

# ASSEMBLY, No. 392

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**SYNOPSIS**

Allows gross income tax deductions for contributions, earnings, and qualified distributions associated with special needs trusts.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT allowing gross income tax deductions for special needs  
2 trusts and supplementing Title 54A of the New Jersey Statutes.

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

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7 1. a. Gross income shall not include a taxpayer's contributions  
8 to a special needs trust as defined in paragraph (1) of subsection d.  
9 of this section.

10 b. Gross income shall not include qualified distributions as  
11 defined in paragraph (2) of subsection d. of this section when such  
12 distributions are used for a qualified disability expense as defined in  
13 paragraph (3) of subsection d. of this section.

14 c. Gross income shall not include earnings on a special needs  
15 trust until the earnings are distributed from the account, at which  
16 time they shall be includible in the gross income of the distributee,  
17 except for any earnings included within qualified distributions as  
18 defined in paragraph (2) of subsection d. of this section when such  
19 distributions are used for qualified disability expenses as defined in  
20 paragraph (3) of subsection d. of this section.

21 d. As used in this section:

22 (1) "Special needs trust" means a disabled individual's special  
23 needs trust established pursuant to chapter 7 of Title 42, United  
24 States Code (42 U.S.C. s.1396p(d)(4)(A)); or a non-profit pooled  
25 income special needs trust established pursuant to chapter 7 of Title  
26 42, United States Code (42 U.S.C. s.1396p(d)(4)(C)); or a third  
27 party supplemental needs trust established pursuant to section SI  
28 01120.200 of the Program Operations Manual of the United States  
29 Social Security Administration, the property of which trust is not  
30 considered a resource for Supplemental Security Income purposes.  
31 A "special needs trust," as defined in this paragraph, shall also meet  
32 any additional State requirements pursuant to P.L.2000, c.96  
33 (C.3B:11-36 et seq.) and N.J.A.C.10:71-4.11.

34 (2) "Qualified distribution" means a distribution from a special  
35 needs trust that is used for qualified disability expenses as defined  
36 in paragraph (3). The portion of a distribution from a special needs  
37 trust that is attributable to earnings shall be determined in  
38 accordance with the principles of section 72 of the federal Internal  
39 Revenue Code of 1986 (26 U.S.C. s.72).

40 (3) "Qualified disability expense" means any expense made for  
41 the benefit of an individual with a disability who is a designated  
42 beneficiary of the special needs trust. A "qualified disability  
43 expense" shall be related to the beneficiary's disability and shall  
44 supplement, but not supplant, impair, or diminish, any benefits or  
45 assistance of any Federal, State, or other governmental entity for  
46 which the beneficiary may otherwise be eligible or which the  
47 beneficiary may be receiving.

1 (4) "Gross income" means New Jersey gross income as  
2 determined pursuant to P.L.1998, c.57 (C.54A:5-1 et seq.).

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4 2. This act shall take effect immediately and section 1 shall  
5 apply to contributions made for taxable years beginning after  
6 enactment.

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STATEMENT

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11 This bill provides special State income tax treatment for special  
12 needs trusts benefitting disabled individuals. The bill would exclude  
13 from a taxpayer's New Jersey gross income the amount of the  
14 taxpayer's contribution to a disabled individual's special needs  
15 trust, a non-profit pooled income special needs trust, or a third party  
16 supplemental needs trust. The bill would also exclude from the  
17 New Jersey gross income of a distributee the amounts of qualified  
18 distributions from special needs trusts and earnings on such  
19 qualified distributions.