

54A:1-2.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2013 **CHAPTER:** 73

NJSA: 54A:1-2.1 (Clarifies charitable contributions are not a factor in determining where person is domiciled under New Jersey gross income tax)

BILL NO: S2532 (Substituted for A3860)

SPONSOR(S) Sarlo and others

DATE INTRODUCED: February 4, 2013

COMMITTEE: **ASSEMBLY:** ---

SENATE: Budget and Appropriation

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** May 20, 2013

SENATE: May 13, 2013

DATE OF APPROVAL: June 27, 2013

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced version of bill enacted)

S2532

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No

A3860

SPONSOR'S STATEMENT: (Begins on page 2 of introduced bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes
	SENATE: No
FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/KR

P.L.2013, CHAPTER 73, *approved June 27, 2013*
Senate, No. 2532

1 AN ACT clarifying that charitable contributions are not a factor in
2 determining where a person is domiciled under the New Jersey
3 gross income tax, supplementing Title 54A of the New Jersey
4 Statutes.

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

8
9 1. For purposes of determining whether a person is domiciled
10 in this State or not domiciled in this State under subsections m., n.
11 o. and p. of N.J.S.54A:1-2, the making of a financial contribution,
12 gift, bequest, donation or any other financial instrument or pledge in
13 any amount or the donation or loan of any object of any value
14 qualifying for deduction as a charitable contribution under
15 subsection (a) of section 170 of the federal Internal Revenue Code
16 of 1986 (26 U.S.C. s.170(a)), or the volunteering, giving or
17 donation of uncompensated time, or any combination of the
18 foregoing, to any corporation, foundation, organization or
19 institution, which is exempt from federal income tax under
20 paragraph (3) of subsection (c) of section 501 of the federal Internal
21 Revenue Code of 1986 (26 U.S.C. s.501(c)(3)), shall not be
22 considered as a factor in any manner to determine a person's state of
23 domicile.

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25 2. This act shall take effect immediately.

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STATEMENT

30 This bill clarifies in the New Jersey gross income tax statutes
31 that donors' contributions to charities are not a factor in determining
32 where a person is domiciled under New Jersey gross income tax for
33 the purpose of defining who is a resident taxpayer or nonresident
34 taxpayer. This is the informal position taken by the New Jersey
35 Division of Taxation since 2005 but this position has not since been
36 officially communicated to taxpayers. Whether a person lives in
37 Florida or Arizona, giving to charities in New Jersey, in and of
38 itself, should not subject the person to New Jersey income tax as a
39 New Jersey resident.

40 Domicile is a composite of many factors and encompasses the
41 whole fabric of a person's social, economic, and civic life. Prior to
42 publication of informal advice in 2005, the Division of Taxation
43 had regarded charitable contributions, among other factors, as an
44 indicator of whether a taxpayer is domiciled in a state. The

1 rationale for using this criterion as one of the factors in determining
2 where a person is domiciled was that taxpayers were considered
3 most likely to make contributions to charities located closest to the
4 center of their social, economic, and civic life.

5 Taxpayers now make contributions to local, regional, and
6 national charities via modern financial and communication
7 networks. Taxpayers can easily make contributions to charities
8 located great distances from their places of domicile or long after
9 they have physically moved away from a charity's primary service
10 area. This bill recognizes these changes in patterns of giving and
11 wishes to encourage contributions to charities, regardless of the
12 locations of the charities, from both New Jersey residents and
13 nonresidents. Although domicile is usually determined from all the
14 evidence and circumstances, under this bill the Division of Taxation
15 is formally instructed in statute to no longer consider a taxpayer's
16 charitable contributions as relevant or applicable in determinations
17 of domicile.

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22 Clarifies charitable contributions are not a factor in determining
23 where person is domiciled under New Jersey gross income tax.

SENATE, No. 2532

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 4, 2013

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senators T.Kean, Thompson, Beck, A.R.Bucco, Cunningham, Greenstein, O'Toole, Pennacchio, Pou, Ruiz, Stack, Van Drew, Weinberg, Beach, Bateman, Assemblymen Singleton, Diegnan, Johnson, Assemblywoman McHose, Assemblymen Space, Chivukula and Rumana

SYNOPSIS

Clarifies charitable contributions are not a factor in determining where person is domiciled under New Jersey gross income tax.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/21/2013)

1 AN ACT clarifying that charitable contributions are not a factor in
2 determining where a person is domiciled under the New Jersey
3 gross income tax, supplementing Title 54A of the New Jersey
4 Statutes.

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

8
9 1. For purposes of determining whether a person is domiciled
10 in this State or not domiciled in this State under subsections m., n.
11 o. and p. of N.J.S.54A:1-2, the making of a financial contribution,
12 gift, bequest, donation or any other financial instrument or pledge in
13 any amount or the donation or loan of any object of any value
14 qualifying for deduction as a charitable contribution under
15 subsection (a) of section 170 of the federal Internal Revenue Code
16 of 1986 (26 U.S.C. s.170(a)), or the volunteering, giving or
17 donation of uncompensated time, or any combination of the
18 foregoing, to any corporation, foundation, organization or
19 institution, which is exempt from federal income tax under
20 paragraph (3) of subsection (c) of section 501 of the federal Internal
21 Revenue Code of 1986 (26 U.S.C. s.501(c)(3), shall not be
22 considered as a factor in any manner to determine a person's state of
23 domicile.

24
25 2. This act shall take effect immediately.

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27
28 STATEMENT

29
30 This bill clarifies in the New Jersey gross income tax statutes
31 that donors' contributions to charities are not a factor in determining
32 where a person is domiciled under New Jersey gross income tax for
33 the purpose of defining who is a resident taxpayer or nonresident
34 taxpayer. This is the informal position taken by the New Jersey
35 Division of Taxation since 2005 but this position has not since been
36 officially communicated to taxpayers. Whether a person lives in
37 Florida or Arizona, giving to charities in New Jersey, in and of
38 itself, should not subject the person to New Jersey income tax as a
39 New Jersey resident.

40 Domicile is a composite of many factors and encompasses the
41 whole fabric of a person's social, economic, and civic life. Prior to
42 publication of informal advice in 2005, the Division of Taxation
43 had regarded charitable contributions, among other factors, as an
44 indicator of whether a taxpayer is domiciled in a state. The
45 rationale for using this criterion as one of the factors in determining
46 where a person is domiciled was that taxpayers were considered
47 most likely to make contributions to charities located closest to the
48 center of their social, economic, and civic life.

S2532 SARLO, OROHO

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1 Taxpayers now make contributions to local, regional, and
2 national charities via modern financial and communication
3 networks. Taxpayers can easily make contributions to charities
4 located great distances from their places of domicile or long after
5 they have physically moved away from a charity's primary service
6 area. This bill recognizes these changes in patterns of giving and
7 wishes to encourage contributions to charities, regardless of the
8 locations of the charities, from both New Jersey residents and
9 nonresidents. Although domicile is usually determined from all the
10 evidence and circumstances, under this bill the Division of Taxation
11 is formally instructed in statute to no longer consider a taxpayer's
12 charitable contributions as relevant or applicable in determinations
13 of domicile.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2532

STATE OF NEW JERSEY

DATED: MARCH 18, 2013

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2532.

The bill clarifies in the New Jersey gross income tax statutes that donors' contributions to charities are not a factor in determining where a person is domiciled under New Jersey gross income tax for the purpose of defining who is a resident taxpayer or nonresident taxpayer. This is the informal position taken by the New Jersey Division of Taxation since 2005 but this position has not since been officially communicated to taxpayers. Although domicile is usually determined from all the evidence and circumstances, under this bill the Division of Taxation is formally instructed in statute to no longer consider a taxpayer's charitable contributions as relevant or applicable in determinations of domicile.

Domicile is a composite of many factors and encompasses the whole fabric of a person's social, economic, and civic life. Prior to publication of informal advice in 2005, the Division of Taxation had regarded charitable contributions, among other factors, as an indicator of whether a taxpayer is domiciled in a state. The rationale for using this criterion as one of the factors in determining where a person is domiciled was that taxpayers were considered most likely to make contributions to charities located closest to the center of their social, economic, and civic life.

Taxpayers can now make contributions to local, regional, and national charities via modern financial and communication networks. Taxpayers can easily make contributions to charities located great distances from their places of domicile or long after they have physically moved away from a charity's primary service area. This bill recognizes these changes in patterns of giving and wishes to encourage contributions to charities, regardless of the locations of the charities, from both New Jersey residents and nonresidents.

FISCAL IMPACT

This bill is not certified for a Fiscal Note.

ASSEMBLY, No. 3860

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 21, 2013

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblymen Singleton, Diegnan, Johnson, Assemblywoman McHose,

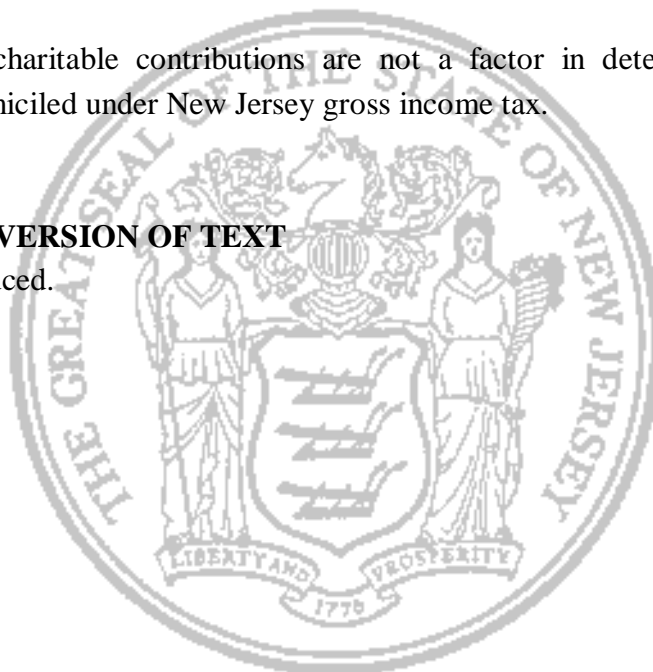
Assemblymen Space, Chivukula and Rumana

SYNOPSIS

Clarifies charitable contributions are not a factor in determining where person is domiciled under New Jersey gross income tax.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/21/2013)

1 AN ACT clarifying that charitable contributions are not a factor in
2 determining where a person is domiciled under the New Jersey
3 gross income tax, supplementing Title 54A of the New Jersey
4 Statutes.

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

8
9 1. For purposes of determining whether a person is domiciled
10 in this State or not domiciled in this State under subsections m., n.
11 o. and p. of N.J.S.54A:1-2, the making of a financial contribution,
12 gift, bequest, donation or any other financial instrument or pledge in
13 any amount or the donation or loan of any object of any value
14 qualifying for deduction as a charitable contribution under
15 subsection (a) of section 170 of the federal Internal Revenue Code
16 of 1986 (26 U.S.C. s.170(a)), or the volunteering, giving or
17 donation of uncompensated time, or any combination of the
18 foregoing, to any corporation, foundation, organization or
19 institution, which is exempt from federal income tax under
20 paragraph (3) of subsection (c) of section 501 of the federal Internal
21 Revenue Code of 1986 (26 U.S.C. s.501(c)(3), shall not be
22 considered as a factor in any manner to determine a person's state of
23 domicile.

24
25 2. This act shall take effect immediately.
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28 STATEMENT
29

30 This bill clarifies in the New Jersey gross income tax statutes
31 that donors' contributions to charities are not a factor in determining
32 where a person is domiciled under New Jersey gross income tax for
33 the purpose of defining who is a resident taxpayer or nonresident
34 taxpayer. This is the informal position taken by the New Jersey
35 Division of Taxation since 2005 but this position has not since been
36 officially communicated to taxpayers. Whether a person lives in
37 Florida or Arizona, giving to charities in New Jersey, in and of
38 itself, should not subject the person to New Jersey income tax as a
39 New Jersey resident.

40 Domicile is a composite of many factors and encompasses the
41 whole fabric of a person's social, economic, and civic life. Prior to
42 publication of informal advice in 2005, the Division of Taxation
43 had regarded charitable contributions, among other factors, as an
44 indicator of whether a taxpayer is domiciled in a state. The
45 rationale for using this criterion as one of the factors in determining
46 where a person is domiciled was that taxpayers were considered
47 most likely to make contributions to charities located closest to the
48 center of their social, economic, and civic life.

1 Taxpayers now make contributions to local, regional, and
2 national charities via modern financial and communication
3 networks. Taxpayers can easily make contributions to charities
4 located great distances from their places of domicile or long after
5 they have physically moved away from a charity's primary service
6 area. This bill recognizes these changes in patterns of giving and
7 wishes to encourage contributions to charities, regardless of the
8 locations of the charities, from both New Jersey residents and
9 nonresidents. Although domicile is usually determined from all the
10 evidence and circumstances, under this bill the Division of Taxation
11 is formally instructed in statute to no longer consider a taxpayer's
12 charitable contributions as relevant or applicable in determinations
13 of domicile.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3860

STATE OF NEW JERSEY

DATED: MAY 6, 2013

The Assembly Appropriations Committee reports favorably on Assembly Bill No. 3860.

This bill clarifies that a person's contributions to charities are not a factor in determining whether the person is a resident or nonresident for purposes of the New Jersey gross income tax.

Determining the place of a person's permanent residence, or as it is legally termed, "domicile," is a composite of many factors and encompasses an examination of the whole fabric of a person's social, economic, and civic life. Prior to 2005, the Division of Taxation had regarded charitable contributions, among other factors, as an indicator of whether a taxpayer is domiciled in a state. The rationale for using this criterion as one of the factors in determining where a person is domiciled, provided by some old case law under an entirely different tax, was that taxpayers were considered most likely to make contributions to charities located closest to the center of their social, economic, and civic life.

Modern financial and communication networks allow people to maintain their established connections to charities located great distances from their places of domicile long after they have physically moved away from a charity's primary service area. The Division of Taxation published informal advice in 2005 that it would no longer consider a taxpayer's charitable contributions as relevant in determining domicile. However, it appears that cautious retirement planning advisors are still informing their clients who wish to shift their domicile to another state to sever ties with New Jersey charities.

This bill recognizes these changes in patterns of giving, and with the purpose of encouraging contributions to charities, regardless of the location of the charity or the donor, formally instructs the Division of Taxation to no longer consider a taxpayer's charitable contributions as relevant or applicable in determinations of domicile. This should provide clear notice to taxpayers and their community of advisors that continued giving will have no detrimental effects.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note. The bill will have no direct impact on State revenues or expenditures, as it codifies

current practice, but to the extent that it is successful in encouraging charitable giving it may have secondary effects.