

STATE OF NEW YORK

1727

2023-2024 Regular Sessions

IN ASSEMBLY

January 20, 2023

Introduced by M. of A. DINOWITZ, SEAWRIGHT, GLICK, CRUZ, EPSTEIN, REYES, THIELE, HEVESI, PAULIN, L. ROSENTHAL, SIMON, STECK, KIM, DARLING, FAHY, MITAYNES, GALLAGHER, BURDICK, SEPTIMO, KELLES, MAMDANI, FORREST -- read once and referred to the Committee on Ways and Means

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 § 2. Paragraph (a) of subdivision 6 of section 208 of the tax law, as
3 amended by section 5 of part T of chapter 59 of the laws of 2015, is
4 amended to read as follows:

5 (a) (i) The term "investment income" means income, including capital
6 gains in excess of capital losses, from investment capital, to the
7 extent included in computing entire net income, less, (A) in the
8 discretion of the commissioner, any interest deductions allowable in
9 computing entire net income which are directly or indirectly attributable
10 to investment capital or investment income, (B) any capital gains
11 deferred or excluded under 26 U.S.C. §1400-z-2, provided, however, that
12 in no case shall investment income exceed entire net income. (ii) If the
13 amount of interest deductions subtracted under subparagraph (i) of this
14 paragraph exceeds investment income, the excess of such amount over
15 investment income must be added back to entire net income. (iii) If the
16 taxpayer's investment income determined without regard to the interest
17 deductions subtracted under subparagraph (i) of this paragraph comprises
18 more than eight percent of the taxpayer's entire net income, investment
19 income determined without regard to such interest deductions cannot
20 exceed eight percent of the taxpayer's entire net income.
21

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

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1 § 3. 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 deferred or excluded under 26 U.S.C §1400-z-2, provided,
11 however, that in no case shall investment income exceed entire net
12 income.

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

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

23 § 4. This act shall take effect immediately and shall apply to taxable
24 years beginning on and after January 1, 2023.