

**ASSEMBLY, No. 4103**

---

**STATE OF NEW JERSEY**

**219th LEGISLATURE**

---

INTRODUCED MAY 7, 2020

**Sponsored by:**

**Assemblyman RONALD S. DANCER**

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

**SYNOPSIS**

Eliminates period of limitation for deficiency assessment under corporation business tax when taxpayer fails to notify Division of Taxation of an income change on their federal tax return and prohibits claim for refund in such circumstance.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the timely report of certain tax filings under the  
2 corporation business tax, amending various sections of the  
3 statutory law.

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

7  
8 1. Section 13 of P.L.1945, c.162 (C.54:10A-13) is amended to  
9 read as follows:

10 13. If the amount of the taxable income for any year of any  
11 taxpayer as returned to the United States Treasury Department is  
12 changed or corrected by the Commissioner of Internal Revenue or  
13 other officer of the United States or other competent authority, or  
14 where a renegotiation of a contract or subcontract with the United  
15 States results in a change in said taxable income, or where a  
16 recovery of a war loss results in a computation or recomputation of  
17 any tax imposed by the United States, such taxpayer shall report  
18 such changed or corrected taxable income, or the results of such  
19 renegotiation, or such computation or recomputation, within 90  
20 days after the final determination of such change or correction or  
21 renegotiation, or such computation or recomputation, or as required  
22 by the director, and shall concede the accuracy of such  
23 determination or state wherein it is erroneous. Any taxpayer filing  
24 an amended return with such department shall also file within 90  
25 days thereafter an amended report with the director. The periods of  
26 limitation to make deficiency assessments under R.S.54:49-6 and to  
27 file claims for refund under R.S.54:49-14 shall commence to run for  
28 additional four year periods from the date that taxable income is  
29 finally changed or corrected by the Commissioner of Internal  
30 Revenue; provided, that the additional periods of limitation shall  
31 only be applicable to the increase or decrease in tax attributable to  
32 the adjustments in such changed or corrected taxable income.

33 The period of limitation to make deficiency assessments under  
34 R.S.54:49-6 shall not apply to a taxpayer that fails to file an  
35 amended report within 90 days pursuant to this section. If a  
36 taxpayer fails to file an amended report within 90 days, the taxpayer  
37 shall be prohibited from filing a claim for refund under R.S.54:49-  
38 14.

39 The penalties for failure to timely file a return under R.S.54:49-4  
40 shall apply to a taxpayer that fails to file an amended report  
41 pursuant to this section.

42 (cf: P.L.1992, c.175, s.19)

43

44 2. R.S.54:49-6 is amended to read as follows:

45 54:49-6. a. After a return or report is filed under the provisions

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 of any State tax law, the director shall cause the same to be  
2 examined and may make such further audit or investigation as he  
3 may deem necessary, and if therefrom he shall determine that there  
4 is a deficiency with respect to the payment of any tax due under  
5 such law, he shall assess the additional taxes, penalties, if any,  
6 pursuant to any State tax law or pursuant to this subtitle, and  
7 interest at the rate of three percentage points above the prime rate  
8 due the State from such taxpayer assessed for each month or  
9 fraction thereof, compounded annually at the end of each year, from  
10 the date the tax was originally due until the date of actual payment,  
11 give notice of such assessment to the taxpayer, and make demand  
12 upon him for payment.

13 b. No assessment of additional tax shall be made after the  
14 expiration of more than four years from the date of the filing of a  
15 return; provided, that in the case of a false or fraudulent return with  
16 intent to evade tax, or failure to file a return or an amended return,  
17 the tax may be assessed at any time. If a shorter time for the  
18 assessment of additional tax is fixed by the law imposing the tax,  
19 the shorter time shall govern. If, before the expiration of the period  
20 prescribed herein for the assessment of additional tax, a taxpayer  
21 consents in writing that such period may be extended, the amount of  
22 such additional tax due may be determined at any time within such  
23 extended period. The period so extended may be further extended  
24 by subsequent consents in writing made before the expiration of the  
25 extended period. For purposes of this subsection, a return filed  
26 before the last day prescribed by law or by regulations promulgated  
27 pursuant to law for the filing thereof, shall be considered as filed on  
28 such last day.

29 (cf: P.L.1993, c.331, s.3)

30

31 3. R.S.54:49-14 is amended to read as follows:

32 54:49-14. a. Any taxpayer, at any time within four years after  
33 the payment of any original or additional tax assessed against him,  
34 unless a shorter limit is fixed by the law imposing the tax, may file  
35 with the director a claim under oath for refund, in such form as the  
36 director may prescribe, stating the grounds therefor, but no claim  
37 for refund shall be required or permitted to be filed with respect to a  
38 tax paid, after protest has been filed with the director or after  
39 proceedings on appeal have been commenced as provided in this  
40 subtitle, until such protest or appeal has been finally determined.  
41 The signing of an agreement by the taxpayer and the director  
42 extending the period for assessment shall likewise extend the period  
43 for filing a claim for refund.

44 b. No taxpayer shall be precluded from claiming a refund of  
45 additional tax assessed solely on the ground that the taxpayer  
46 neither protested or appealed from any part of the assessment. A  
47 taxpayer may, pursuant to this subsection, file a claim for the refund  
48 of the assessment of additional tax if (1) the taxpayer neither

1 protested nor appealed from the assessment, (2) the taxpayer paid  
2 the assessment in full within one year after the expiration of the  
3 period allowed for filing a protest of the assessment, (3) the  
4 taxpayer files the claim for the refund within 450 days of the  
5 expiration of the period allowed for filing such a protest, and (4) the  
6 amount of the refund claimed pursuant to this subsection does not  
7 exceed the amount of the assessment paid. The time periods  
8 provided shall apply solely for purposes of refund claims under this  
9 subsection and shall be inapplicable with respect to any penalty and  
10 interest payments that may be due. A refund claim shall be filed  
11 under oath, in a form as the director may prescribe, and shall state  
12 the grounds therefor, which grounds shall be limited to those issues  
13 raised by the deficiency assessment itself and shall not include any  
14 additional issues with respect to the original assessment of tax. The  
15 filing of a claim for refund by the taxpayer under this subsection  
16 shall neither extend or toll the time to request a hearing or appeal an  
17 additional assessment of tax as otherwise provided by law. The  
18 denial of a claim for refund shall be an action of the director subject  
19 to review pursuant to R.S.54:51A-14.

20 c. Each taxpayer shall file a separate refund claim. A refund  
21 claim on behalf of a class is not permitted.

22 d. If a tax is declared to be discriminatory in a final judicial  
23 decision from which all appeals have been exhausted, the director  
24 may, within the director's sole discretion, refund or credit only the  
25 discriminatory portion of the tax.

26 e. If a taxpayer fails to report to the director an adjustment to  
27 the taxpayer's income on the taxpayer's federal income tax return in  
28 a manner required by law, the taxpayer shall be prohibited from  
29 filing a claim for refund pursuant to this section.

30 (cf: P.L.1998, c.106, s.13)

31  
32 4. This act shall take effect immediately.

### 33 34 35 STATEMENT

36  
37 This bill eliminates the statute of limitations for corporation  
38 business tax assessments in cases where a taxpayer fails to notify  
39 the Division of Taxation of an income change to their federal tax  
40 return.

41 The period of limitation for the Division of Taxation to make a  
42 deficiency claim against a taxpayer is four years. If a taxpayer's  
43 income changes on their federal return due to an Internal Revenue  
44 Service (IRS) determination, the taxpayer's income for State tax  
45 purposes may be affected. Currently, taxpayers are required to  
46 report such a change to the Division of Taxation within 90 days.  
47 However, if a taxpayer fails to make a report, the period of  
48 limitation may run out before the Division of Taxation learns of the

1 change to the taxpayer's income. Additionally, if a taxpayer reports  
2 to the Division of Taxation a change to their federal return  
3 following 90 days, the taxpayer may nevertheless file a claim for a  
4 refund. The period of limitation and allowance of a refund therefore  
5 provide an incentive to not timely report a change to income.

6 Pursuant to this bill, in addition to eliminating the limitation  
7 period, taxpayers will be prohibited from filing a claim for refund if  
8 they fail to notify a change to the Division of Taxation within 90  
9 days. The bill also clarifies that the penalties associated with late  
10 filing of a return apply to a taxpayer that does not timely file a  
11 report of change to their federal tax return.