

[Second Reprint]
SENATE, No. 231

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators INVERSO, ADLER, Lipman, Scott and Bubba

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 ¹1. 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	The Percentage of the Rate
26 After:	to be Imposed Shall Be:
27 April 1, 1983	75%
28 July 1, 1984	50%
29 July 1, 1985	25%
30 July 1, 1986	0

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 Senate SSG committee amendments adopted March 14, 1996.

² Senate floor amendments adopted June 13, 1996.

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

2 (c) (1) For a taxpayer that is not a New Jersey S corporation, 3¼%
3 of its entire net income or such portion thereof as may be allocable to
4 this State as provided in section 6 of P.L.1945, c.162 (C.54:10A-6);
5 provided, however, that with respect to reports covering accounting
6 or privilege periods or parts thereof ending after December 31, 1967,
7 the rate shall be 4¼%; and that with respect to reports covering
8 accounting or privilege periods or parts thereof ending after
9 December 31, 1971, the rate shall be 5½%; and that with respect to
10 reports covering accounting or privilege periods or parts thereof
11 ending after December 31, 1974, the rate shall be 7½%; and that with
12 respect to reports covering accounting or privilege periods or parts
13 thereof ending after December 31, 1979, the rate shall be 9%;
14 provided however, that for a taxpayer that has entire net income of
15 \$100,000 or less for a privilege period the rate for that privilege period
16 shall be 7½%.

17 (2) For a taxpayer that is a New Jersey S corporation, for privilege
18 periods ²[beginning] ending on or ²before [July 1, 1996] June 30,
19 1997² the rate determined by subtracting the maximum tax bracket rate
20 provided under N.J.S.54A:2-1 for the privilege period from the tax
21 rate that would otherwise be applicable to the taxpayer's entire net
22 income for the privilege period if the taxpayer were not an S
23 corporation provided under paragraph (1) of this subsection for the
24 privilege period and for privilege periods ²[beginning on or] ending²
25 after ²[July 1, 1996] June 30, 1997² the rate shall be 2%, provided
26 however that for a taxpayer that has entire net income of \$100,000 or
27 less for a privilege period beginning on or after July 1, 1996, the rate
28 for that privilege period shall be 0.5%, multiplied by its entire net
29 income that is not subject to federal income taxation or such portion
30 thereof as may be allocable to this State pursuant to sections 6 through
31 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10); plus

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

40 (d) Provided, however, that the franchise tax to be annually
41 assessed to and paid by any investment company or real estate
42 investment trust, which has elected to report as such and has filed its
43 return in the form and within the time provided in this act and the rules
44 and regulations promulgated in connection therewith, shall, in the case
45 of an investment company, be measured by 25% of its entire net
46 income and 25% of its entire net worth, and in the case of a real estate

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

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

17

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

25

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

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

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

41

42 2. This act shall take effect immediately.

S231 [2R]

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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.