

# ASSEMBLY, No. 2911

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MARCH 13, 2014

**Sponsored by:**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblywoman HOLLY SCHEPISI**

**District 39 (Bergen and Passaic)**

**SYNOPSIS**

Provides gross income tax exclusion for capital gains from sale of certain employer securities by qualified business that result in net positive benefit to the State.

**CURRENT VERSION OF TEXT**

As introduced.



A2911 CHIVUKULA, SCHEPISI

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1 AN ACT providing a gross income tax exclusion for capital gains  
2 from the sale of certain employer securities by qualified  
3 businesses that result in a net positive benefit to the State,  
4 supplementing chapter 6 of Title 54A of the New Jersey Statutes.

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

8  
9 1. a. Gross income shall not include net gains or income from  
10 the sale or exchange of employer securities of a qualified business  
11 with fewer than 500 employees that is not publically traded on any  
12 stock exchange to an employee stock ownership plan, a New Jersey  
13 S corporation owned by an employee stock ownership plan, or an  
14 eligible worker-owned cooperative, benefiting employees of the  
15 qualified business in this State if upon completion of the transaction  
16 the employee stock ownership plan, New Jersey S corporation  
17 owned by an employee stock ownership plan, or eligible worker-  
18 owned cooperative plan owns at least 30 percent of all outstanding  
19 employer securities issued by the qualified business.

20 b. Provided however, that the exclusion of net gains or income  
21 provided for in this section shall not be allowed unless the qualified  
22 business has first applied for and received from the New Jersey  
23 Economic Development Authority, established by section 4 of  
24 P.L.1974, c.80 (C.34:1B-4), certification by the authority that the  
25 qualified business has demonstrated that the allowance of the  
26 estimated tax savings that will result from the exclusion of net gains  
27 or income from the sale or exchange will result in the retention of  
28 full-time jobs in the qualified business in this State and will yield a  
29 net positive benefit to the State.

30 c. As used in this section:

31 “Eligible worker-owned cooperative” means an “eligible worker-  
32 owned cooperative” as defined by paragraph (2) of subsection (c) of  
33 section 1042 of the federal Internal Revenue Code (26 U.S.C.  
34 s.1042).

35 “Employee stock ownership plan” means an “employee stock  
36 ownership plan” as defined by paragraph (7) of subsection (e) of  
37 section 4975 of the federal Internal Revenue Code (26 U.S.C.  
38 s.4975).

39 “Employer securities” means “employer securities” as defined by  
40 subsection (l) of section 409 of the federal Internal Revenue Code  
41 (26 U.S.C. s.409).

42 “Qualified business” means a private entity, whose headquarters  
43 or base of operations is in this State, including but not limited to a  
44 corporation, an S corporation, limited liability company,  
45 partnership, limited liability partnership, a sole proprietorship, and  
46 all private entities related by common ownership or control.

1       2. This act shall take effect immediately and apply to taxable  
2 years beginning on or after January 1 next following the date of  
3 enactment.

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STATEMENT

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8       This bill allows for a gross income tax exclusion for capital gains  
9 from the sale of certain employer securities by qualified businesses  
10 that result in the retention of full-time jobs that yield a net positive  
11 benefit to the State. The gross income tax exclusion will be  
12 contingent upon the qualified business receiving pre-transaction  
13 certification from the New Jersey Economic Development  
14 Authority that considering the gross income tax forgone from the  
15 exclusion of income, that the transaction will result in the retention  
16 of full-time jobs in the qualified business in this State and will yield  
17 a net positive benefit to the State. The capital gains or income to be  
18 excluded must be from the sale of employer securities of a non-  
19 publically traded business with fewer than 500 employees, whose  
20 headquarters or base of operations is in this State, to an employee  
21 stock ownership plan, a New Jersey S corporation owned by an  
22 employee stock ownership plan, or an eligible worker-owned  
23 cooperative, benefiting employees of the business in this State, if  
24 upon completion of the transaction the employee stock ownership  
25 plan, New Jersey S corporation owned by an employee stock  
26 ownership plan, or eligible worker-owned cooperative plan owns at  
27 least 30 percent of all outstanding employer securities issued by the  
28 business.

29       The purpose of this bill is to incentivize small businesses to  
30 establish employee stock ownership plans. An employee stock  
31 ownership plan allows companies to share ownership with  
32 employees without requiring employees to invest their own money.  
33 In addition, this bill encourages small business owners to sell their  
34 businesses to the very employees that contributed to their success  
35 and save those jobs in this State. This will help to ensure that local  
36 businesses are not sold to out-of-state buyers, which often results in  
37 the loss of jobs in this State and can be harmful to the fabric of local  
38 communities.