

ASSEMBLY, No. 4110

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Requires submittal of Internal Revenue Service Form 1099-K with New Jersey corporation business tax and gross income tax returns.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the reporting of payment card and third party
2 network transactions, amending P.L.1945, c.162 and
3 N.J.S.54A:8-1.

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

7
8 1. Section 18 of P.L.1945, c.162 (C.54:10A-18) is amended to
9 read as follows

10 18. a. The director shall design a form of return and forms for
11 such additional statements or schedules as the director may require
12 to be filed therewith. Such forms shall provide for the setting forth
13 of such facts as the director may deem necessary for the proper
14 enforcement of this act. The director shall cause a supply thereof to
15 be printed and shall furnish appropriate blank forms to each
16 taxpayer upon application or otherwise as he may deem necessary.
17 Failure to receive a form shall not relieve any taxpayer from the
18 obligation to file a return under the provisions of this act. Each
19 such return shall have annexed thereto a certification by the
20 president, vice-president, comptroller, secretary, treasurer, assistant
21 treasurer, accounting officer of the taxpayer or any other officer of
22 the taxpayer duly authorized so to act to the effect that the
23 statements contained therein are true. The fact that an individual's
24 name is signed on a certification of the report shall be prima facie
25 evidence that such individual is authorized to sign and certify the
26 report on behalf of the corporation. In the case of a corporation in
27 liquidation or in the hands of a receiver or trustee, certification shall
28 be made by the person responsible for the conduct of the affairs of
29 such corporation.

30 b. The return of an S corporation shall, in addition to any
31 information set forth pursuant to subsection a. of this section, set
32 forth with respect to each shareholder: the shareholder's name,
33 address and federal taxpayer identification number (social security
34 number or employer identification number); whether the
35 shareholder is a resident of this State; whether the shareholder has
36 filed a consent to jurisdictional requirements pursuant to section 3
37 or section 4 of P.L.1993, c.173 (C.54:10A-5.22 or C.54:10A-5.23);
38 the allocation factor determined pursuant to sections 6 through 10
39 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10); the amount of
40 any distribution made to the shareholder, including any amount paid
41 on behalf of the shareholder pursuant to subsection c. or d. of
42 section 4 of P.L.1993, c.173 (C.54:10A-5.23); the balance of the
43 accumulated earnings and profits account; the balance of the
44 accumulated adjustments account described in section 16 of
45 P.L.1993, c.173 (C.54A:5-14), which account the corporation shall

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 maintain; and such other information as the director may prescribe
2 by regulation. The S corporation shall, on or before the day on
3 which such return is required to be filed, furnish to each person who
4 was a shareholder during the privilege period a copy of such
5 information shown on the return as the director may by regulation
6 prescribe.

7 c. (1) The return of a taxpayer that is a professional
8 corporation organized pursuant to P.L.1969, c. 232 (C.14A:17-
9 1 et seq.) or a similar corporation for profit organized for the
10 purpose of rendering professional services under the laws of another
11 state, shall in addition to any information set forth pursuant to
12 subsection a. of this section, set forth the name, address and federal
13 taxpayer identification number (social security number or employer
14 identification number) of each licensed professional of the
15 corporation.

16 (2) Each professional corporation organized pursuant to
17 P.L.1969, c.232 (C.14A:17-1 et seq.) or similar corporation for
18 profit organized for the purpose of rendering professional services
19 under the laws of another state that has more than two licensed
20 professionals shall at the time such return is required to be filed
21 make a payment of a filing fee of \$150 for each licensed
22 professional of the corporation, up to a maximum of \$250,000.

23 (3) Each professional corporation or similar corporation for
24 profit organized under the laws of another state required to make a
25 payment pursuant to paragraph (2) of this subsection shall also
26 make, at the same time as making its payment pursuant to paragraph
27 (2) of this subsection, an installment payment of its filing fee for the
28 succeeding return period in an amount equal to 50% of the amount
29 required to be paid pursuant to paragraph (2). The amount of the
30 installment payment shall be credited against the amount of the
31 filing fee due for the succeeding return period, or, if the amount of
32 the installment payment exceeds the amount of the filing fee due for
33 the succeeding return period, successive return periods.

34 (4) Notwithstanding the provisions of R.S.54:48-2 and
35 R.S.54:48-4 to the contrary, the fee required pursuant to paragraph
36 (2) of this subsection and the installment payment required pursuant
37 to paragraph (3) of this subsection shall, for purposes of
38 administration, be payments to which the provisions of the State
39 Uniform Tax Procedure Law, R.S.54:28-1 et seq., shall be
40 applicable and the collection thereof may be enforced by the
41 director in the manner therein provided.

42 d. In addition to any information set forth pursuant to
43 subsection a. of this section, each return shall have annexed thereto
44 a copy of each Internal Revenue Service Form 1099-K furnished to
45 the taxpayer by a payment settlement entity or a third party acting
46 on behalf of a payment settlement entity.

47 (cf: P.L.2002, c.40, s.14)

1 2. N.J.S.54A:8-1 is amended to read as follows:

2 54A:8-1. Payment of tax; returns; extension of time. With
3 respect to each taxpayer, the tax imposed by this act shall be due
4 and payable annually, hereafter, in the manner provided in this
5 section:

6 a. Every taxpayer shall annually pay the tax imposed by this
7 act with respect to all or any part of each of his fiscal or calendar
8 accounting years beginning on and after July 1, 1976, to be
9 computed as in this act provided, for such fiscal or calendar
10 accounting year or part thereof, on a return which shall be filed, in
11 the case of a taxpayer reporting on a calendar year basis, on or
12 before April 15 following the close of such calendar year, or, in the
13 case of a taxpayer reporting on a fiscal year basis, on or before the
14 fifteenth day of the fourth month following the close of such fiscal
15 year, and the full amount of the tax shall be due and payable on or
16 before the date prescribed herein for the filing of the return.

17 In the case of a taxable year which ends on or after July 1, 1976,
18 and prior to December 31, 1976, an income tax return for such
19 taxable year shall be filed on or before April 15, 1977.

20 Notwithstanding any law to the contrary, the director may extend
21 either the filing or payment due date, or both, for any return under
22 the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., to
23 coincide with a similar extended filing or payment due date
24 established for federal personal income tax returns and may adopt
25 the same terms or conditions specified by federal law or regulation
26 for any such filing extension or payment due date.

27 b. Each return shall carry a signature by the taxpayer certifying
28 that all statements contained therein are true, under the same
29 penalties as for perjury committed. The director is authorized to
30 promulgate regulations and procedures setting forth the manner in
31 which a taxpayer may satisfy the signature requirement. Blank
32 forms of return shall be furnished on application, but failure to
33 secure the form shall not relieve any taxpayer of the obligation of
34 making any return herein required. Subject to regulations under this
35 act and in such form as may be indicated thereby, taxpayers whose
36 net income taxable under this act is or may be subject to tax under a
37 similar law of another jurisdiction may be permitted to file a simple,
38 short form return attached to a copy of his return as filed or about to
39 be filed by him in such other jurisdiction.

40 Subject to regulations under this act, reasonable extensions of
41 time for good cause shown, may be granted for not more than six
42 months unless exceptional circumstances justify a longer period,
43 within which returns may be filed.

44 In addition, persons in active service with the Armed Forces of
45 the United States, who may be prevented by distance or injury or
46 hospitalization arising out of such service, may be allowed such
47 extension of time for the filing of returns, without interest or
48 penalty, as may be fixed by regulations under this act.

1 c. Every return filed with the director pursuant to subsection a.
2 of this section shall have annexed thereto a copy of each Internal
3 Revenue Service Form 1099-K furnished to the taxpayer by a
4 payment settlement entity or a third party acting on behalf of a
5 payment settlement entity.

6 (cf: P.L.2005, c.297)

7
8 3. This act shall take effect immediately.

9
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11 STATEMENT

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13 This bill requires New Jersey corporation business tax and gross
14 income tax filers to append to their tax returns a copy of any
15 Internal Revenue Service (IRS) Form 1099-K provided to a
16 taxpayer by a payment settlement entity. This sponsor hopes this
17 bill will encourage voluntary compliance with State tax laws and
18 improve the State's tax enforcement efforts.

19 IRS Form 1099-K is an information return filed by payment
20 settlement entities to report certain payment transactions, such as
21 those made via credit card or an online payment service. A
22 payment settlement entity must file Form 1099-K for each payment
23 if the gross amount of total reportable payment transactions exceeds
24 \$20,000 and the total number of such transactions exceeds 200.
25 Federal law requires each payment settlement entity to send Form
26 1099-K to each participating payee, such as a retail merchant or
27 governmental unit.

28 Payment settlement entities are already required to submit a copy
29 of the form with their New Jersey tax returns. However, New
30 Jersey taxpayers that *receive* the Form 1099-K are not required to
31 transmit a copy of the form to the State. If a taxpayer is selected for
32 audit, the Division of Taxation may request a copy of Form 1099-K,
33 but the taxpayer is not required to provide the duplicate, thereby
34 making it difficult to identify if a taxpayer is underreporting their
35 income.