SYNOPSIS

Increases earned income tax credit; provides credit for child or dependent care expenses; taxes “investment management services.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 6/22/2018)
AN ACT concerning certain State taxes, supplementing Title 54A of the New Jersey Statutes and P.L.1945, c.162, and amending various parts of the statutory law.

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

1. Section 3 of P.L.1996, c.60 (C.54A:3A-17) is amended to read as follows:

3. a. A resident taxpayer under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from gross income for the amount of property tax credit as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6) plus property taxes, the total of which shall not exceed [$10,000] $15,000, subject to the limitations of subsection f. of this section. Property taxes deductible under this section shall be due and paid for the calendar year in which the taxes are due and payable on the taxpayer's homestead.

b. A deduction for property taxes or property tax credits shall be allowed pursuant to this section in relation to the amount of the property taxes or property tax credits actually paid by or allocable to a resident taxpayer who has more than one homestead, but the aggregate amount of the property taxes or property tax credits claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each homestead for the portion of the taxable year for which the taxpayer occupied it as the taxpayer's principal residence.

c. If title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a deduction pursuant to this section only in relation to the individual's proportionate share of the property taxes assessed and levied against the homestead. The proportionate share shall be equal to that of all other individuals who hold the title, but if the conveyance under which the title is held provides for unequal interests therein, a taxpayer's share of the property taxes shall be in proportion to the taxpayer's interest in the title.

d. If title to a homestead is held by a husband and wife who own the homestead as tenants by the entirety, or if that husband and wife are both residential shareholders of a cooperative or mutual housing corporation and occupy the same homestead therein, and who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband and wife shall each be entitled to one-half of the deduction for property taxes for which they may be jointly eligible pursuant to this section.

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.
e. If the homestead is a dwelling house consisting of more than one unit, that taxpayer shall be allowed a deduction for property taxes or property tax credits only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by the taxpayer, as determined by the local tax assessor.

f. Notwithstanding the provisions of subsection a. of this section to the contrary: (1) a resident taxpayer shall be allowed a deduction for a taxpayer's taxable year beginning during 1996 based on 50% of the property taxes not in excess of $5,000 paid on the taxpayer's homestead; and (2) a resident taxpayer shall be allowed a deduction for a taxpayer's taxable year beginning during 1997 based on 75% of the property taxes not in excess of $7,500 paid on the taxpayer's homestead.

g. Notwithstanding any other provision of this section, the deduction allowed under this section to a resident taxpayer eligible to receive a homestead property tax reimbursement pursuant to P.L.1997, c.348 (C.54:4-8.67 et al.) shall not exceed that resident taxpayer's base year property tax liability as determined pursuant to P.L.1997, c.348 (C.54:4-8.67 et al.).

h. Notwithstanding any other provision of this section, for the taxable year beginning January 1, 2009, a taxpayer who has gross income for the taxable year of more than $250,000 and is not:
   (1) 65 years of age or older at the close of the taxable year; or
   (2) allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not be allowed a deduction pursuant to this section;
   provided however, the deduction for a taxpayer who has gross income for the taxable year of more than $150,000 but not exceeding $250,000 and is not:
   (1) 65 years of age or older at the close of the taxable year; or
   (2) allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not exceed $5,000.
   (cf: P.L.2018, c.11, s.15)

2. Section 4 of P.L.1996, c.60 (C.54A:3A-18) is amended to read as follows:

4. a. A resident taxpayer whose homestead is a unit of residential rental property shall be allowed a deduction from gross income for that portion of the rent constituting property taxes not in excess of [[$10,000]] $15,000, subject to the limitations of subsection d. of this section, due and paid for the calendar year in which the rent constituting taxes is due and payable, for occupancy of that homestead.

   b. A husband and wife who elect to file separate income tax returns pursuant to the "New Jersey Gross Income Tax Act,"
N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the
property tax deduction allowed pursuant to this section.

c. If more than one taxpayer, other than husband and wife,
qualify to deduct rent constituting property taxes by reason of their
having occupied the same rented homestead, it shall be presumed
that the deduction shall be equally divided. A taxpayer may,
however, deduct an amount for rent constituting property taxes in
the same proportion that the rent paid by that taxpayer bears to the
total rent paid by all tenants of the same unit.
d. Notwithstanding the provisions of subsection a. of this
section to the contrary: (1) a resident taxpayer whose homestead is
a unit of residential rental property shall be allowed a deduction for
the taxpayer's taxable year beginning during 1996 based on 50% of
the rent constituting property taxes not in excess of $5,000 paid for
the occupancy of that homestead; and (2) a resident taxpayer whose
homestead is a unit of residential rental property shall be allowed a
deduction for the taxpayer's taxable year beginning during 1997
based on 75% of the rent constituting property taxes not in excess
of $7,500 paid for the occupancy of that homestead.
(cf: P.L.1996, c.60, s.4)

3. Section 5 of P.L.1996, c.60 (C.54A:3A-19) is amended to
read as follows:

5. a. If a taxpayer who is eligible for a deduction for property
taxes under section 3 of this act for a part of the taxable year is also
eligible for a deduction for rent constituting property taxes under
section 4 of this act for a part of the taxable year, the taxpayer shall
be allowed a deduction, not in excess of $10,000, subject
to the limitations of subsection b. of this section, the amount of
which shall be equal to the sum of the amount of property tax credit
as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6) plus the
amount of property taxes due and paid for the calendar year in
which the property taxes are due and payable on a homestead that is
not a unit of residential rental property and the amount of rent
constituting property taxes due and paid for the calendar year in
which the rent constituting property taxes is due and payable for the
occupancy of a homestead that is a unit of residential rental
property, provided however, that the amount of property taxes and
property tax credits shall be subject to the limitations set forth in
subsections b. through e. of section 3 and the amount of rent
constituting property taxes shall be subject to the limitations set
forth in subsections b. and c. of section 4 as may be applicable.
b. Notwithstanding the provisions of subsection a. of this
section to the contrary: (1) a taxpayer who is eligible for a
deduction for property taxes under section 3 of this act for a part of
the taxable year and is also eligible for a deduction for rent
constituting property taxes under section 4 of this act for a part of
the taxable year, shall be allowed a deduction for the taxpayer's
taxable year beginning during 1996 based on 50% of an amount not
in excess of $5,000, the amount of which shall be equal to the sum
of the amount of property taxes paid on a homestead that is not a
unit of residential rental property and the amount of rent
constituting property taxes paid for the occupancy of a homestead
that is a unit of residential rental property; and (2) a taxpayer who is
eligible for a deduction for property taxes under section 3 of this act
for a part of the taxable year and is also eligible for a deduction for
rent constituting property taxes under section 4 of this act for a part
of the taxable year, shall be allowed a deduction for the taxpayer's
taxable year beginning during 1997 based on 75% of an amount not
in excess of $7,500, the amount of which shall be equal to the sum
of the amount of property taxes paid on a homestead that is not a
unit of residential rental property and the amount of rent
constituting property taxes paid for the occupancy of a homestead
that is a unit of residential rental property.
(cf: P.L.2018, c.11, s.16)

4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read
as follows:
2. There is established the New Jersey Earned Income Tax
Credit program in the Division of Taxation in the Department of the
Treasury.
a. (1) A resident individual who is eligible for a credit under
section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
s.32) shall be allowed a credit for the taxable year equal to a
percentage, as provided in paragraph (2) of this subsection, of the
federal earned income tax credit that would be allowed to the
individual or the married individuals filing a joint return under
section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.
s.32) for the same taxable year for which a credit is claimed
pursuant to this section, subject to the restrictions of this subsection
and subsections b., c., d. and e. of this section.
(2) 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;
(h) 30% for taxable years beginning on or after January 1, 2015, but before January 1, 2016; [and]
(i) 35% for taxable years beginning on or after January 1, 2016, but before January 1, 2018;
(j) 37% for the taxable year beginning on or after January 1, 2018, but before January 1, 2019;
(k) 39% for the taxable year beginning on or after January 1, 2019, but before January 1, 2020; and
(l) 40% for taxable years beginning on or after January 1, 2020.

(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 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.2016, c.57, s.11)

5. (New section) a. A taxpayer with New Jersey taxable income of $60,000 or less who is allowed a credit for expenses for household and dependent care services for federal income tax purposes pursuant to section 21 of the Internal Revenue Code (26 U.S.C. s.21) shall be allowed a credit against the tax otherwise due
pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq. The credit shall be in an amount equal to a percentage of the credit allowed the taxpayer for federal income tax purposes for the taxable year, according to the following schedule:

<table>
<thead>
<tr>
<th>NJ taxable income is:</th>
<th>Amount of NJ credit is:</th>
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</thead>
<tbody>
<tr>
<td>Not over $20,000</td>
<td>50% of federal credit</td>
</tr>
<tr>
<td>over $20,000 but not over $30,000</td>
<td>40% of federal credit</td>
</tr>
<tr>
<td>over $30,000 but not over $40,000</td>
<td>30% of federal credit</td>
</tr>
<tr>
<td>over $40,000 but not over $50,000</td>
<td>20% of federal credit</td>
</tr>
<tr>
<td>over $50,000 but not over $60,000</td>
<td>10% of federal credit.</td>
</tr>
</tbody>
</table>

The credit allowed by this section for a taxable year shall not exceed $500 for employment-related expenses paid by the taxpayer for one qualifying individual and $1,000 for employment-related expenses paid by the taxpayer for two or more qualifying individuals. The $60,000 income limit set forth in this subsection shall apply to taxpayers of any filing status.

b. A credit allowed pursuant to this section shall not reduce the tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq. for a taxable year to an amount less than zero.

c. Married couples shall file a joint return in order to claim the credit provided by this section. A taxpayer eligible to receive a credit pursuant to paragraph (3) or (4) of subsection (e) of section 21 of the federal Internal Revenue Code (26 U.S.C. s.21) shall be eligible for the credit provided by this section, provided the taxpayer satisfies the income limit set forth in subsection a. of this section.

d. 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.

6. N.J.S.54A:5-8 is amended to read as follows:

54A:5-8. a. Income from sources within this State for a nonresident individual, estate or trust means the income from the categories of gross income enumerated and classified under chapter 5 of this act to the extent that it is earned, received or acquired from sources within this State:

(1) By reason of ownership or disposition of any interest in real or tangible personal property in this State; or

(2) In connection with a trade, profession, occupation carried on in this State or for the rendition of personal services performed in this State; or

(3) As a distributive share of the income of an unincorporated business, profession, enterprise, undertaking or other activity as the
result of work done, services rendered or other business activities conducted in this State except as allocated to another state pursuant to regulations promulgated by the director under this act; or

(4) From intangible personal property employed in a trade, profession, occupation or business carried on in this State; or

(5) As a result of any lottery or wagering transaction in this State other than that excluded from taxation pursuant to N.J.S.54A:6-11; or

(6) As S corporation income allocated to this State of a New Jersey S corporation.

b. Income from sources within this State for a nonresident individual shall not include income from pensions and annuities as set forth in subsection j. of N.J.S.54A:5-1.

c. For purposes of paragraphs (2) through (4) of subsection a. of this section, a nonresident taxpayer shall not be deemed to be carrying on a trade, profession, occupation, business, enterprise, undertaking or other activity in this State, or to be rendering personal services in this State, solely as a result of the purchase, holding and sale of intangible personal property by the trade, profession, occupation, business, enterprise or undertaking, to the extent that (1) the activities related to the intangible personal property are for the account of the trade, profession, occupation, business, enterprise, or undertaking and (2) the trade, profession, occupation, business, enterprise, or undertaking does not hold the intangible personal property for sale to customers. For the purposes of this subsection: "intangible personal property" includes, but is not limited to, "commodities", as defined in paragraph (2) of subsection (e), and "securities," as defined in paragraph (2) of subsection (c), of section 475 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.475; and "purchase, holding and sale of intangible personal property" includes activities incidental thereto giving rise to income, including commitment fees, breakup fees, income from securities lending, and any other incidental activities as prescribed or authorized by the director. The director shall adopt such regulations as the director deems necessary to accomplish the purposes of this section.

d. (1) The provisions of subsection c. of this section shall not apply to income from investment management services provided to a partnership, S corporation, or other entity.

(2) As used in this subsection:

"Investment management services" means providing a substantial quantity of any of the following services to a partnership, S corporation, or other entity as a partner thereto:

(a) advising as to the advisability of investing in, purchasing, or selling a specified asset;

(b) managing, acquiring, or disposing of a specified asset;

(c) arranging financing with respect to acquiring specified assets; or
(d) any activity in support of the services described in subparagraphs (a) through (c) of this paragraph.

A partner shall not be deemed to be providing investment management services under this section if the partnership interest is held directly or indirectly by a corporation, or any capital interest in the partnership, which provides the taxpayer with a right to share in partnership capital commensurate with the amount of capital contributed, determined at the time of receipt of such partnership interest, or the value of partnership interest subject to tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the receipt or vesting of such interest.

“Specified asset” means certain securities, real estate held for rental or investment, interests in partnerships, commodities, or options or derivatives contracts, except if at least 80 percent of the average fair market value of the specified assets of the partnership, S corporation, or other entity during the taxable year consists of real estate.

(3) This subsection shall remain inoperative until enactment into law by the states of Connecticut, New York, and Massachusetts of legislation having an identical effect with this subsection, sections 7 and 9 of P.L. , c. (C. ) (pending before the Legislature as this bill), and subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-6), as shall be determined by the Director of the Division of Taxation in the Department of the Treasury.

(cf: P.L.1998, c.106, s.14)

7. (New section) a. As used in this section:

“Investment management services” means providing a substantial quantity of any of the following services to a partnership, S corporation, or other entity as a partner thereto:

(1) advising as to the advisability of investing in, purchasing, or selling a specified asset;

(2) managing, acquiring, or disposing of a specified asset;

(3) arranging financing with respect to acquiring specified assets; or

(4) any activity in support of the services described in paragraphs (1) through (3) of this subsection.

A partner shall not be deemed to be providing investment management services under this section if the partnership interest is held directly or indirectly by a corporation, or any capital interest in the partnership, which provides the taxpayer with a right to share in partnership capital commensurate with the amount of capital contributed, determined at the time of receipt of such partnership interest, or the value of partnership interest subject to tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the receipt or vesting of such interest.

“Specified asset” means certain securities, real estate held for rental or investment, interests in partnerships, commodities, or
options or derivatives contracts, except if at least 80 percent of the
average fair market value of the specified assets of the partnership,
S corporation, or other entity during the taxable year consists of real
estate.

b. Notwithstanding the provisions of the “New Jersey Gross
Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition
to the tax imposed on the income of a non-resident taxpayer
pursuant to N.J.S.54A:5-8, there shall be imposed an additional
surtax of 17 percent on income from investment management
services received during the taxpayer’s taxable year.

c. Notwithstanding the provisions of the “New Jersey Gross
Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition
to the tax imposed on the income of a resident taxpayer from the
categories of gross income enumerated and classified in
N.J.S.54A:5-1 et seq., there shall be imposed an additional surtax of 17 percent on income received during the taxpayer’s taxable year
from investment management services provided to a partnership, S
corporation, or other entity.

d. This section shall remain inoperative until enactment into
law by the states of Connecticut, New York, and Massachusetts of
legislation having an identical effect with this section, subsection d.
of N.J.S.54A:5-8, subsection (D) of section 6 of P.L.1945, c.162
(C.54:10A-6), and section 9 of P.L. , c. (C. ) (pending before
the Legislature as this bill), as shall be determined by the Director
of the Division of Taxation in the Department of the Treasury.

8. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to
read as follows:

6. The portion of a taxpayer’s entire net worth to be used as a
measure of the tax imposed by subsection (a) of section 5 of
P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net
income to be used as a measure of the tax imposed by subsection (c)
of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined
by multiplying such entire net worth and entire net income,
respectively, by an allocation factor which is the property fraction,
plus twice the sales fraction plus the payroll fraction and the
denominator of which is four, and which, for privilege periods
beginning on or after January 1, 2012, is the sum of the portions of
the property fraction, the sales fraction, and the payroll fraction
determined in accordance with the following schedule:

for privilege periods beginning on or after January 1, 2012 but
before January 1, 2013, 15% of the property fraction plus 70% of
the sales fraction plus 15% of the payroll fraction,

for privilege periods beginning on or after January 1, 2013 but
before January 1, 2014, 5% of the property fraction plus 90% of the
sales fraction plus 5% of the payroll fraction, and

for privilege periods beginning on or after January 1, 2014,
100% of the sales fraction,
except as the director may determine pursuant to section 8 of
P.L.1945, c.162 (C.54:10A-8), that is:

(A) The property fraction is the average value of the taxpayer's
real and tangible personal property within the State during the
period covered by its report divided by the average value of all the
taxpayer's real and tangible personal property wherever situated
during such period; provided, however, that for the purpose of
determining average value, the provisions with respect to
depreciation as set forth in subparagraph (F) of paragraph (2) of
subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be
taken into account for arriving at such value.

(B) The sales fraction is the receipts of the taxpayer, computed
on the cash or accrual basis according to the method of accounting
used in the computation of its net income for federal tax purposes,
 arising during such period from
(1) sales of its tangible personal property located within this
State at the time of the receipt of or appropriation to the orders
where shipments are made to points within this State,
(2) sales of tangible personal property located without the State
at the time of the receipt of or appropriation to the orders where
shipment is made to points within the State,
(3) (Deleted by amendment.)
(4) services performed within the State,
(5) rentals from property situated, and royalties from the use of
patents or copyrights, within the State,
(6) all other business receipts (excluding dividends excluded
from entire net income by paragraph (1) of subsection (k) of section
4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,
divided by the total amount of the taxpayer's receipts, similarly
computed, arising during such period from all sales of its tangible
personal property, services, rentals, royalties and all other business
receipts, whether within or without the State.

(C) The payroll fraction is the total wages, salaries and other
personal service compensation, similarly computed, during such
period of officers and employees within the State divided by the
total wages, salaries and other personal service compensation,
similarly computed, during such period of all the taxpayer's officers
and employees within and without the State.

In the case of a banking corporation which maintains a regular
place of business outside this State other than a statutory office, and
which elects to take the exclusion from net worth provided in
subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the
deduction from entire net income provided in paragraph (4) of
subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the
allocation factor shall be computed and applied in accordance with
section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that
the numerators and the denominators of the fractions described in
(A), (B) or (C) above shall include all amounts attributable, directly
or indirectly, to the production of the eligible net income of an international banking facility as defined in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), whether or not such amounts are otherwise attributable to this State.

(D) (1) For the purposes of paragraph (4) of subsection (B) of this section, services performed within the State shall be deemed to include, but shall not be limited to, investment management services performed by the taxpayer as a partner provided to a partnership, S corporation, or other entity.

(2) As used in this subsection:

“Investment management services” means providing a substantial quantity of any of the following services to a partnership, S corporation, or other entity as a partner thereto:

(a) advising as to the advisability of investing in, purchasing, or selling a specified asset;
(b) managing, acquiring, or disposing of a specified asset;
(c) arranging financing with respect to acquiring specified assets; or
(d) any activity in support of the services described in subparagraphs (a) through (c) of this paragraph.

A partner shall not be deemed to be providing investment management services under this subsection if the partnership interest is held directly or indirectly by a corporation, or any capital interest in the partnership, which provides the taxpayer with a right to share in partnership capital commensurate with the amount of capital contributed, determined at the time of receipt of such partnership interest, or the value of partnership interest subject to tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the receipt or vesting of such interest.

“Specified asset” means certain securities, real estate held for rental or investment, interests in partnerships, commodities, or options or derivatives contracts, except if at least 80 percent of the average fair market value of the specified assets of the partnership, S corporation, or other entity during the taxable year consists of real estate.

(3) This subsection shall remain inoperative until enactment into law by the states of Connecticut, New York, and Massachusetts of legislation having an identical effect with this subsection, subsection d. of N.J.S.54A:5-8, and sections 7 and 9 of P.L. , c. (C. ) (pending before the Legislature as this bill), as shall be determined by the Director of the Division of Taxation in the Department of the Treasury.

(cf: P.L.2011, c.59, s.1)

9. (New section) a. As used in this section:

“Investment management services” means providing a substantial quantity of any of the following services to a partnership, S corporation, or other entity as a partner thereto:
(1) advising as to the advisability of investing in, purchasing, or selling a specified asset;
(2) managing, acquiring, or disposing of a specified asset;
(3) arranging financing with respect to acquiring specified assets; or
(4) any activity in support of the services described in paragraphs (1) through (3) of this subsection.
A partner shall not be deemed to be providing investment management services under this section if the partnership interest is held directly or indirectly by a corporation, or any capital interest in the partnership, which provides the taxpayer with a right to share in partnership capital commensurate with the amount of capital contributed, determined at the time of receipt of such partnership interest, or the value of partnership interest subject to tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the receipt or vesting of such interest.

“Specified asset” means certain securities, real estate held for rental or investment, interests in partnerships, commodities, or options or derivatives contracts, except if at least 80 percent of the average fair market value of the specified assets of the partnership, S corporation, or other entity during the taxable year consists of real estate.

b. Notwithstanding the provisions of the “Corporation Business Tax Act (1945),” P.L.1945, c.162 (C.54:10A-1 et seq.), to the contrary, in addition to the tax imposed on the entire net income of a taxpayer pursuant to the provisions of section 6 of P.L.1945, c.162 (C.54:10A-6), there shall be imposed an additional surtax of 17 percent on income received from investment management services during the taxpayer’s accounting or privilege period.
c. This section shall remain inoperative until enactment into law by the states of Connecticut, New York, and Massachusetts of legislation having an identical effect with this section, section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-6), and subsection d. of N.J.S.54A:5-8, as shall be determined by the Director of the Division of Taxation in the Department of the Treasury.

10. (New section) Notwithstanding the provisions 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, regulations that the director deems necessary to implement the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 360 days from the date of the filing. The director may thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).
11. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2018, except that sections 6 through 9 shall remain inoperative until enactment into law by the states of Connecticut, New York, and Massachusetts of legislation having an identical effect with sections 6 through 9 of this act, as shall be determined by the Director of the Division of Taxation in the Department of the Treasury, but if the states of Connecticut, New York, and Massachusetts shall have already enacted such legislation, as shall be determined by the director, sections 6 through 9 of this act shall take effect immediately, and shall apply to taxable years and accounting or privilege periods beginning after its effective date; provided further, however, that sections 7 and 9 of this act shall expire if the director determines that the United States Congress has passed, and the President of the United States has signed, legislation having an identical effect with sections 6 through 9 of this act applicable to such income earned in all of the states and territories.