

ASSEMBLY, No. 4721

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/24/2020)

1 AN ACT imposing the corporation business tax surtax at a rate of 2.5
2 percent through December 31, 2023 and amending P.L.2018, c.48.

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

6
7 1. Section 1 of P.L.2018, c.48 (C.54:10A-5.41) is amended to
8 read as follows:

9 1. a. In addition to the tax paid by each taxpayer determined
10 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), each taxpayer,
11 except for a public utility, shall be assessed and shall pay a surtax as
12 follows:

13 (1) For a taxpayer, except a public utility, that has allocated
14 taxable net income in excess of \$1 million for the privilege periods,
15 beginning on or after January 1, 2018 through December 31, **[2019]**
16 2023, the surtax imposed shall be 2.5%; provided, however, that if
17 the federal corporate income tax rate imposed pursuant to section 11
18 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.11) is
19 increased to a rate of at least 35% of taxable income, the imposition
20 of the surtax imposed pursuant to this section shall be suspended
21 following the conclusion of a taxpayer's privilege period
22 corresponding with the increase to the federal corporate income tax
23 rate.

24 (2) **[**For a taxpayer, except a public utility, that has allocated
25 taxable net income in excess of \$1 million for the privilege periods,
26 beginning on or after January 1, 2020 through December 31, 2021,
27 the surtax imposed shall be 1.5%.**]** (Deleted by amendment, P.L. ,
28 c.) (pending before the Legislature as this bill)

29 b. For purposes of this section,

30 (1) "taxpayer" shall mean any business entity that is subject to tax
31 as provided in the Corporation Business Tax (1945), P.L.1945, c.162
32 (C.54:10A-1 et seq.).

33 (2) "allocated taxable net income" shall mean allocated entire net
34 income for privilege periods ending before July 31, 2019, or taxable
35 net income as defined in subsection (w) of section 4 of P.L.1945,
36 c.162 (C.54:10A-4) for privilege periods ending on and after July 31,
37 2019.

38 The surtax imposed under this section shall be imposed on
39 allocated taxable net income, and shall be due and payable in
40 accordance with section 15 of P.L.1945, c.162 (C.54:10A-15), and
41 the surtax shall be administered pursuant to the provisions of
42 P.L.1945, c.162 (C.54:10A-1 et seq.). Notwithstanding the
43 provisions of any other law to the contrary, no credits shall be
44 allowed against the surtax liability computed under this section
45 except for credits for installment payments, estimated payments

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 made with a request for an extension of time for filing a return, or
2 overpayments from prior privilege periods.

3 (cf: P.L.2018, c.131, s.7)

4

5 2. (New section) The Director of the Division of Taxation in the
6 Department of the Treasury shall waive all penalties incurred by a
7 taxpayer because of the retroactive imposition of an increased surtax
8 rate pursuant to P.L. , c. (pending before the Legislature as this
9 bill).

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11 3. This act shall take effect immediately and apply retroactively
12 to privilege periods beginning on or after January 1, 2020.

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STATEMENT

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17 This bill imposes the existing corporation business tax (CBT)
18 surtax at a rate of 2.5 percent until December 31, 2023. However, if
19 the federal corporate income tax rate is increased to its pre-Tax Cut
20 and Jobs Act (35% of taxable income) level, the surtax will be
21 suspended at the end of a taxpayer's current privilege period. Under
22 current law, the CBT surtax rate was reduced to 1.5 percent on
23 January 1, 2020, and is scheduled to be eliminated after December
24 31, 2021.

25 The bill also requires the Director of the Division of Taxation in
26 the Department of the Treasury to waive all penalties that a taxpayer
27 may incur because of the retroactive imposition of the surtax rate.

28 The CBT surtax is currently imposed on taxpayers that are not
29 public utilities and that have allocated taxable net income in excess
30 of \$1 million. Taxpayers are not allowed to apply tax credits against
31 the surtax liability, except those credits for installment payments,
32 estimated payments with a request for an extension of time for filing
33 a return, or overpayments from prior privilege periods.