

**Office of Legislative Services
Background Report
The Senior Citizens' and Disabled Persons'
Property Tax Deduction**

OLS Background Report No. 34

Prepared By:
Local Government

Date Prepared:
September 22, 2005

**New Jersey State Legislature
Office of Legislative Services**
State House Annex, P.O. Box 68
Trenton, NJ 08625-0068
<http://www.njleg.org>

OLS Background Report On The Senior Citizens' and Disabled Persons' Property Tax Deduction

INTRODUCTION

The property tax deduction provided to senior citizens and persons who are permanently and totally disabled, currently in the amount of \$250.00 annually, is authorized in the New Jersey Constitution. Article VIII, Section I, paragraph 4 of the Constitution provides that senior citizens aged 65 years or older, or persons less than 65 years of age who are permanently and totally disabled according to the provisions of the Federal Social Security Act, and their surviving spouses, shall be entitled annually to a deduction from the amount of any tax bill for taxes on real property in the amount of \$250.00, provided that they meet certain qualifications. They must be citizens and residents of New Jersey, own and occupy their homes, and have an annual income that does not exceed \$10,000. The property tax deduction is subtracted from the total amount of the property tax bill of a qualified senior citizen, disabled person or surviving spouse.

HISTORY OF THE SENIOR CITIZENS' AND DISABLED PERSONS' PROPERTY TAX DEDUCTION

The senior citizens' and disabled persons' property tax deduction was adopted by constitutional amendment on November 8, 1960. Originally, it was a tax exemption, however, and not a deduction. As adopted, it authorized the Legislature to enact laws exempting from taxation the first \$800 of assessed valuation of the homes owned by citizens and residents of the State age 65 or older. This exemption was restricted to senior citizens having an annual income of \$5,000 or less. The amendment further required that the exemption could not be claimed in addition to any other exemption to which the senior citizen might be entitled.

This paragraph of the Constitution was first amended in 1963, to change the property tax exemption to a property tax deduction. The amendment provided an \$80 property tax deduction on homes owned by senior citizens aged 65 or older who had an annual income of \$5,000 or less.

A second amendment in 1970 increased the property tax deduction to \$160 and allowed senior citizens to calculate their annual income for determining eligibility without including their Social Security benefits. Further, it required the State to reimburse each taxing district in an amount equal to one-half of the tax loss to the taxing district resulting from the granting of senior citizen property tax deductions.

A third amendment in 1971 excluded two additional benefits from the \$5,000 annual income limitation: benefits from any other federal program or pursuant to any federal law which provides benefits in lieu of Social Security benefits, or for persons not covered by Social security; and pension, disability or retirement programs of any state or its political subdivisions, for persons not receiving Social Security benefits. The amendment also provided that the amount of the benefits excluded from the \$5,000 income limitation would not exceed the maximum amount of benefits allowed under Social Security.

A fourth amendment in 1975 extended the property tax deduction to permanently and totally disabled persons and to the surviving spouses of senior citizens or disabled persons who received the deduction during their lifetimes. The amendment also allowed persons receiving this deduction to also receive a homestead rebate or credit provided by law.

A fifth amendment in 1980 increased both the amount of the annual deduction and the annual income limit allowable for eligibility to receive the deduction. The amount of the deduction was raised to \$200 in 1981, \$225 in 1982, and \$250 in 1983 and in each year thereafter. The annual income limit was raised to \$8,000 in 1981, \$9,000 in 1982 and \$10,000 in 1983 and in each year thereafter.

A sixth amendment in 1984 allowed persons receiving the senior citizens' and disabled persons' property tax deduction to also receive the veterans' property tax deduction simultaneously, if qualified.

This paragraph was last amended in 1988 to allow eligible shareholders of cooperatives or mutual housing corporations to receive the senior citizens' and disabled persons' property tax deduction.

QUALIFICATIONS FOR ELIGIBILITY TO RECEIVE SENIOR CITIZENS' AND DISABLED PERSONS' PROPERTY TAX DEDUCTION

The parameters of the senior citizens' and disabled persons' property tax deduction are established by statute. A senior citizen or disabled person qualified to receive the property tax deduction is one who is a citizen and resident of New Jersey, who owns and occupies a dwelling that is his or her primary residence, and who has an annual income that does not exceed \$10,000 per year. A qualified senior citizen must be at least 65 years of age. There is no age limit for persons who are permanently and totally disabled. A qualified surviving spouse is one who is unmarried, is at least 55 years of age, and resides in the same dwelling for which the deduction was originally granted.

The senior citizen or disabled person seeking a property tax deduction under these statutes must file an application with the municipal tax assessor or collector of the taxing district in which the dwelling is located. The required application form, State Form PTD, is available from the municipal tax assessor. (A detailed listing of the qualifications that must be met appears in the Appendix to this report.)

STATE COST OF SENIOR CITIZENS' AND DISABLED PERSONS' PROPERTY TAX DEDUCTION

Article VIII, Section I, paragraph 4 of the Constitution of the State of New Jersey, as amended in 1970, requires the State to reimburse each taxing district in an amount equal to one-half of the tax loss to the taxing district resulting from the granting of senior citizen property tax deductions. The enactment of P.L.1981, c.85 required the State to fully reimburse municipalities for 100% of the property tax revenues lost by the granting of a senior citizens' or disabled persons' property tax deduction. An additional amendment resulting from the enactment of P.L.1997, c.30, increased to 102% from 100% the amount of the State-required reimbursement for each deduction granted. That amount provides a 100% reimbursement of the amount of each deduction plus 2% of the amount of the deduction to ease the State mandate resulting from municipal administrative costs of providing the deduction. Effectively, the State reimburses municipalities in the amount of \$255 for each property tax deduction granted under the law.

The number of persons qualified to receive the senior citizens' and disabled persons' property tax deduction has declined in recent years. The following chart represents the number of senior and disabled persons qualified to receive a \$250 property tax deduction since 1998, and the total amount of reimbursements for these deductions issued to the State's municipalities, including the annual 2% reimbursement for local administrative costs pursuant to P.L.1997, c.30. (These figures, which represent the certified numbers from the Division of Taxation in the Department of the Treasury, include partial reimbursements in cases where the senior citizen or disabled person became eligible partway through the year.)

Benefit Year	Number of \$250 Property Tax Deduction Claims	Total Amount of \$250 Property Tax Deductions Reimbursed to Municipalities
1998	129,959	\$33,650,613
1999	121,168	\$31,638,337
2000	112,176	\$28,835,474
2001	104,147	\$27,228,655
2002	98,873	\$25,886,090
2003	95,475	\$25,085,859
2004	93,459	\$24,427,756

2005	86,462	\$22,207,664
------	--------	--------------

APPENDIX

CRITERIA FOR ELIGIBILITY TO RECEIVE THE SENIOR CITIZENS' AND DISABLED PERSONS' PROPERTY TAX DEDUCTION

Persons Eligible for Deduction

N.J.S.A. 54:4-8.41 states that State residents who are 65 or more years of age, or less than 65 years of age and permanently and totally disabled, who reside in a dwelling owned by them and who have an annual income not in excess of the statutory limitation, shall be entitled, annually, on proper claim being made therefor, to a property tax deduction against the taxes assessed against that property. Currently, the amount of the annual deduction is \$250, and the annual income limitation is \$10,000.

The surviving spouse of a New Jersey resident who at the time of death was lawfully entitled to the deduction is eligible to receive the same deduction as the deceased spouse, during widowhood or widowerhood, and while a State resident and the resident of the same property for which the deduction was originally granted. The surviving spouse must be at least 55 years of age in order to receive the deduction.

Eligibility

To qualify for the annual property tax deduction, a senior citizen, disabled person or surviving spouse must meet requirements of citizenship, property ownership, residency, income, timely application, age or disability, and widowhood or widowerhood.

Property Ownership

An applicant must own the dwelling for which the deduction is claimed on October 1 of the year before the year for which the deduction is claimed (the "pretax year"). The ownership criteria are met by: an executory contract for the purchase of property; ownership of a dwelling and the land on which it sits; ownership of a dwelling situate on land owned by another; shares held by residents of mutual housing corporations or co-operatives; property owned by a partnership of which the claimant is a member; property held by a guardian, trustee, committee, conservator or other fiduciary for a claimant; property in which the claimant has a life estate, life tenancy or lifetime rights; or an interest arising from a will or from State intestate laws where the claimant has legal title to the property individually, jointly or as a life tenant.

Corporate property, and property in which the claimant has only an estate for a term of years, a leasehold interest or an interest of any other nature less than an estate in fee, is not eligible for a deduction.

Residency

A senior citizen or disabled claimant must meet residency requirements as of October 1 of the pretax year. A claimant must have been domiciled in New Jersey for at least one year immediately preceding October 1 of the pretax year. Seasonal or temporary residence, regardless of duration, does not constitute domicile for the purposes of eligibility to receive the deduction. Additionally, absence from New Jersey for 12 months is considered to be prima facie evidence of abandonment of domicile.

(A domicile is any place that a person regards as his or her permanent home. Proofs of domicile include voter registration, motor vehicle registration, driver's license and resident tax return filing.)

The applicant must reside in the dwelling house for which the deduction is claimed on October 1 of the pretax year. (Dwelling house means the dwelling where the applicant makes his or her principal and permanent home.) In the case of a surviving spouse, that person must continue to reside in the same dwelling for which the deduction was originally granted. The surviving spouse's property tax deduction will apply only to that dwelling.

A husband and wife, even if both are eligible, are granted only one deduction for their principal residence.

Income

An applicant must establish that his or her anticipated income from all sources for the tax year for which the deduction is claimed will not exceed \$10,000 after excluding income under one of the following

three income categories:

- (1) The federal Social Security Act and all of its amendments and supplements; or
- (2) Any other federal government program or federal law which provided benefits in whole or in part in lieu of Social Security benefits or for persons excluded from Social Security coverage, 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, for persons not covered under Social Security, provided that the total benefit excludable is not in excess of the maximum benefit excludable in similar circumstances under Social Security.

Income includes but is 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.

Timely Application

Claimants must apply for the deduction on form PTD supplied by each municipality. Forms may be filed with the assessor from October 1 through December 31 of the pretax year, or with the tax collector from January 1 through December 31 of the tax year. No application for a previous tax year is to be permitted by the tax assessor, tax collector or governing body.

Age

A senior citizen must be 65 years of age or older as of December 31 of the pretax year in order to qualify for the deduction. A surviving spouse must be at least 55 years of age on or before December 31 of the pretax year, and must have been at least 55 at the time of death of the deceased spouse. There is no qualifying age requirement to be met by a disabled person.

Permanent and Total Disability

"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, as of December 31 of the pretax year.

Aggregate Senior Citizens' and Disabled Persons' Property Tax Deduction

The aggregate real property tax deduction from taxes levied on a dwelling may not be more than \$250. A claimant who is also a veteran is entitled to both the senior citizens' and disabled persons' property tax deduction and the veterans' property tax deduction. A claimant may also receive a homestead rebate, NJ SAVER rebate or homestead property tax reimbursement provided pursuant to law.

No Refund of Taxes Paid

No application for a previous tax year is to be permitted by the assessor, tax collector or local governing body.

Application Process to Receive Property Tax Deduction

Claimants applying for the deduction for the first time must file Form PTD, "Claim for Real Property Tax Deduction on Dwelling House of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse," with the assessor on or after October 1 and not later than December 31 of the pretax year, or with the tax collector Between January 1 and December 31 of the calendar tax year. After approval of the initial application, claimants must submit Form PD5, "Annual Post-Tax Year Income Statement of Qualified New Jersey Resident Senior Citizen, Disabled Person or Surviving Spouse," by March 1 every year thereafter to retain the deduction.

A deduction, once granted, continues in force from year to year without further applications as long as a recipient remains eligible.

Specific questions regarding the application process and required supporting documentation, or the appeals procedure available in the case of a denial of a property tax deduction, should be referred to the municipal tax assessor or collector.

Prepared by:
Cindy Lombardi Hesper
Office of Legislative Services