

ASSEMBLY, No. 482

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblymen Space and Wirths

SYNOPSIS

Excludes overtime pay of certain employees from gross income tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** excluding the overtime compensation of certain employees
2 from gross income under the gross income tax, and
3 supplementing Title 54A of the New Jersey Statutes and
4 amending N.J.S.54A:7-1.

5

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

8

9 1. (New section) Gross income shall not include a payment a
10 taxpayer receives in return for working time in excess of 40 hours
11 in a week if the taxpayer is subject to the overtime rate mandated
12 under section 5 of P.L.1966, c.113 (C.34:11-56a4).

13

14 2. N.J.S.54A:7-1 is amended to read as follows:

15 54A:7-1. Requirement of withholding tax from wages.

16 (a) General.--From and after September 1, 1976, every
17 employer maintaining an office or transacting business within this
18 State and making payment of any wages subject to New Jersey
19 personal income tax or making payment of any remuneration for
20 employment subject to contribution under the New Jersey
21 "unemployment compensation law" pursuant to R.S.43:21-1 et seq.
22 that is subject to New Jersey personal income tax to a resident or
23 nonresident individual shall deduct and withhold from such wages
24 for each payroll period a tax computed in such manner as to result,
25 so far as practicable, in withholding from the employee's wages
26 during each calendar year an amount substantially equivalent to the
27 tax reasonably estimated to be due resulting from the inclusion in
28 the employee's New Jersey income of his wages received during
29 such calendar year. The method of determining the amount to be
30 withheld shall be prescribed by regulations of the director, with due
31 regard to the withholding exemptions of the employee.

32 (b) Withholding exemptions.--For purposes of this section:

33 An employee shall be entitled to the equivalent of the same
34 number of New Jersey withholding exemptions as the number of
35 withholding exemptions to which he is entitled for Federal income
36 tax withholding purposes. An employer may rely upon the number
37 of Federal withholding exemptions claimed by the employee.

38 (c) The payor of New Jersey gambling winnings shall withhold
39 New Jersey gross income tax on those winnings at a rate of 3% in
40 all instances where the payor is required to withhold for federal
41 income tax purposes under subsection (q) of section 3402 of the
42 federal Internal Revenue Code of 1986 (26U.S.C. s.3402), as
43 amended, except that this subsection shall not apply to the New
44 Jersey State Lottery.

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 (d) A payment an employee receives in return for working time
2 in excess of 40 hours in a week shall be exempt from withholding if
3 the employee is subject to the overtime rate mandated under section
4 5 of P.L.1966, c.113 (C.34:11-56a4).
5 (cf: P.L.2006, c.85, s.1)

6
7 3. This act shall take effect immediately and shall apply to
8 taxable years beginning on or after January 1 following the date of
9 enactment.

10
11
12 STATEMENT

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14 This bill excludes from income taxation the overtime pay of
15 employees who are subject to the minimum overtime rate
16 established under section 5 of P.L.1966, c.113 (C.34:11-56a4).
17 That law requires that employees receive at least 150 percent of
18 their regular hourly wage for each hour of working time in excess
19 of 40 hours in a week. Bona fide executive, administrative, and
20 professional employees are excluded from the overtime regulation
21 and hence the income tax exemption, as are farm laborers,
22 salespersons of motor vehicles, outside salespersons, hotel
23 employees, employees who drive limousines, and employees of
24 common carriers of passengers by motor bus, among others.

25 The legislation also instructs employers not to withhold State
26 gross income tax from tax-exempt overtime compensation.

27 Untaxing overtime pay does not only duly reward hard-working
28 New Jerseyans, but it also provides the economy with a much-
29 needed stimulus. The economy benefits because the tax cut boosts
30 the after-tax income of households with overtime-working income
31 earners. This, in turn, adds to their consumption spending.
32 Moreover, since the tax cut makes overtime more lucrative, it also
33 creates an incentive to work more and hence to improve the State's
34 overall economic performance.