ASSEMBLY, No. 4202

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED JUNE 18, 2018

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
District 29 (Essex)
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS
Imposes surtax on corporation business tax liability; decouples certain provisions from Internal Revenue Code; imposes tax on certain dividends.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 6/22/2018)
AN ACT concerning taxation, supplementing 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. (New section). a. In addition to the tax paid by each taxpayer determined pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), each taxpayer, except for a public utility, shall be assessed and shall pay a surtax as follows:

(1) For a taxpayer, except a public utility, that has entire net income in excess of $1 million, but less than $25 million for the privilege period, the surtax imposed shall be 2.5%.

(2) For a taxpayer, except a public utility, that has entire net income in excess of $25 million for the privilege period, the surtax imposed shall be 4%.

b. The surtax imposed pursuant to this section shall be upon a taxpayer’s allocated net income for the privilege period ending on or after January 1, 2018 and upon a taxpayer’s allocated net income for the next following privilege period. The surtax imposed under this section shall be due and payable in accordance with section 15 of P.L.1945, c.162 (C.54:10A-15), and the surtax shall be administered pursuant to the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.). Notwithstanding the provisions of any other law to the contrary, no credits shall be allowed against the surtax liability computed under this section except for credits for installment payments, estimated payments made with a request for an extension of time for filing a return, or overpayments from prior privilege periods.

2. (New section) For privilege periods beginning on and after January 1, 2017, for the purposes of computing entire net income pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), a taxpayer shall not be allowed the amount of any deduction, exemption, or credit allowed under the Internal Revenue Code for income reported pursuant to section 965 of the Internal Revenue Code (26 U.S.C. s.965).

3. (New section) a. Notwithstanding the provisions of section 4 of P.L.1945, c.162 (C.54:10A-4) or any other law to the contrary, as used in this section only:

“Dividends” means all dividends, including but not limited to dividends actually paid, deemed dividends, and all other distributions treated as dividends, under the Internal Revenue Code or under the laws of the State of New Jersey.

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.
“Gross domestic product” means the nominal gross domestic product for the prior calendar year.

“Subsidiary” means a business entity of which the taxpayer has a direct or indirect ownership interest regardless of its percentage of ownership.

“Taxpayer” means a business entity required to report and pay tax on dividends for federal income tax purposes and either (1) is subject to tax pursuant to section 2 of P.L.1945, c.162 (C.54:10A-2); or (2) has taxable premiums subject to the taxes imposed pursuant to R.S.54:16-1 et seq., R.S.54:18-1 et seq., and P.L.1945, c.132 (C.54:18A-1 et seq.), or any other law of this State imposing a tax on insurance companies for insuring risks in this State.

b. For tax years beginning on or after January 1, 2017 and ending before December 31, 2018, in addition to the tax paid by a taxpayer pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), a taxpayer shall pay a tax equal to a rate of 9% applied to all of the taxpayer’s dividends included in the taxpayer’s income for federal income tax purposes pursuant to the Internal Revenue Code without any deduction, exemption, or credit allowed under the Internal Revenue Code or any credits, grants, or net operating losses allowed under the laws of the State of New Jersey.

c. A taxpayer shall not be liable for the tax imposed by this section, if so prohibited by any federal law, or if the total amount of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer, are in aggregate less than $1,000,000 for the tax year.

d. In order for a taxpayer to determine its tax liability under this section, the taxpayer shall use an allocation factor based on the gross domestic product of the State over the total gross domestic product of every state within the United States, the District of Columbia, and every United States territory, regardless of how such amounts taxed by this section are classified under section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however, the director may adjust and provide relief pursuant to section 8 of P.L.1945, c.162 (C.54:10A-8).

e. The tax imposed pursuant to this section shall not be deemed a tax on capital stock or property and shall be added back for the purposes of subparagraph (C) of paragraph (2) of subsection (k) of section 4 of P.L. 1945, c.162 (C.54:10A-4).

f. Except as provided in subsection c. of this section, a taxpayer shall be liable to pay the tax imposed by this section if the taxpayer is subject to tax pursuant to section 2 of P.L.1945, c.162 (C.54:10A-2), or if the taxpayer is an insurance company licensed to insure risks in this State.

g. The tax imposed pursuant to this section shall be due and payable on or before May 15, 2019 on amounts which the taxpayer reports for federal income tax purposes for tax years beginning on
or after January 1, 2017 and ending before December 31, 2018 pursuant to the Internal Revenue Code. The tax shall be reported on a form prescribed by the director and shall be due and payable regardless of whether the taxpayer elects to pay its federal tax liability for the amount in installment payments.

h. A taxpayer paying the tax imposed pursuant to this section shall be allowed a credit against the taxpayer’s tax liability under subsection b. of this section in an amount equal to the tax, if any, paid on the same dividends under section 5 of P.L.1945, c.162 (C.54:10A-5). The credit allowed by this subsection shall only be allowed to the extent the taxpayer paid tax on the dividends under both this section and section 5 of P.L.1945, c.162 (C.54:10A-5). A taxpayer shall not transfer the credit allowed pursuant to this subsection to any other taxpayer.

i. The tax imposed pursuant to this section shall be administered pursuant to the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1. Penalties and interest shall be applied for failure to file and pay the tax imposed pursuant to this section.

No penalties or interest shall be imposed upon payment of the tax imposed pursuant to this section if payment is made on or before May 15, 2019.

4. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument, any other entity classified as a corporation for federal income tax purposes, and any state or federally chartered building and loan association or savings and loan association.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2)(F) of subsection (k) of this section. The foregoing aggregate of values
shall be reduced by 50% of the amount disclosed by the books of
the corporation for investment in the capital stock of one or more
subsidiaries, which investment is defined as ownership (1) of at
least 80% of the total combined voting power of all classes of stock
of the subsidiary entitled to vote and (2) of at least 80% of the total
number of shares of all other classes of stock except nonvoting
stock which is limited and preferred as to dividends. In the case of
investment in an entity organized under the laws of a foreign
country, the foregoing requisite degree of ownership shall effect a
like reduction of such investment from the net worth of the
taxpayer, if the foreign entity is considered a corporation for any
purpose under the United States federal income tax laws, such as
(but not by way of sole examples) for the purpose of supplying
deemed paid foreign tax credits or for the purpose of status as a
controlled foreign corporation. In calculating the net worth of a
taxpayer entitled to reduction for investment in subsidiaries, the
amount of liabilities of the taxpayer shall be reduced by such
proportion of the liabilities as corresponds to the ratio which the
excluded portion of the subsidiary values bears to the total assets of
the taxpayer.

In the case of banking corporations which have international
banking facilities as defined in subsection (n), the foregoing
aggregate of values shall also be reduced by retained earnings of the
international banking facility. Retained earnings means the
earnings accumulated over the life of such facility and shall not
include the distributive share of dividends paid and federal income
taxes paid or payable during the tax year.

If in the opinion of the director, the
corporation's books do not disclose fair valuations the
director may make a reasonable determination of
the net worth which, in his opinion, would reflect the fair value of
the assets, exclusive of subsidiary investments as defined aforesaid,
carried on the books of the corporation, in accordance with sound
accounting principles, and such determination shall be used as net
worth for the purpose of this act.

(e) (Deleted by amendment, P.L.1998, c.114.)

(f) "Investment company" shall mean any corporation whose
business during the period covered by its report consisted, to the
extent of at least 90% thereof of holding, investing and reinvesting
in stocks, bonds, notes, mortgages, debentures, patents, patent rights
and other securities for its own account, but this shall not include
any corporation which: (1) is a merchant or a dealer of stocks,
bonds and other securities, regularly engaged in buying the same
and selling the same to customers; or (2) had less than 90% of its
average gross assets in New Jersey, at cost, invested in stocks,
bonds, debentures, mortgages, notes, patents, patent rights or other
securities or consisting of cash on deposit during the period covered
by its report; or (3) is a banking corporation, a savings institution,
or a financial business corporation as defined in the Corporation

(g) "Regulated investment company" shall mean any corporation
which for a period covered by its report, is registered and regulated
under the Investment Company Act of 1940 (54 Stat. 789), as
amended.

(h) "Taxpayer" shall mean any corporation, and any partnership
required, or consenting, to report or to pay taxes, interest or
penalties under this act. "Taxpayer" shall not include a partnership
that is listed on a United States national stock exchange.

(i) "Fiscal year" shall mean an accounting period ending on any
day other than the last day of December on the basis of which the
taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the
calendar or fiscal accounting period for which a tax is payable
under this act.

(k) "Entire net income" shall mean total net income from all
sources, whether within or without the United States, and shall
include the gain derived from the employment of capital or labor, or
from both combined, as well as profit gained through a sale or
conversion of capital assets.

For the purpose of this act, the amount of a taxpayer's entire net
income shall be deemed prima facie to be equal in amount to the
taxable income, before net operating loss deduction and special
deductions, which the taxpayer is required to report, or, if the
taxpayer is classified as a partnership for federal tax purposes,
would otherwise be required to report, to the United States Treasury
Department for the purpose of computing its federal income tax,
provided however, that in the determination of such entire net
income,

(1) Entire net income shall exclude for the periods set forth in
paragraph (2)(F)(i) of this subsection, any amount, except with
respect to qualified mass commuting vehicles as described in
section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect
immediately prior to January 1, 1984, which is included in a
taxpayer's federal taxable income solely as a result of an election
made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion,
deduction or credit of:

(A) The amount of any [specific] exemption or credit allowed in
any law of the United States imposing any tax on or measured by
the income of corporations.

(B) Any part of any income from dividends or interest on any
kind of stock, securities or indebtedness, except as provided in
paragraph (5) of subsection (k) of this section.

(C) Taxes paid or accrued to the United States, a possession or
territory of the United States, a state, a political subdivision thereof,
or the District of Columbia, or to any foreign country, state,
province, territory or subdivision thereof, on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section.

(D) (Deleted by amendment, P.L.1985, c.143.)
(E) (Deleted by amendment, P.L.1995, c.418.)
(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

(ii) For the periods set forth in subparagraph (F)(i) of paragraph (2) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or
federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

(ii) The amount of treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

(H) The amount of any sales and use tax paid by a utility vendor pursuant to section 71 of P.L.1997, c.162.

(I) Interest paid, accrued or incurred for the privilege period to a related member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4), except that a deduction shall be permitted to the extent that the taxpayer establishes by clear and convincing evidence, as determined by the director, that: (i) a principal purpose of the transaction giving rise to the payment of the interest was not to avoid taxes otherwise due under Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, (ii) the interest is paid pursuant to arm's length contracts at an arm's length rate of interest, and (iii)(aa) the related member was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation, (bb) a measure of the tax includes the interest received from the related member, and (cc) the rate of tax applied to the interest received by the related member is equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this State.

A deduction shall also be permitted if the taxpayer establishes by clear and convincing evidence, as determined by the director, that the disallowance of a deduction is unreasonable, or the taxpayer and the director agree in writing to the application or use of an alternative method of apportionment under section 8 of P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be construed to limit or negate the director's authority to otherwise enter into agreements and compromises otherwise allowed by law.

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States containing an express exemption from state income taxation, provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other
information as the director may prescribe or (ii) to an independent lender and the taxpayer guarantees the debt on which the interest is required.

(J) (i) Amounts deducted for federal tax purposes pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199, except that this exclusion shall not apply to amounts deducted pursuant to that section that are exclusively based upon domestic production gross receipts of the taxpayer which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property which the taxpayer demonstrates to the satisfaction of the director was manufactured or produced by the taxpayer in whole or in significant part within the United States but not qualified production property that was grown or extracted by the taxpayer. "Manufactured or produced" as used in this paragraph shall be limited to performance of an operation or series of operations the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character shall be a substantial change, and result in a transformation of property into a different or substantially more usable product.

(ii) For privilege periods beginning after December 31, 2017, notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) or any other law to the contrary, for the purposes of determining the amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be taken as a deduction pursuant to section 199A of the Internal Revenue Code (26 U.S.C. s.199A).

(K) For privilege periods beginning after December 31, 2017, the interest deduction limitation in subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to both related and unrelated parties, regardless of whether the related parties are subject to the add-back provision of either subparagraph (I) of paragraph (2) of this subsection or in section 5 of P.L.2002, c.40 (C.54:10A-4.4).

(3) The [commissioner] director may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;
(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities;

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph; or

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) (A) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section and for privilege periods ending on or before December 31, 2018.

(B) For privilege periods beginning on and after January 1, 2019, entire net income shall exclude 95% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section.

Entire net income shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the 80% or more ownership of investment is calculated as described in subsection (d) of this section.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the
period of the loss and a net operating loss for any privilege period
ending after June 30, 2009 shall be a net operating loss carryover to
each of the twenty privilege periods following the period of the
loss. The entire amount of the net operating loss for any privilege
period (the "loss period") shall be carried to the earliest of the
privilege periods to which the loss may be carried. The portion of
the loss which shall be carried to each of the other privilege periods
shall be the excess, if any, of the amount of the loss over the sum of
the entire net income, computed without the exclusions permitted in
paragraphs (4) and (5) of this subsection or the net operating loss
deduction provided by subparagraph (A) of this paragraph, for each
of the prior privilege periods to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term
"net operating loss" means the excess of the deductions over the
gross income used in computing entire net income without the net
operating loss deduction provided for in subparagraph (A) of this
paragraph and the exclusions in paragraphs (4) and (5) of this
subsection.

(D) Change in ownership. Where there is a change in 50% or
more of the ownership of a corporation because of redemption or
sale of stock and the corporation changes the trade or business
giving rise to the loss, no net operating loss sustained before the
changes may be carried over to be deducted from income earned
after such changes. In addition where the facts support the premise
that the corporation was acquired under any circumstances for the
primary purpose of the use of its net operating loss carryover, the
director may disallow the carryover.

(E) Notwithstanding the provisions of this paragraph (6) of
subsection (k) of this section to the contrary, for privilege periods
beginning during calendar year 2002 and calendar year 2003, no
deduction for any net operating loss carryover shall be allowed and
for privilege periods beginning during calendar year 2004 and
calendar year 2005, there shall be allowed as a deduction for the
privilege period so much of the net operating loss carryover as
reduces entire net income otherwise calculated by 50%. If and only
to the extent that any net operating loss carryover deduction is
disallowed by reason of this subparagraph (E), the date on which
the amount of the disallowed net operating loss carryover deduction
would otherwise expire shall be extended by a period equal to the
period for which application of the net operating loss was
disallowed by this subparagraph.

Provided, that this subparagraph (E) shall not restrict the
surrender or acquisition of corporation business tax benefit
certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-
7.42a) and shall not restrict the application of corporation business
tax benefit certificates pursuant to section 2 of P.L.1997, c.334
(C.54:10A-4.2).
(F) Reduction for discharge of indebtedness. A net operating loss for any privilege period ending after June 30, 2014, and any net operating loss carryover to such privilege period, shall be reduced by the amount excluded from federal taxable income under subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the federal Internal Revenue Code (26 U.S.C. s.108), for the privilege period of the discharge of indebtedness.

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities means the uniform system of accounts as promulgated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

(A) Depreciation for property placed in service prior to January 1, 1998 shall be adjusted as follows:

(i) Depreciation for federal income tax purposes shall be disallowed in full.

(ii) A deduction shall be allowed for the New Jersey depreciation allowance. The New Jersey depreciation allowance shall be computed for the single asset account described above based on the New Jersey tax basis as adjusted above as if all assets in the single asset account were first placed in service on January 1, 1998. Depreciation shall be computed using the straight line method over a thirty-year life. A full year's depreciation shall be allowed in the initial tax year. No half-year convention shall apply. The depreciable basis of the single account shall be reduced by the adjusted federal tax basis of assets sold, retired, or otherwise disposed of during any year on which gain or loss is recognized for
federal income tax purposes as described in subparagraph (B) of this paragraph.

(B) Gains and losses on sales, retirements and other dispositions of assets placed in service prior to January 1, 1998 shall be recognized and reported on the same basis as for federal income tax purposes.

(C) The Director of the Division of Taxation shall promulgate regulations describing the methodology for allocating the single asset account in the event that a portion of the utility's operations are separated, spun-off, transferred to a separate company or otherwise desegregated.

(8) In the case of taxpayers that are gas, electric, gas and electric, or telecommunications public utilities as defined pursuant to subsection (q) of this section, the director shall have authority to promulgate rules and issue guidance correcting distortions and adjusting timing differences resulting from the adoption of P.L.1997, c.162 (C.54:10A-5.25 et al.).

(9) Notwithstanding paragraph (1) of this subsection, entire net income shall not include the income derived by a corporation organized in a foreign country from the international operation of a ship or ships, or from the international operation of aircraft, if such income is exempt from federal taxation pursuant to section 883 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

(10) Entire net income shall exclude all income of an alien corporation the activities of which are limited in this State to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities, within the meaning of section 864 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on December 31, 1998. Notwithstanding the previous sentence, if an alien corporation undertakes one or more infrequent, extraordinary or non-recurring activities, including but not limited to the sale of tangible property, only the income from such infrequent, extraordinary or non-recurring activity shall be subject to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income subject to tax shall be determined without regard to the allocation to that specific transaction of any general business expense of the taxpayer and shall be specifically assigned to this State for taxation by this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this paragraph, "alien corporation" means a corporation organized under the laws of a jurisdiction other than the United States or its political subdivisions.

(11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless
those research and experimental expenditures are also used to
compute a federal credit claimed pursuant to section 41 of the

(12) (A) Notwithstanding the provisions of subsection (k) of
section 168 of the federal Internal Revenue Code of 1986, 26
U.S.C. s.168, subsection (b) of section 1400L of the federal Internal
Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal
law, for property acquired after September 10, 2001, the
depreciation deduction otherwise allowed pursuant to section 167 of
the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall
be determined pursuant to the provisions of the federal Internal
Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on

(B) The director shall prescribe the rules and regulations
necessary to carry out the provisions of this paragraph, including,
among others, those for determining the adjusted basis of the
acquired property for the purposes of the Corporation Business Tax
Act (1945), P.L.1945, c.162.

(13) (A) Notwithstanding the provisions of section 179 of the
federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for
property placed in service on or after January 1, 2004, the costs that
a taxpayer may otherwise elect to treat as an expense which is not
chargeable to a capital account shall be determined pursuant to the
provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
s.1 et seq.) in effect on December 31, 2002.

(B) The director shall prescribe the rules and regulations
necessary to carry out the provisions of this paragraph, including,
among others, those for determining the adjusted basis of the
acquired property for the purposes of the Corporation Business Tax
Act (1945), P.L.1945, c.162.

(14) Notwithstanding the provisions of subsection (i) of section
108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),
for privilege periods beginning after December 31, 2008 and before
January 1, 2011, entire net income shall include the amount of
discharge of indebtedness income excluded for federal income tax
purposes pursuant to subsection (i) of section 108 of the federal
Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege
periods beginning on or after January 1, 2014 and before January 1,
2019, entire net income shall exclude the amount of discharge of
indebtedness income included for federal income tax purposes,
pursuant to subsection (i) of section 108 of the federal Internal

(15) Entire net income shall exclude the gain or income derived
from the sale or assignment of a tax credit transfer certificate
pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section
10 of P.L.2014, c.63 (C.34:1B-251).

(16) Entire net income shall be determined without the exclusion,
exemption, deduction, or credit of any income exempt from federal
taxable income under any treaty obligation of the United States, unless such exclusion, exemption, deduction, or credit is explicitly made applicable to states under the express terms of a tax treaty entered into by the United States.

(l) "Real estate investment trust" shall mean any corporation, trust or association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only
international banking facility time deposits and international
banking facility extensions of credit as such terms are defined in
section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
board of governors of the Federal Reserve System, 12 CFR Part
204, effective December 3, 1981. In the event that the United
States enacts a law, or the board of governors of the Federal
Reserve System adopts a regulation which amends the present
definition of international banking facility or of such facilities' time
deposits or extensions of credit, the Commissioner of Banking and
Insurance shall forthwith adopt regulations defining such terms in
the same manner as such terms are set forth in the laws of the
United States or the regulations of the board of governors of the
Federal Reserve System. The regulations of the Commissioner of
Banking and Insurance shall thereafter provide the applicable
definitions.

(o) "S corporation" means a corporation included in the
definition of an "S corporation" pursuant to section 1361 of the

(p) "New Jersey S corporation" means a corporation that is an S
corporation; which has made a valid election pursuant to section 3
of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S
corporation continuously since the effective date of the valid
election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-
5.22).

(q) "Public Utility" means "public utility" as defined in

(r) "Qualified investment partnership" means a partnership
under this act that has more than 10 members or partners with no
member or partner owning more than a 50% interest in the entity
and that derives at least 90% of its gross income from dividends,
interest, payments with respect to securities loans, and gains from
the sale or other disposition of stocks or securities or foreign
currencies or commodities or other similar income (including but
not limited to gains from swaps, options, futures or forward
contracts) derived with respect to its business of investing or
trading in those stocks, securities, currencies or commodities, but
"investment partnership" shall not include a "dealer in securities"
within the meaning of section 1236 of the federal Internal Revenue

(s) "Savings institution" means a state or federally chartered
building and loan association, savings and loan association, or
savings bank.

(t) "Partnership" means an entity classified as a partnership for
federal income tax purposes.

(cf: P.L.2017, c.313, s.4)

5. Section 5 of P.L.2002, c.40 (C.54:10A-4.4) is amended to
read as follows:
5. a. For the purposes of this section:

"Intangible expenses and costs" includes (1) expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the federal Internal Revenue Code of 1986, 26 U.S.C. s.1 et seq.; (2) losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions; (3) royalty, patent, technical and copyright fees; (4) licensing fees; and (5) other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under section 163 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.163, for purposes of determining taxable income under the code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance, ownership, sale, exchange or disposition of intangible property.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the privilege period, is: (1) a related entity, (2) a component member as defined in subsection (b) of section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, (3) is a person to or from whom there is attribution of stock ownership in accordance with subsection (e) of section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, or (4) is a person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in (1) through (3) of this definition.

"Related entity" means (1) a stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.318, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, [at least] 50% or more of the value of the taxpayer's outstanding stock; (2) a stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, [at least] 50% or more per cent of the value of the taxpayer's outstanding stock; or (3) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the
party to the corporation under the attribution rules of the federal
Internal Revenue Code of 1986, 26 U.S.C. s.318, if the taxpayer
owns, directly, indirectly, beneficially or constructively, at least
50% or more percent of the value of the corporation's outstanding
stock. The attribution rules of the federal Internal Revenue Code of
1986, 26 U.S.C. s.318, shall apply for purposes of determining
whether the ownership requirements of this definition have been
met.

b. For purposes of computing its entire net income under
section 4 of P.L.1945, c.162 (C.54:10A-4), a taxpayer shall add
back otherwise deductible interest expenses and costs and
intangible expenses and costs directly or indirectly paid, accrued or
incurred to, or in connection directly or indirectly with one or more
direct or indirect transactions with, one or more related members.

c. (1) The adjustments required in subsection b. of this section
shall not apply if: (a) the interest expenses and costs and intangible
expenses and costs are directly or indirectly paid, accrued or
incurred to a related member in a foreign nation which has in force
a comprehensive income tax treaty with the United States
containing an express exemption from state income taxation; or (b)
the taxpayer establishes by clear and convincing evidence, as
determined by the director, that the adjustments are unreasonable;
or (c) the taxpayer and the director agree in writing to the
application or use of an alternative method of apportionment under
section 8 of P.L.1945, c.162 (C.54:10A-8). Nothing in this
subsection shall be construed to limit or negate the director's
authority to otherwise enter into agreements and compromises
otherwise allowed by law.

(2) For the purposes of qualifying for the exception provided by
subparagraph (a) of paragraph (1) of this subsection, the taxpayer
shall disclose on its return for the privilege period the name of the
related member, the amount of the interest expenses and costs and
intangible expenses and costs deducted, the relevant foreign nation,
and such other information as the director may prescribe.

(3) The adjustments required in subsection b. of this section
shall not apply to the portion of interest expenses and costs and
intangible expenses and costs that the taxpayer establishes by a
preponderance of the evidence meets both of the following: (a) the
related member during the same income year directly or indirectly
paid, received, accrued or incurred the portion to or from a person
that is not a related member, and (b) the transaction giving rise to
the interest expenses and costs or the intangible expenses and costs
between the taxpayer and the related member did not have as a
principal purpose the avoidance of any portion of the tax due under
Title 54 of the Revised Statutes or Title 54A of the New Jersey
Statutes.

d. Nothing in this section shall require a taxpayer to add to its
net income more than once any amount of interest expenses and
costs and intangible expenses and costs that the taxpayer pays, accrues or incurs to a related member described in subsection b. of this section.

e. Nothing in this section shall be construed to limit or negate the director's authority to make adjustments under paragraph (3) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), section 8 of P.L.1945, c.162 (C.54:10A-8), or section 10 of P.L.1945, c.162 (C.54:10A-10).

(cf: P.L.2002, c.40, s.5)

6. Section 49 of P.L.1987, c.76 (C.54:10A-14.1) is amended to read as follows:

49. Every domestic or foreign corporation subject to the tax or to filing requirements imposed under the Corporation Business Tax Act (1945), P.L. 1945, c. 162 (C. 54:10A-1 et seq.), shall keep all records used to determine its tax liability and such other records as the Director of the Division of Taxation may by regulation require. The records shall be available for inspection and examination at any time upon demand by the director or his duly authorized agent or employee and shall be preserved for a period of five years, except that the director may consent to their destruction within that period or may require that they be kept longer.

(cf: P.L.1987, c.76, s.49)

7. Section 17 of P.L.1945, c.162 (C.54:10A-17) is amended to read as follows:

17. (a) If the period covered by the report under this act is other than the period covered by the report to the United States Treasury Department or is a period of less than 12 calendar months, the [commissioner] director may, under regulations prescribed by him, determine the entire net worth and entire net income of the taxpayer in such manner as shall properly reflect its entire net worth and entire net income for the period covered by its report under this act.

(b) Any taxpayer which shall fail to file its return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the State Tax Uniform Procedure Law, subtitle 9 of Title 54 of the Revised Statutes. The [commissioner] director, if satisfied that the failure to comply with any provision of this act was excusable, may abate or remit the whole or part of any penalty.

(cf: P.L.1975, c.177, s.9)

8. Section 20 of P.L.1945, c.162 (C.54:10A-20) is amended to read as follows:

20. In addition to other remedies for the collection of the tax imposed by this chapter, the Attorney-General may of his own motion or upon the request of the [commissioner] director,
whenever any tax due under this chapter shall have remained in arrears for a period of three months after the tax shall have become payable, bring an action in the Superior Court in the name of the State, against such corporation for injunctive relief to restrain it from the exercise of any franchise, or the transaction of any business within this State until the payment of such tax and penalties and interest due thereon, and the costs of such application, to be fixed by the court. The court may proceed in the action in a summary manner or otherwise and may grant the injunctive relief, if a proper case appear. Upon the granting and service of the order or judgment giving injunctive relief, it shall not be lawful for such company thereafter to exercise any franchise or transact any business in this State until such injunction be dissolved.

(cf: P.L.1953, c.51, s.116)

9. Section 21 of P.L.1945, c.162 (C.54:10A-21) is amended to read as follows:

21. In the event of failure or neglect of any taxpayer which is a foreign corporation to pay the tax imposed by this chapter, on or before the first day of December in each year, immediate notice thereof may be given by the [commissioner] director to the Secretary of State who shall immediately revoke the certificate of authority of said corporation to do business in the State of New Jersey and notice of such revocation shall be given by the Secretary of State to the corporation affected and thereafter such corporation, so far as the further transaction of business in the State of New Jersey is concerned, shall be in the same condition as if no certificate of authority had ever been issued to it by the Secretary of State, but remedies provided by this chapter for the collection of the tax and interest and penalties shall remain unimpaired. After the revocation of any such certificate of authority, no new certificate shall be issued by the Secretary of State to such defaulting corporation until the payment of all assessments imposed hereunder and remaining unpaid with penalties and interest and any costs that may have accrued, such payment to be evidenced by a certificate of the [commissioner] director.

(cf: P.L.1945, c.162, s.21)

10. Section 28 of P.L.1945, c.162 (C.54:10A-27) is amended to read as follows:

28. The [commissioner] director shall prescribe and issue such rules and regulations, not inconsistent herewith, for the interpretation and application of the provisions of this act, as he may deem necessary.

(cf: P.L.1945, c.162, s.28)
11. Section 29 of P.L.1945, c.162 (C.54:10A-28) is amended to read as follows:

29. This act shall take effect January first, one thousand nine hundred and forty-six, except that the [commissioner] director may prior thereto take such action as he may deem appropriate in anticipation of or in preparation for the operation of the provisions hereof, and except further that the appropriation contained herein for the reduction of the State school tax shall be first made for the fiscal year beginning July first, one thousand nine hundred and forty-six.

(cf: P.L.1945, c.162, s.29)

12. Section 4 of P.L.1947, c.51 (C.54:10A-30) is amended to read as follows:

4. The [Commissioner] director upon written application made to him and upon the payment of a fee of five dollars ($5.00), may release any property from the lien of any tax, interest or penalty imposed upon any corporation in accordance with the provisions of this act or of chapters thirteen or thirty-two-A of Title 54 of the Revised Statutes, or of any certificate, judgment or levy procured by him; provided, payment be made to the [commissioner] director of such sum as he shall deem adequate consideration for such release or deposit be made of such security or such bond be filed as the [commissioner] director shall deem proper to secure payment of any debt evidenced by any such tax, interest, penalty, certificate, judgment or levy, the lien of which is sought to be released, or provided the [commissioner] director is satisfied that payment of the tax is otherwise provided for. The application for such release shall be in such form as shall be prescribed by the [commissioner] director and shall contain an accurate description of the property to be released together with such other information as the [commissioner] director may require. Such release shall be given under the seal of the [commissioner] director, and may be recorded in any office in which conveyances of real estate may be recorded.

(cf: P.L.1947, c.51, s.4)

13. Section 2 of P.L.2005, c.127 (C.54A:5-15) is amended to read as follows:

2. Notwithstanding the provisions of N.J.S.54A:5-1, if any, or any other law to the contrary, for the purposes of determining the amount of a category of income pursuant to N.J.S.54A:5-1 that is net of expenses, no amounts shall be taken as a deduction pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199, and the deduction of any amounts pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199 shall be disallowed except that this disallowance shall not apply to
amounts deducted pursuant to section 199 of the federal Internal Revenue Code of 1986 that are exclusively based upon domestic production gross receipts of the taxpayer or allocable to the taxpayer under that section which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property which the taxpayer shall demonstrate to the satisfaction of the director was manufactured or produced by the taxpayer in whole or in significant part within the United States but not qualified production property that was grown or extracted by the taxpayer. "Manufactured or produced" as used in this paragraph shall be limited to performance of an operation or series of operations the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character shall be a substantial change, and result in a transformation of property into a different or substantially more usable product.

For tax years beginning after December 31, 2017, notwithstanding the provisions of N.J.S.54A:5-1 or any other law to the contrary, for the purposes of determining the amount of a category of income pursuant to N.J.S.54A:5-1 that is net of expenses, no amounts shall be taken as a deduction pursuant to section 199A of the federal Internal Revenue Code (26 U.S.C. s.199A).

(cf: P.L.2005, c.127, s.2)

14. (New section) If any material provision within a clause, sentence, paragraph, section, or part of P.L. , c. (C. ) (pending before the Legislature as this bill) or the application thereof shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of P.L. , c. (C. ) (pending before the Legislature as this bill), or the application of any part thereof to any other person or circumstance and, to this end, the provisions of each clause, sentence, paragraph, section, or part of P.L. , c. (C. ) (pending before the Legislature as this bill) are declared to be severable.

15. (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 180 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.).

16. This act shall take effect immediately. Sections 2 and 3 shall apply retroactively to tax years beginning on and after January 1, 2017, and section 3 shall expire on December 31, 2019. The remaining sections shall apply to tax years beginning on and after January 1, 2018.

STATEMENT

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

Surtax on Business Income Exceeding $1 Million

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

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

Decoupling from Internal Revenue Code

The federal Tax Cuts and Jobs Act (Pub.L.115-97), signed into law December 22, 2017, enacted a number of changes to the federal Internal Revenue Code. This bill disallows the deduction taken for federal purposes against income reported pursuant to federal Internal Revenue Code section 965. That section establishes the repatriation transition tax at a substantially lower rate for federal purposes. This bill further prescribes a method to apply the federal interest deduction limitation in section 163(j) of the federal Internal Revenue Code. Additionally, the bill decouples the corporation business tax and the gross income tax from section 199A of the federal Internal Revenue Code. Section 199A allows taxpayers other than corporations a deduction of 20 percent of qualified
business income earned in a qualified trade or business, subject to
certain limitations.

Taxation of Dividends

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

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