

# STATE OF NEW YORK

543--B

Cal. No. 904

2023-2024 Regular Sessions

## IN SENATE

January 5, 2023

Introduced by Sens. GIANARIS, HOYLMAN-SIGAL, KRUEGER, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- recommitted to the Committee on Budget and Revenue in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to treatment of gains from qualified opportunity zones in calculating taxable income

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

1 Section 1. Paragraph (b) of subdivision 9 of section 208 of the tax  
2 law is amended by adding a new subparagraph 28 to read as follows:

3 (28) the amount of gain excluded from federal gross income for the  
4 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
5 section 1400Z-2 of the internal revenue code.

6 § 2. Subdivision 9 of section 208 of the tax law is amended by adding  
7 a new paragraph (u) to read as follows:

8 (u) For tax years beginning on or after January first, two thousand  
9 twenty-four, upon the sale or exchange of property with respect to which  
10 the taxpayer has made the election under subparagraph (C) of paragraph  
11 (1) of subsection (a) of section 1400Z-2 of the internal revenue code,  
12 the basis of such property under this article shall be determined as if  
13 the taxpayer had not made such election.

14 § 3. Subsection (b) of section 612 of the tax law is amended by adding  
15 a new paragraph 44 to read as follows:

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

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1 (44) the amount of gain excluded from federal gross income for the  
2 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
3 section 1400Z-2 of the internal revenue code.

4 § 4. Section 612 of the tax law is amended by adding a new subsection  
5 (y) to read as follows:

6 (y) Qualified opportunity zones. For tax years beginning on or after  
7 January first, two thousand twenty-four, upon the sale or exchange of  
8 property with respect to which the taxpayer has made the election under  
9 subparagraph (C) of paragraph (1) of subsection (a) of section 1400Z-2  
10 of the internal revenue code, the basis of such property under this  
11 article shall be determined as if the taxpayer had not made such  
12 election.

13 § 5. Paragraph 2 of subdivision (b) of section 1503 of the tax law is  
14 amended by adding a new subparagraph (AA) to read as follows:

15 (AA) the amount of gain excluded from federal gross income for the  
16 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
17 section 1400Z-2 of the internal revenue code.

18 § 6. Section 1503 of the tax law is amended by adding a new subdivi-  
19 sion (d) to read as follows:

20 (d) For tax years beginning on or after January first, two thousand  
21 twenty-four, upon the sale or exchange of property with respect to which  
22 the taxpayer has made the election under subparagraph (C) of paragraph  
23 (1) of subsection (a) of section 1400Z-2 of the internal revenue code,  
24 the basis of such property under this article shall be determined as if  
25 the taxpayer had not made such election.

26 § 7. Paragraph (b) of subdivision 8 of section 11-602 of the adminis-  
27 trative code of the city of New York is amended by adding a new subpara-  
28 graph 23 to read as follows:

29 (23) the amount of gain excluded from federal gross income for the  
30 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
31 section 1400Z-2 of the internal revenue code.

32 § 8. Section 11-602 of the administrative code of the city of New York  
33 is amended by adding a new subdivision 11 to read as follows:

34 11. For tax years beginning on or after January first, two thousand  
35 twenty-four, upon the sale or exchange of property with respect to which  
36 the taxpayer has made the election under subparagraph (C) of paragraph  
37 (1) of subsection (a) of section 1400Z-2 of the internal revenue code,  
38 the basis of such property under this article shall be determined as if  
39 the taxpayer had not made such election.

40 § 9. Paragraph (b) of subdivision 8 of section 11-652 of the adminis-  
41 trative code of the city of New York is amended by adding a new subpara-  
42 graph 24 to read as follows:

43 (24) the amount of gain excluded from federal gross income for the  
44 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
45 section 1400Z-2 of the internal revenue code.

46 § 10. Subdivision 8 of section 11-652 of the administrative code of  
47 the city of New York is amended by adding a new paragraph (u) to read as  
48 follows:

49 (u) For tax years beginning on or after January first, two thousand  
50 twenty-four, upon the sale or exchange of property with respect to which  
51 the taxpayer has made the election under subparagraph (C) of paragraph  
52 (1) of subsection (a) of section 1400Z-2 of the internal revenue code,  
53 the basis of such property under this article shall be determined as if  
54 the taxpayer had not made such election.

1 § 11. Subdivision (b) of section 11-1712 of the administrative code of  
2 the city of New York is amended by adding a new paragraph 40 to read as  
3 follows:

4 (40) the amount of gain excluded from federal gross income for the  
5 taxable year by subparagraph (C) of paragraph (1) of subsection (a) of  
6 section 1400Z-2 of the internal revenue code.

7 § 12. Section 11-1712 of the administrative code of the city of New  
8 York is amended by adding a new subdivision (w) to read as follows:

9 (w) For tax years beginning on or after January first, two thousand  
10 twenty-four, upon the sale or exchange of property with respect to which  
11 the taxpayer has made the election under subparagraph (C) of paragraph  
12 (1) of subsection (a) of section 1400Z-2 of the internal revenue code,  
13 the basis of such property under this article shall be determined as if  
14 the taxpayer had not made such election.

15 § 13. This act shall take effect immediately and shall apply to taxa-  
16 ble years beginning on or after January 1, 2024.