§2 - T&E & Note
to C.54:10A-5.41
§3 - Note

P.L. 2020, CHAPTER 95, ***approved September 29, 2020***
Assembly, No. 4721

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

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

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

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

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

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

b. For purposes of this section,

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

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

The surtax imposed under this section shall be imposed on allocated taxable net income, and shall be due and payable in

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.

accordance with section 15 of P.L.1945, c.162 (C.54:10A-15), and the surtax shall be administered pursuant to the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.). Notwithstanding the provisions of any other law to the contrary, no credits shall be allowed against the surtax liability computed under this section except for credits for installment payments, estimated payments made with a request for an extension of time for filing a return, or overpayments from prior privilege periods.
(cf: P.L.2018, c.131, s.7)

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

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

STATEMENT

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

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

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

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