

# ASSEMBLY, No. 3960

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 1, 2020

**Sponsored by:**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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.

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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.).

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31 4. This act shall take effect immediately.

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#### STATEMENT

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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

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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.