State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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August, 2018

Property Administration
Fax: 609-292-9439

TO: Assessors, Tax Collectors, County Tax Board Commissioners, and County Tax Administrators

FROM: Shelly Reilly, Chief, Policy and Planning, Property Administration

RE: Revised 2018 Income Guidelines for Real Property Tax Deduction for Senior Citizens, Disabled Persons, and Surviving Spouses
N.J.S.A.54:4-8.40 et seq.; N.J.A.C.18:14-1.1 et seq.

These Income Guidelines help define what income may be deducted or excluded from gross income when determining eligibility for the Real Property Tax Deduction. This program is for applicants who are age 65 or older and/or permanently and totally disabled or blind and/or their qualifying surviving spouses who are age 55 or older who reside in New Jersey.

The following information replaces the Guidelines of October 2017 and pertains to Property Tax Deduction Claims (Form PTD) for Tax Year 2018 and Annual Post-Tax Year Statements (Form PD5) filed by March 1, 2019, to confirm 2018 income.

- Initial application Form PTD must be filed with the assessor between October 1 and December 31 of pretax year 2017 or with the tax collector at any time during the tax year from January 1, 2018 – December 31, 2018.
- Social Security income data is based on an individual retiring at full retirement age in 2018 who has contributed to Social Security at maximum wage levels through 2017. This data can be used to determine whether a PTD applicant meets the $10,000 income limit for 2018.
- PTD applicants should provide the assessor or collector with the amount of annual benefit and the name and address of the agency granting the benefit.

INCOME DEFINED

State statute and administrative regulations define "income" as all income derived from any source, unless exempt by law. Income includes:

- Salaries;
- Wages;
- Bonuses;
- Commissions;
- Tips;
- Other Compensation before payroll deductions;
- Dividends;
- Interest;
- Realized capital gain (excluding capital gain resulting from the sale or exchange of real property owned and used by the taxpayer as his/her principal residence);
- Royalties;
- Income from rents;
- Alimony received;
- Retirement benefits (pensions, annuities, IRAs-including Roth distributions, but not rollovers) in full, without deductions;
- Business income (defined as income derived from a business, trade, profession or the rental of property after applying ordinary deductions and business expenses allowed under Federal Internal Revenue Code and regulations.).

"Business income expenses" Ordinary and necessary expenses incurred in a trade or business are included as deductions for adjusted gross income (AGI). Such deductions are subtracted from gross income to arrive at adjusted gross income to the extent allowed under the IRS Code and Regulations. However, certain categories of expenses may only be used against similar categories of income and not applied broadly against all income. To determine the treatment of such expenses, you must review how the income was categorized, reported and treated for federal Income Tax purposes. Deductions for AGI are reported on page 1 of the Federal 1040 and originate on supporting schedules:

- Federal Schedule C for business expenses; and
- Federal Schedule E for rent, royalty, partnership and fiduciary deductions.

"Married person's income" In establishing eligibility for the property tax deduction, you must combine income received by the applicant and spouse, unless they are living separately. N.J.S.A.54:4-8.41 says, in part, that income of a married person includes the spouse's income during the applicable income year, except for that portion of the year when the two were separated and living apart, whether under judicial decree or otherwise.

N.J.A.C. 18:14-1.1 also provides that income of an applicant's family members, other than a spouse, is not to be combined with income of the applicant.

"Unemployment Compensation" You **must** include the **entire** annual amount of Unemployment Compensation benefits received by the applicant. Payments to laid-off employees from company-financed supplemental unemployment benefit plans are taxable income in the year received**. Section 722 U.S. Master Tax Guide.**

"State Lottery Winnings" are considered income for purposes of establishing the $10,000 income cutoff for the $250 Real Property Tax Deduction. ***Local Property Newsletter,*** May/June 1977, page 2.

EXCLUDABLE INCOME

A PTD applicant is entitled to exclude benefits under only **ONE** of the following three categories:

1. Social Security Benefits (The Federal Social Security Act);
2. Any other federal government program or federal law that provides benefits in whole or in part in lieu of Social Security benefits, or for persons excluded from coverage under Social Security, including but not limited to:
   - the Federal Railroad Retirement Act (Tier I and II); and
   - federal pension, disability and retirement programs;
3. Pension, disability or retirement programs of **any** state or its political subdivisions, or agencies for persons not covered under Social Security.

NOTE: If the PTD applicant and/or spouse, or single individual who is not married, receive(s) only Social Security benefits and no benefits under 2 & 3, the amount of Social Security received may be deducted from income in full. If the PTD applicant and/or spouse, or single individual, receive(s) both Social Security benefits and benefits under 2 or 3, the larger of any one of the income categories can be deducted. The amount of Federal, State, County, Municipal pension, disability or retirement benefit, etc., excluded should be based on actual benefits received **provided that the total excluded under 2 or 3 does not exceed the maximum benefit amount excludable in similar circumstances under 1. Social Security**. (N.J.S.A.54:4-8.40(a)(1)(2)(3)) See the "Income Determined" section for examples.

State, its Political Subdivisions or Agencies pensions, disability, or retirement programs: These benefits are not limited to the State of New Jersey. For example, when a New Jersey resident is receiving a New York City pension, it is viewed as being part of the third category of Excludable Income as set forth in these Guidelines.

"Disability benefits" The New Jersey Constitution, statutes, and regulations are silent on the subject of disability income other than those disability benefits received under a Federal, State, or Political Subdivision program which are excludable only to the extent of the maximum benefit received under the Federal Social Security Act. Therefore, you must evaluate any other disability income received for inclusion or exclusion based on its proper treatment for Federal Income Tax purposes. (See ***Handbook for New Jersey Assessors***, Chapter 4, Income defined, as updated in 2018 and the ***Local Property Branch Newsletter***, September/October 1977, page 1.)

Social Security Disability Determinations

The amount of Social Security benefits awarded surviving spouses is variable and is best established by Social Security Certificate, Forms SSA-30 or SSA-2458, or Third Party Query (TPQY) Response when determining the income deduction allowed. If an award certificate has an issue date that is not current, you may need to request proof of current eligibility such as a current check stub.

Disability under Social Security is based on a person's inability to work. Someone will be considered disabled if that person cannot do work he/she did before and the Social Security Administration decides that same person cannot adjust to other work because of his/her medical condition(s). The disability also must last or be expected to last for at least a year or to result in death. Social Security does not pay for partial disability or for short-term disability.

Under Social Security law, all disability cases must be reviewed periodically. This is to ensure that people receiving benefits remain disabled and meet all other requirements. Benefits generally will continue unless there is strong proof of medical improvement and an ability to return to work. How often a case is reviewed depends on the likelihood of improvement. The frequency can range from six months to seven years.

- If medical improvement is "expected," a case normally will be reviewed within six to eighteen months;
- If medical improvement is "possible," a case normally will be reviewed no sooner than three years;
- If medical improvement is "not expected," a case normally will be reviewed no sooner than seven years.

General rule of thumb regarding income:

If income treatment is not addressed in New Jersey Statutes, N.J.S.A.54:4-8.40 et seq., or the New Jersey Administrative Code, N.J.A.C.18:14-1.1 et seq., defer to income status for Federal Income Tax purposes. **Local Property Newsletter,** May/June 1982, page 1.

Below is a list of items not treated as income for Federal Income Tax purposes and, therefore, not considered income when determining the annual $10,000 limit for the Real Property Tax Deduction:

- **Gifts.** (However, any income generated from the gifts, including profits derived from their sale, is income.) ***Section 849 U.S. Master Tax Guide***;
- **Inheritances, bequests, devises.** (However, any income generated from the property such as investment income, rental income, or profits from their sale is income.) ***Section 847 U.S. Master Tax Guide***;
- **Life insurance.** (All payments due to death of the insured.) ***Section 803 U.S. Master Tax Guide***;
- **New Jersey Worker's Compensation.** (Payments made under State law for occupational injury or illness arising out of employment); ***Section 851 U.S. Master Tax Guide***;
- **Child Support.** ***Sections 771 and 776 U.S. Master Tax Guide***;
- **Armed Forces Benefits.** This includes amounts paid to veterans or their families in the form of educational, training, or subsistence allowances, disability compensation and pension payments for disabilities, grants for homes designed for wheelchair living, and so forth. Such payments are prefaced as payments "for personal injuries or sickness which resulted from combat-related service in the armed forces…" ***Section 891 U.S. Master Tax Guide***;

Below is an additional list of items not considered income for purposes of establishing the $10,000 income cutoff for $250 Real Property Tax Deduction.

- **Homestead Rebate** (as it is a refund or credit of property taxes paid);
- **REAP (Regional Efficiency Aid Program) Payment** (refund of property taxes paid);
- **Property Tax Reimbursement (PTR/Senior Freeze)** (refund of property taxes paid);
- **IRA rollovers**;
- **Reverse Mortgage** (A reverse mortgage is the assumption of a debt, not income.).

Death of a Property Tax Deduction Claimant/Recipient

The Director of the Division of Taxation has promulgated the following guidelines:

(1) If a qualified claimant applies for Property Tax Deduction during October 1 – December 31 of the pretax year and dies prior to January 1 of the following tax year, you must disallow the deduction for such tax year;

(2) If a qualified claimant applies for a deduction during October 1 – December 31 of the pretax year and dies on or after January 1 of the following tax year, you must allow the deduction for such tax year. You do not need to prorate or file the Post-Tax Year Income Statement, except as noted below;

(3) If a qualified claimant applies for the deduction during the tax year, is granted the deduction, and dies during that tax year, you do not need to prorate or file the Post-Tax Year Income Statement, except as noted below;

(4) If an established qualified claimant who has been receiving deductions dies on or after January 1 of the tax year and prior to filing a Post-Tax Year Income Statement, you must allow the deduction for the tax year if all prerequisites were met as of October 1 of the pretax year. You do not need to prorate or file the Post-Tax Year Income Statement, except as noted below;

(5) If a qualified claimant dies after filing a Post-Tax Year Income Statement, you do not need to prorate or file the Post-Tax Year Income Statement during the year following such tax year, except as noted below.

EXCEPTION: If the surviving spouse, heirs-at-law, successors, or assigns of the deceased deduction recipient sell or transfer title to the dwelling house during the tax year of recipient's death, the deduction ceases as of the sale or transfer date. The tax collector must prorate the deduction based on the number of days remaining in the tax year following the date of sale or transfer. The prorated amount constitutes a lien against the dwelling.

Full Retirement Age

Age to Receive Full Social Security Benefits

Year of Birth	Full Retirement Age
1937 or earlier	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 and later	67

Because of longer life expectancies, the Social Security law was changed in 1983 [P.L. 98-21 (H.R. 1900), signed on April 20, 1983] to increase the full retirement age in gradual steps until it reaches age 67. Beginning in the year 2003, this change affects people born in 1938 and later. Benefits will still be available at age 62, but with greater reduction.

SOCIAL SECURITY BENEFIT MAXIMUM

The following are the annual maximum benefit estimates for a worker retiring at full retirement age in 2018 who contributed to Social Security at maximum wage levels through 2017, as compiled from information received from the Department of Health & Human Services, Social Security Administration:

- Retired worker, single individual who is not married, (full retirement age) — $33,456

- Retired worker and spouse receiving Social Security benefits through the retired worker:

Retired worker (full retirement age)	$33,456
Spouse nonworking (full retirement age)	$16,722
Retired worker and spouse (both full retirement age)	$50,178

- Disabled worker (less than full retirement age) receives benefits based on average yearly earnings under Social Security in the same amount he/she would get if retiring at full retirement age. — $33,456

- Disabled worker and spouse – in which spouse receives Social Security benefits through the disabled worker.

Disabled worker (less than full retirement age)	$33,456
Spouse (full retirement age)	$16,722
Spouse (with minor or disabled children)	$16,722
Disabled worker and either spouse as above	$50,178

- Spouse (less than 62 with no minor or disabled children) — No benefits

- Surviving spouse (age 60 or more) receives Social Security benefits through the deceased worker unless:
  Surviving spouse (age 50-60 years) is totally disabled;
  Surviving spouse has minor or disabled children of the deceased.

Any questions in regard to this information can be directed to the New Jersey Division of Taxation, Property Administration, Deductions Unit, PO Box 251, Trenton, NJ 08695-0251 or call 609-292-7974.

Adherence to these Guidelines should result in a more uniform implementation of the Act.

INCOME DETERMINED-EXAMPLES

All examples assume all other prerequisites for eligibility for Property Tax Deduction have been met. Examples 1-5 reflect applicant/spouse with excludable Social Security benefits only. Examples 6-16 reflect applicants with income in more than one of the three excludable categories. A single individual who is not married can calculate income in these examples by disregarding the dollar amounts for spousal income. Income may be excluded from only **ONE** of the three categories when determining the $10,000 income limitation.

EXAMPLE 1

PTD applicant and spouse both full retirement age. Each a retired worker in his/her own right.

	INCOME	DEDUCTION ALLOWED
Applicant-Social Security	$33,117	$33,117
Spouse-Social Security	11,129	11,129
Other Income	2,615	0
Total	$46,861	$44,246

Social Security benefits of applicant and spouse can be deducted in full, leaving a balance of $2,615, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 2

PTD applicant full retirement age and spouse age 62, the earliest possible retirement age, or older. Each a retired worker in his/her own right.

	INCOME	**DEDUCTION ALLOWED**
Applicant-Social Security	$36,519	$33,456
Spouse-Social Security	9,127	9,127
Other Income	4,292	0
Total	$49,938	$42,583

Social Security benefits of applicant and spouse can be deducted in full, leaving a balance of $7,355, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 3

PTD applicant and spouse both age 70* years. Each a retired worker in his/her own right.

	INCOME	**DEDUCTION ALLOWED**
Applicant-Social Security	$33,656**	$33,656
Spouse-Social Security	11,500	11,500
Other Income	2,000	0
Total	$47,156	$45,156

Social Security benefits of applicant and spouse can be deducted in full, leaving a balance of $2,000, which is under the $10,000 income limit.

****Social Security benefits may be more than maximum if retirement is deferred beyond full retirement age.**

Conclusion: Eligible

EXAMPLE 4

PTD applicant disabled, less than full retirement age; spouse retired worker, age 62 or more. Disabled individual is considered a retired worker of full retirement age.

	INCOME	**DEDUCTION ALLOWED**
Applicant-Social Security	$34,002	$33,456
Spouse-Social Security	10,352	10,352
Other Income	6,356	0
Total	$50,710	$43,808

Social Security benefits of applicant and spouse can be deducted in full, leaving a balance of $6,902, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 5

PTD applicant disabled, less than full retirement age; spouse retired worker, full retirement age or more. Disabled individual is considered a retired worker of full retirement age.

	INCOME	**DEDUCTION ALLOWED**
Applicant-Social Security	$35,244	$33,456
Spouse-Social Security	30,912	30,912
Other Income	6,129	0
Total	$72,285	$64,368

Social Security benefits of applicant and spouse can be deducted in full, leaving a balance of $7,917, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 6

PTD applicant and spouse both full retirement age. Each a retired worker in his/her own right. Or PTD Applicant disabled, less than 65 years, spouse full retirement age.

	INCOME	**DEDUCTION ALLOWED**	
Applicant-Railroad pension	$34,400	$33,456	(SS maximum)
Applicant-Social Security	6,500	0	
Spouse-State pension	35,719	33,456	(SS maximum)
Spouse-Social Security	5,500	0	
Total	$82,119	$66,912	

Applicant can deduct income from only **ONE** of the three categories of excludable income, i.e., either Railroad pension or Social Security-not both. Since the Railroad pension is larger than the Social Security benefit, it is the most advantageous choice. However, the amount of Railroad pension deducted cannot exceed the maximum amount allowed under Social Security. The same is true of the spouse's State pension. A total of $66,912 can be deducted from income, leaving a balance of $15,207, which is over the $10,000 income limit.

Conclusion: **Not** Eligible

EXAMPLE 7

PTD applicant disabled, less than full retirement age; spouse retired, age 62 or more. Disabled individual is considered a retired worker of full retirement age. Or PTD Applicant and spouse both full retirement age.

	INCOME	**DEDUCTION ALLOWED**
Applicant-County pension	$11,175	$11,175
Applicant-Social Security	4,217	0
Spouse-Public School pension	6,714	6,714
Spouse-Social Security	3,421	0
Other Income	$1,817	0
Total	$27,344	$17,889

Applicant can deduct income from only **ONE** of the three categories of excludable income, i.e., either County pension or Social Security. The County pension is larger than the applicant's Social Security benefit, but does not exceed the Social Security maximum of $33,456 and can be deducted in full. The same is true of the spouse's Public School pension. A total of $17,889 can be deducted from income leaving a balance of $9,455, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 8

PTD applicant and spouse both full retirement age. Each a retired worker in his/her own right. Or PTD Applicant disabled, less than full retirement age; spouse age 62 or more.

	INCOME	DEDUCTION ALLOWED
Applicant-Municipal pension	$13,162	$13,162
Applicant-Social Security	6,000	0
Spouse-State pension	3,600	3,600
Spouse-Social Security	1,700	0
Total	$24,462	$16,762

Applicant can deduct income from only **ONE** of the three categories of excludable income, i.e., either Municipal pension or Social Security. Applicant's Municipal pension is larger than the Social Security benefit and can be deducted in full. State pension is larger than spouse's Social Security benefit but not more than the SS maximum of $33,456 and can be deducted in full. Again, one category only. A total of $16,762 can be deducted from income, leaving a balance of $7,700, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 9

PTD applicant disabled, less than full retirement age; spouse retired worker, age 62 or more. Disabled individual is considered a retired worker of full retirement age. Or PTD Applicant and spouse both full retirement age.

	INCOME	DEDUCTION ALLOWED	
Applicant-federal pension	$38,217	$33,456	(SS maximum)
Spouse-Social Security	9,115	9,115	
Other Income	8,966	0	
Total	$56,298	$42,571	

Applicant can deduct federal pension up to the maximum amount allowed under Social Security. Spouse’s Social Security benefit can be deducted in full but the balance of $13,727 is over the $10,000 income limit.

Conclusion: **Not** Eligible

EXAMPLE 10

PTD applicant and nonworking spouse both full retirement age. Spouse receives benefits through retired worker.

	INCOME	DEDUCTION ALLOWED	
Applicant-Railroad pension	$39,000	$33,456	(SS maximum)
Applicant-Social Security	8,000	0	
Spouse-Social Security	5,250	16,722	(1/2 applicant)
Total	$52,250	$50,178	

Applicant can deduct income from **ONE** category, i.e., the larger Railroad pension, up to the maximum amount allowed under Social Security. Spouse is receiving Social Security benefits through retired worker applicant amounting to 50% of worker's SS benefit; the spouse is allowed, by administrative decision, a deduction equal to 1/2 of the applicant's deduction (One half of the applicant's monthly Railroad (governmental pension) benefits rounded down to the next lower dollar.) A total of $50,178 can be deducted from income, leaving a balance of $2,072, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 11

PTD applicant full retirement age and spouse less than age 62, the earliest possible retirement age.

	INCOME	DEDUCTION ALLOWED
Applicant-federal pension	$7,225	0
Applicant-Social Security	8,517	8,517
Spouse-Private pension	4,368	0
Total	$20,110	$8,517

Applicant's Social Security, larger than the federal pension, can be deducted in full. However, the spouse's private pension is not an excludable category of income, nor can Social Security benefits be received through the retired worker applicant because spouse is not of retirement age as required by Social Security. A total of $8,517 can be deducted from income, leaving a balance of $11,593, which is over the $10,000 income limit.

Conclusion: **Not** Eligible

EXAMPLE 12

PTD applicant full retirement age and spouse age 62 or more.

	INCOME	DEDUCTION ALLOWED
Applicant-Social Security	$18,500	$18,500
Spouse-Public School pension	10,750	10,750
Other Income	8,517	0
Total	$37,767	$29,250

Applicant's Social Security benefits and spouse's Public School pension, not in excess of the Social Security maximum of $33,456, can both be deducted from income in full, leaving a balance of $8,517, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 13
PTD applicant surviving spouse, is retired worker, age 55 years, non-disabled w/no minor or disabled children.

	INCOME	DEDUCTION ALLOWED
Applicant-School pension	$13,262	$ 0
Applicant-federal pension	6,059	0
Total	$19,321	$ 0

Applicant is less than age 62 years, the earliest age a non-disabled worker can receive Social Security benefits, and is less than 60 years, the earliest age a non-disabled surviving spouse can receive SS benefits through a deceased worker. Therefore, all income must be included. The total of $19,321 is over the $10,000 income limit.

Conclusion: **Not** Eligible

EXAMPLE 14
PTD applicant and spouse both full retirement age. Or PTD applicant disabled, less than full retirement age, spouse age 62 or more.

	INCOME	DEDUCTION ALLOWED
Applicant-Social Security	$18,000	$18,000
Applicant-Rental Income	2,400	0
Spouse-County Pension	11,000	11,000
Spouse-Social Security	6,000	0
Other Income	1,000	0
Total	$38,400	$29,000

Applicant can deduct Social Security benefit in full. Spouse can deduct income from **one** category of excludable income, i.e., either Social Security or County pension. Spouse's County pension is larger and is the most advantageous choice. A total of $29,000 can be deducted from income, leaving a balance of $9,400, which is under the $10,000 income limit.

Conclusion: Eligible

EXAMPLE 15
PTD applicant disabled, less than full retirement age; spouse age 62 or more.

	INCOME	DEDUCTION ALLOWED
Applicant-Social Security	$18,500	$18,500
Applicant-Business Income	12,000	0
Applicant-Allowable Business Expenses	(7,500)	0
Spouse-Social Security	10,452	10,452
Total	$33,452	$28,952

Applicant's Social Security benefit can be deducted in full. Applicant's business income is not deductible, but ordinary and necessary expenses of the business as allowed by the federal Internal Revenue Code and regulations can be subtracted from the business income. Spouse's Social Security is deducted in full, leaving a balance of $4,500, which is under the $10,000 income limit.
Conclusion: Eligible

<u>EXAMPLE 16</u>

PTD applicant of full retirement age.

	INCOME	**DEDUCTION ALLOWED**
Applicant Social Security	$15,500	$15,500
Applicant Rental Income	14,000	0
Applicant Allowable Rental Expenses	(15,000)	0
Applicant Private Pension	9,000	0
Other income	1,500	0
Total	$25,000 or *$26,000	$15,500

Social Security benefit deducted in full. Income total subject to Federal Internal Revenue Code, treatment of rental income and allowable expenses in excess of rental income. Disposition of the net $1,000 rental income loss is dependent on Federal Income Tax treatment.

Conclusion: Depends on review of Federal Income Tax Treatment.

If federal guidelines permit taxpayer to apply expense loss against income, the $1,000 net loss reduces the income to $25,000. After allowable deductions, a balance of $9,500 remains, which is under the $10,000 income limit, resulting in eligible status.

*If rental income is reduced to zero after deductions of ordinary and necessary expenses of the rental property, income totals $26,000. After allowable deductions, a balance of $10,500 remains, which is over the $10,000 income limit, resulting in ineligibility.