

54A:1-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54A:1-1 et al CHAPTER 47

Laws Of: 1976

Bill No. A1513 (A1666)

Sponsor(s): Hamilton

Date Introduced: February 19, 1976

Committee: Assembly: Taxation

Senate: Revenue, Finance and Appropriations

Amended during passage: Yes Assembly Committee Substitute

Date of Passage: Assembly: March 15, 1976

Senate: June 17, 1976

Date of Approval: July 8, 1976

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

Background Information on A.1513.

974.90 Deitz, Morton
T235 New Jersey's "Tax on capital gains and other unearned income tax act" and other tax legislation of 1975. NJ State Bar Association 1976 (also catalogued in : NJ KFN 2282.5 C2 D44 (OVER) 1976

- J336.2 B928 Buehler, Herbert J.
Time for another tea party. Allenhurst, NJ 1976 (newspaper advertisement opposing income tax which lists N.J. tax laws and their rate changes.)
- J336.2 C56 Citizens Coalition for Tax Reform, Upper Montclair, NJ
Program and tax proposal. Upper Montclair, NJ. 1975
- J336.2 N532b Aortmao, P. Bernard
A blueprint for solving New Jersey's fiscal and tax problems. A guideline for action for the State for Newark and all other municipalities in NJ. Newark NJ office of Economic Development, 1970.
- 974.905 T235 Federation of NJ Taxpayers
Miscellaneous publications, Fort Lee, NJ, 1985-
Includes "How-they-vote" (in Trenton) publications.
- 974.90 T235 1972a NJ Tax Policy Committee
Report (Press Folder) for February 23, 1972 Trenton, 1972.
- 974.90 T2305 1972d NJ Legislature. Assembly. Committee on Taxation Summary of public hearings Governor's tax reform bills. 1972.
- 974.90 T235 1972e NJ Legislature. Assembly. Taxation Committee Public hearings on Governor's tax reform bills, held June 8 and 9, 1972. Trenton, 1972. 2v
- 974.901 G52 NJ Governor, 1970-1974 (Cahill). A master plan for tax reform. n.p. 1972. (New Jersey Governor. Message to the Legislature.)
- 974.90 T235 1974d NJ Governor
Effects of property tax reductions, circuit breaker and income tax on various income groups and various homeowners by municipality. Trenton, 1974.

Materials Relating to Earlier Income Tax Proposals

- 974.90 T235 1970h McCormick, Richard P.
Statement to Tax Policy Committee, November 12, 1970. n.p., 1970.
- J336.2 L434t League of Women Voters of NJ
Tax Kit Montclair, NJ, 1970 see especially "Tax Alternatives".
- 974.90 T235 1971b NJ Tax Policy Committee. Task Force D.
(Revenue Resources & Task Inequities). Public hearings held . . . 5/26/71. Trenton.
- *5. vol. (see vol. 5--discussion of means of gaining new revenue, e.g. in come tax).
- J352 T23f NJ Taxpayers Association
Financing New Jersey State and Local Government; major problem. September, 1971. See pages 75-76.

- 947.90 NJ Tax Policy Committee
 T235 Report. Submitted to Governor
 1972b William T Cahill pursuant to Executive Order No. 5 of 1970.
 *6 vol. (see especially vol. 5-pp.
 also summary vol. - pp. 49-50.
- J336.2 NJ State Bar Association. Section on Taxation
 B223 An analysis of the Tax Policy Committee Report Trenton 1972.
 See especially pp. 3-4, 25-30.
- 974.90 NJ Legislature. Assembly. Committee on Taxation.
 T235 Public hearings on various tax proposals before the Legislature, held by the
 1974g Assembly Committee on Taxation and The Senate Revenue, Finance and
 Appropriations. Trenton, 1974. 7Y.
- 974.90 Garramone, Raymond
 T235 A proposal to provide financing for a "thorough and efficient" education and
~~1974~~ to achieve property tax relief and reform Trenton, 1976.
 1974n
- 974.90 NJ Office of Fiscal Affairs. Division of Budget Review. Comparison of
 T235 Governor Byrne's, Senator Bedell's and Senator Russo's tax plans. Trenton,
 1974. v.1 - report, v.2 - statistical.
- 974.90 *NJ Legislature. Joint Committee on State School Financing
 E24 Public hearing on Governor's Tax Reform Bills. May 24, 1974. 4v.
 1974Z
- 974.901 NJ Governor, 1974- (Byrne)
 G52 A plan for education and tax reform in NJ; special message to the
 Legislature. n.p., 1974.
 Part I - Education and property tax
 Part II - Tax reform

Journal Articles

Trafford, John E., "The Sears Report:
 Recommendations of The Governor's Tax Policy Committee Are on the Minds
 of Local Officials Everywhere," NJ Municipalities (April, 1972), p. 16

*See Vertical File

NJ - Income Tax (Proposed) folders from 1969 to June, 1976.

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- 974.90 NJ Office of Fiscal Affairs
 T235 Income tax-- point estimate: financial analysis of Assembly tax program as
 1976 passed 3/15/76. Trenton, 1976.
- 974.90 NJ Legislature. Assembly. Taxation Committee
 T235 Public hearing on ACR 140- and 141 (Amendments to the Constitution
 1976a concerning dedication of taxes). 4/26/76.
- 974.90 NJ Dep't of Education
 T235 Summary of bills in income tax package, 1976. Trenton, 1976
 1976c

- 974.90 NJ Urban Education Observatory
T235 The impact of the NJ income tax and property tax rebertes on local
1977 municipalities, by James Knickman and Andrew Reschovsky. Trenton, 1977.
- A1513 Income Tax Proposals 76-77
(A1666)
- A794 Van Wagner January 19, 1976 (A3134)
Repeals sales and use act as of 4/1/76 provided personal income tax is
enacted:
- A804 Van Wagner Prefiled (A3135)
"Personal income tax act" Imposes 2% tax on personal income, repeals L. 1961,
c. 32, L. 1971 c. 222 and L. 1975 c. 172; appropriaes \$6,000,000, effective
7/1/76.
- A853 Schock Prefiled (A1099) Provides for negotiations (A2339 for 1973) with
Pennsylvania to reach an agreement exempting residents from each state from
taxation by the other state.
- A970 Hamilton (A1976) To provide for a referendum in 1977 and 1981 as to
continvation of the State Personal Income Tax.
- A989 Gewertz Perfiled (A1765) Prohibils taxation of income of State residents by
governments in which they have no represnttion.
- A1257 Gewertz Prefile & (A989 w/c) Provides for a binding referndum on a state
income tax (A1364 - 1972)

Provides for a binding referedum on a state personal income tax.
- A1650 Martin 2/19/76 (A1875)
"State personal Income tax"
Imposes a State personal income tax; appropriates \$6,000,000; effective
7/1/76.
- A1809 Hurley 3/15/76
Provides that A.1513 shall remain inoperative unless and until A1738 and
A1745 enacted.
- A2092 Adubato 6/23/76
Grants taxpayers a \$1,000 deduction from taxable gross income for each
dependent age 6 through 18 attending a sechool other than a public school.
- ACR 140 Littell 2/19/76

Proposes Constitutional amendment to dedicate receipts of any State Tax
levied on personal income of individuals, estates and trusts to the reduction of
offsetting of local property taxes.
*Filed 7/14/76
- S.560 Horn Prefiled (5.601)
Provides for negotiations with Pennsylvania to reach an agreement exedmpting
residents of each state from taxation by the other state.

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A 1512 (A 3534 - 1975) Rand, Schuck

Feb. 19—Exempts secretaries of boards of education of school districts from jury service.

Feb. 19, 1976—Judiciary, Law, Public Safety & Defense Com.

A 1513 (A 1666 2nd OCR - 1974) Hamilton, Burstein, Schuck, Martin

Feb. 19—Designated the "Gross Income Tax Act," imposes a 1½% tax on gross income as defined; repeals P.L. 1961, c. 32, P.L. 1971, c. 222, and P.L. 1975, c. 172; appropriates \$5,000,000; effective July 1, 1976; inoperative unless and until S1546-1976 is enacted.

Feb. 19, 1976—Taxation Com.

Mar. 10, 1976—Reported by com. sub.

Mar. 10, 1976—2nd reading.

Mar. 12, 1976—Motion to make order of day tabled, (47-30)

Mar. 12, 1976—Recommitted.

Mar. 15, 1976—Reported with com. amend.

Mar. 15, 1976—2nd reading.

Mar. 15, 1976—Com. Sub. passed Assembly under emergency resolution, amend. (43-33)

Mar. 22, 1976—Received in Senate.

Mar. 22, 1976—Revenue, Finance & Appropriations Com.

May 13, 1976—Reported with com. amend, without recommend.

May 13, 1976—2nd reading.

May 19, 1976—Lost in Senate. (16-23)

June 14, 1976—Reconsidered.

June 14, 1976—Amended.

June 14, 1976—2nd reading, amended.

June 17, 1976—Amended.

June 17, 1976—2nd reading, amended.

June 17, 1976—Passed Senate under emerg. res., amend. (21-19)

June 21, 1976—Received in Assembly.

June 21, 1976—Sen. amendments lost in Assembly. (2-77)

A 1514 Bassano, McDermott, Foran, Kavanaugh, D. Gallo, Sner, Markert, Muhler, Albanese, Dorsey, Hurley, Esposito, Burns, zowy, Ewing, Barry, Spizzlri, Di Francisco, Dennis, Weidel, Jaxton, Call, Gregorio, Hawkins, Stewart Gorman Rys, Jackman, Owens, Chinnici

Feb. 19—Requires certain employees of public utilities to wear identification badge.

Feb. 19, 1976—Transportation & Communications Com.

May 20, 1976—Reported with com. amend.

May 20, 1976—2nd reading.

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CHAPTER 47 LAWS OF N. J. 1976
APPROVED 7-8-76

STATE OF NEW JERSEY

NEW JERSEY GROSS INCOME TAX ACT

P. L. 1976, c. 47

approved July 8, 1976

SECOND OFFICIAL COPY REPRINT
ASSEMBLY COMMITTEE SUBSTITUTE

for

ASSEMBLY, No. 1513

as amended by

Senate Committee Amendments adopted May 13, 1976

Senate Amendments adopted June 14 and 17, 1976

Assembly Amendments to the Senate
Amendments adopted July 7, 1976

concurrred in by the Senate July 8, 1976

[SECOND OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1513

with Senate committee amendments adopted May 13, 1976 and
Senate amendments adopted June 14, 1976 and June 17, 1976
and Assembly amendments to the Senate amendments adopted
July 7, 1976 concurred in by the Senate July 8, 1976

STATE OF NEW JERSEY

ADOPTED MARCH 10, 1976

AN ACT establishing Title 54A of the New Jersey Statutes, pro-
viding for the taxation of gross incomes, establishing a New
Jersey State Gross Income Tax to be administered and collected
by the Director of the Division of Taxation in the Department
of the Treasury, and providing penalties for violations thereof.

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

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- 79 54A :9-27. Effective date.

1 54A:1-1 Short title. This title shall be known and may be cited 42
2 as the "New Jersey Gross Income Tax Act." 43
1 54A:1-2. Definition. As used in this act, unless the context 44
2 clearly indicates otherwise, the following words and phrases shall 45-
3 have the following meaning: 58
4 a. "Director" means the Director of the Division of Taxation 59
5 in the Department of the Treasury. 60
6 b. "Fiduciary" means a guardian, trustee, executor, admini- 61
7 strator, receiver, conservator, or any person acting in any fiduciary 62
8 capacity for any person. 63
9 c. "Excludable income" shall be limited to those payments set 64
10 forth in chapter 6 hereunder. 65
11 d. "Gross income" shall include that set forth in chapter 5 66
12 hereunder. 67
13 e. "Dependent" means a spouse or child or any individual re- 68
14 lated to the taxpayer and who is a dependent pursuant to the pro- 69
15 visions of the Internal Revenue Code during a taxable year. 70
16 f. "Disabled" means total and permanent inability to engage 71
17 in any substantial gainful activity by reason of any medically 72
18 determinable physical or mental impairment, including blindness. 73
19 For purposes of this subsection, "blindness" means central visual 74
20 acuity of 20/200 or less in the better eye with the use of a correct- 75
21 ing lens. An eye which is accompanied by a limitation in the fields 76
22 of vision such that the widest diameter of the visual field subtends 77
23 an angle no greater than 20 degrees shall be considered as having 78
24 a central visual acuity of 20/200 or less. 79
25 g. "Medical expenses" means nonreimbursed payments for 8
26 physicians, dental and other medical fees, hospital care, nursing 8
27 care, medicines and drugs, prosthetic devices, X-rays and other 8
28 diagnostic services conducted by or directed by a physician or 8
29 dentist. In addition, medical expenses may also include amounts 8
30 paid for transportation primarily for and essential to medical 8
31 care and insurance (including amounts paid as premiums under 8
32 part B of Title XVIII of the Social Security Act, relating to 8
33 supplementary medical insurance for the aged) covering medical 8
34 care. 8
35-37 h. Partnership and partner. The term "partnership" includes 9
38 a syndicate, group, pool, joint venture, or other unincorporated 9
39 organization, through or by means of which any business, financial 9
40 operation, or venture is carried on, and which is not, within the 9
41 meaning of this act, a trust or estate or a corporation; and the 9

42 term "partner" includes a member in such a syndicate, group,
43 pool, joint venture, or organization.

44 i. Blank.

45-57 j. Blank.

58 k. "Taxable year" means the calendar or fiscal accounting
59 period for which a tax is payable under this act.

60 l. "Taxpayer" means any individual, estate or trust re-
61 quired to report or to pay taxes, interest and penalties under this
62 act, or whose income in whole or in part is subject to the tax imposed
62A by this act.

63 m. "Resident taxpayer" means an individual:

64 1. Who is domiciled in this State, unless he maintains no
65 permanent place of abode in this State, maintains a permanent
66 place of abode elsewhere, and spends in the aggregate no more
67 than 30 days of the taxable year in this State; or

68 2. Who is not domiciled in this State but maintains a perma-
69 nent place of abode in this State and spends in the aggregate
70 more than 183 days of the taxable year in this State, unless
71 such individual is in the Armed Forces of the United States.

72 n. "Nonresident taxpayer" means a taxpayer who is not a
73 resident.

74 o. Resident estate or trust. A resident estate or trust means:

75 (1) The estate of a decedent who at his death was domiciled
76 in this State,

77 (2) A trust, or a portion of a trust, consisting of property
78 transferred by will of a decedent who at his death was domiciled
79 in this State, or

80 (3) A trust, or portion of a trust, consisting of the property
81 of:

82 (a) A person domiciled in this State at the time such prop-
83 erty was transferred to the trust, if such trust or portion of
84 a trust was then irrevocable, or if it was then revocable and
85 has not subsequently become irrevocable; or

86 (b) A person domiciled in this State at the time such
87 trust, or portion of a trust, became irrevocable, if it was
88 revocable when such property was transferred to the trust
89 but has subsequently become irrevocable.

90 For the purposes of the foregoing, a trust or portion of a
91 trust is revocable if it is subject to a power, exercisable im-
92 mediately or at any future time, to revert title in the person
93 whose property constitutes such trust or portion of a trust,
94 and a trust or portion of a trust becomes irrevocable when

95 the possibility that such power may be exercised has been
96 terminated.

97 p. Nonresident estate or trust. A nonresident estate or trust
98 means an estate or trust which is not a resident.

99 q. Unless the context in which it occurs requires otherwise,
100 the term "act" or "this act" shall mean the New Jersey Gross
101 Income Tax Act, Title 54A of the New Jersey Statutes.

CHAPTER 2. IMPOSITION OF TAX

1 54A:2-1. Imposition of tax. There is hereby imposed a tax for
2 each taxable year (which shall be the same as the taxable year for
3 Federal income tax purposes) on the New Jersey gross income as
4 herein defined of every individual, estate or trust (other than a
5 charitable trust or a trust forming part of a pension or profit-
6 sharing plan), subject to the deduction, limitations and modifica-
7 tions hereinafter provided, determined in accordance with the
8 folowing table with respect to the taxpayer's taxable income:

9 If the taxable income is	The tax is:
10 Not over \$20,000.00	2% of taxable income
11 Over \$20,000.00	\$400.00 plus 2.5% of the
12	excess over \$20,000.00

1 54A:2-2. Partners and partnerships. A partnership as such
2 shall not be subject to the New Jersey Gross Income Tax. Indi-
3 viduals carrying on business as partners shall be liable for the
4 New Jersey Gross Income Tax only in their separate or individual
5 capacities.

1 54A:2-3. Associations taxable as corporations. An association,
2 trust, or other unincorporated organization which is taxable as a
3 corporation for Federal income tax purposes shall not be subject
4 to tax under this act.

1 54A:2-4. Minimum taxable income. Notwithstanding any other
2 provisions of this act, a taxpayer or a married couple filing a joint
3 return with a gross income of \$3,000.00 or less (\$1,500 or less in
4 the case of a married person filing separately) shall not be subject
5 to tax under this act. In the case of a nonresident, gross income
6 shall mean gross income which such nonresident would have re-
7 ported if he had been a resident.

CHAPTER 3. PERSONAL EXEMPTIONS AND DEDUCTIONS

1 54A :3-1. Personal exemptions and deductions. Each taxpayer
2 shall be allowed personal exemptions and deductions against his
3 gross income as follows :

4 (a) Taxpayer. Each taxpayer shall be allowed a personal
5 exemption of \$1,000.00 which may be taken as a deduction from his
6 New Jersey gross income.

7 (b) Additional exemptions. In addition to the personal exemp-
8 tions allowed in (a), the following additional personal exemptions
9 shall be allowed as a deduction from gross income :

10 1. For the taxpayer's spouse who does not file separately—
11 \$1,000.00.

12 2. For each dependent who qualifies as a dependent of the tax-
13 payer during the taxable year for Federal income tax purposes—
14 \$1,000.00 plus, for each dependent child attending on a full-time
15 basis an elementary or secondary educational institution not de-
16 riving its primary support from public moneys—\$1,000.00.

17 3. Taxpayer 65 years of age or over at the close of the taxable
18 year—\$1,000.00.

19 4. Taxpayer's spouse 65 years of age or over at the close of
20 the taxable year—\$1,000.00.

21 5. Blind or disabled taxpayer—\$1,000.00.

22 6. Blind or disabled spouse—\$1,000.00.

23 (c) Special Rule. The personal exemptions allowed under this
24 section shall be limited to that percentage which the total number of
25 months within a taxpayer's taxable year under this act bears to 12.
26 For this purpose fifteen days or more shall constitute a month.

27 (d) Nonresidents. A nonresident taxpayer shall be allowed the
28 same deduction for personal exemptions as a resident taxpayer.
29 However, if (1) the nonresident's gross income which is subject
30 to tax under this act is exceeded by (2) his gross income which he
31 would be required to report under this act if he were a resident by
32 more than \$100.00, his deduction for personal exemptions shall be
33 limited by the percentage which (1) is to (2).

1 54A :3-2. Alimony and separate maintenance payments. There
2 shall be allowed as a deduction amounts includible under section
3 54A :5-1(n) with respect to payments included as income in the
4 return of a former spouse or of a spouse receiving separate main-
5 tenance pursuant to a court decree (or which would have otherwise
6 been includible if such payments were made to an individual subject
7 to tax under this act).

1 54A:3-3. Medical Expenses. (a) Each taxpayer shall be allowed
2 to deduct from his gross income medical expenses for himself, his
3 spouse, and his dependents with respect to such expenses that were
4 paid during the taxable year and to the extent that such medical
5 expenses exceed 2% of the taxpayer's gross income. In the case
5A of a nonresident, gross income shall mean gross income which
5B such nonresident would have reported if he had been subject to tax
5C during the entire taxable year as a resident.

6 (b) Special Rule for Decedents.

7 (1) Treatment of expenses paid after death. Expenses for
8 the medical care of the taxpayer which are paid out of his
9 estate during the one-year period beginning with the day after
10 the day of the death shall be treated as paid by the taxpayer
11 at the time incurred.

12 (2) Limitation. Paragraph (1) shall not apply if the amount
13 paid is not allowable as a deduction in computing medical
14 expense deductions for Federal income tax purposes.

15 (c) Exclusion of amounts allowed for care of certain dependents.
16 Any expenses allowed as a deduction of expenses for household
17 and dependent care services necessary for gainful employment
18 shall not be allowed as an expense paid for medical care for pur-
19 poses of this section.

CHAPTER 4. CREDITS AGAINST THE TAX

1 54A:4-1. Resident credit for tax of another state. (a) A resident
2 taxpayer shall be allowed a credit against the tax otherwise due
3 under this act for the amount of any income tax or wage tax
4 imposed for the taxable year by another state of the United States
5 or political subdivision of such state, or by the District of Columbia,
6 with respect to income which is also subject to tax under this act.

7 (b) The credit provided under this section shall not exceed
8 the proportion of the tax otherwise due under this act that the
9 amount of the taxpayer's income subject to tax by the other
10 jurisdiction bears to his entire New Jersey income.

11 (c) Readjustment of the tax of another state or political sub-
12 division thereof—if the taxpayer is allowed credit under this
13 section for more or less of the tax of another state or political
14 subdivision thereof than he is finally required to pay, the taxpayer
15 shall send notice of the difference to the director who shall re-
16 determine the tax for any years affected regardless of any other-
17 wise applicable statute of limitations.

1 54A:4-2. Credit for taxes withheld on wages. Any amount of
2 tax actually deducted and withheld by an employer under this act
3 in any calendar year shall be deemed to have been paid to the
4 director on behalf of the person from whom withheld, and such
5 person shall be credited with having paid that amount of tax for
6 the taxable year beginning in such calendar year. For a taxable
7 year of less than 12 months, the credit shall be made under regula-
8 tions of the director.

1 54A:4-3. Homestead credit for tenant. a. Any qualified resi-
2 dential tenant or shareholder in a cooperative shall be entitled to a
3 homestead credit of \$65.00 against the tax otherwise due hereunder.
4 Any qualified residential tenant or shareholder in a cooperative
5 shall be entitled to an additional homestead credit of \$35.00 if such
6 resident is (1) permanently and totally disabled, (2) 65 years of
7 age or over, or (3) a surviving spouse of a person qualified under
8 (2) above who has remained unmarried since becoming a widow
9 or widower at the age of 55 years or over.

10 b. Husband and wife. A married couple who elect to file separate
11 New Jersey returns shall each be entitled to one-half of the credit
12 otherwise allowable under subsection a.

13 c. Special limitations (1) If more than one qualified resident
14 tenant, other than a husband and wife, qualify for the credit allowed
15 under this section by reason of their having occupied the same
16 rented homestead, it shall be presumed that the tenant's
17 credit otherwise allowed under this section shall be equally divided
18 among such taxpayers. A tenant, however, may claim a credit
19 which shall bear the same proportion as the rent he pays to the
20 total rent paid by all members of the unit.

21 (2) A taxpayer shall not be entitled to more than one homestead
22 credit in any one year. A taxpayer who claims a homestead credit
23 under this section may not claim a homestead exemption for the
24 same year under any other law.

25 (3) The amount of the homestead credit shall be prorated in the
26 proportion that the number of days the qualified tenant occupied
27 residential property in the year bears to 365 days.

28 (4) Where more than one tenant occupies a single dwelling unit
29 not more than one qualified tenant credit shall be claimed. No
30 tenant homestead credit shall be allowed for occupants of rooming
31 houses, hotels or motels unless the rooms rented to the tenant are
32 equipped with kitchen and bathroom facilities and unless such
33 person is a permanent resident thereof.

CHAPTER 5. GROSS INCOME

1 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
2 income shall consist of the following categories of income:

3 (a) Salaries, wages, tips, fees, commissions, bonuses, and other
4 remuneration received for services rendered whether in cash or in
5 property;

6 (b) Net profits from business. The net income from the opera-
7 tion of a business, profession, or other activity, after provision
8 for all costs and expenses incurred in the conduct thereof, deter-
9 mined either on a cash or accrual basis in accordance with
10 the method of accounting allowed for Federal income tax purposes
11 but without deduction of taxes based on income;

12 (c) Net gains or income from disposition of property. Net gains
13 or net income, less net losses, derived from the sale, exchange or
14 other disposition of property, including real or personal, whether
15 tangible or intangible as determined in accordance with the method
16 of accounting allowed for Federal income tax purposes. For the
17 purpose of determining gain or loss, the basis of property shall be
18 the adjusted basis used for Federal income tax purposes.

19-25 The term "net gains or income" shall not include gains or in-
26 come derived from obligations which are referred to in clauses (1)
27 or (2) of section 54A:6-14 of this act. The term "net gains or net in-
28 come" shall not include gains or income from transactions to the
29 extent to which non-recognition is allowed for Federal income tax
30 purposes. The term "sale, exchange or other disposition" shall not
31 include the exchange of stock or securities in a corporation a party
32 to a reorganization in pursuance of a plan of reorganization, solely
33 for stock or securities in such corporation or in another corporation
34 a party to the reorganization and the transfer of property to a
35 corporation by one or more persons solely in exchange for stock or
36 securities in such corporation if immediately after the exchange
36A such person or persons are in control of the corporation. For
36B purposes of this clause, stock or securities issued for services shall
36C not be considered as issued in return for property.

37 For purposes of this clause, the term "reorganization" means—

38 (i) A statutory merger or consolidation;

39 (ii) The acquisition by one corporation, in exchange solely for
40 all or a part of its voting stock (or in exchange solely for all or a
41 part of the voting stock of a corporation which is in control of the
42 acquiring corporation) of stock of another corporation if, immedi-
43 ately after the acquisition, the acquiring corporation has control
44 of such other corporation (whether or not such acquiring corpora-
45 tion had control immediately before the acquisition);

46 (iii) The acquisition by one corporation, in exchange solely for
47 all or a part of its voting stock (or in exchange solely for all or a
48 part of the voting stock of a corporation which is in control of the
49 acquiring corporation), of substantially all of the properties of
50 another corporation, but in determining whether the exchange is
51 solely for stock the assumption by the acquiring corporation of a
52 liability of the other, or the fact that property acquired is subject
53 to a liability, shall be disregarded;

54 (iv) A transfer by a corporation of all or a part of its assets to
55 another corporation if immediately after the transfer the transfer-
56 feror, or one or more of its shareholders (including persons who
57 were shareholders immediately before the transfer), or any com-
58 bination thereof, is in control of the corporation to which the assets
59 are transferred;

60 (v) A recapitalization;

61 (vi) A mere change in identity, form, or place of organization
62 however effected; or

63 (vii) The acquisition by one corporation, in exchange for stock
64 of a corporation (referred to in this subclause as "controlling
65 corporation") which is in control of the acquiring corporation, of
66 substantially all of the properties of another corporation which in
67 the transaction is merged into the acquiring corporation shall not
68 disqualify a transaction under subclause (i) if such transaction
69 would have qualified under subclause (i) if the merger had been
70 into the controlling corporation, and no stock of the acquiring cor-
71 poration, is used in the transaction;

72 (viii) A transaction otherwise qualifying under subclause (i)
73 shall not be disqualified by reason of the fact that stock of a cor-
74 poration (referred to in this subclause as the "controlling corpo-
75 ration") which before the merger was in control of the merged
76 corporation is used in the transaction, if after the transaction, the
77 corporation surviving the merger holds substantially all of its
78 properties and of the properties of the merged corporation (other
79 than stock of the controlling corporation distributed in the trans-
80 action); and in the transaction, former shareholders of the sur-
81 viving corporation exchanged, for an amount of voting stock of
82 the controlling corporation, an amount of stock in the surviving
83 corporation which constitutes control of such corporation.

84 For purposes of this clause, the term "control" means the own-
85 ership of stock possessing at least 80% of the total combined voting
86 power of all classes of stock entitled to vote and at least 80% of
87 the total number of shares of all other classes of stock of the cor-
88 poration.

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89 For purposes of this clause, the term "a party to a reorganiza-
90 tion" includes a corporation resulting from a reorganization, and
91 both corporations, in the case of a reorganization resulting from
92 the acquisition by one corporation of stock or properties of another.
93 In the case of a reorganization qualifying under subclause (i) by
94 reason of subclause (vii) the term "a party to a reorganization"
95 includes the controlling corporation referred to in such subclause
96 (vii).

97 Notwithstanding any provisions hereof, upon every such ex-
98 change or conversion, the taxpayer's base for the stock or securi-
99 ties received shall be the same as the taxpayer's actual or attributed
100 base for the stock, securities or property surrendered in exchange
101 therefor.

102 (d) Net gains or net income derived from or in the form of
103 rents, royalties, patents, and copyrights.

104 (e) Interest, except interest referred to in clauses (1) or (2) of
105 section 54A:6-14 of this act.

106-107 (f) Dividends. "Dividends" means any distribution in cash or
108 property made by a corporation, association or business trust,
109 (1) out of accumulated earnings and profits, or (2) out of earn-
110 ings and profits of the year in which such dividend is paid.

111 (g) Gambling winnings.

112 (h) Net gains or income derived through estates or trusts.

113 (i) Income in respect of a decedent.

114 (j) Pensions and annuities to the extent that the proceeds ex-
115 ceed the contributions made by the taxpayer.

116 (k) Distributive share of partnership income.

117 (l) Amounts received as prizes and awards, except as provided
118 in sections 54A:6-8 and 54A:6-11 hereunder.

119 (m) Rental value of a residence furnished by an employer or a
120 rental allowance paid by an employer to provide a home.

121-122 (n) Alimony and separate maintenance payments to the extent
123 that such payments are required to be made under a decree of
124 divorce or separate maintenance but not including payments for
125 support of minor children.

1 54A:5-2. Losses. Losses which occur within one category of
2 gross income may be applied against other sources of gross income
3 within the same category of gross income during the taxable year.
4 However, a net loss in one category of gross income may not be
5 applied against gross income in another category of gross income.

1 54A :5-3. Taxability of estates, trusts and their beneficiaries.
2 The income of a beneficiary of an estate or trust in respect of such
3 estate or trust shall consist of that part of the income or gains
4 received by the estate or trust for its taxable year ending within or
5 with the beneficiary's taxable year which, under the governing in-
6 strument and applicable State law, is required to be distributed
7 currently or is in fact paid or credited to said beneficiary.

8 The income or gains of the estate or trust, if any, taxable to
9 such estate or trust shall consist of the income or gains received by
10 it which has not been distributed or credited to its beneficiaries.

11 Where an estate or trust has paid a tax under this act upon in-
12 come distributed or to be distributed to a beneficiary, such bene-
13 ficiary may exclude such income from his gross income in the year
14 paid or credited to him.

1 54A :5-4. Taxability of partners. A partnership or association
2 as such shall not be subject to the tax imposed by this act, but the
3 income or gain of a member of a partnership or association shall
4 be subject to the tax and the tax shall be imposed on his share,
5 whether or not distributed, of the income or gain received by the
6 partnership or association for its taxable year ending within or
7 with the partner's or member's taxable year.

1 54A :5-5. Nonresident individuals; taxable income. The income
2 of a nonresident individual shall be that part of his income derived
3 from sources within this State as defined in this act.

1 54A :5-6. Husband and wife. (a) Separate return. If the income
2 of husband or wife who are both nonresidents of this State and are
3 subject to tax under this act is determined on a separately filed
4 return, their incomes from sources within this State shall be sepa-
5 rately determined.

6 (b) One spouse a nonresident. If either husband or wife is a
7 nonresident and the other a resident, separate taxes shall be
8 determined on their separate incomes on such forms as the director
9 shall prescribe, unless both elect to determine their joint income as
10 if both were residents in which event their tax liabilities shall be
11 joint and several.

12 (c) The filing requirements for nonresidents shall be governed
13 by the provisions of section 54A :8-3.1 except with respect to the
14 conditions set forth in subsection (b) of this section.

1 54A :5-7. Allocations of income of nonresidents. Where a non-
2 resident taxpayer earns, receives or acquires income from sources
3 partly within and partly without this State or engages in a business,

4 trade, profession or occupation partly within and partly without
5 this State, and, as a result thereof or for other reasons that portion
6 of the income derived from or connected with sources within this
7 State cannot readily or accurately be ascertained, the director may
8 by regulation prescribe uniform rules for apportionment or alloca-
9 tion of so much of such taxpayer's income as fairly and equitably
10 represents income, derived from sources within this State and
11 subject to tax under this act.

1 54A:5-8. Income from sources within this State for a nonresident
2 individual, estate or trust means the same as compensation, net
3 profits, gains, dividends, interest or income enumerated and classi-
4 fied under chapter 5 of this act to the extent that it is earned,
5 received or acquired from sources within this State:

6 (1) By reason of ownership or disposition of any interest in real
7 or tangible personal property in this State; or

8 (2) In connection with a trade, profession, occupation carried on
9 in this State or for the rendition of personal services performed in
10 this State; or

11 (3) As a distributive share of the income of an unincorporated
12 business, profession, enterprise, undertaking or other activity as
13 the result of work done, services rendered or other business activ-
14 ities conducted in this State except as allocated to another state
15 pursuant to regulations promulgated by the director under this act;
16 or

17 (4) From intangible personal property employed in a trade, pro-
18 fession, occupation or business carried on in this State.

CHAPTER 6. EXCLUDABLE INCOME

1 54A:6-1. The items in sections 54A:6-2 to 54A:6-9, inclusive,
2 shall be specifically excluded from gross income.

1 54A:6-2. Federal social security benefits. All payments received
2 under the Federal Social Security Act, whether they be regularly
3 monthly benefits or lump sum death benefits.

1 54A:6-3. Railroad retirement benefits. All payments received
2 under the Railroad Retirement Act administered by the Federal
3 Government.

1 54A:6-4. Certain death benefits:

2 a. Proceeds of life insurance contracts payable by reason of
3 death.

4 b. Employees' death benefits, if such amounts are paid by or on
5 behalf of an employer and are paid by reason of the death of the
6 employee.

1 54A:6-5. Gifts and inheritances:

2 a. The value of property acquired by gift, bequest, devise or
3 inheritance.

4 b. Income. Subsection a. shall not exclude from gross income:

5 1. The income from any property referred to in subsection a.

6 2. Where the gift, bequest, devise or inheritance is of income
7 from property, the amount of such income.

1 54A:6-6. Compensation for injuries or sickness:

2 a. Amounts received under workmen's compensation acts as
3 compensation for personal injuries or sickness.

4 b. The amount of damages received, whether by suit or agree-
5 ment, on account of personal injuries or sickness.

6 c. Amounts received through accident or health insurance for
7 personal injuries or sickness.

8 d. Amounts received as a pension, annuity or similar allowance
9 for personal injuries or sickness resulting from active service in
10 the Armed Forces of the United States or in the Coast and
11 Geodetic Survey or the Public Health Service, or as a disability
12 annuity payable under the Foreign Service Act of 1946.

1 54A:6-7. Certain pay of members of the armed forces.

2 a. Compensation paid by the United States for service in the
3 Armed Forces of the United States performed by an individual
4 not domiciled in this State.

5 b. Amounts received during the taxable year as mustering-out
6 payments with respect to service in the Armed Forces of the United
7 States.

1 54A:6-8. Scholarships and fellowship grants.

2 a. Any amount received as a scholarship at an educational
3 institution.

4 b. Any amount received as a fellowship grant.

5 c. Any amount received to cover expenses for travel, research or
6 equipment which are incident to a scholarship or research grant,
7 but only to the extent that the amount is so expended by the
8 recipient.

1 54A:6-9. Exemption for Gains Derived from the Sale or Ex-
2 change of Principal Residence.

3-14 a. If a taxpayer realizes a gain from the sale or exchange of
15 his principal residence, the gain shall be excludable from gross
16 income if the taxpayer purchased or received in exchange another
17 principal residence to replace the residence sold, provided that such
18 new residence had been acquired either 18 months before or 18

19 months after the date of the sale of the original residence except
20 that where the taxpayer has constructed a new residence, the period
21 prior to and after the date of sale shall be 24 months. Where the
22 adjusted sales price of the residence sold exceeds the purchase
23 price of the new residence, the taxpayer shall be required to include
24 in his gross income that portion of the gain which is represented
25 by the amount that the adjusted sales price of the old residence
26 exceeds the cost of the new residence. To the extent that any gain
27 shall be excludable under this section, the basis of the new residence
28 shall be reduced.

29-34 b. In lieu of the exemption allowed under subsection a. of this
35 section, a taxpayer who has attained the age of 65 on or before
36 the date of the sale of a property which has been used by him as
37 a principal residence for at least 5 years of the 8 years immediately
38 preceding the date of such sale, may elect to avail himself of the
39 exemption allowed under this subsection. If the exemption
40 provided for in this subsection is availed of by a taxpayer in or
41 for any taxable year, no such exemption shall be allowed with
42 respect to such taxpayer or spouse thereof in any subsequent
43 taxable year. If the adjusted sales price of the property sold or
44 exchanged exceeds \$35,000.00, this subsection shall apply to that
45 portion of the gain which bears the same ratio to the total amount
46 of such gain as \$35,000.00 bears to such adjusted sales price. For
47 the purpose of this section, the word "sale" means a "sale,"
48 "exchange," "transaction," or "event" through which the tax-
49 payer is divested of all interest in his residence.

50 c. Subsection a. shall not apply to any sale or exchange by the
51 taxpayer with respect to more than one property during any 18-
52 month period.

53 d. Subsection b. shall not apply to any sale or exchange by the
54 taxpayer with respect to more than one property.

55 e. Property used in part as a residence. In case of property
56 only a portion of which has been owned and used by the taxpayer
57 as his principal residence, this section shall apply with respect to
58 so much of the sale or exchange of such property as is determined,
59 under regulations prescribed by the director, to be attributable to
60 the portion of the property so owned and used by the taxpayer.

61 f. The provisions of this section shall also be applicable with
62 respect to qualified tenant-shareholders in cooperatives.

63 g. For purposes of this section, the destruction, theft, seizure,
64 requisition, or condemnation of property shall be treated as the
65 sale of such property.

1 54A:6-10. Pensions and annuities. Gross income shall not in-
 2 clude that part of any amount received as an annuity under an
 3 annuity, endowment, or life insurance contract which bears the
 4 same ratio to such amount as the investment in the contract (as
 5 of the annuity starting date) bears to the expected return under
 6 the contract (as of such date). Where (1) part of the considera-
 7 tion for an annuity, endowment, or life insurance contract is con-
 8 tributed by the employer, and (2) during the 3-year period
 9 beginning on the date on which an amount is first received under
 10 the contract as an annuity, the aggregate amount receivable by
 11 the employee under the terms of the contract is equal to or greater
 12 than the consideration for the contract contributed by the em-
 13 ployee, then all amounts received as an annuity under the contract
 14 shall be excluded from gross income until there has been so
 15 excluded an amount equal to the consideration for the contract
 16 contributed by the employee.

1 54A:6-11. Lottery winnings. Gross income shall not include
 2 lottery winnings from the New Jersey Lottery.

1 54A:6-12. Pensions of persons not covered under Social Security.
 2 Gross income shall not include pension, disability or retirement
 3 programs of the Federal Government or of any State or its political
 4 subdivisions, or agencies thereof, for persons not covered under
 5 54A:6-2 or 54A:6-3 hereof; provided, however, that the total
 6 amount of benefits to be allowed exclusion herein shall not be in
 7 excess of the maximum amount of benefits payable to and allowable
 8 for exclusion in 54A:6-2 and 54A:6-3.

1 54:6-13. Unemployment insurance benefits. All payments and
 2 benefits received under any unemployment insurance law.

1 54:6-14. Interest on certain obligations. Gross income shall not
 2 include interest on obligations (1) issued by or on behalf of this
 3 State or any county, municipality, school or other district, agency,
 4 authority, commission, instrumentality, public corporation (includ-
 5 ing one created or existing pursuant to agreement or compact with
 6 this or any other state), body corporate and politic or political
 7 subdivision of this State, or (2) those obligations which are statu-
 8 torily free from State or local taxation under any other act of this
 9 State or under the laws of the United States.

CHAPTER 7. WITHHOLDING OF TAX

1 54A:7-1. Requirement of withholding tax from wages. (a)
 2 General.—From and after the first day of the first month following
 3 at least a full calendar month after the enactment of this act, every

4 employer maintaining an office or transacting business within this
5 State and making payment of any wages subject to New Jersey
6 personal income tax to a resident or nonresident individual shall
7 deduct and withhold from such wages for each payroll period a tax
8 computed in such manner as to result, so far as practicable, in
9 withholding from the employee's wages during each calendar year
10 an amount substantially equivalent to the tax reasonably estimated
11 to be due resulting from the inclusion in the employee's New Jersey
12 income of his wages received during such calendar year. The
13 method of determining the amount to be withheld shall be prescribed
14 by regulations of the director, with due regard to the withholding
15 exemptions of the employee.

16 (b) Withholding exemptions.—For purposes of this section:
17 An employee shall be entitled to the equivalent of the same num-
18 ber of New Jersey withholding exemptions as the number of with-
19 holding exemptions to which he is entitled for Federal income tax
20 withholding purposes. An employer may rely upon the number of
21 Federal withholding exemptions claimed by the employee.

1 54A:7-2. Information statement for employee. Every employer
2 required to deduct and withhold tax under this act from the wages
3 of an employee, or who would have been required so to deduct
4 and withhold tax if the employee had claimed no more than one
5 withholding exemption, shall furnish to each such employee in
6 respect of the wages paid by such employer to such employee during
7 the calendar year on or before February 15 of the succeeding year,
8 or, if his employment is terminated before the close of such calendar
9 year, within 30 days from the date on which the last payment of
10 the wages is made, a written statement as prescribed by the director
11 showing the amount of wages paid by the employer to the employee,
12 the amount deducted and withheld as tax, and such other informa-
13 tion as the director shall prescribe.

1 54A:7-3. Credit for tax withheld. Wages upon which tax is
2 required to be withheld shall be taxable under this act as if no
3 withholding were required, but any amount of tax actually deducted
4 and withheld under this act in any calendar year shall be deemed
5 to have been paid to the director on behalf of the person from whom
6 withheld, and such person shall be credited with having paid that
7 amount of tax for the taxable year beginning in such calendar year.
8 For a taxable year of less than 12 months the credit shall be made
9 under regulations of the director.

1 54A:7-4. Employer's return and payment of withheld taxes.
2 (a) General.—Every employer required to deduct and withhold tax

3 under this act shall, for each calendar month, on or before the
4 fifteenth day of the month following the close of such calendar
5 month, file a withholding return as prescribed by the director and
6 pay over to the director or to a depositary designated by the direc-
7 tor the taxes so required to be deducted and withheld. The director
8 may, if he deems it necessary, extend the initial filing of withholding
9 returns and payment of withheld taxes for a period not to exceed
10 60 days. Where the aggregate amount required to be deducted and
11 withheld by any employer is less than \$25.00 in a calendar month
12 and the aggregate for the semiannual period ending on June 30 and
13 December 31 can reasonably be expected to be less than \$150.00, the
14 director may by regulation permit an employer to file a return on
15 or before July 31 for the semiannual period ending on June 30 and
16 on or before January 31 for the semiannual period ending on
17 December 31. The director may, if he believes such action necessary
18 for the protection of the revenues, require any employer to make
19 such return and pay to him the tax deducted and withheld at any
20 time, or from time to time. Where the amount of wages paid by an
21 employer is not sufficient under this act to require the withholding
22 of tax from the wages of any of his employees, the director may, by
23 regulation, permit such employer to file an annual return on or
24 before February 28 of the following calendar year.

25 The director may, by regulation, require the filing and payment
26 of withholding returns and taxes on a semimonthly or more fre-
27 quent basis where he deems such action in the best interest of
28 the State.

29 (b) Deposit in trust for director.—Whenever any employer fails
30 to collect, truthfully account for, pay over the tax, or make returns
31 of the tax as required in this section, the director may serve a
32 notice requiring such employer to collect the taxes which become
33 collectible after service of such notice, to deposit such taxes in a
34 bank approved by the director in a separate account, in trust for
35 and payable to the State of New Jersey and to keep the amount
36 of such tax in such account until payment over to the director.
37 Such notice shall remain in effect until a notice of cancellation is
38 served by the director.

1 54A:7-5. Employer's liability for withheld taxes. Every em-
2 ployer required to deduct and withhold tax under this act is hereby
3 made liable for such tax. For purposes of assessment and collec-
4 tion, any amount required to be withheld and paid over to the
5 director, and any additions to tax, penalties and interest with
6 respect thereto, shall be considered the tax of the employer. Any

7 amount of tax actually deducted and withheld under this act shall
8 be held to be a special fund in trust for the director. No employee
9 shall have any right of action against his employer in respect to
10 any moneys deducted and withheld from his wages and paid over
11 to the director in compliance or in intended compliance with this act.

1 54A:7-6. Employer's failure to withhold. If an employer fails
2 to deduct and withhold tax as required, and thereafter the tax
3 against which such tax may be credited is paid, the tax so required
4 to be deducted and withheld shall not be collected from the em-
5 ployer, but the employer shall not be relieved from liability for
6 any penalties, interest, or additions to the tax otherwise applicable
7 in respect of such failure to deduct and withhold.

1 54A:7-7. Filing annual reconciliation of tax withheld. A recon-
2 ciliation of tax withheld shall be filed by the employer with the
3 Division of Taxation on or before February 15 following the close
4 of the calendar year in accordance with rules and regulations pre-
5 scribed by the director.

CHAPTER 8. PAYMENT OF TAX

1 54A:8-1. Payment of tax; returns; extension of time. With re-
2 spect to each taxpayer, the tax imposed by this act shall be due and
3 payable annually, hereafter, in the manner provided in this section:

4 a. Every taxpayer shall annually pay the tax imposed by this
5 act with respect to all or any part of each of his fiscal or calendar
6 accounting years beginning on and after July 1, 1976, to be com-
7 puted as in this act provided, for such fiscal or calendar accounting
8 year or part thereof, on a return which shall be filed, in the case
9 of a taxpayer reporting on a calendar year basis, on or before
10 April 15 following the close of such calendar year, or, in the case
11 of a taxpayer reporting on a fiscal year basis, on or before the
12 fifteenth day of the fourth month following the close of such fiscal
13 year, and the full amount of the tax shall be due and payable on or
14 before the date prescribed herein for the filing of the return.

15 In the case of a taxable year which ends on or after July 1, 1976,
15A and prior to December 31, 1976, an income tax return for such
15B taxable year shall be filed on or before April 15, 1977.

16 b. Each return shall carry a certificate signed by the taxpayer
17 to the effect that all statements contained therein are true, under
18 the same penalties as for perjury committed. Blank forms of re-
19 turn shall be furnished on application, but failure to secure the
20 form shall not relieve any taxpayer of the obligation of making
21 any return herein required. Subject to regulations under this act

22 and in such form as may be indicated thereby, taxpayers whose
23 net income taxable under this act is or may be subject to tax under
24 a similar law of another jurisdiction may be permitted to file a
25 simple, short form return attached to a copy of his return as filed
26 or about to be filed by him in such other jurisdiction.

27-28 Subject to regulations under this act, reasonable extensions of
29 time for good cause shown, may be granted for not more than 6
30 months unless exceptional circumstances justify a longer period,
31 within which returns may be filed.

32 In addition, persons in active service with the Armed Forces of
33 the United States, who may be prevented by distance or injury
34 or hospitalization arising out of such service, may be allowed
35 such extension of time for the filing of returns, without interest or
36 penalty, as may be fixed by regulations under this act.

1 54A:8-2. Optional tax tables. (a) General.—The director may
2 promulgate uniform tax tables for individual taxpayers for any
3 taxable year. An individual may elect to use or not to use any such
4 tax table for which he is eligible.

5 (b) Preparation of tax tables.—Tax tables promulgated here-
6 under shall be based either upon (i) the individual's New Jersey
7 income, or (ii) the individual's taxable income. In computing such
8 tables, the director shall make allowance for the deductions and
9 personal exemptions allowed under this act. In either case the
10 director shall by regulation prescribe the conditions of eligibility
11 for the use of a tax table. In no case shall the amount of tax
12 calculated by use of a tax table deviate by more than \$5.00 from
13 the amount otherwise due under section 54A:2-1.

1 54A:8-3. Accounting periods and methods. (a) Accounting
2 periods.—A taxpayer's taxable year under this act shall be the
3 same as his taxable year for Federal income tax purposes.

4 (b) Change of accounting periods.—If a taxpayer's taxable year
5 is changed for Federal income tax purposes, his taxable year for
6 purposes of this act shall be similarly changed.

7 (c) Accounting methods.—A taxpayer's accounting method under
8 this act shall be the same as his accounting method for Federal
9 income tax purposes. In the absence of any accounting method for
10 Federal income tax purposes, New Jersey taxable income shall be
11 computed under such method as in the opinion of the director
12 clearly reflects income.

13 (d) Change of accounting methods.—(1) If a taxpayer's account-
14 ing method is changed for Federal income tax purposes, his ac-
15 counting method for purposes of this act shall be similarly changed.

16 (2) If a taxpayer's accounting method is changed, other than
17 from an accrual to an installment method, any additional tax which
18 results from adjustments determined to be necessary solely by
19 reason of the change shall not be greater than if such adjustments
20 were ratably allocated and included for the taxable year of the
21 change and the preceding taxable years, not in excess of two, dur-
22 ing which the taxpayer used the accounting method from which the
23 change is made.

24 (3) If a taxpayer's accounting method is changed from an ac-
25 crual to an installment method, any additional tax for the year of
26 such change of method and for any subsequent year which is
27 attributable to the receipt of installment payments properly ac-
28 crued in a prior year, shall be reduced by the portion of tax for
29 any prior taxable year attributable to the accrual of such install-
30 ment payments, in accordance with regulations of the director.

1 54A:8-3.1. Persons required to file.

2 a. On or before the filing date prescribed in section 1 of this
3 chapter (C. 54A:8-1), an income tax return shall be made and
4 filed by or for every individual, estate or trust having a gross
5 income in excess of \$3,000.00 or more (\$1,500.00 or more in the
5A case of a married person filing separately).

6 b. If the income tax liability of husband and wife is determined
7 on a separate return for Federal income tax purposes, they shall
8 each also file a separate return for New Jersey income tax purposes
9 and their income tax liabilities under this act shall be separate.

10 c. If the income tax liabilities of husband and wife are determined
11 on a joint return for Federal income tax purposes, they shall also
12 file a joint return for New Jersey income tax purposes and their
13 tax liabilities under this act shall be joint and several.

14 d. If either husband or wife is a resident and the other is a non-
15 resident, they shall file separate tax returns under this act on such
16 single or separate forms as may be required by the director in
17 which event their tax liabilities shall be separate unless both elect
18 to determine their joint taxable income as if both were residents, in
19 which event their liabilities shall be joint and several.

20 e. The return for any deceased individual shall be made and
21 filed by his fiduciary or other person charged with his property.

22-23 f. The return for an individual who is unable to make a return
24 by reason of minority or other disability shall be made and filed by
25 his fiduciary or other person charged with the care of his person
26 or property (other than a receiver in possession of only a part of
27 his property), or by his duly authorized agent.

28 g. Any tax under this act, and any increase, interest or penalty
29 thereon, shall, from the time it is due and payable, be a personal
30 debt of the person liable to pay the same, to the State of New
31 Jersey.

1 54A:8-4. Declarations of estimated tax. (a) Requirement of
2 filing. Every resident and nonresident individual shall make a
3 declaration of his estimated New Jersey personal income tax for
4 each taxable year beginning after June 30, 1976, if his estimated
5 New Jersey personal income tax can reasonably be expected to be
6 more than \$100.00 in excess of any credits allowable against his tax,
7 whether or not he is required to file a Federal declaration of esti-
8 mated tax for such year.

9 (b) Definition of estimated tax. The term "estimated tax"
10 means the amount which an individual estimates to be his income
11 tax under this act for the taxable year, less the amount which he
12 estimates to be the sum of any credits allowable against the tax.

13 (c) Joint declaration of husband and wife. A husband and wife
14 may make a joint declaration of estimated tax as if they were one
15 taxpayer, in which case the liability with respect to the estimated
16 tax shall be joint and several. No joint declaration may be made
17 if husband and wife are separated under a decree of divorce or of
18 separate maintenance, or if they have different taxable years. If
19 a joint declaration is made but husband and wife elect to determine
20 their taxes under this act separately, the estimated tax for such
21 year may be treated as the estimated tax of either husband or wife,
22 or may be divided between them, as they may elect.

23 (d) Time for filing declaration. Beginning in the taxable year
24 1976 and every taxable year thereafter a declaration of estimated
25 tax of an individual other than a farmer shall be filed on or before
26 April 15 of the taxable year, except that if the requirements of
27 subsection (a) are first met:

28 (1) After April 1 and before June 2 of the taxable year, the
29 declaration shall be filed on or before June 15; or

30 (2) After June 1 and before September 2 of the taxable year
31 the declaration shall be filed on or before September 15; or

32 (3) After September 1 of the taxable year, the declaration shall
33 be filed on or before January 15 of the succeeding year.

34 (e) Declaration of estimated tax by a farmer. A declaration of
35 estimated tax of an individual having an estimated New Jersey
36 income from farming (including oyster farming) for the taxable
37 year which is at least two-thirds of his total estimated New Jersey

38 income for the taxable year may be filed at any time on or before
39 January 15 of the succeeding year, in lieu of the time otherwise
40 prescribed.

41 (f) Declaration of estimated tax of \$100.00 or less. A declaration
42 of estimated tax of an individual having a total estimated tax for
43 the taxable year of \$100.00 or less may be filed at any time on or
44 before January 15 of the succeeding year under regulations of the
45 director.

46 (g) Amendments of declaration. An individual may amend a
47 declaration under regulations of the director.

48 (h) Return as declaration or amendment. If on or before
49 February 15 of the succeeding taxable year an individual files his
50 return for the taxable year for which the declaration is required,
51 and pays therewith the full amount of the tax shown to be due on
52 the return:

53 (1) Such return shall be considered as his declaration if no
54 declaration was required to be filed during the taxable year, but is
55 otherwise required to be filed on or before January 15;

56 (2) Such return shall be considered as the amendment permitted
57 by subsection (g) to be filed on or before January 15 if the tax shown
58 on the return is greater than the estimated tax shown in a declara-
59 tion previously made.

60 (i) Fiscal year. This section shall apply to a taxable year other
61 than a calendar year by the substitution of the months of such fiscal
62 year for the corresponding months specified in this section,

63 (j) Short taxable year. An individual having a taxable year of
64 less than 12 months shall make a declaration in accordance with
65 regulations of the director.

66 (k) Declaration for individual under a disability. The declara-
67 tion of estimated tax for an individual who is unable to make a
68 declaration by reason of minority or other disability shall be made
69 and filed by his guardian, committee, fiduciary or other person
70 charged with the care of his person or property (other than a
71 receiver in possession of only a part of his property), or by his
72 duly authorized agent.

73 (1) In the taxable year 1976, no declaration shall be required
74 until the lapse of at least one full calendar quarter following en-
75 actment of this act.

1 54A:8-5. Payments of estimated tax (a) General. The esti-
2 mated tax with respect to which a declaration is required shall be
3 paid as follows:

4 (1) If the declaration is filed on or before April 15 of the taxable
5 year the estimated tax shall be paid in four equal installments. The
6 first installment shall be paid at the time of the filing of the declara-
7 tion, and the second, third and fourth installments shall be paid on
8 the following June 15, September 15, and January 15, respectively.

9 (2) If the declaration is filed after April 15 and not after June 15
10 of the taxable year, the estimated tax shall be paid in three equal
11 installments. The first installment shall be paid at the time of the
12 filing of the declaration, and the second and third installments shall
13 be paid on or before the following September 15 and January 15,
14 respectively.

15 (3) If the declaration is filed after June 15 and not after
16 September 15 of the taxable year, and is not required to be filed on
17 or before June 15 of the taxable year, the estimated tax shall be
18 paid in two equal installments. The first installment shall be paid
19 at the time of the filing of the declaration, and the second shall be
20 paid on or before the following January 15.

21 (4) If the declaration is filed after September 15 of the taxable
22 year, and is not required to be filed on or before September 15 of
23 the taxable year, the estimated tax shall be paid in full at the time
24 of the filing of the declaration.

25 (5) If the declaration is filed after the time prescribed therefor,
26 or after the expiration of any extension of time therefor, para-
27 graphs (2), (3), and (4) of this subsection shall not apply, and there
28 shall be paid at the time of such filing all installments of estimated
29 tax payable at or before such time, and the remaining installments
30 shall be paid at the times at which, and in the amounts in which,
31 they would have been payable if the declaration had been filed when
32 due.

33 (b) Farmers. If an individual referred to in subsection (e) of
34 section 54A:8-4 (relating to income from farming) makes a
35 declaration of estimated tax after September 15 of the taxable
36 year and on or before the following January 15, the estimated tax
37 shall be paid in full at the time of the filing of the declaration.

38-39 (c) Amendments of declaration. If any amendment of a declara-
40 tion is filed, the remaining installments, if any, shall be ratably in-
41 creased or decreased (as the case may be) to reflect any increase or
42 decrease in the estimated tax by reason of such amendment, and if
43 any amendment is made after September 15 of the taxable year,
44 any increase in the estimated tax by reason thereof shall be paid at
45 the time of making such amendment.

46 (d) Application to short taxable year. This section shall apply
47 to a taxable year of less than 12 months in accordance with regula-
48 tions of the director.

49 (e) Fiscal year. This section shall apply to a taxable year other
50 than a calendar year by the substitution of the months of such fiscal
51 year for the corresponding months specified in this section.

52 (f) Installments paid in advance. An individual may elect to
53 pay any installment of his estimated tax prior to the date prescribed
54 for its payment.

1 54A:8-6. Requirements concerning returns, notices, records and
2 statements. (a) General. The director may prescribe regulations
3 as to the keeping of records, the content and form of returns and
4 statements, and the filing of copies of Federal income tax returns
5 and determinations. The director may require any person, by
6 regulation or notice served upon such person, to make such returns,
7 render such statements, or keep such records, as the director may
8 deem sufficient to show whether or not such person is liable under
9 this act for tax or for collection of tax.

10 (b) Partnerships. Every partnership having a resident partner
11 or having any income derived from New Jersey sources, shall make
12 a return for the taxable year setting forth all items of income, gain,
13 loss and deduction and such other pertinent information as the
14 director may by regulations and instructions prescribe. Such
15 return shall be filed on or before the fifteenth day of the fourth
16 month following the close of each taxable year. For the purposes
17 of this subsection, "taxable year" means a year or period which
18 would be a taxable year of the partnership if it were subject to tax
19 under this act.

20 (c) Information at source. The director may prescribe regula-
21 tions and instructions requiring returns of information to be made
22 and filed on or before February 15 of each year as to the payment
23 or crediting in any calendar year of amounts of \$100.00 or more
24 to any taxpayer under this act. Such returns may be required of
25 any person, including lessees or mortgagors of real or personal
26 property, fiduciaries, employers, and all officers and employees of
27 this State, or of any municipal corporation or political subdivision
28 of this State, having the control, receipt, custody, disposal or pay-
29 ment of interest, rents, salaries, wages, premiums, annuities, com-
30 pensations, remunerations, emoluments or other fixed or determin-
31 able gains, profits or income, except interest coupons payable to
32 bearer. A duplicate of the statement as to tax withheld on wages,

33 required to be furnished by an employer to an employee, shall
34 constitute the return of information required to be made under this
35 section with respect to such wages.

36 (d) Notice of qualification as receiver, et cetera. Every receiver,
37 trustee in bankruptcy, assignee for benefit of creditors, or other like
38 fiduciary shall give notice of his qualification as such to the direc-
39 tor, as may be required by regulation.

1 54A:8-7. Report of change in Federal taxable income. If the
2 amount of a taxpayer's Federal taxable income reported on his
3 Federal income tax return for any taxable year is changed or cor-
4 rected by the United States Internal Revenue Service or other
5 competent authority, or as the result of a renegotiation of a contract
6 or subcontract with the United States, the taxpayer shall report
7 such change or correction in Federal taxable income within 90 days
8 after the final determination of such change, correction, or
9 renegotiation, or as otherwise required by the director, and shall
10 concede the accuracy of such determination or state wherein it is
11 erroneous. Any taxpayer filing an amended Federal income tax
12 return shall also file within 90 days thereafter an amended return
13 under this act, and shall give such information as the director may
14 require. The director may by regulation prescribe such exceptions
15 to the requirements of this section as he deems appropriate.

CHAPTER 9. ADMINISTRATION OF TAX

1 54A:9-1. Applicability of State Tax Uniform Procedure Law.
2 The taxes imposed by this act shall be governed in all respects
3 by the provisions of the State Tax Uniform Procedure Law (sub-
4 title 9 of Title 54 of the Revised Statutes) except only to the extent
5 that a specific provision of this act may be in conflict therewith.

1 54A:9-2. Notice of deficiency. (a) General. If upon examination
2 of a taxpayer's return under this act the director determines that
3 there is a deficiency of income tax, he may mail a notice of deficiency
4 to the taxpayer. If a taxpayer fails to file an income tax return
5 required under this act, the director is authorized to estimate the
6 taxpayer's New Jersey income and tax thereon, from any infor-
7 mation in his possession, and to mail a notice of deficiency to the
8 taxpayer. A notice of deficiency shall be mailed to the taxpayer at
9 his last known address in or out of this State. If a husband and
10 wife are jointly liable for tax, a notice of deficiency may be a single
11 joint notice, except that if the director has been notified in writing
12 by either spouse that separate residences have been established,

13 then, in lieu of the single joint notice, a duplicate original of the
14 joint notice shall be mailed to each spouse at his or her last known
15 address in or out of this State. If the taxpayer is deceased or under
16 a legal disability, a notice of deficiency may be mailed to his last
17 known address in or out of this State, unless the director has re-
18 ceived written notice of the existence of a fiduciary relationship
19 with respect to the taxpayer.

20 (b) Notice of deficiency as assessment. After 90 days from the
21 mailing of a notice of deficiency, such notice shall be an assessment
22 of the amount of tax specified in such notice, together with the
23 interest, additions to tax and penalties stated in such notice, except
24 only for any such tax or other amounts as to which the taxpayer
25 has within such 90-day period filed with the director a petition
26 under section 54A:9-9. If the notice of deficiency is addressed to
27 a person outside of the United States, such period shall be 150 days
28 instead of 90 days.

29 (c) Restrictions on assessment and levy. No assessment of a
30 deficiency in tax and no levy or proceeding in court for its collection
31 shall be made, begun or prosecuted, except as otherwise provided
32 in section 54A:9-14, until a notice of deficiency has been mailed
33 to the taxpayer, nor until the expiration of the time for filing a
34 petition contesting such notice, nor, if a petition with respect to
35 the taxable year has been filed with the director, until the decision
36 of the director has become final. For exception in the case of re-
37 view of the decision of the director, see subsection (c) of section
38 54A:9-10.

39 (d) Exceptions for mathematical errors. If a mathematical error
40 appears on a return (including an overstatement of the credit for
41 income tax withheld at the source, or of the amount paid as esti-
42 mated income tax), the director shall notify the taxpayer that an
43 amount of tax in excess of that shown upon the return is due, and
44 that such excess has been assessed. Such notice shall not be con-
45 sidered as a notice of deficiency for the purposes of this section,
46 subsection (e) of section 54A:9-8 (limiting credits or refunds
47 after petition to the director), or subsection (b) of section
48 54A:9-9 (authorizing the filing of a petition with the director
49 based on a notice of deficiency) nor shall such assessment or collec-
50 tion be prohibited by the provisions of subsection (c).

51 (e) Exception where change in Federal taxable income is not
52 reported.

53 (1) If the taxpayer fails to comply with section 54A:8-7
54 in not reporting a change or correction increasing his

55 Federal taxable income as reported on his Federal income tax
56-57 return or in not reporting a change or correction which is treated
58 in the same manner as if it were a deficiency for Federal income
59 tax purposes or in not filing an amended return, instead of the
60 mode and time of assessment provided for in subsection (b) of this
61 section, the director may assess a deficiency based upon such
62 changed or corrected Federal taxable income by mailing to the
63 taxpayer a notice of additional tax due specifying the amount of
64 the deficiency, and such deficiency, together with the interest,
65 additions to tax and penalties stated in such notice, shall be deemed
66 assessed on the date such notice is mailed unless within 30 days
67 after the mailing of such notice a report of the Federal change or
68 correction or an amended return, where such return was required
69 by section 54A :8-7, is filed accompanied by a statement showing
70 wherein such Federal determination and such notice of additional
71 tax due are erroneous.

72 (2) Such notice shall not be considered as a notice of deficiency
73 for the purposes of this section, subsection (e) of section
74 54A :9-8 (limiting credits or refunds after petition to the director),
75 or subsection (b) of section 54A :9-9 (authorizing the filing of a
76 petition with the director based on a notice of deficiency), nor
77 shall such assessment or the collection thereof be prohibited by the
78 provisions of subsection (c).

79 (3) If a husband and wife are jointly liable for tax, a notice of
80 additional tax due may be a single joint notice, except that if the
81 director has been notified in writing by either spouse that separate
82 residences have been established, then, in lieu of the joint notice,
83 a duplicate original of the joint notice shall be mailed to each
84 spouse at his or her last known address in or out of this State. If
85 the taxpayer is deceased or under a legal disability, a notice of
86 additional tax due may be mailed to his last known address in or
87 out of this State, unless the director has received written notice
88 of the existence of a fiduciary relationship with respect to the
89 taxpayer.

90 (f) Waiver of restrictions. The taxpayer shall at any time
91 (whether or not a notice of deficiency has been issued) have the
92 right to waive the restrictions on assessment and collection of the
93 whole or any part of the deficiency by a signed notice in writing
94 filed with the director.

95 (g) Deficiency defined. For purposes of this act, a deficiency
96 means the amount of the tax imposed by this act, less (i) the amount
97 shown as the tax upon the taxpayer's return (whether the return
98 was made or the tax computed by him or by the director), and

99 less (ii) the amounts previously assessed (or collected without
100 assessment) as a deficiency and plus (iii) the amount of any re-
101 bates. For the purpose of this definition, the tax imposed by this
102 act and the tax shown on the return shall both be determined
103 without regard to payments on account of estimated tax or the
104 credit for withholding tax; and a rebate means so much of an
105 abatement, credit, refund or other repayment (whether or not
106 erroneous) made on the ground that the amounts entering into the
107 definition of a deficiency showed a balance in favor of the taxpayer.

1 54A:9-3. Assessment. (a) Assessment date. The amount of tax
2 which a return shows to be due, or the amount of tax which a
3 return would have shown to be due but for a mathematical error,
4 shall be deemed to be assessed on the date of filing of the return
5 (including any amended return showing an increase of tax). In
6 the case of a return properly filed without computation of tax, the
7 tax computed by the director shall be deemed to be assessed on the
8 date on which payment is due. If a notice of deficiency has been
9 mailed, the amount of the deficiency shall be deemed to be assessed
10 on the date specified in subsection (b) of section 54A:9-2 if no
11 petition to the director is filed, or if a petition is filed, then upon the
12 date when a decision of the director establishing the amount of the
13 deficiency becomes final. If an amended return or report filed
14 pursuant to section 54A:8-7 concedes the accuracy of a Federal
15 change or correction, any deficiency in tax under this act resulting
16 therefrom shall be deemed to be assessed on the date of filing such
17 report or amended return, and such assessment shall be timely
18 notwithstanding section 54A:9-4. If a notice of additional tax
19 due, as prescribed in subsection (e) of section 54A:9-2 has been
20 mailed, the amount of the deficiency shall be deemed to be assessed
21 on the date specified in such subsection unless within 30 days after
22 the mailing of such notice a report of the Federal change or correc-
23 tion or an amended return, where such return was required by
24 section 54A:8-7 is filed accompanied by a statement showing
25 wherein such Federal determination and such notice of additional
26 tax due are erroneous. Any amount paid as a tax or in respect of
27 a tax, other than amounts withheld at the source or paid as esti-
28 mated income tax, shall be deemed to be assessed upon the date of
29 receipt of payment, notwithstanding any other provisions.

30 (b) Other assessment powers. If the mode or time for the assess-
31 ment of any tax under this act (including interest, additions to tax
32 and assessable penalties) is not otherwise provided for, the director
33 may establish the same by regulations.

34 (c) Estimated income tax. No unpaid amount of estimated tax
35 under section 54:8-5 shall be assessed.

36 (d) Supplemental assessment. The director may, at any time
37 within the period prescribed for assessment, make a supplemental
38 assessment, subject to the provisions of section 54A:9-2 where
39 applicable, whenever it is ascertained that any assessment is im-
40 perfect or incomplete in any material respect.

1 54A:9-4. Limitations on assessment. (a) General. Except as
2 otherwise provided in this section, any tax under this act shall be
3 assessed within 3 years after the return was filed (whether or not
4 such return was filed on or after the date prescribed).

5 (b) Time returned deemed filed.

6 (1) Early return. For purposes of this section a return of
7 income tax, except withholding tax, filed before the last day pre-
8 scribed by law or by regulations promulgated pursuant to law for
9 the filing thereof, shall be deemed to be filed on such last day.

10 (2) Return of withholding tax. For purposes of this section, if
11 a return of withholding tax for any period ending with or within
12 a calendar year is filed before April 15 of the succeeding calendar
13 year, such return shall be deemed to be filed on April 15 of such
14 succeeding calendar year.

15 (c) Exceptions.

16 (1) Assessment at any time. The tax may be assessed at any
17 time if—

18 (A) No return is filed,

19 (B) A false or fraudulent return is filed with intent to evade
20 tax, or

21 (C) The taxpayer fails to comply with section 54A:8-7, in
22 not reporting a change or correction increasing his Federal
23 taxable income as reported on his Federal income tax return,
24 or in not reporting a change or correction which is treated in
25 the same manner as if it were a deficiency for Federal income
26 tax purposes, or in not filing an amended return.

27 (2) Extension by agreement. Where, before the expiration of
28 the time prescribed in this section for the assessment of tax, both
29 the director and the taxpayer have consented in writing to its
30 assessment after such time, the tax may be assessed at any time
31 prior to the expiration of the period agreed upon. The period so
32 agreed upon may be extended by subsequent agreements in writing
33 made before the expiration of the period previously agreed upon.

34 (3) Report of changed or corrected Federal income. If the tax-
35 payer shall, pursuant to section 54A:8-7, report a change or cor-

36 rection or file an amended return increasing his Federal taxable
37 income or report a change or correction which is treated in the
38 same manner as if it were a deficiency for Federal income tax
39 purposes, the assessment (if not deemed to have been made upon
40 the filing of the report or amended return) may be made at any
41 time within 2 years after such report or amended return was filed.
42 The amount of such assessment of tax shall not exceed the amount
43 of the increase in New Jersey tax attributable to such Federal
44 change or correction. The provisions of this paragraph shall not
45 affect the time within which or the amount for which an assessment
46 may otherwise be made.

47 (4) Recovery of erroneous refund. An erroneous refund shall be
48 considered an underpayment of tax on the date made, and an
49 assessment of a deficiency arising out of an erroneous refund may
50 be made at any time within 3 years from the making of the refund,
51 except that the assessment may be made within 5 years from the
52 making of the refund if it appears that any part of the refund was
53 induced by fraud or misrepresentation of a material fact.

54 (5) Request for prompt assessment. If a return is required for a
55 decedent or for his estate during the period of administration, the
56 tax shall be assessed within 18 months after written request
57 therefor (made after the return is filed) by the executor, admini-
58 strator or other person representing the estate of such decedent,
59 but not more than 3 years after the return was filed, except as
60 otherwise provided in this subsection and subsection (d).

61 (d) Omission of income on return. The tax may be assessed at
62 any time within 6 years after the return was filed if—

63 (1) An individual omits from his New Jersey income an amount
64 properly includible therein which is in excess of 25% of the amount
65 of New Jersey income stated in the return; or

66 (2) An estate or trust omits income from its return in an amount
67 in excess of 25% of its income determined as if it were an individual,
68 computing his New Jersey income under this act.

69 For purposes of this subsection there shall not be taken into
70 account any amount which is omitted in the return if such amount
71 is disclosed in the return, or in a statement attached to the return,
72 in a manner adequate to apprise the director of the nature and
73 amount of such item.

74 (e) Suspension of running of period of limitation. The running
75 of the period of limitations on assessment or collection of tax or
76 other amount (or of a transferee's liability) shall, after the mailing
77 of a notice of deficiency, be suspended for the period during which

78 the director is prohibited under subsection (c) of section 54A:9-2
79 from making the assessment or from collecting by levy.

1 54A:9-5. Interest on underpayment. (a) General. If any amount
2 of income tax is not paid on or before the last date prescribed in
3 this act for payment, interest on such amount at the rate of 9%
4 per annum shall be paid for the period from such last date to the
5 date paid, whether or not any extension of time for payment was
6 granted. Interest under this subsection shall not be paid if the
7 amount thereof is less than \$1.00. If the time for filing of a return
8 of tax withheld by an employer is extended, the employer shall
9 pay interest for the period for which the extension is granted and
10 may not charge such interest to the employee.

11 (b) Exception as to estimated tax. This section shall not apply
12 to any failure to pay estimated tax under section 54A:8-5.

13 (c) Exception for mathematical error. No interest shall be im-
14 posed on any underpayment of tax due solely to mathematical
15 error if the taxpayer files a return within the time prescribed in
16 this act (including any extension of time) and pays the amount of
17 underpayment within 3 months after the due date of such return,
18 as it may be extended.

19 (d) No interest on interest. No interest under this act shall be
20 imposed on any interest provided by this act.

21 (e) Suspension of interest on deficiencies. If a waiver of restric-
22 tions on assessment of a deficiency has been filed by the taxpayer,
23 and if notice and demand by the director for payment of such
24 deficiency is not made within 30 days after the filing of such waiver,
25 interest shall not be imposed on such deficiency for the period
26 beginning immediately after such thirtieth day and ending with
27 the date of notice and demand.

28 (f) Interest treated as tax. Interest under this section shall be
29 paid upon notice and demand and shall be assessed, collected and
30 paid in the same manner as income tax. Any reference in this act
31 to the tax imposed by this act shall be deemed also to refer to
32 interest imposed by this section on such tax.

33 (g) Interest on penalties or additions to tax. Interest shall be
34 imposed under subsection (a) in respect of any assessable penalty
35 or addition to tax only if such assessable penalty on addition to
36 tax is not paid within 10 days from the date of the notice and
37 demand therefor under subsection (b) of section 54A:9-12, and in
38 such case interest shall be imposed only for the period from such
39 date of the notice and demand to the date of payment.

40 (h) Payment prior to notice of deficiency. If, prior to the mail-

41 ing to the taxpayer of a notice of deficiency under subsection (b)
42 of section 54A :9-2, the director mails to the taxpayer a notice of
43 proposed increase of tax and within 30 days after the date of the
44 notice of proposed increase the taxpayer pays all amounts shown
45 on the notice to be due to the director, no interest under this section
46 on the amount so paid shall be imposed for the period after the
47 date of such notice of proposed increase.

48 (i) Payment within 10 days after notice and demand. If notice
49 and demand is made for payment of any amount under subsection
50 (b) of section 54A :9-12, and if such amount is paid within 10 days
51 after the date of such notice and demand, interest under this section
52 on the amount so paid shall not be imposed for the period after
53 the date of such notice and demand.

54 (j) Limitation on assessment and collection. Interest prescribed
55 under this section may be assessed and collected at any time dur-
56 ing the period within which the tax or other amount to which such
57 interest relates may be assessed and collected, respectively.

58 (k) Interest on erroneous refund. Any portion of tax or other
59 amount which has been erroneously refunded, and which is recover-
60 able by the director, shall bear interest at the rate of 9% per annum
61 from the date of the payment of the refund, but only if it appears
62 that any part of the refund was induced by fraud or a misrepre-
63 sentation of a material fact.

64 (l) Satisfaction by credits. If any portion of a tax is satisfied
65 by credit of an overpayment, then no interest shall be imposed
66 under this section on the portion of the tax so satisfied for any
67 period during which, if the credit had not been made, interest would
68 have been allowable with respect to such overpayment.

1 54A :9-6. Additions to tax and civil penalties. (a) Failure to file
2 tax return. In case of failure to file a tax return under this act on
3 or before the prescribed date (determined with regard to any ex-
4 tension of time for filing), unless it is shown that such failure is
5 due to reasonable cause and not due to willful neglect, there shall
6 be added to the amount required to be shown as tax on such return
7 such amount as is required under the State Tax Uniform Procedure
8 Law, Subtitle 9 of Title 54 of the Revised Statutes. For this
9 purpose, the amount of tax required to be shown on the return
10 shall be reduced by the amount of any part of the tax which
11 is paid on or before the date prescribed for payment of the tax
12 and by the amount of any credit against the tax which may be
13 claimed upon the return.

14 (b) Deficiency due to negligence. If any part of a deficiency is
15 due to negligence or intentional disregard of this act or rules or
16 regulations hereunder (but without intent to defraud), there shall
17 be added to the tax an amount equal to 5% of the deficiency.

18 (c) Failure to file declaration or underpayment of estimated tax.
19 If any taxpayer fails to file a declaration of estimated tax or fails
20 to pay all or any part of an installment of estimated tax, he shall
21 be deemed to have made an underpayment of estimated tax. There
22 shall be added to the tax for the taxable year an amount at the
23 rate of 9% per annum upon the amount of the underpayment for
24 the period of the underpayment but not beyond the fifteenth day
25 of the fourth month following the close of the taxable year. The
26 amount of underpayment shall be the excess of the amount of the
27 installment which would be required to be paid if the estimated
28 tax were equal to 80% of the tax (two-thirds of the tax for farmers
29 referred to in subsection (e) of section 54A :8-4) shown on the re-
30 turn for the taxable year (or if no return was filed, of the tax for
31 such year) over the amount, if any, of the installment paid on or
32 before the last day prescribed for such payment. No underpayment
33 shall be deemed to exist with respect to a declaration or installment
34 otherwise due on or after the taxpayer's death.

35 (d) Exception to addition for underpayment of estimated tax.
36 The addition to tax under subsection (c) with respect to any under-
37 payment of any installment, shall not be imposed if the total amount
38 of all payments of estimated tax made on or before the last date
39 prescribed for the payment of such installment equals or exceeds
40 whichever of the following is the lesser—

41 (1) The amount which would have been required to be paid on
42 or before such date if the estimated tax were whichever of the
43 following is the least—

44 (A) The tax shown on the return of the individual for the
45 preceding taxable year, if a return showing a liability for tax
46 was filed by the individual for the preceding taxable year and
47 such preceding year was a taxable year of 12 months, or

48 (B) An amount equal to the tax computed, at the rates appli-
49 cable to the taxable year, on the basis of the taxpayer's status
50 with respect to his personal exemptions for the taxable year,
51 but otherwise on the basis of the facts shown on his return for,
52 and the law applicable to, the preceding taxable year, or

53 (C) An amount equal to 80% of the tax for the taxable year
54 (two-thirds of the tax for farmers referred to in subsection (e)
55 of section 54A :8-4) computed by placing on an annualized basis

56 the income for the months in the taxable year ending before the
57 month in which the installment is required to be paid. For
58 purposes of this subparagraph, the income shall be placed on
59 an annualized basis by—

60 (i) Multiplying by 12 (or, in the case of a taxable year of
61 less than 12 months, the number of months in the taxable
62 year) the income for the months in the taxable year ending
63 before the month in which the installment is required to be
64 paid,

65 (ii) Dividing the resulting amount by the number of
66 months in the taxable year ending before the month in which
67 such installment date falls, and

68 (iii) Deducting from such amount the deductions for per-
69 sonal exemptions allowable for the taxable year (such per-
70 sonal exemptions being determined as of the last date pre-
71 scribed for payment of the installment); or

72 (2) An amount equal to 90% of the tax computed, at the rates
73 applicable to the taxable year, on the basis of the actual income
74 for the months in the taxable year ending before the month in
75 which the installment is required to be paid.

76 (e) Deficiency due to fraud. If any part of a deficiency is due
77 to fraud, there shall be added to the tax an amount equal to 50%
78 of the deficiency. This amount shall be in lieu of any other addition
79 to tax imposed by subsection (a) or (b).

80 (f) Non willful failure to pay withholding tax. If any employer,
81 without intent to evade or defeat any tax imposed by this act or the
82 payment thereof, shall fail to make a return and pay a tax withheld
83 by him at the time required by or under the provisions of section
84 54A:7-4, such employer shall be liable for such tax and shall pay
85 the same together with interest thereon and the addition to tax
86 provided in subsection (a), and such interest and addition to tax
87 shall not be charged to or collected from the employee by the
88 employer. The director shall have the same rights and powers for
89 the collection of such tax, interest and addition to tax against such
90 employer as are now prescribed by this act for the collection of tax
91 against an individual taxpayer.

92 (g) Willful failure to collect and pay over tax. Any person
93 required to collect, truthfully account for, and pay over the tax
94 imposed by this act who willfully fails to collect such tax or truth-
95 fully account for and pay over such tax or willfully attempts in any
96 manner to evade or defeat the tax or the payment thereof, shall, in
97 addition to other penalties provided by law, be liable to a penalty

98 equal to the total amount of the tax evaded, or not collected, or
99 not accounted for and paid over. No addition to tax under sub-
100 sections (b) or (c) shall be imposed for any offense to which this
101 subsection applies.

102 (h) Failure to file certain information returns. In case of each
103 failure to file a statement of a payment to another person, required
104 under authority of subsection (c) of section 54A:8-6 (relating to
105 information at source, including the duplicate statement of tax
106 withheld on wages) on the date prescribed therefor (determined
107 with regard to any extension of time for filing), unless it is shown
108 that such failure is due to reasonable cause and not to willful
109 neglect, there shall, upon notice and demand by the director and in
110 the same manner as tax, be paid by the person so failing to file the
111 statement, a penalty of \$1.00 for each statement not so filed, but
112 the total amount imposed on the delinquent person for all such
113 failures during any calendar year shall not exceed \$1,000.00.

114 (i) Additional penalty. Any person who with fraudulent intent
115 shall fail to pay, or to deduct or withhold and pay, any tax, or to
116 make, render, sign or certify any return or declaration of esti-
117 mated tax or to supply any information within the time required
118 by or under this act, shall be liable to penalty of not more than
119 \$1,000.00, in addition to any other amounts required under this act,
120 to be imposed, assessed and collected by the director. The director
121 shall have the power, in his discretion, to waive, reduce or compro-
122 mise any penalty under this subsection.

123 (j) Additions treated as tax. The additions to tax and penalties
124 provided by this section shall be paid upon notice and demand and
125 shall be assessed, collected and paid in the same manner as taxes
126 and any reference in this act to income tax or tax imposed by this
127 act, shall be deemed also to refer to the additions to tax and pen-
128 alties provided by this section. For purposes of section 54A:9-2,
129 this subsection shall not apply to:

130 (1) Any addition to tax under subsection (a) except as to that
131 portion attributable to a deficiency;

132 (2) Any addition to tax under subsection (e); and

133 (3) Any additional penalty under subsection (i).

134 (k) Determination of deficiency. For purposes of subsections
135 (b) and (c), the amount shown as the tax by the taxpayer upon his
136 return shall be taken into account in determining the amount of the
137 deficiency only if such return was filed on or before the last day
138 prescribed for the filing of such return, determined with regard to
139 any extension of time for such filing.

140 (l) Person defined. For purposes of subsections (g) and (i), the
141 term person includes an individual, corporation or partnership or
142 an officer or employee of any corporation (including a dissolved
143 corporation) or a member or employee of any partnership, who
144 as such officer, employee, or member is under a duty to perform
145 the act in respect of which the violation occurs.

1 54A:9-7. Overpayment. (a) General. The director, within the
2 applicable period of limitations may credit an overpayment of
3 income tax against any liability in respect of any tax imposed by
4 the tax law on the person who made the overpayment, and the
5 balance shall be refunded by the comptroller out of the proceeds
6 of the tax retained by him for such general purpose. Any refund
7 under this section shall be made only upon the filing of a return
8 and upon a certificate of the director approved by the comptroller.
9 The State Treasurer, as a condition precedent to the approval of
10 such a certificate, may examine into the facts as disclosed by the
11 return of the person who made the overpayment and other informa-
12 tion and data available in the files of the director.

13 (b) Excessive withholding. If the amount allowable as a credit
14 for tax withheld from the taxpayer exceeds his tax to which the
15 credit relates, the excess shall be considered an overpayment.

16 (c) Overpayment by employer. If there has been an overpay-
17 ment of tax required to be deducted and withheld under section
18 54A:7-4, refund shall be made to the employer only to the extent
19 that the amount of the overpayment was not deducted and withheld
20 by the employer.

21 (d) Credits against estimated tax. The director may prescribe
22 regulations providing for the crediting against the estimated in-
23 come tax for any taxable year of the amount determined to be an
24 overpayment of the income tax for a preceding taxable year. If
25 any overpayment of income tax is so claimed as a credit against
26 estimated tax for the succeeding taxable year, such amount shall
27 be considered as a payment of the income tax for the succeeding
28 taxable year (whether or not claimed as a credit in the declaration
29 of estimated tax for such succeeding taxable year), and no claim
30 for credit or refund of such overpayment shall be allowed for the
31 taxable year for which the overpayment arises.

32 (e) Rule where no tax liability. If there is no tax liability for
33 a period in respect of which an amount is paid as income tax, such
34 amount shall be considered an overpayment.

35 (f) Under regulations prescribed by the director with approval
36 of the State Treasurer interest shall be allowed and paid at the rate

37 of 6% per annum upon any overpayment in respect of the tax im-
38 posed by this act; but no interest shall be allowed or paid on an
39 overpayment of less than \$1.00, nor upon any overpayment
40 refunded within 6 months after the last date prescribed, or per-
41 mitted by extension of time, for filing the return or within 6 months
42 after the return is filed, whichever is later.

1 54A:9-8. Limitations on credit or refund. (a) General. Claim
2 for credit or refund of an overpayment of income tax shall be filed
3 by the taxpayer within 3 years from the time the return was filed or
4 2 years from the time the tax was paid, whichever of such periods
5 expires the later, or if no return was filed, within 2 years from the
6 time the tax was paid. If the claim is filed within the 3-year period,
7 the amount of the credit or refund shall not exceed the portion of
8 the tax paid within the 3 years immediately preceding the filing of
9 the claim plus the period of any extension of time for filing the
10 return. If the claim is not filed within the 3-year period, but is filed
11 within the 2-year period, the amount of the credit or refund shall
12 not exceed the portion of the tax paid during the 2 years immedi-
13 ately preceding the filing of the claim. Except as otherwise pro-
14 vided in this section, if no claim is filed, the amount of a credit or
15 refund shall not exceed the amount which would be allowable if a
16 claim had been filed on the date the credit or refund is allowed.

17 (b) Extension of time by agreement. If an agreement under the
18 provisions of paragraph (2) of subsection (c) of section 54A:9-4
19 (extending the period for assessment of income tax) is made within
20 the period prescribed in subsection (a) for the filing of a claim for
21 credit or refund, the period for filing a claim for credit or refund,
22 or for making credit or refund if no claim is filed, shall not expire
23 prior to 6 months after the expiration of the period within which
24 an assessment may be made pursuant to the agreement or any
25 extension thereof. The amount of such credit or refund shall not
26 exceed the portion of the tax paid after the execution of the agree-
27 ment and before the filing of the claim or the making of the credit
28 or refund, as the case may be, plus the portion of the tax paid within
29 the period which would be applicable under subsection (a) if a
30 claim had been filed on the date the agreement was executed.

31 (c) Notice of change or correction of Federal income. If a tax-
32 payer is required by section 54A:8-7 to report a change or
33 correction in Federal taxable income reported on his Federal
34 income tax return, or to report a change or correction which
35 is treated in the same manner as if it were an overpayment
36 for Federal income tax purposes, or to file an amended return with

37 the director, claim for credit or refund of any resulting overpay-
38 ment of tax shall be filed by the taxpayer within 2 years from the
39 time the notice of such change or correction or such amended re-
40 turn was required to be filed with the director. The amount of such
41 credit or refund shall not exceed the amount of the reduction in
42 tax attributable to such Federal change, correction or items
43 amended on the taxpayer's amended Federal income tax return.
44 This subsection shall not affect the time within which or the amount
45 for which a claim for credit or refund may be filed apart from this
46 subsection.

47 (d) Failure to file claim within prescribed period. No credit or
48 refund shall be allowed or made, except as provided in subsection
49 (e) of this section or subsection (d) of section 54A:9-10, after the
50 expiration of the applicable period of limitation specified in this
51 act, unless a claim for credit or refund is filed by the taxpayer
52 within such period. Any later credit shall be void and any later
53 refund erroneous. No period of limitations specified in any other
54 law shall apply to the recovery by a taxpayer of moneys paid in
55 respect of taxes under this act.

56 (e) Effect of petition to director. If a notice of deficiency for a
57 taxable year has been mailed to the taxpayer under section 54A:9-2
58 and if the taxpayer files a timely petition with the director under
59 section 54A:9-9, he may determine that the taxpayer has made an
60 overpayment for such year (whether or not he also determines a
61 deficiency for such year). No separate claim for credit or refund
62 for such year shall be filed, and no credit or refund for such year
63 shall be allowed or made, except—

64 (1) As to overpayments determined by a decision of the director
65 which has become final; and

66 (2) As to any amount collected in excess of an amount computed
67 in accordance with the decision of the director which has become
68 final; and

69 (3) As to any amount claimed as a result of a change or correc-
70 tion described in subsection (e).

71 (f) Limit on amount of credit or refund. The amount of over-
72 payment determined under subsection (e) shall, when the decision
73 of the director has become final, be credited or refunded in ac-
74 cordance with subsection (a) of section 54A:6-6 and shall not
75 exceed the amount of tax which the director determines as part
76 of his decision was paid—

77 (1) After the mailing of the notice of deficiency; or

78 (2) Within the period which would be applicable under subsec-

79 tions (a), (b) or (c), if on the date of the mailing of the notice of
80 a deficiency a claim had been filed (whether or not filed) stating the
81 grounds upon which the director finds that there is an overpayment.

82 (g) Early return. For purposes of this section, any return filed
83 before the last day prescribed for the filing thereof shall be con-
84 sidered as filed on such last day, determined without regard to any
85 extension of time granted the taxpayer.

86 (h) Prepaid income tax. For purposes of this section, any tax
87 paid by the taxpayer before the last day prescribed for its payment,
88 any income tax withheld from the taxpayer during any calendar
89 year, and any amount paid by the taxpayer as estimated income tax
90 for a taxable year shall be deemed to have been paid by him on the
91 fifteenth day of the fourth month following the close of his taxable
92 year with respect to which such amount constitutes a credit or
93 payment.

94 (i) Return and payment of withholding tax. Notwithstanding
95 subsection (h), for purposes of this section with respect to any
96 withholding tax—

97 (1) If a return for any period ending with or within a calendar
98 year is filed before April 15 of the succeeding calendar year, such
99 return shall be considered filed on April 15 of such succeeding
100 calendar year; and

101 (2) If a tax with respect to remuneration paid during any period
102 ending with or within a calendar year is paid before April 15 of the
103 succeeding calendar year, such tax shall be considered paid on
104 April 15 of such succeeding calendar year.

1 54A:9-9. Petition to director. (a) General. The form of a peti-
2 tion to the director, and further proceedings before the director in
3 any case initiated by the filing of a petition, shall be governed by
4 such rules as the director shall prescribe. No petition shall be
5 deemed in whole or in part without opportunity for a hearing on
6 reasonable prior notice. Such hearing shall be conducted by the
7 director, or by a hearing officer designated by him to take evidence
8 and report to the director. The director shall decide the case as
9 quickly as practicable. Notice of the decision shall be mailed
10 promptly to the taxpayer at his last known address, and such notice
11 shall set forth the director's findings of fact and a brief statement
12 of the grounds of decision in each case decided in whole or in part
13 adversely to the taxpayer.

14 (b) Petition for redetermination of a deficiency. Within 90 days,
15 or 150 days if the notice is addressed to a person outside of the

16 United States, after the mailing of the notice of deficiency autho- 58
17 rized by section 54A:9-2, the taxpayer may file a petition with the 59
18 director for a redetermination of the deficiency. Such petition may 60
19 also assert a claim for refund for the same taxable year or years, 61
20-21 subject to the limitations of subsection (f) of section 54A:9-8. 62

22 (c) Petition for refund. A taxpayer may file a petition with the 63
23 director for the amounts asserted in a claim for refund if— 64

24 (1) The taxpayer has filed a timely claim for refund with the 65
25 director; 66

26 (2) The taxpayer has not previously filed with the director a 67
27 timely petition under subsection (b) for the same taxable year 68
28 unless the petition under this subsection relates to a separate claim 69
29 for credit or refund properly filed under subsection (e) of section 70
30 54A:9-8; and 71

31 (3) Either (A) 6 months have expired since the claim was filed, 72
32 or (B) the director has mailed to the taxpayer a notice of disallow- 73
33 ance of such claim in whole or in part. 74

34 No petition under this subsection shall be filed more than 2 years 75
35 after the date of mailing of a notice of disallowance, unless prior to 76
36 the expiration of such 2-year period it has been extended by written 77
37 agreement between the taxpayer and the director. If a taxpayer 78
38 files a written waiver of the requirement that he be mailed a notice 79
39 of disallowance, the 2-year period prescribed by this subsection for 80
40 filing a petition for refund shall begin on the date such waiver is 81
41 filed. 82

42 (d) Assertion of deficiency after filing petition.— 83

43 (1) Petition for redetermination of deficiency. If a taxpayer 84
44 files with the director a petition for redetermination of a defi- 85
45 ciency, the director shall have power to determine a greater 86
46 deficiency than asserted in the notice of deficiency and to deter- 87
47 mine if there should be assessed any addition to tax or penalty 88
48 provided in section 54A:9-6, if claim therefor is asserted at or 89
49 before the hearing under rules of the director. 90

50 (2) Petition for refund. If the taxpayer files with the director a 91
51 petition for credit or refund for a taxable year, the director may 92

52 (A) Determine a deficiency for such year as to any amount 93
53 of deficiency asserted at or before the hearing under rules of 94
54 the director, and within the period in which an assessment 95
55 would be timely under section 54A:9-4, or 96

56 (B) Deny so much of the amount for which credit or refund 97
57 is sought in the petition, as is offset by other issues pertaining

58 to the same taxable year which are asserted at or before the
59 hearing under rules of the director.

60 (3) Opportunity to respond. A taxpayer shall be given a reason-
61 able opportunity to respond to any matters asserted by the director
62 under this subsection.

63 (4) Restriction on further notices of deficiency. If the taxpayer
64 files a petition with the director under this section, no notice of
65 deficiency under section 54A:9-2 may thereafter be issued by the
66 director for the same taxable year, except in case of fraud or with
67 respect to a change or correction in Federal taxable income re-
68 quired to be reported under section 54A:8-7.

69 (e) Burden of proof. In any case before the director under this
70 act, the burden of proof shall be upon the petitioner except for the
71 following issues, as to which the burden of proof shall be upon the
72 director:

73 (1) Whether the petitioner has been guilty of fraud with intent
74 to evade tax;

75 (2) Whether the petitioner is liable as the transferee of property
76 of a taxpayer, but not to show that the taxpayer was liable for the
77 tax; and

78 (3) Whether the petitioner is liable for any increase in a
79 deficiency where such increase is asserted initially after a notice of
80 deficiency was mailed and a petition under this section filed, unless
81 such increase in deficiency is the result of a change or correction of
82 Federal taxable income required to be reported under section
83 54A:8-7, and of which change or correction the director had no
84 notice at the time he mailed the notice of deficiency.

85 (f) Evidence of related Federal determination. Evidence of a
86 Federal determination relating to issues raised in a case before the
87 director under this section shall be admissible, under rules estab-
88 lished by the director.

89 (g) Jurisdiction over other years. The director shall consider
90 such facts with relation to the taxes for other years as may be
91 necessary correctly to determine the tax for the taxable year, but
92 in so doing shall have no jurisdiction to determine whether or not
93 the tax for any other year has been overpaid or underpaid.

1 54A:9-10. Review of director's decision. (a) Appeal to Division
2 of Tax Appeals. Any aggrieved taxpayer may, within 4 months
3 after any decision, order, finding, assessment or action of the
4 Director of Taxation made pursuant to the provisions of this act,
5 appeal therefrom to the Division of Tax Appeals, by filing a peti-
6 tion of appeal with said Division of Tax Appeals in the manner
7 and form prescribed by the said Division of Tax Appeals.

8 (b) Appeal exclusive remedy of taxpayer. The appeal provided
9 by this section shall be the exclusive remedy available to any tax- 19
10 payer for review of a decision of the director in respect of the 20
11 determination of the liability of the taxpayer for the taxes imposed 21
12 by this act. 22

13 (c) Credit, refund or abatement after review. If the amount of 23
14 a deficiency determined by the director is disallowed in whole or in 24
15 part, the amount so disallowed shall be credited or refunded to the 25
16 taxpayer, without the making of claim therefor, or, if payment has 26
17 not been made, shall be abated. 27

18 (d) Date of finality of director's decision. A decision of the 28
19 director shall become final upon the expiration of the period 29
20 specified in subsection (a) for filing a petition of appeal, if no such 30
21 petition has been filed within such time, or if such petition has been 31
22 duly made, upon expiration of the time for all further appeals, or 3
23 upon the rendering by the director of a decision in accordance with 3
24 the mandate of the Division of Tax Appeals or the courts on appeal. 3
25 Notwithstanding the foregoing, for the purpose of forming a peti- 3
26 tion of appeal, the decision of the director shall be deemed final on
27 the date the notice of decision is sent by mail to the taxpayer.

28 (e) Judicial review. The judgment or order of the Division of
29 Tax Appeals respecting any matter arising under the provisions
30 of this act may be reviewed by a proceeding in lieu of prerogative
31 writ in the same manner as other judgments of said division.

1 54A :9-11. Mailing rules; holidays. (a) Timely mailing. If any
2 claim, statement, notice, petition, or other document (including to
3 the extent authorized by the director, a return or a declaration of
4 estimated tax) required to be filed within a prescribed period or on
5 or before a prescribed date under authority of any provision of this
6 act is, after such period or such date, delivered by United States
7 mail to the director, bureau, office, officer or person with which or
8 with whom such document is required to be filed, the date of the
9 United States postmark stamped on the envelope shall be deemed
10 to be the date of delivery. This subsection shall apply only if the
11 postmark date falls within the prescribed period or on or before
12 the prescribed date for the filing of such document, determined with
13 regard to any extension granted for such filing, and only if such
14 document was deposited in the mail, postage prepaid, properly
15 addressed to the director, bureau, office, officer or person with which
16 or with whom the document is required to be filed. If any document
17 is sent by United States registered mail, such registration shall be
18 prima facie evidence that such document was delivered to the

19 director, bureau, office, officer or person to which or to whom
20 addressed. To the extent that the director shall prescribe by
21 regulation, certified mail may be used in lieu of registered mail
22 under this section. This subsection shall apply to the case of post-
23 marks not made by the United States Post Office only if and to
24 the extent provided by regulations of the director.

25 (b) Last known address. For purposes of this act, a taxpayer's
26 last known address shall be the address given in the last return
27 filed by him, unless subsequently to the filing of such return the tax-
28 payer shall have notified the director of a change of address.

29 (c) Last day a Saturday, Sunday or legal holiday. When the
30 last day prescribed under authority of this act (including any
31 extension of time) for performing any act falls on Saturday, Sun-
32 day, or a legal holiday in the State of New Jersey, the performance
33 of such act shall be considered timely if it is performed on the next
34 succeeding day which is not a Saturday, Sunday or a legal holiday.

1 54A :9-12. Collection, levy and liens. (a) Collection procedures.
2 The taxes imposed by this act shall be collected by the director, and
3 he may establish the mode or time for the collection of any amount
4 due him under this act if not otherwise specified. The director
5 shall, upon request, give a receipt for any sum collected under this
6 act. The director may authorize banks or trust companies which
7 are depositaries or financial agents of the State to receive and give
8 a receipt for any tax imposed under this act in such manner, at such
9 times, and under such conditions as the director may prescribe; and
10 the director shall prescribe the manner, times and conditions under
11 which the receipt of such tax by such banks and trust companies
12 is to be treated as payment of such tax to the director.

13 (b) Notice and demand for tax. The director shall as soon as
14 practicable give notice to each person liable for any amount of tax,
15 addition to tax, penalty or interest, which has been assessed but
16 remains unpaid, stating the amount and demanding payment
17 thereof. Such notice shall be left at the dwelling or usual place of
18 business of such person or shall be sent by mail to such person's
19 last known address. Except where the director determines that
20 collection would be jeopardized by delay, if any tax is assessed prior
21 to the last date (including any date fixed by extension) prescribed
22 for payment of such tax, payment of such tax shall not be demanded
23 until after such date.

24 (c) Issuance of Certificate of Debt after notice and demand. If
25 any person liable under this act for the payment of any tax, addition
26 to tax, penalty or interest neglects or refuses to pay the same

27 within 10 days after the notice and demand therefor is given to
28 such person under subsection (b), the director may within 6 years
29 after the date of such assessment issue a certificate of debt, pur-
30 suant to the State Tax Uniform Procedure Law (Subtitle 9 of Title
31 54 of the Revised Statutes).

32 (d) Taxpayer not a resident. Where a notice and demand under
33 subsection (b) shall have been given to a taxpayer who is not then a
34 resident, and it appears to the director that it is not practicable to
35 find in this State property of the taxpayer sufficient to pay the
36 entire balance of tax or other amount owing by such taxpayer who
37 is not then a resident, the director may, in accordance with subsec-
38 tion (c), issue a certificate of debt. Thereupon the director may
39 authorize the institution of any action or proceeding to collect or
40 enforce the certificate of debt in any place and by any procedure
41 that a civil certificate of debt of the Superior Court of the State of
42 New Jersey could be collected or enforced. The director may also,
43 in his discretion, designate agents or retain counsel for the pur-
44 pose of collecting, outside the State of New Jersey, any unpaid
45 taxes, additions to tax, penalties or interest which have been
46 assessed under this act against taxpayers who are not residents of
47 this State, may fix the compensation of such agents and counsel to
48 be paid out of money appropriated or otherwise lawfully available
49 for payment thereof, and may require of them bonds or other
50 security for the faithful performance of their duties, in such form
51 and in such amount as the director shall deem proper and sufficient.

52 (e) Action by State for recovery of taxes. Action may be
53 brought by the Attorney General at the instance of the director in
54 the name of the State to recover the amount of any unpaid taxes,
55 additions to tax, penalties or interest which have been assessed
56 under this act within 6 years prior to the date the action is com-
57 menced.

58 (f) Actions for collection of tax. (1) At the request of the
59 Division of Taxation, the Attorney General may bring suit, in the
60 name of this State, in the appropriate court of any other state to
61 collect any tax legally due this State under this act.

62 (2) The courts of this State shall recognize and enforce liabilities
63 for taxes lawfully imposed by any other state, upon incomes, which
64 extends a like comity to this State, and the duly authorized officer
65 of any such state may sue for the collection of such a tax in the
66 courts of this State. A certificate by the secretary of state of such
67 other state that an officer suing for the collection of such a tax is
68 duly authorized to collect the same shall be conclusive proof of such
69 authority.

70 (3) For the purposes of this section, the words "tax" and
71 "taxes" shall include interest and penalties due under this act, and
72 liability for such interest or penalties or both, due under a taxing
73 statute of another state shall be recognized and enforced by the
74 courts of this State to the same extent that the laws of such other
75 state permit the enforcement in its courts of liability for such in-
76 terest or penalties or both, due under this act.

77 (g) Renewal and release of lien. Within 20 years from the date
78 of the filing or from the date of the last extension of the lien, the
79 lien may be extended by the filing of a new warrant with the county
80 recording officer. The director if he finds that the interests of the
81 State will not thereby be jeopardized, and upon such conditions
82 as he may require, may release any property from the lien of any
83 warrant for unpaid taxes, additions to tax, penalties and interest
84 filed pursuant to this section, and such release may be recorded in
85 the office of any recording officer in which such warrant has been
86 filed.

1 54A:9-13. Transferees. (a) General. The liability, at law or in
2 equity, of a transferee of property of a taxpayer for any tax, addi-
3 tions to tax, penalty or interest due the director under this act,
4 shall be assessed, paid, and collected in the same manner and sub-
5 ject to the same provisions and limitations as in the case of the tax
6 to which the liability relates, except that the period of limitations
7 for assessment against the transferee shall be extended by 1 year
8 for each successive transfer, in order, from the original taxpayer
9 to the transferee involved, but not by more than 3 years in the
10 aggregate. The term transferee includes, donee, heir, legatee,
11 devisee and distributee.

12 (b) Exceptions.

13 (1) If before the expiration of the period of limitations for
14 assessment of liability of the transferee, a claim has been filed by
15 the director in any court against the original taxpayer or the last
16 preceding transferee based upon the liability of the original tax-
17 payer, then the period of limitation for assessment of liability of
18 the transferee shall in no event expire prior to 1 year after such
19 claim has been finally allowed, disallowed or otherwise disposed of.

20 (2) If, before the expiration of the time prescribed in subsection
21 (a) or the immediately preceding paragraph of this subsection for
22 the assessment of the liability, the director and the transferee have
23 both consented in writing to its assessment after such time, the
24 liability may be assessed at any time prior to the expiration of the
25 period agreed upon. The period so agreed upon may be extended by

26 subsequent agreements in writing made before the expiration of
27 the period previously agreed upon. For the purpose of determining
28 the period of limitation on credit or refund to the transferee of
29 overpayments of tax made by such transferee or overpayments of
30 tax made by the transferor as to which the transferee is legally en-
31 titled to credit or refund, such agreement and any extension thereof
32 shall be deemed an agreement and extension thereof referred to in
33 subsection (b) of section 54A:9-8. If the agreement is executed
34 after the expiration of the period of limitation for assessment
35 against the original taxpayer, then in applying the limitations
36 under subsection (b) of section 54A:9-8 on the amount of the credit
37 or refund, the periods specified in subsection (a) of section
38 54A:9-8 shall be increased by the period from the date of such
39 expiration to the date of the agreement.

40 (c) Deceased transferor. If any person is deceased, the period
41 of limitation for assessment against him shall be the period that
42 would be in effect if he had lived.

43 (d) Evidence. Notwithstanding the provisions of R. S. 54:50-8
44 of the State Tax Uniform Procedure Law, Subtitle 9 of Title 54
45 of the Revised Statutes, the director shall use his powers to make
46 available to the transferee evidence necessary to enable the trans-
47 feree to determine the liability of the original taxpayer and of any
48 preceding transferees, but without undue hardship to the original
49 taxpayer or preceding transferee. See subsection (e) of section
50 54A:9-9 for rule as to burden of proof.

1 54A:9-14. Jeopardy assessment. (a) Authority for making. If
2 the director believes that the assessment or collection of a de-
3 ficiency will be jeopardized by delay, he shall, notwithstanding the
4 provisions of sections 54A:9-2 and 54A:9-16, immediately assess
5 such deficiency (together with all interests, penalties and additions
6 to tax provided for by law), and notice and demand shall be made
7 by the director for the payment thereof.

8 (b) Notice of deficiency. If the jeopardy assessment is made
9 before any notice in respect of the tax to which the jeopardy assess-
10 ment relates has been mailed under section 54A:9-2, then the
11 director shall mail a notice under such section within 60 days after
12 the making of the assessment.

13 (c) Amount assessable before decision of director. The jeopardy
14 assessment may be made in respect of a deficiency greater or less
15 than of which notice is mailed to the taxpayer and whether or not
16 the taxpayer has theretofore filed a petition with the director. The
17 director may, at any time before rendering his decision, abate such

18 assessment, or any unpaid portion thereof, to the extent that he
19 believes the assessment to be excessive in amount. The director
20 may in his decision redetermine the entire amount of the deficiency
21 and of all amounts assessed at the same time in connection there-
22 with.

23 (d) Amount assessable after decision of director. If the jeopardy
24 assessment is made after the decision of the director is rendered,
25 such assessment may be made only in respect of the deficiency
26 determined by the director in his decision.

27 (e) Expiration of right to assess. A jeopardy assessment may
28 not be made after the decision of the director has become final or
29 after the taxpayer has filed a petition with the Division of Tax
30 Appeals for review of the decision of the director.

31 (f) Collection of unpaid amounts. When a petition has been filed
32 with the director and when the amount which should have been
33 assessed has been determined by a decision of the director which
34 has become final, then any unpaid portion, the collection of which
35 has been stayed by bond, shall be collected as part of the tax upon
36 notice and demand from the director, and any remaining portion
37 of the assessment shall be abated. If the amount already collected
38 exceeds the amount determined as the amount which should have
39 been assessed, such excess shall be credited or refunded to the tax-
40 payer as provided in section 54A:9-7 without the filing of claim
41 therefor. If the amount determined as the amount which should
42 have been assessed is greater than the amount actually assessed,
43 then the difference shall be assessed and shall be collected as part
44 of the tax upon notice and demand from the director.

45 (g) Abatement if jeopardy does not exist. The director may
46 abate the jeopardy assessment if he finds that jeopardy does not
47 exist. Such abatement may not be made after a decision of the
48 director in respect of the deficiency has been rendered or, if no pe-
49 tition is filed with the director, after the expiration of the period
50 for filing such petition. The period of limitation on the making of
51 assessments and levy or a proceeding for collection, in respect of
52 any deficiency, shall be determined as if the jeopardy assessment
53 so abated had not been made, except that the running of such period
54 shall in any event be suspended for the period from the date of such
55 jeopardy assessment until the expiration of the tenth day after the
56 day on which such jeopardy assessment is abated.

57 (h) Bond to stay collection. The collection of the whole or any
58 amount of any jeopardy assessment may be stayed by filing with
59 the director, within such time as may be fixed by regulation, a bond

60 in an amount equal to the amount as to which the stay is desired,
61 conditioned upon the payment of the amount (together with in-
62 terest thereon) the collection of which is stayed at the time at which,
63 but for the making of the jeopardy assessment, such amount would
64 be due. Upon the filing of the bond the collection of so much of the
65 amount assessed as is covered by the bond shall be stayed. The
66 taxpayer shall have the right to waive such stay at any time in
67 respect of the whole or any part of the amount covered by the bond,
68 and if as a result of such waiver any part of the amount covered
69 by the bond is paid, then the bond shall at the request of the tax-
70 payer, be proportionately reduced. If any portion of the jeopardy
71 assessment is abated, or if a notice of deficiency under section
72 54A:9-2 is mailed to the taxpayer in a lesser amount, the bond
73 shall, at the request of the taxpayer, be proportionately reduced.

74 (i) Petition to director. If the bond is given before the taxpayer
75 has filed his petition under section 54A:9-9, the bond shall contain
76 a further condition that if a petition is not filed within the period
77 provided in such section, then the amount, the collection of which
78 is stayed by the bond, will be paid on notice and demand at any
79 time after the expiration of such period, together with interest
80 thereon from the date of the jeopardy notice and demand to the
81 date of notice and demand under this subsection. The bond shall
82 be conditioned upon the payment of so much of such assessment
83 (collection of which is stayed by the bond) as is not abated by a
84 decision of the director which has become final. If the director
85 determines that the amount assessed is greater than the amount
86 which should have been assessed, then the bond shall, at the re-
87 quest of the taxpayer, be proportionately reduced when the de-
88 cision of the director is rendered.

89 (j) Stay of sale of seized property pending director's decision.
90 Where a jeopardy assessment is made, the property seized for the
91 collection of the tax shall not be sold—

92 (1) If subsection (b) is applicable, prior to the issuance of the
93 notice of deficiency and the expiration of the time provided in sec-
94 tion 54A:9-9, for filing a petition with the director, and

95 (2) If a petition is filed with the director (whether before or
96 after the making of such jeopardy assessment), prior to the ex-
97 piration of the period during which the assessment of the deficiency
98 would be prohibited if subsection (a) were not applicable.

99 Such property may be sold if the taxpayer consents to the sale,
100 or if the director determines that the expenses of conservation and

101 maintenance will greatly reduce the net proceeds, or if the property
102 is perishable.

103 (k) Interest. For the purpose of subsection (a) of section
104 54A:9-5, the last date prescribed for payment shall be determined
105 without regard to any notice and demand for payment issued under
106 this section prior to the last date otherwise prescribed for such
107 payment.

108 (l) Early termination of taxable year. If the director finds that
109 a taxpayer designs quickly to depart from this State or to remove
110 his property therefrom, or to conceal himself or his property
111 therein, or to do any other act tending to prejudice or to render
112 wholly or partly ineffectual proceedings to collect the income tax
113 for the current or the preceding taxable year unless such proceed-
114 ings be brought without delay, the director shall declare the tax-
115 able period for such taxpayer immediately terminated, and shall
116 cause notice of such finding and declaration to be given the tax-
117 payer, together with a demand for immediate payment of the tax
118 for the taxable period so declared terminated and of the tax for
119 the preceding taxable year or so much of such tax as is unpaid,
120 whether or not the time otherwise allowed by law for filing return
121 and paying the tax has expired; and such taxes shall thereupon
122 become immediately due and payable. In any proceeding brought
123 to enforce payment of taxes made due and payable by virtue of
124 the provisions of this subsection, the finding of the director made
125 as herein provided, whether made after notice to the taxpayer or
126 not, shall be for all purposes presumptive evidence of jeopardy.

127 (m) Reopening of taxable period. Notwithstanding the termi-
128 nation of the taxable period of the taxpayer by the director, as
129 provided in subsection (l), the director may reopen such taxable
130 period each time the taxpayer is found by the director to have
131 received income, within the current taxable year, since the termi-
132 nation of such period. A taxable period so terminated by the di-
133 rector may be reopened by the taxpayer if he files with the director
134 a true and accurate return of taxable income and credits allowed
135 under this act for such taxable period, together with such other
136 information as the director may by regulations prescribe.

137 (n) Furnishing of bond where taxable year is closed by the
138 director. Payment of taxes shall not be enforced by any proceed-
139 ings under the provisions of subsection (l) prior to the expiration
140 of the time otherwise allowed for paying such taxes if the taxpayer
141 furnishes, under regulations prescribed by the director, a bond to
142 insure the timely making of returns with respect to, and payment
143 of, such taxes or any income taxes for prior years.

1 54A:9-15. Criminal penalties. (a) Attempt to evade tax. Any
2 individual, corporation or partnership or any officer or employee
3 of any corporation, or member or employee of any partnership,
4 who, with intent to evade any tax or any requirement of this act
5 or any lawful requirement of the director thereunder, shall fail to
6 pay the tax, or to make, render, sign or certify any return or
7 declaration of estimated income, or to supply any information
8 within the time required by or under the provisions of this act,
9 or who, with like intent, shall make, render, sign or certify any
10 false or fraudulent return, declaration or statement, or shall supply
11 any false or fraudulent information, or who shall fail to comply
12 with the provisions of subsection (b) of section 54A:7-4 after the
13 service of a notice by the director thereunder, shall be guilty of a
14 misdemeanor and shall, upon conviction, be fined not to exceed
15 \$5,000.00 or be imprisoned not to exceed 1 year, or both, at the
16 discretion of the court.

17 (b) Limitations. Notwithstanding the provisions of any other
18 law, a prosecution for any offense under this section may be com-
19 menced at any time not later than 5 years after the commission
20 of such offense provided that, if such offense is the failure to do
21 an act required by or under the provision of this act to be done
22 before a certain date, a prosecution for such offense may be com-
23 menced not later than 5 years after such date.

24 (c) Willful failure to withhold. Any individual, corporation or
25 partnership or any officer or employee of any corporation (includ-
26 ing a dissolved corporation), or member or employee of any part-
27 nership, who willfully fails to collect or pay over any withholding
28 tax as required, shall, in addition to other penalties provided by
29 law, be guilty of a misdemeanor, and, upon conviction thereof
30 shall be fined not to exceed \$5,000.00 or imprisoned not to exceed
31 1 year, or both.

32 (d) Two or more charges. In the prosecution of offenses under
33 this section, if there are two or more charges against any person
34 or corporation, involving a violation or violations of any provision
35 or provisions of this act, whether for the same or different taxable
36 years, instead of returning several indictments or filing several
37 informations, all of such charges may be joined in one indictment
38 or information, in separate counts, and if two or more indictments
39 are found, or two or more informations are filed, the court may
40 order them to be consolidated. If a person or corporation shall be
41 convicted of two or more offenses constituting different crimes
42 set forth in different counts of one indictment or information, or

43 in separate indictments or informations consolidated as herein-
44 before provided, the court may impose a separate sentence for
45 each offense, and if imprisonment is imposed, the court may order
46 any of such sentences to be served concurrently or consecutively.

47 (e) Miscellaneous rules. The failure to do any act required by
48 or under the provisions of this act shall be deemed an act committed
49 in part at the office of the director in Trenton. Any prosecution
50 under this section may be conducted in any county where the person
51 or corporation to whose tax liability the proceeding relates resides,
52 or has a place of business, or from which such person or corpora-
53 tion received any income, or in any county in which any such crime
54 is committed, or in the county of Mercer. The Attorney General
55 shall have concurrent jurisdiction with any prosecuting attorney
56 in the prosecution of any offenses under this section. If the pro-
57 visions of this section conflict with those contained in any other
58 law, this section shall control. The certificate of the director to
59 the effect that a tax has not been paid, that a return or declaration
60 of estimated tax has not been filed, or that information has not
61 been supplied, as required by or under the provisions of this act,
62 shall be prima facie evidence that such tax has not been paid, that
63 such return or declaration has not been filed, or that such informa-
64 tion has not been supplied. All fines levied under this section shall
65 be paid to the director and deposited in the same manner as
66 revenues collected or received under this act.

1 54A:9-16. Armed forces relief provisions. (a) Time to be
2 disregarded. In the case of an individual serving in the Armed
3 Forces of the United States, or serving in support of such armed
4 forces, in an area designated by the President of the United States
5 by executive order as a "combat zone" at any time during the
6 period designated by the president by executive order as the period
7 of combatant activities in such zone, or hospitalized outside the
8 State as a result of injury received while serving in such an area
9 during such time, the period of service in such area, plus the period
10 of continuous hospitalization outside the State attributable to such
11 injury, and the next 180 days thereafter, shall be disregarded in
12 determining, under this act, in respect of the income tax liability
13 (including any interest, penalty, or addition to the tax) of such
14 individual.

15 (1) Whether any of the following acts was performed within the
16 time prescribed therefor:

17 (A) Filing any return of income tax (except withholding
18 tax);

- 19 (B) Payment of any income tax (except withholding tax)
20 or any installment thereof or of any other liability to the State,
21 in respect thereof;
- 22 (C) Filing a petition with the director for credit or refund
23 or for redetermination of a deficiency, or application for review
24 of a decision rendered by the director;
- 25 (D) Allowance of a credit or refund of income tax;
- 26 (E) Filing a claim for credit or refund of income tax;
- 27 (F) Assessment of income tax;
- 28 (G) Giving or making any notice or demand for the payment
29 of any income tax, or with respect to any liability to the State
30 in respect of income tax;
- 31 (H) Collection, by the director, by levy or otherwise of the
32 amount of any liability in respect of income tax;
- 33 (I) Bringing suit by the State, or any officer, on its behalf,
34 in respect of any liability in respect of income tax; and
- 35 (J) Any other act required or permitted under this act or
36 specified in regulations prescribed under this section by the
37 director.

- 38 (2) The amount of any credit or refund (including interest).
- 39 (b) Action taken before ascertainment of right to benefits. The
40 assessment or collection of the tax imposed by this act or of any
41 liability to the State in respect of such tax, or any action or proceed-
42 ing by or on behalf of the State in connection therewith, may be
43 made, taken, begun, or prosecuted in accordance with law, without
44 regard to the provisions of subsection (a), unless prior to such
45 assessment, collection, action, or proceeding it is ascertained that
46 the person concerned is entitled to the benefits of subsection (a).
- 47 (c) Members of armed forces dying in action. In the case of any
48 person who dies during an induction period while in active service
49 as a member of the Armed Forces of the United States, if such
50 death occurred while serving in a combat zone during a period of
51 combatant activities in such zone, as described in subsection (a),
52 or as a result of wounds, disease or injury incurred while so serv-
53 ing, the tax imposed by this act shall not apply with respect to the
54 taxable year in which falls the date of his death, or with respect
55 to any prior taxable year ending on or after the first day he so
56 served in a combat zone, and no returns shall be required in behalf
57 of such person or his estate for such year, and the tax for any such
58 taxable year which is unpaid at the date of his death, including
59 interest, additions to tax and penalties, if any, shall not be assessed
60 and, if assessed, the assessment shall be abated and, if collected,

61 shall be refunded to the legal representative of his estate if one
62 has been appointed and has qualified, or, if no legal representative
63 has been appointed or has qualified, to his widow.

1 54A:9-17. General powers of the director. (a) General. The
2 director shall administer and enforce the tax imposed by this act
3 and is authorized to make such rules and regulations, and to require
4 such facts and information to be reported as he may deem necessary
5 to enforce the provisions of this act. The director may divide the
6 State into districts in each of which a branch office may be main-
7 tained by him, but in no case shall a county be divided in forming
8 a district.

9 (b) Delegation of powers. The director may delegate to any
10 officer or employee of his division such of his powers as he may
11 deem necessary to carry out efficiently the provisions of this act,
12 and the person or persons to whom such power has been delegated
13 shall possess and may exercise all of the power and perform all of
14 the duties herein conferred and imposed upon the director.

15 (c) Examination of books and witnesses. The director for the
16 purpose of ascertaining the correctness of any return, or for the
17 purpose of making an estimate of taxable income of any person,
18 shall have power to examine or to cause to have examined, by any
19 agent or representative designated by him for that purpose, any
20 books, papers, records or memoranda bearing upon the matters
21 required to be included in the return, and may require the attend-
22-23 ance of the person rendering the return or any officer or employee
24 of such person, or the attendance of any other person having
25 knowledge in the premises, and may take testimony and require
26 proof material for his information, with power to administer oaths
27 to such person or persons.

28 (d) Abatement authority. The director, on his own motion, may
29 abate any small unpaid balance of an assessment of income tax, or
30 any liability in respect thereof, if the director determines under
31 uniform rules prescribed by him that the administration and collec-
32 tion costs involved would not warrant collection of the amount due.
33 He may also abate, on his own motion, the unpaid portion of the
34 assessment of any tax or any liability in respect thereof, which is
35 excessive in amount, or is assessed after the expiration of the period
36 of limitation properly applicable thereto, or is erroneously or
37 illegally assessed. No claim for abatement under this subsection
38 shall be filed by a taxpayer.

39 (e) The Department of the Treasury, Division of Taxation,
40 may enter into an agreement with the taxing authorities of any

41 state which imposes a tax on or is measured by income to provide
42 that compensation paid in such state to residents of this State
43 shall be exempt from such tax; in such case any compensation paid
44 in this State to residents of such state shall be exempt from New
45 Jersey personal income tax. The Division, in such agreements,
46 may provide for reciprocal withholding, employer liability, ex-
47 change of information and all other matters relating to cooperation
48 between the states.

49 54A:9-17.1. Identifying numbers. (a) Supplying of identifying
50 numbers. When required by regulations prescribed by the
51 director:

52 (1) Inclusion in returns. Any person required under the author-
53 ity of this act to make a return, statement, or other document shall
54 include in such return, statement, or other document such identify-
55 ing number as may be prescribed for securing proper identification
56 of such person.

57 (2) Furnishing number to other person. Any person with
58 respect to whom a return, statement, or other document is required
59 under the authority of this act to be made by another person shall
60 furnish to such other person such identifying number as may be
61 prescribed for securing his proper identification.

62 (3) Furnishing number of another person. Any person required
63 under the authority of this act to make a return, statement, or
64 other document with respect to another person shall request from
65 such other person, and shall include in any such return, statement,
66 or other document, such identifying number as may be prescribed
67 for securing proper identification of such other person.

68 (b) Limitation. (1) Except as provided in paragraph (2), a
69 return of any person with respect to his liability for tax, or any
70 statement or other document in support thereof, shall not be con-
71 sidered for purposes of paragraphs (2) and (3) of subsection (a)
72 as a return, statement, or other document with respect to another
73 person.

74 (2) For purposes of paragraphs (2) and (3) of subsection (a),
75 a return of an estate or trust with respect to its liability for tax,
76 and any statement or other document in support thereof, shall be
77 considered as a return, statement, or other document with respect
78 to each beneficiary of such estate or trust.

79 (c) Requirement of information. For purposes of this section,
80 the director is authorized to require such information as may be
81 necessary to assign an identifying number to any person.

1 54A:9-18. Order to compel compliance. (a) Failure to file tax
2 return. If any person willfully refuses to file an income tax return
3 required by this act, the director may apply to a judge of the su-
4 perior court for an order directing such person to file the required
5 return. If a person fails or refuses to obey such order, he shall be
6 guilty of contempt of court.

7 (b) Failure to furnish records or testimony. If any person will-
8 fully refuses to make available any books, papers, records or
9 memoranda for examination by the director or his representative
10 or willfully refuses to attend and testify, pursuant to the powers
11 conferred on the director under this act, the director may apply to
12 a judge in the superior court in the county where such person
13 resides, for an order directing that person to comply with the
14 director's request for books, papers, records or memoranda or for
15 his attendance and testimony. If the books, papers, records or
16 memoranda required by the director are in the custody of a cor-
17 poration, the order of the court may be directed to any principal
18 officer of such corporation. If a person fails or refuses to obey
19 such order, he shall be guilty of contempt of court.

1 54A:9-19. Exercise of powers and duties of Division of Taxation
2 by director. All the powers, duties and responsibilities vested in the
3 Division of Taxation by this act shall be exercised by the director
4 thereof or his duly designated representative.

1 54A:9-20. Appropriation. There is hereby appropriated to the
2 Division of Taxation in the Department of the Treasury the sum of
3 \$5.0 million or so much thereof as shall be required to carry out
4 the provisions of this act from the effective date hereof through
5 the period ending June 30, 1977.

1 54A:9-21. Severability clause. If any provision of this act, or
2 any application of any provision, is held invalid, the invalidity shall
3 not affect other applications of the provision, or other provisions
4 of the act, which reasonably can be given effect despite the
5 invalidity.

1 54A:9-22. Repeal of emergency transportation tax act. (a)
2 Savings clause. Chapter 32, laws of 1961 (C. 54:8A-1 et seq.), as
3 amended, is hereby repealed, effective July 1, 1976 and shall be
4 inoperative with respect to income subject to tax, under said
5 act, paid or accrued on and after said date. Such repeal shall
6 not affect the obligation, lien or duty to pay any taxes, interest
7 or penalties which have accrued or may accrue by virtue of any

8 assessment made or which may be made with respect to taxes levied
9 for any taxable year prior to, July 1, 1976 nor shall this act
10 affect the legal authority to assess and collect taxes which may
11 be or have been due and payable under said chapter 32, laws
12 of 1961, as amended, together with such interest and penalties
13 as would have accrued thereon under any provision of law amended
14 or repealed hereby; nor shall this act invalidate any assessments or
15 affect any proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after July 1, 1976. A taxpayer
17 whose taxes have been withheld under chapter 32, laws of 1961,
18 as amended, on and after July 1, 1976 shall be entitled to a credit
19 against his tax liability under this act.

1 54A:9-23. Repeal of transportation benefits tax act. (a) Savings
2 clause. Chapter 222, laws of 1971 (C. 54:8A-58 et seq.), as
3 amended, is hereby repealed, effective July 1, 1976, and shall be
4 inoperative with respect to income subject to tax, under said act,
5 paid or accrued on and after said date. Such repeal shall not
6 affect the obligation, lien or duty to pay any taxes, interest or
7 penalties which have accrued or may accrue by virtue of any
8 assessment made or which may be made with respect to taxes
9 levied for any taxable year prior to July 1, 1976, nor shall
10 this act affect the legal authority to assess and collect taxes
11 which may be or have been due and payable under said chapter 222,
12 laws of 1971, as amended, together with such interest and penalties
13 as would have accrued thereon under any provision of law amended
14 or repealed hereby; nor shall this act invalidate any assessments
15 or affect any proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after July 1, 1976. A taxpayer
17 whose taxes have been withheld under chapter 222, laws of 1971,
18 as amended, on and after July 1, 1976 shall be entitled to a credit
19 against his tax liability under this act.

1 54A:9-24. Repeal of Tax on Capital Gains and Other Unearned
2 Income. Chapter 172, laws of 1975 (C. 54:8B-1 et seq.) is hereby
3 repealed, effective July 1, 1976, and shall be inoperative with
4 respect to capital gains and other unearned income subject to tax,
5 under said act, paid or accrued on and after said date. Such repeal
6 shall not affect the obligation, lien or duty to pay any taxes,
7 interest or penalties which have accrued or may accrue by virtue
8 of any assessment made or which may be made with respect to
9 taxes levied for any taxable year or part of a taxable year prior
10 to July 1, 1976, nor shall this act affect the legal authority to
11 assess and collect the taxes which may be or have been due and

12 payable under said chapter 172, laws of 1975 as amended, together
13 with such interest and penalties as would have accrued thereon
14 under any provision of law amended or repealed hereby; nor shall
15 this act invalidate any assessments or affect any proceeding for
16 the enforcement thereof. In the event of such repeal, the adjusted
17 gross income requirements and the personal exemptions allowed
18 shall be prorated according to the number of taxable months re-
19 quired to be reported divided by 12. The taxpayer may, at his
20 option, determine actual adjusted gross income for the period
21 required to be reported.

1 54A:9-25. Taxes collected under the provisions of this act
2 shall be deposited by the State Treasurer in a special account to
3 be known as the Property Tax Relief Fund. Moneys in the
4 Property Tax Relief Fund shall be annually appropriated, pur-
5 suant to formulas established from time to time by the Legislature,
6 to the several counties, municipalities and school districts of this
7 State exclusively for the purpose of "providing property tax
8 relief and for the purpose of" reducing or offsetting property
9 taxes, including the funding of the requirement of P. L. 1975, c. 212,
10 and homestead exemptions under 1976 Assembly Bill No. 1330, as
11 said acts may hereafter be amended or supplemented and provided
12 there may be deducted the administrative costs of the collection
13 hereof and in replacement of revenues resulting from the repeal of
14 certain laws under this and companion legislation.

1 54A:9-25.1. There is hereby established within the General
2 Treasury a special fund to be known as the "Gubernatorial General
3 Elections Fund." Where a taxpayer has indicated on a return filed
4 pursuant to this act that one dollar of his taxes is to be reserved
5 for such fund, the Treasurer shall credit such fund from the taxes
6 collected under the provisions of this act. The fund shall be avail-
7 able for appropriation pursuant to section 5 of P. L. 1974, c. 26
8 (C. 19:44A-30), provided however that establishment of the
9 "Gubernatorial General Elections Fund" shall in no way affect
10 the operation of said section.

11 Blank forms of return provided by the director for use in
12 reporting under this act shall include, in a conspicuous place, the
13 opportunity for a taxpayer to indicate his preference under this
14 section in substantially the following manner:

Yes No

<p>“Gubernatorial General Elections Fund”</p>	<p>Do you wish to designate \$1 of your taxes for this fund?</p>		
<p>NOTE: If you check the “Yes” box(es) it will not increase your tax or reduce your refund.</p>	<p>If joint return, does your spouse wish to designate \$1?</p>		

1 54A :9-26. Blank.

1 54A :9-27. Effective date. (a) This act shall take effect im-
 2 mediately and shall be applicable with respect to items of income,
 3 deduction, loss or gain occurring in taxable years ending on or
 4 after July 1, 1976 but only to the extent such items have been
 5 earned, or incurred on or after July 1, 1976.

7 (b) New Jersey taxable income for 1976 from a person or entity
 8 with an accounting period for Federal income tax purposes which
 9 begins before July 1, 1976 shall be determined by computing the
 10 total taxable income of the person or entity for the full accounting
 11 period and by multiplying such taxable income by the quotient of
 12 the number of days in such year after July 1, 1976, divided by 365.
 13 However, where the taxpayer's taxable year covers a period of less
 14 than 12 months, the taxpayer may determine total taxable income
 15 solely on the basis of the items of income, deductions, loss or gain
 16 occurring during such taxable year.

17 (c) This act shall remain inoperative unless and until the
 18 “Tenants’ Property Tax Rebate Act” now pending before the
 19 Legislature as Senate Bill No. 1546 and Assembly Bill No. 1330
 20 and Assembly Bill No. 1663 are enacted.

ASSEMBLY, No. 1513

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 19, 1976

By Assemblymen HAMILTON, BURSTEIN, BARBOUR, SCHUCK
and MARTIN

Referred to Committee on Taxation

AN Act establishing Title 54A, providing for the taxation of gross incomes, establishing a New Jersey State Gross Income Tax to be administered and collected by the Director of the Division of Taxation in the Department of the Treasury, and providing penalties for violations thereof.

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

1 54A:1-1. Short title. This title shall be known and may be cited
2 as the "New Jersey Gross Income Tax Act."

1 54A:1-2. Definition. As used in this act, unless the context
2 clearly indicates otherwise, the following words and phrases shall
3 have the following meaning:

4 a. "Director" means the Director of the Division of Taxation
5 in the Department of the Treasury.

6 b. "Fiduciary" means a guardian, trustee, executor, admini-
7 strator, receiver, conservator, or any person acting in any fiduciary
8 capacity for any person.

9 c. "Excludable income" shall be limited to those payments set
10 forth in chapter 6 hereunder.

11 d. "Gross income" shall include that set forth in chapter 5
12 hereunder.

13 e. "Medical expenses" means nonreimbursable payments for
13A physicians, fees, hospital care, nursing care, drugs prescribed by a
14 physician, prosthetic devices, X-rays and other diagnostic or treat-
15 ment services conducted by or directed by a physician.

16 f. "Partnership" means all forms of unincorporated organiza-
17 tion carried on by two or more persons other than an estate or trust,

18 through or by means of which any business, financial operation or
19 venture is carried on or liquidated.

20 g. "Property taxes paid" means property taxes (exclusive of
21 special assessments, delinquent charges, penalties or interest)
22 actually paid by a taxpayer on his homestead in 1974 or any calen-
23 dar year thereafter. Whenever a homestead is an integral part of
24 a larger unit such as a farm, or a multipurpose or multidwelling
25 building, property taxes paid shall be that percentage of the total
26 property taxes paid as the value of the homestead is of the total
27 value of such larger unit. For the purpose of this act, the "unit"
28 refers to that parcel of property covered by a single property
29 assessment of which the homestead is a part.

30 h. "Rental paid" means gross rent paid at arms-length solely
31 for the right of occupancy of a homestead. In any case in which the
32 landlord and tenant have not dealt with each other at arms-length
33 and the director determines that the gross rent charge was
34 excessive, the director may adjust such gross rent to a reasonable
35 amount for the purpose of this act.

36 i. "Self-employed individual" means an individual who does
37 not gain his livelihood through employment by another individual,
38 partnership, corporation, association or agency or instrumentality
39 of government, but may include salesmen who are employed exclu-
40 sively by an individual, partnership or corporation but whose
41 compensation is derived solely from commissions on sales.

42 j. "Taxable year" means the calendar or fiscal accounting
43 period for which a tax is payable under this act.

44 k. "Taxpayer" means any individual required to report or to
45 pay taxes, interest and penalties under this act, or whose income
46 in whole or in part is subject to the tax imposed by this act.

47 l. "Resident taxpayer" means an individual:

48 1. Who is domiciled in this State, unless he maintains no perma-
49 nent place of abode in this State, maintains a permanent place of
50 abode elsewhere, and spends in the aggregate not more than 30 days
51 of the taxable year in this State; or

52 2. Who is not domiciled in this State but maintains a permanent
53 place of abode in this State and spends in the aggregate more
54 than 183 days of the taxable year in this State, unless such indi-
55 vidual is in the Armed Forces of the United States.

56 m. "Nonresident taxpayer" means an individual who is not a
57 resident.

58 n. Unless the context in which it occurs requires otherwise, the
59 term "act" or "this act" shall mean the New Jersey Gross Income
60 Tax Act, Title 54A of the New Jersey Statutes.

CHAPTER 2. IMPOSITION OF TAX

1 54A:2-1. Imposition of tax. There is hereby imposed a tax for
2 each taxable year (which shall be the same as the taxable year for
3 Federal income tax purposes) of 2½% on the New Jersey gross
4 income as herein defined of every individual, taxable estate or
5 trust, subject to the deductions, limitations and modifications
6 hereinafter provided.

1 54A:2-2. Partners and partnerships. A partnership as such
2 shall not be subject to the New Jersey Gross Income Tax. Indi-
3 viduals carrying on business as partners shall be liable for the
4 New Jersey Gross Income Tax only in their separate or individual
5 capacities.

1 54A:2-3. Associations taxable as corporations. An association,
2 trust, or other unincorporated organization which is taxable as a
3 corporation for Federal income tax purposes shall not be subject
4 to tax under this act.

1 54A:2-4. Self-employed individuals. Self-employed individuals
2 shall be allowed as a deduction from gross income all the ordinary
3 and necessary expenses paid or incurred during the taxable year:

4 a. For the production or collection of income.

5 b. For the management, conservation or maintenance of prop-
6 erty held for the production of income.

7 c. In connection with the determination, collection or refund of a
8 tax.

9 Such deductions shall be in accordance with regulations pre-
10 scribed by the director and submitted with the individual's return
11 on forms supplied by the director.

1 54A:2-5. Minimum taxable income. Notwithstanding any other
2 provisions of this act, an individual with a gross income of \$3,000.00
3 or less shall not be subject to tax under this act.

CHAPTER 3. DEDUCTIONS

1 54A:3-1. Personal deductions. Each taxpayer shall be allowed
2 personal deductions from his gross income as follows:

3 a. Personal exemption—\$1,500.00.

4 b. For each dependent—\$1,500.00.

5 c. Taxpayer 65 years of age or over—\$1,500.00.

6 d. Each dependent 65 years of age or over—\$1,500.00.

7 e. Blind taxpayer—\$1,500.00.

8 f. Blind dependent—\$1,500.00.

9 g. Taxpayer, as disabled person—\$1,500.00.

10 h. Dependent, as disabled person—\$1,500.00.

1 54A:3-2. Property tax deduction. Each taxpayer property
 2 owner shall be allowed a deduction from his gross income for
 3 property taxes as defined herein, in the amount paid up to a maxi-
 4 mum of \$1,200.00 in any calendar year.

1 54A:3-3. Rental deduction. Each taxpayer who rents his home-
 2 stead shall be allowed a deduction of \$400.00 for rental and an
 3 additional \$400.00 for rental for each dependent up to a maximum
 4 of \$1,200.00 in any calendar year.

1 54A:3-4. Medical expenses. Each taxpayer shall be allowed to
 2 deduct medical expenses for himself and his dependents in the
 3 amount that such expenses exceed 2% of his gross income.

1 54A:3-5. Dependent defined. For the purposes of this act
 2 "dependent" shall mean an individual allowed as a dependent for
 3 Federal income tax purposes.

CHAPTER 4. CREDITS AGAINST THE TAX

1 54A:4-1. Resident credit for tax of another state. A resident of
 2 this State shall be allowed a credit against the tax otherwise due
 3 under this act for any income tax or wage imposed for the taxable
 4 year by another state of the United States or political subdivision
 5 of such state, or by the District of Columbia, upon income or wages
 6 which are derived from sources within such other jurisdiction and
 7 subject to tax under this act.

1 54A:4-2. Nonresident taxpayer liability. A nonresident tax-
 2 payer shall compute his New Jersey gross income in the same
 3 manner as in the case of a resident, but he shall include therein
 4 only such items of gross income which are derived from or con-
 5 nected with New Jersey sources.

1 54A:4-3. Credit for taxes withheld on wages. Any amount of
 2 tax actually deducted and withheld by an employer under this act
 3 in any calendar year shall be deemed to have been paid to the
 4 director on behalf of the person from whom withheld, and such
 5 person shall be credited with having paid that amount of tax for
 6 the taxable year beginning in such calendar year. For a taxable
 7 year of less than 12 months, the credit shall be made under regula-
 8 tions of the director.

CHAPTER 5. GROSS INCOME

1 54A:5-1. New Jersey gross income defined. Except as other-
 2 wise provided in this act, New Jersey gross income means all
 3 income from whatever source derived, including but not limited to
 4 the following:

5 a. Salaries, wages, tips, fees, commissions, bonuses and similar
 6 items;

- 7 b. Income derived from business;
- 8-9 c. Gains derived from the sale of capital assets;
- 10 d. Interest;
- 11 e. Rents;
- 12 f. Royalties;
- 13 g. Dividends;
- 14 h. Alimony and separate maintenance payments;
- 15 i. Annuities;
- 16 j. Income from life insurance and endowment contracts;
- 17 k. Pensions;
- 18 l. Income from discharge of indebtedness;
- 19 m. Distributive share of partnership income;
- 20 n. Income in respect of a decedent;
- 21 o. Income from an interest in an estate or trust;
- 22 p. Amounts received as prizes and awards, except as provided
- 23 in section 54A:6-8 hereunder;
- 24 q. Rental value of resident furnished by an employer or a
- 25 rental allowance paid by an employer to provide a home.

CHAPTER 6. EXCLUDABLE INCOME

- 1 54A:6-1. The items in sections 54A:6-2 to 54A:6-9, inclusive,
- 2 shall be specifically excluded from gross income.
- 1 54A:6-2. Federal social security benefits. All payments received
- 2 under the Federal Social Security Act, whether they be regularly
- 3 monthly benefits or lump sum death benefits.
- 1 54A:6-3. Railroad retirement benefits. All payments received
- 2 under the Railroad Retirement Act administered by the Federal
- 3 Government.
- 1 54A:6-4. Certain death benefits:
- 2 a. Proceeds of life insurance contracts payable by reason of
- 3 death.
- 4 b. Employees' death benefits, if such amounts are paid by or on
- 5 behalf of an employer and are paid by reason of the death of the
- 6 employee.
- 1 54A:6-5. Gifts and inheritances:
- 2 a. The value of property acquired by gift, bequest, devise or
- 3 inheritance.
- 4 b. Income. Subsection a. shall not exclude from gross income:
- 5 1. The income from any property referred to in subsection a.
- 6 2. Where the gift, bequest, devise or inheritance is of income
- 7 from property, the amount of such income.
- 1 54A:6-6. Compensation for injuries or sickness:

2 a. Amounts received under workmen's compensation acts as
3 compensation for personal injuries or sickness.

4 b. The amount of damages received, whether by suit or agree-
5 ment, on account of personal injuries or sickness.

6 c. Amounts received through accident or health insurance for
7 personal injuries or sickness.

8 d. Amounts received as a pension, annuity or similar allowance
9 for personal injuries or sickness resulting from active service in
10 the Armed Forces of the United States or in the Coast and
11 Geodetic Survey or the Public Health Service, or as a disability
12 annuity payable under the Foreign Service Act of 1946.

1 54A:6-7. Certain pay of members of the armed forces.

2 a. Compensation paid by the United States for service in the
3 Armed Forces of the United States performed by an individual
4 not domiciled in this State.

5 b. Amounts received during the taxable year as mustering-out
6 payments with respect to service in the Armed Forces of the
7 United States.

1 54A:6-8. Scholarships and fellowship grants.

2 a. Any amount received as a scholarship at an educational
3 institution.

4 b. Any amount received as a fellowship grant.

5 c. Any amount received to cover expenses for travel, research or
6 equipment which are incident to a scholarship or research grant,
7 but only to the extent that the amount is so expended by the
8 recipient.

1 54A:6-9. Gains from sale or exchange of residence of an in-
2 dividual. Gross income does not include gain from the sale or
3 exchange of property if:

4 a. The taxpayer has purchased or received in exchange a resi-
5 dence of equal or greater value during the 18-month period im-
6 mediately following such sale or exchange.

7 b. The taxpayer has attained the age of 65 before the date of
8 such sale and such property has been owned and used by the tax-
9 payer as his principal residence. If the adjusted sales price of
10 the property sold or exchanged exceeds \$35,000.00, this subsection
11 shall apply to that portion of the gain which bears the same ratio
12 to the total amount of such gain as \$35,000.00 bears to such sale
13 price.

14 c. Subsection a. shall not apply to any sale or exchange by the
15 taxpayer with respect to more than one property during any 18-
16 month period.

17 d. Subsection b. shall not apply to any sale or exchange by the
18 taxpayer with respect to more than one property.

19 e. Property used in part as a residence. In case of property
20 only a portion of which has been owned and used by the taxpayer
21 as his principal residence, this section shall apply with respect to
22 so much of the sale or exchange of such property as is determined,
23 under regulations prescribed by the director, to be attributable to
24 the portion of the property so owned and used by the taxpayer.

25 f. For purposes of this section, the destruction, theft, seizure,
26 requisition, or condemnation of property shall be treated as the
27 sale of such property.

1 54A:6-10. Pensions and annuities. Gross income shall not in-
2 clude that part of any amount received as an annuity under an
3 annuity, endowment, or life insurance contract which bears the
4 same ratio to such amount as the investment in the contract (as
5 of the annuity starting date) bears to the expected return under
6 the contract (as of such date). Where (1) part of the considera-
7 tion for an annuity, endowment, or life insurance contract is con-
8 tributed by the employer, and (2) during the 3-year period
9 beginning on the date on which an amount is first received under
10 the contract as an annuity, the aggregate amount receivable by
11 the employee under the terms of the contract is equal to or greater
12 than the consideration for the contract contributed by the em-
13 ployee, then all amounts received as an annuity under the contract
14 shall be excluded from gross income until there has been so ex-
15 cluded an amount equal to the consideration for the contract con-
16 tributed by the employee.

CHAPTER 7. WITHHOLDING OF TAX

1 54A:7-1. Requirement of withholding tax from wages.

2 a. General. From and after January 1, 1976, every employer
3 maintaining an office or transacting business within this State and
4 making payment of any wages taxable under this act to a resident
5 or nonresident individual shall deduct and withhold from such
6 wages for each payroll period a tax computed in such manner as
7 to result, so far as practicable, in withholding from the employee's
8 wages during each calendar year an amount substantially equivalent
9 to the tax reasonably estimated to be due under this act resulting
10 from the inclusion in the employee's New Jersey adjusted gross
11 income of his wages received during such calendar year. The
12 method of determining the amount to be withheld shall be pre-
13 scribed by regulations of the director, with due regard to the New
14 Jersey withholding exemptions of the employee. This section shall
15 not apply to payments by the United States for service in the
16 Armed Forces of the United States.

17 b. Withholding personal exemption tax credits. For purposes
18 of this section, an employee shall be entitled to the same number
19 of withholding personal exemptions as the number of personal
20 exemptions to which he is entitled in computing his tax under this
21 act. An employer may rely upon the number of Federal withhold-
22 ing exemptions claimed by the employee, except where the em-
23 ployee claims a different number of New Jersey withholding
24 exemptions.

1 54A:7-2. Information statement for employee. Every employer
2 required to deduct and withhold tax under this act from the wages
3 of an employee, or who would have been required so to deduct
4 and withhold tax if the employee had claimed no more than one
5 withholding exemption, shall furnish to each such employee in
6 respect of the wages paid by such employer to such employee during
7 the calendar year on or before February 15 of the succeeding year,
8 or, if his employment is terminated before the close of such calendar
9 year, within 30 days from the date on which the last payment of
10 the wages is made, a written statement as prescribed by the director
11 showing the amount of wages paid by the employer to the employee,
12 the amount deducted and withheld as tax, and such other informa-
13 tion as the director shall prescribe.

1 54A:7-3. Credit for tax withheld. Wages upon which tax is
2 required to be withheld shall be taxable under this act as if no
3 withholding were required, but any amount of tax actually deducted
4 and withheld under this act in any calendar year shall be deemed
5 to have been paid to the director on behalf of the person from whom
6 withheld, and such person shall be credited with having paid that
7 amount of tax for the taxable year beginning in such calendar year.
8 For a taxable year of less than 12 months the credit shall be made
9 under regulations of the director.

1 54A:7-4. Employer's return and payment of withheld taxes.

2 a. General. Every employer required to deduct and withhold tax
3 under this act shall, for each calendar month, on or before the
4 fifteenth day of the month following the close of such calendar
5 month, file a withholding return as prescribed by the director and
6 pay over to the director or to a depositary designated by the
7 director the taxes so required to be deducted and withheld, except
8 that for the month of December in any year, the return shall be
9 filed and the taxes paid on or before January 31 of the succeeding
10 year. Where the aggregate amount required to be deducted and
11 withheld by any employer is less than \$100.00 in a calendar month
12 and the aggregate for the semiannual period ending on June 30 and

13 December 31 can reasonably be expected to be less than \$500.00,
14 the director may by regulation permit an employer to file a return
15 on or before July 31 for the semiannual period ending on June 30
16 and on or before January 31 for the semiannual period ending on
17 December 31. The director may, if he believes such action neces-
18 sary for the protection of the revenues, require any employer to
19 make such return and pay to him the tax deducted and withheld
20 at any time, or from time to time. Where the amount of wages
21 paid by an employer is not sufficient under this act to require the
22 withholding of tax from the wages of any of his employees, the
23 director may, by regulation, permit such employer to file an annual
24 return on or before February 28 of the following calendar year.
24A Where the director finds it impractical to commence the filing
24B of employer withholding returns and payment of the tax withheld,
24C as prescribed in section 54A:7-4, he may extend such filing date,
24D to a date not more than 3 months thereafter, to commence such
24E reporting and paying over. He shall design withholding tables
24F so as to provide for the withholding taxes in an amount which
24G would approximate the tax liability of the taxpayer for the tax
24H year.

25 The director may, by regulation, require the filing and payment
26 of withholding returns and taxes on a semimonthly basis where
27 he deems such action in the best interest of the State.

28 b. Deposit in trust for director. Whenever any employer fails
29 to collect, truthfully account for, pay over the tax, or make returns
30 of the tax as required in this section, the director may serve a
31 notice requiring such employer to collect the taxes which become
32 collectible after service of such notice, to deposit such taxes in a
33 bank approved by the director in a separate account, in trust for
34 and payable to the State of New Jersey and to keep the amount
35 of such tax in such account until payment over to the director.
36 Such notice shall remain in effect until a notice of cancellation is
37 served by the director.

1 54A:7-5. Employer's liability for withheld taxes. Every em-
2 ployer required to deduct and withhold tax under this act is hereby
3 made liable for such tax. For purposes of assessment and collec-
4 tion, any amount required to be withheld and paid over to the
5 director, and any additions to tax, penalties and interest with
6 respect thereto, shall be considered the tax of the employer. Any
7 amount of tax actually deducted and withheld under this act shall
8 be held to be a special fund in trust for the director. No employee
9 shall have any right of action against his employer in respect to

10 any moneys deducted and withheld from his wages and paid over
11 to the director in compliance or in intended compliance with this act.

1 54A:7-6. Employer's failure to withhold. If an employer fails
2 to deduct and withhold tax as required, and thereafter the tax
3 against which such tax may be credited is paid, the tax so required
4 to be deducted and withheld shall not be collected from the em-
5 ployer, but the employer shall not be relieved from liability for
6 any penalties, interest, or additions to the tax otherwise applicable
7 in respect of such failure to deduct and withhold.

CHAPTER 8. PAYMENT OF TAX

1 54A:8-1. Payment of tax; returns; extension of time. With re-
2 spect to each taxpayer, the tax imposed by this act shall be due and
3 payable annually, hereafter, in the manner provided in this section:

4 a. Every taxpayer shall annually pay the tax imposed by this
5 act with respect to all or any part of each of his fiscal or calendar
6 accounting years beginning after January 1, 1976, to be computed
7 as in this act provided, for such fiscal or calendar accounting year
8 or part thereof, on a return which shall be filed, in the case of a
9 taxpayer reporting on a calendar year basis, on or before April 15
10 following the close of such calendar year, or, in the case of a tax-
11 payer reporting on a fiscal year basis, on or before the fifteenth
12 day of the fourth month following the close of such fiscal year,
13 and the full amount of the tax shall be due and payable on or be-
14 fore the date prescribed herein for the filing of the return.

15 b. Each return shall carry a certificate signed by the taxpayer
16 to the effect that all statements contained therein are true, under
17 the same penalties as for perjury committed. Blank forms of re-
18 turn shall be furnished on application, but failure to secure the
19 form shall not relieve any taxpayer of the obligation of making
20 any return herein required. Subject to regulations under this act
21 and in such form as may be indicated thereby, taxpayers whose
22 net income taxable under this act is or may be subject to tax under
23 a similar law of another jurisdiction may be permitted to file a
24 simple, short form return attached to a copy of his return as filed
25 or about to be filed by him in such other jurisdiction.

26 Subject to regulations under this act, reasonable extensions of
27 time for good cause shown, may be granted for not more than 6
28 months unless exceptional circumstances justify a longer period,
29 within which returns may be filed.

30 In addition, persons in active service with the Armed Forces of
31 the United States, who may be prevented by distance or injury

32 or hospitalization arising out of such service, may be allowed such
33 extension of time for the filing of returns, without interest or
34 penalty, as may be fixed by regulations under this act.

1 54A:8-2. Taxable year; annual accounting period; calendar
2 year; fiscal year; definitions.

3 a. The term "taxable year" means:

4 (1) the taxpayer's annual accounting period, if it is a calendar
5 year or a fiscal year;

6 (2) the calendar year:

7 (a) If the taxpayer keeps no books; or

8 (b) The taxpayer does not have an annual accounting pe-
9 riod, or;

10 (c) The taxpayer has an annual accounting period, but such
11 period does not qualify as a fiscal year; or

12 (3) the period for which the return is made, if the return is
13 made for a period of less than 12 months.

14 b. The term "annual accounting period" means the annual
15 period on the basis of which the taxpayer regularly computes his
16 income in keeping his books.

17 c. The term "calendar year" means a period of 12 months end-
18 ing on December 31.

19 d. The term "fiscal year" means a period of 12 months ending
20 on the last day of any month other than December.

1 54A:8-3. Persons required to file.

2 a. On or before the filing date prescribed in section 1 of this
3 chapter (C. 54A:8-1), an income tax return shall be made and
4 filed by or for every individual, estate or trust having a gross
5 income in excess of \$3,000.00 or more.

6-8 b. The return for any deceased individual shall be made and filed
9 by his fiduciary or other person charged with his property.

10 c. The return for an individual who is unable to make a return
11 by reason of minority or other disability shall be made and filed
12 by his fiduciary or other person charged with the care of his person
13 or property (other than a receiver in possession of only a part of
14 his property), or by his duly authorized agent.

15 d. Any tax under this act, and any increase, interest or penalty
16 thereon, shall, from the time it is due and payable, be a personal
17 debt of the person liable to pay the same, to the State of New
18 Jersey.

1 54A:8-4. Agreements with taxpayer relating to liability. The
2 Division of Taxation is authorized to enter into a written agree-
3 ment with any taxpayer relating to the liability of such taxpayer

4 in respect of any tax, fee, penalty or interest heretofore or here-
5 after imposed by this act, if it is found that such agreement is in
6 the best interests of the State, which agreement shall be final and
7 conclusive, and except upon a showing of fraud, malfeasance, or
8 misrepresentation of a material fact:

9 a. The case shall not be reopened as to the matters agreed upon
10 or the agreement modified, by any officer, employee, or agent of
11 this State; and

12 b. In any suit, action or proceeding, such agreement, or any
13 determination, assessment, collection, payment, cancellation, refund
14 or credit made in accordance therewith, shall not be annulled,
15 modified, set aside or disregarded.

1 54A:8-5. Declarations of estimated tax. (a) Requirement of
2 filing. Every resident and nonresident individual shall make a
3 declaration of his estimated New Jersey personal income tax for
4 each taxable year beginning after December 31, 1975, if his esti-
5 mated New Jersey personal income tax can reasonably be expected
6 to be \$40.00 or more in excess of any credits allowable against his
7 tax, whether or not he is required to file a Federal declaration of
8 estimated tax for such year.

9 (b) Definition of estimated tax. The term "estimated tax"
10 means the amount which an individual estimates to be his income
11 tax under this act for the taxable year, less the amount which he
12 estimates to be the sum of any credits allowable against the tax.

13 (c) Joint declaration of husband and wife. A husband and wife
14 may make a joint declaration of estimated tax as if they were one
15 taxpayer, in which case the liability with respect to the estimated
16 tax shall be joint and several. No joint declaration may be made
17 if husband and wife are separated under a decree of divorce or of
18 separate maintenance, or if they have different taxable years. If
19 a joint declaration is made but husband and wife elect to determine
20 their taxes under this act separately, the estimated tax for such
21 year may be treated as the estimated tax of either husband or wife,
22 or may be divided between them, as they may elect.

23 (d) Time for filing declaration. Beginning in the taxable year
24 1975 and every taxable year thereafter a declaration of estimated
25 tax of an individual other than a farmer shall be filed on or before
26 April 15 of the taxable year, except that if the requirements of
27 subsection (a) are first met:

28 (1) After April 1 and before June 2 of the taxable year, the
29 declaration shall be filed on or before June 15; or

30 (2) After June 1 and before September 2 of the taxable year
31 the declaration shall be filed on or before September 15; or

32 (3) After September 1 of the taxable year, the declaration shall
33 be filed on or before January 15 of the succeeding year.

34 (e) Declaration of estimated tax by a farmer. A declaration of
35 estimated tax of an individual having an estimated New Jersey
36 income from farming (including oyster farming) for the taxable
37 year which is at least two-thirds of his total estimated New Jersey
38 income for the taxable year may be filed at any time on or before
39 January 15 of the succeeding year, in lieu of the time otherwise
40 prescribed.

41 (f) Declaration of estimated tax of \$40.00 or less. A declaration
42 of estimated tax of an individual having a total estimated tax for
43 the taxable year of \$40.00 or less may be filed at any time on or
44 before January 15 of the succeeding year under regulations of the
45 director.

46 (g) Amendments of declaration. An individual may amend a
47 declaration under regulations of the director.

48 (h) Return as declaration or amendment. If on or before
49 February 15 of the succeeding taxable year an individual files his
50 return for the taxable year for which the declaration is required,
51 and pays therewith the full amount of the tax shown to be due on
52 the return:

53 (1) Such return shall be considered as his declaration if no
54 declaration was required to be filed during the taxable year, but is
55 otherwise required to be filed on or before January 15;

56 (2) Such return shall be considered as the amendment permitted
57 by subsection (g) to be filed on or before January 15 if the tax shown
58 on the return is greater than the estimated tax shown in a declara-
59 tion previously made.

60 (i) Fiscal year. This section shall apply to a taxable year other
61 than a calendar year by the substitution of the months of such fiscal
62 year for the corresponding months specified in this section.

63 (j) Short taxable year. An individual having a taxable year of
64 less than 12 months shall make a declaration in accordance with
65 regulations of the director.

66 (k) Declaration for individual under a disability. The declara-
67 tion of estimated tax for an individual who is unable to make a
68 declaration by reason of minority or other disability shall be made
69 and filed by his guardian, committee, fiduciary or other person
70 charged with the care of his person or property (other than a

71 receiver in possession of only a part of his property), or by his
72 duly authorized agent.

1 54A:8-6. Payments of estimated tax. (a) General. The esti-
2 mated tax with respect to which a declaration is required shall be
3 paid as follows:

4 (1) If the declaration is filed on or before April 15 of the taxable
5 year, the estimated tax shall be paid in four equal installments. The
6 first installment shall be paid at the time of the filing of the declara-
7 tion, and the second, third and fourth installments shall be paid on
8 the following June 15, September 15, and January 15, respectively.

9-10 (2) If the declaration is filed after April 15 and not after June 15
11 of the taxable year, the estimated tax shall be paid in three equal
12 installments. The first installment shall be paid at the time of the
13 filing of the declaration, and the second and third installments shall
14 be paid on or before the following September 15 and January 15,
15 respectively.

16 (3) If the declaration is filed after June 15 and not after
17 September 15 of the taxable year, and is not required to be filed on
18 or before June 15 of the taxable year, the estimated tax shall be
19 paid in two equal installments. The first installment shall be paid
20 at the time of the filing of the declaration, and the second shall be
21 paid on or before the following January 15.

22 (4) If the declaration is filed after September 15 of the taxable
23 year, and is not required to be filed on or before September 15 of
24 the taxable year, the estimated tax shall be paid in full at the time
25 of the filing of the declaration.

26 (5) If the declaration is filed after the time prescribed therefor,
27 or after the expiration of any extension of time therefor, para-
28 graphs (2), (3), and (4) of this subsection shall not apply, and there
29 shall be paid at the time of such filing all installments of estimated
30 tax payable at or before such time, and the remaining installments
31 shall be paid at the times at which, and in the amounts in which,
32 they would have been payable if the declaration had been filed when
33 due.

34 (b) Farmers. If an individual referred to in subsection (e) of
35 section 54A:8-5 (relating to income from farming) makes a declara-
36 tion of estimated tax after September 15 of the taxable year and on
37 or before the following January 15, the estimated tax shall be paid
38 in full at the time of the filing of the declaration.

39 (c) Amendments of declaration. If any amendment of a declara-
40 tion is filed, the remaining installments, if any, shall be ratably in-
41 creased or decreased (as the case may be) to reflect any increase or

42 decrease in the estimated tax by reason of such amendment, and if
43 any amendment is made after September 15 of the taxable year,
44 any increase in the estimated tax by reason thereof shall be paid at
45 the time of making such amendment.

46 (d) Application to short taxable year. This section shall apply to
47 a taxable year of less than 12 months in accordance with regulations
48 of the director.

49 (e) Fiscal year. This section shall apply to a taxable year other
50 than a calendar year by the substitution of the months of such fiscal
51 year for the corresponding months specified in this section.

52 (f) Installments paid in advance. An individual may elect to pay
53 any installment of his estimated tax prior to the date prescribed for
54 its payment.

1 54A:8-7. Requirements concerning returns, notices, records and
2 statements. (a) General. The director may prescribe regulations
3 as to the keeping of records, the content and form of returns and
4 statements, and the filing of copies of Federal income tax returns
5 and determinations. The director may require any person, by
6 regulation or notice served upon such person, to make such returns,
7 render such statements, or keep such records, as the director may
8 deem sufficient to show whether or not such person is liable under
9 this act for tax or for collection of tax.

10 (b) Partnerships. Every partnership having a resident partner
11 or having any income derived from New Jersey sources, shall make
12 a return for the taxable year setting forth all items of income, gain,
13 loss and deduction and such other pertinent information as the
14 director may by regulations and instructions prescribe. Such
15 return shall be filed on or before the fifteenth day of the fourth
16 month following the close of each taxable year. For the purposes
17 of this subsection, "taxable year" means a year or period which
18 would be a taxable year of the partnership if it were subject to tax
19 under this act.

20 (c) Information at source. The director may prescribe regula-
21 tions and instructions requiring returns of information to be made
22 and filed on or before February 15 of each year as to the payment
23 or crediting in any calendar year of amounts of \$100.00 or more
24 to any taxpayer under this act. Such returns may be required of
25 any person, including lessees or mortgagors of real or personal
26 property, fiduciaries, employers, and all officers and employees of
27 this State, or of any municipal corporation or political subdivision
28 of this State, having the control, receipt, custody, disposal or pay-
29 ment of interest, rents, salaries, wages, premiums, annuities, com-

30 pensions, remunerations, emoluments or other fixed or determin-
31 able gains, profits or income, except interest coupons payable to
32 bearer. A duplicate of the statement as to tax withheld on wages,
33 required to be furnished by an employer to an employee, shall
34 constitute the return of information required to be made under this
35 section with respect to such wages.

36 (d) Notice of qualification as receiver, et cetera. Every receiver,
37 trustee in bankruptcy, assignee for benefit of creditors, or other like
38 fiduciary shall give notice of his qualification as such to the director,
39 as may be required by regulation.

1 54A:8-8. Report of change in Federal taxable income. If the
2 amount of a taxpayer's Federal taxable income reported on his
3 Federal income tax return for any taxable year is changed or cor-
4 rected by the United States Internal Revenue Service or other
5 competent authority, or as the result of a renegotiation of a contract
6 or subcontract with the United States, the taxpayer shall report
7 such change or correction in Federal taxable income within 90 days
8 after the final determination of such change, correction, or
9 renegotiation, or as otherwise required by the director, and shall
10 concede the accuracy of such determination or state wherein it is
11 erroneous. Any taxpayer filing an amended Federal income tax
12 return shall also file within 90 days thereafter an amended return
13 under this act, and shall give such information as the director may
14 require. The director may by regulation prescribe such exceptions
15 to the requirements of this section as he deems appropriate.

CHAPTER 9. ADMINISTRATION OF TAX

1 54A:9-1. Applicability of State Tax Uniform Procedure Law.
2 The taxes imposed by this act shall be governed in all respects
3 by the provisions of the State Tax Uniform Procedure Law (sub-
4 title 9 of Title 54 of the Revised Statutes) except only to the extent
5 that a specific provision of this act may be in conflict therewith.

1 54A:9-2. Notice of deficiency. (a) General. If upon examination
2 of a taxpayer's return under this act the director determines that
3 there is a deficiency of income tax, he may mail a notice of deficiency
4 to the taxpayer. If a taxpayer fails to file an income tax return
5 required under this act, the director is authorized to estimate the
6 taxpayer's New Jersey income and tax thereon, from any infor-
7 mation in his possession, and to mail a notice of deficiency to the
8 taxpayer. A notice of deficiency shall be mailed to the taxpayer at
9 his last known address in or out of this State. If a husband and
10 wife are jointly liable for tax, a notice of deficiency may be a single
11 joint notice, except that if the director has been notified in writing

12 by either spouse that separate residences have been established,
13 then, in lieu of the single joint notice, a duplicate original of the
14 joint notice shall be mailed to each spouse at his or her last known
15 address in or out of this State. If the taxpayer is deceased or under
16 a legal disability, a notice of deficiency may be mailed to his last
17 known address in or out of this State, unless the director has re-
18 ceived written notice of the existence of a fiduciary relationship
19 with respect to the taxpayer.

20 (b) Notice of deficiency as assessment. After 90 days from the
21 mailing of a notice of deficiency, such notice shall be an assessment
22 of the amount of tax specified in such notice, together with the
23 interest, additions to tax and penalties stated in such notice, except
24 only for any such tax or other amounts as to which the taxpayer
25 has within such 90-day period filed with the director a petition
26 under section 54A:9-9. If the notice of deficiency is addressed to
27 a person outside of the United States, such period shall be 150 days
28 instead of 90 days.

29 (c) Restrictions on assessment and levy. No assessment of a
30 deficiency in tax and no levy or proceeding in court for its collection
31 shall be made, begun or prosecuted, except as otherwise provided
32 in section 54A:9-14, until a notice of deficiency has been mailed
33 to the taxpayer, nor until the expiration of the time for filing a
34 petition contesting such notice, nor, if a petition with respect to
35 the taxable year has been filed with the director, until the decision
36 of the director has become final. For exception in the case of re-
37 view of the decision of the director, see subsection (c) of section
38 54A:9-10.

39 (d) Exceptions for mathematical errors. If a mathematical error
40 appears on a return (including an overstatement of the credit for
41 income tax withheld at the source, or of the amount paid as esti-
42 mated income tax), the director shall notify the taxpayer that an
43 amount of tax in excess of that shown upon the return is due, and
44 that such excess has been assessed. Such notice shall not be con-
45 sidered as a notice of deficiency for the purposes of this section,
46 subsection (f) of section 54A:9-8 (limiting credits or refunds after
47 petition to the director), or subsection (b) of section 54A:9-9
48 (authorizing the filing of a petition with the director based on a
49 notice of deficiency) nor shall such assessment or collection be pro-
50 hibited by the provisions of subsection (e).

51 (e) Exception where change in Federal taxable income is not
52 reported.

53 (1) If the taxpayer fails to comply with section 54A:8-8 in not
54 reporting a change or correction increasing his Federal taxable
55 income as reported on his Federal income tax return or in not
56 reporting a change or correction which is treated in the same man-
57 ner as if it were a deficiency for Federal income tax purposes or
58 in not filing an amended return, instead of the mode and time of
59 assessment provided for in subsection (b) of this section, the
60 director may assess a deficiency based upon such changed or cor-
61 rected Federal taxable income by mailing to the taxpayer a notice
62 of additional tax due specifying the amount of the deficiency, and
63 such deficiency, together with the interest, additions to tax and
64 penalties stated in such notice, shall be deemed assessed on the
65 date such notice is mailed unless within 30 days after the mailing
66 of such notice a report of the Federal change or correction or an
67 amended return, where such return was required by section
68 54A:8-8, is filed accompanied by a statement showing wherein such
69 Federal determination and such notice of additional tax due are
70 erroneous.

71 (2) Such notice shall not be considered as a notice of deficiency
72 for the purposes of this section, subsection (f) of section 54A:9-8
73 (limiting credits or refunds after petition to the director), or sub-
74 section (b) of section 54A:9-9 (authorizing the filing of a petition
75 with the director based on a notice of deficiency), nor shall such
76 assessment or the collection thereof be prohibited by the provisions
77 of subsection (c).

78 (3) If a husband and wife are jointly liable for tax, a notice of
79 additional tax due may be a single joint notice, except that if the
80 director has been notified in writing by either spouse that separate
81 residences have been established, then, in lieu of the joint notice,
82 a duplicate original of the joint notice shall be mailed to each
83 spouse at his or her last known address in or out of this State. If
84 the taxpayer is deceased or under a legal disability, a notice of
85 additional tax due may be mailed to his last known address in or
86 out of this State, unless the director has received written notice
87 of the existence of a fiduciary relationship with respect to the
88 taxpayer.

89 (f) Waiver of restrictions. The taxpayer shall at any time
90 (whether or not a notice of deficiency has been issued) have the
91 right to waive the restrictions on assessment and collection of the
92 whole or any part of the deficiency by a signed notice in writing
93 filed with the director.

94 (g) Deficiency defined. For purposes of this act, a deficiency
95 means the amount of the tax imposed by this act, less (i) the amount
96 shown as the tax upon the taxpayer's return (whether the return
97 was made or the tax computed by him or by the director), and
98 less (ii) the amounts previously assessed (or collected without
99 assessment) as a deficiency and plus (iii) the amount of any re-
100 bates. For the purpose of this definition, the tax imposed by this
101 act and the tax shown on the return shall both be determined
102 without regard to payments on account of estimated tax or the
103 credit for withholding tax; and a rebate means so much of an
104 abatement, credit, refund or other repayment (whether or not
105 erroneous) made on the ground that the amounts entering into the
106 definition of a deficiency showed a balance in favor of the taxpayer.

1 54A:9-3. Assessment. (a) Assessment date. The amount of tax
2 which a return shows to be due, or the amount of tax which a
3 return would have shown to be due but for a mathematical error,
4 shall be deemed to be assessed on the date of filing of the return
5 (including any amended return showing an increase of tax). In
6 the case of a return properly filed without computation of tax, the
7 tax computed by the director shall be deemed to be assessed on the
8 date on which payment is due. If a notice of deficiency has been
9 mailed, the amount of the deficiency shall be deemed to be assessed
10 on the date specified in subsection (b) of section 54A:9-2 if no peti-
11 tion to the director is filed, or if a petition is filed, then upon the
12 date when a decision of the director establishing the amount of the
13 deficiency becomes final. If an amended return or report filed
14 pursuant to section 54A:8-8 concedes the accuracy of a Federal
15 change or correction, any deficiency in tax under this act resulting
16 therefrom shall be deemed to be assessed on the date of filing such
17 report or amended return, and such assessment shall be timely
18 notwithstanding section 54A:9-4. If a notice of additional tax
19 due, as prescribed in subsection (e) of section 54A:9-2 has been
20 mailed, the amount of the deficiency shall be deemed to be assessed
21 on the date specified in such subsection unless within 30 days after
22 the mailing of such notice a report of the Federal change or correc-
23 tion or an amended return, where such return was required by
24 section 54A:8-8 is filed accompanied by a statement showing
25 wherein such Federal determination and such notice of additional
26 tax due are erroneous. Any amount paid as a tax or in respect of
27 a tax, other than amounts withheld at the source or paid as esti-
28 mated income tax, shall be deemed to be assessed upon the date of
29 receipt of payment, notwithstanding any other provisions.

30 (b) Other assessment powers. If the mode or time for the assess-
31 ment of any tax under this act (including interest, additions to tax
32 and assessable penalties) is not otherwise provided for, the director
33 may establish the same by regulations.

34 (c) Estimated income tax. No unpaid amount of estimated tax
35 under section 54:8-6 shall be assessed.

36 (d) Supplemental assessment. The director may, at any time
37 within the period prescribed for assessment, make a supplemental
38 assessment, subject to the provisions of section 54A:9-2 where
39 applicable, whenever it is ascertained that any assessment is im-
40 perfect or incomplete in any material respect.

1 54A:9-4. Limitations on assessment. (a) General. Except as
2 otherwise provided in this section, any tax under this act shall be
3 assessed within 3 years after the return was filed (whether or not
4 such return was filed on or after the date prescribed).

5 (b) Time returned deemed filed.

6 (1) Early return. For purposes of this section a return of
7 income tax, except withholding tax, filed before the last day pre-
8 scribed by law or by regulations promulgated pursuant to law for
9 the filing thereof, shall be deemed to be filed on such last day.

10 (2) Return of withholding tax. For purposes of this section, if
11 a return of withholding tax for any period ending with or within
12 a calendar year is filed before April 15 of the succeeding calendar
13 year, such return shall be deemed to be filed on April 15 of such
14 succeeding calendar year.

15 (c) Exceptions.

16 (1) Assessment at any time. The tax may be assessed at any
17 time if—

18 (A) No return is filed,

19 (B) A false or fraudulent return is filed with intent to evade
20 tax, or

21 (C) The taxpayer fails to comply with section 54A:8-8 in not
22 reporting a change or correction increasing his Federal tax-
23 able income as reported on his Federal income tax return, or
24 in not reporting a change or correction which is treated in the
25 same manner as if it were a deficiency for Federal income tax
26 purposes, or in not filing an amended return.

27 (2) Extension by agreement. Where, before the expiration of
28 the time prescribed in this section for the assessment of tax, both
29 the director and the taxpayer have consented in writing to its
30 assessment after such time, the tax may be assessed at any time
31 prior to the expiration of the period agreed upon. The period so

32 agreed upon may be extended by subsequent agreements in writing
33 made before the expiration of the period previously agreed upon.

34 (3) Report of changed or corrected Federal income. If the tax-
35 payer shall, pursuant to section 54A:8-8, report a change or cor-
36 rection or file an amended return increasing his Federal taxable
37 income or report a change or correction which is treated in the
38 same manner as if it were a deficiency for Federal income tax
39 purposes, the assessment (if not deemed to have been made upon
40 the filing of the report or amended return) may be made at any
41 time within 2 years after such report or amended return was filed.
42 The amount of such assessment of tax shall not exceed the amount
43 of the increase in New Jersey tax attributable to such Federal
44 change or correction. The provisions of this paragraph shall not
45 affect the time within which or the amount for which an assessment
46 may otherwise be made.

47 (4) Deficiency attributable to net operating loss carryback. If
48 a deficiency is attributable to the application to the taxpayer of a
49 net operating loss carryback, it may be assessed at any time that a
50 deficiency for the taxable year of the loss may be assessed.

51 (5) Recovery of erroneous refund. An erroneous refund shall be
52 considered an underpayment of tax on the date made, and an
53 assessment of a deficiency arising out of an erroneous refund may
54 be made at any time within 3 years from the making of the refund,
55 except that the assessment may be made within 5 years from the
56 making of the refund if it appears that any part of the refund was
57 induced by fraud or misrepresentation of a material fact.

58 (6) Request for prompt assessment. If a return is required for a
59 decedent or for his estate during the period of administration, the
60 tax shall be assessed within 18 months after written request
61 therefor (made after the return is filed) by the executor, admini-
62 strator or other person representing the estate of such decedent,
63 but not more than 3 years after the return was filed, except as
64 otherwise provided in this subsection and subsection (d).

65 (d) Omission of income on return. The tax may be assessed at
66 any time within 6 years after the return was filed if—

67 (1) An individual omits from his New Jersey income an amount
68 properly includible therein which is in excess of 25% of the amount
69 of New Jersey income stated in the return; or

70 (2) An estate or trust omits income from its return in an amount
71 in excess of 25% of its income determined as if it were an individual,
72 computing his New Jersey income under this act.

73 For purposes of this subsection there shall not be taken into
74 account any amount which is omitted in the return if such amount
75 is disclosed in the return, or in a statement attached to the return,
76 in a manner adequate to apprise the director of the nature and
77 amount of such item.

78 (e) Suspension of running of period of limitation. The running
79 of the period of limitations on assessment or collection of tax or
80 other amount (or of a transferee's liability) shall, after the mailing
81 of a notice of deficiency, be suspended for the period during which
82 the director is prohibited under subsection (c) of section 54A:9-2
83 from making the assessment or from collecting by levy.

1 54A:9-5. Interest on underpayment. (a) General. If any amount
2 of income tax is not paid on or before the last date prescribed in
3 this act for payment, interest on such amount at the rate of 6%
4 per annum shall be paid for the period from such last date to the
5 date paid, whether or not any extension of time for payment was
6 granted. Interest under this subsection shall not be paid if the
7 amount thereof is less than \$1.00. If the time for filing of a return
8 of tax withheld by an employer is extended, the employer shall
9 pay interest for the period for which the extension is granted and
10 may not charge such interest to the employee.

11 (b) Exception as to estimated tax. This section shall not apply
12 to any failure to pay estimated tax under section 54A:8-6.

13 (c) Exception for mathematical error. No interest shall be im-
14 posed on any underpayment of tax due solely to mathematical
15 error if the taxpayer files a return within the time prescribed in
16 this act (including any extension of time) and pays the amount of
17 underpayment within 3 months after the due date of such return,
18 as it may be extended.

19 (d) No interest on interest. No interest under this act shall be
20 imposed on any interest provided by this act.

21 (e) Suspension of interest on deficiencies. If a waiver of restric-
22 tions on assessment of a deficiency has been filed by the taxpayer,
23 and if notice and demand by the director for payment of such
24 deficiency is not made within 30 days after the filing of such waiver,
25 interest shall not be imposed on such deficiency for the period
26 beginning immediately after such thirtieth day and ending with
27 the date of notice and demand.

28 (f) Tax reduced by carryback. If the amount of tax for any
29 taxable year is reduced by reason of a carryback of a net operating
30 loss, such reduction in tax shall not affect the computation of
31 interest under this section for the period ending with the last day
32 of the taxable year in which the net operating loss arises.

33 (g) Interest treated as tax. Interest under this section shall be
34 paid upon notice and demand and shall be assessed, collected and
35 paid in the same manner as income tax. Any reference in this act
36 to the tax imposed by this act shall be deemed also to refer to
37 interest imposed by this section on such tax.

38 (h) Interest on penalties or additions to tax. Interest shall be
39 imposed under subsection (a) in respect of any assessable penalty
40 or addition to tax only if such assessable penalty or addition to
41 tax is not paid within 10 days from the date of the notice and
42 demand therefor under subsection (b) of section 54A:9-12, and in
43 such case interest shall be imposed only for the period from such
44 date of the notice and demand to the date of payment.

45 (i) Payment prior to notice of deficiency. If, prior to the mail-
46 ing to the taxpayer of a notice of deficiency under subsection (b)
47 of section 54A:9-2, the director mails to the taxpayer a notice of
48 proposed increase of tax and within 30 days after the date of the
49 notice of proposed increase the taxpayer pays all amounts shown
50 on the notice to be due to the director, no interest under this section
51 on the amount so paid shall be imposed for the period after the
52 date of such notice of proposed increase.

53 (j) Payment within 90 days after the notice of deficiency. If a
54 notice of deficiency under section 54A:9-2 is mailed to the tax-
55 payer, and the total amount specified in such notice is paid on or
56 before the ninetieth day after the date of mailing, interest under
57 this section shall not be imposed for the period after the date of
58 the notice.

59 (k) Payment within 10 days after notice and demand. If notice
60 and demand is made for payment of any amount under subsection
61 (b) of section 54A:9-12, and if such amount is paid within 10 days
62 after the date of such notice and demand, interest under this section
63 on the amount so paid shall not be imposed for the period after
64 the date of such notice and demand.

65 (l) Limitation on assessment and collection. Interest prescribed
66 under this section may be assessed and collected at any time dur-
67 ing the period within which the tax or other amount to which such
68 interest relates may be assessed and collected, respectively.

69 (m) Interest on erroneous refund. Any portion of tax or other
70 amount which has been erroneously refunded, and which is recover-
71 able by the director, shall bear interest at the rate of 6% per annum
72 from the date of the payment of the refund, but only if it appears
73 that any part of the refund was induced by fraud or a misrepre-
74 sentation of a material fact.

75 (n) Satisfaction by credits. If any portion of a tax is satisfied
76 by credit of an overpayment, then no interest shall be imposed
77 under this section on the portion of the tax so satisfied for any
78 period during which, if the credit had not been made, interest would
79 have been allowable with respect to such overpayment.

1 54A:9-6. Additions to tax and civil penalties. (a) Failure to file
2 tax return. In case of failure to file a tax return under this act on
3 or before the prescribed date (determined with regard to any ex-
4 tension of time for filing), unless it is shown that such failure is
5 due to reasonable cause and not due to willful neglect, there shall
6 be added to the amount required to be shown as tax on such return
7 5% of the amount of such tax if the failure is for not more than 1
8 month, with an additional 5% for each additional month or frac-
9 tion thereof during which such failure continues, not exceeding
10 25% in the aggregate. For this purpose, the amount of tax re-
11 quired to be shown on the return shall be reduced by the amount
12 of any part of the tax which is paid on or before the date pre-
13 scribed for payment of the tax and by the amount of any credit
14 against the tax which may be claimed upon the return.

15 (b) Deficiency due to negligence. If any part of a deficiency is
16 due to negligence or intentional disregard of this act or rules or
17 regulations hereunder (but without intent to defraud), there shall
18 be added to the tax an amount equal to 5% of the deficiency.

19 (c) Failure to file declaration or underpayment of estimated tax.
20 If any taxpayer fails to file a declaration of estimated tax or fails
21 to pay all or any part of an installment of estimated tax, he shall
22 be deemed to have made an underpayment of estimated tax. There
23 shall be added to the tax for the taxable year an amount at the
24 rate of 6% per annum upon the amount of the underpayment for
25 the period of the underpayment but not beyond the fifteenth day
26 of the fourth month following the close of the taxable year. The
27 amount of underpayment shall be the excess of the amount of the
28 installment which would be required to be paid if the estimated
29 tax were equal to 70% of the tax (two-thirds of the tax for farmers
30 referred to in subsection (e) of section 54A:8-5) shown on the re-
31 turn for the taxable year (or if no return was filed, of the tax for
32 such year) over the amount, if any, of the installment paid on or
33 before the last day prescribed for such payment. No underpayment
34 shall be deemed to exist with respect to a declaration or installment
35 otherwise due on or after the taxpayer's death.

36 (d) Exception to addition for underpayment of estimated tax.
37 The addition to tax under subsection (c) with respect to any under-

38 payment of any installment, shall not be imposed if the total amount
39 of all payments of estimated tax made on or before the last date
40 prescribed for the payment of such installment equals or exceeds
41 whichever of the following is the lesser—

42 (1) The amount which would have been required to be paid on
43 or before such date if the estimated tax were whichever of the
44 following is the least—

45 (A) The tax shown on the return of the individual for the
46 preceding taxable year, if a return showing a liability for tax
47 was filed by the individual for the preceding taxable year and
48 such preceding year was a taxable year of 12 months, or

49 (B) An amount equal to the tax computed, at the rates appli-
50 cable to the taxable year, on the basis of the taxpayer's status
51 with respect to his personal exemptions for the taxable year, but
52 otherwise on the basis of the facts shown on his return for, and
53 the law applicable to, the preceding taxable year, or

54 (C) An amount equal to 70% of the tax for the taxable year
55 (two-thirds of the tax for farmers referred to in subsection (c)
56 of section 54A:4-5) computed by placing on an annualized basis
57 the income for the months in the taxable year ending before the
58 month in which the installment is required to be paid. For
59 purposes of this subparagraph, the income shall be placed on an
60 annualized basis by—

61 (i) Multiplying by 12 (or, in the case of a taxable year of
62 less than 12 months, the number of months in the taxable year)
63 the income for the months in the taxable year ending before the
64 month in which the installment is required to be paid,

65 (ii) Dividing the resulting amount by the number of months
66 in the taxable year ending before the month in which such
67 installment date falls, and

68 (iii) Deducting from such amount the deductions for per-
69 sonal exemptions allowable for the taxable year (such personal
70 exemptions being determined as of the last date prescribed for
71 payment of the installment); or

72 (2) An amount equal to 90% of the tax computed, at the rates
73 applicable to the taxable year, on the basis of the actual income
74 for the months in the taxable year ending before the month in
75 which the installment is required to be paid.

76 (e) Deficiency due to fraud. If any part of a deficiency is due
77 to fraud, there shall be added to the tax an amount equal to 50%
78 of the deficiency. This amount shall be in lieu of any other addition
79 to tax imposed by subsection (a) or (b).

80 (f) Nonwillful failure to pay withholding tax. If any employer,
81 without intent to evade or defeat any tax imposed by this act or the
82 payment thereof, shall fail to make a return and pay a tax withheld
83 by him at the time required by or under the provisions of section
84 54A:7-4, such employer shall be liable for such tax and shall pay
85 the same together with interest thereon and the addition to tax
86 provided in subsection (a), and such interest and addition to tax
87 shall not be charged to or collected from the employee by the
88 employer. The director shall have the same rights and powers for
89 the collection of such tax, interest and addition to tax against such
90 employer as are now prescribed by this act for the collection of tax
91 against an individual taxpayer.

92 (g) Willful failure to collect and pay over tax. Any person
93 required to collect, truthfully account for, and pay over the tax
94 imposed by this act who willfully fails to collect such tax or truth-
95 fully account for and pay over such tax or willfully attempts in any
96 manner to evade or defeat the tax or the payment thereof, shall, in
97 addition to other penalties provided by law, be liable to a penalty
98 equal to the total amount of the tax evaded, or not collected, or
99 not accounted for and paid over. No addition to tax under sub-
100 sections (b) or (c) shall be imposed for any offense to which this
101 subsection applies.

102 (h) Failure to file certain information returns. In case of each
103 failure to file a statement of a payment to another person, required
104 under authority of subsection (c) of section 54A:8-7 (relating to
105 information at source, including the duplicate statement of tax
106 withheld on wages) on the date prescribed therefor (determined
107 with regard to any extension of time for filing), unless it is shown
108 that such failure is due to reasonable cause and not to willful
109 neglect, there shall, upon notice and demand by the director and in
110 the same manner as tax, be paid by the person so failing to file the
111 statement, a penalty of \$1.00 for each statement not so filed, but
112 the total amount imposed on the delinquent person for all such
113 failures during any calendar year shall not exceed \$1,000.00.

114 (i) Additional penalty. Any person who with fraudulent intent
115 shall fail to pay, or to deduct or withhold and pay, any tax, or to
116 make, render, sign or certify any return or declaration of esti-
117 mated tax or to supply any information within the time required
118 by or under this act, shall be liable to penalty of not more than
119 \$1,000.00, in addition to any other amounts required under this act,
120 to be imposed, assessed and collected by the director. The director

121 shall have the power, in his discretion, to waive, reduce or compro-
122 mise any penalty under this subsection.

123 (j) Additions treated as tax. The additions to tax and penalties
124 provided by this section shall be paid upon notice and demand and
125 shall be assessed, collected and paid in the same manner as taxes
126 and any reference in this act to income tax or tax imposed by this
127 act, shall be deemed also to refer to the additions to tax and pen-
128 alties provided by this section. For purposes of section 54A:9-2,
129 this subsection shall not apply to.

130 (1) Any addition to tax under subsection (a) except as to that
131 portion attributable to a deficiency;

132 (2) Any addition to tax under subsection (c); and

133 (3) Any additional penalty under subsection (i).

134 (k) Determination of deficiency. For purposes of subsections
135 (b) and (c), the amount shown as the tax by the taxpayer upon his
136 return shall be taken into account in determining the amount of the
137 deficiency only if such return was filed on or before the last day
138 prescribed for the filing of such return, determined with regard to
139 any extension of time for such filing.

140 (l) Person defined. For purposes of subsections (g) and (i), the
141 term person includes an individual, corporation or partnership or
142 an officer or employee of any corporation (including a dissolved
143 corporation) or a member or employee of any partnership, who
144 as such officer, employee, or member is under a duty to perform
145 the act in respect of which the violation occurs.

1 54A:9-7. Overpayment. (a) General. The director, within the
2 applicable period of limitations may credit an overpayment of
3 income tax against any liability in respect of any tax imposed by
4 the tax law on the person who made the overpayment, and the
5 balance shall be refunded by the comptroller out of the proceeds of
6 the tax retained by him for such general purpose. Any refund
7 under this section shall be made only upon the filing of a return
8 and upon a certificate of the director approved by the comptroller.
9 The State Treasurer, as a condition precedent to the approval of
10 such a certificate, may examine into the facts as disclosed by the
11 return of the person who made the overpayment and other informa-
12 tion and data available in the files of the director.

13 (b) Excessive withholding. If the amount allowable as a credit
14 for tax withheld from the taxpayer exceeds his tax to which the
15 credit relates, the excess shall be considered an overpayment.

16 (c) Overpayment by employer. If there has been an overpay-
17 ment of tax required to be deducted and withheld under section

18 54A:7-4, refund shall be made to the employer only to the extent
19 that the amount of the overpayment was not deducted and withheld
20 by the employer.

21 (d) Credits against estimated tax. The director may prescribe
22 regulations providing for the crediting against the estimated income
23 tax for any taxable year of the amount determined to be an over-
24 payment of the income tax for a preceding taxable year. If any
25 overpayment of income tax is so claimed as a credit against
26 estimated tax for the succeeding taxable year, such amount shall
27 be considered as a payment of the income tax for the succeeding
28 taxable year (whether or not claimed as a credit in the declaration
29 of estimated tax for such succeeding taxable year), and no claim
30 for credit or refund of such overpayment shall be allowed for the
31 taxable year for which the overpayment arises.

32 (e) Rule where no tax liability. If there is no tax liability for
33 a period in respect of which an amount is paid as income tax, such
34 amount shall be considered an overpayment.

35 (f) Under regulations prescribed by the director with approval
36 of the State Treasurer interest shall be allowed and paid at the rate
37 of 6% per annum upon any overpayment in respect of the tax im-
38 posed by this act; but no interest shall be allowed or paid on an
39 overpayment of less than \$1.00, nor upon any overpayment
40 refunded within 6 months after the last date prescribed, or per-
41 mitted by extension of time, for filing the return or within 6 months
42 after the return is filed, whichever is later.

1 54A:9-8. Limitations on credit or refund. (a) General. Claim
2 for credit or refund of an overpayment of income tax shall be filed
3 by the taxpayer within 3 years from the time the return was filed or
4 2 years from the time the tax was paid, whichever of such periods
5 expires the later, or if no return was filed, within 2 years from the
6 time the tax was paid. If the claim is filed within the 3-year period,
7 the amount of the credit or refund shall not exceed the portion of
8 the tax paid within the 3 years immediately preceding the filing of
9 the claim plus the period of any extension of time for filing the
10 return. If the claim is not filed within the 3-year period, but is filed
11 within the 2-year period, the amount of the credit or refund shall
12 not exceed the portion of the tax paid during the 2 years immedi-
13 ately preceding the filing of the claim. Except as otherwise pro-
14 vided in this section, if no claim is filed, the amount of a credit or
15 refund shall not exceed the amount which would be allowable if a
16 claim had been filed on the date the credit or refund is allowed.

17 (b) Extension of time by agreement. If an agreement under the
18 provisions of paragraph (2) of subsection (c) of section 54A:9-4
19 (extending the period for assessment of income tax) is made within
20 the period prescribed in subsection (a) for the filing of a claim for
21 credit or refund, the period for filing a claim for credit or refund,
22 or for making credit or refund if no claim is filed, shall not expire
23 prior to 6 months after the expiration of the period within which
24 an assessment may be made pursuant to the agreement or any
25 extension thereof. The amount of such credit or refund shall not
26 exceed the portion of the tax paid after the execution of the agree-
27 ment and before the filing of the claim or the making of the credit
28 or refund, as the case may be, plus the portion of the tax paid within
29 the period which would be applicable under subsection (a) if a
30 claim had been filed on the date the agreement was executed.

31 (c) Notice of change or correction of Federal income. If a tax-
32 payer is required by section 54A:8-8 to report a change or correc-
33 tion in Federal taxable income reported on his Federal income tax
34 return, or to report a change or correction which is treated in the
35 same manner as if it were an overpayment for Federal income tax
36 purposes, or to file an amended return with the director, claim for
37 credit or refund of any resulting overpayment of tax shall be filed
38 by the taxpayer within 2 years from the time the notice of such
39 change or correction or such amended return was required to be
40 filed with the director. The amount of such credit or refund shall
41 not exceed the amount of the reduction in tax attributable to such
42 Federal change, correction or items amended on the taxpayer's
43 amended Federal income tax return. This subsection shall not
44 affect the time within which or the amount for which a claim for
45 credit or refund may be filed apart from this subsection.

46 (d) Overpayment attributable to net operating loss carryback.
47 A claim for credit or refund of so much of an overpayment as is
48 attributable to the application to the taxpayer of a net operating
49 loss carryback shall be filed within 3 years from the time the return
50 was due for the taxable year of the loss, or within the period pre-
51 scribed in subsection (b) in respect of such taxable year, or within
52 the period prescribed in subsection (c), where applicable, in respect
53 of the taxable year to which the net operating loss is carried back,
54 whichever expires the latest.

55 (e) Failure to file claim within prescribed period. No credit or
56 refund shall be allowed or made, except as provided in subsection
57 (f) of this section or subsection (d) of section 54A:9-10, after the
58 expiration of the applicable period of limitation specified in this

59 act, unless a claim for credit or refund is filed by the taxpayer
60 within such period. Any later credit shall be void and any later
61 refund erroneous. No period of limitations specified in any other
62 law shall apply to the recovery by a taxpayer of moneys paid in
63 respect of taxes under this act.

64 (f) Effect of petition to director. If a notice of deficiency for a
65 taxable year has been mailed to the taxpayer under section 54A:9-2
66 and if the taxpayer files a timely petition with the director under
67 section 54A:9-9, he may determine that the taxpayer has made an
68 overpayment for such year (whether or not he also determines a
69 deficiency for such year). No separate claim for credit or refund
70 for such year shall be filed, and no credit or refund for such year
71 shall be allowed or made, except—

72 (1) As to overpayments determined by a decision of the director
73 which has become final; and

74 (2) As to any amount collected in excess of an amount computed
75 in accordance with the decision of the director which has become
76 final; and

77 (3) As to any amount claimed as a result of a change or correc-
78 tion described in subsection (c).

79 (g) Limit on amount of credit or refund. The amount of over-
80 payment determined under subsection (f) shall, when the decision
81 of the director has become final, be credited or refunded in accord-
82 ance with subsection (a) of section 54A:6-6 and shall not exceed
83 the amount of tax which the director determines as part of his
84 decision was paid—

85 (1) After the mailing of the notice of deficiency; or

86 (2) Within the period which would be applicable under subsec-
87 tions (a), (b) or (c), if on the date of the mailing of the notice of
88 a deficiency a claim had been filed (whether or not filed) stating the
89 grounds upon which the director finds that there is an overpayment.

90 (h) Early return. For purposes of this section, any return filed
91 before the last day prescribed for the filing thereof shall be con-
92 sidered as filed on such last day, determined without regard to any
93 extension of time granted the taxpayer.

94 (i) Prepaid income tax. For purposes of this section, any tax
95 paid by the taxpayer before the last day prescribed for its payment,
96 any income tax withheld from the taxpayer during any calendar
97 year, and any amount paid by the taxpayer as estimated income tax
98 for a taxable year shall be deemed to have been paid by him on the
99 fifteenth day of the fourth month following the close of his taxable

100 year with respect to which such amount constitutes a credit or
101 payment.

102 (j) Return and payment of withholding tax. Notwithstanding
103 subsection (h), for purposes of this section with respect to any with-
104 holding tax—

105 (1) If a return for any period ending with or within a calendar
106 year is filed before April 15 of the succeeding calendar year, such
107 return shall be considered filed on April 15 of such succeeding
108 calendar year; and

109 (2) If a tax with respect to remuneration paid during any period
110 ending with or within a calendar year is paid before April 15 of the
111 succeeding calendar year, such tax shall be considered paid on April
112 15 of such succeeding calendar year.

1 54A:9-9. Petition to director. (a) General. The form of a peti-
2 tion to the director, and further proceedings before the director in
3 any case initiated by the filing of a petition, shall be governed by
4 such rules as the director shall prescribe. No petition shall be
5 deemed in whole or in part without opportunity for a hearing on
6 reasonable prior notice. Such hearing shall be conducted by the
7 director, or by a hearing officer designated by him to take evidence
8 and report to the director. The director shall decide the case as
9 quickly as practicable. Notice of the decision shall be mailed
10 promptly to the taxpayer at his last known address, and such notice
11 shall set forth the director's findings of fact and a brief statement
12 of the grounds of decision in each case decided in whole or in part
13 adversely to the taxpayer.

14 (b) Petition for redetermination of a deficiency. Within 90 days,
15 or 150 days if the notice is addressed to a person outside of the
16 United States, after the mailing of the notice of deficiency autho-
17 rized by section 54A:9-2, the taxpayer may file a petition with the
18 director for a redetermination of the deficiency. Such petition may
19 also assert a claim for refund for the same taxable year or years,
20 subject to the limitations of subsection (g) of section 54A:6-7.

21 (c) Petition for refund. A taxpayer may file a petition with the
22 director for the amounts asserted in a claim for refund if—

23 (1) The taxpayer has filed a timely claim for refund with the
24 director;

25 (2) The taxpayer has not previously filed with the director a
26 timely petition under subsection (b) for the same taxable year
27 unless the petition under this subsection relates to a separate claim
28 for credit or refund properly filed under subsection (f) of section
29 54A:9-8; and

30 (3) Either (A) 6 months have expired since the claim was filed,
31 or (B) the director has mailed to the taxpayer a notice of disallow-
32 ance of such claim in whole or in part.

33 No petition under this subsection shall be filed more than 2 years
34 after the date of mailing of a notice of disallowance, unless prior to
35 the expiration of such 2-year period it has been extended by written
36 agreement between the taxpayer and the director. If a taxpayer
37 files a written waiver of the requirement that he be mailed a notice
38 of disallowance, the 2-year period prescribed by this subsection for
39 filing a petition for refund shall begin on the date such waiver is
40 filed.

41 (d) Assertion of deficiency after filing petition.--

42 (1) Petition for redetermination of deficiency. If a taxpayer files
43 with the director a petition for redetermination of a deficiency, the
44 director shall have power to determine a greater deficiency than
45 asserted in the notice of deficiency and to determine if there should
46 be assessed any addition to tax or penalty provided in section
47 54A:9-6, if claim therefor is asserted at or before the hearing
48 under rules of the director.

49 (2) Petition for refund. If the taxpayer files with the director a
50 petition for credit or refund for a taxable year, the director may

51 (A) Determine a deficiency for such year as to any amount of
52 deficiency asserted at or before the hearing under rules of the
53 director, and within the period in which an assessment would be
54 timely under section 54A:9-4, or

55 (B) Deny so much of the amount for which credit or refund is
56 sought in the petition, as is offset by other issues pertaining to
57 the same taxable year which are asserted at or before the hearing
58 under rules of the director.

59 (3) Opportunity to respond. A taxpayer shall be given a reason-
60 able opportunity to respond to any matters asserted by the director
61 under this subsection.

62 (4) Restriction on further notices of deficiency. If the taxpayer
63 files a petition with the director under this section, no notice of
64 deficiency under section 54A:9-2 may thereafter be issued by the
65 director for the same taxable year, except in case of fraud or with
66 respect to a change or correction in Federal taxable income re-
67 quired to be reported under section 54A:8-8.

68 (e) Burden of proof. In any case before the director under this
69 act, the burden of proof shall be upon the petitioner except for the
70 following issues, as to which the burden of proof shall be upon the
71 director:

72 (1) Whether the petitioner has been guilty of fraud with intent
73 to evade tax;

74 (2) Whether the petitioner is liable as the transferee of property
75 of a taxpayer, but not to show that the taxpayer was liable for the
76 tax; and

77 (3) Whether the petitioner is liable for any increase in a
78 deficiency where such increase is asserted initially after a notice of
79 deficiency was mailed and a petition under this section filed, unless
80 such increase in deficiency is the result of a change or correction of
81 Federal taxable income required to be reported under section
82 54A:8-8, and of which change or correction the director had no
83 notice at the time he mailed the notice of deficiency.

84 (f) Evidence of related Federal determination. Evidence of a
85 Federal determination relating to issues raised in a case before the
86 director under this section shall be admissible, under rules estab-
86A lished by the director.

87 (g) Jurisdiction over other years. The director shall consider
88 such facts with relation to the taxes for other years as may be
89 necessary correctly to determine the tax for the taxable year, but
90 in so doing shall have no jurisdiction to determine whether or not
91 the tax for any other year has been overpaid or underpaid.

92 (h) (1) Compromises. The director or his delegate may com-
93 promise any civil or criminal case arising under this act prior to
94 reference to the Attorney General of New Jersey for prosecution
95 or defense; if,

96 (A) Satisfactory proof is presented that the amount of tax
97 assessed may be uncollectible in whole or in part; or

98 (B) The director determines that the taxpayer is likely to
99 succeed in litigation; or

100 (C) The Attorney General advises a compromise.

101 (2) Whenever a compromise is made by the director or his dele-
102 gate in any case, there shall be placed in the office of the director the
103 statement of his reasons therefor, with a statement of—

104 (A) The amount of tax assessed,

105 (B) The amount of interest, additional amount, addition to the
106 tax, or assessable penalty, imposed upon the person against whom
107 the tax is assessed, and

108 (C) The amount actually paid in accordance with the terms of
109 the compromise.

110 Notwithstanding the foregoing provisions of this section no such
111 opinion shall be required with respect to the compromise of any
112 civil case in which the unpaid amount of the tax assessed (includ-

113 ing any interest, additional amount, addition to the tax, or assess-
114 able penalty) is less than \$500.00.

1 54A:9-10. Review of director's decision. (a) Appeal to Division
2 of Tax Appeals. Any aggrieved taxpayer may, within 4 months
3 after any decision, order, finding, assessment or action of the
4 Director of Taxation made pursuant to the provisions of this act,
5 appeal therefrom to the Division of Tax Appeals, by filing a petition
6 of appeal with said Division of Tax Appeals in the manner and form
7 prescribed by the said Division of Tax Appeals.

8 (b) Appeal exclusive remedy of taxpayer. The appeal provided
9 by this section shall be the exclusive remedy available to any tax-
10 payer for review of a decision of the director in respect of the
11 determination of the liability of the taxpayer for the taxes imposed
12 by this act.

13 (c) Credit, refund or abatement after review. If the amount of
14 a deficiency determined by the director is disallowed in whole or in
15 part, the amount so disallowed shall be credited or refunded to the
16 taxpayer, without the making of claim therefor, or, if payment has
17 not been made, shall be abated.

18 (d) Date of finality of director's decision. A decision of the
19 director shall become final upon the expiration of the period
20 specified in subsection (a) for filing a petition of appeal, if no such
21 petition has been filed within such time, or if such petition has been
22 duly made, upon expiration of the time for all further appeals, or
23 upon the rendering by the director of a decision in accordance with
24 the mandate of the Division of Tax Appeals or the courts on appeal.
25 Notwithstanding the foregoing, for the purpose of forming a peti-
26 tion of appeal, the decision of the director shall be deemed final on
27 the date the notice of decision is sent by mail to the taxpayer.

28 (e) Judicial review. The judgment or order of the Division of
29 Tax Appeals respecting any matter arising under the provisions of
30 this act may be reviewed by a proceeding in lieu of prerogative
31 writ in the same manner as other judgments of said division.

1 54A:9-11. Mailing rules; holidays. (a) Timely mailing. If any
2 claim, statement, notice, petition, or other document (including to
3 the extent authorized by the director, a return or a declaration of
4 estimated tax) required to be filed within a prescribed period or on
5 or before a prescribed date under authority of any provision of this
6 act is, after such period or such date, delivered by United States
7 mail to the director, bureau, office, officer or person with which or
8 with whom such document is required to be filed, the date of the
9 United States postmark stamped on the envelope shall be deemed
10 to be the date of delivery. This subsection shall apply only if the

11 postmark date falls within the prescribed period or on or before the
12 prescribed date for the filing of such document, determined with
13 regard to any extension granted for such filing, and only if such
14 document was deposited in the mail, postage prepaid, properly
15 addressed to the director, bureau, office, officer or person with which
16 or with whom the document is required to be filed. If any document
17 is sent by United States registered mail, such registration shall be
18 prima facie evidence that such document was delivered to the
19 director, bureau, office, officer or person to which or to whom
20 addressed. To the extent that the director shall prescribe by regula-
21 tion, certified mail may be used in lieu of registered mail under this
22 section. This subsection shall apply in the case of postmarks not
23 made by the United States Post Office only if and to the extent pro-
24 vided by regulations of the director.

25 (b) Last known address. For purposes of this act, a taxpayer's
26 last known address shall be the address given in the last return
27 filed by him, unless subsequently to the filing of such return the tax-
28 payer shall have notified the director of a change of address.

29 (c) Last day a Saturday, Sunday or legal holiday. When the
30 last day prescribed under authority of this act (including any
31 extension of time) for performing any act falls on Saturday, Sun-
32 day, or a legal holiday in the State of New Jersey, the performance
33 of such act shall be considered timely if it is performed on the next
34 succeeding day which is not a Saturday, Sunday or a legal holiday.

1 54A:9-12. Collection, levy and liens. (a) Collection procedures.
2 The taxes imposed by this act shall be collected by the director, and
3 he may establish the mode or time for the collection of any amount
4 due him under this act if not otherwise specified. The director shall,
5 upon request, give a receipt for any sum collected under this act.
6 The director may authorize banks or trust companies which are
7 depositories or financial agents of the State to receive and give a
8 receipt for any tax imposed under this act in such manner, at such
9 times, and under such conditions as the director may prescribe; and
10 the director shall prescribe the manner, times and conditions under
11 which the receipt of such tax by such banks and trust companies is
12 to be treated as payment of such tax to the director.

13 (b) Notice and demand for tax. The director shall as soon as
14 practicable give notice to each person liable for any amount of tax,
15 addition to tax, penalty or interest, which has been assessed but
16 remains unpaid, stating the amount and demanding payment
17 thereof. Such notice shall be left at the dwelling or usual place of
18 business of such person or shall be sent by mail to such person's

19 last known address. Except where the director determines that
20 collection would be jeopardized by delay, if any tax is assessed prior
21 to the last date (including any date fixed by extension) prescribed
22 for payment of such tax, payment of such tax shall not be demanded
23 until after such date.

24 (c) Issuance of Certificate of Debt after notice and demand. If
25 any person liable under this act for the payment of any tax, addition
26 to tax, penalty or interest neglects or refuses to pay the same
27 within 10 days after the notice and demand therefor is given to
28 such person under subsection (b), the director may within 6 years
29 after the date of such assessment issue a certificate of debt, pur-
30 suant to the State Tax Uniform Procedure Law (Subtitle 9 of Title
31 54 of the Revised Statutes).

32 (d) Taxpayer not a resident. Where a notice and demand under
33 subsection (b) shall have been given to a taxpayer who is not then a
34 resident, and it appears to the director that it is not practicable to
35 find in this State property of the taxpayer sufficient to pay the
36 entire balance of tax or other amount owing by such taxpayer who
37 is not then a resident, the director may, in accordance with subsec-
38 tion (c), issue a certificate of debt. Thereupon the director may
39 authorize the institution of any action or proceeding to collect or
40 enforce the certificate of debt in any place and by any procedure
41 that a civil certificate of debt of the Superior Court of the State of
42 New Jersey could be collected or enforced. The director may also,
43 in his discretion, designate agents or retain counsel for the pur-
44 pose of collecting, outside the State of New Jersey, any unpaid
45 taxes, additions to tax, penalties or interest which have been
46 assessed under this act against taxpayers who are not residents of
47 this State, may fix the compensation of such agents and counsel to
48 be paid out of money appropriated or otherwise lawfully available
49 for payment thereof, and may require of them bonds or other
50 security for the faithful performance of their duties, in such form
51 and in such amount as the director shall deem proper and sufficient.

52 (e) Action by State for recovery of taxes. Action may be
53 brought by the Attorney General at the instance of the director in
54 the name of the State to recover the amount of any unpaid taxes,
55 additions to tax, penalties or interest which have been assessed
56 under this act within 6 years prior to the date the action is com-
57 menced.

58 (f) Actions for collection of tax. (1) At the request of the
59 Division of Taxation, the Attorney General may bring suit, in the
60 name of this State, in the appropriate court of any other state to
61 collect any tax legally due this State under this act.

62 (2) The courts of this State shall recognize and enforce liabilities
63 for taxes lawfully imposed by any other state, upon incomes, which
64 extends a like comity to this State, and the duly authorized officer
65 of any such state may sue for the collection of such a tax in the
66 courts of this State. A certificate by the secretary of state of such
67 other state that an officer suing for the collection of such a tax is
68 duly authorized to collect the same shall be conclusive proof of such
69 authority.

70 (3) For the purposes of this section, the words "tax" and
71 "taxes" shall include interest and penalties due under this act, and
72 liability for such interest or penalties or both, due under a taxing
73 statute of another state shall be recognized and enforced by the
74 courts of this State to the same extent that the laws of such other
75 state permit the enforcement in its courts of liability for such in-
76 terest or penalties or both, due under this act.

77 (g) Renewal and release of lien. Within 20 years from the date
78 of the filing or from the date of the last extension of the lien, the
79 lien may be extended by the filing of a new warrent with the county
80 recording officer. The director if he finds that the interests of the
81 State will not thereby be jeopardized, and upon such conditions as
82 he may require, may release any property from the lien of any
83 warrant for unpaid taxes, additions to tax, penalties and interest
84 filed pursuant to this section, and such release may be recorded in
85 the office of any recording officer in which such warrant has been
86 filed.

1 54A:9-13. Transferees. (a) General. The liability, at law or in
2 equity, of a transferee of property of a taxpayer for any tax, addi-
3 tions to tax, penalty or interest due the director under this act,
4 shall be assessed, paid, and collected in the same manner and sub-
5 ject to the same provisions and limitations as in the case of the tax
6 to which the liability relates, except that the period of limitations
7 for assessment against the transferee shall be extended by 1 year
8 for each successive transfer, in order, from the original taxpayer
9 to the transferee involved, but not by more than 3 years in the
10 aggregate. The term transferee includes, donee, heir, legatee,
11 devisee and distributee.

12 (b) Exceptions.

13 (1) If before the expiration of the period of limitations for
14 assessment of liability of the transferee, a claim has been filed by
15 the director in any court against the original taxpayer or the last
16 preceding transferee based upon the liability of the original tax-
17 payer, then the period of limitation for assessment of liability of

18 the transferee shall in no event expire prior to 1 year after such
19 claim has been finally allowed, disallowed or otherwise disposed of

20 (2) If, before the expiration of the time prescribed in subsection
21 (a) or the immediately preceding paragraph of this subsection for
22 the assessment of the liability, the director and the transferee have
23 both consented in writing to its assessment after such time, the
24 liability may be assessed at any time prior to the expiration of the
25 period agreed upon. The period so agreed upon may be extended by
26 subsequent agreements in writing made before the expiration of
27 the period previously agreed upon. For the purpose of determining
28 the period of limitation on credit or refund to the transferee of
29 overpayments of tax made by such transferee or overpayments of
30 tax made by the transferor as to which the transferee is legally en-
31 titled to credit or refund, such agreement and any extension thereof
32 shall be deemed an agreement and extension thereof referred to in
33 subsection (b) of section 54A:9-8. If the agreement is executed
34 after the expiration of the period of limitation for assessment
35 against the original taxpayer, then in applying the limitations
36 under subsection (b) of section 54A:9-8 on the amount of the credit
37 or refund, the periods specified in subsection (a) of section
38 54A:9-8 shall be increased by the period from the date of such
39 expiration to the date of the agreement.

40 (c) Deceased transferor. If any person is deceased, the period
41 of limitation for assessment against him shall be the period that
42 would be in effect if he had lived.

43 (d) Evidence. Notwithstanding the provisions of subsection (e)
44 of section 54A:9-17 the director shall use his powers to make avail-
45 able to the transferee evidence necessary to enable the transferee
46 to determine the liability of the original taxpayer and of any pre-
47 ceding transferees, but without undue hardship to the original tax-
48 payer or preceding transferee. See subsection (e) of section
49 54A:9-9 for rule as to burden of proof.

1 54A:9-14. Jeopardy assessment. (a) Authority for making. If
2 the director believes that the assessment or collection of a de-
3 ficiency will be jeopardized by delay, he shall, notwithstanding the
4 provisions of sections 54A:9-2 and 54A:9-16, immediately assess
5 such deficiency (together with all interests, penalties and additions
6 to tax provided for by law), and notice and demand shall be made
7 by the director for the payment thereof.

8 (b) Notice of deficiency. If the jeopardy assessment is made
9 before any notice in respect of the tax to which the jeopardy assess-
10 ment relates has been mailed under section 54A:9-2, then the

11 director shall mail a notice under such section within 60 days after
12 the making of the assessment.

13 (c) Amount assessable before decision of director. The jeopardy
14 assessment may be made in respect of a deficiency greater or less
15 than of which notice is mailed to the taxpayer and whether or not
16 the taxpayer has theretofore filed a petition with the director. The
17 director may, at any time before rendering his decision, abate such
18 assessment, or any unpaid portion thereof, to the extent that he
19 believes the assessment to be excessive in amount. The director
20 may in his decision redetermine the entire amount of the deficiency
21 and of all amounts assessed at the same time in connection there-
22 with.

23 (d) Amount assessable after decision of director. If the jeopardy
24 assessment is made after the decision of the director is rendered,
25 such assessment may be made only in respect of the deficiency de-
26 termined by the director in his decision.

27 (e) Expiration of right to assess. A jeopardy assessment may
28 not be made after the decision of the director has become final or
29 after the taxpayer has filed a petition with the Division of Tax
30 Appeals for review of the decision of the director.

31 (f) Collection of unpaid amounts. When a petition has been filed
32 with the director and when the amount which should have been
33 assessed has been determined by a decision of the director which
34 has become final, then any unpaid portion, the collection of which
35 has been stayed by bond, shall be collected as part of the tax upon
36 notice and demand from the director, and any remaining portion
37 of the assessment shall be abated. If the amount already collected
38 exceeds the amount determined as the amount which should have
39 been assessed, such excess shall be credited or refunded to the tax-
40 payer as provided in section 54A:9-7 without the filing of claim
41 therefor. If the amount determined as the amount which should
42 have been assessed is greater than the amount actually assessed,
43 then the difference shall be assessed and shall be collected as part
44 of the tax upon notice and demand from the director.

45 (g) Abatement if jeopardy does not exist. The director may
46 abate the jeopardy assessment if he finds that jeopardy does not
47 exist. Such abatement may not be made after a decision of the
48 director in respect of the deficiency has been rendered or, if no pe-
49 tition is filed with the director, after the expiration of the period
50 for filing such petition. The period of limitation on the making of
51 assessments and levy or a proceeding for collection, in respect of
52 any deficiency, shall be determined as if the jeopardy assessment

53 so abated had not been made, except that the running of such period
54 shall in any event be suspended for the period from the date of such
55 jeopardy assessment until the expiration of the tenth day after the
56 day on which such jeopardy assessment is abated.

57 (h) Bond to stay collection. The collection of the whole or any
58 amount of any jeopardy assessment may be stayed by filing with
59 the director, within such time as may be fixed by regulation, a bond
60 in an amount equal to the amount as to which the stay is desired,
61 conditioned upon the payment of the amount (together with in-
62 terest thereon) the collection of which is stayed at the time at which,
63 but for the making of the jeopardy assessment, such amount would
64 be due. Upon the filing of the bond the collection of so much of the
65 amount assessed as is covered by the bond shall be stayed. The
66 taxpayer shall have the right to waive such stay at any time in
67 respect of the whole or any part of the amount covered by the bond,
68 and if as a result of such waiver any part of the amount covered
69 by the bond is paid, then the bond shall at the request of the tax-
70 payer, be proportionately reduced. If any portion of the jeopardy
71 assessment is abated, or if a notice of deficiency under section
72 54A:9-2 is mailed to the taxpayer in a lesser amount, the bond
73 shall, at the request of the taxpayer, be proportionately reduced.

74 (i) Petition to director. If the bond is given before the taxpayer
75 has filed his petition under section 54A:9-9, the bond shall contain
76 a further condition that if a petition is not filed within the period
77 provided in such section, then the amount, the collection of which
78 is stayed by the bond, will be paid on notice and demand at any
79 time after the expiration of such period, together with interest
80 thereon from the date of the jeopardy notice and demand to the
81 date of notice and demand under this subsection. The bond shall
82 be conditioned upon the payment of so much of such assessment
83 (collection of which is stayed by the bond) as is not abated by a
84 decision of the director which has become final. If the director
85 determines that the amount assessed is greater than the amount
86 which should have been assessed, then the bond shall, at the re-
87 quest of the taxpayer, be proportionately reduced when the de-
88 cision of the director is rendered.

89 (j) Stay of sale of seized property pending director's decision.
90 Where a jeopardy assessment is made, the property seized for the
91 collection of the tax shall not be sold—

92 (1) If subsection (b) is applicable, prior to the issuance of the
93 notice of deficiency and the expiration of the time provided in sec-
94 tion 54A:9-9, for filing a petition with the director, and

95 (2) If a petition is filed with the director (whether before or
96 after the making of such jeopardy assessment), prior to the ex-
97 piration of the period during which the assessment of the deficiency
98 would be prohibited if subsection (a) were not applicable.

99 Such property may be sold if the taxpayer consents to the sale,
100 or if the director determines that the expenses of conservation and
101 maintenance will greatly reduce the net proceeds, or if the property
102 is perishable.

103 (k) Interest. For the purpose of subsection (a) of section
104 54A:9-5, the last date prescribed for payment shall be determined
105 without regard to any notice and demand for payment issued under
106 this section prior to the last date otherwise prescribed for such
107 payment.

108 (l) Early termination of taxable year. If the director finds that
109 a taxpayer designs quickly to depart from this State or to remove
110 his property therefrom, or to conceal himself or his property
111 therein, or to do any other act tending to prejudice or to render
112 wholly or partly ineffectual proceedings to collect the income tax
113 for the current or the preceding taxable year unless such proceed-
114 ings be brought without delay, the director shall declare the tax-
115 able period for such taxpayer immediately terminated, and shall
116 cause notice of such finding and declaration to be given the tax-
117 payer, together with a demand for immediate payment of the tax
118 for the taxable period so declared terminated and of the tax for
119 the preceding taxable year or so much of such tax as is unpaid,
120 whether or not the time otherwise allowed by law for filing return
121 and paying the tax has expired; and such taxes shall thereupon
122 become immediately due and payable. In any proceeding brought
123 to enforce payment of taxes made due and payable by virtue of
124 the provisions of this subsection, the finding of the director made
125 as herein provided, whether made after notice to the taxpayer or
126 not, shall be for all purposes presumptive evidence of jeopardy.

127 (m) Reopening of taxable period. Notwithstanding the termi-
128 nation of the taxable period of the taxpayer by the director, as
129 provided in subsection (l), the director may reopen such taxable
130 period each time the taxpayer is found by the director to have
131 received income, within the current taxable year, since the termi-
132 nation of such period. A taxable period so terminated by the di-
133 rector may be reopened by the taxpayer if he files with the director
134 a true and accurate return of taxable income and credits allowed
135 under this act for such taxable period, together with such other
136 information as the director may by regulations prescribe.

137 (n) Furnishing of bond where taxable year is closed by the
138 director. Payment of taxes shall not be enforced by any proceed-
139 ings under the provisions of subsection (l) prior to the expiration
140 of the time otherwise allowed for paying such taxes if the taxpayer
141 furnishes, under regulations prescribed by the director, a bond to
142 insure the timely making of returns with respect to, and payment
143 of, such taxes or any income taxes for prior years.

1 54A:9-15. Criminal penalties. (a) Attempt to evade tax. Any
2 individual, corporation or partnership or any officer or employee
3 of any corporation, or member or employee of any partnership,
4 who, with intent to evade any tax or any requirement of this act
5 or any lawful requirement of the director thereunder, shall fail to
6 pay the tax, or to make, render, sign or certify any return or
7 declaration of estimated income, or to supply any information
8 within the time required by or under the provisions of this act,
9 or who, with like intent, shall make, render, sign or certify any
10 false or fraudulent return, declaration or statement, or shall supply
11 any false or fraudulent information, or who shall fail to comply
12 with the provisions of subsection (b) of section 54A:7-4 after the
13 service of a notice by the director thereunder, shall be guilty of a
14 misdemeanor and shall, upon conviction, be fined not to exceed
15 \$5,000.00 or be imprisoned not to exceed 1 year, or both, at the
16 discretion of the court.

17 (b) Limitations. Notwithstanding the provisions of any other
18 law, a prosecution for any offense under this section may be com-
19 menced at any time not later than 5 years after the commission
20 of such offense provided that, if such offense is the failure to do
21 an act required by or under the provision of this act to be done
22 before a certain date, a prosecution for such offense may be com-
23 menced not later than 5 years after such date.

24 (c) Willful failure to withhold. Any individual, corporation or
25 partnership or any officer or employee of any corporation (includ-
26 ing a dissolved corporation), or member or employee of any part-
27 nership, who willfully fails to collect or pay over any withholding
28 tax as required, shall, in addition to other penalties provided by
29 law, be guilty of a misdemeanor, and, upon conviction thereof
30 shall be fined not to exceed \$5,000.00 or imprisoned not to exceed
31 1 year, or both.

32 (d) Two or more charges. In the prosecution of offenses under
33 this section, if there are two or more charges against any person
34 or corporation, involving a violation or violations of any provision
35 or provisions of this act, whether for the same or different taxable

36 years, instead of returning several indictments or filing several
37 informations, all of such charges may be joined in one indictment
38 or information, in separate counts, and if two or more indictments
39 are found, or two or more informations are filed, the court may
40 order them to be consolidated. If a person or corporation shall be
41 convicted of two or more offenses constituting different crimes
42 set forth in different counts of one indictment or information, or
43 in separate indictments or informations consolidated as herein-
44 before provided, the court may impose a separate sentence for
45 each offense, and if imprisonment is imposed, the court may order
46 any of such sentences to be served concurrently or consecutively.

47 (e) Miscellaneous rules. The failure to do any act required by
48 or under the provisions of this act shall be deemed an act committed
49 in part at the office of the director in Trenton. Any prosecution
50 under this section may be conducted in any county where the person
51 or corporation to whose tax liability the proceeding relates resides,
52 or has a place of business, or from which such person or corpora-
53 tion received any income, or in any county in which any such crime
54 is committed, or in the county of Mercer. The Attorney General
55 shall have concurrent jurisdiction with any prosecuting attorney
56 in the prosecution of any offenses under this section. If the pro-
57 visions of this section conflict with those contained in any other
58 law, this section shall control. The certificate of the director to
59 the effect that a tax has not been paid, that a return or declaration
60 of estimated tax has not been filed, or that information has not
61 been supplied, as required by or under the provisions of this act,
62 shall be prima facie evidence that such tax has not been paid, that
63 such return or declaration has not been filed, or that such informa-
64 tion has not been supplied. All fines levied under this section shall
65 be paid to the director and deposited in the same manner as
66 revenues collected or received under this act.

1 54A:9-16. Armed forces relief provisions. (a) Time to be
2 disregarded. In the case of an individual serving in the Armed
3 Forces of the United States, or serving in support of such armed
4 forces, in an area designated by the President of the United States
5 by executive order as a "combat zone" at any time during the
6 period designated by the president by executive order as the period
7 of combatant activities in such zone, or hospitalized outside the
8 State as a result of injury received while serving in such an area
9 during such time, the period of service in such area, plus the period
10 of continuous hospitalization outside the State attributable to such
11 injury, and the next 180 days thereafter, shall be disregarded in

12 determining, under this act, in respect of the income tax liability
13 (including any interest, penalty, or addition to the tax) of such
14 individual.

15 (1) Whether any of the following acts was performed within the
16 time prescribed therefor:

17 (A) Filing any return of income tax (except withholding
18 tax);

19 (B) Payment of any income tax (except withholding tax)
20 or any installment thereof or of any other liability to the State,
21 in respect thereof;

22 (C) Filing a petition with the director for credit or refund
23 or for redetermination of a deficiency, or application for review
24 of a decision rendered by the director;

25 (D) Allowance of a credit or refund of income tax;

26 (E) Filing a claim for credit or refund of income tax;

27 (F) Assessment of income tax;

28 (G) Giving or making any notice or demand for the payment
29 of any income tax, or with respect to any liability to the State
30 in respect of income tax;

31 (H) Collection, by the director, by levy or otherwise of the
32 amount of any liability in respect of income tax;

33 (I) Bringing suit by the State, or any officer, on its behalf,
34 in respect of any liability in respect of income tax; and

35 (J) Any other act required or permitted under this act or
36 specified in regulations prescribed under this section by the
37 director.

38 (2) The amount of any credit or refund (including interest).

39 (b) Action taken before ascertainment of right to benefits. The
40 assessment or collection of the tax imposed by this act or of any
41 liability to the State in respect of such tax, or any action or proceed-
42 ing by or on behalf of the State in connection therewith, may be
43 made, taken, begun, or prosecuted in accordance with law, without
44 regard to the provisions of subsection (a), unless prior to such
45 assessment, collection, action, or proceeding it is ascertained that
46 the person concerned is entitled to the benefits of subsection (a).

47 (c) Members of armed forces dying in action. In the case of any
48 person who dies during an induction period while in active service
49 as a member of the Armed Forces of the United States, if such
50 death occurred while serving in a combat zone during a period of
51 combatant activities in such zone, as described in subsection (a),
52 or as a result of wounds, disease or injury incurred while so serv-
53 ing, the tax imposed by this act shall not apply with respect to the

54 taxable year in which falls the date of his death, or with respect
55 to any prior taxable year ending on or after the first day he so
56 served in a combat zone, and no returns shall be required in behalf
57 of such person or his estate for such year; and the tax for any such
58 taxable year which is unpaid at the date of his death, including
59 interest, additions to tax and penalties, if any, shall not be assessed
60 and, if assessed, the assessment shall be abated and, if collected,
61 shall be refunded to the legal representative of his estate if one
62 has been appointed and has qualified, or, if no legal representative
63 has been appointed or has qualified, to his widow.

1 54A:9-17. General powers of the director. (a) General. The
2 director shall administer and enforce the tax imposed by this act
3 and is authorized to make such rules and regulations, and to require
4 such facts and information to be reported as he may deem necessary
5 to enforce the provisions of this act. The director may divide the
6 State into districts in each of which a branch office may be main-
7 tained by him, but in no case shall a county be divided in forming
8 a district.

9 (b) Delegation of powers. The director may delegate to any
10 officer or employee of his division such of his powers as he may
11 deem necessary to carry out efficiently the provisions of this act,
12 and the person or persons to whom such power has been delegated
13 shall possess and may exercise all of the power and perform all of
14 the duties herein conferred and imposed upon the director.

15 (c) Examination of books and witnesses. The director for the
16 purpose of ascertaining the correctness of any return, or for the
17 purpose of making an estimate of taxable income of any person,
18 shall have power to examine or to cause to have examined, by any
19 agent or representative designated by him for that purpose, any
20 books, papers, records or memoranda bearing upon the matters
21 required to be included in the return, and may require the attend-
22 ance of the person rendering the return or any officer or employee
23 of such person, or the attendance of any other person having
24 knowledge in the premises, and may take testimony and require
25 proof material for his information, with power to administer oaths
26 to such person or persons.

27 (d) Abatement authority. The director, on his own motion, may
28 abate any small unpaid balance of an assessment of income tax, or
29 any liability in respect thereof, if the director determines under
30 uniform rules prescribed by him that the administration and collec-
31 tion costs involved would not warrant collection of the amount due.
32 He may also abate, on his own motion, the unpaid portion of the

33 assessment of any tax or any liability in respect thereof, which is
34 excessive in amount, or is assessed after the expiration of the period
35 of limitation properly applicable thereto, or is erroneously or
36 illegally assessed. No claim for abatement under this subsection
37 shall be filed by a taxpayer.

38 (e) Secrecy requirement and penalties for violation. Except in
39 accordance with proper judicial order or as otherwise provided by
40 law, it shall be unlawful for the director, any officer or employee of
41 the department of the treasury, any person engaged or retained
42 by such department on an independent contract basis, or any person
43 who, pursuant to this section, is permitted to inspect any report or
44 return or to whom a copy, an abstract or a portion of any report
45 or return is furnished, or to whom any information contained in
46 any report or return is furnished, to divulge or make known in
47 any manner the amount of income or any particulars set forth or
48 disclosed in any report or return required under this act. The
49 officers charged with the custody of such reports and returns shall
50 not be required to produce any of them or evidence of anything
51 contained in them in any action or proceeding in any court, except
52 on behalf of the director in an action or proceeding under the provi-
53 sions of the tax law or any other action or proceeding involving
54 the collection of a tax due under this act to which the State or the
55 director is a party or a claimant, or on behalf of any party to any
56 action or proceeding under the provisions of this act when the
57 reports, returns or facts shown thereby are directly involved in
58 such action or proceeding, in any of which events the court may
59 require the production of, and may admit in evidence, so much of
60 said reports, returns or of the facts shown thereby, as are pertinent
61 to the action or proceeding and no more. The director may, never-
62 theless, publish a copy or a summary of any decision rendered after
63 the hearing required under section 54A:9-9 of this act. Nothing
64 herein shall be construed to prohibit the delivery to a taxpayer or
65 his duly authorized representative of a certified copy of any return
66 or report filed in connection with his tax or to prohibit the publica-
67 tion of statistics so classified as to prevent the identification of
68 particular reports or returns and the items thereof, or the inspec-
69 tion by the Attorney General or other legal representatives of the
70 State of the report or return of any taxpayer who shall bring action
71 to set aside or review the tax based thereon, or against whom an
72 action or proceeding under this act has been recommended by the
73 director or the Attorney General or has been instituted, or the
74 inspection of the reports or returns required under this act by the

75 Comptroller or duly designated officer or employee of the State
76 Department of Treasury, for purposes of the audit of a refund of
77 any tax paid by a taxpayer under this act. Reports and returns
78 shall be preserved for 3 years and thereafter until the director
79 orders them to be destroyed. Any violation of the provisions of
80 this subsection shall be punished by a fine not exceeding \$1,000.00
81 or by imprisonment not exceeding 1 year, or both, at the discretion
82 of the court, and if the offender be an officer or employee of the
83 State, he shall be dismissed from office and be incapable of holding
84 any public office in this State for a period of 5 years thereafter.

85 (f) Cooperation with the United States and other states.
86 Notwithstanding the provisions of subsection (e), the director may
87 permit the Secretary of the Treasury of the United States or his
88 delegates, or the proper tax officer of any state imposing an income
89 tax upon the incomes of individuals, or the authorized representa-
90 tive of either such officer, to inspect any return filed under this act,
91 or may furnish to such officer or his authorized representative an
92 abstract of any such return or supply him with information con-
93 cerning an item contained in any such return, or disclosed by any
94 investigation of tax liability under this act, but such permission
95 shall be granted or such information furnished to such officer or
96 his representative only if the laws of the United States or of such
97 other state, as the case may be, grant substantially similar privi-
98 leges to the director or officer of this State charged with the admini-
99 stration of the tax imposed by this act and such information is to
100 be used for tax purposes only; and provided further the director
101 may furnish to the Commissioner of Internal Revenue or his autho-
102 rized representative such returns filed under this act and other tax
103 information, as he may consider proper, for use in court actions or
104 proceedings under the Internal Revenue Code, whether civil or
105 criminal, where a written request therefor has been made to the
106 director by the Secretary of the Treasury of the United States or
107 his delegates, provided the laws of the United States grant sub-
108 stantially similar powers to the Secretary of the Treasury of the
109 United States or his delegates. Where the director has so autho-
110 rized use of returns and other information in such actions or pro-
111 ceedings, officers and employees of the Department of the Treasury
112 of this State may testify in such actions or proceedings in respect
113 to such returns or other information.

1 54A:9-18. Order to compel compliance. (a) Failure to file tax
2 return. If any person willfully refuses to file an income tax return
3 required by this act, the director may apply to a judge of the su-

4 perior court for an order directing such person to file the required
 5 return. If a person fails or refuses to obey such order, he shall
 6 be guilty of contempt of court.

7 (b) Failure to furnish records or testimony. If any person will-
 8 fully refuses to make available any books, papers, records or
 9 memoranda for examination by the director or his representative
 10 or willfully refuses to attend and testify, pursuant to the powers
 11 conferred on the director under this act, the director may apply to
 12 a judge in the superior court in the county where such person
 13 resides, for an order directing that person to comply with the
 14 director's request for books, papers, records or memoranda or for
 15 his attendance and testimony. If the books, papers, records or
 16 memoranda required by the director are in the custody of a cor-
 17 poration, the order of the court may be directed to any principal
 18 officer of such corporation. If a person fails or refuses to obey
 19 such order, he shall be guilty of contempt of court.

1 54A:9-19. Exercise of powers and duties of Division of Taxation
 2 by director. All the powers, duties and responsibilities vested in the
 3 Division of Taxation by this act shall be exercised by the director
 4 thereof or his duly designated representative.

1 54A:9A-20. Effective date. This act shall take effect immedi-
 2 ately and shall be applicable with respect to income occurring in
 3 taxable years ending on or after January 1, 1976, but only to the
 4 extent such income has been earned or received on or after January
 5 1, 1976.

STATEMENT

This bill, to be known as "The New Jersey Gross Income Tax Act", imposes a flat rate tax of 2.5% on gross income. "Gross Income" is defined in Chapter 5 of the bill and includes income from all sources (including income from tax preferences or tax sheltered sources under the Federal Income Tax law) except for items of excludable income as defined in Chapter 6.

The tax is made progressive by provisions for three limited deductions:

A. Personal deductions of \$1,500.00 a person, with double deductions for those over 65, disabled or blind.

B. Shelter deduction, 1) for home owners, up to \$1,200.00 for local property taxes paid or 2) for renters, \$400.00 a person to a maximum of \$1,200.00 a family for rent paid; and

C. Unusual medical expenses to the extent they exceed 2% of gross income.

Self-employed persons are authorized to deduct expenses incurred in earning income subject to the *tax*. Credit is allowed for income taxes paid to other states.

Provisions are made for withholding of taxes, for administration and appropriate rule making.

This tax avoids loopholes presented in other variations of the income tax, is continuously progressive, based on the provisions for a limited group of deductions and is simple to administer. It can be coupled with provisions for referendum, circuit breaker dedication or caps on spending for a complete fiscal package to provide necessary funding for public education.

Assembly No. 1513
Assembly Committee Substitute

THIS VERSION WAS NOT PRINTED

Assembly No. 1513

*Assembly Committee Amendments
to the
Assembly Committee Substitute*

March 15, 1976

THIS VERSION WAS NOT PRINTED

SENATE COMMITTEE AMENDMENTS TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

STATE OF NEW JERSEY

ADOPTED MAY 10, 1976

Amend page 1, enacting clause, after line 2, insert table of contents as follows:

“TABLE OF CONTENTS

Chapter 1. SHORT TITLE AND DEFINITIONS

- 54A:1-1. Short Title
- 54A:1-2. Definitions

Chapter 2. IMPOSITION OF TAX

- 54A:2-1. Imposition of tax
- 54A:2-2. Partners and partnerships
- 54A:2-3. Associations taxable as corporations
- 54A:2-4. Minimum taxable income

Chapter 3. PERSONAL CREDITS AND DEDUCTIONS

- 54A:3-1. Personal credits
- 54A:3-2. Alimony and separate maintenance payments
- 54A:3-3. Medical expenses

Chapter 4. CREDITS AGAINST TAX

- 54A:4-1. Resident credit for tax of another state
- 54A:4-2. Credit for taxes withheld on wages
- 54A:4-3. Homestead credit for tenant

Chapter 5. GROSS INCOME

- 54A:5-1. New Jersey gross income defined
- 54A:5-2. Losses

- 54A :5-3. Taxability of estates, trusts and their beneficiaries
- 54A :5-4. Taxability of partners
- 54A :5-5. Nonresident individuals; taxable income
- 54A :5-6. Husband and wife
- 54A :5-7. Allocation of income of nonresidents
- 54A :5-8. Income from sources within this State for a nonresident

Chapter 6. EXCLUDABLE INCOME

- 54A :6-1. Items in 54A :6-2 to 54A :6-9 excluded
excluded
- 54A :6-2. Federal Social Security benefits
- 54A :6-3. Railroad Retirement benefits
- 54A :6-4. Certain death benefits
- 54A :6-5. Gifts and inheritances
- 54A :6-6. Compensation for injuries or sickness
- 54A :6-7. Certain pay of members of armed forces
- 54A :6-8. Scholarships and fellowships
- 54A :6-9. Gains on sale or exchange of residence
- 54A :6-10. Pensions and annuities
- 54A :6-11. N. J. State Lottery winnings
- 54A :6-12. Pensions limited
- 54A :6-13. Unemployment insurance benefits
- 54A :6-14. Interest on certain obligations

Chapter 7. WITHHOLDING OF TAX

- 54A :7-1. Requirements for withholding
- 54A :7-2. Statement for employee
- 54A :7-3. Credit for tax withheld
- 54A :7-4. Employer's return and payment of tax
- 54A :7-5. Employer's liability for tax withheld
- 54A :7-6. Employer's failure to withhold
- 54A :7-7. Annual reconciliation of tax withheld

Chapter 8. PAYMENT OF TAX

- 54A :8-1. Payment; returns; extensions of time
- 54A :8-2. Optional tax tables
- 54A :8-3. Accounting periods and methods
- 54A :8-3.1 Persons required to file
- 54A :8-4. Declarations of estimated tax
- 54A :8-5. Payments of estimated tax
- 54A :8-6. Returns; notices; records; statements
- 54A :8-7. Report of change in taxable income

Chapter 9. ADMINISTRATION OF TAX, REPEALERS, MISCELLANEOUS,
EFFECTIVE DATE

- 54A :9-1. Applicability of State Tax Uniform Procedure
- 54A :9-2. Notice of deficiency
- 54A :9-3. Assessments
- 54A :9-4. Limitation on assessment
- 54A :9-5. Interest on underpayment
- 54A :9-6. Additions to tax and civil penalties
- 54A :9-7. Overpayment
- 54A :9-8. Limitations on credit or refund
- 54A :9-9. Petitions to director
- 54A :9-10. Review of director's decision
- 54A :9-11. Mailing rules; holidays
- 54A :9-12. Collection, levy and liens
- 54A :9-13. Transferees
- 54A :9-14. Jeopardy assessment
- 54A :9-15. Criminal penalties
- 54A :9-16. Armed forces relief provisions
- 54A :9-17. General powers of director
- 54A :9-17.1 Identifying numbers
- 54A :9-18. Order to compel compliance
- 54A :9-19. Exercise of division powers by director
- 54A :9-20. Appropriations
- 54A :9-21. Severability clause
- 54A :9-22. Repeal of emergency transportation tax act
- 54A :9-23. Repeal of transportation benefits tax act
- 54A :9-24. Repeal of Capital Gains and Unearned Income Tax
- 54A :9-25. Property Tax Relief Fund
- 54A :9-25.1 Election Fund check-off
- 54A :9-26. School aid appropriations
- 54A :9-27. Effective date''.

Amend page 1, section 54A :1-2e., lines 13-15, omit "who derives more than one-half of his total support during the entire taxable year from a taxpayer. Any person", insert "or any individual related to the taxpayer and".

Amend page 2, section 54A :1-2e., line 17, omit "shall prima facie be deemed a dependent for purposes of this act".

Amend page 2, section 54A :1-2f., line 18, omit "'Permanently and totally disabled' ", insert "'Disabled' "

Amend page 2, section 54A :1-2g., line 29, omit "and", insert ","; after "dental", insert "and other medical".

Amend page 2, section 54A:1-2i., lines 46-47, omit "as defined in the State Rebate for Publicly-Assisted Housing Act,".

Amend page 2, section 54A:1-2i., lines 48-49, after "ceives", insert "public"; omit "pursuant to any of the programs set forth in the 'Public Welfare Code of 1974'".

Amend page 2, section 54A:1-2j., lines 53-57, omit subsection "j." in its entirety and insert the following new subsection "j.":

"j. 'Homestead' means a dwelling situate within the State of New Jersey which was rented by the claimant, inhabited by him, and used as his principal residence; and may consist of a part of a multiple-unit dwelling or multipurpose building and a part of land upon which it is situate. The term 'homestead' does not include a mobile home unless assessed and taxed as real property pursuant to State statutes. A dwelling is a homestead only for the period inhabited by the claimant."

Amend page 3, section 54A:1-2l., line 60, after "individual", insert ", estate or trust".

Amend page 3, section 54A:1-2, after line 73, insert the following new subsections:

"o. Resident estate or trust. A resident estate or trust means:

(1) The estate of a decedent who at his death was domiciled in this State;

(2) A trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this State; or

(3) A trust, or portion of a trust, consisting of the property of:

(a) A person domiciled in this State at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable, or if it was then revocable and has not subsequently become irrevocable; or

(b) A person domiciled in this State at the time such trust, or portion of a trust, became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

For the purposes of the foregoing, a trust or portion of a trust is revocable if it is subject to a power, exercisable immediately or at any future time, to revest title in the person whose property constitutes such trust or portion of a trust, and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

p. Nonresident estate or trust. A nonresident estate or trust means an estate or trust which is not a resident."

Amend page 3, section 54A:1-2, line 74, omit "o.", insert "q."

Amend page 3, section 54A:2-1, line 4, omit "taxable".

Amend page 3, section 54A:2-1, line 4, after "trust", insert "(other than a charitable trust or a trust forming part of a pension or profit-sharing plan)".

Amend page 3, section 54A:2-1, line 8, omit "\$10,000.00", insert "\$5,000.00".

Amend page 3, section 54A:2-1, line 9, omit "\$10,000.00", insert "\$5,000.00"; omit "\$17,500.00", insert "\$10,000.00"; omit "\$200.00", insert "\$100.00".

Amend page 3, section 54A:2-1, line 10, omit "\$10,000.00", insert "\$5,000.00".

Amend page 3, section 54A:2-1, line 11, omit "\$17,500.00", insert "\$10,000.00", omit "\$25,000.00", insert "\$15,000.00"; omit "\$387.50", insert "\$225.00".

Amend page 3, section 54A:2-1, line 12, omit "\$17,500.00", insert "\$10,000.00".

Amend page 3, section 54A:2-1, line 13, omit "\$25,000.00", insert "\$15,000.00"; omit "\$32,500.00", insert "\$20,000.00"; omit "\$612.50", insert "\$375.00".

Amend page 3, section 54A:2-1, line 14, omit "\$25,000.00", insert "\$15,000.00".

Amend page 3, section 54A:2-1, line 15, omit "\$32,500.00", insert "\$20,000.00"; omit "\$875.00", insert "\$550.00".

Amend page 3, section 54A:2-1, page 16, omit "\$32,500.00", insert "\$20,000.00".

Amend page 4, section 54A:2-4, line 3, after "less", insert "(\$1,500.00 or less in the case of a married person filing separately)".

Amend page 4, section 54A:2-4, line 4, after "act.", insert "in the case of a nonresident, gross income shall mean gross income which such nonresident would have reported if he had been a resident."

Amend page 4, chapter 3, Title, after "3.", insert "PERSONAL CREDITS AND".

Amend page 4, section 54A:3-1, line 1, omit "deductions", insert "credits".

Amend page 4, section 54A:3-1, line 2, omit "deductions from", insert "credits against"; omit "gross income", insert "tax liability".

Amend page 4, section 54A:3-1, line 4, omit "\$1,000.00", insert "\$20.00"; omit "deduction from", insert "credit against".

Amend page 4, section 54A:3-1, line 5, after "income", insert "tax liability".

Amend page 4, section 54A:3-1, line 8, omit "deduction from gross income", insert "credit against tax liability".

Amend page 4, section 54A :3-1, line 9, after "spouse", insert "who does not file separately".

Amend page 4, section 54A :3-1, line 9, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, line 12, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, line 14, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, line 16, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, line 17, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, line 18, omit "\$1,000.00", insert "\$20.00".

Amend page 4, section 54A :3-1, after line 20, insert the following new subsections:

"(c) Special Rule. The personal exemptions allowed under this section shall be limited to that percentage which the total number of months within a taxpayer's taxable year under this act bears to 12. For this purpose 15 days or more shall constitute a month.

(d) Nonresidents. A nonresident taxpayer shall be allowed the same credit for personal exemptions as a resident taxpayer. However, if (1) the nonresident's gross income which is subject to tax under this act is exceeded by (2) his gross income which he would be required to report under this act if he were a resident by more than \$100.00, his credit for personal exemptions shall be limited by the percentage which (1) is to (2)."

Amend page 4, section 54A :3-2, lines 4-5, omit "*Blank*", insert "Alimony and separate maintenance payments. There shall be allowed as a deduction amounts includible under section 54A :5-1(n) with respect to payments included as income in the return of a former spouse or of a spouse receiving separate maintenance pursuant to a court decree (or which would have otherwise been includible if such payments were made to an individual subject to tax under this act)."

Amend page 5, section 54A :3-3, line 1, after "deduct", insert "from his gross income".

Amend page 5, section 54A :3-3, line 5, add the following new sentence after "income.": "In the case of a nonresident, gross income shall mean gross income which such nonresident would have reported if he had been subject to tax during the entire taxable year as a resident."

Amend page 6, section 54A :4-3, line 4, before "Any", insert "a."

Amend page 6, section 4-3, line 6, omit "Any".

Amend page 6, section 4-3, lines 7-12, omit in their entirety and insert "If said credit exceeds his tax liability (before application of the credit which may otherwise be allowed under 54A:4-1), even if his liability is zero, he shall be entitled to a refund of the difference between the credit and his tax liability."

Amend page 6, section 54A:4-3, after line 12 add the following new subsections:

"b. Husband and Wife. A married couple who elect to file separate New Jersey returns shall each be entitled to $\frac{1}{2}$ of the credit otherwise allowable under subsection a.

c. Special Limitations. (1) If more than one qualified resident tenant, other than a husband and wife, qualify for the credit allowed under this section by reason of their having occupied the same rented homestead, it shall be presumed that the tenant's credit otherwise allowed under this section shall be equally divided among such taxpayers. A tenant, however, may claim a credit which shall bear the same proportion as the rent he pays to the total rent paid by all members of the unit.

(2) A taxpayer shall not be entitled to more than one homestead credit in any one year. A taxpayer who claims a homestead credit under this section may not claim a homestead exemption for the same year under any other law.

(3) The amount of the homestead credit shall be prorated in the proportion that the number of days the qualified tenant occupies residential property in the year: bears to 365 days.

(4) When more than one tenant occupies a single dwelling unit not more than one qualified tenant credit shall be claimed. No tenant homestead credit shall be allowed for occupants of rooming houses, hotels or motels unless the rooms rented to the tenant are equipped with kitchen and bathroom facilities and unless such person is a permanent resident thereof."

Amend page 6, section 54A:4-4, lines 1-3, omit this section in its entirety.

Amend page 6, section 54A:4-5, lines 1-11, omit this section in its entirety.

Amend pages 6-7, section 54A:4-6, lines 1-11, omit this section in its entirety.

Amend page 7, section 54A:4-7, lines 1-19, omit this section in its entirety.

Amend page 7, section 54A:5-1(a), lines 3-4, omit "similar", insert "other".

Amend page 7, section 54A :5-1(b), lines 9-10, omit "accepted accounting principles and practices", insert "the method of accounting allowed for Federal income tax purposes".

Amend page 7, section 54A :5-1(b), line 11, after "income", insert "provided, however, that for the purposes of this subsection, the taxpayer shall be limited to the use of straight-line depreciation".

Amend pages 7-8, section 54A :5-1(c), lines 15-16, omit "accepted accounting principles and practices", insert "the method of accounting allowed for Federal income tax purposes".

Amend page 8, section 54A :5-1(c), line 16, omit "For the purpose of this act."

Amend page 8, section 54A :5-1(c), lines 17-22, omit in their entirety and insert "For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for Federal income tax purposes.

Amend page 8, section 54A :5-1(c), lines 24-26, after "are" delete the remainder of the sentence and insert "referred to in clauses (1) or (2) of section 54A :6-14 of this act. The term 'net gains or net income' shall not include gains or income from transactions to the extent to which non-recognition is allowed for Federal income tax purposes."

Amend page 10, section 54A :5-1(d), line 102, after "gains or", insert "net".

Amend page 10, section 54A :5-1(e), lines 104-106, after "Interest", delete remainder of sentence and insert ", except interest referred to in clauses (1) or (2) of section 54A :6-14 of this act."

Amend page 10, section 54A :5-1(m), line 119, omit "at", insert "of".

Amend page 10, section 54A :5-1(m), after line 120 insert a new subsection (n) and new sections as follow:

"(n) Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

54A :5-2. Losses. Losses which occur within one category of gross income may be applied against other sources of gross income within the same category of gross income during the taxable year. However, a net loss in one category of gross income may not be applied against gross income in another category of gross income.

54A :5-3. Taxability of estates, trusts and their beneficiaries. The income of a beneficiary of an estate or trust in respect of such estate or trust shall consist of that part of the income or gains received by the estate or trust for its taxable year ending within or with the beneficiary's taxable year which, under the governing instrument and

applicable state law, is required to be distributed currently or is in fact paid or credited to said beneficiary.

The income or gains of the estate or trust, if any, taxable to such estate or trust shall consist of the income or gains received by it which has not been distributed or credited to its beneficiaries.

Where an estate or trust has paid a tax under this act upon income distributed or to be distributed to a beneficiary, such beneficiary may exclude such income from his gross income in the year paid or credited to him.

54A:5-4. Taxability of partners. A partnership or association as such shall not be subject to the tax imposed by this act, but the income or gain of a member of a partnership or association shall be subject to the tax and the tax shall be imposed on his share, whether or not distributed, of the income or gain received by the partnership or association for its taxable year ending within or with the partner's or member's taxable year.

54A:5-5. Nonresident individuals; taxable income. The income of a nonresident individual shall be that part of his income derived from sources within this State as defined in this act.

54A:5-6. Husband and wife. (a) Separate return. If the income of husband or wife who are both nonresidents of this State and are subject to tax under this act is determined on a separately filed return, their incomes from sources within this State shall be separately determined.

(b) One spouse a nonresident. If either husband or wife is a nonresident and the other a resident, separate taxes shall be determined on their separate incomes on such forms as the director shall prescribe, unless both elect to determine their joint income as if both were residents in which event their tax liabilities shall be joint and several.

(c) The filing requirements for nonresidents shall be governed by the provisions of section 54A:8-3.1 except with respect to the conditions set forth in subsection (b) of this section.

54A:5-7. Allocation of income of nonresidents. Where a nonresident taxpayer earns, receives or acquires income from sources partly within and partly without this State or engages in a business, trade, profession or occupation partly within and partly without this State, and, as a result thereof or for other reasons that portion of the income derived from or connected with sources within this State cannot readily or accurately be ascertained, the director may by regulation prescribe uniform rules for apportionment or allocation of so much of such taxpayer's income as fairly and equitably represents income, derived from sources within this State and subject to tax under this act.

54A :5-8. Income from sources within this State for a nonresident individual, estate or trust means the same as compensation, net profits, gains, dividends, interest or income enumerated and classified under chapter 5 of this act to the extent that it is earned, received or acquired from sources within this State:

(1) By reason of ownership or disposition of any interest in real or tangible personal property in this State; or

(2) In connection with a trade, profession, occupation carried on in this State or for the rendition of personal services performed in this State; or

(3) As a distributive share of the income of an unincorporated business, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in this State except as allocated to another state pursuant to regulations promulgated by the director under this act; or

(4) From intangible personal property employed in a trade, profession, occupation or business carried on in this State.”

Amend pages 11-12, section 54A :6-9, lines 2-13, omit “Gross income shall not include a” and all of lines 3-13; insert a new subsection a. as follows:

“a. If a taxpayer realizes a gain from the sale or exchange of his principal residence, the gain shall be excludable from gross income if the taxpayer purchased or received in exchange another principal residence to replace the residence sold, provided that such new residence had been acquired either 18 months before or 18 months after the date of the sale of the original residence except that where the taxpayer has constructed a new residence, the period prior to and after the date of sale shall be 24 months. Where the adjusted sales price of the residence sold exceeds the purchase price of the new residence, the taxpayer shall be required to include in his gross income that portion of the gain which is represented by the amount that the adjusted sales price of the old residence exceeds the cost of the new residence. To the extent that any gain shall be excludable under this section, the basis of the new residence shall be reduced.

Amend page 12, section 54A :6-9(b), lines 14-18, omit all of lines 14-17 and “sale.” on line 18, insert “b. In lieu of the exemption allowed under subsection a. of this section, a taxpayer who has attained the age of 65 on or before the date of the sale of a property which has been used by him as a principal residence for at least 5 years of the 8 years immediately preceding the date of such sale, may elect to avail himself of the exemption allowed under this subsection.”

Amend page 12, section 54A :6-9, after line 38, insert a new subsection f. as follows:

“f. The provisions of this section shall also be applicable with respect to qualified tenant-shareholders in cooperatives.”

Amend page 12, section 54A:6-9f. line 39, omit “f.”, insert “g.”.

Amend page 13, section 54A:6-12, after line 8, insert two new sections as follow:

“54A:6-13. Unemployment insurance benefits. All payments and benefits received under any unemployment insurance law.”.

“54A:6-14. Interest on certain obligations. Gross income shall not include interest on obligations (1) issued by or on behalf of this State or any county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation (including one created or existing pursuant to agreement or compact with this or any other state), body corporate and politic or political subdivision of this State, or (2) those obligations which are statutorily free from state or local taxation under any other act of this State or under the laws of the United States.”.

Amend page 15, section 54A:7-7, line 2, omit “must”, insert “shall”.

Amend page 16, section 54A:8-1, after line 15, insert a new paragraph as follows:

“In the case of a taxable year which ends on or after April 1, 1976, and prior to December 31, 1976, an income tax return for such taxable year shall be filed on or before April 15, 1977.”.

Amend page 18, section 54A:8-3.1, line 5, after “more”, insert “(\$1,500.00 or more in the case of a married person filing separately).”.

Amend page 18, section 54A:8-3.1, after line 5, insert new subsections b., c. and d. as follow:

“b. If the income tax liability of husband and wife is determined on a separate return for Federal income tax purposes, they shall each also file a separate return for New Jersey income tax purposes and their income tax liabilities under this act shall be separate.

c. If the income tax liabilities of husband and wife are determined on a joint return for Federal income tax purposes, they shall also file a joint return for New Jersey income tax purposes and their tax liabilities under this act shall be joint and several.

d. If either husband or wife is a resident and the other is a non-resident, they shall file separate tax returns under this act on such single or separate forms as may be required by the director in which event their tax liabilities shall be separate unless both elect to determine their joint taxable income as if both were residents, in which event their tax liabilities shall be joint and several.”.

Amend page 18, section 54A:8-3.1, line 6, omit “b.”, insert “e.”.

Amend page 18, section 54A:8-3.1, line 8, omit “c.”, insert “f.”.

Amend page 18, section 54A:8-3.1, line 13, omit “d.”, insert “g.”.

Amend page 18, section 54A:8-4, line 6, omit "\$40.00 or", after "more", insert "then \$100.00".

Amend page 19, section 54A:8-4(f), line 41, omit "\$40.00", insert "\$100.00".

Amend page 19, section 54A:8-4(f), line 43, omit "\$40.00", insert "\$100.00".

Amend page 36, section 54A:9-8, line 71, omit "(4)", insert "(f)".

Amend page 37, section 54A:9-9, line 43, omit "Petitoin", insert "Petition".

Amend page 43, section 54A:9-13, lines 43-44, omit "subsection (e) of section 54A:9-17", insert "R. S. 54:50-8 of the State Tax Uniform Procedure Law, Subtitle 9 of Title 54 of the Revised Statutes,".

Amend page 51, section 54A:9-17, after line 38, add the following new subsection (e) and new section:

"(e) The Department of the Treasury, Division of Taxation, may enter into an agreement with the taxing authorities of any state which imposes a tax on or is measured by income to provide that compensation paid in such state to residents of this State shall be exempt from such tax; in such case any compensation paid in this State to residents of such state shall be exempt from New Jersey personal income tax. The division, in such agreements, may provide for reciprocal withholding, employer liability, exchange of information and all other matters relating to cooperation between the states.

54A:9-17.1. Identifying numbers. (a) Supplying of identifying numbers. When required by regulations prescribed by the director:

(1) Inclusion in Returns. Any person required under the authority of this act to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing Number to Other Person. Any person with respect to whom a return, statement, or other document is required under the authority of this act to be made by another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing Number of Another Person. Any person required under the authority of this act to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(b) Limitation.

(1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document

in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) Requirement of Information. For purposes of this section, the director is authorized to require such information as may be necessary to assign an identifying number to any person.”.

Amend page 51, section 54A :9-20, line 3, delete “\$4.6”, insert “\$5.0”.

Amend page 53, section 54A :9-24, line 16, after “thereof.”, insert “In the event of such repeal, the adjusted gross income requirements and the personal exemptions allowed shall be prorated according to the number of taxable months required to be reported divided by 12. The taxpayer may, at his option, determine actual adjusted gross income for the period required to be reported.”.

Amend page 53, section 54A :9-25, line 15, omit “to municipalities”.

Amend page 53, section 54A :9-25, line 16, after “under”, insert “this and”.

Amend page 53, section 54A :9-25, line after 16, insert a new section as follows:

“54A :9-25.1. There is hereby established within the General Treasury a special fund to be known as the “Gubernatorial General Elections Fund.” Where a taxpayer has indicated on a return filed pursuant to this act that one dollar of his taxes is to be reserved for such fund, the Treasurer shall credit such fund from the taxes collected under the provisions of this act. The fund shall be available for appropriation pursuant to section 5 of P. L. 1974, c. 26 (C. 19 :44A-30), provided however that establishment of the “Gubernatorial General Elections Fund” shall in no way affect the operation of said section.

Blank forms of return provided by the director for use in reporting under this act shall include, in a conspicuous place, the opportunity for a taxpayer to indicate his preference under this section in substantially the following manner:

Yes No

<p>“Gubernatorial General Elections Fund”</p>	<p>Do you wish to designate \$1 of your taxes for this fund?</p>		
<p>NOTE: If you check the “Yes” box(es) it will not increase your tax or reduce your refund.</p>	<p>If joint return, does your spouse wish to designate \$1?</p>		

Amend page 54, section 54A:9-27(b), line 7, omit “a fiscal year”, insert “an accounting period”.

Amend page 54, section 54A:9-27(b), line 8, after “shall be”, insert “determined by computing”.

Amend page 54, section 54A:9-27(b), line 9, omit “fiscal year multiplied”, insert “accounting period and by multiplying such taxable income”.

Amend page 54, section 54A:9-27(b), line 10, after “365.”, insert “However, where the taxpayer’s taxable year covers a period of less than 12 months, the taxpayer may determine total taxable income solely on the basis of the items of income, deductions, loss or gain occurring during such taxable year.”.

Amend page 54, section 54A:9-27(c), lines 13-14, omit “are enacted and become operative “and” until”, insert “,”.

Amend page 54, section 54A:9-27(c), line 14, after “Bills”, insert “1738,”, omit “, 1765,”.

Amend page 54, section 54A:9-27(c), line 15, after “1766”, insert “and Senate Bills 877 and 913”.

[SENATE REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

[OFFICIAL COPY REPRINT]

with Senate committee amendments adopted May 13, 1976

STATE OF NEW JERSEY

ADOPTED MARCH 10, 1976

AN ACT establishing Title 54A **of the New Jersey Statutes**, providing for the taxation of gross incomes, establishing a New Jersey State Gross Income Tax to be administered and collected by the Director of the Division of Taxation in the Department of the Treasury, and providing penalties for violations thereof.

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

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

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1 54A:1-1 Short title. This title shall be known and may be cited
2 as the "New Jersey Gross Income Tax Act."

1 54A:1-2. Definition. As used in this act, unless the context
2 clearly indicates otherwise, the following words and phrases shall
3 have the following meaning:

- 4 a. "Director" means the Director of the Division of Taxation
5 in the Department of the Treasury.
- 6 b. "Fiduciary" means a guardian, trustee, executor, admini-
7 strator, receiver, conservator, or any person acting in any fiduciary
8 capacity for any person.
- 9 c. "Excludable income" shall be limited to those payments set
10 forth in chapter 6 hereunder.
- 11 d. "Gross income" shall include that set forth in chapter 5
12 hereunder.
- 13 e. "Dependent" means a spouse or child **[who derives more
14 than one-half of his total support during the entire taxable year
15 from a taxpayer. Any person]** ***or any individual related to the*
16 *taxpayer and*** who is a dependent pursuant to the provisions of
17 the Internal Revenue Code during a taxable year **[shall prima
17A facie be deemed a dependent for purposes of this act]****.
- 18 f. **["Permanently and totally disabled"]** ***"Disabled"***
19 *means total and permanent inability to engage in any substantial*
20 *gainful activity by reason of any medically determinable physical*
21 *or mental impairment, including blindness. For purposes of this*
22 *subsection, "blindness" means central visual acuity of 20/200 or*
23 *less in the better eye with the use of a correcting lens. An eye which*
24 *is accompanied by a limitation in the fields of vision such that the*
25 *widest diameter of the visual field subtends an angle no greater than*
26 *20 degrees shall be considered as having a central visual acuity of*
27 *20/200 or less.*
- 28 g. "Medical expenses" mean nonreimbursed payments for
29 physicians **[and]**** ***and*** ***and other medical*** fees,
30 hospital care, nursing care, medicines and drugs, prosthetic devices,
31 X-rays and other diagnostic services conducted by or directed by a
32 physician or dentist. In addition, medical expenses may also include
33 amounts paid for transportation primarily for and essential to
34 medical care and insurance (including amounts paid as premiums
35 under part B of Title XVIII of the Social Security Act, relating to
36 supplementary medical insurance for the aged*)* covering medical
36A care.
- 37 h. Partnership and partner. The term "partnership" includes
38 a syndicate, group, pool, joint venture, or other unincorporated
39 organization, through or by means of which any business, financial
40 operation, or venture is carried on, and which is not, within the
41 meaning of this act, a trust or estate or a corporation; and the
42 term "partner" includes a member in such a syndicate, group,
43 pool, joint venture, or organization.

44 i. "Qualified tenant" means a person who shall have rented
45 and occupied a homestead for at least 90 days of the tax year. A
46 tenant who lives in publicly-assisted housing ****[as defined in the**
47 **State Rebate for Publicly-Assisted Housing Act,]**** or a tenant
48 who receives ****public**** assistance ****[pursuant to any of the pro-**
49 **grams set forth in the "Public Welfare Code of 1974"]**** shall not
50 be entitled to tenant deduction, or credit pursuant to this act for
51 that part of a tax year during which the claimant lives in such
52 housing or received such assistance.

53 ****[j. "Net rent" means gross rental paid for the right of occu-**
54 **pancy (at arms length) of a homestead, exclusive of charges for**
55 **any utilities, services, furniture, furnishings or personal property**
56 **appliances furnished by the landlord as a part of the rental agree-**
57 **ment, whether or not expressly set out in the rental agreement.])****

57A ****j. "Homestead" means a dwelling situate within the State of**
57B **New Jersey which was rented by the claimant, inhabited by him, and**
57C **used as his principal residence; and may consist of a part of a**
57D **multiple-unit dwelling or multi-purpose building and a part of land**
57E **upon which it is situate. The term "homestead" does not include a**
57F **mobile home unless assessed and taxed as real property pursuant to**
57G **State statutes. A dwelling is a homestead only for the period in-**
57H **habited by the claimant.****

58 k. "Taxable year" means the calendar or fiscal accounting
59 period for which a tax is payable under this act.

60 l. "Taxpayer" means any individual^{**}, *estate or trust*^{**} re-
61 quired to report or to pay taxes, interest and penalties under this
62 act, or whose income in whole or in part is subject to the tax imposed
62A by this act.

63 m. "Resident taxpayer" means an individual:

64 1. Who is domiciled in this State, unless he maintains no
65 permanent place of abode in this State, maintains a permanent
66 place of abode elsewhere, and spends in the aggregate no more
67 than 30 days of the taxable year in this State; or

68 2. Who is not domiciled in this State but maintains a perma-
69 nent place of abode in this State and spends in the aggregate
70 more than 183 days of the taxable year in this State, unless
71 such individual is in the Armed Forces of the United States.

72 n. "Nonresident taxpayer" means a taxpayer who is not a
73 resident.

74 ****o. Resident estate or trust. A resident estate or trust means:**

75 (1) *The estate of a decedent who at his death was domiciled*
76 *in this State,*

77 (2) A trust, or a portion of a trust, consisting of property
78 transferred by will of a decedent who at his death was domiciled
79 in this State, or

80 (3) A trust, or portion of a trust, consisting of the property
81 of:

82 (a) A person domiciled in this State at the time such prop-
83 erty was transferred to the trust, if such trust or portion of
84 a trust was then irrevocable, or if it was then revocable and
85 has not subsequently become irrevocable; or

86 (b) A person domiciled in this State at the time such
87 trust, or portion of a trust, became irrevocable, if it was
88 revocable when such property was transferred to the trust
89 but has subsequently become irrevocable.

90 For the purposes of the foregoing, a trust or portion of a
91 trust is revocable if it is subject to a power, exercisable im-
92 mediately or at any future time, to revest title in the person
93 whose property constitutes such trust or portion of a trust,
94 and a trust or portion of a trust becomes irrevocable when
95 the possibility that such power may be exercised has been
96 terminated.

97 p. Nonresident estate or trust. A nonresident estate or trust
98 means an estate or trust which is not a resident.**

99 **[o.]** **q.** Unless the context in which it occurs requires
100 otherwise, the term "act" or "this act" shall mean the New Jersey
101 Gross Income Tax Act, Title 54A of the New Jersey Statutes.

CHAPTER 2. IMPOSITION OF TAX

1 54A :2-1. Imposition of tax. There is hereby imposed a tax for
2 each taxable year (which shall be the same as the taxable year for
3 Federal income tax purposes) on the New Jersey gross income as
4 herein defined of every individual, **[taxable]** estate or trust
5 ** (other than a charitable trust or a trust forming part of a pension
6 or profit-sharing plan) **, subject to the deduction, limitations and
7 modifications hereinafter provided, determined in accordance with
7A the following table with respect to the taxpayer's taxable income:

If the taxable income is:	The tax is:
8 Not over **[\$10,000]** **\$5,000**	
9 Over **[\$10,000]** **\$5,000** but	**[\$200]** **\$100** plus
10 not over **[\$17,500]** **\$10,000**	2½% of excess over
11	**[\$10,000]** **\$5,000**

If the taxable income is:

The tax is:

12	Over **[\$17,500]**	** \$10,000** but	** [\$387.50]**	** \$225** plus
13	not over	** [\$25,000]**	3%	of excess over
14	** \$15,000**		** [\$17,500]**	** \$10,000**
15	Over **[\$25,000]**	** \$15,000** but	** [\$612.50]**	** \$375.00**
16	not over	** [\$32,500]**	plus 3½%	of excess over
17	** \$20,000**		** [\$25,000]**	** \$15,000**
18	Over **[\$32,500]**	** \$20,000**	** [\$875]**	** \$550** plus
19			4%	of excess over
20			** [\$32,500]**	** \$20,000**

1 54A:2-2. Partners and partnerships. A partnership as such
 2 shall not be subject to the New Jersey Gross Income Tax. Indi-
 3 viduals carrying on business as partners shall be liable for the
 4 New Jersey Gross Income Tax only in their separate or individual
 5 capacities.

1 54A:2-3. Associations taxable as corporations. An association,
 2 trust, or other unincorporated organization which is taxable as a
 3 corporation for Federal income tax purposes shall not be subject
 4 to tax under this act.

1 54A:2-4. Minimum taxable income. Notwithstanding any other
 2 provisions of this act, a taxpayer or a married couple filing a joint
 3 return with a gross income of \$3,000.00 or less ***(\$1,500 or less in
 4 the case of a married person filing separately)*** shall not be subject
 5 to tax under this act. ***In the case of a nonresident, gross income
 6 shall mean gross income which such nonresident would have re-
 7 ported if he had been a resident.***

CHAPTER 3. ***Personal Credits and*** DEDUCTIONS

1 54A:3-1. Personal ***[deductions]*** ***credits***. Each taxpayer
 2 shall be allowed personal ***[deductions from]*** ***credits*
 2A *against*** his ***[gross income]*** ***tax liability*** as follows:

3 (a) Taxpayer. Each taxpayer shall be allowed a personal
 4 exemption of ***[\$1,000.00]*** ***\$20.00*** which may be taken as a
 5 ***[deduction from]*** ***credit against*** his New Jersey gross in-
 5A come ***tax liability***.

6 (b) Additional exemptions. In addition to the personal exemp-
 7 tion allowed in (a), the following additional personal exemptions
 8 shall be allowed as a ***[deduction from gross income]*** ***credit*
 8A *against tax liability***:

9 1. For the taxpayer's spouse ***who does not file sepa-*
 9A *rately***—***[\$1,000.00]*** ***\$20.00***.

10 2. For each dependent who qualifies as a dependent of the
11 taxpayer during the taxable year for Federal income tax
12 purposes—****[\$1,000.00]**** **\$20.00**.

13 3. Taxpayer 65 years of age or over at the close of the
14 taxable year—****[\$1,000.00]**** **\$20.00**.

15 4. Taxpayer's spouse 65 years of age or over at the close
16 of the taxable year—****[\$1,000.00]**** **\$20.00**.

17 5. Blind *or disabled** taxpayer—****[\$1,000.00]**** **\$20.00**.

18 6. Blind *or disabled** spouse—****[\$1,000.00]**** **\$20.00**.

19 ***[7. Disabled taxpayer—\$1,000.00.**

20 8. Disabled spouse—\$1,000.00.]*

21 *** (c) Special Rule. The personal exemptions allowed under this*
22 *section shall be limited to that percentage which the total number of*
23 *months within a taxpayer's taxable year under this act bears to 12.*
24 *For this purpose fifteen days or more shall constitute a month.*

25 *(d) Nonresidents. A nonresident taxpayer shall be allowed the*
26 *same credit for personal exemptions as a resident taxpayer. How-*
27 *ever, if (1) the nonresident's gross income which is subject to tax*
28 *under this act is exceeded by (2) his gross income which he would*
29 *be required to report under this act if he were a resident by more*
30 *than \$100.00, his credit for personal exemptions shall be limited by*
31 *the percentage which (1) is to (2).***

1 54A:3-2. ***[Rental deduction. Each taxpayer who rents his**
2 **homestead shall be allowed a deduction of \$600.00 for rental and**
3 **an additional \$600.00 for rental for each dependent up to a maximum**
4 **of \$1,500.00 in any calendar year, but in no event greater than the**
5 **amount of rent actually paid.]**** *****[Blank]**** ****Alimony and**
6 **separate maintenance payments. There shall be allowed as a**
7 **deduction amounts includible under section 54A:5-1(n) with respect**
8 **to payments included as income in the return of a former spouse or**
9 **of a spouse receiving separate maintenance pursuant to a court**
10 **decree (or which would have otherwise been includible if such pay-**
11 **ments were made to an individual subject to tax under this act).****

54A:3-3. MEDICAL EXPENSES

1 (a) Each taxpayer shall be allowed to deduct ***from his gross*
2 *income*** medical expenses for himself, his spouse, and his de-
3 pendents with respect to such expenses that were paid during the
4 taxable year and to the extent that such medical expenses exceed
5 two percent of the taxpayer's gross income. ***In the case of a non-*
5A *resident, gross income shall mean gross income which such nonresi-*

5B *dent would have reported if he had been subject to tax during the*
5C *entire taxable year as a resident.***

6 (b) Special Rule for Decedents.

7 (1) Treatment of expenses paid after death. Expenses for
8 the medical care of the taxpayer which are paid out of his
9 estate during the one-year period beginning with the day after
10 the day of the death shall be treated as paid by the taxpayer
11 at the time incurred.

12 (2) Limitation. Paragraph (1) shall not apply if the amount
13 paid is not allowable as a deduction in computing medical
14 expense deductions for Federal income tax purposes.

15 (c) Exclusion of amounts allowed for care of certain dependents.
16 Any expenses allowed as a deduction of expenses for household
17 and dependent care services necessary for gainful employment
18 *under section 214 of the Internal Revenue Code* shall not be
19 allowed as an expense paid for medical care for purposes of this
20 section.

CHAPTER 4. CREDITS AGAINST THE TAX

1 54A:4-1. Resident credit for tax of another state. (a) A resident
2 taxpayer shall be allowed a credit against the tax otherwise due
3 under this act for the amount of any income tax or wage tax
4 imposed for the taxable year by another state of the United States
5 or political subdivision of such state, or by the District of Columbia,
6 with respect to income which is also subject to tax under this act.

7 (b) The credit provided under this section shall not exceed
8 the proportion of the tax otherwise due under this act that the
9 amount of the taxpayer's income subject to tax by the other
10 jurisdiction bears to his entire New Jersey income.

11 (c) Readjustment of the tax of another state or political sub-
12 division thereof—if the taxpayer is allowed credit under this
13 section for more or less of the tax of another state or political
14 subdivision thereof than he is finally required to pay, the taxpayer
15 shall send notice of the difference to the director who shall re-
16 determine the tax for any years affected regardless of any other-
17 wise applicable statute of limitations.

1 54A:4-2. Credit for taxes withheld on wages. Any amount of
2 tax actually deducted and withheld by an employer under this act
3 in any calendar year shall be deemed to have been paid to the
4 director on behalf of the person from whom withheld, and such

5 person shall be credited with having paid that amount of tax for
6 the taxable year beginning in such calendar year. For a taxable
7 year of less than 12 months, the credit shall be made under regula-
8 tions of the director.

1 54A:4-3. ***[Credit for tenant. Any qualified tenant shall be**
2 **allowed as a credit against the tax otherwise due hereunder an**
3 **amount not to exceed \$75,000.]***

4 **Homestead credit for tenant. **a.** Any qualified residential
5 tenant or shareholder in a cooperative shall be entitled to a home-
6 stead credit of \$110.00 against the tax otherwise due hereunder.
7 ****[Any qualified residential tenant or shareholder in a cooperative**
8 **shall be entitled to an additional homestead credit of \$55.00 if such**
9 **resident is (1) permanently and totally disabled, (2) 65 years of**
10 **age or over, or (3) a surviving spouse of a person qualified under**
11 **(2) above who has remained unmarried since becoming a widow or**
12 **widower at the age of 55 years or over.]**** ****If said credit exceeds**
13 **his tax liability (before application of the credit which may other-**
14 **wise be allowed under 54A:4-1), even if his liability is zero, he shall**
15 **be entitled to a refund of the difference between the credit and his**
16 **tax liability.*****

17 ***b. Husband and wife. A married couple who elect to file*
18 *separate New Jersey returns shall each be entitled to 1/2 of the*
19 *credit otherwise allowable under subsection a.*

20 *c. Special limitations. (1) If more than one qualified resident*
21 *tenant, other than a husband and wife, qualify for the credit*
22 *allowed under this section by reason of their having occupied the*
23 *same rented homestead, it shall be presumed that the tenant's credit*
24 *otherwise allowed under this section shall be equally divided among*
25 *such taxpayers. A tenant, however, may claim a credit which shall*
26 *bear the same proportion as the rent he pays to the total rent paid*
27 *by all members of the unit.*

28 *(2) A taxpayer shall not be entitled to more than one homestead*
29 *credit in any one year. A taxpayer who claims a homestead credit*
30 *under this section may not claim a homestead exemption for the*
31 *same year under any other law.*

32 *(3) The amount of the homestead credit shall be prorated in the*
33 *proportion that the number of days the qualified tenant occupied*
34 *residential property in the year: bears to 365 days.*

35 *(4) Where more than one tenant occupies a single dwelling unit*
36 *not more than one qualified tenant credit shall be claimed. No*
37 *tenant homestead credit shall be allowed for occupants of rooming*

38 houses, hotels or motels unless the rooms rented to the tenant are
39 equipped with kitchen and bathroom facilities and unless such per-
40 son is a permanent resident thereof.**

1 **[54A:4-4. Nonresident individuals; taxable income.—The in-
2 come of a nonresident individual shall be that part of his income
3 derived from sources within this State as defined in this act.]**

1 **[54A:4-5. Husband and wife.—(a) Separate return. If the in-
2 come of husband or wife who are both nonresidents of this State
3 and are subject to tax under this *[article]* *act* is determined
4 on a separately filed return, their incomes from sources within
5 this State shall be separately determined.

6 (b) One spouse a nonresident. If either husband or wife is a
7 nonresident and the other a resident, separate taxes shall be de-
8 termined on their separate incomes on such forms as the *[depart-
9 ment]* *director* shall prescribe, unless both elect to determine
10 their joint income as if both were residents, in which event their
11 tax liabilities shall be joint and several.]**

1 **[54A:4-6. Allocation of income of nonresident.—Where a non-
2 resident taxpayer earns, receives or acquires income from sources
3 partly within and partly without this State or engages in a busi-
4 ness, trade, profession or occupation partly within and partly
5 without this State, and, as a result thereof or for other reasons
6 that portion of the income derived from or connected with sources
7 within this State cannot readily or accurately be ascertained, the
8 director *may by regu*lation prescribe uniform rules for appor-
9 tionment or allocation of so much of such taxpayer's income as
10 fairly and equitably represents income, derived from sources within
11 this State and subject to tax under this act.]**

1 **[54A:4-7. Income from sources within this State for a nonresi-
2 dent individual, estate or trust means the same as compensation,
3 net profits, gains, dividends, interest or income enumerated and
4 classified under *[section 3]* *chapter 5* of this act to the extent
5 that it is earned, received or acquired from sources within this
6 State:

7 (1) By reason *[or for]* *of* ownership or disposition of any
8 interest in real or tangible personal property in this State; or

9 (2) In connection with a trade, profession, occupation carried on
10 in this State or for the rendition of personal services performed
11 in this State; or

12 (3) As a distributive share of the income of an unincorporated
13 business, profession, enterprise, undertaking or other activity as
14 the result of work done, services rendered or other business activi-
15 ties conducted in this State except as allocated to another state
16 pursuant to regulations promulgated by the director under this
17 act; or

18 (4) From intangible personal property employed in a trade,
19 profession, occupation or business carried on in this State.】**

CHAPTER 5. GROSS INCOME

1 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
2 income shall consist of the following categories of income:

3 (a) Salaries, wages, tips, fees, commissions, bonuses, and **【sim-
4 ilar】** *other* remuneration received for services rendered
5 whether in cash or in property;

6 (b) Net profits from business. The net income from the opera-
7 tion of a business, profession, or other activity, after provision
8 for all costs and expenses incurred in the conduct thereof, deter-
9 mined either on a cash or accrual basis in accordance with
10 **【accepted accounting principles and practices】** *the method of*
11 *accounting allowed for Federal income tax purposes* but without
11A deduction of taxes based on income *provided, however, that for*
11B *the purposes of this subsection, the taxpayer shall be limited to the*
11C *use of straight-line depreciation***;

12 (c) Net gains or income from disposition of property. Net gains
13 or net income, less net losses, derived from the sale, exchange or
14 other disposition of property, including real or personal, whether
15 tangible or intangible as determined in accordance with **【accepted
16 accounting principles and practices】** *the method of accounting*
17 *allowed for Federal income tax purposes***. **【For the purpose of
18 this act, for the determination of the basis of any property, real and
19 personal, if acquired prior to *【January 1】* *April 1**, 1976, the
20 date of acquisition shall be adjusted to *【January 1】* *April 1**,
21 1976 as if the property had been acquired on that date. If the prop-
22 erty was acquired after *【January 1】* *April 1**, 1976, the actual
22A date of acquisition shall be used in determination of the basis.】**
22B *For the purpose of determining gain or loss, the basis of prop-*
22C *erty shall be the adjusted basis used for Federal income tax pur-*
22D *poses.***

23 The term "net gains or income" shall not include gains or in-
24 come derived from obligations which are **【statutorily free from

25 State or local taxation under any other law of this State or under
26 the laws of the United States.]***referred to in clauses (1) or (2)
27 of section 54A:6-14 of this act. The term "net gains or net income"
28 shall not include gains or income from transactions to the extent to
29 which non-recognition is allowed for Federal income tax purposes.**

30 The term "sale, exchange or other disposition" shall not include
31 the exchange of stock or securities in a corporation a party to a
32 reorganization in pursuance of a plan of reorganization, solely for
33 stock or securities in such corporation or in another corporation a
34 party to the reorganization and the transfer of property to a
35 corporation by one or more persons solely in exchange for stock or
36 securities in such corporation if immediately after the exchange
36A such person or persons are in control of the corporation. For
36B purposes of this clause, stock or securities issued for services shall
36C not be considered as issued in return for property.

37 For purposes of this clause, the term "reorganization" means—

38 (i) A statutory merger or consolidation;

39 (ii) The acquisition by one corporation, in exchange solely for
40 all or a part of its voting stock (or in exchange solely for all or a
41 part of the voting stock of a corporation which is in control of the
42 acquiring corporation) of stock of another corporation if, immedi-
43 ately after the acquisition, the acquiring corporation has control
44 of such other corporation (whether or not such acquiring corpora-
45 tion had control immediately before the acquisition);

46 (iii) The acquisition by one corporation, in exchange solely for
47 all or a part of its voting stock (or in exchange solely for all or a
48 part of the voting stock of a corporation which is in control of the
49 acquiring corporation), of substantially all of the properties of
50 another corporation, but in determining whether the exchange is
51 solely for stock the assumption by the acquiring corporation of a
52 liability of the other, or the fact that property acquired is subject
53 to a liability, shall be disregarded;

54 (iv) A transfer by a corporation of all or a part of its assets to
55 another corporation if immediately after the transfer the trans-
56 feror, or one or more of its shareholders (including persons who
57 were shareholders immediately before the transfer), or any com-
58 bination thereof, is in control of the corporation to which the assets
59 are transferred;

60 (v) A recapitalization;

61 (vi) A mere change in identity, form, or place of organization
62 however effected; or

63 (vii) The acquisition by one corporation, in exchange for stock
64 of a corporation (referred to in this subclause as "controlling
65 corporation") which is in control of the acquiring corporation, of
66 substantially all of the properties of another corporation which in
67 the transaction is merged into the acquiring corporation shall not
68 disqualify a transaction under subclause (i) if such transaction
69 would have qualified under subclause (i) if the merger had been
70 into the controlling corporation, and no stock of the acquiring cor-
71 poration, is used in the transaction;

72 (viii) A transaction otherwise qualifying under subclause (i)
73 shall not be disqualified by reason of the fact that stock of a cor-
74 poration (referred to in this subclause as the "controlling corpo-
75 ration") which before the merger was in control of the merged
76 corporation is used in the transaction, if after the transaction, the
77 corporation surviving the merger holds substantially all of its
78 properties and of the properties of the merged corporation (other
79 than stock of the controlling corporation distributed in the trans-
80 action); and in the transaction, former shareholders of the sur-
81 viving corporation exchanged, for an amount of voting stock of
82 the controlling corporation, an amount of stock in the surviving
83 corporation which constitutes control of such corporation.

84 For purposes of this clause, the term "control" means the own-
85 ership of stock possessing at least 80% of the total combined voting
86 power of all classes of stock entitled to vote and at least 80% of
87 the total number of shares of all other classes of stock of the cor-
88 poration.

89 For purposes of this clause, the term "a party to a reorganiza-
90 tion" includes a corporation resulting from a reorganization, and
91 both corporations, in the case of a reorganization resulting from
92 the acquisition by one corporation of stock or properties of another.
93 In the case of a reorganization qualifying under subclause (i) by
94 reason of subclause (vii) the term "a party to a reorganization"
95 includes the controlling corporation referred to in such subclause
96 (vii).

97 Notwithstanding any provisions hereof, upon every such ex-
98 change or conversion, the taxpayer's base for the stock or securi-
99 ties received shall be the same as the taxpayer's actual or attributed
100 base for the stock, securities or property surrendered in exchange
101 therefor.

102 (d) Net gains or ***net*** income derived from or in the form of
103 rents, royalties, patents, and copyrights.

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104 (e) Interest ****[derived from obligations which are not statu-**
105 **torily free from State or local taxation under any other act of this**
106 **State or under the laws of the United States]** ****, *except interest*
106A *referred to in clauses (1) or (2) of section 54A:6-14 of this act**.*

107 (f) Dividends. "Dividends" means any distribution in cash or
108 property made by a corporation, association or business trust,
109 (1) out of accumulated earnings and profits, or (2) out of earn-
110 ings and profits of the year in which such dividend is paid.

111 (g) Gambling winnings.

112 (h) Net gains or income derived through estates or trusts.

113 (i) Income in respect of a decedent.

114 (j) Pensions and annuities to the extent that the proceeds ex-
115 ceed the contributions made by the taxpayer.

116 (k) Distributive share of partnership income.

117 (l) Amounts received as prizes and awards, except as provided
118 in sections 54A:6-8 and 54A:6-11 hereunder.

119 (m) Rental value ****[at]** **of**** a residence furnished by an
120 employer or a rental allowance paid by an employer to provide a
121 home.

122 *** (n) Alimony and separate maintenance payments to the extent*
123 *that such payments are required to be made under a decree of*
124 *divorce or separate maintenance but not including payments for*
125 *support of minor children.*

1 54A:5-2. *Losses. Losses which occur within one category of*
2 *gross income may be applied against other sources of gross income*
3 *within the same category of gross income during the taxable year.*
4 *However, a net loss in one category of gross income may not be*
5 *applied against gross income in another category of gross income.*

1 54A:5-3. *Taxability of estates, trusts and their beneficiaries.*
2 *The income of a beneficiary of an estate or trust in respect of such*
3 *estate or trust shall consist of that part of the income or gains*
4 *received by the estate or trust for its taxable year ending within or*
5 *with the beneficiary's taxable year which, under the governing in-*
6 *strument and applicable state law, is required to be distributed*
7 *currently or is in fact paid or credited to said beneficiary.*

8 *The income or gains of the estate or trust, if any, taxable to*
9 *such estate or trust shall consist of the income or gains received by*
10 *it which has not been distributed or credited to its beneficiaries.*

11 *Where an estate or trust has paid a tax under this act upon in-*
12 *come distributed or to be distributed to a beneficiary, such bene-*

13 *ficiary may exclude such income from his gross income in the year*
14 *paid or credited to him.*

1 *54A:5-4. Taxability of partners. A partnership or association*
2 *as such shall not be subject to the tax imposed by this act, but the*
3 *income or gain of a member of a partnership or association shall*
4 *be subject to the tax and the tax shall be imposed on his share,*
5 *whether or not distributed, of the income or gain received by the*
6 *partnership or association for its taxable year ending within or*
7 *with the partner's or member's taxable year.*

1 *54A:5-5. Nonresident individuals; taxable income. The income*
2 *of a nonresident individual shall be that part of his income derived*
3 *from sources within this State as defined in this act.*

1 *54A:5-6. Husband and wife. (a) Separate return. If the income*
2 *of husband or wife who are both nonresidents of this State and are*
3 *subject to tax under this act is determined on a separately filed*
4 *return, their incomes from sources within this State shall be sepa-*
5 *rately determined.*

6 *(b) One spouse a nonresident. If either husband or wife is a*
7 *nonresident and the other a resident, separate taxes shall be*
8 *determined on their separate incomes on such forms as the director*
9 *shall prescribe, unless both elect to determine their joint income as*
10 *if both were residents in which event their tax liabilities shall be*
11 *joint and several.*

12 *(c) The filing requirements for nonresidents shall be governed*
13 *by the provisions of section 54A:8-3.1 except with respect to the*
14 *conditions set forth in subsection (b) of this section.*

1 *54A:5-7. Allocation of income of nonresidents. Where a non-*
2 *resident taxpayer earns, receives or acquires income from sources*
3 *partly within and partly without this State or engages in a business,*
4 *trade, profession or occupation partly within and partly without*
5 *this State, and, as a result thereof or for other reasons that portion*
6 *of the income derived from or connected with sources within this*
7 *State cannot readily or accurately be ascertained, the director may*
8 *by regulation prescribe uniform rules for apportionment or alloca-*
9 *tion of so much of such taxpayer's income as fairly and equitably*
10 *represents income, derived from sources within this State and*
11 *subject to tax under this act.*

1 *54A:5-8. Income from sources within this State for a nonresident*
2 *individual, estate or trust means the same as compensation, net*
3 *profits, gains, dividends, interest or income enumerated and classi-*

fed under chapter 5 of this act to the extent that it is earned, received or acquired from sources within this State:

(1) *By reason of ownership or disposition of any interest in real or tangible personal property in this State; or*

(2) *In connection with a trade, profession, occupation carried on in this State or for the rendition of personal services performed in this State; or*

(3) *As a distributive share of the income of an unincorporated business, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in this State except as allocated to another state pursuant to regulations promulgated by the director under this act; or*

(4) *From intangible personal property employed in a trade, profession, occupation or business carried on in this State.***

CHAPTER 6. EXCLUDABLE INCOME

54A:6-1. The items in sections 54A:6-2 to 54A:6-9, inclusive, shall be specifically excluded from gross income.

54A:6-2. Federal social security benefits. All payments received under the Federal Social Security Act, whether they be regularly monthly benefits or lump sum death benefits.

54A:6-3. Railroad retirement benefits. All payments received under the Railroad Retirement Act administered by the Federal Government.

54A:6-4. Certain death benefits:

a. Proceeds of life insurance contracts payable by reason of death.

b. Employees' death benefits, if such amounts are paid by or on behalf of an employer and are paid by reason of the death of the employee.

54A:6-5. Gifts and inheritances:

a. The value of property acquired by gift, bequest, devise or inheritance.

b. Income. Subsection a. shall not exclude from gross income:

1. The income from any property referred to in subsection a.

2. Where the gift, bequest, devise or inheritance is of income from property, the amount of such income.

- 1 54A:6-6. Compensation for injuries or sickness:
- 2 a. Amounts received under workmen's compensation acts as
3 compensation for personal injuries or sickness.
- 4 b. The amount of damages received, whether by suit or agree-
5 ment, on account of personal injuries or sickness.
- 6 c. Amounts received through accident or health insurance for
7 personal injuries or sickness.
- 8 d. Amounts received as a pension, annuity or similar allowance
9 for personal injuries or sickness resulting from active service in
10 the Armed Forces of the United States or in the Coast and
11 Geodetic Survey or the Public Health Service, or as a disability
12 annuity payable under the Foreign Service Act of 1946.
- 1 54A:6-7. Certain pay of members of the armed forces.
- 2 a. Compensation paid by the United States for service in the
3 Armed Forces of the United States performed by an individual
4 not domiciled in this State.
- 5 b. Amounts received during the taxable year as mustering-out
6 payments with respect to service in the Armed Forces of the United
7 States.
- 1 54A:6-8. Scholarships and fellowship grants.
- 2 a. Any amount received as a scholarship at an educational
3 institution.
- 4 b. Any amount received as a fellowship grant.
- 5 c. Any amount received to cover expenses for travel, research or
6 equipment which are incident to a scholarship or research grant,
7 but only to the extent that the amount is so expended by the
8 recipient.
- 1 54A:6-9. Exemption for Gains Derived from the Sale or Ex-
2 change of Principal Residence. ****[**Gross income shall not include a
3 gain from the sale or exchange of a principal residence if the
4 following conditions are met:
- 5 (a) The taxpayer has purchased or received in exchange an-
6 other principal residence to replace the residence sold which has
7 an adjusted sales price which is equal to or greater than the adjusted
8 sales price of the residence from which the gain had been derived
9 provided that such new residence had been purchased either 18
10 months before or 18 months after the date of sale of the original
11 residence except that where the taxpayer has constructed a new
12 residence, the period prior to and after the date of sale shall be 24
13 months.]**

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14 **a. If a taxpayer realizes a gain from the sale or exchange of
15 his principal residence, the gain shall be excludable from gross
16 income if the taxpayer purchased or received in exchange another
17 principal residence to replace the residence sold, provided that such
18 new residence had been acquired either 18 months before or 18
19 months after the date of the sale of the original residence except
20 that where the taxpayer has constructed a new residence, the period
21 prior to and after the date of sale shall be 24 months. Where the
22 adjusted sales price of the residence sold exceeds the purchase
23 price of the new residence, the taxpayer shall be required to include
24 in his gross income that portion of the gain which is represented
25 by the amount that the adjusted sales price of the old residence
26 exceeds the cost of the new residence. To the extent that any gain
27 shall be excludable under this section, the basis of the new residence
28 shall be reduced.**

29 **[(b) The taxpayer has attained the age of 65 on or before the
30 date of the sale of such property and such property had been owned
31 and used as a principal residence of the taxpayer for at least five
32 years of the eight years immediately preceding the date of such
33 sale.]**

34 **b. In lieu of the exemption allowed under subsection a. of this
35 section, a taxpayer who has attained the age of 65 on or before
36 the date of the sale of a property which has been used by him as
37 a principal residence for at least 5 years of the 8 years immediately
38 preceding the date of such sale, may elect to avail himself of the
39 exemption allowed under this subsection.** If the exemption
40 provided for in this subsection is availed of by a taxpayer in or
41 for any taxable year, no such exemption shall be allowed with
42 respect to such taxpayer or spouse thereof in any subsequent
43 taxable year. If the adjusted sales price of the property sold or
44 exchanged exceeds \$35,000.00, this subsection shall apply to that
45 portion of the gain which bears the same ratio to the total amount
46 of such gain as \$35,000.00 bears to such adjusted sales price. For
47 the purpose of this section, the word "sale" means a "sale,"
48 "exchange," "transaction," or "event" through which the tax-
49 payer is divested of all interest in his residence.

50 c. Subsection a. shall not apply to any sale or exchange by the
51 taxpayer with respect to more than one property during any 18-
52 month period.

53 d. Subsection b. shall not apply to any sale or exchange by the
54 taxpayer with respect to more than one property.

55 e. Property used in part as a residence. In case of property
56 only a portion of which has been owned and used by the taxpayer
57 as his principal residence, this section shall apply with respect to
58 so much of the sale or exchange of such property as is determined,
59 under regulations prescribed by the director, to be attributable to
60 the portion of the property so owned and used by the taxpayer.

61 ***f. The provisions of this section shall also be applicable with*
62 *respect to qualified tenant-shareholders in cooperatives.***

63 ****[f.]**** ***g.*** For purposes of this section, the destruction,
64 theft, seizure, requisition, or condemnation of property shall be
65 treated as the sale of such property.

1 54A:6-10. Pensions and annuities. Gross income shall not in-
2 clude that part of any amount received as an annuity under an
3 annuity, endowment, or life insurance contract which bears the
4 same ratio to such amount as the investment in the contract (as
5 of the annuity starting date) bears to the expected return under
6 the contract (as of such date). Where (1) part of the considera-
7 tion for an annuity, endowment, or life insurance contract is con-
8 tributed by the employer, and (2) during the 3-year period
9 beginning on the date on which an amount is first received under
10 the contract as an annuity, the aggregate amount receivable by
11 the employee under the terms of the contract is equal to or greater
12 than the consideration for the contract contributed by the em-
13 ployee, then all amounts received as an annuity under the contract
14 shall be excluded from gross income until there has been so
15 excluded an amount equal to the consideration for the contract
16 contributed by the employee.

1 54A:6-11. Lottery winnings. Gross income shall not include
2 lottery winnings from the New Jersey Lottery.

1 54A:6-12. Pensions of persons not covered under Social Security.
2 Gross income shall not include pension, disability or retirement
3 programs of the Federal Government or of any State or its political
4 subdivisions, or agencies thereof, for persons not covered under
5 54A:6-2 or 54A:6-3 hereof; provided, however, that the total
6 amount of benefits to be allowed exclusion herein shall not be in
7 excess of the maximum amount of benefits payable to and allowable
8 for exclusion in 54A:6-2 and 54A:6-3.

1 ***54:6-13. Unemployment insurance benefits. All payments and*
2 *benefits received under any unemployment insurance law.*

1 54:6-14. *Interest on certain obligations: Gross income shall not*
2 *include interest on obligations (1) issued by or on behalf of this*
3 *State or any county, municipality, school or other district, agency,*
4 *authority, commission, instrumentality, public corporation (includ-*
5 *ing one created or existing pursuant to agreement or compact with*
6 *this or any other state), body corporate and politic or political*
7 *subdivision of this State, or (2) those obligations which are statu-*
8 *torily free from state or local taxation under any other act of this*
9 *State or under the laws of the United States.***

CHAPTER 7. WITHHOLDING OF TAX

1 54A:7-1. Requirement of withholding tax from wages. (a)
2 General.—From and after the first day of the first month following
3 at least a full calendar month after the enactment of this act, every
4 employer maintaining an office or transacting business within this
5 State and making payment of any wages subject to New Jersey
6 personal income tax to a resident or nonresident individual shall
7 deduct and withhold from such wages for each payroll period a tax
8 computed in such manner as to result, so far as practicable, in
9 withholding from the employee's wages during each calendar year
10 an amount substantially equivalent to the tax reasonably estimated
11 to be due resulting from the inclusion in the employee's New Jersey
12 income of his wages received during such calendar year. The
13 method of determining the amount to be withheld shall be prescribed
14 by regulations of the director, with due regard to the withholding
15 exemptions of the employee.

16 (b) Withholding exemptions.—For purposes of this section:
17 An employee shall be entitled to the equivalent of the same num-
18 ber of New Jersey withholding exemptions as the number of with-
19 holding exemptions to which he is entitled for Federal income tax
20 withholding purposes. An employer may rely upon the number of
21 Federal withholding exemptions claimed by the employee.

1 54A:7-2. Information statement for employee. Every employer
2 required to deduct and withhold tax under this act from the wages
3 of an employee, or who would have been required so to deduct
4 and withhold tax if the employee had claimed no more than one
5 withholding exemption, shall furnish to each such employee in
6 respect of the wages paid by such employer to such employee during
7 the calendar year on or before February 15 of the succeeding year,
8 or, if his employment is terminated before the close of such calendar
9 year, within 30 days from the date on which the last payment of

10 the wages is made, a written statement as prescribed by the director
11 showing the amount of wages paid by the employer to the employee,
12 the amount deducted and withheld as tax, and such other informa-
13 tion as the director shall prescribe.

1 54A:7-3. Credit for tax withheld. Wages upon which tax is
2 required to be withheld shall be taxable under this act as if no
3 withholding were required, but any amount of tax actually deducted
4 and withheld under this act in any calendar year shall be deemed
5 to have been paid to the director on behalf of the person from whom
6 withheld, and such person shall be credited with having paid that
7 amount of tax for the taxable year beginning in such calendar year.
8 For a taxable year of less than 12 months the credit shall be made
9 under regulations of the director.

1 54A:7-4. Employer's return and payment of withheld taxes.
2 (a) General.—Every employer required to deduct and withhold tax
3 under this act shall, for each calendar month, on or before the
4 fifteenth day of the month following the close of such calendar
5 month, file a withholding return as prescribed by the director and
6 pay over to the director or to a depositary designated by the direc-
7 tor the taxes so required to be deducted and withheld. The director
8 may, if he deems it necessary, extend the initial filing of withholding
9 returns and payment of withheld taxes for a period not to exceed
10 60 days. Where the aggregate amount required to be deducted and
11 withheld by any employer is less than \$25.00 in a calendar month
12 and the aggregate for the semiannual period ending on June 30 and
13 December 31 can reasonably be expected to be less than \$150.00, the
14 director may by regulation permit an employer to file a return on
15 or before July 31 for the semiannual period ending on June 30 and
16 on or before January 31 for the semiannual period ending on
17 December 31. The director may, if he believes such action necessary
18 for the protection of the revenues, require any employer to make
19 such return and pay to him the tax deducted and withheld at any
20 time, or from time to time. Where the amount of wages paid by an
21 employer is not sufficient under this act to require the withholding
22 of tax from the wages of any of his employees, the director may, by
23 regulation, permit such employer to file an annual return on or
24 before February 28 of the following calendar year.

25 The director may, by regulation, require the filing and payment
26 of withholding returns and taxes on a semimonthly or more fre-
27 quent basis where he deems such action in the best interest of
28 the State.

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29 (b) Deposit in trust for director.—Whenever any employer fails
30 to collect, truthfully account for, pay over the tax, or make returns
31 of the tax as required in this section, the director may serve a
32 notice requiring such employer to collect the taxes which become
33 collectible after service of such notice, to deposit such taxes in a
34 bank approved by the director in a separate account, in trust for
35 and payable to the State of New Jersey and to keep the amount
36 of such tax in such account until payment over to the director.
37 Such notice shall remain in effect until a notice of cancellation is
38 served by the director.

1 54A:7-5. Employer's liability for withheld taxes. Every em-
2 ployer required to deduct and withhold tax under this act is hereby
3 made liable for such tax. For purposes of assessment and collec-
4 tion, any amount required to be withheld and paid over to the
5 director, and any additions to tax, penalties and interest with
6 respect thereto, shall be considered the tax of the employer. Any
7 amount of tax actually deducted and withheld under this act shall
8 be held to be a special fund in trust for the director. No employee
9 shall have any right of action against his employer in respect to
10 any moneys deducted and withheld from his wages and paid over
11 to the director in compliance or in intended compliance with this act.

1 54A:7-6. Employer's failure to withhold. If an employer fails
2 to deduct and withhold tax as required, and thereafter the tax
3 against which such tax may be credited is paid, the tax so required
4 to be deducted and withheld shall not be collected from the em-
5 ployer, but the employer shall not be relieved from liability for
6 any penalties, interest, or additions to the tax otherwise applicable
7 in respect of such failure to deduct and withhold.

1 54A:7-7. Filing annual reconciliation of tax withheld. A recon-
2 ciliation of tax withheld ****[must]**** ****shall**** be filed by the em-
3 ployer with the Division of Taxation on or before February 15
4 following the close of the calendar year in accordance with rules
5 and regulations prescribed by the director.

CHAPTER 8. PAYMENT OF TAX

1 54A:8-1. Payment of tax; returns; extension of time. With re-
2 spect to each taxpayer, the tax imposed by this act shall be due and
3 payable annually, hereafter, in the manner provided in this section:

4 a. Every taxpayer shall annually pay the tax imposed by this
5 act with respect to all or any part of each of his fiscal or calendar

6 accounting years beginning **on and** after ***[January 1]*** 9
7 **April 1**, 1976, to be computed as in this act provided, for such 10
8 fiscal or calendar accounting year or part thereof, on a return 11
9 which shall be filed, in the case of a taxpayer reporting on a calen- 12
10 dar year basis, on or before April 15 following the close of such 13
11 calendar year, or, in the case of a taxpayer reporting on a fiscal year
12 basis, on or before the fifteenth day of the fourth month following
13 the close of such fiscal year, and the full amount of the tax shall
14 be due and payable on or before the date prescribed herein for the
15 filing of the return.

15A ***In the case of a taxable year which ends on or after April 1,* 5
15B *1976, and prior to December 31, 1976, an income tax return for such* 6
15C *taxable year shall be filed on or before April 15, 1977.*** 7

16 b. Each return shall carry a certificate signed by the taxpayer 8
17 to the effect that all statements contained therein are true, under 9
18 the same penalties as for perjury committed. Blank forms of re- 10
19 turn shall be furnished on application, but failure to secure the 11
20 form shall not relieve any taxpayer of the obligation of making 12
21 any return herein required. Subject to regulations under this act 13
22 and in such form as may be indicated thereby, taxpayers whose 14
23 net income taxable under this act is or may be subject to tax under 15
24 a similar law of another jurisdiction may be permitted to file a 16
25 simple, short form return attached to a copy of his return as filed 17
26 or about to be filed by him in such other jurisdiction. 18

27-28 Subject to regulations under this act, reasonable extensions of 19
29 time for good cause shown, may be granted for not more than 6 20
30 months unless exceptional circumstances justify a longer period, 21
31 within which returns may be filed. 22

32 In addition, persons in active service with the Armed Forces of 23
33 the United States, who may be prevented by distance or injury 24
34 **or hospitalization arising out of such service, may be allowed* 25
35 *such extension of time for the filing of returns, without interest or* 26
36 *penalty, as may be fixed by regulations under this act.** 27

1 54A:8-2. Optional tax tables. (a) General.—The director may 28
2 promulgate uniform tax tables for individual taxpayers for any 29
3 taxable year. An individual may elect to use or not to use any such 30
4 tax table for which he is eligible. 1

5 (b) Preparation of tax tables.—Tax tables promulgated here- 2
6 under shall be based either upon (i) the individual's New Jersey 3
7 income, or (ii) the individual's taxable income. In computing such 4
8 tables, the director shall make allowance for the deductions and

9 personal exemptions allowed under this act. In either case the
10 director shall by regulation prescribe the conditions of eligibility
11 for the use of a tax table. In no case shall the amount of tax
12 calculated by use of a tax table deviate by more than \$5.00 from
13 the amount otherwise due under section 54A:2-1.

1 54A:8-3. Accounting periods and methods. (a) Accounting
2 periods.—A taxpayer's taxable year under this act shall be the
3 same as his taxable year for Federal income tax purposes.

4 (b) Change of accounting periods.—If a taxpayer's taxable year
5 is changed for Federal income tax purposes, his taxable year for
6 purposes of this act shall be similarly changed.

7 (c) Accounting methods.—A taxpayer's accounting method under
8 this act shall be the same as his accounting method for Federal
9 income tax purposes. In the absence of any accounting method for
10 Federal income tax purposes, New Jersey taxable income shall be
11 computed under such method as in the opinion of the director
12 clearly reflects income.

13 (d) Change of accounting methods.—(1) If a taxpayer's account-
14 ing method is changed for Federal income tax purposes, his ac-
15 counting method for purposes of this act shall be similarly changed.

16 (2) If a taxpayer's accounting method is changed, other than
17 from an accrual to an installment method, any additional tax which
18 results from adjustments determined to be necessary solely by
19 reason of the change shall not be greater than if such adjustments
20 were ratably allocated and included for the taxable year of the
21 change and the preceding taxable years, not in excess of two, dur-
22 ing which the taxpayer used the accounting method from which the
23 change is made.

24 (3) If a taxpayer's accounting method is changed from an ac-
25 crual to an installment method, any additional tax for the year of
26 such change of method and for any subsequent year which is
27 attributable to the receipt of installment payments properly ac-
28 crued in a prior year, shall be reduced by the portion of tax for
29 any prior taxable year attributable to the accrual of such install-
30 ment payments, in accordance with regulations of the director.

1 54A:8-3.1. Persons required to file.

2 a. On or before the filing date prescribed in section 1 of this
3 chapter (C. 54A:8-1), an income tax return shall be made and
4 filed by or for every individual, estate or trust having a gross

5 income in excess of \$3,000.00 or more ***(\$1,500.00 or more in the*
5A *case of a married person filing separately)**.* 13
6 ***b. If the income tax liability of husband and wife is determined* 14
7 *on a separate return for Federal income tax purposes, they shall* 15
8 *each also file a separate return for New Jersey income tax purposes* 16
9 *and their income tax liabilities under this act shall be separate.* 17
10 *c. If the income tax liabilities of husband and wife are determined* 18
11 *on a joint return for Federal income tax purposes, they shall also* 19
12 *file a joint return for New Jersey income tax purposes and their* 20
13 *tax liabilities under this act shall be joint and several.* 21
14 *d. If either husband or wife is a resident and the other is a non-* 22
15 *resident, they shall file separate tax returns under this act on such* 23
16 *single or separate forms as may be required by the director in* 24
17 *which event their tax liabilities shall be separate unless both elect* 25
18 *to determine their joint taxable income as if both were residents, in* 26
19 *which event their tax liabilities shall be joint and several.*** 27
20 ***[b.]** *e.** The return for any deceased individual shall be* 28
21 *made and filed by his fiduciary or other person charged with his* 29
22 *property.* 30
23 ***[c.]** *f.** The return for an individual who is unable to* 31
24 *make a return by reason of minority or other disability shall be* 32
25 *made and filed by his fiduciary or other person charged with the* 33
26 *care of his person or property (other than a receiver in possession* 34
27 *of only a part of his property), or by his duly authorized agent.* 35
28 ***[d.]** *g.** Any tax under this act, and any increase, interest* 36
29 *or penalty thereon, shall, from the time it is due and payable, be a* 37
30 *personal debt of the person liable to pay the same, to the State of* 38
31 *New Jersey.* 39
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1 54A:8-4. Declarations of estimated tax. (a) Requirement of
2 filing. Every resident and nonresident individual shall make a
3 declaration of his estimated New Jersey personal income tax for
4 each taxable year beginning after March 31, 1976, if his esti-
5 mated New Jersey personal income tax can reasonably be expected
6 to be ***[\$40.00 or]*** more ***than \$100.00*** in excess of any
7 credits allowable against his tax, whether or not he is required to
8 file a Federal declaration of estimated tax for such year.
9 (b) Definition of estimated tax. The term "estimated tax"
10 means the amount which an individual estimates to be his income
11 tax under this act for the taxable year, less the amount which he
12 estimates to be the sum of any credits allowable against the tax.

13 (c) Joint declaration of husband and wife. A husband and wife
14 may make a joint declaration of estimated tax as if they were one
15 taxpayer, in which case the liability with respect to the estimated
16 tax shall be joint and several. No joint declaration may be made
17 if husband and wife are separated under a decree of divorce or of
18 separate maintenance, or if they have different taxable years. If
19 a joint declaration is made but husband and wife elect to determine
20 their taxes under this act separately, the estimated tax for such
21 year may be treated as the estimated tax of either husband or wife,
22 or may be divided between them, as they may elect.

23 (d) Time for filing declaration. Beginning in the taxable year
24 1976 and every taxable year thereafter a declaration of estimated
25 tax of an individual other than a farmer shall be filed on or before
26 April 15 of the taxable year, except that if the requirements of
27 subsection (a) are first met:

28 (1) After April 1 and before June 2 of the taxable year, the
29 declaration shall be filed on or before June 15; or

30 (2) After June 1 and before September 2 of the taxable year
31 the declaration shall be filed on or before September 15; or

32 (3) After September 1 of the taxable year, the declaration shall
33 be filed on or before January 15 of the succeeding year.

34 (e) Declaration of estimated tax by a farmer. A declaration of
35 estimated tax of an individual having an estimated New Jersey
36 income from farming (including oyster farming) for the taxable
37 year which is at least two-thirds of his total estimated New Jersey
38 income for the taxable year may be filed at any time on or before
39 January 15 of the succeeding year, in lieu of the time otherwise
40 prescribed.

41 (f) Declaration of estimated tax of ****[\$40.00]**** ****\$100.00**** or
42 less. A declaration of estimated tax of an individual having a total
43 estimated tax for the taxable year of ****[\$40.00]**** ****\$100.00**** or
44 less may be filed at any time on or before January 15 of the succeed-
45 ing year under regulations of the director.

46 (g) Amendments of declaration. An individual may amend a
47 declaration under regulations of the director.

48 (h) Return as declaration or amendment. If on or before
49 February 15 of the succeeding taxable year an individual files his
50 return for the taxable year for which the declaration is required,
51 and pays therewith the full amount of the tax shown to be due on
52 the return:

53 (1) Such return shall be considered as his declaration if no
54 declaration was required to be filed during the taxable year, but is
55 otherwise required to be filed on or before January 15;

56 (2) Such return shall be considered as the amendment permitted
57 by subsection (g) to be filed on or before January 15 if the tax shown
58 on the return is greater than the estimated tax shown in a declara-
59 tion previously made.

60 (i) Fiscal year. This section shall apply to a taxable year other
61 than a calendar year by the substitution of the months of such fiscal
62 year for the corresponding months specified in this section,

63 (j) Short taxable year. An individual having a taxable year of
64 less than 12 months shall make a declaration in accordance with
65 regulations of the director.

66 (k) Declaration for individual under a disability. The declara-
67 tion of estimated tax for an individual who is unable to make a
68 declaration by reason of minority or other disability shall be made
69 and filed by his guardian, committee, fiduciary or other person
70 charged with the care of his person or property (other than a
71 receiver in possession of only a part of his property), or by his
72 duly authorized agent.

73 (1) In the taxable year 1976, no declaration shall be required
74 until the lapse of at least one full calendar quarter following en-
75 actment of this act.

1 54A:8-5. Payments of estimated tax (a) General. The esti-
2 mated tax with respect to which a declaration is required shall be
3 paid as follows:

4 (1) If the declaration is filed on or before April 15 of the taxable
5 year the estimated tax shall be paid in four equal installments. The
6 first installment shall be paid at the time of the filing of the declara-
7 tion, and the second, third and fourth installments shall be paid on
8 the following June 15, September 15, and January 15, respectively.

9 (2) If the declaration is filed after April 15 and not after June 15
10 of the taxable year, the estimated tax shall be paid in three equal
11 installments. The first installment shall be paid at the time of the
12 filing of the declaration, and the second and third installments shall
13 be paid on or before the following September 15 and January 15,
14 respectively.

15 (3) If the declaration is filed after June 15 and not after
16 September 15 of the taxable year, and is not required to be filed on
17 or before June 15 of the taxable year, the estimated tax shall be
18 paid in two equal installments. The first installment shall be paid

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19 at the time of the filing of the declaration, and the second shall be
20 paid on or before the following January 15.

21 (4) If the declaration is filed after September 15 of the taxable
22 year, and is not required to be filed on or before September 15 of
23 the taxable year, the estimated tax shall be paid in full at the time
24 of the filing of the declaration.

25 (5) If the declaration is filed after the time prescribed therefor,
26 or after the expiration of any extension of time therefor, para-
27 graphs (2), (3), and (4) of this subsection shall not apply, and there
28 shall be paid at the time of such filing all installments of estimated
29 tax payable at or before such time, and the remaining installments
30 shall be paid at the times at which, and in the amounts in which,
31 they would have been payable if the declaration had been filed when
32 due.

33 (b) Farmers. If an individual referred to in subsection (e) of
34 section ***[54A:8-5]*** *54A:8-4* (relating to income from farming)
35 makes a declaration of estimated tax after September 15 of the
36 taxable year and on or before the following January 15, the
37 estimated tax shall be paid in full at the time of the filing of the
38 declaration.

39 (c) Amendments of declaration. If any amendment of a declara-
40 tion is filed, the remaining installments, if any, shall be ratably in-
41 creased or decreased (as the case may be) to reflect any increase or
42 decrease in the estimated tax by reason of such amendment, and if
43 any amendment is made after September 15 of the taxable year,
44 any increase in the estimated tax by reason thereof shall be paid at
45 the time of making such amendment.

46 (d) Application to short taxable year. This section shall apply
47 to a taxable year of less than 12 months in accordance with regula-
48 tions of the director.

49 (e) Fiscal year. This section shall apply to a taxable year other
50 than a calendar year by the substitution of the months of such fiscal
51 year for the corresponding months specified in this section.

52 (f) Installments paid in advance. An individual may elect to
53 pay any installment of his estimated tax prior to the date prescribed
54 for its payment.

1 54A:8-6. Requirements concerning returns, notices, records and
2 statements. (a) General. The director may prescribe regulations
3 as to the keeping of records, the content and form of returns and
4 statements, and the filing of copies of Federal income tax returns
5 and determinations. The director may require any person, by

6 regulation or notice served upon such person, to make such returns,
7 render such statements, or keep such records, as the director may
8 deem sufficient to show whether or not such person is liable under
9 this act for tax or for collection of tax.

10 (b) Partnerships. Every partnership having a resident partner
11 or having any income derived from New Jersey sources, shall make
12 a return for the taxable year setting forth all items of income, gain,
13 loss and deduction and such other pertinent information as the
14 director may by regulations and instructions prescribe. Such
15 return shall be filed on or before the fifteenth day of the fourth
16 month following the close of each taxable year. For the purposes
17 of this subsection, "taxable year" means a year or period which
18 would be a taxable year of the partnership if it were subject to tax
19 under this act.

20 (c) Information at source. The director may prescribe regula-
21 tions and instructions requiring returns of information to be made
22 and filed on or before February 15 of each year as to the payment
23 or crediting in any calendar year of amounts of \$100.00 or more
24 to any taxpayer under this act. Such returns may be required of
25 any person, including lessees or mortgagors of real or personal
26 property, fiduciaries, employers, and all officers and employees of
27 this State, or of any municipal corporation or political subdivision
28 of this State, having the control, receipt, custody, disposal or pay-
29 ment of interest, rents, salaries, wages, premiums, annuities, com-
30 pensations, remunerations, emoluments or other fixed or determin-
31 able gains, profits or income, except interest coupons payable to
32 bearer. A duplicate of the statement as to tax withheld on wages,
33 required to be furnished by an employer to an employee, shall
34 constitute the return of information required to be made under this
35 section with respect to such wages.

36 (d) Notice of qualification as receiver, et cetera. Every receiver,
37 trustee in bankruptcy, assignee for benefit of creditors, or other like
38 fiduciary shall give notice of his qualification as such to the direc-
39 tor, as may be required by regulation.

1 54A:8-7. Report of change in Federal taxable income. If the
2 amount of a taxpayer's Federal taxable income reported on his
3 Federal income tax return for any taxable year is changed or cor-
4 rected by the United States Internal Revenue Service or other
5 competent authority, or as the result of a renegotiation of a contract
6 or subcontract with the United States, the taxpayer shall report
7 such change or correction in Federal taxable income within 90 days
8 after the final determination of such change, correction, or

9 renegotiation, or as otherwise required by the director, and shall
10 concede the accuracy of such determination or state wherein it is
11 erroneous. Any taxpayer filing an amended Federal income tax
12 return shall also file within 90 days thereafter an amended return
13 under this act, and shall give such information as the director may
14 require. The director may by regulation prescribe such exceptions
15 to the requirements of this section as he deems appropriate.

CHAPTER 9. ADMINISTRATION OF TAX

1 54A:9-1. Applicability of State Tax Uniform Procedure Law.
2 The taxes imposed by this act shall be governed in all respects
3 by the provisions of the State Tax Uniform Procedure Law (sub-
4 title 9 of Title 54 of the Revised Statutes) except only to the extent
5 that a specific provision of this act may be in conflict therewith.

1 54A:9-2. Notice of deficiency. (a) General. If upon examination
2 of a taxpayer's return under this act the director determines that
3 there is a deficiency of income tax, he may mail a notice of deficiency
4 to the taxpayer. If a taxpayer fails to file an income tax return
5 required under this act, the director is authorized to estimate the
6 taxpayer's New Jersey income and tax thereon, from any infor-
7 mation in his possession, and to mail a notice of deficiency to the
8 taxpayer. A notice of deficiency shall be mailed to the taxpayer at
9 his last known address in or out of this State. If a husband and
10 wife are jointly liable for tax, a notice of deficiency may be a single
11 joint notice, except that if the director has been notified in writing
12 by either spouse that separate residences have been established,
13 then, in lieu of the single joint notice, a duplicate original of the
14 joint notice shall be mailed to each spouse at his or her last known
15 address in or out of this State. If the taxpayer is deceased or under
16 a legal disability, a notice of deficiency may be mailed to his last
17 known address in or out of this State, unless the director has re-
18 ceived written notice of the existence of a fiduciary relationship
19 with respect to the taxpayer.

20 (b) Notice of deficiency as assessment. After 90 days from the
21 mailing of a notice of deficiency, such notice shall be an assessment
22 of the amount of tax specified in such notice, together with the
23 interest, additions to tax and penalties stated in such notice, except
24 only for any such tax or other amounts as to which the taxpayer
25 has within such 90-day period filed with the director a petition
26 under section 54A:9-9. If the notice of deficiency is addressed to
27 a person outside of the United States, such period shall be 150 days
28 instead of 90 days.

29 (c) Restrictions on assessment and levy. No assessment of a
30 deficiency in tax and no levy or proceeding in court for its collection
31 shall be made, begun or prosecuted, except as otherwise provided
32 in section 54A:9-14, until a notice of deficiency has been mailed
33 to the taxpayer, nor until the expiration of the time for filing a
34 petition contesting such notice, nor, if a petition with respect to
35 the taxable year has been filed with the director, until the decision
36 of the director has become final. For exception in the case of re-
37 view of the decision of the director, see subsection (c) of section
38 54A:9-10.

39 (d) Exceptions for mathematical errors. If a mathematical error
40 appears on a return (including an overstatement of the credit for
41 income tax withheld at the source, or of the amount paid as esti-
42 mated income tax), the director shall notify the taxpayer that an
43 amount of tax in excess of that shown upon the return is due, and
44 that such excess has been assessed. Such notice shall not be con-
45 sidered as a notice of deficiency for the purposes of this section,
46 subsection *[(f)]* *(e)* of section 54A:9-8 (limiting credits or
47 refunds after petition to the director), or subsection (b) of section
48 54A:9-9 (authorizing the filing of a petition with the director
49 based on a notice of deficiency) nor shall such assessment or collec-
50 tion be prohibited by the provisions of subsection (c).

51 (e) Exception where change in Federal taxable income is not
52 reported.

53 (1) If the taxpayer fails to comply with section *54A:8-8*
54 *54A:8-7* in not reporting a change or correction increasing his
55 Federal taxable income as reported on his Federal income tax
56-57 return or in not reporting a change or correction which is treated
58 in the same manner as if it were a deficiency for Federal income
59 tax purposes or in not filing an amended return, instead of the
60 mode and time of assessment provided for in subsection (b) of this
61 section, the director may assess a deficiency based upon such
62 changed or corrected Federal taxable income by mailing to the
63 taxpayer a notice of additional tax due specifying the amount of
64 the deficiency, and such deficiency, together with the interest,
65 additions to tax and penalties stated in such notice, shall be deemed
66 assessed on the date such notice is mailed unless within 30 days
67 after the mailing of such notice a report of the Federal change or
68 correction or an amended return, where such return was required
69 by section 54A:8-7, is filed accompanied by a statement showing
70 wherein such Federal determination and such notice of additional
71 tax due are erroneous.

72 (2) Such notice shall not be considered as a notice of deficiency
73 for the purposes of this section, subsection *[(f)]* *(e)* of section
74 54A:9-8 (limiting credits or refunds after petition to the director),
75 or subsection (b) of section 54A:9-9 (authorizing the filing of a
76 petition with the director based on a notice of deficiency), nor
77 shall such assessment or the collection thereof be prohibited by the
78 provisions of subsection (c).

79 (3) If a husband and wife are jointly liable for tax, a notice of
80 additional tax due may be a single joint notice, except that if the
81 director has been notified in writing by either spouse that separate
82 residences have been established, then, in lieu of the joint notice,
83 a duplicate original of the joint notice shall be mailed to each
84 spouse at his or her last known address in or out of this State. If
85 the taxpayer is deceased or under a legal disability, a notice of
86 additional tax due may be mailed to his last known address in or
87 out of this State, unless the director has received written notice
88 of the existence of a fiduciary relationship with respect to the
89 taxpayer.

90 (f) Waiver of restrictions. The taxpayer shall at any time
91 (whether or not a notice of deficiency has been issued) have the
92 right to waive the restrictions on assessment and collection of the
93 whole or any part of the deficiency by a signed notice in writing
94 filed with the director.

95 (g) Deficiency defined. For purposes of this act, a deficiency
96 means the amount of the tax imposed by this act, less (i) the amount
97 shown as the tax upon the taxpayer's return (whether the return
98 was made or the tax computed by him or by the director), and
99 less (ii) the amounts previously assessed (or collected without
100 assessment) as a deficiency and plus (iii) the amount of any re-
101 bates. For the purpose of this definition, the tax imposed by this
102 act and the tax shown on the return shall both be determined
103 without regard to payments on account of estimated tax or the
104 credit for withholding tax; and a rebate means so much of an
105 abatement, credit, refund or other repayment (whether or not
106 erroneous) made on the ground that the amounts entering into the
107 definition of a deficiency showed a balance in favor of the taxpayer.

1 54A:9-3. Assessment. (a) Assessment date. The amount of tax
2 which a return shows to be due, or the amount of tax which a
3 return would have shown to be due but for a mathematical error,
4 shall be deemed to be assessed on the date of filing of the return
5 (including any amended return showing an increase of tax). In
6 the case of a return properly filed without computation of tax, the

7 tax computed by the director shall be deemed to be assessed on the
8 date on which payment is due. If a notice of deficiency has been
9 mailed, the amount of the deficiency shall be deemed to be assessed
10 on the date specified in subsection (b) of section 54A:9-2 if no
11 petition to the director is filed, or if a petition is filed, then upon the
12 date when a decision of the director establishing the amount of the
13 deficiency becomes final. If an amended return or report filed
14 pursuant to section 54A:8-7 concedes the accuracy of a Federal
15 change or correction, any deficiency in tax under this act resulting
16 therefrom shall be deemed to be assessed on the date of filing such
17 report or amended return, and such assessment shall be timely
18 notwithstanding section 54A:9-4. If a notice of additional tax
19 due, as prescribed in subsection (e) of section 54A:9-2 has been
20 mailed, the amount of the deficiency shall be deemed to be assessed
21 on the date specified in such subsection unless within 30 days after
22 the mailing of such notice a report of the Federal change or correc-
23 tion or an amended return, where such return was required by
24 section 54A:8-7 is filed accompanied by a statement showing
25 wherein such Federal determination and such notice of additional
26 tax due are erroneous. Any amount paid as a tax or in respect of
27 a tax, other than amounts withheld at the source or paid as esti-
28 mated income tax, shall be deemed to be assessed upon the date of
29 receipt of payment, notwithstanding any other provisions.

30 (b) Other assessment powers. If the mode or time for the assess-
31 ment of any tax under this act (including interest, additions to tax
32 and assessable penalties) is not otherwise provided for, the director
33 may establish the same by regulations.

34 (c) Estimated income tax. No unpaid amount of estimated tax
35 under section 54:8-5 shall be assessed.

36 (d) Supplemental assessment. The director may, at any time
37 within the period prescribed for assessment, make a supplemental
38 assessment, subject to the provisions of section 54A:9-2 where
39 applicable, whenever it is ascertained that any assessment is im-
40 perfect or incomplete in any material respect.

1 54A:9-4. Limitations on assessment. (a) General. Except as
2 otherwise provided in this section, any tax under this act shall be
3 assessed within 3 years after the return was filed (whether or not
4 such return was filed on or after the date prescribed).

5 (b) Time returned deemed filed.

6 (1) Early return. For purposes of this section a return of
7 income tax, except withholding tax, filed before the last day pre-

8 scribed by law or by regulations promulgated pursuant to law for
9 the filing thereof, shall be deemed to be filed on such last day.

10 (2) Return of withholding tax. For purposes of this section, if
11 a return of withholding tax for any period ending with or within
12 a calendar year is filed before April 15 of the succeeding calendar
13 year, such return shall be deemed to be filed on April 15 of such
14 succeeding calendar year.

15 (c) Exceptions.

16 (1) Assessment at any time. The tax may be assessed at any
17 time if—

18 (A) No return is filed,

19 (B) A false or fraudulent return is filed with intent to evade
20 tax, or

21 (C) The taxpayer fails to comply with section 54A:8-7, in
22 not reporting a change or correction increasing his Federal
23 taxable income as reported on his Federal income tax return,
24 or in not reporting a change or correction which is treated in
25 the same manner as if it were a deficiency for Federal income
26 tax purposes, or in not filing an amended return.

27 (2) Extension by agreement. Where, before the expiration of
28 the time prescribed in this section for the assessment of tax, both
29 the director and the taxpayer have consented in writing to its
30 assessment after such time, the tax may be assessed at any time
31 prior to the expiration of the period agreed upon. The period so
32 agreed upon may be extended by subsequent agreements in writing
33 made before the expiration of the period previously agreed upon.

34 (3) Report of changed or corrected Federal income. If the tax-
35 payer shall, pursuant to section 54A:8-7, report a change or cor-
36 rection or file an amended return increasing his Federal taxable
37 income or report a change or correction which is treated in the
38 same manner as if it were a deficiency for Federal income tax
39 purposes, the assessment (if not deemed to have been made upon
40 the filing of the report or amended return) may be made at any
41 time within 2 years after such report or amended return was filed.
42 The amount of such assessment of tax shall not exceed the amount
43 of the increase in New Jersey tax attributable to such Federal
44 change or correction. The provisions of this paragraph shall not
45 affect the time within which or the amount for which an assessment
46 may otherwise be made.

47 (4) Recovery of erroneous refund. An erroneous refund shall be
48 considered an underpayment of tax on the date made, and an
49 assessment of a deficiency arising out of an erroneous refund may

50 be made at any time within 3 years from the making of the refund,
51 except that the assessment may be made within 5 years from the
52 making of the refund if it appears that any part of the refund was
53 induced by fraud or misrepresentation of a material fact.

54 (5) Request for prompt assessment. If a return is required for a
55 decedent or for his estate during the period of administration, the
56 tax shall be assessed within 18 months after written request
57 therefor (made after the return is filed) by the executor, admini-
58 strator or other person representing the estate of such decedent,
59 but not more than 3 years after the return was filed, except as
60 otherwise provided in this subsection and subsection (d).

61 (d) Omission of income on return. The tax may be assessed at
62 any time within 6 years after the return was filed if—

63 (1) An individual omits from his New Jersey income an amount
64 properly includible therein which is in excess of 25% of the amount
65 of New Jersey income stated in the return; or

66 (2) An estate or trust omits income from its return in an amount
67 in excess of 25% of its income determined as if it were an individual,
68 computing his New Jersey income under this act.

69 For purposes of this subsection there shall not be taken into
70 account any amount which is omitted in the return if such amount
71 is disclosed in the return, or in a statement attached to the return,
72 in a manner adequate to apprise the director of the nature and
73 amount of such item.

74 (e) Suspension of running of period of limitation. The running
75 of the period of limitations on assessment or collection of tax or
76 other amount (or of a transferee's liability) shall, after the mailing
77 of a notice of deficiency, be suspended for the period during which
78 the director is prohibited under subsection (c) of section 54A :9-2
79 from making the assessment or from collecting by levy.

1 54A :9-5. Interest on underpayment. (a) General. If any amount
2 of income tax is not paid on or before the last date prescribed in
3 this act for payment, interest on such amount at the rate of 9%
4 per annum shall be paid for the period from such last date to the
5 date paid, whether or not any extension of time for payment was
6 granted. Interest under this subsection shall not be paid if the
7 amount thereof is less than \$1.00. If the time for filing of a return
8 of tax withheld by an employer is extended, the employer shall
9 pay interest for the period for which the extension is granted and
10 may not charge such interest to the employee.

11 (b) Exception as to estimated tax. This section shall not apply
12 to any failure to pay estimated tax under section 54A:8-5.

13 (c) Exception for mathematical error. No interest shall be im-
14 posed on any underpayment of tax due solely to mathematical
15 error if the taxpayer files a return within the time prescribed in
16 this act (including any extension of time) and pays the amount of
17 underpayment within 3 months after the due date of such return,
18 as it may be extended.

19 (d) No interest on interest. No interest under this act shall be
20 imposed on any interest provided by this act.

21 (e) Suspension of interest on deficiencies. If a waiver of restric-
22 tions on assessment of a deficiency has been filed by the taxpayer,
23 and if notice and demand by the director for payment of such
24 deficiency is not made within 30 days after the filing of such waiver,
25 interest shall not be imposed on such deficiency for the period
26 beginning immediately after such thirtieth day and ending with
27 the date of notice and demand.

28 (f) Interest treated as tax. Interest under this section shall be
29 paid upon notice and demand and shall be assessed, collected and
30 paid in the same manner as income tax. Any reference in this act
31 to the tax imposed by this act shall be deemed also to refer to
32 interest imposed by this section on such tax.

33 (g) Interest on penalties or additions to tax. Interest shall be
34 imposed under subsection (a) in respect of any assessable penalty
35 or addition to tax only if such assessable penalty on addition to
36 tax is not paid within 10 days from the date of the notice and
37 demand therefor under subsection (b) of section 54A:9-12, and in
38 such case interest shall be imposed only for the period from such
39 date of the notice and demand to the date of payment.

40 (h) Payment prior to notice of deficiency. If, prior to the mail-
41 ing to the taxpayer of a notice of deficiency under subsection (b)
42 of section 54A:9-2, the director mails to the taxpayer a notice of
43 proposed increase of tax and within 30 days after the date of the
44 notice of proposed increase the taxpayer pays all amounts shown
45 on the notice to be due to the director, no interest under this section
46 on the amount so paid shall be imposed for the period after the
47 date of such notice of proposed increase.

48 (i) Payment within 10 days after notice and demand. If notice
49 and demand is made for payment of any amount under subsection
50 (b) of section 54A:9-12, and if such amount is paid within 10 days
51 after the date of such notice and demand, interest under this section
52 on the amount so paid shall not be imposed for the period after
53 the date of such notice and demand.

54 (j) Limitation on assessment and collection. Interest prescribed
55 under this section may be assessed and collected at any time dur-
56 ing the period within which the tax or other amount to which such
57 interest relates may be assessed and collected, respectively.

58 (k) Interest on erroneous refund. Any portion of tax or other
59 amount which has been erroneously refunded, and which is recover-
60 able by the director, shall bear interest at the rate of 9% per annum
61 from the date of the payment of the refund, but only if it appears
62 that any part of the refund was induced by fraud or a misrepresen-
63 tation of a material fact.

64 (l) Satisfaction by credits. If any portion of a tax is satisfied
65 by credit of an overpayment, then no interest shall be imposed
66 under this section on the portion of the tax so satisfied for any
67 period during which, if the credit had not been made, interest would
68 have been allowable with respect to such overpayment.

1 54A:9-6. Additions to tax and civil penalties. (a) Failure to file
2 tax return. In case of failure to file a tax return under this act on
3 or before the prescribed date (determined with regard to any ex-
4 tension of time for filing), unless it is shown that such failure is
5 due to reasonable cause and not due to willful neglect, there shall
6 be added to the amount required to be shown as tax on such return
7 such amount as is required under the State Tax Uniform Procedure
8 Law, Subtitle 9 of Title 54 of the Revised Statutes. For this
9 purpose, the amount of tax required to be shown on the return
10 shall be reduced by the amount of any part of the tax which
11 is paid on or before the date prescribed for payment of the tax
12 and by the amount of any credit against the tax which may be
13 claimed upon the return.

14 (b) Deficiency due to negligence. If any part of a deficiency is
15 due to negligence or intentional disregard of this act or rules or
16 regulations hereunder (but without intent to defraud), there shall
17 be added to the tax an amount equal to 5% of the deficiency.

18 (c) Failure to file declaration or underpayment of estimated tax.
19 If any taxpayer fails to file a declaration of estimated tax or fails
20 to pay all or any part of an installment of estimated tax, he shall
21 be deemed to have made an underpayment of estimated tax. There
22 shall be added to the tax for the taxable year an amount at the
23 rate of 9% per annum upon the amount of the underpayment for
24 the period of the underpayment but not beyond the fifteenth day
25 of the fourth month following the close of the taxable year. The
26 amount of underpayment shall be the excess of the amount of the
27 installment which would be required to be paid if the estimated

28 tax were equal to 80% of the tax (two-thirds of the tax for farmers
29 referred to in subsection (e) of section 54A:8-4) shown on the re-
30 turn for the taxable year (or if no return was filed, of the tax for
31 such year) over the amount, if any, of the installment paid on or
32 before the last day prescribed for such payment. No underpayment
33 shall be deemed to exist with respect to a declaration or installment
34 otherwise due on or after the taxpayer's death.

35 (d) Exception to addition for underpayment of estimated tax.
36 The addition to tax under subsection (c) with respect to any under-
37 payment of any installment, shall not be imposed if the total amount
38 of all payments of estimated tax made on or before the last date
39 prescribed for the payment of such installment equals or exceeds
40 whichever of the following is the lesser—

41 (1) The amount which would have been required to be paid on
42 or before such date if the estimated tax were whichever of the
43 following is the least—

44 (A) The tax shown on the return of the individual for the
45 preceding taxable year, if a return showing a liability for tax
46 was filed by the individual for the preceding taxable year and
47 such preceding year was a taxable year of 12 months, or

48 (B) An amount equal to the tax computed, at the rates appli-
49 cable to the taxable year, on the basis of the taxpayer's status
50 with respect to his personal exemptions for the taxable year,
51 but otherwise on the basis of the facts shown on his return for,
52 and the law applicable to, the preceding taxable year, or

53 (C) An amount equal to 80% of the tax for the taxable year
54 (two-thirds of the tax for farmers referred to in subsection (e)
55 of section 54A:8-4) computed by placing on an annualized basis
56 the income for the months in the taxable year ending before the
57 month in which the installment is required to be paid. For
58 purposes of this subparagraph, the income shall be placed on
59 an annualized basis by—

60 (i) Multiplying by 12 (or, in the case of a taxable year of
61 less than 12 months, the number of months in the taxable
62 year) the income for the months in the taxable year ending
63 before the month in which the installment is required to be
64 paid,

65 (ii) Dividing the resulting amount by the number of
66 months in the taxable year ending before the month in which
67 such installment date falls, and

68 (iii) Deducting from such amount the deductions for per-
69 sonal exemptions allowable for the taxable year (such per-

70 sonal exemptions being determined as of the last date pre-
71 scribed for payment of the installment); or

72 (2) An amount equal to 90% of the tax computed, at the rates
73 applicable to the taxable year, on the basis of the actual income
74 for the months in the taxable year ending before the month in
75 which the installment is required to be paid.

76 (e) Deficiency due to fraud. If any part of a deficiency is due
77 to fraud, there shall be added to the tax an amount equal to 50%
78 of the deficiency. This amount shall be in lieu of any other addition
79 to tax imposed by subsection (a) or (b).

80 (f) Non willful failure to pay withholding tax. If any employer,
81 without intent to evade or defeat any tax imposed by this act or the
82 payment thereof, shall fail to make a return and pay a tax withheld
83 by him at the time required by or under the provisions of section
84 54A:7-4, such employer shall be liable for such tax and shall pay
85 the same together with interest thereon and the addition to tax
86 provided in subsection (a), and such interest and addition to tax
87 shall not be charged to or collected from the employee by the
88 employer. The director shall have the same rights and powers for
89 the collection of such tax, interest and addition to tax against such
90 employer as are now prescribed by this act for the collection of tax
91 against an individual taxpayer.

92 (g) Willful failure to collect and pay over tax. Any person
93 required to collect, truthfully account for, and pay over the tax
94 imposed by this act who willfully fails to collect such tax or truth-
95 fully account for and pay over such tax or willfully attempts in any
96 manner to evade or defeat the tax or the payment thereof, shall, in
97 addition to other penalties provided by law, be liable to a penalty
98 equal to the total amount of the tax evaded, or not collected, or
99 not accounted for and paid over. No addition to tax under sub-
100 sections (b) or (c) shall be imposed for any offense to which this
101 subsection applies.

102 (h) Failure to file certain information returns. In case of each
103 failure to file a statement of a payment to another person, required
104 under authority of subsection (c) of section 54A:8-6 (relating to
105 information at source, including the duplicate statement of tax
106 withheld on wages) on the date prescribed therefor (determined
107 with regard to any extension of time for filing), unless it is shown
108 that such failure is due to reasonable cause and not to willful
109 neglect, there shall, upon notice and demand by the director and in
110 the same manner as tax, be paid by the person so failing to file the
111 statement, a penalty of \$1.00 for each statement not so filed, but

112 the total amount imposed on the delinquent person for all such
113 failures during any calendar year shall not exceed \$1,000.00.

114 (i) Additional penalty. Any person who with fraudulent intent
115 shall fail to pay, or to deduct or withhold and pay, any tax, or to
116 make, render, sign or certify any return or declaration of esti-
117 mated tax or to supply any information within the time required
118 by or under this act, shall be liable to penalty of not more than
119 \$1,000.00, in addition to any other amounts required under this act,
120 to be imposed, assessed and collected by the director. The director
121 shall have the power, in his discretion, to waive, reduce or compro-
122 mise any penalty under this subsection.

123 (j) Additions treated as tax. The additions to tax and penalties
124 provided by this section shall be paid upon notice and demand and
125 shall be assessed, collected and paid in the same manner as taxes
126 and any reference in this act to income tax or tax imposed by this
127 act, shall be deemed also to refer to the additions to tax and pen-
128 alties provided by this section. For purposes of section 54A:9-2,
129 this subsection shall not apply to:

130 (1) Any addition to tax under subsection (a) except as to that
131 portion attributable to a deficiency;

132 (2) Any addition to tax under subsection (e); and

133 (3) Any additional penalty under subsection (i).

134 (k) Determination of deficiency. For purposes of subsections
135 (b) and (c), the amount shown as the tax by the taxpayer upon his
136 return shall be taken into account in determining the amount of the
137 deficiency only if such return was filed on or before the last day
138 prescribed for the filing of such return, determined with regard to
139 any extension of time for such filing.

140 (l) Person defined. For purposes of subsections (g) and (i), the
141 term person includes an individual, corporation or partnership or
142 an officer or employee of any corporation (including a dissolved
143 corporation) or a member or employee of any partnership, who
144 as such officer, employee, or member is under a duty to perform
145 the act in respect of which the violation occurs.

1 54A:9-7. Overpayment. (a) General. The director, within the
2 applicable period of limitations may credit an overpayment of
3 income tax against any liability in respect of any tax imposed by
4 the tax law on the person who made the overpayment, and the
5 balance shall be refunded by the comptroller out of the proceeds
6 of the tax retained by him for such general purpose. Any refund
7 under this section shall be made only upon the filing of a return
8 and upon a certificate of the director approved by the comptroller.

9 The State Treasurer, as a condition precedent to the approval of
10 such a certificate, may examine into the facts as disclosed by the
11 return of the person who made the overpayment and other informa-
12 tion and data available in the files of the director.

13 (b) Excessive withholding. If the amount allowable as a credit
14 for tax withheld from the taxpayer exceeds his tax to which the
15 credit relates, the excess shall be considered an overpayment.

16 (c) Overpayment by employer. If there has been an overpay-
17 ment of tax required to be deducted and withheld under section
18 54A :7-4, refund shall be made to the employer only to the extent
19 that the amount of the overpayment was not deducted and withheld
20 by the employer.

21 (d) Credits against estimated tax. The director may prescribe
22 regulations providing for the crediting against the estimated in-
23 come tax for any taxable year of the amount determined to be an
24 overpayment of the income tax for a preceding taxable year. If
25 any overpayment of income tax is so claimed as a credit against
26 estimated tax for the succeeding taxable year, such amount shall
27 be considered as a payment of the income tax for the succeeding
28 taxable year (whether or not claimed as a credit in the declaration
29 of estimated tax for such succeeding taxable year), and no claim
30 for credit or refund of such overpayment shall be allowed for the
31 taxable year for which the overpayment arises.

32 (e) Rule where no tax liability. If there is no tax liability for
33 a period in respect of which an amount is paid as income tax, such
34 amount shall be considered an overpayment.

35 (f) Under regulations prescribed by the director with approval
36 of the State Treasurer interest shall be allowed and paid at the rate
37 of 6% per annum upon any overpayment in respect of the tax im-
38 posed by this act; but no interest shall be allowed or paid on an
39 overpayment of less than \$1.00, nor upon any overpayment
40 refunded within 6 months after the last date prescribed, or per-
41 mitted by extension of time, for filing the return or within 6 months
42 after the return is filed, whichever is later.

1 54A :9-8. Limitations on credit or refund. (a) General. Claim
2 for credit or refund of an overpayment of income tax shall be filed
3 by the taxpayer within 3 years from the time the return was filed or
4 2 years from the time the tax was paid, whichever of such periods
5 expires the later, or if no return was filed, within 2 years from the
6 time the tax was paid. If the claim is filed within the 3-year period,
7 the amount of the credit or refund shall not exceed the portion of
8 the tax paid within the 3 years immediately preceding the filing of

9 the claim plus the period of any extension of time for filing the
10 return. If the claim is not filed within the 3-year period, but is filed
11 within the 2-year period, the amount of the credit or refund shall
12 not exceed the portion of the tax paid during the 2 years immedi-
13 ately preceding the filing of the claim. Except as otherwise pro-
14 vided in this section, if no claim is filed, the amount of a credit or
15 refund shall not exceed the amount which would be allowable if a
16 claim had been filed on the date the credit or refund is allowed.

17 (b) Extension of time by agreement. If an agreement under the
18 provisions of paragraph (2) of subsection (c) of section 54A:9-4
19 (extending the period for assessment of income tax) is made within
20 the period prescribed in subsection (a) for the filing of a claim for
21 credit or refund, the period for filing a claim for credit or refund,
22 or for making credit or refund if no claim is filed, shall not expire
23 prior to 6 months after the expiration of the period within which
24 an assessment may be made pursuant to the agreement or any
25 extension thereof. The amount of such credit or refund shall not
26 exceed the portion of the tax paid after the execution of the agree-
27 ment and before the filing of the claim or the making of the credit
28 or refund, as the case may be, plus the portion of the tax paid within
29 the period which would be applicable under subsection (a) if a
30 claim had been filed on the date the agreement was executed.

31 (c) Notice of change or correction of Federal income. If a tax-
32 payer is required by section ***[54A:8-8]*** *54A:8-7* to report a
33 change or correction in Federal taxable income reported on his
34 Federal income tax return, or to report a change or correction
35 which is treated in the same manner as if it were an overpayment
36 for Federal income tax purposes, or to file an amended return with
37 the director, claim for credit or refund of any resulting overpay-
38 ment of tax shall be filed by the taxpayer within 2 years from the
39 time the notice of such change or correction or such amended re-
40 turn was required to be filed with the director. The amount of such
41 credit or refund shall not exceed the amount of the reduction in
42 tax attributable to such Federal change, correction or items
43 amended on the taxpayer's amended Federal income tax return.
44 This subsection shall not affect the time within which or the amount
45 for which a claim for credit or refund may be filed apart from this
46 subsection.

47 (d) Failure to file claim within prescribed period. No credit or
48 refund shall be allowed or made, except as provided in subsection
49 (e) of this section or subsection (d) of section 54A:9-10, after the
50 expiration of the applicable period of limitation specified in this

51 act, unless a claim for credit or refund is filed by the taxpayer
52 within such period. Any later credit shall be void and any later
53 refund erroneous. No period of limitations specified in any other
54 law shall apply to the recovery by a taxpayer of moneys paid in
55 respect of taxes under this act.

56 (e) Effect of petition to director. If a notice of deficiency for a
57 taxable year has been mailed to the taxpayer under section 54A :9-2
58 and if the taxpayer files a timely petition with the director under
59 section 54A :9-9, he may determine that the taxpayer has made an
60 overpayment for such year (whether or not he also determines a
61 deficiency for such year). No separate claim for credit or refund
62 for such year shall be filed, and no credit or refund for such year
63 shall be allowed or made, except—

64 (1) As to overpayments determined by a decision of the director
65 which has become final; and

66 (2) As to any amount collected in excess of an amount computed
67 in accordance with the decision of the director which has become
68 final; and

69 (3) As to any amount claimed as a result of a change or correc-
70 tion described in subsection (c).

71 ***(4)*** ***(f)*** Limit on amount of credit or refund. The
72 amount of overpayment determined under subsection ***(f)*** ***(e)***
73 shall, when the decision of the director has become final, be credited
74 or refunded in accordance with subsection (a) of section 54A :6-6
75 and shall not exceed the amount of tax which the director deter-
76 mines as part of his decision was paid—

77 (1) After the mailing of the notice of deficiency; or

78 (2) Within the period which would be applicable under subsections
79 (a), (b) or (c), if on the date of the mailing of the notice of
80 a deficiency a claim had been filed (whether or not filed) stating the
81 grounds upon which the director finds that there is an overpayment.

82 (g) Early return. For purposes of this section, any return filed
83 before the last day prescribed for the filing thereof shall be con-
84 sidered as filed on such last day, determined without regard to any
85 extension of time granted the taxpayer.

86 (h) Prepaid income tax. For purposes of this section, any tax
87 paid by the taxpayer before the last day prescribed for its payment,
88 any income tax withheld from the taxpayer during any calendar
89 year, and any amount paid by the taxpayer as estimated income tax
90 for a taxable year shall be deemed to have been paid by him on the
91 fifteenth day of the fourth month following the close of his taxable

92 year with respect to which such amount constitutes a credit or
93 payment.

94 (i) Return and payment of withholding tax. Notwithstanding
95 subsection (h), for purposes of this section with respect to any
96 withholding tax—

97 (1) If a return for any period ending with or within a calendar
98 year is filed before April 15 of the succeeding calendar year, such
99 return shall be considered filed on April 15 of such succeeding
100 calendar year; and

101 (2) If a tax with respect to remuneration paid during any period
102 ending with or within a calendar year is paid before April 15 of the
103 succeeding calendar year, such tax shall be considered paid on
104 April 15 of such succeeding calendar year.

1 54A:9-9. Petition to director. (a) General. The form of a peti-
2 tion to the director, and further proceedings before the director in
3 any case initiated by the filing of a petition, shall be governed by
4 such rules as the director shall prescribe. No petition shall be
5 deemed in whole or in part without opportunity for a hearing on
6 reasonable prior notice. Such hearing shall be conducted by the
7 director, or by a hearing officer designated by him to take evidence
8 and report to the director. The director shall decide the case as
9 quickly as practicable. Notice of the decision shall be mailed
10 promptly to the taxpayer at his last known address, and such notice
11 shall set forth the director's findings of fact and a brief statement
12 of the grounds of decision in each case decided in whole or in part
13 adversely to the taxpayer.

14 (b) Petition for redetermination of a deficiency. Within 90 days,
15 or 150 days if the notice is addressed to a person outside of the
16 United States, after the mailing of the notice of deficiency autho-
17 rized by section 54A:9-2, the taxpayer may file a petition with the
18 director for a redetermination of the deficiency. Such petition may
19 also assert a claim for refund for the same taxable year or years,
20 subject to the limitations of subsection *[(g)]* *(f)* of section
21 54A:9-8.

22 (c) Petition for refund. A taxpayer may file a petition with the
23 director for the amounts asserted in a claim for refund if—

24 (1) The taxpayer has filed a timely claim for refund with the
25 director;

26 (2) The taxpayer has not previously filed with the director a
27 timely petition under subsection (b) for the same taxable year
28 unless the petition under this subsection relates to a separate claim

29 for credit or refund properly filed under subsection ***(f)*** ***(e)***
30 of section 54A:9-8; and

31 (3) Either (A) 6 months have expired since the claim was filed,
32 or (B) the director has mailed to the taxpayer a notice of disallow-
33 ance of such claim in whole or in part.

34 No petition under this subsection shall be filed more than 2 years
35 after the date of mailing of a notice of disallowance, unless prior to
36 the expiration of such 2-year period it has been extended by written
37 agreement between the taxpayer and the director. If a taxpayer
38 files a written waiver of the requirement that he be mailed a notice
39 of disallowance, the 2-year period prescribed by this subsection for
40 filing a petition for refund shall begin on the date such waiver is
41 filed.

42 (d) Assertion of deficiency after filing petition.—

43 (1) ****[Petition]**** ****Petition**** for redetermination of defi-
44 ciency. If a taxpayer files with the director a petition for redeter-
45 mination of a deficiency, the director shall have power to determine
46 a greater deficiency than asserted in the notice of deficiency and to
47 determine if there should be assessed any addition to tax or penalty
48 provided in section 54A:9-6, if claim therefor is asserted at or
49 before the hearing under rules of the director.

50 (2) Petition for refund. If the taxpayer files with the director a
51 petition for credit or refund for a taxable year, the director may

52 (A) Determine a deficiency for such year as to any amount
53 of deficiency asserted at or before the hearing under rules of
54 the director, and within the period in which an assessment
55 would be timely under section 54A:9-4, or

56 (B) Deny so much of the amount for which credit or refund
57 is sought in the petition, as is offset by other issues pertaining
58 to the same taxable year which are asserted at or before the
59 hearing under rules of the director.

60 (3) Opportunity to respond. A taxpayer shall be given a reason-
61 able opportunity to respond to any matters asserted by the director
62 under this subsection.

63 (4) Restriction on further notices of deficiency. If the taxpayer
64 files a petition with the director under this section, no notice of
65 deficiency under section 54A:9-2 may thereafter be issued by the
66 director for the same taxable year, except in case of fraud or with
67 respect to a change or correction in Federal taxable income re-
68 quired to be reported under section 54A:8-7.

69 (e) Burden of proof. In any case before the director under this
70 act, the burden of proof shall be upon the petitioner except for the

71 following issues, as to which the burden of proof shall be upon the
72 director:

73 (1) Whether the petitioner has been guilty of fraud with intent
74 to evade tax;

75 (2) Whether the petitioner is liable as the transferee of property
76 of a taxpayer, but not to show that the taxpayer was liable for the
77 tax; and

78 (3) Whether the petitioner is liable for any increase in a
79 deficiency where such increase is asserted initially after a notice of
80 deficiency was mailed and a petition under this section filed, unless
81 such increase in deficiency is the result of a change or correction of
82 Federal taxable income required to be reported under section
83 ***[54A:8-8]*** *54A:8-7*, and of which change or correction the
84 director had no notice at the time he mailed the notice of deficiency.

85 (f) Evidence of related Federal determination. Evidence of a
86 Federal determination relating to issues raised in a case before the
87 director under this section shall be admissible, under rules estab-
88 lished by the director.

89 (g) Jurisdiction over other years. The director shall consider
90 such facts with relation to the taxes for other years as may be
91 necessary correctly to determine the tax for the taxable year, but
92 in so doing shall have no jurisdiction to determine whether or not
93 the tax for any other year has been overpaid or underpaid.

1 54A:9-10. Review of director's decision. (a) Appeal to Division
2 of Tax Appeals. Any aggrieved taxpayer may, within 4 months
3 after any decision, order, finding, assessment or action of the
4 Director of Taxation made pursuant to the provisions of this act,
5 appeal therefrom to the Division of Tax Appeals, by filing a peti-
6 tion of appeal with said Division of Tax Appeals in the manner
7 and form prescribed by the said Division of Tax Appeals.

8 (b) Appeal exclusive remedy of taxpayer. The appeal provided
9 by this section shall be the exclusive remedy available to any tax-
10 payer for review of a decision of the director in respect of the
11 determination of the liability of the taxpayer for the taxes imposed
12 by this act.

13 (c) Credit, refund or abatement after review. If the amount of
14 a deficiency determined by the director is disallowed in whole or in
15 part, the amount so disallowed shall be credited or refunded to the
16 taxpayer, without the making of claim therefor, or, if payment has
17 not been made, shall be abated.

18 (d) Date of finality of director's decision. A decision of the
19 director shall become final upon the expiration of the period

20 specified in subsection (a) for filing a petition of appeal, if no such
21 petition has been filed within such time, or if such petition has been
22 duly made, upon expiration of the time for all further appeals, or
23 upon the rendering by the director of a decision in accordance with
24 the mandate of the Division of Tax Appeals or the courts on appeal.
25 Notwithstanding the foregoing, for the purpose of forming a peti-
26 tion of appeal, the decision of the director shall be deemed final on
27 the date the notice of decision is sent by mail to the taxpayer.

28 (e) Judicial review. The judgment or order of the Division of
29 Tax Appeals respecting any matter arising under the provisions
30 of this act may be reviewed by a proceeding in lieu of prerogative
31 writ in the same manner as other judgments of said division.

1 54A :9-11. Mailing rules; holidays. (a) Timely mailing. If any
2 claim, statement, notice, petition, or other document (including to
3 the extent authorized by the director, a return or a declaration of
4 estimated tax) required to be filed within a prescribed period or on
5 or before a prescribed date under authority of any provision of this
6 act is, after such period or such date, delivered by United States
7 mail to the director, bureau, office, officer or person with which or
8 with whom such document is required to be filed, the date of the
9 United States postmark stamped on the envelope shall be deemed
10 to be the date of delivery. This subsection shall apply only if the
11 postmark date falls within the prescribed period or on or before
12 the prescribed date for the filing of such document, determined with
13 regard to any extension granted for such filing, and only if such
14 document was deposited in the mail, postage prepaid, properly
15 addressed to the director, bureau, office, officer or person with which
16 or with whom the document is required to be filed. If any document
17 is sent by United States registered mail, such registration shall be
18 prima facie evidence that such document was delivered to the
19 director, bureau, office, officer or person to which or to whom
20 addressed. To the extent that the director shall prescribe by
21 regulation, certified mail may be used in lieu of registered mail
22 under this section. This subsection shall apply to the case of post-
23 marks not made by the United States Post Office only if and to
24 the extent provided by regulations of the director.

25 (b) Last known address. For purposes of this act, a taxpayer's
26 last known address shall be the address given in the last return
27 filed by him, unless subsequently to the filing of such return the tax-
28 payer shall have notified the director of a change of address.

29 (c) Last day a Saturday, Sunday or legal holiday. When the
30 last day prescribed under authority of this act (including any

31 extension of time) for performing any act falls on Saturday, Sun-
32 day, or a legal holiday in the State of New Jersey, the performance
33 of such act shall be considered timely if it is performed on the next
34 succeeding day which is not a Saturday, Sunday or a legal holiday.

1 54A :9-12. Collection, levy and liens. (a) Collection procedures.
2 The taxes imposed by this act shall be collected by the director, and
3 he may establish the mode or time for the collection of any amount
4 due him under this act if not otherwise specified. The director
5 shall, upon request, give a receipt for any sum collected under this
6 act. The director may authorize banks or trust companies which
7 are depositories or financial agents of the State to receive and give
8 a receipt for any tax imposed under this act in such manner, at such
9 times, and under such conditions as the director may prescribe; and
10 the director shall prescribe the manner, times and conditions under
11 which the receipt of such tax by such banks and trust companies
12 is to be treated as payment of such tax to the director.

13 (b) Notice and demand for tax. The director shall as soon as
14 practicable give notice to each person liable for any amount of tax,
15 addition to tax, penalty or interest, which has been assessed but
16 remains unpaid, stating the amount and demanding payment
17 thereof. Such notice shall be left at the dwelling or usual place of
18 business of such person or shall be sent by mail to such person's
19 last known address. Except where the director determines that
20 collection would be jeopardized by delay, if any tax is assessed prior
21 to the last date (including any date fixed by extension) prescribed
22 for payment of such tax, payment of such tax shall not be demanded
23 until after such date.

24 (c) Issuance of Certificate of Debt after notice and demand. If
25 any person liable under this act for the payment of any tax, addition
26 to tax, penalty or interest neglects or refuses to pay the same
27 within 10 days after the notice and demand therefor is given to
28 such person under subsection (b), the director may within 6 years
29 after the date of such assessment issue a certificate of debt, pur-
30 suant to the State Tax Uniform Procedure Law (Subtitle 9 of Title
31 54 of the Revised Statutes).

32 (d) Taxpayer not a resident. Where a notice and demand under
33 subsection (b) shall have been given to a taxpayer who is not then a
34 resident, and it appears to the director that it is not practicable to
35 find in this State property of the taxpayer sufficient to pay the
36 entire balance of tax or other amount owing by such taxpayer who
37 is not then a resident, the director may, in accordance with subsec-
38 tion (c), issue a certificate of debt. Thereupon the director may

39 authorize the institution of any action or proceeding to collect or
40 enforce the certificate of debt in any place and by any procedure
41 that a civil certificate of debt of the Superior Court of the State of
42 New Jersey could be collected or enforced. The director may also,
43 in his discretion, designate agents or retain counsel for the pur-
44 pose of collecting, outside the State of New Jersey, any unpaid
45 taxes, additions to tax, penalties or interest which have been
46 assessed under this act against taxpayers who are not residents of
47 this State, may fix the compensation of such agents and counsel to
48 be paid out of money appropriated or otherwise lawfully available
49 for payment thereof, and may require of them bonds or other
50 security for the faithful performance of their duties, in such form
51 and in such amount as the director shall deem proper and sufficient.

52 (e) Action by State for recovery of taxes. Action may be
53 brought by the Attorney General at the instance of the director in
54 the name of the State to recover the amount of any unpaid taxes,
55 additions to tax, penalties or interest which have been assessed
56 under this act within 6 years prior to the date the action is com-
57 menced.

58 (f) Actions for collection of tax. (1) At the request of the
59 Division of Taxation, the Attorney General may bring suit, in the
60 name of this State, in the appropriate court of any other state to
61 collect any tax legally due this State under this act.

62 (2) The courts of this State shall recognize and enforce liabilities
63 for taxes lawfully imposed by any other state, upon incomes, which
64 extends a like comity to this State, and the duly authorized officer
65 of any such state may sue for the collection of such a tax in the
66 courts of this State. A certificate by the secretary of state of such
67 other state that an officer suing for the collection of such a tax is
68 duly authorized to collect the same shall be conclusive proof of such
69 authority.

70 (3) For the purposes of this section, the words "tax" and
71 "taxes" shall include interest and penalties due under this act, and
72 liability for such interest or penalties or both, due under a taxing
73 statute of another state shall be recognized and enforced by the
74 courts of this State to the same extent that the laws of such other
75 state permit the enforcement in its courts of liability for such in-
76 terest or penalties or both, due under this act.

77 (g) Renewal and release of lien. Within 20 years from the date
78 of the filing or from the date of the last extension of the lien, the
79 lien may be extended by the filing of a new warrant with the county
80 recording officer. The director if he finds that the interests of the

81 State will not thereby be jeopardized, and upon such conditions
82 as he may require, may release any property from the lien of any
83 warrant for unpaid taxes, additions to tax, penalties and interest
84 filed pursuant to this section, and such release may be recorded in
85 the office of any recording officer in which such warrant has been
86 filed.

1 54A:9-13. Transferees. (a) General. The liability, at law or in
2 equity, of a transferee of property of a taxpayer for any tax, addi-
3 tions to tax, penalty or interest due the director under this act,
4 shall be assessed, paid, and collected in the same manner and sub-
5 ject to the same provisions and limitations as in the case of the tax
6 to which the liability relates, except that the period of limitations
7 for assessment against the transferee shall be extended by 1 year
8 for each successive transfer, in order, from the original taxpayer
9 to the transferee involved, but not by more than 3 years in the
0 aggregate. The term transferee includes, donee, heir, legatee,
1 devisee and distributee.

2 (b) Exceptions.

3 (1) If before the expiration of the period of limitations for
4 assessment of liability of the transferee, a claim has been filed by
5 the director in any court against the original taxpayer or the last
6 preceding transferee based upon the liability of the original tax-
7 payer, then the period of limitation for assessment of liability of
8 the transferee shall in no event expire prior to 1 year after such
9 claim has been finally allowed, disallowed or otherwise disposed of.

0 (2) If, before the expiration of the time prescribed in subsection
1 (a) or the immediately preceding paragraph of this subsection for
2 the assessment of the liability, the director and the transferee have
3 both consented in writing to its assessment after such time, the
4 liability may be assessed at any time prior to the expiration of the
5 period agreed upon. The period so agreed upon may be extended by
6 subsequent agreements in writing made before the expiration of
7 the period previously agreed upon. For the purpose of determining
8 the period of limitation on credit or refund to the transferee of
9 overpayments of tax made by such transferee or overpayments of
0 tax made by the transferor as to which the transferee is legally en-
1 titled to credit or refund, such agreement and any extension thereof
2 shall be deemed an agreement and extension thereof referred to in
3 subsection (b) of section 54A:9-8. If the agreement is executed
4 after the expiration of the period of limitation for assessment
5 against the original taxpayer, then in applying the limitations
6 under subsection (b) of section 54A:9-8 on the amount of the credit

37 or refund, the periods specified in subsection (a) of section
38 54A:9-8 shall be increased by the period from the date of such
39 expiration to the date of the agreement.

40 (c) Deceased transferor. If any person is deceased, the period
41 of limitation for assessment against him shall be the period that
42 would be in effect if he had lived.

43 (d) Evidence. Notwithstanding the provisions of **[subsection
44 (e) of section 54A:9-17]** ** *R. S. 54:50-8 of the State Tax Uni-*
45 *form Procedure Law, Subtitle 9 of Title 54 of the Revised Stat-*
46 *utes,*** the director shall use his powers to make available to the
47 transferee evidence necessary to enable the transferee to determine
48 the liability of the original taxpayer and of any preceding trans-
49 ferees, but without undue hardship to the original taxpayer or
50 preceding transferee. See subsection (e) of section 54A:9-9 for
51 rule as to burden of proof.
52

1 54A:9-14. Jeopardy assessment. (a) Authority for making. If
2 the director believes that the assessment or collection of a de-
3 ficiency will be jeopardized by delay, he shall, notwithstanding the
4 provisions of sections 54A:9-2 and 54A:9-16, immediately assess
5 such deficiency (together with all interests, penalties and additions
6 to tax provided for by law), and notice and demand shall be made
7 by the director for the payment thereof.

8 (b) Notice of deficiency. If the jeopardy assessment is made
9 before any notice in respect of the tax to which the jeopardy assess-
10 ment relates has been mailed under section 54A:9-2, then the
11 director shall mail a notice under such section within 60 days after
12 the making of the assessment.

13 (c) Amount assessable before decision of director. The jeopardy
14 assessment may be made in respect of a deficiency greater or less
15 than of which notice is mailed to the taxpayer and whether or not
16 the taxpayer has theretofore filed a petition with the director. The
17 director may, at any time before rendering his decision, abate such
18 assessment, or any unpaid portion thereof, to the extent that he
19 believes the assessment to be excessive in amount. The director
20 may in his decision redetermine the entire amount of the deficiency
21 and of all amounts assessed at the same time in connection there-
22 with.

23 (d) Amount assessable after decision of director. If the jeopardy
24 assessment is made after the decision of the director is rendered,
25 such assessment may be made only in respect of the deficiency
26 determined by the director in his decision.

27 (e) Expiration of right to assess. A jeopardy assessment may
28 not be made after the decision of the director has become final or
29 after the taxpayer has filed a petition with the Division of Tax
30 Appeals for review of the decision of the director.

31 (f) Collection of unpaid amounts. When a petition has been filed
32 with the director and when the amount which should have been
33 assessed has been determined by a decision of the director which
34 has become final, then any unpaid portion, the collection of which
35 has been stayed by bond, shall be collected as part of the tax upon
36 notice and demand from the director, and any remaining portion
37 of the assessment shall be abated. If the amount already collected
38 exceeds the amount determined as the amount which should have
39 been assessed, such excess shall be credited or refunded to the tax-
40 payer as provided in section 54A:9-7 without the filing of claim
41 therefor. If the amount determined as the amount which should
42 have been assessed is greater than the amount actually assessed,
43 then the difference shall be assessed and shall be collected as part
44 of the tax upon notice and demand from the director.

45 (g) Abatement if jeopardy does not exist. The director may
46 abate the jeopardy assessment if he finds that jeopardy does not
47 exist. Such abatement may not be made after a decision of the
48 director in respect of the deficiency has been rendered or, if no pe-
49 tition is filed with the director, after the expiration of the period
50 for filing such petition. The period of limitation on the making of
51 assessments and levy or a proceeding for collection, in respect of
52 any deficiency, shall be determined as if the jeopardy assessment
53 so abated had not been made, except that the running of such period
54 shall in any event be suspended for the period from the date of such
55 jeopardy assessment until the expiration of the tenth day after the
56 day on which such jeopardy assessment is abated.

57 (h) Bond to stay collection. The collection of the whole or any
58 amount of any jeopardy assessment may be stayed by filing with
59 the director, within such time as may be fixed by regulation, a bond
60 in an amount equal to the amount as to which the stay is desired,
61 conditioned upon the payment of the amount (together with in-
62 terest thereon) the collection of which is stayed at the time at which,
63 but for the making of the jeopardy assessment, such amount would
64 be due. Upon the filing of the bond the collection of so much of the
65 amount assessed as is covered by the bond shall be stayed. The
66 taxpayer shall have the right to waive such stay at any time in
67 respect of the whole or any part of the amount covered by the bond,
68 and if as a result of such waiver any part of the amount covered

69 by the bond is paid, then the bond shall at the request of the tax-
70 payer, be proportionately reduced. If any portion of the jeopardy
71 assessment is abated, or if a notice of deficiency under section
72 54A :9-2 is mailed to the taxpayer in a lesser amount, the bond
73 shall, at the request of the taxpayer, be proportionately reduced.

74 (i) Petition to director. If the bond is given before the taxpayer
75 has filed his petition under section 54A :9-9, the bond shall contain
76 a further condition that if a petition is not filed within the period
77 provided in such section, then the amount, the collection of which
78 is stayed by the bond, will be paid on notice and demand at any
79 time after the expiration of such period, together with interest
80 thereon from the date of the jeopardy notice and demand to the
81 date of notice and demand under this subsection. The bond shall
82 be conditioned upon the payment of so much of such assessment
83 (collection of which is stayed by the bond) as is not abated by a
84 decision of the director which has become final. If the director
85 determines that the amount assessed is greater than the amount
86 which should have been assessed, then the bond shall, at the re-
87 quest of the taxpayer, be proportionately reduced when the de-
88 cision of the director is rendered.

89 (j) Stay of sale of seized property pending director's decision.
90 Where a jeopardy assessment is made, the property seized for the
91 collection of the tax shall not be sold—

92 (1) If subsection (b) is applicable, prior to the issuance of the
93 notice of deficiency and the expiration of the time provided in sec-
94 tion 54A :9-9, for filing a petition with the director, and

95 (2) If a petition is filed with the director (whether before or
96 after the making of such jeopardy assessment), prior to the ex-
97 piration of the period during which the assessment of the deficiency
98 would be prohibited if subsection (a) were not applicable.

99 Such property may be sold if the taxpayer consents to the sale,
100 or if the director determines that the expenses of conservation and
101 maintenance will greatly reduce the net proceeds, or if the property
102 is perishable.

103 (k) Interest. For the purpose of subsection (a) of section
104 54A :9-5, the last date prescribed for payment shall be determined
105 without regard to any notice and demand for payment issued under
106 this section prior to the last date otherwise prescribed for such
107 payment.

108 (l) Early termination of taxable year. If the director finds that
109 a taxpayer designs quickly to depart from this State or to remove
110 his property therefrom, or to conceal himself or his property

111 therein, or to do any other act tending to prejudice or to render
112 wholly or partly ineffectual proceedings to collect the income tax
113 for the current or the preceding taxable year unless such proceed-
114 ings be brought without delay, the director shall declare the tax-
115 able period for such taxpayer immediately terminated, and shall
116 cause notice of such finding and declaration to be given the tax-
117 payer, together with a demand for immediate payment of the tax
118 for the taxable period so declared terminated and of the tax for
119 the preceding taxable year or so much of such tax as is unpaid,
120 whether or not the time otherwise allowed by law for filing return
121 and paying the tax has expired; and such taxes shall thereupon
122 become immediately due and payable. In any proceeding brought
123 to enforce payment of taxes made due and payable by virtue of
124 the provisions of this subsection, the finding of the director made
125 as herein provided, whether made after notice to the taxpayer or
126 not, shall be for all purposes presumptive evidence of jeopardy.

127 (m) Reopening of taxable period. Notwithstanding the termi-
128 nation of the taxable period of the taxpayer by the director, as
129 provided in subsection (l), the director may reopen such taxable
130 period each time the taxpayer is found by the director to have
131 received income, within the current taxable year, since the termi-
132 nation of such period. A taxable period so terminated by the di-
133 rector may be reopened by the taxpayer if he files with the director
134 a true and accurate return of taxable income and credits allowed
135 under this act for such taxable period, together with such other
136 information as the director may by regulations prescribe.

137 (n) Furnishing of bond where taxable year is closed by the
138 director. Payment of taxes shall not be enforced by any proceed-
139 ings under the provisions of subsection (l) prior to the expiration
140 of the time otherwise allowed for paying such taxes if the taxpayer
141 furnishes, under regulations prescribed by the director, a bond to
142 insure the timely making of returns with respect to, and payment
143 of, such taxes or any income taxes for prior years.

1 54A:9-15. Criminal penalties. (a) Attempt to evade tax. Any
2 individual, corporation or partnership or any officer or employee
3 of any corporation, or member or employee of any partnership,
4 who, with intent to evade any tax or any requirement of this act
5 or any lawful requirement of the director thereunder, shall fail to
6 pay the tax, or to make, render, sign or certify any return or
7 declaration of estimated income, or to supply any information
8 within the time required by or under the provisions of this act,
9 or who, with like intent, shall make, render, sign or certify any

10 false or fraudulent return, declaration or statement, or shall supply
11 any false or fraudulent information, or who shall fail to comply
12 with the provisions of subsection (b) of section 54A:7-4 after the
13 service of a notice by the director thereunder, shall be guilty of a
14 misdemeanor and shall, upon conviction, be fined not to exceed
15 \$5,000.00 or be imprisoned not to exceed 1 year, or both, at the
16 discretion of the court.

17 (b) Limitations. Notwithstanding the provisions of any other
18 law, a prosecution for any offense under this section may be com-
19 menced at any time not later than 5 years after the commission
20 of such offense provided that, if such offense is the failure to do
21 an act required by or under the provision of this act to be done
22 before a certain date, a prosecution for such offense may be com-
23 menced not later than 5 years after such date.

24 (c) Willful failure to withhold. Any individual, corporation or
25 partnership or any officer or employee of any corporation (includ-
26 ing a dissolved corporation), or member or employee of any part-
27 nership, who willfully fails to collect or pay over any withholding
28 tax as required, shall, in addition to other penalties provided by
29 law, be guilty of a misdemeanor, and, upon conviction thereof
30 shall be fined not to exceed \$5,000.00 or imprisoned not to exceed
31 1 year, or both.

32 (d) Two or more charges. In the prosecution of offenses under
33 this section, if there are two or more charges against any person
34 or corporation, involving a violation or violations of any provision
35 or provisions of this act, whether for the same or different taxable
36 years, instead of returning several indictments or filing several
37 informations, all of such charges may be joined in one indictment
38 or information, in separate counts, and if two or more indictments
39 are found, or two or more informations are filed, the court may
40 order them to be consolidated. If a person or corporation shall be
41 convicted of two or more offenses constituting different crimes
42 set forth in different counts of one indictment or information, or
43 in separate indictments or informations consolidated as herein-
44 before provided, the court may impose a separate sentence for
45 each offense, and if imprisonment is imposed, the court may order
46 any of such sentences to be served concurrently or consecutively.

47 (e) Miscellaneous rules. The failure to do any act required by
48 or under the provisions of this act shall be deemed an act committed
49 in part at the office of the director in Trenton. Any prosecution
50 under this section may be conducted in any county where the person
51 or corporation to whose tax liability the proceeding relates resides,

52 or has a place of business, or from which such person or corpora-
53 tion received any income, or in any county in which any such crime
54 is committed, or in the county of Mercer. The Attorney General
55 shall have concurrent jurisdiction with any prosecuting attorney
56 in the prosecution of any offenses under this section. If the pro-
57 visions of this section conflict with those contained in any other
58 law, this section shall control. The certificate of the director to
59 the effect that a tax has not been paid, that a return or declaration
60 of estimated tax has not been filed, or that information has not
61 been supplied, as required by or under the provisions of this act,
62 shall be prima facie evidence that such tax has not been paid, that
63 such return or declaration has not been filed, or that such informa-
64 tion has not been supplied. All fines levied under this section shall
65 be paid to the director and deposited in the same manner as
66 revenues collected or received under this act.

1 54A:9-16. Armed forces relief provisions. (a) Time to be
2 disregarded. In the case of an individual serving in the Armed
3 Forces of the United States, or serving in support of such armed
4 forces, in an area designated by the President of the United States
5 by executive order as a "combat zone" at any time during the
6 period designated by the president by executive order as the period
7 of combatant activities in such zone, or hospitalized outside the
8 State as a result of injury received while serving in such an area
9 during such time, the period of service in such area, plus the period
10 of continuous hospitalization outside the State attributable to such
11 injury, and the next 180 days thereafter, shall be disregarded in
12 determining, under this act, in respect of the income tax liability
13 (including any interest, penalty, or addition to the tax) of such
14 individual.

15 (1) Whether any of the following acts was performed within the
16 time prescribed therefor:

- 17 (A) Filing any return of income tax (except withholding
18 tax);
- 19 (B) Payment of any income tax (except withholding tax)
20 or any installment thereof or of any other liability to the State,
21 in respect thereof;
- 22 (C) Filing a petition with the director for credit or refund
23 or for redetermination of a deficiency, or application for review
24 of a decision rendered by the director;
- 25 (D) Allowance of a credit or refund of income tax;
- 26 (E) Filing a claim for credit or refund of income tax;

- 27 (F) Assessment of income tax;
28 (G) Giving or making any notice or demand for the payment
29 of any income tax, or with respect to any liability to the State
30 in respect of income tax;
31 (H) Collection, by the director, by levy or otherwise of the
32 amount of any liability in respect of income tax;
33 (I) Bringing suit by the State, or any officer, on its behalf,
34 in respect of any liability in respect of income tax; and
35 (J) Any other act required or permitted under this act or
36 specified in regulations prescribed under this section by the
37 director.

38 (2) The amount of any credit or refund (including interest).

39 (b) Action taken before ascertainment of right to benefits. The
40 assessment or collection of the tax imposed by this act or of any
41 liability to the State in respect of such tax, or any action or proceed-
42 ing by or on behalf of the State in connection therewith, may be
43 made, taken, begun, or prosecuted in accordance with law, without
44 regard to the provisions of subsection (a), unless prior to such
45 assessment, collection, action, or proceeding it is ascertained that
46 the person concerned is entitled to the benefits of subsection (a).

47 (c) Members of armed forces dying in action. In the case of any
48 person who dies during an induction period while in active service
49 as a member of the Armed Forces of the United States, if such
50 death occurred while serving in a combat zone during a period of
51 combatant activities in such zone, as described in subsection (a),
52 or as a result of wounds, disease or injury incurred while so serv-
53 ing, the tax imposed by this act shall not apply with respect to the
54 taxable year in which falls the date of his death, or with respect
55 to any prior taxable year ending on or after the first day he so
56 served in a combat zone, and no returns shall be required in behalf
57 of such person or his estate for such year, and the tax for any such
58 taxable year which is unpaid at the date of his death, including
59 interest, additions to tax and penalties, if any, shall not be assessed
60 and, if assessed, the assessment shall be abated and, if collected,
61 shall be refunded to the legal representative of his estate if one
62 has been appointed and has qualified, or, if no legal representative
63 has been appointed or has qualified, to his widow.

1 54A:9-17. General powers of the director. (a) General. The
2 director shall administer and enforce the tax imposed by this act
3 and is authorized to make such rules and regulations, and to require
4 such facts and information to be reported as he may deem necessary
5 to enforce the provisions of this act. The director may divide the

6 State into districts in each of which a branch office may be main-
7 tained by him, but in no case shall a county be divided in forming
8 a district.

9 (b) Delegation of powers. The director may delegate to any
10 officer or employee of his division such of his powers as he may
11 deem necessary to carry out efficiently the provisions of this act,
12 and the person or persons to whom such power has been delegated
13 shall possess and may exercise all of the power and perform all of
14 the duties herein conferred and imposed upon the director.

15 (c) Examination of books and witnesses. The director for the
16 purpose of ascertaining the correctness of any return, or for the
17 purpose of making an estimate of taxable income of any person,
18 shall have power to examine or to cause to have examined, by any
19 agent or representative designated by him for that purpose, any
20 books, papers, records or memoranda bearing upon the matters
21 required to be included in the return, and may require the attend-
22-23 ance of the person rendering the return or any officer or employee
24 of such person, or the attendance of any other person having
25 knowledge in the premises, and may take testimony and require
26 proof material for his information, with power to administer oaths
27 to such person or persons.

28 (d) Abatement authority. The director, on his own motion, may
29 abate any small unpaid balance of an assessment of income tax, or
30 any liability in respect thereof, if the director determines under
31 uniform rules prescribed by him that the administration and collec-
32 tion costs involved would warrant collection of the amount due.
33 He may also abate, on his own motion, the unpaid portion of the
34 assessment of any tax or any liability in respect thereof, which is
35 excessive in amount, or is assessed after the expiration of the period
36 of limitation properly applicable thereto, or is erroneously or
37 illegally assessed. No claim for abatement under this subsection
38 shall be filed by a taxpayer.

39 *** (e) The Department of the Treasury, Division of Taxation,*
40 *may enter into an agreement with the taxing authorities of any*
41 *state which imposes a tax on or is measured by income to provide*
42 *that compensation paid in such state to residents of this State*
43 *shall be exempt from such tax; in such case any compensation paid*
44 *in this State to residents of such state shall be exempt from New*
45 *Jersey personal income tax. The Division, in such agreements,*
46 *may provide for reciprocal withholding, employer liability, ex-*
47 *change of information and all other matters relating to cooperation*
48 *between the states.*

49 54A:9-17.1. *Identifying numbers. (a) Supplying of identifying*
50 *numbers. When required by regulations prescribed by the*
51 *director:*

52 (1) *Inclusion in returns. Any person required under the author-*
53 *ity of this act to make a return, statement, or other document shall*
54 *include in such return, statement, or other document such identify-*
55 *ing number as may be prescribed for securing proper identification*
56 *of such person.*

57 (2) *Furnishing number to other person. Any person with*
58 *respect to whom a return, statement, or other document is required*
59 *under the authority of this act to be made by another person shall*
60 *furnish to such other person such identifying number as may be*
61 *prescribed for securing his proper identification.*

62 (3) *Furnishing number of another person. Any person required*
63 *under the authority of this act to make a return, statement, or*
64 *other document with respect to another person shall request from*
65 *such other person, and shall include in any such return, statement,*
66 *or other document, such identifying number as may be prescribed*
67 *for securing proper identification of such other person.*

68 (b) *Limitation. (1) Except as provided in paragraph (2), a*
69 *return of any person with respect to his liability for tax, or any*
70 *statement or other document in support thereof, shall not be con-*
71 *sidered for purposes of paragraphs (2) and (3) of subsection (a)*
72 *as a return, statement, or other document with respect to another*
73 *person.*

74 (2) *For purposes of paragraphs (2) and (3) of subsection (a),*
75 *a return of an estate or trust with respect to its liability for tax,*
76 *and any statement or other document in support thereof, shall be*
77 *considered as a return, statement, or other document with respect*
78 *to each beneficiary of such estate or trust.*

79 (c) *Requirement of information. For purposes of this section,*
80 *the director is authorized to require such information as may be*
81 *necessary to assign an identifying number to any person.***

1 54A:9-18. *Order to compel compliance. (a) Failure to file tax*
2 *return. If any person willfully refuses to file an income tax return*
3 *required by this act, the director may apply to a judge of the su-*
4 *perior court for an order directing such person to file the required*
5 *return. If a person fails or refuses to obey such order, he shall be*
6 *guilty of contempt of court.*

7 (b) *Failure to furnish records or testimony. If any person will-*
8 *fully refuses to make available any books, papers, records or*
9 *memoranda for examination by the director or his representative*

10 or willfully refuses to attend and testify, pursuant to the powers
11 conferred on the director under this act, the director may apply to
12 a judge in the superior court in the county where such person
13 resides, for an order directing that person to comply with the
14 director's request for books, papers, records or memoranda or for
15 his attendance and testimony. If the books, papers, records or
16 memoranda required by the director are in the custody of a cor-
17 poration, the order of the court may be directed to any principal
18 officer of such corporation. If a person fails or refuses to obey
19 such order, he shall be guilty of contempt of court.

1 54A :9-19. Exercise of powers and duties of Division of Taxation
2 by director. All the powers, duties and responsibilities vested in the
3 Division of Taxation by this act shall be exercised by the director
4 thereof or his duly designated representative.

1 54A :9-20. Appropriation. There is hereby appropriated to the
2 Division of Taxation in the Department of the Treasury the sum of
3 **[\$4.6]** **\$5.0** million or so much thereof as shall be required
4 to carry out the provisions of this act from the effective date hereof
5 through the period ending June 30, 1977.

1 54A :9-21. Severability clause. If any provision of this act, or
2 any application of any provision, is held invalid, the invalidity shall
3 not affect other applications of the provision, or other provisions
4 of the act, which reasonably can be given effect despite the
5 invalidity.

1 54A :9-22. Repeal of emergency transportation tax act. (a)
2 Savings clause. Chapter 32, laws of 1961 (C. 54:8A-1 et seq.), as
3 amended, is hereby repealed, effective April 1, 1976 and shall be
4 inoperative with respect to income subject to tax, under said act,
5 paid or accrued on and after said date. Such repeal shall not affect
6 the obligation, lien or duty to pay any taxes, interest or penalties
7 which have accrued or may accrue by virtue of any assessment
8 made or which may be made with respect to taxes levied for any
9 taxable year prior to April 1, 1976 nor shall this act affect the
10 legal authority to assess and collect taxes which may be or have
11 been due and payable under said chapter 32, laws of 1961, as
12 amended, together with such interest and penalties as would have
13 accrued thereon under any provision of law amended or repealed
14 hereby; nor shall this act invalidate any assessments or affect any
15 proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after April 1, 1976. A tax-
17 payer whose taxes have been withheld under chapter 32, laws of

18 1961, as amended, on and after April 1, 1976 shall be entitled to a
19 credit against his tax liability under this act.

1 54A:9-23. Repeal of transportation benefits tax act. (a) Savings
2 clause. Chapter 222, laws of 1971 (C. 54:8A-58 et seq.), as
3 amended, is hereby repealed, effective April 1, 1976, and shall be
4 inoperative with respect to income subject to tax, under said act,
5 paid or accrued on and after said date. Such repeal shall not affect
6 the obligation, lien or duty to pay any taxes, interest or penalties
7 which have accrued or may accrue by virtue of any assessment
8 made or which may be made with respect to taxes levied for any
9 taxable year prior to April 1, 1976, nor shall this act affect the legal
10 authority to assess and collect taxes which may be or have been
11 due and payable under said chapter 222, laws of 1971, as amended,
12 together with such interest and penalties as would have accrued
13 thereon under any provision of law amended or repealed hereby;
14 nor shall this act invalidate any assessments or affect any proceed-
15 ing for the enforcement thereof.

16 (b) Credit for tax withheld on and after April 1, 1976. A tax-
17 payer whose taxes have been withheld under chapter 222, laws of
18 1971, as amended, on and after April 1, 1976 shall be entitled to a
19 credit against his tax liability under this act.

1 54A:9-24. Repeal of Tax on Capital Gains and Other Unearned
2 Income. Chapter 172, laws of 1975 (C. 54:8B-1 et seq.) is hereby
3 repealed, effective ***[January 1]*** *April 1*, 1976, and shall be
4 inoperative with respect to capital gains and other unearned income
5 subject to tax, under said act, paid or accrued on and after said
6 date. Such repeal shall not affect the obligation, lien or duty to
7 pay any taxes, interest or penalties which have accrued or may
8 accrue by virtue of any assessment made or which may be made
9 with respect to taxes levied for any taxable year or part of a
10 taxable year prior to ***[January 1]*** *April 1*, 1976, nor shall this
11 act affect the legal authority to assess and collect the taxes which
12 may be or have been due and payable under said chapter 172, laws
13 of 1975 as amended, together with such interest and penalties as
14 would have accrued thereon under any provision of law amended
15 or repealed hereby; nor shall this act invalidate any assessments
16 or affect any proceeding for the enforcement thereof. ***In the
17 event of such repeal, the adjusted gross income requirements and
18 the personal exemptions allowed shall be prorated according to the
19 number of taxable months required to be reported divided by 12.
20 The taxpayer may, at his option, determine actual adjusted gross
21 income for the period required to be reported.***

1 54A:9-25. Taxes collected under the provisions of this act shall
 2 be deposited by the State Treasurer in a special account to be
 3 known as the Property Tax Relief Fund. Moneys in the Property
 4 Tax Relief Fund shall be annually appropriated, pursuant to
 5 formulas established from time to time by the Legislature, to the
 6 several counties, municipalities and school districts of this State
 7 exclusively for the purpose of **providing property tax relief and*
 8 *for the purpose of** reducing or offsetting property taxes, **[pro-*
 9 *vided, however, there may be deducted the administrative cost of*
 10 *the collection hereof]** **including the funding of the requirements*
 11 *of P. L. 1975, c. 212, revenue sharing under 1976 Assembly No. 1663*
 12 *and homestead exemptions under 1976 Assembly No. 1330, as said*
 13 *acts may hereafter be amended or supplemented and provided,*
 14 *there may be deducted the administrative cost of the collection*
 15 *hereof and in replacement of revenues **[to municipalities]***
 16 *resulting from the repeal of certain laws under **this and***
 17 *companion legislation.**

1 ***54A:9-25.1. There is hereby established within the General*
 2 *Treasury a special fund to be known as the "Gubernatorial General*
 3 *Elections Fund." Where a taxpayer has indicated on a return filed*
 4 *pursuant to this act that one dollar of his taxes is to be reserved*
 5 *for such fund, the Treasurer shall credit such fund from the taxes*
 6 *collected under the provisions of this act. The fund shall be avail-*
 7 *able for appropriation pursuant to section 5 of P. L. 1974, c. 26*
 8 *(C. 19:44A-30), provided however that establishment of the*
 9 *"Gubernatorial General Elections Fund" shall in no way affect*
 10 *the operation of said section.*

11 *Blank forms of return provided by the director for use in*
 12 *reporting under this act shall include, in a conspicuous place, the*
 13 *opportunity for a taxpayer to indicate his preference under this*
 14 *section in substantially the following manner:*

Yes No

"Gubernatorial General Elections Fund"	Do you wish to designate \$1 of your taxes for this fund?		
NOTE: If you check the "Yes" box(es) it will not increase your tax or reduce your refund.	If joint return, does your spouse wish to designate \$1?*		

1 *54A:9-26. Notwithstanding the provisions of 54A:9-25 in each
2 year there shall be annually appropriated for State aid to school
3 districts not less than the amount appropriated for fiscal 1976.*

1 ***[54A:9-26]*** *54A:9-27*. Effective date. (a) This act shall
2 take effect immediately and shall be applicable with respect to
3 items of income, deduction, loss or gain occurring in taxable years
4 ending on or after April 1, 1976, but only to the extent such items
5 have been earned, or incurred on or after April 1, 1976.

6 (b) New Jersey taxable income for 1976 from a person or entity
7 with ****[a fiscal year]**** ***an accounting period*** for Federal
8 income tax purposes which begins before April 1, 1976 shall be
9 ***determined by computing*** the total taxable income of the person
10 or entity for the full ****[fiscal year multiplied]**** ***accounting*
11 *period and by multiplying such taxable income*** by the quotient
12 of the number of days in such year after April 1, 1976, divided by
13 365. ***However, where the taxpayer's taxable year covers a period*
14 *of less than 12 months, the taxpayer may determine total taxable*
15 *income solely on the basis of the items of income, deductions, loss*
16 *or gain occurring during such taxable year.***

17 (c) However, this act shall remain inoperative unless and until
18 Assembly Committee Substitute for Assembly 1330 and Assembly
19 Committee Substitute for Assembly 1663 ****[are enacted and**
20 *become operative and until]*** ***Assembly Bills* **1738,** 1761,
21 1762, 1763, 1764 ****[, 1765,]**** and 1766 ***and Senate Bills* 877
22 *and 913*** are enacted*.

SENATE AMENDMENTS TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

[OFFICIAL COPY REPRINT]

[SENATE REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 14, 1976

Amend page 1, table, line after 6, (Heading) omit "Credits", insert "Exemptions".

Amend page 1, table, line 7, omit "credits", insert "exemptions and deductions".

Amend page 2, table, line 12, omit.

Amend page 3, table, line 76, omit "Property Tax Relief Fund", insert "State Aid for Schools Fund".

Amend page 3, table, line 78, omit and insert "Blank.".

Amend page 5, section 54A :1-2, line 44, after "i.", insert "Blank.", omit remainder of line.

Amend page 5, section 54A :1-2, lines 45-52, omit.

Amend page 5, section 54A :1-2, line 57A, after "j.", insert "Blank.", omit remainder of line.

Amend page 5, section 54A :1-2, lines 57B-57H, omit.

Amend page 6, section 54A :2-1, line 1, after "a tax", insert "at the rate of 1½%".

Amend page 6, section 54A :2-1, line 7, after "provided", insert ".", omit the remainder of the line.

Amend pages 6-7, section 54A :2-1, line 7A-20, omit.

Amend page 7, section 54A :3-1, line before 1, omit "Credits", insert "Exemptions; omit "credits", insert "exemptions and deductions".

Amend page 7, section 54A :3-1, line 2, omit "credits", insert "exemptions and deductions".

Amend page 7, section 54A :3-1, line 2A, omit "tax liability", insert "gross income".

Amend pages 7-8, section 54A :3-1, lines 3-20, omit and insert:

“(a) Taxpayer. Each taxpayer shall be allowed a personal exemption of \$1,000.00 which may be taken as a deduction from his New Jersey gross income.

(b) Additional exemptions. In addition to the personal exemption allowed in (a), the following additional personal exemptions shall be allowed as a deduction from gross income:

1. For the taxpayer's spouse who does not file separately—\$1,000.00.
2. For each dependent who qualifies as a dependent of the taxpayer during the taxable year for Federal income tax purposes—\$1,000.00.
3. Taxpayer 65 years of age or over at the close of the taxable year—\$1,000.00.
4. Taxpayer's spouse 65 years of age or over at the close of the taxable year—\$1,000.00.
5. Blind or disabled taxpayer—\$1,000.00.
6. Blind or disabled spouse—\$1,000.00.”

Amend page 8, section 54A:3-1, line 26, omit “credit”, insert “deduction”.

Amend page 8, section 54A:3-1, line 30, omit “credit”, insert “deduction”.

Amend page 8, section 54A:3-3, the section number and heading should appear immediately before (a) on line 1.

Amend pages 10-11, section 54A:4-3, lines 4-40, omit.

Amend page 12, section 54A:5-1, line 11A, omit “provided, however, that for”.

Amend page 12, section 54A:5-1, line 11B, omit.

Amend page 12, section 54A:5-1, line 11c, omit “use of straight-line depreciation”.

Amend page 24, section 54A:8-1, line 7, omit “April 1”, insert “July 1”.

Amend page 24, section 54A:8-1, line 15A, omit “April 1”, insert “July 1”.

Amend page 26, section 54A:8-4, line 4, omit “March 31”, insert “June 30”.

Amend page 59, section 54A:9-17, line 45, correct spelling of “Division”.

Amend page 61, section 54A:9-22, line 3, omit “April 1”, insert “July 1”.

Amend page 61, section 54A:9-22, line 9, omit “April 1”, insert “July 1”.

Amend page 61, section 54A:9-22, line 16, omit “April 1”, insert “July 1”.

Amend page 62, section 54A:9-22, line 18, omit “April 1”, insert “July 1”

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Amend page 62, section 54A :9-23, line 3, omit "April 1", insert "July 1".

Amend page 62, section 54A :9-23, line 9, omit "April 1", insert "July 1".

Amend page 62, section 54A :9-23, line 16, omit "April 1", insert "July 1".

Amend page 62, section 54A :9-23, line 18, omit "April 1", insert "July 1".

Amend page 62, section 54A :9-24, line 3, omit "April 1", insert "July 1".

Amend page 62, section 54A :9-24, line 10, omit "April 1", insert "July 1".

Amend page 63, section 54A :9-25, lines 1-17, omit and insert:
"54A :9-25. State Aid for Schools Fund. Taxes collected pursuant to this act shall be deposited by the State Treasurer in a special account to be known as the State Aid for Schools Fund. Moneys in the State Aid for Schools Fund shall be annually appropriated, pursuant to formulas established from time to time by the Legislature, to school districts of this State as State Aid. There may also be deducted from the taxes collected pursuant to this act the administrative cost of the collection hereof and in replacement of revenues resulting from the repeal of certain laws under this and companion legislation."

Amend page 64, section 54A :9-26, line 1, after "54A :9-26.", insert "Blank." and omit remainder of section.

Amend page 64, section 54A :9-27, line 4, omit "April 1", insert "July 1".

Amend page 64, section 54A :9-27, line 5, omit "April 1", insert "July 1".

Amend page 64, section 54A :9-27, line 8, omit "April 1", insert "July 1".

Amend page 64, section 54A :9-27, line 12, omit "April 1", insert "July 1".

Amend page 64, section 54A :9-27, lines 17-22, omit.

[SECOND SENATE REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

[OFFICIAL COPY REPRINT]

with Senate committee amendments adopted May 13, 1976 and
Senate amendments adopted June 14, 1976

STATE OF NEW JERSEY

ADOPTED MARCH 10, 1976

AN ACT establishing Title 54A **of the New Jersey Statutes**, providing for the taxation of gross incomes, establishing a New Jersey State Gross Income Tax to be administered and collected by the Director of the Division of Taxation in the Department of the Treasury, and providing penalties for violations thereof.

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

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	<i>Chapter 1. Short Title and Definitions</i>
1	<i>54A:1-1. Short Title.</i>
2	<i>54A:1-2. Definitions.</i>
	<i>Chapter 2. . . Imposition of Tax</i>
3	<i>54A:2-1. Imposition of tax.</i>
4	<i>54A:2-2. Partners and partnerships.</i>
5	<i>54A:2-3. Associations taxable as corporations.</i>
6	<i>54A:2-4. Minimum taxable income.</i>
	<i>Chapter 3. Personal **[Credits]** **Exemptions**</i> <i>and Deductions</i>
7	<i>54A:3-1. Personal **[credits]** **exemptions and deduc-</i>
7A	<i>tions**.</i>

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

- 8 54A:3-2. *Alimony and separate maintenance payments.*
- 9 54A:3-3. *Medical expenses.*

Chapter 4. Credits Against Tax

- 10 54A:4-1. *Resident credit for tax of another state.*
- 11 54A:4-2. *Credit for taxes withheld on wages.*
- 12 **[54A:4-3. *Homestead credit for tenant.*]****

Chapter 5. Gross Income

- 13 54A:5-1. *New Jersey gross income defined.*
- 14 54A:5-2. *Losses.*
- 15 54A:5-3. *Taxability of estates, trusts and their beneficiaries.*
- 16 54A:5-4. *Taxability of partners.*
- 17 54A:5-5. *Nonresident individuals; taxable income.*
- 18 54A:5-6. *Husband and wife.*
- 19 54A:5-7. *Allocation of income of nonresidents.*
- 20 54A:5-8. *Income from sources within this State for a non-*
- 21 *resident.*

Chapter 6. Excludable Income

- 22 54A:6-1. *Items in 54A:6-2 to 54A:6-9 excluded.*
- 23 54A:6-2. *Federal Social Security benefits.*
- 24 54A:6-3. *Railroad Retirement benefits.*
- 25 54A:6-4. *Certain death benefits.*
- 26 54A:6-5. *Gifts and inheritances.*
- 27 54A:6-6. *Compensation for injuries or sickness.*
- 28 54A:6-7. *Certain pay of members of armed forces.*
- 29 54A:6-8. *Scholarships and fellowships.*
- 30 54A:6-9. *Gains on sale or exchange of residence.*
- 31 54A:6-10. *Pensions and annuities.*
- 32 54A:6-11. *N. J. State Lottery winnings.*
- 33 54A:6-12. *Pensions limited.*
- 34 54A:6-13. *Unemployment insurance benefits.*
- 35 54A:6-14. *Interest on certain obligations.*

Chapter 7. Withholding of Tax

- 36 54A:7-1. *Requirements for withholding.*
- 37 54A:7-2. *Statement for employee.*
- 38 54A:7-3. *Credit for tax withheld.*
- 39 54A:7-4. *Employer's return and payment of tax.*
- 40 54A:7-5. *Employer's liability for tax withheld.*
- 41 54A:7-6. *Employer's failure to withhold.*
- 42 54A:7-7. *Annual reconciliation of tax withheld.*

Chapter 8. Payment of Tax

- 43 54A:8-1. *Payment; returns; extension of time.*
- 44 54A:8-2. *Optional tax tables.*
- 45 54A:8-3. *Accounting periods and methods.*
- 46 54A:8-3.1. *Persons required to file.*
- 47 54A:8-4. *Declarations of estimated tax.*
- 48 54A:8-5. *Payments of estimated tax.*
- 49 54A:8-6. *Returns; notices; records; statements.*
- 50 54A:8-7. *Report of change in taxable income.*

Chapter 9. Administration of Tax, Repealers, Miscellaneous, Effective Date

- 51 54A:9-1. *Applicability of State Tax Uniform Procedure.*
- 52 54A:9-2. *Notice of deficiency.*
- 53 54A:9-3. *Assessments.*
- 54 54A:9-4. *Limitation on assessment.*
- 55 54A:9-5. *Interest on underpayment.*
- 56 54A:9-6. *Additions to tax and civil penalties.*
- 57 54A:9-7. *Overpayment.*
- 58 54A:9-8. *Limitations on credit or refund.*
- 59 54A:9-9. *Petitions to director.*
- 60 54A:9-10. *Review of director's decision.*
- 61 54A:9-11. *Mailing rules; holidays.*
- 62 54A:9-12. *Collection, levy and liens.*
- 63 54A:9-13. *Transferees.*
- 64 54A:9-14. *Jeopardy assessment.*
- 65 54A:9-15. *Criminal penalties.*
- 66 54A:9-16. *Armed forces relief provisions.*
- 67 54A:9-17. *General powers of director.*
- 68 54A:9-17.1. *Identifying numbers.*
- 69 54A:9-18. *Order to compel compliance.*
- 70 54A:9-19. *Exercise of division powers by director.*
- 71 54A:9-20. *Appropriations.*
- 72 54A:9-21. *Severability clause.*
- 73 54A:9-22. *Repeal of emergency transportation tax act.*
- 74 54A:9-23. *Repeal of transportation benefits tax act.*
- 75 54A:9-24. *Repeal of Capital Gains and Unearned Income Tax.*
- 76 54A:9-25. ****[Property Tax Relief Fund]**** ****State Aid for**
76A **Schools Fund**.**
- 77 54A:9-25.1. *Election Fund checkoff.*
- 78 54A:9-26. ****[School aid appropriations]**** ****Blank**.**
- 79 54A:9-27. *Effective date.***

1 54A:1-1 Short title. This title shall be known and may be cited
2 as the "New Jersey Gross Income Tax Act."

1 54A:1-2. Definition. As used in this act, unless the context
2 clearly indicates otherwise, the following words and phrases shall
3 have the following meaning:

4 a. "Director" means the Director of the Division of Taxation
5 in the Department of the Treasury.

6 b. "Fiduciary" means a guardian, trustee, executor, admini-
7 strator, receiver, conservator, or any person acting in any fiduciary
8 capacity for any person.

9 c. "Excludable income" shall be limited to those payments set
10 forth in chapter 6 hereunder.

11 d. "Gross income" shall include that set forth in chapter 5
12 hereunder.

13 e. "Dependent" means a spouse or child **[who derives more
14 than one-half of his total support during the entire taxable year
15 from a taxpayer. Any person]** *or any individual related to the*
16 *taxpayer and* ** who is a dependent pursuant to the provisions of
17 the Internal Revenue Code during a taxable year ** [shall prima
17A facie be deemed a dependent for purposes of this act]**.

18 f. ** ["Permanently and totally disabled"]** **** "Disabled"****
19 *means total and permanent inability to engage in any substantial*
20 *gainful activity by reason of any medically determinable physical*
21 *or mental impairment, including blindness. For purposes of this*
22 *subsection, "blindness" means central visual acuity of 20/200 or*
23 *less in the better eye with the use of a correcting lens. An eye which*
24 *is accompanied by a limitation in the fields of vision such that the*
25 *widest diameter of the visual field subtends an angle no greater than*
26 *20 degrees shall be considered as having a central visual acuity of*
27 *20/200 or less.*

28 g. "Medical expenses" mean nonreimbursed payments for
29 physicians ** [and]** **, ** dental ** and other medical** fees,
30 hospital care, nursing care, medicines and drugs, prosthetic devices,
31 X-rays and other diagnostic services conducted by or directed by a
32 physician or dentist. In addition, medical expenses may also include
33 amounts paid for transportation primarily for and essential to
34 medical care and insurance (including amounts paid as premiums
35 under part B of Title XVIII of the Social Security Act, relating to
36 supplementary medical insurance for the aged*) * covering medical
36A care.

37 h. Partnership and partner. The term "partnership" includes
38 a syndicate, group, pool, joint venture, or other unincorporated

39 organization, through or by means of which any business, financial
40 operation, or venture is carried on, and which is not, within the
41 meaning of this act, a trust or estate or a corporation; and the
42 term "partner" includes a member in such a syndicate, group,
43 pool, joint venture, or organization.

44 i. ***Blank.*** ****["Qualified tenant" means a person who shall
45 have rented and occupied a homestead for at least 90 days of the
46 tax year. A tenant who lives in publicly-assisted housing ****["as
47 defined in the State Rebate for Publicly-Assisted Housing Act,]****
48 or a tenant who receives ***public*** assistance ****["pursuant to any
49 of the programs set forth in the "Public Welfare Code of 1974"]****
50 shall not be entitled to tenant deduction, or credit pursuant to this
51 act for that part of a tax year during which the claimant lives in
52 such housing or received such assistance.]"****

53 ****["j. "Net rent" means gross rental paid for the right of occu-
54 pancy (at arms length) of a homestead, exclusive of charges for
55 any utilities, services, furniture, furnishings or personal property
56 appliances furnished by the landlord as a part of the rental agree-
57 ment, whether or not expressly set out in the rental agreement.]"****

57A ****j. ***Blank.*** ****["Homestead" means a dwelling situate
57B within the State of New Jersey which was rented by the claimant,
57C inhabited by him, and used as his principal residence; and may
57D consist of a part of a multiple-unit dwelling or multi-purpose build-
57E ing and a part of land upon which it is situate. The term "home-
57F stead" does not include a mobile home unless assessed and taxed as
57G real property pursuant to State statutes. A dwelling is a home-
57H stead only for the period inhabited by the claimant.]"****

58 k. "Taxable year" means the calendar or fiscal accounting
59 period for which a tax is payable under this act.

60 l. "Taxpayer" means any individual****, estate or trust**** re-
61 quired to report or to pay taxes, interest and penalties under this
62 act, or whose income in whole or in part is subject to the tax imposed
62A by this act.

63 m. "Resident taxpayer" means an individual:

64 1. Who is domiciled in this State, unless he maintains no
65 permanent place of abode in this State, maintains a permanent
66 place of abode elsewhere, and spends in the aggregate no more
67 than 30 days of the taxable year in this State; or

68 2. Who is not domiciled in this State but maintains a perma-
69 nent place of abode in this State and spends in the aggregate
70 more than 183 days of the taxable year in this State, unless
71 such individual is in the Armed Forces of the United States.

72 n. "Nonresident taxpayer" means a taxpayer who is not a
73 resident.

74 ****o.** *Resident estate or trust. A resident estate or trust means:*

75 (1) *The estate of a decedent who at his death was domiciled*
76 *in this State,*

77 (2) *A trust, or a portion of a trust, consisting of property*
78 *transferred by will of a decedent who at his death was domiciled*
79 *in this State, or*

80 (3) *A trust, or portion of a trust, consisting of the property*
81 *of:*

82 (a) *A person domiciled in this State at the time such prop-*
83 *erty was transferred to the trust, if such trust or portion of*
84 *a trust was then irrevocable, or if it was then revocable and*
85 *has not subsequently become irrevocable; or*

86 (b) *A person domiciled in this State at the time such*
87 *trust, or portion of a trust, became irrevocable, if it was*
88 *revocable when such property was transferred to the trust*
89 *but has subsequently become irrevocable.*

90 *For the purposes of the foregoing, a trust or portion of a*
91 *trust is revocable if it is subject to a power, exercisable im-*
92 *mediately or at any future time, to revert title in the person*
93 *whose property constitutes such trust or portion of a trust,*
94 *and a trust or portion of a trust becomes irrevocable when*
95 *the possibility that such power may be exercised has been*
96 *terminated.*

97 p. *Nonresident estate or trust. A nonresident estate or trust*
98 *means an estate or trust which is not a resident.***

99 ****[o.]**** ****q.**** *Unless the context in which it occurs requires*
100 *otherwise, the term "act" or "this act" shall mean the New Jersey*
101 *Gross Income Tax Act, Title 54A of the New Jersey Statutes.*

CHAPTER 2. IMPOSITION OF TAX

1 54A:2-1. Imposition of tax. There is hereby imposed a tax ****at**
2 *the rate of 1 1/2%* ****** for each taxable year (which shall be the same
3 as the taxable year for Federal income tax purposes) on the New
4 Jersey gross income as herein defined of every individual, ****[tax-**
5 **able]**** estate or trust **** (other than a charitable trust or a trust**
6 **forming part of a pension or profit-sharing plan)****, subject to the
7 deduction, limitations and modifications hereinafter pro-
7A vided ****.** **** [**, determined in accordance with the following table
7B with respect to the taxpayer's taxable income:

If the taxable income is:

The tax is:

8 Not over ****[\$10,000]**** ****\$5,000****
 2% of the taxable income
 9 Over ****[\$10,000]**** ****\$5,000**** but ****[\$200]**** ****\$100**** plus
 10 not over ****[\$17,500]**** ****\$10,000**** **2½%** of excess over
 11 ****[\$10,000]**** ****\$5,000****

If the taxable income is:

The tax is:

12 Over ****[\$17,500]**** ****\$10,000**** but ****[\$387.50]**** ****\$225**** plus
 13 not over ****[\$25,000]**** **3%** of excess over
 14 ****\$15,000**** ****[\$17,500]**** ****\$10,000****
 15 Over ****[\$25,000]**** ****\$15,000**** but ****[\$612.50]**** ****\$375.00****
 16 not over ****[\$32,500]**** plus **3½%** of excess over
 17 ****\$20,000**** ****[\$25,000]**** ****\$15,000****
 18 Over ****[\$32,500]**** ****\$20,000**** ****[\$875]**** ****\$550**** plus
 19 **4%** of excess over
 20 ****[\$32,500]**** ****\$20,000****

1 54A:2-2. Partners and partnerships. A partnership as such
 2 shall not be subject to the New Jersey Gross Income Tax. Indi-
 3 viduals carrying on business as partners shall be liable for the
 4 New Jersey Gross Income Tax only in their separate or individual
 5 capacities.

1 54A:2-3. Associations taxable as corporations. An association,
 2 trust, or other unincorporated organization which is taxable as a
 3 corporation for Federal income tax purposes shall not be subject
 4 to tax under this act.

1 54A:2-4. Minimum taxable income. Notwithstanding any other
 2 provisions of this act, a taxpayer or a married couple filing a joint
 3 return with a gross income of \$3,000.00 or less ****(\$1,500 or less in
 4 the case of a married person filing separately)**** shall not be subject
 5 to tax under this act. ****In the case of a nonresident, gross income
 6 shall mean gross income which such nonresident would have re-
 7 ported if he had been a resident.****

CHAPTER 3. ****Personal**** ****[Credits]**** ****Exemptions****
 and ****DEDUCTIONS****

1 54A:3-1. Personal ****[deductions]**** ****[**credits**]**** ****ex-
 2 emptions and deductions****. Each taxpayer shall be allowed per-
 2A sonal ****[deductions from]**** ****[**credits**]**** ****exemptions and
 2B deductions** against**** his ****[grossincome]**** ****[**tax liabil-
 2C ity**]**** ****gross income**** as follows:

3 ****[(a) Taxpayer. Each taxpayer shall be allowed a personal**

4 exemption of ****[\$1,000.00]**** ****\$20.00**** which may be taken as a
5 ****[deduction from]**** ****credit against**** his New Jersey gross in-
5A come ****tax liability****.

6 (b) Additional exemptions. In addition to the personal exemp-
7 tion allowed in (a), the following additional personal exemptions
8 shall be allowed as a ****[deduction from gross income]**** ****credit**
8A **against tax liability****:

9 1. For the taxpayer's spouse ***who does not file sepa-*
9A *rately***—****[\$1,000.00]**** ****\$20.00****.

10 2. For each dependent who qualifies as a dependent of the
11 taxpayer during the taxable year for Federal income tax
12 purposes—****[\$1,000.00]**** ****\$20.00****.

13 3. Taxpayer 65 years of age or over at the close of the
14 taxable year—****[\$1,000.00]**** ****\$20.00****.

15 4. Taxpayer's spouse 65 years of age or over at the close
16 of the taxable year—****[\$1,000.00]**** ****\$20.00****.

17 5. Blind **or disabled** taxpayer—****[\$1,000.00]**** ****\$20.00****.

18 6. Blind **or disabled** spouse—****[\$1,000.00]**** ****\$20.00****.

19 ****[7. Disabled taxpayer—\$1,000.00.**

20 ****8. Disabled spouse—\$1,000.00.]****

21 **** (a) Taxpayer. Each taxpayer shall be allowed a personal**
22 **exemption of \$1,000.00 which may be taken as a deduction from his**
23 **New Jersey gross income.**

24 (b) Additional exemptions. In addition to the personal exemp-
25 tion allowed in (a), the following additional personal exemptions
26 shall be allowed as a deduction from gross income:

26A 1. For the taxpayer's spouse who does not file separately—
27 \$1,000.00,

28 2. For each dependent who qualifies as a dependent of the tax-
29 payer during the taxable year for Federal income tax purposes—
30 \$1,000.00.

31 3. Taxpayer 65 years of age or over at the close of the taxable
32 year—\$1,000.00.

33 4. Taxpayer's spouse 65 years of age or over at the close of
34 the taxable year—\$1,000.00.

35 5. Blind or disabled taxpayer—\$1,000.00.

36 6. Blind or disabled spouse—\$1,000.00.**

37 **** (c) Special Rule. The personal exemptions allowed under this**
38 **section shall be limited to that percentage which the total number of**
39 **months within a taxpayer's taxable year under this act bears to 12.**
40 **For this purpose fifteen days or more shall constitute a month.**

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41 (d) *Nonresidents.* A nonresident taxpayer shall be allowed the
42 same ****[credit]**** ****deduction**** for personal exemptions as a
43 resident taxpayer. However, if (1) the nonresident's gross income
44 which is subject to tax under this act is exceeded by (2) his gross
45 income which he would be required to report under this act if he
46 were a resident by more than \$100.00, his ****[credit]**** ****deduc-**
47 **tion**** for personal exemptions shall be limited by the percentage
48 which (1) is to (2).**

1 54A:3-2. ****[Rental deduction.** Each taxpayer who rents his
2 homestead shall be allowed a deduction of \$600.00 for rental and
3 an additional \$600.00 for rental for each dependent up to a maximum
4 of \$1,500.00 in any calendar year, but in no event greater than the
5 amount of rent actually paid.] ****[*Blank*]**** ****Alimony and**
6 **separate maintenance payments.** There shall be allowed as a
7 **deduction amounts includible under section 54A:5-1(n) with respect**
8 **to payments included as income in the return of a former spouse or**
9 **of a spouse receiving separate maintenance pursuant to a court**
10 **decree (or which would have otherwise been includible if such pay-**
11 **ments were made to an individual subject to tax under this act).****

1 ****54A:3-3. Medical Expenses.**** (a) Each taxpayer shall be
2 allowed to deduct ****from his gross income**** medical expenses for
3 himself, his spouse, and his dependents with respect to such
4 expenses that were paid during the taxable year and to the extent
5 that such medical expenses exceed two percent of the taxpayer's
5A gross income. ****In the case of a nonresident, gross income shall**
5B **mean gross income which such nonresident would have reported if**
5C **he had been subject to tax during the entire taxable year as a resi-**
5D **dent.****

6 (b) Special Rule for Decedents.

7 (1) Treatment of expenses paid after death. Expenses for
8 the medical care of the taxpayer which are paid out of his
9 estate during the one-year period beginning with the day after
10 the day of the death shall be treated as paid by the taxpayer
11 at the time incurred.

12 (2) Limitation. Paragraph (1) shall not apply if the amount
13 paid is not allowable as a deduction in computing medical
14 expense deductions for Federal income tax purposes.

15 (c) Exclusion of amounts allowed for care of certain dependents.
16 Any expenses allowed as a deduction of expenses for household
17 and dependent care services necessary for gainful employment
18 ****[under section 214 of the Internal Revenue Code]**** shall not be
19 allowed as an expense paid for medical care for purposes of this
20 section.

CHAPTER 4. CREDITS AGAINST THE TAX

1 54A:4-1. Resident credit for tax of another state. (a) A resident
2 taxpayer shall be allowed a credit against the tax otherwise due
3 under this act for the amount of any income tax or wage tax
4 imposed for the taxable year by another state of the United States
5 or political subdivision of such state, or by the District of Columbia,
6 with respect to income which is also subject to tax under this act.

7 (b) The credit provided under this section shall not exceed
8 the proportion of the tax otherwise due under this act that the
9 amount of the taxpayer's income subject to tax by the other
10 jurisdiction bears to his entire New Jersey income.

11 (c) Readjustment of the tax of another state or political sub-
12 division thereof—if the taxpayer is allowed credit under this
13 section for more or less of the tax of another state or political
14 subdivision thereof than he is finally required to pay, the taxpayer
15 shall send notice of the difference to the director who shall re-
16 determine the tax for any years affected regardless of any other-
17 wise applicable statute of limitations.

1 54A:4-2. Credit for taxes withheld on wages. Any amount of
2 tax actually deducted and withheld by an employer under this act
3 in any calendar year shall be deemed to have been paid to the
4 director on behalf of the person from whom withheld, and such
5 person shall be credited with having paid that amount of tax for
6 the taxable year beginning in such calendar year. For a taxable
7 year of less than 12 months, the credit shall be made under regula-
8 tions of the director.

1 54A:4-3. ***[Credit for tenant. Any qualified tenant shall be**
2 **allowed as a credit against the tax otherwise due hereunder an**
3 **amount not to exceed \$75,000.]***

4 *****[Homestead credit for tenant. **a.** Any qualified residential***
5 ***tenant or shareholder in a cooperative shall be entitled to a home-***
6 ***stead credit of \$110.00 against the tax otherwise due hereunder.***
7 *****[Any qualified residential tenant or shareholder in a cooperative***
8 ***shall be entitled to an additional homestead credit of \$55.00 if such***
9 ***resident is (1) permanently and totally disabled, (2) 65 years of***
10 ***age or over, or (3) a surviving spouse of a person qualified under***
11 ***(2) above who has remained unmarried since becoming a widow or***
12 ***widower at the age of 55 years or over.]*** **If said credit exceeds***
13 ***his tax liability (before application of the credit which may other-***
14 ***wise be allowed under 54A:4-1), even if his liability is zero, he shall***
15 ***be entitled to a refund of the difference between the credit and his***
16 ***tax liability.*****

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17 ***b. Husband and wife. A married couple who elect to file*
18 *separate New Jersey returns shall each be entitled to 1/2 of the*
19 *credit otherwise allowable under subsection a.*

20 *c. Special limitations. (1) If more than one qualified resident*
21 *tenant, other than a husband and wife, qualify for the credit*
22 *allowed under this section by reason of their having occupied the*
23 *same rented homestead, it shall be presumed that the tenant's credit*
24 *otherwise allowed under this section shall be equally divided among*
25 *such taxpayers. A tenant, however, may claim a credit which shall*
26 *bear the same proportion as the rent he pays to the total rent paid*
27 *by all members of the unit.*

28 *(2) A taxpayer shall not be entitled to more than one homestead*
29 *credit in any one year. A taxpayer who claims a homestead credit*
30 *under this section may not claim a homestead exemption for the*
31 *same year under any other law.*

32 *(3) The amount of the homestead credit shall be prorated in the*
33 *proportion that the number of days the qualified tenant occupied*
34 *residential property in the year: bears to 365 days.*

35 *(4) Where more than one tenant occupies a single dwelling unit*
36 *not more than one qualified tenant credit shall be claimed. No*
37 *tenant homestead credit shall be allowed for occupants of rooming*
38 *houses, hotels or motels unless the rooms rented to the tenant are*
39 *equipped with kitchen and bathroom facilities and unless such per-*
40 *son is a permanent resident thereof.**]***

1 ****[54A:4-4. Nonresident individuals; taxable income.—The in-**
2 **come of a nonresident individual shall be that part of his income**
3 **derived from sources within this State as defined in this act.]****

1 ****[54A:4-5. Husband and wife.—(a) Separate return. If the in-**
2 **come of husband or wife who are both nonresidents of this State**
3 **and are subject to tax under this * [article] * act* is determined**
4 **on a separately filed return, their incomes from sources within**
5 **this State shall be separately determined.**

6 **(b) One spouse a nonresident. If either husband or wife is a**
7 **nonresident and the other a resident, separate taxes shall be de-**
8 **termined on their separate incomes on such forms as the * [depart-**
9 **ment] * director* shall prescribe, unless both elect to determine**
10 **their joint income as if both were residents, in which event their**
11 **tax liabilities shall be joint and several.]****

1 ****[54A:4-6. Allocation of income of nonresident.—Where a non-**
2 **resident taxpayer earns, receives or acquires income from sources**
3 **partly within and partly without this State or engages in a busi-**

4 ness, trade, profession or occupation partly within and partly
5 without this State, and, as a result thereof or for other reasons
6 that portion of the income derived from or connected with sources
7 within this State cannot readily or accurately be ascertained, the
8 director **may by regu**lation prescribe uniform rules for appor-
9 tionment or allocation of so much of such taxpayer's income as
10 fairly and equitably represents income, derived from sources within
11 this State and subject to tax under this act.】**

1 **【54A:4-7. Income from sources within this State for a nonresi-
2 dent individual, estate or trust means the same as compensation,
3 net profits, gains, dividends, interest or income enumerated and
4 classified under *【section 3】* **chapter 5** of this act to the extent
5 that it is earned, received or acquired from sources within this
6 State:

7 (1) By reason *【or for】* **of** ownership or disposition of any
8 interest in real or tangible personal property in this State; or

9 (2) In conection with a trade, profession, occupation carried on
10 in this State or for the rendition of personal services performed
11 in this State; or

12 (3) As a distributive share of the income of an unincorporated
13 business, profession, enterprise, undertaking or other activity as
14 the result of work done, services rendered or other business activi-
15 ties conducted in this State except as allocated to another state
16 pursuant to regulations promulgated by the director under this
17 act; or

18 (4) From intangible personal property employed in a trade,
19 profession, occupation or business carried on in this State.】**

CHAPTER 5. GROSS INCOME

1 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
2 income shall consist of the following categories of income:

3 (a) Salaries, wages, tips, fees, commissions, bonuses, and **【sim-
4 ilar】** ***other*** remuneration received for services rendered
5 whether in cash or in property;

6 (b) Net profits from business. The net income from the opera-
7 tion of a business, profession, or other activity, after provision
8 for all costs and expenses incurred in the conduct thereof, deter-
9 mined either on a cash or accrual basis in accordance with
10 **【accepted accounting principles and practices】** ***the method of*
11 *accounting allowed for Federal income tax purposes*** but without
11A deduction of taxes based on income **【**provided, however, that

11B *for the purposes of this subsection, the taxpayer shall be limited to*
 11C *the use of straight-line depreciation***];**

12 (c) Net gains or income from disposition of property. Net gains
 13 or net income, less net losses, derived from the sale, exchange or
 14 other disposition of property, including real or personal, whether
 15 tangible or intangible as determined in accordance with ***[accepted*
 16 *accounting principles and practices]*** *the method of accounting*
 17 *allowed for Federal income tax purposes***. ***[For the purpose of*
 18 *this act, for the determination of the basis of any property, real and*
 19 *personal, if acquired prior to ***[January 1]*** *April 1*, 1976, the*
 20 *date of acquisition shall be adjusted to ***[January 1]*** *April 1*,*
 21 *1976 as if the property had been acquired on that date. If the prop-*
 22 *erty was acquired after ***[January 1]*** *April 1*, 1976, the actual*
 22A *date of acquisition shall be used in determination of the basis.]***
 22B ***For the purpose of determining gain or loss, the basis of prop-*
 22C *erty shall be the adjusted basis used for Federal income tax pur-*
 22D *poses.***

23 The term "net gains or income" shall not include gains or in-
 24 come derived from obligations which are ***[statutorily free from*
 25 *State or local taxation under any other law of this State or under*
 26 *the laws of the United States.]*** *referred to in clauses (1) or (2)*
 27 *of section 54A:6-14 of this act. The term "net gains or net income"*
 28 *shall not include gains or income from transactions to the extent to*
 29 *which non-recognition is allowed for Federal income tax purposes.***

30 The term "sale, exchange or other disposition" shall not include
 31 the exchange of stock or securities in a corporation a party to a
 32 reorganization in pursuance of a plan of reorganization, solely for
 33 stock or securities in such corporation or in another corporation a
 34 party to the reorganization and the transfer of property to a
 35 corporation by one or more persons solely in exchange for stock or
 36 securities in such corporation if immediately after the exchange
 36A such person or persons are in control of the corporation. For
 36B purposes of this clause, stock or securities issued for services shall
 36C not be considered as issued in return for property.

37 For purposes of this clause, the term "reorganization" means—

- 38 (i) A statutory merger or consolidation;
 39 (ii) The acquisition by one corporation, in exchange solely for
 40 all or a part of its voting stock (or in exchange solely for all or a
 41 part of the voting stock of a corporation which is in control of the
 42 acquiring corporation) of stock of another corporation if, immedi-
 43 ately after the acquisition, the acquiring corporation has control
 44 of such other corporation (whether or not such acquiring corpora-
 45 tion had control immediately before the acquisition);

46 (iii) The acquisition by one corporation, in exchange solely for
47 all or a part of its voting stock (or in exchange solely for all or a
48 part of the voting stock of a corporation which is in control of the
49 acquiring corporation), of substantially all of the properties of
50 another corporation, but in determining whether the exchange is
51 solely for stock the assumption by the acquiring corporation of a
52 liability of the other, or the fact that property acquired is subject
53 to a liability, shall be disregarded;

54 (iv) A transfer by a corporation of all or a part of its assets to
55 another corporation if immediately after the transfer the trans-
56 feror, or one or more of its shareholders (including persons who
57 were shareholders immediately before the transfer), or any com-
58 bination thereof, is in control of the corporation to which the assets
59 are transferred;

60 (v) A recapitalization;

61 (vi) A mere change in identity, form, or place of organization
62 however effected; or

63 (vii) The acquisition by one corporation, in exchange for stock
64 of a corporation (referred to in this subclause as "controlling
65 corporation") which is in control of the acquiring corporation, of
66 substantially all of the properties of another corporation which in
67 the transaction is merged into the acquiring corporation shall not
68 disqualify a transaction under subclause (i) if such transaction
69 would have qualified under subclause (i) if the merger had been
70 into the controlling corporation, and no stock of the acquiring cor-
71 poration, is used in the transaction;

72 (viii) A transaction otherwise qualifying under subclause (i)
73 shall not be disqualified by reason of the fact that stock of a cor-
74 poration (referred to in this subclause as the "controlling corpo-
75 ration") which before the merger was in control of the merged
76 corporation is used in the transaction, if after the transaction, the
77 corporation surviving the merger holds substantially all of its
78 properties and of the properties of the merged corporation (other
79 than stock of the controlling corporation distributed in the trans-
80 action); and in the transaction, former shareholders of the sur-
81 viving corporation exchanged, for an amount of voting stock of
82 the controlling corporation, an amount of stock in the surviving
83 corporation which constitutes control of such corporation.

84 For purposes of this clause, the term "control" means the own-
85 ership of stock possessing at least 80% of the total combined voting
86 power of all classes of stock entitled to vote and at least 80% of
87 the total number of shares of all other classes of stock of the cor-
88 poration.

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89 For purposes of this clause, the term "a party to a reorganiza-
 90 tion" includes a corporation resulting from a reorganization, and
 91 both corporations, in the case of a reorganization resulting from
 92 the acquisition by one corporation of stock or properties of another.
 93 In the case of a reorganization qualifying under subclause (i) by
 94 reason of subclause (vii) the term "a party to a reorganization"
 95 includes the controlling corporation referred to in such subclause
 96 (vii).

97 Notwithstanding any provisions hereof, upon every such ex-
 98 change or conversion, the taxpayer's base for the stock or securi-
 99 ties received shall be the same as the taxpayer's actual or attributed
 100 base for the stock, securities or property surrendered in exchange
 101 therefor.

102 (d) Net gains or ****net**** income derived from or in the form of
 103 rents, royalties, patents, and copyrights.

104 (e) Interest ****[derived from obligations which are not statu-
 105 torily free from State or local taxation under any other act of this
 106 State or under the laws of the United States]** ****, *except interest
 106A referred to in clauses (1) or (2) of section 54A:6-14 of this act***.

107 (f) Dividends. "Dividends" means any distribution in cash or
 108 property made by a corporation, association or business trust,
 109 (1) out of accumulated earnings and profits, or (2) out of earn-
 110 ings and profits of the year in which such dividend is paid.

111 (g) Gambling winnings.

112 (h) Net gains or income derived through estates or trusts.

113 (i) Income in respect of a decedent.

114 (j) Pensions and annuities to the extent that the proceeds ex-
 115 ceed the contributions made by the taxpayer.

116 (k) Distributive share of partnership income.

117 (l) Amounts received as prizes and awards, except as provided
 118 in sections 54A:6-8 and 54A:6-11 hereunder.

119 (m) Rental value ****[at]** **of**** a residence furnished by an
 120 employer or a rental allowance paid by an employer to provide a
 121 home.

122 **** (n) Alimony and separate maintenance payments to the extent
 123 that such payments are required to be made under a decree of
 124 divorce or separate maintenance but not including payments for
 125 support of minor children.**

1 54A:5-2. Losses. Losses which occur within one category of
 2 gross income may be applied against other sources of gross income

3 within the same category of gross income during the taxable year.
4 However, a net loss in one category of gross income may not be
5 applied against gross income in another category of gross income.

1 54A:5-3. *Taxability of estates, trusts and their beneficiaries.*
2 *The income of a beneficiary of an estate or trust in respect of such*
3 *estate or trust shall consist of that part of the income or gains*
4 *received by the estate or trust for its taxable year ending within or*
5 *with the beneficiary's taxable year which, under the governing in-*
6 *strument and applicable state law, is required to be distributed*
7 *currently or is in fact paid or credited to said beneficiary.*

8 *The income or gains of the estate or trust, if any, taxable to*
9 *such estate or trust shall consist of the income or gains received by*
10 *it which has not been distributed or credited to its beneficiaries.*

11 *Where an estate or trust has paid a tax under this act upon in-*
12 *come distributed or to be distributed to a beneficiary, such bene-*
13 *ficiary may exclude such income from his gross income in the year*
14 *paid or credited to him.*

1 54A:5-4. *Taxability of partners. A partnership or association*
2 *as such shall not be subject to the tax imposed by this act, but the*
3 *income or gain of a member of a partnership or association shall*
4 *be subject to the tax and the tax shall be imposed on his share,*
5 *whether or not distributed, of the income or gain received by the*
6 *partnership or association for its taxable year ending within or*
7 *with the partner's or member's taxable year.*

1 54A:5-5. *Nonresident individuals; taxable income. The income*
2 *of a nonresident individual shall be that part of his income derived*
3 *from sources within this State as defined in this act.*

1 54A:5-6. *Husband and wife. (a) Separate return. If the income*
2 *of husband or wife who are both nonresidents of this State and are*
3 *subject to tax under this act is determined on a separately filed*
4 *return, their incomes from sources within this State shall be sepa-*
5 *rately determined.*

6 *(b) One spouse a nonresident. If either husband or wife is a*
7 *nonresident and the other a resident, separate taxes shall be*
8 *determined on their separate incomes on such forms as the director*
9 *shall prescribe, unless both elect to determine their joint income as*
10 *if both were residents in which event their tax liabilities shall be*
11 *joint and several.*

12 *(c) The filing requirements for nonresidents shall be governed*
13 *by the provisions of section 54A:8-3.1 except with respect to the*
14 *conditions set forth in subsection (b) of this section.*

1 54A:5-7. Allocation of income of nonresidents. Where a non-
2 resident taxpayer earns, receives or acquires income from sources
3 partly within and partly without this State or engages in a business,
4 trade, profession or occupation partly within and partly without
5 this State, and, as a result thereof or for other reasons that portion
6 of the income derived from or connected with sources within this
7 State cannot readily or accurately be ascertained, the director may
8 by regulation prescribe uniform rules for apportionment or alloca-
9 tion of so much of such taxpayer's income as fairly and equitably
10 represents income, derived from sources within this State and
11 subject to tax under this act.

1 54A:5-8. Income from sources within this State for a nonresident
2 individual, estate or trust means the same as compensation, net
3 profits, gains, dividends, interest or income enumerated and classi-
4 fied under chapter 5 of this act to the extent that it is earned,
5 received or acquired from sources within this State:

6 (1) By reason of ownership or disposition of any interest in real
7 or tangible personal property in this State; or

8 (2) In connection with a trade, profession, occupation carried on
9 in this State or for the rendition of personal services performed in
10 this State; or

11 (3) As a distributive share of the income of an unincorporated
12 business, profession, enterprise, undertaking or other activity as
13 the result of work done, services rendered or other business activ-
14 ities conducted in this State except as allocated to another state
15 pursuant to regulations promulgated by the director under this act:
16 or

17 (4) From intangible personal property employed in a trade, pro-
18 fession, occupation or business carried on in this State.**

CHAPTER 6. EXCLUDABLE INCOME

1 54A:6-1. The items in sections 54A:6-2 to 54A:6-9, inclusive,
2 shall be specifically excluded from gross income.

1 54A:6-2. Federal social security benefits. All payments received
2 under the Federal Social Security Act, whether they be regularly
3 monthly benefits or lump sum death benefits.

1 54A:6-3. Railroad retirement benefits. All payments received
2 under the Railroad Retirement Act administered by the Federal
3 Government.

1 54A:6-4. Certain death benefits:

2 a. Proceeds of life insurance contracts payable by reason of
3 death.

4 b. Employees' death benefits, if such amounts are paid by or on
5 behalf of an employer and are paid by reason of the death of the
6 employee.

1 54A:6-5. Gifts and inheritances:

2 a. The value of property acquired by gift, bequest, devise or
3 inheritance.

4 b. Income. Subsection a. shall not exclude from gross income:

5 1. The income from any property referred to in subsection a.

6 2. Where the gift, bequest, devise or inheritance is of income
7 from property, the amount of such income.

1 54A:6-6. Compensation for injuries or sickness:

2 a. Amounts received under workmen's compensation acts as
3 compensation for personal injuries or sickness.

4 b. The amount of damages received, whether by suit or agree-
5 ment, on account of personal injuries or sickness.

6 c. Amounts received through accident or health insurance for
7 personal injuries or sickness.

8 d. Amounts received as a pension, annuity or similar allowance
9 for personal injuries or sickness resulting from active service in
10 the Armed Forces of the United States or in the Coast and
11 Geodetic Survey or the Public Health Service, or as a disability
12 annuity payable under the Foreign Service Act of 1946.

1 54A:6-7. Certain pay of members of the armed forces.

2 a. Compensation paid by the United States for service in the
3 Armed Forces of the United States performed by an individual
4 not domiciled in this State.

5 b. Amounts received during the taxable year as mustering-out
6 payments with respect to service in the Armed Forces of the United
7 States.

1 54A:6-8. Scholarships and fellowship grants.

2 a. Any amount received as a scholarship at an educational
3 institution.

4 b. Any amount received as a fellowship grant.

5 c. Any amount received to cover expenses for travel, research or
6 equipment which are incident to a scholarship or research grant,
7 but only to the extent that the amount is so expended by the
8 recipient.

1 54A:6-9. Exemption for Gains Derived from the Sale or Ex-
2 change of Principal Residence. **[Gross income shall not include a
3 gain from the sale or exchange of a principal residence if the
4 following conditions are met:

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5 (a) The taxpayer has purchased or received in exchange an-
6 other principal residence to replace the residence sold which has
7 an adjusted sales price which is equal to or greater than the adjusted
8 sales price of the residence from which the gain had been derived
9 provided that such new residence had been purchased either 18
10 months before or 18 months after the date of sale of the original
11 residence except that where the taxpayer has constructed a new
12 residence, the period prior to and after the date of sale shall be 24
13 months.】**

14 ***a. If a taxpayer realizes a gain from the sale or exchange of*
15 *his principal residence, the gain shall be excludable from gross*
16 *income if the taxpayer purchased or received in exchange another*
17 *principal residence to replace the residence sold, provided that such*
18 *new residence had been acquired either 18 months before or 18*
19 *months after the date of the sale of the original residence except*
20 *that where the taxpayer has constructed a new residence, the period*
21 *prior to and after the date of sale shall be 24 months. Where the*
22 *adjusted sales price of the residence sold exceeds the purchase*
23 *price of the new residence, the taxpayer shall be required to include*
24 *in his gross income that portion of the gain which is represented*
25 *by the amount that the adjusted sales price of the old residence*
26 *exceeds the cost of the new residence. To the extent that any gain*
27 *shall be excludable under this section, the basis of the new residence*
28 *shall be reduced.***

29 **[(b) The taxpayer has attained the age of 65 on or before the**
30 **date of the sale of such property and such property had been owned**
31 **and used as a principal residence of the taxpayer for at least five**
32 **years of the eight years immediately preceding the date of such**
33 **sale.】****

34 ***b. In lieu of the exemption allowed under subsection a. of this*
35 *section, a taxpayer who has attained the age of 65 on or before*
36 *the date of the sale of a property which has been used by him as*
37 *a principal residence for at least 5 years of the 8 years immediately*
38 *preceding the date of such sale, may elect to avail himself of the*
39 *exemption allowed under this subsection.** If the exemption*
40 *provided for in this subsection is availed of by a taxpayer in or*
41 *for any taxable year, no such exemption shall be allowed with*
42 *respect to such taxpayer or spouse thereof in any subsequent*
43 *taxable year. If the adjusted sales price of the property sold or*
44 *exchanged exceeds \$35,000.00, this subsection shall apply to that*
45 *portion of the gain which bears the same ratio to the total amount*
46 *of such gain as \$35,000.00 bears to such adjusted sales price. For*
47 *the purpose of this section, the word "sale" means a "sale,"*

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48 "exchange," "transaction," or "event" through which the tax-
49 payer is divested of all interest in his residence.

50 c. Subsection a. shall not apply to any sale or exchange by the
51 taxpayer with respect to more than one property during any 18-
52 month period.

53 d. Subsection b. shall not apply to any sale or exchange by the
54 taxpayer with respect to more than one property.

55 e. Property used in part as a residence. In case of property
56 only a portion of which has been owned and used by the taxpayer
57 as his principal residence, this section shall apply with respect to
58 so much of the sale or exchange of such property as is determined,
59 under regulations prescribed by the director, to be attributable to
60 the portion of the property so owned and used by the taxpayer.

61 ***f. The provisions of this section shall also be applicable with*
62 *respect to qualified tenant-shareholders in cooperatives.***

63 ****[f.]**** ***g.*** For purposes of this section, the destruction,
64 theft, seizure, requisition, or condemnation of property shall be
65 treated as the sale of such property.

1 54A:6-10. Pensions and annuities. Gross income shall not in-
2 clude that part of any amount received as an annuity under an
3 annuity, endowment, or life insurance contract which bears the
4 same ratio to such amount as the investment in the contract (as
5 of the annuity starting date) bears to the expected return under
6 the contract (as of such date). Where (1) part of the considera-
7 tion for an annuity, endowment, or life insurance contract is con-
8 tributed by the employer, and (2) during the 3-year period
9 beginning on the date on which an amount is first received under
10 the contract as an annuity, the aggregate amount receivable by
11 the employee under the terms of the contract is equal to or greater
12 than the consideration for the contract contributed by the em-
13 ployee, then all amounts received as an annuity under the contract
14 shall be excluded from gross income until there has been so
15 excluded an amount equal to the consideration for the contract
16 contributed by the employee.

1 54A:6-11. Lottery winnings. Gross income shall not include
2 lottery winnings from the New Jersey Lottery.

1 54A:6-12. Pensions of persons not covered under Social Security.
2 Gross income shall not include pension, disability or retirement
3 programs of the Federal Government or of any State or its political
4 subdivisions, or agencies thereof, for persons not covered under
5 54A:6-2 or 54A:6-3 hereof; provided, however, that the total

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6 amount of benefits to be allowed exclusion herein shall not be in
7 excess of the maximum amount of benefits payable to and allowable
8 for exclusion in 54A :6-2 and 54A :6-3.

1 ***54:6-13. Unemployment insurance benefits. All payments and*
2 *benefits received under any unemployment insurance law.*

1 *54:6-14. Interest on certain obligations. Gross income shall not*
2 *include interest on obligations (1) issued by or on behalf of this*
3 *State or any county, municipality, school or other district, agency,*
4 *authority, commission, instrumentality, public corporation (includ-*
5 *ing one created or existing pursuant to agreement or compact with*
6 *this or any other state), body corporate and politic or political*
7 *subdivision of this State, or (2) those obligations which are statu-*
8 *torily free from state or local taxation under any other act of this*
9 *State or under the laws of the United States.***

CHAPTER 7. WITHHOLDING OF TAX

1 54A:7-1. Requirement of withholding tax from wages. (a)
2 General.—From and after the first day of the first month following
3 at least a full calendar month after the enactment of this act, every
4 employer maintaining an office or transacting business within this
5 State and making payment of any wages subject to New Jersey
6 personal income tax to a resident or nonresident individual shall
7 deduct and withhold from such wages for each payroll period a tax
8 computed in such manner as to result, so far as practicable, in
9 withholding from the employee's wages during each calendar year
10 an amount substantially equivalent to the tax reasonably estimated
11 to be due resulting from the inclusion in the employee's New Jersey
12 income of his wages received during such calendar year. The
13 method of determining the amount to be withheld shall be prescribed
14 by regulations of the director, with due regard to the withholding
15 exemptions of the employee.

16 (b) Withholding exemptions.—For purposes of this section:
17 An employee shall be entitled to the equivalent of the same num-
18 ber of New Jersey withholding exemptions as the number of with-
19 holding exemptions to which he is entitled for Federal income tax
20 withholding purposes. An employer may rely upon the number of
21 Federal withholding exemptions claimed by the employee.

1 54A :7-2. Information statement for employee. Every employer
2 required to deduct and withhold tax under this act from the wages
3 of an employee, or who would have been required so to deduct
4 and withhold tax if the employee had claimed no more than one

5 withholding exemption, shall furnish to each such employee in
6 respect of the wages paid by such employer to such employee during
7 the calendar year on or before February 15 of the succeeding year,
8 or, if his employment is terminated before the close of such calendar
9 year, within 30 days from the date on which the last payment of
10 the wages is made, a written statement as prescribed by the director
11 showing the amount of wages paid by the employer to the employee,
12 the amount deducted and withheld as tax, and such other informa-
13 tion as the director shall prescribe.

1 54A:7-3. Credit for tax withheld. Wages upon which tax is
2 required to be withheld shall be taxable under this act as if no
3 withholding were required, but any amount of tax actually deducted
4 and withheld under this act in any calendar year shall be deemed
5 to have been paid to the director on behalf of the person from whom
6 withheld, and such person shall be credited with having paid that
7 amount of tax for the taxable year beginning in such calendar year.
8 For a taxable year of less than 12 months the credit shall be made
9 under regulations of the director.

1 54A:7-4. Employer's return and payment of withheld taxes.
2 (a) General.—Every employer required to deduct and withhold tax
3 under this act shall, for each calendar month, on or before the
4 fifteenth day of the month following the close of such calendar
5 month, file a withholding return as prescribed by the director and
6 pay over to the director or to a depository designated by the direc-
7 tor the taxes so required to be deducted and withheld. The director
8 may, if he deems it necessary, extend the initial filing of withholding
9 returns and payment of withheld taxes for a period not to exceed
10 60 days. Where the aggregate amount required to be deducted and
11 withheld by any employer is less than \$25.00 in a calendar month
12 and the aggregate for the semiannual period ending on June 30 and
13 December 31 can reasonably be expected to be less than \$150.00, the
14 director may by regulation permit an employer to file a return on
15 or before July 31 for the semiannual period ending on June 30 and
16 on or before January 31 for the semiannual period ending on
17 December 31. The director may, if he believes such action necessary
18 for the protection of the revenues, require any employer to make
19 such return and pay to him the tax deducted and withheld at any
20 time, or from time to time. Where the amount of wages paid by an
21 employer is not sufficient under this act to require the withholding
22 of tax from the wages of any of his employees, the director may, by
23 regulation, permit such employer to file an annual return on or
24 before February 28 of the following calendar year.

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25 The director may, by regulation, require the filing and payment
 26 of withholding returns and taxes on a semimonthly or more fre-
 27 quent basis where he deems such action in the best interest of
 28 the State.

29 (b) Deposit in trust for director.—Whenever any employer fails
 30 to collect, truthfully account for, pay over the tax, or make returns
 31 of the tax as required in this section, the director may serve a
 32 notice requiring such employer to collect the taxes which become
 33 collectible after service of such notice, to deposit such taxes in a
 34 bank approved by the director in a separate account, in trust for
 35 and payable to the State of New Jersey and to keep the amount
 36 of such tax in such account until payment over to the director.
 37 Such notice shall remain in effect until a notice of cancellation is
 38 served by the director.

1 54A:7-5. Employer's liability for withheld taxes. Every em-
 2 ployer required to deduct and withhold tax under this act is hereby
 3 made liable for such tax. For purposes of assessment and collec-
 4 tion, any amount required to be withheld and paid over to the
 5 director, and any additions to tax, penalties and interest with
 6 respect thereto, shall be considered the tax of the employer. Any
 7 amount of tax actually deducted and withheld under this act shall
 8 be held to be a special fund in trust for the director. No employee
 9 shall have any right of action against his employer in respect to
 10 any moneys deducted and withheld from his wages and paid over
 11 to the director in compliance or in intended compliance with this act.

1 54A:7-6. Employer's failure to withhold. If an employer fails
 2 to deduct and withhold tax as required, and thereafter the tax
 3 against which such tax may be credited is paid, the tax so required
 4 to be deducted and withheld shall not be collected from the em-
 5 ployer, but the employer shall not be relieved from liability for
 6 any penalties, interest, or additions to the tax otherwise applicable
 7 in respect of such failure to deduct and withhold.

1 54A:7-7. Filing annual reconciliation of tax withheld. A recon-
 2 ciliation of tax withheld ****[must]**** ****shall**** be filed by the em-
 3 ployer with the Division of Taxation on or before February 15
 4 following the close of the calendar year in accordance with rules
 5 and regulations prescribed by the director.

CHAPTER 8. PAYMENT OF TAX

1 54A:8-1. Payment of tax; returns; extension of time. With re-
 2 spect to each taxpayer, the tax imposed by this act shall be due and
 3 payable annually, hereafter, in the manner provided in this section:

4 a. Every taxpayer shall annually pay the tax imposed by this
5 act with respect to all or any part of each of his fiscal or calendar
6 accounting years beginning *on and* after **[January 1]**
7 ****[April 1]**** ****July 1****, 1976, to be computed as in this act pro-
8 vided, for such fiscal or calendar accounting year or part thereof,
9 on a return which shall be filed, in the case of a taxpayer reporting
10 on a calendar year basis, on or before April 15 following the close
11 of such calendar year, or, in the case of a taxpayer reporting on a
12 fiscal year basis, on or before the fifteenth day of the fourth month
13 following the close of such fiscal year, and the full amount of the
14 tax shall be due and payable on or before the date prescribed herein
15 for the filing of the return.

15A ****In the case of a taxable year which ends on or after **[April**
15B **1]** **July 1****, 1976, and prior to December 31, 1976, an income
15C tax return for such taxable year shall be filed on or before April 15,
15D 1977.**

16 b. Each return shall carry a certificate signed by the taxpayer
17 to the effect that all statements contained therein are true, under
18 the same penalties as for perjury committed. Blank forms of re-
19 turn shall be furnished on application, but failure to secure the
20 form shall not relieve any taxpayer of the obligation of making
21 any return herein required. Subject to regulations under this act
22 and in such form as may be indicated thereby, taxpayers whose
23 net income taxable under this act is or may be subject to tax under
24 a similar law of another jurisdiction may be permitted to file a
25 simple, short form return attached to a copy of his return as filed
26 or about to be filed by him in such other jurisdiction.

27-28 Subject to regulations under this act, reasonable extensions of
29 time for good cause shown, may be granted for not more than 6
30 months unless exceptional circumstances justify a longer period,
31 within which returns may be filed.

32 In addition, persons in active service with the Armed Forces of
33 the United States, who may be prevented by distance or injury
34 *or hospitalization arising out of such service, may be allowed*
35 *such extension of time for the filing of returns, without interest or*
36 *penalty, as may be fixed by regulations under this act.**

1 54A:8-2. Optional tax tables. (a) General.—The director may
2 promulgate uniform tax tables for individual taxpayers for any
3 taxable year. An individual may elect to use or not to use any such
4 tax table for which he is eligible.

5 (b) Preparation of tax tables.—Tax tables promulgated here-
6 under shall be based either upon (i) the individual's New Jersey

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7 income, or (ii) the individual's taxable income. In computing such
 8 tables, the director shall make allowance for the deductions and
 9 personal exemptions allowed under this act. In either case the
 10 director shall by regulation prescribe the conditions of eligibility
 11 for the use of a tax table. In no case shall the amount of tax
 12 calculated by use of a tax table deviate by more than \$5.00 from
 13 the amount otherwise due under section 54A :2-1.

1 54A:8-3. Accounting periods and methods. (a) Accounting
 2 periods.—A taxpayer's taxable year under this act shall be the
 3 same as his taxable year for Federal income tax purposes.

4 (b) Change of accounting periods.—If a taxpayer's taxable year
 5 is changed for Federal income tax purposes, his taxable year for
 6 purposes of this act shall be similarly changed.

7 (c) Accounting methods.—A taxpayer's accounting method under
 8 this act shall be the same as his accounting method for Federal
 9 income tax purposes. In the absence of any accounting method for
 10 Federal income tax purposes, New Jersey taxable income shall be
 11 computed under such method as in the opinion of the director
 12 clearly reflects income.

13 (d) Change of accounting methods.—(1) If a taxpayer's account-
 14 ing method is changed for Federal income tax purposes, his ac-
 15 counting method for purposes of this act shall be similarly changed.

16 (2) If a taxpayer's accounting method is changed, other than
 17 from an accrual to an installment method, any additional tax which
 18 results from adjustments determined to be necessary solely by
 19 reason of the change shall not be greater than if such adjustments
 20 were ratably allocated and included for the taxable year of the
 21 change and the preceding taxable years, not in excess of two, dur-
 22 ing which the taxpayer used the accounting method from which the
 23 change is made.

24 (3) If a taxpayer's accounting method is changed from an ac-
 25 crual to an installment method, any additional tax for the year of
 26 such change of method and for any subsequent year which is
 27 attributable to the receipt of installment payments properly ac-
 28 crued in a prior year, shall be reduced by the portion of tax for
 29 any prior taxable year attributable to the accrual of such install-
 30 ment payments, in accordance with regulations of the director.

1 54A:8-3.1. Persons required to file.

2 a. On or before the filing date prescribed in section 1 of this
 3 chapter (C. 54A:8-1), an income tax return shall be made and
 4 filed by or for every individual, estate or trust having a gross

5 income in excess of \$3,000.00 or more **(\$1,500.00 or more in the
5A case of a married person filing separately)**.

6 ****b.** If the income tax liability of husband and wife is determined
7 on a separate return for Federal income tax purposes, they shall
8 each also file a separate return for New Jersey income tax purposes
9 and their income tax liabilities under this act shall be separate.

10 **c.** If the income tax liabilities of husband and wife are determined
11 on a joint return for Federal income tax purposes, they shall also
12 file a joint return for New Jersey income tax purposes and their
13 tax liabilities under this act shall be joint and several.

14 **d.** If either husband or wife is a resident and the other is a non-
15 resident, they shall file separate tax returns under this act on such
16 single or separate forms as may be required by the director in
17 which event their tax liabilities shall be separate unless both elect
18 to determine their joint taxable income as if both were residents, in
19 which event their tax liabilities shall be joint and several.**

20 ****[b.]**** ****e.** The return for any deceased individual shall be
21 made and filed by his fiduciary or other person charged with his
22 property.

23 ****[c.]**** ****f.** The return for an individual who is unable to
24 make a return by reason of minority or other disability shall be
25 made and filed by his fiduciary or other person charged with the
26 care of his person or property (other than a receiver in possession
27 of only a part of his property), or by his duly authorized agent.

28 ****[d.]**** ****g.** Any tax under this act, and any increase, interest
29 or penalty thereon, shall, from the time it is due and payable, be a
30 personal debt of the person liable to pay the same, to the State of
31 New Jersey.

1 54A:8-4. Declarations of estimated tax. (a) Requirement of
2 filing. Every resident and nonresident individual shall make a
3 declaration of his estimated New Jersey personal income tax for
4 each taxable year beginning after ****[March 31]**** ****June 30****,
5 1976, if his estimated New Jersey personal income tax can reason-
6 ably be expected to be ****[\$40.00 or]**** more ****than \$100.00**** in
7 excess of any credits allowable against his tax, whether or not he is
8 required to file a Federal declaration of estimated tax for such
8A year.

9 (b) Definition of estimated tax. The term "estimated tax"
10 means the amount which an individual estimates to be his income
11 tax under this act for the taxable year, less the amount which he
12 estimates to be the sum of any credits allowable against the tax.

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13 (c) Joint declaration of husband and wife. A husband and wife
14 may make a joint declaration of estimated tax as if they were one
15 taxpayer, in which case the liability with respect to the estimated
16 tax shall be joint and several. No joint declaration may be made
17 if husband and wife are separated under a decree of divorce or of
18 separate maintenance, or if they have different taxable years. If
19 a joint declaration is made but husband and wife elect to determine
20 their taxes under this act separately, the estimated tax for such
21 year may be treated as the estimated tax of either husband or wife,
22 or may be divided between them, as they may elect.

23 (d) Time for filing declaration. Beginning in the taxable year
24 1976 and every taxable year thereafter a declaration of estimated
25 tax of an individual other than a farmer shall be filed on or before
26 April 15 of the taxable year, except that if the requirements of
27 subsection (a) are first met:

28 (1) After April 1 and before June 2 of the taxable year, the
29 declaration shall be filed on or before June 15; or

30 (2) After June 1 and before September 2 of the taxable year
31 the declaration shall be filed on or before September 15; or

32 (3) After September 1 of the taxable year, the declaration shall
33 be filed on or before January 15 of the succeeding year.

34 (e) Declaration of estimated tax by a farmer. A declaration of
35 estimated tax of an individual having an estimated New Jersey
36 income from farming (including oyster farming) for the taxable
37 year which is at least two-thirds of his total estimated New Jersey
38 income for the taxable year may be filed at any time on or before
39 January 15 of the succeeding year, in lieu of the time otherwise
40 prescribed.

41 (f) Declaration of estimated tax of **[\$40.00]** **\$100.00** or
42 less. A declaration of estimated tax of an individual having a total
43 estimated tax for the taxable year of **[\$40.00]** **\$100.00** or
44 less may be filed at any time on or before January 15 of the succeed-
45 ing year under regulations of the director.

46 (g) Amendments of declaration. An individual may amend a
47 declaration under regulations of the director.

48 (h) Return as declaration or amendment. If on or before
49 February 15 of the succeeding taxable year an individual files his
50 return for the taxable year for which the declaration is required,
51 and pays therewith the full amount of the tax shown to be due on
52 the return:

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53 (1) Such return shall be considered as his declaration if no
54 declaration was required to be filed during the taxable year, but is
55 otherwise required to be filed on or before January 15;

56 (2) Such return shall be considered as the amendment permitted
57 by subsection (g) to be filed on or before January 15 if the tax shown
58 on the return is greater than the estimated tax shown in a declara-
59 tion previously made.

60 (i) Fiscal year. This section shall apply to a taxable year other
61 than a calendar year by the substitution of the months of such fiscal
62 year for the corresponding months specified in this section,

63 (j) Short taxable year. An individual having a taxable year of
64 less than 12 months shall make a declaration in accordance with
65 regulations of the director.

66 (k) Declaration for individual under a disability. The declara-
67 tion of estimated tax for an individual who is unable to make a
68 declaration by reason of minority or other disability shall be made
69 and filed by his guardian, committee, fiduciary or other person
70 charged with the care of his person or property (other than a
71 receiver in possession of only a part of his property), or by his
72 duly authorized agent.

73 (1) In the taxable year 1976, no declaration shall be required
74 until the lapse of at least one full calendar quarter following en-
75 actment of this act.

1 54A:8-5. Payments of estimated tax (a) General. The esti-
2 mated tax with respect to which a declaration is required shall be
3 paid as follows:

4 (1) If the declaration is filed on or before April 15 of the taxable
5 year the estimated tax shall be paid in four equal installments. The
6 first installment shall be paid at the time of the filing of the declara-
7 tion, and the second, third and fourth installments shall be paid on
8 the following June 15, September 15, and January 15, respectively.

9 (2) If the declaration is filed after April 15 and not after June 15
10 of the taxable year, the estimated tax shall be paid in three equal
11 installments. The first installment shall be paid at the time of the
12 filing of the declaration, and the second and third installments shall
13 be paid on or before the following September 15 and January 15,
14 respectively.

15 (3) If the declaration is filed after June 15 and not after
16 September 15 of the taxable year, and is not required to be filed on
17 or before June 15 of the taxable year, the estimated tax shall be
18 paid in two equal installments. The first installment shall be paid

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19 at the time of the filing of the declaration, and the second shall be
20 paid on or before the following January 15.

21 (4) If the declaration is filed after September 15 of the taxable
22 year, and is not required to be filed on or before September 15 of
23 the taxable year, the estimated tax shall be paid in full at the time
24 of the filing of the declaration.

25 (5) If the declaration is filed after the time prescribed therefor,
26 or after the expiration of any extension of time therefor, para-
27 graphs (2), (3), and (4) of this subsection shall not apply, and there
28 shall be paid at the time of such filing all installments of estimated
29 tax payable at or before such time, and the remaining installments
30 shall be paid at the times at which, and in the amounts in which,
31 they would have been payable if the declaration had been filed when
32 due.

33 (b) Farmers. If an individual referred to in subsection (e) of
34 section *~~[54A:8-5]~~* ~~54A:8-4~~* (relating to income from farming)
35 makes a declaration of estimated tax after September 15 of the
36 taxable year and on or before the following January 15, the
37 estimated tax shall be paid in full at the time of the filing of the
38 declaration.

39 (c) Amendments of declaration. If any amendment of a declara-
40 tion is filed, the remaining installments, if any, shall be ratably in-
41 creased or decreased (as the case may be) to reflect any increase or
42 decrease in the estimated tax by reason of such amendment, and if
43 any amendment is made after September 15 of the taxable year,
44 any increase in the estimated tax by reason thereof shall be paid at
45 the time of making such amendment.

46 (d) Application to short taxable year. This section shall apply
47 to a taxable year of less than 12 months in accordance with regula-
48 tions of the director.

49 (e) Fiscal year. This section shall apply to a taxable year other
50 than a calendar year by the substitution of the months of such fiscal
51 year for the corresponding months specified in this section.

52 (f) Installments paid in advance. An individual may elect to
53 pay any installment of his estimated tax prior to the date prescribed
54 for its payment.

1 54A:8-6. Requirements concerning returns, notices, records and
2 statements. (a) General. The director may prescribe regulations
3 as to the keeping of records, the content and form of returns and
4 statements, and the filing of copies of Federal income tax returns
5 and determinations. The director may require any person, by

6 regulation or notice served upon such person, to make such returns,
7 render such statements, or keep such records, as the director may
8 deem sufficient to show whether or not such person is liable under
9 this act for tax or for collection of tax.

10 (b) Partnerships. Every partnership having a resident partner
11 or having any income derived from New Jersey sources, shall make
12 a return for the taxable year setting forth all items of income, gain,
13 loss and deduction and such other pertinent information as the
14 director may by regulations and instructions prescribe. Such
15 return shall be filed on or before the fifteenth day of the fourth
16 month following the close of each taxable year. For the purposes
17 of this subsection, "taxable year" means a year or period which
18 would be a taxable year of the partnership if it were subject to tax
19 under this act.

20 (c) Information at source. The director may prescribe regula-
21 tions and instructions requiring returns of information to be made
22 and filed on or before February 15 of each year as to the payment
23 or crediting in any calendar year of amounts of \$100.00 or more
24 to any taxpayer under this act. Such returns may be required of
25 any person, including lessees or mortgagors of real or personal
26 property, fiduciaries, employers, and all officers and employees of
27 this State, or of any municipal corporation or political subdivision
28 of this State, having the control, receipt, custody, disposal or pay-
29 ment of interest, rents, salaries, wages, premiums, annuities, com-
30 pensations, remunerations, emoluments or other fixed or determin-
31 able gains, profits or income, except interest coupons payable to
32 bearer. A duplicate of the statement as to tax withheld on wages,
33 required to be furnished by an employer to an employee, shall
34 constitute the return of information required to be made under this
35 section with respect to such wages.

36 (d) Notice of qualification as receiver, et cetera. Every receiver,
37 trustee in bankruptcy, assignee for benefit of creditors, or other like
38 fiduciary shall give notice of his qualification as such to the direc-
39 tor, as may be required by regulation.

1 54A:8-7. Report of change in Federal taxable income. If the
2 amount of a taxpayer's Federal taxable income reported on his
3 Federal income tax return for any taxable year is changed or cor-
4 rected by the United States Internal Revenue Service or other
5 competent authority, or as the result of a renegotiation of a contract
6 or subcontract with the United States, the taxpayer shall report
7 such change or correction in Federal taxable income within 90 days
8 after the final determination of such change, correction, or

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9 renegotiation, or as otherwise required by the director, and shall
 10 concede the accuracy of such determination or state wherein it is
 11 erroneous. Any taxpayer filing an amended Federal income tax
 12 return shall also file within 90 days thereafter an amended return
 13 under this act, and shall give such information as the director may
 14 require. The director may by regulation prescribe such exceptions
 15 to the requirements of this section as he deems appropriate.

CHAPTER 9. ADMINISTRATION OF TAX

1 54A:9-1. Applicability of State Tax Uniform Procedure Law.
 2 The taxes imposed by this act shall be governed in all respects
 3 by the provisions of the State Tax Uniform Procedure Law (sub-
 4 title 9 of Title 54 of the Revised Statutes) except only to the extent
 5 that a specific provision of this act may be in conflict therewith.

1 54A:9-2. Notice of deficiency. (a) General. If upon examination
 2 of a taxpayer's return under this act the director determines that
 3 there is a deficiency of income tax, he may mail a notice of deficiency
 4 to the taxpayer. If a taxpayer fails to file an income tax return
 5 required under this act, the director is authorized to estimate the
 6 taxpayer's New Jersey income and tax thereon, from any infor-
 7 mation in his possession, and to mail a notice of deficiency to the
 8 taxpayer. A notice of deficiency shall be mailed to the taxpayer at
 9 his last known address in or out of this State. If a husband and
 10 wife are jointly liable for tax, a notice of deficiency may be a single
 11 joint notice, except that if the director has been notified in writing
 12 by either spouse that separate residences have been established,
 13 then, in lieu of the single joint notice, a duplicate original of the
 14 joint notice shall be mailed to each spouse at his or her last known
 15 address in or out of this State. If the taxpayer is deceased or under
 16 a legal disability, a notice of deficiency may be mailed to his last
 17 known address in or out of this State, unless the director has re-
 18 ceived written notice of the existence of a fiduciary relationship
 19 with respect to the taxpayer.

20 (b) Notice of deficiency as assessment. After 90 days from the
 21 mailing of a notice of deficiency, such notice shall be an assessment
 22 of the amount of tax specified in such notice, together with the
 23 interest, additions to tax and penalties stated in such notice, except
 24 only for any such tax or other amounts as to which the taxpayer
 25 has within such 90-day period filed with the director a petition
 26 under section 54A:9-9. If the notice of deficiency is addressed to
 27 a person outside of the United States, such period shall be 150 days
 28 instead of 90 days.

29 (c) Restrictions on assessment and levy. No assessment of a
30 deficiency in tax and no levy or proceeding in court for its collection
31 shall be made, begun or prosecuted, except as otherwise provided
32 in section 54A:9-14, until a notice of deficiency has been mailed
33 to the taxpayer, nor until the expiration of the time for filing a
34 petition contesting such notice, nor, if a petition with respect to
35 the taxable year has been filed with the director, until the decision
36 of the director has become final. For exception in the case of re-
37 view of the decision of the director, see subsection (c) of section
38 54A:9-10.

39 (d) Exceptions for mathematical errors. If a mathematical error
40 appears on a return (including an overstatement of the credit for
41 income tax withheld at the source, or of the amount paid as esti-
42 mated income tax), the director shall notify the taxpayer that an
43 amount of tax in excess of that shown upon the return is due, and
44 that such excess has been assessed. Such notice shall not be con-
45 sidered as a notice of deficiency for the purposes of this section,
46 subsection *[(f)]* *(e)* of section 54A:9-8 (limiting credits or
47 refunds after petition to the director), or subsection (b) of section
48 54A:9-9 (authorizing the filing of a petition with the director
49 based on a notice of deficiency) nor shall such assessment or collec-
50 tion be prohibited by the provisions of subsection (c).

51 (e) Exception where change in Federal taxable income is not
52 reported.

53 (1) If the taxpayer fails to comply with section *[54A:8-8]*
54 *54A:8-7* in not reporting a change or correction increasing his
55 Federal taxable income as reported on his Federal income tax
56-57 return or in not reporting a change or correction which is treated
58 in the same manner as if it were a deficiency for Federal income
59 tax purposes or in not filing an amended return, instead of the
60 mode and time of assessment provided for in subsection (b) of this
61 section, the director may assess a deficiency based upon such
62 changed or corrected Federal taxable income by mailing to the
63 taxpayer a notice of additional tax due specifying the amount of
64 the deficiency, and such deficiency, together with the interest,
65 additions to tax and penalties stated in such notice, shall be deemed
66 assessed on the date such notice is mailed unless within 30 days
67 after the mailing of such notice a report of the Federal change or
68 correction or an amended return, where such return was required
69 by section 54A:8-7, is filed accompanied by a statement showing
70 wherein such Federal determination and such notice of additional
71 tax due are erroneous.

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72 (2) Such notice shall not be considered as a notice of deficiency
73 for the purposes of this section, subsection *[(f)]* *(e)* of section
74 54A:9-8 (limiting credits or refunds after petition to the director),
75 or subsection (b) of section 54A:9-9 (authorizing the filing of a
76 petition with the director based on a notice of deficiency), nor
77 shall such assessment or the collection thereof be prohibited by the
78 provisions of subsection (c).

79 (3) If a husband and wife are jointly liable for tax, a notice of
80 additional tax due may be a single joint notice, except that if the
81 director has been notified in writing by either spouse that separate
82 residences have been established, then, in lieu of the joint notice,
83 a duplicate original of the joint notice shall be mailed to each
84 spouse at his or her last known address in or out of this State. If
85 the taxpayer is deceased or under a legal disability, a notice of
86 additional tax due may be mailed to his last known address in or
87 out of this State, unless the director has received written notice
88 of the existence of a fiduciary relationship with respect to the
89 taxpayer.

90 (f) Waiver of restrictions. The taxpayer shall at any time
91 (whether or not a notice of deficiency has been issued) have the
92 right to waive the restrictions on assessment and collection of the
93 whole or any part of the deficiency by a signed notice in writing
94 filed with the director.

95 (g) Deficiency defined. For purposes of this act, a deficiency
96 means the amount of the tax imposed by this act, less (i) the amount
97 shown as the tax upon the taxpayer's return (whether the return
98 was made or the tax computed by him or by the director), and
99 less (ii) the amounts previously assessed (or collected without
100 assessment) as a deficiency and plus (iii) the amount of any re-
101 bates. For the purpose of this definition, the tax imposed by this
102 act and the tax shown on the return shall both be determined
103 without regard to payments on account of estimated tax or the
104 credit for withholding tax; and a rebate means so much of an
105 abatement, credit, refund or other repayment (whether or not
106 erroneous) made on the ground that the amounts entering into the
107 definition of a deficiency showed a balance in favor of the taxpayer.

1 54A:9-3. Assessment. (a) Assessment date. The amount of tax
2 which a return shows to be due, or the amount of tax which a
3 return would have shown to be due but for a mathematical error,
4 shall be deemed to be assessed on the date of filing of the return
5 (including any amended return showing an increase of tax). In
6 the case of a return properly filed without computation of tax, the

7 tax computed by the director shall be deemed to be assessed on the
8 date on which payment is due. If a notice of deficiency has been
9 mailed, the amount of the deficiency shall be deemed to be assessed
10 on the date specified in subsection (b) of section 54A:9-2 if no
11 petition to the director is filed, or if a petition is filed, then upon the
12 date when a decision of the director establishing the amount of the
13 deficiency becomes final. If an amended return or report filed
14 pursuant to section 54A:8-7 concedes the accuracy of a Federal
15 change or correction, any deficiency in tax under this act resulting
16 therefrom shall be deemed to be assessed on the date of filing such
17 report or amended return, and such assessment shall be timely
18 notwithstanding section 54A:9-4. If a notice of additional tax
19 due, as prescribed in subsection (e) of section 54A:9-2 has been
20 mailed, the amount of the deficiency shall be deemed to be assessed
21 on the date specified in such subsection unless within 30 days after
22 the mailing of such notice a report of the Federal change or correc-
23 tion or an amended return, where such return was required by
24 section 54A:8-7 is filed accompanied by a statement showing
25 wherein such Federal determination and such notice of additional
26 tax due are erroneous. Any amount paid as a tax or in respect of
27 a tax, other than amounts withheld at the source or paid as esti-
28 mated income tax, shall be deemed to be assessed upon the date of
29 receipt of payment, notwithstanding any other provisions.

30 (b) Other assessment powers. If the mode or time for the assess-
31 ment of any tax under this act (including interest, additions to tax
32 and assessable penalties) is not otherwise provided for, the director
33 may establish the same by regulations.

34 (c) Estimated income tax. No unpaid amount of estimated tax
35 under section 54:8-5 shall be assessed.

36 (d) Supplemental assessment. The director may, at any time
37 within the period prescribed for assessment, make a supplemental
38 assessment, subject to the provisions of section 54A:9-2 where
39 applicable, whenever it is ascertained that any assessment is im-
40 perfect or incomplete in any material respect.

1 54A:9-4. Limitations on assessment. (a) General. Except as
2 otherwise provided in this section, any tax under this act shall be
3 assessed within 3 years after the return was filed (whether or not
4 such return was filed on or after the date prescribed).

5 (b) Time returned deemed filed.

6 (1) Early return. For purposes of this section a return of
7 income tax, except withholding tax, filed before the last day pre-

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8 scribed by law or by regulations promulgated pursuant to law for
9 the filing thereof, shall be deemed to be filed on such last day.

10 (2) Return of withholding tax. For purposes of this section, if
11 a return of withholding tax for any period ending with or within
12 a calendar year is filed before April 15 of the succeeding calendar
13 year, such return shall be deemed to be filed on April 15 of such
14 succeeding calendar year.

15 (c) Exceptions.

16 (1) Assessment at any time. The tax may be assessed at any
17 time if—

18 (A) No return is filed,

19 (B) A false or fraudulent return is filed with intent to evade
20 tax, or

21 (C) The taxpayer fails to comply with section 54A:8-7, in
22 not reporting a change or correction increasing his Federal
23 taxable income as reported on his Federal income tax return,
24 or in not reporting a change or correction which is treated in
25 the same manner as if it were a deficiency for Federal income
26 tax purposes, or in not filing an amended return.

27 (2) Extension by agreement. Where, before the expiration of
28 the time prescribed in this section for the assessment of tax, both
29 the director and the taxpayer have consented in writing to its
30 assessment after such time, the tax may be assessed at any time
31 prior to the expiration of the period agreed upon. The period so
32 agreed upon may be extended by subsequent agreements in writing
33 made before the expiration of the period previously agreed upon.

34 (3) Report of changed or corrected Federal income. If the tax-
35 payer shall, pursuant to section 54A:8-7, report a change or cor-
36 rection or file an amended return increasing his Federal taxable
37 income or report a change or correction which is treated in the
38 same manner as if it were a deficiency for Federal income tax
39 purposes, the assessment (if not deemed to have been made upon
40 the filing of the report or amended return) may be made at any
41 time within 2 years after such report or amended return was filed.
42 The amount of such assessment of tax shall not exceed the amount
43 of the increase in New Jersey tax attributable to such Federal
44 change or correction. The provisions of this paragraph shall not
45 affect the time within which or the amount for which an assessment
46 may otherwise be made.

47 (4) Recovery of erroneous refund. An erroneous refund shall be
48 considered an underpayment of tax on the date made, and an
49 assessment of a deficiency arising out of an erroneous refund may

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50 be made at any time within 3 years from the making of the refund,
51 except that the assessment may be made within 5 years from the
52 making of the refund if it appears that any part of the refund was
53 induced by fraud or misrepresentation of a material fact.

54 (5) Request for prompt assessment. If a return is required for a
55 decedent or for his estate during the period of administration, the
56 tax shall be assessed within 18 months after written request
57 therefor (made after the return is filed) by the executor, admini-
58 strator or other person representing the estate of such decedent,
59 but not more than 3 years after the return was filed, except as
60 otherwise provided in this subsection and subsection (d).

61 (d) Omission of income on return. The tax may be assessed at
62 any time within 6 years after the return was filed if—

63 (1) An individual omits from his New Jersey income an amount
64 properly includible therein which is in excess of 25% of the amount
65 of New Jersey income stated in the return; or

66 (2) An estate or trust omits income from its return in an amount
67 in excess of 25% of its income determined as if it were an individual,
68 computing his New Jersey income under this act.

69 For purposes of this subsection there shall not be taken into
70 account any amount which is omitted in the return if such amount
71 is disclosed in the return, or in a statement attached to the return,
72 in a manner adequate to apprise the director of the nature and
73 amount of such item.

74 (e) Suspension of running of period of limitation. The running
75 of the period of limitations on assessment or collection of tax or
76 other amount (or of a transferee's liability) shall, after the mailing
77 of a notice of deficiency, be suspended for the period during which
78 the director is prohibited under subsection (c) of section 54A :9-2
79 from making the assessment or from collecting by levy.

1 54A :9-5. Interest on underpayment. (a) General. If any amount
2 of income tax is not paid on or before the last date prescribed in
3 this act for payment, interest on such amount at the rate of 9%
4 per annum shall be paid for the period from such last date to the
5 date paid, whether or not any extension of time for payment was
6 granted. Interest under this subsection shall not be paid if the
7 amount thereof is less than \$1.00. If the time for filing of a return
8 of tax withheld by an employer is extended, the employer shall
9 pay interest for the period for which the extension is granted and
10 may not charge such interest to the employee.

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11 (b) Exception as to estimated tax. This section shall not apply
12 to any failure to pay estimated tax under section 54A:8-5.

13 (c) Exception for mathematical error. No interest shall be im-
14 posed on any underpayment of tax due solely to mathematical
15 error if the taxpayer files a return within the time prescribed in
16 this act (including any extension of time) and pays the amount of
17 underpayment within 3 months after the due date of such return,
18 as it may be extended.

19 (d) No interest on interest. No interest under this act shall be
20 imposed on any interest provided by this act.

21 (e) Suspension of interest on deficiencies. If a waiver of restric-
22 tions on assessment of a deficiency has been filed by the taxpayer,
23 and if notice and demand by the director for payment of such
24 deficiency is not made within 30 days after the filing of such waiver,
25 interest shall not be imposed on such deficiency for the period
26 beginning immediately after such thirtieth day and ending with
27 the date of notice and demand.

28 (f) Interest treated as tax. Interest under this section shall be
29 paid upon notice and demand and shall be assessed, collected and
30 paid in the same manner as income tax. Any reference in this act
31 to the tax imposed by this act shall be deemed also to refer to
32 interest imposed by this section on such tax.

33 (g) Interest on penalties or additions to tax. Interest shall be
34 imposed under subsection (a) in respect of any assessable penalty
35 or addition to tax only if such assessable penalty on addition to
36 tax is not paid within 10 days from the date of the notice and
37 demand therefor under subsection (b) of section 54A:9-12, and in
38 such case interest shall be imposed only for the period from such
39 date of the notice and demand to the date of payment.

40 (h) Payment prior to notice of deficiency. If, prior to the mail-
41 ing to the taxpayer of a notice of deficiency under subsection (b)
42 of section 54A:9-2, the director mails to the taxpayer a notice of
43 proposed increase of tax and within 30 days after the date of the
44 notice of proposed increase the taxpayer pays all amounts shown
45 on the notice to be due to the director, no interest under this section
46 on the amount so paid shall be imposed for the period after the
47 date of such notice of proposed increase.

48 (i) Payment within 10 days after notice and demand. If notice
49 and demand is made for payment of any amount under subsection
50 (b) of section 54A:9-12, and if such amount is paid within 10 days
51 after the date of such notice and demand, interest under this section
52 on the amount so paid shall not be imposed for the period after
53 the date of such notice and demand.

54 (j) Limitation on assessment and collection. Interest prescribed
55 under this section may be assessed and collected at any time dur-
56 ing the period within which the tax or other amount to which such
57 interest relates may be assessed and collected, respectively.

58 (k) Interest on erroneous refund. Any portion of tax or other
59 amount which has been erroneously refunded, and which is recover-
60 able by the director, shall bear interest at the rate of 9% per annum
61 from the date of the payment of the refund, but only if it appears
62 that any part of the refund was induced by fraud or a misrepre-
63 sentation of a material fact.

64 (l) Satisfaction by credits. If any portion of a tax is satisfied
65 by credit of an overpayment, then no interest shall be imposed
66 under this section on the portion of the tax so satisfied for any
67 period during which, if the credit had not been made, interest would
68 have been allowable with respect to such overpayment.

1 54A :9-6. Additions to tax and civil penalties. (a) Failure to file
2 tax return. In case of failure to file a tax return under this act on
3 or before the prescribed date (determined with regard to any ex-
4 tension of time for filing), unless it is shown that such failure is
5 due to reasonable cause and not due to willful neglect, there shall
6 be added to the amount required to be shown as tax on such return
7 such amount as is required under the State Tax Uniform Procedure
8 Law, Subtitle 9 of Title 54 of the Revised Statutes. For this
9 purpose, the amount of tax required to be shown on the return
10 shall be reduced by the amount of any part of the tax which
11 is paid on or before the date prescribed for payment of the tax
12 and by the amount of any credit against the tax which may be
13 claimed upon the return.

14 (b) Deficiency due to negligence. If any part of a deficiency is
15 due to negligence or intentional disregard of this act or rules or
16 regulations hereunder (but without intent to defraud), there shall
17 be added to the tax an amount equal to 5% of the deficiency.

18 (c) Failure to file declaration or underpayment of estimated tax.
19 If any taxpayer fails to file a declaration of estimated tax or fails
20 to pay all or any part of an installment of estimated tax, he shall
21 be deemed to have made an underpayment of estimated tax. There
22 shall be added to the tax for the taxable year an amount at the
23 rate of 9% per annum upon the amount of the underpayment for
24 the period of the underpayment but not beyond the fifteenth day
25 of the fourth month following the close of the taxable year. The
26 amount of underpayment shall be the excess of the amount of the
27 installment which would be required to be paid if the estimated

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28 tax were equal to 80% of the tax (two-thirds of the tax for farmers
29 referred to in subsection (e) of section 54A:8-4) shown on the re-
30 turn for the taxable year (or if no return was filed, of the tax for
31 such year) over the amount, if any, of the installment paid on or
32 before the last day prescribed for such payment. No underpayment
33 shall be deemed to exist with respect to a declaration or installment
34 otherwise due on or after the taxpayer's death.

35 (d) Exception to addition for underpayment of estimated tax.
36 The addition to tax under subsection (c) with respect to any under-
37 payment of any installment, shall not be imposed if the total amount
38 of all payments of estimated tax made on or before the last date
39 prescribed for the payment of such installment equals or exceeds
40 whichever of the following is the lesser—

41 (1) The amount which would have been required to be paid on
42 or before such date if the estimated tax were whichever of the
43 following is the least—

44 (A) The tax shown on the return of the individual for the
45 preceding taxable year, if a return showing a liability for tax
46 was filed by the individual for the preceding taxable year and
47 such preceding year was a taxable year of 12 months, or

48 (B) An amount equal to the tax computed, at the rates appli-
49 cable to the taxable year, on the basis of the taxpayer's status
50 with respect to his personal exemptions for the taxable year,
51 but otherwise on the basis of the facts shown on his return for,
52 and the law applicable to, the preceding taxable year, or

53 (C) An amount equal to 80% of the tax for the taxable year
54 (two-thirds of the tax for farmers referred to in subsection (e)
55 of section 54A:8-4) computed by placing on an annualized basis
56 the income for the months in the taxable year ending before the
57 month in which the installment is required to be paid. For
58 purposes of this subparagraph, the income shall be placed on
59 an annualized basis by—

60 (i) Multiplying by 12 (or, in the case of a taxable year of
61 less than 12 months, the number of months in the taxable
62 year) the income for the months in the taxable year ending
63 before the month in which the installment is required to be
64 paid,

65 (ii) Dividing the resulting amount by the number of
66 months in the taxable year ending before the month in which
67 such installment date falls, and

68 (iii) Deducting from such amount the deductions for per-
69 sonal exemptions allowable for the taxable year (such per-

70 sonal exemptions being determined as of the last date pre-
71 scribed for payment of the installment); or

72 (2) An amount equal to 90% of the tax computed, at the rates
73 applicable to the taxable year, on the basis of the actual income
74 for the months in the taxable year ending before the month in
75 which the installment is required to be paid.

76 (e) Deficiency due to fraud. If any part of a deficiency is due
77 to fraud, there shall be added to the tax an amount equal to 50%
78 of the deficiency. This amount shall be in lieu of any other addition
79 to tax imposed by subsection (a) or (b).

80 (f) Non willful failure to pay withholding tax. If any employer,
81 without intent to evade or defeat any tax imposed by this act or the
82 payment thereof, shall fail to make a return and pay a tax withheld
83 by him at the time required by or under the provisions of section
84 54A:7-4, such employer shall be liable for such tax and shall pay
85 the same together with interest thereon and the addition to tax
86 provided in subsection (a), and such interest and addition to tax
87 shall not be charged to or collected from the employee by the
88 employer. The director shall have the same rights and powers for
89 the collection of such tax, interest and addition to tax against such
90 employer as are now prescribed by this act for the collection of tax
91 against an individual taxpayer.

92 (g) Willful failure to collect and pay over tax. Any person
93 required to collect, truthfully account for, and pay over the tax
94 imposed by this act who willfully fails to collect such tax or truth-
95 fully account for and pay over such tax or willfully attempts in any
96 manner to evade or defeat the tax or the payment thereof, shall, in
97 addition to other penalties provided by law, be liable to a penalty
98 equal to the total amount of the tax evaded, or not collected, or
99 not accounted for and paid over. No addition to tax under sub-
100 sections (b) or (c) shall be imposed for any offense to which this
101 subsection applies.

102 (h) Failure to file certain information returns. In case of each
103 failure to file a statement of a payment to another person, required
104 under authority of subsection (c) of section 54A:8-6 (relating to
105 information at source, including the duplicate statement of tax
106 withheld on wages) on the date prescribed therefor (determined
107 with regard to any extension of time for filing), unless it is shown
108 that such failure is due to reasonable cause and not to willful
109 neglect, there shall, upon notice and demand by the director and in
110 the same manner as tax, be paid by the person so failing to file the
111 statement, a penalty of \$1.00 for each statement not so filed, but

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112 the total amount imposed on the delinquent person for all such
113 failures during any calendar year shall not exceed \$1,000.00.

114 (i) Additional penalty. Any person who with fraudulent intent
115 shall fail to pay, or to deduct or withhold and pay, any tax, or to
116 make, render, sign or certify any return or declaration of esti-
117 mated tax or to supply any information within the time required
118 by or under this act, shall be liable to penalty of not more than
119 \$1,000.00, in addition to any other amounts required under this act,
120 to be imposed, assessed and collected by the director. The director
121 shall have the power, in his discretion, to waive, reduce or compro-
122 mise any penalty under this subsection.

123 (j) Additions treated as tax. The additions to tax and penalties
124 provided by this section shall be paid upon notice and demand and
125 shall be assessed, collected and paid in the same manner as taxes
126 and any reference in this act to income tax or tax imposed by this
127 act, shall be deemed also to refer to the additions to tax and pen-
128 alties provided by this section. For purposes of section 54A:9-2,
129 this subsection shall not apply to:

130 (1) Any addition to tax under subsection (a) except as to that
131 portion attributable to a deficiency;

132 (2) Any addition to tax under subsection (e); and

133 (3) Any additional penalty under subsection (i).

134 (k) Determination of deficiency. For purposes of subsections
135 (b) and (c), the amount shown as the tax by the taxpayer upon his
136 return shall be taken into account in determining the amount of the
137 deficiency only if such return was filed on or before the last day
138 prescribed for the filing of such return, determined with regard to
139 any extension of time for such filing.

140 (l) Person defined. For purposes of subsections (g) and (i), the
141 term person includes an individual, corporation or partnership or
142 an officer or employee of any corporation (including a dissolved
143 corporation) or a member or employee of any partnership, who
144 as such officer, employee, or member is under a duty to perform
145 the act in respect of which the violation occurs.

1 54A:9-7. Overpayment. (a) General. The director, within the
2 applicable period of limitations may credit an overpayment of
3 income tax against any liability in respect of any tax imposed by
4 the tax law on the person who made the overpayment, and the
5 balance shall be refunded by the comptroller out of the proceeds
6 of the tax retained by him for such general purpose. Any refund
7 under this section shall be made only upon the filing of a return
8 and upon a certificate of the director approved by the comptroller.

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9 The State Treasurer, as a condition precedent to the approval of
10 such a certificate, may examine into the facts as disclosed by the
11 return of the person who made the overpayment and other informa-
12 tion and data available in the files of the director.

13 (b) Excessive withholding. If the amount allowable as a credit
14 for tax withheld from the taxpayer exceeds his tax to which the
15 credit relates, the excess shall be considered an overpayment.

16 (c) Overpayment by employer. If there has been an overpay-
17 ment of tax required to be deducted and withheld under section
18 54A:7-4, refund shall be made to the employer only to the extent
19 that the amount of the overpayment was not deducted and withheld
20 by the employer.

21 (d) Credits against estimated tax. The director may prescribe
22 regulations providing for the crediting against the estimated in-
23 come tax for any taxable year of the amount determined to be an
24 overpayment of the income tax for a preceding taxable year. If
25 any overpayment of income tax is so claimed as a credit against
26 estimated tax for the succeeding taxable year, such amount shall
27 be considered as a payment of the income tax for the succeeding
28 taxable year (whether or not claimed as a credit in the declaration
29 of estimated tax for such succeeding taxable year), and no claim
30 for credit or refund of such overpayment shall be allowed for the
31 taxable year for which the overpayment arises.

32 (e) Rule where no tax liability. If there is no tax liability for
33 a period in respect of which an amount is paid as income tax, such
34 amount shall be considered an overpayment.

35 (f) Under regulations prescribed by the director with approval
36 of the State Treasurer interest shall be allowed and paid at the rate
37 of 6% per annum upon any overpayment in respect of the tax im-
38 posed by this act; but no interest shall be allowed or paid on an
39 overpayment of less than \$1.00, nor upon any overpayment
40 refunded within 6 months after the last date prescribed, or per-
41 mitted by extension of time, for filing the return or within 6 months
42 after the return is filed, whichever is later.

1 54A:9-8. Limitations on credit or refund. (a) General. Claim
2 for credit or refund of an overpayment of income tax shall be filed
3 by the taxpayer within 3 years from the time the return was filed or
4 2 years from the time the tax was paid, whichever of such periods
5 expires the later, or if no return was filed, within 2 years from the
6 time the tax was paid. If the claim is filed within the 3-year period,
7 the amount of the credit or refund shall not exceed the portion of
8 the tax paid within the 3 years immediately preceding the filing of

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9 the claim plus the period of any extension of time for filing the
10 return. If the claim is not filed within the 3-year period, but is filed
11 within the 2-year period, the amount of the credit or refund shall
12 not exceed the portion of the tax paid during the 2 years immedi-
13 ately preceding the filing of the claim. Except as otherwise pro-
14 vided in this section, if no claim is filed, the amount of a credit or
15 refund shall not exceed the amount which would be allowable if a
16 claim had been filed on the date the credit or refund is allowed.

17 (b) Extension of time by agreement. If an agreement under the
18 provisions of paragraph (2) of subsection (c) of section 54A:9-4
19 (extending the period for assessment of income tax) is made within
20 the period prescribed in subsection (a) for the filing of a claim for
21 credit or refund, the period for filing a claim for credit or refund,
22 or for making credit or refund if no claim is filed, shall not expire
23 prior to 6 months after the expiration of the period within which
24 an assessment may be made pursuant to the agreement or any
25 extension thereof. The amount of such credit or refund shall not
26 exceed the portion of the tax paid after the execution of the agree-
27 ment and before the filing of the claim or the making of the credit
28 or refund, as the case may be, plus the portion of the tax paid within
29 the period which would be applicable under subsection (a) if a
30 claim had been filed on the date the agreement was executed.

31 (c) Notice of change or correction of Federal income. If a tax-
32 payer is required by section ***[54A:8-8]*** *54A:8-7* to report a
33 change or correction in Federal taxable income reported on his
34 Federal income tax return, or to report a change or correction
35 which is treated in the same manner as if it were an overpayment
36 for Federal income tax purposes, or to file an amended return with
37 the director, claim for credit or refund of any resulting overpay-
38 ment of tax shall be filed by the taxpayer within 2 years from the
39 time the notice of such change or correction or such amended re-
40 turn was required to be filed with the director. The amount of such
41 credit or refund shall not exceed the amount of the reduction in
42 tax attributable to such Federal change, correction or items
43 amended on the taxpayer's amended Federal income tax return.
44 This subsection shall not affect the time within which or the amount
45 for which a claim for credit or refund may be filed apart from this
46 subsection.

47 (d) Failure to file claim within prescribed period. No credit or
48 refund shall be allowed or made, except as provided in subsection
49 (e) of this section or subsection (d) of section 54A:9-10, after the
50 expiration of the applicable period of limitation specified in this

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51 act, unless a claim for credit or refund is filed by the taxpayer
52 within such period. Any later credit shall be void and any later
53 refund erroneous. No period of limitations specified in any other
54 law shall apply to the recovery by a taxpayer of moneys paid in
55 respect of taxes under this act.

56 (e) Effect of petition to director. If a notice of deficiency for a
57 taxable year has been mailed to the taxpayer under section 54A:9-2
58 and if the taxpayer files a timely petition with the director under
59 section 54A:9-9, he may determine that the taxpayer has made an
60 overpayment for such year (whether or not he also determines a
61 deficiency for such year). No separate claim for credit or refund
62 for such year shall be filed, and no credit or refund for such year
63 shall be allowed or made, except—

64 (1) As to overpayments determined by a decision of the director
65 which has become final; and

66 (2) As to any amount collected in excess of an amount computed
67 in accordance with the decision of the director which has become
68 final; and

69 (3) As to any amount claimed as a result of a change or correc-
70 tion described in subsection (c).

71 ****(4)**** ***(f)*** Limit on amount of credit or refund. The
72 amount of overpayment determined under subsection ***(f)*** ***(e)***
73 shall, when the decision of the director has become final, be credited
74 or refunded in accordance with subsection (a) of section 54A:6-6
75 and shall not exceed the amount of tax which the director deter-
76 mines as part of his decision was paid—

77 (1) After the mailing of the notice of deficiency; or

78 (2) Within the period which would be applicable under subsec-
79 tions (a), (b) or (c), if on the date of the mailing of the notice of
80 a deficiency a claim had been filed (whether or not filed) stating the
81 grounds upon which the director finds that there is an overpayment.

82 (g) Early return. For purposes of this section, any return filed
83 before the last day prescribed for the filing thereof shall be con-
84 sidered as filed on such last day, determined without regard to any
85 extension of time granted the taxpayer.

86 (h) Prepaid income tax. For purposes of this section, any tax
87 paid by the taxpayer before the last day prescribed for its payment,
88 any income tax withheld from the taxpayer during any calendar
89 year, and any amount paid by the taxpayer as estimated income tax
90 for a taxable year shall be deemed to have been paid by him on the
91 fifteenth day of the fourth month following the close of his taxable

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92 year with respect to which such amount constitutes a credit or
93 payment.

94 (i) Return and payment of withholding tax. Notwithstanding
95 subsection (h), for purposes of this section with respect to any
96 withholding tax—

97 (1) If a return for any period ending with or within a calendar
98 year is filed before April 15 of the succeeding calendar year, such
99 return shall be considered filed on April 15 of such succeeding
100 calendar year; and

101 (2) If a tax with respect to remuneration paid during any period
102 ending with or within a calendar year is paid before April 15 of the
103 succeeding calendar year, such tax shall be considered paid on
104 April 15 of such succeeding calendar year.

1 54A:9-9. Petition to director. (a) General. The form of a peti-
2 tion to the director, and further proceedings before the director in
3 any case initiated by the filing of a petition, shall be governed by
4 such rules as the director shall prescribe. No petition shall be
5 deemed in whole or in part without opportunity for a hearing on
6 reasonable prior notice. Such hearing shall be conducted by the
7 director, or by a hearing officer designated by him to take evidence
8 and report to the director. The director shall decide the case as
9 quickly as practicable. Notice of the decision shall be mailed
10 promptly to the taxpayer at his last known address, and such notice
11 shall set forth the director's findings of fact and a brief statement
12 of the grounds of decision in each case decided in whole or in part
13 adversely to the taxpayer.

14 (b) Petition for redetermination of a deficiency. Within 90 days,
15 or 150 days if the notice is addressed to a person outside of the
16 United States, after the mailing of the notice of deficiency autho-
17 rized by section 54A:9-2, the taxpayer may file a petition with the
18 director for a redetermination of the deficiency. Such petition may
19 also assert a claim for refund for the same taxable year or years,
20 subject to the limitations of subsection *[(g)]* *(f)* of section
21 54A:9-8.

22 (c) Petition for refund. A taxpayer may file a petition with the
23 director for the amounts asserted in a claim for refund if—

24 (1) The taxpayer has filed a timely claim for refund with the
25 director;

26 (2) The taxpayer has not previously filed with the director a
27 timely petition under subsection (b) for the same taxable year
28 unless the petition under this subsection relates to a separate claim

29 for credit or refund properly filed under subsection *[(f)]* *(e)*
30 of section 54A:9-8; and

31 (3) Either (A) 6 months have expired since the claim was filed,
32 or (B) the director has mailed to the taxpayer a notice of disallow-
33 ance of such claim in whole or in part.

34 No petition under this subsection shall be filed more than 2 years
35 after the date of mailing of a notice of disallowance, unless prior to
36 the expiration of such 2-year period it has been extended by written
37 agreement between the taxpayer and the director. If a taxpayer
38 files a written waiver of the requirement that he be mailed a notice
39 of disallowance, the 2-year period prescribed by this subsection for
40 filing a petition for refund shall begin on the date such waiver is
41 filed.

42 (d) Assertion of deficiency after filing petition.—

43 (1) **[Petition]** **Petition** for redetermination of defi-
44 ciency. If a taxpayer files with the director a petition for redeter-
45 mination of a deficiency, the director shall have power to determine
46 a greater deficiency than asserted in the notice of deficiency and to
47 determine if there should be assessed any addition to tax or penalty
48 provided in section 54A:9-6, if claim therefor is asserted at or
49 before the hearing under rules of the director.

50 (2) Petition for refund. If the taxpayer files with the director a
51 petition for credit or refund for a taxable year, the director may

52 (A) Determine a deficiency for such year as to any amount
53 of deficiency asserted at or before the hearing under rules of
54 the director, and within the period in which an assessment
55 would be timely under section 54A:9-4, or

56 (B) Deny so much of the amount for which credit or refund
57 is sought in the petition, as is offset by other issues pertaining
58 to the same taxable year which are asserted at or before the
59 hearing under rules of the director.

60 (3) Opportunity to respond. A taxpayer shall be given a reason-
61 able opportunity to respond to any matters asserted by the director
62 under this subsection.

63 (4) Restriction on further notices of deficiency. If the taxpayer
64 files a petition with the director under this section, no notice of
65 deficiency under section 54A:9-2 may thereafter be issued by the
66 director for the same taxable year, except in case of fraud or with
67 respect to a change or correction in Federal taxable income re-
68 quired to be reported under section 54A:8-7.

69 (e) Burden of proof. In any case before the director under this
70 act, the burden of proof shall be upon the petitioner except for the

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71 following issues, as to which the burden of proof shall be upon the
72 director:

73 (1) Whether the petitioner has been guilty of fraud with intent
74 to evade tax;

75 (2) Whether the petitioner is liable as the transferee of property
76 of a taxpayer, but not to show that the taxpayer was liable for the
77 tax; and

78 (3) Whether the petitioner is liable for any increase in a
79 deficiency where such increase is asserted initially after a notice of
80 deficiency was mailed and a petition under this section filed, unless
81 such increase in deficiency is the result of a change or correction of
82 Federal taxable income required to be reported under section
83 *[(54A:8-8)]* *54A:8-7*, and of which change or correction the
84 director had no notice at the time he mailed the notice of deficiency.

85 (f) Evidence of related Federal determination. Evidence of a
86 Federal determination relating to issues raised in a case before the
87 director under this section shall be admissible, under rules estab-
88 lished by the director.

89 (g) Jurisdiction over other years. The director shall consider
90 such facts with relation to the taxes for other years as may be
91 necessary correctly to determine the tax for the taxable year, but
92 in so doing shall have no jurisdiction to determine whether or not
93 the tax for any other year has been overpaid or underpaid.

1 54A:9-10. Review of director's decision. (a) Appeal to Division
2 of Tax Appeals. Any aggrieved taxpayer may, within 4 months
3 after any decision, order, finding, assessment or action of the
4 Director of Taxation made pursuant to the provisions of this act,
5 appeal therefrom to the Division of Tax Appeals, by filing a peti-
6 tion of appeal with said Division of Tax Appeals in the manner
7 and form prescribed by the said Division of Tax Appeals.

8 (b) Appeal exclusive remedy of taxpayer. The appeal provided
9 by this section shall be the exclusive remedy available to any tax-
10 payer for review of a decision of the director in respect of the
11 determination of the liability of the taxpayer for the taxes imposed
12 by this act.

13 (c) Credit, refund or abatement after review. If the amount of
14 a deficiency determined by the director is disallowed in whole or in
15 part, the amount so disallowed shall be credited or refunded to the
16 taxpayer, without the making of claim therefor, or, if payment has
17 not been made, shall be abated.

18 (d) Date of finality of director's decision. A decision of the
19 director shall become final upon the expiration of the period

20 specified in subsection (a) for filing a petition of appeal, if no such
21 petition has been filed within such time, or if such petition has been
22 duly made, upon expiration of the time for all further appeals, or
23 upon the rendering by the director of a decision in accordance with
24 the mandate of the Division of Tax Appeals or the courts on appeal.
25 Notwithstanding the foregoing, for the purpose of forming a peti-
26 tion of appeal, the decision of the director shall be deemed final on
27 the date the notice of decision is sent by mail to the taxpayer.

28 (e) Judicial review. The judgment or order of the Division of
29 Tax Appeals respecting any matter arising under the provisions
30 of this act may be reviewed by a proceeding in lieu of prerogative
31 writ in the same manner as other judgments of said division.

1 54A:9-11. Mailing rules; holidays. (a) Timely mailing. If any
2 claim, statement, notice, petition, or other document (including to
3 the extent authorized by the director, a return or a declaration of
4 estimated tax) required to be filed within a prescribed period or on
5 or before a prescribed date under authority of any provision of this
6 act is, after such period or such date, delivered by United States
7 mail to the director, bureau, office, officer or person with which or
8 with whom such document is required to be filed, the date of the
9 United States postmark stamped on the envelope shall be deemed
10 to be the date of delivery. This subsection shall apply only if the
11 postmark date falls within the prescribed period or on or before
12 the prescribed date for the filing of such document, determined with
13 regard to any extension granted for such filing, and only if such
14 document was deposited in the mail, postage prepaid, properly
15 addressed to the director, bureau, office, officer or person with which
16 or with whom the document is required to be filed. If any document
17 is sent by United States registered mail, such registration shall be
18 prima facie evidence that such document was delivered to the
19 director, bureau, office, officer or person to which or to whom
20 addressed. To the extent that the director shall prescribe by
21 regulation, certified mail may be used in lieu of registered mail
22 under this section. This subsection shall apply to the case of post-
23 marks not made by the United States Post Office only if and to
24 the extent provided by regulations of the director.

25 (b) Last known address. For purposes of this act, a taxpayer's
26 last known address shall be the address given in the last return
27 filed by him, unless subsequently to the filing of such return the tax-
28 payer shall have notified the director of a change of address.

29 (c) Last day a Saturday, Sunday or legal holiday. When the
30 last day prescribed under authority of this act (including any

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31 extension of time) for performing any act falls on Saturday, Sun-
 32 day, or a legal holiday in the State of New Jersey, the performance
 33 of such act shall be considered timely if it is performed on the next
 34 succeeding day which is not a Saturday, Sunday or a legal holiday.

1 54A :9-12. Collection, levy and liens. (a) Collection procedures.
 2 The taxes imposed by this act shall be collected by the director, and
 3 he may establish the mode or time for the collection of any amount
 4 due him under this act if not otherwise specified. The director
 5 shall, upon request, give a receipt for any sum collected under this
 6 act. The director may authorize banks or trust companies which
 7 are depositaries or financial agents of the State to receive and give
 8 a receipt for any tax imposed under this act in such manner, at such
 9 times, and under such conditions as the director may prescribe; and
 10 the director shall prescribe the manner, times and conditions under
 11 which the receipt of such tax by such banks and trust companies
 12 is to be treated as payment of such tax to the director.

13 (b) Notice and demand for tax. The director shall as soon as
 14 practicable give notice to each person liable for any amount of tax,
 15 addition to tax, penalty or interest, which has been assessed but
 16 remains unpaid, stating the amount and demanding payment
 17 thereof. Such notice shall be left at the dwelling or usual place of
 18 business of such person or shall be sent by mail to such person's
 19 last known address. Except where the director determines that
 20 collection would be jeopardized by delay, if any tax is assessed prior
 21 to the last date (including any date fixed by extension) prescribed
 22 for payment of such tax, payment of such tax shall not be demanded
 23 until after such date.

24 (c) Issuance of Certificate of Debt after notice and demand. If
 25 any person liable under this act for the payment of any tax, addition
 26 to tax, penalty or interest neglects or refuses to pay the same
 27 within 10 days after the notice and demand therefor is given to
 28 such person under subsection (b), the director may within 6 years
 29 after the date of such assessment issue a certificate of debt, pur-
 30 suant to the State Tax Uniform Procedure Law (Subtitle 9 of Title
 31 54 of the Revised Statutes).

32 (d) Taxpayer not a resident. Where a notice and demand under
 33 subsection (b) shall have been given to a taxpayer who is not then a
 34 resident, and it appears to the director that it is not practicable to
 35 find in this State property of the taxpayer sufficient to pay the
 36 entire balance of tax or other amount owing by such taxpayer who
 37 is not then a resident, the director may, in accordance with subsec-
 38 tion (c), issue a certificate of debt. Thereupon the director may

39 authorize the institution of any action or proceeding to collect or
40 enforce the certificate of debt in any place and by any procedure
41 that a civil certificate of debt of the Superior Court of the State of
42 New Jersey could be collected or enforced. The director may also,
43 in his discretion, designate agents or retain counsel for the pur-
44 pose of collecting, outside the State of New Jersey, any unpaid
45 taxes, additions to tax, penalties or interest which have been
46 assessed under this act against taxpayers who are not residents of
47 this State, may fix the compensation of such agents and counsel to
48 be paid out of money appropriated or otherwise lawfully available
49 for payment thereof, and may require of them bonds or other
50 security for the faithful performance of their duties, in such form
51 and in such amount as the director shall deem proper and sufficient.

52 (e) Action by State for recovery of taxes. Action may be
53 brought by the Attorney General at the instance of the director in
54 the name of the State to recover the amount of any unpaid taxes,
55 additions to tax, penalties or interest which have been assessed
56 under this act within 6 years prior to the date the action is com-
57 menced.

58 (f) Actions for collection of tax. (1) At the request of the
59 Division of Taxation, the Attorney General may bring suit, in the
60 name of this State, in the appropriate court of any other state to
61 collect any tax legally due this State under this act.

62 (2) The courts of this State shall recognize and enforce liabilities
63 for taxes lawfully imposed by any other state, upon incomes, which
64 extends a like comity to this State, and the duly authorized officer
65 of any such state may sue for the collection of such a tax in the
66 courts of this State. A certificate by the secretary of state of such
67 other state that an officer suing for the collection of such a tax is
68 duly authorized to collect the same shall be conclusive proof of such
69 authority.

70 (3) For the purposes of this section, the words "tax" and
71 "taxes" shall include interest and penalties due under this act, and
72 liability for such interest or penalties or both, due under a taxing
73 statute of another state shall be recognized and enforced by the
74 courts of this State to the same extent that the laws of such other
75 state permit the enforcement in its courts of liability for such in-
76 terest or penalties or both, due under this act.

77 (g) Renewal and release of lien. Within 20 years from the date
78 of the filing or from the date of the last extension of the lien, the
79 lien may be extended by the filing of a new warrant with the county
80 recording officer. The director if he finds that the interests of the

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81 State will not thereby be jeopardized, and upon such conditions
82 as he may require, may release any property from the lien of any
83 warrant for unpaid taxes, additions to tax, penalties and interest
84 filed pursuant to this section, and such release may be recorded in
85 the office of any recording officer in which such warrant has been
86 filed.

1 54A:9-13. Transferees. (a) General. The liability, at law or in
2 equity, of a transferee of property of a taxpayer for any tax, addi-
3 tions to tax, penalty or interest due the director under this act,
4 shall be assessed, paid, and collected in the same manner and sub-
5 ject to the same provisions and limitations as in the case of the tax
6 to which the liability relates, except that the period of limitations
7 for assessment against the transferee shall be extended by 1 year
8 for each successive transfer, in order, from the original taxpayer
9 to the transferee involved, but not by more than 3 years in the
10 aggregate. The term transferee includes, donee, heir, legatee,
11 devisee and distributee.

12 (b) Exceptions.

13 (1) If before the expiration of the period of limitations for
14 assessment of liability of the transferee, a claim has been filed by
15 the director in any court against the original taxpayer or the last
16 preceding transferee based upon the liability of the original tax-
17 payer, then the period of limitation for assessment of liability of
18 the transferee shall in no event expire prior to 1 year after such
19 claim has been finally allowed, disallowed or otherwise disposed of.

20 (2) If, before the expiration of the time prescribed in subsection
21 (a) or the immediately preceding paragraph of this subsection for
22 the assessment of the liability, the director and the transferee have
23 both consented in writing to its assessment after such time, the
24 liability may be assessed at any time prior to the expiration of the
25 period agreed upon. The period so agreed upon may be extended by
26 subsequent agreements in writing made before the expiration of
27 the period previously agreed upon. For the purpose of determining
28 the period of limitation on credit or refund to the transferee of
29 overpayments of tax made by such transferee or overpayments of
30 tax made by the transferor as to which the transferee is legally en-
31 titled to credit or refund, such agreement and any extension thereof
32 shall be deemed an agreement and extension thereof referred to in
33 subsection (b) of section 54A:9-8. If the agreement is executed
34 after the expiration of the period of limitation for assessment
35 against the original taxpayer, then in applying the limitations
36 under subsection (b) of section 54A:9-8 on the amount of the credit

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37 or refund, the periods specified in subsection (a) of section
38 54A:9-8 shall be increased by the period from the date of such
39 expiration to the date of the agreement.

40 (c) Deceased transferor. If any person is deceased, the period
41 of limitation for assessment against him shall be the period that
42 would be in effect if he had lived.

43 (d) Evidence. Notwithstanding the provisions of **[subsection
44 (e) of section 54A:9-17]** **R. S. 54:50-8 of the State Tax Uni-
45 form Procedure Law, Subtitle 9 of Title 54 of the Revised Stat-
46 utes,** the director shall use his powers to make available to the
47 transferee evidence necessary to enable the transferee to determine
48 the liability of the original taxpayer and of any preceding trans-
49 ferees, but without undue hardship to the original taxpayer or
50 preceding transferee. See subsection (e) of section 54A:9-9 for
51 rule as to burden of proof.
52

1 54A:9-14. Jeopardy assessment. (a) Authority for making. If
2 the director believes that the assessment or collection of a de-
3 ficiency will be jeopardized by delay, he shall, notwithstanding the
4 provisions of sections 54A:9-2 and 54A:9-16, immediately assess
5 such deficiency (together with all interests, penalties and additions
6 to tax provided for by law), and notice and demand shall be made
7 by the director for the payment thereof.

8 (b) Notice of deficiency. If the jeopardy assessment is made
9 before any notice in respect of the tax to which the jeopardy assess-
10 ment relates has been mailed under section 54A:9-2, then the
11 director shall mail a notice under such section within 60 days after
12 the making of the assessment.

13 (c) Amount assessable before decision of director. The jeopardy
14 assessment may be made in respect of a deficiency greater or less
15 than of which notice is mailed to the taxpayer and whether or not
16 the taxpayer has theretofore filed a petition with the director. The
17 director may, at any time before rendering his decision, abate such
18 assessment, or any unpaid portion thereof, to the extent that he
19 believes the assessment to be excessive in amount. The director
20 may in his decision redetermine the entire amount of the deficiency
21 and of all amounts assessed at the same time in connection there-
22 with.

23 (d) Amount assessable after decision of director. If the jeopardy
24 assessment is made after the decision of the director is rendered,
25 such assessment may be made only in respect of the deficiency
26 determined by the director in his decision.

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27 (e) Expiration of right to assess. A jeopardy assessment may
28 not be made after the decision of the director has become final or
29 after the taxpayer has filed a petition with the Division of Tax
30 Appeals for review of the decision of the director.

31 (f) Collection of unpaid amounts. When a petition has been filed
32 with the director and when the amount which should have been
33 assessed has been determined by a decision of the director which
34 has become final, then any unpaid portion, the collection of which
35 has been stayed by bond, shall be collected as part of the tax upon
36 notice and demand from the director, and any remaining portion
37 of the assessment shall be abated. If the amount already collected
38 exceeds the amount determined as the amount which should have
39 been assessed, such excess shall be credited or refunded to the tax-
40 payer as provided in section 54A:9-7 without the filing of claim
41 therefor. If the amount determined as the amount which should
42 have been assessed is greater than the amount actually assessed,
43 then the difference shall be assessed and shall be collected as part
44 of the tax upon notice and demand from the director.

45 (g) Abatement if jeopardy does not exist. The director may
46 abate the jeopardy assessment if he finds that jeopardy does not
47 exist. Such abatement may not be made after a decision of the
48 director in respect of the deficiency has been rendered or, if no pe-
49 tition is filed with the director, after the expiration of the period
50 for filing such petition. The period of limitation on the making of
51 assessments and levy or a proceeding for collection, in respect of
52 any deficiency, shall be determined as if the jeopardy assessment
53 so abated had not been made, except that the running of such period
54 shall in any event be suspended for the period from the date of such
55 jeopardy assessment until the expiration of the tenth day after the
56 day on which such jeopardy assessment is abated.

57 (h) Bond to stay collection. The collection of the whole or any
58 amount of any jeopardy assessment may be stayed by filing with
59 the director, within such time as may be fixed by regulation, a bond
60 in an amount equal to the amount as to which the stay is desired,
61 conditioned upon the payment of the amount (together with inter-
62 est thereon) the collection of which is stayed at the time at which,
63 but for the making of the jeopardy assessment, such amount would
64 be due. Upon the filing of the bond the collection of so much of the
65 amount assessed as is covered by the bond shall be stayed. The
66 taxpayer shall have the right to waive such stay at any time in
67 respect of the whole or any part of the amount covered by the bond,
68 and if as a result of such waiver any part of the amount covered

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69 by the bond is paid, then the bond shall at the request of the tax-
70 payer, be proportionately reduced. If any portion of the jeopardy
71 assessment is abated, or if a notice of deficiency under section
72 54A:9-2 is mailed to the taxpayer in a lesser amount, the bond
73 shall, at the request of the taxpayer, be proportionately reduced.

74 (i) Petition to director. If the bond is given before the taxpayer
75 has filed his petition under section 54A:9-9, the bond shall contain
76 a further condition that if a petition is not filed within the period
77 provided in such section, then the amount, the collection of which
78 is stayed by the bond, will be paid on notice and demand at any
79 time after the expiration of such period, together with interest
80 thereon from the date of the jeopardy notice and demand to the
81 date of notice and demand under this subsection. The bond shall
82 be conditioned upon the payment of so much of such assessment
83 (collection of which is stayed by the bond) as is not abated by a
84 decision of the director which has become final. If the director
85 determines that the amount assessed is greater than the amount
86 which should have been assessed, then the bond shall, at the re-
87 quest of the taxpayer, be proportionately reduced when the de-
88 cision of the director is rendered.

89 (j) Stay of sale of seized property pending director's decision.
90 Where a jeopardy assessment is made, the property seized for the
91 collection of the tax shall not be sold—

92 (1) If subsection (b) is applicable, prior to the issuance of the
93 notice of deficiency and the expiration of the time provided in sec-
94 tion 54A:9-9, for filing a petition with the director, and

95 (2) If a petition is filed with the director (whether before or
96 after the making of such jeopardy assessment), prior to the ex-
97 piration of the period during which the assessment of the deficiency
98 would be prohibited if subsection (a) were not applicable.

99 Such property may be sold if the taxpayer consents to the sale,
100 or if the director determines that the expenses of conservation and
101 maintenance will greatly reduce the net proceeds, or if the property
102 is perishable.

103 (k) Interest. For the purpose of subsection (a) of section
104 54A:9-5, the last date prescribed for payment shall be determined
105 without regard to any notice and demand for payment issued under
106 this section prior to the last date otherwise prescribed for such
107 payment.

108 (l) Early termination of taxable year. If the director finds that
109 a taxpayer designs quickly to depart from this State or to remove
110 his property therefrom, or to conceal himself or his property

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111 therein, or to do any other act tending to prejudice or to render
112 wholly or partly ineffectual proceedings to collect the income tax
113 for the current or the preceding taxable year unless such proceed-
114 ings be brought without delay, the director shall declare the tax-
115 able period for such taxpayer immediately terminated, and shall
116 cause notice of such finding and declaration to be given the tax-
117 payer, together with a demand for immediate payment of the tax
118 for the taxable period so declared terminated and of the tax for
119 the preceding taxable year or so much of such tax as is unpaid,
120 whether or not the time otherwise allowed by law for filing return
121 and paying the tax has expired; and such taxes shall thereupon
122 become immediately due and payable. In any proceeding brought
123 to enforce payment of taxes made due and payable by virtue of
124 the provisions of this subsection, the finding of the director made
125 as herein provided, whether made after notice to the taxpayer or
126 not, shall be for all purposes presumptive evidence of jeopardy.

127 (m) Reopening of taxable period. Notwithstanding the termi-
128 nation of the taxable period of the taxpayer by the director, as
129 provided in subsection (l), the director may reopen such taxable
130 period each time the taxpayer is found by the director to have
131 received income, within the current taxable year, since the termi-
132 nation of such period. A taxable period so terminated by the di-
133 rector may be reopened by the taxpayer if he files with the director
134 a true and accurate return of taxable income and credits allowed
135 under this act for such taxable period, together with such other
136 information as the director may by regulations prescribe.

137 (n) Furnishing of bond where taxable year is closed by the
138 director. Payment of taxes shall not be enforced by any proceed-
139 ings under the provisions of subsection (l) prior to the expiration
140 of the time otherwise allowed for paying such taxes if the taxpayer
141 furnishes, under regulations prescribed by the director, a bond to
142 insure the timely making of returns with respect to, and payment
143 of, such taxes or any income taxes for prior years.

1 54A:9-15. Criminal penalties. (a) Attempt to evade tax. Any
2 individual, corporation or partnership or any officer or employee
3 of any corporation, or member or employee of any partnership,
4 who, with intent to evade any tax or any requirement of this act
5 or any lawful requirement of the director thereunder, shall fail to
6 pay the tax, or to make, render, sign or certify any return or
7 declaration of estimated income, or to supply any information
8 within the time required by or under the provisions of this act,
9 or who, with like intent, shall make, render, sign or certify any

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10 false or fraudulent return, declaration or statement, or shall supply
11 any false or fraudulent information, or who shall fail to comply
12 with the provisions of subsection (b) of section 54A:7-4 after the
13 service of a notice by the director thereunder, shall be guilty of a
14 misdemeanor and shall, upon conviction, be fined not to exceed
15 \$5,000.00 or be imprisoned not to exceed 1 year, or both, at the
16 discretion of the court.

17 (b) Limitations. Notwithstanding the provisions of any other
18 law, a prosecution for any offense under this section may be com-
19 menced at any time not later than 5 years after the commission
20 of such offense provided that, if such offense is the failure to do
21 an act required by or under the provision of this act to be done
22 before a certain date, a prosecution for such offense may be com-
23 menced not later than 5 years after such date.

24 (c) Willful failure to withhold. Any individual, corporation or
25 partnership or any officer or employee of any corporation (includ-
26 ing a dissolved corporation), or member or employee of any part-
27 nership, who willfully fails to collect or pay over any withholding
28 tax as required, shall, in addition to other penalties provided by
29 law, be guilty of a misdemeanor, and, upon conviction thereof
30 shall be fined not to exceed \$5,000.00 or imprisoned not to exceed
31 1 year, or both.

32 (d) Two or more charges. In the prosecution of offenses under
33 this section, if there are two or more charges against any person
34 or corporation, involving a violation or violations of any provision
35 or provisions of this act, whether for the same or different taxable
36 years, instead of returning several indictments or filing several
37 informations, all of such charges may be joined in one indictment
38 or information, in separate counts, and if two or more indictments
39 are found, or two or more informations are filed, the court may
40 order them to be consolidated. If a person or corporation shall be
41 convicted of two or more offenses constituting different crimes
42 set forth in different counts of one indictment or information, or
43 in separate indictments or informations consolidated as herein-
44 before provided, the court may impose a separate sentence for
45 each offense, and if imprisonment is imposed, the court may order
46 any of such sentences to be served concurrently or consecutively.

47 (e) Miscellaneous rules. The failure to do any act required by
48 or under the provisions of this act shall be deemed an act committed
49 in part at the office of the director in Trenton. Any prosecution
50 under this section may be conducted in any county where the person
51 or corporation to whose tax liability the proceeding relates resides,

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52 or has a place of business, or from which such person or corpora-
53 tion received any income, or in any county in which any such crime
54 is committed, or in the county of Mercer. The Attorney General
55 shall have concurrent jurisdiction with any prosecuting attorney
56 in the prosecution of any offenses under this section. If the pro-
57 visions of this section conflict with those contained in any other
58 law, this section shall control. The certificate of the director to
59 the effect that a tax has not been paid, that a return or declaration
60 of estimated tax has not been filed, or that information has not
61 been supplied, as required by or under the provisions of this act,
62 shall be prima facie evidence that such tax has not been paid, that
63 such return or declaration has not been filed, or that such informa-
64 tion has not been supplied. All fines levied under this section shall
65 be paid to the director and deposited in the same manner as
66 revenues collected or received under this act.

1 54A:9-16. Armed forces relief provisions. (a) Time to be
2 disregarded. In the case of an individual serving in the Armed
3 Forces of the United States, or serving in support of such armed
4 forces, in an area designated by the President of the United States
5 by executive order as a "combat zone" at any time during the
6 period designated by the president by executive order as the period
7 of combatant activities in such zone, or hospitalized outside the
8 State as a result of injury received while serving in such an area
9 during such time, the period of service in such area, plus the period
10 of continuous hospitalization outside the State attributable to such
11 injury, and the next 180 days thereafter, shall be disregarded in
12 determining, under this act, in respect of the income tax liability
13 (including any interest, penalty, or addition to the tax) of such
14 individual.

15 (1) Whether any of the following acts was performed within the
16 time prescribed therefor:

17 (A) Filing any return of income tax (except withholding
18 tax);

19 (B) Payment of any income tax (except withholding tax)
20 or any installment thereof or of any other liability to the State,
21 in respect thereof;

22 (C) Filing a petition with the director for credit or refund
23 or for redetermination of a deficiency, or application for review
24 of a decision rendered by the director;

25 (D) Allowance of a credit or refund of income tax;

26 (E) Filing a claim for credit or refund of income tax;

- 27 (F) Assessment of income tax;
 28 (G) Giving or making any notice or demand for the payment
 29 of any income tax, or with respect to any liability to the State
 30 in respect of income tax;
 31 (H) Collection, by the director, by levy or otherwise of the
 32 amount of any liability in respect of income tax;
 33 (I) Bringing suit by the State, or any officer, on its behalf,
 34 in respect of any liability in respect of income tax; and
 35 (J) Any other act required or permitted under this act or
 36 specified in regulations prescribed under this section by the
 37 director.

38 (2) The amount of any credit or refund (including interest).

39 (b) Action taken before ascertainment of right to benefits. The
 40 assessment or collection of the tax imposed by this act or of any
 41 liability to the State in respect of such tax, or any action or proceed-
 42 ing by or on behalf of the State in connection therewith, may be
 43 made, taken, begun, or prosecuted in accordance with law, without
 44 regard to the provisions of subsection (a), unless prior to such
 45 assessment, collection, action, or proceeding it is ascertained that
 46 the person concerned is entitled to the benefits of subsection (a).

47 (c) Members of armed forces dying in action. In the case of any
 48 person who dies during an induction period while in active service
 49 as a member of the Armed Forces of the United States, if such
 50 death occurred while serving in a combat zone during a period of
 51 combatant activities in such zone, as described in subsection (a),
 52 or as a result of wounds, disease or injury incurred while so serv-
 53 ing, the tax imposed by this act shall not apply with respect to the
 54 taxable year in which falls the date of his death, or with respect
 55 to any prior taxable year ending on or after the first day he so
 56 served in a combat zone, and no returns shall be required in behalf
 57 of such person or his estate for such year, and the tax for any such
 58 taxable year which is unpaid at the date of his death, including
 59 interest, additions to tax and penalties, if any, shall not be assessed
 60 and, if assessed, the assessment shall be abated and, if collected,
 61 shall be refunded to the legal representative of his estate if one
 62 has been appointed and has qualified, or, if no legal representative
 63 has been appointed or has qualified, to his widow.

1 54A:9-17. General powers of the director. (a) General. The
 2 director shall administer and enforce the tax imposed by this act
 3 and is authorized to make such rules and regulations, and to require
 4 such facts and information to be reported as he may deem necessary
 5 to enforce the provisions of this act. The director may divide the

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6 State into districts in each of which a branch office may be main-
7 tained by him, but in no case shall a county be divided in forming
8 a district.

9 (b) Delegation of powers. The director may delegate to any
10 officer or employee of his division such of his powers as he may
11 deem necessary to carry out efficiently the provisions of this act,
12 and the person or persons to whom such power has been delegated
13 shall possess and may exercise all of the power and perform all of
14 the duties herein conferred and imposed upon the director.

15 (c) Examination of books and witnesses. The director for the
16 purpose of ascertaining the correctness of any return, or for the
17 purpose of making an estimate of taxable income of any person,
18 shall have power to examine or to cause to have examined, by any
19 agent or representative designated by him for that purpose, any
20 books, papers, records or memoranda bearing upon the matters
21 required to be included in the return, and may require the attend-
22-23 ance of the person rendering the return or any officer or employee
24 of such person, or the attendance of any other person having
25 knowledge in the premises, and may take testimony and require
26 proof material for his information, with power to administer oaths
27 to such person or persons.

28 (d) Abatement authority. The director, on his own motion, may
29 abate any small unpaid balance of an assessment of income tax, or
30 any liability in respect thereof, if the director determines under
31 uniform rules prescribed by him that the administration and collec-
32 tion costs involved would warrant collection of the amount due.
33 He may also abate, on his own motion, the unpaid portion of the
34 assessment of any tax or any liability in respect thereof, which is
35 excessive in amount, or is assessed after the expiration of the period
36 of limitation properly applicable thereto, or is erroneously or
37 illegally assessed. No claim for abatement under this subsection
38 shall be filed by a taxpayer.

39 ***(e) The Department of the Treasury, Division of Taxation,*
40 *may enter into an agreement with the taxing authorities of any*
41 *state which imposes a tax on or is measured by income to provide*
42 *that compensation paid in such state to residents of this State*
43 *shall be exempt from such tax; in such case any compensation paid*
44 *in this State to residents of such state shall be exempt from New*
45 *Jersey personal income tax. The Division, in such agreements,*
46 *may provide for reciprocal withholding, employer liability, ex-*
47 *change of information and all other matters relating to cooperation*
48 *between the states.*

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49 54A:9-17.1. Identifying numbers. (a) Supplying of identifying
50 numbers. When required by regulations prescribed by the
51 director:

52 (1) Inclusion in returns. Any person required under the author-
53 ity of this act to make a return, statement, or other document shall
54 include in such return, statement, or other document such identify-
55 ing number as may be prescribed for securing proper identification
56 of such person.

57 (2) Furnishing number to other person. Any person with
58 respect to whom a return, statement, or other document is required
59 under the authority of this act to be made by another person shall
60 furnish to such other person such identifying number as may be
61 prescribed for securing his proper identification.

62 (3) Furnishing number of another person. Any person required
63 under the authority of this act to make a return, statement, or
64 other document with respect to another person shall request from
65 such other person, and shall include in any such return, statement,
66 or other document, such identifying number as may be prescribed
67 for securing proper identification of such other person.

68 (b) Limitation. (1) Except as provided in paragraph (2), a
69 return of any person with respect to his liability for tax, or any
70 statement or other document in support thereof, shall not be con-
71 sidered for purposes of paragraphs (2) and (3) of subsection (a)
72 as a return, statement, or other document with respect to another
73 person.

74 (2) For purposes of paragraphs (2) and (3) of subsection (a),
75 a return of an estate or trust with respect to its liability for tax,
76 and any statement or other document in support thereof, shall be
77 considered as a return, statement, or other document with respect
78 to each beneficiary of such estate or trust.

79 (c) Requirement of information. For purposes of this section,
80 the director is authorized to require such information as may be
81 necessary to assign an identifying number to any person.**

1 54A:9-18. Order to compel compliance. (a) Failure to file tax
2 return. If any person willfully refuses to file an income tax return
3 required by this act, the director may apply to a judge of the su-
4 perior court for an order directing such person to file the required
5 return. If a person fails or refuses to obey such order, he shall be
6 guilty of contempt of court.

7 (b) Failure to furnish records or testimony. If any person will-
8 fully refuses to make available any books, papers, records or
9 memoranda for examination by the director or his representative

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10 or willfully refuses to attend and testify, pursuant to the powers
11 conferred on the director under this act, the director may apply to
12 a judge in the superior court in the county where such person
13 resides, for an order directing that person to comply with the
14 director's request for books, papers, records or memoranda or for
15 his attendance and testimony. If the books, papers, records or
16 memoranda required by the director are in the custody of a cor-
17 poration, the order of the court may be directed to any principal
18 officer of such corporation. If a person fails or refuses to obey
19 such order, he shall be guilty of contempt of court.

1 54A:9-19. Exercise of powers and duties of Division of Taxation
2 by director. All the powers, duties and responsibilities vested in the
3 Division of Taxation by this act shall be exercised by the director
4 thereof or his duly designated representative.

1 54A:9-20. Appropriation. There is hereby appropriated to the
2 Division of Taxation in the Department of the Treasury the sum of
3 **[\$4.6]** **\$5.0** million or so much thereof as shall be required
4 to carry out the provisions of this act from the effective date hereof
5 through the period ending June 30, 1977.

1 54A:9-21. Severability clause. If any provision of this act, or
2 any application of any provision, is held invalid, the invalidity shall
3 not affect other applications of the provision, or other provisions
4 of the act, which reasonably can be given effect despite the
5 invalidity.

1 54A:9-22. Repeal of emergency transportation tax act. (a)
2 Savings clause. Chapter 32, laws of 1961 (C. 54:8A-1 et seq.), as
3 amended, is hereby repealed, effective **[April 1]** **July 1**,
4 1976 and shall be inoperative with respect to income subject to tax,
5 under said act, paid or accrued on and after said date. Such repeal
6 shall not affect the obligation, lien or duty to pay any taxes, interest
7 or penalties which have accrued or may accrue by virtue of any
8 assessment made or which may be made with respect to taxes levied
9 for any taxable year prior to **[April 1]**, **July 1**, 1976 nor
10 shall this act affect the legal authority to assess and collect taxes
11 which may be or have been due and payable under said chapter 32,
12 laws of 1961, as amended, together with such interest and penalties
13 as would have accrued thereon under any provision of law amended
14 or repealed hereby; nor shall this act invalidate any assessments or
15 affect any proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after **[April 1]** **July
17 1***, 1976. A taxpayer whose taxes have been withheld under

18 chapter 32, laws of 1961, as amended, on and after **[April 1]**
19 **July 1**, 1976 shall be entitled to a credit against his tax liability
20 under this act.

1 54A:9-23. Repeal of transportation benefits tax act. (a) Savings
2 clause. Chapter 222, laws of 1971 (C. 54:8A-58 et seq.), as
3 amended, is hereby repealed, effective **[April 1]** **July 1**,
4 1976, and shall be inoperative with respect to income subject to tax,
5 under said act, paid or accrued on and after said date. Such repeal
6 shall not affect the obligation, lien or duty to pay any taxes, interest
7 or penalties which have accrued or may accrue by virtue of any
8 assessment made or which may be made with respect to taxes levied
9 for any taxable year prior to **[April 1]** **July 1**, 1976, nor
10 shall this act affect the legal authority to assess and collect taxes
11 which may be or have been due and payable under said chapter 222,
12 laws of 1971, as amended, together with such interest and penalties
13 as would have accrued thereon under any provision of law amended
14 or repealed hereby; nor shall this act invalidate any assessments
15 or affect any proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after **[April 1]** **July
17 1**, 1976. A taxpayer whose taxes have been withheld under
18 chapter 222, laws of 1971, as amended, on and after **[April 1]**
19 **July 1**, 1976 shall be entitled to a credit against his tax liability
20 under this act.

1 54A:9-24. Repeal of Tax on Capital Gains and Other Unearned
2 Income. Chapter 172, laws of 1975 (C. 54:8B-1 et seq.) is hereby
3 repealed, effective *[January 1]* **[*April 1]* **July 1**,
4 1976, and shall be inoperative with respect to capital gains and
5 other unearned income subject to tax, under said act, paid or
6 accrued on and after said data. Such repeal shall not affect the
7 obligation, lien or duty to pay any taxes, interest or penalties which
8 have accrued or may accrue by virtue of any assessment made or
9 which may be made with respect to taxes levied for any taxable
10 year or part of a taxable year prior to *[January 1]* **[*April
11 1]* **July 1**, 1976, nor shall this act affect the legal authority
12 to assess and collect the taxes which may be or have been due and
13 payable under said chapter 172, laws of 1975 as amended, together
14 with such interest and penalties as would have accrued thereon
15 under any provision of law amended or repealed hereby; nor shall
16 this act invalidate any assessments or affect any proceeding for
17 the enforcement thereof. ***In the event of such repeal, the adjusted
18 gross income requirements and the personal exemptions allowed
19 shall be prorated according to the number of taxable months re-*

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20 *quired to be reported divided by 12. The taxpayer may, at his*
21 *option, determine actual adjusted gross income for the period re-*
22 *quired to be reported.***

1 ***[54A:9-25. Taxes collected under the provisions of this act*
2 *shall be deposited by the State Treasurer in a special account to be*
3 *known as the Property Tax Relief Fund. Moneys in the Property*
4 *Tax Relief Fund shall be annually appropriated, pursuant to*
5 *formulas established from time to time by the Legislature, to the*
6 *several counties, municipalities and school districts of this State*
7 *exclusively for the purpose of *providing property tax relief and*
8 *for the purpose of* reducing or offsetting property taxes, * [pro-*
9 *vided, however, there may be deducted the administrative cost of*
10 *the collection hereof]* *including the funding of the requirements*
11 *of P. L. 1975, c. 212, revenue sharing under 1976 Assembly No. 1663*
12 *and homestead exemptions under 1976 Assembly No. 1330, as said*
13 *acts may hereafter be amended or supplemented and provided,*
14 *there may be deducted the administrative cost of the collection*
15 *hereof and in replacement of revenues resulting from the repeal of*
16 *certain laws under **this and** companion legislation.*]***

1 ***54A:9-25. State Aid for Schools Fund. Taxes collected pur-*
2 *suant to this act shall be deposited by the State Treasurer in a*
3 *special account to be known as the State Aid for Schools Fund.*
4 *Moneys in the State Aid for Schools Fund shall be annually appro-*
5 *priated, pursuant to formulas established from time to time by the*
6 *Legislature, to school districts of this State as State Aid. There*
7 *may also be deducted from the taxes collected pursuant to this act*
8 *the administrative cost of the collection hereof and in replacement*
9 *of revenues resulting from the repeal of certain laws under this and*
10 *companion legislation.***

1 ***54A:9-25.1. There is hereby established within the General*
2 *Treasury a special fund to be known as the "Gubernatorial General*
3 *Elections Fund." Where a taxpayer has indicated on a return filed*
4 *pursuant to this act that one dollar of his taxes is to be reserved*
5 *for such fund, the Treasurer shall credit such fund from the taxes*
6 *collected under the provisions of this act. The fund shall be avail-*
7 *able for appropriation pursuant to section 5 of P. L. 1974, c. 26*
8 *(C. 19:44A-30), provided however that establishment of the*
9 *"Gubernatorial General Elections Fund" shall in no way affect*
10 *the operation of said section.*

11 *Blank forms of return provided by the director for use in*
12 *reporting under this act shall include, in a conspicuous place, the*
13 *opportunity for a taxpayer to indicate his preference under this*
14 *section in substantially the following manner:*

Yes No

<p><i>"Gubernatorial General Elections Fund"</i></p>	<p><i>Do you wish to designate \$1 of your taxes for this fund?</i></p>		
<p><i>NOTE: If you check the "Yes" box(es) it will not increase your tax or reduce your refund.</i></p>	<p><i>If joint return, does your spouse wish to designate \$1?*</i></p>		

1 **54A:9-26. **Blank.** **[Notwithstanding the provisions of*
 2 *54A:9-25 in each year there shall be annually appropriated for*
 3 *State aid to school districts not less than the amount appropriated*
 4 *for fiscal 1976.]***

1 **[54A:9-26]* *54A:9-27*. Effective date. (a) This act shall*
 2 *take effect immediately and shall be applicable with respect to*
 3 *items of income, deduction, loss or gain occurring in taxable years*
 4 *ending on or after **[April 1]** **July 1**, 1976 but only to the*
 5 *extent such items have been earned, or incurred on or after*
 5A ***[April 1]** **July 1**, 1976.*

6 (b) New Jersey taxable income for 1976 from a person or entity
 7 with ***[a fiscal year]** **an accounting period*** for Federal
 8 income tax purposes which begins before ***[April 1]** **July 1**, 1976*
 9 shall be ***determined by computing*** the total taxable income
 10 of the person or entity for the full ***[fiscal year multiplied]***
 11 ***accounting period and by multiplying such taxable income*** by
 12 the quotient of the number of days in such year after ***[April*
 13 *1]** **July 1**, 1976, divided by 365. ***However, where the tax-*
 14 *payer's taxable year covers a period of less than 12 months, the tax-*
 15 *payer may determine total taxable income solely on the basis of the*
 16 *items of income, deductions, loss or gain occurring during such*
 16A *taxable year.****

17 ***[(c) However, this act shall remain inoperative unless and until*
 18 *Assembly Committee Substitute for Assembly 1330 and Assembly*
 19 *Committee Substitute for Assembly 1663 **[are enacted and*
 20 *become operative and until]** **, **Assembly Bills **1738, **1761,*
 21 *1762, 1763, 1764 **[, 1765,]** and 1766 **and Senate Bills 877*
 22 *and 913** are enacted.**]*

[OFFICIAL COPY REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

STATE OF NEW JERSEY

ADOPTED MARCH 10, 1976

AN Act establishing Title 54A *of the New Jersey Statutes*, providing for the taxation of gross incomes, establishing a New Jersey State Gross Income Tax to be administered and collected by the Director of the Division of Taxation in the Department of the Treasury, and providing penalties for violations thereof.

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

1 54A:1-1 Short title. This title shall be known and may be cited
2 as the "New Jersey Gross Income Tax Act."

1 54A:1-2. Definition. As used in this act, unless the context
2 clearly indicates otherwise, the following words and phrases shall
3 have the following meaning:

4 a. "Director" means the Director of the Division of Taxation
5 in the Department of the Treasury.

6 b. "Fiduciary" means a guardian, trustee, executor, admini-
7 strator, receiver, conservator, or any person acting in any fiduciary
8 capacity for any person.

9 c. "Excludable income" shall be limited to those payments set
10 forth in chapter 6 hereunder.

11 d. "Gross income" shall include that set forth in chapter 5
12 hereunder.

13 e. "Dependent" means a spouse or child who derives more than
14 one-half of his total support during the entire taxable year from
15 a taxpayer. Any person who is a dependent pursuant to the

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

16 provisions of the Internal Revenue Code during a taxable year
17 shall prima facie be deemed a dependent for purposes of this act.
18 f. *“Permanently and totally disabled” means total and per-*
19 *manent inability to engage in any substantial gainful activity by*
20 *reason of any medically determinable physical or mental impair-*
21 *ment, including blindness. For purposes of this subsection, “blind-*
22 *ness” means central visual acuity of 20/200 or less in the better*
23 *eye with the use of a correcting lens. An eye which is accompanied*
24 *by a limitation in the fields of vision such that the widest diameter*
25 *of the visual field subtends an angle no greater than 20 degrees*
26 *shall be considered as having a central visual acuity of 20/200 or*
27 *less.*

28 g. *“Medical expenses” mean nonreimbursed payments for*
29 *physicians and dental fees, hospital care, nursing care, medicines*
30 *and drugs, prosthetic devices, X-rays and other diagnostic services*
31 *conducted by or directed by a physician or dentist. In addition,*
32 *medical expenses may also include amounts paid for transporta-*
33 *tion primarily for and essential to medical care and insurance*
34 *(including amounts paid as premiums under part B of Title XVIII*
35 *of the Social Security Act, relating to supplementary medical insur-*
36 *ance for the aged*)* covering medical care.*

37 h. *Partnership and partner. The term “partnership” includes*
38 *a syndicate, group, pool, joint venture, or other unincorporated*
39 *organization, through or by means of which any business, financial*
40 *operation, or venture is carried on, and which is not, within the*
41 *meaning of this act, a trust or estate or a corporation; and the*
42 *term “partner” includes a member in such a syndicate, group,*
43 *pool, joint venture, or organization.*

44 i. *“Qualified tenant” means a person who shall have rented*
45 *and occupied a homestead for at least 90 days of the tax year. A*
46 *tenant who lives in publicly-assisted housing as defined in the State*
47 *Rebate for Publicly-Assisted Housing Act, or a tenant who re-*
48 *ceives assistance pursuant to any of the programs set forth in the*
49 *“Public Welfare Code of 1974” shall not be entitled to tenant*
50 *deduction, or credit pursuant to this act for that part of a tax*
51 *year during which the claimant lives in such housing or received*
52 *such assistance.*

53 j. *“Net rent” means gross rental paid for the right of occu-*
54 *pancy (at arms length) of a homestead, exclusive of charges for*
55 *any utilities, services, furniture, furnishings or personal property*
56 *appliances furnished by the landlord as a part of the rental agree-*
57 *ment, whether or not expressly set out in the rental agreement.*

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58 k. "Taxable year" means the calendar or fiscal accounting
 59 period for which a tax is payable under this act.
 60 l. "Taxpayer" means any individual required to report or to
 61 pay taxes, interest and penalties under this act, or whose income
 62 in whole or in part is subject to the tax imposed by this act.
 63 m. "Resident taxpayer" means an individual:
 64 1. Who is domiciled in this State, unless he maintains no
 65 permanent place of abode in this State, maintains a permanent
 66 place of abode elsewhere, and spends in the aggregate no more
 67 than 30 days of the taxable year in this State; or
 68 2. Who is not domiciled in this State but maintains a perma-
 69 nent place of abode in this State and spends in the aggregate
 70 more than 183 days of the taxable year in this State, unless
 71 such individual is in the Armed Forces of the United States.
 72 n. "Nonresident taxpayer" means a taxpayer who is not a
 73 resident.
 74 o. Unless the context in which it occurs requires otherwise, the
 75 term "act" or "this act" shall mean the New Jersey Gross Income
 76 Tax Act, Title 54A of the New Jersey Statutes.

CHAPTER 2. IMPOSITION OF TAX

1 54A:2-1. Imposition of tax. There is hereby imposed a tax for
 2 each taxable year (which shall be the same as the taxable year for
 3 Federal income tax purposes) on the New Jersey gross income as
 4 herein defined of every individual, taxable estate or trust, subject
 5 to the deduction, limitations and modifications hereinafter pro-
 6 vided, determined in accordance with the following table with
 7 respect to the taxpayer's taxable income:

If the taxable income is:	The tax is:
8 Not over \$10,000	2% of the taxable income
9 Over \$10,000 but not over \$17,500 .	\$200 plus 2½% of excess
10	over \$10,000
11 Over \$17,500 but not over \$25,000 .	\$387.50 plus 3% of excess
12	over \$17,500
13 Over \$25,000 but not over \$32,500 .	\$612.50 plus 3½% of excess
14	over \$25,000.
15 Over \$32,500	\$875 plus 4% of excess over
16	\$32,500

1 54A:2-2. Partners and partnerships. A partnership as such
 2 shall not be subject to the New Jersey Gross Income Tax. Indi-
 3 viduals carrying on business as partners shall be liable for the

4 New Jersey Gross Income Tax only in their separate or individual
5 capacities.

1 54A:2-3. Associations taxable as corporations. An association,
2 trust, or other unincorporated organization which is taxable as a
3 corporation for Federal income tax purposes shall not be subject
4 to tax under this act.

1 54A:2-4. Minimum taxable income. Notwithstanding any other
2 provisions of this act, a taxpayer or a married couple filing a joint
3 return with a gross income of \$3,000.00 or less shall not be subject
4 to tax under this act.

CHAPTER 3. DEDUCTIONS

1 54A:3-1. Personal deductions. Each taxpayer shall be allowed
2 personal deductions from his gross income as follows:

3 (a) Taxpayer. Each taxpayer shall be allowed a personal
4 exemption of \$1,000.00 which may be taken as a deduction from
5 his New Jersey gross income.

6 (b) Additional exemptions. In addition to the personal exemp-
7 tion allowed in (a), the following additional personal exemptions
8 shall be allowed as a deduction from gross income:

9 1. For the taxpayer's spouse—\$1,000.00.

10 2. For each dependent who qualifies as a dependent of the
11 taxpayer during the taxable year for Federal income tax
12 purposes—\$1,000.00.

13 3. Taxpayer 65 years of age or over at the close of the
14 taxable year—\$1,000.00.

15 4. Taxpayer's spouse 65 years of age or over at the close
16 of the taxable year—\$1,000.00.

17 5. Blind **or disabled** taxpayer—\$1,000.00.

18 6. Blind **or disabled** spouse—\$1,000.00.

19 ***[7. Disabled taxpayer—\$1,000.00.]**

20 8. Disabled spouse—\$1,000.00.]*

1 54A:3-2. ***[Rental deduction. Each taxpayer who rents his**
2 **homestead shall be allowed a deduction of \$600.00 for rental and**
3 **an additional \$600.00 for rental for each dependent up to a maximum**
4 **of \$1,500.00 in any calendar year, but in no event greater than the**
5 **amount of rent actually paid.]** **Blank**

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54A :3-3. MEDICAL EXPENSES

1 (a) Each taxpayer shall be allowed to deduct medical expenses
2 for himself, his spouse, and his dependents with respect to such
3 expenses that were paid during the taxable year and to the extent
4 that such medical expenses exceed two percent of the taxpayer's
5 gross income.

6 (b) Special Rule for Decedents.

7 (1) Treatment of expenses paid after death. Expenses for
8 the medical care of the taxpayer which are paid out of his
9 estate during the one-year period beginning with the day after
10 the day of the death shall be treated as paid by the taxpayer
11 at the time incurred.

12 (2) Limitation. Paragraph (1) shall not apply if the amount
13 paid is not allowable as a deduction in computing medical
14 expense deductions for Federal income tax purposes.

15 (c) Exclusion of amounts allowed for care of certain dependents.
16 Any expenses allowed as a deduction of expenses for household
17 and dependent care services necessary for gainful employment
18 *under section 214 of the Internal Revenue Code* shall not be
19 allowed as an expense paid for medical care for purposes of this
20 section.

CHAPTER 4. CREDITS AGAINST THE TAX

1 54A :4-1. Resident credit for tax of another state. (a) A resident
2 taxpayer shall be allowed a credit against the tax otherwise due
3 under this act for the amount of any income tax or wage tax
4 imposed for the taxable year by another state of the United States
5 or political subdivision of such state, or by the District of Columbia,
6 with respect to income which is also subject to tax under this act.

7 (b) The credit provided under this section shall not exceed
8 the proportion of the tax otherwise due under this act that the
9 amount of the taxpayer's income subject to tax by the other
10 jurisdiction bears to his entire New Jersey income.

11 (c) Readjustment of the tax of another state or political sub-
12 division thereof—if the taxpayer is allowed credit under this
13 section for more or less of the tax of another state or political
14 subdivision thereof than he is finally required to pay, the taxpayer
15 shall send notice of the difference to the director who shall re-
16 determine the tax for any years affected regardless of any other-
17 wise applicable statute of limitations.

1 54A:4-2. Credit for taxes withheld on wages. Any amount of
2 tax actually deducted and withheld by an employer under this act
3 in any calendar year shall be deemed to have been paid to the
4 director on behalf of the person from whom withheld, and such
5 person shall be credited with having paid that amount of tax for
6 the taxable year beginning in such calendar year. For a taxable
7 year of less than 12 months, the credit shall be made under regula-
8 tions of the director.

1 54A:4-3. ***[Credit for tenant.** Any qualified tenant shall be
2 allowed as a credit against the tax otherwise due hereunder an
3 amount not to exceed \$75,000.]*

4 **Homestead credit for tenant.* Any qualified residential tenant
5 or shareholder in a cooperative shall be entitled to a homestead
6 credit of \$110.00 against the tax otherwise due hereunder. Any
7 qualified residential tenant or shareholder in a cooperative shall
8 be entitled to an additional homestead credit of \$55.00 if such
9 resident is (1) permanently and totally disabled, (2) 65 years of
10 age or over, or (3) a surviving spouse of a person qualified under
11 (2) above who has remained unmarried since becoming a widow or
12 widower at the age of 55 years or over.*

1 54A:4-4. Nonresident individuals; taxable income.—The income
2 of a nonresident individual shall be that part of his income derived
3 from sources within this State as defined in this act.

1 54A:4-5. Husband and wife.—(a) Separate return. If the in-
2 come of husband or wife who are both nonresidents of this State
3 and are subject to tax under this ***[article]*** *act* is determined
4 on a separately filed return, their incomes from sources within
5 this State shall be separately determined.

6 (b) One spouse a nonresident. If either husband or wife is a
7 nonresident and the other a resident, separate taxes shall be de-
8 termined on their separate incomes on such forms as the ***[depart-**
9 **ment]*** *director* shall prescribe, unless both elect to determine
10 their joint income as if both were residents, in which event their
11 tax liabilities shall be joint and several.

1 54A:4-6. Allocation of income of nonresident.—Where a non-
2 resident taxpayer earns, receives or acquires income from sources
3 partly within and partly without this State or engages in a busi-
4 ness, trade, profession or occupation partly within and partly
5 without this State, and, as a result thereof or for other reasons
6 that portion of the income derived from or connected with sources

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7 within this State cannot readily or accurately be ascertained, the
8 director *may by regu*lation prescribe uniform rules for appor-
9 tionment or allocation of so much of such taxpayer's income as
10 fairly and equitably represents income, derived from sources within
11 this State and subject to tax under this act.

1 54A:4-7. Income from sources within this State for a nonresi-
2 dent individual, estate or trust means the same as compensation,
3 net profits, gains, dividends, interest or income enumerated and
4 classified under *[section 3]* *chapter 5* of this act to the extent
5 that it is earned, received or acquired from sources within this
6 State:

7 (1) By reason *[or for]* *of* ownership or disposition of any
8 interest in real or tangible personal property in this State; or

9 (2) In connection with a trade, profession, occupation carried on
10 in this State or for the rendition of personal services performed
11 in this State; or

12 (3) As a distributive share of the income of an unincorporated
13 business, profession, enterprise, undertaking or other activity as
14 the result of work done, services rendered or other business activi-
15 ties conducted in this State except as allocated to another state
16 pursuant to regulations promulgated by the director under this
17 act; or

18 (4) From intangible personal property employed in a trade,
19 profession, occupation or business carried on in this State.

CHAPTER 5. GROSS INCOME

1 54A:5-1. New Jersey Gross Income Defined. New Jersey gross
2 income shall consist of the following categories of income:

3 (a) Salaries, wages, tips, fees, commissions, bonuses, and sim-
4 ilar remuneration received for services rendered whether in cash
5 or in property;

6 (b) Net profits from business. The net income from the opera-
7 tion of a business, profession, or other activity, after provision
8 for all costs and expenses incurred in the conduct thereof, deter-
9 mined either on a cash or accrual basis in accordance with accepted
10 accounting principles and practices but without deduction of taxes
11 based on income;

12 (c) Net gains or income from disposition of property. Net gains
13 or net income, less net losses, derived from the sale, exchange or
14 other disposition of property, including real or personal, whether
15 tangible or intangible as determined in accordance with accepted

16 accounting principles and practices. For the purpose of this act,
17 for the determination of the basis of any property, real and per-
18 sonal, if acquired prior to ***[January 1]*** *April 1*, 1976, the date
19 of acquisition shall be adjusted to ***[January 1]*** *April 1*, 1976
20 as if the property had been acquired on that date. If the property
21 was acquired after ***[January 1]*** *April 1*, 1976, the actual date
22 of acquisition shall be used in determination of the basis.

23 The term "net gains or income" shall not include gains or in-
24 come derived from obligations which are statutorily free from
25 State or local taxation under any other law of this State or under
26 the laws of the United States. The term "sale, exchange or other
27 disposition" shall not include the exchange of stock or securities
28 in a corporation a party to a reorganization in pursuance of a plan
29 of reorganization, solely for stock or securities in such corporation
30 or in another corporation a party to the reorganization and the
31 transfer of property to a corporation by one or more persons solely
32 in exchange for stock or securities in such corporation if immedi-
33 ately after the exchange such person or persons are in control of
34 the corporation. For purposes of this clause, stock or securities
35 issued for services shall not be considered as issued in return for
36 property.

37 For purposes of this clause, the term "reorganization" means—

38 (i) A statutory merger or consolidation;

39 (ii) The acquisition by one corporation, in exchange solely for
40 all or a part of its voting stock (or in exchange solely for all or a
41 part of the voting stock of a corporation which is in control of the
42 acquiring corporation) of stock of another corporation if, immedi-
43 ately after the acquisition, the acquiring corporation has control
44 of such other corporation (whether or not such acquiring corpora-
45 tion had control immediately before the acquisition);

46 (iii) The acquisition by one corporation, in exchange solely for
47 all or a part of its voting stock (or in exchange solely for all or a
48 part of the voting stock of a corporation which is in control of the
49 acquiring corporation), of substantially all of the properties of
50 another corporation, but in determining whether the exchange is
51 solely for stock the assumption by the acquiring corporation of a
52 liability of the other, or the fact that property acquired is subject
53 to a liability, shall be disregarded;

54 (iv) A transfer by a corporation of all or a part of its assets to
55 another corporation if immediately after the transfer the trans-
56 feror, or one or more of its shareholders (including persons who
57 were shareholders immediately before the transfer), or any com-

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58 bination thereof, is in control of the corporation to which the assets
59 are transferred;

60 (v) A recapitalization;

61 (vi) A mere change in identity, form, or place of organization
62 however effected; or

63 (vii) The acquisition by one corporation, in exchange for stock
64 of a corporation (referred to in this subclause as "controlling
65 corporation") which is in control of the acquiring corporation, of
66 substantially all of the properties of another corporation which in
67 the transaction is merged into the acquiring corporation shall not
68 disqualify a transaction under subclause (i) if such transaction
69 would have qualified under subclause (i) if the merger had been
70 into the controlling corporation, and no stock of the acquiring cor-
71 poration, is used in the transaction;

72 (viii) A transaction otherwise qualifying under subclause (i)
73 shall not be disqualified by reason of the fact that stock of a cor-
74 poration (referred to in this subclause as the "controlling corpo-
75 ration") which before the merger was in control of the merged
76 corporation is used in the transaction, if after the transaction, the
77 corporation surviving the merger holds substantially all of its
78 properties and of the properties of the merged corporation (other
79 than stock of the controlling corporation distributed in the trans-
80 action); and in the transaction, former shareholders of the sur-
81 viving corporation exchanged, for an amount of voting stock of
82 the controlling corporation, an amount of stock in the surviving
83 corporation which constitutes control of such corporation.

84 For purposes of this clause, the term "control" means the own-
85 ership of stock possessing at least 80% of the total combined voting
86 power of all classes of stock entitled to vote and at least 80% of
87 the total number of shares of all other classes of stock of the cor-
88 poration.

89 For purposes of this clause, the term "a party to a reorganiza-
90 tion" includes a corporation resulting from a reorganization, and
91 both corporations, in the case of a reorganization resulting from
92 the acquisition by one corporation of stock or properties of another.
93 In the case of a reorganization qualifying under subclause (i) by
94 reason of subclause (vii) the term "a party to a reorganization"
95 includes the controlling corporation referred to in such subclause
96 (vii).

97 Notwithstanding any provisions hereof, upon every such ex-
98 change or conversion, the taxpayer's base for the stock or securi-
99 ties received shall be the same as the taxpayer's actual or attributed

100 base for the stock, securities or property surrendered in exchange
 101 therefor.
 102 (d) Net gains or income derived from or in the form of rents,
 103 royalties, patents, and copyrights.
 104 (e) Interest derived from obligations which are not statutorily
 105 free from State or local taxation under any other act of this State
 106 or under the laws of the United States.
 107 (f) Dividends. "Dividends" means any distribution in cash or
 108 property made by a corporation, association or business trust,
 109 (1) out of accumulated earnings and profits, or (2) out of earn-
 110 ings and profits of the year in which such dividend is paid.
 111 (g) Gambling winnings.
 112 (h) Net gains or income derived through estates or trusts.
 113 (i) Income in respect of a decedent.
 114 (j) Pensions and annuities to the extent that the proceeds ex-
 115 ceed the contributions made by the taxpayer.
 116 (k) Distributive share of partnership income.
 117 (l) Amounts received as prizes and awards, except as provided
 118 in sections 54A:6-8 and 54A:6-11 hereunder.
 119 (m) Rental value at a residence furnished by an employer or a
 120 rental allowance paid by an employer to provide a home.

CHAPTER 6. EXCLUDABLE INCOME

1 54A:6-1. The items in sections 54A:6-2 to 54A:6-9, inclusive,
 2 shall be specifically excluded from gross income.
 1 54A:6-2. Federal social security benefits. All payments received
 2 under the Federal Social Security Act, whether they be regularly
 3 monthly benefits or lump sum death benefits.
 1 54A:6-3. Railroad retirement benefits. All payments received
 2 under the Railroad Retirement Act administered by the Federal
 3 Government.
 1 54A:6-4. Certain death benefits:
 2 a. Proceeds of life insurance contracts payable by reason of
 3 death.
 4 b. Employees' death benefits, if such amounts are paid by or on
 5 behalf of an employer and are paid by reason of the death of the
 6 employee.
 1 54A:6-5. Gifts and inheritances:
 2 a. The value of property acquired by gift, bequest, devise or
 3 inheritance.

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- 4 b. Income. Subsection a. shall not exclude from gross income:
- 5 1. The income from any property referred to in subsection a.
- 6 2. Where the gift, bequest, devise or inheritance is of income
- 7 from property, the amount of such income.
- 1 54A:6-6. Compensation for injuries or sickness:
- 2 a. Amounts received under workmen's compensation acts as
- 3 compensation for personal injuries or sickness.
- 4 b. The amount of damages received, whether by suit or agree-
- 5 ment, on account of personal injuries or sickness.
- 6 c. Amounts received through accident or health insurance for
- 7 personal injuries or sickness.
- 8 d. Amounts received as a pension, annuity or similar allowance
- 9 for personal injuries or sickness resulting from active service in
- 10 the Armed Forces of the United States or in the Coast and
- 11 Geodetic Survey or the Public Health Service, or as a disability
- 12 annuity payable under the Foreign Service Act of 1946.
- 1 54A:6-7. Certain pay of members of the armed forces.
- 2 a. Compensation paid by the United States for service in the
- 3 Armed Forces of the United States performed by an individual
- 4 not domiciled in this State.
- 5 b. Amounts received during the taxable year as mustering-out
- 6 payments with respect to service in the Armed Forces of the United
- 7 States.
- 1 54A:6-8. Scholarships and fellowship grants.
- 2 a. Any amount received as a scholarship at an educational
- 3 institution.
- 4 b. Any amount received as a fellowship grant.
- 5 c. Any amount received to cover expenses for travel, research or
- 6 equipment which are incident to a scholarship or research grant,
- 7 but only to the extent that the amount is so expended by the
- 8 recipient.
- 1 54A:6-9. Exemption for Gains Derived from the Sale or Ex-
- 2 change of Principal Residence. Gross income shall not include a
- 3 gain from the sale or exchange of a principal residence if the
- 4 following conditions are met:
- 5 (a) The taxpayer has purchased or received in exchange an-
- 6 other principal residence to replace the residence sold which has
- 7 an adjusted sales price which is equal to or greater than the adjusted
- 8 sales price of the residence from which the gain had been derived
- 9 provided that such new residence had been purchased either 18

10 months before or 18 months after the date of sale of the original
11 residence except that where the taxpayer has constructed a new
12 residence, the period prior to and after the date of sale shall be 24
13 months.

14 (b) The taxpayer has attained the age of 65 on or before the
15 date of the sale of such property and such property had been owned
16 and used as a principal residence of the taxpayer for at least five
17 years of the eight years immediately preceding the date of such
18 sale. If the exemption provided for in this subsection is availed
19 of by a taxpayer in or for any taxable year, no such exemption
20 shall be allowed with respect to such taxpayer or spouse thereof
21 in any subsequent taxable year. If the adjusted sales price of the
22 property sold or exchanged exceeds \$35,000.00, this subsection shall
23 apply to that portion of the gain which bears the same ratio to
24 the total amount of such gain as \$35,000.00 bears to such adjusted
25 sales price. For the purpose of this section, the word "sale" means
26 a "sale," "exchange," "transaction," or "event" through which
27 the taxpayer is divested of all interest in his residence.

28 c. Subsection a. shall not apply to any sale or exchange by the
29 taxpayer with respect to more than one property during any 18-
30 month period.

31 d. Subsection b. shall not apply to any sale or exchange by the
32 taxpayer with respect to more than one property.

33 e. Property used in part as a residence. In case of property
34 only a portion of which has been owned and used by the taxpayer
35 as his principal residence, this section shall apply with respect to
36 so much of the sale or exchange of such property as is determined,
37 under regulations prescribed by the director, to be attributable to
38 the portion of the property so owned and used by the taxpayer.

39 f. For purposes of this section, the destruction, theft, seizure,
40 requisition, or condemnation of property shall be treated as the
41 sale of such property.

1 54A:6-10. Pensions and annuities. Gross income shall not in-
2 clude that part of any amount received as an annuity under an
3 annuity, endowment, or life insurance contract which bears the
4 same ratio to such amount as the investment in the contract (as
5 of the annuity starting date) bears to the expected return under
6 the contract (as of such date). Where (1) part of the considera-
7 tion for an annuity, endowment, or life insurance contract is con-
8 tributed by the employer, and (2) during the 3-year period
9 beginning on the date on which an amount is first received under
10 the contract as an annuity, the aggregate amount receivable by

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11 the employee under the terms of the contract is equal to or greater
12 than the consideration for the contract contributed by the em-
13 ployee, then all amounts received as an annuity under the contract
14 shall be excluded from gross income until there has been so
15 excluded an amount equal to the consideration for the contract
16 contributed by the employee.

1 54A:6-11. Lottery winnings. Gross income shall not include
2 lottery winnings from the New Jersey Lottery.

1 54A:6-12. Pensions of persons not covered under Social Security.
2 Gross income shall not include pension, disability or retirement
3 programs of the Federal Government or of any State or its political
4 subdivisions, or agencies thereof, for persons not covered under
5 54A:6-2 or 54A:6-3 hereof; provided, however, that the total
6 amount of benefits to be allowed exclusion herein shall not be in
7 excess of the maximum amount of benefits payable to and allowable
8 for exclusion in 54A:6-2 and 54A:6-3.

CHAPTER 7. WITHHOLDING OF TAX

1 54A:7-1. Requirement of withholding tax from wages. (a)
2 General.—From and after the first day of the first month following
3 at least a full calendar month after the enactment of this act, every
4 employer maintaining an office or transacting business within this
5 State and making payment of any wages subject to New Jersey
6 personal income tax to a resident or nonresident individual shall
7 deduct and withhold from such wages for each payroll period a tax
8 computed in such manner as to result, so far as practicable, in
9 withholding from the employee's wages during each calendar year
10 an amount substantially equivalent to the tax reasonably estimated
11 to be due resulting from the inclusion in the employee's New Jersey
12 income of his wages received during such calendar year. The
13 method of determining the amount to be withheld shall be prescribed
14 by regulations of the director, with due regard to the withholding
15 exemptions of the employee.

16 (b) Withholding exemptions.—For purposes of this section:
17 An employee shall be entitled to the equivalent of the same num-
18 ber of New Jersey withholding exemptions as the number of with-
19 holding exemptions to which he is entitled for Federal income tax
20 withholding purposes. An employer may rely upon the number of
21 Federal withholding exemptions claimed by the employee.

1 54A:7-2. Information statement for employee. Every employer
2 required to deduct and withhold tax under this act from the wages
3 of an employee, or who would have been required so to deduct
4 and withhold tax if the employee had claimed no more than one
5 withholding exemption, shall furnish to each such employee in
6 respect of the wages paid by such employer to such employee during
7 the calendar year on or before February 15 of the succeeding year,
8 or, if his employment is terminated before the close of such calendar
9 year, within 30 days from the date on which the last payment of
10 the wages is made, a written statement as prescribed by the director
11 showing the amount of wages paid by the employer to the employee,
12 the amount deducted and withheld as tax, and such other informa-
13 tion as the director shall prescribe.

1 54A:7-3. Credit for tax withheld. Wages upon which tax is
2 required to be withheld shall be taxable under this act as if no
3 withholding were required, but any amount of tax actually deducted
4 and withheld under this act in any calendar year shall be deemed
5 to have been paid to the director on behalf of the person from whom
6 withheld, and such person shall be credited with having paid that
7 amount of tax for the taxable year beginning in such calendar year.
8 For a taxable year of less than 12 months the credit shall be made
9 under regulations of the director.

1 54A:7-4. Employer's return and payment of withheld taxes.
2 (a) General.—Every employer required to deduct and withhold tax
3 under this act shall, for each calendar month, on or before the
4 fifteenth day of the month following the close of such calendar
5 month, file a withholding return as prescribed by the director and
6 pay over to the director or to a depository designated by the direc-
7 tor the taxes so required to be deducted and withheld. The director
8 may, if he deems it necessary, extend the initial filing of withholding
9 returns and payment of withheld taxes for a period not to exceed
10 60 days. Where the aggregate amount required to be deducted and
11 withheld by any employer is less than \$25.00 in a calendar month
12 and the aggregate for the semiannual period ending on June 30 and
13 December 31 can reasonably be expected to be less than \$150.00, the
14 director may by regulation permit an employer to file a return on
15 or before July 31 for the semiannual period ending on June 30 and
16 on or before January 31 for the semiannual period ending on
17 December 31. The director may, if he believes such action necessary
18 for the protection of the revenues, require any employer to make
19 such return and pay to him the tax deducted and withheld at any
20 time, or from time to time. Where the amount of wages paid by an

21 employer is not sufficient under this act to require the withholding
 22 of tax from the wages of any of his employees, the director may, by
 23 regulation, permit such employer to file an annual return on or
 24 before February 28 of the following calendar year.

25 The director may, by regulation, require the filing and payment
 26 of withholding returns and taxes on a semimonthly or more fre-
 27 quent basis where he deems such action in the best interest of
 28 the State.

29 (b) Deposit in trust for director.—Whenever any employer fails
 30 to collect, truthfully account for, pay over the tax, or make returns
 31 of the tax as required in this section, the director may serve a
 32 notice requiring such employer to collect the taxes which become
 33 collectible after service of such notice, to deposit such taxes in a
 34 bank approved by the director in a separate account, in trust for
 35 and payable to the State of New Jersey and to keep the amount
 36 of such tax in such account until payment over to the director.
 37 Such notice shall remain in effect until a notice of cancellation is
 38 served by the director.

1 54A:7-5. Employer's liability for withheld taxes. Every em-
 2 ployer required to deduct and withhold tax under this act is hereby
 3 made liable for such tax. For purposes of assessment and collec-
 4 tion, any amount required to be withheld and paid over to the
 5 director, and any additions to tax, penalties and interest with
 6 respect thereto, shall be considered the tax of the employer. Any
 7 amount of tax actually deducted and withheld under this act shall
 8 be held to be a special fund in trust for the director. No employee
 9 shall have any right of action against his employer in respect to
 10 any moneys deducted and withheld from his wages and paid over
 11 to the director in compliance or in intended compliance with this act.

1 54A:7-6. Employer's failure to withhold. If an employer fails
 2 to deduct and withhold tax as required, and thereafter the tax
 3 against which such tax may be credited is paid, the tax so required
 4 to be deducted and withheld shall not be collected from the em-
 5 ployer, but the employer shall not be relieved from liability for
 6 any penalties, interest, or additions to the tax otherwise applicable
 7 in respect of such failure to deduct and withhold.

1 54A:7-7. Filing annual reconciliation of tax withheld. A recon-
 2 ciliation of tax withheld must be filed by the employer with the
 3 Division of Taxation on or before February 15 following the close
 4 of the calendar year in accordance with rules and regulations pre-
 5 scribed by the director.

CHAPTER 8. PAYMENT OF TAX

1 54A:8-1. Payment of tax; returns; extension of time. With re-
2 spect to each taxpayer, the tax imposed by this act shall be due and
3 payable annually, hereafter, in the manner provided in this section:
4 a. Every taxpayer shall annually pay the tax imposed by this
5 act with respect to all or any part of each of his fiscal or calendar
6 accounting years beginning *on and* after **[January 1]**
7 **April 1**, 1976, to be computed as in this act provided, for such
8 fiscal or calendar accounting year or part thereof, on a return
9 which shall be filed, in the case of a taxpayer reporting on a calen-
10 dar year basis, on or before April 15 following the close of such
11 calendar year, or, in the case of a taxpayer reporting on a fiscal year
12 basis, on or before the fifteenth day of the fourth month following
13 the close of such fiscal year, and the full amount of the tax shall
14 be due and payable on or before the date prescribed herein for the
15 filing of the return.

16 b. Each return shall carry a certificate signed by the taxpayer
17 to the effect that all statements contained therein are true, under
18 the same penalties as for perjury committed. Blank forms of re-
19 turn shall be furnished on application, but failure to secure the
20 form shall not relieve any taxpayer of the obligation of making
21 any return herein required. Subject to regulations under this act
22 and in such form as may be indicated thereby, taxpayers whose
23 net income taxable under this act is or may be subject to tax under
24 a similar law of another jurisdiction may be permitted to file a
25 simple, short form return attached to a copy of his return as filed
26 or about to be filed by him in such other jurisdiction.

27-28 Subject to regulations under this act, reasonable extensions of
29 time for good cause shown, may be granted for not more than 6
30 months unless exceptional circumstances justify a longer period,
31 within which returns may be filed.

32 In addition, persons in active service with the Armed Forces of
33 the United States, who may be prevented by distance or injury
34 **or hospitalization arising out of such service, may be allowed*
35 *such extension of time for the filing of returns, without interest or*
36 *penalty, as may be fixed by regulations under this act.**

1 54A:8-2. Optional tax tables. (a) General.—The director may
2 promulgate uniform tax tables for individual taxpayers for any
3 taxable year. An individual may elect to use or not to use any such
4 tax table for which he is eligible.

5 (b) Preparation of tax tables.—Tax tables promulgated here-
6 under shall be based either upon (i) the individual's New Jersey

7 income, or (ii) the individual's taxable income. In computing such
8 tables, the director shall make allowance for the deductions and
9 personal exemptions allowed under this act. In either case the
10 director shall by regulation prescribe the conditions of eligibility
11 for the use of a tax table. In no case shall the amount of tax
12 calculated by use of a tax table deviate by more than \$5.00 from
13 the amount otherwise due under section 54A:2-1.

1 54A:8-3. Accounting periods and methods. (a) Accounting
2 periods.—A taxpayer's taxable year under this act shall be the
3 same as his taxable year for Federal income tax purposes.

4 (b) Change of accounting periods.—If a taxpayer's taxable year
5 is changed for Federal income tax purposes, his taxable year for
6 purposes of this act shall be similarly changed.

7 (c) Accounting methods.—A taxpayer's accounting method under
8 this act shall be the same as his accounting method for Federal
9 income tax purposes. In the absence of any accounting method for
10 Federal income tax purposes, New Jersey taxable income shall be
11 computed under such method as in the opinion of the director
12 clearly reflects income.

13 (d) Change of accounting methods.—(1) If a taxpayer's account-
14 ing method is changed for Federal income tax purposes, his ac-
15 counting method for purposes of this act shall be similarly changed.

16 (2) If a taxpayer's accounting method is changed, other than
17 from an accrual to an installment method, any additional tax which
18 results from adjustments determined to be necessary solely by
19 reason of the change shall not be greater than if such adjustments
20 were ratably allocated and included for the taxable year of the
21 change and the preceding taxable years, not in excess of two, dur-
22 ing which the taxpayer used the accounting method from which the
23 change is made.

24 (3) If a taxpayer's accounting method is changed from an ac-
25 crual to an installment method, any additional tax for the year of
26 such change of method and for any subsequent year which is
27 attributable to the receipt of installment payments properly ac-
28 crued in a prior year, shall be reduced by the portion of tax for
29 any prior taxable year attributable to the accrual of such install-
30 ment payments, in accordance with regulations of the director.

1 54A:8-3.1. Persons required to file.

2 a. On or before the filing date prescribed in section 1 of this
3 chapter (C. 54A:8-1), an income tax return shall be made and

4 filed by or for every individual, estate or trust having a gross
5 income in excess of \$3,000.00 or more.

6 b. The return for any deceased individual shall be made and filed
7 by his fiduciary or other person charged with his property.

8 c. The return for an individual who is unable to make a return
9 by reason of minority or other disability shall be made and filed
10 by his fiduciary or other person charged with the care of his person
11 or property (other than a receiver in possession of only a part of
12 his property), or by his duly authorized agent.

13 d. Any tax under this act, and any increase, interest or penalty
14 thereon, shall, from the time it is due and payable, be a personal
15 debt of the person liable to pay the same, to the State of New
16 Jersey.

1 54A:8-4. Declarations of estimated tax. (a) Requirement of
2 filing. Every resident and nonresident individual shall make a
3 declaration of his estimated New Jersey personal income tax for
4 each taxable year beginning after March 31, 1976, if his esti-
5 mated New Jersey personal income tax can reasonably be expected
6 to be \$40.00 or more in excess of any credits allowable against his
7 tax, whether or not he is required to file a Federal declaration of
8 estimated tax for such year.

9 (b) Definition of estimated tax. The term "estimated tax"
10 means the amount which an individual estimates to be his income
11 tax under this act for the taxable year, less the amount which he
12 estimates to be the sum of any credits allowable against the tax.

13 (c) Joint declaration of husband and wife. A husband and wife
14 may make a joint declaration of estimated tax as if they were one
15 taxpayer, in which case the liability with respect to the estimated
16 tax shall be joint and several. No joint declaration may be made
17 if husband and wife are separated under a decree of divorce or of
18 separate maintenance, or if they have different taxable years. If
19 a joint declaration is made but husband and wife elect to determine
20 their taxes under this act separately, the estimated tax for such
21 year may be treated as the estimated tax of either husband or wife,
22 or may be divided between them, as they may elect.

23 (d) Time for filing declaration. Beginning in the taxable year
24 1976 and every taxable year thereafter a declaration of estimated
25 tax of an individual other than a farmer shall be filed on or before
26 April 15 of the taxable year, except that if the requirements of
27 subsection (a) are first met:

28 (1) After April 1 and before June 2 of the taxable year, the
29 declaration shall be filed on or before June 15; or

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30 (2) After June 1 and before September 2 of the taxable year
31 the declaration shall be filed on or before September 15; or

32 (3) After September 1 of the taxable year, the declaration shall
33 be filed on or before January 15 of the succeeding year.

34 (e) Declaration of estimated tax by a farmer. A declaration of
35 estimated tax of an individual having an estimated New Jersey
36 income from farming (including oyster farming) for the taxable
37 year which is at least two-thirds of his total estimated New Jersey
38 income for the taxable year may be filed at any time on or before
39 January 15 of the succeeding year, in lieu of the time otherwise
40 prescribed.

41 (f) Declaration of estimated tax of \$40.00 or less. A declaration
42 of estimated tax of an individual having a total estimated tax for
43 the taxable year of \$40.00 or less may be filed at any time on or
44 before January 15 of the succeeding year under regulations of the
45 director.

46 (g) Amendments of declaration. An individual may amend a
47 declaration under regulations of the director.

48 (h) Return as declaration or amendment. If on or before
49 February 15 of the succeeding taxable year an individual files his
50 return for the taxable year for which the declaration is required,
51 and pays therewith the full amount of the tax shown to be due on
52 the return:

53 (1) Such return shall be considered as his declaration if no
54 declaration was required to be filed during the taxable year, but is
55 otherwise required to be filed on or before January 15;

56 (2) Such return shall be considered as the amendment permitted
57 by subsection (g) to be filed on or before January 15 if the tax shown
58 on the return is greater than the estimated tax shown in a declara-
59 tion previously made.

60 (i) Fiscal year. This section shall apply to a taxable year other
61 than a calendar year by the substitution of the months of such fiscal
62 year for the corresponding months specified in this section,

63 (j) Short taxable year. An individual having a taxable year of
64 less than 12 months shall make a declaration in accordance with
65 regulations of the director.

66 (k) Declaration for individual under a disability. The declara-
67 tion of estimated tax for an individual who is unable to make a
68 declaration by reason of minority or other disability shall be made
69 and filed by his guardian, committee, fiduciary or other person
70 charged with the care of his person or property (other than a

71 receiver in possession of only a part of his property), or by his
72 duly authorized agent.

73 (1) In the taxable year 1976, no declaration shall be required
74 until the lapse of at least one full calendar quarter following en-
75 actment of this act.

1 54A:8-5. Payments of estimated tax (a) General. The esti-
2 mated tax with respect to which a declaration is required shall be
3 paid as follows:

4 (1) If the declaration is filed on or before April 15 of the taxable
5 year the estimated tax shall be paid in four equal installments. The
6 first installment shall be paid at the time of the filing of the declara-
7 tion, and the second, third and fourth installments shall be paid on
8 the following June 15, September 15, and January 15, respectively.

9 (2) If the declaration is filed after April 15 and not after June 15
10 of the taxable year, the estimated tax shall be paid in three equal
11 installments. The first installment shall be paid at the time of the
12 filing of the declaration, and the second and third installments shall
13 be paid on or before the following September 15 and January 15,
14 respectively.

15 (3) If the declaration is filed after June 15 and not after
16 September 15 of the taxable year, and is not required to be filed on
17 or before June 15 of the taxable year, the estimated tax shall be
18 paid in two equal installments. The first installment shall be paid
19 at the time of the filing of the declaration, and the second shall be
20 paid on or before the following January 15.

21 (4) If the declaration is filed after September 15 of the taxable
22 year, and is not required to be filed on or before September 15 of
23 the taxable year, the estimated tax shall be paid in full at the time
24 of the filing of the declaration.

25 (5) If the declaration is filed after the time prescribed therefor,
26 or after the expiration of any extension of time therefor, para-
27 graphs (2), (3), and (4) of this subsection shall not apply, and there
28 shall be paid at the time of such filing all installments of estimated
29 tax payable at or before such time, and the remaining installments
30 shall be paid at the times at which, and in the amounts in which,
31 they would have been payable if the declaration had been filed when
32 due.

33 (b) Farmers. If an individual referred to in subsection (e) of
34 section ***[54A:8-5]*** *54A:8-4* (relating to income from farming)
35 makes a declaration of estimated tax after September 15 of the
36 taxable year and on or before the following January 15, the

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37 estimated tax shall be paid in full at the time of the filing of the
38 declaration.

39 (c) Amendments of declaration. If any amendment of a declara-
40 tion is filed, the remaining installments, if any, shall be ratably in-
41 creased or decreased (as the case may be) to reflect any increase or
42 decrease in the estimated tax by reason of such amendment, and if
43 any amendment is made after September 15 of the taxable year,
44 any increase in the estimated tax by reason thereof shall be paid at
45 the time of making such amendment.

46 (d) Application to short taxable year. This section shall apply
47 to a taxable year of less than 12 months in accordance with regula-
48 tions of the director.

49 (e) Fiscal year. This section shall apply to a taxable year other
50 than a calendar year by the substitution of the months of such fiscal
51 year for the corresponding months specified in this section.

52 (f) Installments paid in advance. An individual may elect to
53 pay any installment of his estimated tax prior to the date prescribed
54 for its payment.

1 54A :8-6. Requirements concerning returns, notices, records and
2 statements. (a) General. The director may prescribe regulations
3 as to the keeping of records, the content and form of returns and
4 statements, and the filing of copies of Federal income tax returns
5 and determinations. The director may require any person, by
6 regulation or notice served upon such person, to make such returns,
7 render such statements, or keep such records, as the director may
8 deem sufficient to show whether or not such person is liable under
9 this act for tax or for collection of tax.

10 (b) Partnerships. Every partnership having a resident partner
11 or having any income derived from New Jersey sources, shall make
12 a return for the taxable year setting forth all items of income, gain,
13 loss and deduction and such other pertinent information as the
14 director may by regulations and instructions prescribe. Such
15 return shall be filed on or before the fifteenth day of the fourth
16 month following the close of each taxable year. For the purposes
17 of this subsection, "taxable year" means a year or period which
18 would be a taxable year of the partnership if it were subject to tax
19 under this act.

20 (c) Information at source. The director may prescribe regula-
21 tions and instructions requiring returns of information to be made
22 and filed on or before February 15 of each year as to the payment
23 or crediting in any calendar year of amounts of \$100.00 or more
24 to any taxpayer under this act. Such returns may be required of

25 any person, including lessees or mortgagors of real or personal
26 property, fiduciaries, employers, and all officers and employees of
27 this State, or of any municipal corporation or political subdivision
28 of this State, having the control, receipt, custody, disposal or pay-
29 ment of interest, rents, salaries, wages, premiums, annuities, com-
30 pensations, remunerations, emoluments or other fixed or determin-
31 able gains, profits or income, except interest coupons payable to
32 bearer. A duplicate of the statement as to tax withheld on wages,
33 required to be furnished by an employer to an employee, shall
34 constitute the return of information required to be made under this
35 section with respect to such wages.

36 (d) Notice of qualification as receiver, et cetera. Every receiver,
37 trustee in bankruptcy, assignee for benefit of creditors, or other like
38 fiduciary shall give notice of his qualification as such to the direc-
39 tor, as may be required by regulation.

1 54A:8-7. Report of change in Federal taxable income. If the
2 amount of a taxpayer's Federal taxable income reported on his
3 Federal income tax return for any taxable year is changed or cor-
4 rected by the United States Internal Revenue Service or other
5 competent authority, or as the result of a renegotiation of a contract
6 or subcontract with the United States, the taxpayer shall report
7 such change or correction in Federal taxable income within 90 days
8 after the final determination of such change, correction, or
9 renegotiation, or as otherwise required by the director, and shall
10 concede the accuracy of such determination or state wherein it is
11 erroneous. Any taxpayer filing an amended Federal income tax
12 return shall also file within 90 days thereafter an amended return
13 under this act, and shall give such information as the director may
14 require. The director may by regulation prescribe such exceptions
15 to the requirements of this section as he deems appropriate.

CHAPTER 9. ADMINISTRATION OF TAX

1 54A:9-1. Applicability of State Tax Uniform Procedure Law.
2 The taxes imposed by this act shall be governed in all respects
3 by the provisions of the State Tax Uniform Procedure Law (sub-
4 title 9 of Title 54 of the Revised Statutes) except only to the extent
5 that a specific provision of this act may be in conflict therewith.

1 54A:9-2. Notice of deficiency. (a) General. If upon examination
2 of a taxpayer's return under this act the director determines that
3 there is a deficiency of income tax, he may mail a notice of deficiency
4 to the taxpayer. If a taxpayer fails to file an income tax return

5 required under this act, the director is authorized to estimate the
6 taxpayer's New Jersey income and tax thereon, from any infor-
7 mation in his possession, and to mail a notice of deficiency to the
8 taxpayer. A notice of deficiency shall be mailed to the taxpayer at
9 his last known address in or out of this State. If a husband and
10 wife are jointly liable for tax, a notice of deficiency may be a single
11 joint notice, except that if the director has been notified in writing
12 by either spouse that separate residences have been established,
13 then, in lieu of the single joint notice, a duplicate original of the
14 joint notice shall be mailed to each spouse at his or her last known
15 address in or out of this State. If the taxpayer is deceased or under
16 a legal disability, a notice of deficiency may be mailed to his last
17 known address in or out of this State, unless the director has re-
18 ceived written notice of the existence of a fiduciary relationship
19 with respect to the taxpayer.

20 (b) Notice of deficiency as assessment. After 90 days from the
21 mailing of a notice of deficiency, such notice shall be an assessment
22 of the amount of tax specified in such notice, together with the
23 interest, additions to tax and penalties stated in such notice, except
24 only for any such tax or other amounts as to which the taxpayer
25 has within such 90-day period filed with the director a petition
26 under section 54A:9-9. If the notice of deficiency is addressed to
27 a person outside of the United States, such period shall be 150 days
28 instead of 90 days.

29 (c) Restrictions on assessment and levy. No assessment of a
30 deficiency in tax and no levy or proceeding in court for its collection
31 shall be made, begun or prosecuted, except as otherwise provided
32 in section 54A:9-14, until a notice of deficiency has been mailed
33 to the taxpayer, nor until the expiration of the time for filing a
34 petition contesting such notice, nor, if a petition with respect to
35 the taxable year has been filed with the director, until the decision
36 of the director has become final. For exception in the case of re-
37 view of the decision of the director, see subsection (c) of section
38 54A:9-10.

39 (d) Exceptions for mathematical errors. If a mathematical error
40 appears on a return (including an overstatement of the credit for
41 income tax withheld at the source, or of the amount paid as esti-
42 mated income tax), the director shall notify the taxpayer that an
43 amount of tax in excess of that shown upon the return is due, and
44 that such excess has been assessed. Such notice shall not be con-
45 sidered as a notice of deficiency for the purposes of this section,
46 subsection *[(f)]* *(e)* of section 54A:9-8 (limiting credits or
47 refunds after petition to the director), or subsection (b) of section

48 54A:9-9 (authorizing the filing of a petition with the director
49 based on a notice of deficiency) nor shall such assessment or collec-
50 tion be prohibited by the provisions of subsection (c).

51 (e) Exception where change in Federal taxable income is not
52 reported.

53 (1) If the taxpayer fails to comply with section ***[54A:8-8]***
54 *54A:8-7* in not reporting a change or correction increasing his
55 Federal taxable income as reported on his Federal income tax
56-57 return or in not reporting a change or correction which is treated
58 in the same manner as if it were a deficiency for Federal income
59 tax purposes or in not filing an amended return, instead of the
60 mode and time of assessment provided for in subsection (b) of this
61 section, the director may assess a deficiency based upon such
62 changed or corrected Federal taxable income by mailing to the
63 taxpayer a notice of additional tax due specifying the amount of
64 the deficiency, and such deficiency, together with the interest,
65 additions to tax and penalties stated in such notice, shall be deemed
66 assessed on the date such notice is mailed unless within 30 days
67 after the mailing of such notice a report of the Federal change or
68 correction or an amended return, where such return was required
69 by section 54A:8-7, is filed accompanied by a statement showing
70 wherein such Federal determination and such notice of additional
71 tax due are erroneous.

72 (2) Such notice shall not be considered as a notice of deficiency
73 for the purposes of this section, subsection ***[(f)]*** *(e)* of section
74 54A:9-8 (limiting credits or refunds after petition to the director),
75 or subsection (b) of section 54A:9-9 (authorizing the filing of a
76 petition with the director based on a notice of deficiency), nor
77 shall such assessment or the collection thereof be prohibited by the
78 provisions of subsection (c).

79 (3) If a husband and wife are jointly liable for tax, a notice of
80 additional tax due may be a single joint notice, except that if the
81 director has been notified in writing by either spouse that separate
82 residences have been established, then, in lieu of the joint notice,
83 a duplicate original of the joint notice shall be mailed to each
84 spouse at his or her last known address in or out of this State. If
85 the taxpayer is deceased or under a legal disability, a notice of
86 additional tax due may be mailed to his last known address in or
87 out of this State, unless the director has received written notice
88 of the existence of a fiduciary relationship with respect to the
89 taxpayer.

90 (f) Waiver of restrictions. The taxpayer shall at any time
91 (whether or not a notice of deficiency has been issued) have the

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92 right to waive the restrictions on assessment and collection of the
93 whole or any part of the deficiency by a signed notice in writing
94 filed with the director.

95 (g) Deficiency defined. For purposes of this act, a deficiency
96 means the amount of the tax imposed by this act, less (i) the amount
97 shown as the tax upon the taxpayer's return (whether the return
98 was made or the tax computed by him or by the director), and
99 less (ii) the amounts previously assessed (or collected without
100 assessment) as a deficiency and plus (iii) the amount of any re-
101 bates. For the purpose of this definition, the tax imposed by this
102 act and the tax shown on the return shall both be determined
103 without regard to payments on account of estimated tax or the
104 credit for withholding tax; and a rebate means so much of an
105 abatement, credit, refund or other repayment (whether or not
106 erroneous) made on the ground that the amounts entering into the
107 definition of a deficiency showed a balance in favor of the taxpayer.

1 54A:9-3. Assessment. (a) Assessment date. The amount of tax
2 which a return shows to be due, or the amount of tax which a
3 return would have shown to be due but for a mathematical error,
4 shall be deemed to be assessed on the date of filing of the return
5 (including any amended return showing an increase of tax). In
6 the case of a return properly filed without computation of tax, the
7 tax computed by the director shall be deemed to be assessed on the
8 date on which payment is due. If a notice of deficiency has been
9 mailed, the amount of the deficiency shall be deemed to be assessed
10 on the date specified in subsection (b) of section 54A:9-2 if no
11 petition to the director is filed, or if a petition is filed, then upon the
12 date when a decision of the director establishing the amount of the
13 deficiency becomes final. If an amended return or report filed
14 pursuant to section 54A:8-7 concedes the accuracy of a Federal
15 change or correction, any deficiency in tax under this act resulting
16 therefrom shall be deemed to be assessed on the date of filing such
17 report or amended return, and such assessment shall be timely
18 notwithstanding section 54A:9-4. If a notice of additional tax
19 due, as prescribed in subsection (e) of section 54A:9-2 has been
20 mailed, the amount of the deficiency shall be deemed to be assessed
21 on the date specified in such subsection unless within 30 days after
22 the mailing of such notice a report of the Federal change or correc-
23 tion or an amended return, where such return was required by
24 section 54A:8-7 is filed accompanied by a statement showing
25 wherein such Federal determination and such notice of additional
26 tax due are erroneous. Any amount paid as a tax or in respect of

27 a tax, other than amounts withheld at the source or paid as esti-
28 mated income tax, shall be deemed to be assessed upon the date of
29 receipt of payment, notwithstanding any other provisions.

30 (b) Other assessment powers. If the mode or time for the assess-
31 ment of any tax under this act (including interest, additions to tax
32 and assessable penalties) is not otherwise provided for, the director
33 may establish the same by regulations.

34 (c) Estimated income tax. No unpaid amount of estimated tax
35 under section 54:8-5 shall be assessed.

36 (d) Supplemental assessment. The director may, at any time
37 within the period prescribed for assessment, make a supplemental
38 assessment, subject to the provisions of section 54A:9-2 where
39 applicable, whenever it is ascertained that any assessment is im-
40 perfect or incomplete in any material respect.

1 54A:9-4. Limitations on assessment. (a) General. Except as
2 otherwise provided in this section, any tax under this act shall be
3 assessed within 3 years after the return was filed (whether or not
4 such return was filed on or after the date prescribed).

5 (b) Time returned deemed filed.

6 (1) Early return. For purposes of this section a return of
7 income tax, except withholding tax, filed before the last day pre-
8 scribed by law or by regulations promulgated pursuant to law for
9 the filing thereof, shall be deemed to be filed on such last day.

10 (2) Return of withholding tax. For purposes of this section, if
11 a return of withholding tax for any period ending with or within
12 a calendar year is filed before April 15 of the succeeding calendar
13 year, such return shall be deemed to be filed on April 15 of such
14 succeeding calendar year.

15 (c) Exceptions.

16 (1) Assessment at any time. The tax may be assessed at any
17 time if—

18 (A) No return is filed,

19 (B) A false or fraudulent return is filed with intent to evade
20 tax, or

21 (C) The taxpayer fails to comply with section 54A:8-7, in
22 not reporting a change or correction increasing his Federal
23 taxable income as reported on his Federal income tax return,
24 or in not reporting a change or correction which is treated in
25 the same manner as if it were a deficiency for Federal income
26 tax purposes, or in not filing an amended return.

27 (2) Extension by agreement. Where, before the expiration of
28 the time prescribed in this section for the assessment of tax, both

29 the director and the taxpayer have consented in writing to its
30 assessment after such time, the tax may be assessed at any time
31 prior to the expiration of the period agreed upon. The period so
32 agreed upon may be extended by subsequent agreements in writing
33 made before the expiration of the period previously agreed upon.

34 (3) Report of changed or corrected Federal income. If the tax-
35 payer shall, pursuant to section 54A:8-7, report a change or cor-
36 rection or file an amended return increasing his Federal taxable
37 income or report a change or correction which is treated in the
38 same manner as if it were a deficiency for Federal income tax
39 purposes, the assessment (if not deemed to have been made upon
40 the filing of the report or amended return) may be made at any
41 time within 2 years after such report or amended return was filed.
42 The amount of such assessment of tax shall not exceed the amount
43 of the increase in New Jersey tax attributable to such Federal
44 change or correction. The provisions of this paragraph shall not
45 affect the time within which or the amount for which an assessment
46 may otherwise be made.

47 (4) Recovery of erroneous refund. An erroneous refund shall be
48 considered an underpayment of tax on the date made, and an
49 assessment of a deficiency arising out of an erroneous refund may
50 be made at any time within 3 years from the making of the refund,
51 except that the assessment may be made within 5 years from the
52 making of the refund if it appears that any part of the refund was
53 induced by fraud or misrepresentation of a material fact.

54 (5) Request for prompt assessment. If a return is required for a
55 decedent or for his estate during the period of administration, the
56 tax shall be assessed within 18 months after written request
57 therefor (made after the return is filed) by the executor, admini-
58 strator or other person representing the estate of such decedent,
59 but not more than 3 years after the return was filed, except as
60 otherwise provided in this subsection and subsection (d).

61 (d) Omission of income on return. The tax may be assessed at
62 any time within 6 years after the return was filed if—

63 (1) An individual omits from his New Jersey income an amount
64 properly includible therein which is in excess of 25% of the amount
65 of New Jersey income stated in the return; or

66 (2) An estate or trust omits income from its return in an amount
67 in excess of 25% of its income determined as if it were an individual,
68 computing his New Jersey income under this act.

69 For purposes of this subsection there shall not be taken into
70 account any amount which is omitted in the return if such amount

71 is disclosed in the return, or in a statement attached to the return,
72 in a manner adequate to apprise the director of the nature and
73 amount of such item.

74 (e) Suspension of running of period of limitation. The running
75 of the period of limitations on assessment or collection of tax or
76 other amount (or of a transferee's liability) shall, after the mailing
77 of a notice of deficiency, be suspended for the period during which
78 the director is prohibited under subsection (c) of section 54A :9-2
79 from making the assessment or from collecting by levy.

1 54A :9-5. Interest on underpayment. (a) General. If any amount
2 of income tax is not paid on or before the last date prescribed in
3 this act for payment, interest on such amount at the rate of 9%
4 per annum shall be paid for the period from such last date to the
5 date paid, whether or not any extension of time for payment was
6 granted. Interest under this subsection shall not be paid if the
7 amount thereof is less than \$1.00. If the time for filing of a return
8 of tax withheld by an employer is extended, the employer shall
9 pay interest for the period for which the extension is granted and
10 may not charge such interest to the employee.

11 (b) Exception as to estimated tax. This section shall not apply
12 to any failure to pay estimated tax under section 54A :8-5.

13 (c) Exception for mathematical error. No interest shall be im-
14 posed on any underpayment of tax due solely to mathematical
15 error if the taxpayer files a return within the time prescribed in
16 this act (including any extension of time) and pays the amount of
17 underpayment within 3 months after the due date of such return,
18 as it may be extended.

19 (d) No interest on interest. No interest under this act shall be
20 imposed on any interest provided by this act.

21 (e) Suspension of interest on deficiencies. If a waiver of restric-
22 tions on assessment of a deficiency has been filed by the taxpayer,
23 and if notice and demand by the director for payment of such
24 deficiency is not made within 30 days after the filing of such waiver,
25 interest shall not be imposed on such deficiency for the period
26 beginning immediately after such thirtieth day and ending with
27 the date of notice and demand.

28 (f) Interest treated as tax. Interest under this section shall be
29 paid upon notice and demand and shall be assessed, collected and
30 paid in the same manner as income tax. Any reference in this act
31 to the tax imposed by this act shall be deemed also to refer to
32 interest imposed by this section on such tax.

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33 (g) Interest on penalties or additions to tax. Interest shall be
34 imposed under subsection (a) in respect of any assessable penalty
35 or addition to tax only if such assessable penalty on addition to
36 tax is not paid within 10 days from the date of the notice and
37 demand therefor under subsection (b) of section 54A:9-12, and in
38 such case interest shall be imposed only for the period from such
39 date of the notice and demand to the date of payment.

40 (h) Payment prior to notice of deficiency. If, prior to the mail-
41 ing to the taxpayer of a notice of deficiency under subsection (b)
42 of section 54A:9-2, the director mails to the taxpayer a notice of
43 proposed increase of tax and within 30 days after the date of the
44 notice of proposed increase the taxpayer pays all amounts shown
45 on the notice to be due to the director, no interest under this section
46 on the amount so paid shall be imposed for the period after the
47 date of such notice of proposed increase.

48 (i) Payment within 10 days after notice and demand. If notice
49 and demand is made for payment of any amount under subsection
50 (b) of section 54A:9-12, and if such amount is paid within 10 days
51 after the date of such notice and demand, interest under this section
52 on the amount so paid shall not be imposed for the period after
53 the date of such notice and demand.

54 (j) Limitation on assessment and collection. Interest prescribed
55 under this section may be assessed and collected at any time dur-
56 ing the period within which the tax or other amount to which such
57 interest relates may be assessed and collected, respectively.

58 (k) Interest on erroneous refund. Any portion of tax or other
59 amount which has been erroneously refunded, and which is recover-
60 able by the director, shall bear interest at the rate of 9% per annum
61 from the date of the payment of the refund, but only if it appears
62 that any part of the refund was induced by fraud or a misrepresen-
63 tation of a material fact.

64 (l) Satisfaction by credits. If any portion of a tax is satisfied
65 by credit of an overpayment, then no interest shall be imposed
66 under this section on the portion of the tax so satisfied for any
67 period during which, if the credit had not been made, interest would
68 have been allowable with respect to such overpayment.

1 54A:9-6. Additions to tax and civil penalties. (a) Failure to file
2 tax return. In case of failure to file a tax return under this act on
3 or before the prescribed date (determined with regard to any ex-
4 tension of time for filing), unless it is shown that such failure is
5 due to reasonable cause and not due to willful neglect, there shall
6 be added to the amount required to be shown as tax on such return

7 such amount as is required under the State Tax Uniform Procedure
8 Law, Subtitle 9 of Title 54 of the Revised Statutes. For this
9 purpose, the amount of tax required to be shown on the return
10 shall be reduced by the amount of any part of the tax which
11 is paid on or before the date prescribed for payment of the tax
12 and by the amount of any credit against the tax which may be
13 claimed upon the return.

14 (b) Deficiency due to negligence. If any part of a deficiency is
15 due to negligence or intentional disregard of this act or rules or
16 regulations hereunder (but without intent to defraud), there shall
17 be added to the tax an amount equal to 5% of the deficiency.

18 (c) Failure to file declaration or underpayment of estimated tax.
19 If any taxpayer fails to file a declaration of estimated tax or fails
20 to pay all or any part of an installment of estimated tax, he shall
21 be deemed to have made an underpayment of estimated tax. There
22 shall be added to the tax for the taxable year an amount at the
23 rate of 9% per annum upon the amount of the underpayment for
24 the period of the underpayment but not beyond the fifteenth day
25 of the fourth month following the close of the taxable year. The
26 amount of underpayment shall be the excess of the amount of the
27 installment which would be required to be paid if the estimated
28 tax were equal to 80% of the tax (two-thirds of the tax for farmers
29 referred to in subsection (e) of section 54A:8-4) shown on the re-
30 turn for the taxable year (or if no return was filed, of the tax for
31 such year) over the amount, if any, of the installment paid on or
32 before the last day prescribed for such payment. No underpayment
33 shall be deemed to exist with respect to a declaration or installment
34 otherwise due on or after the taxpayer's death.

35 (d) Exception to addition for underpayment of estimated tax.
36 The addition to tax under subsection (c) with respect to any under-
37 payment of any installment, shall not be imposed if the total amount
38 of all payments of estimated tax made on or before the last date
39 prescribed for the payment of such installment equals or exceeds
40 whichever of the following is the lesser—

41 (1) The amount which would have been required to be paid on
42 or before such date if the estimated tax were whichever of the
43 following is the least—

44 (A) The tax shown on the return of the individual for the
45 preceding taxable year, if a return showing a liability for tax
46 was filed by the individual for the preceding taxable year and
47 such preceding year was a taxable year of 12 months, or

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48 (B) An amount equal to the tax computed, at the rates appli-
49 cable to the taxable year, on the basis of the taxpayer's status
50 with respect to his personal exemptions for the taxable year,
51 but otherwise on the basis of the facts shown on his return for,
52 and the law applicable to, the preceding taxable year, or

53 (C) An amount equal to 80% of the tax for the taxable year
54 (two-thirds of the tax for farmers referred to in subsection (e)
55 of section 54A:8-4) computed by placing on an annualized basis
56 the income for the months in the taxable year ending before the
57 month in which the installment is required to be paid. For
58 purposes of this subparagraph, the income shall be placed on
59 an annualized basis by—

60 (i) Multiplying by 12 (or, in the case of a taxable year of
61 less than 12 months, the number of months in the taxable
62 year) the income for the months in the taxable year ending
63 before the month in which the installment is required to be
64 paid,

65 (ii) Dividing the resulting amount by the number of
66 months in the taxable year ending before the month in which
67 such installment date falls, and

68 (iii) Deducting from such amount the deductions for per-
69 sonal exemptions allowable for the taxable year (such per-
70 sonal exemptions being determined as of the last date pre-
71 scribed for payment of the installment); or

72 (2) An amount equal to 90% of the tax computed, at the rates
73 applicable to the taxable year, on the basis of the actual income
74 for the months in the taxable year ending before the month in
75 which the installment is required to be paid.

76 (e) Deficiency due to fraud. If any part of a deficiency is due
77 to fraud, there shall be added to the tax an amount equal to 50%
78 of the deficiency. This amount shall be in lieu of any other addition
79 to tax imposed by subsection (a) or (b).

80 (f) Non willful failure to pay withholding tax. If any employer,
81 without intent to evade or defeat any tax imposed by this act or the
82 payment thereof, shall fail to make a return and pay a tax withheld
83 by him at the time required by or under the provisions of section
84 54A:7-4, such employer shall be liable for such tax and shall pay
85 the same together with interest thereon and the addition to tax
86 provided in subsection (a), and such interest and addition to tax
87 shall not be charged to or collected from the employee by the
88 employer. The director shall have the same rights and powers for
89 the collection of such tax, interest and addition to tax against such

90 employer as are now prescribed by this act for the collection of tax
91 against an individual taxpayer.

92 (g) Willful failure to collect and pay over tax. Any person
93 required to collect, truthfully account for, and pay over the tax
94 imposed by this act who willfully fails to collect such tax or truth-
95 fully account for and pay over such tax or willfully attempts in any
96 manner to evade or defeat the tax or the payment thereof, shall, in
97 addition to other penalties provided by law, be liable to a penalty
98 equal to the total amount of the tax evaded, or not collected, or
99 not accounted for and paid over. No addition to tax under sub-
100 sections (b) or (c) shall be imposed for any offense to which this
101 subsection applies.

102 (h) Failure to file certain information returns. In case of each
103 failure to file a statement of a payment to another person, required
104 under authority of subsection (c) of section 54A:8-6 (relating to
105 information at source, including the duplicate statement of tax
106 withheld on wages) on the date prescribed therefor (determined
107 with regard to any extension of time for filing), unless it is shown
108 that such failure is due to reasonable cause and not to willful
109 neglect, there shall, upon notice and demand by the director and in
110 the same manner as tax, be paid by the person so failing to file the
111 statement, a penalty of \$1.00 for each statement not so filed, but
112 the total amount imposed on the delinquent person for all such
113 failures during any calendar year shall not exceed \$1,000.00.

114 (i) Additional penalty. Any person who with fraudulent intent
115 shall fail to pay, or to deduct or withhold and pay, any tax, or to
116 make, render, sign or certify any return or declaration of esti-
117 mated tax or to supply any information within the time required
118 by or under this act, shall be liable to penalty of not more than
119 \$1,000.00, in addition to any other amounts required under this act,
120 to be imposed, assessed and collected by the director. The director
121 shall have the power, in his discretion, to waive, reduce or compro-
122 mise any penalty under this subsection.

123 (j) Additions treated as tax. The additions to tax and penalties
124 provided by this section shall be paid upon notice and demand and
125 shall be assessed, collected and paid in the same manner as taxes
126 and any reference in this act to income tax or tax imposed by this
127 act, shall be deemed also to refer to the additions to tax and pen-
128 alties provided by this section. For purposes of section 54A:9-2,
129 this subsection shall not apply to:

130 (1) Any addition to tax under subsection (a) except as to that
131 portion attributable to a deficiency;

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132 (2) Any addition to tax under subsection (e); and
133 (3) Any additional penalty under subsection (i).
134 (k) Determination of deficiency. For purposes of subsections
135 (b) and (c), the amount shown as the tax by the taxpayer upon his
136 return shall be taken into account in determining the amount of the
137 deficiency only if such return was filed on or before the last day
138 prescribed for the filing of such return, determined with regard to
139 any extension of time for such filing.

140 (1) Person defined. For purposes of subsections (g) and (i), the
141 term person includes an individual, corporation or partnership or
142 an officer or employee of any corporation (including a dissolved
143 corporation) or a member or employee of any partnership, who
144 as such officer, employee, or member is under a duty to perform
145 the act in respect of which the violation occurs.

1 54A:9-7. Overpayment. (a) General. The director, within the
2 applicable period of limitations may credit an overpayment of
3 income tax against any liability in respect of any tax imposed by
4 the tax law on the person who made the overpayment, and the
5 balance shall be refunded by the comptroller out of the proceeds
6 of the tax retained by him for such general purpose. Any refund
7 under this section shall be made only upon the filing of a return
8 and upon a certificate of the director approved by the comptroller.
9 The State Treasurer, as a condition precedent to the approval of
10 such a certificate, may examine into the facts as disclosed by the
11 return of the person who made the overpayment and other informa-
12 tion and data available in the files of the director.

13 (b) Excessive withholding. If the amount allowable as a credit
14 for tax withheld from the taxpayer exceeds his tax to which the
15 credit relates, the excess shall be considered an overpayment.

16 (c) Overpayment by employer. If there has been an overpay-
17 ment of tax required to be deducted and withheld under section
18 54A:7-4, refund shall be made to the employer only to the extent
19 that the amount of the overpayment was not deducted and withheld
20 by the employer.

21 (d) Credits against estimated tax. The director may prescribe
22 regulations providing for the crediting against the estimated in-
23 come tax for any taxable year of the amount determined to be an
24 overpayment of the income tax for a preceding taxable year. If
25 any overpayment of income tax is so claimed as a credit against
26 estimated tax for the succeeding taxable year, such amount shall
27 be considered as a payment of the income tax for the succeeding

28 taxable year (whether or not claimed as a credit in the declaration
29 of estimated tax for such succeeding taxable year), and no claim
30 for credit or refund of such overpayment shall be allowed for the
31 taxable year for which the overpayment arises.

32 (e) Rule where no tax liability. If there is no tax liability for
33 a period in respect of which an amount is paid as income tax, such
34 amount shall be considered an overpayment.

35 (f) Under regulations prescribed by the director with approval
36 of the State Treasurer interest shall be allowed and paid at the rate
37 of 6% per annum upon any overpayment in respect of the tax im-
38 posed by this act; but no interest shall be allowed or paid on an
39 overpayment of less than \$1.00, nor upon any overpayment
40 refunded within 6 months after the last date prescribed, or per-
41 mitted by extension of time, for filing the return or within 6 months
42 after the return is filed, whichever is later.

1 54A:9-8. Limitations on credit or refund. (a) General. Claim
2 for credit or refund of an overpayment of income tax shall be filed
3 by the taxpayer within 3 years from the time the return was filed or
4 2 years from the time the tax was paid, whichever of such periods
5 expires the later, or if no return was filed, within 2 years from the
6 time the tax was paid. If the claim is filed within the 3-year period,
7 the amount of the credit or refund shall not exceed the portion of
8 the tax paid within the 3 years immediately preceding the filing of
9 the claim plus the period of any extension of time for filing the
10 return. If the claim is not filed within the 3-year period, but is filed
11 within the 2-year period, the amount of the credit or refund shall
12 not exceed the portion of the tax paid during the 2 years immedi-
13 ately preceding the filing of the claim. Except as otherwise pro-
14 vided in this section, if no claim is filed, the amount of a credit or
15 refund shall not exceed the amount which would be allowable if a
16 claim had been filed on the date the credit or refund is allowed.

17 (b) Extension of time by agreement. If an agreement under the
18 provisions of paragraph (2) of subsection (c) of section 54A:9-4
19 (extending the period for assessment of income tax) is made within
20 the period prescribed in subsection (a) for the filing of a claim for
21 credit or refund, the period for filing a claim for credit or refund,
22 or for making credit or refund if no claim is filed, shall not expire
23 prior to 6 months after the expiration of the period within which
24 an assessment may be made pursuant to the agreement or any
25 extension thereof. The amount of such credit or refund shall not
26 exceed the portion of the tax paid after the execution of the agree-
27 ment and before the filing of the claim or the making of the credit

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28 or refund, as the case may be, plus the portion of the tax paid within
29 the period which would be applicable under subsection (a) if a
30 claim had been filed on the date the agreement was executed.

31 (c) Notice of change or correction of Federal income. If a tax-
32 payer is required by section *~~54A:8-8~~* *54A:8-7* to report a
33 change or correction in Federal taxable income reported on his
34 Federal income tax return, or to report a change or correction
35 which is treated in the same manner as if it were an overpayment
36 for Federal income tax purposes, or to file an amended return with
37 the director, claim for credit or refund of any resulting overpay-
38 ment of tax shall be filed by the taxpayer within 2 years from the
39 time the notice of such change or correction or such amended re-
40 turn was required to be filed with the director. The amount of such
41 credit or refund shall not exceed the amount of the reduction in
42 tax attributable to such Federal change, correction or items
43 amended on the taxpayer's amended Federal income tax return.
44 This subsection shall not affect the time within which or the amount
45 for which a claim for credit or refund may be filed apart from this
46 subsection.

47 (d) Failure to file claim within prescribed period. No credit or
48 refund shall be allowed or made, except as provided in subsection
49 (e) of this section or subsection (d) of section 54A:9-10, after the
50 expiration of the applicable period of limitation specified in this
51 act, unless a claim for credit or refund is filed by the taxpayer
52 within such period. Any later credit shall be void and any later
53 refund erroneous. No period of limitations specified in any other
54 law shall apply to the recovery by a taxpayer of moneys paid in
55 respect of taxes under this act.

56 (e) Effect of petition to director. If a notice of deficiency for a
57 taxable year has been mailed to the taxpayer under section 54A:9-2
58 and if the taxpayer files a timely petition with the director under
59 section 54A:9-9, he may determine that the taxpayer has made an
60 overpayment for such year (whether or not he also determines a
61 deficiency for such year). No separate claim for credit or refund
62 for such year shall be filed, and no credit or refund for such year
63 shall be allowed or made, except—

64 (1) As to overpayments determined by a decision of the director
65 which has become final; and

66 (2) As to any amount collected in excess of an amount computed
67 in accordance with the decision of the director which has become
68 final; and

69 (3) As to any amount claimed as a result of a change or correc-
70 tion described in subsection (c).

71 (4) Limit on amount of credit or refund. The amount of over-
72 payment determined under subsection *[(f)]* *(e)* shall, when
73 the decision of the director has become final, be credited or re-
74 funded in accordance with subsection (a) of section 54A:6-6 and
75 shall not exceed the amount of tax which the director determines
76 as part of his decision was paid—

77 (1) After the mailing of the notice of deficiency; or

78 (2) Within the period which would be applicable under subsec-
79 tions (a), (b) or (c), if on the date of the mailing of the notice of
80 a deficiency a claim had been filed (whether or not filed) stating the
81 grounds upon which the director finds that there is an overpayment.

82 (g) Early return. For purposes of this section, any return filed
83 before the last day prescribed for the filing thereof shall be con-
84 sidered as filed on such last day, determined without regard to any
85 extension of time granted the taxpayer.

86 (h) Prepaid income tax. For purposes of this section, any tax
87 paid by the taxpayer before the last day prescribed for its payment,
88 any income tax withheld from the taxpayer during any calendar
89 year, and any amount paid by the taxpayer as estimated income tax
90 for a taxable year shall be deemed to have been paid by him on the
91 fifteenth day of the fourth month following the close of his taxable
92 year with respect to which such amount constitutes a credit or
93 payment.

94 (i) Return and payment of withholding tax. Notwithstanding
95 subsection (h), for purposes of this section with respect to any
96 withholding tax—

97 (1) If a return for any period ending with or within a calendar
98 year is filed before April 15 of the succeeding calendar year, such
99 return shall be considered filed on April 15 of such succeeding
100 calendar year; and

101 (2) If a tax with respect to remuneration paid during any period
102 ending with or within a calendar year is paid before April 15 of the
103 succeeding calendar year, such tax shall be considered paid on
104 April 15 of such succeeding calendar year.

1 54A:9-9. Petition to director. (a) General. The form of a peti-
2 tion to the director, and further proceedings before the director in
3 any case initiated by the filing of a petition, shall be governed by
4 such rules as the director shall prescribe. No petition shall be
5 deemed in whole or in part without opportunity for a hearing on
6 reasonable prior notice. Such hearing shall be conducted by the

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7 director, or by a hearing officer designated by him to take evidence
8 and report to the director. The director shall decide the case as
9 quickly as practicable. Notice of the decision shall be mailed
10 promptly to the taxpayer at his last known address, and such notice
11 shall set forth the director's findings of fact and a brief statement
12 of the grounds of decision in each case decided in whole or in part
13 adversely to the taxpayer.

14 (b) Petition for redetermination of a deficiency. Within 90 days,
15 or 150 days if the notice is addressed to a person outside of the
16 United States, after the mailing of the notice of deficiency autho-
17 rized by section 54A :9-2, the taxpayer may file a petition with the
18 director for a redetermination of the deficiency. Such petition may
19 also assert a claim for refund for the same taxable year or years,
20 subject to the limitations of subsection *[(g)]* *(f)* of section
21 54A :9-8.

22 (c) Petition for refund. A taxpayer may file a petition with the
23 director for the amounts asserted in a claim for refund if—

24 (1) The taxpayer has filed a timely claim for refund with the
25 director;

26 (2) The taxpayer has not previously filed with the director a
27 timely petition under subsection (b) for the same taxable year
28 unless the petition under this subsection relates to a separate claim
29 for credit or refund properly filed under subsection *[(f)]* *(e)*
30 of section 54A :9-8; and

31 (3) Either (A) 6 months have expired since the claim was filed,
32 or (B) the director has mailed to the taxpayer a notice of disallow-
33 ance of such claim in whole or in part.

34 No petition under this subsection shall be filed more than 2 years
35 after the date of mailing of a notice of disallowance, unless prior to
36 the expiration of such 2-year period it has been extended by written
37 agreement between the taxpayer and the director. If a taxpayer
38 files a written waiver of the requirement that he be mailed a notice
39 of disallowance, the 2-year period prescribed by this subsection for
40 filing a petition for refund shall begin on the date such waiver is
41 filed.

42 (d) Assertion of deficiency after filing petition.—

43 (1) Petition for redetermination of deficiency. If a taxpayer files
44 with the director a petition for redetermination of a deficiency, the
45 director shall have power to determine a greater deficiency than
46 asserted in the notice of deficiency and to determine if there should
47 be assessed any addition to tax or penalty provided in section
48 54A :9-6, if claim therefor is asserted at or before the hearing
49 under rules of the director.

50 (2) Petition for refund. If the taxpayer files with the director a
51 petition for credit or refund for a taxable year, the director may

52 (A) Determine a deficiency for such year as to any amount
53 of deficiency asserted at or before the hearing under rules of
54 the director, and within the period in which an assessment
55 would be timely under section 54A:9-4, or

56 (B) Deny so much of the amount for which credit or refund
57 is sought in the petition, as is offset by other issues pertaining
58 to the same taxable year which are asserted at or before the
59 hearing under rules of the director.

60 (3) Opportunity to respond. A taxpayer shall be given a reason-
61 able opportunity to respond to any matters asserted by the director
62 under this subsection.

63 (4) Restriction on further notices of deficiency. If the taxpayer
64 files a petition with the director under this section, no notice of
65 deficiency under section 54A:9-2 may thereafter be issued by the
66 director for the same taxable year, except in case of fraud or with
67 respect to a change or correction in Federal taxable income re-
68 quired to be reported under section 54A:8-7.

69 (e) Burden of proof. In any case before the director under this
70 act, the burden of proof shall be upon the petitioner except for the
71 following issues, as to which the burden of proof shall be upon the
72 director:

73 (1) Whether the petitioner has been guilty of fraud with intent
74 to evade tax;

75 (2) Whether the petitioner is liable as the transferee of property
76 of a taxpayer, but not to show that the taxpayer was liable for the
77 tax; and

78 (3) Whether the petitioner is liable for any increase in a
79 deficiency where such increase is asserted initially after a notice of
80 deficiency was mailed and a petition under this section filed, unless
81 such increase in deficiency is the result of a change or correction of
82 Federal taxable income required to be reported under section
83 ***[54A:8-8]*** *54A:8-7*, and of which change or correction the
84 director had no notice at the time he mailed the notice of deficiency.

85 (f) Evidence of related Federal determination. Evidence of a
86 Federal determination relating to issues raised in a case before the
87 director under this section shall be admissible, under rules estab-
88 lished by the director.

89 (g) Jurisdiction over other years. The director shall consider
90 such facts with relation to the taxes for other years as may be
91 necessary correctly to determine the tax for the taxable year, but

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92 in so doing shall have no jurisdiction to determine whether or not
93 the tax for any other year has been overpaid or underpaid.

1 54A:9-10. Review of director's decision. (a) Appeal to Division
2 of Tax Appeals. Any aggrieved taxpayer may, within 4 months
3 after any decision, order, finding, assessment or action of the
4 Director of Taxation made pursuant to the provisions of this act,
5 appeal therefrom to the Division of Tax Appeals, by filing a peti-
6 tion of appeal with said Division of Tax Appeals in the manner
7 and form prescribed by the said Division of Tax Appeals.

8 (b) Appeal exclusive remedy of taxpayer. The appeal provided
9 by this section shall be the exclusive remedy available to any tax-
10 payer for review of a decision of the director in respect of the
11 determination of the liability of the taxpayer for the taxes imposed
12 by this act.

13 (c) Credit, refund or abatement after review. If the amount of
14 a deficiency determined by the director is disallowed in whole or in
15 part, the amount so disallowed shall be credited or refunded to the
16 taxpayer, without the making of claim therefor, or, if payment has
17 not been made, shall be abated.

18 (d) Date of finality of director's decision. A decision of the
19 director shall become final upon the expiration of the period
20 specified in subsection (a) for filing a petition of appeal, if no such
21 petition has been filed within such time, or if such petition has been
22 duly made, upon expiration of the time for all further appeals, or
23 upon the rendering by the director of a decision in accordance with
24 the mandate of the Division of Tax Appeals or the courts on appeal.
25 Notwithstanding the foregoing, for the purpose of forming a peti-
26 tion of appeal, the decision of the director shall be deemed final on
27 the date the notice of decision is sent by mail to the taxpayer.

28 (e) Judicial review. The judgment or order of the Division of
29 Tax Appeals respecting any matter arising under the provisions
30 of this act may be reviewed by a proceeding in lieu of prerogative
31 writ in the same manner as other judgments of said division.

1 54A:9-11. Mailing rules; holidays. (a) Timely mailing. If any
2 claim, statement, notice, petition, or other document (including to
3 the extent authorized by the director, a return or a declaration of
4 estimated tax) required to be filed within a prescribed period or on
5 or before a prescribed date under authority of any provision of this
6 act is, after such period or such date, delivered by United States
7 mail to the director, bureau, office, officer or person with which or
8 with whom such document is required to be filed, the date of the

9 United States postmark stamped on the envelope shall be deemed
10 to be the date of delivery. This subsection shall apply only if the
11 postmark date falls within the prescribed period or on or before
12 the prescribed date for the filing of such document, determined with
13 regard to any extension granted for such filing, and only if such
14 document was deposited in the mail, postage prepaid, properly
15 addressed to the director, bureau, office, officer or person with which
16 or with whom the document is required to be filed. If any document
17 is sent by United States registered mail, such registration shall be
18 prima facie evidence that such document was delivered to the
19 director, bureau, office, officer or person to which or to whom
20 addressed. To the extent that the director shall prescribe by
21 regulation, certified mail may be used in lieu of registered mail
22 under this section. This subsection shall apply to the case of post-
23 marks not made by the United States Post Office only if and to
24 the extent provided by regulations of the director.

25 (b) Last known address. For purposes of this act, a taxpayer's
26 last known address shall be the address given in the last return
27 filed by him, unless subsequently to the filing of such return the tax-
28 payer shall have notified the director of a change of address.

29 (c) Last day a Saturday, Sunday or legal holiday. When the
30 last day prescribed under authority of this act (including any
31 extension of time) for performing any act falls on Saturday, Sun-
32 day, or a legal holiday in the State of New Jersey, the performance
33 of such act shall be considered timely if it is performed on the next
34 succeeding day which is not a Saturday, Sunday or a legal holiday.

1 54A:9-12. Collection, levy and liens. (a) Collection procedures.
2 The taxes imposed by this act shall be collected by the director, and
3 he may establish the mode or time for the collection of any amount
4 due him under this act if not otherwise specified. The director
5 shall, upon request, give a receipt for any sum collected under this
6 act. The director may authorize banks or trust companies which
7 are depositaries or financial agents of the State to receive and give
8 a receipt for any tax imposed under this act in such manner, at such
9 times, and under such conditions as the director may prescribe; and
10 the director shall prescribe the manner, times and conditions under
11 which the receipt of such tax by such banks and trust companies
12 is to be treated as payment of such tax to the director.

13 (b) Notice and demand for tax. The director shall as soon as
14 practicable give notice to each person liable for any amount of tax,
15 addition to tax, penalty or interest, which has been assessed but
16 remains unpaid, stating the amount and demanding payment

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17 thereof. Such notice shall be left at the dwelling or usual place of
18 business of such person or shall be sent by mail to such person's
19 last known address. Except where the director determines that
20 collection would be jeopardized by delay, if any tax is assessed prior
21 to the last date (including any date fixed by extension) prescribed
22 for payment of such tax, payment of such tax shall not be demanded
23 until after such date.

24 (c) Issuance of Certificate of Debt after notice and demand. If
25 any person liable under this act for the payment of any tax, addition
26 to tax, penalty or interest neglects or refuses to pay the same
27 within 10 days after the notice and demand therefor is given to
28 such person under subsection (b), the director may within 6 years
29 after the date of such assessment issue a certificate of debt, pur-
30 suant to the State Tax Uniform Procedure Law (Subtitle 9 of Title
31 54 of the Revised Statutes).

32 (d) Taxpayer not a resident. Where a notice and demand under
33 subsection (b) shall have been given to a taxpayer who is not then a
34 resident, and it appears to the director that it is not practicable to
35 find in this State property of the taxpayer sufficient to pay the
36 entire balance of tax or other amount owing by such taxpayer who
37 is not then a resident, the director may, in accordance with subsec-
38 tion (c), issue a certificate of debt. Thereupon the director may
39 authorize the institution of any action or proceeding to collect or
40 enforce the certificate of debt in any place and by any procedure
41 that a civil certificate of debt of the Superior Court of the State of
42 New Jersey could be collected or enforced. The director may also,
43 in his discretion, designate agents or retain counsel for the pur-
44 pose of collecting, outside the State of New Jersey, any unpaid
45 taxes, additions to tax, penalties or interest which have been
46 assessed under this act against taxpayers who are not residents of
47 this State, may fix the compensation of such agents and counsel to
48 be paid out of money appropriated or otherwise lawfully available
49 for payment thereof, and may require of them bonds or other
50 security for the faithful performance of their duties, in such form
51 and in such amount as the director shall deem proper and sufficient.

52 (e) Action by State for recovery of taxes. Action may be
53 brought by the Attorney General at the instance of the director in
54 the name of the State to recover the amount of any unpaid taxes,
55 additions to tax, penalties or interest which have been assessed
56 under this act within 6 years prior to the date the action is com-
57 menced.

58 (f) Actions for collection of tax. (1) At the request of the
59 Division of Taxation, the Attorney General may bring suit, in the

60 name of this State, in the appropriate court of any other state to
61 collect any tax legally due this State under this act.

62 (2) The courts of this State shall recognize and enforce liabilities
63 for taxes lawfully imposed by any other state, upon incomes, which
64 extends a like comity to this State, and the duly authorized officer
65 of any such state may sue for the collection of such a tax in the
66 courts of this State. A certificate by the secretary of state of such
67 other state that an officer suing for the collection of such a tax is
68 duly authorized to collect the same shall be conclusive proof of such
69 authority.

70 (3) For the purposes of this section, the words "tax" and
71 "taxes" shall include interest and penalties due under this act, and
72 liability for such interest or penalties or both, due under a taxing
73 statute of another state shall be recognized and enforced by the
74 courts of this State to the same extent that the laws of such other
75 state permit the enforcement in its courts of liability for such in-
76 terest or penalties or both, due under this act.

77 (g) Renewal and release of lien. Within 20 years from the date
78 of the filing or from the date of the last extension of the lien, the
79 lien may be extended by the filing of a new warrant with the county
80 recording officer. The director if he finds that the interests of the
81 State will not thereby be jeopardized, and upon such conditions
82 as he may require, may release any property from the lien of any
83 warrant for unpaid taxes, additions to tax, penalties and interest
84 filed pursuant to this section, and such release may be recorded in
85 the office of any recording officer in which such warrant has been
86 filed.

1 54A:9-13. Transferees. (a) General. The liability, at law or in
2 equity, of a transferee of property of a taxpayer for any tax, addi-
3 tions to tax, penalty or interest due the director under this act,
4 shall be assessed, paid, and collected in the same manner and sub-
5 ject to the same provisions and limitations as in the case of the tax
6 to which the liability relates, except that the period of limitations
7 for assessment against the transferee shall be extended by 1 year
8 for each successive transfer, in order, from the original taxpayer
9 to the transferee involved, but not by more than 3 years in the
10 aggregate. The term transferee includes, donee, heir, legatee,
11 devisee and distributee.

12 (b) Exceptions.

13 (1) If before the expiration of the period of limitations for
14 assessment of liability of the transferee, a claim has been filed by
15 the director in any court against the original taxpayer or the last

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16 preceding transferee based upon the liability of the original tax-
 17 payer, then the period of limitation for assessment of liability of
 18 the transferee shall in no event expire prior to 1 year after such
 19 claim has been finally allowed, disallowed or otherwise disposed of.

20 (2) If, before the expiration of the time prescribed in subsection
 21 (a) or the immediately preceding paragraph of this subsection for
 22 the assessment of the liability, the director and the transferee have
 23 both consented in writing to its assessment after such time, the
 24 liability may be assessed at any time prior to the expiration of the
 25 period agreed upon. The period so agreed upon may be extended by
 26 subsequent agreements in writing made before the expiration of
 27 the period previously agreed upon. For the purpose of determining
 28 the period of limitation on credit or refund to the transferee of
 29 overpayments of tax made by such transferee or overpayments of
 30 tax made by the transferor as to which the transferee is legally en-
 31 titled to credit or refund, such agreement and any extension thereof
 32 shall be deemed an agreement and extension thereof referred to in
 33 subsection (b) of section 54A:9-8. If the agreement is executed
 34 after the expiration of the period of limitation for assessment
 35 against the original taxpayer, then in applying the limitations
 36 under subsection (b) of section 54A:9-8 on the amount of the credit
 37 or refund, the periods specified in subsection (a) of section
 38 54A:9-8 shall be increased by the period from the date of such
 39 expiration to the date of the agreement.

40 (c) Deceased transferor. If any person is deceased, the period
 41 of limitation for assessment against him shall be the period that
 42 would be in effect if he had lived.

43 (d) Evidence. Notwithstanding the provisions of subsection (e)
 44 of section 54A:9-17 the director shall use his powers to make avail-
 45 able to the transferee evidence necessary to enable the transferee
 46 to determine the liability of the original taxpayer and of any pre-
 47 ceding transferees, but without undue hardship to the original tax-
 48 payer or preceding transferee. See subsection (e) of section
 49 54A:9-9 for rule as to burden of proof.

1 54A:9-14. Jeopardy assessment. (a) Authority for making. If
 2 the director believes that the assessment or collection of a de-
 3 ficiency will be jeopardized by delay, he shall, notwithstanding the
 4 provisions of sections 54A:9-2 and 54A:9-16, immediately assess
 5 such deficiency (together with all interests, penalties and additions
 6 to tax provided for by law), and notice and demand shall be made
 7 by the director for the payment thereof.

8 (b) Notice of deficiency. If the jeopardy assessment is made
9 before any notice in respect of the tax to which the jeopardy assess-
10 ment relates has been mailed under section 54A:9-2, then the
11 director shall mail a notice under such section within 60 days after
12 the making of the assessment.

13 (c) Amount assessable before decision of director. The jeopardy
14 assessment may be made in respect of a deficiency greater or less
15 than of which notice is mailed to the taxpayer and whether or not
16 the taxpayer has theretofore filed a petition with the director. The
17 director may, at any time before rendering his decision, abate such
18 assessment, or any unpaid portion thereof, to the extent that he
19 believes the assessment to be excessive in amount. The director
20 may in his decision redetermine the entire amount of the deficiency
21 and of all amounts assessed at the same time in connection there-
22 with.

23 (d) Amount assessable after decision of director. If the jeopardy
24 assessment is made after the decision of the director is rendered,
25 such assessment may be made only in respect of the deficiency
26 determined by the director in his decision.

27 (e) Expiration of right to assess. A jeopardy assessment may
28 not be made after the decision of the director has become final or
29 after the taxpayer has filed a petition with the Division of Tax
30 Appeals for review of the decision of the director.

31 (f) Collection of unpaid amounts. When a petition has been filed
32 with the director and when the amount which should have been
33 assessed has been determined by a decision of the director which
34 has become final, then any unpaid portion, the collection of which
35 has been stayed by bond, shall be collected as part of the tax upon
36 notice and demand from the director, and any remaining portion
37 of the assessment shall be abated. If the amount already collected
38 exceeds the amount determined as the amount which should have
39 been assessed, such excess shall be credited or refunded to the tax-
40 payer as provided in section 54A:9-7 without the filing of claim
41 therefor. If the amount determined as the amount which should
42 have been assessed is greater than the amount actually assessed,
43 then the difference shall be assessed and shall be collected as part
44 of the tax upon notice and demand from the director.

45 (g) Abatement if jeopardy does not exist. The director may
46 abate the jeopardy assessment if he finds that jeopardy does not
47 exist. Such abatement may not be made after a decision of the
48 director in respect of the deficiency has been rendered or, if no pe-
49 tition is filed with the director, after the expiration of the period

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50 for filing such petition. The period of limitation on the making of
51 assessments and levy or a proceeding for collection, in respect of
52 any deficiency, shall be determined as if the jeopardy assessment
53 so abated had not been made, except that the running of such period
54 shall in any event be suspended for the period from the date of such
55 jeopardy assessment until the expiration of the tenth day after the
56 day on which such jeopardy assessment is abated.

57 (h) Bond to stay collection. The collection of the whole or any
58 amount of any jeopardy assessment may be stayed by filing with
59 the director, within such time as may be fixed by regulation, a bond
60 in an amount equal to the amount as to which the stay is desired,
61 conditioned upon the payment of the amount (together with in-
62 terest thereon) the collection of which is stayed at the time at which,
63 but for the making of the jeopardy assessment, such amount would
64 be due. Upon the filing of the bond the collection of so much of the
65 amount assessed as is covered by the bond shall be stayed. The
66 taxpayer shall have the right to waive such stay at any time in
67 respect of the whole or any part of the amount covered by the bond,
68 and if as a result of such waiver any part of the amount covered
69 by the bond is paid, then the bond shall at the request of the tax-
70 payer, be proportionately reduced. If any portion of the jeopardy
71 assessment is abated, or if a notice of deficiency under section
72 54A:9-2 is mailed to the taxpayer in a lesser amount, the bond
73 shall, at the request of the taxpayer, be proportionately reduced.

74 (i) Petition to director. If the bond is given before the taxpayer
75 has filed his petition under section 54A:9-9, the bond shall contain
76 a further condition that if a petition is not filed within the period
77 provided in such section, then the amount, the collection of which
78 is stayed by the bond, will be paid on notice and demand at any
79 time after the expiration of such period, together with interest
80 thereon from the date of the jeopardy notice and demand to the
81 date of notice and demand under this subsection. The bond shall
82 be conditioned upon the payment of so much of such assessment
83 (collection of which is stayed by the bond) as is not abated by a
84 decision of the director which has become final. If the director
85 determines that the amount assessed is greater than the amount
86 which should have been assessed, then the bond shall, at the re-
87 quest of the taxpayer, be proportionately reduced when the de-
88 cision of the director is rendered.

89 (j) Stay of sale of seized property pending director's decision.
90 Where a jeopardy assessment is made, the property seized for the
91 collection of the tax shall not be sold—

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92 (1) If subsection (b) is applicable, prior to the issuance of the
93 notice of deficiency and the expiration of the time provided in sec-
94 tion 54A:9-9, for filing a petition with the director, and
95 (2) If a petition is filed with the director (whether before or
96 after the making of such jeopardy assessment), prior to the ex-
97 piration of the period during which the assessment of the deficiency
98 would be prohibited if subsection (a) were not applicable.
99 Such property may be sold if the taxpayer consents to the sale,
100 or if the director determines that the expenses of conservation and
101 maintenance will greatly reduce the net proceeds, or if the property
102 is perishable.
103 (k) Interest. For the purpose of subsection (a) of section
104 54A:9-5, the last date prescribed for payment shall be determined
105 without regard to any notice and demand for payment issued under
106 this section prior to the last date otherwise prescribed for such
107 payment.
108 (l) Early termination of taxable year. If the director finds that
109 a taxpayer designs quickly to depart from this State or to remove
110 his property therefrom, or to conceal himself or his property
111 therein, or to do any other act tending to prejudice or to render
112 wholly or partly ineffectual proceedings to collect the income tax
113 for the current or the preceding taxable year unless such proceed-
114 ings be brought without delay, the director shall declare the tax-
115 able period for such taxpayer immediately terminated, and shall
116 cause notice of such finding and declaration to be given the tax-
117 payer, together with a demand for immediate payment of the tax
118 for the taxable period so declared terminated and of the tax for
119 the preceding taxable year or so much of such tax as is unpaid,
120 whether or not the time otherwise allowed by law for filing return
121 and paying the tax has expired; and such taxes shall thereupon
122 become immediately due and payable. In any proceeding brought
123 to enforce payment of taxes made due and payable by virtue of
124 the provisions of this subsection, the finding of the director made
125 as herein provided, whether made after notice to the taxpayer or
126 not, shall be for all purposes presumptive evidence of jeopardy.
127 (m) Reopening of taxable period. Notwithstanding the termi-
128 nation of the taxable period of the taxpayer by the director, as
129 provided in subsection (l), the director may reopen such taxable
130 period each time the taxpayer is found by the director to have
131 received income, within the current taxable year, since the termi-
132 nation of such period. A taxable period so terminated by the di-
133 rector may be reopened by the taxpayer if he files with the director

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134 a true and accurate return of taxable income and credits allowed
135 under this act for such taxable period, together with such other
136 information as the director may by regulations prescribe.

137 (n) Furnishing of bond where taxable year is closed by the
138 director. Payment of taxes shall not be enforced by any proceed-
139 ings under the provisions of subsection (l) prior to the expiration
140 of the time otherwise allowed for paying such taxes if the taxpayer
141 furnishes, under regulations prescribed by the director, a bond to
142 insure the timely making of returns with respect to, and payment
143 of, such taxes or any income taxes for prior years.

1 54A:9-15. Criminal penalties. (a) Attempt to evade tax. Any
2 individual, corporation or partnership or any officer or employee
3 of any corporation, or member or employee of any partnership,
4 who, with intent to evade any tax or any requirement of this act
5 or any lawful requirement of the director thereunder, shall fail to
6 pay the tax, or to make, render, sign or certify any return or
7 declaration of estimated income, or to supply any information
8 within the time required by or under the provisions of this act,
9 or who, with like intent, shall make, render, sign or certify any
10 false or fraudulent return, declaration or statement, or shall supply
11 any false or fraudulent information, or who shall fail to comply
12 with the provisions of subsection (b) of section 54A:7-4 after the
13 service of a notice by the director thereunder, shall be guilty of a
14 misdemeanor and shall, upon conviction, be fined not to exceed
15 \$5,000.00 or be imprisoned not to exceed 1 year, or both, at the
16 discretion of the court.

17 (b) Limitations. Notwithstanding the provisions of any other
18 law, a prosecution for any offense under this section may be com-
19 menced at any time not later than 5 years after the commission
20 of such offense provided that, if such offense is the failure to do
21 an act required by or under the provision of this act to be done
22 before a certain date, a prosecution for such offense may be com-
23 menced not later than 5 years after such date.

24 (c) Willful failure to withhold. Any individual, corporation or
25 partnership or any officer or employee of any corporation (includ-
26 ing a dissolved corporation), or member or employee of any part-
27 nership, who willfully fails to collect or pay over any withholding
28 tax as required, shall, in addition to other penalties provided by
29 law, be guilty of a misdemeanor, and, upon conviction thereof
30 shall be fined not to exceed \$5,000.00 or imprisoned not to exceed
31 1 year, or both.

32 (d) Two or more charges. In the prosecution of offenses under
33 this section, if there are two or more charges against any person
34 or corporation, involving a violation or violations of any provision
35 or provisions of this act, whether for the same or different taxable
36 years, instead of returning several indictments or filing several
37 informations, all of such charges may be joined in one indictment
38 or information, in separate counts, and if two or more indictments
39 are found, or two or more informations are filed, the court may
40 order them to be consolidated. If a person or corporation shall be
41 convicted of two or more offenses constituting different crimes
42 set forth in different counts of one indictment or information, or
43 in separate indictments or informations consolidated as herein-
44 before provided, the court may impose a separate sentence for
45 each offense, and if imprisonment is imposed, the court may order
46 any of such sentences to be served concurrently or consecutively.

47 (e) Miscellaneous rules. The failure to do any act required by
48 or under the provisions of this act shall be deemed an act committed
49 in part at the office of the director in Trenton. Any prosecution
50 under this section may be conducted in any county where the person
51 or corporation to whose tax liability the proceeding relates resides,
52 or has a place of business, or from which such person or corpora-
53 tion received any income, or in any county in which any such crime
54 is committed, or in the county of Mercer. The Attorney General
55 shall have concurrent jurisdiction with any prosecuting attorney
56 in the prosecution of any offenses under this section. If the pro-
57 visions of this section conflict with those contained in any other
58 law, this section shall control. The certificate of the director to
59 the effect that a tax has not been paid, that a return or declaration
60 of estimated tax has not been filed, or that information has not
61 been supplied, as required by or under the provisions of this act,
62 shall be prima facie evidence that such tax has not been paid, that
63 such return or declaration has not been filed, or that such informa-
64 tion has not been supplied. All fines levied under this section shall
65 be paid to the director and deposited in the same manner as
66 revenues collected or received under this act.

1 54A :9-16. Armed forces relief provisions. (a) Time to be
2 disregarded. In the case of an individual serving in the Armed
3 Forces of the United States, or serving in support of such armed
4 forces, in an area designated by the President of the United States
5 by executive order as a "combat zone" at any time during the
6 period designated by the president by executive order as the period
7 of combatant activities in such zone, or hospitalized outside the

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8 State as a result of injury received while serving in such an area
9 during such time, the period of service in such area, plus the period
10 of continuous hospitalization outside the State attributable to such
11 injury, and the next 180 days thereafter, shall be disregarded in
12 determining, under this act, in respect of the income tax liability
13 (including any interest, penalty, or addition to the tax) of such
14 individual.

15 (1) Whether any of the following acts was performed within the
16 time prescribed therefor:

17 (A) Filing any return of income tax (except withholding
18 tax);

19 (B) Payment of any income tax (except withholding tax)
20 or any installment thereof or of any other liability to the State,
21 in respect thereof;

22 (C) Filing a petition with the director for credit or refund
23 or for redetermination of a deficiency, or application for review
24 of a decision rendered by the director;

25 (D) Allowance of a credit or refund of income tax;

26 (E) Filing a claim for credit or refund of income tax;

27 (F) Assessment of income tax;

28 (G) Giving or making any notice or demand for the payment
29 of any income tax, or with respect to any liability to the State
30 in respect of income tax;

31 (H) Collection, by the director, by levy or otherwise of the
32 amount of any liability in respect of income tax;

33 (I) Bringing suit by the State, or any officer, on its behalf,
34 in respect of any liability in respect of income tax; and

35 (J) Any other act required or permitted under this act or
36 specified in regulations prescribed under this section by the
37 director.

38 (2) The amount of any credit or refund (including interest).

39 (b) Action taken before ascertainment of right to benefits. The
40 assessment or collection of the tax imposed by this act or of any
41 liability to the State in respect of such tax, or any action or proceed-
42 ing by or on behalf of the State in connection therewith, may be
43 made, taken, begun, or prosecuted in accordance with law, without
44 regard to the provisions of subsection (a), unless prior to such
45 assessment, collection, action, or proceeding it is ascertained that
46 the person concerned is entitled to the benefits of subsection (a).

47 (c) Members of armed forces dying in action. In the case of any
48 person who dies during an induction period while in active service
49 as a member of the Armed Forces of the United States, if such

50 death occurred while serving in a combat zone during a period of
51 combatant activities in such zone, as described in subsection (a),
52 or as a result of wounds, disease or injury incurred while so serv-
53 ing, the tax imposed by this act shall not apply with respect to the
54 taxable year in which falls the date of his death, or with respect
55 to any prior taxable year ending on or after the first day he so
56 served in a combat zone, and no returns shall be required in behalf
57 of such person or his estate for such year, and the tax for any such
58 taxable year which is unpaid at the date of his death, including
59 interest, additions to tax and penalties, if any, shall not be assessed
60 and, if assessed, the assessment shall be abated and, if collected,
61 shall be refunded to the legal representative of his estate if one
62 has been appointed and has qualified, or, if no legal representative
63 has been appointed or has qualified, to his widow.

1 54A:9-17. General powers of the director. (a) General. The
2 director shall administer and enforce the tax imposed by this act
3 and is authorized to make such rules and regulations, and to require
4 such facts and information to be reported as he may deem necessary
5 to enforce the provisions of this act. The director may divide the
6 State into districts in each of which a branch office may be main-
7 tained by him, but in no case shall a county be divided in forming
8 a district.

9 (b) Delegation of powers. The director may delegate to any
10 officer or employee of his division such of his powers as he may
11 deem necessary to carry out efficiently the provisions of this act,
12 and the person or persons to whom such power has been delegated
13 shall possess and may exercise all of the power and perform all of
14 the duties herein conferred and imposed upon the director.

15 (c) Examination of books and witnesses. The director for the
16 purpose of ascertaining the correctness of any return, or for the
17 purpose of making an estimate of taxable income of any person,
18 shall have power to examine or to cause to have examined, by any
19 agent or representative designated by him for that purpose, any
20 books, papers, records or memoranda bearing upon the matters
21 required to be included in the return, and may require the attend-
22-23 ance of the person rendering the return or any officer or employee
24 of such person, or the attendance of any other person having
25 knowledge in the premises, and may take testimony and require
26 proof material for his information, with power to administer oaths
27 to such person or persons.

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(d) Abatement authority. The director, on his own motion, may abate any small unpaid balance of an assessment of income tax, or any liability in respect thereof, if the director determines under uniform rules prescribed by him that the administration and collection costs involved would not warrant collection of the amount due. He may also abate, on his own motion, the unpaid portion of the assessment of any tax or any liability in respect thereof, which is excessive in amount, or is assessed after the expiration of the period of limitation properly applicable thereto, or is erroneously or illegally assessed. No claim for abatement under this subsection shall be filed by a taxpayer.

54A:9-18. Order to compel compliance. (a) Failure to file tax return. If any person willfully refuses to file an income tax return required by this act, the director may apply to a judge of the superior court for an order directing such person to file the required return. If a person fails or refuses to obey such order, he shall be guilty of contempt of court.

(b) Failure to furnish records or testimony. If any person willfully refuses to make available any books, papers, records or memoranda for examination by the director or his representative or willfully refuses to attend and testify, pursuant to the powers conferred on the director under this act, the director may apply to a judge in the superior court in the county where such person resides, for an order directing that person to comply with the director's request for books, papers, records or memoranda or for his attendance and testimony. If the books, papers, records or memoranda required by the director are in the custody of a corporation, the order of the court may be directed to any principal officer of such corporation. If a person fails or refuses to obey such order, he shall be guilty of contempt of court.

54A:9-19. Exercise of powers and duties of Division of Taxation by director. All the powers, duties and responsibilities vested in the Division of Taxation by this act shall be exercised by the director thereof or his duly designated representative.

54A:9-20. Appropriation. There is hereby appropriated to the Division of Taxation in the Department of the Treasury the sum of \$4.6 million or so much thereof as shall be required to carry out the provisions of this act from the effective date hereof through the period ending June 30, 1977.

54A:9-21. Severability clause. If any provision of this act, or any application of any provision, is held invalid, the invalidity shall

3 not affect other applications of the provision, or other provisions
4 of the act, which reasonably can be given effect despite the
5 invalidity.

1 54A:9-22. Repeal of emergency transportation tax act. (a)
2 Savings clause. Chapter 32, laws of 1961 (C. 54:8A-1 et seq.), as
3 amended, is hereby repealed, effective April 1, 1976 and shall be
4 inoperative with respect to income subject to tax, under said act,
5 paid or accrued on and after said date. Such repeal shall not affect
6 the obligation, lien or duty to pay any taxes, interest or penalties
7 which have accrued or may accrue by virtue of any assessment
8 made or which may be made with respect to taxes levied for any
9 taxable year prior to April 1, 1976 nor shall this act affect the
10 legal authority to assess and collect taxes which may be or have
11 been due and payable under said chapter 32, laws of 1961, as
12 amended, together with such interest and penalties as would have
13 accrued thereon under any provision of law amended or repealed
14 hereby; nor shall this act invalidate any assessments or affect any
15 proceeding for the enforcement thereof.

16 (b) Credit for tax withheld on and after April 1, 1976. A tax-
17 payer whose taxes have been withheld under chapter 32, laws of
18 1961, as amended, on and after April 1, 1976 shall be entitled to a
19 credit against his tax liability under this act.

1 54A:9-23. Repeal of transportation benefits tax act. (a) Savings
2 clause. Chapter 222, laws of 1971 (C. 54:8A-58 et seq.), as
3 amended, is hereby repealed, effective April 1, 1976, and shall be
4 inoperative with respect to income subject to tax, under said act,
5 paid or accrued on and after said date. Such repeal shall not affect
6 the obligation, lien or duty to pay any taxes, interest or penalties
7 which have accrued or may accrue by virtue of any assessment
8 made or which may be made with respect to taxes levied for any
9 taxable year prior to April 1, 1976, nor shall this act affect the legal
10 authority to assess and collect taxes which may be or have been
11 due and payable under said chapter 222, laws of 1971, as amended,
12 together with such interest and penalties as would have accrued
13 thereon under any provision of law amended or repealed hereby;
14 nor shall this act invalidate any assessments or affect any proceed-
15 ing for the enforcement thereof.

16 (b) Credit for tax withheld on and after April 1, 1976. A tax-
17 payer whose taxes have been withheld under chapter 222, laws of
18 1971, as amended, on and after April 1, 1976 shall be entitled to a
19 credit against his tax liability under this act.

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1 54A:9-24. Repeal of Tax on Capital Gains and Other Unearned
 2 Income. Chapter 172, laws of 1975 (C. 54:8B-1 et seq.) is hereby
 3 repealed, effective ***[January 1]*** *April 1*, 1976, and shall be
 4 inoperative with respect to capital gains and other unearned income
 5 subject to tax, under said act, paid or accrued on and after said
 6 date. Such repeal shall not affect the obligation, lien or duty to
 7 pay any taxes, interest or penalties which have accrued or may
 8 accrue by virtue of any assessment made or which may be made
 9 with respect to taxes levied for any taxable year or part of a
 10 taxable year prior to ***[January 1]*** *April 1*, 1976, nor shall this
 11 act affect the legal authority to assess and collect the taxes which
 12 may be or have been due and payable under said chapter 172, laws
 13 of 1975 as amended, together with such interest and penalties as
 14 would have accrued thereon under any provision of law amended
 15 or repealed hereby; nor shall this act invalidate any assessments
 16 or affect any proceeding for the enforcement thereof.

1 54A:9-25. Taxes collected under the provisions of this act shall
 2 be deposited by the State Treasurer in a special account to be
 3 known as the Property Tax Relief Fund. Moneys in the Property
 4 Tax Relief Fund shall be annually appropriated, pursuant to
 5 formulas established from time to time by the Legislature, to the
 6 several counties, municipalities and school districts of this State
 7 exclusively for the purpose of *providing property tax relief and*
 8 *for the purpose of* reducing or offsetting property taxes, ***[pro-**
 9 **vided, however, there may be deducted the administrative cost of**
 10 **the collection hereof]*** *including the funding of the requirements*
 11 *of P. L. 1975, c. 212, revenue sharing under 1976 Assembly No. 1663*
 12 *and homestead exemptions under 1976 Assembly No. 1330, as said*
 13 *acts may hereafter be amended or supplemented and provided,*
 14 *there may be deducted the administrative cost of the collection*
 15 *hereof and in replacement of revenues to municipalities resulting*
 16 *from the repeal of certain laws under companion legislation.**

1 *54A:9-26. Notwithstanding the provisions of 54A:9-25 in each
 2 year there shall be annually appropriated for State aid to school
 3 districts not less than the amount appropriated for fiscal 1976.*

1 ***[54A:9-26]*** *54A:9-27*. Effective date. (a) This act shall
 2 take effect immediately and shall be applicable with respect to
 3 items of income, deduction, loss or gain occurring in taxable years
 4 ending on or after April 1, 1976, but only to the extent such items
 5 have been earned, or incurred on or after April 1, 1976.

6 (b) New Jersey taxable income for 1976 from a person or entity
7 with a fiscal year for Federal income tax purposes which begins
8 before April 1, 1976 shall be the total taxable income of the person
9 or entity for the full fiscal year multiplied by the quotient of the
10 number of days in such year after April 1, 1976, divided by 365.

11 (c) However, this act shall remain inoperative unless and until
12 Assembly Committee Substitute for Assembly 1330 and Assembly
13 Committee Substitute for Assembly 1663 are enacted and become
14 operative **and until Assembly Bills 1761, 1762, 1763, 1764, 1765,*
15 *and 1766 are enacted*.*

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1513
[OFFICIAL COPY REPRINT]
with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 1976

The Senate Revenue, Finance and Appropriations Committee releases Assembly Bill No. 1513 with amendments and without recommendation for consideration by the Senate. The bill is tied to several measures that are intended to lower property taxes, limit growth in public expenditures, and repeal certain business taxes. Its proponents view the program in its entirety as effecting reform of both the local property tax system and the State's taxes on economic enterprise.

THE PROGRAM

The Gross Income Tax Act proposed by Assembly Bill No. 1513 is the lone revenue-raiser in the package. It is a progressively graduated tax on gross income that is expected to yield about \$1.0 billion during fiscal year 1977 and \$1.1 billion in 1978.

The single largest component of the program supported by the income tax is the full funding of the public school financing ("T & E") law, P. L. 1975, c. 212, enacted to conform to constitutional requirements. Proponents of the program contend that an income tax is the only feasible source to raise funds of the magnitude required by chapter 212; opponents contend that if the law should be funded at all, other tax combinations may be possible. The main impetus for the tax, as far as the committee can judge, was the perceived need to fund the constitutional school aid law, which was reinforced by the Supreme Court's ruling in *Robinson v. Cahill* (13 May 1976).

The school aid formula would not produce equal property tax effects in every town; some communities gain aid and others must lose it. Other components were, therefore, included in the program by the Assembly in an attempt to provide substantial property tax relief throughout the State. One element is a \$136 million "revenue sharing" proposal that provides virtually all communities with State aid on a per capita basis (with the aid growing annually) and which assumes from local property taxpayers the full cost of senior citizen and veteran deductions. Another is a "homestead exemption" which (as amended) directs some \$340 million in tax relief to homeowners.

The tax program repeals the several income taxes that the State of New Jersey currently imposes on selected taxpayers—the unearned

income tax, the commuter income taxes on nonresidents (known formally as the Emergency Transportation Tax and the Transportation Benefits Tax, both under constitutional challenge in Federal Court), and the Gross Receipts Taxes. As reported by the committee, it also includes the repeal of other business taxes that are viewed as significant disincentives to capital investment in New Jersey—the Sales Tax on business machinery and the Business Personal Property Tax.

TAX YIELD

As passed by the Assembly, Assembly Bill No. 1513 would have yielded adequate revenues to pay for the property tax relief program. The Revenue, Finance and Appropriations Committee found it necessary to amend the bill so that the tax yield would also pay for the loss of the repealed taxes. With the adjustments made in sections 2-1 and 3-1 of the bill, total yield (after discounting the tenant rebate feature added to section 4-3), according to the best estimate of the Office of Fiscal Affairs, would be \$112 million in fiscal year 1976 (April-June); \$1,029 million in 1977; \$1,094 million in 1978; and \$1,221 million in 1979. The Department of the Treasury indicated to the committee its substantial concurrence with the OFA estimates, which it praised as conservative.

In modifying the rate schedule, the committee decided to hold to the 2% - 4% range approved by the Assembly. It reduced the income increments between each bracket to \$5,000.00.

PERSONAL EXEMPTIONS

The committee voted to amend the personal exemption provision in section 3-1. As passed by the Assembly, a taxpayer would take his personal exemption in the form of a \$1,000.00 deduction from income before calculating his tax liability. Under this arrangement, the value to the taxpayer of his personal exemption would vary according to his tax bracket. If he were in the 2% bracket the exemption would save him \$20.00 in taxes ($2\% \times \$1,000.00 = \20.00); if he were in the 4% bracket it would save him \$40.00 ($4\% \times \$1,000.00$).

The committee decided to apply the personal exemption to all persons equally. It therefore converted the exemption into a personal credit of \$20.00, to be subtracted after one has calculated his tax liability. Twenty dollars is the same amount that taxpayers in the lowest bracket would have benefited under Assembly Committee Substitute to Assembly Bill No. 1513, with Assembly committee amendments; by adjusting all taxpayers' benefit to that same level the committee was also able to increase the yield.

The committee also amended the bill to allow alimony and support payments to be deducted from income (new section 3-2).

DEFINING INCOME

Assembly Bill No. 1513 was intended as a tax on gross income, shorn of the deductions and items of tax preference in the Federal Income

Tax. The Revenue, Finance and Appropriations Committee made clarifying amendments to chapters 5 and 6 consistent with that intent.

In the area of defining net profits from business, the committee deleted the potentially ambiguous rule of "accepted accounting principles and practices" and inserted reliance on "the method of accounting allowed for Federal income tax purposes." It specifically recognized straight-line depreciation as a legitimate cost of business, but excluded preferential treatment in the form of accelerated depreciation. The committee further specified that capital gains and losses would be determined from the date of acquisition of property pursuant to the Federal basis, and not from the date of imposition of the State tax.

TENANTS' CREDIT

The Revenue, Finance and Appropriations Committee was concerned that the tax program it received from the Assembly offered no tax savings to renters. The committee views a tenant's rent payment as including an indirect payment of property tax, and the committee wanted to guarantee that renters receive property tax savings parallel to the homestead exemption allowed to homeowners, though its saving to the taxpayer was less. It included an additional credit for the elderly and disabled which, like their additional exemption in Assembly Bill No. 1330, the Senate Revenue, Finance and Appropriations Committee deleted after studying the Attorney General's Formal Opinion 15.

The Senate committee determined that the renter's credit should be refundable in the event that his credit entitlement exceeded his tax liability, and amended section 4-3 accordingly. With this amendment tenants of moderate incomes can experience net tax savings under the tax program, as homeowners would.

ADMINISTRATION

The Revenue, Finance and Appropriations Committee voted a slightly larger appropriation for the Division of Taxation than had been contained in the Assembly version. The amendment allots \$5 million to administer the tax and the rest of the program.

DEDICATION

The committee considered the issue of tax dedication (in whole or in part) and released the bill with substantially the same dedicatory provision as in the Assembly version. The committee's one amendment was to permit income tax receipts to replace revenues lost to the State by the program's repeal of other taxes. As amended, the gross income tax is dedicated exclusively to property tax relief and to the repeal of existing taxes, plus administrative costs.

OTHER SUBSTANTIVE CHANGES

The committee voted to permit taxpayers to check \$1.00 off their tax for deposit in a gubernatorial election financing fund, from which

moneys to fund the public-financing law (P. L. 1974, c. 26) could be drawn.

The committee also amended the effective date clause to require enactment of the State and local expenditure limit bills, and of the \$160.00 disabled deduction authorization, before the income tax could take effect. It deleted the requirement for Assembly Bill No. 1765 (an investment credit against corporate tax liability) consistent with its decision not to approve such a credit as part of the program.

TAX PROGRAM BALANCE SHEET

after amendments by the Senate Revenue, Finance and
Appropriations Committee

	FY 1976	FY 1977	FY 1978	FY 1979
REVENUE				
A. 1513: Gross Revenue	121	1064	1129	1256
Less: Tenant Rebate		—35	—35	—35
A. 1513: Net Revenue	121	1029	1094	1221
Plus: Carry-forward		107	162	91
Total Available	121	1136	1256	1312
PROGRAM COSTS				
Direct Property Tax Relief:				
School Aid (c. 212)		370	485	573
Homestead Exemption				
(A. 1330)		340	340	340
Revenue Sharing (A. 1663)		136	145	157
Disabled Deduction (S. 913)		8	8	8
Property Tax Relief Subtotal		854	978	1078
Tax Administration		5	5	5
Tax Repealers:				
Unearned Income Tax		41	55	55
Commuter Income Taxes	14	57	57	57
Sales Tax—Business Ma-				
chinery (A. 1761)		17	35	35
UBT and Gross Receipts				
Tax (A. 1762, A. 1763)			30	30
Business Personal Property				
Tax—Phaseout				
(A. 1766 Sca.)			4	12
Tax Repealers Subtotal	14	115	182	189
TOTAL—PROGRAM COSTS	14	974	1165	1272
Cumulative Balance, June 30, 1979				+40

SENATE AMENDMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1513

[OFFICIAL COPY REPRINT]

[SECOND SENATE REPRINT]

STATE OF NEW JERSEY

ADOPTED JUNE 17, 1976

Amend page 64, section 54A :9-27, after line 22, insert a subparagraph as follows:

“(c) This act shall remain inoperative unless and until the ‘Tenants’ Property Tax Rebate Act,’ now pending before the Legislature as Senate No. 1546 is enacted.”.

Assembly No. 1513

Third Senate Reprint

THIS VERSION WAS NOT PRINTED



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STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
TRENTON

BRENDAN T. BYRNE
GOVERNOR

July 8, 1976

The Honorable Chief Justice and
Associate Justices of the Supreme Court
New Jersey Supreme Court
Trenton, New Jersey

Dear Chief Justice Hughes and Associate Justices:

I have today signed into law Assembly bill 1513, imposing a tax on personal income. The enactment of the bill provides sufficient funds for the full implementation of the Public Education Act of 1975, Chapter 212, Laws of 1975.

I respectfully request that the court withdraw the injunction issued in Robinson v Cahill against expenditures of funds for free public schools on the basis that the Legislature has acted to fund in full Chapter 212, Laws of 1975, which this court has held to meet the requirements of the New Jersey Constitution. Withdrawal of the injunction will permit the regular operation of public education programs in the State of New Jersey under statutes that insure, as of this date, a thorough and efficient system of education for the people of New Jersey.

Very truly yours,

GOVERNOR

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NEW JERSEY STATE LIBRARY

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