

SENATE, No. 2024

STATE OF NEW JERSEY

INTRODUCED APRIL 21, 1997

By Senator CAFIERO

1 AN ACT concerning the declaration and payment of estimated gross
2 income tax by farmers and fishermen, amending N.J.S.54A:8-4,
3 N.J.S.54A:8-5 and N.J.S.54A:9-6.

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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. N.J.S.54A:8-4 is amended to read as follows:
9 54A:8-4. Declarations of estimated tax.

10 (a) Requirement of filing. Every resident and nonresident individual
11 shall make a declaration of his estimated New Jersey personal income
12 tax for each taxable year beginning after June 30, 1976, if his
13 estimated New Jersey personal income tax can reasonably be expected
14 to be more than \$100.00 in excess of any credits allowable against his
15 tax, whether or not he is required to file a Federal declaration of
16 estimated tax for such year.

17 (b) Definition of estimated tax. The term "estimated tax" means the
18 amount which an individual estimates to be his income tax under this
19 act for the taxable year, less the amount which he estimates to be the
20 sum of any credits allowable against the tax.

21 (c) Joint declaration of husband and wife. A husband and wife may
22 make a joint declaration of estimated tax as if they were one taxpayer,
23 in which case the liability with respect to the estimated tax shall be
24 joint and several. No joint declaration may be made if husband and
25 wife are separated under a decree of divorce or of separate
26 maintenance, or if they have different taxable years. If a joint
27 declaration is made but husband and wife elect to determine their taxes
28 under this act separately, the estimated tax for such year may be
29 treated as the estimated tax of either husband or wife, or may be
30 divided between them, as they may elect.

31 (d) Time for filing declaration. Beginning in the taxable year 1976
32 and every taxable year thereafter a declaration of estimated tax of an
33 individual other than a farmer or fisherman shall be filed on or before
34 April 15 of the taxable year, except that if the requirements of

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.

1 subsection (a) are first met:

2 (1) After April 1 and before June 2 of the taxable year, the
3 declaration shall be filed on or before June 15; or

4 (2) After June 1 and before September 2 of the taxable year the
5 declaration shall be filed on or before September 15; or

6 (3) After September 1 of the taxable year, the declaration shall be
7 filed on or before January 15 of the succeeding year.

8 (e) Declaration of estimated tax by a farmer or fisherman. A
9 declaration of estimated tax of an individual having an estimated New
10 Jersey income from farming (including oyster farming) or fishing for
11 the taxable year which is at least two-thirds of his total estimated New
12 Jersey income for the taxable year may be filed at any time on or
13 before January 15 of the succeeding year, in lieu of the time otherwise
14 prescribed.

15 (f) Declaration of estimated tax of \$100.00 or less. A declaration
16 of estimated tax of an individual having a total estimated tax for the
17 taxable year of \$100.00 or less may be filed at any time on or before
18 January 15 of the succeeding year under regulations of the director.

19 (g) Amendments of declaration. An individual may amend a
20 declaration under regulations of the director.

21 (h) Return as declaration or amendment. If on or before February
22 15 of the succeeding taxable year, or March 1 of the succeeding
23 taxable year if an individual is a farmer or fisherman qualified to file
24 under subsection (e) of this section, an individual files his return for
25 the taxable year for which the declaration is required, and pays
26 therewith the full amount of the tax shown to be due on the return:

27 (1) Such return shall be considered as his declaration if no
28 declaration was required to be filed during the taxable year, but is
29 otherwise required to be filed on or before January 15;

30 (2) Such return shall be considered as the amendment permitted by
31 subsection (g) to be filed on or before January 15 if the tax shown on
32 the return is greater than the estimated tax shown in a declaration
33 previously made.

34 (i) Fiscal year. This section shall apply to a taxable year other than
35 a calendar year by the substitution of the months of such fiscal year for
36 the corresponding months specified in this section.

37 (j) Short taxable year. An individual having a taxable year of less
38 than 12 months shall make a declaration in accordance with
39 regulations of the director.

40 (k) Declaration for individual under a disability. The declaration of
41 estimated tax for an individual who is unable to make a declaration by
42 reason of minority or other disability shall be made and filed by his
43 guardian, committee, fiduciary or other person charged with the care
44 of his person or property (other than a receiver in possession of only
45 a part of his property), or by his duly authorized agent.

46 (l) In the taxable year 1976, no declaration shall be required until

1 the lapse of at least one full calendar quarter following enactment of
2 this act.

3 (cf: N.J.S.54A:8-4)

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5 2. N.J.S.54A:8-5 is amended to read as follows:

6 54A:8-5. Payments of estimated tax.

7 (a) General. The estimated tax with respect to which a declaration
8 is required shall be paid as follows:

9 (1) If the declaration is filed on or before April 15 of the taxable
10 year the estimated tax shall be paid in four equal installments. The
11 first installment shall be paid at the time of the filing of the declaration,
12 and the second, third and fourth installments shall be paid on the
13 following June 15, September 15, and January 15, respectively.

14 (2) If the declaration is filed after April 15 and not after June 15 of
15 the taxable year, the estimated tax shall be paid in three equal
16 installments. The first installment shall be paid at the time of the filing
17 of the declaration, and the second and third installments shall be paid
18 on or before the following September 15 and January 15, respectively.

19 (3) If the declaration is filed after June 15 and not after September
20 15 of the taxable year, and is not required to be filed on or before June
21 15 of the taxable year, the estimated tax shall be paid in two equal
22 installments. The first installment shall be paid at the time of the filing
23 of the declaration, and the second shall be paid on or before the
24 following January 15.

25 (4) If the declaration is filed after September 15 of the taxable year,
26 and is not required to be filed on or before September 15 of the
27 taxable year, the estimated tax shall be paid in full at the time of the
28 filing of the declaration.

29 (5) If the declaration is filed after the time prescribed therefor, or
30 after the expiration of any extension of time therefor, paragraphs (2),
31 (3), and (4) of this subsection shall not apply, and there shall be paid
32 at the time of such filing all installments of estimated tax payable at or
33 before such time, and the remaining installments shall be paid at the
34 times at which, and in the amounts in which, they would have been
35 payable if the declaration had been filed when due.

36 (b) Farmers or Fishermen. If an individual referred to in subsection
37 (e) of N.J.S.54A:8-4 (relating to income from farming or fishing)
38 makes a declaration of estimated tax after September 15 of the taxable
39 year and on or before the following January 15, the estimated tax shall
40 be paid in full at the time of the filing of the declaration. If an
41 individual files a return for the taxable year which is considered a
42 declaration pursuant to subsection (h) of N.J.S.54A:8-4 and pays the
43 full amount of the tax shown to be due on the return, the payment
44 made with that return shall be considered payment in full of the
45 estimated tax.

46 (c) Amendments of declaration. If any amendment of a declaration

1 is filed, the remaining installments, if any, shall be ratably increased or
2 decreased (as the case may be) to reflect any increase or decrease in
3 the estimated tax by reason of such amendment, and if any amendment
4 is made after September 15 of the taxable year, any increase in the
5 estimated tax by reason thereof shall be paid at the time of making
6 such amendment.

7 (d) Application to short taxable year. This section shall apply to a
8 taxable year of less than 12 months in accordance with regulations of
9 the director.

10 (e) Fiscal year. This section shall apply to a taxable year other than
11 a calendar year by the substitution of the months of such fiscal year for
12 the corresponding months specified in this section.

13 (f) Installments paid in advance. An individual may elect to pay any
14 installment of his estimated tax prior to the date prescribed for its
15 payment.

16 (cf: N.J.S.54A:8-5)

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18 3. N.J.S.54A:9-6 is amended to read as follows:

19 54A:9-6. Additions to tax and civil penalties.

20 (a) Failure to file tax return. In case of failure to file a tax return
21 under this act on or before the prescribed date (determined with regard
22 to any extension of time for filing), unless it is shown that such failure
23 is due to reasonable cause and not due to willful neglect, there shall be
24 added to the amount required to be shown as tax on such return such
25 amount as is required under the State Tax Uniform Procedure Law,
26 R.S.54:48-1 et seq. For this purpose, the amount of tax required to
27 be shown on the return shall be reduced by the amount of any part of
28 the tax which is paid on or before the date prescribed for payment of
29 the tax and by the amount of any credit against the tax which may be
30 claimed upon the return.

31 (b) Deficiency due to negligence. If any part of a deficiency is due
32 to negligence or intentional disregard of this act or rules or regulations
33 hereunder (but without intent to defraud), there shall be added to the
34 tax an amount equal to 10% of the deficiency.

35 (c) Failure to file declaration or underpayment of estimated tax. If
36 any taxpayer fails to file a declaration of estimated tax or fails to pay
37 all or any part of an installment of estimated tax, he shall be deemed
38 to have made an underpayment of estimated tax. There shall be added
39 to the tax for the taxable year an amount at the rate as is required
40 under the State Tax Uniform Procedure Law, R.S.54:48-1 et seq.,
41 upon the amount of the underpayment for the period of the
42 underpayment but not beyond the 15th day of the fourth month
43 following the close of the taxable year. The amount of underpayment
44 shall be the excess of the amount of the installment which would be
45 required to be paid if the estimated tax were equal to 80% of the tax
46 (two-thirds of the tax for farmers or fishermen referred to in

1 subsection (e) of section 54A:8-4) shown on the return for the taxable
2 year (or if no return was filed, of the tax for such year) over the
3 amount, if any, of the installment paid on or before the last day
4 prescribed for such payment. No underpayment shall be deemed to
5 exist with respect to a declaration or installment otherwise due on or
6 after the taxpayer's death.

7 (d) Exception to addition for underpayment of estimated tax. The
8 addition to tax under subsection (c) with respect to any underpayment
9 of any installment shall not be imposed if the total amount of all
10 payments of estimated tax made on or before the last date prescribed
11 for the payment of such installment equals or exceeds whichever of the
12 following is the lesser--

13 (1) The amount which would have been required to be paid on or
14 before such date if the estimated tax were whichever of the following
15 is the least--

16 (A) The tax shown on the return of the individual for the
17 preceding taxable year, if a return showing a liability for tax was filed
18 by the individual for the preceding taxable year and such preceding
19 year was a taxable year of 12 months, or

20 (B) An amount equal to the tax computed, at the rates applicable
21 to the taxable year, on the basis of the taxpayer's status with respect
22 to his personal exemptions for the taxable year, but otherwise on the
23 basis of the facts shown on his return for, and the law applicable to,
24 the preceding taxable year, or

25 (C) An amount equal to 80% of the tax for the taxable year
26 (two-thirds of the tax for farmers or fishermen referred to in
27 subsection (e) of section 54A:8-4) computed by placing on an
28 annualized basis the income for the months in the taxable year ending
29 before the month in which the installment is required to be paid. For
30 purposes of this subparagraph, the income shall be placed on an
31 annualized basis by--

32 (i) Multiplying by 12 (or, in the case of a taxable year of less than
33 12 months, the number of months in the taxable year) the income for
34 the months in the taxable year ending before the month in which the
35 installment is required to be paid,

36 (ii) Dividing the resulting amount by the number of months in the
37 taxable year ending before the month in which such installment date
38 falls, and

39 (iii) Deducting from such amount the deductions for personal
40 exemptions allowable for the taxable year (such personal exemptions
41 being determined as of the last date prescribed for payment of the
42 installment); or

43 (2) An amount equal to 90% of the tax computed, at the rates
44 applicable to the taxable year, on the basis of the actual income for the
45 months in the taxable year ending before the month in which the
46 installment is required to be paid.

1 (e) Deficiency due to fraud. If any part of a deficiency is due to
2 fraud, there shall be added to the tax an amount equal to 50% of the
3 deficiency. This amount shall be in lieu of any other addition to tax
4 imposed by subsection (a) or (b).

5 (f) Nonwillful failure to pay withholding tax. If any employer,
6 without intent to evade or defeat any tax imposed by this act or the
7 payment thereof, shall fail to make a return and pay a tax withheld by
8 him at the time required by or under the provisions of section 54A:7-4,
9 such employer shall be liable for such tax and shall pay the same
10 together with interest thereon and the addition to tax provided in
11 subsection (a), and such interest and addition to tax shall not be
12 charged to or collected from the employee by the employer. The
13 director shall have the same rights and powers for the collection of
14 such tax, interest and addition to tax against such employer as are now
15 prescribed by this act for the collection of tax against an individual
16 taxpayer.

17 (g) Willful failure to collect and pay over tax. Any person required
18 to collect, truthfully account for, and pay over the tax imposed by this
19 act who willfully fails to collect such tax or truthfully account for and
20 pay over such tax or willfully attempts in any manner to evade or
21 defeat the tax or the payment thereof, shall, in addition to other
22 penalties provided by law, be liable to a penalty equal to the total
23 amount of the tax evaded, or not collected, or not accounted for and
24 paid over. No addition to tax under subsection (b) or (c) shall be
25 imposed for any offense to which this subsection applies.

26 (h) Failure to file certain information returns. In case of each
27 failure to file a statement of a payment to another person, required
28 under authority of subsection (c) of section 54A:8-6 (relating to
29 information at source, including the duplicate statement of tax
30 withheld on wages) on the date prescribed therefor (determined with
31 regard to any extension of time for filing), unless it is shown that such
32 failure is due to reasonable cause and not to willful neglect, there
33 shall, upon notice and demand by the director and in the same manner
34 as tax, be paid by the person so failing to file the statement, a penalty
35 of \$2.00 for each statement not so filed, but the total amount imposed
36 on the delinquent person for all such failures during any calendar year
37 shall not exceed \$2,000.00.

38 (i) Additional penalty. Any person who with fraudulent intent shall
39 fail to pay, or to deduct or withhold and pay, any tax, or to make,
40 render, sign or certify any return or declaration of estimated tax or to
41 supply any information within the time required by or under this act,
42 shall be liable to penalty of not more than \$5,000.00, in addition to any
43 other amounts required under this act, to be imposed, assessed and
44 collected by the director. The director shall have the power, in his
45 discretion, to waive, reduce or compromise any penalty under this
46 subsection.

1 (j) Additions treated as tax. The additions to tax and penalties
2 provided by this section shall be paid upon notice and demand and
3 shall be assessed, collected and paid in the same manner as taxes and
4 any reference in this act to income tax or tax imposed by this act, shall
5 be deemed also to refer to the additions to tax and penalties provided
6 by this section. For purposes of section 54A:9-2, this subsection shall
7 not apply to:

8 (1) Any addition to tax under subsection (a) except as to that
9 portion attributable to a deficiency;

10 (2) Any addition to tax under subsection (e); and

11 (3) Any additional penalty under subsection (i).

12 (k) Determination of deficiency. For purposes of subsections (b)
13 and (c), the amount shown as the tax by the taxpayer upon his return
14 shall be taken into account in determining the amount of the deficiency
15 only if such return was filed on or before the last day prescribed for
16 the filing of such return, determined with regard to any extension of
17 time for such filing.

18 (l) Person defined. For purposes of subsections (f), (g), (h) and (i),
19 the term person or employer includes an individual, corporation or
20 partnership or an officer or employee of any corporation (including a
21 dissolved corporation) or a member or employee of any partnership,
22 who as such officer, employee, or member is under a duty to perform
23 the act in respect of which the violation occurs.

24 (cf: P.L.1987, c.76, s.59)

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26 4. This act shall take effect immediately and shall apply to taxable
27 years beginning on and after January 1 next following enactment.

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STATEMENT

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32 This bill permits fishermen to file the declaration of estimated gross
33 income tax and pay the full amount of the estimated tax by January 15
34 following the taxable year for which the taxes are due. Current law
35 already permits farmers to file the declaration and pay the estimated
36 tax by this date. In general, individuals, other than farmers, are
37 required to file the declaration of estimated tax by April 15 of each
38 taxable year and to pay the tax in quarterly installments during the
39 year.

40 In addition, the bill provides that if a farmer or fisherman files a
41 personal income tax return and pays the full amount of the tax due by
42 March 1 of the succeeding taxable year, the filing of the return will be
43 considered the declaration of estimated tax and no penalty will be
44 assessed for not filing a declaration and making a payment by January
45 15. Current law already contains this special provision for certain
46 taxpayers, including farmers, who file a return and pay the tax by

- 1 February 15 of the succeeding taxable year.
- 2
- 3
- 4 _____
- 5
- 6 Modifies schedule for declaration and payment of estimated gross
- 7 income tax by farmers and fishermen.