

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4202

STATE OF NEW JERSEY

DATED: JUNE 18, 2018

The Assembly Budget Committee reports favorably Assembly Bill No. 4202.

This bill imposes a surtax on allocated entire net income for the privilege period ending in 2018 and the next following privilege period, decouples certain provisions of the corporation business tax from the Internal Revenue Code, and imposes a tax on certain dividends.

Surtax on Business Income Exceeding \$1 Million

This bill imposes a surtax of 2.5 percent against a taxpayer, which has entire net income in excess of \$1 million but less than \$25 million, and of four percent against a taxpayer, which has entire net income of \$25 million or more. The surtax applies to the privilege period ending after on or after January 1, 2018 and the next following privilege period.

This bill imposes the surtax on the allocated entire net income of a taxpayer. The bill disallows the application of the various business incentive credits against the surtax, but allows application of credits for installment payments, estimated payments made with a request for an extension of time for filing a return, or overpayments from prior privilege periods. The surtax imposed by this bill does not apply to public utilities.

Decoupling from Internal Revenue Code

The federal Tax Cuts and Jobs Act (Pub.L.115-97), signed into law December 22, 2017, enacted a number of changes to the federal Internal Revenue Code. This bill disallows the deduction taken for federal purposes against income reported pursuant to federal Internal Revenue Code section 965. That section establishes the repatriation transition tax at a substantially lower rate for federal purposes. This bill further prescribes a method to apply the federal interest deduction limitation in section 163(j) of the federal Internal Revenue Code. Additionally, the bill decouples the corporation business tax and the gross income tax from section 199A of the federal Internal Revenue Code. Section 199A allows taxpayers other than corporations a

deduction of 20 percent of qualified business income earned in a qualified trade or business, subject to certain limitations.

Taxation of Dividends

The bill reduces the dividend exclusion amount for taxpayers receiving dividends from an 80 percent or greater owned subsidiary, from 100 percent to 95 percent.

Lastly, this bill imposes a special tax on dividends and deemed dividend distributions that either a corporation business tax filer or an insurance company licensed to insure risks in New Jersey receives from subsidiaries if the total aggregate amount of dividend and deemed dividend distributions received is greater than \$1,000,000 for tax years beginning on or after January 1, 2017 and ending before December 31, 2018. The dividends will be taxed at the rate of 9% and the tax must be paid on or before May 15, 2019.

FISCAL IMPACT:

The Office of Legislative Services (OLS) cannot quantify certain provisions of this bill due to the absence of relevant data. However, the OLS projects that imposing a surtax of two-and-a-half percent against a taxpayer which has entire net income in excess of \$1 million but less than \$25 million, and of four percent against a taxpayer which has entire net income of \$25 million or more could generate revenues up to \$800 million in each of the two tax years in which the surtax will be in effect. The attainment of the estimated \$800 million maximum is predicated on the assumption that current overall economic conditions will largely continue and that higher taxpayer liabilities will not accelerate the application of unused taxpayer overpayments from prior tax years. Further, the OLS notes that actual revenues may be lower than predicted due to impacts related to taxpayer behavior, such as delaying the realization of income, intended to avoid the imposition of a higher tax rate during the two tax years for which the surtax is in effect.