

# STATE OF NEW YORK

1195

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, BAILEY, HOYLMAN, JACKSON, KRUEGER, MYRIE, RAMOS, RIVERA, SALAZAR -- 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. This act shall be known and may be cited as the "opportunity zone tax break elimination act".  
2  
3 § 2. Paragraph (a) of subdivision 6 of section 208 of the tax law, as  
4 amended by section 5 of part T of chapter 59 of the laws of 2015, is  
5 amended to read as follows:  
6 (a) (i) The term "investment income" means income, including capital  
7 gains in excess of capital losses, from investment capital, to the  
8 extent included in computing entire net income, less, (A) in the  
9 discretion of the commissioner, any interest deductions allowable in  
10 computing entire net income which are directly or indirectly attributable  
11 to investment capital or investment income, (B) any capital gains  
12 deferred or excluded under 26 U.S.C. §1400-z-2, provided, however, that  
13 in no case shall investment income exceed entire net income. (ii) If the  
14 amount of interest deductions subtracted under subparagraph (i) of this  
15 paragraph exceeds investment income, the excess of such amount over  
16 investment income must be added back to entire net income. (iii) If the  
17 taxpayer's investment income determined without regard to the interest  
18 deductions subtracted under subparagraph (i) of this paragraph comprises  
19 more than eight percent of the taxpayer's entire net income, investment  
20 income determined without regard to such interest deductions cannot  
21 exceed eight percent of the taxpayer's entire net income.  
22 § 3. Paragraph (a) of subdivision 5 of section 11-652 of the administrative  
23 code of the city of New York, as added by section 1 of part D of  
24 chapter 60 of the laws of 2015, is amended to read as follows:

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

LBD03332-01-1

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

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

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

20 § 4. This act shall take effect immediately and shall apply to taxable  
21 years beginning on and after January 1, 2021.