

[Second Reprint]

**ASSEMBLY, No. 5323**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 20, 2023

**Sponsored by:**

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**District 29 (Essex)**

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**District 35 (Bergen and Passaic)**

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**SYNOPSIS**

Revises various provisions concerning State tax law.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Budget Committee on June 28, 2023, with amendments.



**(Sponsorship Updated As Of: 6/30/2023)**

1 AN ACT concerning State taxation, supplementing Title 54 of the  
2 Revised Statutes and Title 54A of the New Jersey Statutes, and  
3 revising various parts of the statutory law.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 <sup>1</sup>[1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to  
9 read as follows:

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

12 (a) "Commissioner" or "director" shall mean the Director of the  
13 Division of Taxation of the State Department of the Treasury.

14 (b) "Allocation factor" shall mean the proportionate part of a  
15 taxpayer's net worth or entire net income used to determine a  
16 measure of its tax under this act.

17 (c) "Corporation" shall mean any corporation, joint-stock  
18 company or association and any business conducted by a trustee or  
19 trustees wherein interest or ownership is evidenced by a certificate  
20 of interest or ownership or similar written instrument, any other  
21 entity classified as a corporation for federal income tax purposes,  
22 and any state or federally chartered building and loan association or  
23 savings and loan association.

24 (d) "Net worth" shall mean the aggregate of the values disclosed  
25 by the books of the corporation for (1) issued and outstanding  
26 capital stock, (2) paid-in or capital surplus, (3) earned surplus and  
27 undivided profits, and (4) surplus reserves which can reasonably be  
28 expected to accrue to holders or owners of equitable shares, not  
29 including reasonable valuation reserves, such as reserves for  
30 depreciation or obsolescence or depletion. Notwithstanding the  
31 foregoing, net worth shall not include any deduction for the amount  
32 of the excess depreciation described in paragraph (2) (F) of  
33 subsection (k) of this section. The foregoing aggregate of values  
34 shall be reduced by 50% of the amount disclosed by the books of  
35 the corporation for investment in the capital stock of one or more  
36 subsidiaries, which investment is defined as ownership (1) of at  
37 least 80% of the total combined voting power of all classes of stock  
38 of the subsidiary entitled to vote and (2) of at least 80% of the total  
39 number of shares of all other classes of stock except nonvoting  
40 stock which is limited and preferred as to dividends. In the case of  
41 investment in an entity organized under the laws of a foreign  
42 country, the foregoing requisite degree of ownership shall effect a  
43 like reduction of such investment from the net worth of the  
44 taxpayer, if the foreign entity is considered a corporation for any

**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:

<sup>1</sup>Assembly ABU committee amendments adopted June 27, 2023.

<sup>2</sup>Assembly ABU committee amendments adopted June 28, 2023.

1 purpose under the United States federal income tax laws, such as  
2 (but not by way of sole examples) for the purpose of supplying  
3 deemed paid foreign tax credits or for the purpose of status as a  
4 controlled foreign corporation. In calculating the net worth of a  
5 taxpayer entitled to reduction for investment in subsidiaries, the  
6 amount of liabilities of the taxpayer shall be reduced by such  
7 proportion of the liabilities as corresponds to the ratio which the  
8 excluded portion of the subsidiary values bears to the total assets of  
9 the taxpayer.

10 In the case of banking corporations which have international  
11 banking facilities as defined in subsection (n), the foregoing  
12 aggregate of values shall also be reduced by retained earnings of the  
13 international banking facility. Retained earnings means the earnings  
14 accumulated over the life of such facility and shall not include the  
15 distributive share of dividends paid and federal income taxes paid  
16 or payable during the tax year.

17 If in the opinion of the director, the corporation's books do not  
18 disclose fair valuations the director may make a reasonable  
19 determination of the net worth which, in his opinion, would reflect  
20 the fair value of the assets, exclusive of subsidiary investments as  
21 defined aforesaid, carried on the books of the corporation, in  
22 accordance with sound accounting principles, and such  
23 determination shall be used as net worth for the purpose of this act.

24 (e) (Deleted by amendment, P.L.1998, c.114.)

25 (f) "Investment company" shall mean any corporation whose  
26 business during the period covered by its report consisted, to the  
27 extent of at least 90% thereof of holding, investing and reinvesting  
28 in stocks, bonds, notes, mortgages, debentures, patents, patent rights  
29 and other securities for its own account, but this shall not include  
30 any corporation which: (1) is a merchant or a dealer of stocks,  
31 bonds and other securities, regularly engaged in buying the same  
32 and selling the same to customers; or (2) had less than 90% of its  
33 average gross assets in New Jersey, at cost, invested in stocks,  
34 bonds, debentures, mortgages, notes, patents, patent rights or other  
35 securities or consisting of cash on deposit during the period covered  
36 by its report; or (3) is a banking corporation, a savings institution,  
37 or a financial business corporation as defined in the Corporation  
38 Business Tax Act.

39 (g) "Regulated investment company" shall mean any corporation  
40 which for a period covered by its report, is registered and regulated  
41 under the Investment Company Act of 1940 (54 Stat. 789), as  
42 amended.

43 (h) "Taxpayer" shall mean any corporation, any combined group  
44 filing a mandatory or elective New Jersey combined return, and any  
45 partnership required, or consenting, to report or to pay taxes,  
46 interest or penalties under this act. "Taxpayer" shall not include a  
47 partnership that is listed on a United States national stock exchange.

1 (i) "Fiscal year" shall mean an accounting period ending on any  
2 day other than the last day of December on the basis of which the  
3 taxpayer is required to report for federal income tax purposes.

4 (j) Except as herein provided, "privilege period" shall mean the  
5 calendar or fiscal accounting period for which a tax is payable  
6 under this act.

7 (k) "Entire net income" shall mean total net income from all  
8 sources, whether within or without the United States, and shall  
9 include the gain derived from the employment of capital or labor, or  
10 from both combined, as well as profit gained through a sale or  
11 conversion of capital assets.

12 For the purpose of this act, the amount of a taxpayer's entire net  
13 income shall be deemed prima facie to be equal in amount to the  
14 taxable income, before net operating loss deduction and special  
15 deductions, which the taxpayer is required to report, or, if the  
16 taxpayer is classified as a partnership for federal tax purposes,  
17 would otherwise be required to report, to the United States Treasury  
18 Department for the purpose of computing its federal income tax,  
19 provided however, that in the determination of such entire net  
20 income,

21 (1) Entire net income shall exclude for the periods set forth in  
22 paragraph (2)(F)(i) of this subsection, any amount, except with  
23 respect to qualified mass commuting vehicles as described in  
24 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect  
25 immediately prior to January 1, 1984, which is included in a  
26 taxpayer's federal taxable income solely as a result of an election  
27 made pursuant to the provisions of paragraph (8) of that section.

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

30 (A) The amount of any exemption or credit allowed in any law  
31 of the United States imposing any tax on or measured by the income  
32 of corporations.

33 (B) Any part of any income from dividends or interest on any  
34 kind of stock, securities or indebtedness, except as provided in  
35 paragraph (5) of subsection (k) of this section.

36 (C) Taxes paid or accrued to the United States, a possession or  
37 territory of the United States, a state, a political subdivision thereof,  
38 or the District of Columbia, or to any foreign country, state,  
39 province, territory or subdivision thereof, on or measured by profits  
40 or income, or business presence or business activity, or the tax  
41 imposed by this act, or any tax paid or accrued with respect to  
42 subsidiary dividends excluded from entire net income as provided  
43 in paragraph (5) of subsection (k) of this section.

44 (D) (Deleted by amendment, P.L.1985, c.143.)

45 (E) (Deleted by amendment, P.L.1995, c.418.)

46 (F) (i) The amount by which depreciation reported to the United  
47 States Treasury Department for property placed in service on and  
48 after January 1, 1981, but prior to taxpayer fiscal or calendar

1 accounting years beginning on and after the effective date of  
2 P.L.1993, c.172, for purposes of computing federal taxable income  
3 in accordance with section 168 of the Internal Revenue Code in  
4 effect after December 31, 1980, exceeds the amount of depreciation  
5 determined in accordance with the Internal Revenue Code  
6 provisions in effect prior to January 1, 1981, but only with respect  
7 to a taxpayer's accounting period ending after December 31, 1981;  
8 provided, however, that where a taxpayer's accounting period  
9 begins in 1981 and ends in 1982, no modification shall be required  
10 with respect to this paragraph (F) for the report filed for such period  
11 with respect to property placed in service during that part of the  
12 accounting period which occurs in 1981. The provisions of this  
13 subparagraph shall not apply to assets placed in service prior to  
14 January 1, 1998 of a gas, gas and electric, and electric public utility  
15 that was subject to the provisions of P.L.1940, c.5  
16 (C.54:30A-49 et seq.) prior to 1998.

17 (ii) For the periods set forth in subparagraph (F)(i) of paragraph  
18 (2) of this subsection, any amount, except with respect to qualified  
19 mass commuting vehicles as described in section 168(f)(8)(D)(v) of  
20 the Internal Revenue Code as in effect immediately prior to January  
21 1, 1984, which the taxpayer claimed as a deduction in computing  
22 federal income tax pursuant to a qualified lease agreement under  
23 paragraph (8) of that section.

24 The director shall promulgate rules and regulations necessary to  
25 carry out the provisions of this section, which rules shall provide,  
26 among others, the manner in which the remaining life of property  
27 shall be reported.

28 (G) (i) The amount of any civil, civil administrative, or criminal  
29 penalty or fine, including a penalty or fine under an administrative  
30 consent order, assessed and collected for a violation of a State or  
31 federal environmental law, an administrative consent order, or an  
32 environmental ordinance or resolution of a local governmental  
33 entity, and any interest earned on the penalty or fine, and any  
34 economic benefits having accrued to the violator as a result of a  
35 violation, which benefits are assessed and recovered in a civil, civil  
36 administrative, or criminal action, or pursuant to an administrative  
37 consent order. The provisions of this paragraph shall not apply to a  
38 penalty or fine assessed or collected for a violation of a State or  
39 federal environmental law, or local environmental ordinance or  
40 resolution, if the penalty or fine was for a violation that resulted  
41 from fire, riot, sabotage, flood, storm event, natural cause, or other  
42 act of God beyond the reasonable control of the violator, or caused  
43 by an act or omission of a person who was outside the reasonable  
44 control of the violator.

45 (ii) The amount of treble damages paid to the Department of  
46 Environmental Protection pursuant to subsection a. of section 7 of  
47 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the  
48 department in removing, or arranging for the removal of, an

1 unauthorized discharge upon failure of the discharger to comply  
2 with a directive from the department to remove, or arrange for the  
3 removal of, the discharge.

4 (H) The amount of any sales and use tax paid by a utility vendor  
5 pursuant to section 71 of P.L.1997, c.162.

6 (I) **【Interest】** With respect to privilege periods ending before  
7 July 31, 2023, interest paid, accrued or incurred for the privilege  
8 period to a related member, as defined in section 5 of P.L.2002,  
9 c.40 (C.54:10A-4.4), except that a deduction shall be permitted to  
10 the extent that the taxpayer establishes by clear and convincing  
11 evidence, as determined by the director, that: (i) a principal purpose  
12 of the transaction giving rise to the payment of the interest was not  
13 to avoid taxes otherwise due under Title 54 of the Revised Statutes  
14 or Title 54A of the New Jersey Statutes, (ii) the interest is paid  
15 pursuant to arm's length contracts at an arm's length rate of interest,  
16 and (iii)(aa) the related member was subject to a tax on its net  
17 income or receipts in this State or another state or possession of the  
18 United States or in a foreign nation, (bb) a measure of the tax  
19 includes the interest received from the related member, and (cc) the  
20 rate of tax applied to the interest received by the related member is  
21 equal to or greater than a rate three percentage points less than the  
22 rate of tax applied to taxable interest by this State pursuant to  
23 section 5 of P.L.1945, c.162 (C.54:10A-5).

24 **【A】** With respect to privilege periods ending before July 31,  
25 2023, a deduction shall also be permitted if the taxpayer establishes  
26 by clear and convincing evidence, as determined by the director,  
27 that the disallowance of a deduction is unreasonable, or the  
28 taxpayer and the director agree in writing to the application or use  
29 of an alternative method of apportionment under section 8 of  
30 P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be  
31 construed to limit or negate the director's authority to otherwise  
32 enter into agreements and compromises otherwise allowed by law.

33 **【A】** With respect to privilege periods ending before July 31,  
34 2023, a deduction shall also be permitted to the extent that the  
35 taxpayer establishes by a preponderance of the evidence, as  
36 determined by the director, that the interest is directly or indirectly  
37 paid, accrued or incurred to (i) a related member in a foreign nation  
38 which has in force a comprehensive income tax treaty with the  
39 United States and the related member (aa) was subject to tax in the  
40 foreign nation on a tax base that included the payment paid,  
41 accrued, or incurred; and (bb) under which the related member's  
42 income received from the transaction was taxed at an effective tax  
43 rate equal to or greater than a rate of three percentage points less  
44 than the rate of tax applied to taxable interest by the State of New  
45 Jersey pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
46 provided however that the taxpayer shall disclose on its return for  
47 the privilege period the name of the related member, the amount of  
48 the interest, the relevant foreign nation, and such other information

1 as the director may prescribe or (ii) to an independent lender and  
2 the taxpayer guarantees the debt on which the interest is required.  
3 The adjustments required by this subparagraph shall not apply to  
4 transactions between related members included in a combined  
5 group reported on a New Jersey combined return.

6 (J) (i) Amounts deducted for federal tax purposes pursuant to  
7 section 199 of the federal Internal Revenue Code of 1986, 26  
8 U.S.C. s.199, except that this exclusion shall not apply to amounts  
9 deducted pursuant to that section that are exclusively based upon  
10 domestic production gross receipts of the taxpayer which are  
11 derived only from any lease, rental, license, sale, exchange, or other  
12 disposition of qualifying production property which the taxpayer  
13 demonstrates to the satisfaction of the director was manufactured or  
14 produced by the taxpayer in whole or in significant part within the  
15 United States but not qualified production property that was grown  
16 or extracted by the taxpayer. "Manufactured or produced" as used in  
17 this paragraph shall be limited to performance of an operation or  
18 series of operations the object of which is to place items of tangible  
19 personal property in a form, composition, or character different  
20 from that in which they were acquired. The change in form,  
21 composition, or character shall be a substantial change, and result in  
22 a transformation of property into a different or substantially more  
23 usable product.

24 (ii) For privilege periods beginning after December 31, 2017,  
25 notwithstanding the provisions of P.L.1945, c.162  
26 (C.54:10A-1 et seq.) or any other law to the contrary, for the  
27 purposes of determining the amount of income pursuant to  
28 P.L.1945, c.162 (C.54:10A-1 et seq.) that is net of expenses, no  
29 amounts shall be taken as a deduction pursuant to section 199A of  
30 the Internal Revenue Code (26 U.S.C. s.199A).

31 (K) (i) For privilege periods beginning after December 31, 2017  
32 and ending before July 31, 2022, the interest deduction limitation in  
33 subsection (j) of section 163 of the Internal Revenue Code  
34 (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to  
35 both related and unrelated parties, regardless of whether the related  
36 parties are subject to the add-back provision of either subparagraph  
37 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,  
38 c.40 (C.54:10A-4.4).

39 (ii) For privilege periods beginning after December 31, 2017  
40 and ending on and after July 31, 2022, the interest deduction  
41 limitation in subsection (j) of section 163 of the Internal Revenue  
42 Code (26 U.S.C. s.163), shall apply to a combined group as though  
43 the combined group filed a federal consolidated return; provided,  
44 however, for the purposes of applying the limitation in subsection  
45 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),  
46 with regard to affiliates that were members of the federal  
47 consolidated return but were not members of the combined group  
48 included on the New Jersey combined return, the combined group

1 and the affiliates will also be treated as having filed one federal  
2 consolidated return.

3 (3) The director may, whenever necessary to properly reflect the  
4 entire net income of any taxpayer, determine the year or period in  
5 which any item of income or deduction shall be included, without  
6 being limited to the method of accounting employed by the  
7 taxpayer.

8 (4) There shall be allowed as a deduction from entire net income  
9 of a banking corporation, to the extent not deductible in  
10 determining federal taxable income, the eligible net income of an  
11 international banking facility determined as follows:

12 (A) The eligible net income of an international banking facility  
13 shall be the amount remaining after subtracting from the eligible  
14 gross income the applicable expenses;

15 (B) Eligible gross income shall be the gross income derived by  
16 an international banking facility, which shall include, but not be  
17 limited to, gross income derived from:

18 (i) Making, arranging for, placing or carrying loans to foreign  
19 persons, provided, however, that in the case of a foreign person  
20 which is an individual, or which is a foreign branch of a domestic  
21 corporation (other than a bank), or which is a foreign corporation or  
22 foreign partnership which is controlled by one or more domestic  
23 corporations (other than banks), domestic partnerships or resident  
24 individuals, all the proceeds of the loan are for use outside of the  
25 United States;

26 (ii) Making or placing deposits with foreign persons which are  
27 banks or foreign branches of banks (including foreign subsidiaries)  
28 or foreign branches of the taxpayers or with other international  
29 banking facilities;

30 (iii) Entering into foreign exchange trading or hedging  
31 transactions related to any of the transactions described in this  
32 paragraph; or

33 (iv) Such other activities as an international banking facility  
34 may, from time to time, be authorized to engage in;

35 (C) Applicable expenses shall be any expense or other  
36 deductions attributable, directly or indirectly, to the eligible gross  
37 income described in subparagraph (B) of this paragraph.

38 (5) (A) (i) Entire net income shall exclude 100% of dividends  
39 which were included in computing such taxable income for federal  
40 income tax purposes, paid to the taxpayer by one or more  
41 subsidiaries owned by the taxpayer to the extent of the 80% or more  
42 ownership of investment described in subsection (d) of this section  
43 for privilege periods beginning on or before December 31, 2016.

44 (ii) For privilege periods beginning after December 31, 2016  
45 and before January 1, 2019, entire net income shall exclude 95% of  
46 dividends which were included in computing such taxable income  
47 for federal income tax purposes, paid or deemed paid, to the  
48 taxpayer by one or more subsidiaries owned by the taxpayer to the



1 extent of the 80% or more ownership of investment described in  
2 subsection (d) of this section. For the purposes of calculating the  
3 tax liability owed for the paid or deemed paid dividends included in  
4 entire net income by this subparagraph (ii), the taxpayer shall  
5 use either their three-year average allocation factor for the  
6 taxpayer's 2014 through 2016 tax years reported on the taxpayer's  
7 tax returns or 3.5 percent, whichever is lower.

8 (iii) For privilege periods beginning on and after January 1, 2019  
9 and ending before July 31, 2023, entire net income shall exclude  
10 95% of dividends which were included in computing such taxable  
11 income for federal income tax purposes, paid or deemed paid to the  
12 taxpayer by one or more subsidiaries owned by the taxpayer to the  
13 extent of the 80% or more ownership of investment described in  
14 subsection (d) of this section.

15 (iv) For privilege periods ending on and after July 31, 2023,  
16 entire net income shall exclude 100 percent of dividends and  
17 deemed dividends that were included in computing such taxable  
18 income for federal income tax purposes, paid or deemed paid to the  
19 taxpayer by one or more subsidiaries owned by the taxpayer to the  
20 extent of the 80 percent or more ownership of investment described  
21 in subsection (d) of this section.

22 (B) Entire net income shall exclude 50% of dividends which  
23 were included in computing such taxable income for federal income  
24 tax purposes, paid or deemed paid to the taxpayer by one or more  
25 subsidiaries owned by the taxpayer to the extent of 50% or more  
26 ownership of investment, such ownership of investment calculated  
27 in the same manner as the 80% or more of ownership of investment  
28 is calculated as described in subsection (d) of this section.

29 (C) To the extent a subsidiary received dividends from other  
30 subsidiaries and included those dividends in its entire net income  
31 for the purposes of determining its tax liability pursuant to section 5  
32 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,  
33 the taxpayer receiving those same dividends from the subsidiary  
34 shall exclude those dividends from its entire net income based on  
35 the subsidiary's allocation factor used by the subsidiary in  
36 determining its tax liability pursuant to section 5 of P.L.1945, c.162  
37 (C.54:10A-5). This subparagraph (C) shall not apply to privilege  
38 periods ending on and after July 31, 2019.

39 (D) For privilege periods ending on and after July 31, 2019 but  
40 before July 31, 2020, to the extent a subsidiary received dividends  
41 from other subsidiaries and included those dividends in its entire net  
42 income for the purposes of determining its tax liability pursuant to  
43 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those  
44 dividends, the taxpayer receiving those same dividends from the  
45 subsidiary shall exclude those dividends from its entire net income.

46 (E) For privilege periods ending on and after July 31, 2020, for  
47 purposes of this paragraph (5), the members of a combined group  
48 filing a New Jersey combined return shall be treated as one taxpayer

1 with regard to dividends and deemed dividends that were received  
2 as part of the unitary business of the combined group.

3 (F) For privilege periods ending on and after July 31, 2023:

4 (i) The exclusion provided by this paragraph (5) shall be  
5 deducted from entire net income after the State modifications that  
6 increase federal entire net income but before the other State  
7 modifications that reduce entire net income and before the  
8 allocation of entire net income to this State.

9 (ii) In computing the total amount of the dividends and deemed  
10 dividends excluded by this paragraph (5) for privilege periods  
11 ending on and after July 31, 2023, the amount of dividends and  
12 deemed dividends excluded shall be reduced by the amount of the  
13 expenses and deductions that are attributable to those dividends and  
14 deemed dividends. For purposes of this paragraph (5), expenses  
15 and deductions related to dividends shall equal five percent of all  
16 dividends and deemed dividends received by a taxpayer during an  
17 income year.

18 (G) For privilege periods ending on and after July 31, 2023, for  
19 the purposes of this paragraph (5) and for subsection d. of section  
20 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required  
21 to be included in federal taxable income pursuant to 26 U.S.C.  
22 s.951A, shall be considered a dividend.

23 (6) (A) Net operating loss deduction. For privilege periods  
24 ending before July 31, 2019, there shall be allowed as a deduction  
25 for the privilege period the net operating loss carryover to that  
26 period.

27 (B) Net operating loss carryover. A net operating loss for any  
28 privilege period ending after June 30, 1984 shall be a net operating  
29 loss carryover to each of the seven privilege periods following the  
30 period of the loss and a net operating loss for any privilege period  
31 ending after June 30, 2009 shall be a net operating loss carryover to  
32 each of the twenty privilege periods following the period of the  
33 loss. The entire amount of the net operating loss for any privilege  
34 period (the "loss period") shall be carried to the earliest of the  
35 privilege periods to which the loss may be carried. The portion of  
36 the loss which shall be carried to each of the other privilege periods  
37 shall be the excess, if any, of the amount of the loss over the sum of  
38 the entire net income, computed without the exclusions permitted in  
39 paragraphs (4) and (5) of this subsection or the net operating loss  
40 deduction provided by subparagraph (A) of this paragraph, for each  
41 of the prior privilege periods to which the loss may be carried.

42 (C) Net operating loss. For purposes of this paragraph the term  
43 "net operating loss" means the excess of the deductions over the  
44 gross income used in computing entire net income without the net  
45 operating loss deduction provided for in subparagraph (A) of this  
46 paragraph and the exclusions in paragraphs (4) and (5) of this  
47 subsection.

1 (D) Change in ownership. Where there is a change in 50% or  
2 more of the ownership of a corporation because of redemption or  
3 sale of stock and the corporation changes the trade or business  
4 giving rise to the loss, no net operating loss sustained before the  
5 changes may be carried over to be deducted from income earned  
6 after such changes. In addition where the facts support the premise  
7 that the corporation was acquired under any circumstances for the  
8 primary purpose of the use of its net operating loss carryover, the  
9 director may disallow the carryover.

10 (E) Notwithstanding the provisions of this paragraph (6) of  
11 subsection (k) of this section to the contrary, for privilege periods  
12 beginning during calendar year 2002 and calendar year 2003, no  
13 deduction for any net operating loss carryover shall be allowed and  
14 for privilege periods beginning during calendar year 2004 and  
15 calendar year 2005, there shall be allowed as a deduction for the  
16 privilege period so much of the net operating loss carryover as  
17 reduces entire net income otherwise calculated by 50%. If and only  
18 to the extent that any net operating loss carryover deduction is  
19 disallowed by reason of this subparagraph (E), the date on which  
20 the amount of the disallowed net operating loss carryover deduction  
21 would otherwise expire shall be extended by a period equal to the  
22 period for which application of the net operating loss was  
23 disallowed by this subparagraph.

24 Provided, that this subparagraph (E) shall not restrict the  
25 surrender or acquisition of corporation business tax benefit  
26 certificates pursuant to section 1 of P.L.1997, c.334  
27 (C.34:1B-7.42a) and shall not restrict the application of corporation  
28 business tax benefit certificates pursuant to section 2 of P.L.1997,  
29 c.334 (C.54:10A-4.2).

30 (F) Reduction for discharge of indebtedness. A net operating  
31 loss for any privilege period ending after June 30, 2014, and any net  
32 operating loss carryover to such privilege period, shall be reduced  
33 by the amount excluded from federal taxable income under  
34 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of  
35 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),  
36 for the privilege period of the discharge of indebtedness.

37 (7) The entire net income of gas, electric and gas and electric  
38 public utilities that were subject to, or would have been subject to  
39 tax if doing business in this State, the provisions of P.L.1940, c.5  
40 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by  
41 substituting the New Jersey depreciation allowance for federal tax  
42 depreciation with respect to assets placed in service prior to January  
43 1, 1998. For gas, electric, and gas and electric public utilities that  
44 were subject to, or would have been subject to tax if doing business  
45 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)  
46 prior to 1998, the New Jersey depreciation allowance shall be  
47 computed as follows: All depreciable assets placed in service prior  
48 to January 1, 1998 shall be considered a single asset account. The

1 New Jersey tax basis of this depreciable asset account shall be an  
2 amount equal to the carryover adjusted basis for federal income tax  
3 purposes on December 31, 1997 of all depreciable assets in service  
4 on December 31, 1997, increased by the excess, of the "net carrying  
5 value," defined to be adjusted book basis of all assets and liabilities,  
6 excluding deferred income taxes, recorded on the public utility's  
7 books of account on December 31, 1997, over the carryover  
8 adjusted basis for federal income tax purposes on December 31,  
9 1997 of all assets and liabilities owned by the gas, electric, or gas  
10 and electric public utility as of December 31, 1997. "Books of  
11 account" for gas, gas and electric, and electric public utilities means  
12 the uniform system of accounts as promulgated by the Federal  
13 Energy Regulatory Commission and adopted by the Board of Public  
14 Utilities. The following adjustments to entire net income shall be  
15 made pursuant to this section:

16 (A) Depreciation for property placed in service prior to January  
17 1, 1998 shall be adjusted as follows:

18 (i) Depreciation for federal income tax purposes shall be  
19 disallowed in full.

20 (ii) A deduction shall be allowed for the New Jersey  
21 depreciation allowance. The New Jersey depreciation allowance  
22 shall be computed for the single asset account described above  
23 based on the New Jersey tax basis as adjusted above as if all assets  
24 in the single asset account were first placed in service on January 1,  
25 1998. Depreciation shall be computed using the straight line method  
26 over a thirty-year life. A full year's depreciation shall be allowed in  
27 the initial tax year. No half-year convention shall apply. The  
28 depreciable basis of the single account shall be reduced by the  
29 adjusted federal tax basis of assets sold, retired, or otherwise  
30 disposed of during any year on which gain or loss is recognized for  
31 federal income tax purposes as described in subparagraph (B) of  
32 this paragraph.

33 (B) Gains and losses on sales, retirements and other dispositions  
34 of assets placed in service prior to January 1, 1998 shall be  
35 recognized and reported on the same basis as for federal income tax  
36 purposes.

37 (C) The Director of the Division of Taxation shall promulgate  
38 regulations describing the methodology for allocating the single  
39 asset account in the event that a portion of the utility's operations  
40 are separated, spun-off, transferred to a separate company or  
41 otherwise desegregated.

42 (8) In the case of taxpayers that are gas, electric, gas and  
43 electric, or telecommunications public utilities as defined pursuant  
44 to subsection (q) of this section, the director shall have authority to  
45 promulgate rules and issue guidance correcting distortions and  
46 adjusting timing differences resulting from the adoption of  
47 P.L.1997, c.162 (C.54:10A-5.25 et al.).

1 (9) Notwithstanding paragraph (1) of this subsection, entire net  
2 income shall not include the income derived by a corporation  
3 organized in a foreign country from the international operation of a  
4 ship or ships, or from the international operation of aircraft, if such  
5 income is exempt from federal taxation pursuant to section 883 of  
6 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

7 (10)Entire net income shall exclude all income of an alien  
8 corporation the activities of which are limited in this State to  
9 investing or trading in stocks and securities for its own account,  
10 investing or trading in commodities for its own account, or any  
11 combination of those activities, within the meaning of section 864  
12 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in  
13 effect on December 31, 1998. Notwithstanding the previous  
14 sentence, if an alien corporation undertakes one or more infrequent,  
15 extraordinary or non-recurring activities, including but not limited  
16 to the sale of tangible property, only the income from such  
17 infrequent, extraordinary or non-recurring activity shall be subject  
18 to the tax imposed pursuant to P.L.1945, c.162  
19 (C.54:10A-1 et seq.), and that amount of income subject to tax shall  
20 be determined without regard to the allocation to that specific  
21 transaction of any general business expense of the taxpayer and  
22 shall be specifically assigned to this State for taxation by this State  
23 without regard to section 6 of P.L.1945, c.162 (C.54:10A-6). For  
24 the purposes of this paragraph, "alien corporation" means a  
25 corporation organized under the laws of a jurisdiction other than the  
26 United States or its political subdivisions.

27 (11)No deduction shall be allowed for research and experimental  
28 expenditures, to the extent that those research and experimental  
29 expenditures are qualified research expenses or basic research  
30 payments for which an amount of credit is claimed pursuant to  
31 section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research  
32 and experimental expenditures are also used to compute a federal  
33 credit claimed pursuant to section 41 of the federal Internal  
34 Revenue Code of 1986, 26 U.S.C. s.41; provided, however, for  
35 privilege periods beginning on and after January 1, 2022, a  
36 deduction for research and experimental expenditures shall be  
37 allowed during the same privilege period for which a credit is  
38 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),  
39 notwithstanding the timing schedule required by the federal Internal  
40 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of  
41 specified research and experimental expenditures.

42 (12)(A) Notwithstanding the provisions of subsection (k) of  
43 section 168 of the federal Internal Revenue Code of 1986, 26  
44 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal  
45 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal  
46 law, for property acquired after September 10, 2001, the  
47 depreciation deduction otherwise allowed pursuant to section 167 of  
48 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall

1 be determined pursuant to the provisions of the federal Internal  
2 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on  
3 December 31, 2001.

4 (B) The director shall prescribe the rules and regulations  
5 necessary to carry out the provisions of this paragraph, including,  
6 among others, those for determining the adjusted basis of the  
7 acquired property for the purposes of the Corporation Business Tax  
8 Act (1945), P.L.1945, c.162.

9 (13)(A) Notwithstanding the provisions of section 179 of the  
10 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for  
11 property placed in service on or after January 1, 2004, the costs that  
12 a taxpayer may otherwise elect to treat as an expense which is not  
13 chargeable to a capital account shall be determined pursuant to the  
14 provisions of the federal Internal Revenue Code of 1986  
15 (26 U.S.C. s.1 et seq.) in effect on December 31, 2002.

16 (B) The director shall prescribe the rules and regulations  
17 necessary to carry out the provisions of this paragraph, including,  
18 among others, those for determining the adjusted basis of the  
19 acquired property for the purposes of the Corporation Business Tax  
20 Act (1945), P.L.1945, c.162.

21 (14)Notwithstanding the provisions of subsection (i) of section  
22 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),  
23 for privilege periods beginning after December 31, 2008 and before  
24 January 1, 2011, entire net income shall include the amount of  
25 discharge of indebtedness income excluded for federal income tax  
26 purposes pursuant to subsection (i) of section 108 of the federal  
27 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege  
28 periods beginning on or after January 1, 2014 and before January 1,  
29 2019, entire net income shall exclude the amount of discharge of  
30 indebtedness income included for federal income tax purposes,  
31 pursuant to subsection (i) of section 108 of the federal Internal  
32 Revenue Code of 1986 (26 U.S.C. s.108).

33 (15)Entire net income shall exclude the gain or income derived  
34 from the sale or assignment of a tax credit transfer certificate  
35 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section  
36 10 of P.L.2014, c.63 (C.34:1B-251).

37 (16)(A) There shall be allowed as a deduction an amount  
38 computed in accordance with this paragraph.

39 (B) For purposes of this paragraph, "net deferred tax liability"  
40 means deferred tax liabilities that exceed the deferred tax assets of  
41 the combined group, as computed in accordance with generally  
42 accepted accounting principles, and "net deferred tax asset" means  
43 that deferred tax assets exceed the deferred tax liabilities of the  
44 combined group, as computed in accordance with generally  
45 accepted accounting principles.

46 (C) Only publicly traded companies, including affiliated  
47 corporations participating in the filing of a publicly traded  
48 company's financial statements prepared in accordance with

1 generally accepted accounting principles, as of the effective date of  
2 this paragraph, shall be eligible for this deduction.

3 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48  
4 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to  
5 the members' net deferred tax liability or an aggregate decrease to  
6 the members' net deferred tax asset, or an aggregate change from a  
7 net deferred tax asset to a net deferred tax liability, the combined  
8 group shall be entitled to a deduction, as determined in this  
9 paragraph.

10 (E) **【For 10 years beginning】** (i) Beginning with the combined  
11 group's first privilege period on or after January 1 of the fifth year  
12 after the effective date of P.L.2018, c.48 (C.54:10A-5.41 et al.), a  
13 combined group shall be entitled to a deduction from combined  
14 group entire net income equal to one-tenth of the amount necessary  
15 to offset the increase in the net deferred tax liability or decrease in  
16 the net deferred tax asset, or aggregate change from a net deferred  
17 tax asset to a net deferred tax liability, according to the schedule  
18 provided by subparagraphs (ii) and (iii) of this subparagraph (E).  
19 Such increase in the net deferred tax liability or decrease in the net  
20 deferred tax asset or the aggregate change from a net deferred tax  
21 asset to a net deferred tax liability shall be computed based on the  
22 change that would result from the imposition of the unitary  
23 reporting requirements under sections 1 and 18 through 23 of  
24 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-  
25 4.11) but for the deduction provided under this paragraph as of the  
26 effective date of this paragraph.

27 (ii) For group privilege periods beginning on and after January  
28 1, 2023, but before January 1, 2030, the combined group may  
29 deduct one percent of the amount necessary to offset the increase in  
30 the net deferred tax liability or decrease in the net deferred tax  
31 asset, or aggregate change from a net deferred tax asset to a net  
32 deferred tax liability, during a group privilege period. Such  
33 increase in the net deferred tax liability or decrease in the net  
34 deferred tax asset or the aggregate change from a net deferred tax  
35 asset to a net deferred tax liability shall be computed based on the  
36 change that would result from the imposition of the unitary  
37 reporting requirements under sections 1 and 18 through 23 of  
38 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-  
39 4.11) but for the deduction provided under this paragraph as of the  
40 effective date of this paragraph.

41 (iii) For group privilege periods beginning on and after January  
42 1, 2030, the combined group may deduct up to five percent of any  
43 remaining unused amount of the deduction during the group  
44 privilege period, until the group privilege period in which the total  
45 deduction amount has been fully utilized. Such increase in the net  
46 deferred tax liability or decrease in the net deferred tax asset or the  
47 aggregate change from a net deferred tax asset to a net deferred tax  
48 liability shall be computed based on the change that would result

1 from the imposition of the unitary reporting requirements under  
2 sections 1 and 18 through 23 of P.L.2018, c.48  
3 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-4.11) but for the  
4 deduction provided under this paragraph as of the effective date of  
5 this paragraph.

6 (F) The deferred tax impact determined in subparagraph (E) of  
7 this paragraph must be converted to the annual Deferred Tax  
8 Deduction amount, as follows:

9 (i) the deferred tax impact determined in subparagraph (E) of  
10 this paragraph shall be divided by the rate determined under section  
11 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,  
12 c.48 (C.54:10A-5.41 et al.);

13 (ii) the resulting amount shall be further divided by the New  
14 Jersey unitary business allocation factor that was used by the  
15 combined group in the calculation of the deferred tax assets and  
16 deferred tax liabilities as described in subparagraph (E) of this  
17 paragraph;

18 (iii) the resulting amount represents the total net Deferred Tax  
19 Deduction available over the **[ten-year]** period as described in  
20 subparagraph (E) of this paragraph.

21 (G) The deduction calculated under this paragraph shall not be  
22 adjusted as a result of any events happening subsequent to such  
23 calculation, including, but not limited to, any disposition or  
24 abandonment of assets. Such deduction shall be calculated without  
25 regard to the federal tax effect and shall not alter the tax basis of  
26 any asset. If the deduction under this section is greater than  
27 combined group entire net income, any excess deduction shall be  
28 carried forward and applied as a deduction to combined group entire  
29 net income in future privilege periods until fully utilized.

30 (H) Any combined group intending to claim a deduction under  
31 this paragraph shall file a statement with the director on or before  
32 July 1 of the year subsequent to the first privilege period for which  
33 a combined return is required. Such statement shall specify the total  
34 amount of the deduction which the combined group claims on such  
35 form and in such manner as prescribed by the director. No  
36 deduction shall be allowed under this paragraph for any privilege  
37 period except to the extent claimed on such timely filed statement  
38 in accordance with this paragraph.

39 (17)For privilege periods ending on and after July 31, 2022:

40 (A) Notwithstanding subparagraph (A) of paragraph (2) of this  
41 subsection or any other law or treaty to the contrary, for a  
42 corporation that is incorporated or formed in a foreign nation with a  
43 comprehensive tax treaty with the United States, and that is not a  
44 member of a world-wide group combined return filed pursuant to  
45 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),  
46 entire net income shall not include an item of income or loss  
47 excluded or exempted from federal taxable income under the terms  
48 of the treaty, and no other deduction, exclusion, or elimination shall



1 be permitted for an item of income or loss excluded by this  
2 paragraph.

3 (B) For a non-U.S. corporation that files a federal tax return and  
4 is not a member of a combined group filing a New Jersey combined  
5 return on a world-wide basis pursuant to subsection b. of section 23  
6 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall  
7 only include its income or loss included in federal taxable income,  
8 which shall be limited to only the non-U.S. corporation's  
9 effectively connected income or loss, as modified by the provisions  
10 of the Corporation Business Tax Act (1945), P.L.1945, c.162  
11 (C.54:10A-1 et seq.), and the items of expense and the allocation  
12 factor receipts attributable to such items of income or loss.

13 (l) "Real estate investment trust" shall mean any corporation,  
14 trust or association qualifying and electing to be taxed as a real  
15 estate investment trust under federal law.

16 (m) "Financial business corporation" shall mean any corporate  
17 enterprise which is (1) in substantial competition with the business  
18 of national banks and which (2) employs moneyed capital with the  
19 object of making profit by its use as money, through discounting  
20 and negotiating promissory notes, drafts, bills of exchange and  
21 other evidences of debt; buying and selling exchange; making of or  
22 dealing in secured or unsecured loans and discounts; dealing in  
23 securities and shares of corporate stock by purchasing and selling  
24 such securities and stock without recourse, solely upon the order  
25 and for the account of customers; or investing and reinvesting in  
26 marketable obligations evidencing indebtedness of any person,  
27 copartnership, association or corporation in the form of bonds,  
28 notes or debentures commonly known as investment securities; or  
29 dealing in or underwriting obligations of the United States, any  
30 state or any political subdivision thereof, or of a corporate  
31 instrumentality of any of them. This shall include, without  
32 limitation of the foregoing, business commonly known as industrial  
33 banks, dealers in commercial paper and acceptances, sales finance,  
34 personal finance, small loan and mortgage financing businesses, as  
35 well as any other enterprise employing moneyed capital coming  
36 into competition with the business of national banks; provided that  
37 the holding of bonds, notes, or other evidences of indebtedness by  
38 individual persons not employed or engaged in the banking or  
39 investment business and representing merely personal investments  
40 not made in competition with the business of national banks, shall  
41 not be deemed financial business. Nor shall "financial business"  
42 include national banks, production credit associations organized  
43 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,  
44 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual  
45 insurance companies duly authorized to transact business in this  
46 State, security brokers or dealers or investment companies or  
47 bankers not employing moneyed capital coming into competition  
48 with the business of national banks, real estate investment trusts, or

1 any of the following entities organized under the laws of this State:  
2 credit unions, savings banks, savings and loan and building and  
3 loan associations, pawnbrokers, and State banks and trust  
4 companies.

5 (n) "International banking facility" shall mean a set of asset and  
6 liability accounts segregated on the books and records of a  
7 depository institution, United States branch or agency of a foreign  
8 bank, or an Edge or Agreement Corporation that includes only  
9 international banking facility time deposits and international  
10 banking facility extensions of credit as such terms are defined in  
11 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the  
12 board of governors of the Federal Reserve System, 12 CFR Part  
13 204, effective December 3, 1981. In the event that the United States  
14 enacts a law, or the board of governors of the Federal Reserve  
15 System adopts a regulation which amends the present definition of  
16 international banking facility or of such facilities' time deposits or  
17 extensions of credit, the Commissioner of Banking and Insurance  
18 shall forthwith adopt regulations defining such terms in the same  
19 manner as such terms are set forth in the laws of the United States  
20 or the regulations of the board of governors of the Federal Reserve  
21 System. The regulations of the Commissioner of Banking and  
22 Insurance shall thereafter provide the applicable definitions.

23 (o) "S corporation" means a corporation that has elected to be an  
24 "S corporation" pursuant to section 1361 of the federal Internal  
25 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

26 (p) "New Jersey S corporation" means a taxpayer that has made  
27 a valid election to be an S corporation for federal tax purposes, and  
28 that has not made a valid election pursuant to subsection d. of  
29 section 20 of P.L.2022, c.133 (C.54:10A-5.22).

30 (q) "Public Utility" means "public utility" as defined in  
31 R.S.48:2-13.

32 (r) "Qualified investment partnership" means a partnership  
33 under this act that has more than 10 members or partners with no  
34 member or partner owning more than a 50% interest in the entity  
35 and that derives at least 90% of its gross income from dividends,  
36 interest, payments with respect to securities loans, and gains from  
37 the sale or other disposition of stocks or securities or foreign  
38 currencies or commodities or other similar income (including but  
39 not limited to gains from swaps, options, futures or forward  
40 contracts) derived with respect to its business of investing or  
41 trading in those stocks, securities, currencies or commodities, but  
42 "investment partnership" shall not include a "dealer in securities"  
43 within the meaning of section 1236 of the federal Internal Revenue  
44 Code of 1986, 26 U.S.C. s.1236.

45 (s) "Savings institution" means a state or federally chartered  
46 building and loan association, savings and loan association, or  
47 savings bank.

1 (t) "Partnership" means an entity classified as a partnership for  
2 federal income tax purposes.

3 (u) "Prior net operating loss conversion carryover" means a net  
4 operating loss incurred in a privilege period ending prior to July 31,  
5 2019 and converted from a pre-allocation net operating loss to a  
6 post-allocation net operating loss as follows:

7 (1) As used in this subsection:

8 "Base year" means the last privilege period ending prior to July  
9 31, 2019.

10 "Base year BAF" means the taxpayer's business allocation factor  
11 as provided in sections 6 through 10 of P.L.1945, c.162  
12 (C.54:10A-6 through C.54:10A-10) for purposes of calculating  
13 entire net income for the base year, as such section was in effect for  
14 the last privilege period ending prior to July 31, 2019.

15 "UNOL" means the unabsorbed portion of net operating loss as  
16 calculated under paragraph (6) of subsection (k) of this section as  
17 such paragraph was in effect for the last privilege period ending  
18 prior to July 31, 2019, that was not deductible in previous privilege  
19 periods and was eligible for carryover on the last day of the base  
20 year subject to the limitations for deduction under such subsection,  
21 including any net operating loss sustained by the taxpayer during  
22 the base year.

23 (2) The prior net operating loss conversion carryover shall be  
24 calculated as follows:

25 (A) The taxpayer shall first calculate the tax value of its UNOL  
26 for the base year and for each preceding privilege period for which  
27 there is a UNOL. The value of the UNOL for each privilege period  
28 is equal to the product of (I) the amount of the taxpayer's UNOL for  
29 a privilege period, and (II) the taxpayer's base year BAF. This result  
30 shall equal the taxpayer's prior net operating loss conversion  
31 carryover.

32 (B) The taxpayer shall continue to carry over its prior net  
33 operating loss conversion carryover to offset its allocated entire net  
34 income as provided in sections 6 through 10 of P.L.1945, c.162  
35 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on  
36 and after July 31, 2019. Such carryover periods shall not exceed the  
37 twenty privilege periods following the privilege period of the initial  
38 loss. The entire amount of the prior net operating loss conversion  
39 carryover for any privilege period shall be carried to the earliest of  
40 the privilege periods to which the loss may be carried. The portion  
41 of the prior net operating loss conversion carryover which shall be  
42 carried to each of the other privilege periods shall be the excess, if  
43 any, of the amount of the prior net operating loss conversion  
44 carryover over the sum of the entire net income, computed without  
45 the exclusions permitted in paragraphs (4) and (5) of subsection (k)  
46 of this section allocated to this State. For privilege periods ending  
47 on and after July 31, 2023, for the purpose of computing taxable net  
48 income for a current privilege period, the amount of the prior net

1 operating loss conversion carryover shall be subtracted from entire  
2 net income allocated to this State, after the application of  
3 paragraphs (4) and (5) of subsection (k) of this section against  
4 current privilege period income when the entire net income  
5 allocated to this State for the privilege period is greater than zero.

6 (C) The prior net operating loss conversion carryover computed  
7 under this subsection shall be applied against the entire net income  
8 allocated to this State before the net operating loss carryover  
9 computed under subsection (v) of this section.

10 (v) "Net operating loss deduction" means the amount allowed as  
11 a deduction for the net operating loss carryover to the privilege  
12 period, calculated as follows:

13 (1) Net operating loss carryover. A net operating loss for any  
14 privilege period ending on or after July 31, 2019, shall be a net  
15 operating loss carryover to each of the twenty privilege periods  
16 following the period of the loss. The entire amount of the net  
17 operating loss for any privilege period shall be carried to the earliest  
18 of the privilege periods to which the loss may be carried. **【The】** For  
19 privilege periods ending before July 31, 2023, the portion of the  
20 loss which shall be carried to each of the other privilege periods  
21 shall be the excess, if any, of the amount of the loss over the sum of  
22 the entire net income, computed without the exclusions permitted in  
23 paragraphs (4) and (5) of subsection (k) of this section allocated to  
24 this State. For privilege periods ending on and after July 31, 2023,  
25 the portion of the loss that shall be carried to each of the other  
26 privilege periods shall be the excess, if any, of the amount of the  
27 loss over the sum of the entire net income, after the application of  
28 paragraphs (4) and (5) of subsection (k) of this section allocated to  
29 this State; provided, however, for the purpose of computing taxable  
30 net income for the privilege period, the net operating loss carryover  
31 shall only be subtracted from entire net income allocated to this  
32 State when the entire net income allocated to this State is greater  
33 than zero.

34 (2) Net operating loss. For purposes of this paragraph the term  
35 "net operating loss" means the excess of the deductions over the  
36 gross income used in computing entire net income, without regard  
37 to any net operating loss carryover, and for privilege periods ending  
38 before July 31, 2023, computed without the exclusions in  
39 paragraphs (4) and (5) of subsection (k) of this section, and for  
40 privilege periods ending on and after July 31, 2023, computed after  
41 the application of paragraphs (4) and (5) of subsection (k) of this  
42 section, allocated to this State pursuant to sections 6 through 10 of  
43 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

44 (3) Reduction for discharge of indebtedness. A net operating  
45 loss for any privilege period ending on or after July 31, 2019, and  
46 any net operating loss carryover to such privilege period, shall be  
47 reduced by the amount excluded from federal taxable income under  
48 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of

1 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,  
2 for the privilege period of the discharge of indebtedness.

3 (4) A net operating loss carryover shall not include any net  
4 operating loss incurred during any privilege period ending prior to  
5 July 31, 2019.

6 (5) Change in ownership. Where there is a change in 50% or  
7 more of the ownership of a corporation because of redemption or  
8 sale of stock and the corporation changes the trade or business  
9 giving rise to the loss, no net operating loss sustained before the  
10 changes may be carried over to be deducted from income earned  
11 after such changes. In addition, where the facts support the premise  
12 that the corporation was acquired under any circumstances for the  
13 primary purpose of the use of its net operating loss carryover, the  
14 director may disallow the carryover; provided, however, this  
15 paragraph shall not apply between members of a combined group  
16 reported on a New Jersey combined return.

17 (w) "Taxable net income" means entire net income allocated to  
18 this State as calculated pursuant to sections 6 through 8 of  
19 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by  
20 subtracting any prior net operating loss conversion carryforward  
21 calculated pursuant to subsection (u) of this section, and any net  
22 operating loss calculated pursuant to subsection (v) of this section;  
23 provided, however, for privilege periods ending on and after July  
24 31, 2023, when subtracting any net operating losses calculated  
25 pursuant to subsection (v) of this section or the combined group net  
26 operating losses calculated pursuant to subsection h. of section 18  
27 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in  
28 paragraph (2) of subsection (a) of Internal Revenue Code Section  
29 172 (26 U.S.C. s.172(a)(2)) shall apply, except that July 31, 2023 is  
30 substituted for the reference to January 1, 2018 in subparagraph (A)  
31 of paragraph (2) of subsection a. of Internal Revenue Code Section  
32 172 (26 U.S.C. s.172), and July 31, 2022 is substituted for the  
33 reference to December 31, 2017 in subparagraph (B) of paragraph  
34 (2) of subsection (a) of Internal Revenue Code Section 172  
35 (26 U.S.C. s.172). For privilege periods ending on and after July  
36 31, 2023, for a combined group, before subtracting the prior net  
37 operating loss conversion carryforwards and subtracting the net  
38 operating losses of the combined group when computing the total  
39 taxable net income, the combined group shall first add together the  
40 allocated entire net income from the unitary business of the  
41 combined group and the portion of allocated entire net income of  
42 members with activities independent of the group, and then subtract  
43 the prior net operating loss conversion carryforwards and then the  
44 net operating losses.

45 (x) "Affiliated group" means, for purposes of section 23 of  
46 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in  
47 section 1504 of the federal Internal Revenue Code, 26 U.S.C.  
48 s.1504, except such affiliated group shall include all U.S. domestic

1 corporations that are commonly owned, directly or indirectly, by  
2 any member of such affiliated group, without regard to whether the  
3 affiliated group includes (1) corporations included in more than one  
4 federal consolidated return, (2) corporations engaged in one or more  
5 unitary businesses, or (3) corporations that are not engaged in a  
6 unitary business with any other member of the affiliated group.

7 For purposes of this subsection:

8 "U.S. domestic corporations" means: (1) business entities  
9 wherever incorporated or formed that are U.S. domestic  
10 corporations, are deemed to be, or are treated as U.S. domestic  
11 corporations under the provisions of the federal Internal Revenue  
12 Code; or (2) any entities incorporated or formed under the laws of a  
13 foreign nation that are required to file federal tax returns if such  
14 entities have effectively connected income within the meaning of  
15 the federal Internal Revenue Code; and

16 "Commonly owned" means that more than 50 percent of the  
17 voting control of each member of an affiliated group is directly or  
18 indirectly owned by a common owner or owners, either corporate or  
19 non-corporate, whether or not the owner or owners are members of  
20 the affiliated group. Whether voting control is indirectly owned  
21 shall be determined in accordance with section 318 of the federal  
22 Internal Revenue Code (26 U.S.C. s.318).

23 (y) "Combinable captive insurance company" means an entity  
24 that is treated as an association taxable as a corporation under the  
25 federal Internal Revenue Code:

26 (1) more than 50% of the voting stock of which is owned or  
27 controlled, directly or indirectly, by a single entity that is treated as  
28 an association taxable as a corporation under the federal Internal  
29 Revenue Code, and not exempt from federal income tax;

30 (2) that is licensed as a captive insurance company under the  
31 laws of this State or another jurisdiction;

32 (3) whose business includes providing, directly and indirectly,  
33 insurance or reinsurance covering the risks of its parent, members  
34 of its affiliated group, or both; and

35 (4) 50% or less of whose gross receipts for the privilege period  
36 consist of premiums from arrangements that constitute insurance for  
37 federal income tax purposes.

38 A combinable captive insurance company shall not be exempt  
39 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive  
40 insurance company that does not meet the definition of combinable  
41 captive insurance company shall be excluded as provided in  
42 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and  
43 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

44 For purposes of this definition:

45 "Affiliated group" shall have the same meaning as that term is  
46 given by section 1504 of the federal Internal Revenue Code, 26  
47 U.S.C. s.1504, except that the term "common parent corporation" as  
48 used in section 1504 of the federal Internal Revenue Code, 26

1 U.S.C. s.1504, shall mean any person, as defined in section 7701 of  
2 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references  
3 to "at least 80%" in section 1504 of the federal Internal Revenue  
4 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section  
5 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall  
6 be read without regard to the exclusions provided for in subsection  
7 (b) of that section.

8 "Gross receipts" includes the amounts included in gross receipts  
9 for purposes of paragraph (15) of subsection (c) of section 501 of  
10 the federal Internal Revenue Code, 26 U.S.C. s.501, except that  
11 those amounts also include all premiums.

12 "Premiums" includes consideration for annuity contracts and  
13 excludes any part of the consideration for insurance, reinsurance, or  
14 annuity contracts that do not provide bona fide insurance,  
15 reinsurance, or annuity benefits.

16 (z) "Combined group" means the group of all companies that  
17 have common ownership and are engaged in a unitary business,  
18 where at least one company is subject to tax under this chapter, and  
19 shall include all business entities, except as provided for under any  
20 section of the Corporation Business Tax Act (1945), P.L.1945,  
21 c.162 (C.54:10A-1 et seq.).

22 A combined group shall be treated, for privilege periods ending  
23 on and after July 31, 2020, as one taxpayer for purposes of  
24 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162  
25 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for  
26 the income derived from the unitary business; provided however,  
27 with regard to the surtax imposed pursuant to section 1 of P.L.2018,  
28 c.48 (C.54:10A-5.41) and for that purpose only, the portion of  
29 income that is attributable to a member which is a public utility  
30 exempt from the surtax shall not be included when computing the  
31 surtax due.

32 (aa) "Common ownership" means that more than 50% of the  
33 voting control of each member of a combined group is directly or  
34 indirectly owned by a common owner or owners, either corporate or  
35 non-corporate, whether or not the owner or owners are members of  
36 the combined group. Whether voting control is indirectly owned  
37 shall be determined in accordance with section 318 of the federal  
38 Internal Revenue Code, 26 U.S.C. s.318.

39 (bb) "Group privilege period" means, if two or more members in  
40 the combined group file in the same federal consolidated tax return,  
41 the same income year as that used on the federal consolidated tax  
42 return and, in all other cases, the privilege period of the managerial  
43 member.

44 (cc) "Managerial member" means if the combined group has a  
45 common parent corporation and that common parent corporation is  
46 a taxable member, the managerial member shall be the common  
47 parent corporation. In other cases, the combined group shall select a  
48 taxable member as its managerial member or, in the discretion of

1 the director or upon failure of the combined group to select its  
2 managerial member, the director shall designate a taxable member  
3 of the combined group as managerial member.

4 (dd)"Member" means a business entity that is a part of a  
5 combined group.

6 A corporation exempt pursuant to section 3 of P.L.1945, c.162  
7 (C.54:10A-3) from the tax imposed by P.L.1945, c.162  
8 (C.54:10A-1 et seq.) shall not be a member of a combined group.

9 (ee)"Nontaxable member" means a member that is: (i) not  
10 subject to tax pursuant to the Corporation Business Tax Act (1945),  
11 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by  
12 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

13 (ff)"Taxable member" means a member that is subject to tax  
14 pursuant to the Corporation Business Tax Act (1945), P.L.1945,  
15 c.162 (C.54:10A-1 et seq.).

16 A New Jersey S corporation shall only be included as a taxable  
17 member of a combined group filing a New Jersey combined return  
18 if the New Jersey S Corporation elects to be included as a member  
19 and taxed at the same rate as the other members of the combined  
20 group. A New Jersey S corporation that does not elect to be  
21 included shall be excluded as a member of the combined return and  
22 shall file a separate return.

23 (gg)"Unitary business" means, for privilege periods ending  
24 before July 31, 2023, a single economic enterprise that is made up  
25 either of separate parts of a single business entity or of a group of  
26 business entities under common ownership that are sufficiently  
27 interdependent, integrated, and interrelated through their activities  
28 so as to provide a synergy and mutual benefit that produces a  
29 sharing or exchange of value among them and a significant flow of  
30 value among the separate parts. For privilege periods ending on  
31 and after July 31, 2023,"unitary business" means a single economic  
32 enterprise that is made up either of separate parts of a single  
33 business entity or of a group of business entities under common  
34 ownership that are sufficiently interdependent, integrated, or  
35 interrelated through their activities so as to provide a synergy and  
36 mutual benefit that produces a sharing or exchange of value among  
37 them and a significant flow of value among the separate parts.

38 "Unitary business" shall be construed to the broadest extent  
39 permitted under the Constitution of the United States. A business  
40 conducted by a partnership which is in a unitary business with the  
41 combined group shall be treated as the business of the partners that  
42 are members of the combined group, whether the partnership  
43 interest is held directly or indirectly through a series of  
44 partnerships, to the extent of a partner's distributive share of  
45 partnership income. The amount of partnership income to be  
46 included in the partner's entire net income shall be determined in  
47 accordance with subsection a. of section 3 of P.L.2001, c.136  
48 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136



1 (C.54:10A-15.7), as applicable. A business conducted directly or  
2 indirectly by one corporation is unitary with that portion of a  
3 business conducted by another corporation through its direct or  
4 indirect interest in a partnership.

5 (hh) "Captive investment company" shall mean, for privilege  
6 periods ending on and after July 31, 2023, an investment company  
7 that is not regularly traded on an established securities market and  
8 of which more than 50 percent of the voting stock is owned or  
9 controlled, directly or indirectly, by a single corporation, other than  
10 an investment company, that is not exempt from federal income tax.  
11 For privilege periods ending on and after July 31, 2023, any voting  
12 stock in an investment company that is held in a segregated asset  
13 account of a life insurance corporation, as described in section 817  
14 of the Internal Revenue Code, shall not be taken into account for  
15 purposes of determining whether an investment company is a  
16 captive regulated investment company.

17 For privilege periods ending on and after July 31, 2023, a captive  
18 investment company shall be taxed in the same manner as a C  
19 corporation, and subsection d. of section 5 of P.L. 1945, c. 162  
20 (C. 54:10A-5) shall not apply. A captive investment company shall  
21 not be permitted to claim any deductions or expenses that were  
22 permitted for federal purposes, solely as a result of the entity being  
23 an investment company, when computing federal taxable net  
24 income. A captive investment company shall be a member of a  
25 combined group and shall be included as a member on the  
26 combined return.

27 (ii) "Captive real estate investment trust" shall mean, for  
28 privilege periods ending on and after July 31, 2023, a real estate  
29 investment trust that is not regularly traded on an established  
30 securities market and of which more than 50 percent of the voting  
31 stock is owned or controlled, directly or indirectly, by a single  
32 entity that is treated as an association taxable as a corporation under  
33 the Internal Revenue Code, is not exempt from federal income tax,  
34 and is not a real estate investment trust. For privilege periods  
35 ending on and after July 23, 2023, any voting stock in a real estate  
36 investment trust that is held in a segregated asset account of a life  
37 insurance corporation, as described in section 817 of the Internal  
38 Revenue Code (26 U.S.C. s.817), shall not be taken into account for  
39 purposes of determining whether a real estate investment trust is a  
40 captive real estate investment trust. For purposes of this subsection,  
41 an association taxable as a corporation shall not include any listed  
42 Australian property trust or any qualified foreign entity.

43 For privilege periods ending on and after July 31, 2023, a captive  
44 real estate investment trust shall be taxed in the same manner as a C  
45 corporation, and subsection d. of section 5 of P.L.1945, c.162  
46 (C.54:10A-5) shall not apply. A captive real estate investment trust  
47 shall not be permitted to claim any deductions or expenses that were  
48 permitted for federal purposes, solely as a result of the entity being

1 a real estate investment trust, when computing federal taxable net  
2 income. A captive real estate investment trust shall be a member of  
3 a combined group and shall be included as a member on the  
4 combined return.

5 As used in this subsection:

6 "Australian property trust" means an Australian unit trust that is  
7 registered as a managed investment scheme under the Australian  
8 Corporations Act, and in which the principal class of units is listed  
9 on a recognized stock exchange in Australia and is regularly traded  
10 on an established securities market; or an entity organized as a trust,  
11 provided that a listed Australian property trust owns or controls,  
12 directly or indirectly, 75 percent or more of the voting power or  
13 value of the beneficial interests of shares of the trust.

14 "Qualified foreign entity" means a corporation, trust, association,  
15 or partnership that is organized outside the laws of the United States  
16 and that satisfies the following criteria:

17 (1) At least 75 percent of the entity's total asset value at the  
18 close of its taxable year is represented by real estate assets, as  
19 defined at subparagraph (B) of paragraph (5) of subsection (c) of  
20 section 856 of the Internal Revenue Code (26 U.S.C. s.856),  
21 including shares or certificates of beneficial interest in any real  
22 estate investment trust, cash and cash equivalents, and United States  
23 Government securities;

24 (2) The entity is not subject to tax on amounts distributed to its  
25 beneficial owners, or is exempt from entity-level taxation;

26 (3) The entity distributes, on an annual basis, at least 85 percent  
27 of its taxable income, as computed in the jurisdiction in which it is  
28 organized, to the holders of its shares or certificates of beneficial  
29 interest;

30 (4) No more than 10 percent of the voting power or value in the  
31 entity is held directly, indirectly, or constructively by a single entity  
32 or individual, or the shares or certificates of beneficial interests of  
33 the entity are regularly traded on an established securities market;  
34 and

35 (5) The entity is organized in a country that has a tax treaty with  
36 the United States.

37 (jj) "Captive regulated investment company" shall mean, for  
38 privilege periods ending on and after July 31, 2023, a regulated  
39 investment company that is not regularly traded on an established  
40 securities market, and of which more than 50 percent of the voting  
41 stock is owned or controlled, directly or indirectly, by a single  
42 corporation, other than a regulated investment company, that is not  
43 exempt from federal income tax. For privilege periods ending on  
44 and after July 31, 2023, any voting stock in a regulated investment  
45 company that is held in a segregated asset account of a life  
46 insurance corporation, as described in section 817 of the Internal  
47 Revenue Code (26 U.S.C. s.817), shall not be taken into account for

1 purposes of determining whether a regulated investment company is  
2 a captive regulated investment company.

3 For privilege periods ending on and after July 31, 2023, a captive  
4 regulated investment company shall be taxed in the same manner as  
5 a C corporation and subsection d. of section 5 of P.L.1945, c.162  
6 (C.54:10A-5) shall not apply. A captive real estate investment  
7 company shall not be permitted to claim any deductions or expenses  
8 that were permitted for federal purposes, solely as a result of the  
9 entity being a regulated investment company, when computing  
10 federal taxable net income. A captive regulated investment  
11 company shall be a member of a combined group and shall be  
12 included as a member on the combined return.

13 (kk) "World-wide basis" and "world-wide group" shall mean, for  
14 privilege periods ending on and after July 31, 2022, for the  
15 purposes of sections 18 through 23 of P.L.2018, c.48  
16 (C.54:10A-4.6 through C.54:10A-4.11) and for the purposes of  
17 combined reporting in general under the Corporation Business Tax  
18 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined  
19 group shall include all of the members of the combined group,  
20 wherever located or formed. For privilege periods ending on and  
21 after July 31, 2022, the combined group shall include all of the  
22 income and attributes of those members regardless of how or  
23 whether those members file federal returns or report or include their  
24 income in federal taxable income for federal purposes, and without  
25 regard to any exemption or exclusion from federal taxable income  
26 under the terms of a tax treaty; provided, however, any deductions  
27 that are allowed under the federal Internal Revenue Code that are  
28 also allowable under the Corporation Business Tax Act (1945),  
29 P.L.1945, c.162 (C.54:10A-1 et seq.), that would apply to a U.S.  
30 corporation, but that a non-U.S. corporation is prohibited from  
31 claiming for federal corporation income tax purposes because the  
32 corporation's income was not included in federal taxable income for  
33 any reason or because the corporation is a non-U.S. corporation,  
34 shall be allowed for the non-U.S. corporation members of the  
35 combined group for New Jersey corporation business tax purposes  
36 as though those non-U.S. corporation members were U.S.  
37 corporations.

38 (cf: P.L.2022, c.133, s.19)]<sup>1</sup>

39

40 <sup>1</sup>1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to  
41 read as follows:

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

44 (a) "Commissioner" or "director" shall mean the Director of the  
45 Division of Taxation of the State Department of the Treasury.

46 (b) "Allocation factor" shall mean the proportionate part of a  
47 taxpayer's net worth or entire net income used to determine a  
48 measure of its tax under this act.

1 (c) "Corporation" shall mean any corporation, joint-stock  
2 company or association and any business conducted by a trustee or  
3 trustees wherein interest or ownership is evidenced by a certificate  
4 of interest or ownership or similar written instrument, any other  
5 entity classified as a corporation for federal income tax purposes,  
6 and any state or federally chartered building and loan association or  
7 savings and loan association.

8 (d) "Net worth" shall mean the aggregate of the values disclosed  
9 by the books of the corporation for (1) issued and outstanding  
10 capital stock, (2) paid-in or capital surplus, (3) earned surplus and  
11 undivided profits, and (4) surplus reserves which can reasonably be  
12 expected to accrue to holders or owners of equitable shares, not  
13 including reasonable valuation reserves, such as reserves for  
14 depreciation or obsolescence or depletion. Notwithstanding the  
15 foregoing, net worth shall not include any deduction for the amount  
16 of the excess depreciation described in paragraph (2) (F) of  
17 subsection (k) of this section. The foregoing aggregate of values  
18 shall be reduced by 50% of the amount disclosed by the books of  
19 the corporation for investment in the capital stock of one or more  
20 subsidiaries, which investment is defined as ownership (1) of at  
21 least 80% of the total combined voting power of all classes of stock  
22 of the subsidiary entitled to vote and (2) of at least 80% of the total  
23 number of shares of all other classes of stock except nonvoting  
24 stock which is limited and preferred as to dividends. In the case of  
25 investment in an entity organized under the laws of a foreign  
26 country, the foregoing requisite degree of ownership shall effect a  
27 like reduction of such investment from the net worth of the  
28 taxpayer, if the foreign entity is considered a corporation for any  
29 purpose under the United States federal income tax laws, such as  
30 (but not by way of sole examples) for the purpose of supplying  
31 deemed paid foreign tax credits or for the purpose of status as a  
32 controlled foreign corporation. In calculating the net worth of a  
33 taxpayer entitled to reduction for investment in subsidiaries, the  
34 amount of liabilities of the taxpayer shall be reduced by such  
35 proportion of the liabilities as corresponds to the ratio which the  
36 excluded portion of the subsidiary values bears to the total assets of  
37 the taxpayer.

38 In the case of banking corporations which have international  
39 banking facilities as defined in subsection (n), the foregoing  
40 aggregate of values shall also be reduced by retained earnings of the  
41 international banking facility. Retained earnings means the earnings  
42 accumulated over the life of such facility and shall not include the  
43 distributive share of dividends paid and federal income taxes paid  
44 or payable during the tax year.

45 If in the opinion of the director, the corporation's books do not  
46 disclose fair valuations the director may make a reasonable  
47 determination of the net worth which, in his opinion, would reflect  
48 the fair value of the assets, exclusive of subsidiary investments as

1 defined aforesaid, carried on the books of the corporation, in  
2 accordance with sound accounting principles, and such  
3 determination shall be used as net worth for the purpose of this act.

4 (e) (Deleted by amendment, P.L.1998, c.114.)

5 (f) "Investment company" shall mean any corporation whose  
6 business during the period covered by its report consisted, to the  
7 extent of at least ~~【90%】~~ 90 percent thereof of holding, investing  
8 and reinvesting in stocks, bonds, notes, mortgages, debentures,  
9 patents, patent rights and other securities for its own account, but  
10 this shall not include any corporation which: (1) is a merchant or a  
11 dealer of stocks, bonds and other securities, regularly engaged in  
12 buying the same and selling the same to customers; or (2) had less  
13 than ~~【90%】~~ 90 percent of its average gross assets in New Jersey, at  
14 cost, invested in stocks, bonds, debentures, mortgages, notes,  
15 patents, patent rights or other securities or consisting of cash on  
16 deposit during the period covered by its report; or (3) is a banking  
17 corporation, a savings institution, or a financial business  
18 corporation as defined in the Corporation Business Tax Act. <sup>2</sup>For  
19 purposes of this subsection, an investment company shall not  
20 include any investment company of which at least 50 percent of the  
21 shares, by vote or value, is owned or controlled, directly or  
22 indirectly, by a state or federally chartered bank, savings bank, or  
23 savings and loan association with assets that do not exceed \$15  
24 billion.】<sup>2</sup>

25 (g) "Regulated investment company" shall mean any corporation  
26 which for a period covered by its report, is registered and regulated  
27 under the Investment Company Act of 1940 (54 Stat. 789), as  
28 amended. <sup>2</sup>For purposes of this subsection, a regulated investment  
29 company shall not include any regulated investment company of  
30 which at least 50 percent of the shares, by vote or value, is owned  
31 or controlled, directly or indirectly, by a state or federally chartered  
32 bank, savings bank, or savings and loan association with assets that  
33 do not exceed \$15 billion.】<sup>2</sup>

34 (h) "Taxpayer" shall mean any corporation, any combined group  
35 filing a mandatory or elective New Jersey combined return, and any  
36 partnership required, or consenting, to report or to pay taxes,  
37 interest or penalties under this act. "Taxpayer" shall not include a  
38 partnership that is listed on a United States national stock exchange.

39 (i) "Fiscal year" shall mean an accounting period ending on any  
40 day other than the last day of December on the basis of which the  
41 taxpayer is required to report for federal income tax purposes.

42 (j) Except as herein provided, "privilege period" shall mean the  
43 calendar or fiscal accounting period for which a tax is payable  
44 under this act.

45 (k) "Entire net income" shall mean total net income from all  
46 sources, whether within or without the United States, and shall  
47 include the gain derived from the employment of capital or labor, or

1 from both combined, as well as profit gained through a sale or  
2 conversion of capital assets.

3 For the purpose of this act, the amount of a taxpayer's entire net  
4 income shall be deemed prima facie to be equal in amount to the  
5 taxable income, before net operating loss deduction and special  
6 deductions, which the taxpayer is required to report, or, if the  
7 taxpayer is classified as a partnership for federal tax purposes,  
8 would otherwise be required to report, to the United States Treasury  
9 Department for the purpose of computing its federal income tax,  
10 provided however, that in the determination of such entire net  
11 income,

12 (1) Entire net income shall exclude for the periods set forth in  
13 paragraph (2)(F)(i) of this subsection, any amount, except with  
14 respect to qualified mass commuting vehicles as described in  
15 section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect  
16 immediately prior to January 1, 1984, which is included in a  
17 taxpayer's federal taxable income solely as a result of an election  
18 made pursuant to the provisions of paragraph (8) of that section.

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

21 (A) The amount of any exemption or credit allowed in any law  
22 of the United States imposing any tax on or measured by the income  
23 of corporations.

24 (B) Any part of any income from dividends or interest on any  
25 kind of stock, securities or indebtedness, except as provided in  
26 paragraph (5) of subsection (k) of this section.

27 (C) Taxes paid or accrued to the United States, a possession or  
28 territory of the United States, a state, a political subdivision thereof,  
29 or the District of Columbia, or to any foreign country, state,  
30 province, territory or subdivision thereof, on or measured by profits  
31 or income, or business presence or business activity, or the tax  
32 imposed by this act, or any tax paid or accrued with respect to  
33 subsidiary dividends excluded from entire net income as provided  
34 in paragraph (5) of subsection (k) of this section.

35 (D) (Deleted by amendment, P.L.1985, c.143.)

36 (E) (Deleted by amendment, P.L.1995, c.418.)

37 (F) (i) The amount by which depreciation reported to the United  
38 States Treasury Department for property placed in service on and  
39 after January 1, 1981, but prior to taxpayer fiscal or calendar  
40 accounting years beginning on and after the effective date of  
41 P.L.1993, c.172, for purposes of computing federal taxable income  
42 in accordance with section 168 of the Internal Revenue Code in  
43 effect after December 31, 1980, exceeds the amount of depreciation  
44 determined in accordance with the Internal Revenue Code  
45 provisions in effect prior to January 1, 1981, but only with respect  
46 to a taxpayer's accounting period ending after December 31, 1981;  
47 provided, however, that where a taxpayer's accounting period  
48 begins in 1981 and ends in 1982, no modification shall be required

1 with respect to this paragraph (F) for the report filed for such period  
2 with respect to property placed in service during that part of the  
3 accounting period which occurs in 1981. The provisions of this  
4 subparagraph shall not apply to assets placed in service prior to  
5 January 1, 1998 of a gas, gas and electric, and electric public utility  
6 that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et  
7 seq.) prior to 1998.

8 (ii) For the periods set forth in subparagraph (F)(i) of paragraph  
9 (2) of this subsection, any amount, except with respect to qualified  
10 mass commuting vehicles as described in section 168(f)(8)(D)(v) of  
11 the Internal Revenue Code as in effect immediately prior to January  
12 1, 1984, which the taxpayer claimed as a deduction in computing  
13 federal income tax pursuant to a qualified lease agreement under  
14 paragraph (8) of that section.

15 The director shall promulgate rules and regulations necessary to  
16 carry out the provisions of this section, which rules shall provide,  
17 among others, the manner in which the remaining life of property  
18 shall be reported.

19 (G) (i) The amount of any civil, civil administrative, or criminal  
20 penalty or fine, including a penalty or fine under an administrative  
21 consent order, assessed and collected for a violation of a State or  
22 federal environmental law, an administrative consent order, or an  
23 environmental ordinance or resolution of a local governmental  
24 entity, and any interest earned on the penalty or fine, and any  
25 economic benefits having accrued to the violator as a result of a  
26 violation, which benefits are assessed and recovered in a civil, civil  
27 administrative, or criminal action, or pursuant to an administrative  
28 consent order. The provisions of this paragraph shall not apply to a  
29 penalty or fine assessed or collected for a violation of a State or  
30 federal environmental law, or local environmental ordinance or  
31 resolution, if the penalty or fine was for a violation that resulted  
32 from fire, riot, sabotage, flood, storm event, natural cause, or other  
33 act of God beyond the reasonable control of the violator, or caused  
34 by an act or omission of a person who was outside the reasonable  
35 control of the violator.

36 (ii) The amount of treble damages paid to the Department of  
37 Environmental Protection pursuant to subsection a. of section 7 of  
38 P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the  
39 department in removing, or arranging for the removal of, an  
40 unauthorized discharge upon failure of the discharger to comply  
41 with a directive from the department to remove, or arrange for the  
42 removal of, the discharge.

43 (H) The amount of any sales and use tax paid by a utility vendor  
44 pursuant to section 71 of P.L.1997, c.162.

45 (I) **【Interest】** With respect to privilege periods ending before  
46 July 31, 2023, interest paid, accrued or incurred for the privilege  
47 period to a related member, as defined in section 5 of P.L.2002,  
48 c.40 (C.54:10A-4.4), except that a deduction shall be permitted to

1 the extent that the taxpayer establishes by clear and convincing  
2 evidence, as determined by the director, that: (i) a principal purpose  
3 of the transaction giving rise to the payment of the interest was not  
4 to avoid taxes otherwise due under Title 54 of the Revised Statutes  
5 or Title 54A of the New Jersey Statutes, (ii) the interest is paid  
6 pursuant to arm's length contracts at an arm's length rate of interest,  
7 and (iii)(aa) the related member was subject to a tax on its net  
8 income or receipts in this State or another state or possession of the  
9 United States or in a foreign nation, (bb) a measure of the tax  
10 includes the interest received from the related member, and (cc) the  
11 rate of tax applied to the interest received by the related member is  
12 equal to or greater than a rate three percentage points less than the  
13 rate of tax applied to taxable interest by this State pursuant to  
14 section 5 of P.L.1945, c.162 (C.54:10A-5).

15 **[A]** With respect to privilege periods ending before July 31,  
16 2023, a deduction shall also be permitted if the taxpayer establishes  
17 by clear and convincing evidence, as determined by the director,  
18 that the disallowance of a deduction is unreasonable, or the  
19 taxpayer and the director agree in writing to the application or use  
20 of an alternative method of apportionment under section 8 of  
21 P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be  
22 construed to limit or negate the director's authority to otherwise  
23 enter into agreements and compromises otherwise allowed by law.

24 **[A]** With respect to privilege periods ending before July 31,  
25 2023, a deduction shall also be permitted to the extent that the  
26 taxpayer establishes by a preponderance of the evidence, as  
27 determined by the director, that the interest is directly or indirectly  
28 paid, accrued or incurred to (i) a related member in a foreign nation  
29 which has in force a comprehensive income tax treaty with the  
30 United States and the related member (aa) was subject to tax in the  
31 foreign nation on a tax base that included the payment paid,  
32 accrued, or incurred; and (bb) under which the related member's  
33 income received from the transaction was taxed at an effective tax  
34 rate equal to or greater than a rate of three percentage points less  
35 than the rate of tax applied to taxable interest by the State of New  
36 Jersey pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5),  
37 provided however that the taxpayer shall disclose on its return for  
38 the privilege period the name of the related member, the amount of  
39 the interest, the relevant foreign nation, and such other information  
40 as the director may prescribe or (ii) to an independent lender and  
41 the taxpayer guarantees the debt on which the interest is required.  
42 The adjustments required by this subparagraph shall not apply to  
43 transactions between related members included in a combined  
44 group reported on a New Jersey combined return.

45 (J) (i) Amounts deducted for federal tax purposes pursuant to  
46 section 199 of the federal Internal Revenue Code of 1986, 26  
47 U.S.C. s.199, except that this exclusion shall not apply to amounts  
48 deducted pursuant to that section that are exclusively based upon



1 domestic production gross receipts of the taxpayer which are  
2 derived only from any lease, rental, license, sale, exchange, or other  
3 disposition of qualifying production property which the taxpayer  
4 demonstrates to the satisfaction of the director was manufactured or  
5 produced by the taxpayer in whole or in significant part within the  
6 United States but not qualified production property that was grown  
7 or extracted by the taxpayer. "Manufactured or produced" as used in  
8 this paragraph shall be limited to performance of an operation or  
9 series of operations the object of which is to place items of tangible  
10 personal property in a form, composition, or character different  
11 from that in which they were acquired. The change in form,  
12 composition, or character shall be a substantial change, and result in  
13 a transformation of property into a different or substantially more  
14 usable product.

15 (ii) For privilege periods beginning after December 31, 2017,  
16 notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et  
17 seq.) or any other law to the contrary, for the purposes of  
18 determining the amount of income pursuant to P.L.1945, c.162  
19 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be  
20 taken as a deduction pursuant to section 199A of the Internal  
21 Revenue Code (26 U.S.C. s.199A).

22 (K) (i) For privilege periods beginning after December 31, 2017  
23 and ending before July 31, 2022, the interest deduction limitation in  
24 subsection (j) of section 163 of the Internal Revenue Code (26  
25 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to both  
26 related and unrelated parties, regardless of whether the related  
27 parties are subject to the add-back provision of either subparagraph  
28 (I) of paragraph (2) of this subsection or in section 5 of P.L.2002,  
29 c.40 (C.54:10A-4.4).

30 (ii) For privilege periods beginning after December 31, 2017  
31 and ending on and after July 31, 2022, the interest deduction  
32 limitation in subsection (j) of section 163 of the Internal Revenue  
33 Code (26 U.S.C. s.163), shall apply to a combined group as though  
34 the combined group filed a federal consolidated return; provided,  
35 however, for the purposes of applying the limitation in subsection  
36 (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163),  
37 with regard to affiliates that were members of the federal  
38 consolidated return but were not members of the combined group  
39 included on the New Jersey combined return, the combined group  
40 and the affiliates will also be treated as having filed one federal  
41 consolidated return.

42 (3) The director may, whenever necessary to properly reflect the  
43 entire net income of any taxpayer, determine the year or period in  
44 which any item of income or deduction shall be included, without  
45 being limited to the method of accounting employed by the  
46 taxpayer.

47 (4) There shall be allowed as a deduction from entire net income  
48 of a banking corporation, to the extent not deductible in

1 determining federal taxable income, the eligible net income of an  
2 international banking facility determined as follows:

3 (A) The eligible net income of an international banking facility  
4 shall be the amount remaining after subtracting from the eligible  
5 gross income the applicable expenses;

6 (B) Eligible gross income shall be the gross income derived by  
7 an international banking facility, which shall include, but not be  
8 limited to, gross income derived from:

9 (i) Making, arranging for, placing or carrying loans to foreign  
10 persons, provided, however, that in the case of a foreign person  
11 which is an individual, or which is a foreign branch of a domestic  
12 corporation (other than a bank), or which is a foreign corporation or  
13 foreign partnership which is controlled by one or more domestic  
14 corporations (other than banks), domestic partnerships or resident  
15 individuals, all the proceeds of the loan are for use outside of the  
16 United States;

17 (ii) Making or placing deposits with foreign persons which are  
18 banks or foreign branches of banks (including foreign subsidiaries)  
19 or foreign branches of the taxpayers or with other international  
20 banking facilities;

21 (iii) Entering into foreign exchange trading or hedging  
22 transactions related to any of the transactions described in this  
23 paragraph; or

24 (iv) Such other activities as an international banking facility  
25 may, from time to time, be authorized to engage in;

26 (C) Applicable expenses shall be any expense or other  
27 deductions attributable, directly or indirectly, to the eligible gross  
28 income described in subparagraph (B) of this paragraph.

29 (5) (A) (i) Entire net income shall exclude 100% of dividends  
30 which were included in computing such taxable income for federal  
31 income tax purposes, paid to the taxpayer by one or more  
32 subsidiaries owned by the taxpayer to the extent of the 80% or more  
33 ownership of investment described in subsection (d) of this section  
34 for privilege periods beginning on or before December 31, 2016.

35 (ii) For privilege periods beginning after December 31, 2016  
36 and before January 1, 2019, entire net income shall exclude 95% of  
37 dividends which were included in computing such taxable income  
38 for federal income tax purposes, paid or deemed paid, to the  
39 taxpayer by one or more subsidiaries owned by the taxpayer to the  
40 extent of the 80% or more ownership of investment described in  
41 subsection (d) of this section. For the purposes of calculating the  
42 tax liability owed for the paid or deemed paid dividends included in  
43 entire net income by this subsubparagraph (ii), the taxpayer shall  
44 use either their three-year average allocation factor for the  
45 taxpayer's 2014 through 2016 tax years reported on the taxpayer's  
46 tax returns or 3.5 percent, whichever is lower.

47 (iii) For privilege periods beginning on and after January 1,  
48 2019 and ending before July 31, 2023, entire net income shall

1 exclude 95% of dividends which were included in computing such  
2 taxable income for federal income tax purposes, paid or deemed  
3 paid to the taxpayer by one or more subsidiaries owned by the  
4 taxpayer to the extent of the 80% or more ownership of investment  
5 described in subsection (d) of this section.

6 (iv) For privilege periods ending on and after July 31, 2023,  
7 entire net income shall exclude 100 percent of dividends and  
8 deemed dividends that were included in computing such taxable  
9 income for federal income tax purposes, paid or deemed paid to the  
10 taxpayer by one or more subsidiaries owned by the taxpayer to the  
11 extent of the 80 percent or more ownership of investment described  
12 in subsection (d) of this section.

13 (B) Entire net income shall exclude 50% of dividends which  
14 were included in computing such taxable income for federal income  
15 tax purposes, paid or deemed paid to the taxpayer by one or more  
16 subsidiaries owned by the taxpayer to the extent of 50% or more  
17 ownership of investment, such ownership of investment calculated  
18 in the same manner as the 80% or more of ownership of investment  
19 is calculated as described in subsection (d) of this section.

20 (C) To the extent a subsidiary received dividends from other  
21 subsidiaries and included those dividends in its entire net income  
22 for the purposes of determining its tax liability pursuant to section 5  
23 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends,  
24 the taxpayer receiving those same dividends from the subsidiary  
25 shall exclude those dividends from its entire net income based on  
26 the subsidiary's allocation factor used by the subsidiary in  
27 determining its tax liability pursuant to section 5 of P.L.1945, c.162  
28 (C.54:10A-5). This subparagraph (C) shall not apply to privilege  
29 periods ending on and after July 31, 2019.

30 (D) For privilege periods ending on and after July 31, 2019 but  
31 before July 31, 2020, to the extent a subsidiary received dividends  
32 from other subsidiaries and included those dividends in its entire net  
33 income for the purposes of determining its tax liability pursuant to  
34 section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those  
35 dividends, the taxpayer receiving those same dividends from the  
36 subsidiary shall exclude those dividends from its entire net income.

37 (E) For privilege periods ending on and after July 31, 2020, for  
38 purposes of this paragraph (5), the members of a combined group  
39 filing a New Jersey combined return shall be treated as one taxpayer  
40 with regard to dividends and deemed dividends that were received  
41 as part of the unitary business of the combined group.

42 (F) For privilege periods ending on and after July 31, 2023:

43 (i) The exclusion provided by this paragraph (5) shall be  
44 deducted from entire net income after the State modifications that  
45 increase federal entire net income but before the other State  
46 modifications that reduce entire net income and before the  
47 allocation of entire net income to this State.

1       (ii) In computing the total amount of the dividends and deemed  
2 dividends excluded by this paragraph (5) for privilege periods  
3 ending on and after July 31, 2023, the amount of dividends and  
4 deemed dividends excluded shall be reduced by the amount of the  
5 expenses and deductions that are attributable to those dividends and  
6 deemed dividends. For purposes of this paragraph (5), expenses  
7 and deductions related to dividends shall equal five percent of all  
8 dividends and deemed dividends received by a taxpayer during an  
9 income year.

10       (G) For privilege periods ending on and after July 31, 2023, for  
11 the purposes of this paragraph (5) and for subsection d. of section  
12 18 of P.L.2018, c.48 (C.54:10A-4.6), the income amounts required  
13 to be included in federal taxable income pursuant to 26 U.S.C.  
14 s.951A, shall be considered a dividend.

15       (6) (A) Net operating loss deduction. For privilege periods  
16 ending before July 31, 2019, there shall be allowed as a deduction  
17 for the privilege period the net operating loss carryover to that  
18 period.

19       (B) Net operating loss carryover. A net operating loss for any  
20 privilege period ending after June 30, 1984 shall be a net operating  
21 loss carryover to each of the seven privilege periods following the  
22 period of the loss and a net operating loss for any privilege period  
23 ending after June 30, 2009 shall be a net operating loss carryover to  
24 each of the twenty privilege periods following the period of the  
25 loss. The entire amount of the net operating loss for any privilege  
26 period (the "loss period") shall be carried to the earliest of the  
27 privilege periods to which the loss may be carried. The portion of  
28 the loss which shall be carried to each of the other privilege periods  
29 shall be the excess, if any, of the amount of the loss over the sum of  
30 the entire net income, computed without the exclusions permitted in  
31 paragraphs (4) and (5) of this subsection or the net operating loss  
32 deduction provided by subparagraph (A) of this paragraph, for each  
33 of the prior privilege periods to which the loss may be carried.

34       (C) Net operating loss. For purposes of this paragraph the term  
35 "net operating loss" means the excess of the deductions over the  
36 gross income used in computing entire net income without the net  
37 operating loss deduction provided for in subparagraph (A) of this  
38 paragraph and the exclusions in paragraphs (4) and (5) of this  
39 subsection.

40       (D) Change in ownership. Where there is a change in 50% or  
41 more of the ownership of a corporation because of redemption or  
42 sale of stock and the corporation changes the trade or business  
43 giving rise to the loss, no net operating loss sustained before the  
44 changes may be carried over to be deducted from income earned  
45 after such changes. In addition where the facts support the premise  
46 that the corporation was acquired under any circumstances for the  
47 primary purpose of the use of its net operating loss carryover, the  
48 director may disallow the carryover.

1 (E) Notwithstanding the provisions of this paragraph (6) of  
2 subsection (k) of this section to the contrary, for privilege periods  
3 beginning during calendar year 2002 and calendar year 2003, no  
4 deduction for any net operating loss carryover shall be allowed and  
5 for privilege periods beginning during calendar year 2004 and  
6 calendar year 2005, there shall be allowed as a deduction for the  
7 privilege period so much of the net operating loss carryover as  
8 reduces entire net income otherwise calculated by 50%. If and only  
9 to the extent that any net operating loss carryover deduction is  
10 disallowed by reason of this subparagraph (E), the date on which  
11 the amount of the disallowed net operating loss carryover deduction  
12 would otherwise expire shall be extended by a period equal to the  
13 period for which application of the net operating loss was  
14 disallowed by this subparagraph.

15 Provided, that this subparagraph (E) shall not restrict the  
16 surrender or acquisition of corporation business tax benefit  
17 certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-  
18 7.42a) and shall not restrict the application of corporation business  
19 tax benefit certificates pursuant to section 2 of P.L.1997, c.334  
20 (C.54:10A-4.2).

21 (F) Reduction for discharge of indebtedness. A net operating  
22 loss for any privilege period ending after June 30, 2014, and any net  
23 operating loss carryover to such privilege period, shall be reduced  
24 by the amount excluded from federal taxable income under  
25 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of  
26 section 108 of the federal Internal Revenue Code (26 U.S.C. s.108),  
27 for the privilege period of the discharge of indebtedness.

28 (7) The entire net income of gas, electric and gas and electric  
29 public utilities that were subject to, or would have been subject to  
30 tax if doing business in this State, the provisions of P.L.1940, c.5  
31 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by  
32 substituting the New Jersey depreciation allowance for federal tax  
33 depreciation with respect to assets placed in service prior to January  
34 1, 1998. For gas, electric, and gas and electric public utilities that  
35 were subject to, or would have been subject to tax if doing business  
36 in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.)  
37 prior to 1998, the New Jersey depreciation allowance shall be  
38 computed as follows: All depreciable assets placed in service prior  
39 to January 1, 1998 shall be considered a single asset account. The  
40 New Jersey tax basis of this depreciable asset account shall be an  
41 amount equal to the carryover adjusted basis for federal income tax  
42 purposes on December 31, 1997 of all depreciable assets in service  
43 on December 31, 1997, increased by the excess, of the "net carrying  
44 value," defined to be adjusted book basis of all assets and liabilities,  
45 excluding deferred income taxes, recorded on the public utility's  
46 books of account on December 31, 1997, over the carryover  
47 adjusted basis for federal income tax purposes on December 31,  
48 1997 of all assets and liabilities owned by the gas, electric, or gas

1 and electric public utility as of December 31, 1997. "Books of  
2 account" for gas, gas and electric, and electric public utilities means  
3 the uniform system of accounts as promulgated by the Federal  
4 Energy Regulatory Commission and adopted by the Board of Public  
5 Utilities. The following adjustments to entire net income shall be  
6 made pursuant to this section:

7 (A) Depreciation for property placed in service prior to January  
8 1, 1998 shall be adjusted as follows:

9 (i) Depreciation for federal income tax purposes shall be  
10 disallowed in full.

11 (ii) A deduction shall be allowed for the New Jersey  
12 depreciation allowance. The New Jersey depreciation allowance  
13 shall be computed for the single asset account described above  
14 based on the New Jersey tax basis as adjusted above as if all assets  
15 in the single asset account were first placed in service on January 1,  
16 1998. Depreciation shall be computed using the straight line method  
17 over a thirty-year life. A full year's depreciation shall be allowed in  
18 the initial tax year. No half-year convention shall apply. The  
19 depreciable basis of the single account shall be reduced by the  
20 adjusted federal tax basis of assets sold, retired, or otherwise  
21 disposed of during any year on which gain or loss is recognized for  
22 federal income tax purposes as described in subparagraph (B) of  
23 this paragraph.

24 (B) Gains and losses on sales, retirements and other dispositions  
25 of assets placed in service prior to January 1, 1998 shall be  
26 recognized and reported on the same basis as for federal income tax  
27 purposes.

28 (C) The Director of the Division of Taxation shall promulgate  
29 regulations describing the methodology for allocating the single  
30 asset account in the event that a portion of the utility's operations  
31 are separated, spun-off, transferred to a separate company or  
32 otherwise desegregated.

33 (8) In the case of taxpayers that are gas, electric, gas and  
34 electric, or telecommunications public utilities as defined pursuant  
35 to subsection (q) of this section, the director shall have authority to  
36 promulgate rules and issue guidance correcting distortions and  
37 adjusting timing differences resulting from the adoption of  
38 P.L.1997, c.162 (C.54:10A-5.25 et al.).

39 (9) Notwithstanding paragraph (1) of this subsection, entire net  
40 income shall not include the income derived by a corporation  
41 organized in a foreign country from the international operation of a  
42 ship or ships, or from the international operation of aircraft, if such  
43 income is exempt from federal taxation pursuant to section 883 of  
44 the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

45 (10) Entire net income shall exclude all income of an alien  
46 corporation the activities of which are limited in this State to  
47 investing or trading in stocks and securities for its own account,  
48 investing or trading in commodities for its own account, or any

1 combination of those activities, within the meaning of section 864  
2 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in  
3 effect on December 31, 1998. Notwithstanding the previous  
4 sentence, if an alien corporation undertakes one or more infrequent,  
5 extraordinary or non-recurring activities, including but not limited  
6 to the sale of tangible property, only the income from such  
7 infrequent, extraordinary or non-recurring activity shall be subject  
8 to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et  
9 seq.), and that amount of income subject to tax shall be determined  
10 without regard to the allocation to that specific transaction of any  
11 general business expense of the taxpayer and shall be specifically  
12 assigned to this State for taxation by this State without regard to  
13 section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this  
14 paragraph, "alien corporation" means a corporation organized under  
15 the laws of a jurisdiction other than the United States or its political  
16 subdivisions.

17 (11) No deduction shall be allowed for research and  
18 experimental expenditures, to the extent that those research and  
19 experimental expenditures are qualified research expenses or basic  
20 research payments for which an amount of credit is claimed  
21 pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless  
22 those research and experimental expenditures are also used to  
23 compute a federal credit claimed pursuant to section 41 of the  
24 federal Internal Revenue Code of 1986, 26 U.S.C. s.41; provided,  
25 however, for privilege periods beginning on and after January 1,  
26 2022, a deduction for research and experimental expenditures shall  
27 be allowed during the same privilege period for which a credit is  
28 claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24),  
29 notwithstanding the timing schedule required by the federal Internal  
30 Revenue Code of 1986, 26 U.S.C. s.174, for the deduction of  
31 specified research and experimental expenditures.

32 (12) (A) Notwithstanding the provisions of subsection (k) of  
33 section 168 of the federal Internal Revenue Code of 1986, 26  
34 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal  
35 Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal  
36 law, for property acquired after September 10, 2001, the  
37 depreciation deduction otherwise allowed pursuant to section 167 of  
38 the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall  
39 be determined pursuant to the provisions of the federal Internal  
40 Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on  
41 December 31, 2001.

42 (B) The director shall prescribe the rules and regulations  
43 necessary to carry out the provisions of this paragraph, including,  
44 among others, those for determining the adjusted basis of the  
45 acquired property for the purposes of the Corporation Business Tax  
46 Act (1945), P.L.1945, c.162.

47 (13) (A) Notwithstanding the provisions of section 179 of the  
48 federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for

1 property placed in service on or after January 1, 2004, the costs that  
2 a taxpayer may otherwise elect to treat as an expense which is not  
3 chargeable to a capital account shall be determined pursuant to the  
4 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.  
5 s.1 et seq.) in effect on December 31, 2002.

6 (B) The director shall prescribe the rules and regulations  
7 necessary to carry out the provisions of this paragraph, including,  
8 among others, those for determining the adjusted basis of the  
9 acquired property for the purposes of the Corporation Business Tax  
10 Act (1945), P.L.1945, c.162.

11 (14) Notwithstanding the provisions of subsection (i) of section  
12 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108),  
13 for privilege periods beginning after December 31, 2008 and before  
14 January 1, 2011, entire net income shall include the amount of  
15 discharge of indebtedness income excluded for federal income tax  
16 purposes pursuant to subsection (i) of section 108 of the federal  
17 Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege  
18 periods beginning on or after January 1, 2014 and before January 1,  
19 2019, entire net income shall exclude the amount of discharge of  
20 indebtedness income included for federal income tax purposes,  
21 pursuant to subsection (i) of section 108 of the federal Internal  
22 Revenue Code of 1986 (26 U.S.C. s.108).

23 (15) Entire net income shall exclude the gain or income derived  
24 from the sale or assignment of a tax credit transfer certificate  
25 pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section  
26 10 of P.L.2014, c.63 (C.34:1B-251).

27 (16) (A) There shall be allowed as a deduction an amount  
28 computed in accordance with this paragraph.

29 (B) For purposes of this paragraph, "net deferred tax liability"  
30 means deferred tax liabilities that exceed the deferred tax assets of  
31 the combined group, as computed in accordance with generally  
32 accepted accounting principles, and "net deferred tax asset" means  
33 that deferred tax assets exceed the deferred tax liabilities of the  
34 combined group, as computed in accordance with generally  
35 accepted accounting principles.

36 (C) Only publicly traded companies, including affiliated  
37 corporations participating in the filing of a publicly traded  
38 company's financial statements prepared in accordance with  
39 generally accepted accounting principles, as of the effective date of  
40 this paragraph, shall be eligible for this deduction.

41 (D) If the provisions of sections 18 through 23 of P.L.2018, c.48  
42 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to  
43 the members' net deferred tax liability or an aggregate decrease to  
44 the members' net deferred tax asset, or an aggregate change from a  
45 net deferred tax asset to a net deferred tax liability, the combined  
46 group shall be entitled to a deduction, as determined in this  
47 paragraph.



1 (E) **【For 10 years beginning】** (i) Beginning with the combined  
2 group's first privilege period on or after January 1 of the fifth year  
3 after the effective date of P.L.2018, c.48 (C.54:10A-5.41 et al.), a  
4 combined group shall be entitled to a deduction from combined  
5 group entire net income equal to one-tenth of the amount necessary  
6 to offset the increase in the net deferred tax liability or decrease in  
7 the net deferred tax asset, or aggregate change from a net deferred  
8 tax asset to a net deferred tax liability, according to the schedule  
9 provided by subparagraphs (ii) and (iii) of this subparagraph (E).  
10 Such increase in the net deferred tax liability or decrease in the net  
11 deferred tax asset or the aggregate change from a net deferred tax  
12 asset to a net deferred tax liability shall be computed based on the  
13 change that would result from the imposition of the unitary  
14 reporting requirements under sections 1 and 18 through 23 of  
15 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-  
16 4.11) but for the deduction provided under this paragraph as of the  
17 effective date of this paragraph.

18 (ii) For group privilege periods beginning on and after January  
19 1, 2023, but before January 1, 2030, the combined group may  
20 deduct one percent of the amount necessary to offset the increase in  
21 the net deferred tax liability or decrease in the net deferred tax  
22 asset, or aggregate change from a net deferred tax asset to a net  
23 deferred tax liability, during a group privilege period. Such  
24 increase in the net deferred tax liability or decrease in the net  
25 deferred tax asset or the aggregate change from a net deferred tax  
26 asset to a net deferred tax liability shall be computed based on the  
27 change that would result from the imposition of the unitary  
28 reporting requirements under sections 1 and 18 through 23 of  
29 P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-  
30 4.11) but for the deduction provided under this paragraph as of the  
31 effective date of this paragraph.

32 (iii) For group privilege periods beginning on and after January  
33 1, 2030, the combined group may deduct up to five percent of any  
34 remaining unused amount of the deduction during the group  
35 privilege period, until the group privilege period in which the total  
36 deduction amount has been fully utilized. Such increase in the net  
37 deferred tax liability or decrease in the net deferred tax asset or the  
38 aggregate change from a net deferred tax asset to a net deferred tax  
39 liability shall be computed based on the change that would result  
40 from the imposition of the unitary reporting requirements under  
41 sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and  
42 C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided  
43 under this paragraph as of the effective date of this paragraph.

44 (F) The deferred tax impact determined in subparagraph (E) of  
45 this paragraph must be converted to the annual Deferred Tax  
46 Deduction amount, as follows:

47 (i) the deferred tax impact determined in subparagraph (E) of  
48 this paragraph shall be divided by the rate determined under section

1 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018,  
2 c.48 (C.54:10A-5.41 et al.);

3 (ii) the resulting amount shall be further divided by the New  
4 Jersey unitary business allocation factor that was used by the  
5 combined group in the calculation of the deferred tax assets and  
6 deferred tax liabilities as described in subparagraph (E) of this  
7 paragraph;

8 (iii) the resulting amount represents the total net Deferred Tax  
9 Deduction available over the **ten-year** period as described in  
10 subparagraph (E) of this paragraph.

11 (G) The deduction calculated under this paragraph shall not be  
12 adjusted as a result of any events happening subsequent to such  
13 calculation, including, but not limited to, any disposition or  
14 abandonment of assets. Such deduction shall be calculated without  
15 regard to the federal tax effect and shall not alter the tax basis of  
16 any asset. If the deduction under this section is greater than  
17 combined group entire net income, any excess deduction shall be  
18 carried forward and applied as a deduction to combined group entire  
19 net income in future privilege periods until fully utilized.

20 (H) Any combined group intending to claim a deduction under  
21 this paragraph shall file a statement with the director on or before  
22 July 1 of the year subsequent to the first privilege period for which  
23 a combined return is required. Such statement shall specify the total  
24 amount of the deduction which the combined group claims on such  
25 form and in such manner as prescribed by the director. No  
26 deduction shall be allowed under this paragraph for any privilege  
27 period except to the extent claimed on such timely filed statement  
28 in accordance with this paragraph.

29 (17) (A) In the case of a taxpayer that is a cannabis licensee,  
30 there shall be allowed as a deduction an amount equal to any  
31 expenditure that is eligible to be claimed as a federal income tax  
32 deduction but is disallowed because cannabis is a controlled  
33 substance under federal law, and income shall be determined  
34 without regard to section 280E of the Internal Revenue Code (26  
35 U.S.C. s.280E) for cannabis licensees.

36 (B) In the case of a taxpayer that is a cannabis licensee, there  
37 shall be allowed as a deduction an amount equal to any expenditure  
38 that would qualify as a specified research or experimental  
39 expenditure pursuant to section 174 of the Internal Revenue Code  
40 but is disallowed as a deduction for federal tax purposes because  
41 cannabis is a controlled substance under federal law. Any  
42 expenditure that is claimed as a deduction pursuant to this  
43 subparagraph may also be claimed as a qualified research expense  
44 for purposes of the credit allowed pursuant to section 1 of P.L.1993,  
45 c.175 (C.54:10A-5.24).

46 (C) For purposes of this paragraph, "licensee" means the same as  
47 that term is defined in section 3 of P.L.2021, c.16 (C.24:6I-33).

48 (18) For privilege periods ending on and after July 31, 2022:

1       (A) Notwithstanding subparagraph (A) of paragraph (2) of this  
2 subsection or any other law or treaty to the contrary, for a  
3 corporation that is incorporated or formed in a foreign nation with a  
4 comprehensive tax treaty with the United States, and that is not a  
5 member of a world-wide group combined return filed pursuant to  
6 subsection b. of section 23 of P.L.2018, c.48 (C.54:10A-4.11),  
7 entire net income shall not include an item of income or loss  
8 excluded or exempted from federal taxable income under the terms  
9 of the treaty, and no other deduction, exclusion, or elimination shall  
10 be permitted for an item of income or loss excluded by this  
11 paragraph.

12       (B) For a non-U.S. corporation that files a federal tax return and  
13 is not a member of a combined group filing a New Jersey combined  
14 return on a world-wide basis pursuant to subsection b. of section 23  
15 of P.L.2018, c.48 (C.54:10A-4.11), the non-U.S. corporation shall  
16 only include its income or loss included in federal taxable income,  
17 which shall be limited to only the non-U.S. corporation's  
18 effectively connected income or loss, as modified by the provisions  
19 of the Corporation Business Tax Act (1945), P.L.1945, c.162  
20 (C.54:10A-1 et seq.), and the items of expense and the allocation  
21 factor receipts attributable to such items of income or loss.

22       (1) "Real estate investment trust" shall mean any corporation,  
23 trust or association qualifying and electing to be taxed as a real  
24 estate investment trust under federal law. <sup>2</sup>[For purposes of this  
25 subsection, a real estate investment trust shall not include any real  
26 estate investment trust of which at least 50 percent of the shares, by  
27 vote or value, is owned or controlled, directly or indirectly, by a  
28 state or federally chartered bank, savings bank, or savings and loan  
29 association with assets that do not exceed \$15 billion.]<sup>2</sup>

30       (m) "Financial business corporation" shall mean any corporate  
31 enterprise which is (1) in substantial competition with the business  
32 of national banks and which (2) employs moneyed capital with the  
33 object of making profit by its use as money, through discounting  
34 and negotiating promissory notes, drafts, bills of exchange and  
35 other evidences of debt; buying and selling exchange; making of or  
36 dealing in secured or unsecured loans and discounts; dealing in  
37 securities and shares of corporate stock by purchasing and selling  
38 such securities and stock without recourse, solely upon the order  
39 and for the account of customers; or investing and reinvesting in  
40 marketable obligations evidencing indebtedness of any person,  
41 copartnership, association or corporation in the form of bonds,  
42 notes or debentures commonly known as investment securities; or  
43 dealing in or underwriting obligations of the United States, any  
44 state or any political subdivision thereof, or of a corporate  
45 instrumentality of any of them. This shall include, without  
46 limitation of the foregoing, business commonly known as industrial  
47 banks, dealers in commercial paper and acceptances, sales finance,  
48 personal finance, small loan and mortgage financing businesses, as

1 well as any other enterprise employing moneyed capital coming  
2 into competition with the business of national banks; provided that  
3 the holding of bonds, notes, or other evidences of indebtedness by  
4 individual persons not employed or engaged in the banking or  
5 investment business and representing merely personal investments  
6 not made in competition with the business of national banks, shall  
7 not be deemed financial business. Nor shall "financial business"  
8 include national banks, production credit associations organized  
9 under the Farm Credit Act of 1933 or the Farm Credit Act of 1971,  
10 Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual  
11 insurance companies duly authorized to transact business in this  
12 State, security brokers or dealers or investment companies or  
13 bankers not employing moneyed capital coming into competition  
14 with the business of national banks, real estate investment trusts, or  
15 any of the following entities organized under the laws of this State:  
16 credit unions, savings banks, savings and loan and building and  
17 loan associations, pawnbrokers, and State banks and trust  
18 companies.

19 (n) "International banking facility" shall mean a set of asset and  
20 liability accounts segregated on the books and records of a  
21 depository institution, United States branch or agency of a foreign  
22 bank, or an Edge or Agreement Corporation that includes only  
23 international banking facility time deposits and international  
24 banking facility extensions of credit as such terms are defined in  
25 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the  
26 board of governors of the Federal Reserve System, 12 CFR Part  
27 204, effective December 3, 1981. In the event that the United States  
28 enacts a law, or the board of governors of the Federal Reserve  
29 System adopts a regulation which amends the present definition of  
30 international banking facility or of such facilities' time deposits or  
31 extensions of credit, the Commissioner of Banking and Insurance  
32 shall forthwith adopt regulations defining such terms in the same  
33 manner as such terms are set forth in the laws of the United States  
34 or the regulations of the board of governors of the Federal Reserve  
35 System. The regulations of the Commissioner of Banking and  
36 Insurance shall thereafter provide the applicable definitions.

37 (o) "S corporation" means a corporation that has elected to be an  
38 "S corporation" pursuant to section 1361 of the federal Internal  
39 Revenue Code of 1986, 26 U.S.C. s.1361, for the taxable year.

40 (p) "New Jersey S corporation" means a taxpayer that has made  
41 a valid election to be an S corporation for federal tax purposes, and  
42 that has not made a valid election pursuant to subsection d. of  
43 section 20 of P.L.2022, c.133 (C.54:10A-5.22).

44 (q) "Public Utility" means "public utility" as defined in  
45 R.S.48:2-13.

46 (r) "Qualified investment partnership" means a partnership  
47 under this act that has more than 10 members or partners with no  
48 member or partner owning more than a 50% interest in the entity

1 and that derives at least 90% of its gross income from dividends,  
2 interest, payments with respect to securities loans, and gains from  
3 the sale or other disposition of stocks or securities or foreign  
4 currencies or commodities or other similar income (including but  
5 not limited to gains from swaps, options, futures or forward  
6 contracts) derived with respect to its business of investing or  
7 trading in those stocks, securities, currencies or commodities, but  
8 "investment partnership" shall not include a "dealer in securities"  
9 within the meaning of section 1236 of the federal Internal Revenue  
10 Code of 1986, 26 U.S.C. s.1236.

11 (s) "Savings institution" means a state or federally chartered  
12 building and loan association, savings and loan association, or  
13 savings bank.

14 (t) "Partnership" means an entity classified as a partnership for  
15 federal income tax purposes.

16 (u) "Prior net operating loss conversion carryover" means a net  
17 operating loss incurred in a privilege period ending prior to July 31,  
18 2019 and converted from a pre-allocation net operating loss to a  
19 post-allocation net operating loss as follows:

20 (1) As used in this subsection:

21 "Base year" means the last privilege period ending prior to July  
22 31, 2019.

23 "Base year BAF" means the taxpayer's business allocation factor  
24 as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-  
25 6 through C.54:10A-10) for purposes of calculating entire net  
26 income for the base year, as such section was in effect for the last  
27 privilege period ending prior to July 31, 2019.

28 "UNOL" means the unabsorbed portion of net operating loss as  
29 calculated under paragraph (6) of subsection (k) of this section as  
30 such paragraph was in effect for the last privilege period ending  
31 prior to July 31, 2019, that was not deductible in previous privilege  
32 periods and was eligible for carryover on the last day of the base  
33 year subject to the limitations for deduction under such subsection,  
34 including any net operating loss sustained by the taxpayer during  
35 the base year.

36 (2) The prior net operating loss conversion carryover shall be  
37 calculated as follows:

38 (A) The taxpayer shall first calculate the tax value of its UNOL  
39 for the base year and for each preceding privilege period for which  
40 there is a UNOL. The value of the UNOL for each privilege period  
41 is equal to the product of (I) the amount of the taxpayer's UNOL for  
42 a privilege period, and (II) the taxpayer's base year BAF. This result  
43 shall equal the taxpayer's prior net operating loss conversion  
44 carryover.

45 (B) The taxpayer shall continue to carry over its prior net  
46 operating loss conversion carryover to offset its allocated entire net  
47 income as provided in sections 6 through 10 of P.L.1945, c.162  
48 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on

1 and after July 31, 2019. Such carryover periods shall not exceed the  
2 twenty privilege periods following the privilege period of the initial  
3 loss. The entire amount of the prior net operating loss conversion  
4 carryover for any privilege period shall be carried to the earliest of  
5 the privilege periods to which the loss may be carried. The portion  
6 of the prior net operating loss conversion carryover which shall be  
7 carried to each of the other privilege periods shall be the excess, if  
8 any, of the amount of the prior net operating loss conversion  
9 carryover over the sum of the entire net income, computed without  
10 the exclusions permitted in paragraphs (4) and (5) of subsection (k)  
11 of this section allocated to this State. For privilege periods ending  
12 on and after July 31, 2023, for the purpose of computing taxable net  
13 income for a current privilege period, the amount of the prior net  
14 operating loss conversion carryover shall be subtracted from entire  
15 net income allocated to this State, after the application of  
16 paragraphs (4) and (5) of subsection (k) of this section against  
17 current privilege period income when the entire net income  
18 allocated to this State for the privilege period is greater than zero.

19 (C) The prior net operating loss conversion carryover computed  
20 under this subsection shall be applied against the entire net income  
21 allocated to this State before the net operating loss carryover  
22 computed under subsection (v) of this section.

23 (v) "Net operating loss deduction" means the amount allowed as  
24 a deduction for the net operating loss carryover to the privilege  
25 period, calculated as follows:

26 (1) Net operating loss carryover. A net operating loss for any  
27 privilege period ending on or after July 31, 2019, shall be a net  
28 operating loss carryover to each of the twenty privilege periods  
29 following the period of the loss. The entire amount of the net  
30 operating loss for any privilege period shall be carried to the earliest  
31 of the privilege periods to which the loss may be carried. **[The]** For  
32 privilege periods ending before July 31, 2023, the portion of the  
33 loss which shall be carried to each of the other privilege periods  
34 shall be the excess, if any, of the amount of the loss over the sum of  
35 the entire net income, computed without the exclusions permitted in  
36 paragraphs (4) and (5) of subsection (k) of this section allocated to  
37 this State. For privilege periods ending on and after July 31, 2023,  
38 the portion of the loss that shall be carried to each of the other  
39 privilege periods shall be the excess, if any, of the amount of the  
40 loss over the sum of the entire net income, after the application of  
41 paragraphs (4) and (5) of subsection (k) of this section allocated to  
42 this State; provided, however, for the purpose of computing taxable  
43 net income for the privilege period, the net operating loss carryover  
44 shall only be subtracted from entire net income allocated to this  
45 State when the entire net income allocated to this State is greater  
46 than zero.

47 (2) Net operating loss. For purposes of this paragraph the term  
48 "net operating loss" means the excess of the deductions over the

1 gross income used in computing entire net income, without regard  
2 to any net operating loss carryover, and for privilege periods ending  
3 before July 31, 2023, computed without the exclusions in  
4 paragraphs (4) and (5) of subsection (k) of this section, and for  
5 privilege periods ending on and after July 31, 2023, computed after  
6 the application of paragraphs (4) and (5) of subsection (k) of this  
7 section, allocated to this State pursuant to sections 6 through 10 of  
8 P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

9 (3) Reduction for discharge of indebtedness. A net operating  
10 loss for any privilege period ending on or after July 31, 2019, and  
11 any net operating loss carryover to such privilege period, shall be  
12 reduced by the amount excluded from federal taxable income under  
13 subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of  
14 section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108,  
15 for the privilege period of the discharge of indebtedness.

16 (4) A net operating loss carryover shall not include any net  
17 operating loss incurred during any privilege period ending prior to  
18 July 31, 2019.

19 (5) Change in ownership. Where there is a change in 50% or  
20 more of the ownership of a corporation because of redemption or  
21 sale of stock and the corporation changes the trade or business  
22 giving rise to the loss, no net operating loss sustained before the  
23 changes may be carried over to be deducted from income earned  
24 after such changes. In addition, where the facts support the premise  
25 that the corporation was acquired under any circumstances for the  
26 primary purpose of the use of its net operating loss carryover, the  
27 director may disallow the carryover; provided, however, this  
28 paragraph shall not apply between members of a combined group  
29 reported on a New Jersey combined return.

30 (w) "Taxable net income" means entire net income allocated to  
31 this State as calculated pursuant to sections 6 through 8 of  
32 P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by  
33 subtracting any prior net operating loss conversion carryforward  
34 calculated pursuant to subsection (u) of this section, and any net  
35 operating loss calculated pursuant to subsection (v) of this section;  
36 provided, however, for privilege periods ending on and after July  
37 31, 2023, when subtracting any net operating losses calculated  
38 pursuant to subsection (v) of this section or the combined group net  
39 operating losses calculated pursuant to subsection h. of section 18  
40 of P.L.2018, c.48 (C.54:10A-4.6), the limitation set forth in  
41 paragraph (2) of subsection (a) of Internal Revenue Code Section  
42 172 (26 U.S.C. s.172(a)(2)) shall apply, except that August 1, 2023  
43 is substituted for the reference to January 1, 2018 in subparagraph  
44 (A) of paragraph (2) of subsection a. of Internal Revenue Code  
45 Section 172 (26 U.S.C. s.172), and July 31, 2023 is substituted for  
46 the reference to December 31, 2017 in subparagraph (B) of  
47 paragraph (2) of subsection (a) of Internal Revenue Code Section  
48 172 (26 U.S.C. s.172). For privilege periods ending on and after

1 July 31, 2023, for a combined group, before subtracting the prior  
2 net operating loss conversion carryforwards and subtracting the net  
3 operating losses of the combined group when computing the total  
4 taxable net income, the combined group shall first add together the  
5 allocated entire net income from the unitary business of the  
6 combined group and the portion of allocated entire net income of  
7 members with activities independent of the group, and then subtract  
8 the prior net operating loss conversion carryforwards and then the  
9 net operating losses.

10 (x) "Affiliated group" means, for purposes of section 23 of  
11 P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in  
12 section 1504 of the federal Internal Revenue Code, 26 U.S.C.  
13 s.1504, except such affiliated group shall include all U.S. domestic  
14 corporations that are commonly owned, directly or indirectly, by  
15 any member of such affiliated group, without regard to whether the  
16 affiliated group includes (1) corporations included in more than one  
17 federal consolidated return, (2) corporations engaged in one or more  
18 unitary businesses, or (3) corporations that are not engaged in a  
19 unitary business with any other member of the affiliated group.

20 For purposes of this subsection:

21 "U.S. domestic corporations" means: (1) business entities  
22 wherever incorporated or formed that are U.S. domestic  
23 corporations, are deemed to be, or are treated as U.S. domestic  
24 corporations under the provisions of the federal Internal Revenue  
25 Code; or (2) any entities incorporated or formed under the laws of a  
26 foreign nation that are required to file federal tax returns if such  
27 entities have effectively connected income within the meaning of  
28 the federal Internal Revenue Code; and

29 "Commonly owned" means that more than 50 percent of the  
30 voting control of each member of an affiliated group is directly or  
31 indirectly owned by a common owner or owners, either corporate or  
32 non-corporate, whether or not the owner or owners are members of  
33 the affiliated group. Whether voting control is indirectly owned  
34 shall be determined in accordance with section 318 of the federal  
35 Internal Revenue Code (26 U.S.C. s.318).

36 (y) "Combinable captive insurance company" means an entity  
37 that is treated as an association taxable as a corporation under the  
38 federal Internal Revenue Code:

39 (1) more than 50% of the voting stock of which is owned or  
40 controlled, directly or indirectly, by a single entity that is treated as  
41 an association taxable as a corporation under the federal Internal  
42 Revenue Code, and not exempt from federal income tax;

43 (2) that is licensed as a captive insurance company under the  
44 laws of this State or another jurisdiction;

45 (3) whose business includes providing, directly and indirectly,  
46 insurance or reinsurance covering the risks of its parent, members  
47 of its affiliated group, or both; and



1 (4) 50% or less of whose gross receipts for the privilege period  
2 consist of premiums from arrangements that constitute insurance for  
3 federal income tax purposes.

4 A combinable captive insurance company shall not be exempt  
5 under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive  
6 insurance company that does not meet the definition of combinable  
7 captive insurance company shall be excluded as provided in  
8 subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and  
9 shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

10 For purposes of this definition:

11 "Affiliated group" shall have the same meaning as that term is  
12 given by section 1504 of the federal Internal Revenue Code, 26  
13 U.S.C. s.1504, except that the term "common parent corporation" as  
14 used in section 1504 of the federal Internal Revenue Code, 26  
15 U.S.C. s.1504, shall mean any person, as defined in section 7701 of  
16 the federal Internal Revenue Code, 26 U.S.C. s.7701, and references  
17 to "at least 80%" in section 1504 of the federal Internal Revenue  
18 Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section  
19 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall  
20 be read without regard to the exclusions provided for in subsection  
21 (b) of that section.

22 "Gross receipts" includes the amounts included in gross receipts  
23 for purposes of paragraph (15) of subsection (c) of section 501 of  
24 the federal Internal Revenue Code, 26 U.S.C. s.501, except that  
25 those amounts also include all premiums.

26 "Premiums" includes consideration for annuity contracts and  
27 excludes any part of the consideration for insurance, reinsurance, or  
28 annuity contracts that do not provide bona fide insurance,  
29 reinsurance, or annuity benefits.

30 (z) "Combined group" means the group of all companies that  
31 have common ownership and are engaged in a unitary business,  
32 where at least one company is subject to tax under this chapter, and  
33 shall include all business entities, except as provided for under any  
34 section of the Corporation Business Tax Act (1945), P.L.1945,  
35 c.162 (C.54:10A-1 et seq.).

36 A combined group shall be treated, for privilege periods ending  
37 on and after July 31, 2020, as one taxpayer for purposes of  
38 paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162  
39 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for  
40 the income derived from the unitary business; provided however,  
41 with regard to the surtax imposed pursuant to section 1 of P.L.2018,  
42 c.48 (C.54:10A-5.41) and for that purpose only, the portion of  
43 income that is attributable to a member which is a public utility  
44 exempt from the surtax shall not be included when computing the  
45 surtax due.

46 (aa) "Common ownership" means that more than 50% of the  
47 voting control of each member of a combined group is directly or  
48 indirectly owned by a common owner or owners, either corporate or

1 non-corporate, whether or not the owner or owners are members of  
2 the combined group. Whether voting control is indirectly owned  
3 shall be determined in accordance with section 318 of the federal  
4 Internal Revenue Code, 26 U.S.C. s.318.

5 (bb) "Group privilege period" means, if two or more members in  
6 the combined group file in the same federal consolidated tax return,  
7 the same income year as that used on the federal consolidated tax  
8 return and, in all other cases, the privilege period of the managerial  
9 member.

10 (cc) "Managerial member" means if the combined group has a  
11 common parent corporation and that common parent corporation is  
12 a taxable member, the managerial member shall be the common  
13 parent corporation. In other cases, the combined group shall select a  
14 taxable member as its managerial member or, in the discretion of  
15 the director or upon failure of the combined group to select its  
16 managerial member, the director shall designate a taxable member  
17 of the combined group as managerial member.

18 (dd) "Member" means a business entity that is a part of a  
19 combined group.

20 A corporation exempt pursuant to section 3 of P.L.1945, c.162  
21 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1  
22 et seq.) shall not be a member of a combined group.

23 (ee) "Nontaxable member" means a member that is: (i) not  
24 subject to tax pursuant to the Corporation Business Tax Act (1945),  
25 P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by  
26 amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

27 (ff) "Taxable member" means a member that is subject to tax  
28 pursuant to the Corporation Business Tax Act (1945), P.L.1945,  
29 c.162 (C.54:10A-1 et seq.).

30 A New Jersey S corporation shall only be included as a taxable  
31 member of a combined group filing a New Jersey combined return  
32 if the New Jersey S Corporation elects to be included as a member  
33 and taxed at the same rate as the other members of the combined  
34 group. A New Jersey S corporation that does not elect to be  
35 included shall be excluded as a member of the combined return and  
36 shall file a separate return.

37 (gg) "Unitary business" means, for privilege periods ending  
38 before July 31, 2023, a single economic enterprise that is made up  
39 either of separate parts of a single business entity or of a group of  
40 business entities under common ownership that are sufficiently  
41 interdependent, integrated, and interrelated through their activities  
42 so as to provide a synergy and mutual benefit that produces a  
43 sharing or exchange of value among them and a significant flow of  
44 value among the separate parts. For privilege periods ending on  
45 and after July 31, 2023,"unitary business" means a single economic  
46 enterprise that is made up either of separate parts of a single  
47 business entity or of a group of business entities under common  
48 ownership that are sufficiently interdependent, integrated, or

1 interrelated through their activities so as to provide a synergy and  
2 mutual benefit that produces a sharing or exchange of value among  
3 them and a significant flow of value among the separate parts.  
4 "Unitary business" shall be construed to the broadest extent  
5 permitted under the Constitution of the United States. A business  
6 conducted by a partnership which is in a unitary business with the  
7 combined group shall be treated as the business of the partners that  
8 are members of the combined group, whether the partnership  
9 interest is held directly or indirectly through a series of  
10 partnerships, to the extent of a partner's distributive share of  
11 partnership income. The amount of partnership income to be  
12 included in the partner's entire net income shall be determined in  
13 accordance with subsection a. of section 3 of P.L.2001, c.136  
14 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136  
15 (C.54:10A-15.7), as applicable. A business conducted directly or  
16 indirectly by one corporation is unitary with that portion of a  
17 business conducted by another corporation through its direct or  
18 indirect interest in a partnership.

19 (hh) "Captive investment company" shall mean, for privilege  
20 periods ending on and after July 31, 2023, an investment company  
21 that is not regularly traded on an established securities market and  
22 of which more than 50 percent of the voting stock is owned or  
23 controlled, directly or indirectly, by a single corporation, other than  
24 an investment company, that is not exempt from federal income tax.  
25 For purposes of this subsection, a captive investment company shall  
26 not include any captive investment company of which at least 50  
27 percent of the shares, by vote or value, is owned or controlled,  
28 directly or indirectly, by a state or federally chartered bank, savings  
29 bank, or savings and loan association with assets that do not exceed  
30 \$15 billion.

31 For privilege periods ending on and after July 31, 2023, any  
32 voting stock in an investment company that is held in a segregated  
33 asset account of a life insurance corporation, as described in section  
34 817 of the Internal Revenue Code, shall not be taken into account  
35 for purposes of determining whether an investment company is a  
36 captive regulated investment company.

37 For privilege periods ending on and after July 31, 2023, a captive  
38 investment company shall be taxed in the same manner as a C  
39 corporation, and subsection d. of section 5 of P.L. 1945, c. 162 (C.  
40 54:10A-5) shall not apply. A captive investment company shall not  
41 be permitted to claim any deductions or expenses that were  
42 permitted for federal purposes, solely as a result of the entity being  
43 an investment company, when computing federal taxable net  
44 income. A captive investment company shall be a member of a  
45 combined group and shall be included as a member on the  
46 combined return.

47 (ii) "Captive real estate investment trust" shall mean, for  
48 privilege periods ending on and after July 31, 2023, a real estate

1 investment trust that is not regularly traded on an established  
2 securities market and of which more than 50 percent of the voting  
3 stock is owned or controlled, directly or indirectly, by a single  
4 entity that is treated as an association taxable as a corporation under  
5 the Internal Revenue Code, is not exempt from federal income tax,  
6 and is not a real estate investment trust. For purposes of this  
7 subsection, a captive real estate investment trust shall not include  
8 any captive real estate investment trust of which at least 50 percent  
9 of the shares, by vote or value, is owned or controlled, directly or  
10 indirectly, by a state or federally chartered bank, savings bank, or  
11 savings and loan association with assets that do not exceed \$15  
12 billion.

13 For privilege periods ending on and after July 23, 2023, any  
14 voting stock in a real estate investment trust that is held in a  
15 segregated asset account of a life insurance corporation, as  
16 described in section 817 of the Internal Revenue Code (26 U.S.C.  
17 s.817), shall not be taken into account for purposes of determining  
18 whether a real estate investment trust is a captive real estate  
19 investment trust. For purposes of this subsection, an association  
20 taxable as a corporation shall not include any listed Australian  
21 property trust or any qualified foreign entity.

22 For privilege periods ending on and after July 31, 2023, a captive  
23 real estate investment trust shall be taxed in the same manner as a C  
24 corporation, and subsection d. of section 5 of P.L.1945, c.162  
25 (C.54:10A-5) shall not apply. A captive real estate investment trust  
26 shall not be permitted to claim any deductions or expenses that were  
27 permitted for federal purposes, solely as a result of the entity being  
28 a real estate investment trust, when computing federal taxable net  
29 income. A captive real estate investment trust shall be a member of  
30 a combined group and shall be included as a member on the  
31 combined return.

32 As used in this subsection:

33 "Australian property trust" means an Australian unit trust that is  
34 registered as a managed investment scheme under the Australian  
35 Corporations Act, and in which the principal class of units is listed  
36 on a recognized stock exchange in Australia and is regularly traded  
37 on an established securities market; or an entity organized as a trust,  
38 provided that a listed Australian property trust owns or controls,  
39 directly or indirectly, 75 percent or more of the voting power or  
40 value of the beneficial interests of shares of the trust.

41 "Qualified foreign entity" means a corporation, trust, association,  
42 or partnership that is organized outside the laws of the United States  
43 and that satisfies the following criteria:

44 (1) At least 75 percent of the entity's total asset value at the  
45 close of its taxable year is represented by real estate assets, as  
46 defined at subparagraph (B) of paragraph (5) of subsection (c) of  
47 section 856 of the Internal Revenue Code (26 U.S.C. s.856),  
48 including shares or certificates of beneficial interest in any real

1 estate investment trust, cash and cash equivalents, and United States  
2 Government securities;

3 (2) The entity is not subject to tax on amounts distributed to its  
4 beneficial owners, or is exempt from entity-level taxation;

5 (3) The entity distributes, on an annual basis, at least 85 percent  
6 of its taxable income, as computed in the jurisdiction in which it is  
7 organized, to the holders of its shares or certificates of beneficial  
8 interest;

9 (4) No more than 10 percent of the voting power or value in the  
10 entity is held directly, indirectly, or constructively by a single entity  
11 or individual, or the shares or certificates of beneficial interests of  
12 the entity are regularly traded on an established securities market;  
13 and

14 (5) The entity is organized in a country that has a tax treaty with  
15 the United States.

16 (jj) "Captive regulated investment company" shall mean, for  
17 privilege periods ending on and after July 31, 2023, a regulated  
18 investment company that is not regularly traded on an established  
19 securities market, and of which more than 50 percent of the voting  
20 stock is owned or controlled, directly or indirectly, by a single  
21 corporation, other than a regulated investment company, that is not  
22 exempt from federal income tax. For purposes of this subsection, a  
23 captive regulated investment company shall not include any captive  
24 regulated investment company of which at least 50 percent of the  
25 shares, by vote or value, is owned or controlled, directly or  
26 indirectly, by a state or federally chartered bank, savings bank, or  
27 savings and loan association with assets that do not exceed \$15  
28 billion.

29 For privilege periods ending on and after July 31, 2023, any  
30 voting stock in a regulated investment company that is held in a  
31 segregated asset account of a life insurance corporation, as  
32 described in section 817 of the Internal Revenue Code (26 U.S.C.  
33 s.817), shall not be taken into account for purposes of determining  
34 whether a regulated investment company is a captive regulated  
35 investment company.

36 For privilege periods ending on and after July 31, 2023, a captive  
37 regulated investment company shall be taxed in the same manner as  
38 a C corporation and subsection d. of section 5 of P.L.1945, c.162  
39 (C.54:10A-5) shall not apply. A captive real estate investment  
40 company shall not be permitted to claim any deductions or expenses  
41 that were permitted for federal purposes, solely as a result of the  
42 entity being a regulated investment company, when computing  
43 federal taxable net income. A captive regulated investment  
44 company shall be a member of a combined group and shall be  
45 included as a member on the combined return.

46 (kk) "World-wide basis" and "world-wide group" shall mean,  
47 for privilege periods ending on and after July 31, 2022, for the  
48 purposes of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6

1 through C.54:10A-4.11) and for the purposes of combined reporting  
2 in general under the Corporation Business Tax Act (1945),  
3 P.L.1945, c.162 (C.54:10A-1 et seq.), that the combined group shall  
4 include all of the members of the combined group, wherever located  
5 or formed. For privilege periods ending on and after July 31, 2022,  
6 the combined group shall include all of the income and attributes of  
7 those members regardless of how or whether those members file  
8 federal returns or report or include their income in federal taxable  
9 income for federal purposes, and without regard to any exemption  
10 or exclusion from federal taxable income under the terms of a tax  
11 treaty; provided, however, any deductions that are allowed under  
12 the federal Internal Revenue Code that are also allowable under the  
13 Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1  
14 et seq.), that would apply to a U.S. corporation, but that a non-U.S.  
15 corporation is prohibited from claiming for federal corporation  
16 income tax purposes because the corporation's income was not  
17 included in federal taxable income for any reason or because the  
18 corporation is a non-U.S. corporation, shall be allowed for the non-  
19 U.S. corporation members of the combined group for New Jersey  
20 corporation business tax purposes as though those non-U.S.  
21 corporation members were U.S. corporations.<sup>1</sup>

22 (cf: P.L.2023, c.50, s.1)

23

24 2. Section 18 of P.L.2018, c.48 (C.54:10A-4.6) is amended to  
25 read as follows:

26 18. A taxable member of a combined group shall determine its  
27 entire net income from the unitary business as its share of the entire  
28 net income of the combined group in accordance with a combined  
29 unitary tax return made pursuant to this section and sections 19, 20,  
30 and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and  
31 C.54:10A-4.11). The entire net income from the unitary business of  
32 a combined group is the sum of the entire net incomes of each  
33 taxable member and each nontaxable member of the combined  
34 group derived from the unitary business, which shall be determined  
35 as follows:

36 a. For a member incorporated in the United States, the income  
37 to be included in the entire net income of the combined group shall  
38 be the member's entire net income otherwise determined pursuant to  
39 the Corporation Business Tax Act (1945), P.L.1945, c.162  
40 (C.54:10A-1 et seq.).

41 b. (1) For a member not incorporated in the United States, the  
42 income to be included in the entire net income of the combined  
43 group shall be determined from a profit and loss statement that shall  
44 be prepared for each foreign branch or corporation in the currency  
45 in which the books of account of the branch or corporation are  
46 regularly maintained, adjusted to conform it to the accounting  
47 principles generally accepted in the United States for the  
48 presentation of those statements and further adjusted to take into

1 account any book-tax differences required by federal or State law.  
2 The profit and loss statement of each foreign member of the  
3 combined group and the allocation factors related thereto, whether  
4 United States or foreign, shall be translated into or from the  
5 currency in which the parent company maintains its books and  
6 records on any reasonable basis consistently applied on a year-to-  
7 year or entity-by-entity basis. Income shall be expressed in United  
8 States dollars. In lieu of these procedures and subject to the  
9 determination of the director that the income to be reported  
10 reasonably approximates income as determined under the  
11 Corporation Business Tax Act (1945), P.L.1945, c.162  
12 (C.54:10A-1 et seq.), income may be determined on any reasonable  
13 basis consistently applied on a year-to-year or entity-by-entity  
14 basis.

15 (2) For privilege periods ending on and after July 31, 2022:

16 (a) Notwithstanding any law or treaty to the contrary, and  
17 regardless of the combined return filing method other than a world-  
18 wide group combined return, for a member that is incorporated or  
19 formed in a foreign nation with a comprehensive tax treaty with the  
20 United States, entire net income shall not include an item of income  
21 or loss excluded or exempted from federal taxable income under the  
22 terms of the treaty, and no other deduction, exclusion, or  
23 elimination will be permitted for an item of income or loss excluded  
24 or exempted by this paragraph.

25 (b) For a corporation that is not incorporated in the United  
26 States, and that is a member of a water's-edge group or affiliated  
27 group for purposes of filing a combined return, the member shall  
28 only include in entire net income the following: in the case of a  
29 member that files a federal tax return, the member shall only  
30 include the member's effectively connected income or loss reported  
31 for federal purposes, as modified by the provisions of the  
32 Corporation Business Tax Act (1945), P.L.1945, c.162  
33 (C.54:10A-1 et seq.); and in the case of a member that does not file  
34 a federal tax return but that has United States source income or loss,  
35 the member shall only include that United States source income or  
36 loss, as modified by the provisions of the Corporation Business Tax  
37 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to the extent that  
38 United States source income or loss would otherwise be effectively  
39 connected income or loss if the member would have been  
40 conducting a business that is effectively connected to the United  
41 States. For the purpose of determining what income or loss to  
42 include in entire net income pursuant to this paragraph, the member  
43 shall take into account only the items of expense and allocation  
44 factor receipts attributable to that income or loss.

45 c. (1) **【If】** (a) For privilege periods ending before July 31,  
46 2023, if a member of a combined group receives income from the  
47 unitary business from a partnership, the combined group's entire net

1 income shall include the member's direct and indirect distributive  
2 share of the partnership's unitary business income.

3 (b) For privilege periods ending on and after July 31, 2023, if a  
4 member of a combined group receives income from the unitary  
5 business from a partnership, the combined group's entire net  
6 income shall include the member's direct and indirect distributive  
7 share of the partnership's unitary business income, and the unitary  
8 partnership shall not be liable for the portion of the payment  
9 imposed pursuant to section 12 of P.L.2002, c.40 (C.54:10A-15.11)  
10 that is directly, or indirectly in the case of a tiered partnership,  
11 attributable to that member.

12 (2) The distributive share of income received by a limited  
13 partner from a qualified investment partnership shall not be  
14 considered to be derived from a unitary business unless the general  
15 partner of such investment partnership and such limited partner  
16 have common ownership. To the extent that the limited partner is  
17 otherwise carrying on or doing business in New Jersey, it shall  
18 allocate its distributive share of income from a qualified investment  
19 partnership in accordance with subsection a. of section 3 of  
20 P.L.2001, c.136 (C.54:10A-15.6) or subsection a. of section 4 of  
21 P.L.2001, c.136 (C.54:10A-15.7) as applicable. If the limited  
22 partner is not otherwise carrying on or doing business in New  
23 Jersey, its distributive share of income from an investment  
24 partnership is not subject to tax under this chapter.

25 d. All dividends paid by one member to another member of the  
26 combined group shall be eliminated from the income of the  
27 recipient.

28 e. Except as otherwise provided by regulation, business income  
29 from an intercompany transaction among members of the same  
30 combined group shall be deferred in a manner similar to the deferral  
31 under 26 C.F.R. s.1.1502-13, as determined by the director. Upon  
32 the occurrence of either of the events set forth in paragraphs (1) and  
33 (2) of this subsection, deferred income resulting from an  
34 intercompany transaction among members of a combined group  
35 shall be restored to the income of the seller and shall be included in  
36 the net income of the combined group as if the seller had earned the  
37 income immediately before the event:

38 (1) The object of a deferred intercompany transaction is: (a)  
39 resold by the buyer to an entity that is not a member of the  
40 combined group, (b) resold by the buyer to an entity that is a  
41 member of the combined group for use outside the unitary business  
42 in which the buyer and seller are engaged, or (c) converted by the  
43 buyer to a use outside the unitary business in which the buyer and  
44 seller are engaged; or

45 (2) The buyer and seller cease to be members of the same  
46 combined group, regardless of whether the buyer and seller remain  
47 sufficiently interdependent, integrated, and interrelated through



1 their activities so as to provide a synergy and mutual benefit that  
2 produces a sharing or exchange of value between them.

3 In the case of an event set forth in paragraph (2) of this  
4 subsection, no portion of the income or loss shall be included in  
5 entire net income of the combined group, but shall be included in  
6 the entire net income of the respective member.

7 f. A charitable expense incurred by a member of a combined  
8 group shall, to the extent allowable as a deduction pursuant to  
9 section 170 of the federal Internal Revenue Code, 26 U.S.C. s.170,  
10 be subtracted first from the combined group's entire net income,  
11 subject to the income limitations of that section applied to the entire  
12 net income of the group. A charitable deduction disallowed under  
13 section 170 of the federal Internal Revenue Code, 26 U.S.C. s.170,  
14 but allowed as a carryover deduction in a subsequent privilege  
15 period, shall be treated as originally incurred in the subsequent year  
16 by the same member and the provisions of this section shall apply  
17 in the subsequent privilege period in determining the allowable  
18 deduction for that privilege period.

19 g. A prior net operating loss conversion carryover incurred by a  
20 member of a combined group shall be deducted from the entire net  
21 income or loss allocated to this state pursuant to section 19 of  
22 P.L.2018, c.48 (C.54:10A-4.7) as follows:

23 (1) **【Such】** For privilege periods ending before July 31, 2023, a  
24 prior net operating loss conversion carryover deduction shall be  
25 allowed to offset only the entire net income allocated to this state of  
26 the corporation that created the prior net operating loss; the prior  
27 net operating loss conversion carryover cannot be shared with other  
28 members of the combined group. For privilege periods ending on  
29 and after July 31, 2023, the remaining balance of prior net operating  
30 loss conversion carryover deductions of the members of the  
31 combined group shall be pooled together and shall be allowed to  
32 offset the entire net income allocated to this State of either: the  
33 combined group for which the corporation is a member; or the  
34 corporation that created the prior net operating loss conversion  
35 carryover, provided that the corporation departs the combined group  
36 before the corporation's respective prior net operating loss  
37 conversion carryover has been completely used.

38 (2) The prior net operating loss conversion carryover deduction  
39 computed under subsection (u) of section 4 of P.L.1945, c.162  
40 (C.54:10A-4) shall be applied against the entire net income  
41 allocated to this state **【of the corporation that created the prior net**  
42 **operating loss】** before the net operating loss carryover computed  
43 under subsection h. of this section.

44 **【The】** (3) For privilege periods ending before July 31, 2023, the  
45 director shall provide regulations establishing rules on how each  
46 such corporation shall apply its prior net operating loss conversion  
47 carryover against its share of entire net income allocated as if filing  
48 on a separate entity basis. For privilege periods ending on and after

1 July 31, 2023, the director shall provide regulations establishing  
2 rules on pooling members' prior net operating loss conversion  
3 carryovers and tracing members' prior net operating loss conversion  
4 carryovers in the event a member departs the combined group  
5 before the member's prior net operating loss conversion carryovers  
6 are completely used.

7 **【A】** (4) For privilege periods ending before the members of a  
8 combined group pool their prior net operating loss conversion  
9 carryovers for usage by the combined group, a member of 【a】 the  
10 combined group may sell prior net operating loss conversion  
11 carryover to other members of the combined group, if otherwise  
12 applicable and allowable under section 2 of P.L.1997, c.334  
13 (C.54:10A-4.2) and section 1 of P.L.1997, c.334 (C.34:1B-7.42a);  
14 provided, however, such sale of prior net operating loss conversion  
15 carryover must be made at arm's length price at the same rate as  
16 though the sale was to an unrelated taxpayer.

17 h. A net operating loss carryover incurred by a combined group  
18 or by a member of 【a】 the combined group shall be deducted from  
19 entire net income or loss allocated to this State pursuant to section  
20 19 of P.L.2018, c.48 (C.54:10A-4.7) as follows:

21 (1) (a) For privilege periods beginning on or after the first day  
22 of the initial privilege period for which a combined unitary tax  
23 return is required under this section and sections 19, 20, and 23 of  
24 P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11),  
25 but ending before July 31, 2023, if the computation of a combined  
26 group's entire net income allocated to this state results in a net  
27 operating loss, a taxable member of such group may carry over the  
28 net operating loss allocated to this state, as calculated under this  
29 section and sections 19 and 23 of P.L.2018, c.48  
30 (C.54:10A-4.7 and C.54:10A-4.11), and shall be deductible from  
31 entire net income derived from the unitary business in a future  
32 privilege period to the extent that the carryover and deduction is  
33 otherwise consistent with subsection (v) of section 4 of P.L.1945,  
34 c.162 (C.54:10A-4).

35 (b) For privilege periods ending on and after July 31, 2023, if  
36 the computation of a combined group's entire net income allocated  
37 to this State results in a net operating loss, a combined group may  
38 carry over the net operating loss allocated to this state, as calculated  
39 under this section and sections 19 and 23 of P.L.2018, c.48  
40 (C.54:10A-4.7 and C.54:10A-4.11), and shall be deductible from  
41 entire net income derived from the unitary business in a future  
42 privilege period to the extent that the carryover and deduction is  
43 otherwise consistent with subsection (v) of section 4 of P.L.1945,  
44 c.162 (C.54:10A-4).

45 (2) (a) Where a taxable member of a combined group has a net  
46 operating loss carryover derived from a loss incurred by a combined  
47 group in a privilege period beginning on or after the first day of the  
48 initial privilege period for which a combined unitary tax return is

1 required under this section and sections 19, 20, and 23 of P.L.2018,  
2 c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), but ending  
3 before July 31, 2023, then the taxable member may share the net  
4 operating loss carryover with other taxable members of the  
5 combined group if such other taxable members were members of  
6 the combined group in the privilege period that the loss was  
7 incurred. Any amount of net operating loss carryover that is  
8 deducted by another taxable member of the combined group shall  
9 reduce the amount of net operating loss carryover that may be  
10 carried over by the taxable member that originally incurred the loss.

11 (b) Where a combined group has a net operating loss carryover  
12 derived from a loss incurred by the combined group in a privilege  
13 period ending on or after July 31, 2023, then the combined group  
14 may use the net operating loss carryover. Any amount of net  
15 operating loss carryover that is deducted by the combined group  
16 shall reduce the amount of net operating loss carryover that may be  
17 carried over by the combined group.

18 (3) Where a taxable member of a combined group has a net  
19 operating loss carryover derived from a loss incurred in a privilege  
20 period during which the taxable member was not a member of such  
21 combined group, the carryover shall remain available to be  
22 deducted by that taxable member or other group members that, in  
23 the year the loss was incurred, were part of the same combined  
24 group as such taxable member. Such carryover shall not be  
25 deductible by any other members of the combined group for  
26 privilege periods ending before July 31, 2023. For privilege periods  
27 ending on and after July 31, 2023, such carryover may (a) be pooled  
28 with the combined group net operating loss carryover for use by the  
29 combined group or (b) be used by the taxable member that  
30 generated the carryover for that member's activities that are  
31 independent of the unitary business of the combined group;  
32 provided, however, the combined group and the members of the  
33 combined group shall use tracing protocols for all net operating loss  
34 carryovers, as may be prescribed by regulations promulgated by the  
35 director.

36 (4) A net operating loss carryover or, for privilege periods  
37 ending on and after July 31, 2023, a combined group net operating  
38 loss carryover, shall not include any net operating loss incurred  
39 during any privilege period beginning prior to the first day of the  
40 initial privilege period for which a combined unitary tax return is  
41 required under this section and sections 19 and 23 of P.L.2018, c.48  
42 (C.54:10A-4.7 and C.54:10A-4.11).

43 (5) Where a taxable member of a combined group has a net  
44 operating loss carryover derived from a loss incurred by a combined  
45 group in a privilege period beginning on or after the first day of the  
46 initial privilege period for which a combined unitary tax return is  
47 required under this section and sections 19, 20, and 23 of P.L.2018,  
48 c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), and the

1 taxable member departs the combined group and continues to be a  
2 taxpayer for the purposes of the Corporation Business Tax Act  
3 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the taxable member  
4 shall be entitled to take its respective portion of the combined group  
5 net operating loss carryover and the combined group shall not be  
6 entitled to use such portion of the net operating loss carryover.

7 (6) For privilege periods ending on and after July 31, 2023, each  
8 taxable member of a combined group shall track that member's  
9 proportionate share of any combined group net operating loss  
10 carryovers used.

11 i. Tax credits earned by a member of a combined group shall  
12 be utilized as follows:

13 (1) If a taxable member of a combined group earns a tax credit  
14 in a privilege period beginning on or after the first day of the initial  
15 privilege period for which a combined unitary tax return is required  
16 under this section and sections 19, 20, and 23 of P.L.2018, c.48  
17 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable  
18 member may share the credit with other taxable members of the  
19 combined group. Any amount of credit that is utilized by another  
20 taxable member of the combined group shall reduce the amount of  
21 credit carryover that may be carried over by the taxable member  
22 that originally earned the credit. If a taxable member of a combined  
23 group has a tax credit carryover derived from a privilege period  
24 beginning on or after the first day of the initial privilege period for  
25 which a combined unitary tax return is required under this section  
26 and sections 19, 20, and 23 of P.L.2018, c.48  
27 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable  
28 member may share the carryover credit with other taxable members  
29 of the combined group.

30 (2) If a taxable member of a combined group has a tax credit  
31 carryover derived from a privilege period beginning prior to the  
32 first day of the initial privilege period for which a combined unitary  
33 tax return is required under this section and sections 19, 20, and 23  
34 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-  
35 4.11), then the taxable member may share the carryover credit with  
36 other taxable members of the combined group.

37 (3) If a taxable member of a combined group has a tax credit  
38 carryover derived from a privilege period during which the taxable  
39 member was not a member of such combined group, the credit  
40 carryover shall remain available to be utilized by such taxable  
41 member or other group members.

42 (4) To the extent a taxable member has more than one  
43 corporation business tax credit that it may utilize in a privilege  
44 period, whether such credits were earned by said member or are  
45 available to said member in accordance with paragraphs (1), (2) and  
46 (3) of this subsection, the order of priority of the application of the  
47 credits shall be as prescribed by the director.

1 j. An expense of a member of the combined group that is  
2 directly or indirectly attributable to the income of any member of  
3 the combined group, which income this State is prohibited from  
4 taxing pursuant to the laws or Constitution of the United States,  
5 shall be disallowed as a deduction for purposes of determining the  
6 combined group's entire net income.

7 k. Nothing in this section shall apply to:

8 (1) A corporation or combined group which is licensed, in  
9 whole or in part, as an insurance company under the laws of this  
10 State or of another state, including corporations which are surplus  
11 lines insurers declared eligible by the Commissioner of Banking  
12 and Insurance pursuant to section 11 of P.L.1960, c.32  
13 (C.17:22-6.45) to insure risks within this State that is not a  
14 combinable captive insurance company. Notwithstanding a  
15 provision, if any, to the contrary in this section, the income of an  
16 insurance company that is not a combinable captive insurance  
17 company, the allocation or apportionment of income related thereto  
18 and the apportionment factors of an insurance company that is not a  
19 combinable captive insurance company shall not be included in a  
20 combined unitary tax return filed under this section and sections 19,  
21 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and  
22 C.54:10A-4.11). In addition, the dividend exclusion provisions of  
23 paragraph (5) of subsection (k) of section 4 of P.L.1945, c.162  
24 (C.54:10A-4) relating to dividends paid by insurance companies to  
25 non-insurance companies included in the unitary group shall not be  
26 affected by P.L.2018, c.48 (C.54:10A-5.41 et al.).

27 (2) A corporation that is regulated, in whole or in part, by the  
28 Federal Energy Regulatory Commission, the New Jersey Board of  
29 Public Utilities, or similar regulatory body of another state, with  
30 respect to rates charged to customers for electric or gas services and  
31 water and wastewater services.

32 l. (Deleted by amendment, P.L.2020, c.118)

33 m. To the extent consistent with the Corporation Business Tax  
34 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the federal rules  
35 and regulations governing consolidated return net operating losses  
36 and net operating loss carryovers shall apply to the New Jersey net  
37 operating loss carryover provisions under subsection h. of this  
38 section as though the combined group filed a federal consolidated  
39 return, regardless of how the members of the combined group filed  
40 for federal purposes.

41 n. The principles and provisions set forth in federal regulations  
42 promulgated pursuant to section 1502 of the Internal Revenue Code  
43 (26 U.S.C. s.1502), shall apply to the extent consistent with the  
44 Corporation Business Tax Act (1945), New Jersey combined group  
45 membership principles, New Jersey combined unitary return  
46 principles, and regulations set forth by the director.

47 o. For purposes of the deduction allowed in paragraph (4) of  
48 subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), a

1 combined group shall be treated as one taxpayer; provided,  
2 however, a combined group shall only be eligible for the deduction  
3 if at least one of the taxable members is a banking corporation and  
4 the taxable member has an international banking facility. The  
5 income of the combined group shall not be eligible for the  
6 deduction allowed in paragraph (4) of subsection (k) of section 4 of  
7 P.L.1945, c.162 (C.54:10A-4) if such income was already  
8 eliminated pursuant to other subsections of this section.

9 p. This section shall apply to world-wide group elective  
10 combined returns and affiliated group elective combined returns in  
11 accordance with section 23 of P.L.2018, c.48 (C.54:10A-4.11). An  
12 election to file an affiliated group combined return shall be an  
13 election to treat all of the member's attributes and income as though  
14 they were from one unitary business.

15 q. The director shall promulgate rules and regulations  
16 necessary to carry out the provisions of this section.

17 (cf: P.L.2020, c.118, s.6)

18

19 3. Section 19 of P.L.2018, c.48 (C.54:10A-4.7) is amended to  
20 read as follows:

21 19. A taxable member of a combined group shall determine its  
22 allocation factor for determining its share of the entire net income  
23 of the combined group, as determined pursuant to the provisions of  
24 section 18 of P.L.2018, c.48 (C.54:10A-4.6), pursuant to sections 6  
25 through 8 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-8);  
26 provided however:

27 a. **[In computing its denominator for the sales fraction, the**  
28 **taxable member shall use the combined group's denominator for**  
29 **that fraction. In computing the numerator of its sales fraction, each**  
30 **taxable member shall be treated as a separate taxpayer and that**  
31 **taxable member's numerator will include only that taxable member's**  
32 **receipts assignable to this State.]** (Deleted by amendment, P.L. \_\_, c. (pending before the Legislature as this bill))

34 b. All business income of a combined group engaged in the  
35 transportation of freight by air or ground shall be apportioned to  
36 this State by multiplying the income by a fraction, the numerator of  
37 which is the ton miles traveled by the combined group's mobile  
38 assets in this State by type of mobile asset and the denominator of  
39 which is the total ton miles traveled by the combined group's  
40 mobile assets everywhere. This section applies, if 50 per cent or  
41 more of the combined group's entire net income is derived from the  
42 transportation of freight by air or ground.

43 c. In determining the numerator and denominator of the  
44 allocation factors of taxable members, transactions between or  
45 among members of the combined group shall be eliminated.

46 d. The director shall promulgate rules and regulations  
47 necessary to carry out the provisions of this section.

1     e. In computing the numerator and denominator of the  
2 allocation factor of the combined group, the combined group, as one  
3 taxpayer, shall take into account all unitary receipts of all members  
4 of the combined group.

5 (cf: P.L.2018, c.48, s.19)

6  
7     4. Section 22 of P.L.2018, c.48 (C.54:10A-4.10) is amended to  
8 read as follows:

9     22. a. Determination of Managerial Member. If the combined  
10 group has a common parent corporation within the meaning of the  
11 Corporation Business Tax Act (1945), P.L.1945, c.162  
12 (C.54:10A-1 et seq.), and that common parent corporation is a  
13 taxable member of the corporate group, the managerial member  
14 shall be the common parent corporation. In other cases, the  
15 combined group shall select a taxable member as its managerial  
16 member or, in the discretion of the director or upon failure of the  
17 combined group to select its managerial member, the director shall  
18 designate a taxable member of the combined group as managerial  
19 member. Once the election of the managerial member is made, the  
20 election shall be binding for **[10]** the current privilege period and  
21 five successive privilege periods, except as otherwise provided for  
22 by the director.

23     b. A combined group shall file a mandatory combined return  
24 under this section in the form and manner prescribed by the  
25 director. The managerial member of the combined group shall file  
26 the mandatory combined return on behalf of the taxable members of  
27 the combined group. The managerial member shall be required to  
28 file taxable member returns; file taxable member extensions for  
29 filing tax returns and other documents with the director; pay taxable  
30 member liabilities; receive taxable member findings, assessments,  
31 and notices; make and receive taxable member claims, or file  
32 taxable member protests and appeals; and shall be the responsible  
33 party liable for filing and paying the tax on behalf of the combined  
34 group.

35     c. The privilege period for the combined group is the privilege  
36 period of the managerial member. If a member of a combined group  
37 has a different fiscal or calendar accounting period from the  
38 combined group's privilege period, that member with a different  
39 period shall report amounts from its return for its fiscal or calendar  
40 accounting year that ends during the group privilege period.

41     d. Each taxable member of a combined group shall be jointly  
42 and severally liable for the tax due from any taxable member  
43 pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), whether or not  
44 that tax has been self-assessed, and for any interest, penalties, or  
45 additions to tax due.

46     e. If a combined group is eligible to elect the managerial  
47 member of the combined group, notice of the election shall be  
48 submitted in writing to the director not later than the due date or, if

1 an extension of time to file has been requested and granted, not later  
2 than the extended due date of the mandatory combined return for  
3 the initial privilege period for which a return is required. The  
4 managerial member shall be the designated agent and the  
5 responsible person for filing the combined return and paying the tax  
6 for the combined group. If another taxable member is subsequently  
7 designated as the managerial member, the subsequent designation  
8 shall be subject to the approval of the director.

9 f. The director is authorized to promulgate regulations with  
10 regard to installment payments, estimated payments, overpayments,  
11 refunds and any other filing or payment matters related to combined  
12 groups filing combined returns.

13 g. For privilege periods ending on and after July 31, 2019, a  
14 combined group must file a mandatory combined return. However,  
15 if privilege periods of the members of the combined group differ,  
16 the first mandatory combined return for the combined group shall  
17 be required for the privilege period of the managerial member.

18 h. The members of a combined group shall notify the director  
19 of a change in the combined group where a member dissolves, a  
20 merger of any kind occurs, a member withdraws from the group, a  
21 member ceases doing business, a member of the group is acquired  
22 by a third party not in the group, or additional members enter the  
23 group which are required to be included. Such notice shall be  
24 submitted in written form, as determined by the director, not later  
25 than the due date, or, if an extension of time to file has been  
26 requested and granted, not later than the extended due date of the  
27 combined unitary tax return for the privilege period in which a  
28 change in the combined group occurs.

29 i. Any notice shall be sent to the managerial member of the  
30 combined group at the last known address of the managerial  
31 member as indicated on either the last filing required or made under  
32 this Chapter or a subsequent electronic or written notice provided  
33 by the managerial member under rules prescribed by the director.

34 j. The director may, at the director's sole discretion:

35 (1) make any deficiency assessment against either the  
36 managerial member or a taxable member of the combined group;

37 (2) refund or credit any overpayment to either the managerial  
38 member or a taxable member of the combined group;

39 (3) require any payment to be made by electronic funds transfer;  
40 and

41 (4) require the mandatory combined return to be filed  
42 electronically.

43 (cf: P.L.2020, c.118, s.8)

44  
45 5. Section 23 of P.L.2018, c.48 (C.54:10A-4.11) is amended to  
46 read as follows:

47 23. a. The managerial member of a combined group may elect  
48 to have the combined group determined on a world-wide basis or an



1 affiliated group basis. If no such election is made, the combined  
2 group shall be determined on a water's-edge basis and will take into  
3 account the incomes and allocation factors of only the following  
4 members of the combined group:

5 (1) each member incorporated in the United States, or formed  
6 under the laws of the United States, any state, the District of  
7 Columbia, or any territory or possession of the United States,  
8 excluding such a member if eighty per cent or more of both its  
9 property and payroll during the privilege period are located outside  
10 the United States, the District of Columbia, and any territory or  
11 possession of the United States;

12 (2) each member~~], wherever]~~ incorporated or formed under the  
13 laws of a foreign nation, if twenty per cent or more of both its  
14 property and payroll during the privilege period are located in the  
15 United States, the District of Columbia, or any territory or  
16 possession of the United States;

17 (3) any member that earns more than 20% of its income, directly  
18 or indirectly, from intangible property or related service activities  
19 that are deductible against the income of other members of the  
20 combined group;

21 (4) ~~each member that has income as defined under the~~  
22 ~~Corporation Business Tax Act (1945), P.L.1945, c.162~~  
23 ~~(C.54:10A-1 et seq.) and has sufficient nexus in New Jersey~~  
24 ~~pursuant to section 2 of P.L.1945, c.162 (C.54:10A-2).] (Deleted by~~  
25 ~~amendment, P.L. , c. (pending before the Legislature as this bill)~~

26 (5) any member, wherever incorporated or formed, that is not  
27 included in paragraphs (1) through (3) of this subsection, if that  
28 member has effectively connected income or loss within the  
29 meaning of the federal Internal Revenue Code, as modified by the  
30 provisions of the Corporation Business Tax Act (1945), P.L.1945,  
31 c.162 (C.54:10A-1 et seq.). For any member that is included  
32 pursuant to this paragraph, the member shall be included in the  
33 combined group only to the extent of its effectively connected  
34 income or loss, taking into account items of expense and allocation  
35 factors associated with the effectively connected income or loss.

36 b. A world-wide election or an affiliated group election is  
37 effective only if made on a timely filed, original return for a  
38 privilege period by the managerial member of the combined group.  
39 Such election is binding for, and applicable to, the privilege period  
40 for which it is made and for the five immediately succeeding  
41 privilege periods. Provided however, the election can be revoked  
42 prior to the expiration of the binding period by written request to  
43 the Director of Taxation for reasonable cause including but not  
44 limited to a substantial change in ownership, members of the  
45 combined group or principal business, or changes in tax law,  
46 regulation or policy.

47 c. If the managerial member elects to determine the members  
48 of a combined group on an affiliated group basis, the taxable

1 members shall take into account the entire net income or loss and  
2 allocation factors of all of the members of its affiliated group,  
3 regardless of whether such members are engaged in a unitary  
4 business, that are subject to tax or would be subject to tax under this  
5 chapter, if doing business in this State.

6 d. The director shall promulgate rules and regulations  
7 necessary to carry out the provisions of this section.

8 (cf: P.L.2018, c.48, s.23)

9

10 6. (New section) a. Notwithstanding the provisions of the  
11 Corporation Business Tax Act (1945), P.L.1945, c.162  
12 (C.54:10A-1 et seq.) or any other law, rule, or regulation to the  
13 contrary, for the purposes of section 2 of P.L.1945, c.162  
14 (C.54:10A-2), a corporation deriving receipts from sources within  
15 this State shall be deemed to have substantial nexus and is subject  
16 to the taxes imposed under the Corporation Business Tax Act  
17 (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) if the corporation  
18 meets either of the following criteria:

19 (1) The corporation derives receipts from sources within this  
20 State, pursuant to sections 6 through 10 of P.L.1945, c.162  
21 (C.54:10A-6 through C.45:10A-10), in excess of \$100,000 during  
22 the corporation's fiscal or calendar year; or

23 (2) The corporation has 200 or more separate transactions  
24 delivered to customers in this State during the corporation's fiscal  
25 or calendar year. For the purposes of this paragraph, for any  
26 transaction that is a service transaction, "delivered to a customer"  
27 shall mean where the benefit is received within the meaning of  
28 paragraph (4) of subsection (B) of section 6 of P.L.1945, c.162  
29 (C.54:10A-6).

30 b. This section shall not preclude a corporation from having  
31 nexus with this State if the corporation's exercise of its franchise in  
32 this State is otherwise sufficient to give this State jurisdiction to  
33 impose taxes pursuant to the Corporation Business Tax Act (1945),  
34 P.L.1945, c.162 (C.54:10A-1 et seq.), as consistent with the  
35 provisions of the United States Constitution, the New Jersey  
36 Constitution, and the statutes of the United States and of the State  
37 of New Jersey. This section shall not preclude a corporation from  
38 owing the statutory minimum tax provided in subsection (e) of  
39 section 5 of P.L.1945, c.162 (C.54:10A-5) if a corporation has  
40 nexus with this State and is otherwise protected from tax based on  
41 income pursuant to 15 U.S.C. ss.381-384.

42

43 7. (New section) For privilege periods ending on and after July  
44 31, 2023, but before January 1, 2024, no penalties or interest shall  
45 accrue for the underpayment of tax due with respect to any  
46 provision of P.L. , c. (C. ) (pending before the Legislature  
47 as this bill) that creates an additional tax liability; provided,  
48 however, for privilege periods ending on and after July 31, 2023,

1 the additional estimated payments shall be made no later than the  
2 second next estimated payment due following the enactment of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill) or  
4 the second estimated payment due after January 1, 2024, whichever  
5 due date is later.

6  
7 <sup>1</sup>8. Section 10 of P.L.1945, c.162 (C.54:10A-10) is amended to  
8 read as follows:

9 10. a. Whenever it shall appear to the director that any taxpayer  
10 fails to maintain its records in accordance with sound accounting  
11 principles or conducts its business or maintains its records in such  
12 manner as either directly or indirectly to distort its true entire net  
13 income or its true entire net worth under this act or the proportion  
14 thereof properly allocable to this State, or whenever any taxpayer  
15 maintains a place of business outside this State, or whenever any  
16 agreement, understanding or arrangement exists between a taxpayer  
17 and any other corporation or any person or firm, for the purpose of  
18 evading tax under this act, or whereby the activity, business,  
19 receipts, expenses, assets, liabilities, income or net worth of the  
20 taxpayer are improperly or inaccurately reflected, the director is  
21 authorized and empowered, in the director's discretion and in such  
22 manner as the director may determine, to adjust and redetermine  
23 such items, and to adjust items of gross receipts, tangible or  
24 intangible property and payrolls within and without the State and  
25 the allocation of entire net income or entire net worth or to make  
26 any other adjustments in any tax report or tax returns as may be  
27 necessary to make a fair and reasonable determination of the  
28 amount of tax payable under this act.

29 b. Where (1) any taxpayer conducts its activity or business  
30 under any agreement, arrangement or understanding in such manner  
31 as either directly or indirectly to benefit its members or  
32 stockholders, or any of them, or any person or persons directly or  
33 indirectly interested in such activity or business, by entering into  
34 any transaction at more or less than a fair price which, but for such  
35 agreement, arrangement or understanding, might have been paid or  
36 received therefor, or (2) any taxpayer, a substantial portion of  
37 whose capital stock is owned either directly or indirectly by or  
38 through another corporation, enters into any transaction with such  
39 other corporation on such terms as to create an improper loss or net  
40 income, the director may include in the entire net income of the  
41 taxpayer the fair profits which, but for such agreement, arrangement  
42 or understanding, the taxpayer might have derived from such  
43 transaction. The director may require any person or corporation to  
44 submit such information under oath or affirmation, or to permit  
45 such examination of its books, papers and documents, as may be  
46 necessary to enable the director to determine the existence, nature  
47 or extent of an agreement, understanding or arrangement to which

1 this section relates, whether or not such person or corporation is  
2 subject to the tax imposed by this act.

3 c. (Deleted by amendment, P.L.2018, c.48)

4 d. The director may combine or de-combine taxpayers under  
5 any of the following circumstances:

6 (1) If the director determines that a combined group's income or  
7 loss does not properly reflect the unitary business activities of the  
8 combined group, the director may require the combined return of  
9 the combined group to include the income, as well as the associated  
10 allocation factor or factors, of any taxpayer who is not otherwise  
11 included in the combined group on the combined return, but who is  
12 a member of a unitary business with the combined group, in order  
13 to correct the improper reflection of the allocation of income of the  
14 entire unitary business. The director may require a combined return  
15 to include the income and associated allocation factor or factors of  
16 taxpayers that are not corporations, such as disregarded entities,  
17 limited liability companies that are not corporations for tax  
18 purposes, and partnerships.

19 (2) If the director determines that a combined group's income or  
20 loss does not reflect a proper allocation of income or represents the  
21 evasion of proper taxation, the director may require that a combined  
22 return include or exclude the income and associated allocation  
23 factor or factors of taxpayers that may or may not have been  
24 included as members on the combined return. The director may  
25 require that a combined return include or exclude the income and  
26 associated allocation factor or factors of taxpayers that are not  
27 corporations, such as disregarded entities, limited liability  
28 companies that are not corporations for tax purposes, and  
29 partnerships.

30 (3) If the director determines that the reported income or loss of  
31 a member of a combined group engaged in a unitary business with  
32 any taxpayer not otherwise included in the combined group on the  
33 combined return represents an avoidance or evasion of proper  
34 taxation by the taxpayer or the combined group member, the  
35 director may require all, or any part, of the income or loss, and  
36 associated allocation factor or factors, of the taxpayer to be include  
37 in or excluded from the combined return for the unitary business or  
38 may require that use of a different allocation factor or factors.

39 (4) If, upon the director's audit of a combined return and review  
40 of any facts and circumstances that the director deems relevant to  
41 the completion of the audit, the director determines that any  
42 member of the combined group for which the combined return was  
43 filed was not engaged in unitary business activities with the  
44 combined group, or the director determines that the principal  
45 purpose of including that member was to shelter income, dilute the  
46 allocation factor of the combined group, improperly increase the  
47 combined group net operating losses, or share tax credits that were  
48 not related to any function of the combined group, the director may

1 de-combine the return and require any member of the combined  
2 group to file a separate return, and the director may prohibit the  
3 member's inclusion on the combined return.

4 e. Notwithstanding any provision in the Corporation Business  
5 Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) enacted to  
6 prevent tax avoidance or evasion or to clearly reflect the income of  
7 any taxpayer, the director may require a combined return to include  
8 or exclude the income or loss, and associated allocation factor or  
9 factors, of any taxpayer that is not a corporation. If a taxpayer  
10 disagrees with the director's determination to include or exclude the  
11 taxpayer's income or loss, or any associated allocation factor or  
12 factors, on the combined return, the taxpayer has the burden of  
13 proving by cogent evidence that is definite, positive, and certain in  
14 quality and quantity to overcome the director's presumption of  
15 correctness.

16 (cf: P.L.2018, c.48, s.9)]<sup>1</sup>

17

18 <sup>1</sup>[9.] 8.<sup>1</sup> Section 15 of P.L.1945, c.162 (C.54:10A-15) is  
19 amended to read as follows:

20 15. The tax imposed by this act shall be due and payable  
21 annually hereafter, commencing with the calendar year 1959, in the  
22 manner provided under subsection (a), (b) or (c) of this section,  
23 whichever shall be applicable.

24 (a) Every taxpayer shall annually pay a franchise tax, with  
25 respect to all or any part of each of its fiscal or calendar accounting  
26 years beginning after January 1, 1959, to be computed as herein  
27 provided, for such fiscal or calendar accounting year or part thereof,  
28 on a report which shall be filed on or before April 15 next  
29 succeeding the close of each such accounting year, or, if any such  
30 fiscal year ends after the last day of December and prior to July 1,  
31 on or before the fifteenth day of the fourth month after the close of  
32 such fiscal year, and the full amount of the tax hereunder shall be  
33 due and payable on or before the date prescribed herein for the  
34 filing of the return.

35 (b) Every taxpayer shall pay a like franchise tax with respect to  
36 all or any part of the period beginning January 1, 1959 and  
37 extending through any subsequent part of its first fiscal or calendar  
38 accounting year ending after said date. Such tax shall be computed  
39 as herein provided, for each and every fiscal or calendar accounting  
40 year or part thereof begun not earlier than July 2, 1957 and ending  
41 not later than December 31, 1959 on the basis of which a franchise  
42 tax has not accrued under this act prior to January 1, 1959. The tax  
43 imposed pursuant to this subsection shall be deemed a single tax for  
44 such period but shall be computed separately with respect to each  
45 such fiscal or calendar accounting year or part thereof on the basis  
46 of which a franchise tax has not previously accrued as aforesaid, on  
47 a report which shall be filed on or before April 15, next succeeding  
48 the close of each such accounting year, or, if any such fiscal year

1 ends after the last day of December and prior to July 1, on or before  
2 the fifteenth day of the fourth month after the close of such fiscal  
3 year, and the full amount of the tax hereunder shall be due and  
4 payable on or before the date prescribed herein for the filing of the  
5 report.

6 (c) With respect to all or any part of each of its privilege periods  
7 ending after June 30, 1967, every taxpayer shall annually pay a  
8 franchise tax on a report which shall be filed on or before the  
9 fifteenth day of the fourth month after the close of such privilege  
10 period, or part thereof, and the full amount of the tax hereunder  
11 shall be due and payable on or before the date prescribed herein for  
12 the filing of the return; provided, however, that for privilege periods  
13 ending on and after July 31, 2020, but before July 31, 2023, the due  
14 date of the New Jersey return shall be 30 days after the original due  
15 date for filing the taxpayer's federal corporate income tax return for  
16 such privilege period, or part thereof, and **【the】** for privilege  
17 periods ending on and after July 31, 2023, the due date of the New  
18 Jersey return shall be (1) the fifteenth day of the month immediately  
19 following the month of the original due date for filing the  
20 taxpayer's federal corporate income tax return for such privilege  
21 period, or part thereof, or (2) in the case of a taxpayer that received  
22 an extension to file for federal tax purposes, the fifteenth day of the  
23 month immediately following the month of the extended due date  
24 for filing the taxpayer's federal corporate income tax return for such  
25 privilege period, or part thereof. The full amount of the tax  
26 hereunder shall be due and payable on or before the date prescribed  
27 herein for the filing of the return.

28 (d) With respect to its fiscal or calendar accounting years ending  
29 after February 29, 1968 and prior to March 1, 1969, every taxpayer  
30 shall pay as a partial payment of franchise tax in addition to the tax  
31 payable under subsection (c) of this section, an amount equal to  
32 one-quarter of the tax payable under said subsection (c). With  
33 respect to each of its fiscal or calendar accounting years ending  
34 after February 28, 1969, every taxpayer shall annually pay as a  
35 partial payment of franchise tax in addition to the tax payable under  
36 subsection (c) of this section, an amount equal to one-half of the tax  
37 payable under said subsection (c). In the calculation of the tax  
38 pertaining to each succeeding accounting period, due in accordance  
39 with subsection (c) hereof, every taxpayer shall be entitled to a  
40 credit in the amount of the tax paid under this subsection (d) as a  
41 partial payment and shall be entitled to the return of any amount so  
42 paid which shall be found in excess of the total amount payable in  
43 accordance with said subsection (c) and this subsection (d).

44 (e) With respect to its fiscal or calendar accounting years ending  
45 on or after June 30, 1974, every taxpayer shall annually pay as a  
46 partial payment of franchise tax in addition to the tax payable under  
47 subsection (c) of this section, an amount equal to 60% of the tax  
48 payable under said subsection (c). In the calculation of the tax

1 pertaining to each succeeding accounting period, due in accordance  
2 with subsection (c) hereof, every taxpayer shall be entitled to a  
3 credit in the amount of the tax paid under this subsection (e) as a  
4 partial payment and shall be entitled to the return of any amount so  
5 paid which shall be found to be in excess of the total amount  
6 payable in accordance with said subsection (c) and this subsection  
7 (e).

8 (f) With respect to its privilege periods ending on or after  
9 December 31, 1984, in addition to the tax payable under subsection  
10 (c) of this section, every taxpayer, except a taxpayer with gross  
11 receipts of \$50,000,000 or more for the prior privilege period,  
12 which shall make installment payments pursuant to subsection (g)  
13 of this section, shall make installment payments of its franchise tax  
14 at the following times and in the following amounts of its estimated  
15 tax for its current fiscal or calendar accounting year:

16 (1) 25% thereof paid on or before the fifteenth day of the fourth  
17 month thereof;

18 (2) 25% thereof paid on or before the fifteenth day of the sixth  
19 month thereof;

20 (3) 25% thereof paid on or before the fifteenth day of the ninth  
21 month thereof; and

22 (4) the balance thereof paid on or before the fifteenth day of the  
23 twelfth month thereof.

24 (g) With respect to its privilege periods beginning on or after  
25 January 1, 2003, in addition to the tax payable under subsection (c)  
26 of this section, every taxpayer with gross receipts of \$50,000,000 or  
27 more for the prior privilege period shall make installment payments  
28 of its franchise tax at the following times and in the following  
29 amounts of its estimated tax for its current privilege period:

30 (1) 25% thereof paid on or before the fifteenth day of the fourth  
31 month thereof;

32 (2) 50% thereof paid on or before the fifteenth day of the sixth  
33 month thereof; and

34 (3) the balance thereof paid on or before the fifteenth day of the  
35 twelfth month thereof.

36 (h) In the calculation of the tax due in accordance with  
37 subsection (c) hereof, a taxpayer shall be entitled to a credit in the  
38 amount of the tax paid under subsection (f) or subsection (g) of this  
39 section as a partial payment and shall be entitled to the return of any  
40 amount so paid which is in excess of the total amount payable in  
41 accordance with subsection (c) and this subsection.

42 (i) For the purpose of this act, every taxpayer shall use the same  
43 calendar or fiscal year upon which it reports to the United States  
44 Treasury Department for Federal Income Tax purposes.

45 (cf: P.L.2020, c.118, s.12)

46

47 <sup>1</sup>**[10.] 9.**<sup>1</sup> Section 3 of P.L.1981, c.184 (C.54:10A-15.2) is  
48 amended to read as follows:

1       3. a. With respect to its fiscal or calendar accounting years  
2 ending on or after December 31, 1980 ~~【and thereafter】~~, but before  
3 July 31, 2023, any taxpayer with a tax liability of less than \$500.00  
4 under subsection (c) of section 15 of P.L.1945, c.162  
5 (C.54:10A-15) shall not be required to make any installment  
6 payments other than an installment payment of ~~【60%】~~ 60 percent,  
7 and ~~【50%】~~ 50 percent with respect to accounting years ending on  
8 or after December 31, 1981, which is required to be paid at the time  
9 of the annual return.

10       b. With respect to its fiscal or calendar accounting years ending  
11 on or after July 31, 2023, any taxpayer with a tax liability of less  
12 than \$1,500 under subsection (c) of section 15 of P.L.1945, c.162  
13 (C.54:10A-15) shall not be required to make any installment  
14 payments other than an installment payment of 50 percent, which  
15 shall be paid at the time of the annual return.

16       c. For the purposes of subsection b. of this section, for a  
17 combined group, the provisions of subsection b. shall apply by  
18 taxable member in aggregate for the combined group.  
19 (cf: P.L.1981, c.184, s.3)

20  
21       ~~【11.】~~ 10.<sup>1</sup> Section 5 of P.L.1981, c.184 (C.54:10A-15.4) is  
22 amended as follows:

23       5. a. In case of any underpayment of an installment payment  
24 by a taxpayer, there shall be added to the tax for the fiscal or  
25 calendar accounting year an amount determined by applying the  
26 rate established in this section to the amount of the underpayment  
27 for the period of the underpayment.

28       b. For purposes of subsection a., the amount of underpayment  
29 shall be the excess of:

30       (1) The lesser of the amount of the installment payment which  
31 would be required to be paid if all installment payments and all  
32 payments of tax made pursuant to subsection a. of section 12 of  
33 P.L.2002, c.40 (C.54:10A-15.11) and credited to the taxpayer  
34 pursuant to subsection b. of section 12 of P.L.2002, c.40 were equal  
35 to 90% of the tax shown on the return for the fiscal or calendar  
36 accounting year, or if no return was filed, 90% of the tax for that  
37 year, or 100% of the tax shown on the tax return of the taxpayer for  
38 the preceding taxable year over

39       (2) The amount, if any, of the installment payment paid on or  
40 before the last date prescribed for payment.

41       c. For purposes of subsection a., the period of the  
42 underpayment shall run from the date the installment payment was  
43 required to be paid to whichever of the following dates is the  
44 earlier:

45       (1) The fifteenth day of the ~~【fourth】~~ fifth month after the close  
46 of the fiscal or calendar accounting year.



1 (2) With respect to any portion of the underpayment, the date on  
2 which that portion is paid.

3 For purposes of this subsection, a payment of any installment  
4 payment shall be considered a payment of any previous  
5 underpayment only to the extent that payment exceeds the amount  
6 of the installment payment determined under subsection b. (1) for  
7 that installment payment.

8 d. Notwithstanding the provisions of the preceding subsections,  
9 the addition to the tax with respect to any underpayment of any  
10 installment payment shall not be imposed if the total amount of all  
11 installment payments made on or before the last date prescribed for  
12 the payment of that installment equals or exceeds the amount which  
13 would have been required to be paid on or before that date if the  
14 total amount of all installment payments were the lesser of (1) or (2)  
15 as follows:

16 (1) An amount equal to the tax computed at the rates applicable  
17 to the current fiscal or calendar accounting year but otherwise on  
18 the basis of the facts shown on the return of the taxpayer for, and  
19 the law applicable to, the preceding fiscal or calendar accounting  
20 year; or

21 (2) An amount equal to 90% of the tax for the current fiscal or  
22 calendar accounting year computed by placing on an annualized  
23 basis the taxable entire net income and entire net worth:

24 (a) For the first three months of the current fiscal or calendar  
25 accounting year, in the case of the installment payment required to  
26 be paid in the fourth month,

27 (b) For the first three months or for the first five months of the  
28 current fiscal or calendar accounting year, in the case of the  
29 installment payment required to be paid in the sixth month,

30 (c) For the first six months or for the first eight months of the  
31 current fiscal or calendar accounting year, in the case of the  
32 installment payment required to be paid in the ninth month,

33 (d) For the first nine months or for the first 11 months of the  
34 current fiscal or calendar accounting year, in the case of the  
35 installment payment required to be paid in the 12th month, and

36 (e) For the last three months of the preceding taxable year, in  
37 the case of the installment payment required to be paid in the first  
38 month of the current fiscal or calendar accounting year.

39 e. Any taxpayer who shall fail to pay, or shall underpay by  
40 more than 10% of the amount due, any installment payment  
41 required pursuant to this act, shall pay, in addition to the tax,  
42 interest on the amount of underpayment as provided in the State  
43 Tax Uniform Procedure Law, R.S.54:48-1 et seq.; provided,  
44 however, a taxpayer may petition the Director of the Division of  
45 Taxation to waive this interest if the taxpayer demonstrates undue  
46 hardship, good cause, or any other reason as may be provided for  
47 waiving penalties and interest under the State Tax Uniform

1 Procedure Law, R.S.54:48-1 et seq.

2 (cf: P.L.2005, c.288, s.2)

3

4 <sup>1</sup>**[12.] 11.** R.S.54:49-4 is amended to read as follows:

5 54:49-4. a. In addition thereto any taxpayer failing to file a  
6 return with the director within the time prescribed under the act  
7 imposing such tax shall be liable to a late filing penalty of \$100 for  
8 each month or fraction thereof that such return is delinquent, plus a  
9 penalty of 5% per month or fraction thereof of the underpayment  
10 not to exceed 25% of such underpayment, except that if no return  
11 has been filed within 30 days of the date on which the first notice of  
12 delinquency in filing the return was sent to the taxpayer, the penalty  
13 shall accrue at 5% per month or fraction thereof of the total tax  
14 liability not to exceed 25% of such tax liability. Unless any part of  
15 any underpayment of tax required to be shown on a return or report  
16 is shown to be due to reasonable cause, there shall be added to the  
17 tax **[an amount]** a penalty equal to 5% of the underpayment.

18 b. In addition to any other penalty for failing to file a return  
19 within the time prescribed or underpayment provided in this section  
20 or pursuant to any other provision of law, if a taxpayer or tax  
21 preparer fails to use electronic methods to file a return as may be  
22 required pursuant to the provisions of subsection b. of section 13 of  
23 P.L.1992, c.175 (C.54:49-3.1), section 4 of P.L.2006, c.36  
24 (C.54A:8-6.1) or the law imposing the tax, or if a taxpayer fails to  
25 use electronic methods to pay tax as may be required pursuant to  
26 the provisions of subsection b. of section 13 of P.L.1992, c.175  
27 (C.54:49-3.1), or the law imposing the tax, the taxpayer shall be  
28 liable for a penalty of \$50 for each return or payment for which the  
29 taxpayer failed to file or pay electronically as may be applicable,  
30 and the tax preparer shall be liable for a penalty of \$50 for each  
31 return for which the tax preparer failed to file electronically as may  
32 be applicable. The director may exercise discretion to abate all or  
33 any portion of the penalty in **[any]** circumstances the director  
34 determines appropriate, including but not limited to circumstances  
35 in which a taxpayer or tax preparer demonstrates to the director's  
36 satisfaction that the failure to file or pay electronically was due to  
37 reasonable cause.

38 (cf: P.L.2006, c.36, s.3)

39

40 <sup>1</sup>**[13.] 12.** R.S.54:49-6 is amended to read as follows:

41 54:49-6. a. After a return or report is filed under the provisions  
42 of any State tax law, the director shall cause the same to be  
43 examined and may make such further audit or investigation as **[he]**  
44 the director may deem necessary, and if therefrom **[he]** the director  
45 shall determine that there is a deficiency with respect to the  
46 payment of any tax due under such law, **[he]** the director shall  
47 assess the additional taxes, penalties, if any, pursuant to any State

1 tax law or pursuant to this subtitle, and interest at the rate of three  
2 percentage points above the prime rate due the State from such  
3 taxpayer assessed for each month or fraction thereof, compounded  
4 annually at the end of each year, from the date the tax was  
5 originally due until the date of actual payment, give notice of such  
6 assessment to the taxpayer, and make demand upon **[him]** the  
7 taxpayer for payment.

8 b. No assessment of additional tax shall be made after the  
9 expiration of more than four years from the date of the filing of a  
10 return; provided, that in the case of a false or fraudulent return with  
11 intent to evade tax, or failure to file a return, the tax may be  
12 assessed at any time. If a shorter time for the assessment of  
13 additional tax is fixed by the law imposing the tax, the shorter time  
14 shall govern. If, before the expiration of the period prescribed  
15 herein for the assessment of additional tax, a taxpayer consents in  
16 writing that such period may be extended, the amount of such  
17 additional tax due may be determined at any time within such  
18 extended period. The period so extended may be further extended  
19 by subsequent consents in writing made before the expiration of the  
20 extended period. For purposes of this subsection, a return filed  
21 before the last day prescribed by law or by regulations promulgated  
22 pursuant to law for the filing thereof, shall be considered as filed on  
23 such last day.

24 c. For privilege periods ending on and after July 31, 2022, for  
25 purposes of this section, adjustments may be made, by the director  
26 or the taxpayer, to net operating losses in privilege periods closed  
27 for purposes of the statute of limitations on assessments in order to  
28 determine the correct tax liability in privilege periods that remain  
29 open to assessment; provided, however, no such adjustments for  
30 those privilege periods closed, for the purposes of subsection b. of  
31 this section, shall be made after the time limit described in section 5  
32 of P.L.1947, c.51 (C.54:10A-31).

33 (cf: P.L.1993, c.331, s.3)

34

35 <sup>1</sup>**[14.] 13.**<sup>1</sup> (New section) a. For the purposes of the “New  
36 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., for taxable  
37 years beginning on and after January 1, 2023, notwithstanding any  
38 provision in N.J.S.54A:1-1 et seq. or the Corporation Business Tax  
39 Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) to the contrary, a  
40 taxpayer that is subject to the provisions of N.J.S.54A:1-1 et seq.  
41 and engages in a trade or business, regardless of business form, or is  
42 a partner in a partnership or shareholder of an S corporation, which  
43 trade, business, partnership, or S corporation conducts business  
44 operations partly within and partly without this State and, as a result  
45 thereof or for other reasons that portion of the income from sources  
46 within the State cannot readily or accurately be ascertained, the  
47 income from the trade, business, partnership, or S corporation shall  
48 be sourced in a manner consistent with the provisions of sections 6

1 through 10 of the Corporation Business Tax Act (1945), P.L.1945,  
2 c.162 (C.54:10A-6 through C.54:10A-10). Income that is  
3 representative of the taxpayer's salary, wages, tips, fees,  
4 commissions, bonuses, and other remuneration shall be sourced  
5 pursuant to the provisions of N.J.S.54A:1-1 et seq.

6 b. The director shall promulgate rules and regulations  
7 necessary to carry out the provisions of this section.

8

9 <sup>1</sup>~~15.~~ 14.<sup>1</sup> The following sections are repealed:

10 Section 5 of P.L.2002, c.40 (C.54:10A-4.4); and

11 Section 1 of P.L.2018, c.131 (C.54:10A-4.15).

12

13 <sup>1</sup>~~16.~~ 15.<sup>1</sup> This act shall take effect immediately, and sections  
14 3 through 6, <sup>1</sup>~~8, 10~~ 9<sup>1</sup> through <sup>1</sup>~~11~~ 10<sup>1</sup>, and <sup>1</sup>~~15~~ 14<sup>1</sup> shall  
15 apply to privilege periods and taxable years ending on and after  
16 July 31, 2023, and sections <sup>1</sup>~~12~~ 11<sup>1</sup> and <sup>1</sup>~~13~~ 12<sup>1</sup> shall apply to  
17 privilege periods ending on and after July 31, 2022.