

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3088**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

ADOPTED JUNE 18, 2018

**Sponsored by:**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Assemblyman RAJ MUKHERJI**

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**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator JOSEPH PENNACCHIO**

**District 26 (Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Assemblyman Chiaravalloti and Senator Pou**

**SYNOPSIS**

Increases earned income tax credit; provides credit for child or dependent care expenses; taxes “investment management services.”

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 6/22/2018)

1 AN ACT concerning certain State taxes, supplementing Title 54A of  
2 the New Jersey Statutes and P.L.1945, c.162, and amending  
3 various parts of the statutory law.  
4

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

7  
8 1. Section 3 of P.L.1996, c.60 (C.54A:3A-17) is amended to  
9 read as follows:

10 3. a. A resident taxpayer under the "New Jersey Gross Income  
11 Tax Act," N.J.S.54A:1-1 et seq., shall be allowed a deduction from  
12 gross income for the amount of property tax credit as defined in  
13 section 1 of P.L.2018, c.11 (C.54:4-66.6) plus property taxes, the  
14 total of which shall not exceed **[\$10,000]** \$15,000, subject to the  
15 limitations of subsection f. of this section. Property taxes  
16 deductible under this section shall be due and paid for the calendar  
17 year in which the taxes are due and payable on the taxpayer's  
18 homestead.

19 b. A deduction for property taxes or property tax credits shall  
20 be allowed pursuant to this section in relation to the amount of the  
21 property taxes or property tax credits actually paid by or allocable  
22 to a resident taxpayer who has more than one homestead, but the  
23 aggregate amount of the property taxes or property tax credits  
24 claimed shall not exceed the total of the proportionate amounts of  
25 property taxes assessed and levied against or allocable to each  
26 homestead for the portion of the taxable year for which the taxpayer  
27 occupied it as the taxpayer's principal residence.

28 c. If title to a homestead is held by more than one individual as  
29 joint tenants or tenants in common, each individual shall be allowed  
30 a deduction pursuant to this section only in relation to the  
31 individual's proportionate share of the property taxes assessed and  
32 levied against the homestead. The proportionate share shall be  
33 equal to that of all other individuals who hold the title, but if the  
34 conveyance under which the title is held provides for unequal  
35 interests therein, a taxpayer's share of the property taxes shall be in  
36 proportion to the taxpayer's interest in the title.

37 d. If title to a homestead is held by a husband and wife who  
38 own the homestead as tenants by the entirety, or if that husband and  
39 wife are both residential shareholders of a cooperative or mutual  
40 housing corporation and occupy the same homestead therein, and  
41 who elect to file separate income tax returns pursuant to the "New  
42 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that husband  
43 and wife shall each be entitled to one-half of the deduction for  
44 property taxes for which they may be jointly eligible pursuant to  
45 this section.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 e. If the homestead is a dwelling house consisting of more than  
2 one unit, that taxpayer shall be allowed a deduction for property  
3 taxes or property tax credits only in relation to the proportionate  
4 share of the property taxes assessed and levied against the  
5 residential unit occupied by the taxpayer, as determined by the local  
6 tax assessor.

7 f. Notwithstanding the provisions of subsection a. of this  
8 section to the contrary: (1) a resident taxpayer shall be allowed a  
9 deduction for a taxpayer's taxable year beginning during 1996 based  
10 on 50% of the property taxes not in excess of \$5,000 paid on the  
11 taxpayer's homestead; and (2) a resident taxpayer shall be allowed a  
12 deduction for a taxpayer's taxable year beginning during 1997 based  
13 on 75% of the property taxes not in excess of \$7,500 paid on the  
14 taxpayer's homestead.

15 g. Notwithstanding any other provision of this section, the  
16 deduction allowed under this section to a resident taxpayer eligible  
17 to receive a homestead property tax reimbursement pursuant to  
18 P.L.1997, c.348 (C.54:4-8.67 et al.) shall not exceed that resident  
19 taxpayer's base year property tax liability as determined pursuant to  
20 P.L.1997, c.348 (C.54:4-8.67 et al.).

21 h. Notwithstanding any other provision of this section, for the  
22 taxable year beginning January 1, 2009, a taxpayer who has gross  
23 income for the taxable year of more than \$250,000 and is not:

24 (1) 65 years of age or older at the close of the taxable year; or

25 (2) allowed to claim a personal deduction as a blind or disabled  
26 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not be  
27 allowed a deduction pursuant to this section;

28 provided however, the deduction for a taxpayer who has gross  
29 income for the taxable year of more than \$150,000 but not  
30 exceeding \$250,000 and is not:

31 (1) 65 years of age or older at the close of the taxable year; or

32 (2) allowed to claim a personal deduction as a blind or disabled  
33 taxpayer pursuant to subsection (b) of N.J.S.54A:3-1, shall not  
34 exceed \$5,000.

35 (cf: P.L.2018, c.11, s.15)

36  
37 2. Section 4 of P.L.1996, c.60 (C.54A:3A-18) is amended to  
38 read as follows:

39 4. a. A resident taxpayer whose homestead is a unit of  
40 residential rental property shall be allowed a deduction from gross  
41 income for that portion of the rent constituting property taxes not in  
42 excess of ~~【\$10,000】~~ \$15,000, subject to the limitations of  
43 subsection d. of this section, due and paid for the calendar year in  
44 which the rent constituting taxes is due and payable, for occupancy  
45 of that homestead.

46 b. A husband and wife who elect to file separate income tax  
47 returns pursuant to the "New Jersey Gross Income Tax Act,"

1 N.J.S.54A:1-1 et seq., shall each be entitled to one-half of the  
2 property tax deduction allowed pursuant to this section.

3 c. If more than one taxpayer, other than husband and wife,  
4 qualify to deduct rent constituting property taxes by reason of their  
5 having occupied the same rented homestead, it shall be presumed  
6 that the deduction shall be equally divided. A taxpayer may,  
7 however, deduct an amount for rent constituting property taxes in  
8 the same proportion that the rent paid by that taxpayer bears to the  
9 total rent paid by all tenants of the same unit.

10 d. Notwithstanding the provisions of subsection a. of this  
11 section to the contrary: (1) a resident taxpayer whose homestead is  
12 a unit of residential rental property shall be allowed a deduction for  
13 the taxpayer's taxable year beginning during 1996 based on 50% of  
14 the rent constituting property taxes not in excess of \$5,000 paid for  
15 the occupancy of that homestead; and (2) a resident taxpayer whose  
16 homestead is a unit of residential rental property shall be allowed a  
17 deduction for the taxpayer's taxable year beginning during 1997  
18 based on 75% of the rent constituting property taxes not in excess  
19 of \$7,500 paid for the occupancy of that homestead.

20 (cf: P.L.1996, c.60, s.4)

21

22 3. Section 5 of P.L.1996, c.60 (C.54A:3A-19) is amended to  
23 read as follows:

24 5. a. If a taxpayer who is eligible for a deduction for property  
25 taxes under section 3 of this act for a part of the taxable year is also  
26 eligible for a deduction for rent constituting property taxes under  
27 section 4 of this act for a part of the taxable year, the taxpayer shall  
28 be allowed a deduction, not in excess of ~~【\$10,000】~~ \$15,000, subject  
29 to the limitations of subsection b. of this section, the amount of  
30 which shall be equal to the sum of the amount of property tax credit  
31 as defined in section 1 of P.L.2018, c.11 (C.54:4-66.6) plus the  
32 amount of property taxes due and paid for the calendar year in  
33 which the property taxes are due and payable on a homestead that is  
34 not a unit of residential rental property and the amount of rent  
35 constituting property taxes due and paid for the calendar year in  
36 which the rent constituting property taxes is due and payable for the  
37 occupancy of a homestead that is a unit of residential rental  
38 property, provided however, that the amount of property taxes and  
39 property tax credits shall be subject to the limitations set forth in  
40 subsections b. through e. of section 3 and the amount of rent  
41 constituting property taxes shall be subject to the limitations set  
42 forth in subsections b. and c. of section 4 as may be applicable.

43 b. Notwithstanding the provisions of subsection a. of this  
44 section to the contrary: (1) a taxpayer who is eligible for a  
45 deduction for property taxes under section 3 of this act for a part of  
46 the taxable year and is also eligible for a deduction for rent  
47 constituting property taxes under section 4 of this act for a part of  
48 the taxable year, shall be allowed a deduction for the taxpayer's

1 taxable year beginning during 1996 based on 50% of an amount not  
2 in excess of \$5,000, the amount of which shall be equal to the sum  
3 of the amount of property taxes paid on a homestead that is not a  
4 unit of residential rental property and the amount of rent  
5 constituting property taxes paid for the occupancy of a homestead  
6 that is a unit of residential rental property; and (2) a taxpayer who is  
7 eligible for a deduction for property taxes under section 3 of this act  
8 for a part of the taxable year and is also eligible for a deduction for  
9 rent constituting property taxes under section 4 of this act for a part  
10 of the taxable year, shall be allowed a deduction for the taxpayer's  
11 taxable year beginning during 1997 based on 75% of an amount not  
12 in excess of \$7,500, the amount of which shall be equal to the sum  
13 of the amount of property taxes paid on a homestead that is not a  
14 unit of residential rental property and the amount of rent  
15 constituting property taxes paid for the occupancy of a homestead  
16 that is a unit of residential rental property.

17 (cf: P.L.2018, c.11, s.16)

18

19 4. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read  
20 as follows:

21 2. There is established the New Jersey Earned Income Tax  
22 Credit program in the Division of Taxation in the Department of the  
23 Treasury.

24 a. (1) A resident individual who is eligible for a credit under  
25 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
26 s.32) shall be allowed a credit for the taxable year equal to a  
27 percentage, as provided in paragraph (2) of this subsection, of the  
28 federal earned income tax credit that would be allowed to the  
29 individual or the married individuals filing a joint return under  
30 section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C.  
31 s.32) for the same taxable year for which a credit is claimed  
32 pursuant to this section, subject to the restrictions of this subsection  
33 and subsections b., c., d. and e. of this section.

34 (2) For the purposes of the calculation of the New Jersey earned  
35 income tax credit, the percentage of the federal earned income tax  
36 credit referred to in paragraph (1) of this subsection shall be:

37 (a) 10% for the taxable year beginning on or after January 1,  
38 2000, but before January 1, 2001;

39 (b) 15% for the taxable year beginning on or after January 1,  
40 2001, but before January 1, 2002;

41 (c) 17.5% for the taxable year beginning on or after January 1,  
42 2002, but before January 1, 2003;

43 (d) 20% for taxable years beginning on or after January 1, 2003,  
44 but before January 1, 2008;

45 (e) 22.5% for taxable years beginning on or after January 1,  
46 2008 but before January 1, 2009;

47 (f) 25% for taxable years beginning on or after January 1, 2009  
48 but before January 1, 2010;

- 1 (g) 20% for taxable years beginning on or after January 1, 2010,  
2 but before January 1, 2015;
- 3 (h) 30% for taxable years beginning on or after January 1, 2015,  
4 but before January 1, 2016; **[and]**
- 5 (i) 35% for taxable years beginning on or after January 1, 2016,  
6 but before January 1, 2018;
- 7 (j) 37% for the taxable year beginning on or after January 1,  
8 2018, but before January 1, 2019;
- 9 (k) 39% for the taxable year beginning on or after January 1,  
10 2019, but before January 1, 2020; and
- 11 (l) 40% for taxable years beginning on or after January 1, 2020.
- 12 (3) To qualify for the New Jersey earned income tax credit, if  
13 the claimant is married, except for a claimant who files as a head of  
14 household or surviving spouse for federal income tax purposes for  
15 the taxable year, the claimant shall file a joint return or claim for  
16 the credit.
- 17 b. In the case of a part-year resident claimant, the amount of  
18 the credit allowed pursuant to this section shall be pro-rated, based  
19 upon that proportion which the total number of months of the  
20 claimant's residency in the taxable year bears to 12 in that period.  
21 For this purpose, 15 days or more shall constitute a month.
- 22 c. The amount of the credit allowed pursuant to this section  
23 shall be applied against the tax otherwise due under N.J.S.54A:1-1  
24 et seq., after all other credits and payments. If the credit exceeds the  
25 amount of tax otherwise due, that amount of excess shall be an  
26 overpayment for the purposes of N.J.S.54A:9-7; provided however,  
27 that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit  
28 provided under this section as a credit against the tax otherwise due  
29 and the amount of the credit treated as an overpayment shall be  
30 treated as a credit towards or overpayment of gross income tax,  
31 subject to all provisions of N.J.S.54A:1-1 et seq., except as may be  
32 otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).
- 33 d. The Director of the Division of Taxation in the Department  
34 of the Treasury shall establish a program for the distribution of  
35 earned income tax credits pursuant to the provisions of this section.
- 36 e. Any earned income tax credit pursuant to this section shall  
37 not be taken into account as income or receipts for purposes of  
38 determining the eligibility of an individual for benefits or assistance  
39 or the amount or extent of benefits or assistance under any State  
40 program and, to the extent permitted by federal law, under any State  
41 program financed in whole or in part with federal funds.  
42 (cf: P.L.2016, c.57, s.11)
- 43
- 44 5. (New section) a. A taxpayer with New Jersey taxable  
45 income of \$60,000 or less who is allowed a credit for expenses for  
46 household and dependent care services for federal income tax  
47 purposes pursuant to section 21 of the Internal Revenue Code (26  
48 U.S.C. s.21) shall be allowed a credit against the tax otherwise due

1 pursuant to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
 2 et seq. The credit shall be in an amount equal to a percentage of the  
 3 credit allowed the taxpayer for federal income tax purposes for the  
 4 taxable year, according to the following schedule:

5	6	7	8	9	10	11	12
	NJ taxable income is:		Amount of NJ credit is:				
	Not over \$20,000		50% of federal credit				
	over \$20,000 but not over \$30,000		40% of federal credit				
	over \$30,000 but not over \$40,000		30% of federal credit				
	over \$40,000 but not over \$50,000		20% of federal credit				
	over \$50,000 but not over \$60,000		10% of federal credit.				

13  
 14 The credit allowed by this section for a taxable year shall not  
 15 exceed \$500 for employment-related expenses paid by the taxpayer  
 16 for one qualifying individual and \$1,000 for employment-related  
 17 expenses paid by the taxpayer for two or more qualifying  
 18 individuals. The \$60,000 income limit set forth in this subsection  
 19 shall apply to taxpayers of any filing status.

20 b. A credit allowed pursuant to this section shall not reduce the  
 21 tax liability otherwise due pursuant to N.J.S.54A:1-1 et seq. for a  
 22 taxable year to an amount less than zero.

23 c. Married couples shall file a joint return in order to claim the  
 24 credit provided by this section. A taxpayer eligible to receive a  
 25 credit pursuant to paragraph (3) or (4) of subsection (e) of section  
 26 21 of the federal Internal Revenue Code (26 U.S.C. s.21) shall be  
 27 eligible for the credit provided by this section, provided the  
 28 taxpayer satisfies the income limit set forth in subsection a. of this  
 29 section.

30 d. In the case of a part-year resident claimant, the amount of  
 31 the credit allowed pursuant to this section shall be pro-rated, based  
 32 upon that proportion which the total number of months of the  
 33 claimant's residency in the taxable year bears to 12 in that period.  
 34 For this purpose, 15 days or more shall constitute a month.

35  
 36 6. N.J.S.54A:5-8 is amended to read as follows:

37 54A:5-8. a. Income from sources within this State for a  
 38 nonresident individual, estate or trust means the income from the  
 39 categories of gross income enumerated and classified under chapter  
 40 5 of this act to the extent that it is earned, received or acquired from  
 41 sources within this State:

42 (1) By reason of ownership or disposition of any interest in real  
 43 or tangible personal property in this State; or

44 (2) In connection with a trade, profession, occupation carried on  
 45 in this State or for the rendition of personal services performed in  
 46 this State; or

47 (3) As a distributive share of the income of an unincorporated  
 48 business, profession, enterprise, undertaking or other activity as the

1 result of work done, services rendered or other business activities  
2 conducted in this State except as allocated to another state pursuant  
3 to regulations promulgated by the director under this act; or

4 (4) From intangible personal property employed in a trade,  
5 profession, occupation or business carried on in this State; or

6 (5) As a result of any lottery or wagering transaction in this  
7 State other than that excluded from taxation pursuant to  
8 N.J.S.54A:6-11; or

9 (6) As S corporation income allocated to this State of a New  
10 Jersey S corporation.

11 b. Income from sources within this State for a nonresident  
12 individual shall not include income from pensions and annuities as  
13 set forth in subsection j. of N.J.S.54A:5-1.

14 c. For purposes of paragraphs (2) through (4) of subsection a.  
15 of this section, a nonresident taxpayer shall not be deemed to be  
16 carrying on a trade, profession, occupation, business, enterprise,  
17 undertaking or other activity in this State, or to be rendering  
18 personal services in this State, solely as a result of the purchase,  
19 holding and sale of intangible personal property by the trade,  
20 profession, occupation, business, enterprise or undertaking, to the  
21 extent that (1) the activities related to the intangible personal  
22 property are for the account of the trade, profession, occupation,  
23 business, enterprise, or undertaking and (2) the trade, profession,  
24 occupation, business, enterprise, or undertaking does not hold the  
25 intangible personal property for sale to customers. For the purposes  
26 of this subsection: "intangible personal property" includes, but is  
27 not limited to, "commodities", as defined in paragraph (2) of  
28 subsection (e), and "securities," as defined in paragraph (2) of  
29 subsection (c), of section 475 of the federal Internal Revenue Code  
30 of 1986, 26 U.S.C. s.475; and "purchase, holding and sale of  
31 intangible personal property" includes activities incidental thereto  
32 giving rise to income, including commitment fees, breakup fees,  
33 income from securities lending, and any other incidental activities  
34 as prescribed or authorized by the director. The director shall adopt  
35 such regulations as the director deems necessary to accomplish the  
36 purposes of this section.

37 d. (1) The provisions of subsection c. of this section shall not  
38 apply to income from investment management services provided to  
39 a partnership, S corporation, or other entity.

40 (2) As used in this subsection:

41 "Investment management services" means providing a  
42 substantial quantity of any of the following services to a  
43 partnership, S corporation, or other entity as a partner thereto:

44 (a) advising as to the advisability of investing in, purchasing, or  
45 selling a specified asset;

46 (b) managing, acquiring, or disposing of a specified asset;

47 (c) arranging financing with respect to acquiring specified  
48 assets; or



1 (d) any activity in support of the services described in  
2 subparagraphs (a) through (c) of this paragraph.

3 A partner shall not be deemed to be providing investment  
4 management services under this section if the partnership interest is  
5 held directly or indirectly by a corporation, or any capital interest in  
6 the partnership, which provides the taxpayer with a right to share in  
7 partnership capital commensurate with the amount of capital  
8 contributed, determined at the time of receipt of such partnership  
9 interest, or the value of partnership interest subject to tax under  
10 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
11 receipt or vesting of such interest.

12 “Specified asset” means certain securities, real estate held for  
13 rental or investment, interests in partnerships, commodities, or  
14 options or derivatives contracts, except if at least 80 percent of the  
15 average fair market value of the specified assets of the partnership,  
16 S corporation, or other entity during the taxable year consists of real  
17 estate.

18 (3) This subsection shall remain inoperative until enactment into  
19 law by the states of Connecticut, New York, and Massachusetts of  
20 legislation having an identical effect with this subsection, sections 7  
21 and 9 of P.L. , c. (C. ) (pending before the Legislature as this  
22 bill), and subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-  
23 6), as shall be determined by the Director of the Division of  
24 Taxation in the Department of the Treasury.

25 (cf: P.L.1998, c.106, s.14)

26  
27 7. (New section) a. As used in this section:

28 “Investment management services” means providing a  
29 substantial quantity of any of the following services to a  
30 partnership, S corporation, or other entity as a partner thereto:

31 (1) advising as to the advisability of investing in, purchasing, or  
32 selling a specified asset;

33 (2) managing, acquiring, or disposing of a specified asset;

34 (3) arranging financing with respect to acquiring specified  
35 assets; or

36 (4) any activity in support of the services described in  
37 paragraphs (1) through (3) of this subsection.

38 A partner shall not be deemed to be providing investment  
39 management services under this section if the partnership interest is  
40 held directly or indirectly by a corporation, or any capital interest in  
41 the partnership, which provides the taxpayer with a right to share in  
42 partnership capital commensurate with the amount of capital  
43 contributed, determined at the time of receipt of such partnership  
44 interest, or the value of partnership interest subject to tax under  
45 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
46 receipt or vesting of such interest.

47 “Specified asset” means certain securities, real estate held for  
48 rental or investment, interests in partnerships, commodities, or

1 options or derivatives contracts, except if at least 80 percent of the  
2 average fair market value of the specified assets of the partnership,  
3 S corporation, or other entity during the taxable year consists of real  
4 estate.

5 b. Notwithstanding the provisions of the “New Jersey Gross  
6 Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition  
7 to the tax imposed on the income of a non-resident taxpayer  
8 pursuant to N.J.S.54A:5-8, there shall be imposed an additional  
9 surtax of 17 percent on income from investment management  
10 services received during the taxpayer’s taxable year.

11 c. Notwithstanding the provisions of the “New Jersey Gross  
12 Income Tax Act,” N.J.S.54A:1-1 et seq., to the contrary, in addition  
13 to the tax imposed on the income of a resident taxpayer from the  
14 categories of gross income enumerated and classified in  
15 N.J.S.54A:5-1 et seq., there shall be imposed an additional surtax of  
16 17 percent on income received during the taxpayer’s taxable year  
17 from investment management services provided to a partnership, S  
18 corporation, or other entity.

19 d. This section shall remain inoperative until enactment into  
20 law by the states of Connecticut, New York, and Massachusetts of  
21 legislation having an identical effect with this section, subsection d.  
22 of N.J.S.54A:5-8, subsection (D) of section 6 of P.L.1945, c.162  
23 (C.54:10A-6), and section 9 of P.L. , c. (C. ) (pending before  
24 the Legislature as this bill), as shall be determined by the Director  
25 of the Division of Taxation in the Department of the Treasury.

26

27 8. Section 6 of P.L.1945, c.162 (C.54:10A-6) is amended to  
28 read as follows:

29 6. The portion of a taxpayer's entire net worth to be used as a  
30 measure of the tax imposed by subsection (a) of section 5 of  
31 P.L.1945, c.162 (C.54:10A-5), and the portion of its entire net  
32 income to be used as a measure of the tax imposed by subsection (c)  
33 of section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined  
34 by multiplying such entire net worth and entire net income,  
35 respectively, by an allocation factor which is the property fraction,  
36 plus twice the sales fraction plus the payroll fraction and the  
37 denominator of which is four, and which, for privilege periods  
38 beginning on or after January 1, 2012, is the sum of the portions of  
39 the property fraction, the sales fraction, and the payroll fraction  
40 determined in accordance with the following schedule:

41 for privilege periods beginning on or after January 1, 2012 but  
42 before January 1, 2013, 15% of the property fraction plus 70% of  
43 the sales fraction plus 15% of the payroll fraction,

44 for privilege periods beginning on or after January 1, 2013 but  
45 before January 1, 2014, 5% of the property fraction plus 90% of the  
46 sales fraction plus 5% of the payroll fraction, and

47 for privilege periods beginning on or after January 1, 2014,  
48 100% of the sales fraction,

1 except as the director may determine pursuant to section 8 of  
2 P.L.1945, c.162 (C.54:10A-8), that is:

3 (A) The property fraction is the average value of the taxpayer's  
4 real and tangible personal property within the State during the  
5 period covered by its report divided by the average value of all the  
6 taxpayer's real and tangible personal property wherever situated  
7 during such period; provided, however, that for the purpose of  
8 determining average value, the provisions with respect to  
9 depreciation as set forth in subparagraph (F) of paragraph (2) of  
10 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be  
11 taken into account for arriving at such value.

12 (B) The sales fraction is the receipts of the taxpayer, computed  
13 on the cash or accrual basis according to the method of accounting  
14 used in the computation of its net income for federal tax purposes,  
15 arising during such period from

16 (1) sales of its tangible personal property located within this  
17 State at the time of the receipt of or appropriation to the orders  
18 where shipments are made to points within this State,

19 (2) sales of tangible personal property located without the State  
20 at the time of the receipt of or appropriation to the orders where  
21 shipment is made to points within the State,

22 (3) (Deleted by amendment.)

23 (4) services performed within the State,

24 (5) rentals from property situated, and royalties from the use of  
25 patents or copyrights, within the State,

26 (6) all other business receipts (excluding dividends excluded  
27 from entire net income by paragraph (1) of subsection (k) of section  
28 4 of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

29 divided by the total amount of the taxpayer's receipts, similarly  
30 computed, arising during such period from all sales of its tangible  
31 personal property, services, rentals, royalties and all other business  
32 receipts, whether within or without the State.

33 (C) The payroll fraction is the total wages, salaries and other  
34 personal service compensation, similarly computed, during such  
35 period of officers and employees within the State divided by the  
36 total wages, salaries and other personal service compensation,  
37 similarly computed, during such period of all the taxpayer's officers  
38 and employees within and without the State.

39 In the case of a banking corporation which maintains a regular  
40 place of business outside this State other than a statutory office, and  
41 which elects to take the exclusion from net worth provided in  
42 subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the  
43 deduction from entire net income provided in paragraph (4) of  
44 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), the  
45 allocation factor shall be computed and applied in accordance with  
46 section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that  
47 the numerators and the denominators of the fractions described in  
48 (A), (B) or (C) above shall include all amounts attributable, directly

1 or indirectly, to the production of the eligible net income of an  
2 international banking facility as defined in paragraph (4) of  
3 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4),  
4 whether or not such amounts are otherwise attributable to this State.

5 (D) (1) For the purposes of paragraph (4) of subsection (B) of  
6 this section, services performed within the State shall be deemed to  
7 include, but shall not be limited to, investment management  
8 services performed by the taxpayer as a partner provided to a  
9 partnership, S corporation, or other entity.

10 (2) As used in this subsection:

11 “Investment management services” means providing a  
12 substantial quantity of any of the following services to a  
13 partnership, S corporation, or other entity as a partner thereto:

14 (a) advising as to the advisability of investing in, purchasing, or  
15 selling a specified asset;

16 (b) managing, acquiring, or disposing of a specified asset;

17 (c) arranging financing with respect to acquiring specified  
18 assets; or

19 (d) any activity in support of the services described in  
20 subparagraphs (a) through (c) of this paragraph.

21 A partner shall not be deemed to be providing investment  
22 management services under this subsection if the partnership  
23 interest is held directly or indirectly by a corporation, or any capital  
24 interest in the partnership, which provides the taxpayer with a right  
25 to share in partnership capital commensurate with the amount of  
26 capital contributed, determined at the time of receipt of such  
27 partnership interest, or the value of partnership interest subject to  
28 tax under section 83 of the Internal Revenue Code (26 U.S.C. s.83),  
29 upon the receipt or vesting of such interest.

30 “Specified asset” means certain securities, real estate held for  
31 rental or investment, interests in partnerships, commodities, or  
32 options or derivatives contracts, except if at least 80 percent of the  
33 average fair market value of the specified assets of the partnership,  
34 S corporation, or other entity during the taxable year consists of real  
35 estate.

36 (3) This subsection shall remain inoperative until enactment into  
37 law by the states of Connecticut, New York, and Massachusetts of  
38 legislation having an identical effect with this subsection,  
39 subsection d. of N.J.S.54A:5-8, and sections 7 and 9 of P.L. , c.  
40 (C. ) (pending before the Legislature as this bill), as shall be  
41 determined by the Director of the Division of Taxation in the  
42 Department of the Treasury.

43 (cf: P.L.2011, c.59, s.1)

44

45 9. (New section) a. As used in this section:

46 “Investment management services” means providing a  
47 substantial quantity of any of the following services to a  
48 partnership, S corporation, or other entity as a partner thereto:

1 (1) advising as to the advisability of investing in, purchasing, or  
2 selling a specified asset;

3 (2) managing, acquiring, or disposing of a specified asset;

4 (3) arranging financing with respect to acquiring specified  
5 assets; or

6 (4) any activity in support of the services described in  
7 paragraphs (1) through (3) of this subsection.

8 A partner shall not be deemed to be providing investment  
9 management services under this section if the partnership interest is  
10 held directly or indirectly by a corporation, or any capital interest in  
11 the partnership, which provides the taxpayer with a right to share in  
12 partnership capital commensurate with the amount of capital  
13 contributed, determined at the time of receipt of such partnership  
14 interest, or the value of partnership interest subject to tax under  
15 section 83 of the Internal Revenue Code (26 U.S.C. s.83), upon the  
16 receipt or vesting of such interest.

17 "Specified asset" means certain securities, real estate held for  
18 rental or investment, interests in partnerships, commodities, or  
19 options or derivatives contracts, except if at least 80 percent of the  
20 average fair market value of the specified assets of the partnership,  
21 S corporation, or other entity during the taxable year consists of real  
22 estate.

23 b. Notwithstanding the provisions of the "Corporation Business  
24 Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), to the  
25 contrary, in addition to the tax imposed on the entire net income of  
26 a taxpayer pursuant to the provisions of section 6 of P.L.1945,  
27 c.162 (C.54:10A-6), there shall be imposed an additional surtax of  
28 17 percent on income received from investment management  
29 services during the taxpayer's accounting or privilege period.

30 c. This section shall remain inoperative until enactment into  
31 law by the states of Connecticut, New York, and Massachusetts of  
32 legislation having an identical effect with this section, section 7 of  
33 P.L. , c. (C. ) (pending before the Legislature as this bill),  
34 subsection (D) of section 6 of P.L.1945, c.162 (C.54:10A-6), and  
35 subsection d. of N.J.S.54A:5-8, as shall be determined by the  
36 Director of the Division of Taxation in the Department of the  
37 Treasury.

38  
39 10. (New section) Notwithstanding the provisions of the  
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
41 seq.), to the contrary, the director may adopt immediately upon  
42 filing with the Office of Administrative Law, regulations that the  
43 director deems necessary to implement the provisions of P.L. , c.  
44 (C. ) (pending before the Legislature as this bill), which  
45 regulations shall be effective for a period not to exceed 360 days  
46 from the date of the filing. The director may thereafter amend,  
47 adopt, or readopt the regulations in accordance with the  
48 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

1        11. This act shall take effect immediately and shall apply to  
2 taxable years beginning on and after January 1, 2018, except that  
3 sections 6 through 9 shall remain inoperative until enactment into  
4 law by the states of Connecticut, New York, and Massachusetts of  
5 legislation having an identical effect with sections 6 through 9 of  
6 this act, as shall be determined by the Director of the Division of  
7 Taxation in the Department of the Treasury, but if the states of  
8 Connecticut, New York, and Massachusetts shall have already  
9 enacted such legislation, as shall be determined by the director,  
10 sections 6 through 9 of this act shall take effect immediately, and  
11 shall apply to taxable years and accounting or privilege periods  
12 beginning after its effective date; provided further, however, that  
13 sections 7 and 9 of this act shall expire if the director determines  
14 that the United States Congress has passed, and the President of the  
15 United States has signed, legislation having an identical effect with  
16 sections 6 through 9 of this act applicable to such income earned in  
17 all of the states and territories.