

**ASSEMBLY, No. 4028**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MAY 4, 2020

**Sponsored by:**

**Assemblyman CHRISTOPHER P. DEPHILLIPS**

**District 40 (Bergen, Essex, Morris and Passaic)**

**SYNOPSIS**

Reduces CBT rate; retroactive to January 1, 2020.

**CURRENT VERSION OF TEXT**

As introduced.



1 **AN ACT** reducing the corporation business tax rate, amending  
 2 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 net  
 30 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           | The Percentage of the Rate<br>to be Imposed Shall be: |
|-----------------------------------|-------------------------------------------------------|
| Periods Beginning on or<br>after: |                                                       |
| April 1, 1983                     | 75%                                                   |
| July 1, 1984                      | 50%                                                   |
| July 1, 1985                      | 25%                                                   |
| July 1, 1986                      | 0                                                     |

44 (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 sections 6 through 10 of  
4 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10), plus such  
5 portion thereof as is specifically assigned to this State as provided  
6 in section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however,  
7 that with respect to reports covering accounting or privilege periods  
8 or parts thereof ending after December 31, 1967, the rate shall be 4  
9 1/4%; and that with respect to reports covering accounting or  
10 privilege periods or parts thereof ending after December 31, 1971,  
11 the rate shall be 5 1/2%; and that with respect to reports covering  
12 accounting or privilege periods or parts thereof ending after  
13 December 31, 1974, the rate shall be 7 1/2%; and that with respect  
14 to reports covering privilege periods or parts thereof ending after  
15 December 31, 1979, the rate shall be 9%; provided however, that  
16 for a taxpayer that has entire net income of \$100,000 or less for a  
17 privilege period and is not a partnership the rate for that privilege  
18 period shall be 7 1/2% and provided further that for a taxpayer that  
19 has entire net income of \$50,000 or less for a privilege period and is  
20 not a partnership the rate for that privilege period shall be 6 1/2%;  
21 and that for a taxpayer, regardless of the amount of the taxpayer's  
22 entire net income, with respect to reports covering accounting or  
23 privilege periods or parts thereof ending after December 31, 2019,  
24 the rate shall be 2.5%.

25 For privilege periods ending on or after July 31, 2019, the tax  
26 rate shall be applied against taxable net income.

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

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

35 (ii) For a taxpayer that has entire net income in excess of  
36 \$100,000 for the privilege period,

37 for privilege periods ending on or after July 1, 1998, but on or  
38 before June 30, 2001, the rate shall be 2%,

39 for privilege periods ending on or after July 1, 2001, but on or  
40 before June 30, 2006, the rate shall be 1.33%,

41 for privilege periods ending on or after July 1, 2006, but on or  
42 before June 30, 2007, the rate shall be 0.67%, and

43 for privilege periods ending on or after July 1, 2007 there shall  
44 be no rate of tax imposed under this paragraph; and

45 (iii) For a taxpayer that has entire net income of \$100,000 or less  
46 for privilege periods ending on or after July 1, 1998, but on or  
47 before June 30, 2001, the rate for that privilege period shall be

1 0.5%, and for privilege periods ending on or after July 1, 2001,  
2 there shall be no rate of tax imposed under this paragraph.

3 (iv) The taxpayer's rate determined under subparagraph (i), (ii)  
4 or (iii) of this paragraph shall be multiplied by its entire net income  
5 that is not subject to federal income taxation or such portion thereof  
6 as may be allocable to this State pursuant to sections 6 through 10  
7 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10) plus such  
8 portion thereof as is specifically assigned to this State as provided  
9 in section 5 of P.L.1993, c.173 (C.54:10A-6.1). For privilege  
10 periods ending on or after July 31, 2019, the tax rate shall be  
11 applied against taxable net income.

12 (3) For a taxpayer that is a New Jersey S corporation, in  
13 addition to the amount, if any, determined under paragraph (2) of  
14 this subsection, the tax rate that would otherwise be applicable to  
15 the taxpayer's entire net income for the privilege period if the  
16 taxpayer were not an S corporation provided under paragraph (1) of  
17 this subsection for the privilege period multiplied by its entire net  
18 income that is subject to federal income taxation or such portion  
19 thereof as may be allocable to this State pursuant to sections 6  
20 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).  
21 For privilege periods ending on or after July 31, 2019, the tax rate  
22 shall be applied against taxable net income.

23 (d) Provided, however, that the franchise tax to be annually  
24 assessed to and paid by any investment company or real estate  
25 investment trust, which has elected to report as such and has filed  
26 its return in the form and within the time provided in this act and  
27 the rules and regulations promulgated in connection therewith,  
28 shall, in the case of an investment company, be measured by 40% of  
29 its entire net income and 40% of its entire net worth, and in the case  
30 of a real estate investment trust, by 4% of its entire net income and  
31 15% of its entire net worth, at the rates hereinbefore set forth for the  
32 computation of tax on net income and net worth, respectively, but in  
33 no case less than \$250, and further provided, however, that the  
34 franchise tax to be annually assessed to and paid by a regulated  
35 investment company which for a period covered by its report  
36 satisfies the requirements of Chapter 1, Subchapter M, Part I,  
37 Section 852(a) of the federal Internal Revenue Code shall be \$250.  
38 For privilege periods ending on or after July 31, 2019, the tax rate  
39 shall be applied against taxable net income.

40 (e) The tax assessed to any taxpayer pursuant to this section  
41 shall not be less than \$25 in the case of a domestic corporation, \$50  
42 in the case of a foreign corporation, or \$250 in the case of an  
43 investment company or regulated investment company. Provided  
44 however, that for privilege periods beginning in calendar year 1994  
45 and thereafter the minimum taxes for taxpayers other than an  
46 investment company or a regulated investment company shall be as  
47 provided in the following schedule:

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| 1  | Period Beginning | Domestic    | Foreign     |
|----|------------------|-------------|-------------|
| 2  | In Calendar Year | Corporation | Corporation |
| 3  |                  | Minimum Tax | Minimum Tax |
| 4  | 1994             | \$ 50       | \$100       |
| 5  | 1995             | \$100       | \$200       |
| 6  | 1996             | \$150       | \$200       |
| 7  | 1997             | \$200       | \$200       |
| 8  | 1998             | \$200       | \$200       |
| 9  | 1999             | \$200       | \$200       |
| 10 | 2000             | \$200       | \$200       |
| 11 | 2001             | \$210       | \$210       |

12 and for calendar years 2002 through 2005 the minimum tax for all  
13 taxpayers shall be \$500, and for calendar year 2006 through  
14 calendar year 2011 the minimum tax for all corporations, and for  
15 privilege periods beginning in calendar year 2012 and thereafter the  
16 minimum tax for corporations that are not New Jersey S  
17 corporations shall be based on the New Jersey gross receipts of the  
18 taxpayer pursuant to the following schedule:

| 19 | New Jersey Gross Receipts: | Minimum Tax:  |
|----|----------------------------|---------------|
| 20 |                            |               |
| 21 | Less than \$100,000        | .....\$500    |
| 22 | \$100,000 or more but      |               |
| 23 | less than \$250,000        | ..... \$750   |
| 24 |                            |               |
| 25 | \$250,000 or more but      |               |
| 26 | less than \$500,000        | ..... \$1,000 |
| 27 | \$500,000 or more but      |               |
| 28 | less than \$1,000,000      | ..... \$1,500 |
| 29 | \$1,000,000 or more        | ..... \$2,000 |

30 and for privilege periods beginning in calendar year 2012 and  
31 thereafter the minimum tax for corporations that are New Jersey S  
32 corporations shall be based on the New Jersey gross receipts of the  
33 taxpayer pursuant to the following schedule:

| 34 | New Jersey Gross Receipts: | Minimum Tax:   |
|----|----------------------------|----------------|
| 35 | Less than \$100,000        | .....\$375     |
| 36 | \$100,000 or more but      |                |
| 37 | less than \$250,000        | ..... \$562.50 |
| 38 | \$250,000 or more but      |                |
| 39 | less than \$500,000        | ..... \$750    |
| 40 | \$500,000 or more but      |                |
| 41 | less than \$1,000,000      | ..... \$1,125  |
| 42 | \$1,000,000 or more        | ..... \$1,500  |

43 provided however, that for a taxpayer that is a member of an  
44 affiliated group or a controlled group pursuant to section 1504 or  
45 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C.  
46 s.1504 or 1563, and whose group has total payroll of \$5,000,000 or  
47 more for the privilege period, the minimum tax shall be \$2,000 for  
48 the privilege period. For privilege periods ending on and after July

1 31, 2019, the minimum tax of each member of a combined group  
2 filing a mandatory or elective New Jersey combined return shall be  
3 \$2,000 for the group privilege period.

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

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

13 (1) that is a limited liability company or foreign limited liability  
14 company classified as a partnership for federal income tax purposes  
15 shall be the amount determined pursuant to the provisions of section  
16 3 of P.L.2001, c.136 (C.54:10A-15.6); or

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

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

26 (i) (Deleted by amendment, P.L.2008, c.120)  
27 (cf: P.L.2018, c.131, s.6)

28  
29 2. This act shall take effect immediately and shall be  
30 retroactive to January 1, 2020.

### 31 32 33 STATEMENT

34  
35 This bill reduces the corporation business tax (CBT) tax rate  
36 from 9 percent to 2.5 percent of income for privilege periods ending  
37 after December 31, 2019, and provides for that tax rate to remain at  
38 2.5 percent in perpetuity. Under the bill, the 2.5 percent rate is to  
39 apply to all CBT taxpayers. A “privilege period” is the 12 month  
40 accounting period for which tax is due for the privilege of doing  
41 business in the State.

42 The sponsor’s intent for the bill is to help businesses to  
43 withstand revenue losses incurred as a result of the government-  
44 enforced closure of businesses due to the COVID-19 pandemic, by  
45 allowing those businesses to keep a larger percentage of their  
46 earnings.

47 The bill is to take effect immediately upon enactment and apply  
48 retroactively to January 1, 2020.