LEGISLATIVE FISCAL ESTIMATE

ASSEMBLY, No. 3437

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: MAY 20, 2024

SUMMARY

Synopsis: Provides gross income tax exclusion for capital gains from sale of certain employer securities.

Type of Impact: Variable potential annual revenue loss from the Property Tax Relief Fund.

Agencies Affected: Department of the Treasury.

Fiscal Impact	**FY 2026 and Thereafter**
Annual State Revenue Loss	Between $5.0 million and $10.0 million

- The Office of Legislative Services (OLS) estimates this bill may result in direct State revenue reductions of between $5.0 million and $10.0 million annually. The actual revenue reductions could vary substantially from year to year based on the volume of eligible transactions, including some years in which there may be no revenue loss to the State.

BILL DESCRIPTION

This bill provides a gross income tax exclusion for certain capital gains from the sale of employer securities of a non-publically traded business with fewer than 500 employees, whose headquarters or base of operations is in this State, to an employee stock ownership plan, a New Jersey S corporation owned by an employee stock ownership plan, or an eligible worker-owned cooperative, benefiting employees of the business in this State, if upon completion of the transaction the employee stock ownership plan, New Jersey S corporation owned by an employee stock ownership plan, or eligible worker-owned cooperative plan owns at least 30 percent of all outstanding employer securities issued by the business.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

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– OLS –

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OFFICE OF LEGISLATIVE SERVICES

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The OLS does not have access to State-specific tax data that would indicate the potential annual capital gains that would qualify for the tax exemption under the bill. However, an analysis provided to OLS by Professor Joseph R. Blasi of the Rutgers School of Management and Labor Relations suggests a potential State revenue loss of between $5.0 million and $10.0 million per year. The low end of this estimated range assumes the historical pattern of employee stock ownership plan (ESOP) formation continues after the adoption of this bill, while the high end of the estimated range assumes adoption of this bill induces a doubling of ESOP formation. The figures are derived from a Rutgers dataset which includes all New Jersey ESOPs between 2010 and 2021. Specifically, Professor Blasi's analysis estimated an average tax expenditure, analytically converted to a per employee basis, of $6,604 per employee for 328 impacted employees per year and $9,165 per employee for 307 impacted employees per year (depending on the type of businesses involved in any given year), or approximately $5.0 million on average per year on the low end. The analysis assumes the State's top marginal income tax rate is applied to an employer excluding capital gains under this bill due to the creation of new ESOPs. To the extent that the bill induces a doubling of ESOP formation, the revenue loss could be $10.0 million per year. The Rutgers analysis notes that between 2010 and 2021, federal law encouraging ESOP formation resulted in a doubling of these entities both in New Jersey and nationally.

The Rutgers analysis also notes that the bill may have some offsetting indirect economic and tax revenue impacts. To the extent that ESOP formation stabilizes employment and limits future job reductions, the lost tax revenue may be recovered through stabilized income tax and sales tax collections, especially during economic recessions. The impact of direct revenue reductions and indirect revenue gains should not be expected to occur in the same years. In other words, while the direct State revenue loss would occur when the income tax exclusion is granted, the indirect State revenue gain may accrue in future years.

Section:	*Revenue, Finance, and Appropriations*
Analyst:	*Patrick Walsh* *Assistant Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).