

SENATE, No. 2793

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED NOVEMBER 10, 2005

Sponsored by:

Senator ANTHONY R. BUCCO

District 25 (Morris)

SYNOPSIS

Allows the deduction of the costs of providing employee health benefits in calculating the corporation business tax alternative minimum assessment.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT allowing the deduction of the costs of providing employee
2 health benefits in calculating the corporation business tax
3 alternative minimum assessment, amending P.L.2002, c.40.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 7 of P.L.2002, c.40 (C.54:10A-5a) is amended to read
9 as follows:

10 7. a. For the purposes of this section:

11 "Affiliated group" means a group of corporations defined as an
12 affiliated group by section 1504 of the federal Internal Revenue Code
13 of 1986, 26 U.S.C. s.1504, or any successor federal law, that files a
14 consolidated federal income tax return for the privilege period
15 pursuant to sections 1501 through 1504 of the federal Internal
16 Revenue Code of 1986, 26 U.S.C. ss.1501-1504 or any successor
17 federal law.

18 "Cost of goods sold" means the cost of goods sold calculated
19 pursuant to the same method used by the taxpayer for the purpose of
20 computing its federal income tax, or other input or expenditure, as
21 determined by the director, as may be necessary to equitably measure
22 the business activity of the taxpayer, multiplied by the allocation factor
23 computed as set forth in section 6 of P.L.1945, c.162 (C.54:10A-6).

24 "Employee health care costs" means the amounts paid for employer-
25 provided coverage under an accident or health plan for employees of
26 the taxpayer and contributions that are not pursuant to a salary
27 reduction agreement that are treated as employer-provided coverage
28 for medical expenses under an accident or health plan pursuant to
29 section 106 of the federal Internal Revenue Code of 1986, 26 U.S.C.
30 s.106, multiplied by the payroll fraction computed as set forth in
31 section 6 of P.L.1945, c.162 (C.54:10A-6).

32 "Member of an affiliated group" means a taxpayer that is part of an
33 affiliated group.

34 "New Jersey gross profits" means New Jersey gross receipts
35 reduced by returns and allowances attributable to New Jersey gross
36 receipts, less the cost of goods sold.

37 "New Jersey gross receipts" means the receipts of the taxpayer for
38 the privilege period, computed on the cash or accrual basis according
39 to the method of accounting used in the computation of its net income
40 for federal tax purposes arising during the privilege period from:

41 (1) sales of its tangible personal property located within this State
42 at the time of the receipt of or appropriation to the orders where
43 shipments are made to points within this State,

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

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1 (2) sales of tangible personal property located without the State at
2 the time of the receipt of or appropriation to the orders where
3 shipment is made to points within the State,

4 (3) services performed within the State,

5 (4) rentals from property situated, and royalties from the use of
6 patents or copyrights, within the State, and

7 (5) all other business receipts earned within the State;

8 less:

9 employee health care costs .

10 b. For privilege periods beginning on or after January 1, 2002, the
11 alternative minimum assessment shall be equal to the amount
12 computed under paragraph (1) or (2) of this subsection pursuant to the
13 election made pursuant to subsection c. of this section:

14 (1)

15 If New Jersey Gross Profits Are: The Assessment Is:

16 Not more than \$1,000,000 - - - - No amount is assessed

17 More than \$1,000,000 but not
18 over \$10,000,000 - - - - - .0025 times the gross profits
in excess of \$1,000,000
multiplied by 1.11111

19 More than \$10,000,000 but not
20 over \$15,000,000 - - - - - .0035 times the gross profits

21 More than \$15,000,000 but not
22 over \$25,000,000 - - - - - .006 times the gross profits

23 More than \$25,000,000 but not
24 over \$37,500,000 - - - - - .007 times the gross profits

25 More than \$37,500,000 - - - - - .008 times the gross profits; or

26 (2)

27 If New Jersey Gross Receipts Are: The Assessment Is:

28 Not more than \$2,000,000 - - - - No amount is assessed

29 More than \$2,000,000 but not
30 over \$20,000,000 - - - - - .00125 times the gross
receipts in excess of
\$2,000,000 multiplied by
1.11111

31 More than \$20,000,000 but not
32 over \$30,000,000 - - - - - .00175 times the gross
33 receipts

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1	More than \$30,000,000 but not	
2	over \$50,000,000 - - - - -	.003 times the gross receipts
3	More than \$50,000,000 but not	
4	over \$75,000,000 - - - - -	.0035 times the gross receipts
5	More than \$75,000,000 - - - - -	.004 times the gross receipts

6 (3) The sum of the amounts untaxed for all of the members of an
7 affiliated group or a controlled group pursuant to section 1504 or
8 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504
9 or 1563, shall not exceed \$5,000,000 of gross profits, or shall not
10 exceed \$10,000,000 of gross receipts, or, for a group whose members
11 have not all elected the same computation method under this
12 subsection, shall not exceed five times the applicable amounts not
13 subject to assessment of the individual members.

14 c. A taxpayer shall, for the first privilege period for which it is
15 required to compute the alternative minimum assessment pursuant to
16 this section, elect to employ the computation method set forth in
17 paragraph (1) or the computation method set forth in paragraph (2) of
18 subsection b. of this section, which computation method shall be
19 employed by the taxpayer for the computation of the alternative
20 minimum assessment for that privilege period and for the next
21 succeeding four privilege periods, pursuant to regulations and forms
22 as the director may prescribe. The taxpayer may change its election
23 at any time after the initial five privilege periods; provided however,
24 that any change in the method of computation of the alternative
25 minimum assessment which the taxpayer elects shall be employed by
26 the taxpayer for the privilege period for which the change is effective
27 and for the next four succeeding privilege periods.

28 d. (1) Notwithstanding the provisions of subsection b. of this
29 section, the alternative minimum assessment for a taxpayer for a
30 privilege period, shall not exceed \$5,000,000.

31 (2) If five or more taxpayers are members of an affiliated group,
32 the sum of the alternative minimum assessments of each of the
33 members of the affiliated group for a privilege period shall not exceed
34 \$20,000,000. If the sum of the alternative minimum assessment for all
35 members of the affiliated group computed as set forth in subsection b.
36 after application of the maximum set by paragraph (1) of this
37 subsection would otherwise exceed \$20,000,000, the alternative
38 minimum assessment for a member of the affiliated group shall equal
39 the alternative minimum assessment for that member of the affiliated
40 group computed as set forth in subsection b. after application of the
41 maximum set by paragraph (1) of this subsection multiplied by a
42 fraction, the numerator of which is \$20,000,000 and the denominator

1 of which is the sum of the alternative minimum assessments for all
2 members of the affiliated group computed as set forth in subsection b.
3 after application of the maximum set by paragraph (1) of this
4 subsection.

5 (3) For the purpose of calculating the alternative minimum
6 assessment, the amount of the sum of the alternative minimum
7 assessments of the members of an affiliated group shall not, when
8 added to the amounts of the members' tax computed pursuant to
9 section 5 of P.L.1945, c.162 (C.54:10A-5), exceed \$20,000,000.

10 e. The alternative minimum assessment computed pursuant to this
11 section for privilege periods commencing after June 30, 2006 shall be
12 \$0.00, except that for taxpayers exempt from corporation net income
13 taxation pursuant to 15 U.S.C. s.381 et seq. (Pub.L.86-272), 73 Stat.
14 555, such assessment shall continue to be computed as otherwise
15 provided herein; provided however, that for privilege periods
16 commencing after December 31, 2006, a taxpayer exempt from
17 corporation net income taxation pursuant to 15 U.S.C. s.381 et seq.
18 that has filed a consent, in the form as shall be prescribed by the
19 director, to the jurisdiction of this State to impose and the duty of the
20 taxpayer to pay the tax imposed pursuant to section 5 of P.L.1945,
21 c.165 (C.54:10A-5) for the privilege period shall have an alternative
22 minimum assessment for that period of \$0.00.

23 f. (1) If the alternative minimum assessment for a taxpayer
24 computed pursuant to this section exceeds the tax computed pursuant
25 to section 5 of P.L.1945, c.165 (C.54:10A-5) for a privilege period,
26 the taxpayer shall be allowed an amount of credit equal to the amount
27 by which the alternative minimum assessment computed pursuant to
28 this section for the privilege period exceeds the tax computed pursuant
29 to section 5 of P.L.1945, c.165 (C.54:10A-5) for that privilege period;
30 provided however, that a taxpayer shall not be allowed a credit for any
31 amount of alternative minimum assessment for a privilege period for
32 which a credit is allowed pursuant to section 29 of P.L.2002, c.40
33 (C.54:10A-5b). The amount of credit may be carried forward for
34 application in subsequent privilege periods subject to the limitations of
35 paragraph (2) of this subsection.

36 (2) A taxpayer may apply all or a portion of the credits allowed by
37 paragraph (1) of this subsection against the tax computed pursuant to
38 section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period for
39 which the tax pursuant to that section exceeds the alternative minimum
40 assessment computed for the privilege period pursuant to this section;
41 provided however, that the amount of credit applied shall not reduce
42 the amount of tax otherwise due to less than the alternative minimum
43 assessment as computed pursuant to this section for the privilege
44 period, shall not reduce the amount of tax otherwise due by more than
45 50%, and shall not reduce the amount of tax otherwise due below the

1 statutory minimum provided in subsection (e) of section 5 of
2 P.L.1945, c.162 (C.54:10A-5).
3 (cf: P.L.2002, c.40, s.7)

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5 2. This act shall take effect immediately and apply to amounts paid
6 in privilege periods ending after enactment.

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STATEMENT

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11 This bill allows the deduction of the costs of providing employee
12 health benefits in calculating the corporation business tax alternative
13 minimum assessment.

14 The Business Tax Reform Act, P.L.2002, c.40, provided, among
15 other things, for an alternative minimum assessment (AMA) under the
16 corporation business tax. The AMA measures a corporation's New
17 Jersey business activity on the basis of its receipts, and computes an
18 alternative liability without regard to whether the corporation is
19 profitable or has taxable income.

20 Companies assess their AMA liability with a formula that uses, at
21 the taxpayer's choice, either allocated gross receipts or allocated gross
22 profits as a determining factor. "Gross receipts" are the total of all
23 business receipts earned in New Jersey and "gross profits" are the
24 gross receipts minus the cost of goods sold.

25 This bill allows taxpayers to deduct the costs attributable to
26 coverage of their New Jersey employees under an accident or health
27 plan from their gross receipts or gross profits.