

ASSEMBLY, No. 3754

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Assemblyman CHRISTOPHER P. DEPHILLIPS

District 40 (Bergen, Essex, Morris and Passaic)

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

Co-Sponsored by:

Assemblymen Catalano, Bergen, Wirths, Space, Assemblywoman Stanfield, Assemblymen Rooney and Scharfenberger

SYNOPSIS

Gradually reduces CBT rate.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/1/2020)

1 AN ACT gradually reducing the corporation business tax rate,
2 amending P.L.1945, c.162.

3

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

6

7 1. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to
8 read as follows:

9 5. The franchise tax to be annually assessed to and paid by
10 each taxpayer shall be the greater of the amount computed pursuant
11 to this section or the alternative minimum assessment computed
12 pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a); provided
13 however, that in the case of a taxpayer that is a New Jersey S
14 corporation, an investment company, a professional corporation
15 organized pursuant to P.L.1969, c.232 (C.14A:17-1 et seq.) or a
16 similar corporation for profit organized for the purpose of rendering
17 professional services under the laws of another state, or a person
18 operating on a cooperative basis under Part I of Subchapter T of the
19 federal Internal Revenue Code of 1986, 26 U.S.C. s.1381 et seq.,
20 there shall be no alternative minimum assessment computed
21 pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a).

22 The amount computed pursuant to this section shall be the sum
23 of the amount computed under subsection (a) hereof, or in the
24 alternative to the amount computed under subsection (a) hereof, the
25 amount computed under subsection (f) hereof, and the amount
26 computed under subsection (c) hereof:

27 (a) That portion of its entire net worth as may be allocable to
28 this State as provided in section 6, multiplied by the following
29 rates: 2 mills per dollar on the first \$100,000,000.00 of allocated net
30 worth; 4/10 of a mill per dollar on the second \$100,000,000.00;
31 3/10 of a mill per dollar on the third \$100,000,000.00; and 2/10 of a
32 mill per dollar on all amounts of allocated net worth in excess of
33 \$300,000,000.00; provided, however, that with respect to reports
34 covering accounting or privilege periods set forth below, the rate
35 shall be that percentage of the rate set forth in this subsection for
36 the appropriate year:

Accounting or Privilege	
Periods Beginning on or	The Percentage of the Rate
after:	to be Imposed Shall be:
April 1, 1983	75%
July 1, 1984	50%
July 1, 1985	25%
July 1, 1986	0

44 (b) (Deleted by amendment, P.L.1968, c.250, s.2.)

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.

(c) (1) For a taxpayer that is not a New Jersey S corporation, 3
1/4% of its entire net income or such portion thereof as may be
allocable to this State as provided in sections 6 through 10 of
P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10), plus such
portion thereof as is specifically assigned to this State as provided
in section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however,
that with respect to reports covering accounting or privilege periods
or parts thereof ending after **December 31, 1967**, the rate shall be 4
1/4%; and that with respect to reports covering accounting or
privilege periods or parts thereof ending after December 31, 1971,
the rate shall be 5 1/2%; and that with respect to reports covering
accounting or privilege periods or parts thereof ending after
December 31, 1974, the rate shall be 7 1/2%; and that with respect
to reports covering privilege periods or parts thereof ending after
December 31, 1979, the rate shall be 9% **December 31, 2020**, the
rate shall be 7 percent; and that with respect to reports covering
accounting or privilege periods or parts thereof ending after
December 31, 2021, the rate shall be 5 percent; and that with
respect to reports covering accounting or privilege periods or parts
thereof ending after December 31, 2022, the rate shall be 3 percent;
and that with respect to reports covering accounting or privilege
periods or parts thereof ending after December 31, 2023, the rate
shall be 2.5 percent; provided however, that for a taxpayer that has
entire net income of \$100,000 or less for a privilege period and is
not a partnership the rate **for that privilege period** shall be 7 1/2%
and provided further that for a taxpayer that has entire net income
of \$50,000 or less for a privilege period and is not a partnership the
rate for that privilege period shall be 6 1/2% **shall be 3.5 percent**
for privilege periods ending after December 31, 2020 and 2.5
percent for privilege periods ending after December 31, 2021.

For privilege periods ending on or after July 31, 2019, the tax
rate shall be applied against taxable net income.

(2) For a taxpayer that is a New Jersey S corporation:

(i) for privilege periods ending on or before June 30, 1998 the
rate determined by subtracting the maximum tax bracket rate
provided under N.J.S.54A:2-1 for the privilege period from the tax
rate that would otherwise be applicable to the taxpayer's entire net
income for the privilege period if the taxpayer were not an S
corporation provided under paragraph (1) of this subsection for the
privilege period; and

(ii) For a taxpayer that has entire net income in excess of
\$100,000 for the privilege period,

for privilege periods ending on or after July 1, 1998, but on or
before June 30, 2001, the rate shall be 2%,

for privilege periods ending on or after July 1, 2001, but on or
before June 30, 2006, the rate shall be 1.33%,

for privilege periods ending on or after July 1, 2006, but on or
before June 30, 2007, the rate shall be 0.67%, and

1 for privilege periods ending on or after July 1, 2007 there shall
2 be no rate of tax imposed under this paragraph; and

3 (iii) For a taxpayer that has entire net income of \$100,000 or less
4 for privilege periods ending on or after July 1, 1998, but on or
5 before June 30, 2001, the rate for that privilege period shall be
6 0.5%, and for privilege periods ending on or after July 1, 2001,
7 there shall be no rate of tax imposed under this paragraph.

8 (iv) The taxpayer's rate determined under subparagraph (i), (ii)
9 or (iii) of this paragraph shall be multiplied by its entire net income
10 that is not subject to federal income taxation or such portion thereof
11 as may be allocable to this State pursuant to sections 6 through 10
12 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10) plus such
13 portion thereof as is specifically assigned to this State as provided
14 in section 5 of P.L.1993, c.173 (C.54:10A-6.1). For privilege
15 periods ending on or after July 31, 2019, the tax rate shall be
16 applied against taxable net income.

17 (3) For a taxpayer that is a New Jersey S corporation, in
18 addition to the amount, if any, determined under paragraph (2) of
19 this subsection, the tax rate that would otherwise be applicable to
20 the taxpayer's entire net income for the privilege period if the
21 taxpayer were not an S corporation provided under paragraph (1) of
22 this subsection for the privilege period multiplied by its entire net
23 income that is subject to federal income taxation or such portion
24 thereof as may be allocable to this State pursuant to sections 6
25 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).
26 For privilege periods ending on or after July 31, 2019, the tax rate
27 shall be applied against taxable net income.

28 (d) Provided, however, that the franchise tax to be annually
29 assessed to and paid by any investment company or real estate
30 investment trust, which has elected to report as such and has filed
31 its return in the form and within the time provided in this act and
32 the rules and regulations promulgated in connection therewith,
33 shall, in the case of an investment company, be measured by 40% of
34 its entire net income and 40% of its entire net worth, and in the case
35 of a real estate investment trust, by 4% of its entire net income and
36 15% of its entire net worth, at the rates hereinbefore set forth for the
37 computation of tax on net income and net worth, respectively, but in
38 no case less than \$250, and further provided, however, that the
39 franchise tax to be annually assessed to and paid by a regulated
40 investment company which for a period covered by its report
41 satisfies the requirements of Chapter 1, Subchapter M, Part I,
42 Section 852(a) of the federal Internal Revenue Code shall be \$250.
43 For privilege periods ending on or after July 31, 2019, the tax rate
44 shall be applied against taxable net income.

45 (e) The tax assessed to any taxpayer pursuant to this section
46 shall not be less than \$25 in the case of a domestic corporation, \$50
47 in the case of a foreign corporation, or \$250 in the case of an
48 investment company or regulated investment company. Provided

1 however, that for privilege periods beginning in calendar year 1994
2 and thereafter the minimum taxes for taxpayers other than an
3 investment company or a regulated investment company shall be as
4 provided in the following schedule:

5	Period Beginning	Domestic	Foreign
6	In Calendar Year	Corporation	Corporation
7		Minimum Tax	Minimum Tax
8	1994	\$ 50	\$100
9	1995	\$100	\$200
10	1996	\$150	\$200
11	1997	\$200	\$200
12	1998	\$200	\$200
13	1999	\$200	\$200
14	2000	\$200	\$200
15	2001	\$210	\$210

16 and for calendar years 2002 through 2005 the minimum tax for all
17 taxpayers shall be \$500, and for calendar year 2006 through
18 calendar year 2011 the minimum tax for all corporations, and for
19 privilege periods beginning in calendar year 2012 and thereafter the
20 minimum tax for corporations that are not New Jersey S
21 corporations shall be based on the New Jersey gross receipts of the
22 taxpayer pursuant to the following schedule:

23	New Jersey Gross Receipts:	Minimum Tax:
24	Less than \$100,000	.....\$500
25	\$100,000 or more but	
26	less than \$250,000	..... \$750
27	\$250,000 or more but	
28	less than \$500,000	..... \$1,000
29	\$500,000 or more but	
30	less than \$1,000,000	..... \$1,500
31	\$1,000,000 or more	..... \$2,000

32 and for privilege periods beginning in calendar year 2012 and
33 thereafter the minimum tax for corporations that are New Jersey S
34 corporations shall be based on the New Jersey gross receipts of the
35 taxpayer pursuant to the following schedule:

36	New Jersey Gross Receipts:	Minimum Tax:
37	Less than \$100,000	.....\$375
38	\$100,000 or more but	
39	less than \$250,000	..... \$562.50
40	\$250,000 or more but	
41	less than \$500,000	..... \$750
42	\$500,000 or more but	
43	less than \$1,000,000	..... \$1,125
44	\$1,000,000 or more	..... \$1,500

45 provided however, that for a taxpayer that is a member of an
46 affiliated group or a controlled group pursuant to section 1504 or
47 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C.
48 s.1504 or 1563, and whose group has total payroll of \$5,000,000 or

1 more for the privilege period, the minimum tax shall be \$2,000 for
2 the privilege period. For privilege periods ending on and after July
3 31, 2019, the minimum tax of each member of a combined group
4 filing a mandatory or elective New Jersey combined return shall be
5 \$2,000 for the group privilege period.

6 (f) In lieu of the portion of the tax based on net worth and to be
7 computed under subsection (a) of this section, any taxpayer, the
8 value of whose total assets everywhere, less reasonable reserves for
9 depreciation, as of the close of the period covered by its report,
10 amounts to less than \$150,000, may elect to pay the tax shown in a
11 table which shall be promulgated by the director.

12 (g) Provided however, that for privilege periods beginning on or
13 after January 1, 2001 but before January 1, 2002 the franchise tax
14 annually assessed to and paid by a taxpayer:

15 (1) that is a limited liability company or foreign limited liability
16 company classified as a partnership for federal income tax purposes
17 shall be the amount determined pursuant to the provisions of section
18 3 of P.L.2001, c.136 (C.54:10A-15.6); or

19 (2) that is a limited partnership or foreign limited partnership
20 classified as a partnership for federal income tax purposes shall be
21 the amount determined pursuant to the provisions of section 4 of
22 P.L.2001, c.136 (C.54:10A-15.7).

23 (h) Provided however, that for privilege periods beginning on or
24 after January 1, 2002 the franchise tax annually assessed to and paid
25 by a taxpayer that is a partnership shall be the amount determined
26 pursuant to the provisions of section 12 of P.L.2002, c.40
27 (C.54:10A-15.11).

28 (i) (Deleted by amendment, P.L.2008, c.120)
29 (cf: P.L.2018, c.131, s.6)

30
31 2. This act shall take effect immediately.

32 33 34 STATEMENT

35
36 This bill gradually reduces the corporation business tax rate from
37 9 percent to 2.5 percent of income.

38 For privilege periods ending between January 1, 2021 and
39 December 31, 2021, the rate will be 7 percent. For privilege periods
40 ending between January 1, 2022 and December 31, 2022, the rate
41 will be 5 percent. For privilege periods ending between January 1,
42 2023 and December 31, 2023, the rate will be 3 percent. For
43 privilege periods ending after December 31, 2023, the rate will 2.5
44 percent.

45 For a taxpayer with less than \$100,000 of income, the rate of tax
46 will be reduced faster. Currently, the rate is 7.5 percent for
47 taxpayers with income between \$50,000 and \$100,000, and 6.5
48 percent for taxpayers with less than \$50,000 of income. Pursuant to

1 this bill, the rate will be 3.5 percent for taxpayers with less than
2 \$100,000 of income for privilege periods ending between January 1,
3 2021 and December 31, 2021. For privilege periods ending after
4 December 31, 2021, the rate will be 2.5 percent.

5 A “privilege period” is the 12 month accounting period for which
6 tax is due for the privilege of doing business in the State.