

54A:7-4

LEGISLATIVE HISTORY CHECKLIST
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(Gross income tax--withholding)

NJSA: 54A:7-4

LAWS OF: 1995 **CHAPTER:** 160

BILL NO: A2899

SPONSOR(S): J. Smith

DATE INTRODUCED: May 22, 1995

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

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** June 12, 1995
SENATE: June 26, 1995

DATE OF APPROVAL: June 30, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 2899

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1995

By Assemblywoman J. SMITH

1 AN ACT concerning employer returns and payments of gross
2 income tax withholding and the payment of taxes by electronic
3 funds transfer, amending N.J.S.54A:7-4 and P.L.1992, c.140.
4

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

7 1. N.J.S.54A:7-4 is amended to read as follows:

8 54A:7-4. Employer's or other payor's return and payment of
9 withheld taxes.

10 (a) General. -- Every employer or payor of a pension or
11 annuity required to deduct and withhold tax under this act shall,
12 for each calendar month, on or before the 15th day of the month
13 following the close of such calendar month, file a withholding
14 return as prescribed by the director and pay over to the director
15 or to a depository designated by the director the taxes so
16 required to be deducted and withheld. [Where the aggregate
17 amount required to be deducted and withheld by any employer or
18 payor of a pension or annuity is less than \$25.00 in a calendar
19 month and the aggregate for the semiannual period ending on
20 June 30 and December 31 can reasonably be expected to be less
21 than \$150.00, the director may by regulation permit an employer
22 or payor of a pension or annuity to file a return on or before July
23 31 for the semiannual period ending on June 30 and on or before
24 January 31 for the semiannual period ending on December 31.
25 Where the aggregate amount to be deducted and withheld by any
26 employer or payor of a pension or annuity is \$200.00 or less in
27 each month of a calendar quarter and where the total amount to
28 be deducted and withheld in said calendar quarter can reasonably
29 be expected to be less than \$600.00, the director may by
30 regulation permit an employer or payor of a pension or annuity to
31 file quarterly returns on or before the 15th day of the month
32 following the close of a calendar quarter. If in any such month
33 during a calendar quarter the amount to be deducted and withheld
34 exceeds \$200.00, the employer or payor of a pension or annuity
35 shall, on or before the 15th day of the month following the close
36 of such month, file a withholding return as prescribed by the
37 director and pay over to the director or to a depository
38 designated by the director all the taxes so required to be
39 deducted and withheld for all of said month or months during said
40 calendar quarter. This section shall not be applicable to
41 businesses operating seasonally.] Any return due with respect to
42 the last quarter of a calendar year shall be filed and the amount
43 of the withholding shall be paid on or before January 31 next

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted June 22, 1995.

1 following. The director may, if [he] the director believes such
2 action necessary for the protection of the revenues, require any
3 employer or payor of a pension or annuity to make such return
4 and pay to [him] the director the tax deducted and withheld at
5 any time, or from time to time. Where the amount of wages paid
6 by an employer is not sufficient under this act to require the
7 withholding of tax from the wages of any of [his] that employer's
8 employees, the director may, by regulation, permit such employer
9 to file an annual return on or before February 28 of the following
10 calendar year.

11 The director may, by regulation, require the filing and payment
12 of withholding returns and taxes on a semimonthly or more
13 frequent basis [where he] or require the filing of returns on a
14 quarterly basis, with payments of the taxes withheld on a monthly
15 or more frequent basis, if the director deems such action in the
16 best interest of the State.

17 (b) Deposit in trust for director. --Whenever any employer or
18 payor of a pension or annuity fails to collect, truthfully account
19 for, pay over the tax, or make returns of the tax as required in
20 this section, the director may serve a notice requiring such
21 employer or payor to collect the taxes which become collectible
22 after service of such notice, to deposit such taxes in a bank
23 approved by the director in a separate account, in trust for and
24 payable to the State of New Jersey and keep the amount of such
25 tax in such account until payment over to the director. Such
26 notice shall remain in effect until a notice of cancellation is
27 served by the director.

28 (cf: P.L.1989, c.328, s.4)

29 2. Section 1 of P.L.1992, c.140 (C.54:48-4.1) is amended to
30 read as follows:

31 1. a. All tax payments described in subsection b. of this
32 section, other than those payments enumerated in subsection c.
33 of this section, shall be made by electronic funds transfer to such
34 depositories as the State Treasurer shall designate pursuant to
35 section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by
36 electronic funds transfer shall be deemed to be made on the date
37 the payment is received by the designated depository. The
38 acceptable method of transfer; the method, form and content of
39 the electronic funds transfer message, giving due regard to
40 developing uniform standards for formats among the several
41 states; the circumstances under which an electronic funds
42 transfer shall serve as a substitute for the filing of another form
43 of return; and the means, if any, by which taxpayers will be
44 provided with acknowledgements of payments shall be as
45 prescribed by the Director of the Division of Taxation in the
46 Department of the Treasury. Notwithstanding any other law to
47 the contrary, persons required to make payments by electronic
48 funds transfer pursuant to subsection b. of this section shall make
49 payments by electronic funds transfer no more frequently than
50 ¹[twice] once¹ per week. The director may, by regulation,
51 provide for less frequent payments if the director deems such
52 action in the best interest of the State.

53 b. Payments subject to the electronic funds transfer
54 requirement of subsection a. of this section are:

1 (1) those payments due in the first twelve calendar months for
2 which this section is operative made by a taxpayer that had a
3 prior year liability of \$200,000 or more;

4 (2) those payments due in the thirteenth through
5 twenty-fourth calendar months for which this section is operative
6 made by a taxpayer that had a prior year liability of \$100,000 or
7 more;

8 (3) those payments due in the twenty-fifth through the
9 thirty-sixth calendar months for which this section is operative
10 made by a taxpayer that had a prior year liability of \$50,000 or
11 more; and

12 (4) those payments due in the thirty-seventh calendar month
13 for which this section is operative and thereafter made by a
14 taxpayer that had a prior year liability of \$20,000 or more.

15 c. Subsection a. of this section shall not apply to a payment of
16 estimated tax made pursuant to N.J.S.54A:8-5 or a payment of
17 final taxpayer liability pursuant to the "New Jersey Gross Income
18 Tax Act," N.J.S.54A:1-1 et seq.; provided however, that the
19 restriction of this subsection shall not apply to payment over to
20 the director of taxes withheld pursuant to N.J.S.54A:7-1 or
21 section 1 of P.L.1989, c.328 (C.54A:7-1.1). Subsection a. of this
22 section shall not apply to a payment of the transfer inheritance
23 tax imposed pursuant to R.S.54:33-1 et seq. or to a payment of
24 the estate tax imposed pursuant to R.S.54:38-1 et seq.

25 d. If the availability of funds in payment of tax required to be
26 made through electronic funds transfer is delayed, and the delay
27 of availability is explained to the satisfaction of the director to
28 be due to reasons beyond the control of the taxpayer, the director
29 shall, notwithstanding any provision of R.S.54:49-11 to the
30 contrary, abate up to the entire amount of penalty or interest
31 that would otherwise be assessed.

32 e. As used in this section:

33 "Electronic funds transfer" means any transfer of funds, other
34 than a transaction originated by check, draft, or similar paper
35 instrument, that is initiated through an electronic terminal,
36 telephone, or computer or magnetic tape for the purpose of
37 ordering, instructing or authorizing a financial institution to debit
38 or credit an account.

39 "Prior year liability" means the total liability for any tax
40 imposed on, collected by or withheld by the taxpayer in the
41 calendar year or the fiscal or calendar privilege period, as
42 determined under the specific law regarding that tax, ending
43 before the calendar year or fiscal or calendar privilege period for
44 which an electronic funds transfer payment is to be determined
45 to be required pursuant to subsection b. of this section.

46 (cf: P.L.1992, c.140, s.1)

47 3. This act shall take effect immediately and apply to tax
48 liabilities incurred after January 1, 1996.

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53 Concerns frequency of returns and payments of gross income tax
54 withholding; limits frequency of electronic funds transfer
55 payments to once a week maximum.

1 (1) those payments due in the first twelve calendar months for
2 which this section is operative made by a taxpayer that had a
3 prior year liability of \$200,000 or more;

4 (2) those payments due in the thirteenth through
5 twenty-fourth calendar months for which this section is operative
6 made by a taxpayer that had a prior year liability of \$100,000 or
7 more;

8 (3) those payments due in the twenty-fifth through the
9 thirty-sixth calendar months for which this section is operative
10 made by a taxpayer that had a prior year liability of \$50,000 or
11 more; and

12 (4) those payments due in the thirty-seventh calendar month
13 for which this section is operative and thereafter made by a
14 taxpayer that had a prior year liability of \$20,000 or more.

15 c. Subsection a. of this section shall not apply to a payment of
16 estimated tax made pursuant to N.J.S.54A:8-5 or a payment of
17 final taxpayer liability pursuant to the "New Jersey Gross Income
18 Tax Act," N.J.S.54A:1-1 et seq.; provided however, that the
19 restriction of this subsection shall not apply to payment over to
20 the director of taxes withheld pursuant to N.J.S.54A:7-1 or
21 section 1 of P.L.1989, c.328 (C.54A:7-1.1). Subsection a. of this
22 section shall not apply to a payment of the transfer inheritance
23 tax imposed pursuant to R.S.54:33-1 et seq. or to a payment of
24 the estate tax imposed pursuant to R.S.54:38-1 et seq.

25 d. If the availability of funds in payment of tax required to be
26 made through electronic funds transfer is delayed, and the delay
27 of availability is explained to the satisfaction of the director to
28 be due to reasons beyond the control of the taxpayer, the director
29 shall, notwithstanding any provision of R.S.54:49-11 to the
30 contrary, abate up to the entire amount of penalty or interest
31 that would otherwise be assessed.

32 e. As used in this section:

33 "Electronic funds transfer" means any transfer of funds, other
34 than a transaction originated by check, draft, or similar paper
35 instrument, that is initiated through an electronic terminal,
36 telephone, or computer or magnetic tape for the purpose of
37 ordering, instructing or authorizing a financial institution to debit
38 or credit an account.

39 "Prior year liability" means the total liability for any tax
40 imposed on, collected by or withheld by the taxpayer in the
41 calendar year or the fiscal or calendar privilege period, as
42 determined under the specific law regarding that tax, ending
43 before the calendar year or fiscal or calendar privilege period for
44 which an electronic funds transfer payment is to be determined
45 to be required pursuant to subsection b. of this section.

46 (cf: P.L.1992, c.140, s.1)

47 3. This act shall take effect immediately and apply to tax
48 liabilities incurred after January 1, 1996.

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50 STATEMENT

51

52 This bill allows the Director of the Division of Taxation to
53 require, by regulation, quarterly employer filings of gross income
54 tax withholding with monthly or more frequent payment of the

1 taxes withheld if that is in the best interest of the State. The bill
2 also limits the maximum frequency of electronic funds transfer
3 tax payments to twice-weekly, but allows the Director of the
4 Division of Taxation to provide for less frequent payments if that
5 is in the best interest of the State.

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10 _____
11 Concerns frequency of returns and payments of gross income tax
12 withholding; limits frequency of electronic funds transfer
payments to twice-weekly maximum.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2899

STATE OF NEW JERSEY

DATED: JUNE 1, 1995

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2899.

Assembly Bill No. 2899 allows the Director of the Division of Taxation to require, by regulation, quarterly employer filings of gross income tax withholding with monthly or more frequent payment of the taxes withheld and limits the maximum frequency of electronic funds transfer tax payments to twice-weekly.

The bill authorizes a gross income tax withholding deposit system that parallels the federal "monthly or semiweekly" income tax withholder deposit system, which requires certain federal taxpayers to make payments of tax withheld on a semiweekly basis but make returns quarterly. Effective March 1, 1995, New Jersey taxpayers with prior year liability in excess of \$50,000 became subject to electronic funds transfer payment requirements; the New Jersey Department of the Treasury anticipates that such taxpayers should become semiweekly State withholding payers by electronic funds transfer.

FISCAL IMPACT:

The Department of Treasury has estimated that the increased frequency of deposit will make funds available for investment by the State more quickly, to generate an additional \$2.5 million annually to the State cash management funds.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2899

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1995

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2899 with amendments.

Assembly Bill No. 2899, as amended, allows the Director of the Division of Taxation to require, by regulation, quarterly employer filings of gross income tax withholding with monthly or more frequent payment of the taxes withheld and limits the maximum frequency of electronic funds transfer tax payments to once per week.

As amended and reported, this bill is identical to Senate Bill No. 2139 of 1995 (Martin) as amended and reported by this committee on June 22, 1995.

COMMITTEE AMENDMENTS

The committee amended the bill to limit the maximum frequency of electronic funds transfer tax payments to once per week.

FISCAL IMPACT

The Department of Treasury has estimated that the increased frequency of deposit will make funds available for investment by the State more quickly and this will generate an additional \$2.5 million annually to the State cash management funds.