54A:5-1

LEGISLATIVE HISTORY CHECKLIST

NJSA 54A:5-1; 54A:6-16 to 54A:6-20 (All-savers certificates exempted from State income tax)

LAWS 1981 CHAPTER 423

Bill No. A3744

Sponsor(s) Jackman

Date Introduced Nov. 30, 1981

Committee: Assembly ----------------

Senate Revenue, Finance & Appropriations

Amended during passage ~~Yes~~ No Substituted for S3452 (original, OCR & Senate statement attached)

Date of Passage: Assembly Dec. 7, 1981

Senate Dec. 17, 1981

Date of approval Jan. 11, 1982

Following statements are attached if available:

Sponsor statement	Yes	~~No~~
Committee Statement: Assembly	~~Yes~~	No
Senate	Yes	~~No~~
Fiscal Note	~~Yes~~	No
Veto Message	~~Yes~~	No
Message on signing	~~Yes~~	No

Following were printed:

Reports	~~Yes~~	No
Hearings	~~Yes~~	No

6/22/81

[OFFICIAL COPY REPRINT]

SENATE, No. 3452

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 16, 1981

By Senator J. RUSSO

Referred to Committee on Revenue, Finance and Appropriations

AN ACT *[providing an exemption from gross income under the "New Jersey Gross Income Tax Act," for interest earned on certain certificates]* **concerning interest on certain savings certificates**, amending N. J. S. 54A:5-1 and supplementing chapter 6 of Title 54A of the New Jersey Statutes.

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

1. N. J. S. 54A:5-1 is amended to read as follows:

54A:5-1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property;

b. Net profits from business. The net income from the operation of a business, profession, other activity, after provisions for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the method of accounting allowed for federal income tax purposes but without deduction of taxes based on income;

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of accounting allowed for federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for federal income tax purposes.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act" (P. L. 1975, c. 172), shall not be subject to payment of an amount greater than the amount he would have

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

paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under (P. L. 1975, c. 172) it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act" (P. L. 1976, c. 47).

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clauses (1) or (2) of section 54A:6-14 of this act. The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means—

(i) A statutory merger or consolidation;

(ii) The acquisition by one corporation, in exchange solely for all or a part if its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term "control" means the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's base for the stock or securities received shall be the same as the taxpayer's actual or attributed base for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clauses (1) or (2) of *[section]* **N. J. S.** 54A:6-14 *[of this act, *or elsewhere in chapter 6*]* *, *or interest on savings certificates issued pursuant to the provisions of chapter 6 of this act**.

f. Dividends. ''Dividends'' means any distribution in cash or property made by a corporation, association or business trust, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Pensions and annuities except to the extent of exclusions in section 54A:6-10 hereunder, notwithstanding the provisions of N. J. S. 18A:66-51, P. L. 1973, c. 140, s. 41 (C. 43:6A-41), P. L. 1954, c. 84, s. 53 (C. 43:15A-53), P. L. 1944, c. 255, s. 17 (C. 43:16A-17), P. L. 165, c. 89, s. 45 (C. 53:5A-45), R. S. 43:10-14, P. L. 1943, c. 160, s. 22 (C. 43:10-18.22), P. L. 1948, c. 310, s. 22 (C. 43:10-18.71), P. L. 1954, c. 218, s. 32 (C. 43:13-22.34), P. L. 1964, c. 275, s. 11 (C. 43:13-22.60), R. S. 43:10-57, P. L. 1938, c. 330, s. 13 (C. 43:10-105), R. S. 43:13-44 and, P. L. 1943, c. 189, s. 5 (C. 43:13-37.5).

k. Distributive share of partnership income.

l. Amounts received as prizes and awards, except as provided in section 54A:6-8 and 54A:6-11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

[2. (New section) Gross income shall not include interest on depository institution tax-exempt savings certificates excludable under section 301(a) of the federal ''Economic Recovery Tax Act of 1981'' (26 USC § 128).]

**2. (New section) a. "Depository institution tax-exempt savings certificate" means any certificate*

(1) Which is issued by a qualified institution after September 30, 1981, and before January 1, 1983,

(2) Which has a maturity of 1 year,

(3) Which has an investment yield equal to 70% of the average investment yield for the most recent auction, before the week in which the certificate is issued, of United States Treasury bills with maturities of 52 weeks, and

(4) Which is made available in denominations of $500.00.

b. "Qualified institution" means

(1) A bank or trust company incorporated and doing business under the laws of the United States, including laws relating to the District of Columbia, of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by State, territorial, or federal authority having supervision over banking institutions;

(2) A mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under federal or State law;

(3) A credit union, the deposits or accounts of which are insured under federal or State law or are protected or guaranteed under State law; or

(4) An industrial loan association or bank chartered and supervised under federal or State law in a manner similar to a savings and loan institution.

c. "Qualified net savings" means the excess of

(1) The amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits with a face amount of less than $100,000.00, and depository institution tax-exempt savings certificates issued by such institution, over

(2) The amounts withdrawn or redeemed in connection with the accounts and certificates described in subparagraph (1).

d. "Qualified residential financing" means

(1) Any loan secured by a lien on a single-family or multi-family residence;

(2) Any secured or unsecured home improvement loan for alterations, repairs, or improvements on or in connection with an existing residence by the owner of the residence, when the improvements substantially protect or improve the basic livability or energy efficiency of the property;

(3) Any mortgage on a single-family or multi-family residence, which is insured or guaranteed by the federal, State or local government or any instrumentality thereof;

(4) Any loan to acquire a mobile home;

(5) Any construction loan for the construction or rehabilitation of a single-family or multi-family residence;

(6) The purchase of mortgages secured by single-family or multi-family residences on the secondary market but only to the extent that the amount of such purchases exceed the amount of sales of such mortgages by an institution;

(7) The purchase of securities issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association or the Federal Home Loan Mortgage Corporation, or securities issued by any other person if such securities are secured by mortgages originated by a qualified institution, but only to the extent the amount of such purchase exceeds the amount of sales of such securities by an institution; or

(8) Any loan for agricultural purposes.

For purposes of this definition, the term "residence" includes stock in a cooperative housing corporation.

3. (New section) Gross income shall not include any amount received by any individual during the taxable year as interest on any depository institution tax-exempt savings certificate provided that the aggregate amount excludable for any taxable year shall not exceed $1,000.00 for a single taxpayer or a married person filing separately or $2,000.00 for a married couple filing jointly.

4. (New section) If a qualified institution, other than a credit union, issues any depository institution tax-exempt savings certificate during any calendar quarter, the amount of the qualified residential financing provided by such institution during the succeeding calendar quarter shall not be less than the lesser of

a. 75% of the face amount of depository institution tax-exempt savings certificates issued during the calendar quarter, or

b. 75% of the qualified net savings for the calendar quarter.

If, as of the close of any calendar quarter, a qualified institution has not met the requirements of this section with respect to the preceding calendar quarter, such institution shall not issue any certificates until it meets such requirements.

5. (New section) If a qualified institution which is a credit union issues any depository institution tax-exempt savings certificate during any calendar quarter, the amount of qualified residential financing provided by such institution during the succeeding calendar quarter, shall be the sum of *a. The aggregate of the amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits with a face amount of less than $100,000.00, and depository institution tax-exempt savings certificates issued, by such institutions, as of September 30, 1981 plus*

b. 10% of the excess of

(1) The aggregate of these amounts as of the close of the calendar quarter, over

(2) The amount referred to in subparagraph a.

6. (New section) This act shall not apply to interest on any depository institution tax-exempt certificate, or portion thereof, redeemed before the date on which it matures. Gross income for the taxable year of such premature redemption shall include the amount of any interest on such certificate exempted from gross income for each and every preceding taxable year. A depository institution tax-exempt certificate, or portion thereof, which is used as collateral or security for a loan, shall be considered redeemed.

*7. This act shall take effect immediately and sections 2 through 6 shall expire on December 31, 1982.**

[3. This act shall take effect immediately and applies to qualified certificates issued after September 30, 1981 and before January 1, 1983.]

(2) the amount referred to in subparagraph a.

6. (New section) This act shall not apply to interest on any depository institution tax-exempt certificate, or portion thereof, redeemed before the date on which it matures. Gross income for the taxable year of such premature redemption shall include the amount of any interest on such certificates exempted from gross income for each and every preceding taxable year. A depository institution tax-exempt certificate, or portion thereof, which is used as collateral or security for a loan, shall be considered redeemed.

7. This act shall take effect immediately and section 2 through 6 shall expire on December 31, 1982.

STATEMENT

On August 13, 1981, President Reagan signed into law The Economic Recovery Tax Act of 1981 (P. L. 97–34), which permitted depository institutions to issue tax-exempt savings certificates. These "all-savers certificates" can only be offered by qualified institutions between October 1, 1981 to December 31, 1982.

All qualified institutions, other than credit unions, would be required to direct 75% of the funds raised from the certificates, or 75% of their net increases in deposits, whichever is less, into qualified residential financing.

The amount to be directed by credit unions into qualified residential financing is to be the sum of

a. the aggregate of the amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits with a face amount of less than $100,000.00, and depository institution tax-exempt savings certificates issued by such institutions, as of September 30, 1981, plus

b. 10% of the excess of

—the aggregate of these amounts as of the close of the calendar quarter, over

—the amount referred to in subparagraph a.

All-savers certificates will have a maturity of 1 year; pay an interest rate equal to 70% of the average investment yield for the most recent auction (before the week in which the certificate is issued) of U. S. Treasury bills with maturities of 52 weeks; and be made available in denominations of $500.00.

All-savers certificates will yield interest that is tax-exempt on the federal level up to a maximum of $1,000.00 for an individual

A3744 (1981)

or $2,000.00 for a couple filing a joint tax return. This bill would exempt interest on all-savers certificates from New Jersey income tax, up to a maximum of $1,000.00 for an individual or $2,000.00 for a couple filing jointly.

SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3744

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1981

Assembly Bill No. 3744 will exempt interest earned on "all-savers certificates" from being taxed under the provisions of the New Jersey income tax. The amount of exempt interest for any tax year cannot exceed $1,000.00 for a single taxpayer or a married person filing separately or $2,000.00 for a married couple filing jointly. A penalty provision is included, however, that provides that if a certificate is redeemed prematurely, the interest earned becomes taxable for that year as well as the interest earned in the preceding year or years.

The bill further stipulates that qualified institutions, other than credit unions, would be required on a quarterly basis to direct the lesser of 75% of their net increase in deposits or 75% of the funds from the certificates into qualified residential financing. If a qualified institution did not, at the close of any calendar quarter, meet the above requirement, the institution could not issue any certificates in the succeeding calendar quarter(s) until the requirements were met.

Credit Unions would be required to direct to residential financing in any one calendar quarter an amount equal to 10% of the gain in deposits over the preceding calendar quarter as measured against deposits as of September 30, 1981.

The Division of Taxation estimates the revenue loss to the State to be approximately $6.0 million although a "worst case" estimate could be as high as $15.6 million.

The act expires December 31, 1982.