

P.L. 1997, CHAPTER 40, *approved March 27, 1997*  
Senate, No. 231 (*Third Reprint*)

1 **AN ACT** concerning the taxation of S corporations under the  
2 corporation business tax, 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 <sup>1</sup>1. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to read  
8 as follows:

9 5. The franchise tax to be annually assessed to and paid by each  
10 taxpayer shall be the sum of the amount computed under subsection  
11 (a) hereof, or in the alternative to the amount computed under  
12 subsection (a) hereof, the amount computed under subsection (f)  
13 hereof, and the amount computed under subsection (c) hereof:

14 (a) That portion of its entire net worth as may be allocable to this  
15 State as provided in section 6, multiplied by the following rates: 2  
16 mills per dollar on the first \$100,000,000.00 of allocated net worth;  
17 4/10 of a mill per dollar on the second \$100,000,000.00; 3/10 of a mill  
18 per dollar on the third \$100,000,000.00; and 2/10 of a mill per dollar  
19 on all amounts of allocated net worth in excess of \$300,000,000.00;  
20 provided, however, that with respect to reports covering accounting  
21 or privilege periods set forth below, the rate shall be that percentage  
22 of the rate set forth in this subsection for the appropriate year:

23

24 Accounting or Privilege

25 Periods Beginning on or

26 After:

27 April 1, 1983

28 July 1, 1984

The Percentage of the Rate

to be Imposed Shall Be:

75%

50%

**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> Senate SSG committee amendments adopted March 14, 1996.

<sup>2</sup> Senate floor amendments adopted June 13, 1996.

<sup>3</sup> Senate amendments adopted in accordance with Governor's recommendations March 10, 1997.

1 July 1, 1985 25%

2 July 1, 1986 0

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

4 (c) (1) For a taxpayer that is not a New Jersey S corporation,  $3\frac{1}{4}\%$   
5 of its entire net income or such portion thereof as may be allocable to  
6 this State as provided in section 6 of P.L.1945, c.162 (C.54:10A-6);  
7 provided, however, that with respect to reports covering accounting  
8 or privilege periods or parts thereof ending after December 31, 1967,  
9 the rate shall be  $4\frac{1}{4}\%$ ; and that with respect to reports covering  
10 accounting or privilege periods or parts thereof ending after  
11 December 31, 1971, the rate shall be  $5\frac{1}{2}\%$ ; and that with respect to  
12 reports covering accounting or privilege periods or parts thereof  
13 ending after December 31, 1974, the rate shall be  $7\frac{1}{2}\%$ ; and that with  
14 respect to reports covering accounting or privilege periods or parts  
15 thereof ending after December 31, 1979, the rate shall be 9%;  
16 provided however, that for a taxpayer that has entire net income of  
17 \$100,000 or less for a privilege period the rate for that privilege period  
18 shall be  $7\frac{1}{2}\%$ .

19 (2) For a taxpayer that is a New Jersey S corporation, for privilege  
20 periods <sup>2</sup>[beginning] ending on or <sup>2</sup>before <sup>2</sup>[July 1, 1996] June 30,  
21 <sup>3</sup>[1997<sup>2</sup>]1998<sup>3</sup> the rate determined by subtracting the maximum tax  
22 bracket rate provided under N.J.S.54A:2-1 for the privilege period  
23 from the tax rate that would otherwise be applicable to the taxpayer's  
24 entire net income for the privilege period if the taxpayer were not an  
25 S corporation provided under paragraph (1) of this subsection for the  
26 privilege period and for privilege periods <sup>2</sup>[beginning on or] ending<sup>2</sup>  
27 <sup>3</sup>on or <sup>3</sup>after <sup>2</sup>[July 1, 1996] <sup>3</sup>[June 30, 1997<sup>2</sup>] July 1, 1998<sup>3</sup> the rate  
28 shall be 2%, provided however that for a taxpayer that has entire net  
29 income of \$100,000 or less for a privilege period <sup>3</sup>[beginning] ending<sup>3</sup>  
30 on or after July 1, <sup>3</sup>[1996]1998<sup>3</sup>, the rate for that privilege period  
31 shall be 0.5%, multiplied by its entire net income that is not subject to  
32 federal income taxation or such portion thereof as may be allocable to  
33 this State pursuant to sections 6 through 10 of P.L.1945, c.162  
34 (C.54:10A-6 through 54:10A-10); plus

35 (3) For a taxpayer that is a New Jersey S corporation, the tax rate  
36 that would otherwise be applicable to the taxpayer's entire net income  
37 for the privilege period if the taxpayer were not an S corporation  
38 provided under paragraph (1) of this subsection for the privilege  
39 period multiplied by its entire net income that is subject to federal  
40 income taxation or such portion thereof as may be allocable to this  
41 State pursuant to sections 6 through 10 of P.L.1945, c.162  
42 (C.54:10A-6 through 54:10A-10).

43 (d) Provided, however, that the franchise tax to be annually  
44 assessed to and paid by any investment company or real estate  
45 investment trust, which has elected to report as such and has filed its  
46 return in the form and within the time provided in this act and the rules

1 and regulations promulgated in connection therewith, shall, in the case  
 2 of an investment company, be measured by 25% of its entire net  
 3 income and 25% of its entire net worth, and in the case of a real estate  
 4 investment trust, by 4% of its entire net income and 15% of its entire  
 5 net worth, at the rates hereinbefore set forth for the computation of  
 6 tax on net income and net worth, respectively, but in no case less than  
 7 \$250.00, and further provided, however, that the franchise tax to be  
 8 annually assessed to and paid by a regulated investment company  
 9 which for a period covered by its report satisfies the requirements of  
 10 Chapter 1, Subchapter M, Part I, Section 852(a) of the federal Internal  
 11 Revenue Code shall be \$250.00.

12 (e) The tax assessed to any taxpayer pursuant to this section shall  
 13 not be less than \$25.00 in the case of a domestic corporation, \$50.00  
 14 in the case of a foreign corporation, or \$250.00 in the case of an  
 15 investment company or regulated investment company. Provided  
 16 however, that for accounting or privilege periods beginning in calendar  
 17 year 1994 and thereafter the minimum taxes for taxpayers other than  
 18 an investment company or a regulated investment company shall be as  
 19 provided in the following schedule:

20	21	22	23
	Period Beginning	Domestic	Foreign
	In Calendar Year	Corporation	Corporation
		Minimum Tax	Minimum Tax
24	1994	\$ 50	\$100
25	1995	\$100	\$200
26	1996	\$150	\$200
27	1997	\$200	\$200

28

29 and provided further that the director shall adjust the minimum tax for  
 30 accounting or privilege periods beginning in each fifth year following  
 31 calendar year 1997 and each fifth year thereafter by multiplying the  
 32 minimum tax for periods beginning in 1997 by an amount equal to one  
 33 plus 75% of the increase, if any, in the annual average total producer  
 34 price index for finished goods published by the federal Department of  
 35 Labor, Bureau of Labor Statistics, for the year preceding the  
 36 determination year over such index for calendar year 1996.

37 (f) In lieu of the portion of the tax based on net worth and to be  
 38 computed under subsection (a) of this section, any taxpayer, the value  
 39 of whose total assets everywhere, less reasonable reserves for  
 40 depreciation, as of the close of the period covered by its report,  
 41 amounts to less than \$150,000.00, may elect to pay the tax shown in  
 42 a table which shall be promulgated by the director.<sup>1</sup>

43 (cf: P.L.1995, c.246, s.1)

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45 2. This act shall take effect immediately.

S231 [3R]

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3 Changes corporation business tax rate for S corporations to 2%, or

4 .5% for S corporations with \$100,000 or less annual income.