54:10A-6

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Corporation business tax--
taxable income)

NJSA:	54:10A-6		
LAWS OF:	1995	**CHAPTER:**	245
BILL NO:	A89		
SPONSOR(S):	Gibson and others		
DATE INTRODUCED:	May 15, 1995		
COMMITTEE:	**ASSEMBLY**	Appropriations	
	SENATE:	---	
AMENDED DURING PASSAGE: First reprint enacted		Yes	Amendments during passage denoted by superscript numbers
DATE OF PASSAGE:	**ASSEMBLY:**	June 26, 1995	
	SENATE:	June 26, 1995	
DATE OF APPROVAL:	September 11, 1995		

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT:		Yes
COMMITTEE STATEMENT:	**ASSEMBLY:**	Yes
	SENATE:	No
FISCAL NOTE:		Yes
VETO MESSAGE:		No
MESSAGE ON SIGNING:		No

FOLLOWING WERE PRINTED:

REPORTS:	No
HEARINGS:	No

See newspaper clipping:
"Whitman enacts laws worth $233 million to businesses," 9-12-95, Asbury Park Press.

KBG:pp

[FIRST REPRINT]

ASSEMBLY, No. 89

STATE OF NEW JERSEY

INTRODUCED MAY 15, 1995

By Assemblymen GIBSON, KAVANAUGH, Malone, Augustine, Lance, Assemblywoman J. Smith, Assemblyman Asselta, Assemblywoman Murphy, Assemblymen Gregg, DiGaetano, Doria, Mattison, Roberts, Romano and Suliga

AN ACT modifying the allocation of taxable income under the corporation business tax, amending P.L.1945, c.162.

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

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

6. In the case of a taxpayer which maintains a regular place of business outside this State other than a statutory office, the portion of its entire net worth to be used as a measure of the tax imposed by section 5(a) of this act, and the portion of its entire net income to be used as a measure of the tax imposed by section 5(c) of this act, shall be determined by multiplying such entire net worth and entire net income, respectively, by an allocation factor which [shall be the average of the fractions computed in (A), (B) and (C) below, or of so many of them as may be applicable] is the property fraction, plus twice the sales fraction plus the payroll fraction and the denominator of which is four, except as the director may determine pursuant to section 8 of P.L.1945, c.162 (C.54:10A-8), that is:

(A) The property fraction is the average value of the taxpayer's real and tangible personal property within the State during the period covered by its report divided by the average value of all the taxpayer's real and tangible personal property wherever situated during such period; provided, however, that for the purpose of determining average value, the provisions with respect to depreciation as set forth in subparagraph (F) of paragraph [2(F)] (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be taken into account for arriving at such value.

(B) The sales fraction is the receipts of the taxpayer, computed on the cash or accrual basis according to the method of accounting used in the computation of its net income for federal tax purposes, arising during such period from

(1) sales of its tangible personal property located within this State at the time of the receipt of or appropriation to the orders where shipments are made to points within this State,

(2) sales of tangible personal property located without the State at the time of the receipt of or appropriation to the orders where shipment is made to points within the State,

(3) (Deleted by amendment.)

(4) services performed within the State,

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] Assembly floor amendments adopted June 19, 1995.

(5) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(6) all other business receipts (excluding dividends excluded from entire net income by paragraph (1) of subsection (k)[(1)] of section 4 [hereof] of P.L.1945, c.162 (C.54:10A-4)) earned within the State,

divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State.

For the purposes of this section, receipts shall not include any sum or sums of money received in payment for gas or electric energy sold to a public utility subject to taxation pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) for resale to ratepayers of the public utility.

(C) The payroll fraction is the total wages, salaries and other personal service compensation, similarly computed, during such period of officers and employees within the State divided by the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's officers and employees within and without the State.

In the case of a taxpayer which does not maintain a regular place of business outside this State other than a statutory office, the allocation factor shall be 100%.

In the case of a banking corporation which maintains a regular place of business outside this State other than a statutory office, and which elects to take the exclusion from net worth provided in subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the deduction from entire net income provided in paragraph (4) of subsection (k)[(4)] of section 4 of P.L.1945, c.162 (C.54:10A-4), the allocation factor shall be computed and applied in accordance with section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that the numerators and the denominators of the fractions described in [section 6(A), 6(B) or 6(C)] (A), (B) or (C) above shall include all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in paragraph (4) of subsection (k)[(4)] of section 4 of P.L.1945, c.162 (C.54:10A-4), whether or not such amounts are otherwise attributable to this State.

(cf: P.L.1983, c.422, s.2).

2. This act shall take effect immediately and apply to fiscal or calendar accounting years beginning on or after [1][July 1, 1995] July 1, 1996[1].

Double-weights sales fraction in corporation business tax income allocation formula.

(5) rentals from property situated, and royalties from the use of patents or copyrights, within the State,

(6) all other business receipts (excluding dividends excluded from entire net income by <u>paragraph (1) of</u> subsection (k)[(1)] of section 4 [hereof] <u>of P.L.1945, c.162 (C.54:10A-4)</u>) earned within the State,

divided by the total amount of the taxpayer's receipts, similarly computed, arising during such period from all sales of its tangible personal property, services, rentals, royalties and all other business receipts, whether within or without the State.

For the purposes of this section, receipts shall not include any sum or sums of money received in payment for gas or electric energy sold to a public utility subject to taxation pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) for resale to ratepayers of the public utility.

(C) The <u>payroll fraction is the</u> total wages, salaries and other personal service compensation, similarly computed, during such period of officers and employees within the State divided by the total wages, salaries and other personal service compensation, similarly computed, during such period of all the taxpayer's officers and employees within and without the State.

In the case of a taxpayer which does not maintain a regular place of business outside this State other than a statutory office, the allocation factor shall be 100%.

In the case of a banking corporation which maintains a regular place of business outside this State other than a statutory office, and which elects to take the exclusion from net worth provided in subsection (d) of section 4 of P.L.1945, c.162 (C.54:10A-4) or the deduction from entire net income provided in <u>paragraph (4) of</u> subsection (k)[(4)] of section 4 of P.L.1945, c.162 <u>(C.54:10A-4)</u>, the allocation factor shall be computed and applied in accordance with section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that the numerators and the denominators of the fractions described in [section 6(A), 6(B) or 6(C)] <u>(A), (B) or (C) above</u> shall include all amounts attributable, directly or indirectly, to the production of the eligible net income of an international banking facility as defined in <u>paragraph (4) of</u> subsection (k)[(4)] of section 4 of P.L.1945, c.162 <u>(C.54:10A-4)</u>, whether or not such amounts are otherwise attributable to this State.

(cf: P.L.1983, c.422, s.2).

2. This act shall take effect immediately and apply to fiscal or calendar accounting years beginning on or after July 1, 1995.

STATEMENT

This bill provides a new corporation business tax formula for determining the portion of the income of a corporation that will be subject to tax by New Jersey. This new formula will provide an incentive for investment and employment in New Jersey.

All states determine the portion of the total income of a corporation that will be subject to their own state tax by using formulas which measure specific activities of the corporation definitely assigned to a specific state. The proportion of the income of the corporation subject to tax by a state can be determined as being the same as the proportion of some activity in the state to the total of such activity of the corporation.

The Multistate Tax Commission popularized a three factor formula that divides corporate income by taking the equally-weighted average of the proportion of a corporation's property, sales and payroll in a state versus the corporation's total property, sales and payroll. New Jersey currently uses that equally weighted three-factor formula for corporation business tax purposes.

Most states with corporate income taxes continue to apportion income based on those same three factors, but do not equally weight the three factors. Double-weighting the sales fraction, so that receipts from sales account for one half of the apportionment weight and wages and property each account for one quarter, shifts the tax burden to corporations that sell their products in New Jersey and away from corporations that employ people or have capital investment in New Jersey.

Double-weights sales fraction in corporation business tax income allocation formula.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 89

STATE OF NEW JERSEY

DATED: JUNE 1, 1995

The Assembly Appropriations Committee reports favorably Assembly Bill No. 89.

Assembly Bill No. 89 changes the relative weights of the factors used for determining the portion of the income of a corporation that will be subject to tax by New Jersey.

All states with income taxes determine the portion of the total income of a corporation that will be subject to their own state tax by using formulas which measure specific activities of the corporation definitely assigned to a specific state. The proportion of the income of the corporation subject to tax by a state is determined by the proportion of some activity in the state to the total of such activity of the corporation.

The Multistate Tax Commission popularized a three factor formula that divides corporate income by taking the equally-weighted average of the proportion of a corporation's property, sales and payroll in a state versus the corporation's total property, sales and payroll. New Jersey currently uses that equally weighted three-factor formula for corporation business tax purposes.

This bill doubles the relative weight of the sales fraction, so that receipts from sales account for one half of the apportionment weight and wages and property each account for one quarter. Doubling the weight of the sales factor will decrease the apportioned taxable income of corporations that own property and pay salaries and wages in New Jersey, decrease the apportioned taxable income of corporations that make sales outside of New Jersey and increase the apportioned taxable income of corporations that make sales in New Jersey.

FISCAL IMPACT:

The Office of Tax analysis in the Division of Taxation has estimated that these changes will, in the aggregate, reduce corporation business tax revenues by $33 million annually when affecting revenues for a full privilege period under the corporation business tax. The bill applies to fiscal or calendar accounting years beginning on or after July 1, 1995; the final liabilities of most of the taxpayers first affected by the bill will become due on April 15, 1997, in fiscal year 1997. Fiscal year 1996 impact will be substantially less that $33 million, and will be the effect of reductions in estimated payments by current taxpayers that have determined that the provisions of the bill will reduce their final liabilities.

LEGISLATIVE FISCAL ESTIMATE TO

ASSEMBLY, No. 89

STATE OF NEW JERSEY

DATED: June 15, 1995

Assembly Bill No. 89 of 1995 changes the relative weights of the factors used for determining the portion of the income of a corporation that will be subject to tax by New Jersey.

All states with income taxes determine the portion of the total income of a corporation that will be subject to their own state tax by using formulas which measure specific activities of the corporation definitely assigned to a specific state. The proportion of the income of the corporation subject to tax by a state is determined by the proportion of some activity in the state to the total of such activity of the corporation. The Multistate Tax Commission popularized a three factor formula that divides corporate income by taking the equally-weighted average of the proportion of a corporation's property, sales and payroll in a state versus the corporation's total property, sales and payroll. New Jersey currently uses that equally weighted three-factor formula for corporation business tax purposes.

This bill doubles the relative weight of the sales fraction, so that receipts from sales account for one half of the apportionment weight and wages and property each account for one quarter. Doubling the weight of the sales factor will decrease the apportioned taxable income of corporations that own property and pay salaries and wages in New Jersey, decrease the apportioned taxable income of corporations that make sales outside of New Jersey and increase the apportioned taxable income of corporations that make sales in New Jersey.

The Office of Tax analysis in the Division of Taxation has estimated that these changes will, in the aggregate, reduce corporation business tax revenues by $33 million annually when affecting revenues for a full privilege period under the corporation business tax. The bill applies to fiscal or calendar accounting years beginning on or after July 1, 1995. Most corporation business tax payers have calendar year accounting years, so the first year for which the provisions of the bill will apply to most taxpayers is calendar year 1996. The final liabilities of those taxpayers will become due on April 15, 1997, in fiscal year 1997. Fiscal year 1996 impact will be substantially less that $33 million, and will be the effect of reductions in estimated payments by current taxpayers that have determined that the provisions of the bill will reduce their final liabilities.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

OFFICE OF THE GOVERNOR
NEWS RELEASE

CN-001 JAYNE REBOVICH **TRENTON, NJ 08625**
CONTACT: 609-777-2600 **RELEASE:** 9/11/95

Gov. Christie Whitman today signed two more tax-cutting measures, reducing the tax rate for small businesses and rewarding companies that invest in New Jersey and employ more New Jersey workers.

A-2927/S-2164 reduces the corporation business tax rate from 9% to 7.5% for corporations with a net income for the fiscal or calendar accounting year of $100,000 or less. This bill provides an important tax break for small businesses in New Jersey and will encourage small business growth and formation.

"With the signing of this legislation, New Jersey now has the lowest tax rate in the region for small businesses," said Gov. Whitman. "This is very important to a prosperous economy. Small business in this country employs more people than the Fortune 500 and creates the majority of new jobs."

Sponsors of the bill were Assemblymen Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Ernest Oros (R-Middlesex) and Senator Robert Singer (R-Burlington/Monmouth/Ocean).

A-89/S-2163 changes the formula used to determine the portion of a multistate corporation's total income that is subject to taxation in New Jersey. The new formula benefits companies that make a capital investment, increase employment, and/or increase wages in New Jersey The three factors used in the current formula, the proportion of the corporation's total sales, payroll wages and property that are located in the state, are given equal weight. The new formula doubles the weight given to the sales factor and reduces the weight given to the payroll wage and property factors. The revised formula was recommended by the Economic Master Plan Commission.

"This bill will encourage more businesses to invest capital and employ people in New Jersey, said Gov. Whitman. "It will make New Jersey's corporate tax policy competitive with those of other states, and keep businesses in the state."

According to State Treasurer Bryan Clymer, every major industrial state except New Jersey has adopted legislation to give extra weight to the sales factor to promote economic development. As a consequence, Clymer said, when a multistate corporation makes or increases a capital investment, hires additional workers or increases wages in New Jersey, a greater proportion of the corporation's profits is subjected to state taxation here than in any other state. Changing the weights will make New Jersey competitive with the other states that have already revised their formulas.