

CHAPTER 7

CORPORATION BUSINESS TAX ACT

Authority

N.J.S.A. 54:10A-27.

Source and Effective Date

R.1999 d.116, effective March 12, 1999.
See: 31 N.J.R. 266(b), 31 N.J.R. 893(a).

Executive Order No. 66(1978) Expiration Date

Chapter 7, Corporation Business Tax Act, expires on March 12, 2004.

Chapter Historical Note

Chapter 7, Corporation Business Tax Act, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1984 d.95, effective March 19, 1984. See: 16 N.J.R. 229(a), 16 N.J.R. 746(c).

Subchapter 15, Urban Enterprise Zones Act, was adopted as R.1984 d.496, effective November 5, 1984. See: 16 N.J.R. 1325(a), 16 N.J.R. 3057(a).

Subchapter 16, International Banking Facilities, was adopted as R.1984 d.453, effective October 15, 1984. See: 16 N.J.R. 1327(a), 16 N.J.R. 2827(a).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1989 d.196, effective March 14, 1989. See: 21 N.J.R. 14(a), 21 N.J.R. 1019(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1994 d.186, effective March 14, 1994, and Subchapter 6, Valuation, was repealed by R.1994 d.186, effective April 18, 1994. See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Pursuant to Executive Order No. 66(1978), Chapter 7, Corporation Business Tax Act, was readopted as R.1999 d.116, effective March 12, 1999. See: Source and Effective Date. See, also, section annotations.

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18:7-2.14 (Reserved)**SUBCHAPTER 3. COMPUTATION OF TAX****18:7-3.1 General bases for computation of tax**

On a return for any accounting period which begins after June 30, 1986, no portion of the tax is measured by net worth.

Amended by R.1983 d.62, effective March 7, 1983.

See: 14 N.J.R. 1206(a), 15 N.J.R. 343(d).

Added "accounting period before July 1, 1986" to (a). Also added (b)-(e).

Amended by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Statutory References

See N.J.S.A. 54:10A-5 as to how taxpayer should compute the total amount of franchise tax payable.

18:7-3.2 (Reserved)

Amended by R.1970 d.121, effective October 5, 1970.

See: 2 N.J.R. 78(a), 2 N.J.R. 95(a).

Repealed by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Computation of tax on entire net worth".

18:7-3.3 (Reserved)

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

As amended, R.1983 d.62, effective March 7, 1983.

See: 14 N.J.R. 1206(a), 15 N.J.R. 343(d).

Added "accounting period before April 1, 1983".

Repealed by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Computation of tax on average value of real and tangible personal property".

18:7-3.4 Minimum tax

(a) The tax paid in the case of an investment company, a regulated investment company or real estate investment trust shall not be less than \$250.00. The minimum tax for other corporations is set forth in (b) through (g) below.

(b) For accounting or privilege periods beginning prior to calendar year 1994, the tax paid pursuant to the corporation business tax in the case of a domestic corporation shall not be less than \$25.00 and in the case of a foreign corporation shall not be less than \$50.00.

(c) For accounting or privilege periods beginning in calendar year 1994, the tax paid pursuant to the corporation business tax in the case of a domestic corporation shall not be less than \$50.00 and in the case of a foreign corporation shall not be less than \$100.00.

(d) For accounting or privilege periods beginning in calendar year 1995, the tax paid pursuant to the corporation

business tax in the case of a domestic corporation shall not be less than \$100.00 and in the case of a foreign corporation shall not be less than \$200.00.

(e) For accounting or privilege periods beginning in calendar year 1996, the tax paid pursuant to the corporation business tax in the case of a domestic corporation shall not be less than \$150.00 and in the case of a foreign corporation shall not be less than \$200.00.

(f) For accounting or privilege periods beginning in calendar year 1997, the tax paid pursuant to the corporation business tax in the case of a domestic corporation shall not be less than \$200.00 and in the case of a foreign corporation shall not be less than \$200.00.

(g) The Director shall adjust the minimum tax for accounting or privilege periods beginning in each fifth year following calendar year 1997 and each fifth year thereafter by multiplying the minimum tax for periods beginning in 1997 by an amount equal to one plus 75 percent of the increase, if any, in the annual average United States producer price index for finished goods published by the Federal Department of Labor, Bureau of Labor Statistics, for the year preceding the determination year over such index for calendar year 1996.

Amended by R.1970 d.121, effective Oct. 5, 1970.

See: 2 N.J.R. 78(a), 2 N.J.R. 95(a).

Amended by R.1983 d.62, effective March 7, 1983.

See: 14 N.J.R. 1206(a), 15 N.J.R. 343(d).

Changed "New Jersey" to "domestic" corporation. Added "accounting period before April 1, 1983". Added \$250.00 tax for investment, regulated investment and real estate investment companies.

Repeal and New Rule, R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Computation of tax by domestic corporations".

Statutory References

See N.J.S.A. 54:10A-5(e) as a minimum amount of franchise tax which may be assessed.

Case Notes

Provision for computation of tax based on number of shares authorized as of the close of the calendar or fiscal accounting period covered by a return, in the absence of a statutory determinative date, not challenged; provision compared to real and personal property alternative tax as mean average value on a quarterly basis in N.J.A.C. 18:7-8.6. General Trading Co., Inc. v. Director, Div. of Taxation, 83 N.J. 122, 416 A.2d 37 (1980).

18:7-3.5 (Reserved)

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Amended by R.1982 d.395, effective November 1, 1982.

See: 14 N.J.R. 826(b), 14 N.J.R. 1221(b).

Added (c).

Amended by R.1983 d.219, effective June 20, 1983.

See: 15 N.J.R. 320(a), 15 N.J.R. 1038(e).

Deleted and reserved (a). In (b), added 2-4. Also deleted old (c).

Repealed by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Computation of tax by short tax table".

18:7-3.6 Tax rates—corporations, S corporations and surtax

(a) Except as may be provided in (c) below, for all fiscal periods beginning on or after January 1, 1980, the net income tax rate is nine percent, for a corporation that is not a New Jersey S corporation.

(b) Except as may be provided in (c) below, for a foreign corporation acquiring a taxable status in New Jersey on or after January 1, 1980 and filing its New Jersey return Form CBT-100 on a short period basis, the tax rate is nine percent on adjusted entire net income after proper proration.

(c) For privilege periods beginning on or after July 1, 1996, a taxpayer that is not a New Jersey S corporation that has entire net income of \$100,000 or less for a 12 month privilege period, the rate for that privilege period shall be 7½ percent. A corporation having an accounting period of less than 12 months may qualify for this reduced rate if its income when prorated does not exceed \$8,333 per month.

Example: A taxpayer having a five month accounting period qualifies for the 7½ percent rate if its income for the period does not exceed \$41,666.

(d) For a New Jersey S corporation with a fiscal year beginning after July 7, 1993 but before January 1, 1994 the tax rate for a New Jersey S corporation is two percent.

(e) For a New Jersey S corporation whose taxable year begins on or after January 1, 1994 but before January 1, 1995 the tax rate for a New Jersey S corporation is 2.350 percent.

(f) For a New Jersey S corporation whose taxable year begins on or after January 1, 1995 but before January 1, 1996 the tax rate for a New Jersey S corporation is 2.42 percent.

(g) Except as may be provided in (h) below, for a New Jersey S corporation whose taxable year begins on or after January 1, 1996 and ends on or before June 30, 1998 the tax rate, with respect to its entire net income not subject to Federal income taxation (or such portion thereof as may be allocable to this State) is 2.63 percent. See also (k) below.

(h) For privilege periods beginning on or after July 1, 1996, and ending on or before June 30, 1998, a taxpayer that is a New Jersey S corporation that has entire net income of \$100,000 or less for a 12 month privilege period, the tax rate for that privilege period with respect to its entire net income not subject to Federal income taxation (or such portion thereof as may be allocable to this State) shall be 1.13 percent. A corporation having an accounting period of less than 12 months may qualify for this reduced rate if its income when prorated does not exceed \$8,333 per month. See also (l) below.

(i) Except as provided in (j) below, for a New Jersey S corporation whose taxable year ends on or after July 1, 1998, the tax with respect to its entire net income not subject to Federal income taxation (or such portion thereof as may be allocable to this State) is two percent. See also (k) below.

(j) For privilege periods ending on and after July 1, 1998, a taxpayer that is a New Jersey S corporation that has entire net income of \$100,000 or less for a 12 month privilege period, the tax rate for that privilege period with respect to its entire net income not subject to Federal income taxation (or such portion thereof as may be allocable to this State) is 0.5 percent. A corporation having an accounting period of less than 12 months may qualify for this reduced rate if its income when prorated does not exceed \$8,333 per month. See also (l) below.

(k) Except as may be provided in (l) below, for a New Jersey S corporation the tax rate is nine percent multiplied by any of its entire net income that is subject to Federal income taxation or such portion thereof as may be allocable to this State. (See, for example I.R.C. 1374, 1375).

(l) For privilege periods beginning on or after July 1, 1996, a taxpayer that is a New Jersey S Corporation that has entire net income of \$100,000 or less for a 12 month privilege period, the tax rate is 7.5 percent multiplied by any of its entire net income that is subject to Federal income taxation or such portion thereof as may be allocable to this State. (See, for example, I.R.C. 1374, or 1375). A corporation having an accounting period of less than 12 months may qualify for this reduced rate if its income when prorated does not exceed \$8,333 per month.

(m) In addition, a surtax calculated pursuant to N.J.S.A. 54:10A-5.1 and 5.2 shall be computed and added to the applicable tax, provided that on and after January 1, 1994 there shall be no surtax imposed. The adjusted surtax rate for accounting periods ending between January 1 and June 30, 1994 is determined by multiplying the surtax rate for the period (.00375) by a quotient, the numerator of which is the number of complete calendar months in the taxpayer's accounting period ending before January 1, 1994, and the denominator of which is the total number of complete calendar months in the accounting period. This calculation ensures that the surtax rate is reduced proportionally for those taxpayers with a tax year ending after January 1, 1994. The surtax is then completely eliminated for fiscal year 1995 and thereafter.

$$.00375 \times \frac{\text{Months ending before January 1, 1994}}{\text{Total months in accounting period}} = \text{Adjusted Surtax Rate}$$

Example 1. A taxpayer whose tax year covers a 12-month period ending on January 31, 1994 determines the adjusted surtax rate as follows: $.0035 \times \frac{11}{12} = .00344$. Note: For ease of computation, the calculation is rounded to the fifth decimal place.

Example 2. The adjusted surtax rates for taxpayer with accounting periods covering 12 months are listed below. Taxpayers with accounting periods covering less than 12 months must compute the appropriate rate using the formula indicated above.

Fiscal Year Ended	Adjusted Surtax Rate
1/31/94	0.00344
2/28/94	0.00313
3/31/94	0.00281
4/30/94	0.0025
5/31/94	0.00219
6/30/94	0.00188

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Amended by R.1980 d.146, effective April 9, 1980.

See: 12 N.J.R. 159(b), 12 N.J.R. 293(b).

Repeal and New Rule, R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Method of computing part two of tax; net income base".

Amended by R.1995 d.134, effective March 6, 1995.

See: 27 N.J.R. 57(a), 27 N.J.R. 935(c).

Amended by R.1996 d.495, effective October 21, 1996.

See: 28 N.J.R. 3056(b), 28 N.J.R. 4592(b).

Amended by R.1998 d.193, effective April 20, 1998.

See: 30 N.J.R. 605(a), 30 N.J.R. 1426(a).

Rewrote (g) and (h); inserted new (i) and (j); and recodified former (i) through (k) as (k) through (m).

Statutory References

See N.J.S.A. 54:10A-5(c) as to computation of tax on basis of entire net income.

18:7-3.7 (Reserved)

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Amended by R.1982 d.6, effective January 18, 1982.

See: 13 N.J.R. 688(a), 14 N.J.R. 105(d).

(a)2: Added "but before June 30, 1974"; (a)3: Added "but before December 31, 1980".

Repealed by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Corporation tax prepayments; amounts due".

18:7-3.8 Investment company; tax self-assessed and payable

(a) The tax self-assessed and payable by an investment company entitled and electing to report as such is a tax measured by 25 percent of its entire net income at the rate provided by law.

(b) In no case shall the total tax be less than \$250.00.

Amended by R.1979 d.45, effective February 6, 1979.

See: 11 N.J.R. 40(d), 11 N.J.R. 150(b).

Amended by R.1990 d.489, effective October 1, 1990.

See: 22 N.J.R. 1871(a), 22 N.J.R. 3147(a).

Tax rate amended to conform to statutory tax rates.

Repeal and New Rule, R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).

Section was "Investment company; tax assessed and payable".

Statutory References

See N.J.S.A. 54:10A-5(b) as to method of computing amount of franchise tax payable on taxpayer's entire net worth. See N.J.S.A. 54:10A-5(d) as to method of computing amount of franchise tax payable by an investment company which has elected to report as such.

18:7-3.9 (Reserved)

Amended by R.1982 d.6, effective February 18, 1982.

See: 13 N.J.R. 688(a), 14 N.J.R. 105(d).

"By" was "for"; added "on and after"; deleted "and thereafter"; added "but before December 31, 1980"; added "N.J.A.C. 18:7-3.7"; deleted "section 3.7"; deleted "of this chapter".

Repealed by R.1994 d.186, effective April 18, 1994.

See: 26 N.J.R. 761(a), 26 N.J.R. 1696(b).