

54:10E-1 et seq.

*W. J. R. S.*

LEGISLATIVE FACT SHEET

on "CORPORATION INCOME TAX ACT (1972)"

N.J.R.S. 54:10E-1 et seq.

(New ~~Amendment~~)

LAWS OF 1973

CHAPTER 170 June 7, 1973

SENATE BILL

ASSEMBLY BILL 1254 (2nd OCR)

INTRODUCED May 18, 1972

BY DeKorte

SPONSOR'S STATEMENT

YES  NO

ASSEMBLY COMMITTEE STATEMENT

YES  NO

SENATE COMMITTEE STATEMENT

YES ~~YES~~ NO

FISCAL NOTE

YES  NO

AMENDED DURING PASSAGE

YES NO

HEARING See "Background"

VETO

Background:

See

974.90  
T 235  
1968a

New Jersey Commission on State Tax Policy.  
12th Report, 1968. [See especially Part III,  
"The Corporation Business Tax"]

974.90  
T 235  
1970p

N. J. Tax Policy Committee Task Force II (Revenue  
Resources and Tax Inequities).  
Public hearing, held Dec. 2, 1970.

JA/PC  
11/7/75

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ASSEMBLY, No. 1254

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1972

By Assemblyman DE KORTE

Referred to Committee on Taxation

AN ACT imposing a direct income tax on corporations deriving income from sources within this State, which are not subject to the tax imposed under the Corporation Business Tax Act (1945) (C. 54:10A-1 et seq.) and supplementing Title 54 of the Revised Statutes.

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

1 1. This act shall be known as the Corporation Income Tax Act  
2 (1972).

1 2. Every domestic and foreign corporation which is not herein-  
2 after exempted shall pay an annual income tax for every calendar  
3 or fiscal year, or part thereof, ending after December 31, 1973, as  
4 hereinafter provided, on income derived from sources within New  
5 Jersey during such year, or part thereof.

6 A foreign corporation shall not be deemed to have income de-  
7 rived from sources within New Jersey by reason of

8 a. the maintenance of cash balances with banks or trust com-  
9 panies in this State; or

10 b. the ownership of shares of stock or securities in this State  
11 if such shares or securities are pledged as collateral security, or  
12 deposited with one or more banks or trust companies or brokers  
13 who are members of a recognized security exchange in safekeeping  
14 or custody accounts; or

15 c. the taking of any action by any such bank or trust company  
16 or broker, which is incidental to the rendering of safekeeping or  
17 custodian service to such corporation.

1 3. The following corporations shall be exempt from the tax im-  
2 posed by this act:

3 a. corporations subject to tax under the Corporation Business  
4 Tax Act (1945) (C. 54:10A-1 et seq.);

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

5 b. corporations specifically exempted from tax by the explicit  
6 language of section 3 of the Corporation Business Tax Act (1945)  
7 (C. 54:10A-3);

8 c. corporations specifically exempted, by the explicit language  
9 of other New Jersey Statutes, from tax under this act or the Cor-  
10 poration Business Tax Act (1945).

1 4. For purposes of this act, unless the context requires a different  
2 meaning:

3 a. "Director" means the Director of the Division of Taxation  
4 of the State Department of the Treasury;

5 b. "Allocation factor" means the proportionate part of the tax-  
6 payer's entire net income used to determine a measure of its tax  
7 under this act;

8 c. "Corporation" means any corporation, joint-stock company  
9 or association and any business conducted by a trustee or trustees  
10 wherein interest or ownership is evidenced by a certificate of in-  
11 terest or ownership or similar written instrument;

12 d. "Indebtedness owing directly or indirectly" includes, with-  
13 out limitation thereto, all indebtedness owing to any stockholder  
14 or shareholder and to members of his immediate family where a  
15 stockholder and members of his immediate family together or in  
16 the aggregate own 10% or more of the aggregate outstanding  
17 shares of the taxpayer's capital stock of all classes;

18 e. "Taxpayer" means any corporation required to report or to  
19 pay taxes, interest or penalties under this act;

20 f. "Calendar year" means an accounting period ending on the  
21 last day of December on the basis of which the taxpayer is required  
22 to report for Federal income tax purposes;

23 g. "Fiscal year" means an accounting period ending on any day  
24 other than the last day of December on the basis of which the tax-  
25 payer is required to report for Federal income tax purposes;

26 h. "Accounting period" means the calendar or fiscal year, or  
27 part thereof, for which a tax is payable under this act;

28 i. "Entire net income" means total net income from all sources,  
29 whether within or without the United States, and shall include  
30 the gain derived from the employment of capital or labor, or from  
31 both combined, as well as profit gained through a sale or conver-  
32 sion of capital assets. For the purpose of this act, the amount of  
33 a taxpayer's entire net income shall be deemed prima facie to be  
34 equal in amount to the taxable income, before net operating loss  
35 deduction and special deductions, which the taxpayer is required  
36 to report to the United States Treasury Department for the pur-

37 pose of computing its Federal income tax; provided, however, that  
38 in the determination of such entire net income,

39 (1) Entire net income shall exclude 100% of dividends which  
40 were included in computing such taxable income for Federal in-  
41 come tax purposes, paid to the taxpayer by one or more subsidi-  
42 aries owned by the taxpayer. For the purposes of this section, a  
43 subsidiary shall be deemed to be any corporation in which a tax-  
44 payer is the owner of at least 80% of the total combined voting  
45 power of all classes of stock entitled to vote and of at least 80%  
46 of each class, if any, of nonvoting stock. With respect to other  
47 dividends, entire net income shall not include 50% of the total  
48 included in computing such taxable income for Federal income  
49 tax purposes;

50 (2) Entire net income shall be determined without the exclusion,  
51 deduction or credit of:

52 (a) the amount of any specific exemption or credit allowed in  
53 any law of the United States imposing any tax on or measured  
54 by the income of corporations;

55 (b) any part of any income from dividends or interest on any  
56 kind of stock, securities or indebtedness, except as provided in  
57 subsection i. (1) of this section;

58 (c) taxes paid or accrued to the United States on or measured  
59 by profits or income, or the tax imposed by this act, or any tax  
60 paid or accrued with respect to subsidiary dividends excluded  
61 from entire net income as provided in subsection i. (1) of this  
62 section;

63 \*[(d) net operating losses sustained during any year or period  
64 other than that covered by the report;]\*

64A *\*\* (d) net operating losses sustained during any year or period*  
64B *other than that covered by the report; \*\**

65 \*[(e)]\* *\*\* [(d)] \*\* (e) \*\** 90% of interest on indebtedness  
66 owing directly or indirectly to holders of 10% or more of the aggre-  
67 gate outstanding shares of the taxpayer's capital stock of all  
68 classes; except that such interest may, in any event, be deducted.

69 (i) up to an amount not exceeding \$1,000.00;

70 (ii) in full to the extent that it relates to bonds or other  
71 evidences of indebtedness issued, with stock, pursuant to a  
72 bona fide plan of reorganization, to persons, who, prior to  
73 such reorganization, were bona fide creditors of the corpora-  
74 tion or its predecessors, but were not stockholders or share-  
75 holders thereof;

76 (3) The director may, whenever necessary to properly reflect  
77 the entire net income of any taxpayer, determine the year or period

78 in which any item of income or deduction shall be included, with-  
 79 out being limited to the method of accounting employed by the  
 80 taxpayer.

1 5. The income tax to be annually assessed to and paid by each  
 2 taxpayer shall be computed at the rate of  $7\frac{1}{4}\%$  of its entire net  
 3 income or such portion thereof as may be allocable to this State  
 4 as provided in section 6.

1 6. When the income of a taxpayer subject to tax under this act  
 2 is derived from sources both within and without the State, the  
 3 portion of its entire net income to be used as a measure of the tax  
 4 imposed by section 5 of this act, shall be determined by multiplying  
 5 such entire net income by an allocation factor which shall be the  
 6 average of the fractions computed in a., b., and c. below, or of so  
 7 many of them as may be applicable, that is:

8-9 a. The average value of the taxpayer's owned, rented or leased  
 10 real and tangible personal property within the State during the  
 11 period covered by its report divided by the average value of all  
 12 the taxpayer's owned, rented or leased real and tangible personal  
 13 property wherever situated during such period. Property rented  
 14 or leased by the taxpayer shall be valued at eight times the gross  
 15 annual lease or rental rate.

16 b. The receipts of the taxpayer, computed on the cash or accrual  
 17 basis according to the method of accounting used in the computa-  
 18 tion of its net income for Federal tax purposes, arising during  
 19 such period from

20 (1) sales of its tangible personal property where such property  
 21 is delivered or shipped to a purchaser, other than the United States  
 22 Government, within this State regardless of the f.o.b. point or  
 23 other conditions of the sale;

24 (2) sales of its tangible personal property where the purchaser  
 25 is the United States Government and where such property is lo-  
 26 cated within this State at the time of the receipt of or appropria-  
 27 tion to the orders;

28 (3) sales of its tangible personal property located within this  
 29 State at the time of the receipt of or appropriation to the orders  
 30 where shipments are made to points in other States, the District  
 31 of Columbia or Puerto Rico, where such jurisdictions do not have  
 32 the power to impose an income or franchise tax on the taxpayer;

33 (4) services performed within the State;

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

36 (6) all other business receipts (excluding dividends excluded  
 37 from entire net income by subsection i. (1) of section 4 hereof)

38 earned within the State, divided by the total amount of the tax-  
39 payer's receipts, similarly computed, arising during such period  
40 from all sales of its tangible personal property, services, rentals,  
41 royalties and all other business receipts, whether within or without  
42 the State;

43 c. The total wages, salaries and other personal service compen-  
44 sation, similarly computed, during such period of officers and em-  
45 ployees within the State divided by the total wages, salaries and  
46 other personal service compensation, similarly computed, during  
47 such period of all the taxpayer's officers and employees within  
48 and without the State.

1 7. As used in section 6 c., compensation of officers and employees  
2 within this State shall include the entire amount of wages, salaries  
3 and other personal service compensation for services performed  
4 within or both within and without this State if:

5 a. The service is performed entirely within this State; or

6 b. The service is performed both within and without this State,  
7 but the service performed without this State is incidental to the  
8 individual's service within the State, for example, is temporary  
9 or transitory in nature or consists of isolated transactions;

10 c. The service is not performed entirely in any state but some  
11 of the service is performed in this State, and (1) the base of opera-  
12 tion, or, if there is no base of operations, then the place from which  
13 such service is directed or controlled, is in this State; or (2) the  
14 base of operations or place from which such service is directed  
15 or controlled is not in any state in which some part of the service  
16 is performed, but the individual's residence is in this State;

17 d. Contributions are not required and paid with respect to such  
18 services under an unemployment compensation law of any other  
19 state.

1 8. If it shall appear to the director that an allocation factor  
2 determined pursuant to section 6 does not properly reflect the  
3 activity, business, receipts or entire net income of a taxpayer rea-  
4 sonably attributable to the State, he may adjust it by:

5 a. excluding one or more of the factors therein;

6 b. including one or more other factors, such as expenses, pur-  
7 chases, contract values (minus subcontract values);

8 c. excluding one or more assets in computing an allocation per-  
9 centage; or

10 d. applying any other similar or different method calculated to  
11 effect a fair and proper allocation of the entire net income reason-  
12 ably attributable to the State.

1 9. Whenever it shall appear to the director that any taxpayer  
2 fails to maintain its records in accordance with sound accounting  
3 principles or conducts its business or maintains its records in such  
4 manner as either directly or indirectly to distort its true entire net  
5 income under this act or the proportion thereof properly allocable  
6 to this State, or whenever any taxpayer maintains a place of busi-  
7 ness outside this State, or whenever any agreement, understanding  
8 or arrangement exists between a taxpayer and any other corpo-  
9 ration or any person or firm, for the purpose of evading tax under  
10 this act, or whereby the activity, business, receipts, expenses, assets  
11 or income of the taxpayer are improperly or inaccurately reflected,  
12 the director is authorized and empowered, in his discretion and  
13 in such manner as he may determine, to adjust and redetermine  
14 such items, and to adjust items of gross receipts, tangible property  
15 and payrolls within and without the State and the allocation of  
16 entire net income or to make any other adjustments in any tax  
17 report or tax returns as may be necessary to make a fair and rea-  
18 sonable determination of the amount of tax payable under this act.  
19 Where a. any taxpayer conducts its activity or business under any  
20 agreement, arrangement or understanding in such manner as either  
21 directly or indirectly to benefit its members or stockholders, or  
22 any of them, or any person or persons directly or indirectly in-  
23 terested in such activity or business, by entering into any trans-  
24 action at more or less than a fair price which, but for such agree-  
25 ment, arrangement or understanding, might have been paid or  
26 received therefor, or b. any taxpayer, a substantial portion of  
27 whose capital stock is owned either directly or indirectly by or  
28 through another corporation, enters into any transaction with such  
29 other corporation on such terms as to create an improper loss or  
30 net income, the director may include in the entire net income of  
31 the taxpayer the fair profits which, but for such agreement, ar-  
32 rangement or understanding, the taxpayer might have derived  
33 from such transaction. The director may require any person or  
34 corporation to submit such information under oath or affirmation,  
35 or to permit such examination of its books, papers and documents,  
36 as may be necessary to enable him to determine the existence,  
37 nature or extent of an agreement, understanding or arrangement  
38 to which this section relates, whether or not such person or cor-  
39 poration is subject to the tax imposed by this act.

1 10. Any receiver, referee, trustee, assignee or other fiduciary,  
2 or any officer or agent appointed by any court, to conduct the  
3 business or conserve the assets of any corporation shall be subject

4 to the tax imposed by this act in the same manner and to the same  
5 extent as a corporation hereunder.

1 11. If the amount of the taxable income for any year of any  
2 taxpayer as returned to the United States Treasury Department  
3 is changed or corrected by the Commissioner of Internal Revenue  
4 or other officer of the United States or other competent authority,  
5 or where a renegotiation of a contract or subcontract with the  
6 United States results in a change in said taxable income, or where  
7 a recovery of a war loss results in a computation or recomputation  
8 of any tax imposed by the United States, such taxpayer shall  
9 report such changed or corrected taxable income, or the results  
10 of such renegotiation, or such computation or recomputation,  
11 within 90 days after the final determination of such change or cor-  
12 rection or renegotiation, or such computation or recomputation,  
13 or as required by the director, and shall concede the accuracy of  
14 such determination or state wherein it is erroneous. Any taxpayer  
15 filing an amended return with such department shall also file  
16 within 90 days thereafter an amended report with the director.

1 12. a. The director may by general rule or by special notice re-  
2 quire any taxpayer to submit copies or pertinent extracts of its  
3 Federal income tax returns, or of any other tax return made to  
4 any agency of the Federal Government, or of this or any other  
5 state, or of any statement or registration made pursuant to any  
6 State or Federal law pertaining to securities or securities exchange  
7 regulation.

8 b. The director may require all taxpayers to keep such records  
9 as he may prescribe, and he may require the production of books,  
10 papers, documents and other data, to provide or secure informa-  
11 tion pertinent to the determination of the tax hereunder and the  
12 enforcement and collection thereof. The director may, also, by  
13 general rule or by special notice require any taxpayer to make  
14 and file information returns, under oath, of facts pertinent to the  
15 determination of the tax or liability for tax hereunder, pursuant  
16 to such regulations, at such times and in such form and manner  
17 and to such extent as he may prescribe pursuant to law.

1 13. The tax imposed by this act shall be due and payable annually  
2 for calendar or fiscal years ending after December 31, 1973, in the  
3 manner provided under subsections a. and b. hereof.

4 a. Every taxpayer shall annually pay an income tax on a report  
5 which shall be filed on or before the fifteenth day of the fourth  
6 month after the close of taxpayer's fiscal or calendar accounting  
7 period, or part thereof, and the full amount of the tax hereunder



8 shall be due and payable on or before the date prescribed herein  
9 for the filing of the return.

10 b. In addition to the income tax payable under subsection a. of  
11 this section, every taxpayer shall annually pay as a partial pay-  
12 ment of income tax an amount equal to  $\frac{1}{2}$  the tax payable under  
13 said subsection a. In the calculation of the tax pertaining to each  
14 succeeding fiscal or calendar accounting period, due in accordance  
15 with subsection a., every taxpayer shall be entitled to a credit in  
16 the amount of the tax paid under this subsection b. as a partial  
17 payment and shall be entitled to the return of any amount so paid  
18 which shall be found to be in excess of the total amount payable  
19 in accordance with said subsection a. and this subsection b.

20 c. For the purpose of this act, every taxpayer shall use the same  
21 calendar or fiscal year upon which it reports to the United States  
22 Treasury Department for Federal income tax purposes.

1 14. a. If the period covered by a report under this act is less  
2 than 12 calendar months and is other than the period reported on  
3 for Federal income tax purposes, the taxpayer may prorate its  
4 adjusted entire net income by dividing such adjusted entire net  
5 income by the number of calendar months, or parts thereof, covered  
6 by the Federal income tax return and multiplying the result by  
7 the number of calendar months, or parts thereof, covered by the  
8 short period return. For purposes of this section, a part of a  
9 month shall be deemed to be a month.

10 b. Any taxpayer which shall fail to file its return when due shall  
11 be liable to a penalty of \$2.00 for each day of delinquency, which  
12 penalty shall be payable to, and recoverable by, the director as  
13 part of the tax herein imposed. If any tax be not paid when the  
14 same becomes due, as herein provided, there shall be added to the  
15 amount of the tax a sum equivalent to 5% thereof, as a penalty,  
16 and, in addition thereto, interest at the rate of 1% per month or  
17 fraction thereof from the date the tax became due until the same  
18 be paid. The director, if satisfied that the failure to comply with  
19 any provision of this act was excusable, may abate or remit the  
20 whole or part of any penalty.

1 15. Where any taxpayer has paid a tax under the Corporation  
2 Business Tax Act (1945) (C. 54:10A-1 et seq.) for a calendar  
3 or fiscal year for which it was not properly subject to tax under  
4 said Corporation Business Tax Act, the amount of taxes so paid  
5 may be offset against the tax imposed by this act for the same  
6 period. Where any taxpayer has paid a tax under this act for  
7 a calendar or fiscal year for which it was properly subject to tax  
8 under said Corporation Business Tax Act, the amount of tax so

9 paid may be offset against the tax imposed by said Corporation  
10 Business Tax Act for the same period.

1 16. Where a corporation is properly subject to tax under this  
2 act and under the Corporation Business Tax Act (C. 54:10A-1  
3 et seq.) for portions of the same calendar or fiscal year, a return  
4 must be filed for said calendar or fiscal year under this act and  
5 the proper amount of tax due thereon must be paid. In computing  
6 its tax liability for the portion of the calendar or fiscal year for  
7 which it was subject to tax under this act, the taxpayer may pro-  
8 rate its adjusted entire net income in the manner provided at  
9 subsection a. of section 14.

1 17. The director shall design a form of return and forms for  
2 such additional statements or schedules as he may require to be  
3 filed therewith. Such forms shall provide for the setting forth of  
4 such facts as the director may deem necessary for the proper  
5 enforcement of this act. He shall cause a supply thereof to be  
6 printed and shall furnish appropriate blank forms to each tax-  
7 payer upon application or otherwise as he may deem necessary.  
7A Failure to receive a form shall not relieve any taxpayer from the  
8 obligation to file a return under the provisions of this act. Each  
9 such return shall have annexed thereto a certification by the presi-  
10 dent, vice president, comptroller, secretary, treasurer, assistant  
11 treasurer, accounting officer of the taxpayer or any other officer  
12 of the taxpayer duly authorized so to act to the effect that the  
13 statements contained therein are true. The fact that an in-  
14 dividual's name is signed on a certification of the report shall be  
15 prima facie evidence that such individual is authorized to sign  
16 and certify the report on behalf of the corporation. In the case of a  
17 corporation in liquidation or in the hands of a receiver or trustee,  
18 certification shall be made by the person responsible for the con-  
19 duct of the affairs of such corporation.

1 18. The director may grant a reasonable extension of time for  
2 the filing of returns or the payment of tax, or both, under such  
3 rules and regulations as he shall prescribe, which rules and regu-  
4 lations may require the filing of a tentative return and the pay-  
5 ment of an estimated tax. If the time for filing the return shall be  
6 extended, the payment of the portion of the tax remaining to be  
7 paid, if any, shall be postponed to the date fixed by the extension  
8 of the time for the filing of the return, but in every such case the  
9 corporation shall pay, in addition to the unpaid portion of the  
10 tax, interest thereon at the rate of 6% per annum from the time  
11 when the return originally was required to be filed to the date of  
12 actual payment under the extension; provided, that if such unpaid

13 portion of the tax is not paid within the time fixed under the ex-  
14 tension, the interest on such unpaid portion shall be computed at  
15 the rate of 1% per month or fraction thereof to be calculated from  
16 the date the tax was originally due to the date of actual payment.

1 19. a. After a final return in due form is filed, the director shall  
2 cause the same to be examined and may make such further audit  
3 or investigation or reaudit as he may deem necessary, and if there-  
4 from he shall determine that there is a deficiency with respect to  
5 the payment of any tax due under this act, he shall assess or re-  
6 assess the additional taxes, penalties and interests due the State,  
7 give notice of such assessment or reassessment to the taxpayer,  
8 and make demand upon him for payment. There shall be added to  
9 the amount of any deficiency assessment or reassessment, interest  
10 at the rate of 1% for each month or fraction thereof to be calcu-  
11 lated from the date the tax was originally due and payable until  
12 the date of actual payment. If the director is satisfied that the  
13 said deficiency was not due to fraud or evasion, he may remit or  
14 waive the payment of any interest charge in excess of the rate  
15 of  $\frac{1}{2}$  of 1% per month.

16 b. Except in the case of a wilfully false or fraudulent return  
17 with intent to evade the tax, no assessment of additional tax shall  
18 be made after the expiration of more than 5 years from the date  
19 of the filing of a return; provided, that where no return has been  
20 filed as provided by law, the tax may be assessed at any time.  
21 Where, before the expiration of the period prescribed herein for  
22 the assessment of an additional tax, a taxpayer has consented in  
23 writing that such period may be extended, the amount of such  
24 additional tax due may be determined at any time within such  
25 extended period. The period so extended may be further extended  
26 by subsequent consents in writing made before the expiration of  
27 the extended period.

28 c. After a final return in due form is filed for an accounting  
29 period under this act, the director may, within 5 years of the date  
30 of filing such return, require the taxpayer to file a proper return  
31 under the Corporation Business Tax Act (C. 54:10A-1 et seq.)  
32 and pay any additional tax due thereon, if he shall determine that  
33 the taxpayer was properly subject to tax under said Corporation  
34 Business Tax Act for such accounting period.

35 d. The director is authorized to enter into a written agreement  
36 with any taxpayer relating to the liability of such taxpayer in  
37 respect of any tax, fee, penalty or interest heretofore or hereafter  
38 imposed by this act which agreement shall be final and conclusive,

39 and except upon a showing of fraud, malfeasance, or misrepre-  
40 sentation of a material fact:

41 (1) the case shall not be reopened as to the matters agreed upon  
42 or the agreement modified, by any officer, employee or agent of  
43 this State; and

44 (2) in any suit, action or proceeding, such agreement or any  
45 determination, assessment, collection, payment, cancellation, refund  
46 or credit made in accordance therewith, shall not be annulled,  
47 modified, set aside or disregarded.

1 20. If any taxpayer shall be aggrieved by any finding or assess-  
2 ment of the director, he may, within 30 days of the giving of the  
3 notice of assessment or finding, file a protest in writing signed by  
4 himself or his duly authorized agent, which shall be under oath,  
5 and shall set forth the reason therefor, and may request a hearing.  
6 Thereafter the director shall grant a hearing to the taxpayer, if  
7 the same shall be requested. He may make an order confirming,  
8 modifying or vacating any such finding or assessment. The filing  
9 of any such protest shall not abate penalties for nonpayment, nor  
10 shall it stay the right of the director to collect the tax in any  
11 manner herein provided, unless the taxpayer shall furnish security  
12 of the kind and in the amount satisfactory to the director. The  
13 time for appeal or review shall not be extended by the filing of  
14 any protest unless a hearing is requested, and the time to appeal  
15 shall then be extended only for the period between the filing of  
16 the protest and the final determination thereon by the director.

1 21. a. Any aggrieved taxpayer may, within 3 months after any  
2 decision, order, finding, assessment or action of the director made  
3 pursuant to the provisions of this act, appeal therefrom to the  
4 division of tax appeals, by filing a petition of appeal with said  
5 division in the manner and form prescribed by the said division  
6 and on giving security, approved by the Director of the Division of  
7 Taxation, conditioned to pay the tax heretofore levied, if the same  
8 remains unpaid, with interest and costs.

9 b. No such appeal shall stay the collection of any tax or the  
10 enforcement of the same by entry as a judgment, unless by order  
11 of such division, and then only after security approved by the  
12 director of said division has been furnished to the Director of the  
13 Division of Taxation. The judgment or order of the Division of  
14 Tax Appeals respecting any matter arising under the provisions  
15 of this act may be reviewed by a proceeding in lieu of prerogative  
16 writ in the same manner as other judgments of said division.

1 22. The administration, collection and enforcement of the tax

2 imposed by this act shall be subject to the provisions of the State  
3 tax uniform procedure law as therein provided (chapters 48  
4 through 52 of Title 54 of the Revised Statutes) to the extent that  
5 the provisions of such law are not inconsistent with any provision  
6 of this act.

1 23. If any clause, sentence, paragraph, section or part of this  
2 act shall be adjudged by any court of competent jurisdiction to be  
3 invalid, such judgment shall not affect, impair or invalidate the  
4 remainder thereof, but shall be confined in its operation to the  
5 clause, sentence, paragraph, section or part thereof directly in-  
6 volved in the controversy in which such judgment shall have been  
7 rendered.

1 24. The director shall prescribe and issue such rules and regu-  
2 lations, not inconsistent herewith, for the interpretation and ap-  
3 plication of the provisions of this act, as he may deem necessary.

1 25. This act shall take effect immediately and shall be applicable  
2 to taxpayers with calendar or fiscal years ending after December  
3 31, 1973.

ASSEMBLY AMENDMENTS TO  
**ASSEMBLY, No. 1254**  
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**STATE OF NEW JERSEY**

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ADOPTED FEBRUARY 13, 1973

Amend page 3, section 4, lines 63-64, insert “(d) net operating losses sustained during any year or period other than that covered by the report;”.

Amend page 3, section 4, line 65, omit “(d)”, insert “(e)”.

ASSEMBLY, No. 1254

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1972

By Assemblyman DE KORTE

Referred to Committee on Taxation

AN ACT imposing a direct income tax on corporations deriving income from sources within this State, which are not subject to the tax imposed under the Corporation Business Tax Act (1945) (C. 54:10A-1 et seq.) and supplementing Title 54 of the Revised Statutes.

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

1 1. This act shall be known as the Corporation Income Tax Act  
2 (1972).

1 2. Every domestic and foreign corporation which is not herein-  
2 after exempted shall pay an annual income tax for every calendar  
3 or fiscal year, or part thereof, ending after December 31, 1973, as  
4 hereinafter provided, on income derived from sources within New  
5 Jersey during such year, or part thereof.

6 A foreign corporation shall not be deemed to have income de-  
7 rived from sources within New Jersey by reason of

8 a. the maintenance of cash balances with banks or trust com-  
9 panies in this State; or

10 b. the ownership of shares of stock or securities in this State  
11 if such shares or securities are pledged as collateral security, or  
12 deposited with one or more banks or trust companies or brokers  
13 who are members of a recognized security exchange in safekeeping  
14 or custody accounts; or

15 c. the taking of any action by any such bank or trust company  
16 or broker, which is incidental to the rendering of safekeeping or  
17 custodian service to such corporation.

1 3. The following corporations shall be exempt from the tax im-  
2 posed by this act:

3 a. corporations subject to tax under the Corporation Business  
4 Tax Act (1945) (C. 54:10A-1 et seq.);

5 b. corporations specifically exempted from tax by the explicit

6 language of section 3 of the Corporation Business Tax Act (1945)  
7 (C. 54:10A-3);

8 c. corporations specifically exempted, by the explicit language  
9 of other New Jersey Statutes, from tax under this act or the Cor-  
10 poration Business Tax Act (1945).

1 4. For purposes of this act, unless the context requires a different  
2 meaning:

3 a. "Director" means the Director of the Division of Taxation  
4 of the State Department of the Treasury;

5 b. "Allocation factor" means the proportionate part of the tax-  
6 payer's entire net income used to determine a measure of its tax  
7 under this act;

8 c. "Corporation" means any corporation, joint-stock company  
9 or association and any business conducted by a trustee or trustees  
10 wherein interest or ownership is evidenced by a certificate of in-  
11 terest or ownership or similar written instrument;

12 d. "Indebtedness owing directly or indirectly" includes, with-  
13 out limitation thereto, all indebtedness owing to any stockholder  
14 or shareholder and to members of his immediate family where a  
15 stockholder and members of his immediate family together or in  
16 the aggregate own 10% or more of the aggregate outstanding  
17 shares of the taxpayer's capital stock of all classes;

18 e. "Taxpayer" means any corporation required to report or to  
19 pay taxes, interest or penalties under this act;

20 f. "Calendar year" means an accounting period ending on the  
21 last day of December on the basis of which the taxpayer is required  
22 to report for Federal income tax purposes;

23 g. "Fiscal year" means an accounting period ending on any day  
24 other than the last day of December on the basis of which the tax-  
25 payer is required to report for Federal income tax purposes;

26 h. "Accounting period" means the calendar or fiscal year, or  
27 part thereof, for which a tax is payable under this act;

28 i. "Entire net income" means total net income from all sources,  
29 whether within or without the United States, and shall include  
30 the gain derived from the employment of capital or labor, or from  
31 both combined, as well as profit gained through a sale or conver-  
32 sion of capital assets. For the purpose of this act, the amount of  
33 a taxpayer's entire net income shall be deemed prima facie to be  
34 equal in amount to the taxable income, before net operating loss  
35 deduction and special deductions, which the taxpayer is required  
36 to report to the United States Treasury Department for the pur-  
37 pose of computing its Federal income tax; provided, however, that  
38 in the determination of such entire net income,



39 (1) Entire net income shall exclude 100% of dividends which  
40 were included in computing such taxable income for Federal in-  
41 come tax purposes, paid to the taxpayer by one or more subsidi-  
42 aries owned by the taxpayer. For the purposes of this section, a  
43 subsidiary shall be deemed to be any corporation in which a tax-  
44 payer is the owner of at least 80% of the total combined voting  
45 power of all classes of stock entitled to vote and of at least 80%  
46 of each class, if any, of nonvoting stock. With respect to other  
47 dividends, entire net income shall not include 50% of the total  
48 included in computing such taxable income for Federal income  
49 tax purposes;

50 (2) Entire net income shall be determined without the exclusion,  
51 deduction or credit of:

52 (a) the amount of any specific exemption or credit allowed in  
53 any law of the United States imposing any tax on or measured  
54 by the income of corporations;

55 (b) any part of any income from dividends or interest on any  
56 kind of stock, securities or indebtedness, except as provided in  
57 subsection i. (1) of this section;

58 (c) taxes paid or accrued to the United States on or measured  
59 by profits or income, or the tax imposed by this act, or any tax  
60 paid or accrued with respect to subsidiary dividends excluded  
61 from entire net income as provided in subsection i. (1) of this  
62 section;

63 (d) net operating losses sustained during any year or period  
64 other than that covered by the report;

65 (e) 90% of interest on indebtedness owing directly or indirectly  
66 to holders of 10% or more of the aggregate outstanding shares of  
67 the taxpayer's capital stock of all classes; except that such interest  
68 may, in any event, be deducted

69 (i) up to an amount not exceeding \$1,000.00;

70 (ii) in full to the extent that it relates to bonds or other  
71 evidences of indebtedness issued, with stock, pursuant to a  
72 bona fide plan of reorganization, to persons, who, prior to  
73 such reorganization, were bona fide creditors of the corpora-  
74 tion or its predecessors, but were not stockholders or share-  
75 holders thereof;

76 (3) The director may, whenever necessary to properly reflect  
77 the entire net income of any taxpayer, determine the year or period  
78 in which any item of income or deduction shall be included, with-  
79 out being limited to the method of accounting employed by the  
80 taxpayer.

1 5. The income tax to be annually assessed to and paid by each

2 taxpayer shall be computed at the rate of  $7\frac{1}{4}\%$  of its entire net  
3 income or such portion thereof as may be allocable to this State  
4 as provided in section 6.

1 6. When the income of a taxpayer subject to tax under this act  
2 is derived from sources both within and without the State, the  
3 portion of its entire net income to be used as a measure of the tax  
4 imposed by section 5 of this act, shall be determined by multiplying  
5 such entire net income by an allocation factor which shall be the  
6 average of the fractions computed in a., b., and c. below, or of so  
7 many of them as may be applicable, that is:

8-9 a. The average value of the taxpayer's owned, rented or leased  
10 real and tangible personal property within the State during the  
11 period covered by its report divided by the average value of all  
12 the taxpayer's owned, rented or leased real and tangible personal  
13 property wherever situated during such period. Property rented  
14 or leased by the taxpayer shall be valued at eight times the gross  
15 annual lease or rental rate.

16 b. The receipts of the taxpayer, computed on the cash or accrual  
17 basis according to the method of accounting used in the computa-  
18 tion of its net income for Federal tax purposes, arising during  
19 such period from

20 (1) sales of its tangible personal property where such property  
21 is delivered or shipped to a purchaser, other than the United States  
22 Government, within this State regardless of the f.o.b. point or  
23 other conditions of the sale;

24 (2) sales of its tangible personal property where the purchaser  
25 is the United States Government and where such property is lo-  
26 cated within this State at the time of the receipt of or appropria-  
27 tion to the orders;

28 (3) sales of its tangible personal property located within this  
29 State at the time of the receipt of or appropriation to the orders  
30 where shipments are made to points in other States, the District  
31 of Columbia or Puerto Rico, where such jurisdictions do not have  
32 the power to impose an income or franchise tax on the taxpayer;

33 (4) services performed within the State;

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

36 (6) all other business receipts (excluding dividends excluded  
37 from entire net income by subsection i. (1) of section 4 hereof)  
38 earned within the State, divided by the total amount of the tax-  
39 payer's receipts, similarly computed, arising during such period  
40 from all sales of its tangible personal property, services, rentals,

41 royalties and all other business receipts, whether within of without  
42 the State;

43 c. The total wages, salaries and other personal service compen-  
44 sation, similarly computed, during such period of officers and em-  
45 ployees within the State divided by the total wages, salaries and  
46 other personal service compensation, similarly computed, during  
47 such period of all the taxpayer's officers and employees within  
48 and without the State.

1 7. As used in section 6 c., compensation of officers and employees  
2 within this State shall include the entire amount of wages, salaries  
3 and other personal service compensation for services performed  
4 within or both within and without this State if:

5 a. The service is performed entirely within this State; or

6 b. The service is performed both within and without this State,  
7 but the service performed without this State is incidental to the  
8 individual's service within the State, for example, is temporary  
9 or transitory in nature or consists of isolated transactions;

10 c. The service is not performed entirely in any state but some  
11 of the service is performed in this State, and (1) the base of opera-  
12 tion, or, if there is no base of operations, then the place from which  
13 such service is directed or controlled, is in this State; or (2) the  
14 base of operations or place from which such service is directed  
15 or controlled is not in any state in which some part of the service  
16 is performed, but the individual's residence is in this State;

17 d. Contributions are not required and paid with respect to such  
18 services under an unemployment compensation law of any other  
19 state.

1 8. If it shall appear to the director that an allocation factor  
2 determined pursuant to section 6 does not properly reflect the  
3 activity, business, receipts or entire net income of a taxpayer rea-  
4 sonably attributable to the State, he may adjust it by:

5 a. excluding one or more of the factors therein;

6 b. including one or more other factors, such as expenses, pur-  
7 chases, contract values (minus subcontract values);

8 c. excluding one or more assets in computing an allocation per-  
9 centage; or

10 d. applying any other similar or different method calculated to  
11 effect a fair and proper allocation of the entire net income reason-  
12 ably attributable to the State.

1 9. Whenever it shall appear to the director that any taxpayer  
2 fails to maintain its records in accordance with sound accounting  
3 principles or conducts its business or maintains its records in such  
4 manner as either directly or indirectly to distort its true entire net

5 income under this act or the proportion thereof properly allocable  
6 to this State, or whenever any taxpayer maintains a place of busi-  
7 ness outside this State, or whenever any agreement, understanding  
8 or arrangement exists between a taxpayer and any other corpo-  
9 ration or any person or firm, for the purpose of evading tax under  
10 this act, or whereby the activity, business, receipts, expenses, assets  
11 or income of the taxpayer are improperly or inaccurately reflected,  
12 the director is authorized and empowered, in his discretion and  
13 in such manner as he may determine, to adjust and redetermine  
14 such items, and to adjust items of gross receipts, tangible property  
15 and payrolls within and without the State and the allocation of  
16 entire net income or to make any other adjustments in any tax  
17 report or tax returns as may be necessary to make a fair and rea-  
18 sonable determination of the amount of tax payable under this act.  
19 Where a. any taxpayer conducts its activity or business under any  
20 agreement, arrangement or understanding in such manner as either  
21 directly or indirectly to benefit its members or stockholders, or  
22 any of them, or any person or persons directly or indirectly in-  
23 terested in such activity or business, by entering into any trans-  
24 action at more or less than a fair price which, but for such agree-  
25 ment, arrangement or understanding, might have been paid or  
26 received therefor, or b. any taxpayer, a substantial portion of  
27 whose capital stock is owned either directly or indirectly by or  
28 through another corporation, enters into any transaction with such  
29 other corporation on such terms as to create an improper loss or  
30 net income, the director may include in the entire net income of  
31 the taxpayer the fair profits which, but for such agreement, ar-  
32 rangement or understanding, the taxpayer might have derived  
33 from such transaction. The director may require any person or  
34 corporation to submit such information under oath or affirmation,  
35 or to permit such examination of its books, papers and documents,  
36 as may be necessary to enable him to determine the existence,  
37 nature or extent of an agreement, understanding or arrangement  
38 to which this section relates, whether or not such person or cor-  
39 poration is subject to the tax imposed by this act.

1 10. Any receiver, referee, trustee, assignee or other fiduciary,  
2 or any officer or agent appointed by any court, to conduct the  
3 business or conserve the assets of any corporation shall be subject  
4 to the tax imposed by this act in the same manner and to the same  
5 extent as a corporation hereunder.

1 11. If the amount of the taxable income for any year of any  
2 taxpayer as returned to the United States Treasury Department  
3 is changed or corrected by the Commissioner of Internal Revenue

4 or other officer of the United States or other competent authority,  
5 or where a renegotiation of a contract or subcontract with the  
6 United States results in a change in said taxable income, or where  
7 a recovery of a war loss results in a computation or recomputation  
8 of any tax imposed by the United States, such taxpayer shall  
9 report such changed or corrected taxable income, or the results  
10 of such renegotiation, or such computation or recomputation,  
11 within 90 days after the final determination of such change or cor-  
12 rection or renegotiation, or such computation or recomputation,  
13 or as required by the director, and shall concede the accuracy of  
14 such determination or state wherein it is erroneous. Any taxpayer  
15 filing an amended return with such department shall also file  
16 within 90 days thereafter an amended report with the director.

1 12. a. The director may by general rule or by special notice re-  
2 quire any taxpayer to submit copies or pertinent extracts of its  
3 Federal income tax returns, or of any other tax return made to  
4 any agency of the Federal Government, or of this or any other  
5 state, or of any statement or registration made pursuant to any  
6 State or Federal law pertaining to securities or securities exchange  
7 regulation.

8 b. The director may require all taxpayers to keep such records  
9 as he may prescribe, and he may require the production of books,  
10 papers, documents and other data, to provide or secure informa-  
11 tion pertinent to the determination of the tax hereunder and the  
12 enforcement and collection thereof. The director may, also, by  
13 general rule or by special notice require any taxpayer to make  
14 and file information returns, under oath, of facts pertinent to the  
15 determination of the tax or liability for tax hereunder, pursuant  
16 to such regulations, at such times and in such form and manner  
17 and to such extent as he may prescribe pursuant to law.

1 13. The tax imposed by this act shall be due and payable annually  
2 for calendar or fiscal years ending after December 31, 1973, in the  
3 manner provided under subsections a. and b. hereof.

4 a. Every taxpayer shall annually pay an income tax on a report  
5 which shall be filed on or before the fifteenth day of the fourth  
6 month after the close of taxpayer's fiscal or calendar accounting  
7 period, or part thereof, and the full amount of the tax hereunder  
8 shall be due and payable on or before the date prescribed herein  
9 for the filing of the return.

10 b. In addition to the income tax payable under subsection a. of  
11 this section, every taxpayer shall annually pay as a partial pay-  
12 ment of income tax an amount equal to  $\frac{1}{2}$  the tax payable under  
13 said subsection a. In the calculation of the tax pertaining to each

14 succeeding fiscal or calendar accounting period, due in accordance  
15 with subsection a., every taxpayer shall be entitled to a credit in  
16 the amount of the tax paid under this subsection b. as a partial  
17 payment and shall be entitled to the return of any amount so paid  
18 which shall be found to be in excess of the total amount payable  
19 in accordance with said subsection a. and this subsection b.

20 c. For the purpose of this act, every taxpayer shall use the same  
21 calendar or fiscal year upon which it reports to the United States  
22 Treasury Department for Federal income tax purposes.

1 14. a. If the period covered by a report under this act is less  
2 than 12 calendar months and is other than the period reported on  
3 for Federal income tax purposes, the taxpayer may prorate its  
4 adjusted entire net income by dividing such adjusted entire net  
5 income by the number of calendar months, or parts thereof, covered  
6 by the Federal income tax return and multiplying the result by  
7 the number of calendar months, or parts thereof, covered by the  
8 short period return. For purposes of this section, a part of a  
9 month shall be deemed to be a month.

10 b. Any taxpayer which shall fail to file its return when due shall  
11 be liable to a penalty of \$2.00 for each day of delinquency, which  
12 penalty shall be payable to, and recoverable by, the director as  
13 part of the tax herein imposed. If any tax be not paid when the  
14 same becomes due, as herein provided, there shall be added to the  
15 amount of the tax a sum equivalent to 5% thereof, as a penalty,  
16 and, in addition thereto, interest at the rate of 1% per month or  
17 fraction thereof from the date the tax became due until the same  
18 be paid. The director, if satisfied that the failure to comply with  
19 any provision of this act was excusable, may abate or remit the  
20 whole or part of any penalty.

1 15. Where any taxpayer has paid a tax under the Corporation  
2 Business Tax Act (1945) (C. 54:10A-1 et seq.) for a calendar  
3 or fiscal year for which it was not properly subject to tax under  
4 said Corporation Business Tax Act, the amount of taxes so paid  
5 may be offset against the tax imposed by this act for the same  
6 period. Where any taxpayer has paid a tax under this act for  
7 a calendar or fiscal year for which it was properly subject to tax  
8 under said Corporation Business Tax Act, the amount of tax so  
9 paid may be offset against the tax imposed by said Corporation  
10 Business Tax Act for the same period.

1 16. Where a corporation is properly subject to tax under this  
2 act and under the Corporation Business Tax Act (C. 54:10A-1  
3 et seq.) for portions of the same calendar or fiscal year, a return  
4 must be filed for said calendar or fiscal year under this act and

5 the proper amount of tax due thereon must be paid. In computing  
6 its tax liability for the portion of the calendar or fiscal year for  
7 which it was subject to tax under this act, the taxpayer may pro-  
8 rate its adjusted entire net income in the manner provided at  
9 subsection a. of section 14.

1 17. The director shall design a form of return and forms for  
2 such additional statements or schedules as he may require to be  
3 filed therewith. Such forms shall provide for the setting forth of  
4 such facts as the director may deem necessary for the proper  
5 enforcement of this act. He shall cause a supply thereof to be  
6 printed and shall furnish appropriate blank forms to each tax-  
7 payer upon application or otherwise as he may deem necessary.  
7 Failure to receive a form shall not relieve any taxpayer from the  
8 obligation to file a return under the provisions of this act. Each  
9 such return shall have annexed thereto a certification by the presi-  
10 dent, vice president, comptroller, secretary, treasurer, assistant  
11 treasurer, accounting officer of the taxpayer or any other officer  
12 of the taxpayer duly authorized so to act to the effect that the  
13 statements contained therein are true. The fact that an in-  
14 dividual's name is signed on a certification of the report shall be  
15 prima facie evidence that such individual is authorized to sign  
16 and certify the report on behalf of the corporation. In the case of a  
17 corporation in liquidation or in the hands of a receiver or trustee,  
18 certification shall be made by the person responsible for the con-  
20 duct of the affairs of such corporation.

1 18. The director may grant a reasonable extension of time for  
2 the filing of returns or the payment of tax, or both, under such  
3 rules and regulations as he shall prescribe, which rules and regu-  
4 lations may require the filing of a tentative return and the pay-  
5 ment of an estimated tax. If the time for filing the return shall be  
6 extended, the payment of the portion of the tax remaining to be  
7 paid, if any, shall be postponed to the date fixed by the extension  
8 of the time for the filing of the return, but in every such case the  
9 corporation shall pay, in addition to the unpaid portion of the  
10 tax, interest thereon at the rate of 6% per annum from the time  
11 when the return originally was required to be filed to the date of  
12 actual payment under the extension; provided, that if such unpaid  
13 portion of the tax is not paid within the time fixed under the ex-  
14 tension, the interest on such unpaid portion shall be computed at  
15 the rate of 1% per month or fraction thereof to be calculated from  
16 the date the tax was originally due to the date of actual payment.

1 19. a. After a final return in due form is filed, the director shall  
2 cause the same to be examined and may make such further audit

3 or investigation or reaudit as he may deem necessary, and if there-  
4 from he shall determine that there is a deficiency with respect to  
5 the payment of any tax due under this act, he shall assess or re-  
6 assess the additional taxes, penalties and interests due the State,  
7 give notice of such assessment or reassessment to the taxpayer,  
8 and make demand upon him for payment. There shall be added to  
9 the amount of any deficiency assessment or reassessment, interest  
10 at the rate of 1% for each month or fraction thereof to be calcu-  
11 lated from the date the tax was originally due and payable until  
12 the date of actual payment. If the director is satisfied that the  
13 said deficiency was not due to fraud or evasion, he may remit or  
14 waive the payment of any interest charge in excess of the rate  
15 of  $\frac{1}{2}$  of 1% per month.

16 b. Except in the case of a wilfully false or fraudulent return  
17 with intent to evade the tax, no assessment of additional tax shall  
18 be made after the expiration of more than 5 years from the date  
19 of the filing of a return; provided, that where no return has been  
20 filed as provided by law, the tax may be assessed at any time.  
21 Where, before the expiration of the period prescribed herein for  
22 the assessment of an additional tax, a taxpayer has consented in  
23 writing that such period may be extended, the amount of such  
24 additional tax due may be determined at any time within such  
25 extended period. The period so extended may be further extended  
26 by subsequent consents in writing made before the expiration of  
27 the extended period.

28 c. After a final return in due form is filed for an accounting  
29 period under this act, the director may, within 5 years of the date  
30 of filing such return, require the taxpayer to file a proper return  
31 under the Corporation Business Tax Act (C. 54:10A-1 et seq.)  
32 and pay any additional tax due thereon, if he shall determine that  
33 the taxpayer was properly subject to tax under said Corporation  
34 Business Tax Act for such accounting period.

35 d. The director is authorized to enter into a written agreement  
36 with any taxpayer relating to the liability of such taxpayer in  
37 respect of any tax, fee, penalty or interest heretofore or hereafter  
38 imposed by this act which agreement shall be final and conclusive,  
39 and except upon a showing of fraud, malfeasance, or misrepre-  
40 sentation of a material fact:

41 (1) the case shall not be reopened as to the matters agreed upon  
42 or the agreement modified, by any officer, employee or agent of  
43 this State; and

44 (2) in any suit, action or proceeding, such agreement or any  
45 determination, assessment, collection, payment, cancellation, refund

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46 or credit made in accordance therewith, shall not be annulled,  
47 modified, set aside or disregarded.

1 20. If any taxpayer shall be aggrieved by any finding or assess-  
2 ment of the director, he may, within 30 days of the giving of the  
3 notice of assessment or finding, file a protest in writing signed by  
4 himself or his duly authorized agent, which shall be under oath,  
5 and shall set forth the reason therefor, and may request a hearing.  
6 Thereafter the director shall grant a hearing to the taxpayer, if  
7 the same shall be requested. He may make an order confirming,  
8 modifying or vacating any such finding or assessment. The filing  
9 of any such protest shall not abate penalties for nonpayment, nor  
10 shall it stay the right of the director to collect the tax in any  
11 manner herein provided, unless the taxpayer shall furnish security  
12 of the kind and in the amount satisfactory to the director. The  
13 time for appeal or review shall not be extended by the filing of  
14 any protest unless a hearing is requested, and the time to appeal  
15 shall then be extended only for the period between the filing of  
16 the protest and the final determination thereon by the director.

1 21. a. Any aggrieved taxpayer may, within 3 months after any  
2 decision, order, finding, assessment or action of the director made  
3 pursuant to the provisions of this act, appeal therefrom to the  
4 division of tax appeals, by filing a petition of appeal with said  
5 division in the manner and form prescribed by the said division  
6 and on giving security, approved by the Director of the Division of  
7 Taxation, conditioned to pay the tax heretofore levied, if the same  
8 remains unpaid, with interest and costs.

9 b. No such appeal shall stay the collection of any tax or the  
10 enforcement of the same by entry as a judgment, unless by order  
11 of such division, and then only after security approved by the  
12 director of said division has been furnished to the Director of the  
13 Division of Taxation. The judgment or order of the Division of  
14 Tax Appeals respecting any matter arising under the provisions  
15 of this act may be reviewed by a proceeding in lieu of prerogative  
16 writ in the same manner as other judgments of said division.

1 22. The administration, collection and enforcement of the tax  
2 imposed by this act shall be subject to the provisions of the State  
3 tax uniform procedure law as therein provided (chapters 48  
4 through 52 of Title 54 of the Revised Statutes) to the extent that  
5 the provisions of such law are not inconsistent with any provision  
6 of this act.

1 23. If any clause, sentence, paragraph, section or part of this  
2 act shall be adjudged by any court of competent jurisdiction to be  
3 invalid, such judgment shall not affect, impair or invalidate the

4 remainder thereof, but shall be confined in its operation to the  
5 clause, sentence, paragraph, section or part thereof directly in-  
6 volved in the controversy in which such judgment shall have been  
7 rendered.

1 24. The director shall prescribe and issue such rules and regu-  
2 lations, not inconsistent herewith, for the interpretation and ap-  
3 plication of the provisions of this act, as he may deem necessary.

1 25. This act shall take effect immediately and shall be applicable  
2 to taxpayers with calendar or fiscal years ending after December  
3 31, 1973.

ASSEMBLY COMMITTEE AMENDMENTS TO  
**ASSEMBLY, No. 1254**

**STATE OF NEW JERSEY**

ADOPTED FEBRUARY 5, 1973

Amend page 3, section 4, lines 63-64, delete lines 63 and 64.

Amend page 3, section 4, line 65, change "(e)" to "(d)".

SENATE REVENUE, FINANCE AND  
APPROPRIATIONS COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1254**  
(Second Official Copy Reprint)

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**STATE OF NEW JERSEY**

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DATED: APRIL 12, 1973

This bill extends the imposition of the corporation income tax to include all domestic and foreign corporations deriving income from sources within the State which are now not subject to the tax. The rate is set at 7¼% of its entire net income allocable to this State. The bill sets forth allocation alternatives and filing payment schedules. Assembly Bill No. 1254 will be effective immediately and shall be applicable to taxpayers with calendar or fiscal years ending after December 31, 1973.

The Division of Taxation is unable to project a revenue estimate. However, the division points out that on page 2, Volume V of the Tax Policy Committee's Report, it was stated "Because of lack of useful data, the committee does not recommend a specific revenue anticipation . . . but experience in other states suggests possible revenue of \$2 to \$4 million.