

STATE OF NEW YORK

3401

2019-2020 Regular Sessions

IN SENATE

February 6, 2019

Introduced by Sens. GIANARIS, RAMOS -- read twice and ordered printed,
and when printed to be committed to the Committee on Budget and Revenue

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 deferred or excluded under 26 U.S.C. §1400-z-2, provided, however, that
11 in no case shall investment income exceed entire net income. (ii) If the
12 amount of interest deductions subtracted under subparagraph (i) of this
13 paragraph exceeds investment income, the excess of such amount over
14 investment income must be added back to entire net income. (iii) If the
15 taxpayer's investment income determined without regard to the interest
16 deductions subtracted under subparagraph (i) of this paragraph comprises
17 more than eight percent of the taxpayer's entire net income, investment
18 income determined without regard to such interest deductions cannot
19 exceed eight percent of the taxpayer's entire net income.

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

23 (a) (i) The term "investment income" means income, including capital
24 gains in excess of capital losses, from investment capital, to the

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

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1 extent included in computing entire net income, less, (A) in the
2 discretion of the commissioner of finance, any interest deductions
3 allowable in computing entire net income which are directly or indirect-
4 ly attributable to investment capital or investment income, (B) any
5 capital gains deferred or excluded under 26 U.S.C §1400-z-2, provided,
6 however, that in no case shall investment income exceed entire net
7 income.

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

12 (iii) If the taxpayer's investment income determined without regard to
13 the interest deductions subtracted under subparagraph (i) of this para-
14 graph comprises more than eight percent of the taxpayer's entire net
15 income, investment income determined without regard to such interest
16 deductions cannot exceed eight percent of the taxpayer's entire net
17 income.

18 § 3. This act shall take effect immediately and shall apply to taxable
19 years beginning on and after January 1, 2018.