

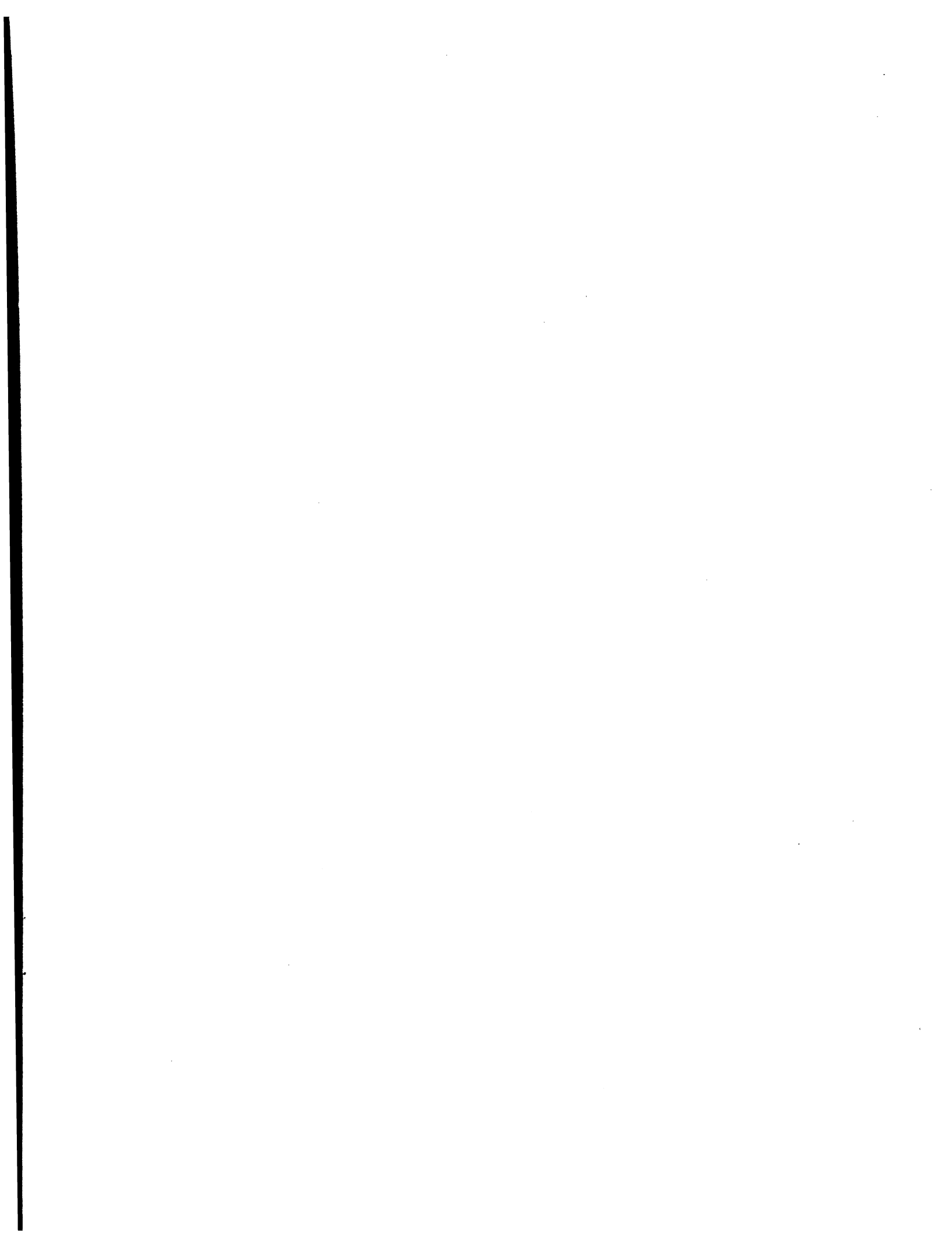
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# **Property Tax Deduction/Credit**

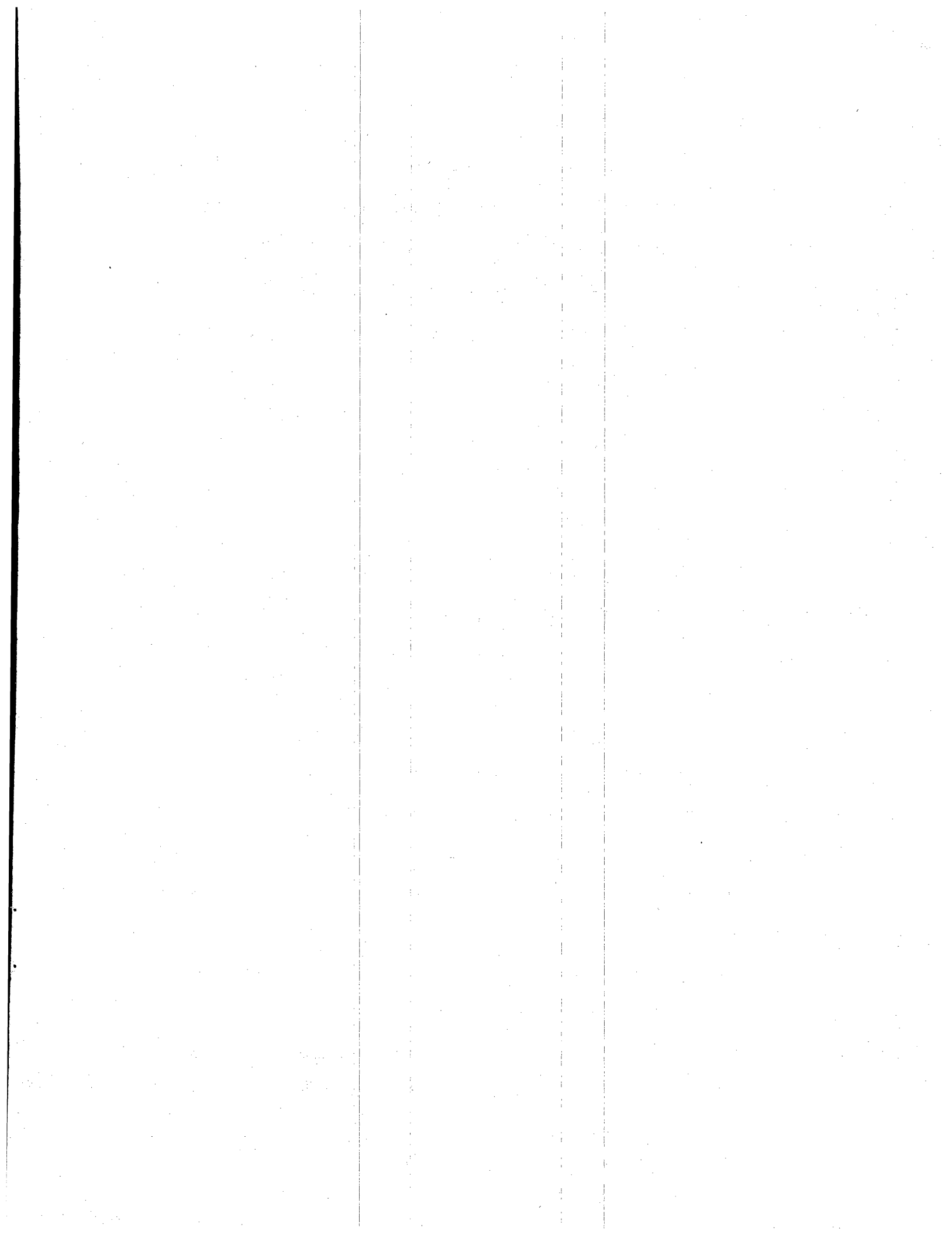
# **Frequently Asked Questions**

**New Jersey State Library**



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# Property Tax Deduction/Credit

## Frequently Asked Questions

### THE BASICS

**1. Q. What is the property tax deduction/credit?**

- A.** For tax years beginning on or after January 1, 1996, qualified homeowners and tenants whose principal residence is located in New Jersey are entitled to either (1) a deduction from gross income in the amount of the property taxes (or rent constituting property taxes) due and paid, up to a specified maximum, or (2) a refundable tax credit. The amounts allowed to be deducted or credited will be phased in over a three-year period as described in Question 2.

You will claim the deduction/credit on your resident income tax return if your gross income was more than \$7,500 (\$3,750 if filing status is married, filing separate return). If you were 65 years of age or older or blind or disabled and your gross income was \$7,500 or less (\$3,750 if filing status is married, filing separate return), you are entitled to a property tax credit which you will automatically receive by filing your Homestead Property Tax Rebate Application (Form HR-1040). To see if you are eligible, see *Eligibility Requirements* on page 3.

**2. Q. How will the property tax deduction/credit be phased in?**

- A.** The property tax deduction/credit will be phased in over a three-year period as follows:

Tax Year	Deduction Allowed <sup>1</sup>	Credit Allowed <sup>2</sup>
1996	50% of first \$5,000 of property taxes (or rent constituting property taxes) paid. Maximum deduction \$2,500.	\$25.00
1997	75% of first \$7,500 of property taxes (or rent constituting property taxes) paid. Maximum deduction \$5,625.	\$37.50
1998 and after	100% of first \$10,000 of property taxes (or rent constituting property taxes) paid. Maximum deduction \$10,000.	\$50.00

<sup>1</sup> Married persons filing separately who share the same principal residence with their spouse are only entitled to one-half of the allowed deduction amounts shown.

<sup>2</sup> The credit amounts will be prorated for part-year residents and for married persons filing separately who shared the same principal residence with their spouse.

**3. Q. How do I decide whether to claim the property tax deduction or the property tax credit?**

- A.** The property tax deduction will reduce your taxable income; the property tax credit will reduce your tax due. Form NJ-1040 includes a schedule (Schedule 1) which, once completed, compares your tax liability with the deduction to your tax liability without the deduction. If the difference between your tax liability after taking the deduction and your tax liability without the deduction is at least as much as the property tax credit (\$25.00 in 1996, \$37.50 in 1997 and \$50.00 in 1998 and after, or one-half of those amounts if you are married filing separately and you maintain the same principal residence with your spouse), you are better off using the property tax deduction. If the difference between your tax liability with the deduction and your tax liability without the deduction is less than the property tax credit, then you receive a greater benefit by taking the property tax credit.

If your gross income is \$7,500 or less (\$3,750 or less if married filing separately), you are not eligible for the property tax credit unless you are age 65 or older or blind or disabled.

**4. Q. Is it ever possible to claim both a property tax deduction and a property tax credit during the same tax year?**

- A.** No. You may choose either the property tax deduction or the credit, whichever provides the greater benefit. Complete Schedule 1 to determine whether the deduction or the credit works better for you. See Question 5 if you are claiming a credit for taxes paid to another jurisdiction.

**5. Q. Am I still entitled to the property tax deduction/credit if I am completing Schedule A to claim a credit for taxes paid to another jurisdiction?**

- A.** Yes. Schedule A has been changed to give taxpayers who are eligible for the property tax deduction/credit a method for calculating their credit for taxes paid both with and without the property tax deduction. If you are eligible to receive a property tax deduction/credit, you must complete Schedule A for each jurisdiction for which you are claiming a credit for taxes paid. Then you must complete Worksheet F to determine whether you will receive a greater benefit from claiming the property tax deduction or taking the property tax credit. See *Eligibility Requirements* below.

6. **Q.** *How does the new property tax deduction/credit affect the homestead property tax rebate?*
- A. These new benefits have no impact on the homestead property tax rebate. The property tax deduction/credit is *in addition to* the homestead property tax rebate.
7. **Q.** *Since my gross income has been over \$100,000 for the past several years, I have not been entitled to a homestead property tax rebate. Am I eligible for a property tax deduction/credit?*
- A. Yes. Unlike the homestead property tax rebate program, taxpayers who satisfy all of the eligibility requirements with incomes over \$100,000 are eligible for the new benefits. See *Eligibility Requirements* below.

## ELIGIBILITY REQUIREMENTS

### **General**

8. **Q.** *Who is eligible for the property tax deduction or credit?*
- A. You are eligible for a property tax deduction or property tax credit if:
- ◆ You were domiciled and maintained a principal residence as a homeowner or tenant in New Jersey during the tax year; and
  - ◆ Your principal residence, whether owned or rented, was subject to local property taxes, and property taxes were paid on that residence either as actual property taxes or through rent; and
  - ◆ Your rented dwelling had its own separate kitchen and bath facilities; and
  - ◆ Your gross income was more than \$7,500 (\$3,750 if filing status is married, filing separate return) or you or your spouse were 65 years of age or older or blind or disabled at the end of the tax year.

Taxpayers who were not 65 years of age or older or blind or disabled with gross income of \$7,500 or less (\$3,750 if filing status is married, filing separate return) are not eligible for a property tax credit.

You are **not eligible** for a property tax deduction/credit if your residence was in a multiple unit building that you owned and the building has more than four units. You are **not eligible** if the building had four units or less but more than one commercial unit.

**9. Q. *How do I know if I am domiciled in New Jersey?***

**A.** Domicile is any place an individual regards as their permanent home, i.e., the place to which they intend to return after a period of absence. A domicile, once established, continues until a new, fixed and permanent home is acquired. No change of domicile results from moving to a new location if the intention is to remain only for a limited time, even if it is for a relatively long duration. An individual who owns property in the State but is domiciled in another state is not entitled to the property tax deduction/credit.

**10. Q. *What constitutes property taxes for purposes of determining eligibility for the property tax deduction/credit?***

**A.** Property taxes are payments to municipalities for which an assessment was made based on the value of a piece of property and the improvements on it. For homeowners, property taxes are the amount of taxes actually billed and paid for their principal residence in New Jersey for the tax year. For tenants, rent constituting property taxes is 18% of the rent due and paid on their principal residence in New Jersey during the tax year, provided that the rented property is subject to local property taxes.

**11. Q. *I am 68 years old and my only income is Social Security. Which benefit am I eligible for, the property tax deduction or the property tax credit?***

**A.** Since Social Security income is not subject to tax, you are not required to file a New Jersey gross income tax return. Because you were at least 65 years of age, you are entitled to the property tax credit provided that you met the other eligibility requirements (see Question 8 above). You will automatically receive the property tax credit by filing your Homestead Property Tax Rebate Application (Form HR-1040). The credit will automatically be paid with your homestead property tax rebate.

**12. Q. *I am 60 years old and my spouse is blind. Our combined taxable income is less than \$7,500 and we file a joint homestead property tax rebate application. Are we entitled to the property tax credit?***

**A.** Yes. As long as one spouse filing a joint application or return is 65 or older or blind or disabled, you are eligible for the property tax credit even if your income is under \$7,500.

**13. Q. Due to illness I was only able to work part-time during the year. As a result, my gross income was \$5,750 and I have no gross income tax liability. I am not eligible to claim an exemption for disability. Am I entitled to a property tax credit for the rent I paid during the year even though I am under 65?**

**A.** No. Because your income was not more than \$7,500, and you were not age 65 or older, blind or disabled you are not entitled to a property tax credit.

**14. Q. Is a nonresident, filing Form NJ-1040NR, eligible for the property tax deduction or credit?**

**A.** No.

### **Homeowners**

**15. Q. I own and live in a home in New Jersey but I don't pay any property taxes because I am a totally disabled veteran. Am I eligible for a property tax deduction/credit?**

**A.** No. To be eligible for the property tax deduction or credit, property taxes must have been paid.

**16. Q. Am I still eligible for a property tax deduction/credit if I am delinquent in paying my property taxes?**

**A.** If you paid any part of the property taxes that were due during the tax year, you are eligible if you met the other eligibility requirements. See Question 33.

**17. Q. I own a vacation home at the New Jersey shore. Am I eligible for a property tax deduction/credit?**

**A.** No. You are only eligible for a property tax deduction/credit for your principal residence in New Jersey.

**18. Q. I own a building which has six residential units and the building is subject to local property taxes. I live in one of the units and I rent out the other five. Am I eligible for a property tax deduction/credit?**

**A.** No. Even though you own the building and pay local property taxes you are not eligible for a property tax deduction/credit because your building has more than four units.

19. **Q.** *I own and occupy my home but under our divorce decree my ex-spouse (who no longer lives with me) is required to and pays the property taxes. Am I eligible for a property tax deduction/credit?*
- A. Yes. As long as property taxes have been paid, you are eligible for the property tax deduction/credit as the owner/occupant if you met the other eligibility requirements.
20. **Q.** *The bank which holds the mortgage on our home makes our property tax payments from our escrow account. Are we eligible for the property tax deduction/credit?*
- A. Yes. Since the property taxes have been paid you are eligible for the property tax deduction/credit if you met the other eligibility requirements.
21. **Q.** *Am I eligible for a property tax deduction/credit if I am either a "life tenant," or a tenant under a lease for 99 years or more?*
- A. Yes. As long as the other eligibility requirements are met you are eligible for the property tax deduction/credit. You are considered a homeowner, not a tenant.

## **Tenants**

22. **Q.** *I live in a rooming house and share the kitchen and two bathrooms with the other renters in the house. Am I eligible for the property tax deduction/credit?*
- A. No. Even if you satisfy the other eligibility requirements, you are not eligible for the property tax deduction/credit because your rented dwelling unit did not have its own separate kitchen and bath facilities.
23. **Q.** *Am I eligible for the property tax deduction/credit if the apartment building that I live in is not subject to local property taxes?*
- A. No. To be eligible for the property tax deduction/credit property taxes must have been paid on the dwelling. Payments made in lieu of taxes are not considered property taxes.
24. **Q.** *I am 67 years old and rent an apartment, but I do not have to file a New Jersey income tax return because my income is too low. Am I eligible for a property tax deduction/credit?*
- A. Yes. If you satisfy the other eligibility requirements, you are eligible for the refundable property tax credit. You will automatically receive the credit by filing a Homestead Property Tax Rebate Application (Form HR-1040).

25. **Q.** *I graduated from college in May and moved from my parents' home in Passaic into an apartment in Hoboken. My taxable income for the year was over \$7,500. Am I eligible for the property tax deduction/credit?*
- A.** Yes. Since you were a tenant for part of the year and your income was over \$7,500, you are eligible for the property tax deduction/credit as long as the apartment has its own kitchen and bath and is in a building which is subject to local property taxes.
26. **Q.** *Am I eligible for the property tax deduction/credit even if my rent is paid by another person?*
- A.** Yes. Since the rent has been paid you are eligible for the property tax deduction/credit if you met the other eligibility requirements.
27. **Q.** *Am I still eligible for a property tax deduction/credit if I am delinquent in paying my rent?*
- A.** If you paid any part of the rent payments that were due during the tax year, you are eligible if you met the other eligibility requirements.

## DETERMINING THE DEDUCTION

Most taxpayers will determine the amount of their property tax deduction by completing the new Schedule 1 which is part of Form NJ-1040. You will enter on Line 1, Schedule 1 (or Box A, Line 5, Schedule A), the actual property taxes (or 18% of rent) that were due and paid during the tax year.

### Homeowners

28. **Q.** *The property tax bill for my home was \$12,000 which I paid in full. What would be the amount of my property tax deduction?*
- A. The maximum deduction allowed for 1996 is \$2,500 (50% of the first \$5,000 of property taxes due and paid during the year). In 1997, the maximum deduction allowed is \$5,625; in 1998 and after the maximum deduction allowed is \$10,000. No deduction or credit is permitted for any amount **in excess of the maximum deduction allowed.**
29. **Q.** *I own two houses in New Jersey. One is my principal residence and one is a vacation home. Can I use the property taxes I paid on the vacation home to determine my property tax deduction?*
- A. No. You may only use the property taxes due and paid on your principal residence to determine the amount of your property tax deduction.
30. **Q.** *The amounts I paid for local services, such as water, sewer, or trash removal, are separately stated on my property tax bill. May I use these amounts to determine my property tax deduction?*
- A. No. If these fees (or local taxes) are separately stated on the tax bill they are not considered property taxes.
31. **Q.** *When I enter the amount of my property taxes on Line 1, Schedule 1, should I reduce the property taxes I paid by the amount of the homestead property tax rebate I received during the year?*
- A. No. The amount of the homestead property tax rebate you received should not be taken into consideration when determining the amount of the property tax deduction.

32. **Q.** *My property tax bill is reduced by a \$50 Veteran's Deduction and a \$250 Senior Citizen's Deduction. What amount do I use to determine my property tax deduction on Schedule 1?*

**A.** You can only report the actual property taxes due and paid on Line 1, Schedule 1. Therefore the amount you report on Line 1, Schedule 1, is the amount of your property taxes after subtracting your Veteran's and Senior Citizen's Deductions.

33. **Q.** *I was only able to pay part of my 1996 property taxes in 1996 but I paid the balance in January of 1997. May I use all of my property taxes paid when determining my 1996 property tax deduction?*

**A.** You may only use the property taxes that were *due and paid* during the tax year. Since the amount you paid in January 1997 was due in 1996 you may **not** use this amount when determining your 1996 property tax deduction. Also, the property taxes that were due in 1996 but paid in January 1997 may **not** be used when determining your 1997 property tax deduction.

34. **Q.** *My property tax bill was \$4,000. I paid \$1,500 myself and my daughter (who does not live with me) paid the balance of the tax due during the tax year. May I use the full amount paid (even though I did not pay it all myself) when determining my property tax deduction?*

**A.** Yes. You can use the full amount of property taxes due and paid on Line 1, Schedule 1, even if you did not pay it all yourself.

## **Tenants**

35. **Q.** *I paid a total of \$8,400 in rent. What would be the amount of my property tax deduction?*

**A.** First you must determine the portion of your rent that represents property taxes (rent constituting property taxes) to enter on Line 1, Schedule 1. You do this by multiplying the rent paid by 18% ( $\$8,400 \times 0.18 = \$1,512$ ). For 1996, your property tax deduction will be \$756 (50% of the first \$5,000 of rent constituting property taxes due and paid during the year up to a maximum of \$2,500).

In 1997, your property tax deduction will be \$1,134 (75% of the first \$7,500 of rent constituting property taxes due and paid during the year up to a maximum of \$5,625).

In 1998 and after, the property tax deduction will be \$1,512 (100% of the first \$10,000 of rent constituting property taxes due and paid during the year up to a maximum of \$10,000).

No deduction or credit is permitted for any amount **in excess of the maximum deduction allowed.**

36. **Q.** *When calculating 18% of rent paid for Line 1, Schedule 1, should I reduce the total rent paid by the amount of the homestead property tax rebate I received during the year?*
- A. No. The amount of the homestead property tax rebate you received should not be taken into consideration when determining the amount of the property tax deduction.
37. **Q.** *I did not pay my December 1996 rent until January of 1997. May I include that payment when calculating 18% of rent paid for my 1996 property tax deduction?*
- A. No. You may only use the rent that was *due and paid* during the tax year to determine your rent constituting property taxes. Since the rent you paid in January 1997 was due in 1996 you may **not** use this amount when determining your 1996 property tax deduction. Also, the rent that was due in 1996 but paid in January 1997 may **not** be used when determining your 1997 property tax deduction.
38. **Q.** *I lived in two different apartment buildings during the year. My new landlord tells me that the apartment building I live in now is not subject to local property taxes. I paid a total of \$3,000 rent for the entire year. Can I use the total amount to determine my property tax deduction?*
- A. No. Because the apartment building in which you now live is not subject to local property taxes, none of the rent you paid while residing there represents property taxes and cannot be used in determining your property tax deduction. If the apartment building that you lived in for the first part of the year was subject to local property taxes, you may use 18% of the rent paid while residing there to determine your property tax deduction.
39. **Q.** *I could not afford to pay my rent for the last three months of the year so my son paid it for me. May I use the amount of rent he paid for me when determining my property tax deduction?*
- A. Yes. You may use the full amount of rent due and paid to calculate 18% of rent paid on Line 1, Schedule 1, even if you did not pay it all yourself.
40. **Q.** *I paid a security deposit equal to two months rent before I could move into my new apartment. Can I include this deposit in rent paid when I calculate 18% of rent for determining my property tax deduction?*
- A. No. A security deposit is not considered rent.

41. **Q.** *I received a "tenant pass through rebate" from my landlord. Should I subtract this rebate from the amount of rent I paid during the year when I calculate 18% of rent for determining my property tax deduction?*

A. No. The amount of the pass-through rebate should not be taken into consideration when determining the property tax deduction.

42. **Q.** *I paid my last two months rent into an escrow account because my landlord has not repaired the furnace which heats our apartment building. May I use the amount of rent in escrow to calculate 18% of rent when determining my property tax deduction?*

A. Yes.

## CHANGED YOUR RESIDENCE DURING THE YEAR

If you lived in more than one qualified residence during the year, you must complete Schedule HR-A before completing Line 1, Schedule 1.

### Full-year Residents

43. **Q.** *I owned and lived in a home in New Jersey for the first seven months of the year. On August 1, I sold that home and moved into my new home (also in New Jersey). The property taxes due and paid while I lived in the first home were \$3,000. The property taxes due and paid while I lived in the new home were \$2,600. What amount do I use to determine my property tax deduction/credit?*

A. The combined property taxes due and paid on your two homes were \$5,600. This is the amount that you will use on Line 1, Schedule 1 to determine your property tax deduction/credit.

44. **Q.** *I lived in New Jersey for the entire year. For the first seven months, I leased an apartment in a building (which was subject to property taxes) in New Brunswick and my total rent was \$4,900. I bought a townhouse and moved in on August 1. The property taxes for August through December were \$1,500. I satisfied all the eligibility requirements. What amount do I use to determine my property tax deduction/credit?*

A. The combined property taxes due and paid during the year were \$2,382 ( $\$4,900 \text{ rent} \times 0.18$  plus \$1,500). This is the amount that you will use on Line 1, Schedule 1 to determine your property tax deduction/credit.

**45. Q. John and I were married on April 3 last year. Both of us were New Jersey residents for the entire year. Prior to the wedding, we each maintained separate residences. After the wedding we sold John's home and lived in my home. We are filing a joint return and our income was more than \$7,500. Can we combine all the property taxes we paid both before and after our marriage when determining our property tax deduction/credit?**

**A.** No. When determining the amount to enter on Line 1, Schedule 1, you may use **either** the property taxes due and paid on your home for the entire year **or** the property taxes due and paid on John's home from January 1 through April 2 plus the property taxes due and paid on your home from April 3 through the end of the year. You cannot use the property taxes paid for both homes for the period from January 1 through April 2.

### **Part-year Residents**

**46. Q. I am 68 years old. I moved to New Jersey in June of last year and rented an apartment (which in a building that was subject to local property taxes). My income for the year was only \$5,000. Am I entitled to a property tax deduction/credit? How do I determine the amount of the benefit?**

**A.** Yes. Because you were a resident for part of the year and over 65 you are entitled to a property tax deduction/credit provided you met the other eligibility requirements. Since your income was less than \$7,500, you have no gross income tax liability and won't benefit from the property tax deduction. However, you are eligible for the property tax credit, but as a part-year resident you will receive a partial credit based upon the number of months you lived in New Jersey.

**47. Q. I bought a home in New Jersey and moved in on June 1 last year. My income for the year was \$50,000. I paid property taxes of \$1,700 for the period of June 1 to December 31. What amount do I use to determine my property tax deduction/credit?**

**A.** Even though you were a part-year resident, you may enter on Line 1, Schedule 1, the full amount of property taxes paid while living in New Jersey (\$1,700). However, when you do the calculation to determine whether the deduction or credit is better for you, you will only be entitled to a partial credit based on the number of months you lived in New Jersey. In other words, the comparison amount which appears in the question below Line 7, Schedule 1 (\$25 in 1996, \$37.50 in 1997 and \$50 in 1998 and thereafter) must be multiplied by the number of months you were a resident and then divided by 12.

**48. Q. *I moved out of my New Jersey home on July 1 and rented an apartment in Pennsylvania. I do not plan to return to New Jersey to live. I could not sell my New Jersey property during the year and paid property taxes on it for the entire year. My income while I was a resident was \$46,000. Am I entitled to a property tax deduction/credit?***

**A.** Yes. Because you were a resident for part of the year you are entitled to a property tax deduction/credit for the property taxes you paid while a New Jersey resident. You may not include on Line 1, Schedule 1, the property taxes due and paid after July 1, the date that you left New Jersey. However, when you do the calculation to determine whether the deduction or credit is better for you, you must remember that you will only be entitled to a partial credit based on the number of months you lived in New Jersey. In other words, the comparison amount which appears in the question below Line 7, Schedule 1 (\$25 in 1996, \$37.50 in 1997 and \$50 in 1998 and thereafter) must be multiplied by the number of months you were a resident and then divided by 12.

## **MARRIED COUPLES FILING SEPARATE RETURNS**

If your filing status is married, filing separate return and you maintain the same principal residence as your spouse, you are entitled to one-half the property tax deduction or credit you would have been entitled to if filing jointly. If you and your spouse maintain separate residences and file separately, general rules for claiming the property tax deduction/credit apply.

**49. Q. *My wife Mary and I live together in an apartment in Edison. We file our Federal and State income tax returns separately. Our rent last year was \$7,500. Both of our incomes were more than \$3,750. What amount do we each use to determine the property tax deduction/credit?***

**A.** Since your filing status is married, filing separate return, and you maintain the same principal residence, you will each enter \$675 on Line 1, Schedule 1, which is one-half of your rent constituting property taxes (18% of the rent paid). In addition, when you do the calculation to determine whether the deduction or credit is better for you, you are only entitled to one-half of the property tax credit allowed. In other words, the comparison amount which appears in the question below Line 7, Schedule 1, is limited to \$12.50 in 1996, \$18.75 in 1997 and \$25 in 1998 and thereafter.

**50. Q. *My husband owns and lives in a home in Princeton, while I live in an apartment in Montclair. We file separate income tax returns. Am I entitled to only one-half of the property tax deduction/credit?***

**A.** No. Because you and your spouse maintained separate residences and are filing separate returns, the one-half rule does not apply.

**51. Q. *My husband and I live together, but file separate income tax returns. Neither one of us is over 65. My husband's taxable income was \$3,200 last year, and my income was \$23,000. We own our home and paid \$2,600 in property taxes during the year. Are we both entitled to the property tax deduction/credit?***

**A.** No. Since your husband's income was less than \$3,750 and he was not 65 or older or blind or disabled, he is not entitled to a property tax credit. You, however, are entitled to one-half of the property tax deduction or credit you would have been entitled to had you filed a joint return. You will enter \$1,300 on Line 1, Schedule 1. When you do the calculation to determine whether the deduction or credit is better for you, you are only entitled to one-half of the property tax credit allowed. In other words, the comparison amount which appears in the question below Line 7, Schedule 1, is limited to \$12.50 in 1996, \$18.75 in 1997 and \$25 in 1998 and thereafter.

## **MULTIPLE OWNERS, MULTIPLE TENANTS, MULTIPLE DWELLING UNITS**

If you owned your residence with someone else other than your spouse, or you lived with someone else other than your spouse in a qualified residential rental property and shared the rent with them, or you owned and lived in a building with more than one dwelling unit (see Question 8 for discussion of multiple unit buildings), you must complete Schedule HR-A before completing Line 1, Schedule 1. When you do the calculation to determine whether the deduction or credit is better for you, you may use the full property tax credit allowed. If you determine that you will receive a greater benefit from the property tax credit, enter the full amount on Line 43 (Property Tax Credit), Form NJ-1040.

**52. Q. *My two brothers and I live in a home that we own together. The total property taxes paid during the year were \$6,300. My income was over \$7,500. What amount do I use to determine my property tax deduction/credit?***

**A.** When a residence is owned by more than one individual (other than husband and wife), each owner is allowed a deduction/credit provided that the home is maintained as their principal place of residence. Each owner may only use the portion of the property taxes due and paid during the year that equals their share of ownership of the property. Since you own one-third of the property, you may only use one-third of the property taxes due and paid during the year, or \$2,100. This is the amount you will use on Line 1, Schedule 1 to determine your property tax deduction/credit. Share of ownership of the property is considered to be held equally by all owners. If the shares are not equal, you must provide documentation of ownership.

**53. Q. *My brother and I own a home together in New Jersey. Although my brother pays all of the property taxes he does not live there with me. Are we each entitled to the property tax deduction/credit for the property taxes paid on this home?***

**A.** No. Since your brother does not live in this home he is not entitled to the property tax deduction/credit for the property taxes paid on this home. On the other hand, you are entitled to the benefits if you met the other eligibility requirements because the property taxes were paid. However, you may only use the portion of the property taxes that equals your share of ownership of the property when completing Line 1, Schedule 1.

**54. Q. *My friend and I rent an apartment in a building which is subject to local property taxes and each of us pays one-half of the rent. I am 67 years old and my friend is 61 and blind. Our only income is Social Security so neither one of us has to file a State income tax return. Are we entitled to the property tax credit?***

**A.** Yes. Even though you and your friend have no taxable income, you are entitled to a property tax credit because you are either 65, blind or disabled and pay rent, part of which constitutes property taxes. Each of you will automatically receive the full credit with your homestead property tax rebate provided, of course, that you each file Form HR-1040 and Schedule HR-A on time.

**55. Q. *Does the answer to Question 54 change if my taxable income was \$35,000?***

**A.** Yes. Because you have taxable income you have to complete Schedule 1 to determine whether you will get a greater benefit from the property tax deduction or the property tax credit, but first you must complete Schedule HR-A since you shared the rent with someone other than your spouse. Enter 18% of the amount of Total Rent Paid by You (Line 12 of Schedule HR-A) on Line 1, Schedule 1. Your roommate will automatically receive the full property tax credit with her homestead property tax rebate provided she files Form HR-1040 and Schedule HR-A on time.

56. **Q.** *I pay 60% of the rent for the apartment that I share with my friend. My taxable income is over \$7,500. My friend, who is 26 years old, pays 40% of the rent and is not required to file a New Jersey income tax return. The apartment building is subject to local property taxes. What amount do I use to determine my property tax deduction/credit?*
- A.** Because you have taxable income you have to complete Schedule 1 to determine whether you will get a greater benefit from the property tax deduction or the property tax credit, but first you must complete Schedule HR-A since you shared the rent with someone other than your spouse. Enter 18% of the amount of Total Rent Paid by You (Line 12 of Schedule HR-A) on Line 1, Schedule 1. Your roommate is not entitled to the property tax credit since his income was less than \$7,500 and he was not over 65 or blind or disabled.
57. **Q.** *I own a building that has four residential units. I live in one unit. The property taxes on the building are \$8,000. What amount do I use to determine my property tax deduction/credit?*
- A.** As the owner of a qualified building with more than one unit you are allowed a property tax deduction/credit for the unit that is your principal place of residence. However, you may only use the portion of the property taxes due and paid during the year on the portion of the property in which you reside. Since you live in one of the four units, you may only use one-fourth of the property taxes due and paid, or \$2,000. This is the amount you will use on Line 1, Schedule 1 to determine your property tax deduction/credit.
58. **Q.** *I own a duplex in New Jersey and live in one-half of it. My taxable income was over \$7,500. I know that when I complete Line 1, Schedule 1, I can only use the property taxes that were due and paid on the portion of the property I lived in last year. If I find that I receive a greater benefit from the property tax credit than from the property tax deduction, do I get the full credit?*
- A.** Yes. Even though you must apportion the property taxes paid when completing Line 1, Schedule 1, if you choose to claim the property tax credit you are entitled to the full amount.

## MILITARY

**59. Q. *I am serving in the U.S. Army in Germany and New Jersey is my home of record. I own a home in New Jersey and pay local property taxes on it. I am required to file a New Jersey resident income tax return. Am I entitled to the property tax deduction/credit?***

**A.** Your eligibility for the property tax deduction/credit depends on whether or not the house is available for your use during your military service outside of New Jersey. If the home remains available for your occupancy at any time during the year, you are considered to be actually and continuously occupying it as your principal residence, even though you are serving in the military out of State. If this is the case, you are eligible for the property tax deduction/credit. If, however, your home is rented to an unrelated party during your absence, and you have no right to occupy the property, you are not eligible for the deduction/credit.

**60. Q. *Does the answer to Question 59 change if I am married and my spouse lives in our home in New Jersey?***

**A.** If the home is occupied by your spouse while you are on a tour of duty, you and your spouse may claim the property tax deduction/credit on your joint New Jersey resident income tax return. If you and your spouse file separate New Jersey resident returns, each of you are eligible for one-half of the property tax deduction/credit that you would have been entitled to if you had filed a joint return.

**61. Q. *My wife and I are domiciled in Texas. I am in the Air Force and stationed in New Jersey. My wife is living here with me during my tour of duty. We rent an apartment off the military base. Are we entitled to a property tax deduction/credit?***

**A.** No. Neither of you are eligible for a property tax deduction/credit because you are not domiciled in New Jersey. (See Question 9 for the definition of domicile.) If you change your domicile (or home of record) to New Jersey you would be entitled to a property tax deduction/credit if you meet the other eligibility requirements.

**62. Q. *My home of record is Nebraska, but I am stationed at McGuire Air Force Base in New Jersey. During my service here I met and married my wife who is a New Jersey resident. We own a home in Pemberton. When my tour of service is over we plan to move to Nebraska. As a nonresident I know that I am not entitled to a property tax deduction/credit, but is my wife eligible?***

**A.** Yes. If she met the other eligibility requirements your wife is entitled to the property tax deduction/credit as long as she remains a New Jersey resident and is domiciled here. See *Married Couples Filing Separate Returns* above.

## MOBILE HOMES

Mobile homes are manufactured homes which are transportable in one or more sections that are constructed off-site; erected on a permanent chassis, and designed to be used as dwellings. They can be located either inside or outside of mobile home parks. A mobile home park is a parcel of land which is subject to local property taxes, containing at least ten sites which are equipped for the installation of mobile homes. A mobile home park is under common ownership and control, but is not cooperatively owned, and is operated for the sole purpose of leasing sites to owners of mobile homes.

Mobile homes which are located inside a mobile home park are not subject to local property taxes. Instead, such homes are subject to a municipal service fee which covers the cost of local services such as sewer and water. Because they do not pay property taxes on their homes, owners of mobile homes inside mobile home parks cannot be treated as homeowners when claiming the property tax deduction/credit. However, since the land that the mobile home is located on is subject to property taxes, and the owner is leasing that land, the owner can claim the property tax deduction/credit as a tenant using 18% of the rent paid if all of the other eligibility requirements are met.

Owners of mobile homes that are **not** located in a mobile home park are eligible for the property tax deduction/credit as homeowners, and renters of such homes are eligible as tenants, if the homes are affixed to the land, habitable as permanent dwelling units and assessed as real property provided that all of the other eligibility requirements are met.

**63. Q. *I live in a mobile home located in a New Jersey mobile home park. My monthly rent for the land that my home is located on is \$120 (\$1,440 annually) and I pay a monthly service fee to the township of \$80. What amount do I use to determine the property tax deduction/credit?***

**A.** Since the mobile home is located on land that is subject to property taxes, and you are leasing that land, you can claim the property tax deduction/credit as a tenant if all of the other eligibility requirements are met. Enter 18% of the rent paid for the land (\$259.20) on Line 1, Schedule 1. The fee for municipal services may not be included. If you are renting the mobile home as well as the land, you cannot use the rent paid for the mobile home when determining your property tax deduction/credit.

## ETC.

64. **Q.** *Is the property tax credit subject to the Set-off of Individual Liability (SOIL) program?*
- A. Yes. If you owe a debt to a State agency, the IRS, or for child support, your property tax credit may be set off through the SOIL program in the same way and for the same reasons as State income tax refunds and homestead property tax rebates.
65. **Q.** *I own an apartment in a co-op building. Am I entitled to the property tax deduction/credit?*
- A. Yes. If you met the other eligibility requirements, you are entitled to a property tax deduction/credit as a homeowner. You must obtain from your cooperative's management the amount of property taxes due and paid that were attributable to the residential unit you occupied. This is the amount that you will use on Line 1, Schedule 1.
66. **Q.** *My father lives in a continuing care retirement community. Is he entitled to the property tax deduction/credit?*
- A. If your father met the other eligibility requirements, he is entitled to a property tax deduction/credit as a homeowner. When calculating the deduction/credit, residents of continuing care retirement facilities will enter on Line 1, Schedule 1, **only** the charges for their share of property taxes, which are specified in their continuing care contract.
67. **Q.** *I was delinquent in paying my property taxes for 1996, but paid the balance due in 1997. I know that I can't use those taxes on my 1997 return, but can I amend my 1996 return and include the balance of the 1996 tax?*
- A. No.

68. **Q.** *I appealed my 1996 property tax assessment to the Camden County Board of Taxation. In 1997 I was notified that the assessment was reduced and I received a partial refund of 1996 property taxes in 1997. Do I have to file an amended New Jersey return?*
- A.** If you claimed the property tax deduction on your 1996 New Jersey income tax return, you must complete an amended income tax return (Form NJ-1040X) and Schedule 1 using the revised 1996 property taxes. If the Balance of Tax (Line 39, Form NJ-1040X) in the Amended column is more than the amount in the As Originally Reported column, an amended return must be filed for 1996. If you claimed the property tax credit, an amended return is not necessary.
69. **Q.** *Before the sale of my new home was finalized, I moved into the home under an executory contract of sale. Am I entitled to the property tax deduction/credit from the date I moved into the home or the date of closing?*
- A.** Providing that you satisfied all of the other eligibility requirements, you became eligible for the property tax deduction/credit from the day that you moved into the home under the terms of the contract and it became your principal residence. Use the amount of the property taxes due and paid on the home from that date when completing Line 1, Schedule 1.
70. **Q.** *Is the property tax credit taxable income for New Jersey income tax purposes?*
- A.** No. The property tax credit is not taxable income and should not be included on Form NJ-1040.
71. **Q.** *My mother, who owned and lived in a home in New Jersey, died on May 3. The property taxes, which were \$4,500, were paid for the entire year. The taxes due after her death were paid by the estate and the property is still in her name. Is she entitled to the property tax deduction/credit, and if so, what amount is used on Line 1, Schedule 1?*
- A.** Yes. Since property taxes were due and paid on your mother's home, your mother is entitled to the property tax deduction/credit on her final Form NJ-1040 if she met the other eligibility requirements. Since title is still in your mother's name, the full amount of property taxes paid for the year may be used when completing Line 1, Schedule 1. However, if title to the property had been transferred during the year she died, the amount on Line 1, Schedule 1 would be the property taxes due and paid up until the date of transfer.



