

# ASSEMBLY, No. 1277

## STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

**SYNOPSIS**

Provides corporation business tax and gross income tax credits for employers who allow their employees to telecommute.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



A1277 CARROLL

1 AN ACT providing corporation business tax and gross income tax  
2 credits for employers who allow their employees to telecommute,  
3 supplementing P.L.1945, c.162 and Title 54A of the New Jersey  
4 Statutes.

5

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

8

9 1. a. A taxpayer shall be allowed a credit against the tax  
10 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in  
11 an amount equal to 1% of that part of the salary and wages paid by  
12 the taxpayer during the privilege period to a qualified residential  
13 telecommuting employee residing in New Jersey during the  
14 privilege period multiplied by the percentage of the services that are  
15 part of the employee's normal workweek that are performed in the  
16 employee's residence.

17 b. As used in this section,

18 "Qualified residential telecommuting employee" means a  
19 salaried or hourly employee of the taxpayer who utilizes  
20 telecommuting and who, pursuant to a written residential  
21 telecommuting work arrangement between the taxpayer and that  
22 employee, regularly performs a portion of the services that are part  
23 of that employee's normal workweek in the employee's residence in  
24 this State, without making any work-related commute trips on the  
25 day or days that the employee is telecommuting, and is not directly  
26 supervised in the performance of the employee's duties while at the  
27 employee's residence;

28 "Residential telecommuting work arrangement" means a written  
29 contract between the taxpayer and employee defining the  
30 responsibilities of the taxpayer and employee with respect to a job  
31 allowing residential telecommuting; and

32 "Telecommuting" means an off-site arrangement that permits an  
33 employee to work in the employee's residence for all or part of the  
34 workweek.

35 c. The amount of the credits applied under this section for a  
36 privilege period, when taken together with any other credits allowed  
37 against the tax imposed pursuant to section 5 of P.L.1945, c.162,  
38 shall not exceed 50% of the tax liability otherwise due and shall not  
39 reduce the tax liability to an amount less than the statutory  
40 minimum provided in subsection (e) of section 5 of P.L.1945,  
41 c.162. The director shall determine the order in which credits  
42 allowed under this section and any other credits shall be taken. A  
43 credit allowed under this section shall be in addition to the credit  
44 allowed to the taxpayer pursuant to paragraph (5) of subsection b.  
45 of section 1 of P.L.1993, c.150 (C.27:26A-15), notwithstanding that  
46 the commuter transportation benefit under that section was based  
47 upon costs to the employer of telecommuting incurred in the same  
48 privilege period that the salary or wages were paid to the qualified

1 residential telecommuting employee. The amount of the credit  
2 otherwise allowable under this section which cannot be applied for  
3 the privilege period due to the limitations of this subsection or for  
4 any other reason may be carried over, if necessary to the seven  
5 privilege periods following a credit's privilege period.

6 d. A taxpayer claiming a credit under this section shall file with  
7 the director, on a form prescribed by director, for each qualified  
8 residential telecommuting employee the following information  
9 which shall include the percentage of workdays the employee  
10 telecommutes. The taxpayer shall maintain records of this  
11 information and the number of workdays the employee works in the  
12 employee's residence and the number of workdays the employee  
13 worked for the employer in another location. A copy of this  
14 information required to be filed with the director shall be made  
15 available to the qualified residential telecommuting employee and  
16 may be provided as part of the statement as to tax withheld on  
17 wages required to be furnished by an employer to an employee  
18 pursuant to subsection (c) of N.J.S.54A:8-6.

19

20 2. a. A taxpayer shall be allowed a credit against the tax  
21 otherwise due for the taxable year under the "New Jersey Gross  
22 Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 1%  
23 of that part of the salary and wages paid by the taxpayer during the  
24 taxable year to a qualified residential telecommuting employee  
25 residing in New Jersey during the taxable year multiplied by the  
26 percentage of the services that are part of the employee's normal  
27 workweek that are performed in the employee's residence.

28 b. As used in this section,

29 "Qualified residential telecommuting employee" means any  
30 salaried or hourly employee of the taxpayer who utilizes  
31 telecommuting and who, pursuant to a written residential  
32 telecommuting work arrangement between the taxpayer and that  
33 employee, regularly performs a portion of the services that are part  
34 of that employee's normal workweek in the employee's residence,  
35 without making any work-related commute trips on the day or days  
36 that the employee is telecommuting, and is not directly supervised  
37 in the performance of the employee's duties while at the employee's  
38 residence;

39 "Residential telecommuting work arrangement" means a written  
40 contract between the taxpayer and employee defining the  
41 responsibilities of the taxpayer and employee with respect to a job  
42 allowing residential telecommuting; and

43 "Telecommuting" means an off-site arrangement that permits an  
44 employee to work in the employee's residence for all or part of the  
45 workweek.

46 c. The amount of the credits applied under this section for a  
47 taxable year, when taken together with any other credits allowed  
48 against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not

A1277 CARROLL

1 reduce a taxpayer's tax liability otherwise due in any taxable year  
2 by more than 50% of the amount of tax otherwise due. The director  
3 shall determine the order in which credits allowed pursuant to this  
4 section and any other credits shall be taken. The amount of the  
5 credit otherwise allowable under this section which cannot be  
6 applied for the taxable year due to the limitations of this subsection  
7 or for any other reason may be carried over, if necessary to the  
8 seven taxable years following a credit's taxable year.

9 d. A partnership shall not be allowed a credit under this section  
10 directly, but the amount of credit of a taxpayer in respect of a  
11 distributive share of partnership income under the "New Jersey  
12 Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined  
13 by allocating to the taxpayer that proportion of the credit acquired  
14 by the partnership that is equal to the taxpayer's share, whether or  
15 not distributed, of the total distributive income or gain of the  
16 partnership for its taxable year ending within or with the taxpayer's  
17 taxable year. For the purposes of subsection c. of this section, the  
18 amount of tax liability which would be otherwise due of a taxpayer  
19 is that proportion of the total liability of the taxpayer that the  
20 taxpayer's share of the partnership income or gain included in gross  
21 income bears to the total gross income of the taxpayer. Provided  
22 further, however, that the portion of any credit allowed pursuant to  
23 this subsection shall be in addition to any portion of the credit  
24 acquired by the partnership and allowed to the taxpayer pursuant to  
25 paragraph (5) of subsection b. of section 1 of P.L.1993, c.150  
26 (C.27:26A-15), notwithstanding that the commuter transportation  
27 benefit under that section was based upon costs to the employer of  
28 telecommuting. The amount of credit of a taxpayer in respect of a  
29 distributive share of partnership income otherwise allowable under  
30 this section which cannot be applied for the taxable year due to the  
31 limitations of this subsection or for any other reason may be carried  
32 over by the taxpayer, if necessary to the seven taxable years  
33 following a credit's taxable year.

34 e. A taxpayer claiming a credit under this section shall file with  
35 the director, on a form prescribed by director, for each qualified  
36 residential telecommuting employee the following information  
37 which shall include the percentage of workdays the employee  
38 telecommutes. The taxpayer shall maintain records of this  
39 information and the number of workdays the employee works in the  
40 employee's residence and the number of workdays the employee  
41 worked for the employer in another location. A copy of this  
42 information required to be filed with the director shall be made  
43 available to the qualified residential telecommuting employee and  
44 may be provided as part of the statement as to tax withheld on  
45 wages required to be furnished by an employer to an employee  
46 pursuant to subsection (c) of N.J.S.54A:8-6.

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48

3. This act shall take effect immediately and sections 1 and 2

1 shall apply respectively to privilege periods and taxable years  
2 beginning after enactment.

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5 STATEMENT

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7 This bill provides corporation business and gross income tax  
8 credits to employers who allow their employees to regularly  
9 telecommute pursuant to a structured plan approved by the  
10 employer. A credit equals one percent of the portion of wages and  
11 salaries paid to employees for the part of the workweek that they  
12 regularly telecommute. For example, for telecommuting two out of  
13 five work days per week, the credit of one percent will be calculated  
14 based upon 40 percent of the remuneration paid to the employee,  
15 which is derived from 40 percent of the regular workweek that the  
16 employee telecommutes.

17 Telecommuting arrangements benefit communities, employers,  
18 and employees. They decrease the number of vehicle miles traveled  
19 by New Jersey commuters in New Jersey communities, thereby  
20 reducing overall gasoline consumption and improving air quality.  
21 While employers benefit from reductions in office space  
22 requirements and increased productivity from telecommuting  
23 workers, employees can rejoice at less time spent commuting,  
24 improved morale, and a better balance between work, commuting,  
25 and personal life.