

[Passed Both Houses]

[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

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 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.]³

10 ³[c.] b.³ 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 ³[imposed on the
20 employer] subject to the remittance requirements of N.J.S.54A:7-1 et
21 seq.³. 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 ³[d.]³ ²[¹Notwithstanding 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)¹² ³c. 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. ³ 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 ²[R.S.45:21-7] R.S.43:21-7² 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 ² reporting employer and employee contributions²
 29 with respect to domestic service shall be filed on a calendar year basis.
 30 Such a return shall be filed on or before ³[the 15th day of the fourth
 31 month] February 15th³ following the close of the [employer’s
 32 taxable] calendar³ year³ [for federal income tax purposes]³, 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 ³[²This 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.²]³

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. ²[¹Notwithstanding 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)¹²

19 ³Notwithstanding 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.³ 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 ³3. 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-7.³

41
42 ³[3.] 4.³ This act shall take effect immediately and apply to
43 ³[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-7³.

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