



Fringe Benefits Paid by S Corporations to 2% Shareholders

TB-36 – Issued January 23, 2002

Tax: Gross Income Tax

Fringe benefits paid to S corporation shareholders owning 2% or more of the stock of a New Jersey S corporation are not deductible by the S corporation and are taxable as income to the shareholder. These amounts, included in the shareholders' Federal Gross Income on the Form W-2, also must be included in their New Jersey Gross Income.

Shareholders owning more than 2% of the stock of an S corporation are then allowed to deduct the amount paid for health insurance for themselves and their spouses from Gross Income in the category of "medical expenses." The deduction is limited to the amount of earned income derived from the business establishing the insurance plan. Premiums paid for health insurance coverage during any month that the shareholder is eligible to participate in any subsidized health plan maintained by the shareholder or the shareholder's spouse are not allowed as a deduction from Gross Income.

Fringe benefits paid to New Jersey S corporation shareholders owning 2% or less of the stock and to shareholders of a Federal S corporation that has not made the S election in New Jersey are deductible by the S corporation and are not taxable as income to the shareholder.

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.