

STATE OF NEW YORK

3401--A

2019-2020 Regular Sessions

IN SENATE

February 6, 2019

Introduced by Sens. GIANARIS, RAMOS, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to investment income

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 6 of section 208 of the tax
2 law, as amended by section 5 of part T of chapter 59 of the laws of
3 2015, is amended to read as follows:
4 (a) (i) The term "investment income" means income, including capital
5 gains in excess of capital losses, from investment capital, to the
6 extent included in computing entire net income, less, (A) in the
7 discretion of the commissioner, any interest deductions allowable in
8 computing entire net income which are directly or indirectly attribut-
9 able to investment capital or investment income, (B) any capital gains
10 on investments located in a tract contiguous with a low-income community
11 as defined in 26 U.S.C. §1400-z-1-e, deferred or excluded under 26
12 U.S.C. §1400-z-2, provided, however, that in no case shall investment
13 income exceed entire net income. (ii) If the amount of interest
14 deductions subtracted under subparagraph (i) of this paragraph exceeds
15 investment income, the excess of such amount over investment income must
16 be added back to entire net income. (iii) If the taxpayer's investment
17 income determined without regard to the interest deductions subtracted
18 under subparagraph (i) of this paragraph comprises more than eight
19 percent of the taxpayer's entire net income, investment income deter-
20 mined without regard to such interest deductions cannot exceed eight
21 percent of the taxpayer's entire net income.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 § 2. Paragraph (a) of subdivision 5 of section 11-652 of the adminis-
2 trative code of the city of New York, as added by section 1 of part D of
3 chapter 60 of the laws of 2015, is amended to read as follows:

4 (a) (i) The term "investment income" means income, including capital
5 gains in excess of capital losses, from investment capital, to the
6 extent included in computing entire net income, less, (A) in the
7 discretion of the commissioner of finance, any interest deductions
8 allowable in computing entire net income which are directly or indirect-
9 ly attributable to investment capital or investment income, (B) any
10 capital gains on investments located in a tract contiguous with a low-
11 income community as defined in 26 U.S.C. §1400-z-1-e, deferred or
12 excluded under 26 U.S.C §1400-z-2, provided, however, that in no case
13 shall investment income exceed entire net income.

14 (ii) If the amount of interest deductions subtracted under subpara-
15 graph (i) of this paragraph exceeds investment income, the excess of
16 such amount over investment income must be added back to entire net
17 income.

18 (iii) If the taxpayer's investment income determined without regard to
19 the interest deductions subtracted under subparagraph (i) of this para-
20 graph comprises more than eight percent of the taxpayer's entire net
21 income, investment income determined without regard to such interest
22 deductions cannot exceed eight percent of the taxpayer's entire net
23 income.

24 § 3. This act shall take effect immediately and shall apply to taxable
25 years beginning on and after January 1, 2019.