

54A:7-1.1
54A:7-1.1

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 54A:7-1.1

(Income tax--
voluntary
withholding)

LAWS OF: 1989

CHAPTER: 328

Bill No: A2147

Sponsor(s): Stuhltrager

Date Introduced: Pre-filed

Committee: Assembly: Appropriations

Senate: Revenue, Finance & Appropriations

Amended during passage: Yes

Date of Passage: Assembly: March 20, 1989

Senate: December 14, 1989

Date of Approval: January 12, 1990

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/SLJ

[FIRST REPRINT]
ASSEMBLY, No. 2147
STATE OF NEW JERSEY

LAW LIBRARY COPY
DO NOT REMOVE

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman STUHLTRAGER

1 AN ACT providing for the voluntary withholding from pensions of
New Jersey gross income tax and amending and supplementing
3 chapter 7 of Title 54A of the New Jersey Statutes.

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

7 1. (New section) Voluntary withholding from pensions and
annuities. a. Every payor of a pension or annuity, under an
9 annuity, endowment or life insurance contract, or payments of
any such amounts which are received as pension disability or
11 retirement benefits, to a taxpayer under any public or private
plan, shall withhold the amount specified by the recipient of a
13 pension or annuity.

b. The amount to be withheld shall be a minimum of \$10.00 per
15 payment period or an even dollar amount greater than the
minimum as specified by the recipient of the pension or annuity.

17 c. The recipient of a pension or annuity shall make a request in
writing to the payor for the amount to be withheld on a form and
19 in the manner specified by the director. The amount being
withheld may be changed or terminated upon request by the
21 recipient of the pension or annuity in the same manner.

d. The director shall promulgate the regulations necessary to
23 implement voluntary withholding from pensions and annuities.

25 2. N.J.S.54A:7-2 is amended to read as follows:

54A:7-2. Information statement for employee or recipient of
other payments. Every employer or payor of a pension or annuity
27 required to deduct and withhold tax under this act from the
wages of an employee or from the payment of a pension or
29 annuity, or an employer who would have been required so to
deduct and withhold tax if [the] an employee had claimed no more
31 than one withholding exemption, shall furnish to each such
employee, pension or annuity recipient or the estate thereof,

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:
Assembly AAP committee amendments adopted September 22, 1988.

1 in respect of the wages or pension or annuity payments paid by
such employer or payor to such employee or pension or annuity
3 recipient during the calendar year on or before February 15 of
the succeeding year, or, if his employment or pension or annuity
5 is terminated before the close of such calendar year, within 30
days from the date on which the last payment of the wages or
7 pension or annuity is made, a written statement as prescribed by
the director showing the amount of wages or pension or annuity
9 payments paid by the employer or payor to the employee or
pension or annuity recipient, the amount deducted and withheld
11 as tax, the amount deducted and withheld as worker contributions
for unemployment and disability insurance as provided under the
13 New Jersey Unemployment Compensation Law, and such other
information as the director shall prescribe.

15 (cf: P.L.1981, c.453, s.1)

3. N.J.S.54A:7-3 is amended to read as follows:

17 54A:7-3. Credit for tax withheld. Wages or pensions or
annuities upon which tax is required to be withheld shall be
19 taxable under this act as if no withholding were required, but any
amount of tax actually deducted and withheld under this act in
21 any calendar year shall be deemed to have been paid to the
director on behalf of the person from whom withheld, and such
23 person shall be credited with having paid that amount of tax for
the taxable year beginning in such calendar year. For a taxable
25 year of less than 12 months the credit shall be made under
regulations of the director.

27 (cf: P.L.1976, c.47, s.54A:7-3)

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

29 54A:7-4. Employer's or other payor's return and payment of
withheld taxes.

31 (a) General. -- Every employer or payor of a pension or annuity
required to deduct and withhold tax under this act shall, for each
33 calendar month, on or before the fifteenth day of the month
following the close of such calendar month, file a withholding
35 return as prescribed by the director and pay over to the director
or to a depository designated by the director the taxes so
37 required to be deducted and withheld. Where the aggregate
amount required to be deducted and withheld by any employer or
39 payor of a pension or annuity is less than \$25.00 in a calendar

1 month and the aggregate for the semiannual period ending on
2 June 30 and December 31 can reasonably be expected to be less
3 than \$150.00, the director may by regulation permit an employer
4 or payor of a pension or annuity to file a return on or before July
5 31 for the semiannual period ending on June 30 and on or before
6 January 31 for the semiannual period ending on December 31.
7 Where the aggregate amount to be deducted and withheld by any
8 employer or payor of a pension or annuity is \$200.00 or less in
9 each month of a calendar quarter and where the total amount to
10 be deducted and withheld in said calendar quarter can reasonably
11 be expected to be less than \$600.00, the director may by
12 regulation permit an employer or payor of a pension or annuity to
13 file quarterly returns on or before the fifteenth day of the month
14 following the close of a calendar quarter. If in any such month
15 during a calendar quarter the amount to be deducted and withheld
16 exceeds \$200.00, the employer or payor of a pension or annuity
17 shall, on or before the fifteenth day of the month following the
18 close of such month, file a withholding return as prescribed by
19 the director and pay over to the director or to a depository
20 designated by the director all the taxes so required to be
21 deducted and withheld for all of said month or months during said
22 calendar quarter. This section shall not be applicable to
23 businesses operating seasonally. Any return due with respect to
24 the last quarter of a calendar year shall be filed and the amount
25 of the withholding shall be paid on or before January 31 next
26 following. The director may, if he believes such action necessary
27 for the protection of the revenues, require any employer or payor
28 of a pension or annuity to make such return and pay to him the
29 tax deducted and withheld at any time, or from time to time.
30 Where the amount of wages paid by an employer is not sufficient
31 under this act to require the withholding of tax from the wages of
32 any of his employees, the director may, by regulation, permit
33 such employer to file an annual return on or before February 28
34 of the following calendar year.

35 The director may, by regulation, require the filing and payment
36 of withholding returns and taxes on a semimonthly or more
37 frequent basis where he deems such action in the best interest of
38 the State.

39 (b) Deposit in trust for director. --Whenever any employer or

1 payor of a pension or annuity fails to collect, truthfully account
for, pay over the tax, or make returns of the tax as required in
3 this section, the director may serve a notice requiring such
employer or payor to collect the taxes which become collectible
5 after service of such notice, to deposit such taxes in a bank
approved by the director in a separate account, in trust for and
7 payable to the State of New Jersey and keep the amount of such
tax in such account until payment over to the director. Such
9 notice shall remain in effect until a notice of cancellation is
served by the director.

11 (cf: P.L.1978, c.43, s.1)

5. N.J.S.54A:7-5 is amended to read as follows:

13 54A:7-5. [Employer's liability] Liability for withheld taxes.
Every employer or payor of pension or annuity required to deduct
15 and withhold tax under this act is hereby made liable for such
tax. For purposes of assessment and collection, any amount
17 required to be withheld and paid over to the director, and any
additions to tax, penalties and interest with respect thereto, shall
19 be considered the tax of the employer or payor. Any amount of
tax actually deducted and withheld under this act shall be held to
21 be a special fund in trust for the director. No employee or
pension or annuity recipient shall have any right of action against
23 [his] an employer or payor of a pension or annuity in respect to
any moneys deducted and withheld from [his] the wages or
25 pension or annuity and paid over to the director in compliance or
in intended compliance with this act.

27 (cf: P.L.1976, c.47, s.54A:7-5)

6. N.J.S.54A:7-6 is amended to read as follows:

29 54A:7-6. [Employer's failure] Failure to withhold. If an
employer or payor of a pension or annuity fails to deduct and
31 withhold tax as required, and thereafter the tax against which
such tax may be credited is paid, the tax so required to be
33 deducted and withheld shall not be collected from the employer
or payor, but the employer or payor shall not be relieved from
35 liability for any penalties, interest, or additions to the tax
otherwise applicable in respect of such failure to deduct and
37 withhold.

(cf: P.L.1976, c.43, s.54A:7-6)

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

1 54A:7-7. Filing annual reconciliation of tax withheld. Any
2 reconciliation of tax withheld shall be filed by the employer or
3 payor of a pension or annuity with the Division of Taxation on or
4 before February 15 following the close of the calendar year in
5 accordance with rules and regulations prescribed by the director.
6 (cf: P.L.1976, c.43, s.54A:7-6)

7 18.1 This act shall take effect immediately ¹[and] ,except that
8 section 1 shall¹ be applicable ¹[on the first day of the third
9 month following enactment] to payments made within tax years
10 beginning after December 31, 1989¹.

11

13

TAXATION-INCOME
Pensions and Retirement

15

16 Permits voluntary withholding of New Jersey gross income tax
17 from pensions.

1 6. N.J.S. 54A:7-6 is amended to read as follows:

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

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

13 54A:7-7. Filing annual reconciliation of tax withheld. Any
15 reconciliation of tax withheld shall be filed by the employer or
17 payor of a pension or annuity with the Division of Taxation on or
before February 15 following the close of the calendar year in
accordance with rules and regulations prescribed by the director.

19 This act shall take effect immediately and be applicable on
the first day of the third month following enactment.

19

21

STATEMENT

23 This bill provides that pension or annuity recipients may
25 voluntarily request the withholding of New Jersey gross income
27 tax from their retirement payments. The number of persons
taking early retirement is increasing. Second careers often are
started after retirement. The pension received by these persons
prior to age 62 becomes taxable if the portion of the pension
29 contributed while an employee is exhausted. Then the pension is
taxable to age 62 when the gross income tax pension exclusion
31 of \$10,000 for a married couple or \$7,500 for a single person
becomes applicable.

A2147

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2147

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1988

LAW LIBRARY COPY
DO NOT REMOVE

The Assembly Appropriations Committee favorably reports Assembly Bill No. 2147 with committee amendments.

Assembly Bill No. 2147, as amended, provides that pension or annuity recipients may voluntarily request the withholding of New Jersey gross income tax from their retirement payments. These pensions are taxable to those pensioners up to age 62 when the gross income tax pension exclusion of \$10,000 for a married couple or \$7,500 for a single person becomes applicable.

The "New Jersey Gross Income Tax Act" does not provide for the voluntary withholding of taxes from pensions and annuities. Consequently, certain taxpayers must file quarterly estimated returns or make a large payment when the annual tax return is filed. The federal government has a method of voluntary withholding from pensions for federal tax purposes. Payors of pensions would be required to make that system available to pensioners for State income tax purposes.

FISCAL IMPACT:

There should be no any fiscal impact to the State other than the change in cash flow should pension recipients request the withholding of gross income tax.

COMMITTEE AMENDMENTS:

The Committee amended the bill to reflect the recommended amendments in the Governor's conditional veto on an identical bill last session (S-2204 of 1987). The withholding would commence for tax years beginning after December 31, 1989.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2147

with Senate committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 30, 1989

The Senate Revenue Finance and Appropriations Committee favorably reports Assembly Bill No. 2147 (1R) with committee amendments.

Assembly Bill No. 2147 (1R), as amended, provides that pension or annuity recipients may voluntarily request the withholding of New Jersey gross income tax from their retirement payments. These pensions are taxable for pensioners up to age 62 and, thereafter, the gross income tax pension exclusion of \$10,000 for a married couple or \$7,500 for a single person becomes applicable.

The "New Jersey Gross Income Tax Act" does not provide for the voluntary withholding of taxes from pensions and annuities. Consequently, certain taxpayers must file quarterly estimated returns or make large payments when their annual tax returns are filed. The federal government has a method of voluntary withholding from pensions for federal income tax purposes. Payors of pensions would be required to make that system available to pensioners for State income tax purposes.

This bill, as amended, is identical to Senate Bill No. 1640, as amended.

COMMITTEE AMENDMENTS:

The Committee amended the effective date of the bill to allow voluntary pension withholding to begin with the first day of the fourth month after enactment. This amendment will provide the Division of Taxation and public and private retirement plans with a sufficient period of time to implement the voluntary pension withholding changes.

FISCAL IMPACT:

There should not be any fiscal impact to the State other than the change in cash flow should pension recipients request the withholding of gross income tax.