

SENATE, No. 2460

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Allows commercial property owners to claim certain amounts of commercial tenant rent forgiveness during COVID-19 emergency as deduction against property owner's income under CBT or GIT.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT allowing commercial property owners to claim certain
2 amounts of commercial tenant rent forgiveness during COVID-
3 19 emergency as a deduction against the property owner's
4 income.

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

8
9 1. a. For the purposes of the "Corporation Business Tax Act,"
10 P.L.1945, c.162 (C.54:10A-1 et seq.), and the "New Jersey Gross
11 Income Tax Act," N.J.S.54A:1-1 et seq., a taxpayer shall be allowed
12 to deduct from the taxpayer's income the value of any qualifying
13 rent forgiveness that the taxpayer provides to an eligible business.
14 A taxpayer shall be allowed to deduct from the taxpayer's income
15 up to a total of \$15,000 of cumulative rent forgiveness provided by
16 the taxpayer to each eligible business that is a commercial property
17 tenant of the taxpayer, and shall not be allowed to deduct more than
18 \$15,000 for rent forgiveness related to any individual commercial
19 property unit.

20 b. The deduction allowed by this section shall apply only to
21 rent forgiven for months that occur during the emergency declared
22 by the Governor pursuant to Executive Order No. 103 of 2020 or
23 any extension thereof. The deduction shall not apply to rent
24 forgiveness after the month of September 2020.

25 c. For the purposes of this act:

26 "Affiliated group" means an affiliated group as defined in section
27 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504.

28 "Controlled group" means a controlled group of corporations as
29 defined in section 1563 of the federal Internal Revenue Code, 26
30 U.S.C. s.1563.

31 "Commercial property" means property that is classified pursuant
32 to the requirements of N.J.A.C.18:12-2.2 as Class 4A "commercial
33 properties".

34 "Eligible business" means a commercial, business, trade,
35 wholesaling, retailing, or other profit-making enterprise, or a
36 nonprofit organization, that leases all or a part of a commercial
37 property in this State. "Eligible business" shall not include any
38 commercial, business, trade, wholesaling, retailing, or other profit-
39 making enterprise that is considered to be a part of a controlled
40 group or an affiliated group with the taxpayer.

41 "Qualifying rent forgiveness" means 33.3 percent or \$5,000,
42 whichever is less, of the total amount of rent forgiveness provided
43 by a taxpayer to an eligible business for each month up to three
44 months, or an equivalent amount for a commercial lease that is not
45 payable to the taxpayer on a monthly basis.

46 "Taxpayer" means a person or entity required to pay tax to the
47 State pursuant to the "Corporation Business Tax Act," P.L.1945,
48 c.162 (C.54:10A-1 et seq.) or the "New Jersey Gross Income Tax

1 Act," N.J.S.54A:1-1 et seq., who is a commercial property owner
2 and who leases all or part of the taxpayer's commercial property to
3 an eligible business.

4
5 2. The Director of the Division of Taxation in the Department
6 of the Treasury may adopt rules and regulations necessary to
7 implement this act, including, but not limited to, rules and
8 regulations to secure and verify documentation from taxpayers and
9 to calculate the allowable deductions for commercial property units
10 that are subject to leases that are payable on any regular basis that is
11 not monthly. The Director shall impose a penalty, in the amount of
12 three times the amount of the deduction claimed, on any taxpayer
13 that intentionally, inappropriately claims the deduction allowed
14 pursuant to this act.

15
16 3. This act shall take effect immediately.

17
18
19 STATEMENT

20
21 This bill allows taxpayers that are commercial property owners
22 who grant their tenants rent forgiveness because of the COVID-19
23 pandemic to deduct from the taxpayers Corporation Business Tax or
24 Gross Income Tax liability, whichever is applicable, a portion up to
25 33.3 percent or \$15,000, whichever is less, of the amount of rent
26 forgiveness provided by the taxpayer to each commercial tenant,
27 over not more than three months.

28 The bill stipulates that a taxpayer is not allowed to claim a
29 deduction for any rent forgiveness provided by the taxpayer to a
30 business that is a part of the same controlled group or the same
31 affiliated group as the taxpayer.

32 The deduction is only to be available for forgiven rent on months
33 occurring during the public health emergency declared by the
34 Governor, but the deduction will not be allowed for forgiven rent on
35 any month after September 2020.