

SENATE, No. 479

STATE OF NEW JERSEY

INTRODUCED JANUARY 22, 1996

By Senator PALAIA

1 AN ACT excluding certain qualified cafeteria plan benefits from gross
2 income under the gross income tax, supplementing Title 54A of the
3 New Jersey Statutes.

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

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8 1. Gross income shall not include amounts paid by an employer on
9 behalf of and at the election of an employee for a qualified benefit of
10 a cafeteria plan which meets the requirements of section 125 of the
11 federal Internal Revenue Code of 1986, 26 U.S.C. §125, if the amount
12 so paid is excludable from federal taxable income.

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14 2. This act shall take effect immediately and section 1 shall apply
15 to taxable years beginning after its enactment.

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18 STATEMENT

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20 This bill provides for an exclusion of the value of non-cash
21 employee benefit elections under employer provided cafeteria benefit
22 plans. Cafeteria plans, authorized under section 125 of the federal
23 Internal Revenue Code of 1986, permit an employer to offer
24 employees individual choices both among federally nontaxable
25 employer provided benefits and between benefits and cash. The
26 employee must recognize federally taxable income only if receipt of
27 cash is actually chosen. The five permitted benefits are group life
28 insurance, group accident and health insurance, medical cost
29 reimbursement, dependent care services, and cash or deferred
30 arrangements.

31 Currently, employees may exclude the value of cafeteria plan
32 benefits from New Jersey taxable income only to the extent that
33 excludable benefits are offered under the plan. An employee allowed
34 to select a taxable benefit is taxed on the value of the benefit whether
35 or not the taxable benefit is actually taken. That means that to the
36 extent that a New Jersey taxpayer can elect cash (or dependent care
37 services, which are not an excluded employer provided benefit under

1 the gross income tax) the cafeteria plan is taxable, whether or not the
2 taxable benefit is actually chosen. This bill provides a gross income
3 tax exclusion for both dependent care services and the value of a cash
4 option, and under this bill an employee will only recognize income
5 under a cafeteria plan if a cash option is chosen.

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10 Excludes certain cafeteria plan benefits from gross income under the
11 gross income tax.