P.L.2013, CHAPTER 73, ***approved June 27, 2013***
Senate, No. 2532

AN ACT clarifying that charitable contributions are not a factor in determining where a person is domiciled under the New Jersey gross income tax, supplementing Title 54A of the New Jersey Statutes.

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

1. For purposes of determining whether a person is domiciled in this State or not domiciled in this State under subsections m., n. o. and p. of N.J.S.54A:1-2, the making of a financial contribution, gift, bequest, donation or any other financial instrument or pledge in any amount or the donation or loan of any object of any value qualifying for deduction as a charitable contribution under subsection (a) of section 170 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.170(a)), or the volunteering, giving or donation of uncompensated time, or any combination of the foregoing, to any corporation, foundation, organization or institution, which is exempt from federal income tax under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3), shall not be considered as a factor in any manner to determine a person's state of domicile.

2. This act shall take effect immediately.

STATEMENT

This bill clarifies in the New Jersey gross income tax statutes that donors' contributions to charities are not a factor in determining where a person is domiciled under New Jersey gross income tax for the purpose of defining who is a resident taxpayer or nonresident taxpayer. This is the informal position taken by the New Jersey Division of Taxation since 2005 but this position has not since been officially communicated to taxpayers. Whether a person lives in Florida or Arizona, giving to charities in New Jersey, in and of itself, should not subject the person to New Jersey income tax as a New Jersey resident.

Domicile is a composite of many factors and encompasses the whole fabric of a person's social, economic, and civic life. Prior to publication of informal advice in 2005, the Division of Taxation had regarded charitable contributions, among other factors, as an indicator of whether a taxpayer is domiciled in a state. The

rationale for using this criterion as one of the factors in determining where a person is domiciled was that taxpayers were considered most likely to make contributions to charities located closest to the center of their social, economic, and civic life.

Taxpayers now make contributions to local, regional, and national charities via modern financial and communication networks. Taxpayers can easily make contributions to charities located great distances from their places of domicile or long after they have physically moved away from a charity's primary service area. This bill recognizes these changes in patterns of giving and wishes to encourage contributions to charities, regardless of the locations of the charities, from both New Jersey residents and nonresidents. Although domicile is usually determined from all the evidence and circumstances, under this bill the Division of Taxation is formally instructed in statute to no longer consider a taxpayer's charitable contributions as relevant or applicable in determinations of domicile.

Clarifies charitable contributions are not a factor in determining where person is domiciled under New Jersey gross income tax.