

**ASSEMBLY, No. 5218**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JANUARY 7, 2021

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman JOHN ARMATO**

**District 2 (Atlantic)**

**Assemblyman P. CHRISTOPHER TULLY**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblymen Mazzeo, Johnson, Dancer, Assemblywomen Dunn and Reynolds-Jackson**

**SYNOPSIS**

Allows certain restaurant owners to accelerate depreciation of certain expenditures under corporation business and gross income taxes.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/8/2021)**

1 AN ACT allowing certain restaurant owners to accelerate  
2 depreciation of certain expenditures under corporation business  
3 and gross income taxes, supplementing P.L.1945, c.162 and Title  
4 54A of Revised Statutes.

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

8  
9 1. a. Notwithstanding paragraph (12) of subsection (k) of  
10 section 4 of P.L.1945, c.162 (C.54:10A-4), a taxpayer who is a  
11 small business restaurant owner shall be allowed the additional  
12 depreciation allowance of subsection (k) of section 168 of the  
13 federal Internal Revenue Code of 1986 (26 U.S.C. s.168) for up to  
14 \$150,000 of eligible property expenditures for the restaurant. The  
15 director shall prescribe the rules and regulations necessary to carry  
16 out the provisions of this section.

17 b. As used in this section:

18 “Director” means Director of the Division of Taxation in the  
19 Department of the Treasury.

20 “Eligible property expenditures” means capital expenditures  
21 incurred by the taxpayer to comply with the health and safety  
22 requirements imposed under the executive orders issued by the  
23 Governor in response to the COVID-19 pandemic, including but not  
24 limited to the purchase of heaters and overhangs.

25 “Small business restaurant” means a restaurant as defined in  
26 section 1 of P.L.1983, c.488 (C.26:3E-1) with not more than 100  
27 employees, but shall not include a restaurant with more than two  
28 separate locations outside the State.

29  
30 2. a. Notwithstanding section 26 of P.L.2004, c.65 (C.54A:5-  
31 1.2), a taxpayer who is a small business restaurant owner shall be  
32 allowed the additional depreciation allowance of subsection (k) of  
33 section 168 of the federal Internal Revenue Code of 1986 (26  
34 U.S.C. s.168) for up to \$150,000 of eligible property expenditures  
35 for the restaurant, provided that, section 26 of P.L.2004, c.65  
36 (C.54A:5-1.2) prohibited such additional depreciation allowance.  
37 The director shall prescribe the rules and regulations necessary to  
38 carry out the provisions of this section.

39 b. As used in this section:

40 “Director” means Director of the Division of Taxation in the  
41 Department of the Treasury.

42 “Eligible property expenditures” means capital expenditures  
43 incurred by the taxpayer to comply with the health and safety  
44 requirements imposed under the executive orders issued by the  
45 Governor in response to the COVID-19 pandemic, including but not  
46 limited to the purchase of heaters and overhangs.

47 “Small business restaurant” means a restaurant, as defined in  
48 section 1 of P.L.1983, c.488 (C.26:3E-1) with not more than 100

1 employees, but shall not include a restaurant with more than two  
2 separate locations outside the State.

3

4 3. This act shall take effect immediately.

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STATEMENT

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9 This bill allows restaurant owners who have no more than 100  
10 employees and are not chain restaurants to use a bonus depreciation  
11 allowance of up to \$150,000 for capital expenditures incurred to  
12 comply with the health and safety requirements of the Governor's  
13 executive orders regarding the COVID-19 pandemic. These capital  
14 expenditures include but are not limited to the purchase of heaters  
15 and overhangs.

16 Bonus depreciation allows a business to immediately deduct a  
17 large percentage of the purchase price of certain property. New  
18 Jersey decoupled from the federal rules regarding bonus  
19 depreciation in 2002. This bill re-couples to the federal rules for  
20 small business restaurant owners on up to \$150,000 of expenditures  
21 incurred to comply with the Governor's COVID-19 executive  
22 orders.