SYNOPSIS

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

CURRENT VERSION OF TEXT

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

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

1. The Legislature finds and declares that:
   a. Historic data show that employee ownership has proven to
      reduce unemployment through the retention of full-time jobs.
   b. Employee and management owned enterprises produce
      indirect revenues that come from the reduction in unemployment
      insurance claims, gains in the retained-employee income taxes,
      corporate income taxes, and New Jersey state sales taxes.

2. a. Gross income shall not include net gains or income from
    the sale or exchange of employer securities of a qualified business
    with fewer than 500 employees that is not publically traded on any
    stock exchange to an employee stock ownership plan, a New Jersey
    S corporation owned by an employee stock ownership plan, or an
    eligible worker-owned cooperative, benefiting employees of the
    qualified business in this State if upon completion of the transaction
    the employee stock ownership plan, New Jersey S corporation
    owned by an employee stock ownership plan, or eligible worker-
    owned cooperative plan owns at least 30 percent of all outstanding
    employer securities issued by the qualified business.
   b. Provided however, that the exclusion of net gains or income
      provided for in this section shall not be allowed unless the qualified
      business has first applied for and received from the New Jersey
      Economic Development Authority, established by section 4 of
      P.L.1974, c.80 (C.34:1B-4), certification by the authority that the
      qualified business has demonstrated that the allowance of the
      estimated tax savings that will result from the exclusion of net gains
      or income from the sale or exchange will result in the retention of
      full-time jobs in the qualified business in this State and will yield a
      net positive benefit to the State. The New Jersey Economic
      Development Authority may determine the net economic benefit
      using the number of employees whose jobs were retained and the
      savings achieved through the reduction of the unemployment
      insurance claims that might have been claimed by those employees
      had their jobs not be retained, the New Jersey gross income tax and
      New Jersey sales and use tax paid by those employees, and the
      expected New Jersey corporation business tax paid by the qualified
      business that would continue as an employee and management
      owned enterprise.
   c. As used in this section:
“Eligible worker-owned cooperative” means an “eligible worker-owned cooperative” as defined by paragraph (2) of subsection (c) of section 1042 of the federal Internal Revenue Code (26 U.S.C. s.1042).

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

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

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

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

STATEMENT

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

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