

ASSEMBLY, No. 3960

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 1, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Assemblymen Dancer, Thomson and Assemblywoman N.Munoz

SYNOPSIS

Allows CBT and GIT tax credits to certain taxpayers that retain employees during COVID-19 pandemic.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/5/2021)

1 AN ACT allowing tax credits to certain taxpayers that retain
2 employees during the COVID-19 pandemic.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A qualified taxpayer that is eligible for a federal tax
8 credit pursuant to section 2301 of the “CARES Act,” Pub.L. 116-
9 136, shall be allowed a credit against the tax imposed pursuant to
10 section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to the
11 sum of 20 percent of the federal credit allowed for each qualified
12 employee.

13 As used in this section:

14 “Qualified employee” means a New Jersey based full time, or
15 full time equivalent, employee, as reported to the Department of
16 Labor and Workforce Development on the taxpayer’s Employer
17 Report of Wages Paid (WR-30); and

18 “Qualified taxpayer” means a taxpayer with no more than 10 full
19 time, or full time equivalent, employees at any point in 2019 and
20 until the credit is claimed.

21 b. The amount of the credit applied under this section against
22 the tax imposed pursuant to section 5 of P.L.1945, c.162
23 (C.54:10A-5), for a privilege period, when taken together with any
24 other credits allowed against the tax imposed pursuant to section 5
25 of P.L.1945, c.162 (C.54:10-5), shall not reduce the tax liability to
26 an amount less than the statutory minimum provided in subsection
27 (e) of section 5 of P.L.1945, c.162 (C.54:10A-1 et seq.).

28 c. The priority in which credits allowed pursuant to this section
29 and any other credits allowed shall be determined by the director.

30
31 2. a. A qualified taxpayer that is eligible for a federal tax
32 credit pursuant to section 2301 of the “CARES Act,” Public Law
33 116-136, shall be allowed a credit against the tax imposed pursuant
34 to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq.,
35 in an amount equal to the sum of 20 percent of the federal credit
36 allowed for each qualified employee.

37 As used in this section:

38 “Qualified employee” means a New Jersey based full time, or
39 full time equivalent, employee of the taxpayer, as reported to the
40 Department of Labor and Workforce Development on the
41 taxpayer’s Employer Report of Wages Paid (WR-30); and

42 “Qualified taxpayer” means a taxpayer with no more than 10 full
43 time, or full time equivalent, employees at any point in 2019 and
44 until the credit is claimed.

45 b. The order of priority of the application of the credit allowed
46 pursuant to this section and any other credits allowed against the New
47 Jersey gross income tax due pursuant to N.J.S.54A:1-1 et seq. for a
48 taxable year shall be as prescribed by the director.

1 c. The amount of the credit applied against the New Jersey gross
2 income tax due pursuant to N.J.S.54A:1-1 et seq. shall not reduce a
3 taxpayer's New Jersey gross income tax liability to an amount less
4 than zero.

5 d. A business entity classified as a partnership for federal
6 income tax purposes shall not be allowed a credit directly under the
7 New Jersey gross income tax, but the amount of credit of a taxpayer
8 in respect of a distributive share of partnership income shall be
9 determined by allocating to the taxpayer that proportion of the
10 credit acquired by the partnership that is equal to the taxpayer's
11 share, whether or not distributed, of the total distributive income or
12 gain of the partnership for its taxable year ending within or with the
13 taxpayer's taxable year.

14 A New Jersey S Corporation shall not be allowed a credit
15 directly under the New Jersey gross income tax, but the amount of
16 credit of a taxpayer in respect of a pro rata share of S Corporation
17 income shall be determined by allocating to the taxpayer that
18 proportion of the credit acquired by the New Jersey S Corporation
19 that is equal to the taxpayer's share, whether or not distributed, of
20 the total pro rata share of S Corporation income of the New Jersey S
21 Corporation for its privilege period ending within or with the
22 taxpayer's taxable year.

23
24 3. The Director of the Division of Taxation in the Department
25 of the Treasury is authorized to adopt rules and regulations
26 necessary to implement this act. To the extent practicable, such
27 rules and regulations shall be in accordance with the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.).

30
31 4. This act shall take effect immediately.
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34 STATEMENT

35
36 This bill allows qualified taxpayers to claim a credit equal to 20
37 percent of the credit they receive under the Employee Retention
38 Credit of the federal "CARES Act."

39 The Employee Retention Credit of the federal CARES Act is a
40 credit that can be claimed against employment taxes in an amount
41 equal to 50 percent of qualified wages paid to eligible employees.
42 The federal credit only takes into account wages paid after March
43 12, 2020 and before January 1, 2021. The federal credit also only
44 takes into account up to \$10,000 of qualified wages paid during the
45 period, so the maximum federal credit is \$5,000 per employee.

46 The credit allowed by this bill, to be claimed against the
47 Corporate Business Tax or the Gross Income Tax, is 20 percent of

A3960 BENSON, WIRTHS

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1 the amount the taxpayer received under the federal credit for each
2 employee, so the maximum State credit is \$1,000 per employee.

3 Only qualified taxpayers would be eligible for the NJ credit, and
4 the taxpayer will only be allowed to claim a credit for NJ based
5 employees. A qualified taxpayer is a taxpayer with 10 or fewer full
6 time employees.