

# 54A:8-9

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 20

**NJSA:** 54A:8-9 (Payment of estimated gross income tax on sales of real property in NJ by nonresidents)

**BILL NO:** A3510 (Substituted for S2081)

**SPONSOR(S)** Greenwald

**DATE INTRODUCED:** November 15, 2004

**COMMITTEE:** **ASSEMBLY:** Budget  
**SENATE:**

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:** **ASSEMBLY:** December 13, 2004

**SENATE:** December 13, 2004

**DATE OF APPROVAL:** January 19, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) Original version of bill enacted

**A3510**

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2081**

[SPONSOR'S STATEMENT:](#) (Begins on page 2 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

IS 2/26/07

P.L. 2005, CHAPTER 20, *approved January 19, 2005*  
Assembly, No. 3510

1 **AN ACT** concerning payment of estimated gross income tax on sales  
2 of real property in this State by nonresidents, amending P.L.2004  
3 c.55.

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

7  
8 1. Section 2 of P.L.2004 c.55 (C.54A:8-9) is amended to read as  
9 follows:

10 2. a. A nonresident taxpayer shall estimate and pay the gross  
11 income tax liability on the gain, if any, upon the sale or transfer of real  
12 property within this State. A nonresident taxpayer shall estimate the  
13 gross income tax due on a form prescribed by the director, using an  
14 estimated tax rate that is equal to the highest rate of tax for the taxable  
15 year provided in N.J.S.54A:2-1. The estimated tax due shall equal the  
16 gain, if any, multiplied by that rate. The amount of gain used in the  
17 computation shall equal the amount of gain reportable for federal  
18 income tax purposes for the taxable year, but **[may]** the estimated tax  
19 payment shall not be less than 2% of the consideration for the sale  
20 **[of]** or transfer stated in the deed affecting the conveyance.

21 b. If the real property sold or transferred is located partly with and  
22 partly without this State, the nonresident taxpayer shall estimate the  
23 tax due using only the portion of the gain reasonably attributable to  
24 the portion of the real property located within this State.

25 c. If the nonresident is an estate or trust, the taxpayer shall  
26 estimate the tax due based upon the gain, if any, computed without  
27 reduction for any distribution of income to the beneficiaries during the  
28 taxable year in which the sale or transfer occurred.

29 (cf: P.L.2004, c.55, s.2)

30

31 2. This act shall take effect immediately and be retroactive to  
32 August 1, 2004.

33

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STATEMENT

36

37 This bill clarifies that the minimum payment of estimated gross  
38 income tax on a sale of real property in this State by a nonresident is  
39 2% of the consideration paid on the sale.

40 P.L.2004, c.55 established a new requirement for nonresidents to  
41 pay estimated New Jersey gross income tax on gain on New Jersey

**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 real estate transactions. Generally, New Jersey gross income tax is  
2 due on any real estate transaction if the gain is recognized for federal  
3 income tax purposes, and nonresidents must pay New Jersey gross  
4 income tax on the New Jersey source income from sales of realty  
5 located in New Jersey, but had not before been required to make  
6 *estimated* payments of tax related to those sales. Estimated payments  
7 are made before the final calculation of tax liability for a taxable year;  
8 any deficiencies are paid at the time of the final return and any  
9 overpayments are refunded.

10 This bill specifies that the minimum payment of estimated gross  
11 income tax on a sale of real property in this State by a nonresident is  
12 2% of the consideration paid on the sale, as has been the  
13 administrative procedure since the inception of the withholding  
14 provision.

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19 Clarifies that the minimum payment of estimated gross income tax on  
20 sales of real property in this State by nonresidents is 2% of the  
21 consideration.

# ASSEMBLY, No. 3510

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED NOVEMBER 15, 2004

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Co-Sponsored by:**

**Senator Bryant**

**SYNOPSIS**

Clarifies that the minimum payment of estimated gross income tax on sales of real property in this State by nonresidents is 2% of the consideration.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/14/2004)**

A3510 GREENWALD

2

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3 c.55.

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17 computation shall equal the amount of gain reportable for federal  
18 income tax purposes for the taxable year, but **[may]** the estimated tax  
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20 **[of]** or transfer stated in the deed affecting the conveyance.

21 b. If the real property sold or transferred is located partly with and  
22 partly without this State, the nonresident taxpayer shall estimate the  
23 tax due using only the portion of the gain reasonably attributable to  
24 the portion of the real property located within this State.

25 c. If the nonresident is an estate or trust, the taxpayer shall  
26 estimate the tax due based upon the gain, if any, computed without  
27 reduction for any distribution of income to the beneficiaries during the  
28 taxable year in which the sale or transfer occurred.

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41 pay estimated New Jersey gross income tax on gain on New Jersey  
42 real estate transactions. Generally, New Jersey gross income tax is  
43 due on any real estate transaction if the gain is recognized for federal

**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.**

**A3510 GREENWALD**

1 income tax purposes, and nonresidents must pay New Jersey gross  
2 income tax on the New Jersey source income from sales of realty  
3 located in New Jersey, but had not before been required to make  
4 *estimated* payments of tax related to those sales. Estimated payments  
5 are made before the final calculation of tax liability for a taxable year;  
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7 overpayments are refunded.

8 This bill specifies that the minimum payment of estimated gross  
9 income tax on a sale of real property in this State by a nonresident is  
10 2% of the consideration paid on the sale, as has been the  
11 administrative procedure since the inception of the withholding  
12 provision.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3510

**STATE OF NEW JERSEY**

DATED: DECEMBER 9, 2004

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3510.

Assembly Bill No. 3510 clarifies that the minimum payment of estimated gross income tax on a sale of real property in this State by a nonresident is 2% of the consideration paid on the sale.

P.L.2004, c.55 established a new requirement for nonresidents to pay estimated New Jersey gross income tax on gain on New Jersey real estate transactions. Generally, New Jersey gross income tax is due on any real estate transaction if the gain is recognized for federal income tax purposes, and nonresidents must pay New Jersey gross income tax on the New Jersey source income from sales of realty located in New Jersey, but had not before been required to make *estimated* payments of tax related to those sales. Estimated payments are made before the final calculation of tax liability for a taxable year; any deficiencies are paid at the time of the final return and any overpayments are refunded.

This bill specifies that the minimum payment of estimated gross income tax on a sale of real property in this State by a nonresident is 2% of the consideration paid on the sale, as has been the administrative procedure since the inception of the withholding provision.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.



**SENATE, No. 2081**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED NOVEMBER 15, 2004

**Sponsored by:**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Clarifies that the minimum payment of estimated gross income tax on sales of real property in this State by nonresidents is 2% of the consideration.

**CURRENT VERSION OF TEXT**

As introduced.



S2081 BRYANT

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**S2081 BRYANT**

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11 administrative procedure since the inception of the withholding  
12 provision.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2081

# STATE OF NEW JERSEY

DATED: DECEMBER 6, 2004

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2081.

This bill clarifies that the minimum payment of estimated gross income tax on a sale of real property in this State by a nonresident is 2% of the consideration paid on the sale.

P.L.2004, c.55 established a new requirement for nonresidents to pay estimated New Jersey gross income tax on gain on New Jersey real estate transactions. Generally, New Jersey gross income tax is due on any real estate transaction if the gain is recognized for federal income tax purposes. Nonresidents must pay New Jersey gross income tax on the New Jersey source income from sales of realty located in New Jersey; prior to enactment of the new law, however, they had not been required to make *estimated* payments of tax related to those sales. (Estimated payments are made before the final calculation of tax liability for a taxable year; any deficiencies are paid at the time of the final return and any overpayments are refunded.)

This bill revises the text of the law imposing the new requirement to clarify that the monetary value it prescribes (2% of sale price) is the measure of the minimum estimated tax liability itself, and not the minimum value of the gain that the taxpayer must use for purposes of computing that estimated liability. The revision will establish consistency between the law and the administrative procedure in effect since the inception of the withholding provision.

#### FISCAL ESTIMATE

This bill has not been certified as having a fiscal impact.