

## CHAPTER 14

SENIOR CITIZENS', DISABLED PERSONS',  
SURVIVING SPOUSES'/CIVIL UNION  
PARTNERS' DEDUCTION

## Authority

N.J.S.A. 54:4-8.19 and 8.47.

## Source and Effective Date

R.2009 d.213, effective July 6, 2009.  
See: 40 N.J.R. 6947(a), 41 N.J.R. 2710(a).

## Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 14, Senior Citizens', Disabled Persons', Surviving Spouses'/Civil Union Partners' Deduction, expires on July 6, 2016. See: 43 N.J.R. 1203(a).

## 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, Senior Citizens' Deduction, was readopted as R.1983 d.355, effective August 12, 1983. See: 15 N.J.R. 1082(a), 15 N.J.R. 1487(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Senior Citizens' Deduction, was readopted as 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, Senior Citizens' Deduction, was adopted as new rules by R.1993 d.481, effective October 4, 1993. See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Pursuant to Executive Order No. 66(1978), Chapter 14, Senior Citizens' Deduction, was readopted as R.1998 d.421, effective July 21, 1998. See: 30 N.J.R. 1922(a), 30 N.J.R. 3066(b).

Chapter 14, Senior Citizens' Deduction, was readopted as R.2003 d.460, effective October 30, 2003. See: 35 N.J.R. 2418(a), 35 N.J.R. 5433(a). Chapter 14, Senior Citizens' Deduction, expired on April 28, 2009.

Chapter 14, Senior Citizens', Disabled Persons', Surviving Spouses'/Civil Union Partners' Deduction, was adopted as new rules by R.2009 d.213, effective July 6, 2009. As a part of R.2009 d.213, Subchapter 2, Qualifications, was renamed Nature of and Qualifications for Deduction; and Subchapter 3, Nature of Deduction, was renamed Procedures for Approving and Denying Deductions. See: Source and Effective Date. See, also, section annotations.

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## 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 limits" 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, exclusive of certain income as identified by constitutional provision, statute or administrative regulation. There are certain categories of income that are to be excluded from income for eligibility purposes, such as those set forth in Article VIII, section 1, paragraph 4 of the New Jersey Constitution and N.J.S.A. 54:4-8.41.

"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 and angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less.

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

"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 October 1st of the pretax year. Such person need not hold United States' citizenship in order to be eligible for the deduction.

“Civil Union Partner” means a person who has established a civil union pursuant to P.L. 2006, c. 103.

“Cooperative” means a housing corporation or association incorporated or organized under the laws of New Jersey, which entitles its shareholders 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 or her principal and permanent home. Where a claimant resides in housing, which is his or her 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 receives this deduction.

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

“Federal Internal Revenue Code income definition—when applicable” means that, except as otherwise indicated, the definition of income under the Federal Internal Revenue Code and regulations shall constitute the basis for computing claimant's income when determining whether it meets the applicable annual income limit.

“Income” means that the claimant's anticipated income from all sources for the tax year for which the deduction is claimed will not exceed the applicable annual income limit, 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. Income shall include, but not be 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 or her principal residence, and on which he or she 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: Capital gain. The property owner sold his home on September 1 of the tax year resulting in a capital gain of \$10,000. None of this amount is includable in in-

come when determining the applicable annual income limit.

2. Excludable Income. Applicants may exclude benefits under only one of the following three categories:

i. The Federal Social Security Act and all its amendments and supplements;

ii. Any other Federal government program 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 the Federal Social Security Act, including, but not limited to, the Federal Railroad Retirement Act and Federal pension, disability and retirement programs; or

iii. 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 provided that the total amount of benefits to be excluded by any owner under items ii. or iii. above shall not be in excess of the maximum amount of benefits payable to, and allowable for exclusion by, an owner in similar circumstances under i above.

3. Where husband and wife/civil union partners are receiving pension, disability or retirement benefits, the benefits of both combined may be excluded, subject to the maximum limits provided by law.

4. Income received by claimant and spouse/civil union partner is combined in establishing deduction eligibility, unless they are living apart in a state of separation. “State of separation” means a permanent and indefinite period of separation and shall not mean temporary periods of separation, such as separate vacations, business trips and hospitalizations.

5. Income of members of a claimant's family, other than his or her spouse/civil union partner, shall not be combined with the income of the claimant when determining annual income limit.

“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. Ownership extends to property where title is held by a partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any person who would otherwise be eligible to claim such deduction. Ownership shall not include an estate for a term of years, a leasehold estate, an estate of less than a fee interest or where property title is held by a corporation with the exception of mutual housing corporations as stated above.