

CHAPTER 14

18:14-3.11 Appeals

SENIOR CITIZENS' DEDUCTION

Authority

N.J.S.A. 54:4-8.40 et seq.

Source and Effective Date

R.1993 d.481, effective October 4, 1993.
See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Executive Order No. 66(1978) Expiration Date

Chapter 14, Senior Citizens' Deduction, expires on October 4, 1998.

Chapter Historical Note

Chapter 14, Senior Citizens' Deduction, was filed and effective prior to September 1, 1969. Amendments were filed and effective on April 28, 1977, as R.1977 d.150. See: 9 N.J.R. 194(a), 9 N.J.R. 295(c). Pursuant to Executive Order No. 66(1978), Chapter 14 was readopted effective August 12, 1983 as R.1983 d.355. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b). Pursuant to Executive Order No. 66(1978), Chapter 14 was readopted by R.1988 d.408, effective July 29, 1988. See: 20 N.J.R. 1066(a), 20 N.J.R. 2319(a). Pursuant to Executive Order No. 66(1978), Chapter 14 expired on July 29, 1993. Chapter 14 was adopted as new rules by R.1993 d.481. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

18:14-1.1 Words and phrases defined

SUBCHAPTER 2. QUALIFICATIONS

- 18:14-2.1 Application for deduction
- 18:14-2.2 Proof required to establish right to deduction of persons of the age of 65 or more years or less than 65 years of age who are permanently and totally disabled
- 18:14-2.3 Proof required to establish right to deduction for a surviving spouse
- 18:14-2.4 Proof of totally and permanently disabled
- 18:14-2.5 Proof of surviving spouse
- 18:14-2.6 Proof of citizenship
- 18:14-2.7 Legal domicile of claimant must be in New Jersey
- 18:14-2.8 Proof of ownership
- 18:14-2.9 Proof of age or date of birth for persons of the age 65 or more years
- 18:14-2.10 Proof of income; post-tax year statement
- 18:14-2.11 Deduction in addition to veteran's deduction

SUBCHAPTER 3. NATURE OF DEDUCTION

- 18:14-3.1 Procedure upon allowance of claim for deduction
- 18:14-3.2 Apportionment of deduction; joint tenancies
- 18:14-3.3 Deduction where property owned by partnership, fiduciary or corporation
- 18:14-3.4 Deduction in case of added assessment
- 18:14-3.5 Deduction in case of assessment of omitted property
- 18:14-3.6 Limitation on deduction
- 18:14-3.7 Deduction where claimant dies
- 18:14-3.8 Change in status; notice
- 18:14-3.9 Pro rata or complete revocation of deduction
- 18:14-3.10 Disallowance of claim; notice

SUBCHAPTER 1. DEFINITIONS

18:14-1.1 Words and phrases defined

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Annual income limitations" shall be: \$5,000 for any year prior to 1981; \$8,000 for the year 1981; \$9,000 for the year 1982; and \$10,000 for the year 1983 and each year thereafter.

"Business income" means gross income derived from a business, trade, profession or from the rental of property after deductions therefrom of the ordinary and necessary expenses attributable to the business, trade, profession or from the rental of property which are allowed under the Federal Internal Revenue Code and regulations issued thereunder.

"Citizen and resident of this State" means a person who on October 1 of the pretax year is a permanent resident or domiciliary of New Jersey and who has been such for a period of not less than one year immediately preceding such date. Such person need not hold United States' citizenship in order to be eligible for the deduction.

"Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association.

"Dwelling house" means the dwelling where claimant makes his principal and permanent home. Thus, where a claimant resides in an apartment house which is his principal place of residence and occupies a cottage or bungalow during the summer months, the summer home cannot be considered as a dwelling house upon which claimant may receive this deduction.

1. If a claimant occupies only a portion of a property which he owns, the tax deduction is applied to the taxes due from that portion of the property which he occupies as his dwelling house.

"Federal Internal Revenue Code income definition—when applicable" means that, except as herein otherwise indicated, the definition of income under the Federal Internal Revenue Code and the regulations issued pursuant thereto, shall constitute the basis for computing claimant's income for the purpose of determining whether a claimant meets the applicable annual income limitation.

“Income” means that the claimant, in applying for the tax deduction, must establish that his anticipated income from all sources for the tax year for which the deduction is claimed will not exceed the applicable annual income limitation, exclusive of social security benefits; benefits received under the Federal Railroad Retirement Act and other Federal pension, disability and retirement programs; or pension, disability or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under the Federal Social Security Act, including, but not limited to, salaries, wages, bonuses, commissions, tips and other compensations before payroll deductions, all dividends, interest, realized capital gains, royalties, income from rents, business income and, in their entirety, pension, annuity and retirement benefits. Realized capital gains, except for capital gain resulting from the sale or exchange of real property owned and used by the taxpayer as his principal residence, and on which he received a deduction allowed by this act, and dividends, interest, pensions, annuities and retirement benefits must be included in full without deductions even though they may be wholly or partially exempt for Federal income tax purposes.

1. Example: The property owner sold his home on September 1 of the tax year on which he made a capital gain of \$10,000. None of this amount is includible in income for the purpose of determining the applicable annual income limitation.

2. It must be emphasized that the applicant is entitled to exclude benefits under only one of the three categories.

i. The three categories are:

(1) The Federal Social Security Act and all amendments and supplements thereto;

(2) Any other program of the Federal government or pursuant to any other Federal law which provides benefits in whole or in part in lieu of benefits referred to in, or for persons excluded from coverage under (1) above, including but not limited to the Federal Railroad Retirement Act and Federal pension, disability and retirement programs; or

(3) Pension, disability, or retirement programs of any state or its political subdivisions, or agencies thereof, for persons not covered under item (1) above, provided, however, that the total amount of benefits to be allowed exclusion by any owner under items (2) or (3) of this subparagraph shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under item (1) above.

3. Where both the husband and wife are entitled to pension, disability or retirement benefits as permitted by law, the benefits of both combined may be excluded, subject however, to the maximum limitations provided by law.

4. In the case of married couples, the income received by claimant and spouse is combined in establishing eligibility for the tax deduction, unless they are living apart in a state of separation. “State of separation” shall mean a permanent and indefinite period of separation and shall not mean temporary periods of separation such as separate vacations, business trips, hospitalizations, and so forth.

5. In determining whether claimant’s income during the applicable income period exceeds the applicable annual income limitation, the income of members of claimant’s family, other than his or her spouse, shall not be combined with the income of the claimant.

“Mutual housing corporation” means a not for profit corporation incorporated under the laws of New Jersey on a mutual or cooperative basis within the scope of section 607 of the “National Defense Housing Act,” Pub. L. 76-849 (42 U.S.C. §§ 1521 et seq.), which acquired a National Defense Housing Project authority.

“Owned” means ownership of an estate in fee, life estate, or ownership of qualifying shares in a cooperative or mutual housing corporation, individually or as joint tenants, tenants in common or tenants by the entirety, but shall not include an estate for a term of years, a leasehold estate or an estate of less than a fee interest.

“Permanently and totally disabled” means total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness. “Blindness” means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

“Post-tax year” means the calendar year immediately following the “tax year”.

“Pretax year” means the calendar year immediately preceding the “tax year”.

“Property tax deduction amount” shall not exceed: in any year prior to 1981, \$160; in the year 1981, \$200; in the year 1982, \$225; and, in the year 1983 and in each year thereafter, \$250.

“Real property tax deduction” means the senior citizen’s deduction or the deduction for the permanently and totally disabled and their surviving spouses in certain cases against the taxes payable by any person, allowable pursuant to this act.