

ASSEMBLY, No. 2002

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

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District 23 (Hunterdon, Somerset and Warren)

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SYNOPSIS

Eliminates minimum corporation business tax on New Jersey S corporations.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** eliminating the minimum corporation business tax on New
2 Jersey S corporations, amending P.L.1945, c.162.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to
8 read as follows:

9 5. The franchise tax to be annually assessed to and paid by
10 each taxpayer shall be the greater of the amount computed pursuant
11 to this section or the alternative minimum assessment computed
12 pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a); provided
13 however, that in the case of a taxpayer that is a New Jersey S
14 corporation, an investment company, a professional corporation
15 organized pursuant to P.L.1969, c.232 (C.14A:17-1 et seq.) or a
16 similar corporation for profit organized for the purpose of rendering
17 professional services under the laws of another state, or a person
18 operating on a cooperative basis under Part I of Subchapter T of the
19 federal Internal Revenue Code of 1986, 26 U.S.C. s.1381 et seq.,
20 there shall be no alternative minimum assessment computed
21 pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a).

22 The amount computed pursuant to this section shall be the sum
23 of the amount computed under subsection (a) hereof, or in the
24 alternative to the amount computed under subsection (a) hereof, the
25 amount computed under subsection (f) hereof, and the amount
26 computed under subsection (c) hereof:

27 (a) That portion of its entire net worth as may be allocable to
28 this State as provided in section 6, multiplied by the following
29 rates: 2 mills per dollar on the first \$100,000,000.00 of allocated
30 net worth; 4/10 of a mill per dollar on the second \$100,000,000.00;
31 3/10 of a mill per dollar on the third \$100,000,000.00; and 2/10 of a
32 mill per dollar on all amounts of allocated net worth in excess of
33 \$300,000,000.00; provided, however, that with respect to reports
34 covering accounting or privilege periods set forth below, the rate
35 shall be that percentage of the rate set forth in this subsection for
36 the appropriate year:

Accounting or Privilege Periods Beginning on or after:	The Percentage of the Rate to be Imposed Shall be:
April 1, 1983	75%
July 1, 1984	50%
July 1, 1985	25%
July 1, 1986	0

45 (b) (Deleted by amendment, P.L.1968, c.250, s.2.)

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 (c) (1) For a taxpayer that is not a New Jersey S corporation, 3
2 1/4% of its entire net income or such portion thereof as may be
3 allocable to this State as provided in section 6 of P.L.1945,
4 c.162 (C.54:10A-6) plus such portion thereof as is specifically
5 assigned to this State as provided in section 5 of P.L.1993,
6 c.173 (C.54:10A-6.1); provided, however, that with respect to
7 reports covering accounting or privilege periods or parts thereof
8 ending after December 31, 1967, the rate shall be 4 1/4%; and that
9 with respect to reports covering accounting or privilege periods or
10 parts thereof ending after December 31, 1971, the rate shall be 5
11 1/2%; and that with respect to reports covering accounting or
12 privilege periods or parts thereof ending after December 31, 1974,
13 the rate shall be 7 1/2%; and that with respect to reports covering
14 privilege periods or parts thereof ending after December 31, 1979,
15 the rate shall be 9%; provided however, that for a taxpayer that has
16 entire net income of \$100,000 or less for a privilege period and is
17 not a partnership the rate for that privilege period shall be 7 1/2%
18 and provided further that for a taxpayer that has entire net income
19 of \$50,000 or less for a privilege period and is not a partnership the
20 rate for that privilege period shall be 6 1/2%.

21 (2) For a taxpayer that is a New Jersey S corporation:

22 (i) for privilege periods ending on or before June 30, 1998 the
23 rate determined by subtracting the maximum tax bracket rate
24 provided under N.J.S.54A:2-1 for the privilege period from the tax
25 rate that would otherwise be applicable to the taxpayer's entire net
26 income for the privilege period if the taxpayer were not an S
27 corporation provided under paragraph (1) of this subsection for the
28 privilege period; and

29 (ii) For a taxpayer that has entire net income in excess of
30 \$100,000 for the privilege period, for privilege periods ending on or
31 after July 1, 1998, but on or before June 30, 2001, the rate shall be
32 2%, for privilege periods ending on or after July 1, 2001, but on or
33 before June 30, 2006, the rate shall be 1.33%, for privilege periods
34 ending on or after July 1, 2006, but on or before June 30, 2007, the
35 rate shall be 0.67%, and for privilege periods ending on or after July
36 1, 2007 there shall be no rate of tax imposed under this paragraph;
37 and

38 (iii) For a taxpayer that has entire net income of \$100,000 or
39 less for privilege periods ending on or after July 1, 1998, but on or
40 before June 30, 2001 the rate for that privilege period shall be 0.5%,
41 and for privilege periods ending on or after July 1, 2001 there shall
42 be no rate of tax imposed under this paragraph.

43 (iv) The taxpayer's rate determined under subparagraph (i), (ii)
44 or (iii) of this paragraph shall be multiplied by its entire net income
45 that is not subject to federal income taxation or such portion thereof
46 as may be allocable to this State pursuant to sections 6 through 10
47 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10) plus such

1 portion thereof as is specifically assigned to this State as provided
2 in section 5 of P.L.1993, c.173 (C.54:10A-6.1).

3 (3) For a taxpayer that is a New Jersey S corporation, in
4 addition to the amount, if any, determined under paragraph (2) of
5 this subsection, the tax rate that would otherwise be applicable to
6 the taxpayer's entire net income for the privilege period if the
7 taxpayer were not an S corporation provided under paragraph (1) of
8 this subsection for the privilege period multiplied by its entire net
9 income that is subject to federal income taxation or such portion
10 thereof as may be allocable to this State pursuant to sections 6
11 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10).

12 (d) Provided, however, that the franchise tax to be annually
13 assessed to and paid by any investment company or real estate
14 investment trust, which has elected to report as such and has filed
15 its return in the form and within the time provided in this act and
16 the rules and regulations promulgated in connection therewith,
17 shall, in the case of an investment company, be measured by 40% of
18 its entire net income and 40% of its entire net worth, and in the case
19 of a real estate investment trust, by 4% of its entire net income and
20 15% of its entire net worth, at the rates hereinbefore set forth for the
21 computation of tax on net income and net worth, respectively, but in
22 no case less than \$250, and further provided, however, that the
23 franchise tax to be annually assessed to and paid by a regulated
24 investment company which for a period covered by its report
25 satisfies the requirements of Chapter 1, Subchapter M, Part I,
26 Section 852(a) of the federal Internal Revenue Code shall be \$250.

27 (e) The tax assessed to any taxpayer pursuant to this section
28 shall not be less than \$25 in the case of a domestic corporation, \$50
29 in the case of a foreign corporation, or \$250 in the case of an
30 investment company or regulated investment company. Provided
31 however, that for privilege periods beginning in calendar year 1994
32 and thereafter the minimum taxes for taxpayers other than an
33 investment company or a regulated investment company shall be as
34 provided in the following schedule:

35

36	Period Beginning	Domestic	Foreign
37	In Calendar Year	Corporation	Corporation
38		Minimum Tax	Minimum Tax
39	1994	\$ 50	\$100
40	1995	\$100	\$200
41	1996	\$150	\$200
42	1997	\$200	\$200
43	1998	\$200	\$200
44	1999	\$200	\$200
45	2000	\$200	\$200
46	2001	\$210	\$210

47 and for calendar years 2002 through 2005 the minimum tax for all
48 taxpayers shall be \$500, and for calendar year 2006 and thereafter

the minimum tax shall be based on the New Jersey gross receipts, as defined for the purposes of this section pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a), of the taxpayer pursuant to the following schedule:

New Jersey Gross Receipts:	Minimum Tax:
Less than \$100,000	\$500
\$100,000 or more but less than \$250,000	\$750
\$250,000 or more but less than \$500,000	\$1,000
\$500,000 or more but less than \$1,000,000	\$1,500
\$1,000,000 or more	\$2,000

provided however, that for a taxpayer that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, and whose group has total payroll of \$5,000,000 or more for the privilege period, the minimum tax shall be \$2,000 for the privilege period.

Provided however, for privilege periods beginning on or after January 1, 2010 a taxpayer that is a New Jersey S corporation shall not be assessed a minimum tax pursuant to this subsection.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than \$150,000, may elect to pay the tax shown in a table which shall be promulgated by the director.

(g) Provided however, that for privilege periods beginning on or after January 1, 2001 but before January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer:

(1) that is a limited liability company or foreign limited liability company classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 3 of P.L.2001, c.136 (C.54:10A-15.6); or

(2) that is a limited partnership or foreign limited partnership classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 4 of P.L.2001, c.136 (C.54:10A-15.7).

(h) Provided however, that for privilege periods beginning on or after January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer that is a partnership shall be the amount determined pursuant to the provisions of section 12 of P.L.2002, c.40 (C.54:10A-15.11).

(i) (Deleted by amendment, P.L.2008, c.120)
(cf: P.L.2008, c.120, s.1)

1 2. This act shall take effect immediately.

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3

4

STATEMENT

5

6 This bill eliminates the minimum corporation business tax on
7 New Jersey S corporations.

8 At present, a New Jersey S corporation is subject to the
9 following minimum corporation business tax according to the
10 amount of its New Jersey gross receipts.

11 New Jersey Gross Receipts:	Minimum Tax:
12 Less than \$100,000	\$500
13 \$100,000 or more but less than \$250,000	\$750
14 \$250,000 or more but less than \$500,000	\$1,000
15 \$500,000 or more but less than \$1,000,000	\$1,500
16 \$1,000,000 or more	\$2,000

17 The purpose of this bill is to lessen the burden of double taxation
18 upon S corporation shareholders.

19 The bill will apply to privilege periods beginning on or after
20 January 1, 2010.