

54: 10A-15 et seq.

LEGISLATIVE HISTORY CHECKLIST

NJSA 54:10A-15 et al. (Corporation Business Tax - change from
prepayment to estimated basis)

LAWS 1981 CHAPTER 184

Bill No. A3472

Sponsor(s) Burstein

Date Introduced June 8, 1981

Committee: Assembly -----

Senate -----

Amended during passage Yes No

Date of Passage: Assembly June 15, 1981

Senate June 18, 1981

Date of approval June 19, 1981

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

For background on similar proposed legislation in 1978-79 Legislative session see:

- 974.90 New Jersey. Assembly. Committee on Taxation.
- T235 Subcommittee on Business Tax Structure.
- 1979b Public hearing, held 8-16-79, 8-21-79, and
9-12-79. Morristown, Atlantic City, and Trenton,
1979.

6/23/81

1981.

ASSEMBLY, No. 3472

STATE OF NEW JERSEY

INTRODUCED JUNE 8, 1981

By Assemblyman BURSTEIN

(Without Reference)

AN ACT to amend and supplement the "Corporation Business Tax Act (1945)," approved April 13, 1945 (P. L. 1945, c. 162).

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

1 1. Section 15 of P. L. 1945, c. 162 (C. 54:10A-15) is amended to
2 read as follows:

3 15. The tax imposed by this act shall be due and payable annually
4 hereafter, commencing with the calendar year 1959, in the manner
5 provided under subsection (a), (b) or (c) of this section, whichever
6 shall be applicable.

7 (a) Every taxpayer shall annually pay a franchise tax, with
8 respect to all or any part of each of its fiscal or calendar accounting
9 years beginning after January 1, 1959, to be computed as herein
10 provided, for such fiscal or calendar accounting year or part
11 thereof, on a report which shall be filed on or before April 15 next
12 succeeding the close of each such accounting year, or, if any such
13 fiscal year ends after the last day of December and prior to July 1,
14 on or before the fifteenth day of the fourth month after the close
15 of such fiscal year, and the full amount of the tax hereunder shall
16 be due and payable on or before the date prescribed herein for the
17 filing of the return.

18 (b) Every taxpayer shall pay a like franchise tax with respect to
19 all or any part of the period beginning January 1, 1959 and extend-
20 ing through any subsequent part of its first fiscal or calendar
21 accounting year ending after said date. Such tax shall be computed
22 as herein provided, for each and every fiscal or calendar accounting
23 year or part thereof begun not earlier than July 2, 1957 and ending
24 not later than December 31, 1959 on the basis of which a franchise
25 tax has not accrued under this act prior to January 1, 1959. The
26 tax imposed pursuant to this subsection shall be deemed a single
27 tax for such period but shall be computed separately with respect

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

28 to each such fiscal or calendar accounting year or part thereof on
29 the basis of which a franchise tax has not previously accrued as
30 aforesaid, on a report which shall be filed on or before April 15,
31 next succeeding the close of each such accounting year, or, if any
32 such fiscal year ends after the last day of December and prior to
33 July 1, on or before the fifteenth day of the fourth month after the
34 close of such fiscal year, and the full amount of the tax hereunder
35 shall be due and payable on or before the date prescribed herein
36 for the filing of the report.

37 (c) With respect to all or any part of each of its fiscal or calendar
38 accounting years ending after June 30, 1967, every taxpayer shall
39 annually pay a franchise tax on a report which shall be filed on or
40 before the fifteenth day of the fourth month after the close of such
41 fiscal or calendar accounting year, or part thereof, and the full
42 amount of the tax hereunder shall be due and payable on or before
43 the date prescribed herein for the filing of the return.

44 (d) With respect to its fiscal or calendar accounting years ending
45 after February 29, 1968 and prior to March 1, 1969, every taxpayer
46 shall pay as a partial payment of franchise tax in addition to the
47 tax payable under subsection (c) of this section, an amount equal
48 to one-quarter of the tax payable under said subsection (c). With
49 respect to each of its fiscal or calendar accounting years ending
50 after February 28, 1969, every taxpayer shall annually pay as a
51 partial payment of franchise tax in addition to the tax payable
52 under subsection (c) of this section, an amount equal to one-half
53 of the tax payable under said subsection (c). In the calculation of
54 the tax pertaining to each succeeding accounting period, due in
55 accordance with subsection (c) hereof, every taxpayer shall be
56 entitled to a credit in the amount of the tax paid under this sub-
57 section (d) as a partial payment and shall be entitled to the return
58 of any amount so paid which shall be found in excess of the total
59 amount payable in accordance with said subsection (c) and this
60 subsection (d).

61 (e) With respect to its fiscal or calendar accounting years ending
62 on or after June 30, 1974, every taxpayer shall annually pay as a
63 partial payment of franchise tax in addition to the tax payable
64 under subsection (c) of this section, an amount equal to 60% of the
65 tax payable under said subsection (c). In the calculation of the tax
66 pertaining to each succeeding accounting period, due in accordance
67 with subsection (c) hereof, every taxpayer shall be entitled to a
68 credit in the amount of the tax paid under this subsection (e) as a
69 partial payment and shall be entitled to the return of any amount so
70 paid which shall be found to be in excess of the total amount pay-
71 able in accordance with said subsection (c) and this subsection (e).

72 (f) With respect to its fiscal or calendar accounting years ending
 73 on or after December 31, 1984 and thereafter, in addition to the tax
 74 payable under subsection (c) of this section, every taxpayer shall
 75 make installment payments of its franchise tax at the following
 76 times and in the following amounts of its estimated tax for its
 77 current fiscal or calendar accounting year:

78 (1) 25% thereof paid on or before the fifteenth day of the
 79 fourth month thereof;

80 (2) 25% thereof paid on or before the fifteenth day of the
 81 sixth month thereof;

82 (3) 25% thereof paid on or before the fifteenth day of the
 83 ninth month thereof; and

84 (4) The balance thereof paid on or before the fifteenth day
 85-86 of the twelfth month thereof.

87 In the calculation of the tax due in accordance with subsection
 88 (c) hereof, a taxpayer shall be entitled to a credit in the amount
 89 of the tax paid under this subsection as a partial payment and shall
 90 be entitled to the return of any amount so paid which is in excess
 91 of the total amount payable in accordance with subsection (c) and
 92 this subsection.

93 **[(f)]** (g) For the purpose of this act, every taxpayer shall use
 94 the same calendar or fiscal year upon which it reports to the United
 95 States Treasury Department for Federal Income Tax purposes.

1 2. (New section) With respect to its fiscal or calendar accounting
 2 years ending on or after December 31, 1980 and prior to December
 3 31, 1984, every taxpayer shall make installment payments of its
 4 franchise tax in addition to the tax payable pursuant to subsection
 5 (c) of section 15 of P. L. 1945, c. 162 (C. 54:10A-15) in accordance
 6 with the following schedule:

Where Accounting Year Ended On or After	The % Payment Due On Or Before Fifteenth of Month of Current Accounting Year Is:				
	1st	4th	6th	9th	12th
12/31/80	....	60% PYT	....	AET 85%	Bal. ET
12/31/81	15% ET	45% PYT	....	AET 85%	Bal. ET
12/31/82	15% ET	45% PYT	....	AET 80%	Bal. ET
12/31/83	....	30% ET	AET 55%	AET 80%	Bal. ET

7 For purposes of the above schedule:

8 "AET" means the amount of payment necessary to provide in
 9 the taxpayer's current fiscal or calendar accounting year for cum-
 10 ulative payment of that percentage set forth in the schedule of the
 11 taxpayer's estimated tax liability for that year.

12 "Accounting year" means the fiscal or calendar accounting year
 13 on which the tax is computed.

14 "Current accounting year" means the fiscal or calendar account-
15 ing year during which the estimated tax payments or prepayments
16 are due.

17 "ET" means a taxpayer's estimated tax liability for the tax-
18 payer's current fiscal or calendar accounting year pursuant to sub-
19 section (c) of section 15 of P. L. 1945, c. 162 (C. 54:10A-15), and
20 with respect to the payment due on or before the fifteenth day of
21 the first month of the taxpayer's current fiscal or calendar account-
22 ing year ending on or after December 31, 1981 and on or after
23 December 31, 1982, the estimated tax payment shall not be less than
24 the last installment for the previous fiscal or calendar accounting
25 year, but need not be more than 25% of the taxpayer's estimated tax
26 liability for the previous fiscal or calendar accounting year.

27 "PYT" means a taxpayer's tax for the prior fiscal or calendar
28 accounting year pursuant to subsection (c) of section 15 of P. L.
29 1945, c. 162 (C. 54:10A-15).

30 In the calculation of the tax due in accordance with subsection
31 (c) of section 15 of P. L. 1945, c. 162 (C. 54:10A-15), a taxpayer
32 shall be entitled to a credit in the amount of the installment pay-
33 ments made under the above schedule and shall be entitled to the
34 return of any amount so paid which is in excess of the total amount
35 payable in accordance with subsection (c) and the above schedule.

1 3. (New section) With respect to its fiscal or calendar accounting
2 years ending on or after December 31, 1980 and thereafter, any tax-
3 payer with a tax liability of less than \$500.00 under subsection (c)
4 of section 15 of P. L. 1945, c. 162 (C. 54:10A-15) shall not be re-
5 quired to make any installment payments other than an installment
6 payment of 60%, and 50% with respect to accounting years ending
7 on or after December 31, 1981, which is required to be paid at the
8 time of the annual return.

1 4. (New section) In the case of a taxpayer which is in bankruptcy,
2 or receivership, or which has realized a nonrecurring extraordinary
3 gain which would distort the amount of its installment payment, or
4 which estimates that it will conduct its business at a loss in the
5 current fiscal or calendar accounting year, the director, upon satis-
6 factory proof, may require the taxpayer under oath, to submit
7 details upon which it may estimate, subject to review by the direc-
8 tor, its tax for the current fiscal or calendar accounting year, and
9 make an installment payment in an amount based upon the per-
10 centage applicable to the installment payment.

1 5. (New section) a. In case of any underpayment of an install-
2 ment payment by a taxpayer, there shall be added to the tax for
3 the fiscal or calendar accounting year an amount determined by

4 applying the rate established in this section to the amount of the
5 underpayment for the period of the underpayment.

6 b. For purposes of subsection a., the amount of underpayment
7 shall be the excess of:

8 (1) The amount of the installment payment which would be re-
9 quired to be paid if all installment payments were equal to 90% of
10 the tax shown on the return for the fiscal or calendar accounting
11 year, or if no return was filed, 90% of the tax for that year, over

12 (2) The amount, if any, of the installment payment paid on or
13 before the last date prescribed for payment.

14 c. For purposes of subsection a., the period of the underpayment
15 shall run from the date the installment payment was required to be
16 paid to whichever of the following dates is the earlier:

17 (1) The fifteenth day of the fourth month after the close of the
18 fiscal or calendar accounting year.

19 (2) With respect to any portion of the underpayment, the date
20 on which that portion is paid.

21 For purposes of this subsection, a payment of any installment
22 payment shall be considered a payment of any previous underpay-
23 ment only to the extent that payment exceeds the amount of the
24 installment payment determined under subsection b. (1) for that
25 installment payment.

26 d. Notwithstanding the provisions of the preceding subsections,
27 the addition to the tax with respect to any underpayment of any
28 installment payment shall not be imposed if the total amount of all
29 installment payments made on or before the last date prescribed
30 for the payment of that installment equals or exceeds the amount
31 which would have been required to be paid on or before that date
32 if the total amount of all installment payments were equal to 90%
33 of the tax for the current fiscal or calendar accounting year com-
34 puted by placing on an annualized basis the taxable entire net in-
35 come and entire net worth:

36 (a) For the first 3 months of the current fiscal or calendar
37 accounting year, in the case of the installment payment re-
38 quired to be paid in the fourth month,

39 (b) For the first 3 months or for the first 5 months of the
40 current fiscal or calendar accounting year, in the case of the
41 installment payment required to be paid in the sixth month,

42 (c) For the first 6 months or for the first 8 months of the
43 current fiscal or calendar accounting year, in the case of the
44 installment payment required to be paid in the ninth month,

45 (d) For the first 9 months or for the first 11 months of the
 46 current fiscal or calendar accounting year, in the case of the
 47 installment payment required to be paid in the twelfth month,
 48 and

49 (e) For the last 3 months of the preceding taxable year, in
 50 the case of the installment payment required to be paid in the
 51 first month of the current fiscal or calendar accounting year.

52 e. Any taxpayer who shall fail to pay, or shall underpay by
 53 more than 10% of the amount due, any installment payment re-
 54 quired pursuant to this act, shall pay, in addition to the tax, interest
 55 on the amount of underpayment at a per annum rate of 5% above
 56 the average predominant prime rate, as determined by the Board of
 57 Governors of the Federal Reserve System, quoted by commercial
 58 banks to large businesses as of the first business day of the calen-
 59 dar quarter within which the payment was due.

1 6. Section 19 of P. L. 1945, c. 162 (C. 54:10A-19) is amended
 2 to read as follows:

3 19. The commissioner may grant a reasonable extension of time
 4 for the filing of returns or the payment of tax or both, under such
 5 rules and regulations as he shall prescribe, which rules and regula-
 6 tions may require the filing of a tentative return and the payment
 7 of an estimated tax. If the time for filing the return shall be
 8 extended, the payment of the portion of the tax remaining to be
 9 paid, if any, shall be postponed to the date fixed by the extension
 10 of the time for the filing of the return, but in every such case the
 11 corporation shall pay, in addition to the unpaid portion of the tax,
 12 interest thereon at the rate [as provided in the State Tax Uniform
 13 Procedure Law, subtitle 9 of Title 54 of the Revised Statutes] of
 14 *1-1/2% per month or fraction thereof*, from the time when the re-
 15 turn originally was required to be filed to the date of actual pay-
 16 ment under the extension; provided, that if such unpaid portion
 17 of the tax is not paid within the time fixed under the extension,
 18 [the interest on such unpaid portion shall be computed at the rate
 19 as provided in the State Tax Uniform Procedure Law, subtitle 9
 20 of Title 54 of the Revised Statutes, from the date the tax was
 21 originally due to the date of actual payment] *and if the amount*
 22 *paid at the time of the filing of the return was less than 90% of the*
 23 *amount due, the taxpayer shall be liable for a penalty of 5% per*
 24 *month or fraction thereof on the amount of underpayment which*
 25 *shall be in addition to the interest charges provided above.*

1 7. This act shall take effect immediately and shall be applicable
 2 with respect to taxpayers whose accounting periods end on and
 3 after December 31, 1980.

STATEMENT

This bill is designed to effectuate a change from a prepayment method of paying taxes under the Corporation Business Tax Act, P. L. 1945, c. 162 (C. 54:10A-1 et seq.), to an estimated basis consisting of four equal installments to be paid during the taxpayer's current accounting period. In order to prevent a serious cash flow situation arising from this changeover, the bill provides for attaining the estimated procedure over a 4-year period. The bill also provides for interest charges for underpayment of estimated taxes, and for interest charges and in certain instances penalties for underpayment of estimated taxes for which the Director of Taxation grants an extension of payment.

STATEMENT

This bill is designed to effectuate a change from a prepayment method of paying taxes under the Corporation Business Tax Act, P. L. 1945, c. 162 (C. 54:10A-1 et seq.), to an estimated basis consisting of four equal installments to be paid during the taxpayer's current accounting period. In order to prevent a serious cash flow situation arising from this changeover, the bill provides for attaining the estimated procedure over a 4-year period. The bill also provides for interest charges for underpayment of estimated taxes, and for interest charges and in certain instances penalties for underpayment of estimated taxes for which the Director of Taxation grants an extension of payment.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JUNE 19, 1981

KATHRYN FORSYTH

Governor Brendan Byrne today signed two bills to give the State the funds necessary to balance the Fiscal Year 1982 Budget.

Byrne signed the bills this afternoon at Morven, the Governor's residence.

A-3472, sponsored by Assemblyman Albert Burstein (D-Bergen) changes the method of payment for taxes under the 1945 Corporate Business Tax Act from prepayment to an estimated basis consisting of four equal installments to be paid during the taxpayer's current accounting period.

The measure is expected to provide the State with a one-time gain of \$60 million for the coming fiscal year.

The bill also provides for interest charges for underpayment of estimated taxes and for interest charges, and in some instances penalties, for underpayment of estimated taxes for which the Director of Taxation grants an extension of payment.

A-3404, sponsored by Assemblyman Robert Janiszewski (D-Hudson) which abolishes local taxation of insurance companies and requires that those taxes be paid to the State on March 1. The State in turn would pay the counties and municipalities a sum equal to what they would have received under the abolished tax but on August 1.

Under this method, approximately \$16 million will be available to the State to balance the FY '82 Budget.

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