

[Passed Both Houses]

[Third Reprint]

ASSEMBLY, No. 2279

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# STATE OF NEW JERSEY

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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, <sup>2</sup>tax <sup>2</sup> 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 <sup>3</sup>[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 year<sup>3</sup> 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 <sup>3</sup>[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

**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:**

<sup>1</sup> Assembly AAP committee amendments adopted October 7, 1996.

<sup>2</sup> Senate SCM committee amendments adopted October 28, 1996.

<sup>3</sup> Senate SBA committee amendments adopted December 11, 1997.

1 imposed on the employer for the taxable year of the employer that  
2 begins in a calendar year referred to in subsection a. of this section;  
3 provided however, that this subsection shall not apply to an employer  
4 for a calendar year referred to in subsection a. of this section if no  
5 amount of credit for wage withholding is allowed pursuant to  
6 N.J.S.54A:7-3 to the employer for the taxable year of the employer  
7 that begins in that calendar year and the taxpayer had, but for this  
8 section, no tax liability for the preceding taxable year or no more than  
9 \$100 liability for the current taxable year.]<sup>3</sup>

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

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

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

42 <sup>3</sup>[d.]<sup>3</sup> <sup>2</sup>[<sup>1</sup>Notwithstanding the provisions of subsection a. of this  
43 section, an employer subject to the provisions of this section shall,  
44 within 10 days of the separation from employment of an employee in  
45 domestic service whose contributions are treated as taxes pursuant to  
46 the provisions of section 2 of P.L. , c. (C. ) (now pending before

1 the Legislature as this bill), report to the director, on a form  
 2 determined by the director in consultation with the Commissioner of  
 3 the Department of Labor, wage information for all completed calendar  
 4 quarters of employment not previously reported and such other  
 5 separation information as may be required to properly process an  
 6 unemployment compensation claim.

7 (e)<sup>1</sup><sup>2</sup> <sup>3</sup>c. Notwithstanding the provisions of subsection a. of this  
 8 section, an employer subject to the provisions of this section shall,  
 9 within 10 days of the separation from employment of an employee in  
 10 domestic service whose contributions are treated as taxes pursuant to  
 11 the provisions of section 2 of P.L. , c. (C. ) (now pending before  
 12 the Legislature as this bill), report to the director, on a form  
 13 determined by the director in consultation with the Commissioner of  
 14 the Department of Labor, wage information for all completed calendar  
 15 quarters of employment not previously reported and such other  
 16 separation information as may be required to properly process an  
 17 unemployment compensation claim.

18 d. <sup>3</sup> For the purposes of this section, “domestic service” means  
 19 domestic service as an employee in a private home of the employer,  
 20 such as service as a babysitter, nanny, health aide, private nurse, maid,  
 21 caretaker, yard worker or similar domestic employee.  
 22

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

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

46 c. The Commissioner of the Department of Labor, in consultation

1 with Director of the Division of Taxation in the Department of the  
2 Treasury, shall prescribe such regulations as the commissioner deems  
3 necessary to carry out the purpose of allowing employers to convert  
4 from a quarterly system of payments and filing to annual filing, and to  
5 simplify employer filing by allowing the combination of unemployment  
6 compensation, disability benefits and gross income tax for reporting  
7 and payment purposes for employees providing domestic services.

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

18 (e)<sup>1</sup><sup>2</sup>

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

29 e.<sup>3</sup> For the purposes of this section, “domestic service” means  
30 domestic service as an employee in a private home of the employer,  
31 such as service as a babysitter, nanny, health aide, private nurse, maid,  
32 caretaker, yard worker or similar domestic employee.

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

41  
42 <sup>3</sup>[3.] 4.<sup>3</sup> This act shall take effect immediately and apply to  
43 <sup>3</sup>[calendar years beginning after enactment] all wages paid on and after  
44 January 1, 1998, provided, however, that the provisions of subsection  
45 (g) of R.S.43:21-11 conferring power on the commissioner to require  
46 wage reports are reserved, subject to waiver pursuant to paragraph (3)

1 of subsection (a) of 42 U.S.C. s.1320b-7<sup>3</sup>.

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