

**18:7-17.5 Calculation of tax**

(a) The tax shall be the total of:

1. The share of entire net income of the partnership for that privilege period of all nonresident noncorporate partners multiplied by an allocation factor determined pursuant to corporation business tax principles under N.J.S.A. 54:10A-6 and using the partnership's allocation fractions and multiplied by the tax rate of .0637; plus

2. The share of entire net income of the partnership for that privilege period of all nonresident corporate partners multiplied by an allocation factor determined pursuant to corporation business tax principles under N.J.S.A. 54:10A-6 and using the partnership's allocation fractions and multiplied by the tax rate of .09.

Example: If a partnership is the owner of a partnership interest, then tax payment is required at the rate of nine percent for that interest because a partnership is defined as a "nonresident corporate partner."

3. As used in this subsection, the term "entire net income" as applied to partnerships means distributive share of partnership income for Federal purposes plus tax exempt interest income as shown on the Federal K-1.

(b) A partnership shall not claim credit or take into account estimated tax payments made by nonresident partners in determining how much tax to pay on behalf of any corporate partner.

(c) A partnership must have a regular place of business as defined under N.J.A.C. 18:7-7.2 outside the State of New Jersey in order to allocate a portion of its income outside New Jersey. For purposes of this subchapter, each regular place of business of a partnership which is unitary with a corporate partner who is filing a return in this State is to be treated as a regular place of business of the corporate partner. See N.J.A.C. 18:7-17.8(d).

**18:7-17.6 Credit or refund**

(a) As of the date the Division receives the payment, the amount of tax paid by a partnership pursuant to N.J.A.C. 18:7-17.5 shall be credited to accounts of its nonresident partners in proportion to each nonresident partner's share of allocated entire net income and the rate for that partner class set forth in N.J.A.C. 18:7-17.5.

(b) Each payment amount credited will be deemed to have been paid by the respective partner for the privilege period of the partner.

(c) A nonresident noncorporate partner and a nonresident corporate partner may claim a credit on their own New Jersey return for the amount of tax allocated to them by the partnership. Any excess tax payments may be refunded to the partner.

(d) Since partners may wish to claim a credit or refund for tax payments made on their behalf by a partnership, there

may be an advantage if certain partnerships issue NJ-K1's as soon as possible after the close of the tax period.

(e) Example: A partnership has a fiscal year ending on January 31. The partnership tax payment on behalf of foreign partners is due May 15. The amount of payment on behalf of partners will not be credited to the accounts of partners until the date received by the Division.

1. Accordingly a calendar year partner, whose first quarter estimated payment is due April 15 cannot take a credit against its April 15 estimated payment, for the partnership's May 15 tax payment which has not yet been received by the Division.

(f) Payments remitted on unauthorized or improperly prepared returns will be credited on the date the Division is able properly to post the payment.

**18:7-17.7 Estimated return**

A partnership that is not a qualified investment partnership or an investment club and that is not listed on a United States national stock exchange shall be required to make installment payments of tax. For privilege periods beginning on January 1, 2007 and thereafter, those partnerships that are required to make tax payments pursuant to N.J.S.A. 54:10A-15.11a.(1) shall make installment payments of 25 percent of that tax on or before the 15th day of each of the fourth month, sixth month and ninth month of the privilege period and on or before the 15th day of the first month succeeding the close of the privilege period. A partnership required to make such payments shall be deemed to make them subject to the provisions of N.J.S.A. 54:10A-15.4 and shall be liable for any addition to tax provided thereunder.

Repeal and New Rule, R.2007 d.284, effective September 4, 2007.  
See: 39 N.J.R. 844(a), 39 N.J.R. 3780(b).

Section was "Estimated return".

**18:7-17.8 Certain corporate partners; exemption form**

(a) In order for a nonresident corporate partner to establish that the partnership is not required to pay tax on its behalf, the partner must file annually with the partnership a statement making its claim for exemption. The claim shall be on a form specified by the Director. It must be filed annually and must be received by the partnership on or before the 15th day of the fourth month succeeding the close of the privilege period, or on or before the filing date of the return, if that occurs earlier.

(b) If a partnership erroneously makes a tax payment to the State on behalf of an entity that is exempt, the exempt entity must establish that the money has actually been paid to the State by the partnership, and the entity is actually exempt, in order to qualify for a refund from the State.

(c) If a New Jersey S corporation, that does not have a place of business in New Jersey is a partner in a partnership, a tax payment is made on its behalf at the nine percent rate,

since it does not have a regular place of business in New Jersey.

(d) For purposes of this subchapter, each regular place of business of a partnership which is unitary with a corporate partner is to be treated as a regular place of business of the corporate partner. See N.J.A.C. 18:7-7.6(g) and (h)1.

(e) If a partner in a partnership is a qualified IRC 501(c)(3) charity, or any retirement plan approved by the Internal Revenue Service, it may file the form 1065E with the partnership to relieve the partnership from making a payment measured by its share. At present, New Jersey does not impose a tax on unrelated business income.

Example: A New Jersey general partnership has a unitary relationship under the criteria set forth at N.J.A.C. 18:7-7.6(g)3 with a corporate partner located in Illinois. As a result of this relationship the corporate partner is considered to have a regular place of business in the State and is not a "non-resident corporate partner." Such partner may file a 1065E with the partnership so that no tax payments will be made by the partnership on its behalf.

Amended by R.2003 d.370, effective September 15, 2003.  
See: 35 N.J.R. 1573(a), 35 N.J.R. 4310(a).

Added (e) and (f).

Amended by R.2007 d.284, effective September 4, 2007.  
See: 39 N.J.R. 844(a), 39 N.J.R. 3780(b).

In (e), inserted "or any retirement plan approved by the Internal Revenue Service,"; and deleted (f).

### 18:7-17.9 Allocation of tax for partners that are corporations

Separate accounting apportionment shall be used if a corporate partner and partnership are not in a unitary relationship in which the apportioned income of the partnership and partner (excluding the partner's distributive share) are added together. When a corporation and a partnership are in a unitary relationship, then a blended or combined allocation factor should be used. It is derived by adding the partnership and corporation allocation fractions together and applying the combined factor to the corporation's entire net income including its distributive share of the partnership's income (see N.J.A.C. 18:7-7.6(g)).

### 18:7-17.10 Electronic filing

(a) A partnership subject to the provisions of the corporation business tax shall file its return and make payment of its liability by electronic means, if it has 10 or more partners, provided that the return is not prepared by a paid tax preparer. Payments of partnership liabilities along with the submission of payment-related returns, such as the Partnership Return Voucher (Form Part-100) and the Partnership Tentative Return and Application for Extension of Time to File (Form Part 200-T), by a partnership with more than 10 partners shall be made electronically.

(b) A paid tax preparer who prepares returns for partnerships subject to the provisions of the corporation business tax shall file all of the partnership returns prepared by that preparer during the tax year as instructed by the partners of the partnership, by electronic means. Payments of the partnership liabilities along with the submission of payment-related returns, such as the Partnership Return Voucher (Form Part-100) and the Partnership Tentative Return and Application for Extension of Time to File (Form Part 200-T), either by the partners or by a paid tax practitioner as instructed by the partners of the partnership shall be made electronically.

Amended by R.2011 d.171, effective June 20, 2011.

See: 43 N.J.R. 385(a), 43 N.J.R. 1431(a).

Inserted designation (a); rewrote (a); and added (b).

## SUBCHAPTER 18. ALTERNATIVE MINIMUM ASSESSMENT

### 18:7-18.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Affiliated group" means a group of corporations defined as an affiliated group by section 1504 of the Federal Internal Revenue Code of 1986, 26 U.S.C. § 1504, or any successor Federal law, that files a consolidated Federal income tax return for the privilege period pursuant to sections 1501 through 1504 of the Federal Internal Revenue Code of 1986.

"Cost of goods sold" means the cost of goods sold calculated pursuant to the same method used by the taxpayer for the purpose of computing its Federal income tax (including, for example, and without limitation, IRC Section 263A) multiplied at the taxpayer's election by either the allocation factor computed pursuant to N.J.S.A. 54:10A-6 or the receipts fraction of the allocation factor (c.f. N.J.A.C. 18:7-10.1 regarding discretionary adjustments of the allocation factor by the Director). In a particular case, the Director may use another input or expenditure that is necessary to measure equally the business activity of the taxpayer.

"Key corporation" means a single member within an affiliated group designated by the group to act as a "clearing-house" for adjustments to members of the group. For privilege periods commencing after June 30, 2006, key corporations are not permitted for reporting any other tax purposes in New Jersey.

"Member of an affiliated group" means a taxpayer that is part of an affiliated group.

"New Jersey gross profits" means New Jersey gross receipts reduced by returns and allowances attributable to New Jersey gross receipts, less the cost of goods sold.