

# SENATE, No. 1443

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator JAMES W. HOLZAPFEL**

**District 10 (Ocean)**

### **SYNOPSIS**

Provides corporation business tax and gross income tax credits for employing immediate family members of members of the Armed Forces of the United States who were killed in action.

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing corporation business tax and gross income tax  
2 credits for employing immediate family members of members of  
3 the Armed Forces of the United States who were killed in action,  
4 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title  
5 54A of the New Jersey Statutes.

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

9  
10 1. a. A taxpayer shall be allowed a credit against the  
11 corporation business tax imposed pursuant to section 5 of P.L.1945,  
12 c.162 (C.54:10A-5), in an amount equal to the value of ten percent  
13 of the qualified wages paid for the privilege period to immediate  
14 family members of members of the Armed Forces of the United  
15 States who were killed in action. For each privilege period, a  
16 taxpayer's credit allowed pursuant to this section shall not exceed  
17 \$1,200 for each immediate family member.

18 b. (1) The order of priority of the application of the credit  
19 allowed pursuant to this section and any other credits allowed  
20 against the corporation business tax for a privilege period shall be  
21 as prescribed by the director.

22 (2) Credit allowed pursuant to this section in excess of a  
23 taxpayer's corporation business tax liability for a privilege period  
24 shall not be allowed as a refund of overpayment of tax. Unused  
25 credit resulting from this limitation may be carried forward, to the  
26 earliest available use within the 20 privilege periods immediately  
27 following the privilege period for which the credit is allowed.

28 (3) A taxpayer shall not be granted a credit pursuant to this  
29 section for the qualified wages if the wages or associated employees  
30 are included in the calculation of another State tax credit or grant  
31 for a period of time that coincides with the applicable privilege  
32 period.

33 (4) If the qualified wages allowed in the calculation of a credit  
34 for a privilege period subsequently become disqualified wages due  
35 to insufficient duration of employment or another matter of  
36 noncompliance with this section, the director may recapture the  
37 credit in a subsequent privilege period as an adjustment to the  
38 taxpayer's corporation business tax liability.

39 c. As used in this section:

40 "Immediate family member" means a service member's spouse,  
41 child, or parent.

42 "Members of the Armed Forces of the United States who were  
43 killed in action" mean individuals dying in, or as a result of, active  
44 duty in the Armed Forces of the United States or Reserve  
45 Component thereof including the National Guard.

46 "New and sustained employment" means the full-time  
47 employment of an individual, not previously employed by the

1 taxpayer, for a period of time of no less than nine full and  
2 consecutive calendar months in the State.

3 “Qualified wages” mean any salaries, wages, and remuneration  
4 subject to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
5 et seq., paid in the course of new and sustained employment to an  
6 immediately family member of a Member of the Armed Forces who  
7 was killed in action.

8

9 2. a. A taxpayer shall be allowed a credit against the “New  
10 Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., in an amount  
11 equal to the value of ten percent of the qualified wages paid for the  
12 taxable year to immediate family members of members of the  
13 Armed Forces of the United States who were killed in action. For  
14 each taxable year, a taxpayer’s credit allowed pursuant to this  
15 section shall not exceed \$1,200 for each immediate family member.

16 b. (1) The order of priority of the application of the credit  
17 allowed pursuant to this section and any other credits allowed  
18 against the gross income tax for a taxable year shall be as  
19 prescribed by the director.

20 (2) Credit allowed pursuant to this section in excess of a  
21 taxpayer’s gross income tax liability for a taxable year shall not be  
22 allowed as a refund of overpayment of tax. Unused credit resulting  
23 from this limitation may be carried forward, to the earliest available  
24 use within the 20 taxable years immediately following the taxable  
25 year for which the credit is allowed.

26 (3) A taxpayer shall not be granted a credit pursuant to this  
27 section for the qualified wages if the wages or associated employees  
28 are included in the calculation of another State tax credit or grant  
29 for a period of time that coincides with the applicable taxable year.

30 (4) If the qualified wages allowed in the calculation of a credit  
31 for a taxable year subsequently become disqualified wages due to  
32 insufficient duration of employment or another matter of  
33 noncompliance with this section, the director may recapture the  
34 credit in a subsequent taxable year as an adjustment to the  
35 taxpayer’s gross income tax liability.

36 c. (1) A business entity that is treated as a partnership for  
37 federal income tax purposes shall not be allowed a credit directly  
38 under the gross income tax, but a taxpayer partner shall be allowed  
39 the amount of the partnership’s credit associated with the qualified  
40 wages allocated to the taxpayer as partnership expenses.

41 (2) A New Jersey S corporation shall not be allowed a credit  
42 directly under the gross income tax, but a taxpayer shareholder shall  
43 be allowed the amount of a New Jersey S corporation’s credit  
44 associated with the qualified wages allocated to the taxpayer as  
45 New Jersey S corporation expenses.

46 d. As used in this section:

47 “Immediate family member” means a service member's spouse,  
48 child, or parent.

1 “Members of the Armed Forces of the United States who were  
2 killed in action” mean individuals dying in, or as a result of, active  
3 duty in the Armed Forces of the United States or Reserve  
4 Component thereof including the National Guard.

5 “New and sustained employment” means the full-time  
6 employment of an individual, not previously employed by the  
7 taxpayer, for a period of time of no less than nine full and  
8 consecutive calendar months in the State.

9 “Qualified wages” mean any salaries, wages, and remuneration  
10 subject to the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1  
11 et seq., paid in the course of new and sustained employment to an  
12 immediately family member of a Member of the Armed Forces who  
13 was killed in action.

14  
15 3. This act shall take effect immediately and apply to privilege  
16 periods and taxable years beginning on or after the January 1 first  
17 following the date of enactment.

18  
19  
20 STATEMENT

21  
22 This bill provides corporation business tax and gross income tax  
23 credits for employing immediate family members of members of the  
24 Armed Forces of the United States who were killed in action.

25 The two credits established by this bill provide an employer with  
26 a credit in the amount of ten percent of the wages paid to an  
27 immediate family member of a member of the Armed Forces of the  
28 United States who was killed in action. The credits may not exceed  
29 \$1,200 per family member per tax year. For the employer to be  
30 eligible to receive the credit, the family member must be a new  
31 employee and be employed in the State full-time for no less than  
32 nine full and consecutive calendar months.

33 The credit is nonrefundable, but may be carried forward for up to  
34 20 tax years. The bill prohibits taxpayers from simultaneously  
35 using family members to qualify for the bill’s credit and any other  
36 generally available employment incentive that comes in the form of  
37 a State tax credit or grant. The bill also empowers the Director of  
38 the Division of Taxation to recapture credit due to noncompliance.

39 The bill schedules the credits to become available for tax years  
40 beginning on or after the January 1 first following the date of  
41 enactment.