall  
16 not exceed:

17 (1) \$250,000; or

18 (2) \$500,000, in the case of a husband and wife filing jointly for the  
19 taxable year of the sale or exchange of the property, if:

20 (i) either spouse meets the ownership requirements of subsection  
21 a. with respect to the property;

22 (ii) both spouses meet use requirements of subsection a. of this  
23 section with respect to the property; and

24 (iii) neither spouse is ineligible for the exclusion provided in  
25 subsection a. of this section with respect to the property by reason of  
26 the limitations of subsection c. of this section.

27 c. The exclusion provided in subsection a. shall not apply to any  
28 sale or exchange by the taxpayer if, during the 2-year period ending on  
29 the date of sale or exchange, there was another sale or exchange after  
30 May 6, 1997 by the taxpayer to which subsection a. applied, except  
31 that this limitation shall not prevent a husband and wife filing jointly  
32 from each excluding up to \$250,000 of gain from the sale or exchange  
33 of each spouse's principal residence provided that each spouse would  
34 be allowed to exclude up to \$250,000 of gain if each spouse had filed  
35 separately.

36 d. If a sale or exchange to which this section would apply but for  
37 the failure to meet the aggregate 2-year period of ownership and use  
38 by the taxpayer as the taxpayer's principal residence during the 5-year  
39 period ending on the date of the sale or exchange, and the sale or  
40 exchange is by reason of a change in place of employment, health, or  
41 unforeseen circumstances, to the extent provided for a similar  
42 exemption for federal income tax purposes pursuant to section 121 of  
43 the federal Internal Revenue Code of 1986, 26 U.S.C.s.121, then  
44 notwithstanding the amount of excludable gain allowed under  
45 subsection b. of this section, the amount of gain excludable from gross  
46 income with respect to such sale or exchange shall not exceed the

1 amount which bears the same ratio to the amount which would be so  
2 excluded under this section if such requirements had been met as the  
3 shorter of

4 (1) the aggregate periods, during the 5-year period ending on the  
5 date of such sale or exchange, the property has been owned and used  
6 by the taxpayer as the taxpayer's principal residence, or

7 (2) the period after the date of the most recent prior sale or  
8 exchange by the taxpayer to which subsection a. of this section applied  
9 and before the date of such sale or exchange  
10 bears to two years.

11 e. (1) An exclusion allowed pursuant to this section shall be  
12 available if a husband and wife file jointly for the taxable year of the  
13 sale or exchange and either spouse meets the ownership and use  
14 requirements of subsection a. of this section with respect to the  
15 property.

16 (2) For the purposes of this section, in the case of an unmarried  
17 individual whose spouse is deceased on the date of sale or exchange  
18 of property, the period the unmarried individual owned and used the  
19 property shall include the period the deceased spouse owned and used  
20 the property before the deceased spouse's death.

21 (3) For the purposes of this section, in the case of an individual  
22 holding property transferred to the individual in a transaction  
23 described in subsection (a) of section 1041 of the federal Internal  
24 Revenue Code of 1986, 26 U.S.C.s.1041, the period the individual  
25 owns the property shall include the period the transferor owned the  
26 property. An individual shall be treated as using the property as the  
27 individual's principal residence during any period of ownership while  
28 the individual's spouse or former spouse is granted use of the property  
29 under a divorce or separation instrument as defined in paragraph (2)  
30 of subsection (b) of section 71 of the federal Internal Revenue Code  
31 of 1986, 26 U.S.C.s.71.

32 f. The provisions of this section shall apply with respect to  
33 qualified tenant-shareholders in cooperatives.

34 g. For the purposes of this section, the destruction, theft, seizure,  
35 requisition, or condemnation of property shall be treated as the sale of  
36 the property.

37 h. In the case of a taxpayer who

38 (1) becomes physically or mentally incapable of self-care, and

39 (2) owns property and uses that property as the taxpayer's principal  
40 residence for periods aggregating at least one year during the 5-year  
41 period described in subsection a. of this section;

42 that taxpayer shall be treated as using that property as the taxpayer's  
43 principal residence during any time during such 5-year period in which  
44 the taxpayer owns the property and resides in any facility (including a  
45 nursing home) licensed by the State or political subdivision to care for  
46 an individual in the taxpayer's condition.

1 i. At the election of the taxpayer, the exclusion provided pursuant  
2 to this section shall apply to the sale or exchange of an interest in a  
3 principal residence by reason of that interest being a remainder interest  
4 in that residence, but this section shall not apply to any other interest  
5 in such residence which is sold or exchanged separately. However,  
6 this subsection shall not apply to any sale to, or exchange with, any  
7 person who bears a relationship to the taxpayer which is described in  
8 subsection (b) of section 267 or subsection (b) of section 707 of the  
9 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or  
10 26 U.S.C.s.707.

11 j. This section shall not apply to any sale or exchange by an  
12 individual if the treatment provided by section paragraph (1) of  
13 subsection (a) of section 877 of the federal Internal Revenue Code of  
14 1986, 26 U.S.C.s.877, applies to that individual for federal income tax  
15 purposes.

16 k. In the case of property the acquisition of which by the taxpayer  
17 resulted under N.J.S.54A:6-9 in the exclusion of any part of the gain  
18 realized on the sale or exchange of another residence, there shall be  
19 included in determining the period for which the taxpayer has owned  
20 and used such property as the taxpayer's personal residence, the  
21 aggregate periods for which such other residence had been so owned  
22 and used.

23

24 2. N.J.S.54A:6-9 is repealed.

25

26 3. (New section) Notwithstanding the provisions of any law to the  
27 contrary, a taxpayer may elect to apply the provisions of N.J.S.54A:6-  
28 9 instead of section 1 of P.L., c. (C. ) (now pending before the  
29 Legislature as this bill), to a sale or exchange

30 a. made on or before May 7, 1997;

31 b. made after May 7, 1997 pursuant to a binding contract in effect  
32 on that date; or

33 c. if the replacement residence was acquired on or before May 7,  
34 1997, or pursuant to a binding contract in effect on that date, and the  
35 provisions of subsection a. of N.J.S.54A:6-9 would apply.

36

37 4. This act shall take effect immediately and section 1 shall apply  
38 to sales and exchanges occurring after May 6, 1997.

39

40

41

#### STATEMENT

42

43 This bill increases the income exclusion under the New Jersey gross  
44 income tax of gain derived from the sale or exchange of a principal  
45 residence. The bill conforms the gross income tax treatment of such  
46 gain to a similar federal income tax exemption provided under the

1 federal Taxpayer Relief Act of 1997. The increased gross income tax  
2 exclusion, along with the increased federal income tax exemption, will  
3 allow individuals who have experienced large increases in the value of  
4 their homes over many years of homeownership, to use the profit from  
5 their home sales for their retirement or other needs without the  
6 payment of income taxes on those sales.

7 Under the current gross income tax, no gain is recognized on the  
8 sale of a principal residence if a new residence at least equal in cost to  
9 the sales price of the old residence is purchased and used by the  
10 taxpayer as his or her principal residence within a specified period of  
11 time. This replacement period generally begins two years before and  
12 ends two years after the date of sale of the old residence. The basis of  
13 the replacement residence is reduced by the amount of any gain not  
14 recognized on the sale of the old residence by reason of this gain  
15 rollover rule.

16 Also, under the current gross income tax, in general, an individual,  
17 on a one-time basis, may exclude from gross income up to \$125,000  
18 of gain from the sale or exchange of a principal residence if the  
19 taxpayer (1) has attained age 55 before the sale, and (2) has owned the  
20 property and used it as a principal residence for three or more of the  
21 five years preceding the sale.

22 These provisions matched similar federal income tax provisions  
23 which were changed under the federal Taxpayer Relief Act of 1997.

24 Under this bill, a taxpayer generally is able to exclude up to  
25 \$250,000 (\$500,000 if married filing a joint return) of gain realized on  
26 the sale or exchange of a principal residence. The exclusion is allowed  
27 each time a taxpayer selling or exchanging a principal residence meets  
28 the eligibility requirements, but generally no more frequently than once  
29 every two years. To be eligible for the exclusion, a taxpayer must have  
30 owned the residence and occupied it as a principal residence for at  
31 least two of the five years prior to the sale or exchange. A taxpayer  
32 who fails to meet these requirements by reason of a change of place of  
33 employment, health, or other unforeseen circumstances is able to  
34 exclude the fraction of the \$250,000 (\$500,000 if married filing a joint  
35 return) equal to the fraction of two years that these requirements are  
36 met.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1296**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 29, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1296, with committee amendments.

Assembly Bill No. 1296, as amended, increases the income exclusion under the New Jersey gross income tax of gain derived from the sale or exchange of a principal residence. The bill conforms the gross income tax treatment of such gain to a similar federal income tax exclusion provided under the federal Taxpayer Relief Act of 1997. The increased gross income tax exclusion, along with the increased federal income tax exemption, will allow individuals who have experienced large increases in the value of their homes over many years of home ownership, to use the profit from their home sales for their retirement or other needs without the payment of income taxes on those sales.

Under the current gross income tax, no gain is recognized on the sale of a principal residence if a new residence, at least equal in cost to the sales price of the old residence, is purchased and used by the taxpayer as the taxpayer's principal residence within a specified period of time. This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of this gain rollover rule.

Also, under the current gross income tax, in general, an individual, on a one-time basis, may exclude from gross income up to \$125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has owned the property and used it as a principal residence for three or more of the five years preceding the sale.

These provisions matched similar federal income tax provisions which were changed under the federal Taxpayer Relief Act of 1997.

Under this bill, a taxpayer generally is able to exclude up to \$250,000 (\$500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. The exclusion is allowed each time a taxpayer selling or exchanging a principal residence meets the eligibility requirements, but generally no more frequently than once

every two years. To be eligible for the exclusion, a taxpayer must have owned the residence and occupied it as a principal residence for at least two of the five years prior to the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or other unforeseen circumstances is able to exclude the fraction of the \$250,000 (\$500,000 if married filing a joint return) equal to the fraction of two years that these requirements are met.

This bill was pre-filed for introduction in the 1998-1999 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

**FISCAL IMPACT:**

The Office of Legislative Services has been unable to estimate the fiscal impact, if any, of the bill because of a lack of relevant data; however, several tentative analyses using the federal and State data available indicate that any decrease in gross income tax revenue will be negligible.

**COMMITTEE AMENDMENTS:**

The amendments make changes clarifying the conformity of State gross income tax treatment to the new federal income tax treatment of gains on principal residences that apply in certain specialized circumstances.

The committee amendments in section 1 of the bill (1) clarify that the taxpayer must elect to have the exclusion apply and that the election of the taxpayer under this bill for gross income tax purposes must conform to the taxpayer's election made for federal income tax purposes, and (2) conform with the provisions of the federal income tax exclusion by disallowing the exclusion for gain that is the result of the "recapture" of accelerated depreciation deducted because of the rental or business use of the principal residence.

The amendments in section 3 require that elections made for federal income tax purposes during a federal transition period apply for State gross income tax purposes.

# LEGISLATIVE FISCAL ESTIMATE

## ASSEMBLY, No. 1296

# STATE OF NEW JERSEY

## 208th LEGISLATURE

DATED: MARCH 3, 1998

### BILL SUMMARY

Assembly Bill No.1296 of 1998 increases the income exclusion under the New Jersey gross income tax of gain derived from the sale or exchange of a principal residence. The bill conforms the gross income tax treatment of such gain to a similar federal income tax exemption provided under the federal *Taxpayer Relief Act of 1997*.

Under this bill, a taxpayer generally is able to exclude up to \$250,000 (\$500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. Under the current gross income tax, no gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence, a practice commonly referred to as "rolling over" the gain from the sale. Also, under the current gross income tax, in general, an individual, on a one-time basis, may exclude from gross income up to \$125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has owned the property and used it as a principal residence for three or more of the five years preceding the sale.

### OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services is unable to estimate the cost of this bill due to a lack of detailed tax data on New Jersey capital gains. The Division of Taxation has, in recent years, collected capital gains data. However, those figures are total reported gains, with no detail about the source of the gain, whether it is from the sale of a home or from stocks or other assets. Indeed, the federal Joint Committee on Taxation, in its estimates of the *Taxpayer Relief Act of 1997*, also reported a lack of information, but anticipated a negligible federal revenue effect. It is possible that conforming the New Jersey gross income tax to the federal law may reduce gross income tax revenues if the amount of exempt gains increases. However, any revenue loss would depend on a comparison of the incidence of taxpayer use of

current tax exclusions with the possible replacement by and use of new exclusions. The possible scope of the revenue impact is discussed below.

In tax year 1994 New Jersey taxable gains reported by the Division of Taxation, equaled about \$3.6 billion. At an average marginal tax rate of about 6.0%, those gains would have resulted in just over \$200 million in tax revenue. However, not all of those gains are from the sale of homes, and some of the home sales would not have been for a principal residence. The total amount of taxable gains from the sale of a principal residence is significantly below \$3.6 billion and the potential tax loss significantly below \$200 million. (Note: according to the Division of Taxation, gains grew by 44% in tax year 1995, the first year of the recent stock market boom. Similar growth in gains can be expected for tax years 1996 and 1997, although it would appear likely that little of this growth would be attributable to gains from the sale of principal residences.)

Other data indicate the annual sale of existing homes has reached about 140,000 units in New Jersey. During recessions that figure can drop significantly - about 115,000 existing homes were sold in 1990. If 130,000 home sales at an average price of \$150,000 statewide realize a 10% gain, the total taxable gains could reach \$2.0 billion, or \$100 million State gross income tax revenue at an average marginal tax rate of about 5.0% (under the new rates in place in 1997).

However, the \$100 million figure is almost certainly too high an estimate of potential State gross income tax revenue losses. Most of these gains would *not* be subject to tax under current law for two important reasons. First, the new exclusion level would not affect those taxpayers who are currently able to roll over gains into the purchase of a new home. Second, some additional number of these gains are currently subject to the one-time \$125,000 exclusion for those individuals age 55 or older.

Further confounding any estimate is the possible *increase* in tax paid by certain taxpayers. Taxpayers with particularly expensive homes could pay higher taxes under this bill because of the loss of the roll over provisions. The number of taxpayers facing a possible tax increase is in all likelihood very small, since the 1990 Census indicates that only about 1.1% of New Jersey owner occupied housing units are valued at over \$300,000. Nevertheless, the tax revenue from capital gains from high value homes could be proportionately high. If only 500 home sales resulted in an average *taxable* gain of \$200,000 (total gain of \$700,000 less the \$500,000 exclusion), the total taxable gains could reach \$100 million, or a revenue *increase* of about \$6 million at the highest marginal tax rate of 6.37% (under the new rates in place in 1997).

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



# SENATE, No. 374

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JANUARY 20, 1998

**Sponsored by:**

**Senator BERNARD F. KENNY**

**District 33 (Hudson)**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Co-Sponsored by:**

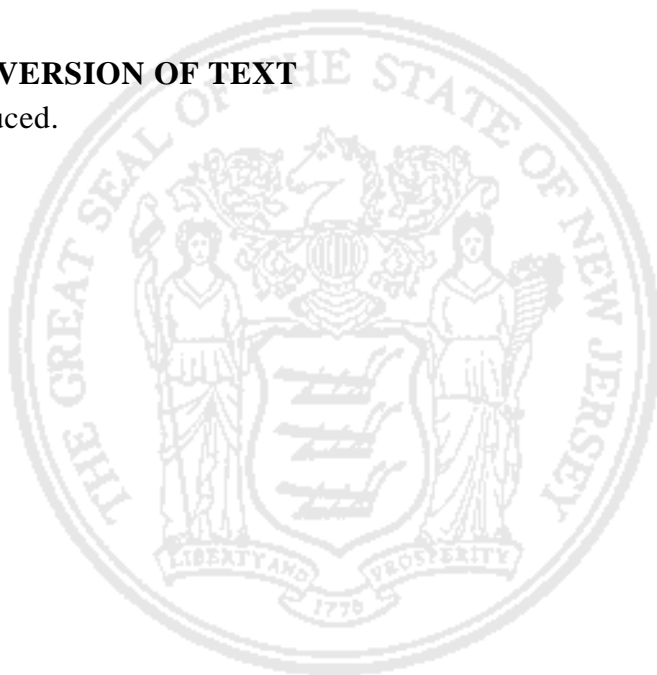
**Senator Bucco**

**SYNOPSIS**

Increases the exclusion from gross income of gain derived from the sale or exchange of a principal residence to conform to similar federal income tax exemption.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/24/1998)**

1 AN ACT concerning the exclusion from gross income of gain derived  
2 from the sale or exchange of a principal residence, supplementing  
3 Title 54A of the New Jersey Statutes and repealing N.J.S.54A:6-9.  
4

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

7  
8 1. (New section) a. The gain realized from the sale or exchange  
9 of property by a taxpayer shall be excludable from the gross income of  
10 the taxpayer if, during the 5-year period ending on the date of the sale  
11 or exchange, that property has been owned and used by the taxpayer  
12 as the taxpayer's principal residence for periods aggregating 2 years or  
13 more.

14 b. The amount of gain excludable from gross income under  
15 subsection a. of this section with respect to any sale or exchange shall  
16 not exceed:

17 (1) \$250,000; or

18 (2) \$500,000, in the case of a husband and wife filing jointly for the  
19 taxable year of the sale or exchange of the property, if:

20 (i) either spouse meets the ownership requirements of subsection  
21 a. with respect to the property;

22 (ii) both spouses meet use requirements of subsection a. of this  
23 section with respect to the property; and

24 (iii) neither spouse is ineligible for the exclusion provided in  
25 subsection a. of this section with respect to the property by reason of  
26 the limitations of subsection c. of this section.

27 c. The exclusion provided in subsection a. shall not apply to any  
28 sale or exchange by the taxpayer if, during the 2-year period ending on  
29 the date of sale or exchange, there was another sale or exchange after  
30 May 6, 1997 by the taxpayer to which subsection a. applied, except  
31 that this limitation shall not prevent a husband and wife filing jointly  
32 from each excluding up to \$250,000 of gain from the sale or exchange  
33 of each spouse's principal residence provided that each spouse would  
34 be allowed to exclude up to \$250,000 of gain if each spouse had filed  
35 separately.

36 d. If a sale or exchange to which this section would apply but for  
37 the failure to meet the aggregate 2-year period of ownership and use  
38 by the taxpayer as the taxpayer's principal residence during the 5-year  
39 period ending on the date of the sale or exchange, and the sale or  
40 exchange is by reason of a change in place of employment, health, or  
41 unforeseen circumstances, to the extent provided for a similar  
42 exemption for federal income tax purposes pursuant to section 121 of  
43 the federal Internal Revenue Code of 1986, 26 U.S.C.s.121, then  
44 notwithstanding the amount of excludable gain allowed under  
45 subsection b. of this section, the amount of gain excludable from gross  
46 income with respect to such sale or exchange shall not exceed the

1 amount which bears the same ratio to the amount which would be so  
2 excluded under this section if such requirements had been met as the  
3 shorter of

4 (1) the aggregate periods, during the 5-year period ending on the  
5 date of such sale or exchange, the property has been owned and used  
6 by the taxpayer as the taxpayer's principal residence, or

7 (2) the period after the date of the most recent prior sale or  
8 exchange by the taxpayer to which subsection a. of this section applied  
9 and before the date of such sale or exchange  
10 bears to two years.

11 e. (1) An exclusion allowed pursuant to this section shall be  
12 available if a husband and wife file jointly for the taxable year of the  
13 sale or exchange and either spouse meets the ownership and use  
14 requirements of subsection a. of this section with respect to the  
15 property.

16 (2) For the purposes of this section, in the case of an unmarried  
17 individual whose spouse is deceased on the date of sale or exchange  
18 of property, the period the unmarried individual owned and used the  
19 property shall include the period the deceased spouse owned and used  
20 the property before the deceased spouse's death.

21 (3) For the purposes of this section, in the case of an individual  
22 holding property transferred to the individual in a transaction  
23 described in subsection (a) of section 1041 of the federal Internal  
24 Revenue Code of 1986, 26 U.S.C.s.1041, the period the individual  
25 owns the property shall include the period the transferor owned the  
26 property. An individual shall be treated as using the property as the  
27 individual's principal residence during any period of ownership while  
28 the individual's spouse or former spouse is granted use of the property  
29 under a divorce or separation instrument as defined in paragraph (2)  
30 of subsection (b) of section 71 of the federal Internal Revenue Code  
31 of 1986, 26 U.S.C.s.71.

32 f. The provisions of this section shall apply with respect to  
33 qualified tenant-shareholders in cooperatives.

34 g. For the purposes of this section, the destruction, theft, seizure,  
35 requisition, or condemnation of property shall be treated as the sale of  
36 the property.

37 h. In the case of a taxpayer who

38 (1) becomes physically or mentally incapable of self-care, and

39 (2) owns property and uses that property as the taxpayer's principal  
40 residence for periods aggregating at least one year during the 5-year  
41 period described in subsection a. of this section;

42 that taxpayer shall be treated as using that property as the taxpayer's  
43 principal residence during any time during such 5-year period in which  
44 the taxpayer owns the property and resides in any facility (including a  
45 nursing home) licensed by the State or political subdivision to care for  
46 an individual in the taxpayer's condition.

1 i. At the election of the taxpayer, the exclusion provided pursuant  
2 to this section shall apply to the sale or exchange of an interest in a  
3 principal residence by reason of that interest being a remainder interest  
4 in that residence, but this section shall not apply to any other interest  
5 in such residence which is sold or exchanged separately. However,  
6 this subsection shall not apply to any sale to, or exchange with, any  
7 person who bears a relationship to the taxpayer which is described in  
8 subsection (b) of section 267 or subsection (b) of section 707 of the  
9 federal Internal Revenue Code of 1986, 26 U.S.C.s.267 or 26  
10 U.S.C.s.707.

11 j. This section shall not apply to any sale or exchange by an  
12 individual if the treatment provided by section paragraph (1) of  
13 subsection (a) of section 877 of the federal Internal Revenue Code of  
14 1986, 26 U.S.C.s.877, applies to that individual for federal income tax  
15 purposes.

16 k. In the case of property the acquisition of which by the taxpayer  
17 resulted under N.J.S.54A:6-9 in the exclusion of any part of the gain  
18 realized on the sale or exchange of another residence, there shall be  
19 included in determining the period for which the taxpayer has owned  
20 and used such property as the taxpayer's personal residence, the  
21 aggregate periods for which such other residence had been so owned  
22 and used.

23

24 2. N.J.S.54A:6-9 is repealed.

25

26 3. (New section) Notwithstanding the provisions of any law to the  
27 contrary, a taxpayer may elect to apply the provisions of N.J.S.54A:6-  
28 9 instead of section 1 of P.L., c. (C. ) (now pending before the  
29 Legislature as this bill), to a sale or exchange

30 a. made on or before May 7, 1997;

31 b. made after May 7, 1997 pursuant to a binding contract in effect  
32 on that date; or

33 c. if the replacement residence was acquired on or before May 7,  
34 1997, or pursuant to a binding contract in effect on that date, and the  
35 provisions of subsection a. of N.J.S.54A:6-9 would apply.

36

37 4. This act shall take effect immediately and section 1 shall apply  
38 to sales and exchanges occurring after May 6, 1997.

39

40

41

#### STATEMENT

42

43 This bill increases the income exclusion under the New Jersey gross  
44 income tax of gain derived from the sale or exchange of a principal  
45 residence. The bill conforms the gross income tax treatment of such  
46 gain to a similar federal income tax exemption provided under the

1 federal Taxpayer Relief Act of 1997. The increased gross income tax  
2 exclusion, along with the increased federal income tax exemption, will  
3 allow individuals who have experienced large increases in the value of  
4 their homes over many years of homeownership, to use the profit from  
5 their home sales for their retirement or other needs without the  
6 payment of income taxes on those sales.

7 Under the current gross income tax, no gain is recognized on the  
8 sale of a principal residence if a new residence at least equal in cost to  
9 the sales price of the old residence is purchased and used by the  
10 taxpayer as his or her principal residence within a specified period of  
11 time. This replacement period generally begins two years before and  
12 ends two years after the date of sale of the old residence. The basis of  
13 the replacement residence is reduced by the amount of any gain not  
14 recognized on the sale of the old residence by reason of this gain  
15 rollover rule.

16 Also, under the current gross income tax, in general, an individual,  
17 on a one-time basis, may exclude from gross income up to \$125,000  
18 of gain from the sale or exchange of a principal residence if the  
19 taxpayer (1) has attained age 55 before the sale, and (2) has owned the  
20 property and used it as a principal residence for three or more of the  
21 five years preceding the sale.

22 These provisions matched similar federal income tax provisions  
23 which were changed under the federal Taxpayer Relief Act of 1997.

24 Under this bill, a taxpayer generally is able to exclude up to  
25 \$250,000 (\$500,000 if married filing a joint return) of gain realized on  
26 the sale or exchange of a principal residence. The exclusion is allowed  
27 each time a taxpayer selling or exchanging a principal residence meets  
28 the eligibility requirements, but generally no more frequently than once  
29 every two years. To be eligible for the exclusion, a taxpayer must have  
30 owned the residence and occupied it as a principal residence for at  
31 least two of the five years prior to the sale or exchange. A taxpayer  
32 who fails to meet these requirements by reason of a change of place of  
33 employment, health, or other unforeseen circumstances is able to  
34 exclude the fraction of the \$250,000 (\$500,000 if married filing a joint  
35 return) equal to the fraction of two years that these requirements are  
36 met.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 374**

with Senate Committee Amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 23, 1998

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 374.

Senate Bill No. 374 increases the income exclusion under the New Jersey gross income tax of gain derived from the sale or exchange of a principal residence. The bill conforms the gross income tax treatment of such gain to a similar federal income tax exclusion provided under the federal Taxpayer Relief Act of 1997. The increased gross income tax exclusion, along with the increased federal income tax exemption, will allow individuals who have experienced large increases in the value of their homes over many years of home ownership, to use the profit from their home sales for their retirement or other needs without the payment of income taxes on those sales.

The bill would repeal the current provision of law (N.J.S.54A:6-9) that prescribes the current rules for State income tax treatment of gain on the sale of a principal residence. Under these rules, no gain is recognized on the sale of a principal residence if a new residence, at least equal in cost to the sales price of the old residence, is purchased and used by the taxpayer as the taxpayer's principal residence within a specified period of time. This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of this gain rollover rule. In addition, the existing rules provide that, in general, an individual, on a one-time basis, may exclude from gross income up to \$125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has owned the property and used it as a principal residence for three or more of the five years preceding the sale. These rules match similar federal income tax provisions which were changed under the federal Taxpayer Relief Act of 1997. Although section 2 of the bill repeals these rules, taxpayers may, under section 3 as amended and under transitional provisions of the federal law, elect to apply them to certain sales.

Under this bill, a taxpayer generally is able to exclude up to \$250,000 (\$500,000 if married filing a joint return) of gain realized on

the sale or exchange of a principal residence. The exclusion is allowed each time a taxpayer selling or exchanging a principal residence meets the eligibility requirements, but generally no more frequently than once every two years. To be eligible for the exclusion, a taxpayer must have owned the residence and occupied it as a principal residence for at least two of the five years prior to the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or other unforeseen circumstances is able to exclude the fraction of the \$250,000 (\$500,000 if married filing a joint return) equal to the fraction of two years that these requirements are met.

This bill, as amended, is identical to Assembly Bill No. 1296 (1R).

COMMITTEE AMENDMENTS:

The amendments make changes clarifying the conformity of State gross income tax treatment to the new federal income tax treatment of gains on principal residences that apply in certain specialized circumstances.

The committee amendments in section 1 of the bill (1) clarify that the taxpayer must elect to have the exclusion apply and that the election of the taxpayer under this bill for gross income tax purposes must conform to the taxpayer's election made for federal income tax purposes, and (2) conform with the provisions of the federal income tax exclusion by disallowing the exclusion for gain that is the result of the "recapture" of accelerated depreciation deducted because of the rental or business use of the principal residence.

The amendments in section 3 require that elections made for federal income tax purposes during a federal transition period apply for State gross income tax purposes.

FISCAL IMPACT:

The Office of Legislative Services is unable to estimate the cost of this bill due to a lack of detailed tax data on the source of New Jersey capital gains, i.e., whether they are derived from the sale of a home or from stocks or other assets. It is possible that conforming the New Jersey gross income tax to the federal law may reduce gross income tax revenues if the amount of exempt gains increases. However, any revenue loss would depend on a comparison of the incidence of taxpayer use of current tax exclusions with the possible replacement by and use of new exclusions. The possible scope of the revenue impact is discussed below.

In tax year 1994 New Jersey taxable gains reported by the Division of Taxation equaled about \$3.6 billion. At an average marginal tax rate of about 6.0 percent, those gains would have resulted in just over \$200 million in tax revenue. However, not all of those gains were from the sale of homes, and some of the home sales would not have been for a principal residence.

Other data indicate the annual sale of existing homes has reached

about 140,000 units in New Jersey. During recessions that figure can drop significantly - about 115,000 existing homes were sold in 1990. If 130,000 home sales at an average price of \$150,000 statewide realize a 10 percent gain, the total taxable gains could reach \$2.0 billion, or \$100 million State gross income tax revenue at an average marginal tax rate of about 5.0 percent (under the new rates in place in 1997). However, the \$100 million figure is almost certainly too high an estimate of potential State gross income tax revenue losses. Most of these gains would *not* be subject to tax under current law because (1) the new exclusion level would not affect those taxpayers who are currently able to roll over gains into the purchase of a new home, and (2) some additional number of these gains are currently subject to the one-time \$125,000 exclusion for those individuals age 55 or older.

The federal Joint Committee on Taxation, in its estimates of the *Taxpayer Relief Act of 1997*, also reported a lack of information, but anticipated a federal revenue effect of about one half of one percent of total income tax collections annually. If the Joint Committee's revenue loss estimate were applied to New Jersey, income tax collections might decline by about \$30 million each year.

Further compounding the uncertainties of any estimate is the possible *increase* in tax paid by certain taxpayers. Taxpayers with particularly expensive homes could pay higher taxes under this bill because of the loss of the rollover provisions. The number of taxpayers facing a possible tax increase is in all likelihood very small, since the 1990 Census indicates that only about 1.1 percent of New Jersey owner occupied housing units are valued at over \$300,000. Nevertheless, the tax revenue from capital gains from high value homes could be proportionately high. If only 500 home sales resulted in an average *taxable* gain of \$200,000 (total gain of \$700,000 less the \$500,000 exclusion), the total taxable gains could reach \$100 million, or a revenue *increase* of about \$6 million at the highest marginal tax rate of 6.37 percent (under the new rates in place in 1997).



# LEGISLATIVE FISCAL ESTIMATE

## SENATE, No. 374

# STATE OF NEW JERSEY

## 208th LEGISLATURE

DATED: APRIL 17, 1998

### BILL SUMMARY

Senate Bill No.374 of 1998 increases the income exclusion under the New Jersey gross income tax of gain derived from the sale or exchange of a principal residence. The bill conforms the gross income tax treatment of such gain to a similar federal income tax exemption provided under the federal *Taxpayer Relief Act of 1997*.

Under this bill, a taxpayer generally is able to exclude up to \$250,000 (\$500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. Under the current gross income tax, no gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence, a practice commonly referred to as "rolling over" the gain from the sale. Also, under the current gross income tax, in general, an individual, on a one-time basis, may exclude from gross income up to \$125,000 of gain from the sale or exchange of a principal residence if the taxpayer (1) has attained age 55 before the sale, and (2) has owned the property and used it as a principal residence for three or more of the five years preceding the sale.

### OFFICE OF LEGISLATIVE SERVICES COMMENTS

The Office of Legislative Services is unable to estimate the cost of this bill due to a lack of detailed tax data on New Jersey capital gains. The Division of Taxation has, in recent years, collected capital gains data. However, those figures are total reported gains, with no detail about the source of the gain, whether it is from the sale of a home or from stocks or other assets. Indeed, the federal Joint Committee on Taxation, in its estimates of the *Taxpayer Relief Act of 1997*, also reported a lack of information, but anticipated a negligible federal revenue effect of about one half of one percent of total income tax collections annually. It is possible that conforming the New Jersey gross income tax to the federal law may reduce gross income tax revenues if the amount of exempt gains increases. However, any

revenue loss would depend on a comparison of the incidence of taxpayer use of current tax exclusions with the possible replacement by and use of new exclusions. The possible scope of the revenue impact is discussed below.

In tax year 1994 New Jersey taxable gains reported by the Division of Taxation, equaled about \$3.6 billion. At an average marginal tax rate of about 6.0 percent, those gains would have resulted in just over \$200 million in tax revenue. However, not all of those gains are from the sale of homes, and some of the home sales would not have been for a principal residence. The total amount of taxable gains from the sale of a principal residence is significantly below \$3.6 billion and the potential tax loss significantly below \$200 million. (Note: according to the Division of Taxation, gains grew by 44 percent in tax year 1995, the first year of the recent stock market boom. Similar growth in gains can be expected for tax years 1996 and 1997, although it would appear likely that little of this growth would be attributable to gains from the sale of principal residences.)

Other data indicate the annual sale of existing homes has reached about 140,000 units in New Jersey. During recessions that figure can drop significantly - about 115,000 existing homes were sold in 1990. If 130,000 home sales at an average price of \$150,000 statewide realize a 10 percent gain, the total taxable gains could reach \$2.0 billion, or \$100 million State gross income tax revenue at an average marginal tax rate of about 5.0 percent (under the new rates in place in 1997).

However, the \$100 million figure is almost certainly too high an estimate of potential State gross income tax revenue losses. Most of these gains would *not* be subject to tax under current law for two important reasons. First, the new exclusion level would not affect those taxpayers who are currently able to roll over gains into the purchase of a new home. Second, some additional number of these gains are currently subject to the one-time \$125,000 exclusion for those individuals age 55 or older. If the federal Joint Committee on Taxation's revenue loss estimate of about one half of one percent of income tax collections were applied to New Jersey, income tax collections might decline by about \$30 million each year.

Further confounding any estimate is the possible *increase* in tax paid by certain taxpayers. Taxpayers with particularly expensive homes could pay higher taxes under this bill because of the loss of the roll over provisions. The number of taxpayers facing a possible tax increase is in all likelihood very small, since the 1990 Census indicates that only about 1.1 percent of New Jersey owner occupied housing units are valued at over \$300,000. Nevertheless, the tax revenue from capital gains from high value homes could be proportionately high. If only 500 home sales resulted in an average *taxable* gain of \$200,000 (total gain of \$700,000 less the \$500,000 exclusion), the total taxable gains could reach \$100 million, or a revenue *increase* of about \$6

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3

million at the highest marginal tax rate of 6.37 percent (under the new rates in place in 1997).

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

# Office of the Governor

PO BOX 004  
TRENTON, NJ 06625

## NEWS RELEASE

CONTACT: Jayne O'Connor  
Julie Plocinik  
609-777-2600

RELEASE: March 20, 1998

### **Governor Updates New Jersey Tax Law on Capital Gains, Provides Greater Tax Relief**

Gov. Christie Whitman today signed legislation that will provide tax relief to New Jerseyans.

The Governor signed A-1296, sponsored by Assembly Members Michael Carroll (R-Morris) and Scott Garrett (R- Sussex/Hunterdon/Morris) and Senators Bernard Kenny (D-Hudson) and John Adler (D-Camden), which conforms state law to recent federal changes to laws governing treatment of capital gains. The legislation updates New Jersey's treatment of capital gains derived from the sale of a principal residence for the purpose of calculating of income tax liability.

The legislation will provide tax relief by increasing the allowable gross income tax exclusion and enabling additional eligible taxpayers to sell their homes without reporting gains of up to \$500,000. The bill increases the allowable gross income tax exclusion to \$250,000 for single filers and \$500,000 for joint filers. Additionally, the bill broadens the exclusion by making it available to all filers regardless of age, as long as the filer has lived in the residence for two out of the five years prior to the sale. Previous law allowed taxpayers to "roll forward" their capital gains and defer reporting of income, allowing for investment. Previous law had only allowed persons over the age of 55 to exclude \$125,000 in capital gains from reportable income.

The bill is based upon an identical federal law enacted last year. Sales of homes occurring after May 5, 1997 will be eligible for the tax relief provided for in this bill. Individuals who are filing income tax returns for the April 15 deadline will be able to take advantage of this change in the law. Individuals who have already filed their tax returns and wish to take advantage of this change in the law can file an amended tax return.

Taxpayers with questions about the new law can call 609-588- 2200.