

ASSEMBLY, No. 3094

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)

SYNOPSIS

Disallows tax deduction under corporation business tax and gross income tax for punitive damages paid in connection with legal action; includes amount paid as punitive damages on behalf of taxpayer in income for tax purposes.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** disallowing tax deductions for punitive damages paid in
2 connection with the conclusion of a legal action and including
3 amount paid as punitive damages on behalf of a taxpayer in
4 income for tax purposes, supplementing
5 P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New
6 Jersey Statutes.

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

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11 1. Notwithstanding the provisions of subsection (k) of section 4
12 of P.L.1945, c.162 (C.54:10A-4), for privilege periods beginning on
13 or after the January 1 next following enactment of
14 P.L. , c. (C.)(pending before the Legislature as this bill):

15 a. no deduction from entire net income shall be allowed for any
16 amount paid or incurred for punitive damages in connection with
17 any judgment in, or settlement of, any action; and

18 b. entire net income shall include any amount paid to or on
19 behalf of a taxpayer as insurance or otherwise by reason of the
20 taxpayer's liability or agreement to pay punitive damages.

21
22 2. Notwithstanding the provisions of N.J.S.54A:5-1, for the
23 purposes of determining the amount of a category of gross income
24 pursuant to subsections b., d., k., or p. of N.J.S.54A:5-1 for taxable
25 years beginning on or after the January 1 next following enactment
26 of P.L. , c. (C.)(pending before the Legislature as this bill):

27 a. no deduction shall be allowed for any amount paid or
28 incurred for punitive damages in connection with any judgment in,
29 or settlement of, any action; and

30 b. the category of gross income shall include any amount paid
31 to or on behalf of a taxpayer as insurance or otherwise by reason of
32 the taxpayer's liability or agreement to pay punitive damages
33 relating to the taxpayer's business generating income in that
34 category.

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36 3. This act shall take effect immediately.

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39 **STATEMENT**

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41 This bill disallows tax deductions under the corporation business
42 tax and the gross income tax for punitive damages paid or incurred
43 in connection with a judgment in or settlement of a legal action and
44 includes in a taxpayer's taxable income the amount paid to, or on
45 behalf of, the taxpayer as insurance or otherwise by reason of the
46 taxpayer's liability or agreement to pay punitive damages.

47 Under current law, a corporation or an individual business owner
48 may deduct the cost of court-ordered punitive damages as an

1 “ordinary business expense.” This tax loophole allows companies
2 to wreak horrible damage to public assets and private property,
3 destroying lives and livelihoods, and write it off as a cost of doing
4 business.

5 This bill eliminates that tax break, and requires corporations
6 risking environmental destruction to face the true costs of their
7 actions.