

CHAPTER 35

NEW JERSEY GROSS INCOME TAX

Authority

N.J.S.A. 54:50-1, 54A:9-8.2 and 54A:9-17(a).

Source and Effective Date

R.1998 d.195, effective March 26, 1998.
See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Executive Order No. 66(1978) Expiration Date

Chapter 35, New Jersey Gross Income Tax, expires on March 26, 2003.

Chapter Historical Note

Chapter 35, New Jersey Gross Income Tax, was adopted prior to September 1, 1969.

Subchapter 2, Setoff of Individual Liability, was adopted as R.1982 d.161, effective May 17, 1982. See: 13 N.J.R. 940(a), 14 N.J.R. 474(b).

Pursuant to Executive Order No. 66(1978), Chapter 35, New Jersey Gross Income Tax, was readopted as R.1983 d.353, effective August 12, 1983. See: 15 N.J.R. 1091(a), 15 N.J.R. 1488(c).

Pursuant to Executive Order No. 66(1978), Chapter 35, New Jersey Gross Income Tax, was readopted as R.1988 d.299, effective June 7, 1988. See: 20 N.J.R. 514(a), 20 N.J.R. 1571(b).

Pursuant to Executive Order No. 66(1978), Chapter 35, New Jersey Gross Income Tax, was readopted as R.1993 d.315, effective June 4, 1993. See: 25 N.J.R. 1500(a), 25 N.J.R. 2906(b).

Former Subchapter 3, Information Return for Business Employment Incentive Program/Business Relocation Assistance Grant Program of the New Jersey Economic Development Authority, was adopted as R.1997 d.533, effective December 15, 1997. See: 29 N.J.R. 4076(b), 29 N.J.R. 5313(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, New Jersey Gross Income Tax, was readopted as R.1998 d.195, effective March 26, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GROSS INCOME—CATEGORIES AND CALCULATION

18:35-1.1 Net profits from business

(a) Each taxpayer is subject to gross income tax on the taxpayer's "net profits from business" within the meaning of N.J.S.A. 54A:5-1b, which shall be determined as provided in this subchapter.

(b) For purposes of the Gross Income Tax Act, a sole proprietorship, which shall include self-employed individuals and independent contractors, is a form of business in which one taxpayer owns all the assets of a business and which is not a partnership or corporation. A single member limited liability company whose member is an individual, estate, or trust shall be treated as a sole proprietorship, unless classified otherwise for Federal tax purposes. Sole proprietors shall report their income or loss as net profits from business.

(c) A taxpayer's net profits from business shall be determined by taking into account all income of the taxpayer derived from the conduct of a business, profession or any other activity intended to produce income, provided such activity qualifies for and reports as a trade or business for Federal income tax purposes. All income attributable to the taxpayer's conduct of a trade or business, reduced by costs and expenses as provided in (d) below, shall be taken into account in determining the taxpayer's net profits from business. All other income of the taxpayer subject to gross income tax that is not attributable to the conduct of a trade or business shall be included in one or more of the other categories of gross income specified in N.J.S.A. 54A:5-1 according to its character and shall not be includable in the category of income "net profits from business." The determination of whether income is derived from the conduct of a trade, business or profession shall be based upon an examination of facts and circumstances of the taxpayer's activities.

1. Income derived as remuneration for services rendered in the sole proprietorship's conduct of a trade or business shall be taken into account in determining a self-employed taxpayer's net profits from business. Income derived by a taxpayer in the taxpayer's capacity as an employee, as defined in N.J.A.C. 18:35-7.1, shall not be taken into account in determining the taxpayer's net profits from business, but rather shall be taxed under N.J.S.A. 54A:5-1a (salaries, wages, etc.).

2. Interest and dividend income derived by a taxpayer in the conduct of a trade or business shall be taken into account in determining a taxpayer's net profits from business. The taxpayer shall annex to the taxpayer's return a statement demonstrating that the interest or dividends were realized in the conduct of the trade or business. Interest and dividends from investment activities or other income-producing activities which do not constitute the conduct of a trade or business shall be separately stated on the taxpayer's return and taxed either as interest described in N.J.S.A. 54A:5-1e or dividends described in N.J.S.A. 54A:5-1f.

3. Rental income derived by a taxpayer in the conduct of a trade or business shall be taken into account in determining a taxpayer's net profits from business. Rental income of a taxpayer which is not received in the conduct of a trade or business shall be taken into account in determining the taxpayer's net gains or net income from rents, royalties, patents and copyrights described in N.J.S.A. 54A:5-1d.

4. Royalty, patent, or copyright income derived by a taxpayer in the conduct of a trade or business that licenses intangible property shall be taken into account in determining the taxpayer's net profits from business. Income derived from royalties, patents or copyrights of a taxpayer which is not derived from a trade or business shall be taken into account in determining the taxpayer's net gains or net income from or in the form of rents, royalties, patents and copyrights described in N.J.S.A. 54A:5-1d.

5. Gains from the sale, exchange or other disposition of trade or business property shall be taken into account in determining a taxpayer's net profits from business. The taxpayer shall annex to the taxpayer's return a statement which demonstrates that gains and losses from the sale, exchange, or other disposition of property were realized in the conduct of a trade or business. The sale, exchange or other disposition of property which is not directly related to or employed in the conduct of a trade or business must be reported as described in N.J.S.A. 54A:5-1c, net gains or income from the disposition of property. Gain or loss from the sale or liquidation of a business must be reported as described in N.J.S.A. 54A:5-1c, net gains or income from the disposition of property.

6. A taxpayer's distributive share of income or loss from a partnership, S corporation, or estate or trust shall not be taken into account in determining a taxpayer's net profits from business, regardless of the character of the income or the nature of the activities of the partnership, S corporation or estate or trust. Reporting of such income or loss shall be as follows:

i. Income or loss from a partnership shall be taken into account determining the taxpayer's distributive share of partnership income described in N.J.S.A. 54A:5-1k. For rules governing the taxation of income derived by a taxpayer from a partnership, see N.J.A.C. 18:35-1.3.

ii. Income or loss from an S corporation shall be taken into account in determining the taxpayer's pro rata share of S corporation income described in N.J.S.A. 54A:5-1p.

iii. Income from an estate or trust shall be taken into account in determining the taxpayer's net gains or income from estates or trusts described in N.J.S.A. 54A:5-1h.

7. A taxpayer's net profits from business shall be determined in accordance with the method of accounting utilized for Federal income tax purposes. A taxpayer's net profits from business shall be determined by including any income which is subject to tax under the Gross Income Tax Act but which is exempt from Federal income taxation (for example, interest on non-New Jersey municipal obligations) and by excluding any income which is exempt from tax under the Gross Income Tax Act but which is subject to Federal income taxation (for example, interest or gains attributable to obligations described in N.J.S.A. 54A:6-14).

d. Entire New Jersey Income (income subject to tax by another jurisdiction which is also subject to tax under the N.J. Gross Income Tax Act). (Add lines a, b and c) (to be entered here and at line 68.)

INSTRUCTIONS:

The amount of pension exclusion claimed at line 40b and the amount of retirement income exclusion claimed at line 17b are includible in determining "entire New Jersey income" and are, therefore, to be included in the amount reported by you at line 67.

EXAMPLE:

A resident New Jersey taxpayer has two businesses and the net profits (or losses) from such are both reportable at line 34 of the return. The net income of business "A" is \$50,000 and is entirely attributable to New York. The net loss of business "B" is \$40,000 and is entirely attributable to New Jersey.

The taxpayer has paid a tax on \$50,000 to New York but only on \$10,000 to New Jersey (\$40,000 net loss netted from \$50,000 net income at line 39).

The taxpayer may include as income subject to tax by the other jurisdiction on line 67 (Form N.J. 1040) only business income subject to tax in New Jersey and therefore must deduct from the \$50,000 New York business income the \$40,000 not subject to tax as business income in New Jersey.

In no event may a taxpayer claim a credit for income or wage taxes paid to other jurisdiction(s) unless the income so claimed is also included in entire New Jersey income at line 68 of the return.

Taxpayer should retain this worksheet for substantiation of the credit claimed.

8. Instruction for line 67: Do not include on this line any income which has been excluded or deducted from the taxable gross income of other jurisdiction(s) or which has not been taxed by other jurisdiction(s). Example: If a portion of long-term capital gains are excluded from such taxable income, such excluded portions may not be included in line 67.

9. A New Jersey resident taxpayer in determining the resident credit allowed against the tax due under this Act for the amount of any income tax or wage tax imposed for the taxable year by another state or political subdivision of such state or by the District of Columbia, shall not combine in the numerator (line 64, N.J. 1040) the same income subject to tax by the jurisdiction and/or political subdivision. The amount of income or wage tax during the tax year shown on line 70, N.J. 1040 for the taxpayer paying both a tax to another state and political subdivision of such state would be the total amount of state income tax and income tax or wage tax paid to the other state and

political subdivision of such state where the same amount of income is subject to tax in both the other state and political subdivision of such state. Where the income subject to tax in both the other state and political subdivision of such state are not equal, a separate calculation shall be made of the excess income to arrive at the limitation of the credit for the income tax or wage tax paid to the other state and political subdivision of such state.

For example:

STEP NO. 1

Line 67	Income subject to tax in both the other state and its political subdivisions	_____
Line 68	New Jersey Gross Income (Line 17c, NJ 1040)	_____
Line 69	Line 67 _____ × New Jersey Tax (Line 25, N.J. 1040)	_____
	Line 68 = Maximum allowable credit	_____
Line 70	Tax paid on amount in Line 67 to each jurisdiction State Political Subdivisions	_____
Line 71	Lesser of Line 69 or 70	_____

STEP NO. 2

Line 67	Amount subject to tax in one jurisdiction and not in the other(s)	_____
Line 68	New Jersey Total Gross Income (Line 17c, NJ 1040)	_____
Line 69	Line 67 _____ × New Jersey Tax (Line 25, NJ 1040)	_____
	Line 68 = Maximum allowable credit	_____
Line 70	Tax paid to the jurisdiction on amount appearing on Line 67	_____
Line 71	Lesser of Line 69 or 70	_____

STEP NO. 3
Step No. 1 Line 71 plus Step No. 2 Line 71 _____

The following examples illustrate the above outlined procedures:

Example 1

Taxpayer A

(1)	Total Gross Income (Line 17c, NJ 1040)	\$100,000
	Income subject to tax in other jurisdictions:	
(2)	New York State: \$40,000	
(3)	New York City: \$50,000	
(4)	Identical income subject to tax in both jurisdictions: \$40,000	
(5)	New York State Tax: \$2,700	
(6)	New York City Tax: \$225	
(7)	New Jersey Tax (Line 25, NJ 1040)	\$2,690
	Calculation of Credit	

STEP NO. 1

Line 67	(4) above	\$ 40,000
Line 68	(1) above	100,000
Line 69	\$40,000 _____ × \$2,690	1,076
	100,000	
Line 70	New York State (based on \$40,000 as indicated on line (4) above)	\$2,700

	New York City 4/5 × \$225 (based on \$40,000 as indicated on line (4) above)	180	2,880
Line 71			<u>\$1,076</u>
STEP NO. 2			
Line 67	(3)-(2)		\$ 10,000
Line 68			100,000
Line 69	\$10,000		269
	<u> </u> × \$2,690		269
	100,000		45
Line 70	/15 × \$225		45
Line 71			<u>\$ 45</u>
STEP NO. 3			
Line 71	Step No. 1	\$1,076	
	Step No. 2	<u>45</u>	
Line 26	Total New Jersey Tax Credit Allowed		<u>\$1,121</u>

Example 2

Taxpayer B

(1)	Total Gross Income (Line 17c, NJ 1040)	\$100,000
	Income subject to tax in other juris- dictions:	
(2)	New York State: \$50,000	
(3)	New York City: \$40,000	
(4)	Identical income subject to tax in both jurisdictions: \$40,000	
	Tax paid to other jurisdictions:	
(5)	New York State Tax: \$4,200	
(6)	New York City Tax: \$180	
(7)	New Jersey Tax (Line 25, NJ 1040)	
	\$2,690	

Calculation of Credit

STEP NO. 1			
Line 67	(4) above	\$ 40,000	
Line 68	(1) above	100,000	
Line 69	\$40,000		1,076
	<u> </u> × \$2,690		1,076
	100,000		2,700
Line 70	New York State (based on \$40,000 as indicated on line (4) above)	\$2,700	
	New York City (based on \$40,000 as indicated on line (4) above)	180	2,880
Line 71			<u>\$1,076</u>
STEP NO. 2			
Line 67	(2)-(3)	\$ 10,000	
Line 68		100,000	
Line 69	\$10,000		269
	<u> </u> × \$2,690		269
	100,000		4,200
Line 70	(5) Above Less: Step No. 1, Line 70	<u>2,700</u>	1,500
Line 71			<u>\$ 269</u>
STEP NO. 3			
Line 71	Step No. 1	\$1,076	
	Step No. 2	<u>269</u>	
Line 26	Total New Jersey Tax Credit Allowed		<u>\$1,345</u>

Example 3

Taxpayer C

	Income the same in both state and city		
Line 67		\$ 40,000	
Line 68		100,000	
Line 69	\$40,000		1,076
	<u> </u> × \$2,690		1,076
	100,000		

Line 70	New York State	\$2,700	
	New York City	<u>180</u>	2,880
Line 71	(Line 26, NJ 1040) Tax Credit		<u>\$ 1,076</u>

i. When claiming a credit for the taxes paid to another jurisdiction and/or political subdivision, the taxpayer shall file with the New Jersey tax return, a signed copy of the tax return filed with the other jurisdiction and/or political subdivision showing the amount of the tax paid. A W-2 form or its equivalent which indicates the withholding of income tax in another jurisdiction and/or political subdivision is considered prima facie evidence of such amount of tax paid where the taxing jurisdiction and/or political subdivision imposing an income tax or wage tax does not require the filing of a return by the taxpayer claiming a credit.

ii. Where a taxpayer claims credit for taxes paid to more than one state on income earned in that state, a separate computation for the maximum allowable credit shall be made for each such state.

iii. Example 1: Taxpayer Income is as follows:

Husband and Wife File Jointly—2 Exemptions

NEW YORK		
Wages		\$20,000
Standard Deduction		<u>2,400</u>
		\$17,600
Exemption		
2 × 66.6% (\$700)		<u>933</u>
		\$16,667
New York State Tax		\$ 1,027
New York City Tax		<u>81</u>
Total Tax		\$ 1,108
NEW JERSEY		
Wages		\$20,000
Interest		1,000
Dividends		2,000
Other Income		<u>7,000</u>
		\$30,000
Exemptions		<u>2,000</u>
		\$28,000
New Jersey Tax		
Tax Credit		\$ 600
Line 67 Income Subject to Tax by Other Jurisdiction		\$20,000
Line 68 Income Subject to Tax by New Jersey		\$30,000
Line 69 Maximum Allowable Credit		
\$20,000 ÷ \$30,000 × \$600 (N.J.Tax) =		\$400
Line 70 Income or Wage Tax Paid to Other Jurisdic- tions		\$1,108
Line 71 New Jersey Tax Credit Allowed		<u>\$400</u>

iv. Example 2: Taxpayer Income is as follows: Husband and Wife File Jointly—2 Exemptions

OTHER STATE		
Wages		\$20,000
Assume		
State Tax		250
Local Wage Tax		<u>75</u>
Total Tax		\$ 325
Wages		\$20,000
Interest		1,000

Dividends	2,000
Other Income	<u>7,000</u>
	30,000
Exemptions	<u>2,000</u>
	28,000
New Jersey Tax	\$ 600
Tax Credit	
Line 67 Income Subject to Tax by Other Jurisdiction	20,000
Line 68 Income Subject to Tax by New Jersey	30,000
Line 69 Maximum Allowable Credit	
$\$20,000 \div \$30,000 \times \$600$ (N.J.Tax) =	400
Line 70 Income or Wage Tax Paid to Other Jurisdictions	325
Line 71 New Jersey Tax Credit Allowed	325

$\$15,000 \div \$28,000 \times \$500$ (N.J.Tax) =	\$294.65
Line 70—Income or Wage Tax Paid to Other Jurisdiction	\$600.00
Line 71—New Jersey Tax Credit Allowed	\$294.65
Total New Jersey Tax Credit Allowed	
State A—\$150.00	
State B—\$294.65	
	\$444.65

v. Example 3: Taxpayer Income is as follows:

Husband and Wife File Jointly—2 Exemptions

OTHER JURISDICTION	
Wages	<u>\$20,000</u>
Local Wage Tax	\$ 800
NEW JERSEY	
Wages	20,000
Interest	2,000
Dividends	<u>2,000</u>
	24,000
Exemptions	<u>2,000</u>
	22,000
Tax	\$ 450
Tax Credit	
Line 67 Income Subject to Tax by Other Jurisdiction	20,000
Line 68 Income Subject to Tax by New Jersey	24,000
Line 69 Maximum Allowable Credit	
$\$20,000 \div \$24,000 \times \$450$ (N.J.Tax) =	375
Line 70 Wage Tax Paid to Other Jurisdiction	800
Line 71 New Jersey Credit Allowed	375

vi. Example 4: Taxpayer Income is as follows:

Husband and Wife File Jointly—2 Exemptions

OTHER JURISDICTIONS	
State A—Wages	10,000
State B—Wages	<u>15,000</u>
Assume	
State A—Tax	\$ 150
State B—Tax	\$ 600
NEW JERSEY	
Wages	25,000
Interest	1,000
Dividends	<u>2,000</u>
	28,000
Exemptions	<u>2,000</u>
	26,000
New Jersey Tax	\$ 550
Tax Credit	
State A	
Line 67—Income Subject to Tax by Other Jurisdiction	10,000
Line 68—Income Subject to Tax by New Jersey	28,000
Line 69—Maximum Allowable Credit	
$\$10,000 \div \$28,000 \times \$550$ (N.J.Tax) =	196.42
Line 70—Income or Wage Tax Paid to Other Jurisdiction	150.00
Line 71—New Jersey Tax Credit Allowed	150.00
State B	
Line 67—Income Subject to Tax by Other Jurisdiction	15,000
Line 68—Income Subject to Tax by New Jersey	28,000
Line 69—Maximum Allowable Credit	

R.1979 d.433, effective October 26, 1979.
 See: 11 N.J.R. 525(b), 11 N.J.R. 650(b).
 As amended, R.1983 d.618, effective January 17, 1984.
 See: 15 N.J.R. 1566(a), 16 N.J.R. 149(a).
 Section substantially amended.
 Recodified from N.J.A.C. 18:35-1.12 by R.1998 d.195, effective April 20, 1998.
 See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Case Notes

Rule upheld against equal protection challenge; credit for New York state personal income tax found to have exhausted New Jersey tax on taxpayer's New York income, notwithstanding that the taxpayer was also subject to New York City earnings tax. *Jenkins v. Taxation Div. Director*, 4 N.J.Tax 127, 184 N.J.Super 402, 446 A.2d 217 (Tax Ct.1982).

Rule interpreting "resident credit" as requiring exclusion for income which is excluded or deducted from taxable gross income by another jurisdiction held valid; application of 1979 rule to 1976 tax return held proper. *Sorensen v. Director, Div. of Taxation*, 2 N.J.Tax 470, 184 N.J.Super 393, 446 A.2d 213 (Tax Ct.1981).

Net gain from partnership activities taxed by foreign jurisdictions but completely offset by allowable partnership loss deductions in state; not included in numerator of tax credit fraction. *Kanarek v. Director, Div. of Taxation*, 14 N.J.Tax 589 (1995).

In calculating credit fraction numerator, gross income subject to tax in other jurisdiction would be reduced by taxpayers' capital loss, which was deductible in New Jersey but not in other state but not by additional lesser amount of taxpayers' rental loss, which was deductible in other state but not in New Jersey. *Allen v. Director Div. of Taxation*, 14 N.J.Tax 385 (1994).

Instructions on computing resident credit for income tax purposes were not erroneous. *Widder v. Director, Div. of Taxation*, 14 N.J.Tax 349 (1994).

Income not actually taxed by another state, but which was used by that state in calculating applicable tax rate for income from that state, would not be included in numerator of resident credit fraction. *Chin v. Director, Div. of Taxation*, 14 N.J.Tax 304 (1994).

Credit for foreign income tax; loss disallowed by New Jersey tax statute. *Berlin v. New Jersey Div. of Taxation*, 13 N.J.Tax 405 (1993).

Resident credit was properly calculated separately for each New York City and state tax. *Willett v. Director, Div. of Taxation*, 10 N.J.Tax 402 (1989).

Only income subject to tax by another state also taxed by New Jersey could be used to determine maximum gross income tax credit. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Foreign city income tax that did not exceed minimum credit available could be credited against New Jersey income tax. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Since alimony paid by taxpayers residing in New Jersey but working in New York was a deduction in New York, Director held to have properly excluded alimony payments from the numerator of the fraction used to calculate the credit for tax paid to New York. *Nielson v. Taxation Div. Director*, 4 N.J.Tax 438 (Tax Ct.1982).

18:35-4.2 Credit for excess contributions

(a) Credit for excess amounts deducted and withheld as worker contributions for unemployment, disability insurance, Workforce Development Partnership Fund and Health Care Subsidy Fund shall be treated as follows:

1. Employers issuing a W-2 form to employees shall include on it:

i. The amount of New Jersey unemployment insurance contributions withheld;

ii. The amount withheld for New Jersey disability benefits fund contributions or for a private plan;

iii. The combined total amount withheld for Workforce Development Partnership Fund and Health Care Subsidy Fund contributions or, in the alternative, the separate amounts contributed to these funds;

iv. The New Jersey unemployment number; and

v. The New Jersey private plan number, if any.

(b) The latter two numbers referred to in (a)liv and v above are assigned by the New Jersey Division of Unemployment and Disability Insurance in the Department of Labor.

(c) An individual claiming a credit against gross income tax for overpayment of unemployment, disability insurance, Workforce Development Partnership Fund or Health Care Subsidy Fund contributions shall claim such credit by including with his New Jersey 1040 or New Jersey 1040-NR a completed New Jersey Form 2450. A claim not received within two years after the end of the calendar year in which the contributions were deducted is void. Such claims are not applicable to withholdings made during calendar years prior to 1983.

Example 1: During 1983, A, who is divorced, worked for two employers in New Jersey. The first withheld the maximum of \$44.00 for unemployment insurance contributions and \$44.00 disability benefits fund contributions from A's salary, as required by law. The second employer withheld \$30.00 from A's wages as contributions to each fund for the total of \$60.00. A files his 1983 Gross Income Tax Return and pays the tax on February 14, 1984 but fails to make claim for the \$60.00 excess contributions withheld during 1983 or qualifying alimony payments made in that year.

During December 1985 A files an amended Gross Income Tax Return containing New Jersey 2450 for 1983 claiming a credit for excess contributions withheld and claiming the alimony deduction that he had originally omitted from the 1983 return. The claim is timely filed with respect to both the contributions withheld and the alimony deduction.

Example 2: Same facts as above except A files an amended return on January 5, 1986. The claim for contributions withheld is too late since it was filed after the expiration of the two year period for refund. The claim for refund based upon alimony deductions, however, is timely because the claim was filed within three years from the time the return was filed or two years from the time the tax was paid, whichever was later.

(d) Claims for gross income credit for excess contributions made by an employee are subject to the provisions of N.J.S.A. 54A:9-8.1 and N.J.A.C. 18:35-10.

New Rule, R.1983 d.586, effective December 19, 1983.

See: 15 N.J.R. 1570(a), 15 N.J.R. 2175(c).

Amended by R.1993 d.136, effective April 5, 1993.

See: 25 N.J.R. 62(a), 25 N.J.R. 1518(b).

Added new (a)liii; redesignated old (a)liii and iv to (a)liv and v; revised (b) and (c).

Amended by R.1994 d.146, effective March 21, 1994.

See: 26 N.J.R. 336(a), 26 N.J.R. 1372(a).

Recodified from N.J.A.C. 18:35-1.17 and amended by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

In (d), changed N.J.A.C. reference.

SUBCHAPTER 5. NEW JERSEY SOURCE INCOME OF NONRESIDENTS

18:35-5.1 Compensation received by nonresident professional athletes

(a) The New Jersey source income of a nonresident individual who is a member of a professional athletic team includes that portion of such individual's total compensation for services rendered as a member of a professional athletic team during the taxable year which the number of duty days spent within New Jersey rendering services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without New Jersey during the taxable year.

(b) For purposes of this section:

1. "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer or hockey team.

2. "Member of a professional athletic team" includes those employees who are active players, players on the disabled list and any other persons required to travel and who do travel with and perform services on behalf of a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers and trainers.

3. "Duty days" means, except as provided in (b)3iii and iv below, all days including the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete.