

[Third Reprint]
ASSEMBLY, No. 2279

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Assemblymen WEINGARTEN, ROBERTS,
Gregg and O'Toole

1 AN ACT providing for the simplification of wage taxes and
2 withholding for household workers, supplementing chapter 9 of
3 Title 54A of the New Jersey Statutes and Chapter 21 of Title 43 of
4 the Revised Statutes.

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

8
9 1. a. Notwithstanding the provisions of subsection (a) of
10 N.J.S.54A:7-4 to the contrary, except for an employer also liable for
11 withholding taxes with respect to remuneration for services rendered
12 other than for domestic service, ²tax ² returns with respect to domestic
13 service shall be filed on a calendar year basis. Such a return shall be
14 filed on or before ³[the date for filing the employer's gross income tax
15 return for the employer's taxable year that begins in that calendar year
16 pursuant to N.J.S.54A:8-1,] February 15 following the close of the
17 calendar year³ and the amount of tax withheld shall be paid over to the
18 Director of the Division of Taxation at that time, together with those
19 contributions treated as taxes pursuant to the provisions of section 2
20 of P.L. , c. (C.) (now pending before the Legislature as this
21 bill).

22 ³[b. For the purposes of N.J.S.54A:8-5, for taxable years
23 beginning on or after January 1, 1997, the taxes payable pursuant to
24 subsection a. of this section and those contributions treated as taxes
25 pursuant to the provisions of section 2 of P.L. , c. (C.) (now
26 pending before the Legislature as this bill) shall be treated as taxes
27 imposed on the employer for the taxable year of the employer that
28 begins in a calendar year referred to in subsection a. of this section;
29 provided however, that this subsection shall not apply to an employer

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted October 7, 1996.

² Senate SCM committee amendments adopted October 28, 1996.

³ Senate SBA committee amendments adopted December 11, 1997.

1 for a calendar year referred to in subsection a. of this section if no
2 amount of credit for wage withholding is allowed pursuant to
3 N.J.S.54A:7-3 to the employer for the taxable year of the employer
4 that begins in that calendar year and the taxpayer had, but for this
5 section, no tax liability for the preceding taxable year or no more than
6 \$100 liability for the current taxable year.]³

7 ³[c.] b.³ The director shall prescribe such regulations as the
8 director deems necessary to carry out the purpose of allowing
9 employers to convert from a quarterly system of payments and filing
10 to annual filing, and to simplify employer filing by allowing the
11 combination of unemployment compensation, disability benefits and
12 gross income tax for reporting and payment purposes for employees
13 providing domestic services by treating the taxes payable pursuant to
14 subsection a. of this section and those contributions treated as taxes
15 pursuant to the provisions of section 2 of P.L. , c. (C.) (now
16 pending before the Legislature as this bill) as taxes ³[imposed on the
17 employer] subject to the remittance requirements of N.J.S.54A:7-1 et
18 seq.³. These regulations shall include:

19 (1) Provisions for the forwarding of contributions treated as taxes
20 pursuant to the provisions of subsection b. of section 2 of P.L. , c.
21 (C.) (now pending before the Legislature as this bill), together
22 with such information as may be necessary, to the Office of the
23 Assistant Commissioner for Finance and Controller of the Department
24 of Labor for deposit in the proper funds and accounts established
25 pursuant to the “unemployment compensation law,” R.S.43:21-1 et
26 seq., and the “Temporary Disability Benefits Law,” P.L.1948, c.110
27 (C.43:21-25 et seq.);

28 (2) Provisions for the apportionment of interest and penalties
29 imposed between liabilities pursuant to the “New Jersey Gross Income
30 Tax Act,” N.J.S.54A:1-1 et seq. and those contributions treated as
31 liabilities pursuant to the “New Jersey Gross Income Tax Act”
32 pursuant to the provisions of subsection b. of section 2 of P.L. , c.
33 (C.) (now pending before the Legislature as this bill), and
34 forwarding the latter to the Office of the Assistant Commissioner for
35 Finance and Controller of the Department of Labor for deposit in the
36 proper funds established pursuant to the “unemployment compensation
37 law,” R.S.43:21-1 et seq., and the “Temporary Disability Benefits
38 Law,” P.L.1948, c.110 (C.43:21-25 et seq.).

39 ³[d.]³ ²[Notwithstanding the provisions of subsection a. of this
40 section, an employer subject to the provisions of this section shall,
41 within 10 days of the separation from employment of an employee in
42 domestic service whose contributions are treated as taxes pursuant to
43 the provisions of section 2 of P.L. , c. (C.) (now pending before
44 the Legislature as this bill), report to the director, on a form
45 determined by the director in consultation with the Commissioner of
46 the Department of Labor, wage information for all completed calendar

1 quarters of employment not previously reported and such other
 2 separation information as may be required to properly process an
 3 unemployment compensation claim.

4 (e)¹² ³c. Notwithstanding the provisions of subsection a. of this
 5 section, an employer subject to the provisions of this section shall,
 6 within 10 days of the separation from employment of an employee in
 7 domestic service whose contributions are treated as taxes pursuant to
 8 the provisions of section 2 of P.L. , c. (C.) (now pending before
 9 the Legislature as this bill), report to the director, on a form
 10 determined by the director in consultation with the Commissioner of
 11 the Department of Labor, wage information for all completed calendar
 12 quarters of employment not previously reported and such other
 13 separation information as may be required to properly process an
 14 unemployment compensation claim.

15 d. ³ For the purposes of this section, “domestic service” means
 16 domestic service as an employee in a private home of the employer,
 17 such as service as a babysitter, nanny, health aide, private nurse, maid,
 18 caretaker, yard worker or similar domestic employee.

19
 20 2. a. Notwithstanding the provisions of subsection (a) of
 21 R.S.43:21-14 and subparagraph (E) of paragraph (1) of subsection (d)
 22 of ²[R.S.45:21-7] R.S.43:21-7 ²to the contrary, except for an
 23 employer also liable for making or withholding contributions with
 24 respect to remuneration for services rendered other than for domestic
 25 service, returns ² reporting employer and employee contributions ²
 26 with respect to domestic service shall be filed on a calendar year basis.
 27 Such a return shall be filed on or before ³[the 15th day of the fourth
 28 month] February 15th³ following the close of the ³[employer’s
 29 taxable] calendar³ year ³[for federal income tax purposes]³, and the
 30 amount of contributions shall be paid over to the Director of the
 31 Division of Taxation in the Department of the Treasury at that time.
 32 ³[²This subsection shall not be construed to limit the commissioner's
 33 powers pursuant to subsection (g) of R.S.43:21-11 to require reports
 34 necessary for the administration of the “unemployment compensation
 35 law,” R.S.43:21-1 et seq., and the “Temporary Disability Benefits
 36 Law,” P.L.1948, c.110 (C.43:21-25 et seq.), including but not limited
 37 to quarterly reports of wages paid. ²³

38 b. Notwithstanding the provisions of R.S.43:21-16 or any other
 39 law to the contrary, the contributions due pursuant to subsection a. of
 40 this section shall be treated as taxes due pursuant to N.J.S.54A:1-1 et
 41 seq., subject to the provisions of section 1 of P.L. , c. (C.) (now
 42 pending before the Legislature as this bill).

43 c. The Commissioner of the Department of Labor, in consultation
 44 with Director of the Division of Taxation in the Department of the
 45 Treasury, shall prescribe such regulations as the commissioner deems
 46 necessary to carry out the purpose of allowing employers to convert

1 from a quarterly system of payments and filing to annual filing, and to
2 simplify employer filing by allowing the combination of unemployment
3 compensation, disability benefits and gross income tax for reporting
4 and payment purposes for employees providing domestic services.

5 d. ²[¹Notwithstanding the provisions of subsection a. of this
6 section, an employer subject to the provisions of this section shall,
7 within 10 days of the separation from employment of an employee in
8 domestic service whose contributions are treated as taxes pursuant to
9 the provisions of this section, report to the Director of the Division of
10 Taxation, on a form determined by the director in consultation with
11 the commissioner, wage information for all completed calendar
12 quarters of employment not previously reported and such other
13 separation information as may be required to properly process an
14 unemployment compensation claim.

15 (e)¹]²

16 ³Notwithstanding the provisions of subsection a. of this section,
17 an employer subject to the provisions of this section shall, within 10
18 days of the separation from employment of an employee in domestic
19 service whose contributions are treated as taxes pursuant to the
20 provisions of this section, report to the Director of the Division of
21 Taxation, on a form determined by the director in consultation with
22 the commissioner, wage information for all completed calendar
23 quarters of employment not previously reported and such other
24 separation information as may be required to properly process an
25 unemployment compensation claim.

26 e.³ For the purposes of this section, “domestic service” means
27 domestic service as an employee in a private home of the employer,
28 such as service as a babysitter, nanny, health aide, private nurse, maid,
29 caretaker, yard worker or similar domestic employee.

30
31 ³3. The Commissioner of Labor shall establish a system of annual
32 filings to meet the alternative system requirements of paragraph (3)
33 of subsection (a) of 42 U.S.C. s.1320b-7 within 30 days of the
34 enactment of P.L. _____, c. _____ (C. _____)(now pending before the
35 Legislature as this bill), and shall seek waiver from the United States
36 Secretary of Labor in conformance with paragraph (3) of subsection
37 (a) of 42 U.S.C. s.1320b-7.³

38
39 ³[3.] 4.³ This act shall take effect immediately and apply to
40 ³[calendar years beginning after enactment] all wages paid on and after
41 January 1, 1998, provided, however, that the provisions of subsection
42 (g) of R.S.43:21-11 conferring power on the commissioner to require
43 wage reports are reserved, subject to waiver pursuant to paragraph (3)
44 of subsection (a) of 42 U.S.C. s.1320b-7³.

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3 Simplifies employer reporting and payment of gross income tax
4 withholding and wage taxes for household workers.