Sponsored by:
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District 21 (Morris, Somerset and Union)
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SYNOPSIS
Provides gross income tax credit for A-list performing artists for income derived from certain live performances contracted for and rendered within the Atlantic City Tourism District on a recurring basis and within the State.

CURRENT VERSION OF TEXT
As introduced.
AN ACT providing a gross income tax credit for A-list performing artists for income derived from certain live performances contracted for and rendered within the Atlantic City Tourism District and within additional New Jersey locations, supplementing Title 54A of the New Jersey Statutes.

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

1. a. A taxpayer who is an A-list performing artist, as shall be determined by the Secretary of State pursuant to an annual review, to be completed in advance of and to apply to the next taxable year, of entertainment and sports performers’ occupational rankings of live public performance demand in major national venues and pay-per-view media, including categories of entertainment and sports performance occupations including but not limited to musicians, singers, dancers, actors, comics, athletic and sports competitors participating in professional, organized, officiated sporting events to entertain spectators, who renders live personal services to entertain spectators as an entertainment or sports performer, contracted for and rendered on at least four occasions within any taxable year within the Atlantic City Tourism District, shall be allowed a credit against the gross income tax liability on income derived from these services performed in the district and elsewhere within the State during a taxable year, calculated as if the income derived from these services were subject to tax at the highest marginal tax rate as applies to the taxpayer pursuant to N.J.S. 54A:1-1 et seq. during that taxable year, upon prior written authorization therefor by the Director of the Division of Taxation in the Department of the Treasury. Live personal services to entertain spectators as an entertainment or sports performer, for which a tax credit may be claimed under this act, shall be pursuant to live performance contracts entered into before the expiration of the fifth calendar year beginning after the date of enactment.

b. A business classified as a partnership for federal income tax purposes shall not be allowed a credit directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income, shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year except as otherwise provided by law.

A business that is a New Jersey S Corporation shall not be allowed a credit directly, but the amount of credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S Corporation that is equal to the
taxpayer's share, whether or not distributed, of the total pro rata
share of S Corporation income of the New Jersey S Corporation for
its privilege period ending within or with the taxpayer's taxable
year.

2. a. Notwithstanding the provisions of section 1 of P.L. ,
c. ( ) (pending before the Legislature as this bill) to the
contrary, a taxpayer shall not be permitted to take a credit allowed
in accordance with section 1 of P.L. , c. ( ) (pending
before the Legislature as this bill) to reduce New Jersey gross
income tax liability unless the taxpayer has obtained prior written
authorization from the director in accordance with this section.
b. The director shall establish an application process and
prescribe the form and manner through which a taxpayer may make
and file an application to obtain the director’s written authorization
for the allowance of a credit.
c. The director shall review each application made and filed by
a taxpayer in accordance with subsection b. of this section and
make a determination regarding the approval of an application
seeking the director’s written authorization for the allowance of a
credit within 90 calendar days of the date a complete application is
received.
d. The director shall issue a written authorization for the
allowance of a credit to each taxpayer that made and filed a
complete application that has been reviewed and approved by the
director in accordance with subsection c. of this section within five
calendar days of the date the director’s determination is made.
Each taxpayer issued a written authorization for the allowance of a
credit shall include a copy of the director’s authorization when
filing a return that includes a claim for the credit allowed in
accordance with section 1 of P.L. , c. ( ) (pending before
the Legislature as this bill).
e. If the director fails to make a determination regarding the
approval of an application seeking the director’s written
authorization for the allowance of a credit within 90 calendar days
of the date a complete application is received, or if the director fails
to issue a written authorization for the allowance of a credit within
five calendar days of the date the director’s determination is made,
the application shall be deemed to have been approved and the
written authorization shall be deemed to have been issued by the
director. Each taxpayer that made and filed a complete application
in accordance with subsection b. of this section but fails to receive a
determination from the director within 90 calendar days of the date
a complete application is received, or fails to receive a written
authorization for the allowance of a credit within five calendar days
of the date the director’s determination is made, shall include a
copy of the taxpayer’s application when filing a return that includes
a claim for the credit allowed in accordance with section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

3. Notwithstanding any provision of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Director of the Division of Taxation in the Department of the Treasury may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary which shall be effective for a period not to exceed 360 days following the date of enactment of P.L. , c. (C. ) (pending before the Legislature as this bill) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

STATEMENT

This bill provides for a gross income tax credit for A-list performing artists for income derived from certain live performances contracted for and rendered within the Atlantic City Tourism District and additional locations within the State. This tax credit, which will effectively establish a 100% State income tax exemption for top-ranked national performers who commit to perform periodically in Atlantic City, and for their performances that may occur elsewhere in New Jersey, is intended to generate a net revenue benefit that can be accomplished through the growth in additional tourists visiting and staying in Atlantic City to be entertained by major entertainers and sporting events that become Atlantic City regulars. The economic success of Atlantic City as a gambling and top national entertainment hotspot comparable to Las Vegas, requires a major stimulus for drawing regular, recurring top-ranked entertainers and spectator events to the Atlantic City Tourism District and other locations in this State.

Top nationally-ranked live performing artists, as will be identified by way of a national review to be annually compiled by the New Jersey Secretary of State, in categories of entertainment and sports performance occupations including but not limited to musicians, singers, dancers, actors, comics, athletic and sports competitors participating in professional, organized, officiated sporting events to entertain spectators, will be eligible to apply for the tax credit if they commit to and actually perform live on at least four occasions within any taxable year within the Atlantic City Tourism District. Tax credits may then also be claimed for live performances in other New Jersey venues within that taxable year. Income from live performances for which a tax credit may be
claimed must be pursuant to live performance contracts entered into
during the next five calendar years beginning after the date of
enactment of this bill. This tax credit must be applied for and
allowed pursuant to a written application with the Director of the
Division of Taxation under an expedited process. The credit may
be applied only against the gross income tax liability on income
derived from these services performed in the district and other State
locations during a taxable year, and the credit is to be calculated as
if the income is subject to tax at the highest marginal tax rate as
applies to the taxpayer pursuant to the New Jersey gross income
tax.