ASSEMBLY, No. 470

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:
Assemblyman VINCENT PRIETO
District 32 (Bergen and Hudson)
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)
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District 36 (Bergen and Passaic)
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District 34 (Essex and Passaic)

Co-Sponsored by:
Assemblywoman Jimenez

SYNOPSIS
Adjusts certain State taxes to support strengthened investments in public, private, and charitable assets in this State.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 2/13/2018)
AN ACT adjusting certain State taxes to support strengthened investments in public, private, and charitable assets in this State, amending and supplementing various parts of the statutory law pertaining to taxes of this State.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.54:38-1 is amended to read as follows:

54:38-1. a. In addition to the inheritance, succession or legacy taxes imposed by this State under authority of chapters 33 to 36 of this title (R.S.54:33-1 et seq.), or hereafter imposed under authority of any subsequent enactment, there is hereby imposed an estate or transfer tax:

(1) Upon the transfer of the estate of every resident decedent dying before January 1, 2002 which is subject to an estate tax payable to the United States under the provisions of the federal revenue act of one thousand nine hundred and twenty-six and the amendments thereof and supplements thereto or any other federal revenue act in effect as of the date of death of the decedent, the amount of which tax shall be the sum by which the maximum credit allowable against any federal estate tax payable to the United States under any federal revenue act on account of taxes paid to any state or territory of the United States or the District of Columbia, shall exceed the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; and

(2) (a) Upon the transfer of the estate of every resident decedent dying after December 31, 2001, but after December 31, 2016, which would have been subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the amount of which tax shall be, at the election of the person or corporation liable for the payment of the tax under this chapter, either

(i) the maximum credit that would have been allowable under the provisions of that federal Internal Revenue Code in effect on that date against the federal estate tax that would have been payable under the provisions of that federal Internal Revenue Code in effect on that date on account of taxes paid to any state or territory of the United States or the District of Columbia, or

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

Matter underlined thus is new matter.
(ii) determined pursuant to the simplified tax system as may be prescribed by the Director of the Division of Taxation in the Department of the Treasury to produce a liability similar to the liability determined pursuant to clause (i) of this paragraph reduced pursuant to paragraph (b) of this subsection.

(b) The amount of tax liability determined pursuant to subparagraph (a) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia, including inheritance, succession or legacy taxes actually paid this State, in respect to any property owned by such decedent or subject to such taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estate's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

(3) (a) Upon the transfer of the estate of each resident decedent dying on or after January 1, 2017, but before January 1, 2020, whether or not subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code (26 U.S.C. s.1 et seq.), the amount of the taxable estate, determined pursuant to section 2051 of the federal Internal Revenue Code (26 U.S.C. s.2051), shall be subject to tax pursuant to the following schedule:

<table>
<thead>
<tr>
<th>Amount up to</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100,000</td>
<td>0.0%</td>
</tr>
<tr>
<td>$100,000 to $150,000</td>
<td>0.8% of the excess over $100,000</td>
</tr>
<tr>
<td>$150,000 to $200,000</td>
<td>$400 plus 1.6% of the excess over $150,000</td>
</tr>
<tr>
<td>$200,000 to $300,000</td>
<td>$1,200 plus 2.4% of the excess over $200,000</td>
</tr>
<tr>
<td>$300,000 to $500,000</td>
<td>$3,600 plus 3.2% of the excess over $300,000</td>
</tr>
<tr>
<td>$500,000 to $700,000</td>
<td>$10,000 plus 4.0% of the excess over $500,000</td>
</tr>
</tbody>
</table>
On any amount in excess of $700,000, up to $900,000: $18,000 plus 4.8% of the excess over $700,000

On any amount in excess of $900,000, up to $1,100,000: $27,600 plus 5.6% of the excess over $900,000

On any amount in excess of $1,100,000, up to $1,600,000: $38,800 plus 6.4% of the excess over $1,100,000

On any amount in excess of $1,600,000, up to $2,100,000: $70,800 plus 7.2% of the excess over $1,600,000

On any amount in excess of $2,100,000, up to $2,600,000: $106,800 plus 8.0% of the excess over $2,100,000

On any amount in excess of $2,600,000, up to $3,100,000: $146,800 plus 8.8% of the excess over $2,600,000

On any amount in excess of $3,100,000, up to $3,600,000: $190,800 plus 9.6% of the excess over $3,100,000

On any amount in excess of $3,600,000, up to $4,100,000: $238,800 plus 10.4% of the excess over $3,600,000

On any amount in excess of $4,100,000, up to $5,100,000: $290,800 plus 11.2% of the excess over $4,100,000

On any amount in excess of $5,100,000, up to $6,100,000: $402,800 plus 12.0% of the excess over $5,100,000

On any amount in excess of $6,100,000, up to $7,100,000: $522,800 plus 12.8% of the excess over $6,100,000

On any amount in excess of $7,100,000, up to $8,100,000: $650,800 plus 13.6% of the excess over $7,100,000

On any amount in excess of $8,100,000, up to $9,100,000: $786,800 plus 14.4% of the excess over $8,100,000
On any amount in excess of $9,100,000, up to $10,100,000 .... $930,800 plus 15.2% of the excess over $9,100,000

On any amount in excess of $10,100,000, .................... $1,082,800 plus 16.0% of the excess over $10,100,000

(b) A credit shall be allowed against the tax imposed pursuant to paragraph (a) of this paragraph equal to the amount of tax which would be determined by subparagraph (a) of this paragraph if the amount of the taxable estate were equal to the exclusion amount.

For the transfer of the estate of each resident decedent dying on or after January 1, 2017, but before January 1, 2018, the exclusion amount is $1,000,000.

For the transfer of the estate of each resident decedent dying on or after January 1, 2018, but before January 1, 2019, the exclusion amount is $2,000,000.

For the transfer of the estate of each resident decedent dying on or after January 1, 2019, but before January 1, 2020, the exclusion amount is $3,000,000.

(c) The amount of tax liability of a resident decedent determined pursuant to subparagraphs (a) and (b) of this paragraph shall be reduced by the aggregate amount of all estate, inheritance, succession or legacy taxes actually paid to any state of the United States, including inheritance taxes actually paid this State, in respect to any property owned by that decedent or subject to those taxes as a part of or in connection with the estate; provided however, that the amount of the reduction shall not exceed the proportion of the tax otherwise due under this subsection that the amount of the estate's property subject to tax by other jurisdictions bears to the entire estate taxable under this chapter.

(4) For the transfer of the estate of each resident decedent dying on or after January 1, 2020, there shall be no tax imposed.

(5) Upon the transfer of the real or tangible personal property within New Jersey of each nonresident decedent dying on or after January 1, 2017, but before January 1, 2020, which tax shall bear the same ratio to the entire tax which that estate would have been subject to pursuant to subparagraphs (a) and (b) of paragraph (3) of this subsection if that nonresident decedent had been a resident of this State, and all of the decedent's property, real and personal, had been located within this State, as the taxable property within this State bears to the entire estate, wherever situated.

b. (1) In the case of the estate of a decedent dying before January 1, 2002 where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, but an estate tax is due the United States under the provisions of any federal revenue act in effect as of the date of
death, wherein provision is made for a credit on account of taxes paid the several states or territories of the United States, or the District of Columbia, the tax imposed by this chapter shall be the maximum amount of such credit less the aggregate amount of such estate, inheritance, succession or legacy taxes actually paid to any state or territory of the United States or the District of Columbia.

(2) In the case of the estate of a decedent dying after December 31, 2001, but before December 31, 2016, where no inheritance, succession or legacy tax is due this State under the provisions of chapters 33 to 36 of this title or under authority of any subsequent enactment imposing taxes of a similar nature, the tax imposed by this chapter shall be determined pursuant to paragraph (2) of subsection a. of this section.

(3) In the case of the estate of a decedent dying on or after January 1, 2017 the tax imposed by this chapter shall be determined pursuant to paragraphs (3), (4), and (5) of subsection a. of this section.

c. For the purposes of this section, a "simplified tax system" to produce a liability similar to the liability determined pursuant to clause (i) of subparagraph (a) of paragraph (2) of subsection a. of this section is a tax system that is based upon the $675,000 unified estate and gift tax applicable exclusion amount in effect under the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, and results in general in the determination of a similar amount of tax but which will enable the person or corporation liable for the payment of the tax to calculate an amount of tax notwithstanding the lack or paucity of information for compliance due to such factors as the absence of an estate valuation made for federal estate tax purposes, the absence of a measure of the impact of gifts made during the lifetime of the decedent in the absence of federal gift tax information, and any other information compliance problems as the director determines are the result of the phased repeal of the federal estate tax.

(cf: P.L.2002, c.31, s.1)

2. N.J.S.54A:6-10 is amended to read as follows:


a. Gross income shall not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract as of the annuity starting date bears to the expected return under the contract as of such date. Where (1) part of the consideration for an annuity, endowment, or life insurance contract is contributed by the employer, and (2) during the three-year period beginning on the date on which an amount is first received under the contract as an annuity, the aggregate amount receivable by the employee under the terms of the contract is equal to or greater than the consideration for the contract contributed by
the employee, then all amounts received as an annuity under the contract shall be excluded from gross income until there has been so excluded an amount equal to the consideration for the contract contributed by the employee.

b. (1) In addition to that part of any amount received as an annuity which is excludable from gross income as herein provided, gross income shall not include payments:

for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for the taxable year beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2003, but before January 1, 2017, of up to $20,000 for a married couple filing jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2017, but before January 1, 2018, of up to $40,000 for a married couple filing jointly, $20,000 for a married person filing separately, or $30,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2018, but before January 1, 2019, gross income shall not include income of up to $60,000 for a married couple filing jointly, $30,000 for a married person filing separately, or $50,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;

for taxable years beginning on or after January 1, 2019, but before January 1, 2020, of up to $80,000 for a married couple filing jointly, $40,000 for a married person filing separately, or $60,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2020, of up to $100,000 for a married couple filing jointly, $50,000 for a married person filing separately, or $75,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1, which are received as an annuity, endowment or life insurance contract, or payments of any such amounts which are received as pension, disability, or retirement benefits, under any public or private plan, whether the consideration therefor is contributed by the employee or employer or both, by any person who is 62 years of age or older or who, by virtue of disability, is or would be eligible to receive payments under the federal Social Security Act [but for],

(2) For taxable years beginning on or after January 1, 2005, but before January 1, 2021, the exclusion provided by this subsection shall only be allowed if the taxpayer has gross income for the taxable year of not more than $100,000; for taxable years beginning on or after January 1, 2021, if the taxpayer has gross income for the taxable year of not more than $100,000 the exclusion provided by this subsection shall be fully allowed, if the taxpayer has gross income for the taxable year in excess of $100,000 but not more than $125,000 then the taxpayer may exclude 50 percent of the amount otherwise allowed, and if the taxpayer has gross income for the taxable year in excess of $125,000 but not more than $150,000 then the taxpayer may exclude 25 percent of the amount otherwise allowed.

c. Gross income shall not include any amount received under any public or private plan by reason of a permanent and total disability.

d. Gross income shall not include distributions from an employees' trust described in section 401(a) of the Internal Revenue Code of 1986, as amended (hereinafter referred to as "the Code"), which is exempt from tax under section 501(a) of the Code if the distribution, except the portion representing the employees' contributions, is rolled over in accordance with section 402(a)(5) or section 403(a)(4) of the Code. The distribution shall be paid in one or more installments which constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without reference to subsection (e)(4)(B)), or be on account of a termination of a plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan.

(cf: P.L.2005, c.130, s.1)

3. Section 3 of P.L.1977, c.273 (C.54A:6-15) is amended to read as follows:

3. Other retirement income. a. (1) Gross income shall not include income:
for taxable years beginning before January 1, 2000, of up to $10,000 for a married couple filing jointly, $5,000 for a married person filing separately, or $7,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for the taxable year beginning on or after January 1, 2000, but before January 1, 2001, of up to $12,500 for a married couple filing jointly, $6,250 for a married person filing separately, or $9,375 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for the taxable year beginning on or after January 1, 2001, but before January 1, 2002, of up to $15,000 for a married couple filing jointly, $7,500 for a married person filing separately, or $11,250 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2002, but before January 1, 2003, of up to $17,500 for a married couple filing jointly, $8,750 for a married person filing separately, or $13,125 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2003, but before January 1, 2004, gross income shall not include income of up to $20,000 for a married couple filing jointly, $10,000 for a married person filing separately, or $15,000 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2004, but before January 1, 2005, gross income shall not include income of up to $25,000 for a married couple filing jointly, $12,500 for a married person filing separately, or $18,750 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
for taxable years beginning on or after January 1, 2005, but before January 1, 2006, gross income shall not include income of up to $30,000 for a married couple filing jointly, $15,000 for a married person filing separately, or $22,500 for an individual filing as a single taxpayer or an individual determining tax pursuant to subsection a. of N.J.S.54A:2-1;
individual determining tax pursuant to subsection a. of N.J.S.54A:2-
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when received in any tax year by a person aged 62 years or older
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who received no income in excess of $3,000 from one or more of
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the sources enumerated in subsections a., b., k. and p. of
4
N.J.S.54A:5-1 [l, but for] 5
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(2) For taxable years beginning on or after January 1, 2005, but
7
before January 1, 2021, the exclusion provided by this subsection
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shall only be allowed if the taxpayer has gross income for the
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taxable year of not more than $100,000 [l, provided, however, that
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the] 11
for taxable years beginning on or after January 1, 2021, if the
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taxpayer has gross income for the taxable year of not more than
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$100,000 the exclusion provided by this subsection shall be fully
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allowed, if the taxpayer has gross income for the taxable year in
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excess of $100,000 but not more than $125,000 then the taxpayer
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may exclude 50 percent of the amount otherwise allowed, and if the
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taxpayer has gross income for the taxable year in excess of
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$125,000 but not more than $150,000 then the taxpayer may
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exclude 25 percent of the amount otherwise allowed.
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(3) The total exclusion under this subsection and that allowable
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under N.J.S.54A:6-10 shall not exceed the amounts of the
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exclusions set forth in this subsection.
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b. In addition to the exclusion provided under N.J.S.54A:6-10
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and subsection a. of this section, gross income shall not include
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income of up to $6,000 for a married couple filing jointly or an
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individual determining tax pursuant to subsection a. of N.J.S.54A:2-
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1, or $3,000 for a single person or a married person filing
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separately, who is not covered under N.J.S.54A:6-2 or N.J.S.54A:6-
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3, but who would be eligible in any year to receive payments under
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either section if he or she were covered thereby.
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(cf: P.L.2005, c.130, s.2)
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4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read
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as follows:
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2. There is established the New Jersey Earned Income Tax
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Credit program in the Division of Taxation in the Department of the
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Treasury.
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a. (1) A resident individual who is eligible for a credit under
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section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
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s.32) shall be allowed a credit for the taxable year equal to a
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percentage, as provided in paragraph (2) of this subsection, of the
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federal earned income tax credit that would be allowed to the
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individual or the married individuals filing a joint return under
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section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
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s.32) for the same taxable year for which a credit is claimed
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pursuant to this section, subject to the restrictions of this subsection
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and subsections b., c., d. and e. of this section.
For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

(a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;
(b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;
(c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003;
(d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;
(e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009;
(f) 25% for taxable years beginning on or after January 1, 2009 but before January 1, 2010;
(g) 20% for taxable years beginning on or after January 1, 2010, but before January 1, 2015; [and]
(h) 30% for taxable years beginning on or after January 1, 2015, but before January 1, 2016; and
(i) 40% for taxable years beginning on or after January 1, 2016.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant’s residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall [have discretion to] establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance
or the amount or extent of benefits or assistance under any State
program and, to the extent permitted by federal law, under any State
program financed in whole or in part with federal funds.
(cf: P.L.2015, c.73, s.1)

5. (New section) a. A taxpayer shall be allowed to deduct
from gross income the amount of charitable contributions of money
made to a qualified charitable agency or a qualified charitable fund-
raising organization in the taxable year equal to the amount that is
allowed as a deduction from federal adjusted gross income for the
federal taxable year pursuant to section 170 of the federal Internal
Revenue Code (26 U.S.C. s.170) or the amount that the taxpayer
would have been allowed to deduct from federal adjusted gross
income for the federal taxable year pursuant to section 170 of the
federal Internal Revenue Code (26 U.S.C. s.170) if the taxpayer had
claimed that deduction on that taxpayer’s federal income tax return.
Provided however, that the taxpayer shall not be allowed to deduct
from gross income an amount in excess of 50 percent of the
taxpayer’s gross income for the taxable year, determined before any
other adjustments on account of other deductions, exclusions, or
credits.

b. For the purposes of this section:
“qualified charitable agency” means an agency that is a
volunteer, not-for-profit organization that primarily provides health,
welfare, or human care services to individuals in New Jersey that
has been determined to meet the eligibility criteria pursuant to
section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a
charitable fund raising campaign pursuant to the “Public Employee
Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et
seq.), and the regulations as may be applicable thereunder, for the
taxable year, provided however, that “qualified charitable agency”
shall not include an agency that is primarily affiliated with an
institution of higher education that is exempt from the registration
requirements of subsection b. of section 9 of P.L.1994, c.16
(C.45:17A-26); and

“qualified charitable fund-raising organization” means a
voluntary not-for-profit organization that receives voluntary
charitable contributions and distributes those contributions
primarily to qualified charitable agencies, and that has been
determined to meet the eligibility criteria pursuant to section 7 of
P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund
raising campaign pursuant to the “Public Employee Charitable
Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and
the regulations as may be applicable thereunder, for the taxable
year, provided however, that “qualified charitable organization”
shall not include an organization that is primarily affiliated with an
institution of higher education that is exempt from the registration
requirements of subsection b. of section 9 of P.L.1994, c.16 (C.45:17A-26).

c. The director shall provide each taxpayer with an opportunity to claim the taxpayer's deduction amount on the taxpayer’s tax return, which may include on the return the amounts of charitable contributions claimed and indicated by numerical designation coding for each qualified charitable agency and qualified charitable fund-raising organization as are limited and defined pursuant to the provisions of this section and as also may be available pursuant to the “Public Employee Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), the regulations as may be applicable thereunder, and the advice of the council established pursuant to subsection d. of this section, for the taxable year. The director shall make available on a taxpayer accessible searchable website on or before January 1 of a taxable year, only the relevant portions of the annual New Jersey employee charitable campaign resources and reference guide code book prepared pursuant to P.L.1985, c.140 (C.52:14-15.9c1 et seq.) that the director shall determine, with the advice of the council established pursuant to subsection d. of this section, are applicable in the administration of this section, and the regulations as may be applicable thereunder, provided however, that no costs of administering this section shall be allowed as costs subject to section 12 of P.L.1985, c.140 (C.52:14-15.9c12).

d. There is established in the Department of the Treasury the “Charity Advisory Council” which shall consist of eight members, four of whom shall be the Commissioner Human Services, the Commissioner of Children and Families, the Commissioner of Health and the Commissioner of Community Affairs, or their designees, and four public members who shall be individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey. Of the four public members, one shall be appointed by the Senate President, one shall be appointed by the Speaker of the General Assembly, one shall be appointed by the Senate Minority Leader, and one shall be appointed by the Assembly Minority Leader. The public members shall serve for terms of three years. Vacancies among the public members shall be filled in the same manner as the original appointments were made.

The council shall organize upon appointment of a quorum and shall meet regularly as it may determine, and shall also meet at the call of the director.

The council shall appoint a chairperson from among its members.

Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.
The council shall annually advise the director on the qualified charitable agencies and the qualified charitable fund-raising organizations that conform to the criteria of subsection b. of this section. The advisory council may consult with the State charitable fund-raising campaign steering committee established pursuant to section 4 of P.L. 1985, c. 140 (C.52:14-15.9c4) for any assistance in the administration of this section as the director deems necessary.

6. Section 2 of P.L.1990, c. 42 (C.54:15B-2) is amended to read as follows:

   2. For the purposes of this act:
   "Aviation fuel" means aviation gasoline or aviation grade kerosene or any other fuel that is used in aircraft.
   "Aviation gasoline" means fuel specifically compounded for use in reciprocating aircraft engines.
   "Aviation grade kerosene" means any kerosene type jet fuel covered by ASTM Specification D 1655 or meeting specification MIL-DTL-5624T (Grade JP-5) or MIL-DTL-83133E (Grade JP-8).
   "Blended fuel" means a mixture composed of gasoline, diesel fuel, kerosene or blended fuel and another liquid, including blend stock other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. "Blended fuel" includes but is not limited to gasohol, biobased liquid fuel, biodiesel fuel, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends.
   "Company" includes a corporation, partnership, limited partnership, limited liability company, association, individual, or any fiduciary thereof.
   "Diesel fuel" means a liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" includes biobased liquid fuel, biodiesel fuel, and number 1 and number 2 diesel.
   "Director" means the Director of the Division of Taxation in the Department of the Treasury.
   "First sale of petroleum products within this State" means the initial sale of a petroleum product delivered to a location in this State. A "first sale of petroleum products within this State" does not include a book or exchange transfer of petroleum products if such products are intended to be sold in the ordinary course of business.
   "Gasoline" means all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. “Gasoline” does not include products that have an ASTM octane number of less than 75 as determined by the "motor method."
ASTM D2700-92. The term does not include racing gasoline or aviation gasoline, but for administrative purposes does include fuel grade alcohol.

"Gross receipts" means all consideration derived from the first sale of petroleum products within this State except sales of:

a. asphalt;

b. petroleum products sold pursuant to a written contract extending one year or longer to nonprofit entities qualifying under subsection (b) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10);

c. petroleum products sold to governmental entities qualifying under subsection (a) of section 9 of P.L.1966, c.30 (C.54:32B-9) as evidenced by an invoice in form prescribed by subsection b. of section 3 of P.L.1991, c.19 (C.54:15B-10); and
d. polymer grade propylene used in the manufacture of polypropylene.

"Highway fuel" means gasoline, blended fuel that contains gasoline or is intended for use as gasoline, liquefied petroleum gas, and diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene.

"Kerosene" means the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of 149 to 300 degrees Celsius.

"Petroleum products" means refined products made from crude petroleum and its fractionation products, through straight distillation of crude oil or through redistillation of unfinished derivatives, but shall not mean the products commonly known as number 2 heating oil, number 4 heating oil, number 6 heating oil, kerosene and propane gas to be used exclusively for residential use.

"Quarterly period" means a period of three calendar months commencing on the first day of January, April, July or October and ending on the last day of March, June, September or December, respectively.

["Retail gasoline price survey" means a Statewide representative random sample of retail gasoline prices conducted by the Board of Public Utilities, Office of the Economist, or its successor, that shall be completed for the month of November and May of each year.]

"Retail price per gallon" means the price [posted by gasoline charged by retailers in the State for [unleaded regular gasoline] a gallon of the petroleum product dispensed into the fuel tanks of motor vehicles without State or federal tax included.

"Unleaded regular gasoline" means gasoline of the octane rating equal to the lowest octane rated gasoline offered for sale at a majority of the gasoline retailers in the State.

(cf: P.L.1991, c.181, s.1)
7. Section 7 of P.L.1991, c.181 (C.54:15B-2.1) is amended to read as follows:

7. a. "Gross receipts," as otherwise defined by section 2 of P.L.1990, c.42 (C.54:15B-2), shall not include receipts from sales of petroleum products used by marine vessels engaged in interstate or foreign commerce and sales of aviation fuels used by common carriers in interstate or foreign commerce other than the "burnout" portion which shall be taxable pursuant to rules promulgated by the director.

b. Motor fuel used for the following purposes is exempt from the tax imposed by section 3 of P.L.1990, c.42 (C.54:15B-3), and a refund of the tax imposed by that section may be claimed by the consumer providing proof the tax has been paid and no refund has been previously issued:

(1) autobuses while being operated over the highways of this State in those municipalities to which the operator has paid a monthly franchise tax for the use of the streets therein under the provisions of R.S.48:16-25 and autobuses while being operated over the highways of this State in a regular route bus operation as defined in R.S.48:4-1 and under operating authority conferred pursuant to R.S.48:4-3, or while providing bus service under a contract with the New Jersey Transit Corporation or under a contract with a county for special or rural transportation bus service subject to the jurisdiction of the New Jersey Transit Corporation pursuant to P.L.1979, c.150 (C.27:25-1 et seq.), and autobuses providing commuter bus service which receive or discharge passengers in New Jersey. For the purpose of this paragraph "commuter bus service" means regularly scheduled passenger service provided by motor vehicles whether within or across the geographical boundaries of New Jersey and utilized by passengers using reduced fare, multiple ride, or commutation tickets and shall not include charter bus operations for the transportation of enrolled children and adults referred to in subsection c. of R.S.48:4-1 and "regular route service" does not mean a regular route in the nature of special bus operation or a casino bus operation;

(2) agricultural tractors not operated on a public highway;
(3) farm machinery;
(4) ambulances;
(5) rural free delivery carriers in the dispatch of their official business;
(6) vehicles that run only on rails or tracks, and such vehicles as run in substitution therefor;
(7) highway motor vehicles that are operated exclusively on private property;
(8) motor boats or motor vessels used exclusively for or in the propagation, planting, preservation and gathering of oysters and clams in the tidal waters of this State;
motor boats or motor vessels used exclusively for commercial fishing;

motor boats or motor vessels, while being used for hire for fishing parties or being used for sightseeing or excursion parties;

fire engines and fire-fighting apparatus;

stationary machinery and vehicles or implements not designed for the use of transporting persons or property on the public highways;

heating and lighting devices;

motor boats or motor vessels used exclusively for Sea Scout training by a duly chartered unit of the Boy Scouts of America; and

emergency vehicles used exclusively by volunteer first-aid or rescue squads.

(cf: P.L.1991, c.181, s.7)

8. Section 3 of P.L.1990, c.42 (C.54:15B-3) is amended to read as follows:

3. a. (1) (a) There is imposed on each company which is engaged in the refining or distribution, or both, of petroleum products other than highway fuel and which distributes such products in this State a tax at the rate of [two and three-quarters percent (2 3/4%)] seven percent of its gross receipts derived from the first sale of petroleum products within this State and there is imposed on each company which is engaged in the refining or distribution, or both, of highway fuel a tax at the rate of 12.5 percent, as adjusted pursuant to subsection c. of this section, of its gross receipts derived from the first sale of those products within this State. [; provided however, that the]

(b) The applicable tax rate for [fuel oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1 et seq.] gasoline, blended fuel that contains gasoline or is intended for use as gasoline, and liquefied petroleum gas, which are taxed as a highway fuel pursuant to subparagraph (a) of this paragraph, shall be converted to a cents-per-gallon rate, rounded to the nearest tenth of a cent, [that shall be calculated by the use of] and adjusted quarterly by the director, effective on July 1, October 1, January 1, and April 1, based on the average retail price per gallon of unleaded regular gasoline [in December 1990.] in the State, as determined in [a] the most recent survey of the retail price per gallon of gasoline [prices] that [included] includes a Statewide representative random sample conducted [in December 1990 for that month] by the Board of Public Utilities, Office of the Economist, [and shall be effective for the tax due for months ending after that date; and] or its successor.

(c) The cents-per-gallon rate determined pursuant to subparagraph (b) of this paragraph shall not be less than the rate determined for the quarter beginning July 1, 2016.
(d) The applicable tax rate for diesel fuel, blended fuel that
contains diesel fuel or is intended for use as diesel fuel, and
kerosene, other than aviation grade kerosene, which are taxed as a
highway fuel pursuant to subparagraph (a) of this paragraph, shall
be converted to a cents-per-gallon rate, rounded to the nearest tenth
of a cent, and adjusted quarterly by the director, effective on July 1,
October 1, January 1, and April 1, based on the average retail price
per gallon of number 2 diesel in the State, as determined in the most
recent survey of retail diesel fuel prices that includes a Statewide
representative random sample conducted by the Board of Public
Utilities, Office of the Economist, or its successor.

Notwithstanding the provisions of subparagraph (a) of this
paragraph to the contrary, for the period from July 1, 2016 through
December 31, 2016, no rate of tax shall be applied to diesel fuel,
blended fuel that contains diesel fuel or is intended for use as diesel
fuel, or kerosene, other than aviation grade kerosene; for the period
from January 1, 2017 through June 30, 2017, the applicable rate for
those fuels shall be 70 percent of the rate otherwise determined
pursuant to subparagraph (a) of this paragraph, and for July 1, 2017
and thereafter the applicable rate for those fuels determined
pursuant to subparagraph (a) of this paragraph.

(e) The cents-per-gallon rate determined pursuant to
subparagraph (d) of this paragraph shall not be less than the rate
determined for the quarter beginning July 1, 2016.

(f) The applicable tax rate for aviation fuel, determined
pursuant to subparagraph (a) of this paragraph shall be converted to
a cents-per-gallon rate, rounded to the nearest tenth of a cent, based
on the average price per gallon, without State or federal tax
included, of aviation grade kerosene in the State, effective July 1,
2016, as determined in the most recent survey of aviation grade
kerosene prices paid by commercial consumers that includes a
Statewide representative random sample conducted by the Board of
Public Utilities, Office of the Economist, or its successor.

(g) The cents per gallon rate for aviation fuel shall be adjusted
annually by the director, effective on January 1, based on the
average price per gallon, without State or federal tax included, of
aviation grade kerosene in the State, as determined in the most
recent survey of aviation grade kerosene prices paid by commercial
consumers that includes a Statewide representative random sample
conducted by the Board of Public Utilities, Office of the Economist,
or its successor; provided however, that the adjusted rate shall not
increase above or decrease below the rate in effect on the
immediately preceding December 31 by more than five percent.

(h) The applicable tax rate for fuel oil determined pursuant to
subparagraph (a) of this paragraph shall be converted to a cents-per-
gallon rate, rounded to the nearest tenth of a cent, and adjusted
quarterly by the director, effective on July 1, October 1, January 1,
and April 1, to reflect the average price per gallon, without State or
federal tax included, of retail sales of number 2 fuel oil in the State, as determined in the most recent survey of retail diesel fuel prices that included a Statewide representative random sample conducted by the Board of Public Utilities, Office of the Economist, or its successor.

(i) The cents-per-gallon rate determined pursuant to subparagraph (h) of this paragraph shall not be less than the rate determined for the quarter beginning July 1, 2016.

(ii) On and after the 10th day following a certification by the review council pursuant to subsection c. of section 13 of P.L. [C.] (pending before the Legislature as this bill), no tax shall be imposed pursuant to this paragraph.

(b) In addition to the tax, if any, imposed by paragraph (1) of this subsection, a cents-per-gallon tax is imposed on each company’s gross receipts derived from the first sale of petroleum products within this State on gasoline, blended fuel that contains gasoline or that is intended for use as gasoline, and liquefied petroleum gas at the rate of four cents per gallon; and

(b) In addition to the tax, if any, imposed by paragraph (1) of this subsection, a cents-per-gallon tax is imposed on each company’s gross receipts derived from the first sale of petroleum products within this State on diesel fuel, blended fuel that contains diesel fuel or is intended for use as diesel fuel, and kerosene, other than aviation grade kerosene, at the rate of four cents per gallon before July 1, 2017 and at the rate of eight cents per gallon on and after July 1, 2017.

(b) There is imposed on each company that imports or causes to be imported, other than by a company subject to and having paid the tax on those imported petroleum products that have generated gross receipts taxable under subsection a. of this section, petroleum products for use or consumption by it within this State an additional tax at the rate [of two and three-quarters percent (2 3/4%) or rates of] of the consideration given or contracted to be given and the gallonage, determined pursuant to subsection a. of this section, for such petroleum products if the consideration given or contracted to be given for all such deliveries made during a quarterly period exceeds $5,000; provided however, that the applicable tax rate for fuel oils, aviation fuels and motor fuels subject to tax under R.S.54:39-1 et seq. shall be converted to a cents per gallon rate, rounded to the nearest cent, that shall be calculated by the use of the average retail price per gallon of unleaded regular gasoline in December 1990, as determined in a survey of retail gasoline prices that included a Statewide representative random sample conducted in December 1990 for that month by the Board of Public Utilities, Office of the Economist, and shall be effective for the tax due for months ending after that date.

(c. (1) For State fiscal years 2018 through 2026, the rate of tax imposed on highway fuel pursuant to subsection a. of this section
shall be adjusted annually so that the total revenue derived from highway fuel shall not exceed the highway fuel cap amount.

(2) The State Treasurer shall, on or before December 31, 2016, determine the highway fuel cap amount as the sum of:
   (a) the taxes collected for State Fiscal Year 2016 pursuant to paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103),
   (b) the amount derived from taxing the gallonage of highway fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of four cents per gallon, and
   (c) the amount that would have been derived from taxing the gallonage of highway fuel subject to motor fuel tax in State Fiscal Year 2016 at the rate of 23 cents per gallon.

(3) On or before August 15 of each State Fiscal Year following State Fiscal Year 2017, the State Treasurer and the Legislative Budget and Finance Officer shall determine the total revenue derived from:
   (a) the taxes collected for the prior State Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103),
   (b) the revenue that would be derived from imposing the tax pursuant to paragraph (2) of subsection a. of this section at the rate of four cents per gallon, and
   (c) the revenue derived from the taxation of highway fuel pursuant to paragraph (1) of subsection a. of this section.

(4) Upon consideration of the result of the determination pursuant to paragraph (3) of this subsection, and consultation with the Legislative Budget and Finance Officer, the State Treasurer shall determine the rate of tax to be imposed on highway fuel pursuant to subsection a. of this section that will result in revenue from:
   (a) the taxes collected for the current State Fiscal Year pursuant to paragraphs (1) and (2) of subsection a. of section 3 of P.L.2010, c.22 (C.54:39-103),
   (b) the revenue derived from the tax imposed pursuant to paragraph (2) of subsection a. of this section at the rate of four cents per gallon for the current State Fiscal Year, and
   (c) the revenue derived from the taxation of highway fuel pursuant to paragraph (1) of subsection a. of this section equaling the highway fuel cap amount determined pursuant to paragraph (2) of this subsection, as adjusted pursuant to paragraph (5) of this subsection;

   and that rate shall take effect on the October 1 of that year.

(5) If the actual revenue determined pursuant to paragraph (3) of this subsection exceeds the highway fuel cap amount determined pursuant to paragraph (2) of this subsection, then the highway fuel cap amount for the succeeding year shall be decreased by the amount of the excess in setting the rate pursuant to paragraph (4) of
this subsection. If the actual revenue determined pursuant to paragraph (3) of this subsection is less than the highway fuel cap amount determined pursuant to paragraph (2) of this subsection, then the highway fuel cap amount for the succeeding year shall be increased by the amount of the shortfall in setting the rate pursuant to paragraph (4) of this subsection.

(cf: P.L.2000, c.48, s.1)

9. Section 2 of P.L.1991, c.19 (C.54:15B-9) is amended to read as follows:

2. a. A person who shall purchase or otherwise acquire petroleum products, upon which the petroleum products gross receipts tax has not been paid and is not due pursuant to subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a reimbursement payment has been paid pursuant to section 3 of this act P.L.1991, c.19 (C.54:15B-10), from a federal government department, agency or instrumentality, or any agent or officer thereof, for use not specifically associated with any federal government function or operation, shall pay to the State a tax [equivalent to two and three-quarters percent (2 3/4%) at the rate or rates of the consideration given or contracted to be given for the purchase or acquisition of the petroleum products and the gallonage, determined pursuant to subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in accordance with the procedures set forth in the "Petroleum Products Gross Receipts Tax Act," P.L.1990, c.42 (C.54:15B-1 et seq.).

b. A person who knowingly uses, or who conspires with an official, agent or employee of a federal government department, agency or instrumentality, for the use of, a requisition, purchase order, or a card or an authority to which the person is not specifically entitled by government regulations, with the intent to obtain petroleum products from a federal government department, agency or instrumentality for a use not specifically associated with a federal government function or operation, upon which the petroleum products gross receipts tax has not been paid, is guilty of a crime of the fourth degree.

(cf: P.L.1991, c.19, s.2)

10. Section 3 of P.L.1991, c.19 (C.54:15B-10) is amended to read as follows:

a. A federal government department, agency or instrumentality, that purchases petroleum products other than by the first sale of that product in this State for use in a federal government function or operation, upon which petroleum products the petroleum products gross receipts tax has been paid or is due and payable, shall be reimbursed and paid an amount [equivalent to two and three-quarters percent (2 3/4%)] at the rate or rates of the consideration
given or contracted to be given [by the federal government department, agency or instrumentality for the purchase of the petroleum products] and the gallonage, determined pursuant to subsection a. of section 3 of P.L. 1990, c.42 (C.54:15B-3).

b. The reimbursement shall be claimed by presenting to the Director of the Division of Taxation in the Department of the Treasury an application for the reimbursement, on a form prescribed by the director, which application shall be verified by a declaration of the applicant that the statements contained therein are true. Such application for reimbursement shall be supported by an invoice, or invoices, showing the name and address of the person from whom the petroleum products were purchased, the name of the purchaser, the date of purchase, the quantity of the product purchased, the price paid for the purchase of the product, and an acknowledgment by the seller that payment of the cost of the product to the seller, including the petroleum gross receipts tax due thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

c. If petroleum products are sold to a federal government department, agency or instrumentality that shall be entitled to a reimbursement under this act, the seller of the petroleum products shall supply the purchaser with an invoice that conforms with the requirements of subsection b. of this section.

(cf: P.L.1991, c.19, s.3)

11. (New section) a. There is levied a tax on persons, other than licensed companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12), holding the fuels enumerated in subparagraph (a) of paragraph (2) of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in storage for sale as of the close of the first business day following the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) by fifteen days on which tax has previously been paid. The amount of tax shall be the difference between the tax per gallon specified by subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the tax previously paid per gallon, multiplied by the gallons in storage of that type of fuel as of the close of the business day on that day.

b. Persons in possession of those fuels in storage as of the close of the first business day following the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) by fifteen days shall:

(1) take an inventory at the close of the business day on that day;

(2) report the gallons listed in paragraph (1) of this subsection on forms provided by the director, not later than 45 days following the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) by fifteen days; and
(3) Remit the tax levied under this section to the director no later than February 1, 2017.

c. Fuel not reflected in the inventory taken pursuant to subsection b. of this section is deemed to be previously untaxed, except to the extent that it is invoiced as delivered tax-paid on or after July 1, 2016.

d. There is levied a tax on persons, other than licensed companies pursuant to section 6 of P.L.1991, c.181 (C.54:15B-12), holding the fuels enumerated in subparagraph (b) of paragraph (2) of subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) in storage for sale as of the close of the business day on December 31, 2016 on which tax has previously been paid. The amount of tax shall be the difference between the tax per gallon specified by subsection a. of section 3 of P.L.1990, c.42 (C.54:15B-3) for the type of fuel and the tax previously paid per gallon, multiplied by the gallons in storage of that type of fuel as of the close of the business day on December 31, 2016.

e. Persons in possession of those fuels in storage as of the close of the business day on December 31, 2016 shall:
   (1) take an inventory at the close of the business day on December 31, 2016;
   (2) report the gallons listed in paragraph (1) of this subsection on forms provided by the director, not later than January 31, 2017; and
   (3) Remit the tax levied under this section to the director no later than August 1, 2017.

f. Fuel not reflected in the inventory taken pursuant to subsection b. of this section is deemed to be previously untaxed, except to the extent that it is invoiced as delivered tax-paid on or after January 1, 2017.

g. In determining the amount of tax due under this section, a person may exclude the amount of fuel in dead storage in each storage tank.

h. As used in this section:

"Close of the business day" means the time at which the last transaction has occurred for that day.

"Dead storage" means the amount of fuel that cannot be pumped out of a fuel storage tank because the motor fuel is below the mouth of the draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

12. (New section) Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of sections 6 through 11 of P.L. , c. (pending before the Legislature as this
(which regulations shall be effective for a period not to exceed 360 days following the date of enactment of P.L. , c. (pending before the Legislature as this bill) and may thereafter be amended, adopted, or readopted by the director in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

13. (New section) a. The State Treasurer, and the Legislative Budget and Finance Officer, together with a third public member who shall be jointly selected thereby, shall constitute the review council.

b. The review council shall, on or before January 15, 2020, provide the Governor and the Legislature with an advisory report of their consensus estimate of the increase or decrease in State revenues pursuant to each section of P.L. , c. (C. ) (pending before the Legislature as this bill), and pursuant to this act as a whole, during the preceding three State fiscal years, including a comparison of those estimates to the legislative fiscal estimate or fiscal note published contemporaneous with the enactment of this act prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

c. The review council shall conduct an ongoing review of the application of each section of P.L. , c. (C. ) (pending before the Legislature as this bill).

The review council shall, not later than five days after any Legislative action that halts, delays, or reverses the implementation of those sections as scheduled on the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), certify for the purposes of subparagraph (j) of paragraph (1) of subsection a. of section 3. of P.L.1990, c.42 (C.54:15B-3) to the Director of the Division of Taxation that the scheduled implementation of P.L. , c. (C. ) had been impeded.

14. This act shall take effect immediately, section 5 shall apply to taxable years beginning on or after January 1, 2017, and sections 6 through 10 shall apply to first sales of petroleum products within this State and to deliveries of petroleum products for use or consumption within this State made on or after July 1, 2016.

STATEMENT

This bill adjusts various State taxes towards the end of supporting strengthened investments in public, private and charitable assets in this State.

The various changes in State taxes are described as follows:

- Section 1: Phases out the estate tax over four years, first by replacing the current $675,000 threshold with a $1,000,000
exclusion, and then increasing that exclusion amount until
the tax is eliminated.

The current New Jersey estate tax is determined by reference to a
repealed federal credit against a system of federal estate taxation
that no longer exists. The former federal credit was part of a
national revenue-sharing policy, no longer in effect, that was
originally designed to provide a portion to states of what would
otherwise have been a high-rate federal tax. Because the mechanics
of the current tax are a remnant of that former federal imposition,
the New Jersey estate tax is initially imposed at a rate of 37 percent
until all the tax that would have been imposed on the value of the
estate below $675,000 is made up. Under the current tax, that
highest rate is imposed on even the smallest estates subject to tax.

This bill eliminates that tax rate “bump” by abandoning the
references to the old federal credit and establishing the necessary
mechanics under New Jersey law. This allows the bill to replace
the former $675,000 tax threshold with a true tax exclusion, initially
set at $1,000,000 for the estates of resident decedents dying on or
after January 1, 2017. The bill increases the exclusion amount to
$2,000,000 for 2018, and $3,000,000 for 2019. For decedents dying
on or after January 1, 2020, the bill provides that there will be no
tax imposed.

The bill imposes the estate tax on the New Jersey property of
nonresident decedents. Currently, the estate tax is only imposed on
the property of resident decedents. The bill uses a “ratio” method:
the estate of a nonresident computes estate tax as though a State
resident, then pays the proportion of that liability that the estate’s
New Jersey property is of the estate’s total property. This change
takes effect for nonresident decedent estates January 1, 2017, and
ceases on January 1, 2020 along with the tax on resident estates.

- Sections 2 and 3: Increase the New Jersey gross income tax
pension and retirement income exclusions fivefold over four
years. This is intended to reduce the capacity of the State’s
personal income tax to diminish the after-tax retirement
income available to retired taxpayers in this State.

Generally under current law, taxpayers with $100,000 or less of
annual income, who are at least 62 years old, may claim a pension
and retirement income exclusion of up to $20,000 for joint filers,
$15,000 for individuals, and $10,000 for married but filing
separately.

This bill increases the personal income tax’s pension and
retirement income exclusion to $100,000 for joint filers, $75,000
for individuals, and $50,000 for married but filing separately. The
bill phases in the five-fold exclusion increase over four years as
follows:
Currently, the pension and retirement income exclusions are not allowed to a taxpayer who has gross income of more than $100,000 for the taxable year. For taxable years beginning on or after January 1, 2021, the bill allows a taxpayer with income of more than $100,000 but not over $125,000 to exclude 50 percent of the amount of pension and retirement income otherwise allowed and a taxpayer with more than $125,000 but not more than $150,000 of gross income to exclude 25 percent of the amount otherwise allowed.

- Section 4: Increases the New Jersey Earned Income Tax Credit (NJ EITC) to 40 percent of the federal benefit amount beginning in Tax Year 2016. The NJ EITC program, which piggy-backs on the federal EITC program, currently provides a refundable earned income tax credit under the State gross income tax equal to 30 percent of the federal benefit amount.

  The federal and State EITC programs are intended to “make work pay” by offsetting the burden of payroll taxes for low and moderate income workers.

  To claim a credit, taxpayers must first file for the federal EITC. Eligibility for the program is determined by taxpayer income, filing status, and the number of qualifying children. For Tax Year 2016, the federal Internal Revenue Service has indicated, the following program limits:

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</tr>
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<tr>
<td>Separate</td>
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<td>$20,000</td>
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</table>

According to the New Jersey Department of the Treasury, it is estimated that some 552,900 taxpayers claimed a credit during TY 2014, the most recent year for which data are available. Based on available federal Internal Revenue Service data, it is estimated that under the bill, the average NJ EITC benefit amount will increase by $255, from $708 in TY 2015 to approximately $963 in TY 2016.
• Section 5: Allows a New Jersey gross income tax deduction for cash charitable contributions that are made to certain charitable agencies and organizations that primarily provide health, welfare, or human care services to individuals in New Jersey and that are eligible to participate in annual State charitable fund-raising campaigns in this State. New Jersey gross income taxpayers will be allowed to deduct from gross income cash charitable contributions that are made during the taxable year to a qualified charitable agency or fund-raising organization. The agencies and organization will be those that are already qualified and participating in the annual New Jersey Employees Charitable Campaign under current law and regulations but will only include those groups that primarily provide health, welfare, or human care services to individuals in this State.

To assist the Director of the Division of Taxation in determining which agencies and organizations meet those criteria, the bill establishes a “Charity Advisory Council” comprising the Commissioners of Human Services, Children and Families, Health and Community Affairs (or their designees) and four public members, individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey, one each appointed by the Senate President, the Speaker of the General Assembly, the Senate Minority Leader, and the Assembly Minority Leader. The council will annually advise the director.

• Sections 6 through 12: Concern an increase in the petroleum products gross receipts tax rates, which, either by statutory or constitutional dedication, will finance funding for the State’s transportation infrastructure.

Currently, the petroleum products tax is imposed at the rate of 2¾ percent on gross receipts from the first sale of petroleum products in New Jersey. In the case of motor fuels, aviation fuels, and heating fuels (home heating fuels are exempt) this rate is converted to $0.04 per gallon.

This bill increases the base rate on petroleum products other than highway fuel to 7 percent of gross receipts, and increases the base rate on highway fuel to 12.5 percent of gross receipts.

The 12.5 percent tax on gasoline, gasoline equivalents and liquefied petroleum gas is converted to a cents-per-gallon rate based on the retail price of gasoline before the imposition of State and federal tax. The 12.5 percent tax on diesel fuel, diesel fuel equivalents and kerosene (other than aviation grade kerosene, which is treated separately), is converted to a cents-per-gallon rate based on the retail price of number 2 diesel before tax. Initially, the diesel and kerosene rate will be zero; on and after January 1, 2017 it will be 70 percent of the 12.5 percent rate, and on and after July 1, 2017 it will be taxed at the 12.5 percent rate. These cents-per-gallon rates
can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

The bill provides a cap for the total tax on highway fuel, under the petroleum products gross receipts tax and the motor fuel tax. The State Treasurer and the Legislative Budget and Finance Officer calculate an amount based on actual sales data from FY2016 as if taxed at the new tax rates; the 2016 motor fuel tax collections of highway fuel, plus the four cents per gallon petroleum products tax now in effect, plus the 23 cents per gallon new imposition under the petroleum products tax. This is the highway fuel cap amount.

Each 2017 through 2026 the Treasurer, using U.S. Energy Administration projections for gasoline price and consumption in New Jersey and other data, determines what tax rate should be imposed under the petroleum products tax on highway fuel so that the revenues from the motor fuels tax on highway fuel, the 4 cent per gallon petroleum tax and the percentage rate petroleum tax will result in the State receiving the highway fuel cap amount for the fiscal year, and the new rate takes effect on October 1. The bill also has a “true-up” provision: if the rate is too high and the State overcollects, then in the next year the rate must be adjusted down to account for the overcollection, and if the State undercollects then the rate is increased to account for the undercollection.

The 7 percent tax on fuel oil is converted to a cents-per-gallon rate based on the pretax retail price of number 2 fuel oil. These rates can be adjusted quarterly, but cannot fall below the rates determined for the quarter beginning July 1, 2016.

Initially, the highway fuels will be subject to an additional cents-per-gallon rate of four cents. On and after July 1, 2017 the additional rate on diesel fuel and kerosene will be raised to eight cents per gallon.

Aviation fuel (aviation gasoline and aviation grade kerosene) is currently subject to tax but use of the fuel by common carriers in interstate commerce is exempt except for the “burnout” portion used in takeoff. This bill eliminates that exemption for common carriers and imposes tax on all aviation fuel. The 7 percent tax on aviation fuel is converted to a cents-per-gallon rate based on the pretax prices paid by commercial consumers. This rate can be adjusted annually, but cannot change more than 5 percent from the previous year.

- Section 13: Establishes a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both.
- Requires that the Governor and the Legislature receive by January 15, 2020, the council’s report of the consensus estimate of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment.
• Requires the review council to monitor the actions Legislature on an ongoing basis for interference with the implementation of the provisions of the bill. If implementation is impeded, (by, for example, extending a phase-in, freezing a phase-out at a particular level, or repealing one of the bill’s provisions), the council would certify this interference to the Director of the Division of Taxation. This certification triggers the cessation of imposition of one of the components of the petroleum products gross receipts tax, and collection of that part of the tax ends.